

● POLITY

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POLITY AND GOVERNANCE

SC BENCH RESERVES VERDICT IN ARTICLE 370 ABROGATION CHALLENGE

CONTEXT: A Constitution Bench, headed by Chief Justice of India D.Y. Chandrachud, on Tuesday reserved its judgment on petitions challenging the abrogation of special status given to Jammu and Kashmir under Article 370 of the Constitution.

STORY SO FAR: The Constitution bench has been hearing petitions challenging the bifurcation of the erstwhile state of Jammu and Kashmir. The 16 day hearing took place regarding the Constitutionality of the central govt's act of repealing the Article 370 of the Indian Constitution and change in statehood for Jammu and Kashmir.

The government represented by Attorney-General R. Venkataramani, Solicitor-General Tushar Mehta and advocate Kanu Agrawal, had argued that the abrogation was necessary to completely integrate Jammu and Kashmir into the Union of India. It had cited improved conditions post abrogation. It said elections were due in J&K, which would revert to full Statehood again once the situation on the ground returned to normal.

The petitioners, represented by a battery of senior lawyers including Kapil Sibal, Gopal Subramaniam, Rajeev Dhavan, Dushyant Dave and Gopal Sankaranarayanan, said the Union used brute majority in Parliament and issued a series of executive orders through the President to divide a full-fledged State into the Union Territories of Jammu and Kashmir, and Ladakh. They called it an attack on federalism and a fraud played on the Constitution. They argued that Article 370 became permanent after the J&K Constituent Assembly dissolved in 1957.

The Constitution Bench, also comprising Justices S.K. Kaul, Sanjiv Khanna, B.R. Gavai and Surya Kant, said its focus would be on event leading to Article 370's dissolution, starting with the State Legislative Assembly's dissolution in 2018.

POLITY AND GOVERNANCE

HOW TWO CJIs DIFFERENTLY DEALT WITH PLEAS FOR THE NAME 'BHARAT'

CONTEXT: The 2023 G-20 dinner invite described President Droupadi Murmu as the "President of Bharat".

BACKGROUND: Four years apart Two Chief Justices of India had reacted differently to demands for the name Bharat as the name of our country, instead of India. The first CJI upheld the

"Doing nothing is very hard to do. You never know when you're finished."—Leslie Nielsen

POLITY AND GOVERNANCE

BHARAT' REPLACES 'INDIA' IN G-20 INVITE FROM PRESIDENT

CONTEXT: President Smt. Droupadi Murmu has sent invitations for an official banquet during the G-20 Summit in New Delhi. Instead of the usual "President of India", the invitation cards said "President of Bharat".

The Opposition questioned the reason for the change, while Ministers and leaders of the ruling party welcomed the move.

Opposition leaders alleged that the shift to the name "Bharat", instead of India in communication, was a way to prevent the INDIA bloc from being identified with the country's name.

Some government officials argued that "Bharat" represents the country's true identity and counters attempts to reduce it to a political alliance. Opposition parties, particularly the Congress, accused Prime Minister Narendra Modi of divisive politics but acknowledged both names are in the Constitution. BJP leaders welcomed the change, with Assam's Chief Minister expressing pride in the shift towards "REPUBLIC OF BHARAT." Plans to formalise one name for the country were denied.

right of the individual to choose between the names while his successor suggested nudging the government regarding the same.

In March 2016, the then CJI, T.S Thakur suggested that it was the choice of the citizen to address his country as Bharat or India. He opined that no authority, State or Court had power to dictate to citizens what they should call their country.

The issue arose from activist Niranjan Bhatwal's quest for clarity regarding Article 1 of the Constitution, which states, "India, that is Bharat, shall be a Union of States." Bhatwal argued that "India" was not a direct translation of "Bharata" and that the latter had historical and scriptural significance. He believed "India" was a British coinage, and citizens deserved a clear understanding of what to call their nation. The Constituent Assembly had considered various names for the new Republic before settling on "India" for international recognition.

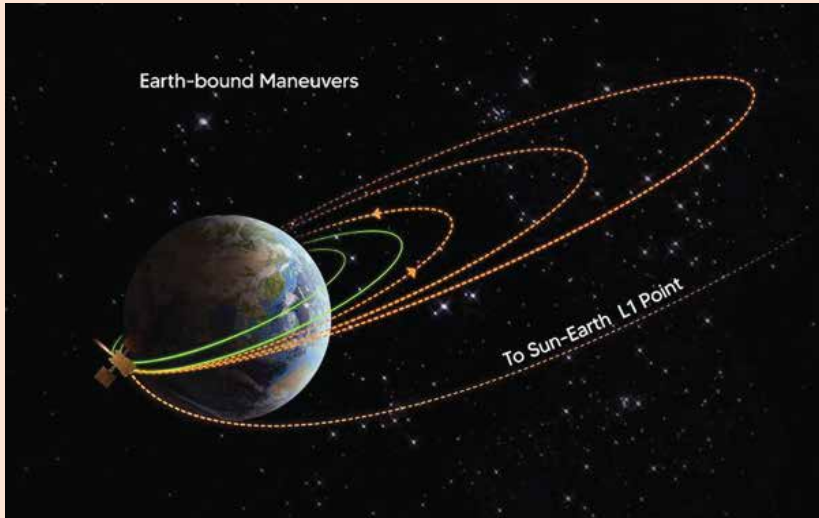
Second petition

In June 2020, during the pandemic, an identical petition to change the name "India" to "Bharat" in Article 1 of the Constitution was presented to Chief Justice S.A. Bobde. He noted that both names were already in the Constitution, and while he didn't consider the petition, he suggested it could be turned into a representation for the Central Ministries, particularly the Union Home Ministry.

SCIENCE AND TECHNOLOGY

ADITYA-L1 ENTERS NEW ORBIT

CONTEXT: The ISRO Telemetry, Tracking and Command Network (ISTRAC), Bengaluru successfully performed the second earth-bound manoeuvre of the Aditya L-1 mission to study the sun. The manoeuvre was performed in the early hours of Tuesday and the new orbit attained was 282 km x 40,225 km. The first earth-bound manoeuvre was successfully performed on September 3.



The ISRO's Polar Satellite Launch Vehicle (PSLV-C57) successfully launched the Aditya-L1 spacecraft from the Second Launch Pad of Satish Dhawan Space Centre (SDSC), Sriharikota, on September 2. After a flight duration of 63 minutes and 20 seconds, Aditya-L1 spacecraft was successfully injected into an elliptical orbit of 235 km x 19,500 km around the earth.

Three more manoeuvres are scheduled, with the next scheduled for around 2.30 a.m. on September 10. After the final manoeuvre on September 18, Aditya-L1 will undergo a trans-Lagrangian1 insertion manoeuvre, marking the beginning of its 110-day trajectory to the destination around the L1 Lagrange point. Upon arrival at the L1 point, another manoeuvre will bind Aditya-L1 to an orbit around L1, a balanced gravitational location between the earth and the sun.

The satellite spends its whole mission life orbiting around L1 in an irregularly shaped orbit in a plane roughly perpendicular to the line joining the earth and the sun. According to the ISRO, a satellite placed in the halo orbit around the L1 point has the major advantage of continuously viewing the sun without any occultation and eclipses. This will provide a greater advantage of observing the solar activities and its effect on space weather in real time. Aditya-L1 will be the first Indian space-based observatory to study the sun from a halo orbit around first sun-earth Lagrangian point (L1), which is located roughly 1.5 million km from earth.



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ECONOMICS AND DEVELOPMENT

AUGUST SERVICES PMI SHOWS MOMENTUM SUSTAINING

CONTEXT: The S&P Global India Services Purchasing Managers' Index (PMI) eased to 60.1 in August, from July's 13-year high of 62.3. Still, new export orders rose the fastest in at least nine years. Despite sales waning slightly from July's highs, demand remained robust and firms raised prices at the fastest pace in more than six years, though input cost pressures eased from the previous month.

To cope with the additional workflow, firms ramped up hiring at the strongest pace since November, by roping in a blend of permanent and temporary staff on both part-time and full-time basis. Overall, positive sentiment among services businesses rose to the highest level so far in 2023, with firms expecting continued growth in the coming year. Participants in the survey attributed positive consumer appetite and favourable market conditions for the sustained demand, and export order books rose due to fresh contracts from customers in the Asia Pacific, Europe, North America and the Middle East.

Indian services companies achieved a remarkable milestone in August, as they welcomed a series record surge in new export business. This spike in international demand supported one of the best sales performances recorded over the past 13 years, and acted as a catalyst for firms to expand their workforces as well as output.

'Price gains quicken'

However, favourable demand trends also led to the joint-fastest increase in prices charged for Indian services in over six years, which may prompt attention from policymakers and potentially delay cuts to the benchmark repo rate.

Taking manufacturing and services activity together, S&P Global said there was a mild slowdown in private sector activity growth across India during August, with the Composite PMI Output Index easing to 60.9, from July's 61.9. However, this was still among the sharpest expansions in over 12 years.

Manufacturers overtook service providers as the best performers. New orders placed with private sector companies rose further, taking the current stretch of growth to just over two years.

ECONOMICS AND DEVELOPMENT**THE CASE FOR ELECTIONS IN JAMMU AND KASHMIR**

CONTEXT: Narendra Modi government is yet to announce dates for the elections to Jammu and Kashmir Assembly. Holding an Assembly election soon can build confidence, as prior experience shows; it can also stem the alienation that has spread across the former State.

THE STORY SO FAR: The Narendra Modi government's formation of a committee to investigate the possibility of synchronized State and Union elections has cast doubt on the timing of elections in Jammu and Kashmir. Despite claims of readiness by the Election Commission of India (ECI), there is no announcement of Assembly election dates. Security concerns are an inadequate explanation, given that panchayat elections involve a larger scale. In March 2023, a delegation of 13 political parties, led by Farooq Abdullah, appealed to the ECI to schedule Assembly elections promptly, warning that further delays would violate democratic rights and constitutional obligations. The ECI promised consideration but has yet to take action.

Distortions in representation

Jammu and Kashmir has been without legislative elections for nine years, with the last Assembly election held in 2014 and the last elected government dissolved in June 2018. The state was later reorganized into two Union Territories, with Jammu and Kashmir entitled to an elected Assembly but with limited powers, similar to the National Capital Territory of Delhi, while Ladakh did not receive this privilege.

The primary reason for the election delay was the need for fresh delimitation of constituencies, increasing their number from 107 to 114. Earlier, the delimitation process had been frozen until 2026, in line with other Indian states. However, in 2019, Jammu and Kashmir was chosen for delimitation. The final report from the Delimitation Commission, submitted in May 2022, sparked concerns. It allocated six of the seven new seats to Jammu and only one to the Valley, contradicting the principle of equal representation. Despite the Valley having 56.15% of the population, it received only 47 seats compared to Jammu's 43 with 43.85% of the population.

Moreover, the commission's rearrangement of

constituencies concentrated minority voters in fewer districts or spread them across multiple districts, impacting their voting power. Additionally, changes in residency rules allowed a significant influx of new voters, further altering the constituency balance. These changes raised concerns about the fairness of the upcoming elections, with accusations of rigging and distortion of representation.

Pitting One against the other

The Union Law Ministry has proposed four Bills in Jammu and Kashmir, which may affect seat allocations and competition in elections. One Bill reserves seats for 'Kashmiri migrants' and those displaced from Pakistani-held territories, another adds the Pahari community to the Scheduled Tribes list, potentially competing with Gujjars and Bakerwals. The third Bill includes the Valmiki community in the Scheduled Castes list, and the fourth adds 15 more 'other backward classes.' While these changes seem reasonable, concerns arise about creating caste and community-based divisions, especially for Pandit migrants who have historically been elected without reservations.

Division versus confidence-building

Growing alienation in Jammu and Kashmir, driven by concerns over shrinking representation in Muslim-majority areas and suspicions of political manoeuvring in Jammu and Kashmir, calls for a swift Assembly election. Despite fears, many residents are eager for elected representatives, given the perceived failings of the centrally-directed administration, resulting in high unemployment and land/resource rights issues. The desire for Statehood is also growing in Ladakh, where the powers of elected Hill Councils have diminished. Holding an election before year-end could restore confidence, as seen in the peaceful aftermath of the 2002 election, contrasting with the conflict sparked by the rigged 1987 election.

CONCLUSION: Holding assembly election in Jammu and Kashmir at the earliest might be crucial for restoring faith, reducing divisions and addressing growing discontent. History stands testimony for the positive impact of timely elections in the conflict torn region.

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ECONOMICS AND DEVELOPMENT

THE IMPLICATIONS OF BRICS EXPANSION

CONTEXT: From 2009, BRICS held annual summits, supplemented by several ministerial and expert conclaves. On August 24, the 15th BRICS summit in Johannesburg announced invitation of six new members — Iran, Saudi Arabia and the United Arab Emirates (UAE) from West Asia; Egypt and Ethiopia from Africa, and Argentina from Latin America to the five-member grouping (Brazil, Russia, India, China and South Africa). It was reported that 40 countries have shown interest in BRICS’ membership, with 22 having submitted formal applications.

BRICS has spawned two major institutions – the New Development Bank (NBD) to provide development assistance and the Contingent Reserve Arrangement that supports countries facing short-term balance-of-payments pressures. The NBD has already financed 96 projects valued at \$33 billion.

BRICS members were united in their dissatisfaction with the West-dominated international institutions that had emerged after the Second World War — the World Bank, the International Monetary Fund, the United Nations and its various bodies, particularly the Security Council, and more recently, the World Trade Organization. BRICS challenges this West-led world order: it promotes intra-BRICS economic and political cooperation, builds institutions outside western control, and agitates robustly for wide-ranging reforms to accommodate the presence and interests of emerging economies. The Johannesburg Declaration categorically asserts that the members’ “strategic partnership” will be directed at achieving “a more representative, fairer international order”.

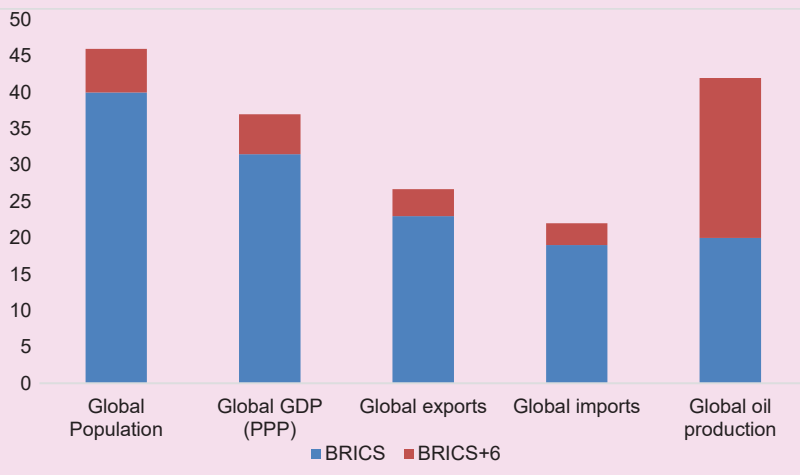


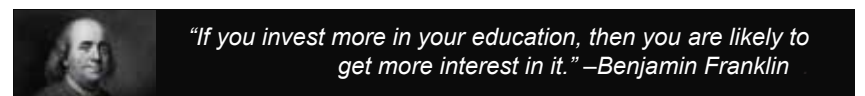
FIGURE: Column chart representation of share of BRICS and BRICS+6 grouping.

The Johannesburg Declaration call for wide-ranging reforms in international organisations, the bulk of the document focuses on intra-BRICS cooperation and outreach to other developing countries. The members have agreed to “encouraging the use of local currencies in internal trade and financial transactions” between BRICS and other trading partners. The Declaration also reflects the shared views of its members on several political issues — the centrality of the United Nations; the problems in West Asia, i.e., Syria, Yemen, Palestine, the Arab peace Initiative, and the Iran nuclear agreement; the war in Ukraine and global terror.

An addition of geo-strategic value: The new BRICS members will bring considerable geo-strategic value to the grouping. Those from West Asia are already closely tied to BRICS members: 35 % of Saudi oil production goes to China and India; Russia, already a major oil supplier to China and India, is now looking at Brazil as a market. Despite sanctions by the United States, Iran has increased oil production from a low of 400,000 barrels per day in the Trump period to 2.2 mbd in August this year, most of it going to China. Egypt and Ethiopia are an important presence in the strategically important Horn of Africa and the Red Sea, while Argentina is the second largest economy in Latin America.

Outlook for regional and global affairs: The new BRICS members, particularly those from West Asia, naturally fit into this political and economic framework. From 2020, both Saudi Arabia and the UAE have shrugged off the U.S. yoke and shaped independent foreign policy paths for themselves. Saudi Arabia has pursued de-escalation and dialogue, ending the Qatar blockade in January 2021, engaging with Turkey, and opening interactions with Iran from April 2021.

The UAE has also normalised ties with Iran and is focusing on expanding its maritime footprint across the Gulf, the Gulf of Aden, the Red Sea and the Horn of Africa. Iran’s entry into BRICS is propitious in that, besides its role in the energy sector, it opens up opportunities for accelerated regional economic cooperation, besides the revival of the moribund north-south connectivity projects through the Chabahar port with which India is associated.



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ECOLOGY AND ENVIRONMENT

LAWS GOVERNING FORESTS OF THE NORTHEAST



CONTEXT: On August 22, the Mizoram Assembly unanimously passed a resolution opposing the Forest (Conservation) Amendment Act, 2023, “to protect the rights and interest of the people of Mizoram”. The amendment allows the diversion of forest land for roads, railway lines or “strategic linear projects of national importance and concerning national security” within 100 km of India’s international borders or lines of control, without a forest clearance under the Forest (Conservation) Act (FCA) 1980.

Applicability of Forest (Conservation) Act (FCA), 1980 to the Northeast: Special constitutional safeguards, such as Article 371A for Nagaland and 371G for Mizoram, prohibit the application of any law enacted by Parliament that impinges on Naga and Mizo customary law and procedure, and ownership and transfer of land and its resources. Such laws can be extended to these States only if their Legislative Assemblies decide thus in a resolution.

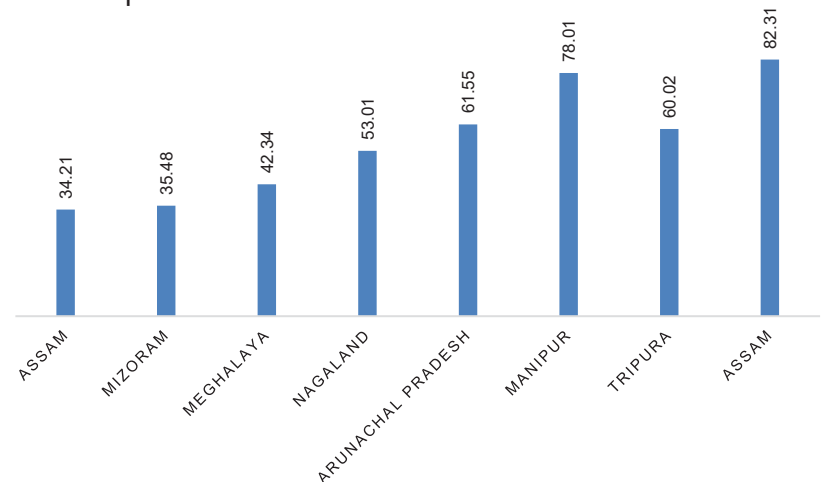
In 1986, Nagaland extended the application of the FCA “to government forests and such other forests and Wildlife Sanctuaries under the control of [the] State Government”. Government forests make up only 2.71 % of the State’s Recorded Forest Area. However, in December 1997, the Home Ministry, in consultation with the Ministry of Law and Justice, confirmed to the Union Environment Ministry that the FCA is covered under the term “land resources” and is not applicable to Nagaland, as its Legislative Assembly had not adopted any resolution to apply FCA to the State. Later, in November 1998, the Environment Ministry contradicted itself, when it informed the Nagaland government that FCA is indeed applicable to the State as clarified by the Ministry of Law and Justice. Nevertheless, since 1980, the Environment Ministry has not granted an FCA clearance to forests in Nagaland.

In 1986, the Union Territory became a State with the 53rd amendment of the Constitution, adding Article 371G to the Constitution. It stipulated that all Central Acts in force before 1986 are extended to the State, including the FCA. Moreover, the powers of the Autonomous District Councils in the three Sixth Scheduled areas in Mizoram don’t extend to reserved forests. So, the FCA covers 84.53 % of forest areas that are notified forests, and 6,630 ha have thus far received FCA clearance.

The FCA is applicable in the rest of the Northeast — in Meghalaya and Tripura, the Sixth Schedule Areas within these States, and in Arunachal Pradesh, Sikkim, and Manipur. Arunachal Pradesh ranked first among these States in FCA clearance (21,786.45 ha), followed by Tripura (9,051 ha), Assam (5,261 ha), Manipur (3,604 ha), Sikkim (2,902 ha), and Meghalaya (807 ha).

What is RFA?

Over a million hectares of forest have been diverted nationwide under FCA since 1980. FCA exists to deforest the forest, under the Indian Forest Act 1927 or its State versions. In 1996, the Supreme Court expanded the term “forest land” in the FCA in the Godavarman case to “not only include ‘forest’ as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership”, thus extending the FCA to unclassified forests. These are recorded forests but not notified as forests. More than half of the Northeast is Recorded Forest Area (RFA). Of this, 53% are unclassified forests controlled by individuals, clans, village councils or communities, and governed by customary law and procedures. The remainder is notified forest controlled by State Forest Departments.



Of these, unclassified forests range from nil in Sikkim to 97.29% in Nagaland, with 15.47% in Mizoram, 33.43% in Assam, 42.96% in Tripura, 75.67% in Manipur and 88.15% in Meghalaya.

The apex court’s 1996 order brought unclassified forests under the FCA’s purview everywhere. There are also forests outside RFA, neither recorded nor surveyed — 38.5% of the forest in Assam; 29% in Nagaland; and 1.5% in Mizoram.

What is the FRA Act: In the Scheduled Tribes and Other

Traditional Forest Dwellers (Recognition of Forest Rights) Act (FRA) 2006, “forest land” includes unclassified forests, undemarcated forests, existing or deemed forests, protected forests, reserved forests, Sanctuaries and National Parks. This complied with the 1996 Supreme Court redefinition.

While this benefits most north-eastern States, due to the sizeable unclassified forests, the FRA also included a specific provision in the list of rights: “rights which are recognised under any state law or laws of any autonomous district council or autonomous regional council or which are accepted as rights of tribal under any traditional or customary law of the concerned tribes of any State.” Nothing prevents these States from taking suo motu cognisance of these existing rights and obtaining the concerned Gram Sabha approvals for issuing titles. The Ministry of Tribal Affairs can also issue legally enforceable directions under Section 12 of the FRA, paving the way for this. It would add another layer of legal security to traditional community tenurial rights over forests.

However, none of the Northeast States have implemented FRA except for Assam and Tripura. The reasons include the FRA being ‘irrelevant’ as communities, clans, chiefs and individuals own most of the land, that their rights are already being enjoyed and a lack of forest-dwellers who are totally forest dependent.

While the Mizoram Legislative Assembly resolved on October 29, 2009, under Article 371G, to extend the FRA and its Rules with effect from December 31, 2009, it did a U-turn on November 19, 2019, declaring the FRA to not be relevant to the State since no claims for rights were forthcoming. It also referred to the Ministry of Tribal Affairs declining to sanction ₹10 lakh to

implement the FRA.

The Nagaland Assembly, as required under Article 371A, is yet to decide whether it wants this law. A committee has been looking into it for years now.

Protecting forests

The Environment Ministry mandated FRA implementation and prior informed consent of the Gram Sabha in 2009 to admit a forest diversion proposal. The responsibility was delegated to the District Collector, who ironically also headed the District Committee that issues FRA titles. The Collectors’ certificate of FRA compliance in the in-principle Stage I forest clearance was shifted to Stage II final clearance.

But the Ministry’s 2022 Forest Conservation Rules eliminated compliance with the FRA before final approval altogether. Instead, it said that State governments “shall issue order for diversion, assignment of lease or dereservation as the case may be ... after fulfilment and compliance” with the FRA “including ensuring settlement of rights”.

Taking this further, States can formulate and take legal measures to ensure mandatory fulfilment of the FRA before recommending a forest diversion proposal, and ensuring Gram Sabha consent before handing over forest land. The Ministry of Tribal Affairs can also issue legally enforceable directions under the FRA, or even enact a separate law, to recognise and settle forest rights when forests are diverted for other purposes and forest-dwellers are relocated, as forest rights fall squarely within its Business Rules. This way, the States and the Tribal Affairs Ministry have a way to provide tenurial security to forest-dwellers and protect the forests.



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