

12 September 2014

To

Shri Narendra Modi
Hon'ble Prime Minister of India

Subject: Petition against violation of the Forest Rights Act and the provision for gram sabha consent for diversion of forest land for developmental projects.

Dear Sir,

We wish to express our deep concern at the recent attempts by the Central Government to do away with the statutory and mandatory requirement of Gram Sabha consent for diversion of forest land for non-forest uses as reported extensively by the media¹. The proposed modifications are in direct violation of the Forest Rights Act, a historic legislation which was enacted by Parliament after a prolonged struggle by *Adivasis* and forest dwelling communities, with the intent of overturning 150 years of injustice done to this country's poorest communities.

The proposed changes are also against the directions of the Hon'ble Supreme Court of India which has in no uncertain terms affirmed the central role of Gram Sabhas in decision making and the statutory requirement of consent from Gram Sabhas in the landmark judgment of the Supreme Court in the case of diversion of forest land from the customary habitat of Dongria Kondhs in Niyamgiri.

Therefore such changes will be unconstitutional and will impact the decisions taken by our august Parliament.

No effective "development" can take place in the country by giving a handful of bureaucrats in Delhi the sole power over the natural resources of this country. The coal scam has already shown the result of such unaccountable power. Democratic governance of forests and natural resources will only be achieved if local communities and gram sabhas are involved in the decision-making process. This is also the fundamental right of these communities to have a say in matters that directly impact their lives. The provisions of FRA are the minimum required to ensure some degree of transparency and accountability in the governance of forest land and resources.

¹ <http://www.hindustantimes.com/india-news/newdelhi/nda-government-working-to-dilute-forest-rights-act/article1-1237540.aspx>
<http://indianexpress.com/article/india/india-others/oram-hints-at-easing-forest-project-norms/>
http://wap.business-standard.com/article/economy-policy/govt-may-do-away-with-tribal-consent-for-cutting-forests-114090900008_1.html

As noted below continued violations of this law and attempts to further undermine it seem to indicate a lack of political commitment towards direct democracy which is a matter of grave concern. This is particularly surprising when your government has promised to create a system of development based on “*Jan bhagidari*” (People’s participation) and has vowed to strengthen the Gram Sabha and to “*respect its inputs for developmental processes*”.²

Gram Sabha consent as a requirements has been recognised in the circulars and guidelines issued by the Ministry of Environment and Forests on the 3rd of August 2009³, the Ministry of Tribal Affairs on 12th July 2012⁴ and on 7th March 2014 (on linear projects)⁵, which make it mandatory to ensure that vesting and recognition of forest rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereafter FRA) is completed and *each affected* Gram Sabha has given its consent or rejection in writing before the proposal for diversion of forest land can be considered for diversion for non-forest use under the Forest (Conservation) Act, 1980.

As noted above, the FRA was enacted to address the historical injustice meted out to Scheduled Tribes and other traditional forest dwellers including those displaced by State developmental projects. The law itself was a result of a long struggle by the forest dwelling communities and the civil society organizations, the above-mentioned circulars and guidelines were issued by MoEF and MoTA 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.

Meanwhile, several states continue to violate the provisions of the circular, especially regarding Gram Sabha consent. To fulfill the 50% quorum requirement, Gram Sabha resolutions have been forged by local level officials and project proponents for instance in Singrauli District of Madhya Pradesh for the diversion of forest land for the Mahan Coal Ltd., and in Hensamul village in Angul District of Odisha where no Gram Sabha meeting itself was conducted. In many cases the presence of project proponents in these Gram Sabha meetings hinders the proceedings. Often project proponents themselves conduct Gram Sabha meetings without the knowledge of the district administration in Jala village of Jharkhand’s Latehar district for mining the Ganeshpur coal block! Violation of FRA and the Gram Sabhas consent has been well established even by government committees as in case of diversion of forest land for Posco in Odisha. These are all

² Election Manifesto (2014). Decentralisation and People’s Participation: From Representative to Participatory Democracy. (pp. 9). In *Ek Bharat Shrestha Bharat: Sabka Saath Sabka Vikas*. New Delhi: Bharatiya Janata Party

³ 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.*”

⁴ Letter No **23011/32/2010-FRA issued by the Ministry of Tribal Affairs to the State governments.**
<http://tribal.gov.in/WriteReadData/CMS/Documents/201212031202044013671File1416.pdf>

⁵ Letter No 23011/02/2014-FRA issued by the Ministry of Tribal Affairs to the State governments.
<http://tribal.gov.in/WriteReadData/userfiles/file/Picture%20084.pdf>

violations well acknowledged, either in courts of law or by the Ministry of Tribal Affairs (the nodal agency for the implementation of the FRA). **We are deeply shocked that the Central government has not taken any concrete step to either cancel the clearances given to these projects or to hold those responsible to account.**

The Gram Sabha, as envisioned under the FRA is a people's institution and the Act also recognizes traditional village assemblies of tribal and other forest dwelling communities, which includes pastoralist groups, nomadic communities and Particularly Vulnerable Tribal Groups, all of whom have a strong dependence on forest land, and all who have been severely displaced and dispossessed in the past due to State developmental activities.

We seek your immediate and urgently intervention to prevent such violation of the letter and spirit of a historically significant Act and to fulfill your promises.

Sincerely,

Y Giri Rao, Tushar Dash, Vasundhara, Odisha

Neema Pathak, Meenal Tatpati, Kalpavriksh, Pune

Shankar Gopalkrishnan, C R Bijoy, Campaign for Survival and Dignity (CSD)

Roma, Ashok Chowdhury, All India Union of Forest Working People (AIUFWP)

Anurag Modi, Samajwadi Jan Parisahad and Mangal Singh, Shramik Adivasi Sanghathan, M. P.

Madhu Sarin, Chandigarh

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Deepak Pani, Gram Swaraj, Odisha

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Guman Singh, Coordinator, Himalaya Niti Abhiyan, Himachal Pradesh

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Copy to,

Shri Jual Oram, Union Minister, Ministry of Tribal Affairs

Shri Prakash Javdekar, Union Minister, Ministry of Environment & Forests