



# Securing Climate Justice for India's forest-dependent communities

# Climate Crisis is a Justice Crisis

India is among the top ten countries most vulnerable to climate change. An existential crisis exists for the hundreds of millions of its marginalised people living in climate vulnerable landscapes. The poor and vulnerable section of India's population, largely comprised of Adivasis, Dalits, backward classes and other marginalised communities, face a double climate injustice - they suffer from the climate crisis caused by the model of economic growth based on extraction of resources that sustain them and differential consumption and extreme inequality among social groups. India's climate crisis is primarily a "climate justice" crisis, where hundreds of millions of people who have nothing to do with causing climate change will be the ones most to suffer because of the crisis. The situation already is becoming extremely alarming.

There is a third layer of climate injustice arising out of the global and national efforts to mitigate climate change, specifically the solutions linked to land use and forestry. It is estimated that almost a third of greenhouse gas mitigation required to avert catastrophic climate change will come from so called "nature-based solutions" (NBS) including protecting and restoring forests, peatlands, afforestation, blue carbon, improving agricultural practices etc. These NBS are being pushed by a global coalition of NGOs, governments, corporates and other powerful actors, who seek to use both market and state-led measures to ensure that billions of tonnes of carbon are captured over the next few years through biological processes. Such NBS including programs such as Reducing Emissions from Deforestation and Forest degradation (REDD) are highly land intensive and use financialisation of carbon, nature and commons as a primary mode of climate mitigation. India has already built in such Nature Based Solutions into its Nationally Determined Contribution (NDC) by seeking to "capture" 2-3 billion tonnes of CO<sub>2</sub> through forestry and land-use sector. Globally as well as in India, market and state led nature-based solutions have the potential to negatively impact hundreds of millions of people who live in the landscapes targeted for NBS. Thus, climate mitigation efforts themselves can cause climate injustice.

This policy brief discusses the implications of India's climate change mitigation plans and actions from the forestry sector and proposes an alternative framework to secure climate justice for its forest-dependent communities.

# Land and forest-based climate action: Dissecting India's approach

**T**he forest sector constitutes an integral component of India's climate change mitigation strategy and action plans. As per government estimates, India's forest cover and forest carbon sinks have been consistently increasing. The government's official stance has been that Indian forests are a net sink of carbon dioxide (CO<sub>2</sub>) emissions, making a positive contribution to climate change mitigation.<sup>1</sup> The positing of forests as carbon sinks which can sequester more carbon has been the basis for India's intervention at climate negotiations to expand the scope of REDD (Reducing Emissions from Deforestation and Degradation) programme to a REDD++ programme that rewards not just reductions in deforestation but also increases in sequestered carbon.<sup>2</sup> Optimistic estimates on the sequestration potential of forests and trees have also been the basis of India's Nationally Determined Contribution (NDC) from the forest sector to create an additional carbon sink of 2.5 to 3 billion tonnes of CO<sub>2</sub> equivalent by 2030 through additional forest and tree cover.

However, India's estimates of forest cover and forest carbon stock have been questioned as gross overestimation, with the methodology for counting forest carbon being questioned by the technical body of the United Nations Framework Convention on Climate Change (UNFCCC)<sup>3</sup> and scientists. Plantations of all kinds on all lands - more than 1 hectare (ha) in area with a tree canopy density of 10% or higher - are covered under this estimation irrespective of their legal status. This methodology will also include oil palm plantations which are being actively promoted by the government, even if they come at the cost of replacing natural forests, as has been the case in other parts of the world.<sup>4</sup>

**Land and forest-based mitigation measures are turning out to be an internal offset mechanism for India's CO<sub>2</sub> emissions**

These estimates also mask the ongoing deforestation in the country driven primarily by the diversion of forests for non-forest uses.<sup>5</sup> Between April 2008 to March 2020, India lost 257,950 ha of natural forests to this deforestation driver alone<sup>6</sup>, but the Indian government maintains that the forest cover lost to these projects is compensated for by plantation activities under the Compensatory Afforestation Fund Act 2016. By government's own admission, compensatory afforestation is stipulated to maintain and enhance forest area and forest cover of the country,<sup>7</sup> thus creating a perverse incentive for deforestation. The accumulation of more than 6 billion USD in compensatory afforestation fund has also constituted one of the motivations for India's ambitious forestry NDC whose scientific basis remains unclear till date.<sup>8</sup>

Besides, land and forest-based mitigation solutions are turning out to be an internal offset mechanism for India's CO<sub>2</sub> emissions. In 2016, the Land use, Land-use Change and Forestry (LULUCF) sector offset 307.3 million tonnes of CO<sub>2</sub> eq (MtCO<sub>2</sub> eq) which was 11% of India's total GHG emissions.<sup>9</sup> Similarly, India's

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<sup>1</sup> Ministry of Environment, Forest & Climate Change. (2018). *National REDD+ strategy*. Government of India

<sup>2</sup> Dubash, K.N., Khosla, R., Kelkar, U. and Lele S. (2018). *India and Climate Change: Evolving ideas and increasing policy engagement*. Annual Review of Environment and Resources. 43:395-424

<sup>3</sup> Framework Convention on Climate Change. (2018). *Report of the technical assessment of the proposed forest reference level of India submitted in 2018*. United Nations

<sup>4</sup> Nandi, J. (2021, August 24). Ambiguous definition means oil-palm plantations will count as forest cover. *Hindustan Times*

<sup>5</sup> Nandi, J. (2019, January 10) Recheck forest cover data, UN body tells India; flags concern about definition. *Hindustan Times*

<sup>6</sup> Lok Sabha Unstarred Question No. 2834 answered on 12.3.2021

<sup>7</sup> Forest Advisory Committee. (2020). Minutes of Meeting dated 13 July 2020. Ministry of Environment, Forest & Climate Change

<sup>8</sup> Dubash, K.N., Khosla, R., Kelkar, U. and Lele S. (2018). *India and Climate Change: Evolving ideas and increasing policy engagement*. Annual Review of Environment and Resources. 43:395-424

<sup>9</sup> Ministry of Environment, Forest & Climate Change. (2015). *India: Third Biennial Report Update to the United Nations Framework Convention on Climate Change*. Government of India.

NDC target of creating a carbon sink of 2.5 to 3 billion tonnes of CO<sub>2</sub> eq can almost entirely offset its annual emissions in 2016. India's climate mitigation commitments and actions, therefore, depend heavily on increased forest cover and carbon sinks without committing to any real action to reduce its positive emissions.

On the contrary, the Indian government continues to rationalise its energy-intensive and fossil fuel-intensive development trajectory under the pretext of poverty alleviation and “democratization of the carbon space”.<sup>10</sup> For instance, in 2020, coal mining was made an integral component of India's COVID 19 response and recovery plan. The Indian government introduced several reforms in mining regulations including relaxations in forest clearance processes<sup>11</sup>, to boost coal mining in the country. Coal - the single largest source of greenhouse gas (GHG) emissions in India<sup>12</sup> - has been hailed as the “driver of economic activities<sup>13</sup>” despite mounting evidence on its economic uncertainty.<sup>14</sup>

The global rise in positive emissions, driven by the “no-holds barred growth agenda”<sup>15</sup>, is responsible for the climate emergency that is upon us. Simultaneously, the push to offset emissions through large-scale land and forest-based mitigation measures and carbon capture storage technologies without rapidly reducing positive emissions - also the basis of the net-zero commitments of nations<sup>16</sup> - is leading to a process of enclosing the customary lands and forests of indigenous peoples and local communities (IPLCs) globally, including within India. Resource-grab related conflicts that also violate IPLC rights are increasing and the rural economy is under distress with vast populations being forced to abandon their livelihood base in search of wage labour.<sup>17</sup> Protests are also erupting from the push for other mitigation actions such as windmills and solar parks, which are coming up on common lands of local communities without their consent.<sup>18</sup>

In the last two decades, land-based climate mitigation initiatives have also seen the emergence of market-based approaches that aim to create a financial value for the carbon stored on forestlands. Policy frameworks such as REDD+, driven by ambitions of governments and corporations to access international carbon finance and carbon offset markets<sup>19</sup>, are being used to justify large-scale land grabs<sup>20</sup>, and benefits intended for communities dependent on these lands have been substantially lower than promised.<sup>21</sup> However, carbon market enthusiasts continue to project India's forestry sector as a crucial player in the “climate change supermarket.”<sup>22</sup>

These actions are in sharp contrast with the emerging evidence and the widespread acknowledgement on the importance of recognising, recording and supporting rights of IPLCs to combat climate change and the failure of market-based mitigation mechanisms.

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<sup>10</sup> Dutta, S., Ghosh, S., Gopalakrishnan, S., Bijoy, C.R. and Yasmin, H. (2013). *Climate Change and India: Analysis of political economy and impact*. Rosa Luxemburg Stiftung—South Asia.

<sup>11</sup> CFR-LA. (2020). COVID 19 & Forest Rights: The Impact of COVID 19 and Lockdown on Adivasis and Forest-dwelling Communities. *Issue 4 June 16-30*

<sup>12</sup> Bhushan, C., Banerjee, S. and Agarwal, S. (2020). *Just Transition in India: An inquiry into the challenges and opportunities for a post-coal future*. Sustainability Innovations and Advisories Pvt Ltd.

<sup>13</sup> <https://pib.gov.in/PressReleasePage.aspx?PRID=1707494>

<sup>14</sup> Bhushan, C., Banerjee, S. and Agarwal, S. (2020). *Just Transition in India: An inquiry into the challenges and opportunities for a post-coal future*. Sustainability Innovations and Advisories Pvt Ltd.

<sup>15</sup> Dutta, S., Ghosh, S., Gopalakrishnan, S., Bijoy, C.R. and Yasmin, H. (2013). *Climate Change and India: Analysis of political economy and impact*. Rosa Luxemburg Stiftung—South Asia.

<sup>16</sup> Bragg, J., Jackson, R.R. and Lahiri, S. (2021). *The Big Con: How big polluters are advancing a 'net zero' climate agenda to delay, deceive and deny*.

<sup>17</sup> Dutta, S., Ghosh, S., Gopalakrishnan, S., Bijoy, C.R. and Yasmin, H. (2013). *Climate Change and India: Analysis of political economy and impact*. Rosa Luxemburg Stiftung—South Asia

<sup>18</sup> Langa, M. (2021, August 7). Residents of Gujarat village protest against windmills on forestland. *The Hindu*

<sup>19</sup> Thaker, J. and Leiserowitz, A. (2014). Shifting discourses of climate change in India. *Climatic Change* 123(2): 107-119

<sup>20</sup> Carbon Trade Watch. (2013). *Protecting carbon to destroy forests: Land enclosures and REDD+*. TNI, FDCL and IGO for the Hands off the Land Alliance

<sup>21</sup> Agarwal, S., Saxena, A., Vyas, V. and Shrivastava, S. (2018). *Rethinking REDD+: A CSE Assessment*. Centre for Science and Environment, New Delhi.

<sup>22</sup> Dube, L.C. and Chatterjee, S. (2021). Forest carbon in climate change supermarket: Is India prepared to sail? *Environmental Science Proceedings*

# Land and forest-based climate action: Global developments

Land-use has emerged as a frontline strategy for dealing with rising global temperatures. The broadening awareness on the adverse impacts of top-down, exclusionary land and forest governance structures on IPLCs and forests has led several countries in Africa, Asia and Latin America to implement laws and policies that promote decentralised forest management. However, land and forest tenure of IPLCs continue to remain highly contested in forest decentralisation.<sup>23</sup> Despite managing over 50 percent of the world's lands, rights of IPLCs are legally recognised over just 10 percent.<sup>24</sup>

Carbon offset markets have also failed to deliver climate benefits with experience demonstrating that market-based mechanisms cannot tackle issues of leakage, permanence and additionality.<sup>25</sup> The recent wildfires in Oregon which affected forestry projects issuing forest carbon offset credits is a classic example of the inherent flaws with the carbon market discourse.<sup>26</sup>

Simultaneously, evidence has also been emerging on the role of IPLCs in combating climate change. Studies increasingly show that community-governed forests with legally recognised rights are associated with lower deforestation rates, higher carbon storage and positive biodiversity and livelihood outcomes,<sup>27,28</sup> establishing the significance of tenurial security and decentralised forest governance in climate change mitigation.

The Special Report on Climate Change and Land by the Intergovernmental Panel on Climate Change (IPCC) in 2019 has taken cognizance of many of these developments. It recognises that “land titling and recognition programs, particularly those that authorise and respect indigenous and communal tenure, can lead to improved management of forests, including for carbon storage” and lists “recognition of forest rights” as a policy instrument that supports climate change mitigation and adaptation responses. The report also warns that insecure land and forest tenure can result in increased vulnerability and adaptive capacity of those dependent on it. Indigenous and local knowledge has been termed crucial in “understanding climate processes and impacts, adaptation to climate change, sustainable land management across different ecosystems, and enhancement of food security.”

The report is also significant because it acknowledges that large-scale, land-based mitigation measures such as afforestation, reforestation, use of land for bioenergy crops etc. will compete with existing uses of land and lead to “adverse effects on food security and ecosystem services” and that delay in rapid emissions reductions and deep mitigation action in other sectors will result in “an increased pressure on land with higher risk of mitigation failure and of temperature overshoot and a transfer of the burden of mitigation and unabated climate change to future generations.” Inclusive land governance that recognises land and forest rights of women, IPLCs and other vulnerable communities to climate change impacts not only minimises social and environmental trade-offs associated with such measures but also increases opportunities for adaptation and mitigation.<sup>29</sup> These findings and recommendations are extremely relevant for India.

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<sup>23</sup> Libert Amico, A. and Larson, A.M. (2020). *Forestry decentralization in the context of Global Carbon Priorities: New Challenges for Subnational Governments*. Centre for International Forestry Research

<sup>24</sup> RRI. (2017). *Securing Community Land Rights: Priorities and opportunities to advance climate and sustainable development goals*. Rights and Resources Initiative. Washington DC

<sup>25</sup> Song, L. (2019, May 22). An even more inconvenient truth: Why carbon credits for forest preservation may be worse than nothing. *ProPublica*

<sup>26</sup> Wolfe, D. and Yellin, T. (2021, July 22). Bootleg fire is burning up carbon offsets. *CNN*

<sup>27</sup> Stevens, C., Winterbottom, R. Springer, J. and Reytar, K. (2018). *Securing Rights, Combating Climate Change*. World Resources Institute.

<sup>28</sup> FAO and FILAC. (2021). *Forest governance by indigenous and tribal peoples. An opportunity for climate action in Latin America and the Caribbean*. Santiago. FAO.

<sup>29</sup> IPCC. (2019): *Summary for Policymakers*. In: *Climate Change and Land: an IPCC special report on climate change, desertification, land degradation, sustainable land management, food security, and greenhouse gas fluxes in terrestrial ecosystems*. In press

# Democratic land and forest governance for climate justice

**T**he Indian Constitution provides special protections under the Fifth and Sixth Schedules for land rights of its indigenous peoples, officially called ‘Scheduled Tribes’ in Scheduled Areas – geographical areas with a preponderance of tribal population – thereby acknowledging and establishing the centrality of land to the identity, economy, and culture of these communities.<sup>30</sup> This statutory framework was strengthened by the enactment of the Panchayat (Extension to Scheduled Areas) Act in 1996. PESA recognises the primacy of customary law, traditional management practices for community resources, and traditional methods of dispute resolution in Scheduled Areas.<sup>31</sup> The Act empowers the Gram Sabhas<sup>32</sup> to govern and manage natural resources. The constitutional provisions for Scheduled Tribes are further strengthened by The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, also known as the Forest Rights Act which seeks to undo the historic injustice meted out to India’s forest-dwellers. Together these provisions and frameworks establish a strong legal structure for the governance of forest and natural resources by India’s forest dwelling communities through their village councils (Gram Sabhas).

India’s forest-dependent communities – the Scheduled Tribes and Other Traditional Forest Dwellers<sup>33</sup> (STs/OTFDs) – are among the most vulnerable to climate change because of their higher exposure to extreme climatic events, high level of dependence on natural resources and political and economic marginalisation. Within them, women are disproportionately impacted because of inequitable distribution of roles, lack of land rights and unequal access to decision-making processes.<sup>34</sup>

Indian states with the highest population of STs<sup>35</sup> – Jharkhand, Odisha and Chhattisgarh - have been identified to be the ones with ‘relatively high vulnerability’ to climate change.<sup>36</sup> Forest-dependent communities are also at the frontline of disasters such as forest fires which are becoming more frequent and intense as a result of climate change. The increasing occurrence of forest fires is also a direct outcome of monoculture tree plantations on forests<sup>37,38</sup> - a common forest management practice adopted by India’s forest agencies in the guise of restoring degraded forests. State-driven take-over of customary lands and forests of STs/OFTDS for large projects such as mines, hydroelectric projects, etc. further adds to the vulnerability of these communities by robbing them of their sustenance and livelihood base.

Despite the fact that these communities have conserved and protected their customary forests for generations and contributed the least to global warming, the difficulties they already face will be exacerbated by climate change. India’s increasing reliance on land and forest-based mitigation solutions also exacerbate the risk of dispossession of STs/OTFDs from their lands. An alternative paradigm and a gender-responsive approach to climate change mitigation and adaptation strategies, therefore, become important to ensure climate justice for STs/OTFDs on the following grounds:

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<sup>30</sup> Wahj, N. and Bhatia, A. (2018). *The Legal Regime and Political Economy of Land Rights of Scheduled Tribes in the Scheduled Areas of India*. Centre for Policy Research.

<sup>31</sup> Ministry of Tribal Affairs. (year unknown). *Land and governance under the Fifth Schedule: An Overview of the law*. Government of India.

<sup>32</sup> Village council

<sup>33</sup> Refers to forest dwelling communities who have been residing in forests for three generations and dependent on them for bonafide livelihood needs

<sup>34</sup> Yavinsky, R. (2012, December 26). Women more vulnerable than men to climate change. *Population Reference Bureau*

<sup>35</sup> Excluding the North-eastern states

<sup>36</sup> Indian Institute of Technology. (2019-2020). *Climate Vulnerability Assessment for Adaptation Planning in India using a Common Framework*. Department of Science and Technology, Government of India.

<sup>37</sup> Baffoni, S. and Haggith, M. (2018). *A burning issue: Large scale industrial plantations and climate change*. Discussion document, Environmental Paper Network.

<sup>38</sup> <https://globalforestcoalition.org/wp-content/uploads/2017/09/plantations-flyer.pdf>

- STs/OTFDs are among the most vulnerable to the climate distress and are at the frontline of climate disasters;
- STs/OTFDs are the most affected populations by climate change mitigation actions that lead to land grab and violation of land-forest rights;
- STs/OTFDs have been the main stewards of forest conservation.

On forestlands, the most comprehensive legal framework with a clear mechanism to recognise land and forest rights and to enable governance of natural resources by the forest dwelling communities is provided by the Forest Rights Act (FRA). The Act provides for a bundle of rights which enable a rights- and social justice-based approach to climate change mitigation and adaptation.

**Assures tenurial security and legal rights for diverse communities:** FRA secures individual land tenure by providing for recognition of Individual Forest Rights (IFR) over forestlands that have been under occupation and cultivation by STs/OTFDs. It also provides for securing community forest tenure through recognition of rights to protect, regenerate or conserve or manage any community forest resource (CFR) which STs/OTFDs have been traditionally protecting and conserving for sustainable use. The Act also secures community tenure of particularly vulnerable tribal groups, pre-agricultural communities, shifting cultivators, pastoral and nomadic communities over their habitats and seasonal resource access areas. FRA also recognises the rights of women to get legal titles to land as equals of men.

**The Forest Rights Act 2006 provides the most comprehensive legal framework to achieve climate-resilient forests and improve adaptive capacity of forest-dependent communities to deal with the climate crisis**

**Sustains multi-functional forests:** FRA legally empowers STs/OTFDs to conserve and protect their forests which enables them to nurture and govern forests for multiple functions - cultural, economic, environmental, political, social and spiritual.<sup>39</sup> This encourages the adoption of a range of diverse agroecological and forest and biodiversity conservation and restoration practices which are rooted in traditional knowledge, social norms and local culture. Consequently, community governed forests are often associated with higher biodiversity<sup>40</sup> which in turn provides an essential safeguard against expected climate change impacts.<sup>41</sup>

**Protects natural and biodiverse forests:** Nearly 40 million hectares (mha) of forests are eligible for recognition as CFRs.<sup>42</sup> These forests are subject to various threats which disturbs the forest continuum and fragments habitats. Not only does that lead to a loss of natural carbon sinks, it also increases contact between human and wildlife disease reservoirs, increasing the risks of zoonotic outbreaks.<sup>43</sup> Loss of forests from extractive and other ecologically harmful practices displace forest-dependent communities, forcing city-bound migration, even transborder migration. This also means more energy use per capita and consequently more fossil fuel consumption.

FRA empowers Gram sabhas to govern the community forest resources and to stop any activity which adversely affects the wild animals, forest and biodiversity (Section 5). Gram Sabhas have, on several occasions, exercised these rights to counter one of the biggest drivers of climate change - deforestation from industrial projects, extractive industry, processes and investments (*see Box: Forest dwellers save ecologically rich forests from deforestation*).<sup>44</sup> Gram sabhas are increasingly also protesting the diversion of

<sup>39</sup> Food and Agriculture Organization. (2013). *Climate change guidelines for forest managers*. FAO forestry paper 172, United Nations

<sup>40</sup> [http://www.g3forest.org/userfiles/file/G3/CaseStudies/GACFCasestudies/Impact\\_of\\_CF-PoudeI\\_article\\_11.pdf](http://www.g3forest.org/userfiles/file/G3/CaseStudies/GACFCasestudies/Impact_of_CF-PoudeI_article_11.pdf)

<sup>41</sup> Thompson, I., Mackey, B., McNulty, S., Mosseler, A. (2009). *Forest Resilience, Biodiversity, and Climate Change. A synthesis of the biodiversity/resilience/stability relationship in forest ecosystems*. Secretariat of the Convention on Biological Diversity, Montreal. Technical Series no. 43

<sup>42</sup> Ministry of Environment and Forests. (2019). *Asia Pacific Forestry Sector Outlook Study – II: Country Report*. Government of India

<sup>43</sup> Dobson, A.P., Pimm, S.L., Hannah, L., Kaufman, L., Ahumada, J.A., Ando A.W., Bernstein, A., Busch, J., Daszak, P., Vale, M.M. (2020). Ecology and Economics for Pandemic Prevention. *Science* Vol 369, Issue 6502

<sup>44</sup> Supreme Court judgment of 18.04.2013 in the case of Orissa Mining Corporation Ltd. Vs. Ministry of Environment & Forest & Others

their customary lands and forests for monoculture plantations, one of the greatest risks to biodiversity.<sup>45</sup> By protecting natural and biodiverse forests, STs/OTFDs contribute to building climate-resilient forests which can also sustain communities in-situ.

**Promotes community-led ecological restoration:** FRA empowers forest dwellers to manage and regenerate their CFRs. Several cases have emerged of Gram Sabha-led initiatives for ecological restoration of forests, conservation of biodiversity and wildlife, adoption of sustainable Non Timber Forest Product (NTFP) management practices, regeneration of forest foods and development of sustainable livelihoods around natural resources. (*see Box: Community forest governance in Vidarbha delivers livelihood and climate benefits*). This is creating local employment, reducing distress migration and also contributing to food and livelihood security, which, in turn, is building their adaptive capacities to deal with crises. When COVID-19 pandemic struck in 2020, hundreds of examples of Gram Sabhas, empowered under the FRA, developed innovative coping mechanisms to support their members recover from the pandemic-induced losses.<sup>46</sup> Empowering communities to manage and restore their forests is also widely recognised as the option to align global agendas for climate mitigation, environmental justice and sustainable development.<sup>47</sup>

### Case Study: Forest dwellers save ecologically rich forests from deforestation<sup>48,49,50,51</sup>

Forest dwelling communities have been at the forefront of protecting rich and biodiverse forests from large, extractive projects. A successful example comes from the Niyamgiri hills in the state of Odisha – home to a very rich and varied assemblage of floral and faunal species<sup>52</sup> - which had been awarded forest clearance for bauxite mining by the Indian government.

The hill range is the lifeline of the Particularly Vulnerable Tribal Group of Dongria Kondhs who hold strong socio-cultural and religious ties with the hills. In a historic decision, India's apex court mandated seeking consent of the Dongria Kondhs for the diversion of their customary forests for mining – a first-of-its-kind in the country. The communities collectively decided to stop the takeover and deforestation of their sacred forests for mining. After the victory, the Dongria Kondhs have also been reviving their indigenous cultivation and harvest practices to cope with climate change impacts.

<sup>45</sup> Hance, J. (2008, September 19). Monoculture tree plantations are “green deserts”, say activists. *Mongabay*

<sup>46</sup> Vikalp Sangam and CFR-LA. (2020). *Community Forest Rights and the Pandemic: Gram Sabhas Lead the Way* -Volume 2 of the Extraordinary Work of 'Ordinary People – Beyond Pandemics and Lockdowns' Series and Bulletin 5 of COVID 19 & Forest Rights, Vikalp Sangam Core Group.

<sup>47</sup> Erbaugh, J.T., Pradhan, N. Adams, J., Oldekop, A. Agrawal, A. Brockington, D. Pritchard, R. and Chhatre, A. (2020). Global forest restoration and the importance of prioritizing local communities. *Nature, Ecology and Evolution* 4: 1472-1476

<sup>48</sup> <https://sacredland.org/niyamgiri-hills-india/>

<sup>49</sup> Bera, S. (2013, August 31). Niyamgiri answers. *Down to Earth*

<sup>50</sup> Prasad, S. (2018, December 24). Back to their roots: Dongrias of Niyamgiri are reviving indigenous seeds to cope with climate change. *Scroll*.

<sup>51</sup> Mohanty, A. (2017, October 17). Niyamgiri tribe revive wild harvests after Vedanta victory. Vikalp Sangam

<sup>52</sup> <http://www.indiaenvironmentportal.org.in/files/Biodiversity%20and%20ecological%20significance%20of%20Niyamgiri%20Hill%20Ranges.pdf>

## Case study: Community forest governance in Vidarbha delivers livelihood and climate benefits<sup>53,54</sup>

Seven of the top ten climate hotspot districts in India fall in the Vidarbha region.<sup>55</sup> With a large tribal population and 53% of the state's forest cover, dependence on land and forest resources in the region is high. CFR rights of close to 6,500 Gram sabhas have been recognised over 794,118 ha. The recognition of rights has enthused an increasing sense of ownership and responsibility among forest dwellers over their forest resources, leading to the adoption of a wide range of sustainable management practices and significantly increasing the flow of socio-economic and ecological benefits.

Employment opportunities created in CFR areas for NTFP harvesting, plantations, soil and moisture conservations works, fire management and patrolling has reduced distress migration from the region. The overall perception among community members and forest officials has been that forests and wildlife are protected much better, regeneration has improved and incidence of forest fires has reduced. For instance, when forest fires engulfed more than 5,000 ha of forest department-controlled forests in Gondia in May 2018, there was not a single incidence in the neighbouring CFR areas. This is the result of the implementation of practices such as ban on setting fire to the forest floor before the tendu and mahua collection season, improvised fire lines, increased fire monitoring and fodder cutting before the fire season.

**Promotes traditional knowledge and governance systems and inter-generational expertise:** India has thousands of examples of community conservation and community forest governance initiatives<sup>56</sup> which are rooted in the diverse cultural practices, traditional knowledge and governance systems of STs/OTFDs. By providing them with rights to conserve and govern their CFRs, FRA can strengthen these community initiatives which have been ongoing for generations. It also empowers these communities to find cultural solutions to environmental challenges, which in turn contributes to building climate resilience.<sup>57</sup> Instead of a 'one-size-fits-all' approach, forest-dependent communities globally and within India have been responding and adapting to impacts of climate change in unique ways based on their in-depth understanding of the land<sup>58,59</sup> (see Box: *Pastoralists apply traditional knowledge to regenerate grasslands in Gujarat*).

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<sup>53</sup> Sahu, G. (2020). Implementation of Community Forest Rights: Experiences in the Vidarbha region of Maharashtra. *Economic and Political Weekly*. Vol 55 Issue No. 18

<sup>54</sup> Information provided by KHOJ Melghat

<sup>55</sup> Hardikar, J. (2018. September 25). Maharashtra's Vidarbha set to face acute economic crisis due to climate change, World Bank warns. *News 18*.

<sup>56</sup> Pathak Broome, N. (2009). *Community Conserved Areas in India: A Directory*. Kalpavriksh

<sup>57</sup> Burke, A., Peros, M.C., Wren, C.D., Pausata, F.R.S., Riel-Salvatore, J., Moine, O. Vernal, A.D., Kageyama, M. and Boisard, S. (2021). The archaeology of climate change: The case for cultural diversity. *PNAS Vol 118* No. 30

<sup>58</sup> Galloway Mclean, K. (2018). *Land use, climate change adaptation and Indigenous Peoples*. United Nations University.

<sup>59</sup> Mohanty, A. (2021, June 29). How a Tribal Community in Odisha is battling climate change with traditional farming. *Indiaspend*

## Case study: Pastoralists apply traditional knowledge to regenerate grasslands in Gujarat<sup>60,61</sup>

The IPCC Special Report on Climate Change and Land lists pastoralists as one of the most vulnerable communities to climate change. Non-climate factors such as tenurial insecurity, invasive species and loss of traditional institutions exacerbate their vulnerability. The case is similar for the pastoralists of Banni, one of Asia's largest tropical grasslands, located in the state of Gujarat.

According to a 2021 study, Banni is headed for severe fodder scarcity, primarily due to climate change impacts and invasion by *Prosopis juliflora*. *Prosopis* was introduced in the 1960s by the forest department through aerial seeding and now occupies 54% of one of Asia's largest tropical grasslands. In 2009, the forest department prepared a working plan to restore the grasslands. The plan involved ploughing the land, sowing grass seeds, fencing off areas for regeneration, afforestation and reserving a large chunk of the grassland for industrial production of *Prosopis*. It placed restrictions on the use of grazing commons by the pastoralists and threatened their livelihood security. The Maldharis responded by claiming CFR rights over the entire 2497 sq.km of the grassland.

The Maldharis know from their deep-rooted knowledge of the local ecology that the root stock of the perennial grasses remains in ground even after grazing. Ploughing, in fact, destroys this stock. In 26 villages, Maldharis have started exercising their CFR rights to restore over 3000 hectares (ha) of degraded and *Prosopis*-invaded grasslands of Banni by uprooting the invasive species. Studies done by a local non-profit working with these communities – Sahjeevan – show that the species diversity of herbs and grasses has improved as a result of these interventions.

**Strengthens democratic local self-governance of forests:** FRA is the most comprehensive forest tenure and governance reform in India that empowers village-level institutions, Gram Sabhas, to collectively decide on the governance and management of their CFRs. It also empowers women to be a part of the decision-making process through mandatory membership in processes to establish rights over forest land and resources and in governing forests. Democratic governance and empowering women bring co-benefits to food security and sustainable land and forest management.<sup>62</sup>

Despite the enabling framework of FRA to secure climate justice for STs/OTFDs, its implementation remains poor. Less than 5% of the potential area has been formally recognised as CFRs and institutional support for Gram Sabha-led CFR initiatives has been minimal.<sup>63</sup>

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<sup>60</sup> Sambhav Shrivastava, K. (2013, May 15). Grasping at grass. *Down to Earth*.

<sup>61</sup> Perinchery, A. (2019, December 24). The complex life of Banni. *Mongabay India*

<sup>62</sup> IPCC. (2019). Summary for Policymakers. In: *Climate Change and Land: an IPCC special report on climate change, desertification, land degradation, sustainable land management, food security, and greenhouse gas fluxes in terrestrial ecosystems*. In press

<sup>63</sup> CFR-LA. (2016). *Promise and Performance: Ten Years of the Forest Rights Act in India. Citizens' Report on Promise and Performance of The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, after 10 years of its Enactment*. Produced as part of Community Forest Rights-Learning and Advocacy Process (CFRLA)

# Undermining land and forest rights through climate actions

India's fight against climate change relies heavily on the forestry sector, evident from the targets and pledges set by the Indian government both nationally and internationally (see Table: National Forest-related climate action commitments). These targets have been driven by India's climate leadership ambitions<sup>64</sup>, set in a top-down fashion, rely on centralised funds<sup>65</sup> and in some cases, bear no scientific basis or relation to actual reality.<sup>66</sup>

Table: National Forest-related climate action policies and commitments	
Plan/Pledge	Commitments/Targets
National Forest Policy 1988	Bring 33% of India's geographical area under forest cover; India's forest and tree cover in 2019 was 24.56%
National Mission for Green India (under the 2008 National Action Plan on Climate Change)	<ul style="list-style-type: none"> <li>• Increase forest cover on 5 mha of forest/non-forest lands</li> <li>• Improve quality of forest cover on another 5 million ha</li> <li>• Enhance annual CO<sub>2</sub> sequestration by 50-60 million tonnes by 2020</li> <li>• Forest-based livelihood of about 3 million households</li> <li>• Improve ecosystem services</li> </ul>
Bonn pledge, 2011	Restore 26 million ha of degraded forests and lands by 2030
Nationally Determined Contribution (NDC) under the Paris Agreement, 2015	Create Additional carbon sink of 2.5 to 3 billion tonnes by 2030 through additional forest and tree cover
2030 Agenda for Sustainable Development, 2015	Achieve land degradation neutrality by 2030; 30% of India's lands undergoing desertification
National REDD+ strategy, 2018	<ul style="list-style-type: none"> <li>• Reducing deforestation</li> <li>• Reducing Forest Degradation</li> <li>• Conservation of forest carbon stocks</li> <li>• Sustainable management of forests</li> <li>• Enhancement of forest carbon stocks</li> </ul> <p><i>Mentions that the five activities coalesce into increasing forest and tree cover</i></p>

Instead of targeting large-scale drivers of deforestation that are often tied to national growth ambitions and reducing emissions from them, the current narrative and approach makes it easy to target STs/OTFDs. India identifies degradation as the major issue affecting its forests attributing the subsistence needs of STs/OTFDs as the major drivers of it. A 2018 study, prepared for the Ministry of Environment, Forest & Climate Change (MoEF&CC), estimated that land degradation cost India 2.5% of its GDP annually, of which 55% of the losses came from forest degradation alone. The study recommended that India's strategy to meet its land neutrality commitment by 2030 must address the 'critical issue' of reducing forest dependence for fuelwood, fodder and non-timber forest products.<sup>67</sup> Such narratives are consistent with the historical trend of top-down, technocratic eco-initiatives which have framed local communities as obstacles to broader environmental agendas.<sup>68</sup>

<sup>64</sup> Thaker, J. and Leiserowitz, A. (2014). Shifting discourses of climate change in India. *Climatic Change* 123(2): 107-119

<sup>65</sup> Valencia, L. (2019). *Compensatory Afforestation in Odisha, India: A political ecology of forest restoration*. MA thesis submitted to Graduate Development of Planning and Geography, University of Toronto

<sup>66</sup> As mentioned by Jairam Ramesh (Former Union Minister of Environment & Forest) for India's NDC to create additional carbon sink of 2.5 to 3 billion tonnes by 2030, in his statement at a launch event. Address available at: <https://www.youtube.com/watch?v=p-qjFcA7bOU>

<sup>67</sup> The Energy Resources Institute. (2018). *Economics of Desertification, Land Degradation and Drought in India*.

<sup>68</sup> Valencia, L. (2019). *Compensatory Afforestation in Odisha, India: A political ecology of forest restoration*. MA thesis submitted to Graduate Development of Planning and Geography, University of Toronto

India's climate action commitments and strategies are also becoming instruments for the forest bureaucracy to maintain and intensify its control over forests.<sup>69</sup> The programmes and schemes proposed to help India meet its targets of enhancing forest carbon stocks – National Afforestation Programme, National REDD+ strategy, Green India Mission and devolution of \$6 billion under compensatory afforestation – are all forest bureaucracy centric. Community participation is envisaged through Joint Forest Management – an entirely forest department-controlled scheme with massive institutional support.<sup>70</sup> Another key strategy of the Indian government to conserve forest carbon stock is through its Protected Area (PA) network where the feasibility of carbon benefit accrual is considered “highly feasible” as “community extraction is banned.”<sup>71</sup> The exclusionary conservation model adopted in the management of India's protected areas has been associated with high levels of social injustice for STs/OTFDs.<sup>72</sup> FRA and CFR rights are heavily undermined in these strategies, let alone be seen as important in India's climate change policies and plans.

**India's climate actions from the forestry sector are leading to a process of enclosing the land and forests of its most marginalised and climate-vulnerable communities, in complete violation of their legal rights**

Studies show that flagship initiatives such as the Green India Mission (GIM) have all the qualities of colonial forestry management efforts in India, which have historically disinherited STs/OTFDs.<sup>73,74</sup> Representatives or groups working with these communities have been excluded from the process of development of climate action plans and strategies in India. For instance, the expert committee constituted to develop the National REDD+ strategy did not have any representation from tribal groups of India.<sup>75</sup> Similarly, the Paris Agreement requires that NDCs are prepared in a participatory manner with full and effective participation of the vulnerable and affected communities. India has, however, not done any consultation with these communities or their groups in determining the NDCs.

Even though STs/OTFDs are among the most vulnerable to climate change impacts, the Ministry of Tribal Affairs (MoTA) – responsible for the welfare of these communities and the nodal agency for FRA implementation - has been side-lined from climate change discussions. While climate change comes under the MoEF&CC's purview, the Indian government has often constituted inter-ministerial committees to develop climate strategies owing to the cross-sectoral nature of the issue. An Apex Committee constituted in 2020 to ensure that India meets its NDC commitments has members from 14 ministries/departments of the central government but MoTA is not one of them.<sup>76</sup>

India's policies and climate action plan from forests boil down to two objectives: **enhancing forest cover and forest carbon sinks**. The National REDD+ strategy makes it clear that the only activities that are both highly feasible and have high potential for carbon benefits accrual pertain to enhancement of forest carbon stocks through afforestation/reforestation. The Indian government has been pursuing afforestation and reforestation through programmes such as the National Afforestation Programme, Green India Mission, Compensatory Afforestation (CA), Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) and plantation drives across states. These programmes are seeing a massive flow of funds through the forest departments amounting to over 10 billion USD in the last five years (*see Table: Allocation of funds for major afforestation programmes from 2016-17 to 2020-21*) which is further empowering the bureaucracy to undercut FRA and impose their top-down agenda on the ground.

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<sup>69</sup> [https://forestrightsact.files.wordpress.com/2016/04/joint\\_statement\\_on\\_redd\\_draft\\_post\\_nffpw.pdf](https://forestrightsact.files.wordpress.com/2016/04/joint_statement_on_redd_draft_post_nffpw.pdf)

<sup>70</sup> Joint Forest Management is an administrative scheme of the Indian government to elicit 'participation' of local communities in forest management. The scheme suffered from skewed power relationships between the forest department and local communities.

<sup>71</sup> Ministry of Environment, Forest & Climate Change. (2018). *National REDD+ strategy*. Government of India.

<sup>72</sup> Fanari, E. (2020, October 21). Indian conservations 'puts communities in peril.' *Ecologist*

<sup>73</sup> Davis, D. and Robbins, P. (2018). Ecologies of the colonial present: Pathological forestry from the *taux de boisement* to civilized plantations. *Environment and Planning E: Nature and Space*. 2018;1(4):447-469

<sup>74</sup> Bilderbeek, S.L. and Lahiri, S. (2021). Addressing power imbalances in biosequestration governance. *Global Policy Volume 12. Supplement 1*

<sup>75</sup> Ministry of Environment, Forest & Climate Change. (2018). *National REDD+ strategy*. Government of India

<sup>76</sup> <http://egazette.nic.in/WriteReadData/2020/223382.pdf>

Dependence on large funds is known to create pressures to set unrealistic targets and bypass participatory processes in order to meet them.<sup>77</sup>

<b>Table: Allocation of funds for major afforestation programmes from 2016-17 to 2020-21 (₹ in crore)</b>						
Name of afforestation programme/scheme	2016-17	2017-18	2018-19	2019-20	2020-21	Total
Compensatory Afforestation*	2,634.24	2,404	3,523.59	5,310.68	7,133.25	<b>21,005.76</b>
Green India Mission	40.21	46.3	298.09			<b>384.6</b>
National Afforestation Programme	41.4	57.7	157.79			<b>256.89</b>
MGNREGS (Plantations)	4,340.51	3,932.51	1,823.83	968.9	927.74	<b>11,993.49</b>

Source: Lok Sabha questions and MGNREGS MIS

\*Additionally, Rs 48,477 crore (\$6.5 billion) was disbursed to states in August 2019 after the enactment of the Compensatory Afforestation Fund Act 2016.

There is also no clarity on how the land for such large-scale afforestation/reforestation will be arranged.<sup>78</sup> Afforestation programmes have often been a cover for massive land grabbing of STs/OTFDs<sup>79</sup> and plantation-induced conflicts are being increasingly reported<sup>80</sup> (see Box: *Afforestation programme in Telangana a cause of major conflict*). Several instances have emerged of customary lands and forests of STs/OTFDs, where forest rights have been claimed or recognised, being diverted for afforestation<sup>81,82,83</sup> for which they are neither informed, nor consulted, nor compensated.<sup>84</sup> While compensatory afforestation is required to prioritise non-forest land, land scarcity is also increasingly leading to acquisition of degraded forests - an important source of sustenance and livelihood for STs/OTFDs. Degraded forests constituted more than 75% of the total land taken up for compensatory afforestation from 2016-17 to 2020-21 (see Table: *Non forest land and degraded forest in compensatory afforestation*). The recent amendments proposed to the Forest Conservation Act 1980 signal attempts by the government to free up forests for plantations in order to meet its climate and plantation targets.<sup>85</sup>

<b>Table: Non forest land and degraded forest in compensatory afforestation</b>		
Year	Non Forest Land taken up for CA (in hectares)	Degraded Forest land taken up for CA (in hectares)
2016-17	4,717.32	6,583.8
2017-18	9,489.3	17,509.14
2018-19	9,467.3	30,990.39
2019-20	6,841.9	40,529.45
2020-21	6,941.05	23,632.03
<b>Total</b>	<b>37,456.87</b>	<b>119,244.8</b>

Source: Lok Sabha Unstarred Question No. 2656 dated 6.3.2020 and Unstarred Question No. 810 dated 23.7.2021

<sup>77</sup> Costanza Torri, M. (2010). Decentralising governance of natural resources in India: Lessons from the case study of Tanagazi block, Alwar, Rajasthan, India. *6/2, Law, Environment and Development Journal* p.228

<sup>78</sup> Saju, A. (2021, January 23). Can India meet its NDC target under Paris Climate Agreement by 2030. *The Hindu Business Line*.

<sup>79</sup> [https://forestrightsact.files.wordpress.com/2016/04/joint\\_statement\\_on\\_redd\\_draft\\_post\\_nffpw.pdf](https://forestrightsact.files.wordpress.com/2016/04/joint_statement_on_redd_draft_post_nffpw.pdf)

<sup>80</sup> <https://www.landconflictwatch.org/all-conflicts>

<sup>81</sup> Dubey, S. (2016, July 18). Plantations, CAMPA loom large over community rights. *Down to Earth*.

<sup>82</sup> Dubey, S., Dash, T. and Chitkara, R. (2018). *Impact of compensatory afforestation on land and forest rights: Interim Report*. Produced as part of Community Forest Rights Learning and Advocacy process.

<sup>83</sup> Valencia, L. (2019). *Compensatory Afforestation in Odisha, India: A political ecology of forest restoration*. MA thesis submitted to Graduate Development of Planning and Geography, University of Toronto.

<sup>84</sup> Department-related Parliamentary Standing Committee on Science and Technology, Environment & Forests. (2008). *One Hundred and Ninety Fourth Report on Compensatory Afforestation Fund Bill 2008*. Rajya Sabha Secretariat, Parliament of India.

<sup>85</sup> DTE staff. (2021, October 5). Dictionary defined 'forests' will be out of forest laws? *Down to Earth*

## Case study: Afforestation programme in Telangana a cause of major conflict<sup>86,87</sup>

Haritha haram, also known as Green Garland, is one of the flagship afforestation programmes launched by the Telangana state government in 2015 to bring 33% of the state's geographical area under forest cover. The programme, also seen as important climate change mitigation action from the forestry sector<sup>88</sup>, has received massive political backing and seen a whopping expenditure of 5,591 crores (USD 745 million) till June 2021.<sup>89</sup> However, the top-down approach to the implementation of the programme by the forest department without any consideration for rights of forest dwellers has led to huge protests by STs whose traditional lands have been impacted by afforestation.

Tribal farmers from at least three villages – Satyanarayanapuram, Guttugudem and Kattugudem – which fall in Scheduled Areas of Bhadrachalam district - have filed complaints regarding forced eviction from their *podu* (shifting cultivation) lands in the name of Haritha haram, adversely impacting 314 households and 882.71 acres of land and violating several fundamental rights as well as special rights of tribal communities in scheduled areas. Plantations have been undertaken without seeking their consent or consulting them; standing crops have been destroyed for plantations; police have come in and used force to prevent them from entering from their land; protestors including women have been physically abused and manhandled and communities have been threatened with dire consequences such as foisting of cases under various sections if the plantation activities are obstructed. Despite orders by the District administration, Integrated Tribal Development Agency and even the High Court to stop plantations and dispossession of tribals without completing the process of settlement of their forest rights, the forest department continues to aggressively pursue the plantation drive. These villages have now become rife with conflicts and the fear of forced eviction and dispossession from their traditional lands looms large on the resident STs.

Simultaneously concerted attempts have been made by the government, in the name of public private partnerships, to hand over a significant chunk of degraded forests to the private sector for raising monoculture plantations of industrial species. Planned afforestation also features as one of the solutions in the 2020 declaration signed by India's leading business agencies to assist the government in fighting climate change.<sup>90</sup> These efforts will further legitimise land grabbing of STs/OTFDs, leading to their displacement and dispossession. This will also centralise control of forestlands in the hands of the state forest departments which would be a reversal of the ongoing movement to decentralise decision-making in forest governance. The burden of climate change mitigation from forests will fall on these communities and increase their vulnerability to the impacts of climate change.

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<sup>86</sup> <https://www.thehindu.com/news/cities/Hyderabad/after-release-farmers-protest-at-jail/article35860798.ece>

<sup>87</sup> <https://www.newindianexpress.com/states/telangana/2021/mar/02/tribals-protest-seeking-pattas-for-podu-lands-2270777.html>

<sup>88</sup> Ministry of Environment, Forest & Climate Change. (2021). *India: Third Biennial Report Update to the United Nations Framework Convention on Climate Change*. Government of India.

<sup>89</sup> <https://www.newindianexpress.com/states/telangana/2021/jun/30/telangana-sets-target-of-planting-1991-crore-saplings-in-seventh-phase-of-haritha-haram-2323562.html>

<sup>90</sup> Ministry of Environment, Forest & Climate Change. (2020). *Declaration of the private sector on climate change*. India CEO Forum on Climate Change

# A climate justice framework for forest-dependent communities

**S**ecuring climate justice for the marginalised and most vulnerable communities is imperative for India. Bureaucratic and market-based approaches to climate action have not worked. Community-led initiatives are showing promising results, globally and within India. FRA provides an enabling framework for an alternative paradigm to achieve positive climate outcomes through the democratic governance of over 40 mha of India's forests and the legal authority of forest-dependent communities to be at the core of decision-making in climate change mitigation and adaptation strategies from forests. To achieve this, the Indian government needs to prioritise the following:

- i) Develop a Forest Rights Act based climate action plan with the recognition of rights of forest dwelling communities and community led governance of forests as an integral part of the action plans and strategies to fight climate change.
- ii) Secure tenure of STs/OTFDs on forestlands in India through scaling up recognition of CFR rights.
- iii) Support STs/OTFDs to exercise their forest rights in the letter and spirit of FRA to build resilient forests and communities.
- iv) Ensure free, prior and informed consent of Gram Sabhas for implementation of climate change mitigation programmes on their customary lands and forests
- v) Direct climate finance towards strengthening forest rights and tenure and ensure devolution of the climate funds to the gram sabhas under FRA.

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