

Forest Legislation in Himachal Pradesh and Its Impact

In the context of traditional forestry and the new social forestry, the following laws become relevant.

The Indian Forest (H.P. Amendment) Act, 1968.

The Forest Conservation Act, 1980 (Central Act).

The *Mandi* Minor Produce Exploitation and Export Act, 1897.

The *Mandi* State Anti-Erosion Act, 1904.

H.P. Private State Anti-Erosion Act, 1904.

H.P. Private Forest Act, 1954.
 H.P. Forest (sale of timber) Act, 1968.
 H.P. Fruit Nurseries Registration Act, 1973
 H.P. Municipal (Prevention of Soil Erosion and Hill Side Safety Rules) Act, 1975.
 H.P. Forest Produce (Regulation of Trade) Act, 1982.
 H.P. Preservation of Forests and Maintenance of Supplies of Forest-based Essential Commodities' Act, 1984.
 H.P. Land Preservation Act, 1978.
 H.P. Resin and Resin Product (Regulation of Trade) Act, 1981.
 H.P. Village Common Lands Vesting and Utilisation Act, 1974.
 H.P. *Panchayat* Act, 1968.
 H.P. Ceiling of Landholding Act, 1972.

Unlike in other parts of India, the demarcation of land as 'reserved' or 'protected' forests began in H.P. only in 1986. Before that, (since 1952), only a few specific areas were demarcated. In the first round of land classifications, after 1947, most land classified as government land was taken over by the Revenue Department (RvD). In 1952, by Government notification (under Section 4 of the Indian Forest Act, 1927), many areas belonging to the RvD were 'transferred' on paper to the Forest Department (FD). This transfer was legally incomplete because the subsequent settlement (under Sections 16 and 17 of the Forest Act) was not done by the Forest Settlement Officer, hence the demarcation of such transferred land as 'reserved' or 'protected' was not carried out. Consequently, the revenue records were not altered. These lands with forest coverage continue to exist in the revenue records as revenue lands. The FD's record (in the Annual Reports too), which show 32 per cent of the land in H.P. to be forest land, is legally void. Actually, until the demarcation and settlement of rights are complete, only 10 to 11 per cent of the forested land will be with the FD. The legal implication of this is that the remaining forest land does not come under the purview of the Forest Conservation Act, and hence of the Central Government. The State Government is free to use such land for non-forestry purposes.

Realising the serious difficulties, the H.P. Government has set up a special office for a Chief Conservator of Forest Settlement who is to administer the demarcation process. So far, settlement in one district - Chamba - has been completed, a second one is underway. The National Social Forestry Project has been instrumental in hastening the process. The data of classification so far is presented in Table 1.

The other categories of forest and grazing common lands in H.P. are the *Rakha* and the *Shamlat* lands respectively. The *Shamlats* are common grasslands which came under the ownership of H.P. when the districts and the States were organised in 1962. The *Rakhas* are traditional forest preserves managed totally by the local village people. In the non-Punjab districts grazing lands are known as *ghasinis*; these *ghasinis* are both private and common. Through the Village Common Lands' Vesting and Utilisation Act, 1974, and the Land Preservation Act, 1978, the H.P. Government has acquired all these *Shamlats* and *Rakhas* and they are now government property. The *Shamlats* were acquired by the RvD. and the *Rakhas* by the FD. In the land settlement process now underway, all *Shamlats* are to be transferred to the FD. So far this has been only partly accomplished.

As for the traditional village forests people still perceive them as their own and continue to manage them in traditional ways. Usually such *Rakhas* are bound by very strict customary laws under which the villager is allowed to take wood only for the purpose of burning the dead. The *Rakhpal* -- the protector of the forest -- is maintained by common funds from each household in the village. There are strict punishments for violation of the customary rules. Although the Government has transferred the ownership of the *Rakhas* to itself, so far it has not interfered with the traditional community management systems. The interesting fact is that, under the National Social Forestry Project (Umbrella Project, as it is called in H.P.) which is aided and in some parts designed by the World Bank and the USAID, there is a large 'Community Woodlots' component. In designing and executing this component the FD and the funding agencies have had very little to learn from the *Rakha* system.

A mid-term review of the Project has shown that, by and large, the FD's 'Community Woodlots' have been unsuccessful¹².

Table 1: Forest Area According to Legal Classification

(in hectares)

Year	Forest Under the Control of the Forest Department						
	Reserved Forests	Protected Forests	Unclassified Forests	Other Forests	Total	Forest not under the control of the Forest Department	Total
1	2	3	4	5	6	7	8
1970/71	1,86,595	17,33,085	76,170	53,390	2,054,040	89,496	21,13,518
1971/72	1,86,367	17,32,932	76,170	58,557	20,54,146	89,498	21,43,614
1972/73	1,87,319	17,43,066	79,665	67,295	20,28,846	89,809	21,68,655
1973/74	1,87,289	17,43,066	79,729	66,954	20,77,038	89,809	21,66,847
1974/75	1,87,317	17,40,811	79,725	63,420	20,71,273	93,389	21,64,662
1975/76	1,82,619	17,61,961	74,242	64,091	20,82,913	93,431	21,76,344
1976/77	1,82,619	17,70,371	74,242	66,534	20,93,766	90,417	21,84,183
1977/78	1,82,618	17,70,130	74,242	67,263	20,94,253	90,417	21,84,670
1978/79	1,82,289	17,63,146	71,801	63,984	20,81,220	90,417	21,71,637
1979/80	1,82,494	17,12,774	73,101	60,172	20,28,541	90,417	21,18,656
1980/81	1,82,494	17,12,864	73,101	57,971	20,26,430	90,417	21,16,577
1981/82	1,82,494	17,12,864	73,095	55,317	20,23,770	90,417	21,14,187

Source: Forest Department, Himachal Pradesh.

The true community woodlots in H.P., as noted, are the *Rakhas*. In not paying at least scanty attention to the traditional community management systems, the educated administration is evidently proclaiming that it has nothing to learn from the uneducated rural poor. The new 'Community Woodlots' have been planted on *Shamlats* and other Rv.D's lands, for which the ownership of the woodlot lies with the Government. There are no common lands vested with the *Panchayats* in H.P., hence, unlike in U.P., the community woodlots cannot be generated on *Panchayat* lands. The FD in H.P. is working through the Rural Development Committees (RDCs) which were created by the Ministry of Rural Development for other purposes. The RDCs and *Mahila Mandals* are non-registered sub-committees under the *Panchayats*. Evidently, until appropriate structural organisation is done at the grassroots' level, it is unlikely that the benefits of forestry will go to the rural people. As it stands, benefit sharing will have to be regulated by the RvD. The FD cannot make a legally bona-fide contract with the *Panchayat*. The other social forestry scheme which is meant to benefit the poor is the Tree Tenure or *patta* scheme. However, the *patta* scheme has not been introduced in H.P. as

¹² See: Chhatrapati Singh's 'Legal Appraisal Report of the National Social Forestry Project: (Mid-Term Review)', for the World Bank and the UBAID. March, 1988.

yet. The H.P. Government is negotiating with the Central Government on giving *pattas* to forest lands. This is necessary because of the provisions of the Forest Conservation Act. Farm forestry, that is forestry on private lands, in H.P., as in other States, is engaging the richer landlords. In H.P., this is being carried out under Section 38 of the Forest Act, and this implies that the afforested farm is actually under joint management between the farmer and the FD. The FD is subsidising afforestation for the rich farmer but keeping the right to fell and sell to itself. The rich farmer gets a large share in this harvest. For those farmers whose lands were lying waste, this scheme is a boon. Those who do not have such wastelands go in for agriculture or horticulture.

A close scrutiny of the laws relating to forestry and the social forestry schemes makes it evident that these laws and schemes are not intended to bring about a sustained-yield ecology, benefit sharing with the rural people who form the majority of the population, nor are they intended to bring about equity in the distribution of resources or of gains from external monetary aid. They are intended to exploit the forest resources to the maximum, to regulate the trade in favour of the more powerful contractors, and, in the process, to impoverish the rural people.

The revenue from timber has gone up from Rs 7.47 crores in 1970/71 to Rs 19.14 crores in 1981/82; Rs 23 lakhs was earned in the same period from selling major forest products and another Rs 2 lakhs was earned from the sale of minor forest products (Table 2). Out of the 8.56 million cubic metres of timber felled in 1980/81, 85 per cent of it was used for commercial purposes, including about 20 per cent that was used for making apple packing cases. As H.P. accounts for more than a third of the apple production in the country, about 2.5 million tons per annum, the need for apple packing cases makes a considerable demand on the State's resources. Tables 2 and 3 present the detailed financial output from major and minor forest products. Table 4 sums up the revenue and expenditure of the Forest Department and Table 5 gives the forest area under important species.

Table 2: Output and Value of Major Forest Products

Year	Major Products			
	Timber		Fuel*	
	Quantity (⁰ 000 m ³)	Value (⁰ 000 Rs)	Quantity (⁰ 000 m ³)	Value (⁰ 000 Rs)
1	2	3	4	5
1970/71	524.7	12,48,82	135.5	90,45
1971/72	453.6	5,82,01	153.9	1,38,85
1972/73	511.2	7,19,24	76.1	68,69
1973/74	458.8	8,57,40	175.5	1,58,34
1974/75	470.5	11,45,25	163.4	1,47,43
1975/76	477.5	12,22,25	140.7	49,26
1976/77	525.3	15,86,98	185.8	81,20
1978/79	564.0	17,46,43	162.0	1,07,89
1979/80	463.7	21,20,16	158.5	1,90,26
1980/81	560.0	26,52,70	188.0	2,25,90

Source: Forest Department Himachal Pradesh.

Note : * includes firewood and charcoal.

Table 3: Value of Minor Forest Products

Value ('000 Rs.)						
Item	1976/77	1977/78	1978/79	1979/80	1980/81	1981/82
1	2	3	4	5	6	7
Bamboo and Cane	933	1,268	529	485	125	2,124
Drugs	2,774	1,219	1,308	2,343	3,533	276
Fodder & Grazing	1,066	955	1,126	1,336	863	902
Grass other than fodder	286	256	257	275	281	452
Others	1,377	2,169	3,277	28	7	44
Total	15,222	20,697	18,723	27,395	26,445	19,930

Source: Forest Department, Himachal Pradesh.

Table 4: Revenue and Expenditure of the Forest Department

(Rs. '00,000)

Year	Revenue	Non-plan	Plan	Total Expenditure (Col. 2,3,4)	Capital Outlay
1	2	3	4	5	6
1970/71	747	574	173	747	14
1971/72	816	422	192	644	14
1972/73	727	421	277	698	15
1973/74	1,180	442	313	755	16
1974/75	916	488	295	783	32
1975/76	913	444	315	759	18
1976/77	833	475	359	834	21
1977/78	987	468	467	935	87
1978/79	1,261	509	665	1,174	66
1979/80	1,616	611	651	1,262	44
1980/81	1,672	688	767	1,455	30
1981/82	1,914	709	504	1,213	43

Source: Forest Department, Himachal Pradesh.

Table 5: Forest Areas under Important Species

(in hectares)

Year	Species					
	Deodar	Kail	Silver, Fir, and Spruce	Chil	Sal	Oak*
1	2	3	4	5	6	7
1970/71	73,694	88,519	1,48,057	1,15,405	49,768	1,16,006
1971/72	69,872	86,444	1,47,944	1,14,480	26,112	1,15,011
1972/73	69,872	86,444	1,47,944	1,14,480	26,112	1,15,011
1973/74	65,600	85,600	1,47,944	1,18,600	26,100	1,13,400
1974/75	65,600	85,600	1,45,100	1,18,600	26,100	1,13,400
1975/76	65,600	85,600	1,45,100	1,18,600	26,100	1,13,400
1976/77	65,600	85,600	1,45,100	1,18,600	26,100	1,13,400
1977/78	65,600	85,600	1,45,100	1,18,600	26,100	1,13,400
1978/79	57,000	82,700	1,40,100	1,30,500	26,100	1,12,300
1979/80	57,000	82,700	1,40,100	1,30,500	26,100	1,12,300
1981/81	57,000	82,700	1,40,100	1,30,500	26,100	1,12,300
1981/82	57,000	79,200	1,28,100	1,27,600	26,100	1,02,200

Source: Forest Department, Himachal Pradesh.

Note: * This also includes *Bans*, *Mohru*, and *Kharsu*.

Timber is indeed a big business. The H.P. Government earns about three quarters of its forest revenue from royalties on the commercial felling of about 200,000 trees annually. Indiscriminate resin extraction from pine trees by contractors is another major reason for deforestation. As in other States, once the contractor has been given the permission to fell one tree, there is no way of stopping him from felling many trees, or at least from harming them to such a degree that they do not survive. The Government is indeed aware of the problems, but there is, as yet, little it can do, given the vested interests in financial gains from the forests. Under the forest laws there are also numerous rules regulating timber transit, marketing, and harvesting. In view of the current ecological crisis they need to be rationalised. This is also true of rules for mining. Court judgements have put some restrictions on the activities, but, given the land classification problem in H.P., the matter cannot be handled unless amendments are brought about in the forest laws in the State.

Given these complexities in the forest legislation, let us turn to see what are the major issues for research in environmental legislations if we are to seek a sustained-yield, equitable, and integrated ecodevelopment.