

Conspiracy to Eviction of Adivasis and Handover Forests to Corporates

The Central government introduced the Forest (Conservation) Amendment Bill, 2023 in the Lok Sabha on March 29th this year, which aims to amend the Forest Conservation Act, 1980. It was put into force to arrest deforestation and provide for forest conservation. The bill has been sent to the Joint Committee of the Parliament by passing the Parliamentary Standing Committee on Science, Technology, Environment, Forest, and Climate Change. The Joint Committee is expected to submit its report with recommendations in the upcoming monsoon session of the Parliament. Earlier on October 2, 2021, MoEF&CC released a Public Consultation Paper and invited comments and feedback on the proposed amendments in the FCA, 1980. Despite several opposition and criticism on the draft paper raised by the concerned citizens, the present FC Amendment Bill 2023 remains almost like a concise version of that draft which takes a significant portion of forests out of the purview of FCA, considers several non-forestry activities as forestry activities, overlooks Forest Rights Act 2006 and Gram Sabha consent and aims to build more centralized forest governance.

Firstly, Defining Forest - Since the Judgment of the Supreme Court, dated 12th December 1996, in the matter of T.N. Godavarman Thirumulpad vs Union of India and others, the provisions enacted in the Forest Conservation Act, 1980 apply clearly to all forests irrespective of the ownership or classification. It covers all statutorily recognized forests, whether designated as reserved, protected, or otherwise, also any area recorded as forest in the Government record irrespective of the ownership. Redefining this broad spectrum of 'forest', in Clause 1A(1) of the new Bill, forest lands that are not declared or notified following the provisions of the Indian Forest Act, 1927 but were recorded as forest before 25 October 1980 and the forest which has been changed from forest to non-forest use on or before 12th December 1996; both are taken out from the purview of FCA. This attempt to restrict the scope of the SC judgment will lead to the diversion of a significant amount of forest lands of the country which was recorded much before 1980, especially during the abolishment of the zamindari system. Such forests are easily found in eco-regions of Aravallis, Western Ghats, and many other places and are known for their rich diversity and ecological services. The Bill clearly states that the objective is to eliminate all those provisions which "restrain the authorities from undertaking any change in the land use and allowing any development or utility related work". For any project in such forest lands which are now excluded from the regulation of FCA, there will be no need to have forest clearance and compliance with the Forest Rights Act (FRA) 2006. Eventually, the Scheduled Tribes and Other Traditional Forest Dwellers living in those lands will be deprived of their rights to land and livelihoods.

Secondly, Exemptions allow for liberalization - exemption means automatic clearance for the project without reference to the Environmental Impact Assessment, implementation of

the Forest Rights Act, and compliance with provisions in FRA, PESA, and the WLPA with the 2006 amendments, which specify mandatory consent of gram sabhas for any project in their village area.

Clause 1A (1) and (2) provides the details of which land and type of projects are to be exempted. In (1) All forest land diversions for projects started before 1996 are exempt from the law. This may seem a logical confirmation for projects that started so many years ago. In reality, after the passage of the Forest Rights Act, all such land comes under the purview of the FRA and protects the rights of Adivasis and Other Traditional Forest Dwellers (OTFD). There are several examples where these rights have not yet been recognized in the pre-1996 projects. The amendment bill seeks to redefine forest to remove all such projects out of the purview of the FRA and the FCA. Exemption of such projects will mean that land use can be automatically changed without any reference to those affected.

In section (2) a wide range of categories of forest land are exempted which will affect a large portion of forest land. The government wants to exterminate the rights of Adivasis and OTFDs on all this land. For example, forest land 100 km from the border is exempt from the FCA regulations. Several ecologists and experts have calculated the amount of land so exempted to be as much as 1.3 million sq km or around 40 percent of the land area of which a substantial area is forest land. These exemptions are for “strategic linear projects of national importance” or “defense-related” or “public utility projects”. This catch-all clause makes just about anything and everything eligible for exemptions. Moreover the terms “national importance” or “public utility” do not denote government ownership but on the contrary, include private entities owned by corporates. These exemptions from the regulations of the FCA are corollary of the government policy of opening up the strategic sectors including defense to corporates. The exemptions are in the form of incentives for private investment. This will directly impact the rights and livelihoods of forest-dwelling communities, mainly Adivasis, and is a complete violation of the FRA and other laws.

Thirdly, increasing the Centralization of Forest Governance - A new section 3C has been added in the Bill which gives ultimate power to the Central Government to issue directions to any authority or organization under the Central Government, State Government, or UT Administration, as may be necessary for the implementation of this Act. The bill aims to ensure centralized power to determine all terms and conditions for all the exemptions, plantation of trees, compensatory afforestation, non-forest use, etc.

Forest and forest governance have evolved significantly in India since the colonial era. Under the 42nd Constitutional Amendment, forests were included in the Concurrent List, as a subject under Schedule-VII of the Constitution. Decolonization and democratization of forest governance along with community participation are needed today to cope with the climate crisis, loss of forests, biodiversity, and livelihoods. The new Bill has aimed for exactly the opposite to establish centralized and bureaucratic forest governance. Legislative efforts must aim to ensure a robust and people-centric model for the protection of the environment, forests, and traditional rights. On the contrary, the neoliberal policy framework

of the Government is undermining the regulations and curbing democracy in forest management practices.

Fourthly, Expanding the definition of “Non-Forest use” – Section 2 of the Principal Act has been amended to extend the range of ‘non-forest use’. The list of works that are not anymore considered as ‘non-forest’ purposes now includes silvicultural operations; establishment of zoos and safaris (owned by the Government or any authority, in forest areas other than protected areas); eco-tourism facilities included in the Forest Working Plan or Wildlife Management Plan or Tiger Conservation Plan or Working Scheme of that area; and any other like purposes, which the Central Government may specify. It also empowers the Central Government to specify the terms and conditions subject to which any survey, such as reconnaissance, prospecting, investigation, or exploration including seismic survey, shall not be treated as non-forest purpose any longer. Silviculture mentioned in this list, in the long run, can affect natural eco-systems, threaten native species, and degrade soil quality. This amendment also gives full relaxation to the private parties to undertake profitable activities like safaris, zoos, and linear projects that are damaging to forests, wildlife as well as local livelihoods. The model of business-oriented ecotourism through exclusionary protected areas has been frequently objected to by environmentalists. Several pertinent questions have been raised regarding the ecological ground of activities like importing wildlife to Madhya Pradesh from Africa or setting up a ‘safari park’ in Haryana as a part of ‘compensatory afforestation’ for a lost Nicobar forest! Also, this amendment in the ‘non-forest use’ list would further intensify the diversion of forest lands rich in mineral resources and mostly habited by the indigenous communities. There is also ambiguity if a change of land use from forest to non-forest can be done without any forest clearance, is the concerned party still accountable to pay the revised Net Present Value or pay for Compensatory Afforestation for the land diverted?

Finally, In the name of climate justice – The preamble of the bill claims to enable actions to achieve national targets of Net Zero Emission by 2070, to enhance the forest carbon stocks through ecologically balanced sustainable development, to create a carbon sink of an additional 2.5 to 3.0 billion tons of CO₂ equivalent by 2030 as envisaged by Nationally Determined Contribution targets and to increase forest and tree cover to one-third of its land area. It is to be noted that the carbon stock of the country as recently reported has risen from 6663 million tons in 2011 to 7204 million tons in 2021 which is much lower than this super-ambitious target. Moreover, the action plans in the Bill like granting exemptions to numerous projects, designing a model to legalize forest land diversion, and permitting more ‘non-forest’ activities all go exactly the opposite of what is claimed in the preamble. The intention to increase the forest cover rapidly is an attempt to make forest land available for funded plantations in the name of combating climate change and pulling funds for carbon storage. The proposed amendments bear a flawed approach of building carbon stocks focusing mostly on plantations and weaken the significance of protection and conservation of forests and forest rights. As per the Indian State of Forest Report 2021, the total forest and tree cover of the country covers 24.62% of the total geographic area. States where an

increase in forest cover and the highest forest cover as a percentage of the total geographical area have been observed are the states inhabited by large populations of tribal communities. Snatching away their rights and allowing such exemptions in the name of climate justice shows nothing but the double standard of the Modi Government.

As mentioned above, The FCA amendment Bill 2023 needs to redefine forests in a way to take a large part of forests out of the purview of FCA and FRA. Even as the FC bill is tabled the MoEFCC has already initiated the process with state authorities to review all the 'deemed forest categories'. It is seen in the light of the gradual hegemonic control over the forests and serial assaults on nature, natural resources, and livelihoods by the Central Government for MNCs and corporates. From diluting EIA Notification to multiple violations of FRA, PESA, and the authority of the gram sabhas. This Government has made all efforts to weaken and dismantle the environmental and forest regulations in the name of 'ease of doing business'. So, We Oppose the FCA Bill which deprives the Adivasis of their rights and destroys the environment for the benefit of corporates and imperialist multi-national companies.