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Research Article

Forests, Rights, and the Climate Paradox: Unraveling the Contradictions of India's Forest Governance since 2006

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Abstract

The paper focuses on the Forest Rights Act (FRA), 2006, which was enacted in India to ensure the rights of Scheduled Tribes and Other Traditional Forest Dwellers to use forest land and its resources. Twenty years after its introduction, there is a growing gap between the intent of this law and its actual operation, the most evident of which is the enactment of the Forest (Conservation) Amendment Act, 2023 (FCAA 2023). The paper maps India's forest governance architecture and argues that it is structured around inherent contradictions that have cumulatively paralyzed tribal self-governance, disempowered the Gram Sabha, and catalyzed further diversion of forest land. Drawing on the IPCC Sixth Assessment Report and India's Nationally Determined Contribution (NDC), the article contends that undermining tribal forest rights is not only a failure of justice but also misguided climate policy. In 2020, India's forests absorbed about 22 percent of the country's domestic carbon dioxide emissions and are managed overwhelmingly by Adivasi communities, whose inability to secure formal governance rights poses a systemic risk to India's pledge to maintain a carbon sink of 2.5 to 3 billion tons of CO₂ equivalent by 2030. The article advocates strengthened, combined implementation of the FRA, PESA, and India's climate obligations.

Keywords: Forest Rights Act; Adivasi communities; Forest (Conservation) Amendment Act 2023; Gram Sabha; Carbon sink; Climate governance; India

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1. Introduction: A Promise and Its Unravelling

The passing of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, also referred to as the Forest Rights Act (FRA), marked one of the most significant milestones in India's legislative past. For the first time in post-independence India, there was an acknowledgment that communities which had been living in and managing forests for generations had been treated as intruders on their own land. The FRA was an effort towards rectifying a 'historic wrong', granting individual and community forest rights to the Scheduled Tribes (STs) and Other Traditional Forest Dwellers (OTFDs).

Yet it is a slower process of institutional decay that best explains the hollowing-out of the FRA. Fifteen years from its enactment, the Act has recognised 2.2 million Individual Forest Rights and 1,02,889 Community Forest Rights over 6.8 million hectares of area across 20 states (Pathfinders, 2024). These numbers represent just 1.37 per cent of the roughly 34.6 million hectares across more than 1,70,000 villages estimated to be the minimum potential area eligible for Community Forest Resource rights under the Act (Rights and Resources Initiative, 2023). This gap between eligibility and recognition is not merely an administrative shortfall; a substantial body of institutional-analysis literature traces it to a governance structure that remains tilted towards centralised departmental management of forests (Kumar and Kerr, 2012; Springate-Baginski, Sarin and Reddy, 2013).

This paradox has been even further worsened by the enactment of the Forest (Conservation) Amendment Act 2023 (FCAA 2023), which was passed amidst considerable tumult and dissension in Parliament. The FCAA 2023 has shifted the direction of India's forest policy away from what is compatible with the FRA, PESA, and even India's own climate commitments under the Paris Agreement (Saxena, 2024; Campaign for Survival and Dignity, 2023), by narrowing the definition of 'forest' in a way that excises large categories of land and project types from environmental clearance, and by effectively negating the Gram Sabha consent that had previously served as an institutional backbone of tribal governance over forests.

Methodology: This paper adopts a doctrinal and policy-analytical methodology. It undertakes a statutory and case-law analysis of the FRA, 2006, the Panchayats (Extension to Scheduled Areas) Act (PESA), 1996, the Forest (Conservation) Act, 1980, and the FCAA 2023, read alongside constitutional jurisprudence on Articles 21 and 244. This doctrinal analysis is triangulated with the empirical literature on deforestation and community forest governance, and with climate-science findings from the IPCC Sixth Assessment Report and India's official reporting to the UNFCCC. Where official and independent datasets diverge on deforestation trends, discussed in Section IV, the paper treats each dataset according to what it is designed to measure rather than as directly substitutable figures, and states explicitly which claims rest on which source.

Positioning within existing literature: A body of institutional scholarship on the FRA, running from its earliest years to the present, has documented how bureaucratic resistance and departmental circulars have progressively narrowed the Act's rights-based promise in practice (Kumar and Kerr, 2012; Springate-Baginski, Sarin and Reddy, 2013; Sathyapalan, 2010). This paper's contribution is distinct in three respects. First, it integrates that institutional-erosion literature with a sustained doctrinal analysis of the FCAA 2023's specific statutory mechanisms, Sections 3.1 to 3.3, treating the 2023 amendment as the most recent, and most consequential, stage of a longer trajectory rather than as an isolated event. Second, it grounds the constitutional dimension of the argument in the Supreme Court's ruling in *M.K. Ranjitsinh* (2024) on the right to a stable climate under Article 21, connecting that doctrinal development to the FRA's community-rights framework. Third, it draws on the peer-reviewed literature on

community forest governance and carbon outcomes (Agrawal and Chhatre, 2006; Persha, Agrawal and Chhatre, 2011; Blackman and Veit, 2017) to argue that tribal rights and India's climate commitments are interdependent rather than competing, and it translates this argument into concrete institutional recommendations, including a statutory Joint Oversight Mechanism between the Ministry of Tribal Affairs and the Ministry of Environment, Forest and Climate Change, and a reformed evidentiary standard for PVTG claims.

The article is organised into eight parts. Section II situates the FRA within the longer history of colonial and post-colonial forest governance in India. Section III examines the specific mechanisms through which the FCAA 2023 erodes the rights-based framework established by the FRA. Section IV turns to deforestation data, and to the particular burden of forest loss in tribal and north-eastern districts. Section V develops what this article terms the 'climate-rights nexus': the argument that tribal forest rights and India's NDC pledges are interdependent rather than competing objectives. Section VI situates implementation failures as a structural, rather than merely administrative, governance problem. Section VII sets out policy recommendations, and Section VIII concludes.

2. Historical Context: Colonial Forestry and Post-Colonial Continuity

Understanding the significance of the FRA requires reckoning with the history it sought to remedy. India's forest governance apparatus was built by colonial functionaries with the aim of maximising timber extraction for the imperial project. The Indian Forest Act (IFA), 1927, brought all forest land under state control and criminalised the largely sustainable customary livelihood practices of forest-dwelling communities, including grazing, the collection of minor forest produce, and shifting cultivation. Communities that had developed elaborate customary systems of forest governance were recast, through this legal architecture, as encroachers on the very lands they managed (Bijoy, 2012; Gadgil and Guha, 1992).

This architecture was substantially inherited by, and retained in, post-independence India. The Forest Conservation Act (FCA), 1980, and the National Forest Policy, 1952, reinforced centralised ecosystem governance that privileged conservation and commercial interests over the livelihood rights of forest communities. Thousands of tribal families were displaced from Tiger Reserves and other protected areas under the Wildlife (Protection) Act, 1972, frequently without due process or compensation, a pattern later documented systematically in the conservation literature (Rangarajan and Shahabuddin, 2006). As the FRA's own preamble acknowledges, 'forest rights on ancestral lands and their habitat were not adequately recognised' during the consolidation of state forests.

The enactment of the FRA in 2006 therefore marks the first significant legislative departure from this trajectory. Its acknowledgment of the 'symbiotic relationship' between forest-dwelling Scheduled Tribes and the forests they inhabit, together with its vesting of governance authority in the Gram Sabha rather than the Forest Department, marks a shift from extraction and exclusion towards recognition and inclusion. This allowed not only the retention and cultivation of land by communities, but also the management and protection of their Community Forest Resources (CFRs) under their own jurisdictional control (FRA 2006, Sections 3, 5 and 6).

Yet from the moment of its enactment, the FRA has faced resistance from the Ministry of Environment, Forest and Climate Change (MoEFCC) and from state Forest Departments, both of which have retained substantial administrative control over the diversion of forest lands. Despite being designated as the nodal ministry for implementation of FRA, the Ministry of Tribal Affairs (MoTA) does not possess enough

bureaucratic muscle, financial clout, or local-level powers to offset this institutional imbalance (Kumar and Kerr, 2012).

3. The FCAA 2023 and the Systematic Erosion of Tribal Rights

3.1 Redefining the Forest

According to the FCAA 2023 under Clause 11(1)(hh), there is a narrower definition of “forest” that limits the range of land protected by law. Most importantly, the law has dropped protection extended to ‘deemed forests’. This term was coined by the Supreme Court of India in *T.N. Godavarman Thirumalpad v. Union of India* (1996), which allowed protection of forest laws to be applicable to all lands defined as forests according to the dictionary meaning of the term, regardless of their revenue classification. Thus, legal experts have interpreted this amendment as giving access for industrial and infrastructure development of a large number of forest lands in India that are not registered administratively but ecologically sensitive (Vidhilegal, 2024).

With regard to national security and border infrastructure considerations, FCAA 2023 further maintains the exemption from basic forest protection requirements for lands located within 100 kilometers of international boundaries. The result is that forest protection laws do not apply to vast areas of northeast India, which, according to independent research, are areas where the livelihood of the people still depends on the standing forest, and where the forest protection was traditionally the responsibility of forest committees (Ao, 2026).

3.2 The Dismantling of Gram Sabha Consent

Among the most constitutionally significant clauses of the FCAA 2023 is the implicit repeal of the requirement of Gram Sabha consent in the diversion of forest lands. The requirement of Gram Sabha consent had been the primary means by which the forest dwelling communities exerted democratic control over their own lands.

The erosion has taken place gradually. In the literature dealing with the FRA’s institutional analysis, it has been shown that, even before the amendment in 2023, the weakening of the standing of the Gram Sabha had started through a series of departmental circulars issued by the MoEFCC, which stated that there was no need for Gram Sabha’s consent for Stage I, or “in-principle”, clearances (Springate-Baginski, Sarin and Reddy, 2013). Such erosion was codified under the Forest Conservation Rules, 2022, which made consent not a necessary condition for the approval of forest clearance. This erosion culminated in the FCAA, 2023, which made community consultations a formal requirement after diversion rather than a pre-requisite to it. It must be pointed out that in its official communications, the MoEFCC has maintained that these were merely changes in procedural timelines for clearance rather than an exclusion of the communities from the clearance process.

Such a provision is against Section 6(1) of the FRA, where the Gram Sabha has been conferred the power to approve the rights and the diversion, and with the judgment by the Supreme Court in the *Orissa Mining Corporation v. Ministry of Environment & Forests* (Niyamgiri Case 2013) where Gram Sabha’s consent before diversion has been held mandatory (Saxena, 2024). Such provisions are also at odds with PESA, 1996, where prior consultations with Gram Sabha for land acquisition in Fifth Schedule areas have been mandated (CJP, 2025).

These impacts of such erosion are practical and are often immediate. For instance, in Chhattisgarh, the State Forest Department issued a notification in May 2025 that stated that the department is the ‘nodal agency’ for the administration of Community Forest Resource Rights, denying any help to the process by other government and non-government agencies, including the support networks of the Gram Sabhas themselves,

and this notification was officially withdrawn by the department in early July 2025 due to widespread protests in various districts (Government of Chhattisgarh, Forest Department, 2025). Additionally, the Vadhavan port project in Maharashtra, a greenfield project that would impact the ecologically important mangrove swamps and coral reefs on which the local fishermen's livelihood depends, got environmental clearance in February 2024 despite huge public opposition.

3.3 Compensatory Afforestation as Dispossession

A third governance contradiction concerns the Compensatory Afforestation Fund Act, 2016 (CAMPA), under which compensatory plantations are raised elsewhere when forest land is diverted for non-forest purposes. Field-based assessments across several states have found that such plantations have at times been established on lands already legally vested with Gram Sabhas under the FRA, without community consent (Virtuosity Legal, 2025). What is administratively framed as ecological restoration functions, in practice, as a second wave of dispossession: communities lose both the forest land diverted for industry and the CFR land subsequently converted into CAMPA plantations.

This pattern mirrors what the conservation literature describes as a broader history of displacement in the name of environmental governance, in which programmes framed as ecological necessity have functioned as vehicles for the alienation of forest-dependent communities from their land (Rangarajan and Shahabuddin, 2006). Displacing forest communities from their lands does not only harm the rights of those communities; it removes the primary custodians of India's forests and, in doing so, may hasten the very ecological degradation these programmes are ostensibly designed to prevent.

4. Deforestation Trends and the Burden on Tribal Districts

Contradictory forest governance in India is visible in deforestation data, though the reading of that data is contested. The latest edition of the India State of Forest Report (ISFR 2023), published by the Forest Survey of India, records a national-level increase in forest and tree cover. Legal-policy analysts have questioned this headline figure, noting that the ISFR's definition of 'forest' includes monoculture plantations and may therefore overstate the extent of natural, biodiverse forest cover (Vidhilegal, 2024).

Independent international assessment data tell a starker story. The UN Food and Agriculture Organization's most recent country assessment records India among the countries experiencing substantial net loss of natural forest over the preceding decade, with plantation expansion accounting for a large share of the net gain reported in national area-based statistics (FAO, 2020). A recent systematic review of the literature on shifting cultivation similarly documents that deforestation and forest-cover loss in the north-eastern states, where tribal communities form the majority of the population, has intensified markedly since around 2014, notwithstanding the region's long traditions of community-based forest protection, even as community forest rights under the FRA remain among the least recognised in the country in these very states (Ao, 2026).

Reconciling the two datasets: The ISFR and FAO datasets are not measuring the same thing, and this paper does not treat them as interchangeable. The ISFR reports an aggregate national canopy-cover metric that, on the critique above, folds plantation gain into headline totals and can therefore mask losses in natural, biodiverse forest even where the topline number rises. The FAO assessment and the associated peer-reviewed literature on land-use change, by contrast, distinguish natural forest from planted area and are better suited to identifying where genuine natural-forest loss is concentrated. This paper accordingly relies on ISFR figures only for what they are official government

data on, such as the sub-national cover contraction the ISFR itself acknowledges in certain districts (see below), and relies on the FAO assessment and the peer-reviewed literature for claims about the location and severity of natural-forest loss. Where the two sources appear to conflict on the same claim, this paper defers to the more spatially disaggregated, natural-forest-specific data.

Despite these methodological caveats, the Forest Survey of India's own 2021 report recorded a contraction of forest cover in a number of 'hill and tribal districts', precisely the districts identified as having the highest concentration of Scheduled Tribe populations and the most contested FRA implementation. This overlap between Adivasi population concentration, forest-cover loss, and weak FRA implementation is not coincidental: it reflects the partial, if not always formally enforced, erosion of the very community-governance system the FRA was intended to protect.

Separately, government data placed before Parliament recorded a substantial year-on-year increase in recorded forest encroachments between 2022 and 2023, concentrated in Assam, Arunachal Pradesh and Karnataka (Lok Sabha, 2023). The continued framing of such occupation as illegal encroachment, notwithstanding the FRA's recognition of customary rights antecedent to the law, illustrates how little colonial forest governance's underlying logic, of treating communities as encroachers on their own land, has changed.

5. The Climate-Rights Nexus: Why Tribal Rights Are Climate Policy

5.1 *India's Climate Architecture and the Forest Sector*

India's commitments under the Paris Agreement give the forest sector a prominent role in the national climate mitigation strategy. India's updated NDC commits the country to creating an additional carbon sink of 2.5 to 3 billion tonnes of CO₂ equivalent through increased forest and tree cover by 2030. According to India's Fourth Biennial Update Report, submitted to the UNFCCC in December 2024, the Land Use, Land-Use Change and Forestry (LULUCF) sector absorbed around 22 per cent of India's total domestic carbon dioxide emissions in 2020, making it by far the largest single domestic carbon offset within India's climate architecture (UNFCCC, 2024).

The National Mission for Green India (GIM), established under the National Action Plan on Climate Change, is explicit about the human dimension of this carbon sink: the Mission's own planning documents record that a very large rural population depends on India's forests for its livelihood, a substantial proportion of them tribal (Government of India, 2014). India's forests perform their carbon-storage function in substantial part because they have been stewarded, conserved and restored by Adivasi communities over generations. On this account, these communities are not incidental forest-dwellers but custodians whose governance systems are a principal mechanism through which India sustains its forest carbon sink.

5.2 *The Evidence on Community Forest Governance and India's Policy Direction*

The IPCC's Sixth Assessment Report (AR6) offers the most recent global synthesis of climate science on this question, and its conclusion regarding community forest management is unambiguous: forests under local governance display significantly lower rates of deforestation, greater biodiversity, and more carbon sequestration than comparable state-controlled forests (IPCC, 2022). This finding has broad cross-geographical support in the peer-reviewed literature. A quasi-experimental study of the Peruvian Amazon found that formally titling Indigenous communities reduced clearing and forest disturbance in the years following titling, relative to similar untitled areas (Blackman and Veit, 2017). Closer to the subject of this paper, a large statistical study of 95 cases of decentralised, community-based forest governance in Himachal Pradesh found that the size of user groups and their rule-making autonomy, rather than state

involvement, were the strongest predictors of forest condition (Agrawal and Chhatre, 2006), while a cross-national analysis of local forest commons found that community rule-making authority was independently associated with both higher carbon storage and greater livelihood benefit, suggesting that carbon and community welfare outcomes are not in tension (Persha, Agrawal and Chhatre, 2011).

This literature also intersects with the broader academic debate over carbon rights and REDD+-style forest-carbon financing, which has long cautioned that carbon-centric forest interventions can recentralise control over forest land in the name of measurable carbon outcomes, precisely the dynamic this paper identifies in CAMPA's compensatory afforestation regime (Section 3.3). The same body of evidence on tenure security and forest outcomes (Agrawal and Chhatre, 2006; Persha, Agrawal and Chhatre, 2011) suggests that durable carbon-sink performance is more closely associated with secure community tenure than with the area brought under direct state or industrial control, the FCAA 2023's implicit priority.

The policy implications for India are stark. The FCAA 2023's dismantling of Gram Sabha consent, its narrower definition of protected forest, and its prioritisation of industrial and infrastructural development over community rights move India's forest governance in the opposite direction from what this evidence suggests. It weakens the institutional mechanism through which Adivasi communities exercise stewardship over forests, a governance form that the available evidence associates with more effective, not less effective, maintenance of carbon-rich forest cover.

5.3 Constitutional Dimensions

The definitive statement by an Indian court on the nexus between climate change and rights in Indian law appears to be the Supreme Court of India's judgement in *M.K. Ranjitsinh and Others v. Union of India* (2024), wherein it was stated that "the right to life guaranteed by Article 21 of the Constitution would include a right to be protected from adverse effects of climate change" (Supreme Court of India, 2024). In view of the FRA's recognition of the tribal communities as the de facto stewards of the forest carbon sink in India, the combination of these two cases provides the theoretical basis linking constitutional rights with forest management: If the stable climate is a constitutional interest per se, then tribal communities whose customary governance maintains the largest carbon sink in the country are no longer enforcing their statutory right under the FRA; they are fulfilling a constitutionally significant function.

Indeed, MoEFCC has even admitted in its letter to the UNFCCC that India had been trying to decentralize its forest management policy since 1990, and the FRA is one such tool that helps mitigate greenhouse gases in the LULUCF sector. It is also evident from the parliamentary proceedings of India's government that the FRA and PESA are used to fulfill India's NDC obligations (Lok Sabha, 2023). The actual impact of the FCAA 2023 thus comes into conflict with the Indian government's own stance on climate obligations.

6. Implementation Failures as Structural Governance Problem

The FRA's persistently weak implementation is not simply a matter of insufficient bureaucratic will. It reflects structural contradictions within India's institutions. MoTA, the nodal ministry for FRA implementation, commands far less administrative reach and financial capacity than the MoEFCC, which continues to manage the diversion of forest land under the FCA.

This asymmetry is visible in the history of the Gram Sabha consent requirement itself. As early as 2009, the MoEFCC issued circulars that substituted the Gram Sabha's certificate of consent with a District Collector's certificate, replacing a community-

democratic process with an official administrative one, part of a longer institutional pattern documented in the academic literature on the making and unmaking of the FRA (Kumar and Kerr, 2012). The FCAA 2023, on this account, finalised a decade-long process of erosion rather than initiating it.

The 75 communities officially categorised as Particularly Vulnerable Tribal Groups (PVTGs), accounting for roughly 1.5 per cent of India's forest-dependent population, illustrate this structural problem in acute form. A 2017 review of FRA implementation in India's protected areas documented repeated rejection of PVTG claims, including Habitat Rights claims of the Mankidia community in Similipal, Individual Forest Rights claims of the Nakesia community in Palamau, and Baiga claims in Achanakmar, frequently on procedural or evidentiary grounds tied to core-area status under National Tiger Conservation Authority orders (UN DESA, 2017). Because the FRA's claims process was designed around documentary and cadastral evidence, it does not straightforwardly accommodate PVTG communities whose systems of customary governance are oral and non-bureaucratic; the resulting gap between formally recognised titles and the extent of communities' actual customary use reflects this evidentiary mismatch rather than the absence of a legitimate claim.

7. Towards a Rights-Based, Climate-Coherent Framework

The analysis in this paper points towards a policy framework in which full realisation of the FRA is treated as a requirement of, rather than a hindrance to, India's development and climate agendas. The following recommendations follow from that analysis.

1. The full Gram Sabha consent requirement for all diversion of forest land should be restored, both through legislative amendment of the FCAA 2023 and through administrative guidelines that re-establish the primacy of community consent over bureaucratic certification. The Niyamgiri precedent (2013) should be treated as the governing standard, not an exception.
2. The definition of 'forest' under the FCAA 2023 should be revised to restore protection to 'deemed forests', consistent with the Godavarman judgment. Excluding ecologically significant but administratively unrecorded natural forest from legal protection is difficult to justify on ecological grounds and works against India's own climate objectives.
3. Any formal linkage between the LULUCF sector and India's NDC should be built around the recognition and strengthening of community forest rights. India's reporting to the UNFCCC should include annual updates on FRA implementation claims, Gram Sabha consents, and hectares under community management as indicators within its own climate reporting framework.
4. The legislative asymmetry between MoTA and MoEFCC must be addressed. Creation of a Statutory Joint Oversight Mechanism, which will ensure representation of MoTA, MoEFCC, Gram Sabha Federations, and civil society organizations in equal measure, can ensure institutionalization of a check against the increasing subordination of FRA by FCA in the last decade.
5. The evidentiary standards of the FRA claims process need to be changed in such a way that they are relevant to PVTGs and other communities whose modes of governance are not based on writings. The oral tradition, community maps, and non-state legal mechanisms need to have the same evidentiary value as cadastral maps.
6. CAMPA plantations that were planted on CFR land without the approval of Gram Sabha must be identified, assessed, and where possible, returned back to the

community's control. Guidelines must be issued clearly stating that CA cannot serve as a tool for secondary dispossession.

8. Conclusion

India stands at a turning point in its forest governance. The Forest Rights Act of 2006 represented a foundational shift in how forest communities are treated by the Indian state, from exclusionary colonial terminology to democratic recognition. The Forest (Conservation) Amendment Act of 2023, in significant respects, reverses that shift, weakening the consent-based governance structure the FRA established and moving forest policy out of step with the FRA, PESA and India's own climate targets.

This paper has sought to show that this is not an optimisation trade-off. Tribal forest rights and India's climate goals are not two objectives for policymakers to weigh against each other; they are interdependent. An estimated 22 per cent of India's total annual domestic carbon dioxide emissions are absorbed by the forest sector, and these forests are managed, overwhelmingly, by Adivasi and other forest-dependent communities. The IPCC's global synthesis indicates that community-managed forests tend to show significantly lower rates of deforestation, greater biodiversity, and more carbon sequestration than comparable state-managed forests (IPCC, 2022), evidence for a real and substantial advantage in these specific dimensions, though not a claim that community governance outperforms state governance on every measure of climate impact.

Any retreat on tribal forest rights is, first and foremost, a matter of injustice. But it may also prove to be a serious misstep in India's climate policy. It is difficult to see how India can make a credible commitment to a carbon sink of 2.5 to 3 billion tonnes of CO₂ by 2030 while weakening the governance system of the communities that sustain the forests responsible for that sink.

The choice facing India's forest governance is not, in the end, a binary one between development and rights, or between climate goals and justice. An India that secures its tribal communities' rights to their forests is, on the evidence considered in this paper, more likely to be an India that preserves those forests, and in preserving them, moves closer to its climate commitments. Reversing the FCAA 2023's most restrictive provisions, and steadily implementing the FRA, PESA and India's NDC commitments in tandem, is both a legal necessity and a climate responsibility.

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