



NATIONAL PLATFORM FOR SMALL SCALE FISHWORKERS

Memo No. NPSSFW/Conv-16/23

May 16, 2023

To -

The Joint Secretary (JM),
Lok Sabha Secretariat,
Room No. 440,
Parliament House Annexe,
New Delhi - 110001.

Subject: Suggestions on the Examination of the 'Forest (Conservation) Amendment Bill 2023'.

Sir / Madam,

Greetings from the National Platform for Small Scale Fish Workers (NPSSFW, the largest platform of the small scale fish workers of the country.

Small scale fish workers fish in the water bodies (rivers, wetlands, ponds etc.) falling in the forest areas. Further the forests always and everywhere influence the health of water bodies and the ecological services rendered by them including the fisheries. As such the small scale fish workers are a major stakeholder of our forests.

Attached please find the suggestions / comments of NPSSFW on the 'Forest (Conservation) Amendment Bill 2023'.

Yours sincerely,

Pradip Chatterjee.
National Convener,
NPSSFW



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Comments of National Platform for Small Scale Fish Workers (NPSSF) on the Forest (Conservation) Amendment Bill, 2023

NPSSF requests the Joint Parliamentary Committee to ask the Government to rescind the Forest (Conservation) Amendment Bill, 2023 since -

- i. It has been prepared and placed before the Parliament of India through an undemocratic process;
- ii. It proposes to grossly shrink the purpose and jurisdiction of the original Act [the Forest (Conservation) Act 1980] by removing restrictions on conversion of 'any forest land' and relegating that only to forest lands recorded, declared or notified as forest;
- iii. It provides power of relaxation of restrictions on non-forest activities on huge forest lands to the Government without the approval of the Advisory Committee prescribed under the original Forest (Conservation) Act 1980;
- iv. It fails to address the conflicting jurisdiction of Forest (Conservation) Act 1980 with the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 or the Panchayat Extension to Scheduled Areas (PESA) Act, 1996 in forest governance including conservation and non-forest activities;
- v. In relaxing and removing the restrictions on non-forest activities in large areas of forest lands the instant Bill fails India's commitment to implement its nationally determined contributions (NDC) to address climate change.

Procedural Issues:

Violation of Basic Democratic Norms

It has been noticed that the Proposed amendments to Forest (Conservation) Act, 1980 was published on the Ministry's website in early October 2021, requesting all concerned for sharing comments / suggestions within 15 days. The deadline was later extended to the 1st of November, 2021. Although "all concerned" have been asked to give their comments, **forest dwellers, the largest primary stakeholders of our forests have been effectively shut off from the process by first not translating and publishing the text of proposed amendments in regional languages and second by keeping the same uploaded exclusively in the Ministry's website.** No effort has been taken by the Ministry to really take the proposed amendments to the common people, let alone collect their views on the same. This is totally undemocratic and should be disapproved by the Joint Parliamentary Committee (JPC).

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Violation of PLCP

The MoEF&CC has clearly violated the instructions contained in the Pre-Legislative Consultative Policy (PLCP) dated 05.02.2014 issued by the Ministry of Law and Justice, Government of India which instructed inter-alia that the ministry has to –

- Publish the proposed legislations both on the internet as also through other means;
- Keep the same in the public domain for a **minimum period of thirty days** for being proactively shared with the public;
- Document and disclose the legislation through print or electronic media or in such other manner, as may be considered necessary to give wider publicity to reach the specifically affected group of people;
- Append an explanatory note explaining key legal provisions in a simple language of the draft legislation placed in public domain;
- Hold consultations with all stakeholders in addition to placing the proposal in public domain, according to the nature of the subject and the potential impact on those who will be affected by such legislation.

NPSSF takes serious exception to the above mentioned administrative lapses and non-compliance of the PLCP and holds that the MoEF&CC should have –

- I. Put up a revised Public Notice providing 60 days time for public comments considering the vast and remote areas where the largest stakeholders of forests namely the forest dwellers including the small scale fishing communities reside.**
- II. Prepared and made available printed copies of the Draft Bill to the stakeholders in their languages.**
- III. Held consultations with the stakeholders, especially with the forest dwellers including the forest dwelling small scale fish workers.**

NPSSF also expects that, in compliance with the instruction contained in the PLCP, its objections regarding violation of PLCP norms by the Department will be put up to the Ministry of Law and Justice by the Joint Parliamentary Committee (JPC) for examination.

Violation of Legal Convention

After the passage of **Forest Dwellers' Rights Act (FRA)** the Gram Sabha of Forest Dwellers has assumed legal authority in determining use and protection of forest resources. The Ministry of Tribal Affairs (MoTA) is the nodal Ministry to

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execute the FRA. As such the MoEF & CC should not have proposed such amendments *suo moto* without taking into confidence the Gram Sabhas and the MoTA. The Forest Conservation and Management of the country should accept the forest dwelling fishing and other communities as part of the forest ecology and governance and should recognise their rights to habitat, sustainable livelihood and conservation of forest resources. **The Joint Parliamentary Committee (JPC) should take serious note of the unlawful exclusion of forest dwelling communities from forest governance that includes the use and conservation of forest resources in the instant Bill.** The MoEF should not and cannot consider any extension or diversion of forest lands without considering the rights of forest dwellers provided by the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

Misguided Motive

The Forest (Conservation) Act, 1980 was enacted with the objective of checking widespread deforestation prevalent in the country at the time, by making it mandatory to take prior approval of Central Government for de-reservation and for use of forest land for non-forest purposes. In addition, the Act provided for constitution of an advisory committee staffed with top officers of Forest Management as well as nominated experts on subjects like mining, civil engineering, and development economics. The initiative suggested should have been strengthened by providing spaces for participation by Forest Dwellers who have been recognised as primary stakeholders and holders of legal rights to sustainable use and protection of forest resources. Today, when the whole world is suffering from the ravages of climate crisis, when the importance of forest cover is recognised by the world community, none other than the MoEF&CC is suggesting amendment to FCA to relax regulations for prohibition and/or control annihilation of trees. The instant Bill for amendment of FCA lacks the spirit, tone, and underlying commitment for conservation of forest and environment which is the mandate of MoEF&CC.

Issues by Content:

- 1. Defining the scope of application (forest area) of the Act so as to keep non-forestry activities in unrecorded forests out of the purview of the Act.** [Section 4.1A (1)]

This is against the letter and spirit of Forest Conservation Act, Indian Forest Policy and the Supreme Court's Judgement on T N Godavarman case. The forest areas outside recorded forest areas of the state amount to 1,98,813 Sq. Kms. As such this will allow massive

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deforestation of private forests and community reserves with negative impacts on water and fish resources. Instead of allowing destruction of such forests the Government should provide incentives for private forests and community reserves.

2. A stark contradiction between clauses: big flaw in drafting. [Section 4.1A (2) & (3)]

Section 4.1A (2) of the instant Bill states that certain categories of land shall not be covered under the provisions of the Act, while Section 4.1A (3) of the Bill states that “The exemption provided under sub-section (2) shall be subject to such terms and conditions, including the conditions of planting trees to compensate felling of trees undertaken on the lands, as the Central Government may, by guidelines, specify.’ How can the Act impose terms and conditions on something which is beyond its provisions?

3. Sweeping exemptions for forest land held by agencies like Rail, NHAI, PWD, Defence etc. [Section 4.1A (2)]

The amendments propose that the Forest Land Will not be covered under the provisions of this Act. -

- Situated within a distance of one hundred kilometres along international borders or Line of Control or Line of Actual Control required for construction of strategic linear project of national importance and concerning national security;
- Up to ten hectares, proposed to be used for construction of security related infrastructure;
- Up to five hectares, proposed to be used for construction of defence related project or a camp for paramilitary forces or public utility projects, as may be specified by the Central Government in a Left Wing Extremism affected area as may be notified by the Central Government.

This means there will be blanket exemptions for use of forest lands for the above mentioned purposes and this would cover past, present and future uses. This involves allowing huge and increasing forest land areas for non-forest activities.

4. The role of Advisory Committee (Section 3 of the original Act) abolished regarding de-reservation of forests or use of forest land for non-forest purposes indicated under Section 4.1A (2) of the Bill and replaced by Guidelines to be made by the Central Government under Section 4.1A (3).

The scope of having an ecologically valid, socially reasonable and non-executive consideration regarding diversion of forest land for non-forest use has been grossly curtailed.

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The Central Government may now issue guidelines at its will to allow any such diversions. This again goes against the letter and spirit of the Forest Conservation Act 1980 and the directions of the Hon'ble Supreme Court on the Writ Petition (Civil) No. 202/1995 T.N. Godavarman Thirumulpad *versus* Union of India and Others.

5. **The proposed substitution of the words "not owned, managed or controlled by Government" by the words ", subject to such terms and conditions, as the Central Government may, by order, specify"**[Amendment of Section 2]

The substitution appears to be redundant since the overarching instruction under Section 2 of the original Act had been that no State Government or other authority shall make any order in that regard except with the prior approval of the Central Government.

6. The proposed blanket relaxation for “establishment of zoo and safaris” and “eco-tourism facilities” [Section 5 (vi) & (vii)] by their non-inclusion in non-forest activities is going to **further open up the forests for commercialization eventually turning them into zoos and eco-tourism hubs.**
7. The proposed non-inclusion of “any other like purposes, which the Central Government may, by order, specify” [Section 5 (viii)] in non-forest purpose means that the Government will be able to exempt **any activity from the category of non-forest activity.**
8. The proposed provision to provide the Central Government with the authority to “specify the terms and conditions subject to which any survey, such as, reconnaissance, prospecting, investigation or exploration including seismic survey, shall not be treated as non-forest purpose” [Section 5 (2)] **is going to open up all our forests to mining and similar commercial activities.**

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