

Policy

WATCH

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Environment, Natural Resources and Sustainability

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RAJIV GANDHI
INSTITUTE FOR CONTEMPORARY STUDIES

Editorial

The Rajiv Gandhi Institute for Contemporary Studies (RGICS) is the knowledge affiliate of the Rajiv Gandhi Foundation. RGICS carries out research and analysis as well as policy advocacy on contemporary challenges facing India. RGICS currently undertakes research studies on the following five themes of general public utility including:

1. Constitutional Values and Democratic Institutions
2. Governance and Development
3. Growth with Employment
4. Environment, Natural Resources and Sustainability
5. India's Place in the World

This issue of Policy Watch is on the theme Environment, Natural Resources and Sustainability. We carry five articles, broadly focusing on alternative development paradigms.

The first article is by the Vikalp Sangam a group of activists and NGOs engaged in the search for alternatives, which can be practical activities, policies, processes, technologies, and concepts/frameworks, practiced or proposed/propagated by any collective or individual, which stands against the dominant system.

The article describes the five principles that unify these alternatives – namely ecological integrity and resilience, social well-being and justice, direct and delegated democracy, economic democracy and cultural diversity and knowledge democracy. The article lists many existing on-the-ground initiatives. We carry this article in preparation for a meeting of the Vikalp Sangam in Bhuj on 23-25 Nov.

The second article is a report of a webinar organized by RGICS on the occasion of Himalaya Day on 9th September 2024. This report compiled by Mr. Jeet Singh, Head of RGICS Research, summarises the detailed discussion on current ecological threats facing the Himalayan region and opportunities in hand to save its snow cover, glaciers, forests, valleys, rivers, wildlife, humans and culture. The webinar will feed into a study that RGICS is doing called Western Himalayas Ecology, Economy and Livelihoods and another of Livelihoods and Ecology for Northeastern States.

The third article is by Dr. Vishal Massey, COO of Indian Association of Club of Rome, giving an overview of the Forest Rights Act, 2006. This article argues that cumulatively various states have recognized more than 24 lakh claims of tribal and other forest dwellers.

Out of these nearly 1.15 lakh claims for community forest rights were recognized in various states. Cumulatively 138 lakh crore forest land is now allotted to villagers for their bona fide use and management. This article advocates for a policy mechanism to meet social and ecological goals and demands.

The fourth article discusses the concept of biodiversity credits which have been proposed as an innovative climate finance mechanism. Advocates see it as a new way to finance conservation efforts while benefiting local communities and biodiversity custodians. We carry two critiques of this. The first one, by the Third World Network, critically evaluates this proposal and argues that it will give a free hand to businesses to destroy biodiversity and increase vulnerabilities of poor people in third world countries.

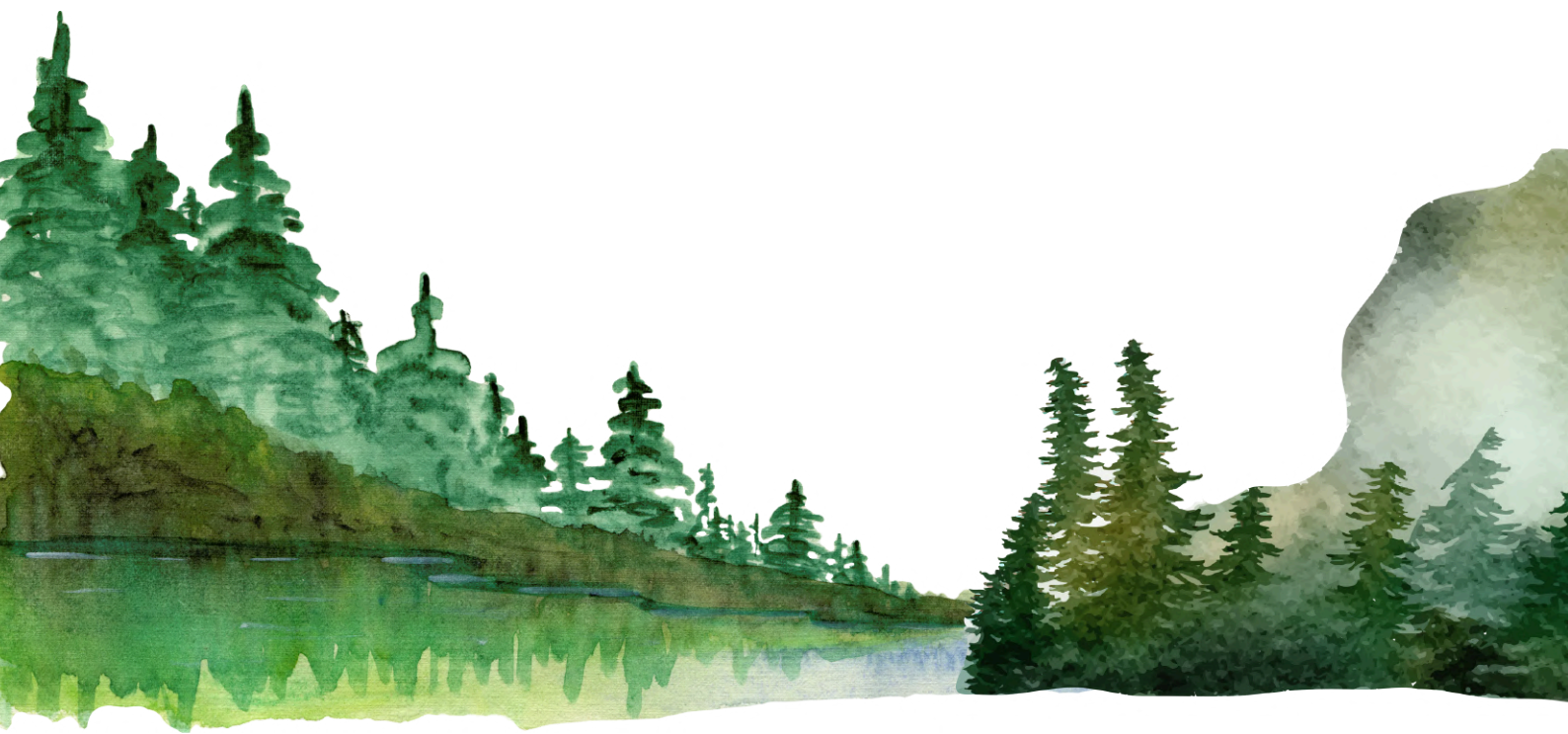
This article is followed by critical commentary on biodiversity offset by Mr. Sandeep Saxena. He argues that after decades of continuous loss of biodiversity, brought by rapid Industrialization without any costs attached to such actions, a new narrative has emerged focusing on creating a mechanism for offset for biodiversity losses. Instead he has established Green Earth Blockchain Tokens (GEBTs) to share the biodiversity credits to reward all the deserving Participants – growers, value adders and users in the food supply chain, natural products and services, worldwide. See <https://youtu.be/pljf-dT9Ijo>

The fifth article deals with pricing of natural resources and the role of law in it. The article is by Deni Shah and Altamash Qureshi, and was first published by Acuity Law, and is being reproduced with gratitude. The article discusses a recent judgment of the Supreme Court, which upheld the state government's right to collect royalty on mining.

The Supreme Court's decision to permit this retrospectively wef 1st Apr 2005 will have a bearing on India's mining industry and the broader economy. Initial estimates indicate that the total tax arrears owed by mining companies to the State Governments could be approximately ₹150,000 crore. Collections of arrears will begin from 1st April 2026, and staggered over 12 years. While State Governments stand to gain significant revenue from this ruling, the decision introduces financial challenges that could have long-lasting effects on investment, pricing, and the overall stability of the sector.

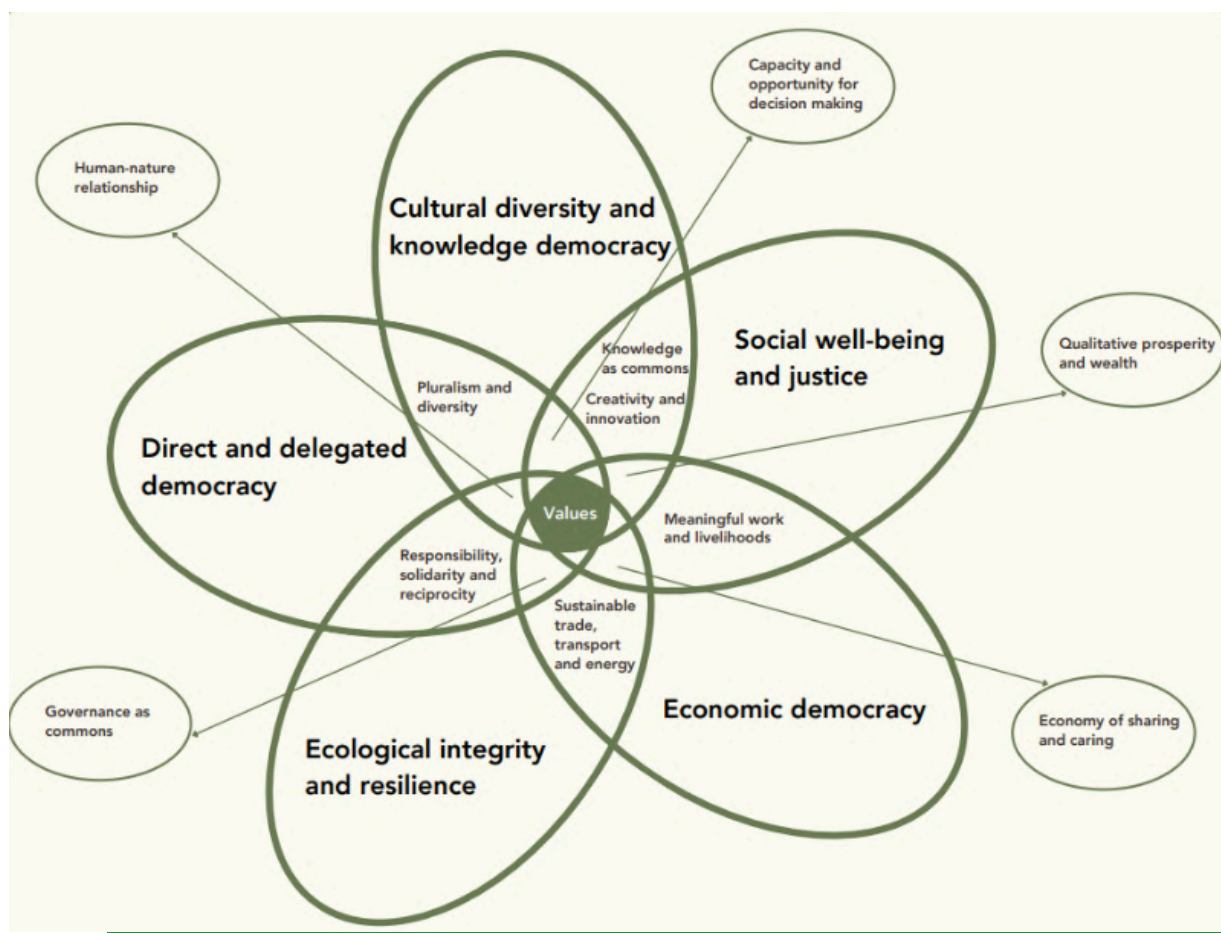
We hope you enjoy reading these articles. We look forward to your feedback.

Vijay Mahajan,
Director, Rajiv Gandhi Institute for Contemporary Studies



1 The search for radical alternatives

Vikalp Sangam¹



1.1 What is an Alternative?

Alternatives can be practical activities, policies, processes, technologies, and concepts/frameworks, practiced or proposed/propagated by any collective or individual.

They can be continuations from the past, re-asserted in or modified for current times, or new ones; it is important to note that the term does not imply these are always 'marginal' or new, but rather that they stand in contrast to the mainstream or dominant system.

It is proposed that alternatives are built on the following inter-related, interlocking spheres, seen as an integrated whole:

a.) Ecological integrity and resilience, which includes maintaining the eco-regenerative processes that conserve ecosystems, species, functions, cycles, respect for ecological limits at various levels (local to global), and an ecological ethic in all human endeavour.

¹ <https://vikalpsangam.org/wp-content/uploads/2024/10/Alternatives-Framework-7th-Avatar-digital-v1.4.pdf>

b.) Social well-being and justice, including lives that are fulfilling and satisfactory from physical, social, cultural, and spiritual perspectives; where there is equity between communities and individuals in socio-economic and political entitlements, benefits, rights and responsibilities; where there is communal and ethnic harmony; where hierarchies and divisions based on faith, gender, caste, class, ethnicity, ability, and other attributes are replaced by non-exploitative, non-oppressive, non-hierarchical, and non-discriminatory relations.

c.) Direct and delegated democracy, where decision-making starts at the smallest unit of human settlement, in which every human has the right, capacity and opportunity to take part, and builds up from this unit to larger levels of governance by delegates that are downwardly accountable to the units of direct democracy; and where decision-making is not simply on a 'one-person one-vote' basis but rather is consensual, while being respectful and supportive of the needs and rights of those currently marginalised (e.g. some minority groups).

d.) Economic democracy, in which local communities and individuals (including producers and consumers, wherever possible combined into one as 'prosumers') have control over the means of production, distribution, and exchange (including markets); where localization is a key principle, and larger trade and exchange is built on it on the principle of equal exchange; where private property gives way to the commons, removing the distinction between owner and worker.

e.) Cultural diversity and knowledge democracy, in which pluralism of ways of living, ideas and ideologies is respected, where creativity and innovation are encouraged, and where the generation, transmission and use of knowledge (traditional/modern, including science and technology) are accessible to all.

A crucial outcome of such an approach is that the centre of human activity is neither the state nor the corporation, but the community: a self-defined collection of people with some strong common and cohesive social interest.

The community could be of various forms, from the ancient village to the urban neighbourhood to the student body of an institution to even the more 'virtual' networks of common interest.

It is acknowledged here that the 'community' as traditionally conceived is not homogenous, and may contain levels of hierarchy, exploitation, and marginalisation; it would therefore be important to consider the sphere of social justice as being crucial in such situations.

Many or most current initiatives may not fulfil all the five spheres discussed above. Perhaps we can consider something an alternative if it addresses at least two of the above spheres (i.e. is actually helping to achieve them, or is explicitly or implicitly oriented towards them), and is not violative of other spheres but rather is open to them and their possible adoption.

This means, for instance, that a producer company that achieves economic democracy but is ecologically unsustainable (and does not care about this), and is inequitable in governance and distribution of benefits (and does not care about this), may not be considered as an alternative.

Similarly a brilliant technology that cuts down power consumption, but is affordable only by the ultra-rich, would not qualify (though it may still be worth considering if it has potential to be transformed into a technology for the poor as well).

1.2 What are the alternatives in various sectors?

The Framework provides indicators of the kinds of initiatives that could be called alternatives, in 12 sectors or fields. To these are added actual examples of initiatives, mostly taken from the Vikalp Sangam website

Society, Culture and Peace

This includes initiatives to enhance social and cultural aspects of human life, such as sustaining India's enormous language, art and crafts diversity, removing inequalities of caste, class, gender, ethnicity, literacy, race, religion, and location (rural-urban, near-remote), creating harmony amongst communities of different ethnicities, faiths and cultures, providing dignity in living for those currently oppressed, exploited, or marginalised, including the 'disabled' or differently abled and sexual minorities, promoting ethical living and thinking, and providing avenues for spiritual enlightenment.

Several examples come to mind. The work of [Bhasha](#) in documenting and sustaining language diversity across India while including related economic, political, cultural and social aspects, includes the People's Linguistic Survey of India which documented 780 languages.

The initiative of [Landesa](#), a Seattle based non-profit, helps educate young women in West Bengal about their right to inherit property along with their brothers and teach them the hands-on skill necessary to be food secure.

To promote preservation of local/ traditional food, [Kalpavriksh](#) facilitates women's self-help groups to organise 'Wild Food Festivals' in Bhimashankar (Maharashtra) to help the local adivasis revive traditional knowledge of their food and imbibe a sense of respect for local cuisine in an atmosphere of junk food invasion. Other examples mentioned below also deal with sustaining crafts as a livelihood and tackling gender and caste inequities through sustainable agriculture.



Wild Food Festival at Palgarh, Maharashtra

The Framework points to a caution that is important in the current context of an increasingly rightwing agenda supported by the state: that initiatives which appear to be alternative in one dimension, e.g. conservation, or sustaining appropriate traditions against the onslaught of wholesale modernity, would not be considered so if they have casteist, communal, sexist, or other motives and biases related to social injustice and inequity, or those appealing to a parochial nationalism intolerant of other cultures and peoples.

Alternative Economies and Technologies

Initiatives that help to create alternatives to the dominant neoliberal or state-dominated economy and the 'logic' of growth, such as localisation and decentralisation of basic needs towards self-reliance, respect for and support of diverse livelihoods, producer and consumer collectives, local currencies and trade, non-monetised and equal exchange and the gif economy, production based on ecological principles, innovative technologies that respect ecological and cultural integrity, and moving away from GDP-like indicators of well-being to more qualitative, human-scale ones.

Several examples highlight the above, such as the localised manufacture and the ideas of regional self-reliant economy initiated by the village Kuthambakkam's ex-sarpanch [Elango Ramaswamy](#). Women in Chennai have moved to replace plastics with environment friendly products as palm plates, bags made of cloth, paper, and jute recycled products. Their venture [Nammaboomi](#) manufactures products to combat the throw away culture.

There are several dozen producer companies of farmers, fishers, pastoralists, crafts persons, like the one set up by Timbaktu Collective, [Dharani](#), with an aim to empower villagers especially women and young adults, encourage organic farming, sustainable ways of living and promote environmental conservation and development.



Another example is Goonj's attempt to create a parallel cashless economy around cloth. Its '[Cloth for Work](#) and '[Not Just a Piece of Cloth](#)' initiative has elevated cloth from its status as disaster relief material to a valuable resource that can generate earning. The initiative works with exchange of two currencies, material and labour, welcoming the old practice of barter and reducing the dependence on monetary resources.

Here too, the Framework cautions against certain type of alternatives: “What may not constitute alternatives, and are superficial and false solutions, such as predominantly market and technological fixes for problems that are deeply social and political, or more generally, ‘green growth’/ ‘green capitalism’ kind of approaches that only tinker around with the existing system.”

Livelihoods

Linked to the search for alternative, localised economies, this includes initiatives for satisfying, dignified, ecologically sustainable livelihoods and jobs.

These could be a continuation and enhancement of fulfilling traditional occupations that communities choose to continue if enabling conditions exist, including in agriculture, pastoralism, nomadism, forestry, fisheries, crafts, and others in the primary economy; or they could be jobs in manufacturing and service sectors that are ecologically sustainable and dignified.

Examples of such livelihoods include: the revival of sustainable, organic agriculture by dalit women members of the Deccan Development Society in Telangana who are practicing highly bio-diverse farming methods, treasuring traditional seeds, and initiating the Africa- India [Millet Network](#), which is getting both national as well as international recognition.

Small farmers associated with [Timbaktu Collective](#) in Andhra Pradesh; [pastoral initiatives](#) supported by Sahjeevan in Kachchh; and [Anthra](#), a team of women veterinarians in Maharashtra that address the problems faced by small farmers, adivasis, peasants, pastoralists, dalits and women by building a strong base of evidence based practices which are enduring, sustainable, equitable, and respectful of people’s knowledge.



The Timbaktu Collective, Anantapur Dt, Andhra Pradesh

What would not fit are livelihoods, traditional or modern, where non-workers are in control and profiting (monetarily or politically) from the exploitation of workers; this is especially relevant in the current context where many capitalist or state-run corporations are claiming to be eco-friendly, but in the way they treat workers or deal with profits, they remain essentially exploitative.

Settlements and Transportation

This includes the search to make human settlements (rural, urban, rurban) sustainable, equitable, and fulfilling places to live and work in, through sustainable architecture and accessible housing, localized generation of means of satisfying basic needs as far as possible, ecological regeneration, minimisation of waste and its full upcycling or resource use, replacement of toxic products with ecologically sustainable ones, sustaining and reviving the urban commons, decentralised, participatory budgeting and planning of settlements, and promotion of sustainable, equitable means of transport (especially mass, public, and non-motorised).

Examples of such initiatives include: [‘Homes in the City’](#) in Bhuj programme by several NGOs that aim to empower poor citizens to either self-provision or get access to decent housing, water self-sufficiency, waste management, open spaces and other services; the revival of urban wetlands in [Bengaluru and Salem](#); urban farming such as widespread rooftop gardening in many cities; the waste picker cooperative KKPKP and union SWaCH in Pune and participatory [budgeting](#) in Pune, where citizens have a say on how to spend a part of the public budget.



[Source: Image](#)



[Source: Image](#)

The Framework points out those elitist, costly models that appear to be ecologically sustainable but are not relevant for or affordable by most people, may not fit into alternatives.

Alternative politics

Initiatives and approaches included here are those that aim towards people-centred governance and decision-making, including forms of direct democracy or swaraj in urban and rural areas, linkages of these to each other in larger landscapes, re-imagining current political boundaries to make them more compatible with ecological and cultural contiguities, promotion of the non-party political process, methods of increasing accountability and transparency of the government and of political parties, and progressive policy frameworks.

Some examples reflect the above. The 30-year old story of Mendhalekha, a village that has taken control over its commons and declared that for itself, it is the government, is iconic. It has successfully enforced the long forgotten Maharashtra Gramdan Act of 1965.

Through this act the villagers have donated their entire agricultural land to the village Gram Sabha to strengthen it and also secure their land rights (Pathak and Gour-Broome 2001). A decade-long experiment at ecoregional decision making through a people's parliament ran in the Arvari basin in Rajasthan (Hasnat 2005).

There have been movements aimed at gaining citizens' right to information, independent oversight of governance through lokpals, and public audits (e.g. of the National Rural Employment Guarantee Scheme), and others.

Knowledge and media

This includes initiatives using knowledge and media as tools for transformation, including processes using modern and traditional, formal and informal, and urban and rural spheres of knowledge equitably, attempts to make knowledge part of the commons and freely accessible, and alternative and innovative use of media forms for communication.

Examples include the following. The urban [SETU programme](#) (Urban Bridge) is a civil society initiative in Bhuj town, Gujarat started in 2007 by workers and activists to equip city dwellers (including those in slums) with knowledge and capacities to understand their rights, various government schemes and policies available for them. [CGNetSwara](#) is using mobile and radio technologies to make governance more accessible to far-fung villages of Chhattisgarh.



Environment and Ecology

Initiatives included here promote ecological sustainability, including community-led conservation of land, water and biodiversity, eliminating or minimising pollution and waste, reviving degraded ecosystems, creating awareness leading to greater respect for the sanctity of life and biodiversity of which humans are a part, and promoting ecological ethics.

There are thousands of examples of [community conserved areas](#) (CCAs) across India. CCAs are areas where humans and wildlife co-exist. In these times when biological diversity is under grave threat, conservation efforts of the local communities gain immense significance.

Even in urban areas, there have been attempts to revive ecosystems in [Bengaluru](#), Udaipur, and Salem. Jheel Sanrakshan Samiti, a people's organisation formed by concerned citizens of [Udaipur](#) in regard to water management and pollution crises has worked tirelessly to ensure lake rejuvenation and combat water issues in the city.



There have been efforts at making tourism more ecologically sensitive as well. [Kanchendzonga Conservation Committee](#) (KCC), an organisation that was set up by the local youth of Yuksom village, west Sikkim in 1997, works to balance resource and conservation to make the mountain and tourism development sustainable.

The committee promotes village home stays, zero waste trekking, and has formed Ecotourism Service Providers Association of Yuksom (ESPAY).

There have also been many initiatives at creating localised curricula and extracurricular material on biodiversity for children and young adults.

Superficial solutions to ecological problems, such as planting trees to offset pollution and carbon emissions rather than reducing the emissions, may not be considered alternatives.

Energy

This includes initiatives that encourage alternatives to the current centralized, environmentally damaging and unsustainable sources of energy, as also equitable access to the power grid, including decentralized, community-run renewable sources and micro-grids, equitable access to energy, promoting non-electric energy options such as passive heating and cooling, reducing wastage in transmission and use, putting caps on demand, and advocating energy-saving and efficient materials.

Examples include a large number of decentralised renewable energy projects such as [Dharnai](#) micro-grid in Bihar, which was started by Greenpeace India along with Centre for Environment and Energy Development. Another example is of [BASIX](#) that launched a project for electrifying a village in Bihar using a solar-powered microgrid. The project aimed to challenge the centralised model of electricity and create a community run and owned system. [SELCO](#), a social enterprise based mostly in southern India works extensively to provide sustainable energy solutions and services to underserved households and small business. It works to create awareness and provide pivotal financial schemes in many remote regions of the country.

What may not count are expensive, elitist technologies and processes that have no relevance to the majority of people; or perhaps even large-scale centralised renewable energy projects with the same problems of access for the poor that fossil-fuel based grid systems have and with significant ecological costs. This latter issue is a major concern with the current government's large-scale solar energy initiatives.

Learning and Education

This includes initiatives that enable children and others to learn holistically, rooted in local ecologies and cultures but also open to those from elsewhere, focusing not only on the mind but also the hands and the heart, enabling curiosity and questioning along with collective thinking and doing, nurturing a fuller range of collective and individual potentials and relationships, and synergising the formal and the informal, the traditional and modern, the local and global. Examples are aplenty in India, though still marginal compared to the soul-deadening and status quo reinforcing mainstream education.

Examples include: the Ladakhi learning centre [SECMOL](#), which runs an energy self-sufficient campus; [Adharshila](#), a residential school for adivasi children based in Badwani, Madhya Pradesh, that believes in a learning environment that enhances the traditional and cultural knowledge of student's community; [Imlee Mahuaa School](#) for Adivasi communities in and around Balenga Para in the Bastar region of Chhattisgarh, which fosters independent learning environment where children decide what they wish to learn at school; and Karigarshala of Hunnarshala foundation based in Kachchh, Gujarat, started with an objective to capacitate people for reconstruction of their habitat by initiating activities on community empowerment, knowledge networks, and research and development.



Source: Image

Health and Hygiene

Initiatives in this are those that ensure universal good health and healthcare, through the prevention of ill-health in the first place by improving access to nutritious food, water, sanitation, and other determinants of health, ensuring access to curative/ symptomatic facilities to those who have conventionally not had such access, integration of various health systems, traditional and modern, bringing back into popular use the diverse systems from India and outside including indigenous/folk medicine, nature cure, Ayurvedic, Unani and other holistic or integrative approaches, and community based management and control of healthcare and hygiene.

Examples of such initiatives are growing in India. For example, [Swasthya Swara](#) based in Chhattisgarh aims to address rural community's health issues by reviving the traditional herbal/medicinal knowledge of Vaidis and Ayurvedic doctors. Similarly, [Tribal Health Initiative](#) based in Tamil Nadu works to provide decent health care services to tribal communities living in the Sittilingi valley by initiating a variety of community health care programmes.



Source: Image

Food and Water

This includes initiatives towards security and sovereignty over food and water, by producing and making accessible safe and nutritious food, sustaining the diversity of Indian cuisine, ensuring community control over processes of food production and distribution, and commons from where uncultivated foods are obtained, promoting uncultivated and 'wild' foods, making water storage, use and distribution decentralised, ecologically sustainable, efficient and equitable, producer-consumer links, advocating the continuation of water as part of the commons, and promoting democratic governance of water and wetlands.

There are several examples of the above in India. Deccan Development Society and Timbaktu Collective are mentioned above. Apart from these, [Gorus Organic Farming Association](#) around Pune is working on the model of Community Supported Agriculture by training small farmers in organic and natural farming practices and providing a market with a year-round guarantee of purchase at an assured price.

Another example is of [Arid Communities and Technologies](http://www.indiawaterportal.org/) (ACT) based in Kachchh, Gujarat, that works to strengthen the livelihoods of communities in arid and semiarid areas by resolving ecological constraints through facilitation and access to technologies or institutional solutions. The focus is on groundwater management and urban watershed management. Many more examples are available on India Water Portal (<http://www.indiawaterportal.org/>)

Purely elitist food fads even if they pertain to healthy or organic food, and expensive technological water solutions that have no relevance for the majority of people, are unlikely to be considered as alternatives.



Source: Image

Global Relations

These encompass state or civil society initiatives that, in the words of the Framework, “offer an alternative to the prevalent state of dog-eat-dog, belligerent and hyper-competitive international relations fuelled by geopolitical rivalries”.

These include cross-national dialogues among citizens and diplomats, moratoriums on increases and gradual decrease in military, surveillance and police spending, bans on ‘harms’ trading (e.g. arms, toxic chemicals, waste), and even re-examining notions of ‘nation state’ and emphasising relations amongst ‘peoples’ of the world.

Examples include several people-to people dialogues between citizens of India and Pakistan, and the positive (mostly in the past) advocacy of disarmament, non-alignment, environmental sustainability and other such global policies by India and Indian civil society.

What would not count as an alternative, is the attempt by India and other emerging powerful economies (the BRICS nations) to provide a counter to the power of the USA and Europe, for even as it does so, it follows the same neoliberal, state, corporate dominated policies that the industrialised countries have done so far (Bond 2015).

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The Vikalp Sangam is scheduled to meet next in Bhuj on 23-25 Nov

<https://vikalpsangam.org/>



2 Inter-linkages of Himalayan ecology, culture and livelihoods- Current threats and opportunities

Jeet Singh, RGICS



Source: Image

2.1 Intersections of ecology, economy and culture in Arunachal Pradesh

Mr. Ramesh Negi, former Chief Secretary of Arunachal Pradesh in his address helped to connect dots between cultural values, the geography, biodiversity, traditional political system and subsistence of the Arunachal Pradesh. He further linked that to the wellbeing of children of the state. In his address he also touched upon emerging threats to nature in the state.

The entire eastern Indian Himalayan Region is socially and ecologically highly diverse. Arunachal Pradesh alone has 27 different tribes. This diversity in the region is unified by two meta value systems - no compromises on injustice and sanctity of nature. These values not help them to unite in diversity but also sustain their livelihoods.

Their agriculture, livestock and horticulture is completely nature based where no external inputs such as pesticides and chemical fertilizers are promoted. Biomass produced by hills and forests in the state automatically feeds their agriculture and horticulture. Arunachal Pradesh is known for organic production because of their traditions, values and cultural practices.

Connecting livelihoods and associated cultural values/practices of people with development of children, Mr. Negi emphasised that children in the state are not protein deficient as we observe in other parts of the country.

He elaborates it by saying that the source of protein for children in the state is their staple food, food collected from forests, meat sourced from forest and fish. Mr. Negi acknowledged the contribution of their traditional political system for the strong foundation of nature based life and livelihoods. These traditional political systems are very strong where decisions are taken at community level and to a very large extent these decisions are integrated in the formal political and governance system of the state.

Mr. Negi in his concluding remarks also touched upon few threats and challenges. He argued that over emphasis on building of large dams in the state are adversely affecting water streams and aquatic life including fish which is one major source of protein for people. He also raised the issue of access to water and shortage of water in the state. While the state receives a lot of rain, yet the entire state faces shortage of water from December to February every year.

Rajiv Gandhi Institute of Contemporary Studies
invites you for a webinar on



Himalaya Diwas

Inter-linkages of Himalayan Ecology, Culture and Livelihoods-
Current Threats and Opportunities



Speaker



Join us on Zoom
Meeting ID: 882 9646 2452
Passcode: 500554

Moderator



Discussants



Mr. Ramesh Negi
IAS (Rtd), Former CS of
Arunachal Pradesh



Ms. Manshi Ashar
Environmentalist,
Himachal Pradesh



Ms. Jyotsana Sitling
IFS (Rtd) Former PCCF,
Uttarakhand



Mr. Sheikh Ghulam Rasool
SRDE, J&K

Date: 9th September 2024 | Time: 6:00 PM - 7:45 PM

2.2 The rise and fall of Himachal Model of development

Manshi Asher, a senior environmental justice activist in Himachal Pradesh in her address started with the Himachal model of development which was celebrated till late nineties at least in the Indian Himalayan Region. She further explained that this model systematically deteriorated and finally culminated in the form of a cycle of disasters today.



[Source: Image](#)

The development model of Himachal Pradesh according to Manshi Asher was based on following four strong pillars.

1. Land reforms were very effective in Himachal Pradesh after independence. These reforms included land distribution and protection of agricultural land.
2. People's access to public welfare schemes and good rural connectivity.
3. Promotion of horticulture and cash crops to enhance income of rural farmers.
4. More than 50% of salaried jobs in the organized sector were in government sectors in Himachal Pradesh, which was employing a large number of people.

These developmental pillars in Himachal Pradesh were having no internal and external conflicts till late nineties. Furthermore the federal relation of the state with the central government was also cordial as compared to many other Himalayan states at that time.

This Himachal model of development in the Himalayan region started changing in the early 2000s. This change was triggered by bringing change in land use patterns in the state and promotion of hydro power projects. Such changes led to deforestation, drying of water streams, acquisition of agricultural land for big infrastructure projects and restriction on use of common property resources.

These outcomes of the land use change in the state have adversely affected livelihoods such as agriculture, agro-pastoralism, horticulture, traditional trade, wool, handicrafts and weaving. Manshi argued that these developmental changes in the state broke various livelihood linkages which were connected with forest, water, land and mountains. It also created unrest and discontent among people.

In her concluding remark she linked all these historical changes in vision of development in the state to increasing incidents of disasters. She observed that Himachal Pradesh is now trapped in a cycle of disasters. However, the solutions offered to disaster mitigation are more techno-managerial which is myopic in its approach. She suggested seeing these disasters in a more holistic way by including society, culture, livelihood and ecology in an integrated manner.

2.3. A green economy through the unique biodiversity of Uttarakhand

Ms. Jyotsana Sitling is a retired IFS officer who served in Uttarakhand during most of his career. In her address she explained the basics of green economy for mountain states more particularly for Uttarakhand and suggested action points to promote the green economy in the state.



[Source: Image](#)

Ms, Sitling observed that nowhere in the world the conservation goals were effectively achieved through social projects. However, she stressed that more coordinated efforts can promote a green economy that will generate income and also conserve biodiversity.

Currently there are 24 central ministries and 29 departments are working on issues related to biodiversity and cumulatively they spend nearly Rs. 20,000 crore per year. However, according to her we need at least Rs. 90,000 crore per year to conserve our biodiversity. Nearly 86% of the total investment on biodiversity is covered by government and private investment is just about 14%.

In order to achieve biodiversity goals and sustain livelihoods this investment has to go up. Therefore, the investment has to be diversified to reduce burden on taxpayers. The idea of a green economy will pool financial resources from various sources which will achieve the dual objective of biodiversity conservation and livelihood promotion.

Explaining the case of Uttarakhand, Ms. Sitling stated that the government of Uttarakhand in its vision document has recognized MSME, IT and Small Hydropower Projects as enablers of growth. Moreover, agriculture, horticulture and eco-tourism are defined as growth drivers.

She further argued that these stated growth divers along with green construction are sectors important for the promotion of the green economy in the state. She also identified renewable energy, water conservation (harnessing and harvesting) and recycling of solid and liquid waste as enablers of green growth. The cross cutting sectors for the green economy are information technology, institutional infrastructure, knowledge infrastructure, capital market, banks and financial institutions. According to Ms. Sitling these cross cutting sectors will help to integrate conservation mindset in mainstream development agenda.

Green economy in the mountain states of the Himalayan region is possible, but in order to bring this, the state needs to be prepared for suitable investment. Ms. Sitling in her concluding remarks argued that we must identify niche markets for its agriculture and horticulture products, pool resources and develop capacity at the level of entrepreneurs, clients and inter-mediatory. Civil society organizations can be used to organize collective bargaining power of community members and entrepreneurs. Effectively the government, society and market should work in tandem to realize a green economy.

2.4 Ecological, economic and social challenges and opportunities in the Indian Himalayan region

Dr. Ravi Chopra, eminent environment and social scientist focused on explaining prominent challenges in the Himalayas and the way forward. He started his brief lecture by saying that the anthropogenic interventions in this region have tremendously increased in the last 4-5 decades. Also the control of governments on natural resources has increased by decreasing controls of communities. He deliberated on following major challenges in the Himalayan Region.

1.) Glacial Lake Outburst Flood (GLOF) is the result of dismantling of large glaciers in the Himalaya. These lakes are gradually increasing in size and incidents of flooding are increasing year by year. The limited research on glaciers is focusing only on ways to treat glaciers. However, that is not possible because glaciers are largely inaccessible. The research and action must focus on valleys where the flood water destroys life and livelihoods.

2.) Decline in the Quality and Quantity of Forests: the area under the forests is gradually decreasing, which is a big concern. But even more problematic is the changing characteristics of forests. A large portion of forests in Uttarakhand and Himachal Pradesh are covered by chir pine forests, which provides resources for the resin industry. These forests do not support bountiful agriculture and livestock. To protect and promote local livelihoods, we must focus on protection and growth of mixed forests.

3.) Eastern Himalaya a serious biodiversity hotspot: This region has visible threats. In the last few years activities such as poaching, deforestation, expansion of agriculture and illegal trade of herbs have destroyed natural wealth in the region.

4.) Infrastructure: diversion of the forest land for infrastructural projects is the beginning of forest destruction. Often data used for such land transfer are not true, which leads to allocation of forest land more than the project requires. This forest loss is unaccounted for.

5.) Hydropower Projects: The problem of hydropower projects is a life cycle problem that starts with the initiation of the project till the end of the project. The Problems with hydropower projects are twofold: one, loss of land, especially sloppy land and second are drying of water streams/sources. The tunnelled hydropower projects have completely destroyed flowing rivers and aquatic biodiversity. Furthermore, it has affected livelihoods of local communities such as fishing and irrigation dependency on rivers.

After discussing major threats in the Himalayan region, Dr. Chopra briefly deliberated on the impact of climate change on livelihoods. He stated that some rivers in the Himalaya are snow fed but many rivers are rain fed. Rain fed rivers/streams in Himalaya provides more water to bigger rivers compared to snow fed rivers.

For example at Devprayag in Uttarakhand nearly 175 km downstream from origin of the Ganga River, the glacial water is just 28% of the total water, remaining 72% of Ganga water at Devprayag is fed by rain fed streams and rivers. The proportion of rain water increases as we go further downstream. With decreasing forest area and changing forest characteristics, the rainwater holding capacity of forest is decreasing. Finally these changes are leading to decrease in water flow in large and small rivers/streams in the Himalaya.

The increase in global temperature also has a direct impact on agriculture in the region. It has already affected apple cultivation in Himachal Pradesh, Uttarakhand and Sikkim. Due to less snowfall and short winter season many apple growing villages in these states have moved to vegetable cultivation in the last few years.

To address these challenges, Dr. Chopra advocated for a green economy in the Himalayan region. He argued that this economy should be shaped in such a way so that people not only earn their livelihoods but also fulfil their aspirations, so that human resources can be retained in these mountains. To achieve these goals he suggested following action points.

1. Governance of natural resources should be decentralized as the forest department cannot protect and create a good forest. People should be given more responsibility in management of natural resources.
2. Productivity of all types of land (agricultural, forest, pasture) needs to be improved.
3. Protect, conserve and develop resources like soil, land, water and all types of bio resources.
4. Hazardous infrastructural projects in the Himalayan region must be stopped and discouraged commissioning of any such new projects.
5. Himalayan towns are very congested. They need to decongest and economic activities should be dispersed.
6. Farmers in the Himalayan region do not have access to institutional farm credits as the agriculture is subsistence based and these institutions don't see any profit. This should be altered and farmers should be offered institutional farm credits.
7. Farmers should also be provided with knowledge input so that they can adapt to the changing climate and shrinking resource base.



[Source: Image](#)

Dr. Chopra after moderating the panel discussion also coordinated a brief session to incorporate questions, comments and reflection of other participants. In this session Ms. Suman Rao raised issues of optimum use of promising hemp production, bringing innovation in forest tourism and promotion of bio fuel as an alternative to large hydro power projects.

Mr. Gautam Bandhopadhyaya raised the issue of hills in central India and called for a coordinated effort to conserve ecology of hills and mountains across India. Finally, Mr. Vijay Mahajan argued that the economy has to be re-shaped so that it can benefit nature and also generate enough jobs for people in the mountains. In his concluding remarks Dr. Chopra emphasised on the need of bringing a green economy which has full potential to meet needs of people and adequately address their aspirations.



3 FRA, after almost two decades—what next?

Dr Vishal Massey



[Source: Image](#)

Forests are crucial for the sustenance of a significant portion of the population, particularly the indigenous communities that rely heavily on these forests for their existence. The majority of tribes worldwide have a close connection to forests, as they rely on them for their habitat and ecological needs.

The tribes, known as forest dwellers, depend entirely on natural resources for their subsistence, livelihood, and employment. For indigenous communities, who perceive the forest as their natural environment and depend on it for their nourishment and overall welfare. Their culture and its economic structure are distinguished by a reciprocal dependence on certain factors - own sustainable methods of cohabiting with the natural environment, guaranteeing the conservation of forests without inflicting damage or devastation.

They utilise a distinctive strategy for soil preservation as a result of their sincere dedication to preserving forests and supporting the historic practice of harmonious cohabitation between humans and the environment. The forest offers a wide variety of consumable resources, including berries, nuts, honey, fruits, and roots. The indigenous people possess expertise on the edibility, location, and temporal availability of various products.

3.1 Indian Forest Legislation

Forest regulation in the shape of the Indian Forest Act went into effect in 1873, 16 years after the Department of Forest was established in 1861. Tribals have certain privileges and the ability to utilise the forest since they were natural occupants of it.

They had the privilege to extract water for cultivation, dig wells, and graze freely in open forest land areas (underpasses), responsible for removing stones and earth for domestic or agricultural use, removing timber, bamboos, reeds, and canes for house construction and repair, collecting dead wood for domestic use, collecting grass for cattle and huts, fishing and hunting (excluding protected fauna), and cultivating forest lands.

India's forests are controlled by two major laws: the Indian Forest Act of 1927 and the Wild Life Protection Act of 1972. The former allows the government to declare any land as a restricted forest, protected forest, or village forest. The latter enables any place to be designated as a "protected area," including a national park, animal sanctuary, tiger reserve, or community conservation area.

During the colonial era, the British undoubtedly turned India's forests—which gave the local inhabitants food and shelter—into a profitable government asset. Naturally, the Forest department had to strive diligently to hold onto the colonial past and keep themselves apart from other line departments in order to preserve their unique benefits.

3.2 The Forest Rights Act, 2006

The Schedule Tribes and other Traditional Forest and Other Forest Dwellers (Recognition of Forest Rights) Act 2006" aimed to restore the land, community forest resources, and ecological rights of forest dwellers. After decades of denial of rights by colonial forest rules in India, this statute is an attempt to rectify the injustice.



[Source: Image](#)

The preamble of the Act states:

“An Act to recognise and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded; to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

WHEREAS the recognised rights of the forest dwelling Scheduled Tribes and other traditional forest dwellers include the responsibilities and authority for sustainable use, conservation of biodiversity and maintenance of ecological balance and thereby strengthening the conservation regime of the forests while ensuring livelihood and food security of the forest dwelling Scheduled Tribes and other traditional forest dwellers;

AND WHEREAS the forest rights on ancestral lands and their habitat were not adequately recognised in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystem;

AND WHEREAS it has become necessary to address the long standing insecurity of tenurial and access rights of forest dwelling Scheduled Tribes and other traditional forest dwellers including those who were forced to relocate their dwelling due to State development interventions.”

The act grants forest dwellers ownership rights to a maximum of four hectares of land (if they are from three generations), community rights to extract minor forest produce and use grazing, rehabilitation rights if the government builds infrastructure, and rights to protect, regenerate, conserve, and manage community forest resources.

The Act grants eligibility for claiming rights to households that primarily reside in forest or forest land and depend on it for their livelihood. To qualify, they must provide evidence of three generations (approximately 75 years) of residence on forest land for other traditional forest dwellers (OTFDs) as defined in section 2(o) of the Act.

Alternatively, eligibility is also extended to members of a scheduled tribe (ST) who reside in the scheduled area, as defined in section 4(1)(a) of the Act.

According to section 4(3) of the Act, the acknowledgment and transfer of forest rights to the forest dwelling Scheduled Tribes and Other Traditional Forest Dwellers, in relation to forest land and their habitat, will only be granted if they were already occupying the forest land before December 13, 2005.

At the national level, approximately 60% of the claims, totalling 13,838,712 acres, have been accepted out of a total of 190,788 claims received.

The total number of individual claims received is 4,836,013, and only 49% of these claims have been granted permission for a total area of 5,175,122 acres.

All India	Claims Received	Claims Distributed	% Claims Approved	Area in acre
Community Claim (CFR)	190,788	115,180	60.4	13,838,712
Individual Claim (IFR)	4,836,013	2,370,011	49.0	5,175,122
Total	5,026,801	2,485,191	49.4	19,013,834
(Till 31st March 2024)				
Source : FRA Status, Ministry of Tribal Development				

It is notable that the FRA implementation in the states has made progress towards attaining the Act's and Rules' stated purposes. These objectives include securing individual rights, such as the right to develop or inhabit land, as well as other community rights for individuals who file claims.

In addition to obvious monetary gains, like easier access to government subsidies, providing these rights has resulted in intangible benefits such as community mobilisation, greater access to and management of natural resources, and socio-religious advancements.

3.3 Deficiencies in implementation

However, particular implementation deficiencies are inherent in every national program as well. Generally, there is a designated process in place to inform village committee members of their membership. Numerous studies have shown that committee members lacked awareness of meeting protocols and the sequential processes that were to be followed.

Their primary source of support is predominantly government staff appointed by the Panchayat, Rural Development, forests, and Revenue departments of the state. However, the government staff members of committee had greater details, but they were hesitant to participate in combined trips with the local committee and preferred to provide separate reports, which frequently contradicted themselves.

As a result, the procedure was delayed, and more rejections occurred. The denial is mostly based on community claims, rather than individual claims.

In the case of individual claims, departmental representatives prefer to meet with the claimant individually rather than collectively. However, there have been instances where these representatives have provided false information and made commitments to the applicant, creating a conflict of interest and causing delays in the process if all committee members are not convinced of the legitimacy of the claim.

Villagers learnt about community entitlement regulations from the Gram Sabha and the Forest Rights Committee. After making applications, many of them received claim rejections, as evidenced by an examination of official records that are not with them.

The villagers had difficulty producing the requisite evidence for their Community rights under the Forest Rights Act (FRA). It has been observed that both villagers and government institutions are unable to provide records about specific plots of land, presumably owing to fear of repercussions.



Source: Image

It has been observed that in certain villages, the number of claim rejections is minimal. This can be attributed to the active participation of the village secretary and other officials, particularly those from the Forest and Tribal Welfare Departments. Their involvement has been identified as the primary factor contributing to the high approval rate of claims in these villages.

The claimants expressed their lack of knowledge regarding the provision of reasons and the possibility of appealing. However, in several villages, people were content as numerous community claims had been accepted. They believed that the rejected claims were those for which the necessary documents could not be produced.

The allocation of forest land to the Gram Sabha has significantly reduced conflicts between villagers and forest officials on the utilisation of forest resources. The villagers now have increased self-assurance and fearlessness when utilising their forest. Nevertheless, the Gram Sabha has failed to formulate and implement any strategy aimed at optimising social, economic, and ecological results.

Over the past few years, numerous forest conservation initiatives, including fencing, soil conservation, water conservation, and other related activities, have been implemented in their community forest. However, the forest department was responsible for conducting all of these efforts, with minimal involvement from the locals.

The primary factors contributing to the inaction of villagers - are a lack of understanding and absence of local leadership. Consequently, they are unable to properly utilise the community land that has been allocated to them.

Furthermore, the boundaries between the village and community forest and the nearby forests managed by the department are highly intricate. As a result, forest officials continue to exert their power to regulate the utilisation of forest land and its resources. The lack of connectivity provides a challenge for villages to utilise their land for beneficial activities.

RGICS has conducted studies on FRA implementation earlier. One case study discusses the lack of detailed claim applications and evidence, as well as the absence of SDLC support during verification and the provision of important. This is in Rawas and Banspattar Gram Panchayat, Kanker, Chhattisgarh.

https://www.rgics.org/wp-content/uploads/Forest-Rights_Case-Study.pdf

Another study in the in the Balangir district, Odisha indicated significant challenges in the implementation of the FRA in the region. Over 3606 individual forest rights (IFR) claims were filed and more than 91% were rejected due to lack of evidence of land occupancy for the last three generations.

<https://www.rgics.org/wp-content/uploads/FRA-in-Western-Odisha.pdf>

In the Bamori block of Guna district of Madhya Pradesh, where there have been reports of illegal deforestation taking place over the past thirty years, now they have taken benefits under the Forest Rights Act (FRA). The forest mafia has been responsible for cutting down trees and forcibly resettling the tribal community in the area. They have also engaged the local people in labour activities, manipulated their claim forms, and used agents to coordinate with various government departments and committees to secure land allotments for both tribal communities and individuals. Subsequently, they are employing their area for their own purposes with a small amount and reaping certain advantages. Nevertheless, the department and committee assert that this situation has arisen due to the avarice of tribes.

Although the government has allocated land to them, they are engaging in illicit practices by providing local businessmen with no documentation and taking money from them. Elderly individuals and Sahariya Families residing in Bisonya village of Guna reported that their adolescent boys are compelled to migrate in order to secure their livelihood.

The dominant who have seized control of the territory, have disseminated misleading information to the public and have established their authority over all government personnel, thereby depriving us of the entitlements we are supposed to get under the FRA. These circumstances may be encountered in various locations when the tribal development department conducts thorough investigations. However, it appears that the lower bureaucracy is hesitant to address these delicate matters.

Although FRA has witnessed numerous great and awful events over the years, these experiences may provide a foundation for approaching the third decade with specific innovation and a change in approach. Considerable work has been dedicated to increasing knowledge about FRA, improving the technical abilities of officials in line departments, and bolstering the capabilities of the Forest Rights Committees (FRCs) at the local level.

However, the observed degree of attentiveness during field visits is still somewhat low. Therefore, it is essential to recognise the essentiality of raising awareness. The government should continue in this endeavour and include non-governmental organisations (NGOs) and community-based organisations, such as Self-Help Groups and Farmers' Producer Organisations, in this work.



[Source: Image](#)

An extensive analysis of denied claims reveals that rejections are primarily due to the failure to submit the required supporting documentation, coupled with the prevalence of faulty claims exacerbated by a substantial proportion of claimants who are illiterate. The state administration has implemented various measures to tackle this issue.

These include consistent efforts to raise consciousness, especially at the Gram Sabha and Panchayat level, providing extensive assistance to the claimants, adopting a lenient and supportive approach, periodically re-verifying rejected claims, and implementing other relevant actions. This requires more efficient maintenance through the implementation of novel strategies.

It is necessary to streamline the process of making claims, which involves the implementation of technological solutions. Officials and committees have emphasised that rejection reasons and the ability to appeal are communicated. However, the results of the field observations show that these efforts need to be more robust and tailored to the reality that a significant portion of the population is illiterate. They ought to put more energy into this.

Some kind of framework has to be put in place while individuals are getting claims but having to move away to make a living. This means that powerful local people use their land, which hurts the success of FRA. So, FRA should not be looked at separately. Instead, it should be part of an integrated approach that gives tribal people the chance to grow and makes use of their rights while also letting them benefit from other state government programs that help them live with dignity.

3.4 Some suggestions for improvement

The verification, documentation, and coordination with line departments in FRA are still being done manually. The Ministry of Tribal Welfare only provides a digital dashboard that offers minimal information. Utilising the digital world is crucial for expediting processes, meeting tight deadlines in claim settlements, maintaining records of individual and community owners post-allocation, and connecting them with other developmental activities to ensure that the land they have received contributes to the development of tribal villages.

It is necessary to digitise the records in order to improve monitoring and enhance transparency. It is important to prioritise the monitoring of FRA on a state level dashboard with maximum openness.

The use of geo-tagging, aerial reports, aerial surveys, digitised maps, and databases should be encouraged. By implementing this approach, the district administration will have more visibility into the progress of the claims and may promptly take necessary measures to process them.

The data from the districts that have year-by-year information shows that both individual and community claims followed a nearly sinusoidal pattern, with high claims in the first few years of the Act, a sudden dip, a sharp increase, and so on. This could be because the district administration's focus on the Act was wavering, reaching a peak and then a lull.

Taking into account that the FRA is already considered an "old piece of legislation" and that practically twenty years passed before it was finally implemented, most of the claims have already been made. We need to keep working to make sure that every rightful claimant in the state may get the rights guaranteed by the Act soon.



[Source: Image](#)

3.5 Using IFRs and CFRs for livelihoods and environmental conservation

Securing community forest rights (CFRs) and individual forest rights (IFRs) is only the first step in using these rights to enhance both livelihoods of tribals and other forest dwellers (T&OFD), as well as conserving the forest. This requires a new level of cooperation between the T&OFD and the Forest Department (FD).

FD officials often complain that the FRA has created a “honeycomb” of encroachments by the T&OFD and it becomes difficult to conserve the forest. On the other hand the T&OFD complain that the FD local beat guards and rangers do not allow them to exercise their individual and community forest rights.

We need to design projects with involvement of the T&OFD in climate-effective, financially rewarding projects that benefit individual families, communities, and villages is also necessary, as is a diversification of community entitlement programs.

In this connection we recommend taking the approach that was taken in the Payvihir village of Amaravati District of Maharashtra. Here the FD and the T&OFD worked together to develop the land they received CFRs on and today not only has the forest been fully regenerated but also the villagers earn lakhs of Rupees income from sale of tendu leaf, custard apple and other forest produce. In addition they get ample grass for their dairy animals.



Tribals planting trees in their CFR land in Payvihir village, Amaravati Dt. Maharashtra

See the videos below about how the villagers of Payvihir village in Amaravati dt of Maharashtra used their Community Forest Rights not only to regenerate the forest but also increase their income through the sale of custard apple and tendu leaf.

<https://youtu.be/akA6BJCKV84?si=rilQtGuEReUjJ2IO>

<https://www.facebook.com/watch/?v=507515431230361>



4 Biodiversity credit - an innovative climate finance mechanism? Two critiques

The Third World Network and Sandeep Saxena

4.1 Introduction

As per one of its advocates, the DGB Group², “The concept of biodiversity credits is a new way to finance conservation efforts while benefiting local communities and biodiversity custodians. The key considerations for a successful biodiversity credit system include the accounting for ecosystem diversity, utilising multivariate approaches, ensuring long-term financial security and legal guarantees for projects, and differentiating between preservation and restoration activities.

Biodiversity markets can potentially transform how we approach conservation by creating a financial incentive for protecting and restoring natural ecosystems. By providing measurable ecological outcomes, long-term certainty to investors and biodiversity custodians, and meaningful time horizons for conservation outcomes, biodiversity credits can help to accelerate funding for biodiversity conservation.”

However, many other actors in the field of biodiversity are not convinced of the above. We carry two critiques of the biodiversity credits



Source: Image

Biodiversity offsets and credits are market-based approaches that are currently promoted by various intergovernmental institutions. They are identified in the Kunming-Montreal Global Biodiversity Framework as one of a number of “innovative schemes” that should be stimulated to increase financial resources for biodiversity. Biodiversity offsets allow private actors to compensate for their actions that cause biodiversity loss, by paying for biodiversity conservation. Although the definition of biodiversity credits is still in progress, in principle, it is expected that they would enable investments in conservation and not be used for offsetting purposes, although it remains unclear how this would be enforced.

² <https://www.green.earth/blog/biodiversity-credits-an-innovative-financing-mechanism-for-conservation>

4.2 Critique by the Third World Network

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Biodiversity offsets allow private actors to compensate for their actions that cause biodiversity loss, by paying for biodiversity conservation. Although the definition of biodiversity credits is still in progress, in principle, it is expected that they would enable investments in conservation and not be used for offsetting purposes, although it remains unclear how this would be enforced.

However, a series of aspects need to be considered before adopting these mechanisms as strategies to increase financial resources for biodiversity. This briefing paper outlines the most problematic aspects related to biodiversity offsets and credits, which question their effectiveness in protecting biodiversity and the communities who safeguard and depend directly on nature. These have been organized in three main dimensions: operational aspects, aspects related to the rationale that underpins offsets, and aspects related to the rights of Indigenous Peoples.

4.2.1 Operational aspects

The methodology applied to calculate biodiversity offsets rests on the assumption that “what is not measured, is not compensated” (Moreno-Mateos et al., 2015; Robertson, 2004). This is particularly concerning considering the trend towards simplified assessments around the world (Robertson, 2006). Given that biodiversity is not fungible and that biodiversity losses and gains are difficult to measure, and that each country applies different methodologies for this, compensation may not happen at the expected rates and distribution.

Several – if not the majority of – offsets requested by states or voluntary financial agreements do not subscribe to the mitigation hierarchy, with firms eschewing the avoidance and mitigation phases and going directly into compensation. The problem lies in the mitigation hierarchy: having offsets as the final step tends to disincentivize earlier stages of avoidance and mitigation (Robertson, 2000; Apostolopoulou and Adams, 2017; Gutierrez et al., 2021), because it is cheaper and faster for firms to pay for compensation rather than to avoid or mitigate biodiversity loss.

The evidence points at a failure to achieve “no net loss” of biodiversity, with two-thirds of biodiversity offsets falling short of achieving this target (zu Ermgassen et al., 2019). The challenges encountered include a scarcity of credits, ineffective monitoring, a lack of transparency, and the considerable expenses involved in developing and implementing methodologies to assess “ecological equivalences” (Kujala et al., 2022).

Biodiversity offsets may lead to more degradation at compensation sites (Maron et al., 2015). Because offsets can inject money into conservation initiatives, there is an economic incentive for those who offer conservation actions to show a significant change in biodiversity.

Consequently, the baselines produced to prove compensation measures may tend to overstate positive conservation outcomes by exacerbating biodiversity loss prior to the projected conservation measure. This is a problem that may increase under the “shifting baseline syndrome”, which tends to overrepresent current states of biodiversity, instead of the state of a healthy ecosystem (Papworth et al., 2009).

Civil society and environmental movements have not been positively receptive to biodiversity offsets. The lack of legitimacy among local government institutions and closed selection of participants in the design and validation of these programmes can lead to social contestation and operational challenges (Ferreira and Ferreira, 2019; Maestre-Andrés et al., 2020).

Biodiversity offsets are being paired with the concept of credits (e.g., in Target 19(d) of the Kunming-Montreal Global Biodiversity Framework). However, very little is known about how these credits work and what the main difference is between them and offsets.

4.2.2 Aspects related to the rationale underpinning biodiversity offsets

The assumption that life and ecosystems are replaceable through a process of ecosystem rebuilding underpins biodiversity offsets. The notion of rebuilding an ecosystem assumes that ecosystems can be isolated from their spatial, evolutionary, historical, and social contexts (Moreno-Mateos et al., 2015). However, long-term research in wetland programmes in the US shows **low success rates of plant cover and functionality** in restored and recreated ecosystems (Moreno-Mateos et al., 2015).

The “ecological equivalence” that biodiversity offsets and credits attempt to achieve under complex, technical and standardized methodologies overlooks the full range of values (use and non-use) associated with biodiversity (Griffiths et al., 2019).

The injection of capital into conservation through offsets can become an obstacle to transformative change as it obscures important discussions on alternatives to the current ecological crisis (Apostolopoulou and Adams, 2017). Furthermore, these types of market-based mechanisms have been characterized by a lack of involvement and discouragement of pro-environmental behaviours at the local level, including people’s willingness to engage in collective action and promote equity (Cinner et al., 2021).

In some countries, there is not enough land that can be dedicated to compensation measures under the projected development rates (Sonter et al., 2020). For instance, the amount of land for protection and restoration in the region of East Kalimantan, in Indonesia, does not counterbalance future biodiversity losses (Sonter et al., 2020). Estimated development in this area (only for two sectors: mining and oil palm expansion) will need to clear 6,311 km² of forest, requiring 12,622 km² of restoration (under an offset multiplier of two).



[Source: Image](#)

4.2.3 Aspects related to the rights of Indigenous people

Given the trajectory of market-based instruments to protect biodiversity (Tupala et al., 2022), the promotion of offsets and credits is concerning. First, because it brushes away alternative valuations of nature (see Griffiths et al., 2019) to enforce one type of valuation, the economic one. And second, because it leaves aside Indigenous knowledges and practices to protect nature.

The notion underpinning biodiversity offsets accepts and promotes a quantitative approach that decides which territories should be conserved and which ones should be destroyed, ranking human and non-human lives to distribute “losses and benefits”, and increasing inequality and poverty (Griffiths et al., 2019). Market-based approaches have contributed to the weakening of Indigenous and local knowledge systems, turning this into a problem that Indigenous scholar Yolanda Lopez-Maldonado (2022) frames as “an existential threat to humanity”.

Biodiversity market-based mechanisms have been linked to continued dispossession and violations of the rights of Indigenous Peoples, as the Bribri Indigenous leader Levi Sucre Romero argues (2022), and the case of the Cordillera Azul National Park illustrates (see Forest Peoples Programme, 2023).

Weaknesses in the implementation of free, prior and informed consent (FPIC) at domestic levels also pose a threat to Indigenous Peoples in the context of biodiversity offsets and credits. Moreover, this threat increases in the absence of recognition of tenure rights, which is often the case in many countries and most protected areas (UNEP-WCMC et al., 2018).

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Courtesy: Third World Network (www.twn.my)

4.3 Critique by Sandeep Saxena of green earth blockchain tokens

After decades of continuous loss of biodiversity, brought upon by rapid Industrialization, and without any costs attached to such actions, a new narrative has emerged focusing on creating a mechanism for Offset for Biodiversity losses.

Already, we have the immediate case of how Carbon Offsets are designed. The limitations or rather façade of Carbon Offsets have already brought to fore the following fundamental issues:

- That the focus on additions from scratch, ignores the pre-existing ecosystems that continuously and on much larger scale are responsible for real additions.
- The multiplier effects of ecosystems and associated human practices versus the unit by unit additions, are also ignored
- Hence, it basically shifts the focus from the real carbon deposit efforts to financially intensive, long drawn and uncertain efforts.



[Source: Image](#)

As we now are moving the boundary to Biodiversity offsets, the above experience is of importance.

Biodiversity is a much more sensitive and vast subject that demands a truthful evaluation. The following issues stand out:

- Unlike unit based carbon assessments, and their addition, the biodiversity in an area cannot be grown by design. It can only be not-interfered with, including existing human practices that co-exist with that biodiversity. Hence, old models that focus on Addition, will find very little application.
- The assessment of Biodiversity value, shall remain an arbitrary exercise. The impact of an ecosystem directly and indirectly, locally and remotely, immediate and in distant times and scenarios, will be limited by sizing the physical, observable and measurable parameters.
- The same shall be applied in a different ecology, to estimate the Offset. In countries like India, where numerous local ecologies intertwine across the subcontinent to create weather patterns, it is even more difficult.
- The participation and involvement of sustainable livelihoods, which are intertwined with local ecologies.
- Ideally, the local communities who are part of and custodians of a Bio-diverse area, shall have the best sense of the Offset value. Hence, models that incorporate direct involvement and transparency of sharing Offset value, will be required for a fair, market driven value to be discovered.

It is clear that ignoring the above shall lead to one or more of the following:

- Inconsequential capital dump in the guise of Biodiversity Offsets, with the unfortunate consequence of Biodiversity destruction without any real Offsets.
- Arbitrariness and Opaqueness in sharing of Offsets with the human linkages of ecology.

The Biodiversity offsets are designed, with all above faults. Clearly, the planet cannot afford such programs, as Biodiversity is the last frontier.



[Source: Image](#)



5 “Royalty” paid on mines and mineral lands is not a “Tax” affirms Supreme Court

Deni Shah and Altamash Qureshi, Acuity Law³

On July 25, 2024 the Supreme Court affirmed states' authority to impose cess on mining lands and quarries, while clarifying that the royalty paid to the central government by mining operators did not constitute a tax. According to a report by The Times of India, this ruling could result in arrears amounting to Rs 1,50,000 crore, dealing a significant blow to both public- and private-sector mining companies.

This judgment, while securing state governments' right to tax within their legislative domain according to fiscal federalism principles, has sparked concern over its potential to discourage investment in the mining sector. The mining industry, already facing challenging market conditions, could see further strain as companies struggle to absorb these unexpected costs.

On 25 July 2024, in a landmark ruling in the *Mineral Area Development Authority v. Steel Authority of India* (“**MADA Judgment**”), the Supreme Court of India’s nine-judge Constitution Bench delivered its decision. In an 8:1 majority, the Supreme Court upheld the right of State Governments to impose taxes on mines and mineral-bearing lands. The Supreme Court also ruled that royalties payable on extracted minerals do not constitute a tax. By resolving a 35-year-old dispute, the MADA Judgment brings clarity to the taxation of mineral-rich lands and affirms the State Governments authority to levy taxes, offering long-awaited certainty for stakeholders. At the same time, this judgment will likely have a significant and lasting effects on India’s federal structure, resource allocation, and the mining industry.



[Source: Image](#)

³ <https://acuitylaw.co.in/royalty-mines-mineral-lands-tax-supreme-court/>

5.1 Historical context

Seventh Schedule of the Constitution of India outlines division of powers between the Union and State Governments through the Union List and State List, respectively. Entries on these lists are meant to be exclusive, i.e., there is no overlapping of jurisdiction between the Union and State Governments. The MADA Judgement revolved around three key entries in these lists:

- Union List: Entry 54 – Regulation of mines and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.
- State List: Entry 49 – Taxes on lands and buildings.
- State List: Entry 50 – Taxes on mineral rights subject to any limitations imposed by Parliament by law relating to mineral development.

The controversy began when the Union Government enacted the Mines and Minerals (Development and Regulation) Act, 1957 (“**Mines Act**”), bringing the regulation of mines and minerals under the control of the Union Government. Mining leaseholders were required to pay royalty on minerals extracted from leased areas.



[Source: Image](#)

In 1963, the Tamil Nadu government granted a mining lease to India Cements Ltd., requiring royalty payments to the state under the Mines Act. However, the Madras Panchayat Act, 1958, imposed a cess on this royalty. India Cements Ltd. challenged the cess, arguing that the Tamil Nadu government lacked the legislative competence to impose it, as the Mines Act had already regulated tax payments as royalty.

The case eventually reached a seven-judge bench of the Supreme Court, which, in the 1989 case of *India Cement Ltd. v. State of Tamil Nadu* (“**India Cement Judgment**”), held that royalty constituted a tax and that the cess on royalty was beyond the State Government’s legislative competence.

This ruling led to a significant shift in judicial thinking on the issue, influencing numerous judgments until 2004. That year, in *State of West Bengal v. Kesoram Industries Ltd.* case (“**Kesoram Judgment**”), a five-judge bench of the Supreme Court found that the India Cement Judgment suffered from a typographical error and the court had mistakenly written that “royalty is a tax” while meaning that “cess on royalty is a tax”.

Meanwhile, in May 1999, a petition challenged the Bihar Coal Mining Area Development Authority (Amendment) Act, 1992, which imposed additional taxes on mineral-bearing lands. This challenge evolved into the MADA case. In 2011, a three-judge Supreme Court bench acknowledged the conflict between India Cements Judgement and Kesoram Judgement, referring the MADA case to the nine-judge Constitution Bench. This is amongst the oldest pending matters in the Supreme Court and was pending for over 25 years.

5.2 Key issues before the nine-judge Constitution bench

Four major issues were addressed by the Supreme Court in the MADA Judgment:

1.) Is royalty under the Mines Act a form of tax? – The Supreme Court ruled that royalty is conceptually different from tax. Royalty is paid as consideration in a private contractual arrangement, whereas a tax is imposed by the authority of law. However, Justice B.V. Nagarathna dissented, opining that while royalty and tax are fundamentally different, under the Mines Act, royalty constitutes a “compulsory exaction,” classifying it as a tax.

2.) Can State Governments tax mineral rights under Entry 50 of the State List? – The Supreme Court held that State Governments have the power to tax mineral rights under Entry 50, subject to any restrictions imposed by Union Government. Since the Mines Act does not explicitly bar the State Governments from imposing such taxes, the State Government’s authority remains intact.

3.) Can State Governments levy taxes on mineral land based on the value of minerals under Entry 49 of the State List? – The Supreme Court affirmed that “land” under Entry 49 includes mineral-bearing land. The value of extracted minerals can be used to calculate tax. Additionally, the Court clarified that taxes under Entries 49 and 50 do not overlap, as they pertain to different forms of taxation: land and mineral rights, respectively.

4.) Is the decision in the *India Cements Judgment* incorrect? – The Supreme Court concluded that the phrase “royalty is a tax” in the *India Cements Judgment* was an error.

In conclusion, in an 8:1 majority, the nine-judge Constitution Bench held that State Governments can impose tax on mines and minerals. The Supreme Court further held that royalty is distinct from tax.



[Source: Image](#)

5.3 Retrospective application of the MADA Judgment with a cut-off date

Following the MADA Judgment, questions arose about whether it should be applied retrospectively or prospectively. The Union Government favoured prospective application to avoid a financial burden stretching back 35 years i.e., since 1989, while State Governments sought retrospective application to recover lost revenue. Mining companies were concerned that a retrospective ruling would result in massive back payments.

The Supreme Court settled the issue by setting a cut-off date of 01 April 2005. Taxes can be levied on transactions made after this date, with collections beginning from 01 April 2026. Relaxation was granted by staggering the payment over 12 years, with 100% exemption for interest or penalties for the period prior to the MADA Judgment i.e. before 25 July 2024.

5.4 Impact on future litigation

The MADA Judgment has set a precedent that may influence future interpretations of royalty taxation, impacting a range of related laws. Consider the Oilfields (Regulation and Development) Act, 1948 (“**ORDA**”), for example. Section 6A of the ORDA, which governs royalty provisions, mirrors Section 9 of the Mines Act.

In the MADA Judgment, the Supreme Court ruled that “lands and buildings” in Entry 49 includes mineral-bearing land. This logic could be extended to oil-bearing lands under the ORDA. While the Supreme Court refrained from addressing the application of royalty provisions under Section 6A of the ORDA in the MADA Judgment, the door has been left open for future litigation.



[Source: Image](#)

The MADA Judgment is also expected to affect the pending *Udaipur Chamber of Commerce and Industry v. Union of India* case, which questions whether Goods and Services Tax (“**GST**”) can be levied on mining royalties.

If, as the MADA Judgment concluded, royalty is a consideration rather than a tax, the transaction of leasing mines could be interpreted as the assignment of a right to use minerals. This would potentially classify it as a ‘service,’ thereby enabling State Governments to impose GST on such mining leases.

5.5 Our thoughts

The MADA Judgment is set to reshape India's mining industry, with far-reaching financial consequences. In the short window between the judgement on 25 July 2024, and the decision on retrospective application on 14 August 2024, the Jharkhand Government passed the Jharkhand Mineral Bearing Land Cess Bill, imposing a new tax on mined minerals. This bill, on receipt of the Governor's assent, is set to drive up the prices of critical resources like coal and bauxite.

The Supreme Court's decision on retrospective mining tax will have a bearing on India's mining industry and the broader economy. Initial estimates indicate that the total tax arrears owed by mining companies to the State Governments could be approximately ₹150,000 crore (US\$18 billion). While State Governments stand to gain significant revenue from this ruling, the decision introduces financial challenges that could have long-lasting effects on investment, pricing, and the overall stability of the sector.

The imposition of retrospective taxes is expected to fuel inflationary pressures throughout the economy. As mining provides essential raw materials to other key sectors like construction, manufacturing, and energy, the increased financial burden on mining companies is likely to cascade down the supply chain, driving up the cost of final goods. Also, the sudden imposition of significant tax liabilities could make investors wary of entering or expanding in the Indian mining sector, potentially slowing the growth of the sector. However, some argue that the financial burden on mining companies is being overstated. A report by Motilal Oswal Financial Services suggests that the staggered 12-year payment timeline provided by the Supreme Court in its 14 August 2024 ruling could mitigate immediate financial strain.

As stakeholders navigate this new landscape, the MADA Judgment could very well serve as a catalyst for deeper economic reverberations in the months to come.





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