

## **CAMPAIGN FOR SURVIVAL AND DIGNITY**

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To:  
Shri Jairam Ramesh  
Minister for Environment and Forests

Sub:- Reasons for not appearing before “Committee to Study the Implementation of the Forest Rights Act 2006”

Dear Sir,

We are a national platform of adivasi and forest dwellers' mass organisations. We are writing to express our dismay at the constitution of a committee to “study the implementation of the Forest Rights Act” by the Ministry of Environment and Forests. While the notification makes a reference to a joint committee, the composition of the committee consists entirely of forest officials (including the Tribal Ministry and TRTI representatives) along with two conservationists. Six of the ten members are forest officials representing MoEF. It is thus essentially an MoEF and forest service committee.

We do not wish to appear before this illegal committee for the following reasons:

**1. The Forest Rights Act was a step forward in forest management in the country due to the fact that, for the first time, it created a legal framework for making conservation and forest management open and democratic. The very constitution and terms of reference of this Committee are an attempt to turn the clock back. The terms of reference include items beyond the mandate of the Environment Ministry and the Forest Service. Whatever stand the committee may take, these subjects are now not the sole preserve of forest and wildlife officials, and to make them so is bad for conservation as well.**

The Forest Departments have a long history of trying to take over all government functions, including developmental ones, in forest areas and to impose their framework of thinking alone on forest conservation. That this has resulted in both injustice and environmental destruction is now widely acknowledged. The Forest Rights Act recognises the powers and roles of democratic institutions (the gram sabhas, under sections 3(1)(i) and 5) as well as the role of other interests, such as the Revenue and Tribal Welfare departments within the State governments and the Panchayat representatives in the committees. The gram sabhas in particular are now statutory authorities for forest conservation whose “roles” cannot be “prescribed” by an MoEF committee. None of these interests or institutions is represented in either MoEF or this committee (excepting the Tribal Affairs Ministry, whose representatives also happen to be forest officials). Even if this committee should come to some relevant findings, this usurpation of power by the Environment Ministry will be an irregular and dangerous precedent.

**2. The Committee's composition consists almost entirely of one party to the dispute that the Act was intended to address. The government itself recognised this fact, which is why the Act was placed under the Tribal Affairs Ministry (unlike all previous attempts to deal with the problem).**

The Forest Rights Act, as its long title states, was passed to address the historical injustice done to adivasis and forest dwellers. The department primarily responsible for that injustice is the Forest Department and the Environment Ministry at the central level. It is this Ministry that controls the resources that people have rights over, and true recognition of rights would result in a significant loss of power to this Ministry and to the Forest Service. As a result of this conflict of interest, the subject of forest rights was removed from this Ministry's mandate in March 2005 and placed within that of the Ministry of Tribal Affairs, through an

amendment to the Government of India (Allocation of Business) Rules. Indeed, the Environment Ministry fought tooth and nail to prevent this law being passed, and retired forest service officers have filed no less than eight court petitions against it. How then can the same Ministry – indeed the very same forest service – be expected to objectively assess the “impact” of the Act in light of the law's objectives?

### **3. The Ministry and the State Forest Departments continue to take actions in violation of the Act.**

While the Ministry has last year (2009) taken steps to bring it closer to compliance with the FR Act on issues of forest diversion, the Ministry continues to violate the Act in many different ways, including:

- Promoting and funding afforestation projects (including compensatory afforestation) that result in evictions and violations of people's rights, despite an indictment by a Standing Committee of Parliament in October 2008;
- Continuing to promote relocation from tiger reserves despite the fact that the legal requirements under the Wild Life Act and the Forest Rights Act (including completion of recognition of rights and scientific evidence of the need for relocation) are not being met;
- Promoting Joint Forest Management and associated programmes without any recognition of or respect for the legal powers of communities under the Act (which now superseded JFM and similar administrative schemes);
- Failing to take action against those responsible for one and a half years of illegal forest clearances given after the Act was notified, as well as the recent illegal Stage II clearance given to POSCO etc. (the clarificatory letter issued afterwards notwithstanding).

All these matters have been brought to the attention of the Ministers and officials of MoEF, both before and after the current term. These are further detailed in the attached national and State level notes on violations. At the State level, Forest Departments are responsible for egregious violations of the Act, including brutal evictions, and have prevented the majority of people from getting their rights. These matters have been widely and publicly discussed, raised by political parties, mentioned in the press and been the subject of mass demonstrations and protests. Yet the TORs of the Committee do not even refer to these issues or to violations of the law by MoEF/Forest Departments at all. Thus, the bias of this Committee is apparent even at the moment of its formation.

In light of the above, we do not wish to participate in a process that we regard as illegal, illegitimate and exceeding the Ministry's powers. Engaging with this Committee would seem legitimate only if :

- The Committee's TORs were restricted to ensuring that the Ministry and State Forest Departments comply with their legal obligations and appropriately respond to the new institutions and powers created by the Forest Rights Act. An MoEF Committee has no mandate and no legitimacy to prescribe or recommend any procedures, roles, or guidelines for any other agency, institution or actor.
- Even if the mandate were restricted as above, the composition of the Committee would require to be changed to ensure fair representation, particularly of community interests; otherwise it will only produce a forest service point of view.
- The illegalities in the Ministry's policies and the forest service's actions are rectified. Continuing illegal actions would only demonstrate that these agencies are not interested in genuine collaboration with empowered rights holders or in genuine compliance with the law.

Sincerely,

On behalf of the Convening Collective