

POLICY 101

Why proposed changes to Forest Act have stirred up a hornets' nest

While the govt claims the proposed bill would help in better forest management, activists think otherwise

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NEW DELHI

Proposed amendments to the Indian Forests Act, 1927, have pitted forest dwellers and tribal groups against the government over concerns that the changes will increase bureaucratic control while diminishing their rights.

Forest rights activists and tribal welfare organizations say the new law will divest millions of tribal and forest dwellers of their rights. The central government has sent the draft bill to state governments for consultation.

"It will be devastating if it becomes a law," said Shankar Gopalakrishnan, secretary of the Campaign for Survival and Dignity, a national platform of forest dwellers' groups. "It not only takes the colonial mindset ahead, but makes the situation worse by adding another layer of militarization/policing to it."

The bill proposes to give higher management powers to forest officers beyond what is provided in the Forest Rights Act, 2006. Its provisions give greater immunity to forest officers using firearms to prevent offences. This, activists say, is even higher than powers available to certain categories of public servants under Section 197 of Criminal Procedure 1973, akin to immunity granted in conflict zones.

The government had claimed amending the colonial era law would help better forest governance, and meet developmental aspirations and international commitments. It was also expected to help deal with issues related to forestry. According to the government, the Act would provide for conservation, enrichment and sustainable management of forest resources, safeguard ecological stability and

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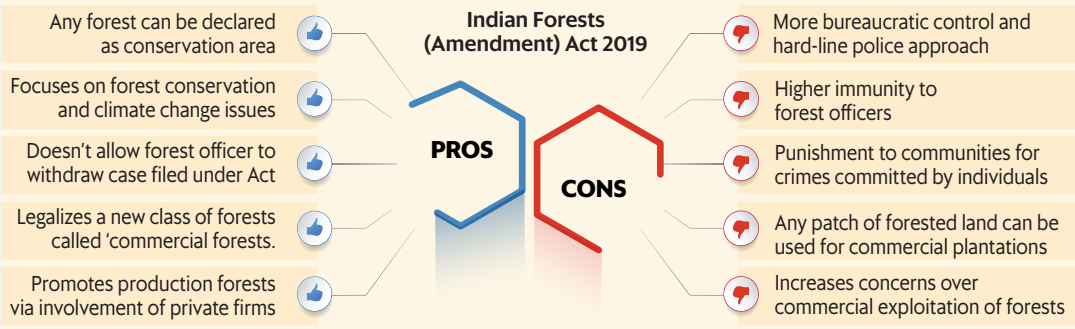
Law of the jungle

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10th India's world ranking in total land area under forest and tree cover. **421,000** sq. km Total forest cover in tribal districts

21.54% Total forest cover in India with regards to geographical area

2.99% Area classified as 'very dense' forest **15** states/UTs Have above 33% of geographical area under forest cover



PHOTOGRAPH BY PRADEEP GAUR/MINT; GRAPHIC BY PARAS JAIN/MINT

address the concerns related to climate change and international commitment.

"If the bill becomes law, the state government will have the power to take away the rights of forest dwellers if it feels it is not in line with 'conservation of the proposed reserved forest', merely by offering some arbitrary amount of cash compensation. This will impact the livelihood of millions of forest dwellers. It is arguably unconstitutional,"



added Gopalakrishnan. The bill also retains the provision to punish entire communities by denying access to forests for offences committed by individual members. For instance, if a fire is reported in a reserved forest, under the proposed law, the government

Where earlier it took 640 days for environmental, forest clearances, it has come down to 108 days. I promise to make this two months,

PRAKASH JAVADEKAR
Union environment minister

may suspend the rights of pasture/forest produce of the entire community in the region for a fixed period. One major objection is that the amendment

overrides the Forest Rights Act (FRA), 2006, which had granted legal recognition to the rights of traditional forest-dwelling communities to the land and other resources denied to them over decades.

"FRA had introduced a new paradigm of forest governance, by giving

the gram sabhas rights to govern, manage and use community forest resources. But the proposed bill intends to take away those rights from communities and hand them over to private sector and facilitate the diversion of forest land," said Tushar Dash, an independent researcher working with the Community Forest Right, an advocacy group.

The draft bill proposes to allow the government to open any patch of forest it deems fit for commercial plantations and also allows it to assign forests to non-state entities, but not on lease. However, there are concerns this could lead to diversion for non-forest use and commercial exploitation.

On the other side, policy makers say some external regulation is required, especially in view of concerns related to climate change and international commitments to increase forest cover. Another major provision is to create national and state forest funds aided by private companies and promotion of production forests through active involvement of private companies.

"Some regulation is justified, but not hands-on state management, nor corporate ownership. Ultimately, forest-dwellers have a fundamental democratic right to manage their immediate environment. And any external regulation must be transparent and accountable," said Sharad Lele, Distinguished Fellow in Environmental Policy and Governance, Ashoka Trust for Research in Ecology and the Environment (ATREE), Bengaluru.

The debate assumes significance ahead of a Supreme Court hearing on 10 July in the case involving eviction of nearly 1.18 million forest dwellers in as many as 16 states including Chhattisgarh, Maharashtra and Madhya Pradesh, whose claims were rejected under the 2006 Forest Rights Act.



The draft NFP reverses the earlier policy objective by promoting forestry at the cost of local livelihoods.

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Forest policy: state control, privatization or decentralization

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The Indian Forest Act, 1927 (IFA), is proposed to be amended. So, can we conclude that the forest sector in India is waking up to the much-needed reforms? Unfortunately, not the right kind of reform. The sector has been in ferment since the 1990s, but these recent moves smack more of 'empire strikes back' than of *mile sur mera tumhara* (meeting of minds)

One must start by recognizing that IFA was a tool for a colonial takeover of India's forests. The IFA created two main legal categories of forests—reserved forest (RF) and protected forest (PF)—and empowered the forest departments (FDs) to take over, manage and protect them. It was implicitly for timber and softwood production. Single goal, two levels of protection, and single manager-cum-protector: The Imperial Forest Department. After Independence, the need to redefine forest sector goals and restructure its governance was overlooked. The states largely copy-pasted the IFA to create their respective state acts and the Imperial FD became state FDs, run by the IFS.

What's wrong with state control of forests, some may ask? Aren't forests a national treasure, providing public goods such as watershed protection, biodiversity and carbon sequestration? Alternatively, if forests are only for timber production, then the logic of the 1990s economic reforms suggests privatizing them, with the state acting only as a regulator. South Asia's forests are, however, complex socio-ecological entities: highly diverse and settled by Adivasi and non-Adivasi communities. They are thus best managed as common property. They do provide wider positive environmental externalities—biodiversity, carbon or hydrological benefits—which may justify some external regulation, but not hands-on state management, nor corporate ownership.

Understanding the logic behind democratic decentralization is an essential first step

Ultimately, forest-dwellers have a fundamental democratic right to manage their immediate environment. And any external regulation must be transparent and accountable.

The colonial takeover, thus, deprived forest-dwellers of their livelihoods. Giving forest officers police powers in a landscape populated by marginalized and illiterate communities also led to much harassment.

The Forest Rights Act of 2006 emerged in the context of unsettled land rights, but it also offered Gram Sabhas' control over forests through community forest rights. Moreover, it further empowered communities the right to say no to forest diversion. This Act has been resisted tooth-and-nail. Retired foresters have filed writ petitions challenging its constitutionality. Serving foresters have mostly obstructed the granting of forest rights. A much needed forest governance reform has been blocked. The proposed policy changes point in exactly the wrong direction. The draft NFP 2018 goes back to promoting production forestry at the cost of local livelihoods and environmental goals, and ignoring the FRA. The draft amendment, without waiting for NFP 2018 to be ratified, goes many steps further: strengthening police powers without strengthening public oversight, promoting a new category called production forest without justifying its need and not replacing the outdated categories of RF and PF with CFRs. A bureaucracy that has been the biggest landlord in the country will not give up these sweeping powers willingly. Perhaps a beginning can be made if they recognize the colonial heritage that they inherited. Democratic decentralization can, however, only come about through wider pressure, and a public understanding of its logic is an essential first step.

Sharachchandra Lele is distinguished fellow in environmental policy and governance, ATREE, Bengaluru. Views expressed are personal.

IFA amendments push back reforms in India's forest governance

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After the 1990s, the enactment of Provisions of the Panchayats (Extension to Scheduled Areas) Act (PESA) and Forest Rights Act (FRA) by the government in response to movements by tribal and forest-dwelling communities established a new paradigm of democratic governance seeking to correct historical injustice. It did so by restoring rights to forest dwelling communities and by empowering Gram Sabhas to govern and manage forests.

However, proposed amendments negate the principles of democratic governance and are in conflict with FRA, PESA and the Fifth Schedule to the Constitution.

The FRA had introduced a new category of forests, 'Community Forest Resources (CFRs)', which includes all types of forest lands, including Reserve Forests and Protected Forests notified under the Indian Forest Act (IFA). This empowered the communities to conserve and manage the forests.

It reaffirmed the efficacy of a democratic approach to forest governance and conservation that gives primacy to the legal rights of local communities and empowers Gram Sabhas—a model which has been adopted by many countries.

However, the IFA amendments completely negate this idea of democratic governance of forests. While FRA



The IFA amendments, by giving complete powers to the forest department, will further criminalize forest dwellers.

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empowers Gram Sabhas to be the competent authority to determine rights of forest dwelling communities, the IFA amendments propose settlement of rights by the Forest Settlement Officer. Tribal and forest dwellers have been bearing the brunt of a large number of forest offence cases filed by the forest department for bonafide livelihood activities such as cultivation and collection of minor forest products, which are

recognized as rights under FRA. The IFA amendments, by giving complete powers to the forest department, will only serve to further criminalize forest dwellers and create fear and lead to increasing violations on ground.

The IFA amendments promote privatisation of forests by seeking to create 'production forests' for privatized commercial exploitation at a large scale. The idea comes from the draft National Forest Policy, which seeks to promote production forests through active involvement of private sector companies. It also proposes to set up national and state forest funds from corporate/CSR funding, which would allow the private sector to have greater say in forest management.

The IFA amendments are being seen as a major push back and reversal of forest governance reforms, and are likely to encourage forest bureaucracy to regain control over forests from tribal communities.

Tribal organizations have demanded withdrawal of the IFA amendments, as well as other laws and policies, conflicting with tribal rights and the FRA. It is a challenge for the political leadership and the new government to further strengthen India's forest governance reforms by withdrawing the proposed IFA amendments and other such regressive laws and policies, and to work for better implementation of the FRA.

Tushar Dash is a researcher working on forest rights.

SHORT TAKES

SC to hear plea against holding separate polls for Gujarat RS seats



New Delhi: The Supreme Court (SC) on Tuesday agreed to hear on 19 June a plea by the Gujarat Congress against the election commission's order of holding separate polls for vacant Rajya Sabha (RS) seats in the state. Congress alleges that, if held separately, the Bharatiya Janata Party will have an edge over them in the seats. **JAPNAN K. BINDRA**

Govt relaxes minimum educational qualification for driving licence

New Delhi: The government will do away with the minimum requirement for educational qualification to get driving licence, the road transport ministry said on Tuesday. This will help meet the shortage of nearly 2.2 million drivers in the transport and logistics

sector, said a statement. At present, under Rule 8 of the Central Motor Vehicle Rules, 1989, a transport vehicle driver needs to have passed class 8.

The removal of the requirement will open up employment opportunities for a large number of unemployed persons, especially the youth, the official statement said. **PTI**

PM to meet economists, sectoral experts on 22 June

New Delhi: Prime Minister (PM) Narendra Modi will interact with leading economists and experts on Saturday to deliberate on economic policy roadmap for promoting growth and creating employment. PM Modi also brainstormed with top bureaucrats of finance and other ministries on Tuesday, ahead of the maiden budget of his second term in office which is to be presented on 5 July.



This comes against the backdrop of recent data by Central Statistics Office (CSO) showing that growth slowed to a five-year low of 5.8% in the fourth quarter of 2018-19, pushing India behind China, due to poor showing by agriculture and manufacturing sectors. **PTI**

Oppn leaders hold strategy meet ahead of talks with PM



New Delhi/Kolkata: Leaders of various opposition parties met at the Parliament House on Tuesday to chalk out their joint strategy for the Parliament session. This comes in the wake of Prime Minister Narendra Modi calling a meeting of various parties to discuss the 'one nation, one election' issue. West Bengal chief minister Mamata Banerjee declined the invite, and instead asked the centre to instead prepare a white paper on 'one nation, one election' for consultations. She had also skipped a NITI Aayog meeting on 15 June. **PTI**

Finance ministry starts quiz series on twitter ahead of budget

New Delhi: To generate public interest in the budget, the finance ministry has started a quiz series on twitter. "Now that our General Budget 2019-20 is around the corner, it would be a good time to refresh our knowledge about it. Today we start with our first question. Let's see how many of us get it right," the ministry said. The full budget for 2019-20 will be presented in Parliament on 5 July by finance minister Nirmala Sitharaman. **PTI**



Government retires 15 tax officials facing corruption charges

New Delhi: The government has compulsorily retired 15 officers of Central Board of Indirect Taxes and Customs who were facing charges of corruption and illegal gratification. The Narendra Modi administration had also retired 12 officers of the direct tax administration last week. **GIREESH CHANDRA PRASAD**