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Chunk of India's forests 'missing' after 27-year-delay to file reports | Analysis

The basis of the MoEFCC's assurance that the Forest (Conservation) Act Amendment would protect deemed forests is in question

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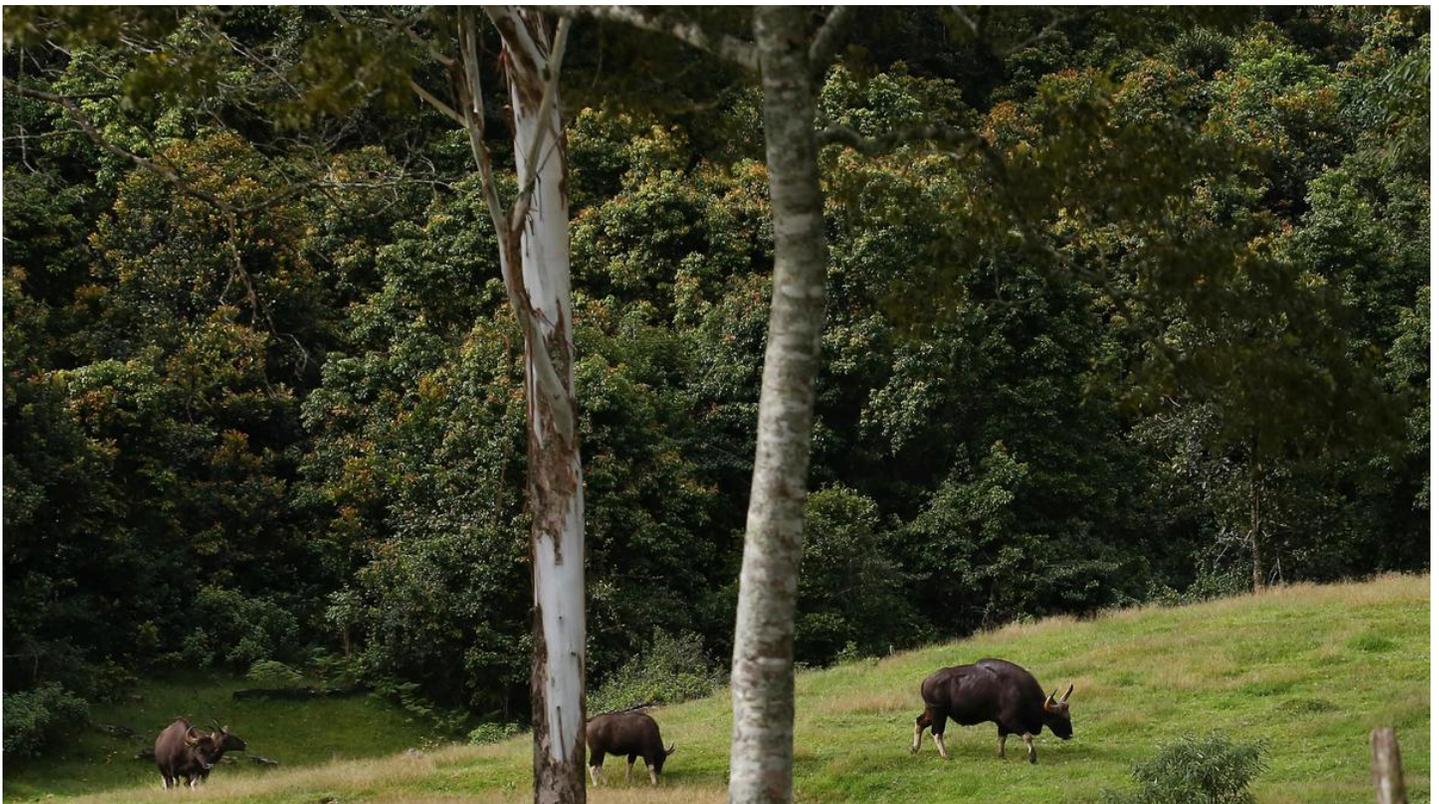
A view of wild gaurs grazing in a grassland in a forest area under Munnar wildlife division in Idukki, March 13, 2024. | Photo Credit: Jomon Pampavalley/The Hindu

In compliance with a February 19, 2024, Supreme Court order, the Ministry of Environment, Forests and Climate Change (MoEFCC) uploaded the various State Expert Committee (SEC) reports on its website earlier in April. This interim order was in response to a public interest litigation challenging the constitutionality of the Forest (Conservation)

Act Amendment (FCAA) 2023. A key concern in the petition was that the status of unclassed forests, which were to be identified by the state SEC reports, wasn't known or if they had been identified at all.

With the enactment of FCAA, these unclassed forests — which have legal protection under the landmark case *T.N. Godavarman Thirumalpad* (1996) — would lose this protection, leading to their inevitable diversion. The SEC reports were to be prepared in pursuance of the order, which specified that 'forests' as per their dictionary meaning and all categories of forests irrespective of ownership and notification status would be included under the ambit of the Forest (Conservation) Act 1980. As a result, unclassed forests, a.k.a. deemed forests, would also require the Central government approval in case a project proponent sought to divert that land for non-forest use, after multiple other layers scrutiny.

Unclassed or deemed forests may belong to forests, revenue, railways and other government entities, community forests or those under private ownership, but are not notified. SECs were to identify all such forests across the country through available records i.e. Forest Working Plans, Revenue land records, etc., and by physical identification of any land patch having the nature of forests as per dictionary meaning regardless of its ownership.

The missing forests

The status of the reports were unknown from 1996 until they shot back into prominence when the MoEFCC told a Joint Parliamentary Committee — appointed to examine the proposed law — that the SECs had identified unclassed forests that had been taken on record.

This was in response to stinging criticism that the proposed law undermined the *Godavarman* judgement and would exclude all unclassed forest land from its purview. The MoEFCC had assured the Committee that "the amended Act would be applicable" to the SEC-identified unclassed forests, stressing that the proposed amendment "was in line with the *Godavarman* judgement".

But in response to an RTI application filed on January 17, 2024, the MoEFCC said it "did not have the requisite reports". How then had it taken the reports "on record" and assured a parliamentary committee that the amended Act would protect deemed forests identified

by the SECs? The Ministry had effectively proposed to protect forests but it didn't know where they were.

Following the February order, the MoEFCC uploaded the SEC reports on its website, but nothing has changed. In fact, the reports reveal a grim picture: no state has provided verifiable data on the identification, status, and location of unclassed Forests in its remit.

In fact, seven states and Union Territories — Goa, Haryana, Jammu & Kashmir, Ladakh, Lakshadweep, Tamil Nadu, and West Bengal — appear not to have constituted the SEC at all. Ladakh said "no order was available" from the erstwhile Jammu & Kashmir state to constitute an SEC, and has only now formed one. Twenty-three states have shared their reports but only 17 are in line with the Supreme Court's directives, leaving the legality of the rest in question. Puducherry said its report is "not traceable".

Disagreement with FSI

Many states have said the one month provided by the apex court was too short and "the nature of work voluminous", and as a result haven't undertaken ground-truthing, physical cadastral surveys, and demarcation of unclassed forest lands.

Instead, most states have either used existing forest and revenue department data; some, like Manipur and Sikkim, have merely quoted figures from the Forest Survey of India. In Haryana's report, neither the data source nor the date of its creation is unclear.

Only nine states provided the extent of unclassed forests. Most states and UTs only shared the extent of different types of forest areas specified in the order: under government ownership, either with forest or revenue and in a few cases under other government departments. Some states also detailed the extent of unclassed forests, or those that have been degraded, cleared or encroached but this is inconsistent. There is no clarity whether data has been comprehensively extracted from the available records, leave alone the physical and geographical location of these forests. A topo sheet identification (a map showing a region's natural and manmade features) is also not available.

Lack of diligence

Also, almost no state or UT specified the geographic locations of forests. Any identifying geographical information of forest land, where given, is only of reserve or protected forests, which isn't useful because this information is already available with Forest Departments. Only Tripura provided khatian (or khata) numbers for forest areas beyond the forests on record; however, the land classification is unclear.

The SEC reports also question the veracity of the reports of the Forest Survey of India, the only government agency to survey and assess forests. A striking example comes from Gujarat, whose SEC report says its unclassed forests cover 192.24 sq. km while the Survey has reported the significantly higher 4,577 sq. km (1995-1999). A similar inconsistency dogs Assam, where the SEC report states the extent of unclassed forest area to be 5,893.99 sq. km whereas the FSI has reported 8,532 sq. km.

The treatment of SECs without on-ground verification is likely to have resulted in the large-scale destruction of forests — which ought to have been identified, demarcated, and protected 27 years ago. But with no baseline data from 1996-1997, we have no idea how much unclassed forest has been lost.

For example, Kerala's SEC didn't include areas such as the Pallivasal unreserve, an ecologically fragile area in Munnar; this area was also devastated during the 2018 floods. The report also failed to mention Chinnakanal unreserve, an important elephant corridor in Munnar today overrun by intensive commercial tourism. This area has reported many instances of human-elephant conflicts, including of late the tragic story of 'Arikomban'.

Consequences of pushing FCAA

The loss of such forests is likely to be a recurring theme in all states, and needs to be investigated. It is also clear the reports were hastily put together, using incomplete and unverified data collected from readily available records, and submitted to the Supreme Court in order to fulfil their obligations.

The *Godavarman* order of the SC was to be implemented in letter and spirit to protect the country's forests and ecological security, and to be followed through even after submitting the SEC reports. The failure to do this is a lost opportunity to achieve the requirements of the Indian Forest Policy, which envisages 33.3% forest cover in plains and 66.6% in the hills.

The Forest Survey of India's 2021 report shows an overall 21% forest cover (which experts have disputed) in the country and 40% in hills. Approximately 900 sq. km — more than twice the area of Chennai — has been lost in the last cycle of the Survey's review.

Promulgating the FCAA without examining the SEC reports displays a lack of diligence on the MoEFCC's part and will have terrible consequences for India's ecosystems and ecological security. Those responsible need to be held to account, and the national government needs to take ameliorative action to re-identify, retrieve, and protect forest areas as per the 1996 judgement.

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