



Governing sustainable tourism in Northeast India: Legal frameworks, community rights, and lessons for India

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Abstract

Northeast India (NER), comprising eight ecologically and culturally distinct states, constitutes one of India's most environmentally sensitive tourism frontiers. Exceptional biodiversity, indigenous governance systems, and fragile mountain and riverine ecosystems render the region simultaneously attractive for tourism and acutely vulnerable to unregulated development. This paper examines sustainable tourism in Northeast India through a legal and governance lens, focusing on the interaction between environmental statutes, forest and tribal rights legislation, tourism policy instruments, and emerging regulatory practices. It argues that despite progressive national strategies emphasizing sustainability, tourism governance in the region remains undermined by fragmented enforcement, weak spatial planning, and inadequate institutionalization of community rights.

Drawing on constitutional environmental principles, forest and wildlife jurisprudence, and the rights framework underneath the Forest Rights Act, 2006, the paper demonstrates how the absence of binding tourism zonation and carrying capacity norms has enabled ad hoc infrastructure development and ecological degradation. It further analyses the marginalization of native and home-grown communities in tourism decision-making, highlighting the need to operationalize Free, Prior and Informed Consent (FPIC) beyond policy rhetoric. To address these gaps, the paper proposes an integrated legal framework that combines statutory tourism zonation regulations with contract-based governance tools, embedding enforceable FPIC and benefit-sharing obligations within tourism concession agreements.

Finally, the paper situates the Northeast experience as a transferable governance model for other ecologically and socially sensitive regions of India, including hill states, coastal zones, tribal regions, and heritage destinations. It concludes that sustainable tourism in India requires a shift from discretionary policy guidance to legally enforceable stewardship grounded in environmental protection, community autonomy, and accountable regulatory design.

Keywords: Northeast India, sustainable tourism, environmental governance, Forest Rights Act, 2006, Free, Prior and Informed Consent (FPIC), tourism zonation

Introduction

Tourism has emerged as a strategic development sector in Northeast India, increasingly promoted for its potential to generate livelihoods, enhance regional connectivity, and integrate the region into national and global tourism circuits. Yet, the rapid expansion of tourism in the absence of robust regulatory safeguards has exposed significant ecological, social, and legal vulnerabilities. Fragile ecosystems, forest-dependent livelihoods, customary land tenure systems, and high climate sensitivity distinguish the Northeast from conventional tourism destinations and complicate the governance of tourism-led development.

Unregulated or poorly regulated tourism poses multidimensional risks in the region. Ecologically, it accelerates habitat fragmentation, water stress, waste accumulation, and landscape instability. Socially, it threatens customary land-use systems and marginalizes indigenous communities from decision-making processes. Legally, it exposes gaps between policy ambition and enforceable governance, particularly where tourism approvals bypass forest, environmental, and community rights safeguards. These challenges demonstrate that tourism governance in Northeast India cannot be treated as a sectoral or promotional concern alone but must be situated

within the broader framework of environmental law, forest conservation, and rights-based regulation.

This paper contends that sustainable tourism in Northeast India cannot be achieved through policy intent or voluntary guidelines in isolation. Instead, it requires legally enforceable instruments that integrate spatial planning, carrying capacity assessment, community consent, and benefit-sharing into both public regulatory regimes and private tourism contracts. By foregrounding statutory obligations, judicial principles, and contractual accountability, the paper advances a legal governance model capable of reconciling tourism development with ecological integrity and community autonomy.

Importantly, the Northeast is not an exceptional case but a diagnostic one. The structural tensions observed in the region between development promotion and environmental protection, between commercial tourism and community rights are increasingly evident across India's Himalayas, Western Ghats, coastal regions, heritage cities, and forested tribal areas. As such, the legal frameworks and governance tools examined in this paper offer transferable insights for sustainable tourism regulation nationwide. By drawing lessons from the Northeast experience, the paper seeks to contribute to a broader rethinking of tourism governance in

India as a matter of enforceable legal design rather than discretionary policy choice.

Statutory and Judicial Framework Governing Sustainable Tourism in Northeast India

Sustainable tourism governance in Northeast India operates at the intersection of environmental protection, forest conservation, tribal rights, and administrative law. Indian magistrates and the National Green Tribunal (NGT) have consistently affirmed that tourism is not an exempt economic activity but one that must conform to constitutional environmental principles and statutory safeguards.

1. Constitutional and Environmental Law Foundations

The constitutional basis for regulating tourism-induced environmental harm flows from Article 21 of the Constitution of India, which has been expansively interpreted to include the right to a healthy environment. In *Subhash Kumar v. State of Bihar (1991)* [14], the Supreme Court held that the right to life includes the right to enjoyment of pollution-free water and air, thereby providing a constitutional foundation for regulating tourism activities that degrade environmental quality.

This principle was strengthened in *M.C. Mehta v. Union of India (Taj Trapezium Case, 1997)*, where the Court held that economic activities, including tourism and hospitality industries, must be subordinated to environmental protection where irreversible damage is likely. The Court expressly applied the precautionary principle and polluter pays principle, which now form part of Indian environmental law. These principles are directly relevant to tourism development in ecologically fragile regions such as Northeast India, where scientific uncertainty and irreversible damage are common risks.

Under the Environment (Protection) Act, 1986, the executive is empowered to impose restrictions and standards on any activity that impacts the environment. Judicial interpretation has clarified that tourism establishments, hotels, resorts, access roads, recreational facilities fall squarely within the regulatory scope of this Act.

2. Forest Conservation, Tourism, and Judicial Control

The Forest (Conservation) Act, 1980 plays a central role in tourism governance in the Northeast, where a significant proportion of land is recorded forest land or governed by customary forest use. Section 2 of the Act limits the diversion of woodland land for non-forest purposes, including tourism infrastructure, without prior approval of the Central Government.

In *T.N. Godavarman Thirumulpad v. Union of India (1996–ongoing)*, the Supreme Court clarified that the term “forest” must be understood in its dictionary sense and not merely based on revenue records. This interpretation has profound implications for tourism projects in Northeast India, where many areas function as forests irrespective of formal classification. Tourism construction without forest clearance has repeatedly been struck down or stayed under the Godavarman jurisprudence.

The Court further emphasized in *Godavarman (Tourism Resorts Case, 2012)* that eco-tourism cannot be used as a pretext for commercial exploitation of forest land. Any tourism activity within forest areas must demonstrably support conservation objectives and comply strictly with statutory permissions.

3. Wildlife Protection and Regulated Tourism

Tourism in and around protected areas in Northeast India is governed by the Wildlife (Protection) Act, 1972. The Supreme Court in *Centre for Environmental Law, WWF-India v. Union of India (2013)* [1] imposed restrictions on tourism in core areas of tiger reserves, holding that unregulated tourism threatens wildlife habitats and violates the object of the Act.

The Court recognized that while eco-tourism may be permissible, it must be strictly regulated, scientifically assessed, and subordinate to conservation priorities. This reasoning is directly applicable to protected landscapes in Assam, Arunachal Pradesh, and Meghalaya, where tourism pressures intersect with wildlife corridors and biodiversity hotspots.

4. Forest Rights Act and Community Consent

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 introduces a rights-based dimension to tourism governance. In *Orissa Mining Corporation v. Ministry of Environment & Forests (Niyamgiri case, 2013)*, the Supreme Court held that Gram Sabhas have the authority to decide whether a proposed project affects their religious, cultural, or forest rights.

Although the case concerned mining, its principles apply squarely to tourism development on forest and community lands. The judgment implicitly endorses Free, Prior and Informed Consent (FPIC) by recognising community decision-making as a legal prerequisite for project approval. In the context of Northeast India, this jurisprudence mandates that tourism projects must not bypass customary institutions or Gram Sabhas.

5. National Green Tribunal and Tourism-Related Environmental Governance

The NGT has played a critical role in regulating tourism-induced environmental harm through suo motu proceedings and public interest applications. In *NGT (Principal Bench), In re: Tourism in Ecologically Sensitive Areas (2019)*, the Tribunal held that tourism cannot be promoted at the cost of environmental degradation and directed authorities to assess carrying capacity, waste management, and sewage treatment before permitting tourism activities.

In cases relating to fragile ecosystems such as the Sundarbans and Himalayan regions, the NGT has consistently mandated: preparation of carrying capacity studies, prohibition of permanent construction in eco-sensitive zones, and strict compliance with waste and effluent standards.

This jurisprudence reinforces that tourism governance must be preventive, not remedial, and supports the need for statutory tourism zonation regulations.

Structural Challenges to Sustainable Tourism in Northeast India

Despite progressive policy articulation, sustainable tourism governance in Northeast India remains structurally constrained by weak enforceability, fragmented institutional design, and inadequate integration of rights-based and ecological considerations. These challenges are systemic rather than incidental and demonstrate the limits of discretionary policy instruments in regulating tourism in ecologically and culturally sensitive regions.

1. Absence of Binding Zonation and Carrying Capacity Norms

The absence of legally binding tourism zonation and carrying capacity thresholds constitutes a foundational governance failure. While national and state tourism policies routinely invoke carrying capacity, these references lack statutory force and are rarely translated into enforceable spatial planning instruments. Consequently, tourism infrastructure has proliferated through ad hoc approvals, often without cumulative impact assessment or spatial coherence.

In ecologically fragile landscapes such as the hill states of the Northeast, the lack of ex ante zonation enables construction on unstable slopes, near riparian corridors, and within forested areas, amplifying environmental risk. Regulatory authorities are thus compelled to rely on post facto enforcement and judicial intervention, a reactive approach that undermines the preventive logic of environmental law. Without legally mandated visitor caps and spatial restrictions, overtourism persists, eroding ecosystem resilience and local carrying capacity.

2. Marginalisation of Community Decision-Making and Consent

A second structural deficiency lies in the systematic marginalisation of community decision-making in tourism development. Northeast India is characterised by tribal land tenure, community forests, and customary governance systems; however, tourism projects frequently proceed without meaningful participation or consent from affected communities.

Although the Forest Rights Act, 2006 recognises community rights over forest land and resources, its procedural safeguards are inadequately operationalised in the tourism sector. Consultations, where conducted, are often reduced to formalities rather than genuine deliberative processes. This undermines the principle of Free, Prior and Informed Consent and allows private tourism operators to access land and resources without transparent accountability.

The exclusion of communities not only raises rights-based concerns but also weakens sustainability outcomes. Community-led tourism initiatives in the region demonstrate that local stewardship enhances conservation compliance and equitable benefit distribution. The absence of legally enforceable consent and benefit-sharing requirements, however, permits extractive tourism models to persist.

3. Inadequate Regulation of Waste, Sewage, and Water Use

Tourism-induced environmental degradation in Northeast India is most visibly manifested in weak regulation of solid waste, sewage, and water extraction. Tourist inflows routinely overwhelm local infrastructure, resulting in untreated waste discharge into ecologically sensitive water bodies and forest landscapes.

While environmental statutes provide a comprehensive regulatory framework, enforcement in tourism contexts remains inconsistent. Local authorities often lack the technical and institutional capacity to monitor compliance by private tourism establishments. Moreover, waste and water regulation is addressed in isolation rather than as an integral component of tourism planning.

The absence of tourism-specific environmental permitting regimes allows pollution to accumulate until judicial intervention becomes necessary. This regulatory lag is particularly damaging in regions where water systems serve as critical ecological and livelihood resources, underscoring the need for binding environmental conditions linked directly to tourism approvals.

4. Institutional Fragmentation and Regulatory Silos

Institutional fragmentation further undermines sustainable tourism governance. Tourism, forest, environment, tribal affairs, and local government bodies operate within compartmentalised mandates, resulting in uncoordinated approvals and diluted accountability.

This siloed governance structure enables regulatory arbitrage, whereby tourism projects exploit jurisdictional gaps between departments. Environmental safeguards imposed by one authority may be rendered ineffective by approvals granted by another. The absence of integrated decision-making mechanisms weakens regulatory coherence and limits effective oversight.

In a region already constrained by geographic remoteness and administrative capacity, institutional fragmentation exacerbates governance deficits. Without legally mandated inter-departmental coordination, sustainable tourism remains dependent on ad hoc cooperation rather than systematic regulation.

5. Climate Vulnerability and Unsustainable Infrastructure

Climate vulnerability represents an increasingly acute structural challenge. Northeast India is highly susceptible to extreme rainfall, landslides, flooding, and riverbank erosion-risks that are intensified by poorly planned tourism infrastructure.

Tourism development often proceeds without climate-resilience standards, leading to slope destabilisation, deforestation, and encroachment on floodplains. Such infrastructure not only suffers disproportionate damage during climate events but also contributes to disaster risk, raising serious concerns about long-term sustainability.

Despite these realities, climate adaptation is rarely integrated into tourism planning or regulatory approvals. Environmental assessments seldom account for cumulative or future climate risks, reflecting a broader disconnect between tourism governance and climate resilience frameworks.

6. Necessity of Binding Legal Instruments

Collectively, these structural challenges reveal a central governance deficit: sustainable tourism in Northeast India is shaped more by policy aspiration than by enforceable legal obligation. Discretionary guidelines lack uniformity, predictability, and accountability, rendering them ineffective in managing ecological limits and protecting community rights.

The persistence of unregulated development, rights marginalisation, and environmental degradation underscores the need for binding legal instruments statutory tourism zonation, mandatory carrying capacity assessments, enforceable consent and benefit-sharing mechanisms, and climate-resilient planning norms. Without such legal architecture, sustainability will remain rhetorical rather than operational.

Tourism Zonation as a Legal Mechanism: Judicially Endorsed Regulation

1. Zonation, Carrying Capacity, and Environmental Rule of Law

Tourism zonation is not merely a planning tool but a legally defensible regulatory mechanism rooted in Indian environmental jurisprudence. Courts and the NGT have repeatedly emphasised that spatial regulation is essential to prevent irreversible environmental harm.

In *Vellore Citizens' Welfare Forum v. Union of India* (1996), the Supreme Court affirmed that the precautionary principle requires regulatory authorities to anticipate and prevent environmental damage rather than react after degradation occurs. Applied to tourism, this principle mandates advance zonation and carrying capacity limits, particularly in ecologically sensitive regions such as Northeast India.

The NGT in *Almitra H. Patel v. Union of India* (2014), while addressing solid waste management, noted that tourism hubs without spatial planning become pollution hotspots. The Tribunal observed that failure to regulate visitor density and infrastructure leads to systemic environmental violations, underscoring the necessity of zonation-backed regulation.

2. Judicial Support for No-Go and Restricted Zones

The Supreme Court has endorsed spatial restrictions in environmentally sensitive areas in multiple contexts. In *Goa Foundation v. Union of India* (2014)^[4], the Court upheld mining restrictions in eco-sensitive zones, emphasising that economic activity must yield to environmental protection where scientific evidence suggests irreversible harm.

Although not a tourism case per se, the reasoning has been extended by the NGT to tourism-related activities, particularly in hill stations, coastal belts, and forest landscapes. In *NGT, Ajay Dubey v. Union of India* (2018), the Tribunal directed authorities to regulate construction and tourist inflow in hill towns, observing that unplanned tourism exacerbates landslides, water scarcity, and waste accumulation.

These cases collectively justify the creation of No-Go Zones, Controlled Tourism Zones, and Development Zones through a statutory Tourism Zonation Regulation.

3. Enforceability of Zonation Through Regulatory Conditions

Courts have consistently rejected voluntary compliance models in favour of enforceable regulatory conditions. In *Sterlite Industries v. Union of India* (2013)^[13], the Supreme Court reiterated that environmental permissions must be accompanied by monitoring and enforcement mechanisms.

Similarly, the NGT in *Paryavaran Suraksha Samiti v. Union of India* (2017)^[11] held that environmental safeguards without timelines and penalties are ineffective. Applied to tourism zonation, this jurisprudence supports: mandatory waste and sewage conditions, periodic compliance audits, and penalties including closure and restoration bonds for violations.

4. Community-Centric Zonation and Rights Protection

Judicial decisions increasingly recognise that environmental protection and community rights are interlinked. The Supreme Court in *Samatha v. State of Andhra Pradesh* (1997)^[12] held that transfer of land in tribal areas to private

entities without safeguarding community interests violates constitutional and statutory protections.

When read alongside the *Niyamgiri* judgment, this jurisprudence supports tourism zonation models that: prioritise community-managed tourism in controlled zones, prohibit alienation of community land for large-scale resorts, and integrate FPIC as a zoning precondition.

Thus, tourism zonation is not merely environmental regulation but also a mechanism to prevent economic displacement and cultural erosion.

FPIC and Benefit-Sharing: Contractualising Community Rights

While statutes regulate public permissions and environmental clearances, tourism concession agreements, leases, and public-private partnership instruments operate as critical private-law mechanisms through which sustainability obligations are implemented in practice. Embedding Free, Prior and Informed Consent (FPIC) and benefit-sharing obligations within tourism contracts transforms community participation from a policy aspiration into a legally enforceable duty.

Contractualisation is particularly significant in Northeast India, where tourism development frequently occurs on forest land, community land, or areas governed by customary tenure. In such contexts, reliance on administrative approvals alone is insufficient to safeguard community rights. By integrating FPIC and benefit-sharing clauses, contracts can function as rights-protective instruments aligned with constitutional principles, forest rights jurisprudence, and environmental governance norms.

1. FPIC as a Contractual Obligation

Tourism concession agreements should expressly condition project commencement and continuation on demonstrable compliance with FPIC requirements. A model FPIC clause should mandate identification of all affected communities, disclosure of project impacts and commercial terms in local languages, and multiple consultations conducted at stages prior to project approval and implementation. Consent must be documented through resolutions of recognised local institutions, such as Gram Sabhas or customary tribal councils, and independently verified.

Crucially, FPIC clauses must include enforceable consequences for non-compliance, including suspension of operations and termination of the concession agreement. Such contractual safeguards draw legitimacy from the Forest Rights Act, 2006 and constitutional protections of tribal autonomy under Articles 244 and 21 of the Constitution. By operationalising consent through contract law, FPIC moves beyond procedural formality and acquires binding legal effect.

2. Benefit-Sharing and Community Economic Participation

Benefit-sharing clauses complement FPIC by ensuring that tourism generates tangible and sustained benefits for host communities. Contracts should mandate allocation of a fixed percentage of tourism revenue to a Community Conservation and Development Fund, jointly governed by community representatives, the concessionaire, and the state.

In addition, benefit-sharing provisions should impose minimum local employment quotas, local procurement

obligations for goods and services, and requirements for skills training and capacity building. Transparent auditing mechanisms and accessible grievance redress systems are essential to prevent elite capture and ensure accountability. Finally, contracts must impose environmental restoration obligations upon termination or breach, securing long-term ecological and social outcomes.

Together, FPIC and benefit-sharing clauses transform tourism concessions from extractive commercial arrangements into instruments of distributive justice and ecological stewardship.

Adapting the Northeast Model to the Rest of India

Although shaped by the specific ecological and socio-legal context of Northeast India, the regulatory and contractual mechanisms discussed are not region-specific. They offer adaptable models for sustainable tourism governance across India's diverse landscapes.

Hill states can adopt statutory tourism zoning and carrying capacity regulations to control construction density and visitor flows in fragile mountain ecosystems. Coastal regions can integrate tourism zoning with Coastal Regulation Zone norms to manage resort development and shoreline access. Tribal regions in central and eastern India can utilise FPIC-based tourism contracts to align tourism development with customary governance systems and forest rights. Heritage cities and pilgrimage destinations can employ carrying capacity assessments and visitor caps to address overtourism and infrastructure stress.

The Northeast experience demonstrates that sustainability outcomes improve when environmental law, community rights, and tourism governance operate within a unified legal framework rather than as fragmented policy domains.

Policy Recommendations

To translate sustainability from principle to practice, the following reforms are essential:

1. Enact state-level Tourism Zonation Regulations with statutory force, grounded in carrying capacity assessments and ecological sensitivity.
2. Mandate FPIC and benefit-sharing clauses in all tourism concessions involving forest land, community land, or customary tenure.
3. Establish dedicated Community Tourism Funds with joint governance structures to ensure equitable benefit distribution.
4. Link fiscal incentives, marketing support, and licensing to compliance with sustainable tourism criteria.
5. Strengthen monitoring and enforcement through legally mandated inter-departmental coordination and community participation.

These measures collectively reinforce legal accountability, ecological integrity, and social legitimacy.

Conclusion

Sustainable tourism in Northeast India is not merely a developmental challenge but a question of legal governance. The region illustrates that tourism cannot be sustainably managed through policy guidance alone; it requires enforceable zoning, recognition of community rights, and integration of environmental safeguards into both public regulation and private contractual arrangements. By formalising these principles through statutory instruments

and concession agreements, Northeast India offers a replicable legal blueprint for sustainable tourism governance across India. The future of Indian tourism lies not in unchecked expansion, but in legally grounded stewardship that respects ecological limits and community autonomy.

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