

## **Joint Statement on draft Indian Forest Amendment Act 1927**

*3<sup>rd</sup> September 2019*

The proposed amendment to the Indian Forest Act 1927 (IFA) is more colonial and frightening than before. It is discriminatory and draconian in nature. It attempts to undo and take away the existing rights of indigenous and tribal people on lands, territories and resources in the Northeast states. Approximately 8 million hectares of forest land which is traditionally controlled by the community will be taken over by the state's forest bureaucracy.

The amendment outrightly disregards and attempts to reverse the forest rights vested on forest dwellers under the Forest Rights Act 2006 (FRA) which was intended to finally undo the gross historical injustice and discrimination meted out to the tribal peoples. It also is a conspiracy to deny the powers of the state over ownership and transfer of lands and its resources specifically protected under Article 371 A for Nagaland and Article 371 G for Mizoram, and the power and control over forests other than reserved forests in VI Schedule Areas Assam, Meghalaya, Tripura and Mizoram, and of the autonomous councils constituted by state laws in Assam and Manipur.

The amendment to the Indian Forest Act 1927 was forwarded by the Ministry of Environment, Forests and Climate Change, Government of India, to the States and Union Territories for comments in March 2019 claiming that the proposed amendment is envisaged to overcome the contemporary challenges of India's forest.

The amendment was drafted by a core committee consisting of mainly forest bureaucrats without taking the right-holders and stakeholders, particularly the indigenous peoples and Ministry of Tribal Affairs (MoTA), into confidence. So far, no state governments in North East India has organized right-holders and stakeholders' consultation on the draft as directed by the Ministry.

The central government falsely claims that this British colonial law is intended to bring the law to be in sync with India's current international commitments on conservation. The International commitments affirms recognizing community rights on forest and other resources as fundamental to conservation whereas the proposed amendments undermine all the forest rights of tribal peoples who number 104 million (2011 census) in Northeast India. The draft amendment is a calculated move by the government to dismantle the age-old strong community forest governance in North-East India and in other parts of the country.

The northeast has 55% of forest under 'unclassed' or 'unclassified' category, which is traditionally and customarily under the control of indigenous peoples. The proposed amendment intends to bring this category of forest under the purview IFA, and therefore under the authoritarian control and management of the Forest Department. It will have serious adverse implication on the social practices, ownership and transfer of land, including powers and function of the VI Schedule Autonomous District Council and other autonomous councils and village governance relating to: (i) land and limited legislative powers, (ii) power to make laws on such subjects as allocation of lands (other than reserved forests), management of forests (other than reserved forests), and (iii) the regulation, restriction and prohibition of 'jhum' (swidden) cultivation, among others.

The amendment intends to give excessive powers to forest bureaucracy and turn the country's forested areas into militarized zones while serving the commercial interests of the corporate sector de facto severely curbing the democratic governance of the tribal communities and facilitating the takeover of forests by big corporations

Section 66(2) of the draft amendment empowers the forest-officer to use firearms for securing of the forest-produce; entering a forest without permission would constitute a 'forest offence'; and people can be picked up and detained on mere suspicion of a possibility of an offence being committed, their houses broken into and searched, all without any warrant. These provisions violate Articles 21 and 22 of the Indian Constitution. Insertion of these draconian provisions, akin to ASFPA, is detrimental to democratic norms of the government. It is also against the spirit of the initiatives on peace negotiations in the region.

In section 34(D), the draft lays down the procedure for the central government to restrict and prohibit the practice of shifting cultivation in all forest land. Within reserved forests, shifting cultivation is to be deemed as a "privilege" to control, restrict and abolish by the state government (Sec 10 (5)). This will have an adverse bearing on several indigenous communities across India who practice shifting cultivation and are not linked to the centrally regulated agricultural sector.

The draft mentions that the forest bureaucracy could take away the rights of the forest dwellers if the government feels that it is not in line with "conservation of the proposed reserved forest". These provisions are arbitrary and runs against the rights already guaranteed to the tribals in the region and to the objectives of the Forest Rights Act, 2006 (FRA). It also states that in cases of possible conflicts emerging between the state and people or villages over the ownership and control of forests, such forests can be taken over by the state.

The amendment introduces a new category of forests — production forest, in addition to reserve and protected forest. These will be forests demarcated for the production of timber, pulp, pulpwood, firewood, non-timber forest produce, medicinal plants or any forest species to increase yield for a specified period. This opens up room for large-scale privatization while denying rights of communities. The amendments is also aimed at aggressive centralization of powers for private economic interest instead of sustainable conservation policy.

The proposed amendment does more harm to the existing laws in India and the international standards pertaining to forest governance and rights of Indigenous peoples. It is flawed with legal contradictions and is against its own set objectives of promoting sustainable use and conservation. We, therefore, demand that the current draft be completely withdrawn.

We reiterate that there cannot be a good policy or law without adequate discussions and consultations, particularly with the rights-holders, including the Ministry of Tribal Affairs (MoTA), which is a major stakeholder in forest governance and nodal ministry for FRA.

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Jointly Issued by

Borok Peoples' Human Rights Organization (BPHRO), Indigenous Women Forum of North East India (IWFNEI), Karbi Human Rights Watch (KHRW), Naga Peoples Movement for Human Rights (NPMHR), Zo Indigenous Forum ZIF)

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