

POLICY BRIEF

Post-CFR Recognition Policy Support

Context

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act (also known as **Forest Rights Act or FRA**) was a landmark legislation enacted by the Indian Parliament in 2006 that gives forest dependent communities, rights to access and manage their forests. The Section 5 of the Act, **empowers the gram sabha**, with the right and responsibility to protect wild life, forest and biodiversity; to ensure that Community Forest Resource (CFR) area is used sustainably and access to it is regulated; ecologically sensitive areas are protected and any destructive practices that may affect their cultural and natural heritage are prevented. Rules 4 (1) (e) and (f), empower gram sabhas to constitute a committee to fulfil above responsibilities.

As per the preamble of the Act, the vesting of the responsibility and authority with the gram sabha for sustainable use, conservation of biodiversity and maintenance of ecological balance of CFR areas would strengthen the conservation regime of the forests while ensuring livelihood and food security.

Community Forest Resource (CFR)

Sec 2(a) of the FRA defines CFR as "customary common forest land within the traditional or customary boundaries of the village, or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community had traditional access".

Section 3 (1) of the Act recognizes important community access and management rights in forest lands:

- 3 (1) (b) - rights granted under nistar (usufruct rights);
- 3 (1) (c) - right of ownership, access to collect, use, and dispose of minor forest produce which has been traditionally collected within or outside village boundaries;
- 3 (1) (d) - other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities.
- And most significantly 3 (1) (i) - right to protect, regenerate, or conserve or manage any community forest resource (CFR), which they have been traditionally protecting and conserving for sustainable use.

Study

How can the recognition of CFR rights translate into positive and equitable livelihood and conservation outcomes? Much will clearly depend upon the collective decision-making processes adopted at the local level and the policy support provided post-recognition. Hence a study was conducted in six villages in eastern Maharashtra with CFR rights to understand whether and under what conditions CFR management can realize its transformative potential, i.e.,

- enhance livelihoods equitably,
- conserve/regenerate forests and
- empower communities

The study used a combination of ecological (one-hectare plot and transect-plots method) and socioeconomic (interviews, household surveys and focused group discussions) methods to understand the post-CFR rights recognition forest status, the post-CFR processes, CFR-related interventions, and its contribution to livelihoods. We consciously chose villages that were supported continuously by civil society organizations (CSOs), so as to explore the best-case scenarios.



Figure 1: Vegetation assessment in CFR area of a village

Findings: outcomes

The findings indicate uneven but overall positive outcomes: improved forest condition including abundance of important NTFP species, employment generation, livelihood enhancement through marketing of forest products, strengthening of local institutions, and increased participation of women.

Specifically, where forests were in degraded condition at the time CFR rights recognition, the Gram Sabhas focused on regeneration of the resource (planting, soil and water conservation, protection, etc.) using external funds, and achieved significant increases in local employment and reduction in outmigration; the improvements in forest condition are also palpable but yet to pay off. Where forests were fairly intact at the time of CFR rights recognition, the Gram Sabhas focused on livelihood enhancement through improved marketing of NTFPs. However, here the gains were uneven and temporary.



Figure 2: Women's training being conducted in Yavatmal

Findings: Factors influencing outcomes

1. **Intra-village dynamics:** Existing conflicts or social and political divisions within the village could hinder community forest governance at any stage.
2. **Positive policy support:** The 'convergence policy' of the Maharashtra government, under which district-level convergence committees have been created for focusing programmes across multiple departments on the CFR landscape, played a major role in providing financial support for investments in regenerating degraded landscapes.
3. **Continued policy-level and bureaucratic hindrances:**
 - a. There is lack of clarity at the policy level to whether CFR Gram Sabhas can conduct their own NTFP auctions instead of ceding control to the Gram Panchayat in PESA areas. This allows the less democratic Gram Panchayat system to control NTFP-based returns.
 - b. The non-statutory Joint Forest Management (JFM) programme, initiated and controlled by the Forest Department, continues to function in parallel. This results in continued Forest Department control over village decision-making.
 - c. There is no clear policy regarding the provision of working capital support for Gram Sabhas to conduct NTFP collection and sale. Arbitrary and delayed fund release and imposition of extraneous conditions vitiates this process.
 - d. The central government's Van Dhan Kendra policy is being implemented in a way that completely ignores or bypasses the statutory CFR Gram Sabha structure.
4. **CSO support:** The support provided by the CSOs working with the 6 villages was crucial to their success. This raises questions about what might transpire in villages that do not get such support.

Policy Recommendations

The government needs to expand its policy support for post-recognition CFR-based livelihood enhancement, forest conservation/regeneration, and democratic functioning. It has already announced one new measure: allowing CFR Gram Sabhas to become 'implementing agencies' under MGNREGA, instead of having to go through the Gram Panchayat or the Forest Department. But much more can be done:

1. Clarify that CFR Gram Sabhas may (if they wish) conduct their own NTFP collection and marketing arrangements, whether or not they are located in PESA areas.
2. Phase out the JFM programme by dissolving JFM Committees and transferring their funds to CFR Gram Sabhas wherever CFR rights are recognised. Clarify that the profit-sharing arrangements from felling in pre-existing plantations will continue as under JFM.
3. Make CAMPA and other funds traditionally routed through JFM committees available to CFR Gram Sabhas in a transparent manner.
4. Implement the draft recommendations of the Saxena Committee set up by the Ministry of Tribal Affairs in 2020 in terms of clarifying roles of the Forest Department
5. Create a Working Capital fund in the Tribal Development Corporation that is to be made available as zero-interest 6-month loans directly to CFR Gram Sabhas based on their needs in NTFP collection and marketing.
6. Invest in outreach and capacity-building in those Gram Sabhas that do not have CSO support.
