

To

Shri Narendra Modi
The Prime Minister of India

Cc to:

1. Shri Jual Oram, Ministry of Tribal Affairs, Government of India.
2. Shri. Shivraj Singh Chauhan, The Chief Minister, Madhya Pradesh

(5th August 2014)

Subject: Open letter of Protest against the violation of Forest Rights Act in the forests of Mahan and police action against Greenpeace India activists

Dear Sir,

Through this letter we would like to express our strong protest against the way in which the democratic rights of tribal and other forest-dwelling communities are being undermined in the Mahan forests of Singrauli district of Madhya Pradesh, and the completely unwarranted police action against members of Greenpeace India who are simply supporting the legal process of recognition of forest rights.

In this context, we condemn the police action which seems to be aimed at discouraging the process provided under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 also called as the Forest Rights Act or FRA. The reason for the crackdown on the activists has been based on rather dubious and baseless “inputs” that the area is “naxal infested” and that equipment used by Greenpeace are unauthorized communication gadgets¹.

As you may be aware, a circular was passed by MoEF in August 2009² to ensure that the FRA is followed in letter and spirit in forests where communities face displacement and dispossession, despite the FRA being in force. According to this circular, the process of vesting and recognition of rights under FRA has to be carried out before forest land can be diverted for non-forest use under the Forest (Conservation) Act, 1980 and the consent of the Gram Sabha for the diversion of forest land has to be obtained. This circular has recently been operationalised in the Forest (Conservation) Act, Amendment Rules, 2014.

Greenpeace India has been working in the villages of Mahan forests to support the demand for free and fair Gram Sabha meetings regarding diversion of the surrounding forests for coal mining joint venture by Essar and Hindalco, through justifiable legal tools such as RTIs and writ petitions. Villagers themselves have registered a complaint regarding the forged Gram Sabha with the local police, but no FIR has been filed till date. Meanwhile

¹ TNN. (2014, July 30). Madhya Pradesh police raid Greenpeace office, seize gadgets. *The Times of India*. Available at: <http://timesofindia.indiatimes.com/india/Madhya-Pradesh-police-raid-Greenpeace-office-seize-gadgets/articleshow/39256225.cms>

² Letter No F.No. 11-9/1998-FC (pt) dated 3rd August 2009, from Sr. Assistant Inspector General of Forests, MoEF to all Chief Secretaries titled, “*Diversion of Forest land for non-forest purposes under the Forest (Conservation) Act, 1980-ensuring compliance of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.*”

threats to the local group (Mahan Sangharsh Samiti) and GP activists have continued, and now the midnight arrests on 28th July have raised genuine issues and concerns in the process being followed for forest clearance which will have a significant bearing on both the environment and on lives of the residing villages. These recent arrests have been made just days after the Collector of Singrauli had assured the villagers that a fresh Gram Sabha would be held in the third week of August to decide the fate of the project³ in a joint meeting held with the villagers, Greenpeace activists and the members of the company. However, we fear that in such an atmosphere, it is very unlikely that the proceedings of the Gram Sabha to discuss the project would be able to reflect the on-ground reality.

The requirement of Gram Sabha meeting, as it is, is being severely violated in most cases, with fraudulent Gram Sabhas and forging of signatures being prevalent to promote vested interests. In Hensamul village in Angul District of Odisha, the entire proceedings of the Gram Sabha were forged as evidence for FRA compliance under the 2009 circular, since there was no Gram Sabha conducted. In many cases the presence of project proponents in these Gram Sabha meetings, hinders the proceedings. In Jharkhand's Latehar district, the project proponents (Tata Steel and Adhunik Power and Natural Resources Ltd) have conducted Gram Sabhas to determine the rights under FRA for Jala village falling on the forest land to be diverted for mining the Ganeshpur coal block, without informing the district administration!

In Mahan forests, a Gram Sabha was held in one of the villages on the 6th of March 2013 for forest clearance under the Forest (Conservation) Act, 1980. However, according to many villagers this Gram Sabha was illegally held and an RTI petition filed by the Greenpeace activists revealed that the resolution of the Gram Sabha giving consent to the project, contained forged signatures and even included names of dead people from the villages. The villagers registered their complaint regarding the forged Gram Sabha with the local police, but no FIR has been filed till date. Meanwhile, final forest clearance was granted to the project in Feb 2014, ignoring the registered complaint on the illegal Gram Sabha. Subsequently, a Greenpeace activist filed a writ petition against the illegal Gram Sabha proceedings in the Jabalpur High Court. In June this year, the High Court pulled up the Superintendent of Police for not taking action against the forged Gram Sabha and he was asked to conduct an inquiry about the violations in 7 days. Despite this order, there has been no action on the part of the local police to actually try to investigate the case.

There are 52 villages being affected by the project and these belong to the communities of Scheduled Tribes and Other Traditional Forest Dwellers. Under our national and international legal obligations, it is the duty of the State to ensure that the rights of these communities on their customary forest resources are recognized and that no decision affecting their lives and livelihoods is taken without their prior informed consent.

It will be pertinent here to quote from the judgement in the case of Nandini Sundar and Ors vs The State of Chhattisgarh (WRIT PETITION (CIVIL) NO. 250 OF 2007) where the court has in all its wisdom, reinstated that the current social order which treats any person speaking for human rights and questions the current paradigms of the state as a Maoist or a maoist sympathizer, has become a serious problem affecting our nation and that any peaceful dissent or dissatisfaction which is a positive feature of democracy, is often not recognized by the authorities and is met with severe repression.

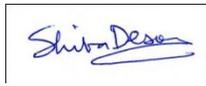
³ Trivedi, S. (2014, July 21). Mahan coal mining: Gram sabha to be held in 3rd week of August. *Business Standard*. Available at: http://www.business-standard.com/article/companies/mahan-coal-mining-gram-sabha-to-be-held-in-3rd-week-of-aug-114072101004_1.html

It has been stated in some of the Government of India's own analyses⁴ that the current developmental paradigm as conceived by policy makers has been insensitive to the needs of communities, has deprived them of pre-existing rights and the root cause of this continuous neglect has been fuelling left-wing affected extremism in many areas⁵.

In such a situation, we call upon the State to recognize Greenpeace's role, and that of any other such organization undertaking similar activities, as not antithetical to the national agenda but as doing a huge service to the nation by supporting the rights of the most marginalized sections of our society. Their role has been of highlighting the violations and ensuring that token or fake Gram Sabhas with forged signatures or participation from dead persons no longer continue, as has been the case often.

We thus submit that the crackdown on Greenpeace activists apart from being in complete violation of many present national and international laws, policies and principles, is a cause of serious concern for any democratic society. We call for immediate suspension of all charges against Greenpeace activists and Mahan Sangharsh Samiti members and hope that the attention of the media, the State and the public at large is turned to assuring that the local processes of decision-making are free from external pressures and threats to steer the decisions in one direction.

Thanking you in anticipation,



Meenal Tatpati and Shiba Desor, Ashish Kothari, Kalpavriksh, Pune.

⁴(2008, April). Development Challenges in Extremist Affected Areas: Report of an Expert Group to Planning Commission, Government of India.

⁵Ministry of Tribal Affairs, letter to all governors of Scheduled Areas, dated 4th April 2014.