

# RECOGNIZING ROLE OF INDIGENOUS COMMUNITIES IN BIODIVERSITY CONSERVATION IN INDIA: AN ANALYSIS

DR. KAUMUDHI CHALLA<sup>1\*</sup>, DR. MRS. SHILPA SANTOSH SHARMA<sup>2</sup>, DR. SUKHVINDER SINGH DARI<sup>3</sup>, DR. DEEPTI KHUBALKAR<sup>4</sup>

<sup>1</sup>Hidayatullah National Law University, Nava Raipur,

<sup>2,3,4</sup>Symbiosis Law School, Nagpur

\*Email: [dr.kaumudhic@gmail.com](mailto:dr.kaumudhic@gmail.com)

## Abstract

*The indigenous communities and biodiversity conservation are very closely inter-related and complementary to each other. Since ages, these communities have helped to evolve, nurture and protect the ecosystems in a sustainable manner. In India, since the ancient times, the indigenous communities have lived in harmony with nature and have played a vital role in protecting and conserving the forests and biodiversity. However, with passage of time and due to the socio-economic-political changes, the forests have become the property of the State and the indigenous communities have slowly been marginalised and separated from their traditional land and livelihood due to the developmental projects. This separation of the indigenous communities from land, forests and biodiversity has resulted in the destruction and deterioration of biodiversity. Thus, despite their critical role in conservation of biodiversity and ensuring resilient and healthy planet for people, the indigenous communities are often neglected and marginalized in environmental and developmental policies.*

*In contemporary times, as the legal discourses focus on biodiversity conservation and protection it is essential to recognise the role played by indigenous communities in biodiversity conservation. In this context, this article examines the various ways in which biodiversity was conserved and the role of indigenous communities in biodiversity conservation in India. It tries to identify the reasons for exclusion of indigenous communities and its impact on biodiversity. Further, it attempts to analyse whether the Indian legal framework, particularly the environmental legislations contain any provisions recognizing role of indigenous communities in biodiversity conservation. Lastly the article attempts to give pragmatic solutions to include indigenous communities in biodiversity conservation in India.*

**Keywords:** *Biodiversity; Conservation of Biodiversity; Sustainable Ecosystems; Indigenous Communities; Threats to Biodiversity; Environmental Legislations*

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## Introduction

“They are not only forest dwellers but also for centuries they have evolved a way of life which, on the one hand, is woven around forest ecology and forest resources; on the other hand, ensures that the forest is protected against the degradation by man and nature, by evolving their own unique and conservation systems” (Tripathi P. 2016)


The above statement given in 1983 by the ‘Committee on Forests and Tribal’ in India elucidates the beautiful relation which the tribes, indigenous communities, forest dwellers and local communities have had with the environment and natural resources. Indeed! the indigenous communities, tribal people and local communities have since the dawn of civilization lived in harmony with nature. They considered each and every part of the environment as sacred and worshipped ‘*Earth*’ as the ‘*Mother*’ of man. They lived in the forests and on the river banks and lead a simple and content life amidst nature, utilizing only that much natural resources which were essential for living and at the same time tried to maintain and augment the natural resources by various conservation and restoration methods (Tripathi P. 2016).

The indigenous communities, tribal’s and local communities were well aware of the inter-relationship between the various components of nature and the significance of the ecological balance for a healthy environment and life on the planet. They were aware of the need to protect and conserve the biological diversity for survival of life on Earth. This can be clearly seen in the day to day activities, culture and way of life adopted by these communities. For Example, in Ancient India, the Vedic Scriptures and traditions teach us to worship the Earth as our divine Mother. The culture came to be known as ‘Aranya Sanskruti’ as it developed in the ‘Aranya’ i.e. the forests. The people, and particularly the indigenous and tribal communities worshipped the rivers, streams, trees, mountain peaks, plants, animals, birds, forests, and all kinds of flora and fauna as the mother Goddess (Bhumi Devi). The Atharva Veda says, “The Earth is our Mother and we are all her children” (Kermani V. 2017). The Chief Seattle proclaimed long back that, “Man did not weave the web of life; he is merely a strand in it. Whatever he does to the web, he does to himself.” (Seattle C. 1931).

Thus, what Modern Science is telling us today that the Earth is a unique planet in the Solar System and has an environment favourable for evolution and survival of various forms of life; this fact was known to the ancient and indigenous people since the early times. Scientific progress in the last three to four centuries has explained about the ‘*Biosphere*’ which is the *life-bearing layer* and the ‘*Biodiversity*’ which is variety of living organisms and which not only provides food but also raw materials for clothing, shelter, medicines, recreation and other needs of mankind (Shanthakumar S. 2016). However, these facts were known to the ancient societies, indigenous and tribal communities who knew this simple truth and respected that the environment, natural resources and biodiversity are closely-knit with the lives of human beings. Therefore, they lived in harmony with nature and adopted a pattern of life which always revered nature and conserved the natural resources.

In this context, the role of indigenous communities is of great significance in biodiversity conservation. It has been proven time and again that in the areas where indigenous communities and tribal communities inhabit, the rate of environmental degradation is slower as compared to other areas. Also many of the flora, fauna, ponds, lakes, forests, and fragile ecosystems are still preserved due to the efforts of the indigenous communities who protect these ecosystems. It is seen that there are around 5000 diverse indigenous cultures which make up the global indigenous population encompassing approximately 300 million people (Sobrevila C. 2008). In India, the indigenous people account for roughly 104 million people, or 8.6% of the total population (Bahuguna K., Ramnath M. et al. 2016). These people have lived in harmony with nature. They have not just depended on nature for their life and livelihood but have also worshipped nature and enhanced the biodiversity in many case. They understand the importance of biodiversity in creating ecological services and natural resources that are essential to our survival.

The tribal and indigenous people follow traditional methods of farming and agriculture. These methods help to grow food crops without any chemicals and fertilizers and in fact protect the soil fertility. For example, Adivasi farmers in Dhaarav village of Madhya Pradesh practice the “*utera*” system. They save



seeds from the previous harvest, sow several different types of seeds at the same time, thus ensuring some or the other food crop throughout the year and maintain the soil fertility. Also the mixed farming helps to recover the loss if there is failure of any one crop (Youth Ki Awaaz, 2018). It is also seen that the tribal and indigenous communities have a very diverse cuisine. They have their own food festivals and exhibit variety of cooked and uncooked food collected from the forests. It has been reported that in a food festival held in Cuttack in 2014, more than 1500 food varieties were displayed and almost 900 varieties were uncultivated forest foods. As these communities follow ancestral method of foraging from the forests and 30 percent of their diet comes from the forests, these indigenous communities teach a valuable lesson to the modern world which is obsessed with processed foods packaged in plastic. They teach us how to have a healthy, nutritious and diverse cuisine from the available plants and food-grains. (Youth Ki Awaaz, 2018)

The region of Western Ghats is having areas of richest biodiversity in the world and is home to some of the very significant tribes and indigenous population. The Athirappilly-Vazhachal-Nelliampathy forests in the Southern Western Ghats is reserve of evergreen rainforests, butterflies and all the four south Indian species of hornbills. The Kadars in region are one of the oldest indigenous populations in the area and are mainly hunter-gatherers and almost 89% of them live in the forests. Though these people used to do seasonal hunting of the small animals, they have changed their approach and since last two decades the Kadar people in partnership with the Kerala Forest Department, World Wildlife Fund- India Ecological Monitoring Programme, and Western Ghats Hornbill Foundation (WGHF) are working for the protection of habitat of the wildlife and particularly, the hornbills. The initiative began with the protection of 57 nests, and now there are nearly 114 nests being protected by the Kadar Youth (Bonta B 2011). In May 2014, Kadars living in this region were recognized as a “Particularly Vulnerable Tribal Group”. The Muthuvar and Malayar people are agrarian indigenous communities living in the same region. These indigenous people collect a range of wild products from the forest seasonally. These people have been living in harmony with the rain-forests and have helped to protect the forests and wildlife. They have also brought attention to the damage being caused to the river ecology in the area due to the increasing construction of dams. For example, an open letter was written to the State by the Kadar Chief Mrs. Geeta explaining how the proposed Athirappilly Hydroelectric Dam Project on the River Chalakudy will destroy 28.5 hectares of riparian forests that sustain the tribal way of life. So also the Western Ghats Ecology Expert Panel (WGEEP) headed by Prof. Madhav Gadgil, conducted an extensive and transparent consultation with all stakeholders, and concluded that the dam would completely alter the river’s ecology and would seriously affect the livelihoods of the Kadars (Ramakrishnan V. 2020).

Likewise, in Eastern India, the Niyamgiri hill range in Odisha State is home to the Dongria Kondh Tribe. These people worship the Mountain God Niyam Raja and the hills he presides over including a 4000 metre Mountain of the Law, known as Niyam Dongar. The Dongria Kondh Community has deep reverence for their Gods, hills, and streams and this reverence is reflected in each and every aspect of their life. Their village shrines and farms depict triangular designs reflecting the mountains and their leader Niyam Raja. Even their name is derived from ‘Dongar’ which means ‘Hill’ and they consider themselves as ‘Jharnia’ which means ‘Protector of Streams’. The Dongria Kondh community has expert knowledge of the Niyamgiri forests, plants and wildlife. They have lived in Niyamgiri for thousands of years and have helped to nurture the dense forests and rich wildlife in the area (Survival).

Thus, there are numerous indigenous and local communities and tribal people in different parts of the country. Due to their unique culture, traditional lifestyles, indigenous methods of rain water harvesting and agriculture practices, and their concept of considering the natural resources like mountains, rivers, and wildlife as sacred, they have helped to protect and conserve the natural resources and biodiversity since the ancient times.

However, the role played by indigenous communities in biodiversity conservation is not adequately recognized. On the contrary they are often ignored in environmental and developmental policies and many a times have to lose their land and livelihood due to the developmental projects. The various developmental projects carried out for economic gains often cause massive deforestation, loss of

biodiversity and wildlife, and thus have adverse impacts on the environment and natural resources. The researchers will further discuss in detail in this paper, that as these developmental projects also result in the uprooting of the indigenous and tribal communities from their natural habitats i.e. the forests and hilly regions, the indigenous communities are displaced from their homes and suffer the adverse impacts of developmental activities. At the same time, as the symbiotic relationship between the indigenous communities and nature is affected, such areas are more prone to loss of biodiversity and destruction of natural resources as evident from the innumerable cases in the country. For example, the Athirappilly Hydroelectric Dam Project on the River Chalakudy will destroy 28.5 hectares of riparian forests that sustain the tribal way of life of the Kadars; The Vedanta Project in Niyamgiri in Eastern India in Odisha State would affect the rich biodiversity of the area and adversely affect the Dongria Kondh Tribe. Hence, in order to preserve and conserve biodiversity the indigenous peoples' contributions to biodiversity conservation must be recognized in contemporary times.


This research is purely doctrinal and analytical in nature and data has been collected through traditional doctrinal method. As the topic is very vast and overlaps with inter-related topics such as rights of indigenous communities, intellectual property rights etc., the present article is limited only to recognizing the role of indigenous communities in biodiversity conservation in India. Therefore, the various Constitutional Provisions, legislations and case-laws in India are examined in order to find out the meaning of Indigenous Communities, and the recognition given to their role in biodiversity conservation. Further, this article examines only the specific Constitutional Provisions, relevant legislation such as Indian Forest Act 1927; Biodiversity Act, 2002; etc. and some case-studies such as Niyamgiri case.

### 1. Indigenous Communities: Meaning and Characteristics

The term *Indigenous* is derived from the Latin word *indigena*, which means sprung from the land, native and *genus* - "to be born from" (Online Etymology Dictionary (OED), Oxford University Press 2016). As per the International Work Group for Indigenous Affairs, the total number of Indigenous Populations in selected countries of the world is nearly 306,685,852 and Number of Indigenous Ethnic Groups is 2,809 (Stidsen S. 2007). Despite accounting for only 4% of the global population, indigenous people account for 95% of the world's cultural variety. They live in around 75 of the world's 184 countries and inhabit nearly every major biome on the planet (Sobrevila C. 2008). In India, the tribal population is about 10.4 million tribes and constitutes nearly 8.6 percent of the total population and is spread over 15 percent of its geographical area. These tribes have been residing in the forests since time immemorial and have a symbiotic relationship with the forests, biodiversity and natural resources. According to the 2011 census, there are 705 legally recognised ethnic groups/Scheduled Tribes. The Scheduled Tribes are known as 'Adivasis' in Central India, where 'Adi' means first, original, and 'vasi' means dweller, inhabitant, and therefore 'Adivasi' literally means Original Inhabitants or Indigenous Peoples. India's indigenous people are the world's second-largest tribal population, after Africa's (Bahuguna K., Ramnath M. et al. 2016).

The term Indigenous People/ Indigenous Communities has been given various meanings. There are differences in the definition of indigenous people in Asia and Africa. In Asia, the phrase "indigenous peoples" refers to separate cultural groups such as "Adivasis," "tribal peoples," "hill tribes," or "scheduled tribes," whereas in Africa, some indigenous peoples are referred to as "pastoralists," "vulnerable groups," or "hunter-gatherers." (Singh B.P. 2018).

However, there is no universally accepted definition of indigenous communities; the indigenous peoples simply live in varied and changing contexts. Indigenous ethnic minorities, aboriginals, hill tribes, and tribal groups are some labels used in different countries to describe them (Indigenous Communities and Biodiversity 2008). They are also known by different names such as tribal, aboriginal or autochthonous peoples, national minorities, or first peoples (Sobrevila C. 2008). In India, the Indigenous Communities are known by different names as aboriginal communities/ indigenous communities; Adivasi; Janjati; Scheduled Tribes etc. all of which are variations of the term indigenous Communities (Singh B.P. 2018).



Though there are vast differences in terms of habitats, language and culture, an important and common characteristic of all the indigenous communities all over the globe is their close association with nature and unique traditional way of life in harmony with natural resources.

## **2. Rationale of the Study and Significant Role Played by Indigenous Communities in Biodiversity Conservation**

Indigenous peoples have a long history of using natural resources and have a deep understanding of the complex ecological systems that exist in their own communities. This wisdom has collected over time and has been passed down from generation to generation in indigenous groups. Many indigenous groups have modified the local landscape to augment its heterogeneity and many have restored the biodiversity in degraded landscapes. They have developed their own traditional practices for restoration, regeneration of biodiversity by trial and error methods through ancient times and its application and implementation has shown positive results in biodiversity conservation even today. It is essential for the modern world to recognize and value this knowledge and role of indigenous communities for sustainable management of the natural resources and biodiversity in present times. Indigenous people have been responsible custodians of their lands and resources for thousands of years. Indigenous peoples may be found in almost every area of the globe, and their traditional wisdom and sustainable resource management practises have aided in the protection, nurture, and conservation of the planet's tremendous biodiversity.

There is proof that the extent of destruction of land and biodiversity, as well as the conservation of land and biodiversity depends on the people who are using these resources. Research revealed that there was improved conservation of natural ecosystems in areas of the Brazilian Amazon inhabited by indigenous peoples. Similar results were found in Central America and Southern Mexico (Indigenous Communities and Biodiversity 2008).

There are numerous examples of indigenous and tribal communities in India which have helped to conserve the biodiversity. For example, The Dongria Kondh and Kutia Kondh Tribals in the South-Western Odisha in the Niyamgiri hills consider the 250 square kilometre area as the abode of their supreme deity and ancestral kin Niyamraja, who is the protector and preserver of Niyamgiri, the mountain of law. They consider the hills, forests, leaves and streams as their Gods and worship the Niyamraja. However, the area has come under threat due to the proposed plan of Vedanta Resources to extract 73 million tons of bauxite from the hills. The Gram Sabhas Community Councils of the twelve most impacted Dongria Kondh villages voted in April 2013 to refuse Vedanta mining rights, a vote ordered by the Supreme Court to guarantee compliance with tribal people's rights under the Forest Rights Act, 2006. This was India's first-ever environmental referendum, according to reports. In 2014, the Ministry of Environment and Forests prohibited the mining proposal. The guardianship of the environment and natural resources by Dongria Kondh is regarded to be one of the key contributors for the area's biodiversity. The Niyamgiri Movement was successful in stopping the mining project, which helped to preserve the Dongria Kondhs' traditional and natural legacy as well as forest conservation (Borde R. & Bluemling B. 2021).

Thus, by associating nature with various Gods and religious and cultural practices, the Adivasis, tribal's and indigenous communities have developed a bond with nature and conserved the rich biodiversity and natural resources.

The role of indigenous people in biodiversity conservation has also been recognized in the recent times by the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES). The IPBES released its most recent Global Assessment Report in May 2019. It highlights that environmental degradation is slower in terrestrial territories inhabited by indigenous peoples and these areas also have more biodiversity. Over a quarter of the world's land surface is occupied by indigenous peoples. It is home to 370 million indigenous people spread throughout 87 countries. To combat biodiversity loss, it is necessary to support and collaborate with indigenous peoples and local communities.





### 3. Impact of Developmental Projects on Biodiversity and Indigenous People

The onslaught of industrialization, urbanization and globalization has adversely affected the natural environment and biodiversity and threatens the very survival of life. Indigenous peoples are directly and instantly impacted by the negative effects of development and biodiversity loss, as they rely on the natural environment and biodiversity not only for their livelihood and survival, but also for their cultural, spiritual, and physical well-being. The fate of biodiversity is inextricably linked to the survival of indigenous cultures (Sobrevila C. 2008).

When indigenous and tribal community's rights are juxtaposed with development concerns, the rights of the indigenous and tribal communities are often sacrificed in the name of development.

Major projects in the industrial, irrigation, and electricity sectors are always being developed outside of urban environments, and these places are mostly tribal territories populated by tribal and indigenous communities. Each time a major project is undertaken, a part of tribal area is acquired for the same. Not only is the area acquired, but also there is large scale deforestation, destruction of wildlife habitats, and pollution of streams and rivers. The Dongrias of the Niyamgiri Hills are an excellent example of how development efforts are undermining their social organisation, cultural identity, and resource base, leaving them vulnerable to exploitation.

Similarly, the Athirappilly-Vazhachal-Nelliampathy forests in the Southern Western Ghats is reserve of evergreen rainforests and the Kadar tribe is one of the oldest indigenous populations in the area designated as "Particularly Vulnerable Tribal Group". The proposed Athirappilly Hydroelectric Dam Project on the River Chalakudy would have destroyed 28.5 hectares of riparian forests that sustain life for the Kadar tribes. Though now, the Kerala Government has called off the proposed power project because of people's movement.

Thus, the developmental projects result in biodiversity loss as well as displacement of indigenous and tribal communities.

### 4. Indigenous People and Biodiversity Conservation: Approach of Legal Framework in India

In order to understand whether the legal framework in India recognises the role of indigenous people in biodiversity conservation, it is necessary to examine the various constitutional provisions, legislations and judicial decisions. It is also necessary to examine the approach towards indigenous people in Ancient India and British India.

#### 4.1 Ancient India and British India:

The term Adivasi is often used to describe indigenous people in India. The vast reservoir of indigenous knowledge and customary use of natural resources in the local, indigenous and forest communities which prevailed in the country since ancient times has been closely intertwined and overlapping with the social and cultural life of people, and guided them to use the natural resources more judiciously. Limitations on clearing and burning of forests; restrictions on hunting of specific species; restrictions on hunting during certain duration of the year; preservation of sacred groves; worship of plants, trees and animal species; reverence and worship of the nature and land, soil, water; watershed rotation are all examples of the traditional and customary practices in the country by local and indigenous people which helped to preserve the natural environment and biodiversity. The local people relied on the surroundings and forests and these were considered as common property and used judiciously. However, with the advent of British and subsequent British Rule, there was a complete change in the approach towards the forests and natural resources. As the British Government slowly started exercising control over the forests and land, and started enacting various laws, the tribal and indigenous people were slowly alienated from the forests (Shanthakumar S. 2016).

The Indian Forest Act, 1927 is a colonial piece of legislation by the British and continues till date. The main aim of the Act is to integrate the laws relating to forest, transit of forest produce and the duty leviable on timber and other forest produce (Shanthakumar S. 2016). Thus, the Act did not pay much attention to the role of tribal's and indigenous people in biodiversity and forest conservation.

## 4.2 After Independence- Constitutional Provisions:

After Independence, there were a lot of changes in the policies and legal framework with respect to environmental protection. The Constitution of India does not specifically use the term indigenous people. However, the indigenous people are known in the country by different names such as Adivasi's, Tribals, etc. and in fact, the bulk of the tribal population in the country is classified as Scheduled Tribes under the Constitution and there are various provisions for protection of their rights. India can be proudly called as the largest TRIBAL population in the world. There are numerous protective and development provisions for the welfare of tribal people in the Indian Constitution. The bulk of the tribes are classified as Scheduled Tribes under Article 342(1&2). Further, Article 244 of the Constitution deals with Administration of Scheduled Areas and Tribal Areas.

Except for Assam, Meghalaya, Tripura, and Mizoram, the Fifth Schedule oversees the administration and management of Scheduled Areas and Scheduled Tribes in all states. The Sixth Schedule safeguards tribal interests in Assam, Meghalaya, Tripura, and Mizoram, which are not covered by the Fifth Schedule. Article 338-A of the Constitution (89th Amendment) Act of 2003 established the National Commission for Scheduled Castes and Scheduled Tribes, which is appointed by the President of India. On all significant policy topics affecting Scheduled Tribes, the Union of India and the States are required to consult the Commission. Furthermore, Article 164(1) provides specific protection for tribal's by appointing a Minister for Tribal Welfare in each state to oversee tribal welfare.

With respect to environmental and biodiversity protection, there are various provisions. For instance, Article 39(b) imposes a duty on the state to direct its policy toward ensuring that the community's material resources are dispersed in such a way that best serves the common interest. The term 'community's material resources,' as used in the article, refers to everything that has the potential to generate wealth for the community. The term "ownership of communal goods to serve the common good" refers to both natural and physical goods, as well as mobile and immovable property like land and other assets. The government should investigate the proper allocation and availability of raw materials that have the potential to generate prosperity.

In 1976, the Constitution of India was amended and two new provisions were added in Part IV and Part IV-A of the Constitution. Article 48-A imposes "an obligation on the State to protect and improve the environment and to safeguard the forests and wildlife of the country". In Part IV-A, a list of fundamental duties of citizens of India was prescribed. Article 51-A(g) says "It shall be a fundamental duty of citizen of India to protect and improve the natural environment including forests, lakes, rivers, and wildlife and to have compassion for living creatures". Thus, clearly the Constitution envisages the role of people including the indigenous and tribal people in environmental protection and biodiversity conservation. Further, Article 21, which guarantees the fundamental right to life and personal liberty, has been given a dynamic interpretation by the Apex Court to include a wide variety of other basic human rights.


## 4.3 Policies and Plans:

The Indian government has issued many policies and strategies in the past to address various environmental challenges. Only a few policies, however, acknowledge the importance of indigenous peoples in biodiversity conservation

## 4.4 Legislations:

There are numerous legislations dealing with the various environmental issues and for environmental protection. However, an important aspect is to what extent these legislations consider role of indigenous people in biodiversity conservation?

*The Indian Forest Act 1927* which is a colonial legislation still continues in the country. Though it provides for the formation of village forests, it is only relating to conditions under which community may be provided with timber or other forest produce or pasture (Indian Forest Act, 1927 Section 28) Thus it does not consider role of tribal and local communities in conservation. So also, *The Forest Conservation Act, 1980* imposes restriction on DE reservation of any reserved forests for non-forest



purposes and without prior approval of the Central Government. It does not consider the issue of indigenous people role in biodiversity conservation.

Furthermore, the "Panchayats (Extension to Scheduled Areas) Act, 1996," (PESA) Act, No.40 of 1996, enacted on December 24, 1996, is an Act to provide for the extension of the provisions of Part IX of the Constitution relating to Panchayats to Scheduled Areas, with certain exceptions and modifications. Its purpose is to ensure self-governance for people living in India's Scheduled Areas through traditional Gram Sabhas. Its goal is to empower Gram Sabhas and Panchayats at various levels to establish a system of self-governance in areas such as customary resources, minor forest produce, minor minerals, minor water bodies, beneficiary selection, project sanction, and control over local institutions. The PESA Act was enacted by the Parliament in 1996 and came into force on 24th December 1996. The background of this Act can be traced to the 73rd Constitutional Amendment, 1992, for promoting local self-governance in rural India and which established a three-tier Panchayati Raj Institution. November 20, 2021, Insights Editor. An important feature of the PESA Act is that the Gram Sabha approves the plans, programs, policies and is competent to safeguard and preserve the traditions, customs and cultural identity of the tribal people. PESA recognizes the Gram Sabha, the official expression of a village community, as having the authority to "*safeguard and protect the people's traditions and practices, their cultural identity, community resources, and the customary manner of dispute resolution.*" (PESA Act, 1996 Section 4(d)). Due to this, the Gram Sabha has a higher status in self-governance system under PESA Act, and because Gram Sabha is made up of the same people whom it represents, this provision has gained popularity. Thus, it aims to enable tribal self-rule in these areas and in a way participation of people in development as well as environmental conservation.

However, despite being a positive step, this Act has not been fully utilized. The state actions performed for the goals of this Act have failed to strengthen the concept of self-governance as envisioned by this legislation. As a result, the PESA's potential for recognizing customary practices and laws through the Gram Sabha and the involvement of the local and indigenous people in biodiversity conservation has not been fully realized.

For the first time in the country's history, the ***Biological Diversity Act, 2002*** was enacted in 2002 with the goal of providing legal protection to biodiversity. The Act elicited a mixed response of expectations and concerns. The Act establishes the national Biodiversity Authority; State Biodiversity Board; and Biodiversity Management Committee at national, state, and municipal level respectively for the conservation and sustainable use of the biological diversity (Biological Diversity Act, 2002 (Section 18, 22, 23 and 41)). The Biodiversity Management Committees will be formed by self-governing institutions for the conservation and documentation of biodiversity, as well as the recording of knowledge linked with biodiversity. The Biological Diversity Act, 2002, to some extent recognizes knowledge of local people. The Central Government must take steps to respect and protect local people's biodiversity knowledge, as recommended by the National Biodiversity Authority, through various measures such as registration of such knowledge at local, state, and national levels, as well as other protection measures such as a sui generis system (The Biological Diversity Act, 2002 (Section 36)). However, the Local Biodiversity Management Committees do not have any authority to recognize customary practices and the Act does not contain adequate provisions for involving local and indigenous people in biodiversity conservation.

***The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006***, also known as Forest Rights Act (FRA) is a legislation which aims to address the historical injustices faced by the forest-dwellers from nearly 150 years and seeks to provide them with the security of tenure over land for cultivation and habitation through individual rights. It also gives forest-dwelling communities the authority to safeguard, regenerate, maintain, and manage any community forest resource that they have historically protected and preserved for long-term usage.

However, a controversial provision of The FRA is the provision for creating Critical Wildlife Habitats within Protected Areas as it is feared that this provision will lead to eviction and exclusion of forest-dwellers from the forest areas. The FRA is crucial not only for protecting rights of millions of tribal and other forest dwellers in different parts of the country; but also for realizing the objectives of biodiversity conservation which is possible only by inclusion (and not exclusion) of these people in the conservation policies and plans.



#### 4.5 Judicial Decisions:

The numerous provisions in the Constitution have been given a dynamic interpretation by the Judiciary to protect the rights of tribal's and indigenous people in the country and also to include them in the mainstream society and environmental conservation process. Article 21, which provides the Right to Life, has been interpreted to include various facets of rights necessary for dignified life. The Supreme Court has held that the term "right to life" does not mean merely animal existence, but rather to life with human dignity (Francis Coralie v. Union of India, 1981 AIR 746). The indigenous groups have the right not to be uprooted or incapacitated as a result of activities that deprive them of their customary rights and thus have a right to live in conditions guaranteeing basic human dignity. In 1987, the Supreme Court gave stringent guidelines to protect tribal's who were being evicted from their forest land by the NTPC's Rihand thermal project. The court stated that tribal people have been collecting the necessities for their living for generations in the woods around them, and that evicting them from that area would be tantamount to depriving them of their fundamental right to life, suggesting right to livelihood. The Court also emphasized on their rehabilitation and inclusion in the mainstream society (Banwasi Sewa Ashram V. State of Uttar Pradesh, (1987) SC 374).

#### 5. Conclusion and Suggestions

In the current situation, India has a lot of biodiversity. Indigenous people have contributed to the preservation of biodiversity. However, because of the rapid industrial revolution the indigenous and local people have been alienated from the biodiversity conservation. The current legislations relating to environmental protection and biodiversity conservation also do not address the issue of indigenous people role in biodiversity conservation adequately. Moreover, the policies and legislations have divergent approaches. The alienation of the indigenous people from biodiversity conservation and developmental process affects biodiversity and also deprives the tribal and indigenous communities of their rights. Hence, concrete efforts must be made at international and national level to include indigenous people in biodiversity conservation. Some of the suggestions given by the authors are:

- A data base of the various traditional methods of biodiversity conservation must be made by countries. The data base must include the various traditional and indigenous methods of biodiversity conservation with respect to forests, wildlife, birds, soil protection, agriculture, and water harvesting.
- The monitoring system must be set up at international, regional, national and local level to monitor the inclusion of indigenous people in conservation activities. The monitoring committees can be set up at the international level, regional levels, national level and local level and can check the inclusion of indigenous people in biodiversity conservation. Also there must be coordination between these committees themselves to form a proper networking system of monitoring and compliance.
- The participation of NGOs must be strengthened so as to remove the fear in minds of indigenous people and encourage them to participate in governmental plans and policies for biodiversity conservation. It must be remembered that, "*the indigenous people are not the foes, but are the friends of the forests and biodiversity.*"
- It must be accepted that the anthropogenic activities in the country are depleting the forest cover day by day and affecting the rich biodiversity. Hence, the legal frameworks must be strengthened by increasing fines and punishments for illegal deforestation. Also the diversion of forest land for developmental activities by the State must be restricted and there must be accountability imposed on the State for causing damage to the forests by such diversion.
- To ensure biodiversity conservation and enable indigenous people participation the State must: identify, demarcate and map the areas of biodiversity as well as areas of indigenous and tribal people. The Gram Sabha and Village Level Institutions as holders of forest rights under the Forest Rights Act, 2006 must be strengthened and equipped to carry out various biodiversity conservation programmes and to include the tribal and indigenous communities. The interference by the industries and State for exploitation of resources in the area must be stopped.

- The Joint Forest Management projects must be encouraged. The local communities must be involved in the JFM projects through incentives like allowing use of minor forest resources for livelihood, allowing shifting cultivation in some areas and gainful employment in various conservation projects as well as small scale cottage industries utilizing the forest produce.
- Strengthening livelihood security of the indigenous and local community who are living adjoining to the forest areas is very essential. They may be given employment as security guards; tourist guides etc. as they know about the forests and have genuine concern to protect the forests.

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