
Suggestions on Consultation Paper on Proposed Amendments to the Forest (Conservation) Act, 1980

Submitted to Ministry of Environment, Forest and Climate Change

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CENTRE FOR ENERGY, ENVIRONMENT & PEOPLE

The Ministry of Environment, Forest and Climate Change has invited comments and suggestions on “Consultation Paper on Proposed amendments to the Forest (Conservation) Act, 1980.” The present submission is in response to the notice published on the Ministry’s website. We request the Ministry to accept this submission on record.

GENERAL COMMENTS

The amendments proposed by the Ministry are a step in the right direction towards a much needed streamlining of forest governance in India. However, in the suggestions forwarded to achieve this goal, the amendments proposed have focused principally on the interest of infrastructure authorities and private individuals and organisations. The proposed amendments have a significant impact on forest-dependent scheduled tribes and communities. However, there is a lack of adequate consideration for the needs of such communities in the paper. This creates room for conflict between the proposed issues and the provisions enshrined in The Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. We submit that the proposals should be reconsidered in light of their impact on forest-dwelling communities. Specific comments corresponding to respective issues of the consultation paper are stated below.

ISSUE WISE COMMENTS

Issue No. 4.

The issue rightly recognises that land records of forests in India are not clear and create scope for misinterpretation. However, it proposes that plantation, afforestation, etc., on any non-forest land after 12.12.1996 should remain outside the purview of the Forest Conservation Act. As per the 12.12.1996 order of the Supreme Court in the TN Godavarman Thirumulpad v Union of India case, the word ‘forest’ was declared to be interpreted according to its dictionary meaning, in addition to the legal meanings assigned to it under various laws. However, as acknowledged in the present paper, the ground-level determination of forest land is not easily done. Introducing an amendment to exclude plantation and afforestation from the purview of the Act further complicates this matter. It especially endangers those marginalised persons who have established their means of sustenance around such plantations and forestation. We submit that the Ministry should clarify the effect of this proposal on the meaning of the term ‘forest’. Further, the Ministry should make provisions for those marginalised persons who may be adversely impacted due to the introduction of the proposed amendment.

Issue No. 6.

The issue proposes the introduction of a provision to keep certain pristine forest areas intact for a specific period. However, no details related to the specific form and purpose of this provision are provided. The provision imperils the rights of forest dwellers and increases the likelihood of their dislocation and loss of livelihood sources. We submit that specific details

related to the provision should be provided, and further consultation with affected communities should be held.

Issue No. 7.

The issue proposes exemption of 'strategic and security projects' near 'international border areas' from the requirement to obtain prior approval for non-forestry use of forest land. However, no clarity is provided on the legal meaning and scope of 'international border areas.' Similarly, the meaning and scope of projects constituting 'strategic and security projects' is not specified either. This ambiguity creates room for arbitrariness and exposes ecology and forest rights to the risk of jeopardisation. We submit that clarity should be provided on the meaning and scope of the above terms, and further consultation should be held on the same.

Issue No. 9.

The issue proposes exemption to Extended Reach Drilling technology for oil and natural gas exploration in forest areas. It states that the use of this technology is environmentally friendly and will not impact the soil and aquifer of the forest. However, the social impact of introducing the exemption for the technology has not been taken into account. The technology poses a threat of interference to forest-dwelling communities. Excluding it from the purview of the Forest Conservation Act risks harming the rights of forest dwellers. We submit that a comprehensive assessment of the social and ecological impact of the technology should be undertaken. This assessment shall be done in consultation with the communities that stand to be directly impacted by the introduction of the technology.

Issue No. 11.

The proposal under this issue excludes zoos, safaris, Forest Training infrastructures, etc., from the purview of 'non-forestry use' under Section 2(ii) of the Act. Creating zoos and safaris in forest areas leads to the exclusion of dwellers residing in the region from access to forest resources essential for their sustenance. In the past, such establishments have led to enhanced conflict between forest dwellers and wildlife. We submit that removal of zoos, safaris, etc., from the ambit of the Forest Conservation Act, will decidedly undermine the rights recognised under the Forest Rights Act, 2006, and should not be done.

Issue No. 13.

The issue proposes that the violation of provisions of the Act shall be a cognizable, non-bailable offence, the punishment for which may extend to one year. In addition, it also proposes that in case any authority in the State Government or Union territory Administration is involved in an offence under the Act, the amount to be received as penal compensation shall be deposited in the National CAMPA rather than in the State CAMPA.

We submit there is no reasonable nexus between the offence in question and the proposed requirement to deposit the penal compensation to the National CAMPA rather than in the

State CAMPA. The provision undermines the federal nature of forest governance. The provision should be re-examined, and the rationale for introducing it should be made explicitly clear.

Issue No. 14.

The issue proposes that survey and investigation activities have no perceptible impact on forest land and should therefore be exempt from the requirement to seek prior approval under the Act. However, the proposal does not consider the impact of these activities on forest-dwelling and forest-dependent communities. We submit that the same should be taken into account, and the provision should be reconsidered after consultation with affected communities.