
URGENT ALERT: **Forest Rights in India under Attack**



The forest rights of indigenous peoples' and forest dwelling communities in India as secured in the Forest Rights Act (2006) are under attack from at least three angles simultaneously.

In the first 6 months of 2019 alone, we have seen the forest rights of indigenous peoples in India under attack by:

1. a February 2019 Supreme Court order calling for the eviction of more than a million families;
2. a new discriminatory forest policy being drafted by the Ministry of Environment, Forest and Climate Change (MoEF&CC), Government of India; and
3. plans to revise the current Indian Forest Act (1927) without the inclusion and consultation of indigenous and forest dwelling communities themselves.



Supreme Court orders massive evictions

India's Supreme Court has ordered 20 state governments to evict 1-2 million families living on forest land whose applications for rights recognition under the Forest Rights Act (2006) have been rejected. These families live in and around 500 wildlife sanctuaries and 90 national parks; but many live there sustainably and have protected the forests and its biodiversity long before these areas were declared parks and sanctuaries.

The Supreme Court order of 13 February 2019 in the case challenging the constitutional validity of the Forest Rights Act (FRA) directed State governments to ensure the eviction of all forest dwelling Scheduled Tribes and other traditional forest dwellers from forest land whose claims under the Act have been rejected. **One to two**



URGENT ALERT
JULY 2019

million claimants face the immediate threat of eviction. The final countrywide numbers of forced evictions are likely to rise substantially as other states are forced to comply with the court order.

The court order reflects a fundamental regression, when considering the purposes of the FRA, which includes seeking to address 'historical injustices'. Rather than reviewing and analysing the implementation of the Act and grounds for rejected claimants in order to determine constitutional validity—which was what was actually being challenged—the Supreme Court chose to forcibly evict the people who have been living sustainably in the forests for centuries, protecting biodiversity and wildlife.

IWGIA and AIPP take note that the Supreme Court has now put the ruling on hold for a period of four months, although there are reportedly evictions taking place in certain areas despite this short reprieve by the court.

We note that this is unlikely to be sufficient to review such a large number of rejected claims. Furthermore, this will be of little reassurance to the affected Adivasis who will still have the threat of forced eviction hanging over their heads.

Actions taken by IWGIA and AIPP:

- Open letter of appeal to the Prime Minister written together with Asia Indigenous Peoples' Pact and endorsed by 21 NGOs: <https://www.iwgia.org/en/india/3314-millions-of-indigenous-peoples-facing-eviction-india>
- Awareness raising of the case through social media with a short video produced by #Land Rights Now: <https://www.youtube.com/watch?v=Zn8UgkuhAgU>



Discriminatory forest policy would take away rights

The Proposed National Forest Policy, 2018, being drafted by the Ministry of Environment, Forest and Climate Change (MoEF), Government of India is another threat to the forest rights of indigenous peoples in India.

This draft National Forest Policy provides for the adoption of a completely new legal framework that would allow private entities and corporations to set up and run commercial plantations in forest lands, currently prohibited under the existing National Forest Policy (1988).

More disturbingly, however, is that the draft policy removes specific language from the 1988 policy that specifically and carefully addresses the rights of indigenous communities.

The draft policy is not only discriminatory towards indigenous peoples, but also further seeks to take away the rights of indigenous peoples already recognised under existing laws—in particular, for the purpose of exploitation of natural resources, an estimated 3,563,205 hectares of "community forest" for which titles have been issued to the indigenous peoples under the Forest Rights Act (FRA) as of March 2019¹ and 22,938,814 hectares of forest area² covered under the Joint Forest Management (JFM) Committees since 1990.

The area constitutes about one-third of India's total forest cover—equivalent to the size of the UK and Belgium combined, or double the size of Bangladesh.

Action taken by IWGIA:

- IWGIA has sought the intervention of the UN Committee Against Elimination of All Forms of Racial Discrimination under its Early Warning Procedures for prevention of violations of the rights of indigenous

¹ Statement of claims and distribution of title deeds under the Forest Rights Act, 2006 as on 31.03.2019, Ministry of Tribal Affairs, <https://tribal.nic.in/FRA/data/MPRMar2019.pdf>

² http://www.frienvic.nic.in/Database/JFM-Committees-and-Forest-Area_2243.aspx



URGENT ALERT
JULY 2019

peoples of India through the Draft National Forest Policy, 2018, being drafted by the Ministry of Environment, Forest and Climate Change (MoEF), Government of India at present.³

New amendments would also afford the government the arbitrary power to declare forest lands as production forests or conservation areas and would further allow the government to engage with private persons in the management of these areas. The amendments also redefine the term 'person' to include corporate entities.

Declaring forest lands in this way would strip away the rights of the person or people living on or owning the land, only if the government determines there is enough land left over for those persons to continue their lives and work. The government in this case determines how much left over land is appropriate, as well as the location of that government-determined land for the person to be relocated to.



India Forest Act (1927) revisions a leap backward

There are plans to significantly revise the Indian Forest Act (1927), which is troubling on two counts. **First, the revisions are being done without the inclusion or consultation of indigenous and forest dwelling communities,** the very communities affected by the proposed amendment; and **second, the revisions drastically expand the powers of the central government and forest officials, including their policing powers, and limit and even nullify the rights of tribals and forest dwellers.**

For instance, new proposed amendments would provide increased immunity to forest officials, specifically when they use weapons to prevent forest offences, and grants them increased power to enter and search any place, seize any goods, and take into custody any person, simply on the suspicion of the commission of an offence. The proposed amendment effectively affords forest officials the same, if not more, powers as police officers.

Further, if a person who controls or is in custody of forest lands is being prosecuted, then ownership of the land reverts to the State Government until the person can prove their legal right to possessing the land. If an officer finds or feels a person has wilfully set fire to a forest area, they are, according to the proposed amendments, among other powers, able to evict the person from the forest land.



Why are these attacks urgent to address?

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 or FRA is a result of the protracted struggle by the marginal and indigenous/tribal communities of India to assert their rights over the forestland over which they were traditionally dependent.

This Act is crucial to the rights of millions of indigenous peoples and other forest dwellers in different parts of the country as it provides for the restitution of deprived forest rights across India, including both individual rights to cultivated land in forestland and community rights over common property resources.

The notification of Rules for the implementation of the Forest Rights Act (FRA), 2006 on 1 January 2008, and the rapid implementation of the law in many forest areas of the country, has finally paved the way to undo the 'historical injustice' done to the tribal communities and other forest dwellers.

The livelihood of perhaps 100 million of the poorest

³ <https://indianexpress.com/article/opinion/editorials/ipbes-biodiversity-reports-endangered-species-wake-up-call-10-5717947/>



URGENT ALERT
JULY 2019

(The Indian Forest Rights Act 2006: Communing Enclosures) stand to improve if implementation can succeed. The FRA is significant as it provides scope and historic opportunity of integrating conservation and livelihood rights of the people.

The FRA thus reinstates the rights to access, manage and govern forest land and resources, and resources within village boundaries, which had been controlled by the forest department since colonial times. This is reinstated by the Parliament by means of the FRA, precisely because these communities had managed the forests and resources sustainably.

The relationship with the ecosystem is a fundamental part of the tribal way of life, which encompasses their customs, culture, belief system, community and homes. To protect and manage the forest, the law makes the Gram Sabha (village assembly) the statutory body, as the Gram Sabha is best placed to understand and administer communities and their resources.

The FRA has strengthened many communities and other conservation initiatives. The FRA has been effectively used by local communities/ Gram Sabhas to strengthen protection and management of forests in such cases as those of Niyamgiri (Odisha) and Gadchiroli (Maharashtra), and protected areas such as the Biligirirangana Hills (Karnataka).

The success of the management of forests in these cases clearly lies in the fact that the FRA has the potential to democratise forest governance, making it more accountable and transparent.



Recommendations

The attacks are of great concern to IWGIA and AIPP, and in the recognition that we are not able to reverse the attacks on our own, we call on diplomatic missions, the UN, INGOs, national and international human rights activists and other relevant stakeholders, to utilise any diplomatic channels and opportunities to urge the Central Government of India to:

- Immediately act to reverse the 13 February 2019 order, and to ensure that all rejection of claims under the Forest Rights Act are reviewed through Gram Sabhas (not only by officials);
- Ensure that, as per law, every village in the forest areas in the country receives title to protect and manage their community forest resources, and to use their non-timber forest produce without any conditions or restrictions;
- Ensure that all compensatory afforestation and other forestry funds (including Joint Forest Management) should only be utilised under the control of forest dwelling communities through their Gram Sabhas;
- Stop all diversion of forestland for corporate projects without consent of affected Gram Sabhas and without recognising communities' rights to land and resources;
- Immediately abolish plans to revise the Indian Forest Act, 1927, to avoid further human rights violations and potential violent conflicts and, instead, to make Indian Forest Act 1927, Wildlife Protection Act 1972, Compensatory Afforestation Fund Act 2016, and Forest Conservation Act 1980 completely in compliance with Forest Rights Act 2006;



IWGIA



URGENT ALERT
JULY 2019

-
- Ensure that all officials responsible for violating forest rights are prosecuted;
 - To reject the draft National Forest Policy 2018;
 - Establish constructive dialogue with the Adivasi communities and their representative organisations regarding their concerns; and
 - Guarantee that the land, natural resources and livelihood rights of the Adivasi communities are respected as per national and international law.



IWGIA

Prinsessegade 29 B, 3rd floor
DK 1422 Copenhagen
Denmark

Phone: (+45) 53 73 28 30
E-mail: iwgia@iwgia.org

iwgia.org



112 Moo 1, T. Sanpranate, A. Sansai,
Chiang Mai, 50210
Thailand

Phone: +66 (0)53 343 539
E-mail: aippmail@aippnet.org

aippnet.org