



Reverse This Travesty Against the Rights to Food, Health and Life Itself!

Statement Against the Supreme Court Verdict Ordering the Forced Eviction of over 1 Million Forest Dwellers by Jan Swasthya Abhiyan and Right to Food Campaign

Jan Swasthya Abhiyan and Right to Food Campaign are appalled to see the recent Supreme Court interim order issued on 13th February 2019 in the petition WildLife First & Ors. vs Ministry of Forest and Environment & Ors. (Writ petition(s) Civil No(s) 109/2008 order dated 13-2-2019). The court has ordered forced eviction of over around 12 lakhs tribal and other forest-dwelling households in 21 states. We believe the central government and the tribal ministry, in not presenting a lawyer in the case, has utterly abandoned its duty to provide a strong legal defence for millions of poorest and marginalised section of the country's population and permitted a judgment based on the one-sided facts and statements of the petitioners comprising of ex forest department officials, wildlife NGOs and others.

All evidence on health and nutrition confirms the fact that tribal communities most bear the brunt of malnutrition, morbidity and mortality in India. There are visible inequities in the health and nutritional status of the Scheduled Tribe (ST) communities as opposed to the general population. To cite the National Family Health Survey 4 data- underweight among under-five children is 10 percentage points higher for STs (45.3%) children as compared to the total population (35.7%). The prevalence of anaemia is four percentage points higher in children (under five years of age) belonging from the ST (63.3%) background as compared to total figure (58.5%). Women from ST background are 1.5 times more likely to be in the 'thin' (31.7%) category compared to total population (22.3%)!

Among all social groups, people hailing from Scheduled Tribes have the lowest mean age of death at 43 years. The Report of the High Level Committee on Socioeconomic, Health and Educational Status of Tribal Communities of India constituted by Ministry of Tribal Affairs, GoI, 2014 (Xaxa Committee) reports on the low rate of reduction in IMR in the 1992-98 period in the ST population (10% reduction) as compared to the total population (25% reduction). It also cites higher figures of Infant Mortality Rate among STs (62% in ST and 49% in others – a difference of 27 percentage points) and U5 child mortality (96% for ST and 59% for others – a difference of 39 percentage points).¹

It is well understood, documented and widely accepted, that in a context of severe vulnerability in terms of food security and poverty, the resources that are derived from the forest for food, medicine (indigenous) and livelihoods are absolutely essential for the survival of these communities. It is also well known that these communities have the age-old wisdom of using these resources in such a manner that the forest is not depleted, but in fact conserved. This ordered eviction will now only push these communities which are critically dependent on forest and forest-based produce further into poverty, hunger, malnutrition, disease and death, with more severe consequences for women and their children. This is tantamount to a violation of their Right to Life itself.

¹ Source: International Institute for Population Sciences (IIPS). National Family Health Survey, (NFHS-3), 2005-06: India. Mumbai

Our opposition rests on the premise that the court has failed to recognise the procedural lapses and lack of implementation of The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA). This failure of the State in its own duties has resulted in rejection/non granting of FRA titles, leaving genuine claimants without the documents they require to 'prove' their claim to dwell in forest areas and being labelled as 'encroachers' liable to eviction.

This has been well documented already in government's own reports²³⁴. The Report of the High Level Committee on Socioeconomic, Health and Educational Status of Tribal Communities of India constitute by Ministry of Tribal Affairs, GoI, 2014 had delineated a number of flaws in the implementation of the Act stating that "it's potential to achieve livelihood security and changes in forest governance along with strengthening of forest conservation, has hardly been achieved". It noted serious flaws in constitution of Forest Rights Committee which has a crucial role with the Gram Sabha in receiving and verifying claims. It also stated that section 4(5) of the Act is violated when people are evicted thus from their homes. To quote the report-

"Claims are being rejected without assigning reasons, or based on wrong interpretation of the 'OTFD' definition and the 'dependence' clause, or simply for lack of evidence or 'absence of GPS survey' (lacunae which only require the claim to be referred back to the lower-level body), or because the land is wrongly considered as 'not forest land', or because only forest offence receipts are considered as adequate evidence. The rejections are not being communicated to the claimants, and their right to appeal is not being explained to them nor its exercise facilitated."

The committee concludes -*"While on one hand, we see an absence of the procedure stipulated in the FRA, on the other, strict adherence to conditions not even required or permitted under the Act are used to disregard claims."*

Thanks to the widespread agitation against this interim order, a number of state governments have announced that they plan to appeal the order and re-visit rejected applications..

Jan Swasthya Abhiyan and Right to Food Campaign express solidarity with tribal communities and other forest dwellers in their fight under the Forest Rights Act. As health and nutrition experts and activists, we demand that all involved State Governments immediately file an appeal against this order that we believe will further increase existing health inequities between the tribal and other populations and also endanger their food security. We expect the Central Ministry of Tribal Affairs to also intervene in this case as well as take urgent action for the implementation of the FRA Act guidelines and PESA. We appeal to the Supreme Court to use its powers to ensure that constitutional safeguards for the tribal population are enforced instead of participating in a misuse of the law against them.

² <https://rightsandresources.org/en/publication/promise-performance-10-years-forest-rights-act-india/#.XHHkCPkzbIW>

³ <https://tribal.nic.in/FRA/data/Guidelines.pdf> and <https://tribal.nic.in/FRA/data/FAQ.pdf>

⁴ <http://www.indiaenvironmentportal.org.in/files/file/Tribal%20Committee%20Report,%20May-June%202014.pdf>