

Government Set to Revise Wildlife and Forest Laws

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The Union environment, forests and climate change ministry is set to revamp two laws that govern India's forests and wildlife, and have a direct bearing on tribal rights. While a preliminary draft of the law which will replace the Wildlife Protection Act has been prepared and shared between select officials, review of the new Forest Act would begin once the ministry sets up an expert group.

In response to detailed queries, Inspector General of Forests, S K Khanduri, on behalf of the environment ministry, said, "I have been directed to inform that the ministry has not prepared any official draft legislation yet."

On condition of anonymity, a senior ministry official acknowledged that the laws were under review. He said the ministry had not circulated any formal draft of the new wildlife law. "We have informed Parliament that we are reviewing the wildlife law. Right now, homework is going on. But, you cannot say there is a zero draft of the ministry. I am not aware of one. It is premature to comment. Our intention is to improve and strengthen the existing law and not dilute any provisions. The draft maybe one with some officers but it's not the ministry's draft."

He then addressed some of the specific queries on the preliminary draft that was shared between select officials of the ministry, and was reviewed by Business Standard.

Under the existing system, green zones with rich wildlife are given higher protection under the wildlife law, which demarcates these forests as national parks, sanctuaries, conservation reserves, community reserves and tiger reserves — having varying levels of protection. These constitute about 6 per cent of the total forest area of the country.

Some key proposals in the draft are to give greater powers to the wildlife wings of the central and state government on forests beyond the identified wildlife areas — tiger reserves, national parks and sanctuaries. This, the official said, would align domestic laws with international norms. About 20 per cent India's total forests are protected, he claimed. "Also, if a species such as tigers is found poached outside these parks and sanctuaries, we should be able to apply the penalties under the wildlife protection law, besides that of trespass under the forest law," he added.

The draft also proposes to replace the powers of the Prime Minister-led National Board of Wildlife to frame wildlife policies with advising the central government on such policies. It also does away with the board's power to carry out impact assessment studies of development projects proposed inside the special wildlife areas.

The ministry official said, "The board has primarily had an advisory role, it has never drafted a policy or announced one. A policy is something approved by the government. The powers to clear projects in national parks and sanctuaries come from other specific provisions in the law and Supreme Court orders, which continue. The board has anyway never carried out any impact assessment so far, has it? Under other laws we have environment clearance process where detailed appraisals are conducted and similarly there is a forest

clearance process,” he said. The draft also does not provide for a fixed tenure of the experts on the apex board, unlike the current law.

The autonomous National Tiger Conservation Authority is proposed to be brought within the ministry’s forest bureaucracy hierarchy. The authority would have to ensure that its orders are in tune with those of the senior-most wildlife officials of the country, if the provisions in the draft make the final cut.

The proposed Act, as per the draft, could continue some of the existing conflict between wildlife protection regulations with the implementation of Forest Rights Act, 2006, which gives rights to tribals in all kinds of traditional forest lands — including the wildlife zones, such as national parks. The new proposed law, just as the original one from 1972, does not explicitly recognise these rights in all wildlife areas. The existing wildlife law and the tribal rights provided under the FRA have often ended up in conflict during implementation. The government does not maintain a public database of how many tribals have got their rights in national parks and sanctuaries since 2006 when the law was passed. The draft provides for overruling of other earlier laws (such as the Forest Rights Act of 2006) which are repugnant to the provisions of the new wildlife law.

The draft provides that relocation of people from tiger reserves would have to be done in adherence to the Forest Rights Act. But it does not mention the need for consent of tribal gram sabhas explicitly. It provides for merely consultation with either gram sabhas or panchayats in scheduled areas before certain management decisions that the forest department takes for protection of wildlife rich areas, such as buffer zones of tiger reserves.

The draft also proposes to enhance the penalties for violation of law while relaxing the stiff regulations for villagers and cultivators living in vicinity of these wildlife zones, leaving the window open for continuing cultural practices that impact wildlife, such as the controversial Jallikattu in Tamil Nadu.

It could not be ascertained if the antiquated Indian Forest Act, 1927 would be completely overhauled or partly revised and if that would require any changes in the third law that governs use of forests — the Forest Conservation Act, 1980. The ministry has nearly completed the exercise of deciding what areas should legally be covered by these forest laws. Together, these changes hold the potential to substantially alter both the scope and depth of forest governance in India.

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