

But wait! How do we define a forest?



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Forests on Earth serve as natural cradles for all terrestrial life. Indian culture originated as an *Aranya* culture, which was based in the forests. All of Hindu culture's illuminating epics, as well as our best poetic work, dramas, and literary pieces, were developed in the welcoming and creative environment of woods.

But how do we define what constitutes a 'forest'?

According to a ruling of Supreme Court of India in 1996, forest includes all lands that satisfy the dictionary meaning of the word i.e. any large area with significant tree cover and undergrowth.

Under the **Forest Conservation Act of 1980**, all natural forests officially recorded as forests in government records were preserved. In a 1996 Supreme Court decision, the Act's scope was expanded to cover any forests that met the dictionary definition of a forest in order to combat deforestation. This eventually created a new legal category called 'deemed forest lands'. Then Supreme Court ordered the state governments to identify and notify their own deemed forests.

But the Indian government didn't want to define forests in this manner and wasn't satisfied with it. Hence, last year it went against the Supreme Court ruling and did

something big- it passed a new law or rather amended it.

On July 26, Lok Sabha passed the **Forest (Conservation) Amendment Bill 2023 (FCA)**; the government now states that the area should be classified as a forest in its revenue records to consider the land a forest and this is the only definition it will take. It couldn't be a vast plot of land covered with tree cover and undergrowth. Now this was a major issue, as even after almost 30 years of the 1996 judgment, many states are yet left to complete their list of 'deemed forests' and so 28% of India's forests exist outside of the recorded forest area (India State of Forest Report 2021, FSI). And this change jeopardizes everything. These fields might readily be cleared for commercial use. This will impact 197,159 sq. km (27.62%) out of India's 713,789 sq. km of forests, an *IndiaSpend*(2024) analysis has found.

Furthermore, the government granted itself an exemption in the amended act. It removed surveillance for locations within 100 kilometers of India's border (prindia.org). As a result, the government could build transmission lines and roadways without first obtaining environmental clearance or authorization citing national security. This strategic reason is quite vague as this is not properly defined so this can be misused to push



through infrastructure projects that are devastating for the local ecology. These include almost all north eastern states, Himalayas in the north and the entire western India, all these places have ecologically sensitive forests that will open up after this bill and threaten the entire fragile ecosystem of these places. The map of the North Eastern states of India should be examined, and the 100 km points from

the external borders should be marked out. It will be observed that a very small portion of the land falls outside this zone. The issue arises from the fact that 65% of the North East's geographic area is covered by forests (India State of Forest Report 2021, FSI). Consequently, it is implied that most of the forest land would be exempt from scrutiny if the government had its way.

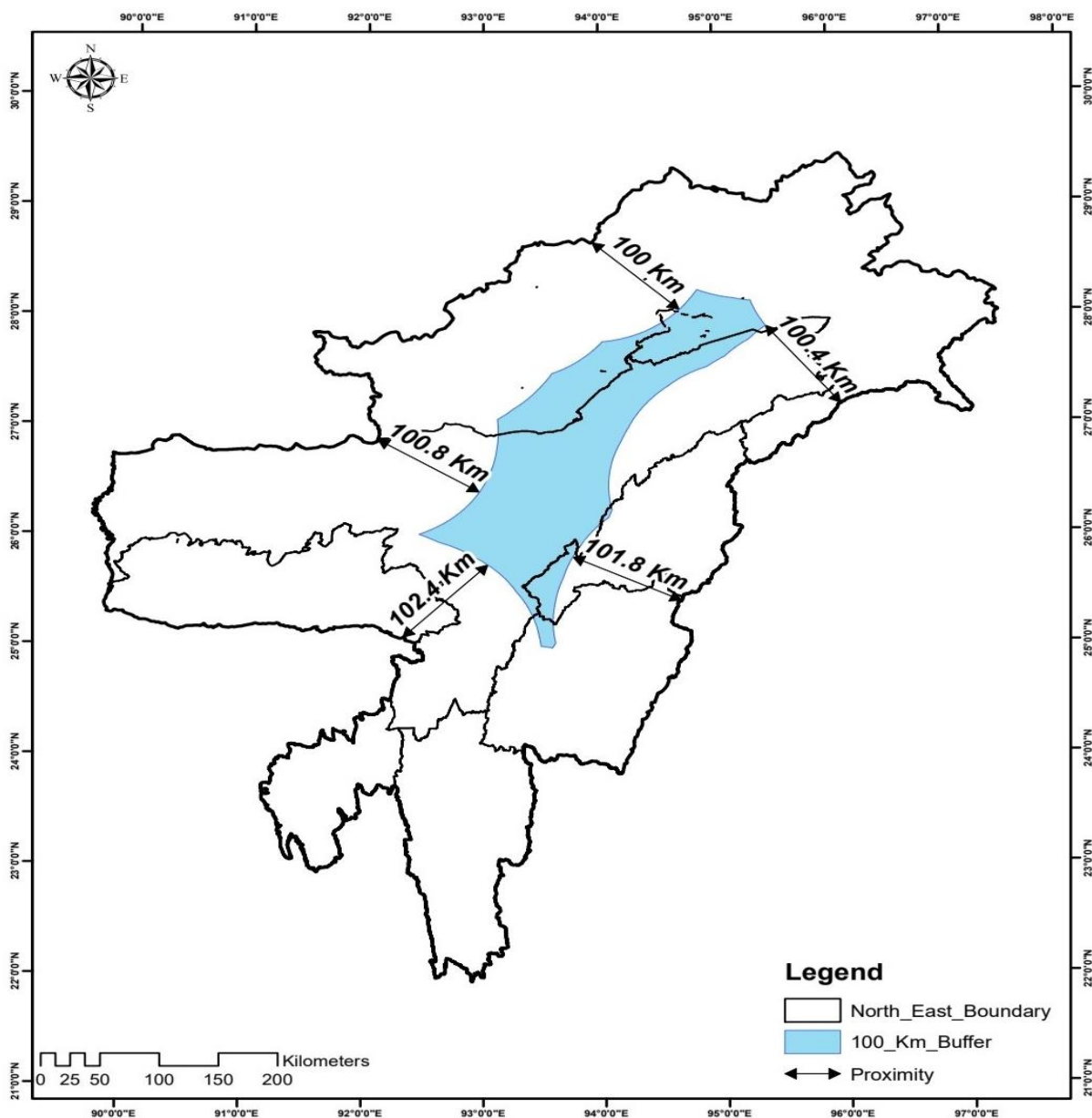


Fig. Map showing 100 km buffer from the boundary of north-eastern states.

(Source: Himdhara)

Then the amendment bill further gives exemption for the forest clearance up to 0.10 hectares along railway lines and public roads owned by the central government (prsindia.org). Moreover, the establishment of zoos, safari parks, and eco-tourism ventures does not necessitate any clearance. In actuality, the amendment will categorize them as land used for forestry purposes. Constructing zoos and safari parks within reserve forests will involve erection of concrete structures, construction of roads for access, installation of power transmission lines, and vehicular movement, among other activities. These developments will result in light and noise pollution, adversely affecting these delicate ecosystems and disrupting wildlife. In September 2022, the Haryana government announced a jungle safari project spanning 10,000 acres in the Aravalli range, encompassing Gurugram and Nuh districts (thehindu.com, 2022). According to experts, this initiative will devastate the ecosystem of the region by eliminating trees, vegetation, grasses, and other niche habitats utilized by the resident wildlife.

Indeed, compensatory afforestation has drawn criticism from environmentalists nationwide. One recent instance involves the proposal for compensatory afforestation in Haryana instead of in the Andaman and Nicobar Islands, where tropical forests are being cleared under the guise of development. Well, that doesn't make sense because age-old trees in a forest cannot be replaced by newly planted ones, which will take years to grow into mature trees. Moreover, planting trees at a different location as compensation for a cleared forest cannot adequately offset the destruction that has already occurred.

In different scenarios, private citizens themselves could cause significant damage. For example, the situation in Himachal Pradesh- during colonial rule, influential bureaucrats could act with impunity. They appropriated forest areas in the names of various family members, and substantial portions of these forest lands remain under their control. It's important to note that these areas are not classified as government-declared 'forests'. Therefore, with the amendment to the Forest Conservation Act, these forest landowners could easily fell trees for their own benefit—such as establishing resorts or plantations.

Even indigenous peoples and tribes could face displacement. It's crucial to understand that in the five decades following independence; more than 2.13 crore people were uprooted from their homes due to the construction of dams, mines, wildlife sanctuaries, and other industrial ventures (thehindu.org, 2023). Of these, 40% were *adivasis* or tribals. When we contemplate this, it becomes evident that their forests and means of living were taken away in the name of the common good. So they raise their voices and fought to demand protection which eventually managed to wrangle the **Forest Rights Act (FRA) in 2006**. This was highly significant because any industrial operation would require approval from the local committee or *Gram Sabha* before proceeding. It's solely due to the Forest Rights Act (FRA) that hydropower projects in Himachal Pradesh and mining activities in Chhattisgarh are halted. Otherwise, more forests would have been cleared, and more livelihoods would have been adversely affected.



But here's the catch: The FCA amendment could harm them once more. The FRA safeguarded what's known as a community forest resource. This refers to forested land traditionally utilized by tribal communities for sustenance—such as grazing and farming. Often, these areas could encompass unnotified forests unrecognized by the government. However, the amendment proposes protection solely for government-notified forests. Essentially, this implies that the government could potentially seize control of all other community forest resources without consent.

According to experts, 40% of Aravalli range and 95% of Niyamgiri Hill range of Odisha will be exposed under this amendment (IndiaSpend, 2024). Niyamgiri Hills is the home of *DongriaKondh* tribe, which is a particularly vulnerable tribal group. And after this bill, the forest dwelling communities that held rights over the forest will be left out of the decision-making process. In other words, the amendment would encroach upon the rights of tribals outlined in the FRA. This also contradicts a 2013 Supreme Court ruling, which upheld the rights of local

communities to have a say. This decision led to the cancellation of Vedanta's Bauxite mining project because none of the villagers in the area gave consent (thewire.org, 2023). However, now these forests could once again be targeted for mining. Tribals fear losing their homes, jobs, and livelihoods if these lands are made available for projects.

Thus, it's understandable why a coalition of former civil servants and NGOs felt compelled to bring the issue before the Supreme Court. Their aim was to ensure that adequate checks and balances are in place to safeguard our forests. And it appears they may have achieved a victory, albeit temporarily. The Court is displeased with the government and demands a return to the “dictionary definition” of forests. This seems significant; however, it's only a temporary measure. The outcome remains uncertain. The Court will reconvene to hear the case in July 2024. Meanwhile, it has instructed states and union territories to compile a list of their forests.

During this period, we'll patiently wait and hope that our forests and the communities reliant on them remain protected.



Fig. A protest against the amendment of the Forest Conservation Act in Arunachal Pradesh (Source: IndiaSpend)