

INDIA

**Compensatory Afforestation
Program Evicts More
Tribals During
COVID-19**



ASIAN CENTRE FOR HUMAN RIGHTS

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First published: February 2022

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Suggested contribution Rs. 799/-

Published by:

ASIAN CENTRE FOR HUMAN RIGHTS

[ACHR has Special Consultative Status with the United Nations ECOSOC]

C-3/441-C, Janakpuri, New Delhi-110058, India

Phone/Fax: +91-11-25620583

Email: director@achrweb.org

Website: www.achrweb.org

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Abbreviation

APO	Annual Plans of Operation
BPL	Below Poverty Line
CAF	Compensatory Afforestation Fund
CAG	Comptroller and Auditor General
CAMPA	Compensatory Afforestation Fund Management and Planning Authority
CBA	Chhattisgarh Bachao Andolan
FRA	Forest Rights Act
GKRA	Garib Kalyan Rojgar Abhiyaan
HACF	Hasdeo Aranya Coal Field
IPC	Indian Penal Code
MGNREGS	Mahatma Gandhi National Rural Employment Guarantee Scheme
MoEFCC	Ministry of Environment, Forest and Climate Change
MFP	Minor Forest Produce
MoS	Minister of State
MoTA	Ministry of Tribal Affairs
MSP	Minimum Support Price
NFSA	National Food Security Act
NHRC	National Human Rights Commission
NPV	Net Present Value
NTCA	National Tiger Conservation Authority
NTFP	Non Timber Forest Produce
NITI	National Institution for Transforming India

OTFD	Other Traditional Forest Dwellers
OTP	One Time Password
PDS	Public Distribution System
PVTG	Particularly Vulnerable Tribal Group
PIL	Public Interest Litigation
PMGKAY	Prime Minister Garib Kalyan Anna Yojana
SCA	Special Central Assistance
SHGs	Self Help Groups
ST	Scheduled Tribe
STC	Scheduled Tribe Component
TRIFED	Tribal Co-Operative Marketing Development Federation of India Limited
TSS	Tribal Sub-Scheme
UT	Union Territory
VDVK	Van Dhan Vikas Kendra
WII	Wildlife Institute of India

Executive Summary

With over 104 million people, India has the second largest population of indigenous peoples in the world, who are officially recognized as Scheduled Tribes. With 40.6% of the Scheduled Tribe population living below poverty line, compared to 20.5% of the non-tribal population, as per the 2011 census,¹ they were particularly vulnerable to the impact of the COVID-19.

On 12 May 2020, Prime Minister Narendra Modi announced a special economic package of Rs. 20,00,000 crore under the 'Atma Nirbhar Bharat Abhiyaan' (India Self Reliance Movement), to aid India out of the Coronavirus crisis. The economic package included Rs. 6,000 crore funds from the National Compensatory Afforestation Fund established under the Compensatory Afforestation Fund Act, 2016² or erstwhile Compensatory Afforestation Fund Management and Planning Authority (CAMPA) to create job opportunities including for tribal communities in semi-urban and rural areas.³ The CAMPA funds are contributory funds towards compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, net present value and all other amounts recovered from user agencies under the Forest (Conservation) Act, 1980 for conversion of forest lands towards non-forest purposes whether residential, commercial, mining or industrial purposes. From 1980 to present, for 32,538 projects, a total of 334,507 hectares of forest land had been diverted under the FCA.⁴ On 12 March 2021, the MoEFCC informed parliament that 2,57,950.41 hectares of forest land were approved for diversions for non-forest use for a total of 11,653 projects from April 2008 to March 2020.⁵

During COVID-19 lockdown, funds from the National Compensatory Afforestation Fund were used to carry out afforestation programmes on the lands and habitations of indigenous peoples even before the adjudication of the claims under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act of 2006⁶ (hereinafter referred to as the Forest Rights Act or FRA) and in violations of the specific direction of the Supreme Court vide order dated 28 February 2019⁷ not to evict any tribal or other forest dweller even whose claims have been rejected by the authorities until further order from the Supreme Court.

In Telangana, the Forest Department carried out eviction of the tribals in the name of the afforestation programme in the state, "*Haritha Haram*", under which maximum area of afforestation in the country was carried

out respectively for 489673 hectares during 2018-2019, 564760 ha during 2019-2020 and 407141 ha during 2020-2021.⁸ The key incidents over afforestation programmes that took place in Telangana during COVID-19 pandemic include clashes between indigenous peoples and forest officials in Chintaguppa reserve forest area in Dummugudem mandal under Bhadrachalam division on 12 April 2021;⁹ grabbing of about 200 acres of lands of indigenous peoples at Satyaranarayam of Ganugapadu in Bhadradi Khotagudem district by the Forest Department officials on 17 June 2020 in which about 80 tribal families belonging to Koya tribe despite their claims under the FRA still pending adjudication;¹⁰ clashes between tribals and forest officials in the Kakardonda forest stretch under Gangaram mandal in Mahabubabad district on 13 July 2021 over afforestation programmes;¹¹ and clashes between the tribals and Forest Department officials at Yellannasagar village under Konijeria Mandal in Khammam district, Telangana after the Forest Department officials allegedly started destroying the crops, used foul language and threatened to forcefully take possession of the land on 3 August 2021.¹² On 11 November 2021, Telangana High Court issued notices to State government of Telangana and others in a Public Interest Litigation (PIL) petition seeking an order to stay the attempts of the government to evict tribals, forest dwellers and other traditional dwellers from the lands they were cultivating in forest areas without adhering to the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007 and specific order of the Supreme Court.¹³ The tribals were deprived of livelihood and faced serious human rights violations including arrest, detention and torture.

In Karnataka, about 400 tribal families including the Jenu Kuruba tribe, a Particularly Vulnerable Tribal Group (PVTG) of the Nagrahole National Park have been facing eviction after the National Tiger Conservation Authority (NTCA) had directed the Forest Department of Karnataka in September 2021 to submit a proposal to make use of the CAMPA funds for their relocation.¹⁴ Since March 2021, the Jenu Kuruba tribals have been protesting against the proposed forced relocation from the national park which is their traditional home. Their claims on the lands under the FRA have been pending since 2009.¹⁵

A total of 4,161 acres in 16 villages in Korea district of Chhattisgarh were earmarked for compensatory tree plantation in lieu of forests to be diverted for the Parsa coal block in Sarguja district of Chhattisgarh neighbouring Hasdeo Arand forests.¹⁶ On 21 October 2021, the Ministry of Environment, Forest and Climate Change (MoEFCC) accorded Stage-II clearance for mining in the Parsa coal block as per the Chhattisgarh

Bachao Andolan (CBA) based on fake gram sabha consent documents.¹⁷ On 13 October 2021, over 350 tribals from two districts walked over 300 km to Raipur to register their protest against the coal mines.¹⁸

In September 2020, National Institution for Transforming India (NITI) Aayog, a public policy think tank of the Government of India, invited proposals for a master plan of Rs 75,000 crore for the 'Holistic Development of Great Nicobar Island in Andaman and Nicobar Islands'. Over 70% area of the island is protected as Onge Tribal Reserve under the Andaman and Nicobar Islands Protection of Aboriginal Tribes Regulation 1956 and nearly 90% of the island is categorised as Reserve Forest under the Indian Forest Act 1920. As afforestation is a prerequisite for felling of trees under the Forest Conservation Act of 1980, in February 2019, the administration of Andaman and Nicobar Islands stated that it could not divert forestland since there was no degraded forest to carry out compensatory afforestation. In turn, the MoEFCC issued an order dated 22 May 2019 allowing States and UTs with over 75% of their land under forest cover to carry out compensatory afforestation in other States or Union Territories (UTs) which have degraded forest land or land banks.¹⁹ This is a clear violation of Para 3(2)(i) of the Guidelines issued under the Forest (Conservation) Act, which states that compensatory afforestation must be undertaken on non-forest land in the same district as the diverted forest.²⁰ In September 2020, State Government of Madhya Pradesh offered to carry out afforestation on 650 sq km of its degraded forest land to enable forest land diversions in Andaman and Nicobar Islands.²¹ This development project will fasten extinction of indigenous peoples in the Andaman and Nicobar Islands.²²

On 29 July 2021, Justice A. K. Mishra, Chairperson of the National Human Rights Commission (NHRC) said that no tribal should be evicted without the settlement of his/her claim related to land rights as directed by the Supreme Court judgement dated 28 February 2019 in *Wildlife First & Ors vs. Union of India & Ors* [Writ Petition(s)(Civil) No(s). 109/2008].²³ On 30 July 2021, the Rights and Risks Analysis Group filed a complaint²⁴ with the NHRC to take measures to enforce the Supreme Court direction but strangely is yet to act on the issue!

The government of India needs to ensure that afforestation programmes are not carried out (i) where the rights under the FRA has been accepted, (ii) the claims under the FRA are still under adjudication and (iii) in the areas where the claims under the FRA have been rejected but the specific direction of the Supreme vide order dated 28 February 2019²⁵ prohibiting

eviction of any tribal or other forest dweller whose claims have been rejected by the authorities until further order from the Supreme Court.

¹. World Bank 2014, Republic of India: Food Security and Nutrition in Tribal Areas. Report No: ACS9269. Washington D.C.: The World Bank, SASDL, SASDS. <http://documents.worldbank.org/curated/en/247861468049771762/India-Food-security-and-nutrition-in-tribal-areas>

². The Compensatory Afforestation Fund Act, 2016 is available at <http://www.indiaenvironmentportal.org.in/files/file/The%20Compensatory%20Afforestation%20Fund%20Act,%202016.pdf>

³. Statement of Babul Suprio, Union Minister of State in the Ministry of Environment, Forest and Climate Change in the Lok Sabha on 12.03.2021, Unstarred Question No. 2837, <http://164.100.24.220/loksabhaquestions/annex/175/AU2837.pdf>

⁴. CAMPA statistics available E-Green Portal Watch of the Government of India accessed on 29.11.2021.

⁵. See Lok Sabha Unstarred Question No. 2834, 12.03.2021 at <http://164.100.24.220/loksabhaquestions/annex/175/AU2834.pdf>

⁶. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act of 2006 can be accessed at <https://tribal.nic.in/FRA/data/FRARulesBook.pdf>

⁷. Supreme Court order in Wildlife First & Ors vs. Union of India & Ors [Writ Petition(s)(Civil) No(s). 109/2008

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²². Indian government wants to strip even the Andaman Islands of their environmental protection, Scroll.in, 9 April 2021, <https://scroll.in/article/991827/indian-government-wants-to-strip-even-the-andaman-islands-of-their-environmental-protection>

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²⁴. Rights & Risks Analysis Group filed complaint No. 12730/IN/2021 on 30 July 2021.

²⁵. Supreme Court order in Wildlife First & Ors vs. Union of India & Ors [Writ Petition(s)(Civil) No(s). 109/2008

1. Introduction

India has the second largest population of indigenous peoples in the world. In the last national census of 2011, 104.28 million people (8.6% of India's total population) were identified as belonging to Scheduled Tribes, the official designation for indigenous peoples. Indigenous peoples living in mainland India (i.e. excluding north-east India) are usually referred to as Adivasis, which literally means "earliest inhabitants", and thus is coterminous with indigenous peoples. A major development in terms of official recognition of indigenous peoples in the country is the use of the designation "Indigenous populations of North-Eastern States" when the Government introduced the, otherwise controversial, Citizenship Amendment Bill in the Lok Sabha (lower house of Parliament) in 2019. In this report, the terms indigenous peoples, Schedule Tribes, tribes and tribals are used interchangeably.

About 705 ethnic groups are recognised as Scheduled Tribes. There are, however, many more ethnic groups that would qualify for Scheduled Tribe status but which are not officially recognized. As a result, estimates of the total number of indigenous peoples are higher than the official figure. The largest concentrations of indigenous peoples are found in the seven states of north-east India, and the so-called "central tribal belt" stretching from Rajasthan to West Bengal.

India has several laws and constitutional provisions for Scheduled Tribes, such as the Fifth Schedule for central India and the Sixth Schedule for certain areas of north-east India, which recognise indigenous peoples' rights to land and self-governance. There are also laws on affirmative action such as reservations for Scheduled Tribes in educational institutions and government jobs. However, these laws have numerous shortcomings and, above all, are not properly implemented.

Thus, India's indigenous peoples remain among the poorest of country and they have generally lower literacy rates and worse health indicators than the non-indigenous population. According to the 2011 census, 40.6% of the Scheduled Tribe population lived below the poverty line, compared to 20.5% of the non-tribal population. Food security and nutrition are also much worse in tribal areas than in other parts of the country.²⁶ As this report shows, all of this makes India's indigenous peoples particularly vulnerable to the impact of the COVID-19.

One of the laws enacted by the Government of India has been the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act of 2006, inter alia, to "recognize and vest the forest

rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded”.²⁷ Forests have been an integral part of survival of indigenous peoples.

At the same time, forests have been diverted for non forest purposes. The Forest Conservation Act of 1980 provides for compensatory afforestation in case of diversion. From 1980 to present, for 32,538 projects, a total of 334,507 hectares of forest land had been diverted under the FCA.²⁸ On 12 March 2021, the MoEFCC informed parliament that 2,57,950.41 hectares of forest land were approved for diversions for non-forest use for a total of 11,653 projects from April 2008 to March 2020.²⁹

At the same time, India enacted the Compensatory Afforestation Fund Act, 2016 “to provide for the establishment of funds under the public accounts of India and the public accounts of each State and crediting thereto the monies received from the user agencies towards compensatory afforestation, additional compensatory afforestation, penal compensatory afforestation, net present value and all other amounts recovered from such agencies under the Forest (Conservation) Act, 1980; constitution of an authority at national level and at each of the State and Union territory Administration for administration of the funds and to utilise the monies so collected for undertaking artificial regeneration (plantations), assisted natural regeneration, protection of forests, forest related infrastructure development, Green India Programme, wildlife protection and other related activities and for matters connected therewith or incidental thereto” following the direction of the Supreme Court of India in the light of the massive diversion of forests.³⁰

To deal with the impact of the COVID-19, on 12 May 2020, Prime Minister Narendra Modi announced a special economic package of Rs. -20,00,000 crore under the ‘Aatma Nirbhar Bharat Abhiyaan Abhiyaan’ and out of the same Rs. -6,000 crore funds from the National Compensatory Afforestation Fund established under the Compensatory Afforestation Fund Act, 2016³¹ were allocated to create job opportunities including for tribal communities in semi-urban and rural areas.³² The report documents how the employment for the tribals during the COVID-19 pandemic i.e. to work for afforestation programmes have been misused to evict the tribals from their own lands including where their rights under the FRA has been recognized or where their claims under the FRA are still under adjudication or where their claims have been rejected but they are protected from eviction pursuant to the specific direction of the Supreme vide order dated 28 February 2019³³ to not evict any tribal or

other forest dweller even whose claims have been rejected by the authorities until further order from the Supreme Court.

²⁶. World Bank 2014, Republic of India: Food Security and Nutrition in Tribal Areas. Report No: ACS9269. Washington D.C.: The World Bank, SASDL, SASDS. <http://documents.worldbank.org/curated/en/247861468049771762/India-Food-security-and-nutrition-in-tribal-areas>

²⁷. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is available at <https://tribal.nic.in/FRA/data/FRARulesBook.pdf>

²⁸. CAMPA statistics available E-Green Portal Watch of the Government of India accessed on 29.11.2021.

²⁹. See Lok Sabha Unstarred Question No. 2834, 12.03.2021 at <http://164.100.24.220/loksabhaquestions/annex/175/AU2834.pdf>

³⁰. The Compensatory Afforestation Fund Act, 2016 is available at <https://www.ukampa.org.in/Docs/CAMPA%20Act%202016.pdf>

³¹. The Compensatory Afforestation Fund Act, 2016 is available at <http://www.indiaenvironmentportal.org.in/files/file/The%20Compensatory%20Afforestation%20Fund%20Act,%202016.pdf>

³². Statement of Babul Supriyo, Union Minister of State in the Ministry of Environment, Forest and Climate Change in the Lok Sabha on 12.03.2021, Unstarred Question No. 2837, <http://164.100.24.220/loksabhaquestions/annex/175/AU2837.pdf>

³³. Supreme Court order in Wildlife First & Ors vs. Union of India & Ors [Writ Petition(s)(Civil) No(s). 109/2008

2. Impact of COVID-19 on employment and livelihood with focus on indigenous peoples

The COVID-19 pandemic has severely affected the livelihood of millions of indigenous peoples of India. According to the 2011 census, there were over 104 million Scheduled Tribes, constituting 8.6% of the total population of the country. India's tribal people remain among the poorest and have generally lower literacy rates and worse health indicators than the non-indigenous population. According to the 2011 census, 40.6% of the Scheduled Tribe population lived below poverty line (BPL), compared to 20.5% of the non-tribal population. Food security and nutrition are also much worse in tribal areas than in other parts of the country.³⁴

During the second wave of COVID-19 in 2021, indigenous peoples including the Particularly Vulnerable Tribal Groups were hit hard.³⁵

On 2 August 2021, the Ministry of Tribal Affairs (MoTA) stated in the Lok Sabha that the following measures were taken to improve the livelihood of tribals during COVID situations:³⁶

- The MoTA provided funds to the State Governments based on their proposals for undertaking various livelihood activities including agriculture, horticulture, animal husbandry, fisheries and other non-farm based livelihood activities etc under the schemes 'Special Central Assistance to Tribal Sub-Scheme (SCA to TSS)', 'Development of Particularly Vulnerable Tribal Groups' and 'Grants under Article 275(1)' during 2020-21. An amount of Rs. 587.47 crore were approved/ sanctioned to various State Governments for undertaking various livelihood activities.
- The MoTA has been implementing the Scheme of 'Mechanism for Marketing of Minor Forest Produce (MFP) through Minimum Support Price (MSP) & Development of Value Chain for MFP' since 2013-14, with an objective of providing fair price to MFP gatherers, enhance their income level and ensure sustainable harvesting of MFPs. The Ministry of Tribal Affairs and the Tribal Co-Operative Marketing Development Federation of India Limited (TRIFED) conducted a series of meetings through webinar with Chief Ministers, Member of Parliament of reserved constituencies, State Nodal Departments/State

Implementing Agencies, advising the States about initiating procurement of MFPs and taking other livelihood measures.

- The MoTA revised minimum support prices of MFP with a purpose of providing enhanced income to tribal gatherers. Further, additional 37 MFP items have also been included in the list of MSP for MFP Scheme to expand the ambit and coverage of the scheme vide notification dated 26.5.2020 and 11.11.2020. Thus, the Scheme currently covers a total 87 items.
- On request of the MoTA, the Ministry of Home Affairs vide Order No. 40-3/2020-DM-I(A) dated 16/04/20 issued guidelines aiming to relax the provisions of lockdown for Collection, harvesting and processing of Minor Forest Produce(MFP)/ Non Timber Forest Produce (NTFP) by STs and other forest dwellers in forest areas across the country.
- Under the scheme of MSP for MFP, the TRIFED also implements the initiative of Van Dhan Vikas Kendras (VDVKs), launched in 2018-19, wherein tribal community owned Minor Forest Produce centric multi-purpose Kendras have been set up in predominantly tribal districts and they act as common facility centres for procurement cum value addition to locally available MFPs. Under Van Dhan Yojana, starting from 27 Aug 2019 onwards, TRIFED has so far sanctioned 2,275 VDKs consisting of 34,125 Vandhan Self Help Groups (SHGs) in 24 States and 2 UTs, in which 6.77 lakh Tribal women forest gatherers have been on boarded. A total of Rs. 336.95 crore has been sanctioned by TRIFED for the purpose.
- The ongoing intervention under the Prime Minister Garib Kalyan Anna Yojana (PMGKAY) has been extended for a further period of five months till November 2021 and under this scheme an additional allocation of 5 kg of food grains (wheat / rice), free of cost to around 80 crore National Food Security Act (NFSA) beneficiaries including the tribals were provided.
- Further, funds to the tune of Rs. 12355.43 crore have been provided as Scheduled Tribe Component (STC) by the other Central Ministries / Departments under livelihood related schemes during 2020-21 and 2021-22.

2.1. No data on number of migrant tribals provided jobs in native places

The COVID-19 lockdowns and restrictions since March 2020 resulted in joblessness and reverse migration of hundreds of thousands of workers including tribal people to native places. The joblessness of the migrant tribals continued due to the outbreak of the second wave of COVID-19 pandemic in 2021.

Similarly on 22 January 2021, the Ministry of Tribal Affairs launched “ShramShakti”, a National Migration Support Portal to address the data gap and empower migrant workers who generally migrate in search of employment and income generation. The portal was to help the government in linking the migrant population with the existing welfare schemes under the Aatma Nirbhar Bharat Abhiyaan. The various data that will be recorded include demographic profile, livelihood options, skill mapping and migration pattern. The data would effectively help in the smooth formulation of state and national level programs for migrant workers.³⁷

In August 2021, the Ministry of Labour and Employment, Government of India set up the “e-SHRAM” portal, a national database of unorganised workers, which was necessitated following the reverse migration that happened in the aftermath of the first wave of COVID-19 pandemic.³⁸ The database contains details such as name, occupation, address, educational qualification, skill types, family details, etc for optimum realization of their employability and the benefits of the social security schemes extended to them.³⁹ As of October 2021, over 5.29 crore informal sector workers were registered on the e-SHRAM portal.⁴⁰

On 9 August 2021, the MoTA informed the Lok Sabha, lower house of the parliament, that the Government of India had launched a campaign known as “Garib Kalyan Rojgar Abhiyaan” (GKRA) of 125 days on 20 June 2020 to boost employment and livelihood opportunities for returnee migrant workers and similarly affected citizens, including tribal population in rural areas, in the wake of COVID-19 pandemic. The objectives of the GKRA were to provide immediate employment and livelihood opportunities to the distressed, to saturate the villages with public infrastructure and creation of livelihood assets to boost the income generation activities and enhance long term livelihood opportunities by giving focus on 25 works (including works under Mahatma Gandhi National Rural Employment Guarantee Scheme) in 116 selected districts across six States of Bihar, Jharkhand, Madhya Pradesh, Odisha, Rajasthan

and Uttar Pradesh. The MoTA also stated that a total of 50.78 crore person-days employment had been generated during the Abhiyaan with a total expenditure of Rs. 39,293 crores.⁴¹

However, the number of migrant tribals who have returned to their native states and provided employment is not publicly available as of today. Similarly, there is no information publicly available about the number of tribal people in rural areas who had benefited under the GKRA.

2.2. Deprivation of food rations

The 2011 census data shows that 40.6% of India's tribal population lived below the poverty line, compared to 20.5% of the non-tribal population. Thus, it is not surprising that tribals are among the worst-hit by the COVID-19 pandemic and associated restrictions.

The COVID-19 pandemic exacerbated the food crisis among tribal communities.

In March 2020, the Pradhan Mantri Garib Kalyan Yojana announced to reach out to the poorest of the poor, with food and money in hands, so that they do not face difficulties in buying essential supplies and meeting essential needs following the COVID-19 outbreak. The intervention under PMGKAY was extended for a further period of five months till November 2021 wherein provision is there to provide an additional allocation of 5 kg of food grains (wheat / rice) for each month, free of cost to around 80 crore NFSA beneficiaries including tribal people.⁴² In November 2021, the PMGKAY was extended till 31 March 2021.⁴³

A. Denial of food due to absence of ration cards of the tribals

The PMGKAY failed to reach the millions of poor including the tribals across the country. The Government of India provided free grain (wheat or rice) to all the ration card holders for the months of April, May and June 2020 under the PMGKAY. But data released by the Centre showed that 200 million ration card holders did not receive the free food grain in April 2020⁴⁴ and around 144.5 million beneficiaries did not get their entitlement for the month of May 2020.⁴⁵ Furthermore, on 14 May 2020, Finance Minister Nirmala Sitharaman announced free rations for two months (May and June) for 8 crore (80 million) migrant workers who do not have ration cards under the Aatma Nirbhar Bharat Abhiyaan package.⁴⁶ However, official data of the Ministry of Consumer Affairs, Food and Public Distribution stated that only 13% migrant workers received free food grains.⁴⁷

Even during the second wave of the COVID-19, tribals continued to be deprived of the PMGKAY.

In Tamil Nadu, the state government offered monetary assistance of Rs.4,000 as COVID relief along with the 14 essential grocery items to over two crore ration cardholders in the State. But, these relief measures did not reach many of the tribal families, mainly due to the non-availability of ration cards among most of the tribal families in the State. The indigenous tribal communities were left in lurch during this pandemic without any assistance due to lack of ration cards.⁴⁸ On 17 August 2021, the Madurai Bench of Madras High Court directed the government to take appropriate measures to provide ration cards to the tribal community after a petition was filed to conduct a survey in all tribal villages in southern districts of Tamil Nadu and issue ration cards or family cards to the tribal people who are lacking it in accordance with law.⁴⁹

B. Denial of food due to non completion of biometric authentication of the beneficiaries

Millions of people including tribals were also deprived of benefits during COVID pandemic under the PMGKAY and other schemes due to non completion of bio metric authentication of the beneficiaries.

As per the procedure established under the National Food Security Act, biometric authentication i.e. fingerprints of the Aadhaar Card/ration card holders with the UIDAI is mandatory. The biometric authentication/”*End-to-end Computerisation of Public Distribution System (PDS) Operations*” of the beneficiaries of the PMGKAY and other schemes under the Integrated Management of public distribution system (IMPDS), ‘One nation, one ration card’ policy of the government of India has been causing serious problems across the country in the midst of COVID-19 pandemic.

On 26 April 2021, the State Government of Jharkhand decided to do away with biometric authentication at Public Distribution System shops and allow distribution of ration through One Time Password (OTP) sent to the registered mobile numbers of beneficiaries in the wake of the unprecedented rise in cases of Covid-19 infection and the fear of possible transmission from PDS shops till 31st May 2021.⁵⁰

Across the country, “*End-to-end Computerisation of Public Distribution System (PDS) Operations*” had not been completed. The Department of Food and Public Distribution, Ministry of Consumer Affairs, Food and Public Distribution in its “*Status of NFSA & PDS Automation November 2020*”, the latest data available stated that a total of 80,60,90,879 beneficiaries were registered under the National Food Security Act as of

November 2020. However, Aadhaar validation of the beneficiaries w.r.t *Seeding in Ration Cards* and w.r.t. Seeding in Beneficiaries was 0% (zero) in Andaman and Nicobar Islands, Arunachal Pradesh, Assam, Lakshadweep, Meghalaya, Mizoram, Nagaland and Rajasthan. In Madhya Pradesh, it was merely 10%. At national level, Aadhaar validation w.r.t. Seeding in Ration Cards was 64.3% and w.r.t. Seeding in Beneficiaries was 62.4%.⁵¹

This implies that the process of validation of beneficiaries has not been achieved for about 38% of the 80 crore beneficiaries under the NFSA and they are facing problems to access the right to food because of the authentication problems.

On 20 May 2021, the National Human Rights Commission (NHRC) taking cognizance of a complaint filed by the Rights and Risks Analysis Group directed the Government of Mizoram to submit action taken report against denial of right to food to the Chakma tribal villagers of Vasei and Damdep under the Chakma Autonomous District Council (CADC) in Lawngtlai district, Mizoram. They were allegedly denied the benefits under the PMGKAY despite having the Aadhaar Cards/Ration Cards under the PMGKAY. The NHRC observed that *“What is of paramount interest in these grave pandemic times is to ensure that the beneficiaries of the PMGKAY Scheme are not deprived of their entitlements.”*⁵² Apart from Mizoram, the NHRC also directed the Central government and all other states/UTs over alleged denial of benefits during Covid pandemic under the PMGKAY and the IMPDS due to non completion of biometric authentication of beneficiaries.⁵³ The case is still continuing.

Similarly, on 29 October 2021, the Bombay High Court expressed anguish that about 85 tribal families in Thane district, Maharashtra were being denied supplies under the PDS for want of linking of their Aadhaar cards with the system. Expressing anguish, the High Court directed the authorities to distribute foodgrains to them under the PDS, NFSA and PMGKAY by 4 November 2021.⁵⁴

2.3. Lack of access to minor forest produce

Since COVID-19 pandemic struck, the lives and livelihoods of the tribals across the country have been severely disrupted. The hardship continued even during the second wave of the pandemic.

According to the MoTA, the minor forest produce is a major source of livelihood for tribals living in forest areas and around 100 million forest dwellers depend on MFPs for food, shelter, medicines and cash income.

It provides them critical subsistence during the lean seasons, particularly for tribal groups such as hunter gatherers, and the landless. Tribals derive 20-40% of their annual income from MFP. The MFP sector has the potential to create about 10 million workdays annually in the country.⁵⁵

Almost 60% of the annual collection of MFP takes place during April-June. As the peak harvest season of MFP coincided with the lockdown period, the indigenous peoples struggled to sustain their forest-based livelihood.⁵⁶ As the state governments also closed the *haats* (local markets) to avoid crowding, tribals were unable to sell their forest produce.⁵⁷

On 15 March 2021, the MoTA informed parliament that it had taken proactive measures to lessen the adverse effects on tribal community during the Covid-19 pandemic.⁵⁸

However, the tribals continue to be hit hard due to the pandemic. In June 2021, the tribals of Odisha were deprived of the right price for the NTFP collected by them due to lack of adequate buyers and delay in government procurement. Around this time, the tribals collect sal leaves, siali leaves, mohua flowers, mango kernel, karanja seeds, char seeds and tamarind. The hard cash earned by the tribals and forest dwellers in the summer helps them survive the critical four monsoon months and use the money in agricultural activities.⁵⁹

In 2020, tribals and forest dwellers could not get the price for their produce and even failed to dispose of the NTFP stocks due to the COVID-19 pandemic and lockdowns.⁶⁰

However, the spread of COVID-19 infections in 2021 was more profound in the rural and tribal hinterland. Unscrupulous traders took advantage of the fear prevailing in society and reduced the purchase price of the NTFPs. The NTFP gatherers had to sell their forest produce at lower prices before government agencies intervened.⁶¹

Tribal activists alleged apathetic approach of government agencies in ensuring the right price for the NTFP. They alleged that government agencies delayed procurement of the NTFP. In fact, the Tribal Development Cooperative Corporation of Odisha Limited, a State government agency which helps procure the NTFP from tribals, asked self help groups and producer groups to deliver sal seeds at a cold storage in Sambalpur district from 7 June 2021. They further stated that asking self help groups to bring stocks of sal seeds to the cold storage point was not possible due to lockdown restrictions. A tribal activist alleged that the TRIFED promoted Van Dhan Vikash Kendra, which was introduced to create a market for minor forest produce while ensuring minimum support price, but it could

not perform to its potential. Many Van Dhan Vikash Kendras were yet to be fully functional in Odisha.⁶²

In Kandhamal district, Odisha, marginalized forest dwellers, especially women, who depend on minor forest produce like sal leaf for a living, have been badly affected during the pandemic. With limited access to markets and traders unable to procure the product due to lockdown restrictions, these women are battling livelihood issues with no income over the past few months. Sal leaf collection and stitching of leaf plates and cups (locally known as khali and dona) are the major income-generating means for tribal women. The sal leaves are collected twice a year from November-March and June-July. The business usually picks up during November-December but the ongoing pandemic and subsequent lockdown have stopped all means of business for these sal leaf gatherers in 12 blocks who did not find any buyer of their products.⁶³

The conditions of the PVTGs in Odisha have been worse among the tribals during the pandemic. For example, 25 families of Khadia tribe, a PVTG, residing at Dhipakocha village in Mayurbhanj district, Odisha, were struggling to survive in the pandemic. They eke out a living by collecting Sal leaves and other minor forest produce. They were also not provided jobs under the MGNREGA apart from other basic amenities. This is despite functioning of a special Khadia Mankdia Development Project in the district.⁶⁴

³⁴. World Bank 2014, Republic of India: Food Security and Nutrition in Tribal Areas. Report No: ACS9269. Washington D.C.: The World Bank, SASDL, SASDS. <http://documents.worldbank.org/curated/en/247861468049771762/India-Food-security-and-nutrition-in-tribal-areas>

³⁵. Troubled interiors: How COVID-19 second wave has struck deep in heartland India, Down To Earth, 8 June 2021, <https://www.downtoearth.org.in/news/health/troubled-interiors-how-covid-19-second-wave-has-struck-deep-in-heartland-india-77309>

³⁶. 'Livelihood of Tribals during COVID Lockdown', Lok Sabha Unstarred Question No. 2215 answered by Minister of State for Tribal Affairs, Smt Renuka Singh Saruta on 2 August 2021, <http://164.100.24.220/loksabhaquestions/annex/176/AU2215.pdf>

³⁷. Ministry of Tribal Affairs Virtually Launches "Shramshakti" Digital Data Solution for Migrant Workers, Press Information Bureau, 22 January 2021, <https://pib.gov.in/PressReleasePage.aspx?PRID=691237>

³⁸. Many unorganised workers' accounts not Aadhar-linked, e-SHRAM shows, may not be getting subsidies, The Print, 29 October 2021, <https://theprint.in/india/governance/accounts-not-linked-to-aadhaar-are-likely-missing-out-on-subsidies-e-shram-data-shows/758078/>

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- ⁴⁷. Activists Vouch for Universalisation of Food Entitlements After Data Show Foodgrain Reached Only 13% of Migrant Workers, NewsClick, 2 July 2020, <https://www.newsclick.in/activists-vouch-universalisation-food-entitlements-data-show-foodgrain-reached-13-per-migrant-workers>
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⁵⁸. 'Schemes of Tribals during COVID-19 Pandemic', Statement of Renuka Singh Saruta, Minister of State for Tribal Affairs in the Lok Sabha, Unstarred Question No.3096, 15.03.2021, <http://164.100.24.220/loksabhaquestions/annex/175/AU3096.pdf>

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⁶³. Sal leaf plates pile up so does agony of Kandhamal's tribal women, *The New Indian Express*, 13 July 2021, <https://www.newindianexpress.com/states/odisha/2021/jul/13/sal-leaf-plates-pile-up-so-does-agony-of-kandhamals-tribal-women-2329453.html>

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3. A cure worse than the disease: Tribal employment scheme with CAMPA funds evicts more tribals during COVID-19

3.1 Is CAMPA a means for afforestation after deforestation of tribal lands?

Under the Forest (Conservation) Act, 1980, whenever forest land is converted to non-forest land use for residential, commercial, mining and industrial purposes, an equivalent area of non-forest land or twice in extent of the area being diverted in case of degraded forest has to be taken up for compensatory afforestation.

In 2002, the Supreme Court directed that a compensatory afforestation fund be created in which all the contributions towards compensatory afforestation and Net Present Value (NPV) of land had to be deposited. The order was made in the case of *TN Godhavarman Vs Union of India* wherein the Supreme Court observed that a lot of funds received for compensatory afforestation remained unutilised with the states.⁶⁵ In April 2004, the Ministry of Environment and Forests constituted the Compensatory Afforestation Fund Management and Planning Authority to overlook and manage the Compensatory Afforestation Fund (CAF) as directed by the Supreme Court. In 2009, the government ordered that State CAMPAs be set up at state level. However, the Comptroller and Auditor General (CAG) in a report in 2013 revealed that the CAMPA funds remained unutilised.⁶⁶

The Compensatory Afforestation Fund Act was passed by the Central government in 2016 to manage the funds collected for compensatory afforestation which till then was managed by ad hoc CAMPA. The CAF Act came into force on 30 September 2018 after the Compensatory Afforestation Rules were notified in August 2018. All states except Nagaland have set up state CAMPAs following the notification of the Rules as of today. The Act established a National Compensatory Afforestation Fund under the Public Account of India and State Compensatory Afforestation Fund under the Public Account of each state to be managed by the national and state CAMPAs crediting thereto the monies received from the user agencies. The state funds receive 90% of the payments (of the NPV), while the national fund receives the remaining 10%.⁶⁷ The monies received from the user agencies is to be utilized for undertaking artificial regeneration (plantations), assisted natural regeneration, protection of forests, forest related infrastructure

development, Green India Programme, wildlife protection and other related activities.⁶⁸

Forest land is regularly diverted for non-forest purposes such as industry, mine, roads, transmission lines and public infrastructure. On 12 March 2021, the MoEFCC informed the parliament that a total of 11,653 projects involving 2,57,950.41 hectares of forest land have been approved for non-forest use under Forest (Conservation) Act, 1980 from April 2008 to March 2020.⁶⁹

On 22 May 2019, the MoEFCC notified that states which have a forest land of more than 75% of their geographical area need not provide non-forest land for compensatory afforestation. Instead, land can be taken up in states with lesser forest cover. Further, it was also notified that the minimum area of compensatory land should be five hectares if the land is not contiguous to a forest.⁷⁰

According to the MoEFCC, Rs. 48,477.77 crore were disbursed as on 31 January 2021 to 31 States/UTs since the CAF came into force. The highest recipients of fund are Odisha with Rs. 5933.98 crores, followed by Chhattisgarh (Rs. 5791.70 crores), Madhya Pradesh (Rs. 5196.69 crores), Jharkhand (Rs. 4158.02 crores), Maharashtra (Rs. 3844.24 crores), Telangana (Rs. 3110.38 crores), among others.⁷¹

As the CAMPA funds ballooned with the MoEFCC disbursing Rs. 48,477.77 crore or about US\$ six billion as on 31 January 2021, the States have adopted the policy of carrying out afforestation programmes after destroying the forest, that too before adjudication of the claims under the FRA.

The afforestation after deforestation of tribal lands to misuse the CAMPA funds has been continuing for a long time. In 2014, the Forest Department of Odisha planted commercial species of trees over 350 acres of land in Saked village in Kalahandi district. The plantation which violated individual forest rights of 27 tribal families of the village was taken up under CAMPA. According to the tribals, no consent of the Gram Sabha was taken before the plantation. The Forest Department also erected fence surrounding the entire area, resulting in denial of access to their livelihood, which primarily includes the collection of non-timber forest produce.⁷²

In 2017, the Forest Department fenced off a community's forest at Pidikia village in Kandhamal district, Odisha and planted new trees. This resulted in denial of land rights to tribals and also uprooted their source of livelihoods.⁷³ Most importantly, the land titled under the FRA lies within

the forest that was fenced off. The gram sabha had filed a petition under the FRA to have the fence removed and their community forest rights fully recognised.⁷⁴

In 2018, the Forest Department of Odisha carried out teak plantation on dense community forest used by about 70 tribal families of Gurjanga village in Dhenkanal district of Odisha. The tribals of the village traditionally depended on the community forest for a living besides grazing livestock. However, the Forest Department cleared the thick forest of kendu, mahua and karanja and planted teak trees under the CAMPA. The Forest Department fenced the plantation area and converted the community forest into a protected forest, denying access to the tribals.⁷⁵

3.2. Use of the CAMPA fund for afforestation during COVID-19 to evict the tribals from the their lands and habitat

On 12 May 2020, Prime Minister Narendra Modi announced a special economic package of Rs. -20,00,000 crore under the Aatma Nirbhar Bharat Abhiyaan. This package included Rs. -6,000 crore from the CAMPA funds to create job opportunities including for tribal communities in semi-urban and rural areas.⁷⁶ The plans worth Rs. 6,000 crores CAMPA fund included i) afforestation and plantation works including in urban areas; ii) artificial regeneration, assisted natural regeneration; iii) forest management, soil and moisture conservation works; and iv) forest protection, forest and wildlife related infrastructure development, wildlife protection and management, etc.⁷⁷

On 12 March 2021, Union Minister of State (MoS) in the MoEFCC Babul Supriyo informed the Lok Sabha that the National Compensatory Afforestation Fund Management and Planning Authority approved Annual Plans of Operation (APOs) of 31 States/UTs amounting to -Rs. 7904.16 crore as on 28 February 2021. The MoS also informed that 4,83,59,947 man-days had been generated till 5 March 2021 from 31 States/UTs. The State/UT wise information is given in the table below:⁷⁸

Sl. No.	State/UT	Financial Target (in crore) As per approved APO	Employment generated (In person days)	Updated by States/UTs on
1	Andaman & Nicobar Islands	2.13	0	
2	Andhra Pradesh	330.82	341143	20.12.2020

3	Arunachal Pradesh	155.46	0	
4	Assam	88.34	286858	20.02.2021
5	Bihar	239.47	717751	09.11.2020
6	Chandigarh	2.26	36411	28.02.2021
7	Chhattisgarh	1346.92	11587158	21.02.2021
8	Delhi	19.55	0	
9	Goa	32.68	128837	28.02.2021
10	Gujarat	240.69	1281493	27.12.2020
11	Haryana	203.95	1447610	25.01.2021
12	Himachal Pradesh	158.38	526445	22.01.2021
13	Jammu & Kashmir	184.83	486629	28.02.2021
14	Jharkhand	374.56	3140774	14.12.2020
15	Karnataka	212.94	1494198	01.03.2021
16	Kerala	15.79	4875	28.12.2020
17	Madhya Pradesh	860.96	6504978	01.03.2021
18	Maharashtra	599.32	1159608	11.11.2020
19	Manipur	27.79	806800	29.11.2020
20	Meghalaya	33.97	0	23.02.2021
21	Mizoram	32.66	13900	01.08.2020
22	Odisha	773.39	7194979	14.02.2021
23	Punjab	177.85	1653350	19.02.2021
24	Rajasthan	280.98	1509949	15.02.2021
25	Sikkim	66.90	173124	03.10.2020
26	Tamil Nadu	66.63	0	11.09.2020
27	Telangana	483.78	1974232	31.01.2021
28	Tripura	21.51	117490	15.02.2021
29	Uttar Pradesh	442.01	3135213	20.12.2020

30	Uttarakhand	353.64	2595866	22.02.2021
31	West Bengal	74.00	40275	10.11.2020
	Total	7904.16	48359947	

However, the MoS did not explain whether the persons for whom the employment was generated were tribals or others. As the CAMPA focuses on short-term employment generation, even if employment is generated, the fund has no long term benefit for the tribals.

The following afforestation programmes were undertaken from 2018-2019 to 2021 across the country as per information submitted to the parliament:⁷⁹

(Area in hectare)

Sl. No.	NAME OF STATE/ UT	2018-19	2019-20	2020-21
1	Andhra Pradesh	229409	190432	227880
2	Arunachal Pradesh	1861	483	969
3	Assam	2085	1394	11918
4	Bihar	35114	10588	61151
5	Chhattisgarh	26037	18737	66998
6	Goa	15	30	287
7	Gujarat	177148	25149	206839
8	Haryana	17000	21022	18055
9	Himachal Pradesh	9200	20261	31284
10	Jammu and Kashmir*	11371	4526	62144
11	Jharkhand	22729	31476	37262
12	Karnataka	62108	40304	80723
13	Kerala	11477	10274	21939
14	Madhya Pradesh	125750	76708	87700
15	Maharashtra	37393	501416	42831
16	Manipur	6442	1856	8697

17	Meghalaya	2743	785	765
18	Mizoram	4020	4425	4436
19	Nagaland	1539	1468	1992
20	Orissa	382364	84130	170950
21	Punjab	6845	24712	22622
22	Rajasthan	43873	24533	33511
23	Sikkim	365	2510	4546
24	Tamil Nadu	33147	14532	36034
25	Telangana	489673	564760	407141
26	Tripura	4858	33747	8297
27	Uttarakhand	21397	22396	33184
28	Uttar Pradesh	51513	347670	398069
29	West Bengal	25186	36597	112860
30	A & N Islands	713	2421	2638
31	Chandigarh	176	123	148
32	D & N Haveli	200	225	1432
33	Daman & Diu	15	60	44
34	Delhi	1608	2345	4728
35	Lakshadweep	0	0	1
36	Puducherry	63	80	994
		1845437	2122175	2211069

*Jammu & Kashmir Achievements 2020-21 includes data for UTs of J&K and Ladakh

The data shows that though life had come to a halt in India because of the COVID-19, afforestation programmes indeed enhanced to 22,11,069 hectares from 2020-2021 from 21,22,175 hectares during 2019-2020 across the country. This implies that afforestation programmes were carried out in full swing which serious violating the rights of indigenous peoples.

In fact, maximum area of afforestation programmes in the country were carried out in Telangana respectively for 489673 hectares during 2018-2019, 564760 hectares during 2019-2020 and 407141 hectare during 2020-2021⁸⁰ under “*Haritha Haram*” programme and more number of cases of evictions were reported from Telangana as given below.

A. ANDAMAN AND NICOBAR ISLANDS: CAMPA FACILITATING ANNIHILATION OF PVTGs

In the midst of COVID-19, the NITI Aayog continued with its Rs 75,000 crore vision for the ‘Holistic Development of Great Nicobar Island in Andaman and Nicobar Islands’. The plan entails the development of a transshipment terminal with a greenfield international airport, townships and solar and gas-based power plants. However, the proposed plan ignores the existence of at least 15 Nicobarese villages along the island’s west coast. The island has two indigenous groups – the Nicobarese and the Shompen tribes and the project can annihilate the indigenous peoples.⁸¹ In March 2021, Aecom India Private Limited, a consulting agency, prepared a pre-feasibility report that recognises only seven revenue villages on Great Nicobar, but not the tribal villages.⁸²

The 732.8 sq km of the Little Andaman Island at the southernmost tip of the South Andaman district is home to the Onge tribe. Over 70% area of the island is protected as Onge Tribal Reserve under the Andaman and Nicobar Islands Protection of Aboriginal Tribes Regulation 1956 and nearly 90% of the island is categorised as Reserve Forest under the Indian Forest Act of 1927. The development plan proposes to de-reserve part of the reserve forest too despite the fact that the survival of indigenous peoples is dependent on the forest. The agenda note on de-notification of 7.73 sq km of the Onge tribal reserve in Little Andaman “in lieu of” de-notified area an equal area “can be considered for re-notification” from the land on the eastern coast of Little Andaman which was de-notified in 1972.⁸³

As afforestation is a prerequisite for felling of trees under the Forest Conservation Act of 1980, in February 2019, the administration of Andaman and Nicobar Islands stated that it could not divert forestland since there was no degraded forest on which to carry out compensatory afforestation.⁸⁴

In turn, the Ministry of Environment, Forest and Climate Change issued an order dated 22 May 2019 allowing States and UTs with over 75% of their land under forest cover to carry out compensatory afforestation in other States or UTs which have degraded forest land or land banks.⁸⁵ This

is a clear violation of Para 3(2)(i) of the Guidelines issued under the Forest (Conservation) Act, which states that compensatory afforestation must be undertaken on non-forest land in the same district as the diverted forest.⁸⁶ In September 2020, State Government of Madhya Pradesh offered to carry out afforestation on 650 sq km of its degraded forest land to enable forest land diversions in Andaman and Nicobar Islands.⁸⁷

In September 2020, NITI Aayog invited proposals for a master plan for the “holistic development” of Great Nicobar Island. On 4 February 2021, the Directorate of Tribal Welfare of the Andaman and Nicobar Islands organised a meeting to finalise the extent of de-notification of the Onge Tribal Reserve in Little Andaman. The outcome of the meeting is yet to be made public.⁸⁸

B. ASSAM

From 8th November 2021, over 300 tribals were illegally evicted by the Assam government from two villages under Lumding police station in Hojai district, Assam. The tribals mostly from the Chakma and Garo communities, both of whom are notified as Scheduled Tribes of Assam, were evicted from two villages of Thedongnala and Lankaricu where they have been living for decades. However, the authorities claimed that the village is a forest area and the tribals were encroachers. The displaced victims were evicted without providing any alternate arrangement for rehabilitation and resettlement.⁸⁹

The Chakma tribals were evicted in violation of the Forest Rights Act, 2006. The evicted Chakma tribals who are recognised as Scheduled Tribes of Assam under the Constitution (Scheduled Tribes) Order, 1950, have been residing at the villages for more than 40 years. Further, the government authorities have been issuing ration cards, Scheduled Tribe certificates, etc to the Chakma tribals, indicating that they are officially recognized as inhabitants of the area. Section 4(3) of the Forest Rights Act recognizes the forest rights of the Scheduled Tribes if they “had occupied the forest land before the 13th day of December 2005.” But despite being Scheduled Tribes, the Chakmas of Assam are denied benefits including under the FRA on the false identification and distinction that Chakma community is notified as STs in two autonomous districts (Karbi Anglong and Dima Hasao, formerly known as North Cachar Hills District) in Assam constituted under 6th Schedule of the Constitution of India. On this illegal; sub-categorisation of the Scheduled Tribes as “plain tribes” and “hill tribes”, the Chakmas are denied all rights as STs excluding the two autonomous districts. However, the Forest Rights Act, 2006 makes no distinction between STs such as “plain tribes” and “hill tribes”. The Forest

Rights Act, 2006 prevails over any other law for the time being in force as per Section 4(1) of the Forest Rights Act.⁹⁰

Even the NHRC of India failed to protect the rights of the evicted Chakma tribals. Pertinently, the Chakma tribals of Thedongnala village were forced to flee their village due to land grabbing attempt by the people belonging to Muslim community in June 2011. In July 2011, the Asian Centre for Human Rights filed a complaint against the land grabbing of the Chakmas by the Muslims. However, the NHRC failed to protect the rights of the Chakmas under the Forest Rights Act and closed the case on 26 March 2018 accepting the discriminatory sub-categorisation of Scheduled Tribes in Assam. Had the NHRC protected the rights of the Chakmas of the area, they would not have been evicted in November 2021.⁹¹

C. CHHATTISHGARH

A total of 4161 acres in 16 villages in Korea district of Chhattisgarh have been earmarked for compensatory tree plantation in lieu of forests to be diverted for the Parsa coal block. The villages included Thaggaon (497 acres), Chhote Salhi (121 acres), Baday Salhi (657 acres), Baday Kalwa (275 acres), Dhanpur (291 acres), Pendri (194 acres), Bodemuda (269 acres), Jilda (237 acres), Majhouli (101 acres), Bari (560 acres), Mugum (639 acres), Chopan (76 acres), Bharda (50 acres), Khadgawa (50 acres), Salka (57 acres) and Gidmudi (82 acres). The lands in question are being used by the tribals for farming, common property usage such as for grazing livestock, gathering mahua, tendu leaf, char and other forest produce.⁹²

The compensatory afforestation project in these 16 villages is related to the forest clearance permission awarded by the Ministry of Environment, Forest and Climate Change in February 2019 to the Parsa coal block in the adjoining Sarguja district's dense Hasdeo Arand forests, one of India's finest. The authorities awarded preliminary clearance for 1,600 acres of dense forests to be diverted for coal mining in Sarguja district.⁹³

On 21 October 2021, the MoEFCC accorded stage II clearance for mining in the Parsa coal block in Chhattisgarh. Parsa is one of the six coal blocks allocated in the region despite protests by the tribals. The Chhattisgarh Bachao Andolan, which has been spearheading the protest, alleged that the stage-I forest clearance itself was based on fake gram sabha consent documents and this makes the stage-II clearance illegal.⁹⁴ A biodiversity report from the Wildlife Institute of India (WII) warned that the forests in Chhattisgarh's Hasdeo Aranya Coal Field (HACF) should be declared a "no-go area". It stated, "*Opening up of the demarcated coal blocks in the HACF would compromise the imperatives of biodiversity conservation and*

livelihood of forest-dependent local communities. Even the effects of the operational mines of PEKB and Chotia need to be tactfully mitigated too, wherever possible.”

The PEKB —Parsa (East) and Kete Basan — coal block is owned by Rajasthan Rajya Vidyut Utpadan Nigam Limited and run by Adani Enterprises, which is the official Mine Developer and Operator in this venture.⁹⁵

D. KARNATAKA

In Karnataka, about 400 tribal families including Jenu Kuruba tribe, a Particularly Vulnerable Tribal Group, are set to be forcibly relocated from Nagrahole National Park by the State Government of Karnataka by using CAMPA funds. In September 2021, the National Tiger Conservation Authority (NTCA) had directed the Forest Department of Karnataka to submit a proposal to make use of the CAMPA funds for relocation after a petition was submitted to the MoEFCC by NTCA.⁹⁶

However, the Jenu Kuruba tribals have been protesting since March 2021 against the forced relocation from the national park, which is traditional home to the PVTG. On 5 May 2021, Jenu Kuruba priest and prominent protest leader JK Thimma alleged that he faced harassment and threats of violence by forest officials who stopped him from repairing his house. The Jenu Kurubas are a traditional honey gathering tribe, and are also dependent on cultivation and forest gathering for livelihood. The eviction of the tribals from their traditional living areas violates the FRA 2006. The Jenu Kuruba had applied for their rights in 2009, but only a few hundred claims were settled, with majority of the applications rejected.⁹⁷ The Supreme Court vide order dated 28 February 2019⁹⁸ directed not to evict any tribal or other forest dweller even whose claims have been rejected by the authorities until further order from the Supreme Court.

E. MADHYA PRADESH

On 10 July 2021, the Forest Department evicted 40 tribal families comprising 200 persons belonging to Bhil and Barela communities in Jamniya area in Khandwa district of Madhya Pradesh. The Forest Department carried out the eviction after destroying the dwelling houses of the tribals, following which they were rendered homeless amidst the COVID-19 pandemic. The tribal families had been living in the area since 1963.⁹⁹

The tribals were also threatened and abused by the forest officials. At least four tribals were detained including a 12-year-old girl. The officials in a bid to cut them off completely from their lands, sprayed poison on

their fields and destroyed crops with bulldozers, thereby making their condition miserable in the midst of the pandemic. The tribal families were dependent on forest produce, cattle rearing and small agricultural practices for their livelihood.¹⁰⁰

The eviction was carried out without any warning or any information and in violation of the Forest Rights Act, 2006. The tribals had filed claims for land rights under the FRA, and which were pending. Under Section 4(5) of the FRA, no one can be evicted from the land till the documents and claims are under process. The eviction was also carried out in violation of the order of the High Court at Jabalpur which stayed all the evictions amidst the pandemic.¹⁰¹ Further, the Supreme Court vide order dated 28 February 2019¹⁰² had directed not to evict any tribal or other forest dweller even whose claims have been rejected by the authorities until further order from the Supreme Court.

E. ODISHA

In April 2020, during the first wave of COVID-19, the Forest Department of Odisha cut down thousand of traditional trees like mango, amla, kendu, mahua etc in around 7 to 8 acres of community forest of Kondh tribe living at Piddadamaha village in Kandhamal district of Odisha. The Forest Department destroyed the community forest of the tribals with the sole purpose to carry out commercial plantation. As a result, about 90 Kondh tribal families, who were dependent on the community forest for their livelihood, were denied access to their traditional forest.¹⁰³

Pratima Mallick, one of the affected persons told The Wire, “They came in the early hours of the morning,”, her eyes bright with unshed tears. “We saw our trees butchered – mango, jackfruit, kendu, mahua, jamukoli, siyali, amala, bahada. We have nurtured and protected our forest for generations; it sustains our livelihoods, our very lives. But, on that day, we were told we had no legal rights to it,” she recalled.¹⁰⁴

At present, the Forest Department is continuing with the commercial plantation drive in the area despite protest and objection by the tribals in particular in the COVID-19 pandemic.

G. TELANGANA

In Telangana, the Forest Department has been carrying out eviction, atrocities and deprivation of livelihood of the tribals in the name of afforestation programme, “Haritha Haram” including under CAMPA funds. The afforestation scheme is being used to evict the tribals from

their customary land, where they have been doing podu cultivation, a form of traditional shifting cultivation for generations. A number of clashes have been reported between the tribals and Forest Department in recent times. Cases were also filed against the tribals for protesting against the eviction drives.

Case 1: Land alienation of 80 Koya tribal families for afforestation in Bhadradi Khotagudem district

On 17 June 2020, the Forest Department started plantation drive by digging trenches at Satyaranarayam of Ganugapadu in Bhadradi Khotagudem district. About 80 tribal families belonging to Koya tribe stated that their field measuring about 200 acres was taken over from them by the state government for undertaking plantation drive under the Haritha Haram programme, which was launched in 2015 to increase tree cover in the state from 24% to 33% using the CAMPA funds. The tribal use to cultivate pulses, millets and cotton in the land but they were denied access to their field, resulting in livelihood crisis amidst the COVID-19 pandemic. The land was alienated despite their claims under the FRA were still pending. The land falls under scheduled area and under the law the gram sabha consent is necessary for such plantation in the area. However, no such consent was taken from the gram sabha.¹⁰⁵ Further, there is specific direction of the Supreme Court vide order dated 28 February 2019¹⁰⁶ to not evict any tribal or other forest dweller even whose claims have been rejected by the authorities until further order from the Supreme Court.

Case 2: Cases filed against more than 10 tribals for obstructing forest officials during afforestation drive in Chintaguppat reserve forest area

On 12 April 2021, tribals clashed with forest officials when they visited Chintaguppa reserve forest area in Dummugudem mandal to supervise pre-plantation activities. The incident took place when a group of tribal people allegedly obstructed the forest staff from taking up preparatory works for a plantation drive with CAMPA funds. The Forest Department said that trenches were already dug up and final arrangements were under way to take up plantation drive at the Chintaguppa forest land under the CAMPA as part of the afforestation activities in Bhadrachalam division. The police also registered cases against more than ten tribals of Chintaguppa under different Sections of the Indian Penal Code (IPC) on various charges like obstructing the forest staff from discharging their designated duties and trying to attack them.¹⁰⁷

Case 3: Cases filed against several tribals following clashes in Mahabubabad district

On 13 July 2021, clashes between tribals and forest officials took place in the Kakardonda forest stretch in Gangaram mandal in Mahabubabad district, Telangana. The incident took place after forest officials allegedly stopped the tribal people from ploughing land that they had been cultivating for years, to carry out a plantation drive. Police registered a case pertaining to the incident against several tribal farmers. The incident reflects the continuing saga of conflict that is simmering between forest-dwelling Adivasis and Forest Department officials in Telangana over podu (agriculture) lands.¹⁰⁸

Case 4: Arrest of 23 tribals including 18 women following clashes between tribals and Forest Department in Khamman district

On 3 August 2021, clashes took place between the tribals and Forest Department officials at Yellannasagar village under Konijeria Mandal in Khammam district. The clashes started after the Forest Department officials allegedly started destroying the crops, used foul language and threatened to forcefully take possession of the land. Following the attack, the Forest Department filed a complaint against the tribals. Acting on the complaint, the police registered a case under sections 307, 353 and 158 read with 149 of the IPC against the tribals and arrested 23 tribals including 18 women. Later, they were sent to 14 days judicial remand. Among the arrested women included three lactating mothers identified as Alapati Kavitha (mother to a 3-month-old baby), Kavya (mother of 8-month-old baby) and Rani (mother of one year old).¹⁰⁹

On 11 November 2021, Telangana High Court issued notices to State government of Telangana and others in a PIL petition seeking an order to stay the attempts of the government to evict tribals, forest dwellers and other traditional dwellers from the lands they were cultivating in forest areas. The PIL alleged that the government was not complying with the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules. While traditional forest dwellers were cultivating lands in forest areas for past several decades, the authorities suddenly started evicting them from those places without adhering to the rules¹¹⁰ and in violation of the specific direction of the Supreme Court vide order dated 28 February 2019¹¹¹ to not evict any tribal or other forest dweller even whose claims have been rejected by the authorities until further order from the Supreme Court.

On 29 July 2021, Justice A. K. Mishra, Chairperson of the National Human Rights Commission (NHRC) said that no tribal should be evicted without the settlement of his/her claim related to land rights as directed by the Supreme Court judgement dated 28 February 2019 in *Wildlife First & Ors vs. Union of India & Ors* [Writ Petition(s)(Civil) No(s). 109/2008].¹¹² On 30 July 2021, the Rights and Risks Analysis Group filed a complaint¹¹³ with the NHRC to take measures to enforce the Supreme Court direction but strangely is yet to act on the issue!

3.3 Compensatory afforestation is a scam: Afforestation is carried out on forest lands to deprive the rights of the tribals

A report, “*Impact of Compensatory Afforestation on Land & Forest Rights: Interim Report*” released on 14 November 2017¹¹⁴ stated that plantations carried out under CAMPA in 10 states were in violations of the Forest (Conservation) Act, 1980 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA). It stated, “An analysis of 2479 CA (Compensatory Afforestation) plantations in 10 states downloaded from the e-Green Watch website of the MoEFCC shows that over 70 per cent of these plantations have been set up on forest lands instead of non-forest lands. The Community Forest Rights-Learning and Advocacy (CFR-LA), a forest rights group, during their study, also found instances where plantations under CAMPA were set up on land either claimed or given to individuals or communities under the FRA.

This is in violation of Para 3(2)(i) of the Guidelines issued under the Forest (Conservation) Act, which states that compensatory afforestation must be undertaken on non-forest land in the same district as the diverted forest.¹¹⁵

The report stated, “Of 52 compensatory afforestation plantations in Chhattisgarh, Jharkhand and Odisha; all the plantations were taken up on community forest lands vested in the Gram Sabhas by the Forest Rights Act, without the permission of Gram Sabhas. Pitaguda, Borguda villages in Odisha, and Edmagondi, Tehametha and Bilma villages in Chhattisgarh also lost at least 54 individual cultivable and homestead lands to the CAMPA plantations”.¹¹⁶

The report further highlighted that in Maharashtra, for instance, the Compensatory Afforestation plantations have been carried out in Gadchiroli district, Wadsa forest division, where about 1000 ha were

taken over for plantations in the years of 2015-17 in a region with 70-90% natural forest cover. Similarly, in Kandhamal, Odisha, plantations have been pursued with fervor, despite the area being one of the most heavily dense forests in the country.¹¹⁷

3.4. Violations of the Supreme Court order

The Forest Rights Act, 2006 provides protection against eviction, diversion of forest lands and forced relocation. Section 4(5) of the Forest Rights Act provides *“Save as otherwise provided, no member of a forest dwelling Scheduled Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is complete.”*

The Supreme Court in its order dated 13 February 2019 in *Wildlife First & Ors vs. Union of India & Ors* [Writ Petition(s)(Civil) No(s). 109/2008] directed for eviction of the tribals whose claims under the FRA had been rejected. The apex court stated, *“the extent of land covered by rejections in respect of STs is 1,14,400 acres and 66351 claims have been rejected. But the action taken indicates that not even a single order has been complied with. Once the orders of eviction have been passed, the eviction ought to have taken place.”* The Court also directed that *“the Chief Secretary shall ensure that where the rejection orders have been passed, eviction will be carried out on or before the next date of hearing. In case the eviction is not carried out, as aforesaid, the matter would be viewed seriously by this Court”*.¹¹⁸

However, in the subsequent hearing dated 28 February 2019 in *Wildlife First & Ors vs. Union of India & Ors*, the Supreme Court stayed its previous order dated 13 February 2019 i.e. not to carry out eviction of those whose applications under the FRA were rejected.¹¹⁹

While passing the said order, the Supreme Court noted, *“the State Governments have filed their data including how many claims have been rejected and the eviction orders that have been passed but they have not stated the procedure adopted for rejection orders/claims of the Tribals. It has not been placed on record as to who has rejected the claims and under which provision of law the eviction has to be made and who is the competent authority to pass such orders.”*¹²⁰

The SC further noted *“in most of the matters Tribals have not been served with the orders of rejection orders of their claims and it is also not clear whether the three tier Monitoring Committee constituted under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules 2008 have supervised all these aspects”*.¹²¹

Apart from directing “*the State Governments to clarify what is the process to be followed for eviction after rejection orders have been passed*”, the apex court directed the Chief Secretaries of various State Governments “*to file detailed affidavits covering all the aforesaid aspects and also place on record the rejection orders and the details of the procedure followed for settlement of claims and what are the main ground on which the claims have been rejected. It may also be stated that whether the Tribals were given opportunity to adduce evidence and, if yes, to what extent and whether reasoned orders have been passed regarding rejection of the claims*”.¹²²

The Supreme Court order further stated that given “*the likelihood of traditional tribals being affected whose claims have been rejected and their land is not occupied by mighty people, industrialists and other persons who are not belonging to the aforesaid category*” directed the State governments to submit the category wise details of such incumbents who have been occupying these areas belonging to Scheduled Tribe category and other traditional forest dwellers category and such persons who cannot be treated as tribals.¹²³

The evictions cited in the present report have been carried out in clear violations of the Supreme Court direction dated 28.02.2019 which stayed eviction of the tribals whose applications under the FRA had been rejected till further notice.

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⁶⁷. Ibid

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⁷⁰. Order dated 22.05.2019 of the Ministry of Environment, Forest and Climate Change, available at http://forestsclearance.nic.in/writereaddata/public_display/schemes/252036798%2411%20423%202011%20.pdf

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⁷⁹. RAJYA SABHA UNSTARRED QUESTION NO.2299, TO BE ANSWERED ON 09.08.2021

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ASIAN CENTRE FOR HUMAN RIGHTS

C-3/441-C, Janakpuri,
New Delhi-110058, India
Phone/Fax: +91-11-25620583
Email: director@achrweb.org
Website: www.achrweb.org

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