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## [Attempt to Re-Colonize Forests in India The new Draft Amendments to Indian Forest Act](#)

*A long cycle of state repression in India now sees new amendments to the colonial Indian Forest Act which would not only make forest bureaucracy more powerful than ever, but would also de facto put an end to the landmark Forest Rights Act, besides legalising the entry of big corporations into the forest sector.*

As general elections for a new Indian parliament draw nearer, **the far-right BJP government's offensive against forests and forest communities in India scales up**. Earlier this year, this unabashedly pro-corporate government failed to defend the landmark Forest Rights Act of 2006 in a Supreme Court decision and created a situation where about 10 million forest dwellers of India face summary eviction (1). The government has now proposed **new amendments to the colonial Indian Forest Act which would not only make forest bureaucracy more powerful than ever, but would also de facto put an end to the Forest Rights Act altogether, besides legalising the entry of big corporations into the forest sector.**

India's Forest Rights Act (FRA) is a fundamental law that recognizes many rights of *Adivasis* (indigenous peoples) and other traditional forest dwelling communities. It also empowers village assemblies – *the Gram Sabhas* – to govern their own forests as well as other forests they depend on. The FRA has been under attack since its inception - not only from the mining and tree plantations industry, to name a few, but also from the conservation industry. (2)

The draft amendments to the Indian Forest Act of 1927 (IFA) were sent to various state governments for comments on 07 March 2019 by the central Ministry of Environment, Forests and Climate Change (MoEFCC), though they are yet to be officially released for public comments. **Activist groups call the proposed new IFA worse than its colonial version — it perpetuates the same historic injustice against forest communities** which the FRA had sought to address. (3) **It is a move to re-colonise the prevailing colonial forest regime**, instead of democratising it so the law can serve critical environmental, rights and livelihood needs of people through the primary agency of *Gram Sabhas*, say the groups.

### ***More Coercion, more State Control***

According to the proposed amendments, the state would appoint Forest Settlement Officers who would 'settle' all kinds of forest rights. Unless otherwise explicitly claimed, sanctioned and recorded — in writing —, **community rights would be extinguished. The amendments do not foresee any role for community institutions such as the *Gram Sabhas*** in the entire rights recognition process; yet, the FRA provides for such a role. Besides, even in cases of adequately recorded rights, those can be 'acquired' in the interests of conservation and then 'commuted' — which means that the rights holders can be paid off, irrespective of the forest rights' nature, scale and location.

Instead of withdrawing forest offence cases, as demanded by various civil society groups, **all possible uses of forests by communities (unless permitted by forest officers) would be**

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**criminalized.** 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, as pointed out by many activist groups in India. (4)

**The draft amendments introduce a new legal category called 'production forests' which makes room for large-scale privatization.** These new 'production forests' that can be notified in all kinds of forests, can be used for 'sustainable' forestry operations such as logging, monoculture commercial plantations and ecosystems services trading, including carbon trading under REDD plus.

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.

### ***Policy Reforms: Movements use FRA to Stop Deforestation***

This turn of events was not really unexpected. Neoliberal policy reforms enacted or proposed in the last five years seek to undo democratic reforms such as the landmark 2006 Forest Rights Act (FRA) and Amendments to the Wild Life Protection Act of 2006, initiated during the tenure of the previous United Progressive Alliance (UPA) government. Both pieces of legislation, in particular the FRA, together with the 1988 National Forest Policy and the 1996 PESA (Panchayat Extension Act to the Scheduled Areas), sought to provide a policy framework that brought welcome reliefs for the beleaguered forest communities in India and marked significant departures from the colonial model of forest management based on coercion and extraction.

**The FRA in particular seeks to replace the infamous forest *raj* — feudal-colonial rule of forest bureaucracy — with decentralised and localised control and governance.** In the long term, this will enable better-looked-after and cared-for biodiverse forests in place of a *bricolage* made of logging coupes, monoculture commercial plantations and so-called 'human-free' wild life parks, all of which relentlessly displace forests and their complex ecologies made of human and non-human inhabitants. No wonder that the state was unwilling to implement the law. Forest officers of all ranks, corporate-owned media and big conservation NGOs kept on opposing FRA from day one. Inversely, new movements in opposition to extractive industries and state stranglehold over forests increasingly started to mobilise around the implementation of FRA. **The new movements picked up older legacies and threads, and turned state laws such as FRA and PESA into sites of new struggles.**

In the last two decades, strong tribal and peasant movements against mining and forced industrialization erupted in forest and coastal areas of Odisha. In Niyamgiri, the Dongria Kondh, a typical forest community, mobilized successfully against a proposed bauxite mining project by the infamous Vedanta group, which would have otherwise destroyed their forest and livelihoods. As in Niyamgiri, the farmers of Jagatsingpur successfully invoked FRA in their long struggle against forced land acquisition by the state to set up a huge plant by the Korean steel giant Posco. In Mahan, in Madhya Pradesh, the forest communities organised under the banner of Mahan Sagharsh Samiti (MSS) succeeded to stop a coal mining project jointly owned by Esaar and Hindalco, which threatened to destroy 1200 acres (over 486 thousand hectares) of old Sal forests, besides displacing 54 forest-dependent villages and their 500,000 residents. (5) Forest communities, including the indigenous Madia Gonds in the Gadchiroli district of Maharashtra, have long been opposing the string of proposed iron mines, which would directly destroy approximately 15,000 hectares of dense forests and will affect another 16,000 hectares. In the neighbouring Korchi area, gritty community resistance forced premature withdrawal of an iron mining project. (6) In the Sarguja and Raigarh districts of

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Chattisgarh, the communities mobilised against coal mining. (7) In other areas of Chattisgarh, Madhya Pradesh, Maharashtra, Jharkhand and West Bengal, communities and their movements have assumed control of their forest spaces, stalling and sometimes stopping logging operations by the forest department. (8)

### ***State Responds with more Deforestation***

Though popular resistance has been using state laws such as FRA and PESA to stop deforestation and elaborate legal provisions are in place for community control of forests, these did not seem to deter the Indian state from going ahead with organised deforestation.

According to official statistics for forest 'diversion' compiled by the Ministry of Environment, Forests and Climate Change, **a total of 1.5 million hectares of forests were diverted in the time period 1980-2019**. From this, more than half a million were for **mining**, the rest for **thermal power, transmission lines, dams** and other projects. (9) In the last three years (2015-18) alone, the Indian Government has given 'forest clearances' for **clear-cutting more than 20,000 hectares of forests** (10), most of them dense.

Under FRA, the process of forest diversion mandatorily includes the community consent on completion of forest rights recognition process, which has meant that **such forest clearances have been routinely issued on the basis of consents obtained largely by coercion and fraud**. (11) The Government counts such rampant 'diversions' of forests among the 'organised' and 'managed' drivers of deforestation, and apparently does not list emissions caused by those in its greenhouse gas emissions inventory. It, however, collects huge sums of money from the commercial users of forestlands according to **its controversial Compensatory Afforestation (CA) protocol, which obliges industries and other forest users to pay for 'compensating' their destruction with new plantations and ecosystem services** (12). After the enactment of the Compensatory Afforestation Act 2016 (CAF Act), the accumulated CA funds would now reach the state forest departments with greater ease, and as the activist groups apprehend, these would be increasingly **used to undermine community control of forests**. Completely ignoring widespread opposition against the new CAF act and in abject violation of FRA, the Indian state is seeking to institutionalise and legitimise the process of putting the country's forests on sale.

### ***Attack on FRA: Neoliberal reforms***

While efforts to dilute the Forest Rights Act started during the tenure of the previous United Progressive Alliance (UPA) government, systematic and relentless attacks on the legislation started only after the present BJP government came to power in 2014. In the same year, India's National REDD plus strategy was released, which called for wholesale commodification of India's forests in the name of climate change mitigation. In 2015, the government came out with a prescription for privatising India's forests, which had to be shelved because of widespread protests. In 2016, the infamous Compensatory Afforestation Act was passed. In 2018, the National Forest Policy was launched, which prescribed, among other things, unimpeded entry of corporate capital in forestry, besides legalising joint forest management (JFM), a system of so-called 'participatory forest management' where the Forest Department creates and controls communities for forest protection.

**Despite FRA and its empowering provisions, people's access to forests have consistently been curtailed and criminalised:** the state keeps harassing and persecuting communities and movements trying to implement FRA on their own, and criminal cases are lodged against not only the community activists and *Gram Sabha* members asserting their rights and powers under FRA but also

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marginalised people not aware of the law. The National Crime Record Bureau reports (2014, 2015) on environmental crime in India reveal that 77 per cent of the total 5 846 cases recorded in 2014 are related to violations of the Indian Forest Act of 1927 and the Wildlife Protection Act. Most of the cases were against tribal communities and peoples. (13)

**This sequence of events embodies a never-ending cycle of state repression, the latest instances of which are the much-discussed February 2019 eviction order by the Indian Supreme Court and the Indian government's proposed amendments to the Indian Forest Act.** On 13 February 2019, the Supreme Court, while hearing a long-pending petition against FRA (the contention was that more forest rights meant increased deforestation and the rights holders were largely 'encroachers' in state forests) filed by certain conservation NGOs and retired forest officers, ordered that in all cases of 'final rejection' of forest rights claims under FRA, the claimants have to be summarily evicted. If carried out, this order would mean eviction of about ten million forest dwellers. After vociferous protests from all sections of the society, the eviction has been temporarily put on hold. Immediately afterwards, the Indian government came up with the draft amendments to the Indian Forest Act which in effect puts an end to FRA and makes forest officers sole authority to **privatise forests and deny communities' forest rights, ostensibly in the interest of climate change mitigation, 'production' forestry and conservation.** (14)

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- (1) See WRM 242 bulletin, "[Indigenous Baiga Women in India: Our story should be heard](#)", February 2019
- (2) For more information on FRA and other forest movements in India, see WRM 209 bulletin, "[Indian Forest Struggles: the quest for alternatives](#)", December 2014.
- (3) Joint Press release by Community Forest Resources-Learning and Advocacy (CFR-LA), All India Forum of Forest Movements (AIFFM), Mahila Kisan Adhikar Manch (MAKAAM) and Akhil Bharatiya Mazdoor Kisan Sangharsh Samiti (ABMKSS), also separate releases by AIFFM and Campaign for Survival and Dignity (CSD)
- (4) *ibid*
- (5) See <https://www.greenpeace.org/india/en/issues/environment/2547/mahan-gram-sabha-to-be-held-behind-a-curtain-as-police-seize-signal-booster-solar-panels-and-other-communication-equipment>. In March 2015, the Ministry of Environment refused clearance for the Mahan project. Subsequently, [Ministry of Coal announced that the Mahan coal block would not be auctioned for mining](#).
- (6) In Korchi alone, 12 mining leases were proposed, impacting over 1032.66 hectares. See Neema Pathak Broome. N.P, Bajpai. S and Shende. M(2016): [Reimagining Wellbeing: Villages in Korchi taluka, India, Resisting Mining and Opening Spaces for Self-Governance](#). See also [this article](#) and [this one](#).
- (7) See Sethi. N: [Five coal blocks in Chhattisgarh might see land conflict](#), January 15, 2015.
- (8) Interviews with activists from All India Forum of Forest Movements (AIFFM).
- (9) [http://egreenwatch.nic.in/FCAProjects/Public/Rpt\\_State\\_Wise\\_Count\\_FCA\\_projects.aspx](http://egreenwatch.nic.in/FCAProjects/Public/Rpt_State_Wise_Count_FCA_projects.aspx)
- (10) According to [information presented in the Parliament](#), Telangana topped the list with 5,137.38 hectares, followed by Madhya Pradesh with 4,093.38 and Odisha with 3,386.67 hectares.
- (11) [Mahan Gram Sabha to be Held 'Behind a Curtain' as Police Seize Signal Booster, Solar Panels and Other Communication Equipment](#), Press Release by Greenpeace India.
- (12) See WRM 217 bulletin, "[Deforestation funds more plantations: The new Compensatory Afforestation Fund Bill in India](#)", September 2015.

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(13) Observations by Geetanjoy Sahu, School of Habitat Studies, Tata Institute of Social Sciences (TISS): e-mail communication

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See [https://www.business-standard.com/article/economy-policy/modi-govt-s-move-to-amend-forest-act-takes-a-giant-leap-backwards-119040101292\\_1.html](https://www.business-standard.com/article/economy-policy/modi-govt-s-move-to-amend-forest-act-takes-a-giant-leap-backwards-119040101292_1.html). The Preamble to the Draft Amendments say: “Whereas it is imperative to conserve forests, to improve the ecosystem services that flow from forests, to ensure environmental stability and wellbeing of people in general and forest dependent people in particular, to meet the national developmental aspirations and the various international commitments, to strengthen and support the forest based traditional knowledge and all matters connected therewith or ancillary or incidental thereto, with peoples’ participation and to provide a comprehensive legislation to deal with issues related to forestry sector and therefore the Indian Forest (Amendment) Act, 2019 is enacted (...)”