

## 1. Forest (Conservation) Act (FCA), 1980

- The Act came into force on 25 October 1980 and extends to the whole of India.
  - The exception provision for the non applicability in the State of Jammu and Kashmir has been deleted as per Section 95 of the Jammu and Kashmir Reorganization Act 2019.
- Under this Act, **approval from the central government is required before any forest land** (noted as such in government records) **is diverted for non-forestry purposes.**
- The objective of the Act is **to regulate indiscriminate diversion of forest lands for non forestry uses** and to maintain balance between developmental needs of the country and the conservation of natural heritage.
  - “Non-forest purpose” means the breaking up or clearing of any forest land or portion thereof for any purpose other than reforestation.

### 1.1. Procedure for Forest Clearance

#### Diversion of forest land for non-forestry purposes up to 5 hectare

- **Regional Offices** of the Ministry of Environment and Forests at Bangalore, Bhopal, Bhubaneswar, Lucknow, Shillong and Chandigarh **are empowered to grant approvals** under the FCA for diversion of forest land for non-forestry purposes up to 5 hectare in each case (except for mining and regularization of encroachments).

#### Cases between 5 hectare and 40 hectare

- In such cases, the Regional Offices of the Ministry of Environment and Forests make recommendations to the Ministry in consultation with the State Advisory Committee.

#### Diversion of areas more than 40 hectare

- The proposals involving areas more than 40 hectares are **submitted directly by the State Governments to the Ministry**, and they are **examined by the Forest Advisory Committee (FAC)**, constituted under the Forest (Conservation) Act, 1980.

#### Forest areas which are notified as part of national parks/sanctuaries

- Forest areas which are notified as part of national parks/sanctuaries are allowed to be **diverted only with the expressed approval of the Supreme Court of India.**

## 2. Forest Conservation Rules (FCR), 2022

- The Ministry of Environment, Forest and Climate Change (MoEFCC) notified the Forest Conservation Rules, 2022 under the Forest Conservation Act on June 28, 2022.

- The modification will allow private developers to clear forests without first obtaining the permission of the forest dwellers.

## 2.1. Features of Forest Conservation Rules (FCR), 2022

- According to the guidelines, it is now the responsibility of the state governments to ensure that Scheduled Tribes have access to their customary forest lands.
  - This is because the Union government is no longer required to collect the consent of Schedule Tribe before approving a project.
- The new regulations **allow the union government to approve the clearance of a forest without first discussing the locals**, putting their consent to it *fait accompli* (leaving them with little choice but to accept it).
- The FCR, 2022 also **prescribes timeframes** within which different projects must be reviewed by a project screening committee.
  - All non-mining projects that propose to divert between 5-40 hectares must be reviewed within 60 days, while mining projects within 75 days.
  - Non-mining projects seeking to divert between 40 and 100 hectares should be reviewed within 75 days and mining projects within 90 days.
  - The committee should review projects diverting more than 100 hectares of forest land within 120 days for non-mining projects and 150 days for mining projects.

## 2.2. Concerns

- The modification **violates a provision of the Forest Rights Act (FRA), 2006.**
- Prior to the approval of private projects, the Union government had to confirm the permission of the forest residents and ensure the protection of their rights to the forest.
  - Now, even before the state government obtains the approval of the forest residents, the handover of the forest can be granted and the Center can obtain payment for compensatory afforestation from the private developer.
- In order to guarantee that the FRA's provisions were followed, the Forest Ministry had mandated through a circular issued in 2009 to confirm the existence of any tribal claimants to the forest area, verify their claims, and grant them possession of the forestland even before the in-principle clearance is given.
- The gram sabha will only ask the forest inhabitants for consent to take over their land after all of the claims have been resolved. This provision has been removed from the new regulation.

### 3. Forest (Conservation) Amendment Bill, 2023

The Forest (Conservation) Amendment Bill, 2023 was introduced in Lok Sabha on March 29, 2023. The Bill amends the Forest Conservation Act, 1980.

#### 3.1. Key features of the Bill

##### Restrictions on activities in forest

- The Bill adds more activities to the list of activities that will be excluded from non-forest purposes such as:
  - **zoos and safaris** under the Wild Life (Protection) Act, 1972 owned by the government or any authority, in forest areas other than protected areas,
  - **eco-tourism** facilities,
  - **silvicultural operations** (enhancing forest growth), and
  - any other purpose specified by the central government.

##### Land under the purview of the Act

- The Bill provides that two types of land will be under the purview of the Act:
  - **land declared/notified as a forest** under the Indian Forest Act, 1927 or under any other law, or
  - **land not covered in the first category** but notified as a forest on or after October 25, 1980 in a government record.

##### Exempted categories of land

- The Bill also **exempts certain types of land** from the provisions of the Act such as forest land along a rail line or a public road maintained by the government providing access to a habitation, or to a rail, and roadside amenity up to a maximum size of 0.10 hectare.

##### Power to issue directions

- The Bill adds that the Central Government may issue directions for the implementation of the Act to any other authority/ organisation under or recognised by the Centre, State, or Union Territory.

### 4. Forest Rights Act (FRA), 2006

- The Forest Right Act, 2006 is the more commonly used name of the **Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006**.
- The Act is being **administered by the Ministry of Tribal Affairs**, Government of India.

- It aims to **establish the rights of forest-dwelling communities** to land and other resources.

#### 4.1. Objectives

The FRA aims to provide four types of rights.

- **Title rights, i.e. ownership**, to land that is being cultivated by tribals or forest dwellers **as on December 13, 2005**, subject to a **maximum of 4 hectares**.
  - The **ownership is only for land** that is **actually being cultivated by the concerned family** as on that date, meaning that no new lands are to be granted.
  - Further, the land recognized under this Act **cannot be sold or transferred**.
- **Use rights to minor forest produce** (also including ownership), to grazing areas, to pastoralist routes, etc.
- **Forest management rights** to protect forests and wildlife.
- **Relief and development rights to rehabilitation in case of illegal eviction** or forced displacement and to basic amenities, subject to restrictions for forest protection.

#### 4.2. Beneficiaries

- Eligibility to get rights under the Act is confined to those **who primarily reside in forests** and who depend on forests and forest land for a livelihood.
- Further, either the claimant must be a member of the Scheduled Tribes scheduled in that area or must have been **residing in the forest for 75 years or three generations as on December 13, 2005**.
- Section 6 of the Act provides a transparent three step procedure for deciding on who gets the rights.
- The **gram sabha** (full village assembly, not only the gram panchayat) **makes a recommendation** –that is who has been cultivating land for how long, which minor forest produce is collected, etc.
- The **gram sabha's recommendation goes through screening committees** at the taluka.
- Once the taluka level screening committee has approved the recommendations of the gram sabha, the district level committee makes the final decision.

#### 4.3. Important Features

- The Act recognises and vests the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded.
- The Act provides for

- the **ceiling of occupation of forest land** for purposes of recognition of forest rights to the area under actual occupation and in no case exceeding an area of four hectares.
- conferring rights in the National Parks and Sanctuaries also, renamed as **critical wildlife habitat** (CWH) on a regular basis. Tiger habitats have been left out of scope of the FRA.
- the **right to hold and live in the forestland** under the individual or common occupation for habitation or for self-cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers.
- The Act recognises
  - the right of ownership access to **collect, use, and dispose of minor forest produce** which has been traditionally collected within or outside village boundaries.
  - the right to **in situ rehabilitation** including alternative land in cases where the Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to 13.12.2005.
- The Act has **defined the term "minor forest produce"** to include all non-timber forest produce of plant origin, including bamboo, cocoons, honey, wax, lac, tendu leaves, medicinal plants, herbs, etc.
- The rights conferred under the Act shall be **heritable but not alienable or transferable** and shall be registered jointly in the name of both the spouses in the case of married persons.
- The Act also includes the responsibility of **protection, conservation and regeneration** of wildlife, forests and biodiversity.
- The Act envisages registration of the title of the forest land jointly in the name of both the spouses, which would **benefit the women** dwelling in the forests.

## 5. Compensatory Afforestation

- In India, one of the major ways in which afforestation takes place is via compensatory afforestation, which, under the Forest Conservation Act, 1980 is defined as **“afforestation done in lieu of the diversion of forest land for non-forest use.”**

- Compensatory Afforestation involves identification of non forest land or degraded forest land, work schedule, cost structure of plantation, provision of funds, mechanism to ensure the utilization of funds and monitoring mechanism etc.

### 5.1. Identification of land

- As per the Forest (Conservation) Act 1980, as far as possible, the non-forest land for Compensatory Afforestation (CA) was to be identified contiguous to or in the **proximity of Reserved Forest or Protected Forest**.
- In case, **non-forest land of CA was not available** in the same district, non-forest land for CA was to be **identified anywhere else** in the State/Union Territory.
- **If non forest land was unavailable** in the entire State/ UT, funds for raising CA in **double the area** in extent of the forest land diverted had to be provided by the user agency.

### 5.2. Formation of Ad-hoc CAMPA

- The Supreme Court of India in **October 2002 directed the creation of a Compensatory Afforestation Fund** in which all the monies received from the user agencies towards compensatory afforestation, net present value (NPV) of forest land, Catchment Area Treatment Plan Funds, etc. were to be deposited.
- In pursuance of the Supreme Court's order, the **Ministry of Environment and Forests** on 23 April 2004 **constituted the Compensatory Afforestation Fund Management and Planning Authority (CAMPA)** for management of money collected towards compensatory afforestation, NPV etc.
- On 5 May 2006, Supreme Court of India observed that CAMPA had still not become operational and ordered the constitution of an ad-hoc body (known as '**Ad-hoc CAMPA**'), till CAMPA became operational.

### 5.3. Release of Compensatory Afforestation Funds by Ad-hoc CAMPA

- In July 2009, the Supreme Court of India observed that a substantial amount of funds (9,932 crore) had been received by the Ad-hoc CAMPA.
- The Court permitted Ad-hoc CAMPA to release, for the time being, the **sum of about 1,000 crore per year**, for the next five years, in proportion to **10 percent of the principal amount** pertaining to the State/ UT.

### 5.4. Compensatory Afforestation Fund (CAF) Act 2016

- The Compensatory Afforestation Fund Act, 2016 received the assent of the President on the 3rd of August 2016.

- It is a **special Fund established under the public account** of India. It collects compensation money from the user agencies that use forest land for commercial activities such as mining and industries.
- The National Fund is under the control of the Central Government and managed by the National Authority. This fund was **established after the direction of the Supreme Court** of India.
- The Act establishes the **National Compensatory Afforestation Fund** under the Public Account of India, and a **State Compensatory Afforestation Fund** under the Public Account of each state.
- These Funds will receive payments for: (i) compensatory afforestation, (ii) net present value of forest (NPV), and (iii) other project specific payments.
- The **National Fund** will receive **10%** of these funds, and the **State Funds** will receive the remaining **90%**.
- These Funds will be primarily spent on afforestation to compensate for loss of forest cover, regeneration of forest ecosystem, wildlife protection and infrastructure development.
- The Act also establishes the National and State Compensatory Afforestation Fund Management and Planning Authorities to manage the National and State Funds.

## **5.5. Compensatory Afforestation Fund rules 2018**

- The Ministry of Environment, Forest and Climate Change issued the final notification of the Compensatory Afforestation Fund draft rules on August 10, 2018.

### **5.5.1. Key features**

- As per the rules, **80 percent of the accumulated funds can be used** by a state in a financial year **for 12 activities for forest and wildlife management**, which includes, assisted natural regeneration, artificial regeneration (by plantations), protection of plantations and forests, pest and disease control in forest and forest fire prevention and control operations.
- These also include soil and moisture conservation in the forest, improvement of wildlife habitat, relocation of villages from protected areas, planting and rejuvenation of forest cover on non-forest land, and operation and maintenance of animal rescue centres.
- The remaining **20 percent of the net present value (NPV)** will be **utilised for strengthening of forest and wildlife related infrastructure**, capacity building of personnel of state forest departments and other associated agencies and organisations.

### **5.5.2. Prohibited certain activities**

The rules have prohibited certain activities which shall not use the funds. These include:

- Payment of salary and travelling allowances to regular state forest department employees undertaking foreign visits.
- Payment for legal services for defending cases filed in tribunals or courts not related to the management of the state authority.
- Heavy vehicles and machines for state forest departments.
- Construction of residential and official buildings for officers above forest range officers.
- Leasing, hiring and purchase of land for afforestation purposes, purchase of furniture and appliances establishment.
- Expansion and up-gradation of zoo and wildlife safari among others.

### 5.5.3. Fund management

The state fund will be managed according to provisions of:

- The state financial rules or any such rules applicable in the state.
- In accordance with the accounting procedure notified by the state or union territory government.
- As per the guidelines issued by the national authority.

## 6. The Godavarman Case

### 6.1. The premise

- In 1995, T.N. Godavarman Thirumulpad filed a writ petition with the Supreme Court of India **to protect the Nilgiris forest land from** deforestation by **illegal timber operations**.
- A Civil Writ Petition titled 'T N Godavarman Thirumulpad Vs. Union of India and Others' was filed in 1995 and the **first order** was passed by the Court on **07.04.1995**.
- The Court noted that large scale illegal felling of timber and denuding of the forests in Gudalur Taluk of Nilgiri was continuing even after the notice had been issued to the State Government of Tamil Nadu.

### 6.2. Complete ban on felling of trees

- It started with the Court reiterating on 12.12.1996, that there will be a **complete ban on felling of trees in all 'forest' areas**.
- This will however **not apply to trees which have been planted and grown**, and are not of spontaneous growth; and are in areas which were not 'forests' earlier but were cleared for any reason.



### 6.3. True scope of the Forest Conservation Act, 1980

- The Apex Court in the same order clarified the misconception about the true scope of the Forest Conservation Act, 1980 (FCA).
- It said: “The Forest Conservation Act, 1980 was **enacted with a view to check further deforestation** which ultimately **resulted in ecological imbalances** and therefore the provisions for the conservation of forests and for connected matters under the FCA, **must apply to all forests irrespective** of the nature of ownership or classification”.
- This was a novel way of interpreting the Act as the Forest Conservation Act does not mention anything about the nature of ownership of the forests.

### 6.4. Definition of forest

- The most significant aspect of the 1996 order was the Court’s interim direction on the meaning of the word ‘forest’ used in FCA.
- The Court explained that the word ‘forest’ **must be understood according to its dictionary meaning**.
- This description **covers all statutorily recognized forests**, whether designated as reserved, protected or otherwise for the purpose of the Forest Conservation Act.
- In the Godavarman Case the Court further **explained the term ‘forest land’**, and stated that the word forest land occurring in section 2 of FCA, will not only include ‘forest’ as understood in the dictionary sense, but also **any area recorded as forest in the Government record** irrespective of the ownership.

### 6.5. Working plans given legal sanctity

This assumes significance in at least two different ways.

- First it forced the State Governments to draw up and get the approval of the working plans wherever they were not made.
- Secondly, the **felling of trees came to be regulated through a legal document** and thus has increased the accountability within the forest department on felling, which was the root cause of the petition itself.

### 6.6. Working plans also needed for non government forest area

- The Court further clarified that working plans / schemes shall also be **needed for felling of trees from any non government forest area** including the lands which are required to be treated as ‘forest’ as per its order dated 12.12.1996.

### 6.7. Regulation of exploitation

- The Supreme Court made some very far reaching observations on extraction and disposal of timber including the importance of local laws and customs vide its orders dated 15.01.1998.
- It directed that extraction of timber from forests, irrespective of ownership, is to be **carried out only by State agency, except in private plantations.**
- Realizing the importance of local and customary law, the Court observed that if there be any local laws or customs relating to the forest in any State, the concerned State Government may apply to the Court for the needed modification, if any, with alternative proposals.

#### **6.8. Guidelines or rules to be framed for felling of trees from non forest area including plantations**

- The Supreme Court stated that for felling of trees from non forest area including in respect of plantations on non forest areas, detailed guidelines or rules shall be framed by the concerned State Government which shall come into effect after the same are measured with modification, if any, by the Ministry of Environment and Forests (MoEF).
- The guidelines or rules shall also include provision for penalties and mode of disposal in respect of any felling done in violation of such guidelines or rules.

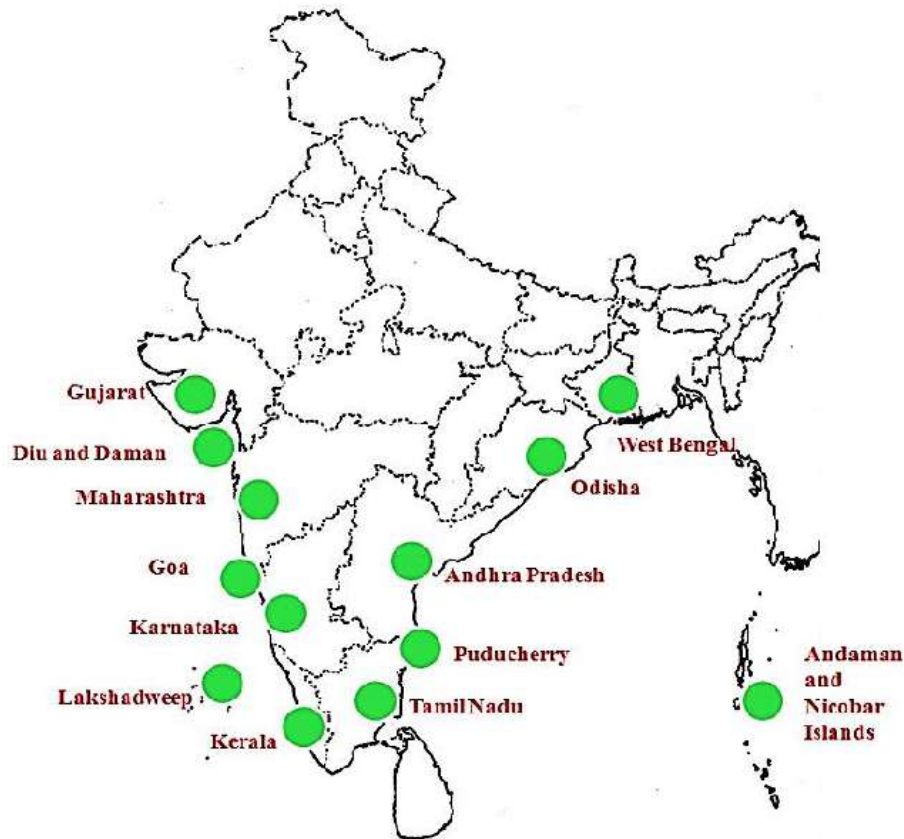
### **7. Mangroves**

- Mangroves are plants that survive high salinity, tidal regimes, strong wind velocity, high temperature and muddy anaerobic soil—a combination of conditions hostile for other plants.
- The mangrove ecosystems constitute a symbiotic link or **bridge between terrestrial and marine ecosystems.**
- They are mainly found in the **tropical and subtropical intertidal regions** of the world, approximately between 32° N and 38° S latitude.
- The total mangrove cover has been estimated to be **1,50,000 sq kms globally.**
- Mangroves distribution and abundance in intertidal areas could be considered as a direct **indicator of the habitat health** of the coastal ecosystem.

#### **7.1. Mangroves in India**

- Mangrove vegetation has been reported in all the coastal states/UTs of India.
- **West Bengal has the maximum mangrove cover** in the country, followed by Gujarat and Andaman and Nicobar Islands.

- **Sundarbans in West Bengal** are the **largest mangrove forest regions in the world**. It is listed as a **UNESCO World Heritage Site**.
- According to the India State of Forest report 2021, the **total mangrove cover stands at 4,992 sq km**. There has been an increase of 17 sq Km in comparison to the previous assessment of 2019.



**Figure.1. Mangrove Habitats in India**

- The Government seeks to sustain mangroves in the country by both regulatory and promotional measures.
- The Coastal Regulation Zone Notification, 2019, recognizes mangrove areas as **ecologically sensitive** and categorizes them as CRZ-I A, which implies that these areas are accorded protection of the highest order.
- Under promotional measures, the Government has identified **38 mangrove areas** on a country wide basis for intensive conservation and management.

## **7.2. Importance of Mangroves**

- They provide natural infrastructure to help protect nearby populated areas by reducing erosion and absorbing storm surge impacts during extreme weather events such as hurricanes.

- They play a significant role in promoting land accretion, fixation of mud banks, dissipation of winds, tidal and wave energy.
- The complex mangrove root systems **filter nitrates, phosphates and other pollutants** from the water, improving the water quality flowing from rivers and streams into the estuarine and ocean environment.
- Mangrove forests **capture massive amounts of carbon dioxide emissions** and other greenhouse gases from the atmosphere, and then trap and store them in their carbon-rich flooded soils for millennia.
  - This buried carbon is known as “**blue carbon**” because it is stored underwater in coastal ecosystems like mangrove forests, seagrass beds and salt marshes.
- Mangrove forests also **provide habitat and refuge to a wide array of wildlife** such as birds, fish, invertebrates, mammals and plants.

### 7.3. Threats to Mangrove Forests

- One of the greatest threats to mangroves is actually naturally occurring. Storms, such as hurricanes, tsunamis and other natural disasters, can devastate mangrove ecosystems.
- The emergence of shrimp farms have caused at least 35% of the overall loss of mangrove forests.
- Shrimp farmers dig channels to supply the ponds with enormous quantities of freshwater and seawater. These water diversions alter the natural flow of water that maintains the health of surrounding mangroves as well as ecosystems farther inland and offshore.
- Also many mangrove forests have been destroyed to make way for rice paddies, rubber trees, palm oil plantations, and other forms of agriculture.
- Farmers often use fertilizers and chemicals, and runoff containing these pollutants makes its way into water supplies. Despite their resilience, mangroves can tolerate only a limited amount of industrial and agricultural pollution without dying.
- Because of the density of its wood, mangroves make premium quality charcoal. Large scale industrialization of wild mangrove charcoal has led to its decline in some areas.
- Mangrove coastal development and urbanisation in mangrove forests inevitably leads to the direct loss of the habitat through the removal of forest.
- The impacts of global climate change such as rising sea-level, altering weather patterns, and acidifying oceans are also putting mangrove forests at high risk.