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## AN ATTEMPT TO SABOTAGE GREEN COVER: A CRITIQUE OF THE FOREST (CONSERVATION) AMENDMENT ACT, 2023

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### ABSTRACT

*The Forest (Conservation) Amendment Act, 2023 attempts to bring a significant shift in the Indian environmental jurisprudence, deviating from the established definitions grounded in ecological reality. The amendment substantially diverges from the objectives of the Forest Conservation Act, 1980. The paper provides a critical analysis of the new restrictive definition of “forest” which excludes vast tracts of ecologically sensitive forest land from the ambit of environmental protection. In absence of any environmental scrutiny or supervision it exposes them to commercial exploitation by private parties. The new definition of forest is in clear violation of the T.N Godavarman case, which mandated the protection of forest according to their dictionary meaning. The paper further explores how the declassification of these forest land threatens the safeguards provided to the Adivasi and indigenous communities under the Forest Rights Act, 2006. By granting blanket exemptions to strategic and infrastructure project, it bypasses the mandate of Gram Sabha’s consent and effective rehabilitation measures for the displaced communities. This risks the displacement of traditional forest guardians and extensive corporate exploitation of sensitive ecosystems.*

*The amendment represents a regression in ecological jurisprudence, by focusing on short-term commercial interests over long-term ecological stability guaranteed under Article 21 of the Constitution. The paper contends that the amendment facilitates large-scale diversion of forest land by the hands of private parties. It calls for the urgent need of reconsidering the amendment and ensure that any definition of forest must be grounded in ecological reality and the rights of forest dwelling communities.*

**Keywords:** *Forest (Conservation) Amendment Act, 2023; T.N Godavarman case; Article 21; Deforestation; Adivasi Rights; Ecological Jurisprudence*

## I. INTRODUCTION

A paper may be fragile, but its consequences are not. The Forest (Conservation) Amendment Act, 2023, a four-page document that threatens years of conservation efforts and millions of acres of self-sustaining ecosystems. While it might be an amendment to the Forest (Conservation) Act, it completely goes against the very objective for which the parent act was established, which is conservation of natural forests. The provisions of the Act facilitate large-scale deforestation and displacement of Adivasi and indigenous communities.

By narrowing the legal definition of what constitutes “forest” and redefining “non-forest purposes” it not only facilitates extensive deforestation but also systematically disfranchises the Adivasi and local communities who not only depend on the forest but have also served as their natural guardians for generations.

## II. DECLARING THE OBVIOUS FALSE: WHEN A FOREST IN EVERY SENSE IS NOT A FOREST IN LAW

We are witnessing a surreal moment in Indian environmental history where the legislature has attempted to declare the obvious false. For years the definition of forest has been grounded in ecological reality. The recent amendment attempts to deviate from the dictionary meaning of forest and those upheld by Indian courts in various judgments. It confines the environmental protection to land that has been notified as forest under the law and has been recorded as forest under government records, while simultaneously providing blanket exemptions for strategic and commercial projects near the border areas. The new restrictive definition creates a criterion for determination of forest on the basis of bureaucratic recognition rather than the ecological characteristics. Such a criterion is not only unreasonable and arbitrary, but also attempts to overturn the landmark judgment in *T.N Godavarman* case.

In the *T.N. Godavarman* case, the court adopted a broad and purposive interpretation of the term “forest”, holding that the term must be understood in its dictionary meaning which includes all areas that satisfy the ecological characteristics of a forest, irrespective of legal classification or ownership. The Court explicitly mentioned that deemed forests,

community forest lands and unclassified forest areas would come within the ambit of forest protection.

The 2023 amendment aims to reverse the definition of forest given in *T.N. Godavarman* case by explicitly excluding unrecorded forests despite satisfying all the requirements of the dictionary meaning of a forest. It exposes vast tracts of ecologically valuable areas to commercial exploitation without any supervision or environmental scrutiny, which is inconsistent with the dynamic and continuing nature of environmental protection obligations under Article 21<sup>1</sup>.

The Supreme Court in 2024 noted that the new definition of “forest”, under the 2023 amendment, excludes approximately 1.99 lakh square kilometres of forest area<sup>2</sup>. By declaring acres of forest as “vacant land” it removes the safety net of environmental protection, exposing them to the whims of capitalist society.

Beyond its implications on the forest cover, the amendment poses a direct threat to the wildlife. Forests are not merely a bundle of trees, but serve as critical habitats for several species. By excluding vast tracts of unrecorded forest from legal protection, the amendment fragments habitats and disrupts critical wildlife corridors which are essential for migration, breeding, and genetic diversity. The dilution of regulatory oversight further enables unsupervised infrastructure and commercial projects to penetrate fully fledged ecosystems without requiring environmental clearances.

This undermines the conservation efforts to protect the wildlife in India but also weakens India’s commitments under Convention on Biological Diversity, which treat habitat protection as central to biodiversity protection. In reducing the definition of “forest” to administratively recognized parcels it overlooks the amendment’s irreversible consequences for ecological balance and biodiversity.

### **III. ERASING THE FOREST’S FIRST INHABITANTS: THREAT TO THE RIGHTS OF ADIVASI COMMUNITIES**

The amendment redraws the boundaries of forests, this not only exempts vast tracts of forest from legal protection but also threatens the livelihood and culture of Adivasi

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<sup>1</sup>The Constitution of India, art. 21.

<sup>2</sup> Supreme Court observations on Forest (Conservation) Amendment Act, 2023, LiveLaw (2024).

communities. The Forest (Conservation) Amendment Act by declassifying forest land destabilizes an established legal framework that recognized Adivasi and indigenous communities as an integral part of conservation.

At the centre of this contradiction lies the Forest Rights Act, 2006 which was enacted to protect the rights of the forest-dwelling Scheduled Castes and Scheduled Tribes and the other forest-dwelling communities. FRA treats the forest-dwelling communities as an integral part of the forest ecosystem, that serves as a source of their livelihood, culture and identity. The Act treats Adivasis as lawful guardians, rather than encroachers, by giving recognition to individual and community forest rights, including the right over the forest resources.

The 2023 Amendment works in direct contradiction with this legal framework. By narrowing the definition of “forest” it excludes vast tracts of forest land, that are not formally notified or recorded, from legal protection. This exclusion does not merely possess ecological consequences but profoundly human ones as well. The land that was traditionally recognized as forest falls within the protective umbrella of forest law and the FRA. However, with declassification of such forests the associated rights of the Adivasi communities are also under threat.

Earlier any form of commercial activities in these lands was done under the supervision of the central government, who ensured that the displaced communities are properly rehabilitated. However, the reclassification as “non-forest” land, provides a free pass to the private parties to commercially exploit these forest resources in an unsupervised manner, without being obligated to provide the forest-dwelling communities with adequate rehabilitation facilities.

Such a legislative shift also undermines one of the most critical safeguards of the FRA, which is the role of Gram Sabha. The Act provides Gram Sabha the authority to determine forest rights and grant consent to diversion of forest land. The amendment provides wide exemptions to strategic and infrastructural projects near the border areas, which risks bypassing the requirement of Gram Sabha’s consent. By doing so, it attempts to transform participatory democracy into an administrative fiat.

#### **IV. CONCLUSION: THE NEED TO REVISIT THE 2023 AMENDMENT**

A primary forest is an inheritance of time, it is built over centuries through patient dialogue of rain, soil and sun. It has taken thousands of years of monsoon cycles to create the topsoil, growth of trees and precise biodiversity that exists today. By treating these ecosystems as “vacant lands”, the amendment neglects the fact that while law can be amended, a destroyed ecosystem cannot be restored. There are already a number of cases of large-scale forest diversion and destruction of ecosystems for commercial exploitation despite the presence of environmental safeguards through statutory frameworks and policies. The Forest (Conservation) Amendment Act, 2023 further attempts to dismantle the existing safeguards, providing statutory backing to diversion of forest land which would further exacerbate the rate of deforestation.

The adverse consequences of the recent amendment extend beyond deforestation, threatening biodiversity, disrupting critical wildlife habitats and eroding the socio-cultural fabric of the forest-dwelling communities. In doing so, the amendment not only departs from the legislative intent behind the parent Act but also violates the established environmental jurisprudence recognized under the Constitution. The amendment does not merely violate the statutory mandates and Indian’s environmental obligations, but also the constitutional provisions, specifically Right to Life enshrined under Article 21 of the Constitution. There is a need to reconsider the amendment, ensuring that any definition of “forest” must be grounded in ecological reality rather than administrative convenience. India’s path to development must not be paved through its green cover or its nature’s traditional guardians, true development lies in the protection of environment as a living entity, which is essential for dignity and survival of all its citizens.