

**United Nations Committee on Economic, Social and Cultural Rights (CESCR)**

**General comment on Land and the International Covenant on Economic, Social and Cultural Rights**

Contribution to sections on climate change and land: Nature Based solutions and negative emissions technologies impacts on land rights[[1]](#footnote-2)

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**Introduction**

FoEI is the world’s largest grassroots environmental justice organisation. We have been working on the linked crises of environmental destruction, social injustice, land grabbing and human rights abuses for several decades with grassroots communities and social movements. In our work it has become increasingly apparent that land based climate mitigation and adaptation, and indeed all other land based environmental policies can present opportunities if they move us towards solutions for system change - based on peoples’ sovereignty and environmental, social, economic and gender justice.[[2]](#footnote-3) However land based climate and environmental policies can also pose grave threats to peoples collective rights over their land and territories with a new wave of land grabbing through enclosures and land grabbing for conservation projects but also via the commodification and integration of nature into financial markets – what we call the financialization of nature. The recent rise of “Nature Based Solutions” (NBS) and “Natural Climate Solutions” (NCS) as the main way for corporations and countries to achieve their climate targets are making this threat to land rights more immediate and vast in scale. Therefor it is imperative for the general comment on land should aim to address this aspect of the climate, environment and land nexus.

**Addressing the structural causes of environmental and land rights crises**

The link between the climate crisis and land rights violations are not new. The structural causes of the climate crises and land rights violations are the same – an economic system based on endless natural resource extraction where extractive industries including industrial agriculture and plantations are large contributors to both.[[3]](#footnote-4) At the same time mining and agribusiness are the sectors most responsible for the documented killings of land and environmental Human Rights defenders.[[4]](#footnote-5) The Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) report makes a compelling case of the need for "transformational change" to prevent the collapse of our natural world that is fundamental to human life. This includes a transformation of global finance, social and economic structures that are currently based on endless extractive growth and overconsumption of industrially produced food, fibre and fuel in some parts of the world while fuelling poverty, conflict and escalating environmental breakdown in others. On the other hand decentralised solutions to the environmental and human rights crises, based on ecological, autonomous management and governance by Indigenous people, local communities, forest peoples, small scale food producers of their own land and territories such as agroecology and community forest management are possible and are gaining importance. These historical and traditional practices have proven to be the best way to conserve biodiversity, forests and ecosystems while improving the quality of life of these communities. For these results to occur, the respect and implementation of their collective rights is of utmost importance.[[5]](#footnote-6) [[6]](#footnote-7) Yet many of the most prominent environmental schemes (as described below) do not envision decentralised solutions with truly local autonomy and governance or justice but aim to keep the status quo in power relations and may even enable corporations to grab more natural resources.

**Impacts of Land based climate mitigation strategies - Negative emissions technologies**

The vast majority of emission reduction pathways used by the Intergovernmental panel on climate change (IPCC) and others, to limit global average temperature rise to below 2°C and almost all pathways for 1.5°C now rely on the use of ‘negative emissions technologies’ (NETs) or removal of carbon from the atmosphere. This is itself a result of a major failure to put in place the structural changes needed to reduce emissions from all sectors, fossil fuels and also the industrial food system which contributes anywhere between 30 – 50% of GHGs.[[7]](#footnote-8) [[8]](#footnote-9) Bioenergy and carbon capture and storage or BECCS features most prominently in these pathways. For example the UK Committee on Climate change has increased the UK’s NETs to 40% of mitigation targets largely based on BECCS technology. However estimates of the land required globally to deploy BECCS range from 100 to 3000 million hectares.[[9]](#footnote-10) The IPCC land report rightly cautions about the impact of BECCS on food security but it does not address its impact on Human Rights which is a major gap.

**Nature Based Solutions**

Other options for NETs are so called ‘natural climate solutions’ or ‘nature based solutions’ . The concepts of nature-based solutions (NBS) and natural climate solutions (NCS) have gained prominence in both climate and biodiversity debates over the past few years and more recently in debates on food systems transformation. Claims such as that from the United Nations that “Changing our land practices alone could deliver 30 per cent of the emissions reductions that we need to achieve the goals of the Paris Agreement on climate action by 2030” have been repeated by key decision-makers, some conservation NGOs, and business leaders. 2019 and 2020 have seen an avalanche of “net-zero” commitments from corporations, many of which are linked to investments in NBS.

Yet NBS instrumentalists the lives and historical practices of indigenous peoples, peasants, artisanal fishers, and many other communities as offsets to corporate destruction while enabling a wave of new dispossessions. As a marketised system NBS is opaque, not transparent. It distracts from the essential need to both cut carbon at source and properly protect, conserve and restore biodiversity and ecosystems in line with the science. NBS provides no certainty that nature and ecosystems will not be further eroded and lost.

Based on the evidence so far there are serious concerns that NBS will lead to:

- Expansion of large scale monoculture plantations and huge land grabs meaning human rights violations, especially of Indigenous Peoples and local communities, peasants and other rural communities, especially in the global South.

- Further financialization of nature.

- Renewed justification for intensive agriculture

- Massive growth in carbon markets and offset schemes that do not reduce emissions and cause harm to communities.

- Greenwashing and hiding the growth in fossil fuel emissions from Governments and private sector actors alike thus preventing radical action to tackle emissions at source in line with the science and worsening the climate crisis and land degredation.

- A lack of will and funding to implement the real solutions for structural and holistic change we know exist to the climate, biodiversity and food crises which must include States respect, protect and fulfilling community lands and land rights.

The implementation of NBS at any scale would require vast areas of land. For example, the afforestation ‘mitigation pathway’ forming roughly half of the claimed 37% in emissions reduction as claimed in the main academic paper on NBS would require an estimated area of nearly 700 million hectares, or nearly the size of Australia.[[10]](#footnote-11)

Just corporations’ NBS pledges require eyewatering areas of land. An analysis of Shell’s new pathway to 1.5 degrees by Carbon Brief shows that, Shell’s vision of a continued role for oil, gas and coal until the end of the century remains essentially the same. Aside from the temporary impact of Covid-19, the major addition is the “extensive scale-up of nature-based solutions”, specifically planting trees over an “area approaching that of Brazil”. Those are just the demand for land from a handful of oil companies to use as carbon offset. Hundreds of other large corporations have in the meantime made pledges to become carbon neutral, and corporations like Nestlé and Unilever or tech companies like Microsoft and Google and other corporate polluters such as the aviation industry are also demanding land for above-ground carbon storage. All of these corporate net-zero claims simply cannot be accommodated by nature, the land and seas. There is no discussion on where this land will come from but previous experiences of REDD projects, biofuels expansion show that it will mostly be community land in the global south.

Another example is in the implementation of the Bonn Challenge, launched in 2011 by the Government of Germany and IUCN, and later endorsed and extended by the New York Declaration on Forests at the 2014 UN Climate Summit. It is a global effort to bring 150 million hectares of the world’s deforested and degraded land into restoration by 2020, and 350 million hectares by 2030. A recent study found that just under 50% of countries commitments to the Bonn Challenge are to be met by industrial tree plantations [[11]](#footnote-12)– which have well documented negative impacts on land rights and land grabbing.

**Financialisation of land, territories and nature – REDD and REDD+**

Market based solutions to the climate and biodiversity crisis such as carbon markets, carbon offsets, REDD and REDD+ schemes and new proposals for biodiversity markets and offsets present a new challenge for ensuring land tenure rights. FoEI has several examples of REDD projects that have facilitated rather than prevent the

continued use of fossil fuels, exacerbated tensions over land and resource rights and have significant negative impacts on Indigenous Peoples, forest dependent and local communities and that threaten food sovereignty. **T**he history of the establishment of conservation schemes includes large scale evictions and loss of rights for indigenous peoples and local communities.

By increasing the value of standing forests, REDD is exacerbating existing tensions around land tenure and access to resources. It can also impede ongoing efforts to resolve land tenure disputes, as REDD presents governments with an increasing financial incentive for the state to retain or assert ownership. There are also cases where governments allocate carbon rights that conflict with the land rights of Indigenous and forest peoples. [[12]](#footnote-13) [[13]](#footnote-14)

**Financialisation of nature and its logic threatens rights based frameworks**

Indigenous peoples and other communities live with complex sets of tenure rights and relationships with their lands and each other. Nature itself is an inherently dynamic interaction of human and non-human relationships. For rights to these ecosystem services to be traded on capital markets, this dynamic nature needs to be broken down into stable and quantifiable units that are assumed to exist in isolation from other ecosystem service units or social, cultural or spiritual links. This immediately breaks the framework of collective rights and interdependent and indivisible Human Rights.

Most projects that generate tradable permits from carbon or biodiversity and ecosystem services also include offsets – these allow historically big polluters to continue and ‘offset’ their emissions by passing on their responsibility onto conservation projects in communities in the global south. Offsetting does not reduce emissions and will therefore exacerbate climate impacts on land. It is also unjust as it retains and extends control over territories by those most responsible for climate change. Offsetting amounts to a double land grab because corporations end up controlling land use at two locations – the site they are destroying and the location they are claiming as offset. [[14]](#footnote-15)

**Expanding Collective rights frameworks for structural solutions in the general comment on land**

Community Forest Management (CFM) offers an alternative to the industrial forestry practices that have devastated forests and driven severe social injustices. It blends appropriate technology, ancestral knowledge and community practices relating to resource use. However, CFM is not just a technical approach, it is also a major opportunity for communities to exercise political control of their territories and resources. CFM is an effective and economically viable alternative to destructive industrial logging and offers a win-win solution to biodiversity loss and climate change.[[15]](#footnote-16)

Agroecology in the framework of food sovereignty offers an alternative to industrial agrocommodites that are a leading cause of land rights violations and land grabbing. It also encompasses a political approach for small scale food producers to produce food ecologically, drastically reducing emissions, protecting biodiversity and ensuring their collective rights and access to and control over their commons. [[16]](#footnote-17) [[17]](#footnote-18) [[18]](#footnote-19)

The Collective rights to Land and associated rights to what we call ‘territories’ such as Right to Water, right to self- determination, womens’ rights and how they are conceptualised in CFM and agroecology are central in tackling the structural causes of the environmental crises. The conceptualisation determines whether territories are considered places to extract profit or places where indigenous peoples and other communities can express their rights – especially ICSER rights including self-determination, to define their own development model or for example to declare their territories free of extractive industries.

The implementation of CFM and agroecology as environmental justice solutions requires an increase in the demarcation of land under collective communities’ control and community based territorial management in line with UNDROP, UNDRIP and VGGTs.

Importantly, protecting land tenure and ensuring collective land rights should no longer be simply seen as safeguards added onto environmental policies but should be one of the fundamental way States can ensure sustainability and environmental protection.

Therefore it is key that the general comments addresses the following:

In section 1 expand the scope of how it describes land grabbing and land investments to include new threats. Text suggestion: “Large scale land investments or land grabbing has been historically linked to large scale agriculture and extractive industries but now is also increasingly a threat due to large scale land based climate mitigation or land based carbon sequestration policies that are being used to reach “net-zero” climate targets for example Bioenergy for carbon capture and storage and some forms of “nature based solutions” which require huge areas of land and especially threaten indigenous peoples, peasants and rural communities.”

In section IV F

* Clearly differentiate between false solutions to the climate and ecological crises - including some land based climate mitigation schemes and market mechanisms for climate and biodiversity protection and the financialisation of nature which can worsen the progressive realisation of human rights - and real solutions strongly based in Human Rights approaches and which are in line with the VGGTs, UNDROP and UNDRIP such as Community Forest Management and Agroecology in the framework of food sovereignty.
* Caution against land based carbon offsets, carbon markets schemes and large scale land based sequestration schemes.
* Clarify that protecting the collective rights of peoples and communities, especially indigenous peoples and those recognised in UNDRIP and UNDROP are a systemic solution which can ensure both land rights and environmental justice and implementation of these. It should recommend that State parties to Paris Agreement ensure strong implementation of UNDROP, UNDRIP and VGGTs. They should also use these existing instruments to ensure their pathways to achieving climate targets are not violating land rights. Lastly they must scrutinize and regulate businesses’s climate targets that are violating land rights.

Text suggestion “…

Add a new paragraph after the paragraph 54:

Indigenous Peoples, local communities, forest communities are considered to have legitimate user rights because of their historical role in the conservation and protection of forests and other ecosystems. The protection of their traditional knowledge is of great importance and this and other collective rights must be respected and implemented. These rights have been recognized and adopted in UNDRIP, UNDROP and CBD among other international conventions.

These historical and collective practices are seen as solutions that bring about the transformative change necessary to solve the crises we face. These solutions differ from others that may reinforce these crises by emphasizing the use of financial mechanisms that are so far experimental and may violate human rights.

Add local communities after indigenous peoples in paragraph 55.

1. ***Note: this is an update of the initial submission made in October 2019*** [↑](#footnote-ref-2)
2. “The magnitude of the planetary crisis requires action of a similar size; the solution is system change” FoEI August 2018 <https://www.foei.org/features/planetary-crisis-system-change> [↑](#footnote-ref-3)
3. Summary for policy makers of the global assessment report on biodiversity and ecosystem services,

   Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services May 2019 <https://ipbes.net/sites/default/files/downloads/spm_unedited_advance_for_posting_htn.pdf> [↑](#footnote-ref-4)
4. “At What Cost? Irresponsible business and the murder of land and environmental defenders in 2017” Global Witness July 2018 <https://www.globalwitness.org/en/campaigns/environmental-activists/at-what-cost/> [↑](#footnote-ref-5)
5. “Agroecological and other innovative approaches for sustainable agriculture and food systems that enhance food security and nutrition” HLPE, CFS July 2019 <http://www.fao.org/cfs/cfs-hlpe/en/> [↑](#footnote-ref-6)
6. “Community Forest Management - An opportunity to preserve and restore vital resources for the Good Living of human societies” FoEI, April 2018 [↑](#footnote-ref-7)
7. “The IPCC’s climate change report: “Negative emissions” and business as usual” Redd Monitor October 2018 <https://redd-monitor.org/2018/10/10/the-ipccs-climate-change-report-negative-emissions-and-business-as-usual/> [↑](#footnote-ref-8)
8. “Food sovereignty: five steps to cool the planet and feed its people” GRAIN, 2014 <https://bit.ly/2dknoYt> [↑](#footnote-ref-9)
9. “The risks of relying on tomorrow’s ‘negative emissions’ to guide today’s mitigation action” Stockholm Environment Institute 2016 <https://mediamanager.sei.org/documents/Publications/Climate/SEI-WP-2016-08-Negative-emissions.pdf> [↑](#footnote-ref-10)
10. Griscom et al, 2017. Natural climate solutions. PNAS. October 31, 2017. vol. 114. no. 44. 11645–11650. https://www.pnas.org/content/114/44/11645 [↑](#footnote-ref-11)
11. “Restoring natural forests is the best way to remove atmospheric carbon” Nature April 2019<https://www.nature.com/articles/d41586-019-01026-8> [↑](#footnote-ref-12)
12. “REDD+ fuels human rights abuses, causes of climate change – the case of California Chiapas and Acre” FoEI January 2018 <https://www.foei.org/features/redd-fuels-human-rights-abuses-causes-climate-change-report> [↑](#footnote-ref-13)
13. “world’s first big ‘REDD’ project violating indigenous people rights” FoEI December 2011 <https://www.foei.org/press_releases/archive-by-year/press-2011/new-report-worlds-first-big-redd-project-violating-indigenous-people-rights> [↑](#footnote-ref-14)
14. “REGULATED DESTRUCTION How biodiversity offsetting enables environmental destruction” FoEI November 2019 <https://www.foei.org/wp-content/uploads/2019/11/foe-FoN2-regulated-destruction-EN-WEB.pdf> [↑](#footnote-ref-15)
15. “Why Community Forest Management matters” FoEI 2015 <https://www.foei.org/resources/publications/publications-by-subject/forests-and-biodiversity-publications/community-forest-management-lobby-briefing> [↑](#footnote-ref-16)
16. “Agroecological and other innovative approaches for sustainable agriculture and food systems that enhance food security and nutrition” HLPE, CFS July 2019 <http://www.fao.org/cfs/cfs-hlpe/en/> [↑](#footnote-ref-17)
17. “The 10 Elements of Agroecology” FAO, 2018 <http://www.fao.org/3/i9037en/I9037EN.pdf> [↑](#footnote-ref-18)
18. “Declaration of the International Forum for Agroecology Nyéléni, Mali February 2015 <http://www.foodsovereignty.org/wp-content/uploads/2015/02/Download-declaration-Agroecology-Nyeleni-2015.pdf> [↑](#footnote-ref-19)