

# APPEAL TO INDIA, TO ITS SUPREME COURT, STATES, PARTY LEADERS, TO THE NHRC, NCST AND TO THE UN ORGANS TO PROTECT MILLIONS FOREST DWELLERS' HUMAN RIGHTS AND BIOCULTURAL DIVERSITY FROM FORCED EVICTIONS

We appeal to India's Government and States, its Supreme Court, party leaders and Commissions on Human Rights (NHRC) and Scheduled Tribes (NCST) and to the United Nations organs monitoring the implementation of India's obligations, to ensure that:

- India complies with its obligations to fully protect from forced evictions millions of people of forest communities whose human rights and biodiversity are now threatened by eviction orders and ensure that all their forest rights under India's Forest Rights Act (FRA) shall be recorded respecting their human rights, India's obligations and their biocultural diversity
- Supreme Court order 13/2/19 and rejections of forest rights claims it concerned must be reviewed to fully comply with the FRA, affected communities' constitutional rights, the Gram Sabha's authority and India's UN obligations on human rights and biodiversity. India shall not strengthen forest officials' powers provided by colonial laws like Indian Forest Act as these have led to decades of forced evictions and commercial capture, degradation, pollution and overconsumption of biodiverse forests. (1)

Under the FRA, tribal and other traditional forest dwellers can claim rights on forests they have customarily used. But India's Supreme Court ordered on 13/2/2019 the states to ensure on millions of forest dwellers (over 1 million families) whose claims have got rejected "that where the rejection orders have been passed, eviction will be carried out". (2) India threatens thus to violate human rights of millions of indigenous tribal or other traditional forest dwellers in disregard of its obligations to secure adequate legal protection from forced eviction. But since even India's Tribal Ministry, the nodal agency for FRA implementation did not have proofs on legality and validity of such rejections, on 28/2/19 the Court stayed its eviction order, directing states to clarify by 10 July whether the claims verification and rejection procedure has been completed observing due process of law. (3)

In this court case "preservation of forests" was assumed to challenge tribal forest rights.(4) Yet, because tribals are only 9 % of India's population and still about 60 % of India's biodiverse forests have survived in areas where tribals live, they have managed better than others to save biodiverse forest by adapting their life to its regeneration. Forest dwellers' rights to continue to do so have to be respected to preserve biodiverse forest - as required also by India's treaty obligations on biodiversity. (5)

As such customary rights to their forest-based lives "could not be recorded" earlier and the customary nature and extent of these rights are thus "not adequately recognized" yet (6), the FRA provides that their forest community's village council, "the Gram Sabha shall be the authority to initiate the process for determining the nature and extent" of rights "by receiving claims, consolidating and verifying them" (7) as long as the customary nature and extent of all forest rights have got fully recorded.



1. While the Supreme Court's order seems to assume that "preservation of forests" would require forest dwellers to be evicted on the basis of rejections of forest rights claims (8), the FRA requires India rather to secure their communities' tenures, rights and "authority for sustainable use, conservation of biodiversity" in their customary areas where they are "integral to the very survival and sustainability of the forest ecosystems"(9) and have thus to be protected from evictions to protect the forest. Their eviction from such forests can violate their rights "to protect, regenerate or conserve or manage any community forest resource (CFR) which they have been traditionally protecting and conserving for sustainable use", having thus saved the forests. (10)

These Community Forest Resource (CFR) rights can not remain thus rejected because the FRA process "shall ensure" that CFR rights are duly addressed and "recognized in all villages with forest dwellers and the titles are issued" before the procedure is completed. (11) And "save as otherwise provided, no member of a forest dwelling [...] Tribe or other traditional forest dweller shall be evicted or removed from forest land under his occupation till the recognition and verification procedure is completed". (12) Forced evictions are thus currently not allowed as the legal procedure is clearly not completed, also because:

- For most villages CFR title has not been issued or processed as required and the claim verification has hardly started in wide areas on many other forest rights - including also a right to claim further "any other traditional right customarily enjoyed".(13)
- Forest dwellers shall not be punished by eviction for states' inability to clarify the procedure as even the Supreme Court order wonders if due "procedure" was "adopted for rejection orders/claims". (14) It "would amount to penalising them for the failure of the state machinery to inform them of their rights" if their rights to claim get removed already when in many areas where some claims are rejected, people are still "unaware of their rights" - of how to duly claim or get verified many of the rights, (15)
- All forest rights which are not yet claimed, also cultural and spiritual rights, provide sufficient ground to prevent eviction like the Supreme Court in 2013 ordered. (16) Forest dwellers whose some claims get rejected, remain eligible to claim their many other forest rights and to get them examined for further forest rights "cycle of record updation".(17)
- While ordering millions of FRA forest rights claimants to be evicted, the Supreme Court did not clarify even which law would require such claimants of rejected forest right claims to be evicted but wondered still 2 weeks later "under which provision of law the eviction has to be made" (18) - as if 'the eviction has to be made' even without clarity which law would require it !
- The reason "why after the rejection of the claims [...] eviction has not been made" (19) is because a rejection of a claim under the FRA does not justify forced eviction - and even the validity of the rejections due to which millions of people were ordered to be evicted is far from being clear. The court continued to wonder what were "the details of the procedure followed for settlement of claims" and "the main grounds on which the claims have been rejected" and "whether the Tribals were given opportunity to adduce evidence", were "served with [...] rejection orders" or how far "reasoned orders have been passed". (20)

- As the FRA forest rights claimants can not be thus evicted if not "otherwise provided" by law (21), their forced eviction is not provided by law, because the only other provision on eviction of FRA claimants which could allow curtailment of forest rights says they could be legally removed only from "critical wildlife habitats" and even then not by force but only with their "free informed consent" on resettlement. (22) As the evictions ordered now by the Supreme Court are not evictions from such "in-violate", critical wildlife habitats and do not have affected forest communities' consent to such resettlement of their rights, they are not based on adequate legal premises on evicting FRA forest rights claimants. And as people's 'free informed consent' is required even for their removal from such 'inviolate areas', all the more so for their removal from less inviolate areas.

**2.** On 28/2 the Supreme Court noted it as unclear and to be examined also "who is the competent authority to pass such orders" on eviction and what should be the process "for eviction after rejection orders have been passed". (23) But since as an authority, the "Gram Sabha shall be competent to safeguard and preserve the traditions and customs of [...] forest dwellers, their cultural identity, community resources", "customary and religious rights [...] under the Forest Rights Act" and constitutionally, like also the Supreme Court in 2013 ordered. (24), the Gram Sabha is the authority "empowered to":

- "ensure that the habitat of [...] forest dwellers is preserved" from any problematic "practices affecting their cultural and natural heritage" and "to protect wildlife, forest and biodiversity" (25) and community life adapted to forest regeneration.

- "regulate access to community forest resources and stop any activity which adversely affects" them (26) "ensuring that the prior informed consent or approval and involvement of indigenous and local communities is obtained for access to genetic resources where they have" this "established right" to regulate "access to such resources" (27) under the FRA.



Because "the Gram Sabha shall be the authority to initiate the process for determining the nature and extent" of forest rights (28), the ways how the claimed nature or extent of rights gets determined as approved or rejected must be verifiable as being initiated by Gram Sabha - in compliance with how it can fulfil its duties to protect forest dwellers' customary land or way of life in the claimed area. The Gram Sabha - and not the state - is thus the authority to determine in compliance with its duties how community's habitat, heritage or forest resource need to be protected, also from what may be assumed as 'encroachment'.(29)

Thus State or its committees who in verifying a claim find it to be "incomplete" or in need of "additional examination", "shall remand the claim to the Gram Sabha for re-consideration instead of modifying or rejecting" it. (30) If a modern state or any committee it constitutes, by rejecting or modifying claimed traditional right, initiates other process of "determining the nature and extent" (31) of traditional rights than what Gram Sabha has initiated or considers consistent with rights' traditional nature and extent, this may violate "traditions and customs of [...] forest dwellers, their cultural identity, community resources". (32)

Thus all claim modifications, rejections and their reasons which were not informed to the claimants and Gram Sabha in time to enable their petitions, remain invalid and have to be reviewed (33) respecting Gram Sabha's constitutional "power to prevent alienation of land" in forest community and "restore any unlawfully alienated land". (34) On rejected claims, Gram Sabha is the authority to determine in the claimed area whether the claimant may have still other rights to claim (35) or lives in customary community habitat - or how to prevent problems in area's life such as villagers' alienation from forests which sustains them.

**3.** A rejection of a forest right claim in the FRA process is thus not an adequate ground for a state to alienate the forest dwellers by forced eviction from their "not alienable" forest rights (36), also for the following comprehensive and competent legal reasons and requirements of India's laws and international obligations in harmony with which it has to fulfil its law (37):

- FRA requires "granting a secure and inalienable right to those communities whose right to life depends on right to forests and thereby strengthening the entire conservation regime" "while ensuring livelihood and food security" of community, living as "integral to the very survival and sustainability of the forest ecosystems" by its "symbiotic relationship with the entire ecosystem", like the Supreme Court in 2013 ruled. (38) If such forest dwellers are by forced eviction alienated from forests on which their life depends, their inalienable rights are violated - which a lack of registration can not justify.

- As registered property status is "prohibited ground of discrimination", human rights like "access to water", secure food, tenure, home, living conditions or "protection from forced eviction, should not be made conditional on a person's land tenure status" or determined by "whether an individual lives or is registered" in formal or "informal settlement, is internally displaced or leads a nomadic lifestyle".(39) Rejected registration can not thus justify forced eviction.

- "Notwithstanding the type of tenure", all equally must get such "degree of security of tenure which guarantees legal protection against forced eviction", "ensuring security of tenure of all [...] regardless of the type of tenure" (40) - "access to land" with "a secure place to live" for all, "conferring legal security of tenure upon those [...] currently lacking such protection". (41) The Indian Constitution also provides that there has to be no "law which takes away or abridges" anyone's fundamental rights (42) to live and "move freely", "reside and settle in any part of the territory of India" and "to carry on any occupation" (43) including forest dwellers' living in forests and "the protection of the interests of any Scheduled Tribe". (44)

- While tribal forest dwellers are less than 9 % of India's population but about 40 % of those who have been forced to 'development' in India, forcibly evicted, displaced from their homes and their sources of food and subsistence, they already suffer also by global standards most disproportionately from forced evictions, from consequent tenure and food insecurity and from children's malnutrition-caused stunting and wasting. (45) This results also from discrimination against the equal rights of cultures and life-heritages of non-registered land use and tenure, which have often sustained biodiverse forests. Such forced evictions of ca.30 million tribals even after 1947 belong to what the FRA observes as 'historical injustice' which it has to correct.

- As forced evictions are "prima facie incompatible" with human rights, an order on forced evictions of millions of indigenous and vulnerable forest dwellers who "suffer disproportionately from the practice of forced eviction", exposes them to "gross violation of human rights" without due legal protection. (46)

"State itself must refrain from forced evictions", "arbitrary or unlawful interference with one's home" and ensure the "legislation against forced evictions" (47) and "in detail the precise circumstances" for any eviction plans as "warranted by a law" to protect human rights and "welfare in a democratic society" equally for all - so that no-one is rendered "homeless or vulnerable to the violation of other human rights"(48) and that:

- "in no case may a people be deprived of its own means of subsistence" (49) which form inalienable, "essential condition for the effective guarantee and observance of individual human rights", to respect, protect, fulfil and strengthen them compliant to India's obligations.(50) As forest dwelling peoples' life, food, habitat, heritage, health and livelihood are based on customary forest possession, India has to prevent any eviction that retrogrades such their living conditions or otherwise violates human rights. When forest dwellers' right to life "depends on right to forest" state has to "ensure that in no case a forest dweller [...] be evicted without recognition" of such rights, without "adequate compensation" or "free, prior and informed consent". (51)

- Due information about "the alternative purpose for which the land [...] is to be used" has to be first given "to all those affected" (52) who "hold and live in the forest land" customarily and have thus right to claim such land or MFP "ownership, access" or use as "not alienable" rights on forest areas (53) which are often their "most important natural and valuable asset and imperishable endowment from which the tribal derive their sustenance" (54) in respect to which "no person shall be deprived of his property save by authority of law" and "procedure established by law".(55)

#### 4. These legal conditions were not respected as Supreme Court on 13/2 ordered millions of people to be forcibly evicted (56) but could not show - even 2 weeks after ordering states to evict millions of people - which law would require such claimants of rejected FRA forest right claims to be thus evicted (57) or how would the legal protection of their human rights be secured.

While UN treaty bodies, UN High Commissioner and Special Rapporteurs have repeatedly required India to secure and prove forest communities' adequate legal protection from the forced evictions, India continues to violate human rights by forced evictions and discrimination in its new laws and policies. India continues to neglect even its UN human rights treaties' reporting obligations on these issues and its obligations to secure legal protection. (58)

India's forest officers used to act as if forests could be saved by evicting people whose lives directly depend on regenerating forests. Yet India's biodiverse forests got most degraded and denuded during the period when India by its colonial forest laws was most displacing such forest dependent people. India's UN biodiversity commitments however require it on the contrary to respect how "communities depend directly on biodiversity and its customary sustainable use and management for their livelihoods, resilience and cultures and are therefore well placed [...] to efficiently and economically manage ecosystems". (59)

While colonial forest laws gave forest officials wide, corruptive powers to benefit from evicting forest communities and setting forests to business uses of logging, monoculture plantations, ecotourism,mining, dams and led to collapse and degeneration

of biodiverse forests, now India's current government's laws and policies only expand and strengthen such forest bureaucracy's powers which divert, degrade and pollute forests - like India's new draft amendment of the colonial area Indian Forest Act. (60)

If communities whose forest life has been "integral to the very survival and sustainability of the forest ecosystem" (61) and with whom biodiverse forests have so far survived, are forcibly evicted from protecting such forest, that threatens the forest biodiversity and violates communities' right, duty and capacity to protect it. Forced evictions would violate India's duty to fulfil "by 2020" its biodiversity obligations (62) to "protect and encourage customary use of biological resources in accordance with traditional cultural practices" and to respect "practices of indigenous and local communities embodying traditional lifestyles relevant for conservation and sustainable use" of biodiversity. (63) Where biodiversity of an area has been shaped or sustained by the cultures adapted to the life of that area, it is crucial to respect area's indigenous biocultural diversity of life. (64)



## Signatories by 21 April 2019:

- Friends of the Earth International (international organisation/network)
- World Rainforest Movement (international organisation/network)
- Global Forest Coalition (international organisation/network)
- GAIA Foundation (international organisation/network)
- Forest Peoples Programme (international organisation/ network)
- Global Justice Ecology Project (international network)
- Mangrove Action Project (international network)
- Econexus (international)
- Manushya Foundation (Asian regional NGO)
- CORD /National Adivasi Alliance, India
- REDES, Friends of the Earth Uruguay
- PIDP, Integrated Program for the Development of the Pygmy People,Congo
- Abibiman Foundation, Ghana
- COECOCEIBA , Friends of the Earth Costa Rica
- The Oakland Institute, USA
- Budakattu Krishikara Sangha (B.K.S.), India
- Acción por la Biodiversidad, Argentina
- Friends of the Earth Ghana
- Biofuelwatch, UK/US
- Adivasi Jan Van Adhikar Manch, India
- BUND – Friends of the Earth Germany
- New Wind Association, Finland
- FECOFUN, Nepal
- Seba Jagat, India
- Ole Siosiomaga Society Incorporated, Samoa (Pacific)
- Emmaus Aurinkotehdas ry, Finland
- Raja Moola Adivasi Vedike, India
- Forum Ökologie & Papier, Germany
- S. Faizi, Ecologist, Trivandrum, India
- Maan ystäväät, Friends of the Earth Finland



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the Earth  
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WRM



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## Notes and references

1. India's draft 2019 for Amendment to Indian Forest Act, 1927 would strengthen the powers which the forest officers got under the colonial rule to benefit from evicting forest dwellers and distributing forests to commercial purposes
2. The Supreme Court of India order on 13-02-2019, Record of Proceedings, Writ Petition(s)(Civil) No(s). 109/2008 Wildlife First & ors. versus Ministry of Forest and Environment & ors.
3. The Supreme Court of India order on 28-02-2019, Record of Proceedings, Writ Petition(s)(Civil) No(s). 109/2008 Wildlife First & ors. versus Ministry of Forest and Environment & ors.
4. The Supreme Court of India order on 13-02-2019, Record of Proceedings, Writ Petition(s)(Civil) No(s). 109/2008
5. UN Convention on Biological Diversity (CBD), articles 8(j) and 10 (c), FAO Plant Treaty articles 5.1 c-d, 6.2 d-f and 9.1-9.2 and Nagoya Protocol, articles 6.2 and 12.4.
6. Forest Rights Act (FRA), preface

7. FRA section 6.1
8. The Supreme Court of India order on 13-02-2019, Record of Proceedings, Writ Petition(s)(Civil) No(s). 109/2008 .
9. FRA preface
10. FRA section 3.1(i)
11. FR rules; 12 B 3 and 4 (FRA implementation rules regarding the FRA section 3.1(i) And even "in case where no community forest resource rights are recognized in a village, the reasons for the same shall be recorded by the Secretary of the District Level Committee" (FR rules; 12 B 4), which mostly has not happened in case of forest dwellers whose claims have been informed as rejected
12. FRA section 4.5
13. FRA, section 3.1(l) Also Particularly Vulnerable Tribal Groups and pre-agricultural communities have mostly not yet got their habitat rights (FRA,section 3.1e) even though these were to be obtained in all their villages before procedure is completed
14. The Supreme Court of India order on 28-02-2019, Record of Proceedings, Writ Petition(s)(Civil) No(s). 109/2008
15. Government of India Ministry of Tribal Affairs and UNDP: Frequently asked questions on the Forest Rights Act, page 1. Tribal Ministry which is the nodal agency responsible to guide the FRA implementation has clarified that: "There is no time limit for receiving applications". The question what is within a community and its culture the time needed for the process of verifying all customary forest rights and what is in the community the "work to be done for implementation of FRA has to be assessed by the Gram Sabha [...] which is in the best position to decide its own cut-off date." It can after 3 months of receiving the claims "extend such period after recording the reasons it is doing so." (<https://tribal.nic.in/FRA/data/FAQ.pdf>)  
As long as the Gram Sabha sees it as needed for the community's tradition, customs and life-heritage to receive further such claims, the procedure is not completed - neither on the claimant nor on the area of the community and evictions are prohibited no matter whether some individual claims are rejected. Also the Supreme Court has noted that: "Many of the STs and other TFDs are totally unaware of their rights. They also experience lot of difficulties in obtaining effective access to justice because of their distinct culture and limited contact with mainstream society" (The Supreme Court of India, Judgement on Niyamgiri 18.4.2013, section 39)
16. The Supreme Court of India, Judgement on Niyamgiri 18/04/2013, sections 38, 58-60 and UNDRIP article 25
17. FRA section 4.5 and The Supreme Court of India, Judgement on Niyamgiri 18/04/2013,(Orissa Mining Corp vs.MoEF & Ors) sect.49, point (i)(e)
18. The Supreme Court of India order on 28-02-2019, Record of Proceedings, Writ Petition(s)(Civil) No(s). 109/2008
19. The Supreme Court of India order on 13-02-2019, Record of Proceedings, Writ Petition(s)(Civil) No(s). 109/2008
20. The Supreme Court of India order on 28-02-2019, Record of Proceedings, Writ Petition(s)(Civil) No(s). 109/2008
21. FRA section 4.5
22. FRA section 4.2. e
23. The Supreme Court of India order on 28-02-2019, Record of Proceedings, Writ Petition(s)(Civil) No(s). 109/2008
24. The Supreme Court of India, Judgement on Niyamgiri 18/04/2013, sections 56-57 and PESA Act, section 4 d
25. FRA, section 5 (a) and (c), see also The Constitution of India, sections 29.1 and 51 A, (f)-(g)
26. FRA, section 5 d
27. Nagoya Protocol, article 6.2
28. FRA section 6.1
29. Even if titles on CFR or other traditional rights on customary community habitat are not yet approved, they may still be eligibly claimable and the authority to decide if anything have to be removed from community's area may belong to the Gram Sabha.
30. FR rules 12 A (6) (rules of FRA implementation)
31. FRA section 6.1
32. The Supreme Court of India, Judgement on Niyamgiri 18/04/2013, (OMC vs. MoEF) sections 57-59:
33. FR rules 12 A (3), (7) and (10)
34. PESA Act, section m (iii)
35. Government of India Ministry of Tribal Affairs and UNDP: Frequently asked questions on the Forest Rights Act, page 1
36. FRA section 4.4, see also. The Supreme Court of India, Judgement on Niyamgiri 18/04/2013, section 42
37. As the Constitution requires that India shall "foster respect for international law and treaty obligations" (Indian Constitution, section 51 c) and Vienna Convention on the Law of Treaties (VLCT) sets for India the obligation that it "may not invoke the provisions of its internal law as justification for its failure to perform a treaty" (VCLT 1969, article 27), India has to "modify the domestic legal order as necessary in order to give effect to [...] treaty obligations" in "the best way to give domestic legal effect" to international human rights. (CESCR General Comment 9, The domestic application of the Covenant E/C.12/1998/24, paragr. aphs 2-3, 5 & 7)
38. The Supreme Court of India, Judgement on Niyamgiri (Orissa Mining Corporation vs. MoEF & others), 18.4.2013, sections 41-42 and 'Inalienable rights' recognised for forest dwellers on forests, on which their life depends can not be rejected or alienated from them or from the forests in which they live their such forest life as "integral to the very survival and sustainability of the forest ecosystems". (FRA, preface)
39. CESCR General comment 20 on non-discrimination, E/C.12/GC/20, paragr. 15, 25 and 34
40. E/2014/86, Report of the UN High Commissioner for Human Rights on land and human rights, paragraphs 21-22, 28, 62 & 78
41. CESCR General comment No. 4: The right to adequate housing 1991, paragraphs 8 a & e
42. The Constitution of India, section 13.(2)
43. The Constitution of India, sections 19.(1) (d)-(g) and 21
44. The Constitution of India, section 19.5
45. See for example Global Hunger Index 2018, <http://www.globalhungerindex.org/results/> , <http://www.globalhungerindex.org/india.html> and <http://www.globalhungerindex.org/case-studies/2016-india.html> and <http://www.indiaspend.com/cover-story/anger-in-coal-rich-orissa-district-reflects-indias-flawed-mining-policies-99723>

46. CESCR General comment No. 7: The right to adequate housing: Forced evictions, paragraphs 1,2, 4, 7 and 10 and CESCR General comment No. 4: The right to adequate housing paragraph 18
47. CESCR General comment No. 7: The right to adequate housing: Forced evictions, paragraphs 8-9
48. Ibid, paragraphs 5, 11, 14 and 16. State has to demonstrate laws and their impacts to be "in strict compliance with the relevant provisions of international human rights law"
49. Article 1.2 of the ICESCR and ICCPR see also UNDRIP article 20
50. CCPR, General comment No. 12: Article 1 (Right to self-determination), paragraph 1
51. The Supreme Court of India, Judgement on Niyamgiri (Orissa Mining Corporation vs. MoEF & others), 18.4.2013, sections 41-42 and 49, guideline (v) (a) corresponding to Government of India Ministry of Tribal Affairs, Forest Rights Act 2006, Act, Rules and Guidelines, Guidelines on the implementation of the FRA; (<https://tribal.nic.in/FRA/data/FRARulesBook.pdf>)

The free, prior and informed consent of the people and communities would be required also in respect to the lands and forests of their life-heritage which they have traditionally used, as shown for example by CESCR General comment 21, paragr. 36-37, 49 (d) and 55 (e) and "Indigenous peoples shall not be forcibly removed from their lands or territories [...] without the free, prior and informed consent of the [...] peoples concerned" as they "have the right to determine and develop priorities and strategies for the development or use of" the lands and forests they have traditionally used. (UNDRIP articles 10 and 32.1) "States must refrain from introducing any deliberately retrogressive measures with respect to de jure or de facto protection against forced evictions." (UN Basic Principles and Guidelines on Development-Based Evictions and Displacement, A/HRC/4/18, paragr. 17-18, 21) See also CESCR General comment 7: The right to adequate housing: Forced evictions, paragraphs 13 & 16.

52. CESCR General comment No. 7: The right to adequate housing (art. 11 (1) of the Covenant): Forced evictions, paragr. 15

53. FRA sections 3.1 (a) and (c) and 4.4,

54. The Supreme Court's judgement on Samatha v. Andhra Pradesh, 11/07/1997 and judgement on Niyamgiri (Orissa Mining Corporation vs. MoEF & others) 18.4.2013, section 33

55. The Constitution of India, sections 21 and 300 A

56. The Supreme Court of India order on 13-02-2019, Record of Proceedings, Writ Petition(s)(Civil) No(s). 109/2008

57. The Supreme Court of India order on 28-02-2019, Record of Proceedings, Writ Petition(s)(Civil) No(s). 109/2008

58. See for example E/C.12/IND/CO/5 8 August 2008 paragraphs 28, 31, 44 and 71 and CERD/C/IND/CO/19, 5 May 2007, paragraph 20, and A/HRC/WG.6/13/IND/2, paragraph 68, see also 56 and 65 and UN High Commissioner for Human Rights: "Let us ensure that development for some is not to the detriment of the human rights of others" and A/HRC/34/51/Add.1, Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, on her mission to India, 10 January 2017, paragraph 47-49, 69-70 and A/73/176 The Report of the Special Rapporteur on the rights of indigenous peoples to the General Assembly, paragraphs 59-60, 85 and 93 and A/HRC/39/17, The Report of the Special Rapporteur on the rights of indigenous peoples, paragraphs 32 and 63.

As "forced evictions constitute a gross violation of international human rights and must be strictly prohibited in domestic law, properly enforced by courts", it was already severe violation how "the demolition of over 53,000 homes inforced evictions in 2017 in India". Also the "courts frequently perpetuate systemic discrimination and stigmatization" where people "are treated as violators of laws and "encroachers" on the land" instead of being respected "as rights holders entitled to remedies". "indigenous peoples have the right to the adjudication of their claims to the right to land and housing in a manner which respects their own laws and traditions". They are entitled to making "the claim to a right to live in dignity and security" in their habitat to which their life belongs as to its home. (A/HRC/40/61 Access to justice for the right to housing Report of the Special Rapporteur 15January 2019 paragraphs 35-38, 40-42, 46, 72, 74 and 76) See also UNDRIP article 27

59. UNEP/CBD/COP/DEC/XII/12, B, Annex, paragraph 6 a-b

60. Draft 2019 Amendment to Indian Forest Act, 1927, see for example sections 16, 22 A(2),26(3),29(3),30(b),34(c) and 66(2))  
61 FRA, preface

62. CBD Aichi Target 18

63. CBD articles 8 (j) and 10 (c)

64. [https://www.siemensuu.org/sites/default/files/adivasi\\_biocultural\\_community\\_protocol\\_study\\_ville-veikko\\_hirvela\\_nov\\_2018.pdf](https://www.siemensuu.org/sites/default/files/adivasi_biocultural_community_protocol_study_ville-veikko_hirvela_nov_2018.pdf)

