

Study Group's (SG) Comments on the Draft National Forest Policy 2018

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1. Introduction

The draft NFP 2018 seeks to replace the National Forest Policy 1988 (1988 NFP). The Study Group (SG) studied both the policies in detail to understand departures and continuities. The SG also referred to the existing legal framework governing forests including the Indian Forest Act 1927, Wildlife Protection Act 1972, Forest Conservation Act 1980, Panchayats (Extension to Scheduled Areas) Act 1996 (PESA), Biological Diversity Act 2002 (BDA), Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (FRA) and the Compensatory Afforestation Fund Act 2016 (CAFA). The SG also referenced the case law on regulation of forests (pre-eminently the Supreme Court orders in the *Godavarman* case).

The comments are structured in three sections. We provide some general comments, followed by remarks with reference to specific paragraphs of the Draft National Forest Policy 2018 and some concluding comments.

2. General Comments

- a. **Definition of 'Forest':** It is important to clearly define the term 'forest' as this will allow for clearer and more precise understanding and application of the national forest policy. India does not have a statutory definition of the term 'forest'. The Supreme Court in the *Godavarman* case had provided a definition of 'forest land' which primarily relied on the dictionary meaning of the term, irrespective of ownership. The definition should capture not only the physical description of the forest in terms of tree cover, but also the critical role played by the forest in the local eco-system and in ensuring life support for forest dependent human and non-human communities including tribal cultures and resources.
- b. **Definition of 'Sustainable Use' or 'Sustainable Forest Management':** Sustainability as an idea applies to forest eco-systems and is widely referenced within the 2018 Draft National Forest Policy in different contexts. We would like to suggest a definition which would help in identifying indicators of sustainability which may act as a mirror to the context in which the term is being used. The term has been statutorily defined under the Biological Diversity Act, 2002. The definition of 'sustainable use' under the Biological Diversity Act 2002, means the "use of components of biological diversity in such a manner and at such rate that does not lead to the long-term decline of the biological diversity thereby maintaining its potential to meet the needs and aspirations of present and future generations." This is a good definition and should be adopted explicitly and included in the Draft National Forest Policy.
- c. **Indigenous species in Forest:** Protection of natural forests comprising of indigenous species should be prioritized. Indigenous species do not only provide higher ecological security but also are critical to ensuring food security and sustenance of forest dependent communities including tribals. They are also a huge gene

bank which once lost may never be recovered. It is in this context that tribals should be further supported so that they do not lose out on this indigenous science. Afforestation efforts should be managed to ensure that these rich herbal areas within the forest are not destroyed and the government formulates plans so that the farming of indigenous species are prioritized.

- d. **Recognition of intrinsic value of forests:** Forests should not only be looked as a resource (as timber) that requires to be monetized through a revenue model. This recognition of intrinsic value was reflected in three aspects of the 1988 National Forest Policy. *First*, tribals and forests are interwoven in a participatory forest management approach; *Second*, environmental sustainability and maintenance of ecological balance should remain the principal aim of economic activities within the forest. *Third*, was the principle that the diversion of forest for non-forest purpose would be subject to a careful examination of both social and environmental costs and benefits and should be used as a last resort (this is also reflected in the Draft 2016 NFP). All the three aspects are important principles of forest governance which in fact has led to the success of the 1988 NFP – indeed this is accepted in Point 1.4 of the Preamble of Draft NFP 2018 - and should therefore be adequately and explicitly included in the proposed policy as well.

3. Comments on Specific Paragraphs

- a. Para 1.4. (Preamble) lauds “the success of the 1988 policy in terms of the increase on forest and tree cover and in the reduction of the diversion of forest land for other land uses despite compelling demands from increasing population, industrialization and rapid economic growth.” It then mentions that there are other problems like “low quality and productivity of our natural forests, impacts of climate change....” This marks a substantial change in both the goals and strategy. Instead it is important to understand that the 1988 NFP had adopted a relatively ecocentric approach which was a success and therefore its principles, goals and objectives needs to be reiterated and strengthened further.
- b. Para 2. (Goals and Objectives) lays down that the national goal is to have a minimum of one-third under forest and tree cover and to maintain two-third forest and tree cover in hills and mountainous region. This is in continuity with the earlier NFP 1988. We appreciate this goal; however, this goal is not connected to the strategies for forest use. The dense natural forests should never be touched by any policy strategy as it immediately leads to serious disasters which undo the economic gains altogether. In this context we highlight that the expansions of tree cover in urban areas is not a substitute for natural forests which support an entire eco-system including wildlife and humans. Therefore the percentage of natural forests in this goal needs to be expanded and a clear commitment should be made to that effect by explicitly stating in the policy that out of the one-third or, as the case may be, two-third of the intended forest and tree cover, the percentage of natural forest that the proposed policy seeks to achieve. The term ‘livelihood security’ is an expansive term and may even include timber felling. The dependence on forests should be circumscribed to meet only sustenance needs of forest dependent communities. Specific eco-systems like Coastal Mangroves, Western Ghats, Sundarbans are fragile eco-systems wherein diversion of forest for non-forest purposes should be prohibited.
- c. Para. 4.1.1. (d) refers to public private participation models in degraded forest areas and forest areas available with Forest Development Corporations. These forest areas are usually the reserved forests which are regulated by the Forest Department. Tribals and forest dependent communities have historically accessed such forests to meet their sustenance needs and such access and usufruct rights have been indeed recognized under the FRA, BDA and PESA which recognize and empower such communities through their *Gram Sabhas* in regulating the use of such forests where such rights have been exercised. Without due recognition of this reality, private public participation models can lead to erosion and deprivation of such rights of access and would be inimical to both ecological security and sustenance security of such communities. Therefore the PPP model should be limited for agro-forestry in non-natural forests.
- d. Para 4.1.1. In continuation of the same para and in appreciation of the present government’s commitment to disaster management, it would be appropriate to highlight that Para.4.1.1 which writes about activities in degraded forest areas. It is important to note that these are the areas which have always been the worst

victims of disasters in every form i.e. landslides, drought and desertification. The inhabitants are vulnerable to starvation, disease and large scale migration. The role of District Disaster Management Authorities and an appropriate area based policy structure for the regeneration of such areas should reflect in the current Forest Policy. All preparedness and regenerative measures can be sustained only if local institutions at the grassroots are coordinated appropriately for the cause and do not stand in competition of funds and leadership.

- e. Paras. 2.14; 4.1.1. (a); (b); (h); 4.2.5.; 4.6; 4.7; 4.10.1.; 4.10.2.; 4.11; all refer to “community” in different contexts. However the term ‘community’ is too broad. The rights and responsibilities of historically settled forest dwelling Scheduled Tribes and other traditional forest dwellers have received legislative sanction and therefore it is these two communities whose needs have to be prioritized with reference to the regulation and governance of forests. Unlike the 1988 NFP, the 2018 Draft NFP has only one references to the role of ‘tribals’ (Para.3.6) in the context of sustainable management of Non-Timber Forest Produce. However this is inadequate. Tribals have a symbiotic relationship with forests, which has allowed for the preservation, conservation and sustainable use of forests. Their role should be acknowledged. This can be possible only if they are granted distinct privilege of first right to fulfill sustenance needs, and also ensure equal decision-making in access and benefit sharing regimes for both NTFPs and forests. This would reflect the statutory position under both the PESA 1996 and the FRA 2006. The underlying principles of these legislations, which aim at safeguarding the interests of such dependent communities, shall be reinforced by incorporating them into the proposed Policy. There shall be no scope for any apprehension that these laws may be amended and rights guaranteed there under diluted to bring them in conformity.
- f. Paras. 2.12 and 4.2.5.(e) refers to the promotion of wood based technology and products. Wood products need to be substituted through bamboo and other kinds of materials. The expansion of agro-forestry should not come at the cost of either tillable agricultural land (critical for food security) or natural forests which form the bed rock of sustainable eco-systems which ensure the sustenance needs through NTFPs and water security.
- g. Para. 4.2.5 refers to the role of forests as carbon sinks in the context of REDD+. This is a laudable goal, however here again the role of natural forests has to be prioritized. Natural forests not only act, simply as carbon sinks which grant carbon credits, but it also provides a host of ecosystem services (water, streams, food, livelihood, usufruct, disaster control etc) and is also of great cultural value. Such services cannot be expressed only through a monetary value. Therefore while we appreciate efforts to formulate economic valuation of forests (Para. 4.2.2.) the current valuation models both in terms of Net Present Value and under the CAFA are inadequate.
- h. Para. 4.2.3. – refers to the value of forests in ensuring water security. This can be possibly obtained only if ‘forests are for forests’ sake. Ethically, no one owns it and state as a public trustee is obliged to preserve it. This is an important recognition and should be linked to other paragraphs which seem to look at forests only as a revenue in terms of wood or as carbon sinks in the context of climate change. Both these perspectives hinge on ascribing a reductive value of forests and fail to capture its critical role in sustenance of ecological security.
- i. Para. 4.1.1.(f) refers to biodiversity conservation. The BDA provides for Biodiversity Management Committees in the documentation, preservation and regulation of access to biological diversity. The Draft NFP is completely silent on the role of BMCs. This needs to be corrected and the role of BMCs need to be recognized and prioritized in the protection of forest habitats and specifically in the documentation, preservation and sustainable usage of biodiversity and also in rewarding their role through appropriate access and benefit sharing mechanisms which are provided under the BDA.
- j. Para. 4.1.1. (h) refers to participatory forest management. We agree that there is a need to strengthen participatory approaches to forest governance. However this should not be a top down exercise alone but has an enormous horizontal coordination, collaboration and sharing to achieve contemporary requirements of an increasingly vulnerable lives of the forests and forest communities. The National Community Forest Management Mission should link with the Panchayats and the Gram Sabhas and adapt to the larger planning

of DDMAAs and SDMAAs in strengthening life support system through sustainable participatory forest management.

- k. Para. 4.8. refers to legal and institutional frameworks. While we laud the creation of a National Board of Forestry and State Board of Forestry, we suggest that the Board should be a representative body which involves all stakeholders. This should include not only representatives from other concerned ministries like Ministry of Tribal Affairs, Ministry of Panchayati Raj, Ministry of Ayush, but also representatives of regulatory bodies – Forest Advisory Committee, National Board for Wildlife, National and State Biodiversity Authorities, Ministry of Water Resources, DONER, National and State Disaster Management Authorities and also independent researchers, scientists, academicians and civil society groups. A representative body is necessary since forests are not a government owned resource, but a precious national asset which should be regulated as a public trust.

4. Conclusion

In conclusion we would like to reiterate that as has been acknowledged in the draft NFP 2018, the earlier NFP 1988 was a success in achieving its goal of expanding forest cover. The foundational principles of NFP 1988 included a clear commitment towards the conservation of forests, given the role of forests (specifically natural forests comprising of indigenous species) in ensuring ecological security so vital for human, animal and plant life and health. This ethic of conservation is based on the idea of “Forests for Forests” and is a distinct departure from the idea of forests as resource for revenue model; the sustenance needs of tribals and forest dependent communities have to be prioritized over other uses such as timber; diversion of forest for non-forest purposes should be prohibited in ecologically fragile areas and should be avoided for natural forests elsewhere. When such diversion is undertaken as a last resort, adequate access and benefit sharing regimes for the forest dependent communities should be worked out prior to permission for such diversion. Therefore cumulative social and environmental costs of such diversion need to be accounted for. Indigenous species should be promoted in agro-forestry. Finally decision-making and forest governance needs to be decentralized and involve the participation of all affected parties including multiple ministries both at the state and national levels, regulatory authorities (like Forest Advisory Committee, National Biodiversity Authority, etc); independent researchers and civil society organizations. Forests are a precious national asset. They also constitute our last frontier against disasters. The whole economic progress which is planned against forest areas may be set at naught in a second if we do not wake up now, and if we do not start looking at progress in totality rather than in insulated chambers of forests, projects, livelihood and people.