

ABSTRACT

India has been concerned about its forest boundary since 1894 but the approach has undergone a sea change. In 1894 the forest and forest produce was considered to be a source of revenue for the State. Eventually there has been shift in thinking. Progressively it was realised the even if forest produce has been and continues to be a source of revenue for the State, the trade in forest produce needs to be controlled and regulated. Several methods and modalities were devised to control and regulate trade in forest produce. Unfortunately until recently, such measures were not highly successful until very recently. The rules laid down were largely circumvented and evaded. Timber, a major forest produce, was also subject to such rules laid down under the Forest Act, 1927 and the Forest Conservation Act, 1980.

With the concept of development and the increasing global population, the demand for timber has increased many folds. All trade have an impact on natural resources directly or indirectly but timber trade impacts the natural resources in a big way. Consequently, global climate change, decrease in forest cover and biodiversity loss have become subjects of international concern. As a result of centuries of dreadful exploitation many natural forest and bionetworks are now gravely in danger.

The focus of this theses is to deal with one of the most important and major cause of deforestation, namely, timber trade. Therefore the sustainability of the national and international timber trade are crucial to the survival of biologically rich forests' ecosystems. Timber trade is not confined to domestic trade only it has a international market. The international trade regime also fails to focus on issues relating to timber trade. Processes like non-tariff barriers and technical barriers to trade could have been utilize effectively for sustainable management of timber trade and prevention of illegal trading in timber. Unfortunately that is not being done

It was the Supreme Court which played a positive and proactive role in cubing indiscriminate and illegal timber felling. Although the Supreme Court judgement is accused overstepping the boundaries of separation of power it has had a positive effect upon control and regulation of timber trade. The British in 1894 realized the tremendous commercial potentiality of the forest. They formulated a Forest Policy in 1894 where in trade in timber and forest produce was encouraged as a means of earning revenue for the state. This approach was rejected in 1955 Forest Policy. The shift from commercialization to conservation occurred in 1988 Forest Policy. The period from 1894 to 1988, almost a century, is the story of abuse and vandalisation of forest. As a result by 1988 India became acutely conscious of forest depletion and the resultant climate change, biodiversity change, desertification, fall in ground water level, so on and so forth. Urgent and immediate intervention on war footing was required tom protect forest. It was only 1995-1996 the Supreme Court systematically dealt with the issue of deforestation and from 1995 -2004 has laid down guidelines, looked at a large number of Interlocutory Application and addressed the concerns of each constituent states of the Union of India in the *Godavarman Tirumulkpad v. Union of India*¹ and the

¹ (1996) 9 S.C.R 982

Environment Awareness Forum v. State of Jammu and Kashmir². This time the focus of the judges was forest, saw mills, encroachment, mines, dams, infrastructure project and other innumerable demands for development at one hand and preservation of the jungle on the other³. In this process varying social, economic, political, and constitutional issues came up for consideration.

Illegal logging is rampant in South, East and South East Asia wherein the illegal root of transition lies. This is an open secret. Yet very little has been done to prevent illegal trafficking in timber. This criminal activity does not even figure under the conventional criminal justice system both at the national and international level.

The empirical experience of the research shows that except in Kerala there is illegal trade in timber in the other states investigated such as West Bengal, Assam, Tripura, and Mizoram. Tripura has made strict laws following the Godavarman judgment but has not been able to root out corrupt practices detrimental to the forest. It has been noticed that in all the states under investigation there is an expansion of private timber estates but there is also the tendency of encroaching/converting the reserved forests into private forest. Kerala reflected least illegal activity. The States of West Bengal and Mizoram have a major problem of corruption in the form of illegal timber felling and there is a route for timber smuggling through Mizoram to China via Myanmar.

An ideal situation is banning of timber trade. However, reality would be different. So it is desirable to have a sustainable timber trade. All natural forest should be left untouched. The forest must do its own selection and survival without human interference. Timber required for infrastructural purposes may be obtained from these plantations. Timber trade in India, if it has to survive, must be done through scientific processes without affecting the natural forest canopy. Advocacy and sensitization are important weapons of change. Not only the common man but also those charged with the duty to protect the forest must also be sensitized. The media can play an important and crucial role in this regard as it is playing in other sensitive issues like Sanitation, Swaccha Bharat Abhiyan, and Sarva Siksha Abhiyan etc. It is also important to involve the youth in forest [policing so that there is a community interest in the conservation, preservation and the expansion of forest canopy. Poverty is another reason for vandalisation of forest. Forest policing by the civil youth will augment income. Government may devise schemes to that effect. Law directly addressing the issue of timber trade is needed.

² AIR 1999 SC 1495.

³ A "Jungle" is unplanned, uncontrolled and unregulated growth of trees, shrubs, creepers, undergrowth etc hosting a vast biodiversity. A "Forest" is a planned, organized, controlled growth of trees, plants etc.