

MoEF's actions yet again promise one thing, deliver something else

Friends,

On March 22nd, the Environment Ministry announced two significant decisions: a letter to State governments on bamboo and Cabinet approval for an amendment to the Indian Forest Act. In both cases, the stated intent does not match what has actually been done; and while the claim is being made that these will protect people's rights and reduce harassment, the former will have no effect at present and the latter will make the situation worse.

In the case of bamboo, consider the following:

- As has recently become characteristic of the Environment Ministry, the letter has several welcome statements of principle - that are then essentially nullified by the operational provisions. Thus for the first time the letter recognises that the Ministry and the State Forest Departments have been breaking the law by not treating bamboo as a minor forest produce; it talks of democratic management, community planning and gram sabha transit permits; etc. But what it says is not matched by what it actually provides for.

- Thus, first, the letter actually does not suggest any change in the status quo in forest lands, except in areas where community forest resource rights are recognised. This is welcome in principle; but in practice there are hardly any villages in the entire country where such rights have been genuinely recognised. In fact this right is precisely what the governments at both Central and State levels, and particularly the Forest Department, have been ignoring and opposing.

- In the meantime the letter goes on to reiterate the demand that [Joint Forest Management](#) committees be made into standing committees of panchayats, without allowing the panchayats themselves any say, and without addressing the real reason that such committees are anti-democratic - the fact that forest guards are their secretaries and joint account holders, that all the committees' work is subject to Department working plans, and that their funds are controlled through the Department-controlled Forest Development Agencies. Now that communities have a legal right and power to protect and manage forests, these bodies are both unnecessary and of questionable legality. As we said in an [earlier statement](#)

, keeping the forest bureaucracy in control, but making JFM committees into panchayat bodies, will not make them democratic - it will subvert actual community forest management and therefore block recognition of community forest resource rights.

By advocating JFM and community forest resource rights at the same time, the letter is contradicting itself - and will nullify whatever benefits it is supposed to give while increasing

conflict.

- After acknowledging that bamboo must be treated as an MFP, the letter goes on to ignore what this actually means - namely that under the FRA, in all forest areas (not just community forest resources), forest dwellers are the owners of bamboo and have the right to use, collect and dispose of it. This right is being violated by all State governments with impunity. By saying that the existing arrangement will continue except in community forest resource areas, the letter is upholding an illegal system. Moreover, it goes on to talk of revenue sharing, when there can be no question of revenue sharing between the owners (the community) and a state regulatory agency (the Forest Department).

The sleight of hand is far more blatant in the case of the Indian Forest Act amendments that have now been approved by Cabinet. Consider the following:

- The Ministry's press note claims that increasing the amount of money that can be levied as a fine (and hence allowing compounding of more high value offences) will reduce harassment of forest dwellers. What we need is not easier compounding of offences but an overhaul of the offences themselves. The IFA provides penalties for all kinds of things - such as collection of MFP in reserved forests, cutting grass, transporting without a permit, etc. - that are now rights under the Forest Rights Act. It also contains draconian provisions (e.g. arrest without warrant in most cases; presumption that any forest produce found on anyone is actually govt property, meaning the person is guilty until proven innocent, etc). This combination is what makes the law an instrument of harassment. Merely revising the monetary limit on compounding will only increase the power to extract bribes - indeed one might even expect an increase in booking of cases, since now the forest officers also know that they need not go through the rigmarole of courts etc. and can simply extract payment of large sums of money on the spot. As long as the Indian Forest Act continues to be a colonial and autocratic law, this decision will in fact increase harassment.

- The most egregious perversion of law occurs in the second proposed amendment - for compounding of offences in the Fifth Schedule areas. Both PESA and the FRA empower the gram sabha to manage their forests and community resources in these areas. Now, under this proposed amendment, it will be given the farcical job of "giving views" on how the Department should punish people, i.e. on whether they should be fined or jailed. One should remember that this proposed amendment comes in a context where the gram sabha's actual legal powers are being ignored when forests are being diverted and destroyed; but now it is to become an aide for legitimising the Forest Department's actions. This is an absurdity. The gram sabha is a statutory management authority to which the Department itself is subject, or ought to be subject if the law were being followed, not a sidekick of a colonial institution.

Campaign for Survival and Dignity
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