



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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Excellency,

I would like to inform you that in the course of its 98th Session, the Committee on the Elimination of Racial Discrimination considered information received under its early warning and urgent action procedures related to the Draft National Forest Policy and its impact on the rights of indigenous peoples in India.

The information received indicates that the State party has prepared a Draft National Forest Policy whose general objective is to safeguard the ecological and livelihood security of people, of the present and future generations (F-No.1-1/2012-FP (Vol.4)). The State party has submitted the Draft National Forest Policy to public consultation on March 2018. Moreover, the information submitted specifies that the draft policy would be finalised in the near future.

The Committee is concerned that the new policy would infringe the rights of indigenous peoples to their traditional lands and to effectively exercising control over the community forest resources, notably by undermining their governing structure (Gram Sabhas). The Committee notes that domestic legislation recognizes and protects these rights, under the Panchayats (Extension to the Scheduled Areas) Act (PESA Act) of 1996 and the Scheduled Tribes and Other Traditional Forest Dwellers Act (Forest Rights Act) of 2006.

The Committee takes note that one objective of the Draft National Forest Policy is to promote industrial plantations in forest areas. The use of forest area for commercial use would increase the afforestation programmes under the Compensatory Afforestation Fund. Accordingly, the Committee is concerned about the impact of these developments on the enjoyment of indigenous peoples' rights to their traditional territories.

His Excellency Mr. Rajiv Kumar Chander
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Therefore, the Committee is concerned about the impact of the draft National Forest Policy on the full and adequate discharge by the State party of the duty to recognize and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources.

With regard to the information received, the Committee would like to recall the State party of the Committee's General Recommendation No. 23 on the rights of indigenous peoples (1997) as well as its recommendations made in paragraph 19 of its concluding observations (CERD/C/IND/CO/19) of May 2007. Accordingly, the Committee requests the State Party to provide information on the steps taken to:

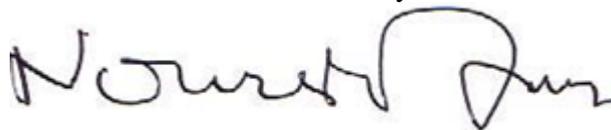
1. Consider the annulment of the Draft National Forest Policy 2018 in order to ensure the rights of indigenous peoples over their traditional lands and territories, including the preservation of the powers granted on these matters to indigenous people's traditional authorities, the Panchayats and the Gram Sabah in the Scheduled Areas.
2. Refrain to adopt any legislation or policies undermining indigenous peoples' rights, including those protected in the PESA Act and the Forest Rights Act.
3. Consider the participation of indigenous peoples in the governance of the Compensatory Afforestation Programme, since its programmes directly concern their rights to traditional land and territories.

In this regard, the Committee encourages the State party to consider seeking assistance from the United Nations Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) that is mandated by the Human Rights Council (resolution 33/25, paragraph 2), to provide States with technical advice on the rights of indigenous peoples and facilitate dialogue between States, indigenous peoples and/or the private sector.

In accordance with article 9 (1) of the Convention and article 65 of its Rules of Procedure, the Committee requests the State party to submit its response by 8 July 2019 and recalls that failure to submit periodic reports amounts to a continuing breach of obligation under the Convention. In this regard, the Committee would like to inform your Government that the Committee may consider to review the implementation of Convention in the absence of a report.

Allow me, Excellency, to reiterate the wish of the Committee to continue to engage in a constructive dialogue with the Government of India, with a view to ensuring the effective implementation of the Convention.

Yours sincerely,



Nouredine Amir
Chair

Committee on the Elimination of Racial Discrimination