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Emerging Global Regulatory Frameworks on Corporate Environmental Due Diligence: Implications for Forest Protection in India

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Abstract

Corporate Environmental Due Diligence (CEDD) has emerged as a central component of global sustainability governance, reflecting a transition from voluntary corporate social responsibility initiatives to legally binding obligations on businesses to identify, prevent, mitigate, and account for environmental harms across their value chains. Recent regulatory developments, particularly within the European Union (EU), Organisation for Economic Co-operation and Development (OECD), and United Nations (UN) frameworks, have significantly expanded corporate responsibilities concerning environmental protection, biodiversity conservation, and deforestation-free supply chains. The EU Corporate Sustainability Due Diligence Directive (CSDDD) and the EU Deforestation Regulation (EUDR) represent landmark efforts to impose mandatory environmental due diligence requirements on companies operating in global markets, compelling them to address adverse environmental impacts throughout their supply chains. These emerging frameworks have profound implications for developing countries such as India, whose forestry resources, agricultural commodities, and export-oriented industries are increasingly integrated into global value chains. India faces the dual challenge of promoting economic development while conserving forest ecosystems that support biodiversity, climate regulation, and the livelihoods of millions of forest-dependent communities. The growing emphasis on traceability, sustainability reporting, and deforestation-free sourcing creates both opportunities and challenges for Indian businesses and policymakers. While enhanced due diligence standards may strengthen environmental governance and improve market access for sustainable products, compliance costs, technological requirements, and institutional capacity constraints remain significant concerns. This article critically examines the evolution of global environmental due diligence frameworks, analyzes their legal and policy dimensions, and evaluates their implications for forest protection in India. It argues that emerging due diligence regulations can serve as catalysts for strengthening forest governance, promoting sustainable supply chains, and enhancing corporate accountability. However, their effectiveness depends upon coherent domestic legal reforms, robust enforcement mechanisms, technological innovations in traceability systems, and inclusive stakeholder participation. The article concludes that India must proactively adapt its environmental governance framework to align with global due diligence standards while safeguarding developmental priorities and forest-dependent communities.

Keywords:- Corporate Environmental Due Diligence (CEDD), Forest Protection , EU Deforestation Regulation (EUDR), Sustainable Supply Chains, Environmental Governance in India

Introduction

Environmental degradation, climate change, biodiversity loss, and large-scale deforestation have become some of the most pressing challenges confronting the international community in the twenty-first century. While governments have traditionally borne the primary responsibility for environmental regulation and conservation, globalization has significantly transformed the structure of economic production. Contemporary supply chains often span multiple jurisdictions, involving producers, suppliers, manufacturers, and distributors operating across different countries. Consequently, environmental harm caused in one jurisdiction may be linked to consumption patterns and corporate decisions in another. This transnational character of environmental impacts has highlighted the limitations of state-centric environmental governance and necessitated greater corporate accountability.

In response to these challenges, Corporate Environmental Due Diligence (CEDD) has emerged as a critical regulatory tool aimed at ensuring that businesses identify, assess, prevent, mitigate, and account for adverse environmental impacts associated with their operations and value chains. Initially developed through voluntary corporate social responsibility initiatives and international soft-law instruments, environmental due diligence is increasingly being embedded within mandatory legal frameworks. The adoption of the European Union's Corporate Sustainability Due Diligence Directive (CSDDD) and the European Union Deforestation Regulation (EUDR) exemplifies a global shift toward legally enforceable corporate obligations concerning environmental protection, climate action, and biodiversity conservation.[1]

The relevance of these developments is particularly significant for India. As one of the world's fastest-growing economies and a major participant in global trade, India is deeply integrated into international supply chains involving forest-linked commodities such as timber, rubber, coffee, tea, spices, and agricultural products. Simultaneously, India possesses extensive forest resources that support ecological stability, biodiversity conservation, and the livelihoods of nearly 275 million forest-dependent people. The intersection between international due diligence requirements and domestic forest governance therefore presents both opportunities and challenges.[2]

This article examines emerging global regulatory frameworks governing corporate environmental due diligence and evaluates their implications for forest protection in India. It explores the evolution of due diligence obligations, analyzes key international regulatory developments, assesses India's legal and institutional preparedness, and proposes policy recommendations for aligning domestic environmental governance with emerging global standards.

Concept And Evolution Of Corporate Environmental Due Diligence

Understanding Corporate Environmental Due Diligence

Corporate Environmental Due Diligence refers to a continuous and risk-based process through which businesses identify, assess, prevent, mitigate, monitor, and remediate actual or potential adverse environmental impacts arising from their activities, subsidiaries, suppliers, and business relationships. Unlike traditional environmental compliance mechanisms that focus solely on adherence to domestic legal requirements, due diligence extends corporate responsibility throughout the entire value chain. The concept is grounded in the principle that businesses have a responsibility not only to avoid direct environmental harm but also to address environmental risks associated with suppliers, contractors, and downstream business partners. Environmental due diligence encompasses a wide range of concerns, including deforestation, biodiversity loss, greenhouse gas emissions, pollution, ecosystem degradation, and unsustainable resource extraction.[3]

A key characteristic of environmental due diligence is its preventive nature. Rather than responding to environmental damage after it occurs, due diligence seeks to identify risks at an early stage and implement measures to prevent or minimize harm. This proactive approach aligns closely with established principles of

[1] European Commission. Corporate Sustainability Due Diligence Directive (CSDDD). https://commission.europa.eu/topics/business-and-industry/doing-business-eu/sustainability-due-diligence-responsible-business/corporate-sustainability-due-diligence_en

[2] OECD. Due Diligence Guidance for Responsible Business Conduct. https://www.oecd.org/en/publications/oecd-due-diligence-guidance-for-responsible-business-conduct_15f5f4b3-en.html

[3] OECD. Responsible Business Conduct, Environment and Climate Change. https://www.oecd.org/en/topics/sub-issues/due-diligence-guidance-for-responsible-business-conduct/responsible-business-conduct-environment-and-climate-change.html

international environmental law, including the precautionary principle, sustainable development, and intergenerational equity.

Historical Development

The evolution of corporate environmental due diligence can be traced through three distinct phases.

Voluntary Corporate Responsibility Era

During the 1990s and early 2000s, environmental responsibility was primarily pursued through voluntary corporate initiatives. Businesses adopted environmental management systems, sustainability reporting frameworks, and certification mechanisms such as the Forest Stewardship Council (FSC). These initiatives aimed to enhance corporate reputation and demonstrate commitment to sustainable development but lacked enforceable legal obligations.

Emergence of Soft-Law Frameworks

The second phase witnessed the development of international standards and guidelines establishing expectations for responsible business conduct. The United Nations Global Compact, OECD Guidelines for Multinational Enterprises, and UN Guiding Principles on Business and Human Rights contributed significantly to the institutionalization of due diligence concepts. These frameworks emphasized corporate responsibility to identify and address environmental and human rights risks across business operations.

Transition to Mandatory Due Diligence

Recent years have witnessed a shift from voluntary standards to legally binding obligations. Countries such as France and Germany have enacted legislation requiring companies to conduct due diligence regarding environmental and human rights impacts. The European Union's adoption of the CSDDD and EUDR represents the most significant development in this trend, transforming due diligence from a voluntary best practice into a mandatory legal requirement.[4]

Emerging Global Regulatory Frameworks On Corporate Environmental Due Diligence

OECD Due Diligence Guidance for Responsible Business Conduct

The OECD Due Diligence Guidance for Responsible Business Conduct has become one of the most influential international standards governing corporate due diligence. Although not legally binding, it serves as a benchmark for regulatory initiatives worldwide. The Guidance establishes a six-step due diligence process that includes integrating responsible business conduct into corporate policies, identifying adverse impacts, preventing or mitigating harm, monitoring implementation, communicating performance, and facilitating remediation where necessary.[5]

Importantly, the OECD framework explicitly recognizes environmental issues as central due diligence concerns. Companies are expected to assess risks relating to climate change, biodiversity loss, deforestation, pollution, and

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[4] European Commission. Corporate Sustainability Due Diligence Directive (CSDDD). https://commission.europa.eu/topics/business-and-industry/doing-business-eu/sustainability-due-diligence-responsible-business/corporate-sustainability-due-diligence_en

[5] OECD. Due Diligence Guidance for Responsible Business Conduct. https://www.oecd.org/en/publications/oecd-due-diligence-guidance-for-responsible-business-conduct_15f5f4b3-en.html

ecosystem degradation. The framework also encourages meaningful stakeholder engagement, emphasizing consultation with indigenous peoples, local communities, workers, and civil society organizations. The OECD model has significantly influenced national legislation and international regulatory developments by providing a comprehensive methodology for environmental risk management.

United Nations Frameworks

The United Nations has played a pivotal role in advancing corporate environmental accountability through various normative instruments. The UN Guiding Principles on Business and Human Rights (UNGPs), adopted in 2011, establish the corporate responsibility to respect human rights and conduct due diligence to identify and address adverse impacts. Although primarily focused on human rights, environmental harms are increasingly recognized as interconnected with human rights concerns, particularly regarding access to clean water, health, and a healthy environment.[6]

Similarly, the Sustainable Development Goals (SDGs) provide a global framework linking economic development with environmental sustainability. Goals relating to climate action, sustainable consumption and production, and life on land encourage governments and businesses to adopt sustainable practices throughout supply chains. More recently, the UN General Assembly's recognition of the right to a clean, healthy, and sustainable environment has strengthened normative support for enhanced environmental due diligence obligations.[7]

European Union Corporate Sustainability Due Diligence Directive (CSDDD)

The CSDDD represents one of the most ambitious attempts to regulate corporate sustainability impacts globally. The Directive requires large companies operating within the EU market to identify, prevent, mitigate, and remedy adverse human rights and environmental impacts throughout their operations and value chains. Environmental impacts covered under the Directive include biodiversity loss, ecosystem degradation, climate change, pollution, and unlawful exploitation of natural resources. Companies must establish due diligence policies, conduct risk assessments, monitor effectiveness, and publicly communicate their efforts.

The Directive also introduces enforcement mechanisms, including civil liability and administrative sanctions, thereby significantly increasing corporate accountability. Because the Directive applies to companies operating within the EU market, its effects extend beyond Europe and influence business practices worldwide.

European Union Deforestation Regulation (EUDR)

The EUDR specifically addresses global deforestation linked to commodity production. It prohibits the placement of products associated with deforestation or forest degradation on the EU market. The Regulation covers commodities such as timber, coffee, cocoa, rubber, palm oil, soy, and cattle products. Businesses must demonstrate that products are deforestation-free and legally produced. Compliance requires geolocation data, risk assessments, and detailed supply-chain traceability. For exporting countries like India, the EUDR has substantial implications. Producers and exporters must establish systems capable of demonstrating compliance with stringent traceability and sustainability requirements.

[6] United Nations. Guiding Principles on Business and Human Rights (2011). https://www.ohchr.org
[7] United Nations Sustainable Development Goals. https://sdgs.un.org/goals

Forest Protection And Environmental Governance In India

Ecological Significance of Forests in India

Forests constitute a critical component of India's environmental and socio-economic landscape. They provide ecosystem services including carbon sequestration, soil conservation, water regulation, biodiversity protection, and climate resilience. India is recognized as one of the world's megadiverse countries, hosting approximately 8% of global biodiversity.[8] Forest ecosystems such as the Western Ghats, Eastern Himalayas, Sundarbans, and Northeastern forests support numerous endemic and endangered species. Beyond ecological functions, forests sustain the livelihoods of millions of tribal and forest-dependent communities. Forest resources contribute to food security, medicinal practices, cultural identity, and income generation.[9]

Constitutional and Legal Framework

India's constitutional framework strongly supports environmental protection. Article 48A directs the State to protect and improve the environment and safeguard forests and wildlife. Article 51A(g) imposes a fundamental duty upon citizens to protect the natural environment. The Forest (Conservation) Act, 1980, restricts the diversion of forest land for non-forest purposes without central government approval. The Environment (Protection) Act, 1986, provides broad regulatory powers for environmental protection, while the Biological Diversity Act, 2002, promotes conservation and sustainable use of biological resources. Judicial interventions have further strengthened forest protection through doctrines such as sustainable development, the precautionary principle, and the public trust doctrine.[10]

Adoption Of International Environmental Law In India

India has consistently demonstrated its commitment to international environmental governance by becoming a party to several multilateral environmental agreements (MEAs) aimed at promoting biodiversity conservation, sustainable development, climate change mitigation, and the protection of forest ecosystems. Although international treaties do not automatically become enforceable domestic law under the Indian legal system, they significantly influence legislative reforms, judicial interpretation, and environmental policymaking. Through constitutional provisions, statutory enactments, and judicial activism, India has progressively incorporated international environmental principles into its domestic legal framework, thereby strengthening forest conservation and sustainable resource management.

The constitutional basis for implementing international environmental obligations is found in Article 51(c) of the Constitution of India, which directs the State to "foster respect for international law and treaty obligations in the dealings of organised peoples with one another." Although included within the Directive Principles of State Policy and therefore not directly enforceable, Article 51(c) reflects India's constitutional commitment to complying with international legal norms.[11] Furthermore, Article 253 empowers Parliament to enact legislation for implementing international treaties, conventions, and agreements, even on subjects falling within the State List. This provision has enabled Parliament to harmonise domestic environmental legislation with India's international commitments under various environmental conventions.[12]

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[8] Forest Survey of India. India State of Forest Report 2023. https://fsi.nic.in
[9] Ministry of Environment, Forest and Climate Change (India). https://moef.gov.in
[10] The Constitution of India.
[11] Art 51(c) The Constitution of India
[12] Art 253 The Constitution of India

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One of the most significant international agreements influencing India's environmental governance is the Convention on Biological Diversity, adopted in 1992 at the Rio Earth Summit. India ratified the Convention in 1994 and subsequently enacted the Biological Diversity Act, 2002, to fulfil its obligations under the Convention. The CBD seeks to achieve three primary objectives: conservation of biological diversity, sustainable use of biological resources, and equitable sharing of benefits arising from the utilization of genetic resources. These objectives have substantially influenced India's forest governance by encouraging biodiversity conservation within protected areas, promoting sustainable forest management, regulating access to biological resources, and recognising the traditional knowledge of indigenous and local communities. Institutions such as the National Biodiversity Authority, State Biodiversity Boards, and Biodiversity Management Committees were established under the Act to operationalise India's commitments under the Convention.[13]

India has also actively participated in the United Nations Framework Convention on Climate Change and its subsequent agreements, including the Paris Agreement. Forests play a crucial role in climate change mitigation because they function as significant carbon sinks by absorbing atmospheric carbon dioxide. India's Nationally Determined Contributions (NDCs) under the Paris Agreement include commitments to create an additional carbon sink through increased forest and tree cover. Consequently, afforestation, reforestation, and restoration of degraded forests have become central objectives of India's environmental policy. National programmes such as the Green India Mission and various afforestation initiatives under the National Action Plan on Climate Change have been designed to enhance forest cover while contributing to climate resilience and sustainable development.

The Ramsar Convention, to which India became a party in 1982, has further strengthened conservation efforts by promoting the protection and wise use of wetlands that are ecologically connected with forest ecosystems. Numerous Ramsar sites in India, including forested wetlands and mangrove ecosystems, provide essential habitats for wildlife and contribute to biodiversity conservation. The Convention has encouraged integrated landscape management approaches that recognise the ecological interdependence between forests, wetlands, and river systems. Protection of these ecosystems has become increasingly important in addressing climate change, maintaining hydrological balance, and preserving biodiversity.

Similarly, India's obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora have significantly influenced wildlife and forest conservation policies. CITES regulates international trade in endangered species of flora and fauna to ensure that such trade does not threaten their survival. India has implemented its obligations primarily through the Wildlife (Protection) Act, 1972, which regulates trade in protected species, strengthens enforcement against illegal wildlife trafficking, and enhances monitoring of forest resources. Effective implementation of CITES also contributes indirectly to preventing illegal logging and forest encroachment by discouraging illicit exploitation of forest biodiversity and associated ecosystems.

These international environmental commitments have substantially influenced the evolution of India's domestic environmental legislation. The Forest (Conservation) Act, 1980 was enacted to regulate the diversion of forest land for non-forest purposes and has become one of the principal legal instruments for preventing indiscriminate deforestation. Although enacted before several contemporary international agreements, its implementation has increasingly reflected global principles of sustainable development, biodiversity conservation, and precautionary environmental management. Likewise, the Environment (Protection) Act, 1986, enacted following the Stockholm Conference on the Human Environment, provides broad regulatory powers to the Central Government for protecting and improving environmental quality. The Act serves as an umbrella legislation enabling the Government to formulate rules and notifications that facilitate compliance with India's international environmental obligations.

[13] Dr. Bhavana AK, Legal safeguards for biological diversity in India, https://www.lawjournals.org/assets/archives/2024/vol10issue5/11102.pdf

International environmental commitments have also shaped national policy initiatives such as the National Forest Policy, 1988**,** which shifted India's forest governance from a revenue-oriented approach towards ecological security, biodiversity conservation, and community participation. The policy emphasises maintaining ecological balance, increasing forest cover, protecting the rights of forest-dependent communities, and promoting sustainable forest management, objectives that closely align with the CBD, UNFCCC, and the broader principles of sustainable development recognised under international environmental law.

Another significant institutional mechanism reflecting India's international commitments is the Compensatory Afforestation Fund Management and Planning Authority (CAMPA) established under the Compensatory Afforestation Fund Act, 2016**.** CAMPA utilises funds collected from the diversion of forest land for developmental projects to undertake compensatory afforestation, assisted natural regeneration, wildlife conservation, and improvement of forest infrastructure. These initiatives contribute directly to India's commitments under the Paris Agreement by increasing forest carbon stocks and support biodiversity conservation objectives under the Convention on Biological Diversity.

The adoption of international environmental law has also influenced India's approach towards corporate environmental governance. Emerging global frameworks such as the European Union Deforestation Regulation (EUDR), Corporate Sustainability Due Diligence Directive (CSDDD), and OECD Due Diligence Guidance increasingly require businesses to ensure that supply chains are free from deforestation and biodiversity loss. India's domestic legal framework, supported by its international treaty obligations, provides a strong foundation for aligning corporate environmental due diligence practices with these emerging global standards. Strengthening legal compliance, digital traceability systems, sustainable forest certification, and corporate accountability will enable India to enhance forest protection while maintaining competitiveness in international markets.

Judicial Role In Implementing International Environmental Principles.

The Indian judiciary has played a transformative role in integrating international environmental principles into domestic environmental jurisprudence. Although Parliament is constitutionally empowered under Article 253 to enact legislation implementing international treaties, the Supreme Court has significantly contributed to harmonising international environmental norms with domestic law through progressive judicial interpretation. By expanding the scope of Article 21 of the Constitution to include the right to a clean and healthy environment, the judiciary has incorporated globally recognised principles such as sustainable development, the precautionary principle, the polluter pays principle, and the public trust doctrine into Indian environmental law. Judicial activism has therefore complemented legislative efforts by ensuring effective implementation of international environmental obligations, particularly in relation to forest conservation, biodiversity protection, and prevention of illegal forest encroachment.

The Supreme Court has consistently held that international environmental conventions and declarations may be relied upon to interpret domestic legislation where there is no inconsistency with municipal law. This approach reflects India's constitutional commitment under Article 51(c) to respect international law and treaty obligations while simultaneously reinforcing Parliament's authority under Article 253 to implement international agreements through legislation. Consequently, principles embodied in instruments such as the Stockholm Declaration (1972), Rio Declaration (1992), Convention on Biological Diversity (CBD), United Nations Framework Convention on Climate Change (UNFCCC), and the Paris Agreement have gradually become integral components of Indian environmental jurisprudence.

Incorporation of the Principle of Sustainable Development

One of the most significant judicial contributions to environmental governance is the recognition of the principle of sustainable development. Sustainable development seeks to balance economic growth with environmental protection so that developmental needs are met without compromising the ability of future generations to meet their own needs. This principle, first articulated in the Brundtland Report (1987) and reaffirmed during the Rio Earth Summit (1992), has become a cornerstone of international environmental law.

The landmark judgment of Vellore Citizens Welfare Forum v. Union of India marked a turning point in Indian environmental jurisprudence. The case concerned pollution caused by tanneries in the State of Tamil Nadu, which had contaminated agricultural lands and water bodies through the discharge of untreated industrial effluents. While addressing the issue, the Supreme Court explicitly recognised the principles of sustainable development, the precautionary principle, and the polluter pays principle as essential features of Indian environmental law. The Court observed that these principles had attained the status of customary international law and were therefore applicable in India.[14]

The Court further held that environmental protection and economic development are not mutually exclusive but must be pursued together through a balanced approach. By incorporating sustainable development into domestic environmental jurisprudence, the judgment established that developmental projects involving forest diversion must undergo rigorous environmental scrutiny to ensure that ecological interests are not sacrificed for short-term economic gains. This principle has since guided judicial review of infrastructure, mining, industrial, and commercial projects involving forest land.

Application of the Precautionary Principle

The precautionary principle represents one of the most influential concepts borrowed from international environmental law. Principle 15 of the Rio Declaration provides that where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

The Supreme Court firmly adopted this principle in Vellore Citizens Welfare Forum, holding that environmental measures must anticipate, prevent, and attack the causes of environmental degradation rather than merely responding after ecological damage has occurred. The Court shifted the burden of proof from environmental regulators to project proponents, requiring industries and developers to demonstrate that their proposed activities would not cause significant environmental harm.

This judicial approach has had considerable implications for forest conservation in India. Before approving mining projects, hydroelectric dams, highways, industrial corridors, or commercial development involving forest land, authorities are expected to undertake comprehensive environmental impact assessments and biodiversity evaluations. The precautionary principle has therefore strengthened preventive regulation by discouraging activities that could lead to irreversible forest degradation, habitat destruction, or ecological imbalance. It has also contributed to reducing illegal forest diversion by requiring stricter environmental clearances before permitting non-forest use of forest land.

Recognition of the Polluter Pays Principle

Another internationally recognised doctrine incorporated into Indian law is the polluter pays principle. Originating from the Organisation for Economic Co-operation and Development (OECD) and later endorsed by the Rio Declaration, this principle requires that those responsible for environmental damage should bear the full costs of preventing, mitigating, and restoring ecological harm.

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[14] Vellore Citizens Welfare Forum v. Union of India AIR 1996 SC 2715, 1996 (5)

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In Vellore Citizens Welfare Forum, the Supreme Court held that polluting industries cannot escape liability merely by paying compensation to affected persons. Rather, they are also responsible for restoring degraded ecosystems and bearing the costs of environmental remediation. This approach transformed environmental liability from a compensatory mechanism into an instrument for ecological restoration.

The polluter pays principle has particular relevance in cases involving illegal deforestation, mining within forest areas, industrial encroachment, and unlawful diversion of forest land. Courts have increasingly directed violators to compensate for ecological loss, undertake afforestation measures, and restore damaged ecosystems. These judicial directions reinforce corporate accountability while encouraging businesses to adopt environmentally responsible practices consistent with emerging global environmental due diligence standards.

Development of the Public Trust Doctrine

The Supreme Court has also adopted the Public Trust Doctrine, a principle rooted in Roman law and subsequently recognised in international environmental jurisprudence. According to this doctrine, natural resources such as forests, rivers, wetlands, wildlife, and biodiversity are held by the State in trust for the benefit of present and future generations. Consequently, the government cannot dispose of or exploit these resources in a manner that undermines public interest or ecological sustainability.

In M.C. Mehta v. Kamal Nath, the Supreme Court formally incorporated the Public Trust Doctrine into Indian environmental law. The case involved the diversion of the Beas River to benefit a private commercial enterprise, resulting in significant ecological damage. Relying upon international environmental principles and comparative jurisprudence, the Court held that the State acts merely as a trustee of natural resources and must protect them for the benefit of the public.[15]

Although the dispute primarily concerned river ecology, the doctrine has been extensively applied to forest governance. It imposes a constitutional obligation upon governmental authorities to ensure that forest resources are managed sustainably and are not diverted arbitrarily for private commercial interests. Judicial reliance on the Public Trust Doctrine has therefore strengthened scrutiny over governmental decisions permitting forest diversion, mining leases, infrastructure projects, and commercial exploitation of ecologically sensitive areas.

Judicial Monitoring of Forest Conservation: T.N. Godavarman Thirumulpad v. Union of India

Among all environmental cases decided by the Supreme Court, T.N. Godavarman Thirumulpad v. Union of India remains the most influential in shaping India's forest governance. Originally filed in 1995 to prevent illegal timber extraction in the Nilgiri forests, the litigation gradually evolved into a continuing mandamus through which the Supreme Court has monitored forest conservation across the country for nearly three decades.[16]

The Court adopted an expansive interpretation of the term "forest" by holding that it includes not only forests officially notified under statutory provisions but also areas satisfying the dictionary meaning of forests. This interpretation significantly expanded the scope of legal protection available under the Forest (Conservation) Act, 1980, preventing authorities from circumventing environmental regulations through technical classifications.

The Court issued several landmark directions, including prohibiting illegal logging, regulating sawmills and timber industries, requiring prior approval of the Central Government before diversion of forest land, establishing expert committees for monitoring forest conservation, and strengthening institutional mechanisms for

[15] M.C. Mehta v. Kamal Nath (1996/2002)

[16] T.N. Godavarman Thirumulpad v. Union of India (Writ Petition (Civil) No. 202 of 1995)

enforcement. Judicial supervision also contributed to the creation and effective utilisation of the Compensatory Afforestation Fund Management and Planning Authority (CAMPA), ensuring that funds collected for diversion of forest land are utilised for afforestation and ecological restoration.

Perhaps most importantly, the Godavarman litigation substantially curtailed illegal forest encroachment by requiring continuous judicial oversight of administrative decision-making. State Governments were directed to remove encroachments, prevent unauthorised occupation of forest land, and implement conservation measures consistent with constitutional and statutory obligations. The case transformed forest conservation from a purely administrative function into a matter of continuing constitutional accountability.

Environmental Jurisprudence in the M.C. Mehta Cases

The series of environmental cases filed by M.C. Mehta have collectively shaped India's environmental governance. Through these public interest litigations, the Supreme Court expanded the scope of Article 21 by recognising that the right to life necessarily includes the right to a wholesome and pollution-free environment.

The Court consistently emphasised that environmental protection must take precedence where ecological degradation threatens public health, biodiversity, or sustainable development. In several decisions concerning industrial pollution, vehicular emissions, hazardous industries, and conservation of ecologically sensitive regions, the Court required governmental authorities to implement stricter environmental standards, conduct scientific assessments, and enforce environmental legislation more effectively. These judgments strengthened regulatory accountability and demonstrated the judiciary's willingness to rely upon internationally recognised environmental principles when interpreting constitutional rights.

Contribution to Preventing Forest Encroachment and Illegal Diversion

The cumulative effect of these judicial decisions has been the development of one of the world's most progressive systems of environmental jurisprudence. By incorporating international environmental principles into domestic law, the Supreme Court has significantly strengthened legal safeguards against illegal forest diversion and encroachment.

Judicial interpretation has ensured that developmental projects involving forest land are subjected to rigorous environmental scrutiny through environmental impact assessments, biodiversity evaluations, and statutory clearances. The judiciary has also enhanced transparency by requiring greater accountability from governmental agencies responsible for granting forest clearances. Continuous monitoring through public interest litigation has discouraged illegal logging, unauthorised mining, and commercial exploitation of protected forests while reinforcing sustainable forest management practices.

Furthermore, these decisions have laid the legal foundation for India's increasing alignment with emerging global regulatory frameworks such as the European Union Deforestation Regulation (EUDR) and the Corporate Sustainability Due Diligence Directive (CSDDD). The emphasis on preventive environmental governance, corporate accountability, ecological restoration, and sustainable resource management closely corresponds with contemporary international due diligence standards governing global supply chains.[17]

[17] Tracing Sustainable Value Chains: Is India Ready for the EU’s Deforestation Regulation? https://www.orfonline.org/expert-speak/tracing-sustainable-value-chains-is-india-ready-for-the-eu-s-deforestation-regulation

Implications Of Global Due Diligence Frameworks For Forest Protection In India

Strengthening Forest Governance

Emerging due diligence frameworks can significantly strengthen forest governance by increasing transparency and accountability across supply chains. Requirements relating to traceability, monitoring, and reporting may encourage better record-keeping, enhanced forest inventories, and improved regulatory oversight.[18] Digital technologies such as satellite monitoring, remote sensing, and geographic information systems can support compliance while improving enforcement against illegal logging and encroachment.[19]

Promoting Sustainable Supply Chains

Global due diligence regulations create incentives for businesses to source commodities from environmentally responsible suppliers. Indian producers seeking access to international markets may adopt sustainable forestry practices, agroforestry systems, and certification schemes to meet market requirements. Such developments can contribute to reducing pressure on natural forests while promoting environmentally sustainable economic activities.

Enhancing Corporate Accountability

Mandatory due diligence shifts responsibility from governments alone to corporations. Businesses become active participants in environmental governance through risk assessment, monitoring, reporting, and remediation activities. This expansion of corporate accountability may reduce environmental externalities and encourage long-term sustainability planning.

Biodiversity Conservation Benefits

By addressing deforestation and ecosystem degradation, due diligence frameworks contribute directly to biodiversity conservation. Enhanced scrutiny of supply chains may discourage activities causing habitat destruction and promote conservation-friendly production methods.[20]

Economic and Trade Opportunities

Compliance with global due diligence standards can improve access to international markets, attract responsible investment, and enhance corporate reputation. Companies demonstrating strong environmental performance may gain competitive advantages in increasingly sustainability-conscious markets.

Challenges And Limitations

While emerging international environmental due diligence frameworks offer significant opportunities for improving forest governance, biodiversity conservation, and corporate accountability, their implementation within the Indian context presents numerous legal, institutional, technological, and socio-economic challenges. India's forest governance operates within a complex constitutional and administrative framework involving multiple stakeholders, including the Union Government, State Governments, Forest Departments, tribal communities, local self-governments, private businesses, and international trading partners. Consequently, harmonising domestic

[18] Indian Forest Act, 1927.
[19] Forest (Conservation) Act, 1980.
[20] Biological Diversity Act, 2002.

forest governance with evolving international environmental obligations requires addressing several structural constraints that continue to impede effective implementation.

Institutional Coordination and Fragmented Governance

One of the foremost challenges lies in the fragmented institutional structure governing forests and environmental regulation in India. Forest governance involves several ministries and agencies, including the Ministry of Environment, Forest and Climate Change (MoEFCC), State Forest Departments, the National Biodiversity Authority, State Biodiversity Boards, Pollution Control Boards, district administrations, and local authorities. Although each institution performs distinct regulatory functions, coordination among them often remains inadequate.

The implementation of global environmental due diligence standards, particularly those requiring supply-chain transparency and traceability, demands seamless cooperation among these institutions. However, overlapping jurisdictions, inconsistent administrative procedures, duplication of responsibilities, and bureaucratic delays frequently result in ineffective enforcement. For instance, information relating to forest diversion, land-use changes, biodiversity conservation, and environmental clearances is maintained by different agencies using separate databases that are often not interoperable. Such institutional fragmentation limits the ability of regulators to detect illegal forest encroachment or monitor compliance with international sustainability requirements.

Moreover, the constitutional division of legislative powers further complicates implementation. While forests fall under the Concurrent List following the Forty-second Constitutional Amendment, differences in priorities between the Union and State Governments sometimes create policy inconsistencies regarding conservation, infrastructure development, and industrial expansion.

Conflict Between Economic Development and Forest Conservation

India's developmental priorities frequently create tensions between economic growth and environmental protection. Rapid industrialisation, urban expansion, mining, renewable energy projects, highways, railways, and other infrastructure initiatives increasingly require diversion of forest land for non-forest purposes. Although such projects contribute significantly to national economic development, they often generate substantial pressure on forest ecosystems.

Global environmental frameworks such as the European Union Deforestation Regulation (EUDR) and Corporate Sustainability Due Diligence Directive (CSDDD) require businesses to ensure that commodities entering international markets are not associated with deforestation or forest degradation. Compliance with these standards may occasionally conflict with domestic development objectives where forest diversion has been legally approved under Indian law.

Balancing developmental needs with ecological sustainability therefore remains one of the most difficult policy challenges. Decision-makers must reconcile competing constitutional values, including economic development, environmental protection, tribal welfare, energy security, and climate commitments. Without carefully designed policy mechanisms, developmental pressures may undermine the effectiveness of international environmental obligations aimed at preventing forest degradation.

Weak Monitoring and Enforcement in Remote Forest Areas

Despite substantial improvements in satellite-based forest monitoring, effective surveillance of India's vast forest landscape remains a significant challenge. Large portions of India's forests are situated in geographically remote, mountainous, and inaccessible regions, including the Northeastern States, Central Indian forests, the Western Ghats, the Himalayas, and tribal-dominated areas.

Illegal logging, unauthorised mining, encroachment, wildlife trafficking, and land conversion frequently occur in these remote locations where enforcement agencies face logistical constraints. Shortages of field personnel, inadequate transportation, limited communication infrastructure, and difficult terrain often delay detection of environmental violations. Consequently, illegal activities may continue for extended periods before regulatory intervention becomes possible.

Although remote sensing technologies, Geographic Information Systems (GIS), drones, and satellite imagery have enhanced monitoring capabilities, these technologies are not yet uniformly available across all State Forest Departments. The absence of real-time integrated monitoring systems reduces the effectiveness of forest governance and limits India's ability to demonstrate compliance with increasingly stringent international due diligence requirements.

Persistent Forest Encroachment and Illegal Land Diversion

Forest encroachment remains one of the most persistent threats to India's forest resources. Encroachment occurs through unauthorised agricultural expansion, illegal settlements, infrastructure construction, mining activities, commercial plantations, and industrial development. In many instances, forest land records remain outdated or poorly digitised, making it difficult to distinguish between lawful occupation, customary community rights, and illegal encroachments.

Global due diligence frameworks require companies to verify that commodities are produced without contributing to deforestation or unlawful land conversion. However, where ownership records are disputed or land boundaries remain unclear, businesses may face considerable uncertainty in establishing compliance.

The problem is further aggravated by delayed legal proceedings, inadequate enforcement capacity, political pressures, and periodic regularisation of certain categories of encroachments. These factors weaken deterrence and reduce the effectiveness of existing forest conservation laws.

Land Tenure Uncertainty and Competing Rights

Another major challenge concerns land tenure and property rights within forest areas. Many forest-dependent communities have historically occupied and utilised forest lands without formal legal documentation. The enactment of the Forest Rights Act, 2006 sought to correct historical injustices by recognising the customary rights of Scheduled Tribes and other traditional forest dwellers.

However, implementation of the Act has often generated legal and administrative complexities. Delays in processing claims, inconsistent recognition of community forest resource rights, overlapping claims between forest authorities and local communities, and disputes over land ownership continue to affect forest governance.

From the perspective of international environmental due diligence, uncertain land tenure complicates supply-chain verification and traceability. Companies attempting to comply with global sustainability standards may find it difficult to establish whether products originate from legally recognised forest lands or disputed territories. This uncertainty may discourage investment in sustainable forestry while increasing compliance risks for exporters.

Balancing Tribal Rights and Forest Conservation

Protecting India's forests requires balancing ecological conservation with the constitutional rights and livelihoods of indigenous and forest-dependent communities. Millions of tribal people depend upon forests for food, housing materials, traditional medicines, cultural practices, and economic survival. International environmental law increasingly recognises indigenous participation as an essential component of biodiversity conservation and sustainable resource management. Instruments such as the Convention on Biological Diversity emphasise community participation, equitable benefit-sharing, and respect for traditional knowledge.

However, implementation often presents difficult trade-offs. Conservation measures designed to prevent deforestation may unintentionally restrict access to forest resources upon which local communities depend. Conversely, unregulated extraction of forest resources may contribute to ecological degradation if appropriate safeguards are absent. Developing policies that simultaneously protect forests and respect community rights therefore remains a complex governance challenge requiring participatory decision-making and inclusive conservation strategies.

Difficulties in Meeting Geolocation and Traceability Requirements under the EUDR

The European Union Deforestation Regulation introduces one of the most technologically demanding compliance requirements by requiring operators to provide precise geolocation coordinates demonstrating that products are not associated with deforestation after the prescribed cut-off date.

For India, compliance with these geolocation requirements presents several practical difficulties. Agricultural commodities such as coffee, rubber, spices, timber, and cocoa are frequently produced by millions of small and marginal farmers operating fragmented landholdings. Many producers lack digital land records, GPS-enabled mapping systems, or technical knowledge required to generate accurate geospatial information.

Furthermore, fragmented supply chains involving numerous intermediaries make it difficult to maintain complete traceability from the point of origin to international markets. Small producers may therefore face disproportionate compliance burdens despite following environmentally sustainable practices. Unless supported through governmental assistance, digital infrastructure, and technical capacity-building, strict geolocation requirements could reduce the competitiveness of Indian exporters in international markets.

Limited Technological Infrastructure

Successful implementation of global environmental due diligence frameworks depends heavily upon digital technologies capable of monitoring land-use changes, verifying supply chains, maintaining environmental databases, and facilitating regulatory reporting.

Although India has made considerable progress through initiatives such as Digital India, Forest Survey of India satellite monitoring, and geographic information systems, technological capabilities remain uneven across States. Several Forest Departments continue to face shortages of modern equipment, specialised software, high-resolution satellite imagery, cloud-based databases, and trained personnel capable of analysing geospatial information.

In addition, interoperability between different governmental databases remains limited. Land records, biodiversity inventories, forest clearances, environmental impact assessments, and corporate reporting systems often function independently, reducing administrative efficiency. Without integrated digital governance systems, monitoring compliance with international environmental standards will remain both expensive and administratively burdensome.

Capacity Constraints within State Forest Departments

The effectiveness of environmental governance ultimately depends upon the administrative capacity of implementing institutions. State Forest Departments remain the primary agencies responsible for preventing illegal logging, forest encroachment, wildlife offences, and unlawful diversion of forest land. However, many departments continue to face shortages of financial resources, technical expertise, trained personnel, modern equipment, and scientific support. Vacancies among frontline forest officials, inadequate training in emerging environmental technologies, and increasing workload associated with climate change, biodiversity conservation, and international reporting obligations have reduced institutional effectiveness.

Global due diligence frameworks require sophisticated monitoring, auditing, data management, and stakeholder engagement capabilities that many State Forest Departments are presently ill-equipped to perform. Strengthening institutional capacity therefore remains essential for effective implementation.

Regulatory Inconsistencies Between Domestic and International Standards

Another challenge arises from differences between domestic legal requirements and evolving international environmental standards. Indian environmental legislation primarily focuses on compliance with statutory procedures relating to environmental clearances, forest diversion approvals, and pollution control. In contrast, international due diligence frameworks increasingly emphasise broader concepts such as value-chain responsibility, continuous environmental risk assessment, corporate accountability, ESG reporting, biodiversity impacts, and deforestation-free sourcing.

Consequently, businesses complying fully with Indian law may nevertheless face difficulties satisfying international market requirements. This divergence creates regulatory uncertainty, increases compliance costs, and complicates international trade, particularly for exporters of forest-linked commodities. Developing harmonised regulatory frameworks capable of satisfying both domestic legal requirements and international due diligence obligations remains an important policy objective.

Financial and Compliance Burdens on Small Producers

A substantial proportion of India's forest-linked commodities originate from micro, small, and medium enterprises (MSMEs), cooperatives, tribal communities, and smallholder farmers. Unlike large multinational corporations, these producers often lack financial resources to undertake third-party certification, environmental audits, digital mapping, traceability systems, and ESG reporting.

Without targeted governmental support, compliance with international due diligence frameworks may disproportionately burden smaller producers, potentially excluding them from international markets. Such outcomes would undermine inclusive development objectives and could inadvertently increase economic inequalities within forest-dependent regions.

Need for Greater Public Participation and Environmental Awareness

Finally, effective implementation of international environmental law requires active participation from local communities, civil society organisations, academic institutions, and the private sector. Although India's legal framework increasingly recognises participatory environmental governance, awareness regarding global environmental due diligence obligations remains limited among many stakeholders.

Enhancing environmental education, promoting corporate sustainability culture, strengthening community-based forest management, and encouraging public participation in environmental decision-making are essential for ensuring long-term compliance with emerging international environmental standards.

Recommendations And Way Forward

- **Enact a National Corporate Environmental Due Diligence (CEDD) Law:** India should introduce a comprehensive legal framework mandating businesses to identify, assess, prevent, mitigate, and report environmental risks across their supply chains. Such legislation should align domestic environmental governance with evolving international due diligence standards.
- **Strengthen Forest Governance and Institutional Coordination:** Enhance coordination among the Ministry of Environment, Forest and Climate Change (MoEFCC), State Forest Departments, National Biodiversity Authority, Pollution Control Boards, and other regulatory agencies through integrated governance mechanisms and data-sharing platforms to improve implementation and enforcement.
- **Adopt Advanced Monitoring Technologies:** Expand the use of Geographic Information Systems (GIS), satellite imagery, remote sensing, drones, and artificial intelligence for real-time monitoring of forests, early detection of illegal encroachment, and effective enforcement against unlawful forest diversion.
- **Develop Digital Traceability Systems:** Establish robust digital traceability mechanisms for forest-linked commodities such as timber, rubber, coffee, tea, and spices to ensure compliance with international regulations, particularly the European Union Deforestation Regulation (EUDR).
- **Build Capacity of Regulatory Institutions:** Strengthen the institutional and technical capacity of State Forest Departments, environmental regulators, and enforcement agencies through specialised training, adequate funding, modern infrastructure, and recruitment of skilled personnel.
- **Enhance Judicial Capacity:** Organise regular training programmes for judges, judicial officers, and environmental tribunals on emerging international environmental laws, climate governance, corporate environmental due diligence, and biodiversity conservation to ensure effective judicial enforcement.
- **Promote Community-Based Forest Management:** Encourage greater participation of local communities and indigenous peoples through Joint Forest Management (JFM) programmes, recognising their traditional knowledge and ensuring that conservation efforts are both participatory and socially inclusive.
- **Support MSMEs and Small Producers:** Provide financial assistance, technical support, digital infrastructure, and sustainability certification incentives to micro, small, and medium enterprises (MSMEs) and smallholder farmers to facilitate compliance with international environmental due diligence requirements.
- **Harmonise Domestic Laws with International Standards:** Review and update existing environmental legislation to ensure consistency with international environmental conventions and global due diligence frameworks, thereby reducing regulatory uncertainty and improving market access for Indian businesses.
- **Strengthen ESG Reporting and Corporate Accountability:** Encourage mandatory Environmental, Social, and Governance (ESG) reporting, independent environmental audits, and transparent sustainability disclosures to promote responsible business conduct and enhance corporate accountability.
- **Enhance International Cooperation:** Strengthen collaboration with international organisations and trading partners for technology transfer, capacity building, scientific research, and the exchange of best practices in sustainable forest management and environmental governance.
- **Increase Environmental Awareness and Public Participation:** Promote environmental education, stakeholder awareness, and public participation in forest conservation through awareness campaigns, academic programmes, and civil society engagement to foster long-term compliance with environmental laws.

Conclusion

India should develop a comprehensive national environmental due diligence framework incorporating international best practices while reflecting domestic realities. Regulatory reforms should strengthen traceability systems, support smallholders through technical assistance, integrate ESG reporting requirements, and promote digital monitoring technologies. Capacity-building initiatives for regulators, businesses, and local communities are equally essential. Furthermore, India should actively participate in international negotiations concerning due diligence standards to ensure that global regulatory frameworks remain equitable and development-sensitive.

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