OBJECTIONS TO HARYANA GOVERNMENT DECISION TO AMEND THE PLPA ACT:
A CITIZEN RESPONSE

Background

The Haryana government on February 27, 2019 passed the controversial Punjab Land Preservation Act (PLPA) Amendment Bill despite immense protests raised by citizens and environmental groups. The issue was covered by all the mainstream media, with respect to the assumed pressure of the realtors/builders and mining lobby on the state Government and its potential ramifications on the environmentally sensitive Aravalli zone. The Honable Supreme Court too came down heavily on the same, calling the Haryana Government actions as "obnoxious and contemptuous." The bench in fact, reprimanded the state council and warned the state Government of contempt proceedings for its temerity to violate a previous order of the Apex Court.

In its defence, the Government put forward the argument that many of the urban estates of Haryana Urban Development Authority and Municipal Authorities colonized areas would face continued uncertainty on account of the PLPA notifications. This concern was clearly in the wake of the Honable Supreme Court direction to demolish Kant Enclave which was illegally constructed in violation of PLPA. As per the Court order, the first lot of 13 structures were demolished on April 1, 2019, and the balance structures were slated to be demolished on July 1, 2019. As per the court order, not only is a sum of Rs 5 crores for the rehabilitation of the Aravalis’ to be paid but also an amount of Rs 50 lakh to offset construction costs was to be paid to each owner. Kant & Co (Developer) would have to refund the cost of land with 18% interest besides also sharing 50% of the penalty levied by the Court. The balance 50% was to be borne by the State Town and Country Planning Board which had granted permission. The principal contention in this case was whether Kant Enclave had come up under in contravention of the notifications issued on 18th August 1992 under the provisions of the PLP Act, and whether it also violated the Forest Conservation Act 1980. The Supreme Court maintained its affirmation on both.
Major Provisions of the Amendment

The Amendment has some very far-reaching provisions, some of which are being mentioned below:

a. The provisions of the PLPA Act will cease to apply to urban areas in the State including Master Plan areas and Municipal areas. It will also not apply to any future urban areas as they are notified by different urban statutes

b. Any land notified under the Act in the past, present and in the future in the State can by exempted by a simple Government order

c. It provides for a discretionary power to rescind by the State any notification under this Act

d. Any area can be exempted by the State Government from coming under the purview of the Act

e. Most important, it nullifies all actions under the Act since the formation of the State. This implies giving state sanction to all illegal constructions that have taken place till date

f. Further it limits all PLPA notifications to only 30 years, after which all regulations, restrictions, prohibitions will cease to exist.

Citizen Objections

1. The effective forest land in Haryana is just about 90,000 ha (60,000 of RF compact block PF and 30000 ha of PLPA section 4 and 5.). If the 30,000 ha areas notified under the special section 4 and 5 is removed, Haryana will lose one third of its forest cover. In fact, rather than move the PLPA amendment, the Government should consider moving more areas into the PLPA ambit such as Mangar Bani, Pali Bani, Bhankri Bani, Mohabtabad Bani, Badkhal, Surajkund, Nangli Bani, Khedli Bani and the Aravalli Biodiversity Park to provide protection to them. A local district committee of Faridabad under the Deputy Commissioner, way back in 2015 had concluded that all the natural vegetation and Aravalli hills, including the Bani, should be prohibited for non-forestry activities in the Mangar plan 2031, and that the area be delineated and designated as a nature conservation and groundwater recharge zone.

2. The retrospective effect of the law will wreak havoc for the State of Haryana as Section 1 of the PLPA Amendment Bill clearly states that “it shall be deemed to have come into force from the first day of November, 1966…..” This implies that all construction activities since 1966 will have acquired a legitimate status-quo. This is violative of the principle of natural justice which does not provide for legal legitimacy to all illegal activities done in in clear contravention of the law and for private profit.

3. The decision to amend the PLPA amendment in a way contravenes the Haryana Government’s own stated Forest Policy of having 20% forest cover. At present, Haryana Government only has 3.59% of its area under Forests, the lowest in the country, whereas the overall India average is 22% forest cover.

4. Insertion of Section 3c has conveniently overlooked the land classified for ‘bonafide agriculture use’. The clause is restricted to registered land and revenue records. This subtly paves a favorable way for ‘illegal farm houses.’
5. The Section 4(a) of the Amended Bill have inconsiderately shoved the entire Aravalli under ‘final development plans.’ This offers ample scope and free rein for investors of property, construction and real estate players to build in ‘forest land.

6. Most importantly, the PLPA amendment blatantly violates the manifestation of the provisions under the Natural Conservation Zone (NCZ).

7. While opening the Aravalis' for further real estate colonization, and the consequent loss of forest cover, the State has not considered pollution concerns of its citizens. India is now home to 22 out of the 30 most polluted cities. Two of these cities, Gurgaon and Faridabad that already fall under the severe category are in Haryana and will suffer even more if the last green lung of the state is removed. The other severely pollution affected cities that adjoin Haryana are Delhi, Noida, Bhiwadi and Ghaziabad. Hence, any proposed changes that will apply to Aravalis do not just affect the villages, cities and towns of Haryana but also areas adjoining Haryana. This, therefore, would require stakeholder consultation with at least 6 states that would include apart from Haryana, Punjab, Uttar Pradesh, Rajasthan, Gujarat and Delhi. Citizens residing in these areas are already suffering from enormous health hazards on account of pollutants in the air, which is to some extent mitigated by forest cover. Removal of this remaining forest cover will only spell more health and life risks to millions residing in these areas.

8. A study on the change in land use in the Aravalis conducted by Wildlife Institute of India showed that while there was 17.4% increase in settlement use from 1980 to 1990, that of industrial use went up by 100% to cover 3.34 sq km. From 1990 to 2000, the settlement use area has gone up to 465.67 sq km, an increase of 60.73% over the decade, and the industrial use had gone up by 572% to cover 22.44 sq km. From 2000 to 2016, the settlement use portion has gone up to 638.95 sq km, an increase of 37.21%, while that under industrial use has gone up by 105% to reach 46.14 sq km. This situation is despite the PLPA being in force. In the absence of the PLPA restrictions, one would in most likelihood find that the entire forests of Aravalli would be converted into concrete jungle much like the 465 acres taken over by Kant Enclave. Recently news of an illegal construction of a hotel complex is also being investigated on PLPA notified land in the Aravalis near Faridabad.

9. The land that is sought to be legalized by the amendment is now in the hands of private builders and real estate developers rather than the original inhabitants and real owners of the land. Hence, the statement that the state is attempting to protect owners interest/right should however be stated as benefiting private estate builders. The state has not provided any clear documentation of who exactly will benefit from the amendment and whether they were the original owners of the land. As an example, it has been found that out of the total hilly area of 901 acres, the villages of Ankhir own only approximately 10 acres of land. The rest are in the hands of outsiders/private builders/colonizers.

10. The Amendment does not provide for any statutory provisions that will prevent any such sale of land through benami transactions and may ultimately go into private hands/developers which is inimical to the present stated intent of the PLPA Amendment. Once gone in private hands, the question is, will the State have any control on the use of the land? Further, the Amendment is also completely silent on any checks
and provisions on prevention of any further environmental degradation of forest area and resources once the ownership goes into private hands. Past performance of the State in reinig in illegal construction does not inspire confidence that the State is really concerned about protecting its forest resources and biodiversity.

11. The PLPA amendment provides a sweeping right to the authorities to take over land in the name of development without giving any right to any person or state subjects to have any say on the environmental ramifications of the said construction. The Constitution of India gives fundamental rights to every citizen to protect his or her right to live and have a healthy life. In a recent far-reaching judgement of the Supreme Court on March 31, 2019, related to the development of the Greenfield International Airport at Mopa in Goa, the SC held that public consultation on environmental ramifications cannot be treated as a mere formality, Further it also stated that the health of the environment is key to preserving the right to life as a constitutionally recognized value under Article 21 of the Constitution. Hence the PLPA amendment that purports to give sweeping powers to the State to acquire natural resources, and which directly affect the individual's right to live, breathe and have a healthy life cannot and should not be passed.

12. Very recently, even the National Green Tribunal (NGT) has asked the State of Haryana to give its comments on how it permitted felling of 7000 trees under the guise of an argument which holds that the area under question was not ‘forested area’. The NGT judgement pointed out that Haryana was in clear violation of the Supreme Court orders – as per the TN Godavarman and Lafarge judgments pertaining to forest issues in 1996 and 2011 respectively. As part of that judgement, the court had held that irrespective of whether the said area is a forest as per revenue records, if it meets the dictionary meaning of the word ‘forest’, it will be deemed to be covered by the Forest Conservation Act, 1980. In that case, the area cannot be used for any non-forestry activity without the Centre’s permission. The inquiry report further said that the State of Haryana has so far, not formulated parameters to classify an area as forest as per its dictionary meaning, “The process of defining forest by its dictionary meaning is inconclusive in Haryana,” In its order in March 2019, the National Green Tribunal (NGT) has held that Aravalis’ in Faridabad district will be considered as deemed forest irrespective of whether it was classified under the Forest Act or not as long as it fulfils the dictionary meaning of Forests.

13. While opening the Aravalis’ to further colonization, and that too with retrospective effect, the Haryana Government has not at all considered the vital ecological role that Aravalli performs:

**Ecological Role of the Aravalis**

a) **A lush green Aravalli is a green barrier and an effective shield against desertification:** The degradation of the Aravalis’ have already led to higher dust-storms and increase in dust particles in the air. Opening out the Aravalis’ would further spread of the Indian Desert (Thar) towards eastern Rajasthan, Indo Gangetic plains, Haryana and Western UP. Today, the forests in the Aravalli hills are no able to effectively act as a green barrier. In its earlier non-denuded state, it was an extremely effective barrier
against wind velocity, and help in checking transpiration and evaporation. Higher wind velocities increase the transpiration, which eventually speeds up desiccation.

b) **Performs the role of an Aquifer**: Because of weak Government action, illegal mining has ravaged the Aravalis’. Very recently it was found that due to illegal mining and quarrying, 31 hill ranges of Aravalis’ in Rajasthan have vanished. In 2004, although the Supreme Court had banned mining in notified areas of the Aravalis and in 2009 extended the ban to 448sq km stretching across Faridabad, Gurugram and Mewat districts of Haryana, it had already resulted in extensive damage by then, especially in Faridabad. The drying of Badhkal lake, a wonderful natural tourist place in Faridabad due to illegal mining is clearly known to all. It has already destroyed much of the aquifers there. Further denudation of Aravalis’ will further affect the water tables of the cities which are extracting water at rates much higher than their replenishment.

c) **The Aravalis perform the role of an important drainage system**: It acts as a water divide between the Indus basin in the North West, and Ganga basin in the east, covering extensive areas of North India. Any obstruction and disturbance in the natural set up will lead to large-scale changes in the areas adjoining North Indian plains and will affect eastern Rajasthan, Haryana, Malwa region, western Uttar Pradesh and Delhi. The unbridled construction activity in the state has rendered much of Gurgaon and Faridabad susceptible to water-logging and no drainage areas. Should there be massive rains, it will only further expose the city to huge floods and resultant damage to property and life.

d) **The forest cover in Aravalli enhances precipitation and checks drought**: The occurrence of normal rainfall in North-West India depends greatly on the preservation of lush green forest cover and resultant normal evapotranspiration process over the Aravalli hills. Trees and canopy cover preserve humidity in the atmosphere and helps regulate the rainfall patterns. However, an increase amount in deforestation and soil erosion has escalated the occurrence of drought in the area. The drought subsequently affects not only citizens, but also the already threatened wildlife of the area.

e) **It provides a rich habitat for biodiversity**: The Aravalli hills are rich habitat to a wide spectrum of wildlife and plant species including avifauna comprising Tiger, Leopard, Wolf, Blackbuck, Chinkara, Desert Fox, migratory common Cranes, Ducks, Coots, Pelicans etc. in its lush green forests. The wildlife is now limited to certain patches and protected areas owing to the biotic interference and deforestation

**Existing Side Effects of the Degradation of Aravalis**

a. **Soil Erosion**: Increase in deforestation is leading to an increase in the amount of soil erosion especially in the hilly areas and slopes. Large amount of areas are being converted to barren lands in absence of vegetation and urbanization.

b. **Soil Salinity**: Salinity of soil is a major environmental hazard in Haryana, which adversely affects the agricultural production by reducing the plant growth and rendering areas unsuitable for normal cultivation. Areas with such soils are left barren because of their non-productive nature. The ground
water in Mewat district is highly saline due to high Total Dissolved Solids (TDS). Salinity also affects biodiversity in the absence of fresh water sources.

c. **Invasive Alien Species:** Alien species that become invasive are main drivers of biodiversity crisis throughout the world. Species like Lantana camara and Prosopis juliflora have had serious depleting effects on the flora of the state. Prosopis juliflora and P. pallida are tropical species that have become seriously invasive in many parts of Africa, Middle East and Indian subcontinent.

d. **Floods and Drought:** In the absence of perennial surface drainage, the slopes of natural water migration are limited. When high rainfall occurs within a short span of time, the water gets accumulated on the surface and causes flooding.

e. **Sand migration and formation of sand dunes:** Haryana lies on the northeastern fringe of the Thar Desert and experiences arid semi-arid climate. As a result, sand migration is common along the desert boundaries. Due to the depletion of the forest cover over the Aravalis, the desert is already migrating towards Haryana through the gaps. Haryana along with Alwar has been included in the ecologically vulnerable area. Some of the parts of Haryana like the Khudana, khol khalettha and Madhogarh area have large areas as sand-dunes.

f. **Anthropogenic pressure:** Increase in human population adjacent to the forest and feral dogs have become threat for the biodiversity. Livestock grazing causes loss to the native vegetation and leads to conflict between man and wildlife. Mining in some parts of Haryana is destroying habitats at a faster rate. Noise from mining blasts are forcing wild animals to shift base from forests to residential areas.

g. **Decline of water tables:** Studies have shown that there has been an alarming decrease in the water table in north-eastern and south-eastern parts of the state owing to continuous over-exploitation without any consideration of recharge. On the other hand, the water table having brackish water underneath has increased.

h. **Crop Productivity:** There has been an alarming stagnation in the productivity levels in the rice-wheat, cotton-wheat cropping systems due to deterioration in soil and water health because of intensive use of inorganic fertilizers and crop protection chemicals. This is also in part due to sudden increase in air temperature (terminal heat stress) during the reproductive phase of rabi crop. It has multiplied the problem of low/decreasing yields because of ill-effects of intensely debated global warming and climatic variability in recent times. Scanty rains, excess and untimely rains, heat waves, cold waves, high and hot winds during summer, dust storms, fog, frost and hailstorms are important weather abnormalities occurring in the State and adversely affect the crop production. Research studies also suggest that the increased variations in rainfall received by the State are in part due to increasing particulate matter in the atmosphere. Increased temperatures due to climate change will further accentuate the decline in productivity in crop yields especially maize and wheat. It is well known fact than farmer distress in Haryana is rising in part due to rising cost of production
Summing up

Maintaining the ecological balance of Aravalis is critical to ensuring the survival of the State itself. Climate change impact will also adversely affect the State.

1. The State in its climate change policy has yet to quantify the disease burden that may occur due to climate change and population projections. Yet, it has gone ahead with a short-sighted policy of allowing further destruction of forest area in the Aravalis’ to benefit a few real estate barons without consideration of the immense detrimental effects of health to its own citizens. It is the duty of the State to provide for clean drinking water, clean air to ensure the health of its citizens, and the Aravalis’ are critical to meeting that requirement. Therefore, any policy that deviates from this principle is fundamentally flawed and can only be understood as a ploy to benefit a political-private nexus.

2. The natural resources of the State belong to the citizens of the State. As such a regulation that diverts the natural resources of the State must actively involve the citizens, especially ecological and environmental groups and institutions to study and consider likely impact on bio-diversity and health and well-being of citizens. Instead of allowing further real-estate expansion in the Aravalis’, the State should instead be taking active steps to encourage re-forestation to reverse the environmental degradation of the oldest mountain range in India.

3. The state has clearly not factored in the additional load on the environment or the negative impact on climate change while formulating this amendment to PLPA. In its own climate change policy, the State talks about protecting the land from deterioration, building and maintaining soil fertility, conserving water for farm use, provision of proper drainage facilities, flood protection and erosion control as essential requirements to protect land and soil for agricultural productivity. Yet the State insists on putting farmers at risk with higher possibilities of crop failure. Drought conditions will affect the financial condition of the state and its farmers, in addition to raising food prices with inevitable consequences for all.

Excerpt from Draft Policy on Climate Change of Haryana State

“The status and quality of forests is critical beyond the sector, impacting water supply, animal husbandry and livelihoods of forest dependent communities. The analysis of impacts of climate change showed that the currently forested districts as well as other districts where afforestation programmes may be implemented in Haryana are vulnerable to climate change. Thus, it is necessary to reduce the vulnerability of forests and the forest dependent communities. Forests have long gestation periods going up to centuries in responding to climate change impacts. There is a lag in the forest response to changing climate. However, the impacts are likely to be irreversible, for example, loss of biodiversity (IPCC, 2007 Proposed Adaptation Projects by State Forest Department). Given a large dependence on forests for fuelwood, fodder, non-timber forest products and livelihoods, it becomes important to consider adaptation to climate-change in planning and implementation of all forest developmental programmes.”
CITIZENS THEREFORE REQUEST
THAT
THE PLPA AMENDMENT BE TAKEN BACK
SINCE IT WILL HAVE
DISASTROUS CONSEQUENCES
FOR
THE ECOLOGY OF THE AREA,
HEALTH OF THE CITIZENS,
PROSPERITY OF FARMERS
AND
ECONOMIC SECURITY OF THE STATE