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New amendment bill will endanger India's most ecologically rich forests: Experts to JPC

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New Delhi: The Forest (Conservation) Amendment Bill 2023 could jeopardise vast tracts of ecologically important forests and leave out several so-called unclassified forests that cover around 15% of India's total forest cover, a new report by a high-level working group constituted by Vidhi Centre for Legal Policy on the bill has said.

Unclassified forests are recorded as forests but not included in the reserved or protected forests category. The ownership of such forests varies from state to state, according to the Forest Survey of India. The Forest (Conservation) Amendment Bill 2023 was introduced in Lok Sabha in March and subsequently referred to the Joint Committee of the Parliament. The Joint Committee, headed by BJP MP Rajendra Agrawal invited public suggestions on the Bill on May 3.

In response, Vidhi Centre for Legal Policy constituted a high-level working group of 18 members comprising retired bureaucrats, senior conservationists, lawyers, and representatives from civil society organisations working on rights of forest-dependent communities that drafted the analysis and submitted it to the Joint Committee on May 18.

One of the major provisions of the bill is to cover only land that has been declared or notified as a forest under the Indian Forest Act, 1927 or under any other law. It also seeks to recognise only forest lands that were recorded as forests as on or after October 25, 1980.

"This will be the most perverse interpretation of the clause and endanger most unclassified forests that got protection since the Godavarman judgment (1996). This may include forests yet to be notified under Section 4 and Section 20 of the Indian Forest Act and lands recorded in various government records before October 25 1980-- all of which got protection under the Godavarman judgment. It will threaten a vast tract of forest land by creating an exemption from the Act. That will lead to massive deforestation, fragmentation of existing forests and cause irreparable damage to biodiversity and other ecological services," the report said.

One of the objectives of the bill is to remove any ambiguity around the Supreme Court's December 12, 1996 judgement in TN Godavarman Thirumulpad vs. Union of India and others case that said that "forests" will not only include forest as understood in the dictionary sense, but also any area recorded as forest in Government records irrespective of the ownership.

Acknowledging the importance of lands recorded as 'forest' in government records before October 25 1980 is critical in protecting India's forests as many of them are recorded as unclassified forest, the report said. Many such lands are recorded in local terminology in the government records decades/ years before 1980. As per the latest Forest Survey of India's State of Forest Report (2021), out of the total forest area of 7,75,288 sqkm, 1,20,753 sqkm is categorised as unclassified. These account for approximately 15% of India's total forest cover, and in some states and Union Territories, unclassified

forests are a massive portion of the total forest cover. For example, in northeast India, 97.2% of Nagaland's, 88.2% of Meghalaya's, 75.6% of Manipur's, 53% of Arunachal Pradesh's and 33.4% of Assam's total forest area is categorised as unclassified forest.

Further, the high-level committee has highlighted that in many states, important ecosystems are protected and managed as forests but may not be notified or recognized as such. Some of them also include sacred groves and privately managed lands which have high ecological significance. For instance, in Karnataka's Kodagu district, out of a total district area of 4,097 sq. Km, only 1,439 sq. Km. is notified forests. Other, equally good forest patches in the district are classified as *bane*, *paisari*, *devarkadu*, *urudve*, *uruguppe* etc in the government records. The Maharashtra government recently notified a 1,463 ha of mangrove areas as forest, while a sizable portion is yet to be notified .

Similarly, the Hesaraghatta grasslands in Bengaluru are not notified as forests; the sacred forest of Mangar Bani in Gurugram is recorded as '*gair mumkin pahad*' and is awaiting recognition as forest by Haryana; large tracts of scrub lands in Western Rajasthan that have been managed by the local communities for generations, and one of the last habitats of the critically endangered Great Indian Bustard are yet to be also recognized as forest.

Prakriti Srivastava, Principal Chief Conservator of Forests, Kerala and Purna Singh Bindra, Former member, Standing Committee, National Board for Wildlife have also submitted their comments on the amendment bill to the Joint Committee.

"In a nutshell, the amendments appears to have four basic aims: a) to undo the provisions of the existing Forest Conservation Act; b) to overturn the gains obtained for conservation through the Godavarman judgement; c) to reduce and restrict the ambit and purview of the Forest Conservation Act and convert large forest tracts to other land uses and (d) to privatise large portions of forests ostensibly in the name of creating plantations couched in the language of 'sustainable development' and carbon neutrality. If adopted by the Parliament, this Act will likely be the death-knell for forests and conservation in the near future," Srivastava and Bindra said in their submission.

Further, to limit the Act's ambit to include only those lands which are recorded as forests on or after October 25, 1980 will amount to removing legal protection under FC Act from millions of hectares of land that have the characteristics of forests but are not notified as such. "Its ramifications are ominous: It will exempt significant forests across the country. The bulk of the Aravallis, tiger habitats of the Terai and Central India, the Western and Eastern Ghats, the biodiversity hotspots of the north-east and many mangroves along the coasts will no longer be considered 'forest' and can potentially be sold, diverted, cleared, felled, utilised, exploited without any regulatory oversight, if the bill is passed," their submission added.

The amendment will have a massive impact on forest dwellers and various tribal communities, experts said. "Many of the proposed amendments in the Bill [Section 1A (1)(b) and Section 1A (2)] adversely affect the protection accorded to Scheduled Tribes ("STs") and other Traditional Forest Dwellers ("OTFDs") under the FRA because if the land falls outside the scope of the FCA, it effectively eliminates the requirement of obtaining consent from the Gram Sabha for diversion of that land. The FRA provides

for recognition of the forest rights of the STs and OTFDs, and by doing so, it intends to undo the historic injustice these communities have faced because of the denial of their forest rights,” Vidhi’s committee said.

It recommended that the Joint Parliamentary Committee redraft the bill and include the following in the purview of Forest Conservation Act: (a) land that has been declared or notified or is under the process of being notified as a forest following the provisions of the Indian Forest Act, 1927 or under any other law for the time being in force. (b) the land recorded as forest irrespective of their ownership. (c) land is recognizable as forests by local communities or in terms of its ecological and cultural significance. (d) the land that is identified or used for compensatory afforestation in lieu of forests diverted.

Source: <https://www.hindustantimes.com/india-news/new-delhi-forest-conservation-amendment-bill-2023-may-damage-ecologically-important-forests-exclude-unclassed-forests-risking-biodiversity-forest-dependent-communities-101684866152947.html>