

To

29th October 2021

Shri Sandeep Sharma

Assistant Inspector General of Forests

Indira Paryavaran Bhawan,

Aliganj, Jorbagh Road, New Delhi - 110003

Subject- Submission on proposed amendments in Forest (Conservation) Act, 1980

Respected Sir,

This submission is in response to the draft document circulated by your office proposing amendments to the Forest Conservation Act 1980.

We write this submission in the context of its implications for a state like Himachal Pradesh, which has 2/3rds of its geographical area under the jurisdiction of the forest department. Almost 90% of the population is rural and majority of such population is dependent on these forests for their day-to-day livelihoods. The communities fall under the categories of Scheduled Tribes and Other Traditional Forest Dwellers under the purview of the Forest Rights Act 2006.

We submit at the very start that our mountain state, is not only a floral and faunal biodiversity hotspot, home to a variety of forests, but that these stands threatened due to large scale constriction of dams, four lane highways, mines and other infrastructure. Further, the state is under the severe impact of climate crisis especially disasters, leading to loss of lives and public property, year after year since the last decade or so. One of the key mitigation measures, is protection of the existing forests as well as strengthening of local communities' ownership and management of forest resources.

1. To define the scope of the application of the Act on 'private forests'

Historically, in Himachal and in many other states as well some forest areas have been arbitrarily entered in the name of individuals given the power exercised by members of landed and influential castes within the bureaucracy, in the colonial period. This was continued in post-independence era also. This is particularly the case for some types of land like for instance, '*shaamlaat*' lands in Himachal Pradesh which were in the control of 'Panchayats' or individual co-sharers of the landed 'upper' castes. Many of these lands, had natural forests and these lands were taken over by the state government as part of the land reforms in 1974 under the Village Common lands vesting act. Close to 4.25 lakh hectares of such land was taken over by the State government.

While 50% of these lands were handed over to the forest department under the 'reserved' category, the other 50% were to be allotted to Scheduled Caste families many of whom were landless and also had occupations on these lands which were to be regularised. However, this process remained incomplete. In 2001 through a state level amendment these lands were handed over back to the individual co-sharers. The result of this has been the large-scale privatisation of lands, which have forests. This is a matter of serious conflict in districts like Sirmaur. Further, there are other 'deemed forests' which are also spread over an area of several square kilometres. In few cases they are in the vicinity of

protected and reserved forests and play a critical role in maintaining ecological balance of that region apart from being used for livelihood purposes.

Before changing application of the Act on private and deemed forests there needs to be a detailed understanding/study about the socio-economic and ecological services these private and deemed forests play in different contexts and the probable conflicts which will be heightened if those who are so called 'owners' of these forests are given a free hand to erect structures within such lands.

2. To exempt such lands acquired before 25.10.1980 from the purview of the Act

Yet again this cannot be done in an adhoc manner. Its repercussions on forest cover and local ecology need to be identified case to case. The MoEF&CC with the involvement of the state government/agencies will have to first identify such lands with the current status of plantations/forests on such lands and the present use of such land by local communities.

3. To dispel the apprehension among tree growers that vegetation or tree plantation raised on their private/ non forest lands will not attract the provisions of the Act

Such a step can be detrimental to the natural forest cover. It is very difficult to differentiate the forest produce from the forest areas and the forest produce from the private land. This has happened in case of high-altitude medicinal plants where medicinal plants collected from forests are shown to have been collected from private land. In mountains areas, where forests are inaccessible, the theft of timber from forest can increase for commercial purpose and would be very difficult to check it also.

Further, it has now become fashionable for people to carry out plantation drives owing to the myth that 'plantations' are the panacea to save the environment. This myth has been propagated by the forest department programs and many other government programs. As a result areas where natural forests exist or grasslands are also planted with trees affecting existing forest composition and uses. Further, there is a tendency to plant commercial monocultures – which could also be detrimental to forests and communities dependent on them for livestock rearing and other uses.

4. Development of infrastructure along the international border areas

Such an amendment would be an utmost disaster. Most of these border areas in Himachal are also highly fragile and ecologically sensitive areas. In such high-altitude regions of the mountain's forests exist in small patches and have a critical role in maintaining the ecological balance of such areas. The forests in these areas are already under compromising position with the diversion of forests for ongoing development activities.

There is a need to develop much stricter rules and regulations related to diversion of forests to protect the ecological and geographical integrity of such areas. In mountain regions such areas are Glaciofluvial landforms from where many of the major rivers of India have origin.

Most importantly these areas also happen to be tribal districts where indigenous communities have their rights under the Forest Rights Act 2006, which are still in the process of being settled. Any change in land use change and forest diversion will have to be carried out with the gramsabha consent in place. This provision cannot be over-ridden.

5. Technology that are quite environment-friendly and as such should be kept outside the purview of Act

We understand that it is never the technology per se / by itself but the context where it is being used and by whom and how that determines the whether it is 'environment friendly' or not. The geology, hydrology, topography and ecological setting plays an important role. There is ample evidence that in the context of mountains, underground construction disturbs both physiographic conditions and hydrological regimes which become visible only later in the form of cracks on the grounds, landslides, drying up of springs and seepages and many times drying of vegetation on the surface. When project proponents (and their contractors) use these technologies, their primary aim is efficiency and meet the goal of their project in a timely manner. Neither principles of science and nor law governs their work. There is no doubt that underground activity has ecological adverse impacts and should be considered as non-forest activity.

6. Establishment of zoos, safaris, Forest Training infrastructures etc should not come within the meaning of "non-forestry activity"

Such a provision completely undermines the spirit of the FRA 2006. These kinds of activities will certainly hamper the local forest usage and dependence. In mountain areas where mindless commercial tourism is being pushed there is already a big ecological footprint, where communities right to regulate is not adequately recognised, despite the provisions of the FRA 2006. This is already happening in camping sites and ecotourism projects.

We are clear that the proposed amendments are of little benefit to forests of the country or the people who reside around these forests fulfilling their critical livelihood needs.

It is shocking that all these years, *adivasis*, forest dependent people suffered as a result of the strict regulatory provisions of the FCA and no relief was provided to them by suggesting amendments in FCA. For example – the case of the *nautor* rules of the state of Himachal which were meant to grant land to the landless people remained in the doldrums for decades after the coming of the FCA in 1980. Many such occupations of scheduled caste and scheduled tribe people remain unregularised. While the FRA provides some relief on the pre-2005 occupations, new allotments are impossible thanks to the FCA. These are the communities who should be the priority of the government, however, the draft proposed by the Ministry is not just silent on the provisions of FRA but also seems to favour big private players and companies for commercial interests.

We express our concern at the draft proposed by the Ministry which seems to be about exempting certain activities/ land which falls under the purview of FCA, 1980 from central government permission. Therefore, the current draft must be withdrawn.

We demand that just as the FCA amended rules of 2017 have included the condition of settlement of rights and NoC of *gramsabha* under the provisions of FRA, 2006 for forest clearance; the provisions of FRA should be included in the principal FCA, 1980. Only then would the provisions of FRA, 2006 be followed in toto. We also demand that any draft of such kind should first be translated into regional languages and a substantial time period be set aside to get responses of the most important stakeholders of forests, the forest dependent people.

Thank you,

1. R S Negi, Himlok Jagriti Manch, Kinnaur
2. Kulbhushan Upmanyu, Himalaya Bachao Samiti, Chamba
3. Guman Singh, Himalay Niti Abhiyan, Himachal
4. Prem Katoch, President Save Lahaul Spiti, Lahaul & Spiti
5. Shanta Kumar Negi, President Hangrang Sangarsh Samiti, Kinnaur
6. Lal Husaain, Gujjar Samaj evam Kalyan Sabha, Chamba
7. Takpa Tenzin, President Spiti Civil Society, L&S
8. Jiya Lal Negi, Zila Van Adhikar Sangarsh Samiti, Kinnaur
9. Manoj, Chamba Van Adhikar Manch, Chamba
10. Dhani Ram Shirma, Sirmaur Van Adhikar Manch, Sirmaur
11. Sukhdev Vishwapremi, People's campaign for Socioeconomic Equity in the Himalaya, Kangra
12. Rohit Azad, Himachal Nagarik Sabha, Mandi
13. Munish Kastro, Regional Coordinator Desh ki Baat Foundation, Bilaspur
14. Suresh Kumar, President Right Foundation, Mandi
15. Shyam Singh Chauchan, State Secretary, CPI, Himachal Pradesh Kirpa Ram, Samajsevi, Mandi
16. Ravikumar, Dalit Bheem Army, HP
17. Kishori Lal, Zila Parishad Member, Ward- Sarahan, Mandi
18. Nek Ram Sharma, Lok Krishi Vaigyanik, Karsog, Mandi
19. Bansilal, Samajsevi, Himachal, Mandi
20. Santram, Smajsevi, Mandi
21. Meetu Sharma, Writer, Karsog, Mandi
22. All India Gujjar Mahasabha, Chamba
23. Himalayan Student Ensemble, Himachal
24. Himdhara Environment Research and Action Collective, Himachal Pradesh;
email: info@himdhara.org