

Exploring the Road to REDD in India

EQUATIONS

Indian forests today...

- recorded forest area in the country is 769,626 km² (or 23.41 percent of the country's geographic area)
- 419,028 km² of Reserved Forest (54.4 percent of total forest area)
- 216,605 km² of Protected Forest (28.14percent)
- 133,993 km² of Unclassed Forest (17.4 percent)

Forest categories...

- Reserved Forests (RF) – under State/forest department
- Protected Forests - under State/forest department
- Unclassed Forests – belong to communities and individuals – traditional and customary rights

Forest cover...

- 677,088 km² - constitutes 20.60 percent of the geographic area
- 54,569 km² (1.66 percent) is very dense
- 332,647 km² (10.12 percent) is moderately dense
- 289,872 km² (8.82 percent) is open forest
- 31 million ha of the recorded forest area is degraded
- Madhya Pradesh, Arunachal Pradesh, Chhattisgarh have the highest forest cover
- 183 tribal/indigenous community majority districts have forest cover around 36 per cent
- The hill districts have forest cover around 33 per cent

Forests in colonial past...

- European production based forestry model
- Developed scientific forest management to provide revenue to the colonial empire
- Declared forests as state property
- Curtailed the rights of the forest dwellers to areas with commercially valuable species
- closure to grazing and other human activities such as collection of firewood, fodder, medicinal plants, bamboo, etc
- assertion of state monopoly right and the exclusion of forest communities marked the organising principles of forest administration in modern India.

Forest ownership...

- Colonial Forest Act, 1878, and the first forest policy of 1894 changed the ownership pattern of India's forests
- end of the 19th century almost 80 percent of the forests were owned by communities and private individuals
- Today, state ownership has increased to more than 80 percent of the recorded forest area

Impact...and the New Order

- rebellions and revolts of the forest and indigenous tribal communities started in 1784 continued till the first quarter of the 20th century
- primarily directed against the new land and forest policies of the British
- British crushed them ruthlessly, brought fresh areas under their control, formulated new legislations to legitimize the transfer of property rights from the community/individual to the state
- Forests Acts of 1878 and 1927 and the forest policy of 1894 facilitated the strengthening of the new order

Post independent Indian forests

- Forest Policy 1952
 - stressed the importance of production forestry
 - increase forest cover to 33 percent
 - increase to two thirds in the hills
 - protection of wildlife and the preservation of fauna by demarcating forests for sanctuaries and national parks – the conservation ethos!
 - Indian Forest Act 1927 to validate legislative control over private forests

...contd...

- National Commission on Agriculture (NCA) 1976
 - regulation of grazing & shifting cultivation
 - undertaking large scale industrial plantations
 - adopting social forestry to meet community demand for fuelwood and fodder
 - alienating forest dwellers with adverse effects

1988 Forest Policy

- environmental stability through preservation and restoration of the ecological balance
- Conserving remaining natural forests
- Increasing forest/tree cover through afforestation and social forestry programmes
- Meeting the requirements of rural and tribal populations for fuel wood, fodder, minor forest produce and small timber
- Encouraging efficient utilization of forest produce and maximizing substitution of wood
- Creating a massive people's movement with the involvement of women for achieving the objectives and to minimise pressure on existing forests
- Paved the way for Joint Forest Management involving village communities and voluntary agencies in the regeneration of degraded forests

Forest legislations: conservation or destruction?

- The Colonial Indian Forest Act of 1927, is the legislative foundation of the forest sector in independent India
- Gave the power to divert forests for other uses
- millions of hectares of forest land being diverted between 1951 and 1980
- neither supports people's participation in forest protection and management nor does it promote social forestry
- **Wildlife (Protection) Act 1972 (WLPA)** gives primacy to conservation over exploitation

WLPA?

- Bans all human activities in wildlife habitats
- Forcible evictions without proper resettlement
- Conflicts between forest people and Protected Areas (PA) Authorities
- Criminalises forests people
- Not strong enough to fight commercial & industrial interests
- Poaching continues unabated
- 96 National Parks & 509 Wildlife Sanctuaries today
- Covering 15.7 million ha, 4.78 per cent of the geographical area, 20 per cent of the recorded forests
- Is this why Indian government calls for 'compensated conservation'?

Forest Conservation Act 1980

- First legislative attempt to slow deforestation
- But gave powers to the central government to permit dereservation or diversion of forest land for non-forest purposes
- Requires compensatory afforestation on degraded RF or non-forest land
- Rendered 20 million forest people as encroachers
- Denies basic amenities such as roads, schools, health centres and water supply lines
- Have not been able to check diversion of forests land for industry and other development projects
- Between 1980 and 1990, 3 million ha of forests were lost

Forests Rights Act 2006

- Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 enacted to undo historic injustice to the forest people
- Recognises forest rights on ancestral land and habitat
- vests the forest rights and occupation in forest land of forest dwelling scheduled tribes and other traditional forest dwellers

Significant provisions...

- It provides tenurial security and access rights to forest dwellers;
- Right to hold and live in the forest land under the individual or common occupation for habitation or for self cultivation for livelihood;
- Right of ownership access to collect, use and dispose of minor forest produce which has been traditionally collected within or outside village boundaries;
- Other community rights of uses or entitlements such as fish and other products of water bodies, grazing and other traditional resource access of nomadic or pastoralist communities;
- Rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified, or not, in to revenue villages;
- Right to protect, regenerate, conserve or manage any community forest resource that they have been traditionally protecting or conserving for sustainable use;
- Right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;
- overrides any other forest act in terms of implementation and interpretation

Opposition....

- implementation of the Act is very poor and slow
- covert opposition from the forest department which does not want to share their absolute power with the forest communities and still regard themselves to be the biggest landlord of the country
- wildlife lobby creating umpteen obstacles

Joint Forest Management

- While this practice is acceptable to the forest department, FRA is not
- Is not legalised, a circular issued in 1990
- Involves regeneration of degraded forest lands
- Undermines traditional forest management practices
- commercializing traditional systems and bringing community protected forests under the control of the forest department
- Imposed on forest people without appropriate consultation
- During the five year JFM project under World Bank Forestry Project in the mid to late '90s in the central Indian province of Madhya Pradesh, there were 56 JFM related police firings resulting in deaths
- Often resulted in the forest department extracting money, food and bonded labour, where tribal women are obliged to cook, clean and wash for the village forest officers
- Land of the forest people used for generating plantations get locked till the timber is harvested endangering their livelihood

Indigenous people and the UN Declaration

- In the UN General Assembly of September 2007, India voted in favour of the UN Declaration on the Rights of Indigenous Peoples, Indian Representative Ajai Malhotra said his country had consistently favoured the promotion and protection of indigenous peoples' rights
- But, India, over the years, has consistently refused to recognize the tribal communities as indigenous peoples
- Government of India and its administrative authorities do not recognize or use the term indigenous. Instead, the indigenous and/or tribal communities in India are recognized through provisions of Article 366 and 342 of the Indian Constitution under a special category referred to as “scheduled tribes”

Indigenous peoples in India

- 'Scheduled Tribes' first appeared in the Constitution of India. Article 366 (25) defined scheduled tribes as "such tribes or tribal communities or parts of or groups within such tribes or tribal communities as are deemed under Article 342 to be Scheduled Tribes
- criterion followed for specification of a community, as scheduled tribes are indications of primitive traits, distinctive culture, geographical isolation, shyness of contact with the community at large, and backwardness
- Not spelt out in the Constitution but has become well established
- The grouping of 'scheduled tribes' does not include all the tribal communities in India and the criteria for scheduling is not without debate
- In the north eastern part of the country the phrase tribal and indigenous communities is mostly used whereas in the rest of the country such communities are referred to as "Adivasis"
- Finally, attention has been drawn to the serious national sovereignty issues involved revolving around question of "self-determination" and ownership of lands

PESA – Tribal Self Governance

- Panchayat Extension to the Scheduled Areas Act 1996

Panchayat is a Constitutionally recognized elected body of self governance at the lowest tier of three tier self governance system in India. Panchayats enjoy some form of autonomy as per the 73rd and 74th Constitutional amendment. Scheduled Areas are constitutionally recognized scheduled tribes majority areas with various forms of autonomy and formally categorized as Schedule V and Schedule VI areas.

PESA provides....

- autonomy over customary law, social and religious practices and traditional management practices of community resources;
- a village community to manage its affairs in accordance with traditions and customs;
- a Gram Sabha to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution;
- that Gram Sabha should *approve* of the plans, programmes and projects for social
- and economic development before such plans, programmes and projects are taken up for implementation by the Panchayat at the village level;
- that the Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-settling or rehabilitating persons affected by such projects in the Scheduled Areas;
- for the recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory prior to grant of prospecting licence or mining lease for minor minerals in the Scheduled Areas and also for grant of concession for the exploitation of minor minerals by auction

Problems with PESA

- PESA Act did devolve some powers to the tribal village community and council in scheduled areas
- But the same Act does not expressly recognize the sole rights of the tribal village council or their traditional self governance institutions
- allowed the ‘Panchayats at appropriate level’ to usurp their powers
- PESA, the Land Acquisition Act, Rehabilitation & Resettlement Policy, environmental decision making process and clearances to development projects in scheduled areas do not reflect the spirit of “free and prior informed consent” as engrained in UNDRIP
- provisions of PESA are restricted only to the communities living within the scheduled areas

National Tribal Policy

- a policy for the scheduled tribes in India and does not represent other tribal and indigenous communities or all adivasis
- says that, “There is a very strong symbiotic relationship between the STs and the forests and they have been at the forefront of the conservation regime. Due to faulty processes of declaring forests in the past, the rights of the tribals over their traditional land holdings in the forests have gradually been extinguished. Insecurity of tenure and fear of eviction from these lands has led the tribal communities to feel emotionally as well as physically alienated from forests and forest lands.
- talks of mandatory consultation with the Gram Sabha and the Tribal Advisory Council, it is conspicuously silent on the issue of consent of the communities and the safeguard and protection of ancestral lands and sacred groves of the tribal population

India & REDD

- India was putting forth the concept of 'Compensated Conservation' since Nairobi COP
- Indian proposal on forest conservation/sustainable management of forests, and increment in forest cover as a *policy approach to enhance carbon stocks found place not only in the preamble but also in the operative part (paras 3 and 7) of the COP decision on REDD*
- India with Costa Rica, China, Panama, Malaysia, Gabon, Ghana and the African countries demanded
- The inclusion of forest degradation, conservation of forest and/or increase in forest cover in the REDD draft text
- REDD projects should be accounted and conducted at the national and/or sub-national level, and
- The REDD financial mechanism should be market or fund-based (this however was not ascertained yet at this point of the decision text but was still discussed from time to time).

The reason behind...

- weak forest governance in failing to protect natural old growth forests even after the enactment of the Forest Conservation Act
 - diversion of huge tracts of forests land for industry and development projects
 - continuing destruction of dense forest cover coupled with the conservation regime restricted within the Protected Areas
 - policy of increasing forest cover outside the recorded forest area
 - and social forestry programmes
- is reflected in its approach to REDD internationally**

And much more....

- 41 per cent of forest cover of the country has already been degraded
- dense forests are losing their crown density and productivity continuously
- 70 per cent forests have no natural regeneration
- 55 per cent are prone to fire
- expects any financial incentive to support its programme of afforestation and increase of tree cover and limited conservation effort through the PAs

More to REDD: the unresolved issues

- who will benefit through REDD actually? The national government and, therefore, the forest departments or the forest communities
- it is difficult to imagine that the incentive from REDD will be passed on to the forest communities notwithstanding the Forest Rights Act – none of the activities have forest people participating rather alienated
- CAMPA, the afforestation fund collected from industry and project developers for in lieu of diversion of forest land is today a whopping Rs 112000 million or US\$ 2240 million
- primarily collected from the heavily forested regions of Orissa, Andhra Pradesh, Chhattisgarh, Madhya Pradesh and the north eastern part of the country where sizable tracts of forest land are traditionally owned by the communities and individuals
- But no mechanism to compensate the forest people whose land were taken away and diverted
- such a fund not only promotes artificial greening of the country but also facilitates rising financial clout of the forest bureaucracy undermining the rights and entitlements of the forest people

What REDD means to forest people in India

- market or fund based financial mechanism like REDD may tend to act as a disincentive towards decentralization of forest governance
- both the state and private sector actors will be tempted to stake their claims to such areas previously considered uneconomic, much to the disadvantage of the forest dependent communities
- Emergence of such a fund will neither result in the conservation of natural old growth forests or regeneration of forests nor facilitate improved life and livelihood of the forest people
- Commodification of the forests will be completed at the cost of its protectors



