

Memorandum submitted to Department-related Parliamentary Standing Committee on Science and Technology, Environment and Forests

Suggestions/views on the Indian Forest (Amendment) Bill 2012

Submitted by

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(on behalf of Kalpavriksh)*

We feel that the amendment to IFA which is under consideration is inconsistent with the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of rights) Act, even though they both occupy the same space (i.e. forests) as explained below¹:

1. The amendment to the Act increases the fine for forest offences from Rs. 50 to Rs. 10,000. However what constitutes a 'forest offence' has and will change as the FRA is implemented; several of what are today considered 'offences' will actually become rights (in recognition of the fact that these were customary rights but were not recognised as such in forest settlements). Moreover where communities get CFRs (Community Forest Rights), the nature of offences and how to deal with them will be determined by gram sabhas (other than those activities that are not eligible as rights and continue to remain offences under any existing Act eg. hunting).

In view of the above mentioned point, the amendment may be yet another place for grassroot level contradictions between FD and communities in places where the rights are recognised but will be especially problematic and contradictory in places where rights recognition procedures under FRA have not yet been completed.

Thus it is suggested that in light of FRA, there has to be a revision of the definition of forest offences and who penalises. **While waiting for a more comprehensive and detailed revision of IFA in tune with the FRA, it is important that an amendment such as this, increasing fine to Rs. 10,000, is not imposed.**

2. The amendment talks about obtaining and recording views of Gram Sabhas in Scheduled Areas before penalising people for forest offences. This again is inconsistent with Forest Rights Act (and in the case of scheduled areas, with the Panchayat Extension to Scheduled Areas Act) at three levels:
 - In forest areas where Community Forest Resource rights are recognised under FRA, decision making powers about forest offences lie with Gram Sabha whereas in the amendment their views will simply be obtained and recorded. This is also true for Scheduled areas under PESA. **For consistence, the word 'consultation' should be at least changed to 'consent'.**

¹ The comments/ suggestions are wrt. advertisement number davp/31202/11/0002/1213

- The decision making authority of Gram Sabha in matters of forest governance is applicable for both Scheduled Areas and non scheduled areas where there are eligible rights holders under FRA. **Thus the phrase 'Scheduled Areas' should be replaced with 'all areas where rights under Forest Rights Act can be or have been recognised'**
- The IFA amendment defines Gram Sabha IN A very different WAY from the definition given in FRA AND PESA. In the definition in this amendment Gram Sabha means 'a body consisting of persons registered in the *electoral rolls* (emphasis added) relating to a village comprised within the area of Panchayat at the village level'. Such a definition ignores the fact that there are many forest dwelling individuals who would not be registered in electoral rolls. Recognising this reality, FRA in Sec 2.g defines gram sabha as "A village assembly which shall consist of all adult members of a village and in case of states having no Panchayats, Padas, Tolas and other traditional village institutions and elected village committees with full and unrestricted participation of women". **For consistence, the definition of Gram Sabha in the amendment should thus be the same as that given in FRA AND PESA.**

Finally, we submit that IFA requires a comprehensive amendment in the light of FRA, not just some piecemeal and minor amendments as being proposed. At any rate, all amendments to IFA passed after enforcement of FRA should be in conjunction with FRA.

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