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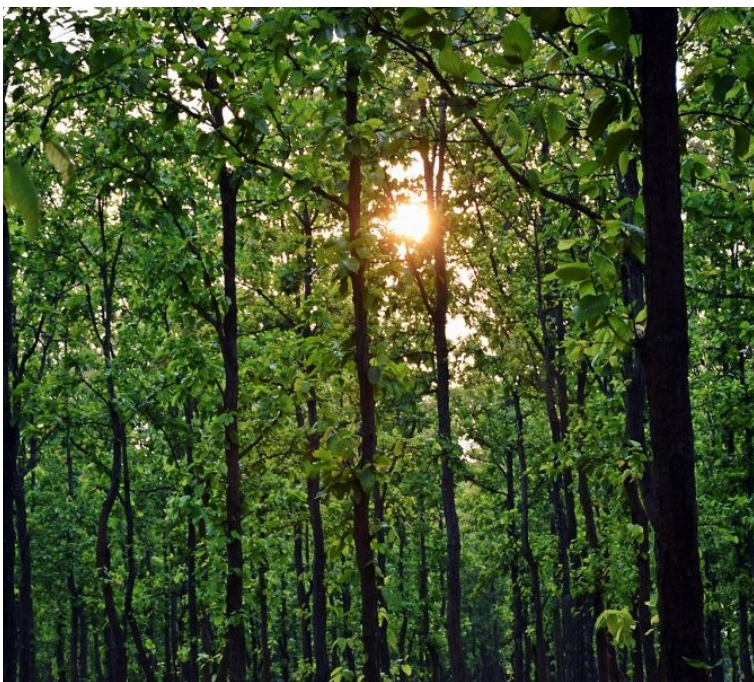
# How the Forest Rights Act Can Shape India's Climate Action

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Stories of community-led, rights-based climate solutions under the Forest rights Act show how it is key to realising just and effective climate actions.



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For Adivasi/indigenous communities both in India and around the world, 2024 marked an important year. At the global level, critical steps towards incorporating the voices of Indigenous peoples and local communities were taken at **COP29**, while India saw two important court rulings and a key scheme launched by the Union government.

COP29 saw the adoption of the Baku Workplan and renewal of the mandate of the Facilitative Working Group (FWG) of the Local Communities and Indigenous Peoples Platform (LCIPP). Meanwhile in India, the Ministry of Tribal Affairs launched the PM JUGA scheme with the objective to saturate and expedite the recognition of forest rights, empower tribal communities, and provide sustainable livelihoods through various governmental schemes.

Two important rulings were also delivered by the Supreme Court, one where it directed the Union government to formulate a nationwide policy for the **conservation of sacred groves**, acknowledging the profound cultural and ecological significance these forest patches hold for the communities that have protected them for generations.

In the other case the apex court expanded the “right to life” to encompass **protection against the adverse effects of climate change**. This historic decision underscores the critical role of forests in building climate resilience, positioning India’s forest-dwelling communities as essential partners in mitigating and adapting to the climate crisis.

However, a hammer still hangs on the future of these forest dependent communities as the Supreme Court is scheduled to hear the case challenging the constitutional validity of the Forest Rights Act of 2006 on April 2.

### **How do we locate FRA in the climate justice discussions**

Climate justice discussions globally are based on the

accepted idea of **common but differentiated responsibilities with respective capabilities** (CBDR-RC), simply implying that global north countries have a greater contribution to greenhouse gas (GHGs) emissions and thus have far greater responsibility to undo the crisis as compared to the Global South.

The Indian government has been advocating for the principles of climate justice, equity and CBDR-RC at COP discussions. India's national statement at the high-level segment of COP29 said, "The context of different national circumstances, sustainable development goals and poverty eradication, particularly in respect of the Global South should not be lost sight of."

Looking inward, we find that the Adivasi and other forest-dependent communities – who have contributed the least to climate change – are actually one of the most vulnerable to the climate crisis as well as the climate mitigation approaches of the government.

India's climate mitigation commitments and actions rely intensively on **land use, land use change and forestry sector (LULUCF)**, in terms of increasing forest cover and carbon sinks. This is evident from the country's Nationally Determined Contribution (**NDC target**) of creating a carbon sink of 2.5 or 3 billion tonnes of CO<sub>2</sub>. The **fourth biennial update report** submitted by India to United Nations Framework Convention on Climate Change (UNFCCC) in December 2024 argues that the LULUCF sector removed 22% of the country's carbon dioxide emissions in 2020.

As part of the National Action Plan on Climate Change (NAPCC), the Union government launched a specific programme for the LULUCF sector called the **National Mission for Green India** (GIM). The GIM document reports that "27% of the total population of India, comprising 275 million rural people, depends on forests for their livelihoods. This number includes 89 million tribal people, who constitute the poorest and most marginalized section of the country."

**Global evidence** consistently **demonstrates** that community-governed forests with legally recognised rights exhibit lower deforestation rates, higher biodiversity and greater carbon sequestration establishing the **significance of tenurial security** and decentralised forest governance in climate change mitigation. The **Paris Agreement**, 2015 too specifies in its preamble that the parties "when taking action to address climate change, respect, promote and consider their respective obligations on the rights of Indigenous people and local communities..." The Paris Agreement states that the "Parties acknowledge that adaptation action should follow a

country driven, gender-responsive, participatory and fully transparent approach, taking into consideration vulnerable groups, communities and ecosystems, and should be based on and guided by the best available science and, as appropriate, traditional knowledge of indigenous peoples and local knowledge systems, with a view to integrating adaptation into relevant socio-economic policies and actions, where appropriate.”

These principles are affirmed by GIM which says that the “local institutions have a significant bearing on forest conservation and its sustainable use, more so at a time when market forces are putting tremendous pressure on natural resources” and requires the “strengthening of decentralised governance through Gram Sabha.”

The **Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006** (FRA), embodies all these principles and provides the legal framework for securing forest tenure and other pre-existing rights of Adivasi and local communities. It establishes the links between tenure security, recognition of the legal rights of these communities with ecological and livelihood security, sustainability and biodiversity conservation.

The Indian government in its communication to UNFCCC also states that, “India has made an effort to decentralise its forest management policy since 1990” and reports the Forest Rights Act of 2006 as an initiative that has contributed in mitigating climate change with respect to the LULUCF Sector. In 2023, Ashwini Kumar Choubey, minister of state in the environment ministry had also confirmed in Lok Sabha that “The compliance of NDCs is undertaken in consonance with the provisions of relevant legislations including the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 and PESA Act , 1996”.

### **Forest Rights Act and Community Forest Resource rights**

Enacted by the parliament in 2006, FRA lays the foundation for the democratic decentralisation of forest and resource governance and management in India. It provides the legal framework for major pro-poor institutional reform by recognising the pre-existing rights of India’s forest-dwelling communities through a transparent and democratic village-assembly-based process.

Noting that India’s forest management laws and policies had resulted in ‘historical injustice’ to its forest-dependent communities, FRA acknowledges forest dwellers as ‘integral to the very survival and sustainability of the forest ecosystem’ and deems it ‘necessary to address the long-standing insecurity of tenurial and access rights’ of these communities. It links these rights with ‘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 forest dwellers.

FRA recognises the right of Gram Sabhas to protect, regenerate, conserve or manage community forest resources for sustainable use, also known as Community Forest Resource (CFR) rights, and to regulate access to these CFR areas from destructive practices.

The Act also secures community tenure of particularly vulnerable tribal groups and pre-agricultural communities, over their habitats and recognises the rights of pastoral and nomadic communities over their traditional seasonal resource access areas. FRA recognises the communities' rights of ownership, use and disposal of non-timber forest produce, their rights of grazing, collection of firewood, fish and other such products from water bodies.

### **CFR based biodiversity conservation and ecological security**

Since FRA came into force, Gram Sabhas across the country are leveraging their rights to protect some of the most biodiverse forests and landscapes. In 2013, the apex court established that obtaining the free, prior, and informed consent of the Gram Sabha and ensuring compliance with the Forest Rights Act (FRA) were essential prerequisites for approving any diversion of forest land. This enabled the Dongria Kondh, a particularly vulnerable tribal group in Odisha, to protect the sacred and biodiversity-rich Niyamgiri hills.

This judicial decision established the Gram Sabha Authority as a key check-and-balance system over forest diversion and deforestation which continue to be one of the biggest drivers of climate change. Government data tabled in Lok Sabha affirms this by revealing that since 2008-2023, **more than 3 lakh hectares of forest land has been diverted under FCA 1980.**

Out of the total forest land diversion, two-thirds has been diverted due to six major activities consisting of mining, defence, hydel projects, transmission lines, road and irrigation projects. The authority of Gram Sabha thus becomes even more important in today's context when we see a range of policy shifts targeted towards facilitating ease of business and extraction of resources by market and private forces. Additionally, the findings from the Comptroller and Auditor General of India (CAG) reports the **failures and concerns over the effectiveness of CAMPA**, a national level afforestation programme launched in 2015 to compensate for forest diversion under FCA, revealing misuse of funds, failure of sapling survival in afforestation programmes, non-compliance of FRA and **ghost plantations.**

The Kadar community from Kerala is another example. A total area of 400 sq kms got recognised as collective CFR area for nine Kadar settlements (1 settlement belongs to Malayan community). These communities are completely dependent upon non-timber forest products (NTFPs) for their sustenance. They have formed CFRMC committees in each settlement as well as established a collective forum called Vazachal CFR Coordination Sangham to coordinate all the management and conservation initiatives in their CFR area.

“Using the CFR governance framework the community members could halt the building of big hydropower projects that threaten to submerge and destroy their unique riparian ecosystems and lowland evergreen forests. They have also engaged in mapping out invasive species in the area and formed a sustainable protocol for NTFP harvesting” said Tiju C. Thomas, who worked at WWF and coordinated FRA implementation activities.

In Maharashtra too, communities have persistently raised concerns against conversion of mixed and diverse forests into commercial monoculture plantations and are now regenerating forests in their CFR areas. **Panchgaon** in Chandrapur District is a successful example of these practices. “The Adivasi and local communities may or may not speak the language of climate solutions but it’s them who are leading as the first and last line of defence against unsustainable projects, forest diversion and commercial exploitation of resources,” said Tiju.

### **Why CFR governance matters**

Another landmark victory in Odisha’s Nayagarh district, where **24 villages secured CFR rights in 2021** after a decade-long struggle, highlights the power of community-led conservation.

The ‘thengapalli’ system institutionalised through the Gram Sabha of these villages is a traditional forest stewardship practice led by women since the 1980s, and has successfully combated deforestation and degradation of forested landscape that forms part of their CFR area.

By enforcing locally agreed rules for sustainable resource use, these communities are protecting forests and driving climate action, evident in the steady increase in forest cover.

### **FRA envisions an integrated approach**

FRA mandates government departments to pool resources, providing Gram Sabhas with vital funding and capacity support for forest protection and management.

Rule 16 of the 2012 FRA Amendment Rules provides schemes of various government departments to be provided to communities whose rights have been recognised, paving the

way for convergence of government schemes towards village and forest development.

In **2010**, the tribal affairs ministry issued **directions** to converge the initiatives of existing welfare and development initiatives with FRA, particularly with the Ministry of Rural Development under MGNREGA programme, so that forest dwellers can take up initiatives on the land.

In **2015**, the ministry issued another memorandum directing the state governments to make funds available through their line departments to the CFRMCs to enable communities to develop CFR areas. In 2018, the ministry **issued directions to various departments** to aid the forest rights holders through financial services and support to land development.

Many parts of the country have yielded impressive results as a result of this integrated approach, such as the Amravati district of Maharashtra. Since **securing CFR rights in 2012**, four villages – Payvahir, Nayakheda, Upatkhedha and Khatijapur – have been **restoring degraded forests** with support from various government departments in their CFR areas..

This restoration effort in the Amravati district has been nothing short of transformative. According to local communities and forums working in the area, the highly degraded forests are successfully regenerating, biodiversity has improved, soil erosion has reduced and wildlife has returned to the CFR areas. Between 2012 and 2021, a total of 3,57,572 worker-days of employment resulting in payments of \$5.05 million have been created through the implementation of MGNREGA for various forest restoration and conservation activities. These include soil and moisture conservation as well as plantations and forest protection in CFR areas, which has directly contributed to a significant reduction in distress migration from the villages while restoring the landscape.

Raghav Srivastav, a researcher studying landscape restoration said, “Meaningful and impactful engagement on restoration with forest-dwelling or forest-using people is only possible (and ethical) with secure tenure as a premise or prior condition. Secure tenure implies greater material/livelihood security, stronger ties with the land and a more secure affective context that also enables localised decision-making (and in turn ownership) of which restoration approaches to employ (or not). FRA can be a useful and valuable tool for LR in India.”

The Van Gujjar community, a semi-nomadic community living in the foothills of Shivaliks in Uttarakhand State demonstrate the success of effective and traditional climate adaptive practices. Since **2020**, these communities have been organising and celebrating **Sela Parv, a tree plantation festival** to increase the forest cover and restore the landscape.

## What needs to be done?

India's CFR-FRA aligns with the global climate action goals and principles of equity, climate justice and sustainable development. These examples demonstrate that India can offer valuable lessons and learning on reimagining climate action by centring around the rights of indigenous peoples and local communities.

A detailed assessment by the Community Forest Rights – Learning and Advocacy (CFR-LA) network in 2016 calculated the bare minimum estimated potential forest area over which CFR rights can be recognised in India, excluding five north-eastern states and Jammu & Kashmir, as approximately **34.6 million ha**.

At least one-fourth of the villages in the country (1,70,000), including over 178 million people across 25 states, would be eligible to claim CFR rights based on forest land within their revenue village boundaries. In nine of the 25 states, over one-third of the villages are eligible for CFR rights recognition.

India's forestry outlook study in 2020, conducted by the Ministry of Environment & Forest, reaffirms its 2009 study that CFR rights could be assigned over 40 million ha of the country's forests to village-level democratic institutions.

However, the realisation of this potential has been slow. India reports in its fourth biennial update report to UNFCCC that “as of 31.10.2023, a total of 23,43,009 land titles accounting to around 1,80,70,577.43 acres have been distributed under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. This includes 47,96,364 individual forest rights and 1,32,74,213 community rights.”

FRA-CFR governance can yield the twin objectives of ecological and economic security while enabling Adivasi and local communities to adopt diverse management and adaptive approaches based on collective and democratic decision-making, traditional and situated ecological knowledge, understanding of the regional contexts and cultural values.

There is an urgent need for more significant policy and financial support to recognise the CFR-FRA based climate adaptation and mitigation approaches and to adopt and scale up these community based, rights based, traditional knowledge informed climate solutions.

The government must ensure that all climate and biodiversity policies are in compliance with the Forest Rights Act, 2006 in action and adopt CFR-FRA as a key framework for realising just and effective climate actions.

*Aditi Vajpeyi examines forest and natural resource conflicts and governance issues.*