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ANDHRA PRADESH

Promise and Performance of the Forest Rights Act, 2006:
The Tenth Anniversary Report

Contributing Organization and Individual

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The Tenth Anniversary Report

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ABBREVIATION

FRA: Forest Rights Act
PESA Act: Panchayats Extention to Scheduled Area Act
ST: Scheduled Tribes
OTFD: Other Traditional Forest Dwellers
CFR: Community Forest Resource Rights
CR: Community Right
IFR: Individual Forest Rights
PA : Protected Area
PVTG : Particularly Vulnerable Tribal Group
NTFP : Non Timber Forest Produce
FRC : Forest Rights Committee
FPIC : Free Prior Informed Consent
SLMC : State Level Monitoring Committee
SDLC : Sub-Divisional Level Committee
DLC : District Level Committee
ITDA: Integrated Tribal Development Agency
JFM : Joint Forest Management
LWE : Left Wing Extremism
CFR-LA : Community Forest Rights Learning and Advocacy
FSI : Forest Survey Of India
FD : Forest Department
FCA : Forest Conservation Act
MoTA : Ministry Of Tribal Affair
MoEFCC : Ministry Of Environment Forest and Climate Change
CAMPA : Compensatory Afforestation Management and Planning Authority
MGNREGA: Mahatma Gandhi National Rural Employment Guarantee Act
IAY : Indira Awas Yojna
CAF : Compensatory Afforestation Fund
VFR : Village Forest Rule
VSS : Vana Samrakshana Samithi
FDCM : Forest Development Corporation Management
NFP : National Forest Policy

INTRODUCTION

Andhra Pradesh (AP) had 23 districts till its bifurcation into Telangana and Andhra Pradesh in 2014. There are now nine districts in coastal Andhra and four districts in Rayalaseema while the rest 10 districts comprise the Telangana state. Residuary AP has a population of 84,580,777 out of which 27.39 lakh (5.53%) is tribal. The state has 36,914.77 sq. km. of notified forest cover which is 22.73 percent of its total geographical area. There are 16 protected areas including three National Parks, 13 Wild Life Sanctuaries and one Tiger Reserve in the State with a total area of 8,137.08 sq. km. Almost two-thirds of the forests in AP are either scrubs or open forests.

Most of the forest areas of AP are located in 4 predominantly tribal districts in the northern part of the state. Historically, tribal communities have depended on forests for their livelihoods- both for cultivation and forest product collection. Many tribal people engage in a form of shifting cultivation in upland forests, called *podu*[1].

Key Findings

1. The total potential for Community Forest Resource (CFR) Rights in Andhra Pradesh is ***at least 40.89 lakh acres.***
2. No legal CFRs have been recognized in AP; illegal CFR titles have been issued to JFM Committees
3. Poor implementation of Individual Forest Rights with high rates of rejection
4. The rights of PVTGs ignored, with illegal evictions by FD
5. Gram Sabhas and FRC constituted at Gram Panchayat levels rather than habitation or revenue village level as required by law
6. Lack of institutional support to FRA implementation, with Forest Department acting as major obstacle
7. Massive violation of FRA in diversion of forest lands, especially in the Polavaram project

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA henceforth) recognises and vests diverse pre-existing rights over forest land. These include rights over occupied forest land, rights to ownership of Minor Forest Produce (MFP), Community Forest Resource (CFR) rights, rights over produce of water bodies, grazing rights (both for settled and transhumant communities), rights over habitat for Particularly Vulnerable Tribal Groups (PVTGs) and other customary rights. The most critical right which has a bearing on forest governance and on the welfare of tribal communities and other traditional forest dwellers is over Community Forest Resources which provides Gram Sabhas the rights to conserve, protect and manage forests.

Based on the available data, it is clear that even after a decade, the implementation of the FRA, especially the critical CFR rights provisions remain deeply lacking in Andhra Pradesh. There has been no effort to estimate the actual potential of the FRA's implementation in the state and to compare it with the achievements. Specifically, there is no analysis of how much forest area will come under the jurisdiction and management of Gram Sabhas under the community forest resource rights provision of the law.

[1] Reddy et al (2010) Reddy Gopinath, Anil Kumar K. Trinadharao P and Oliver Springate Baginski, Obstructed Access to Forest Justice, The implementation of Institutional Reform (FRA-2006) in AP Forest Landscapes, CESS, Hyderabad

OBJECTIVES OF THE STUDY

This study makes a preliminary assessment of the potential forest area over which rights can be recognised in AP under the FRA and compares it with the actual performance. The estimate offers a baseline for informing implementation, planning, and setting targets for rights recognition under the FRA and allows policy makers and forest-dependent communities to assess the extent to which the law has been implemented. The study also provides an assessment of the FRA implementation focusing primarily on the Community Forest Resource(CFR) rights under section 3(1)(i) and the individual rights, under sections 3(1)(a)(f)(g)(m) and section 4(8). The study identifies the key bottlenecks and problems in implementation of the FRA and provides recommendations for the way forward.

METHODOLOGY

The major sources of data included secondary data available with the ITDAs, the Director of Tribal Welfare Department and the Forest Department. The study also undertakes review of relevant AP High Court orders and published literature on the subject.

SCOPE FOR IMPLEMENTATION OF THE FRA IN ANDHRA PRADESH

Approximately, 24.56 Lakh acres of forest land is situated within the cadastral boundaries of 2,982 Revenue Villages in AP (Census of India, 2011). Additionally, there are 91.55 lakh acres of forests outside the village boundaries in the state. Following Forest Survey of India (1999) and Rights and Resources Initiative et al (2015), we estimate that at least all the forest land within village boundaries would come under Gram Sabha jurisdiction as CFRs and as forest land recognized under individual occupancy.

Large numbers of individually occupied lands as well as large areas of customary CFR claims are located in forests outside village cadastral boundaries in AP. It is impossible to get a good estimate of the area eligible to be recognised without actual mapping of these lands. To get a tentative estimate of the potential forest area for the implementation of the FRA, we very conservatively assume that at least 20% of these forest lands will come under the jurisdiction of Gram Sabhas through the Act, which is calculated to be 18.31 lakh acres (Table II, Annexure).

Thus the total potential forest land coming under the jurisdiction of Gram Sabha through the FRA is estimated to be at least 42.87 lakh acres. However, since Individual Forest Rights are located in the same forest lands, we subtract the area already recognized as IFRs (1.98 lakh acres) to calculate the minimum potential for CFRs. The minimum potential for CFRs in AP is estimated to be 40.89 lakhs acres (Table II Annexure).The above estimate is validated by the fact that 4,695 Vana Samrakshna Samithis (VSSs)/Joint Forest Management Committees (JFMCs) in the State covered an area of 30 lakh acres at the time of enactment of the FRA.

ANDHRA PRADESH: THE FRA IMPLEMENTATION PERFORMANCE

The undivided AP started the implementation of the FRA in 2008. The main focus was on the recognition of individual forest rights under section 3(1)(a). The state government data also shows large areas of land being recognized under CFR rights under section 3(1)(i). In practice, however, there has been no recognition of Community Forest Resource Rights till date in AP.

PERFORMANCE

Community Forest Resource (CFR) Rights and Community Rights (CRs)

In 2008 the Government of undivided Andhra Pradesh issued operational guidelines (G.O.Ms. No. 102) to implement the FRA, 2006. **The GO allows the members of VSSs to claim rights within the operational area of the VSSs. The GO was further amended through another GO (Ms No 168) in the same year making VSS eligible to claim community rights which was in violation of the provisions of the FRA.** Based on this GO, by the end of May 2010, more than 1669 VSSs were granted community forest resource (CFR) rights over 9.43 lakh acres of forest land in undivided Andhra Pradesh.

According to the Implementation Completion Report of the World Bank funded AP Community Forest Management project, as the AP Forest Act could not be amended to grant legal status to VSSs formed under the project, the FRA was 'invoked' to grant such status to VSSs with 100% ST population Not only did this violate the eligibility criteria for claimants under the FRA but the top down decision-making was also in contravention of the Gram Sabha based claim making process. **The Ministry of Tribal Affairs (MoTA), Government of India, held that the grant of CFR rights titles to VSSs is illegal** and directed the Government of AP to immediately withdraw them1. However, the MoTA order has not been complied with and the CFR rights titles granted to the VSSs have not been withdrawn. Thus, it seems that no legally valid CFR Rights have been granted in AP.

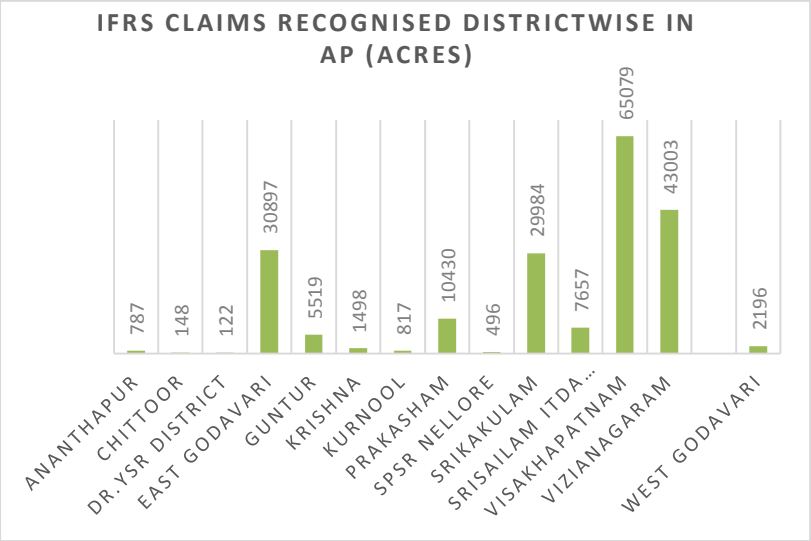
Even after bifurcation of the state the Government of Andhra Pradesh has completely avoided recognition of the most crucial and empowering CFR right under the FRA. This is despite the fact that hundreds of Gram Sabhas in eight districts of undivided AP had strongly objected to CFR rights being granted to VSSs without following the due process and had submitted their own claims with mapped boundaries showing their claimed CFRs. All those claims remain ignored to date. Thus AP has in fact acted in contravention of the FRA's letter and spirit in allocating the rights vested in Gram Sabhas to the VSSs.

Out of 4,493 claims submitted for the grant of community rights over 5.73 lakhs acres, only 1319 were recognised over an area of 4.34 lakh acres which is around 66.53 percent of the claimed area. The forest area over which community rights have been recognised is around 10 per cent of the estimated potential forest area for implementation of the FRA.

[2] MoTA, GoI Circular No 23011/11/2013/FRA

Individual Forest Rights Performance

In the initial years the major focus of the Government of undivided AP was to recognize individual forest rights. This was taken up in a campaign mode, and as discussed later, there are major problems with the rights recognition process followed. A total of 1.98 lakh acres of IFRs have been recognized, with four districts of Visakhapatnam, Vizianagaram, East Godavari and Srikakulam accounting for more than 90% of the recognition. There is a wide variation in the extent of implementation in different districts.



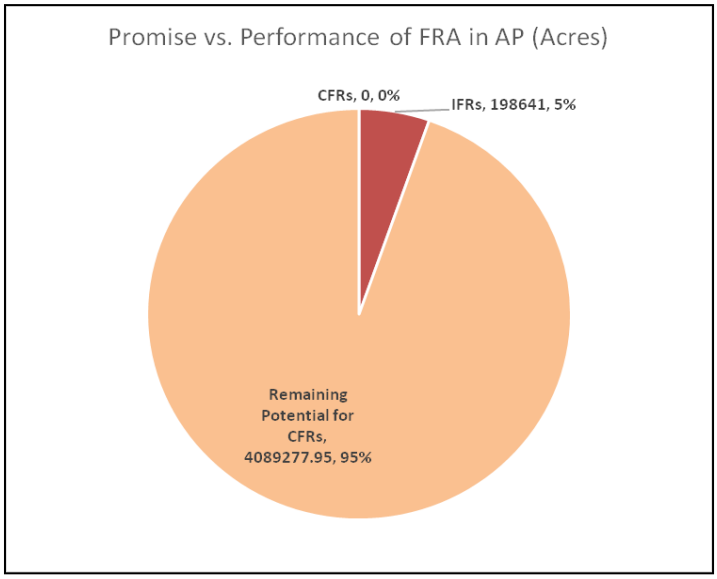
Recognition of Habitat Rights for PVTGs

Chenchu, Kondareddy, Kondh, Porja, Gadaba, and Savara are specially categorised as Particularly Vulnerable Tribal Groups (PVTGs) in the state. The District Level Committee (DLC) chaired by the District Collector is under legal obligation under the amended FRA Rules, 2012 to ensure that the habitat rights of PVTGs are recognised. But not a single habitat right of PVTGs is recognised by the Government under the FRA so far despite one claim having been filed by the Chenchus. Instead, there have been reports that forest officials are evicting tribals, including PVTGs from their habitat in gross violation of the FRA[3].

PROMISE AND PERFORMANCE OF FRA IN AP: A COMPARISON

As compared to the approximate potential of 40.89 lakh acres of forest land over which rights need to be recognized under the FRA, only individual forest rights have been recognized over 1.98 lakh acres, i.e. only 4.61% of the estimated forest area for both individual and community forest rights. No CFR right has been recognized in the state of AP as the **CFR rights granted to VSSs are illegal and cannot be included as the FRA's performance. At least another 40.89 lakhs acres of forests can be recognized as CFRs and brought under the jurisdiction of Gram Sabhas.**

[3] Trinadha Rao Palla, Defying law to uproot tribals from their habitat, The Hans India, Jun 26, 2016



KEY ISSUES

Community Rights: Major problems and difficulties

- **Community Forest Resource Rights (CFR) granted illegally to VSSs instead of Gram Sabhas**: By the end of May 2010, the Government of undivided Andhra Pradesh granted **illegal CFR rights titles** over 9.43 lakh acres of forest lands to more than 1,669 VSSs instead of recognizing the rights of the Gram Sabhas. This is in violation of the Forest Rights Act as well as the PESA. The boundaries mentioned in the titles cover the total area allocated to the VSSs without clarifying the nature of rights in East Godavari district with titles issued in the name of FRCs with rights of all members of the "Panchayat', while in other districts the titles are in the name of the VSS or only the President of the VSS with the condition that CFR management shall be as per the state's JFM resolution. In many cases, there is no mention of the right to protect, conserve and manage and only rights over NTFPs, grazing etc. are recognized[4].
- **GCC monopoly over NTFPs:** A violation of community rights over Minor Forest Products: Section 3(1)(c) of the FRA recognizes community rights over ownership of non-timber forest product (NTFP) and its disposal which has been further elaborated in the amended FRA Rules, 2012. Thus under the Act and the Rules, the Gram Sabha as well as tribal people individually have complete control over minor forest produce without any restrictions in its access, collection and disposal. However, the AP policy of continuing monopoly rights of Girijan Cooperative Corporation (GCC) over NTFPs fundamentally violates these provisions of the FRA.
- **Non-recognition of habitat rights and illegal evictions of PVTGs from forests:** So far, not a single habitat right of the PVTGs of AP - Chenchu, Kondareddy, Kondh, Porja, Gadaba, and Savara, has been recognised by the Government under the FRA. There is evidence that the Forest Department officials are evicting tribals from their habitats. The Forest Department officials in the Agency area of East Godavari District reportedly ransacked a settlement of Kondareddy tribe, a PVTG, at Ukkurluru, around 18 km away from Maredmilli mandal headquarter, and burnt down their huts in gross violation of both human rights as well as rights under the FRA[5].

[4] See the annexures for CFR granted to VSSs.
[5] Trinadha Rao Palla, Defying law to uproot tribals from their habitat, The Hans India, Jun 26, 2016

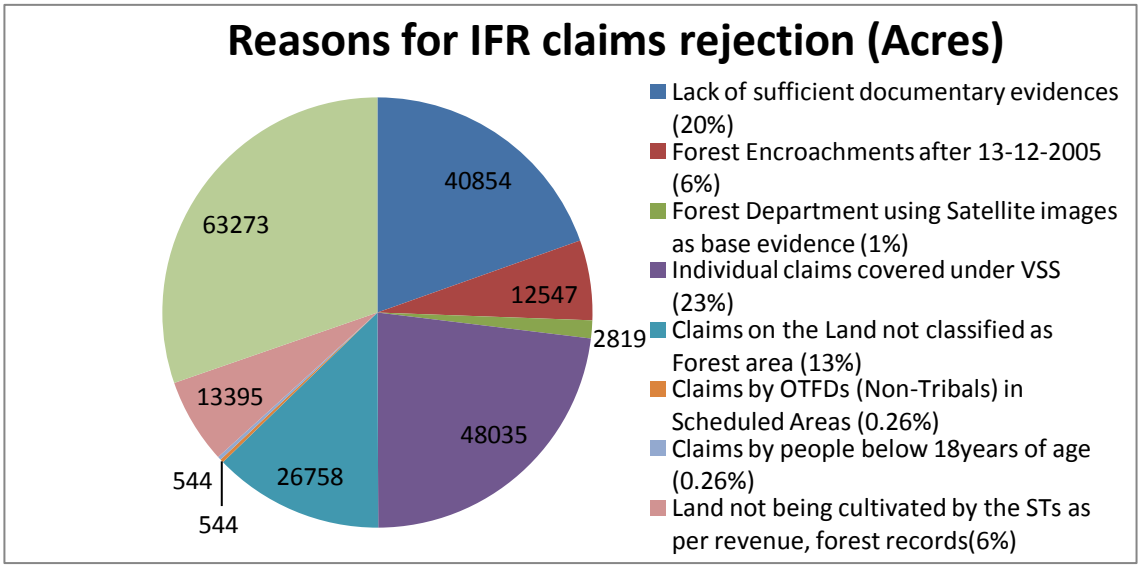
- **Non-conversion of forest/unsurveyed villages into revenue villages:** There are several forest enclosures (unsurveyed) which should be recognised as Revenue Villages under section 3(1) (h) of the FRA. There are 30 such forest enclosures in Paderu Mandal alone in Visakhapatnam District. Dealing with a case of the Forest Department officials evicting Gothikoyas, the High Court of AP held that the authorities should follow the provisions of the FRA and give a reasonable opportunity to the claimants before evicting them from their lands[6].

Individual Forest Rights: Major problems and difficulties

- **High Rates of Rejection:** 1,50,345 individual forest rights claims were filed for forest land amounting to 1.35 lakh hectares. Of these, 83,874 claims for an area of 80 thousand hectares were recognized constituting 59 per cent of the total claimed land.

  The Act provides for transparent and participatory procedures for investigating claims. It also ensures the admissibility of diverse forms of evidence, recognizing that many official records may not have accurate records of the claims of tribal people. In practice, these requirements are often not adhered to, leading to high rejection rates of claims. Claims are often rejected at sub-divisional or district levels without hearing the claimant in violation of the FRA Rules. Officials also often seek documentary evidence, rejecting other evidences which are admissible by the law. The hearing of any appeal should be held at village level where the claimed land is situated, and after following the proclamation procedure. But no such hearings are happening. The rejected claimants for IFRs are not informed about the reasons for rejection which deprives them of an opportunity to appeal against the decision.

Major reasons of rejection (also whether rejections are made by field officials or FRCs or Gram Sabhas):



(Source: Director of Tribal Welfare, Govt. of AP, Vijayawada, as of August 2016)

[6] Podium Devaiah & others Vs. Govt. of India & others (WPNO 2133 of 2009, dated 18-04-2011)

The figure presents 57,514 claims over 2,08,769 acres of forest land that were unjustly rejected. 26,758 acres of area constituting 13% claims were junked on the ground of the claimed land not being forest land. Furthermore, it shows 23 percent of the claims were rejected on the ground that the claimed land fell in the area of VSS. 20 percent of the claims were rejected for the reason that there was a lack of sufficient documentary evidence. The data does not reveal reasons for rejection of 30 percent of the claims. Most of these reasons cited are trivial in nature and need to be reexamined afresh in the light of provisions of the FRA.

These exclusions are contradictory to the Supreme Court clarification in the Godavarman case (1996). The Court held that forest land includes not only the classified forests but also forests as per dictionary definition irrespective of ownership. Six percent of claims were rejected on the ground that there was no record of cultivation as per the revenue and forest records. In fact there are 13 types of evidences enlisted under the FRA rules to support claims and only two among them are sufficient to make a claim.

"In fact, the term 'self-cultivation' under section 12A (8) of the FRA Rules includes not only cultivation but also a host of other ancillary or allied activities of agriculture. The irony is that the failure on the part of officials has become a ground for rejection of forest land claims of adivasis in the agency areas. For instance, about 1,020 forest land claims of tribals covering 3,726 acres were rejected on the ridiculous ground that no verification report of field staff was available"[7].

A re-survey was carried out in some of the districts after the identification of high rates of rejections. And claims were verified in the second phase. The West Godavari District upheld the earlier survey only and confirmed the rejections as per the report of ITDA, West Godavari District.

- **Problems with individual forest rights titles, location, extent and recording in the Record of Rights:** The GPS survey of land parcels has been questioned by the claimants in the Paderu Scheduled Area of Visakhapatnam district. The claimants complained that the recognised land parcel was less than the claimed land.

- **Other Traditional Forest Dwellers (OTFDs) excluded from individual rights:** The individual forest land claims of OTFDs within the Scheduled Area of Andhra Pradesh were rejected on the ground that no government is permitted to assign land in favour of non-tribals in the Scheduled Areas. This is in accordance to the provisions of AP Scheduled Area Land Transfer Regulations. The OTFD individual claims are allowed in the plain areas.

- **Individual forest rights and women:** The FRA provides for joint titles for both the spouses, one third membership of FRCs being women and at least one third of the quorum for gram sabha meetings being women. The representation of women members at SDLC and DLC is provided in the provisions of the FRA. But at the Gram Sabha level, the entire process is hijacked by the Revenue Department, the panchayat and the Forest Department officials. Thus the question of participation of women does not arise.

- **Skill building and convergence programs:** Convergence is happening in relation to the implementation of the MNREGA works and Tribal Welfare Department in agricultural and horticultural programs.

[7] Trinadharao Palla, AP, TS Govts depriving girijans of their just rights. The Hans India, April, 15, 2016

VIOLATION OF THE FRA IN THE DIVERSION OF FOREST LAND

The Gram Sabhas notified under the PESA Act are yet to function. Throwing the provisions of the FRA to the winds, in 2010 the Ministry of Environment and Forest (MoE&F), Govt of India, gave final clearance for diversion of 3,731 hectares of forest lands for the Polavaram Project in clear violation of the FRA. The Government of AP falsely assured that no forest rights needed to be recognised under the FRA in the project area. This clearance was also against the requirement of mandatory consent of the Gram Sabhas for the diversion of forest lands for non-forest purposes[8].

Table 01: Details of individual claims for forest rights as accepted and rejected in 1st & 2nd Phase programmes in Polavaram Mandal

Sr. No.	Name of the Gram Panchayat/Village	No. of claims accepted	No. of Claims rejected in 1st phase	No. of Claims rejected in 2nd phase	Total Rejected claims
1.	Vinjaram	9	64	12	76
2.	Tutigunta	30	42	95	137
3.	Momidigondi, Devaragondi	5	148	3	151
4.	Koruturu	0	0	62	62
5.	Kondrukota	0	113	111	224
6.	Chegondapalli	0	51	57	108
7.	Pydipaka	0	54	0	54
8.	Itikalakota	6	16	0	16
9.	Geddapalli	0	3	9	12
10.	Jillellagudem	128	0	0	0
	Total:	178	491	349	840

(Source: ITDA, K.R. Puram, West Godavari District 2015)

The table above shows that claims of tribals in Karuturu, Kondrukota, Chengondapalli, Pydipaka and Geddapali were completely rejected. The Government is unwilling to recognise the forest rights of tribal communities and thereby, negating the very objective of the Act which h was aimed at remedying historical injustice by devolving ownership of the forest lands to local tribal communities. In fact, no reasons were given to the claimants for rejection of their claims and thus, even the opportunity to appeal under the provisions of FRA was denied. This data indicates that rights over the lands are yet to be recognised under the FRA.

Violations in Bauxite Mining in Visakha District

The AP government issued a GO (MS No. 97, dated 5th Nov, 2015) permitting AP Mineral Development Corporation to mine bauxite in 1,212 hectares of land in Chinthapalli and Jarrela Scheduled Areas in Visakhapatnam district, including forest lands where FRA is applicable This permission for bauxite mining is in violation of the law governing Fifth Schedule Areas of the state as well as the FRA.

[8] Trinadharao Palla, AP, TS Government depriving girijans of their just rights. The Hans India, 15 April, 2016

No mining activity shall be allowed without compliance of the provisions of the FRA as per the ruling of Supreme Court. There are about 52 claims under the FRA covering an area of 189 acres in bauxite mining affected areas of Chinthapalli and GK Veedhi Mandals in Visakapatnam district. Thus it is evident that compliance of the provisions of the FRA is not yet complete. Recognition of CFR rights of Adivasis under FRA in all villages with forest dwellers, as mandated for DLCs in the amended 2012 FRA Rules is yet to be initiated. The consent of Gram Sabha as well as the Mandal Praja Parishad under the State Amendment PESA Act is essential to go ahead with the project proposals in the Schedule V areas of the state[9].

Diversion of forest land in violation of the FRA for construction of the new capital of Andhra Pradesh at Amaravathi is evident from the data on the FRA of Guntur District. 25 community claims over 2,010 acres of forest land were recommended by Gram Sabhas in Guntur district. But not a single claim was allowed by the DLC. The state government seems to be denying community rights of the claimants to facilitate construction of the new state capital in the district. Neither any reasons were cited for rejection of the claims nor the affected claimants were communicated, both in violation of the FRA rules.

ISSUES RELATED TO INSTITUTIONAL AND PROCEDURAL SHORT COMINGS

- **Constitution and functioning of Gram Sabhas and FRCs:** Clause 6.1 of the Act authorizes the Gram Sabhas to initiate the process for determining the nature and extent of individual/community forest rights. But in the scheduled areas, Gram Sabhas must be constituted at habitation level as envisaged under the PESA Act. The Government of Andhra Pradesh has failed to operationalize hamlet level Gram Sabhas for implementation of either PESA Act or the FRA in the Scheduled Areas. Instead Gram Sabhas of large multi-village Panchayats were used. The Gram Sabhas under the PESA Act were notified in 2013. Thus the approval or disapproval of claims by the Panchayat Gram Sabha is a mockery of the law. The Revenue Department, Panchayat and Forest Department officials manipulated the process in the name of Gram Sabha in the Scheduled Areas.

  Total number of Gram Panchayats having forest land is 2,447 and number of Gram Sabhas are 1,993. The data shows that the number of Gram Sabhas is almost equal to the number of Gram Panchayats. This is against the letter and spirit of the PESA Act. The PESA Gram Sabhas are not yet operationalized in the Scheduled Areas of AP.

  There are several anomalies in the data. For instance, 152 community claims were received by Gram Sabhas in Chittoor District covering an area of 27,980 acres, but only 42 claims covering an area of 27,832 acres were recommended to the SDLC as per the data. The data in relation to the claims and extent of land cover recommended is not reliable. If the number of claims was reduced, the amount of claimed area should also reduce proportionally.

  In Guntur district, 25 community claims over 2,010 acres were recommended by Gram Sabhas. But not a single claim was recognised by the DLC. It can be presumed that the Government has refused to recognize the claims for community rights in order to pave the way for construction of the state capital Amaravathi in Guntur District.

[9] Trinadha Rao Palla, Monumental tragedy in the making, Nov 07, 2015

- The proposals given by user agencies for diversion of forest land to take up development activities like construction of roads, laying electric lines, infrastructure etc. are dubbed as the CFR claims in the West Godavari district. Thus it is very difficult to rely on the data in relation to number of CFR claims and the amount of area claimed for analysis of the outcome of the FRA in Andhra Pradesh[10].

- **Formation and functioning of DLCs and SDLCs:** There are 13 District Level Committees (DLCs) and 42 Sub-Divisional Level Committees (SDLCs) in the 13 districts of the State. The composition of the members is as per the rules. There is a request to the Tribal Welfare Department for reconstitution of FRCs in the Scheduled Areas afresh since hamlet level Gram Sabhas under PESA Rules were notified in the year 2013.

- **Lack of capacity of Nodal agency and DLCs/SDLCs:** There is a dearth of staff specifically to conduct surveys at field level and to record the extent of land holdings of claimants at the ITDAs and the District Level Offices. Earlier FRA cells were established in ITDAs for monitoring. But currently these are not effectively functioning in many ITDAs. There is no effective monitoring mechanism in place to tally the data, to identify the gaps in data and to monitor the claims filed. There is inadequate staff to facilitate aggrieved claimants in filing appeals and to conduct regular adjudication process for disposal of appeals. There are several anomalies in the existing data.

  The nodal agency is even failing to implement the circulars and guidelines that are periodically issued by the MoTA for effective implementation of the FRA. Legal awareness is lacking among the officials as well as the claimants.

- **Role of the Forest Department:** Initially an attempt was made to stall the operation of the FRA by filing a case in High Court. The forest department has been a major beneficiary of the 'historical injustice' as it acquired ancestral tribal lands as 'forests' unjustly. It is an interested party in the reforms as it stands to lose control and has been a serious obstructer in the way of legal processes[11]. During the verification of the claims often the Forest Department officials have objected to the process and rejected the claims of claimants without having any authority to do so. After completion of the recognition process the FD officials have been reported to be reluctant to sign on the title deeds.

  During the State level consultation on the FRA, held in November 2015 and organised by Director of Tribal Welfare Department, the Project Officer of ITDA, Seethampeta complained that 10,000 claims were pending due to objections raised by the Forest Department. The Forest Department officials have also been trying to evict tribals from podu lands while disposal of their claims over forest land under the FRA are pending.

- **Training programs organized at different levels:** Training programs for community leaders and elected representatives had been held by the ITDAs from time to time although none have been held since the bifurcation of the state. Consultations on implementation of the FRA are organized by the Director of Tribal Welfare Department with representatives of NGOs, tribal leaders, forest and Tribal Welfare Department officials. One such consultation was held in 2015

[10] Trinadhrao Palla, Rampant violations of Forest Rights Act in AP, http//www.thehansindia.com/newsanalysis/2016-11-09)
[11] CESS, Assessment of Implementation of FRA in Andhra Pradesh, Hyderabad

- **Court cases on FRA and their outcomes:** A stay order was granted by the AP High Court on 19 August 2008 in a case filed by retired Forest Department officials. The Court directed the state to proceed with the process of receiving and processing claims but not to hand over final titles. Subsequently, the High Court directed that authorities would be permitted to issue certificates of title to eligible forest dwellers under the FRA, subject to the final result of the main Writ Petition[12].

- **FRA and Protected Area:** No step has been taken to recognize the rights under the FRA in protected areas. During the recent consultation on the implementation of the FRA, the Forest Department officials requested for a committee to look in to the rights of community under the FRA in protected areas despite the FRA clearly requiring recognition of rights in them.

RECOMMENDATIONS: THE WAY FORWARD

All the titles granted for CFRs in the name of VSSs should be withdrawn in view of their illegality. The CFR rights of all villages with eligible forest dwellers should be recognised by DLCs in favour of Gram Sabha / community after following the due claim filing process as required under the amended FRA Rules of 2012.

There is a need to revisit the rejected IFR claims since Gram Sabhas were not properly held. The reasons for rejections should be communicated to the claimants and reasonable opportunity must be given to them for making appeals. There are discrepancies in the extent of land claimed and the extent of land over which rights have been recognised. Joint inspections must be carried out.

FRCs should be reconstituted for effective implementation of the PESA and the FRA in the Schedule V areas. A special cell should be re-instituted in the ITDAs for effective monitoring and implementation of the FRA. Proper guidelines should be issued for recognition of CFR Rights.

The GCC monopoly over NTFPs should be revoked and Gram Sabhas should be strengthened for disposing and marketing their NTFPs. A penal provision must be incorporated in the FRA to penalise the officials who interfere with the enjoyment of recognised rights of community or individuals under the FRA.

The adjudication process at the SDLC and DLC should be transparent and democratic. Administrative and penal action should be taken against Forest Department officials obstructing proper implementation of the Act. Sensitisation on the MoTA circulars/guidelines and the FRA and its Rules is essential for the officials for effective implementation of the FRA along with the other stake holders. Projects should not be allowed execution without compliance of the provisions of the FRA in terms of recognition of rights of individuals and communities. The recognition of CFR rights should be initiated along with habitat rights of PVTGs.

[12] J.V. Sharma & others Vs. Govt. of India & others (WP No 21479 of 2007, 1-5-2009)

ANNEXURES

Annexure 1: Potential community forest resources (CFR) available within the village boundaries

Sr. No.	District Name	No. of inhabited villages with Forest Land	Total Households	Total Population of Village	Total Scheduled Castes Population of Village	Total Scheduled Tribes Population of Village	Others	Forest Area within Village Boundary (in acres)
1	Anantapur	262	259279	1070616	165245	61870	843501	390655
2	Chittoor	377	253184	1002523	209118	50740	742665	361638
3	East Godavari	180	60257	217378	24934	50624	141820	45322
4	Guntur	104	153244	591369	99389	59556	432424	189506
5	Krishna	102	94981	352007	95091	23372	233544	77803
6	Kurnool	168	149954	670618	114359	28349	527910	152752
7	Prakasam	176	118101	479812	104853	36669	338290	142309
8	Nellore	409	225780	851831	213380	93055	545396	398436
9	Srikakulam	41	16790	68398	2702	14279	51417	18955
10	Visakhapatnam	833	107758	418089	19856	146032	252201	174745
11	Vizianagaram	108	37888	153729	14993	35972	102764	42257
12	West Godavari	33	52342	191274	59030	11844	120400	49694
13	Y.S.R. (Cuddapah)	189	128987	512945	102954	21484	388507	412875
	Total	2982	1658545	6580589	1225904	633846	4720839	2456949

Annexure 2: Lowest potential of community forest resources district wise (Acres)

District Name	Total Geographical Area (Acres)	Total Recorded Area (Recorded)	Forest Area within Village Boundary (in Acres)	Potential CFR area outside village boundaries (20%) (Acres)	IFR Area recognized (in acres)	Total Minimum Potential CFR (acres)
Ananthapur	4725110	482508.8	390655	96501.76	787	486369.76
Chittoor	3742297	1115032.8	361638	223006.56	148	584496.56
East Godavari	2813577	1287038.2	45322	257407.63	30897	271832.63
Guntur	2813577	366273.68	189506	73254.73	5519	257241.73
Krishna	2155569	159840.96	77803	31968.19	1498	108273.19
Kurnool	4361526	881585.44	152752	176317.08	817	328252.08
Prakasham	4353622	1197582.1	142309	239516.4	10438	371387.4
SPSR Nellore	3229772	590230.08	398436	118046	496	515986
Srikakulam	1441739	178984.08	18955	35796.8	29984	24767.8
Visakhapatnam	2756767	1148579.8	174745	229715.8	65079	339381.8
Vizianagaram	1615133	302381.44	42257	60476.2	43003	59730.2
West Godavari	1912274	191708.96	49694	38341	2196	85839
Dr.YSR District	3793673	1253119.2	412875	250623.8	122	663376.8
Srisailam ITDA area	-	-	-	-	7657	-7657
Grand Total	**39714636**	**9154865.4**	**2456949**	**1830972**	**198641**	**4089277.95**

(**Source**: AP Forest Status Report 2014, Govt of AP.)

Annexure 3: Reasons for rejection of claims as on 31-8-2016 in AP

Sr. No.	Reasons for Rejection of Claims	Total Claims rejected			
		No.	Percentage	Extent(ha)	Percentage
1	Lack of sufficient documentary evidences	17454	30	16473	20
2	Forest Encroachments after 13-12-2005	5189	9	5059	6
3	Forest Department using Satellite images as base evidence	1229	2	1136	1
4	Individual claims in VSS areas	15881	28	19368	23
5	Claims on land not classified as Forest area	10963	19	10789	13
6	Claims by OTFDs (Non-Tribals) in Scheduled Areas	310	1	219	0.26
7	Claims by people below 18years of age	230	0	219	0.26
8	Land not being cultivated by the STs as per revenue, forest records	5724	10	5401	6
9	Others if any, Specify	534	1	25513	30
	Total:	**57514**	**100**	**84181**	**100**

Annexure 4: Performance under FRA as on 31-7-2016

(Source: Director of Tribal Welfare Department, Govt. of AP. Vijayawada)

District Name	Community Rights received by Gram Sabha including VSS		Community rights claims submitted by Gram Sabhas to SDLC (Numbers)		Community rights claims approved by DLC (Numbers)		CFR Claims Submitted by Gram Sabhas to SDLC (Numbers)	CFR Claims approved by DLC (Numbers	CFR Area in Acres as approved by DLC	IFR Claims Received by FRC/Gram Sabha (numbers)		IFR Claims Submitted to SDLC /Govt. (Numbers)		IFR Claims approved by DLC (Numbers)	
	No. of Claims	Extent in Acs	No. of Claims	Extent in Acs.	No. of Claims	Extent in Acs.	No. of Claims		Extent in Acs.	No. of Claims	Extent in Acs.	No. of Claims	Extent in Acs.	No. of Claims	Extent in Acs.
Ananthapur	1	20	1	20	1	20	Nil	Nil	Nil	2775	6733	2775	6733	441	787
Chittoor	152	27980	42	27832	42	27832	Nil	Nil	Nil	793	465	110	148	110	148
Dr.YSR District	0	0	0	0	0	0	Nil	Nil	Nil	154	394	67	122	67	122
East Godavari	1248	292268	415	230032	369	210009	Nil	Nil	Nil	20746	53047	11299	40855	8113	30897
Guntur	25	2010	25	2010	0	0	Nil	Nil	Nil	14275	20990	14275	20990	2964	5519
Krishna	0	0	0	0	0	0	Nil	Nil	Nil	4099	8129	911	1517	904	1498
Kurnool	10	4587	10	4587	0	0	Nil	Nil	Nil	509	1187	350	817	350	817
Prakasham	77	192	59	172	59	172	Nil	Nil	Nil	5272	17688	3772	10430	3772	10430
SPSR Nellore	0	0	0	0	0	0	Nil	Nil	Nil	790	818	597	540	530	496
Srikakulam	471	17486	471	17486	276	17182	Nil	Nil	Nil	22723	42020	20577	42020	14985	29984
Srisailam ITDA area (Chenchu habitations spread in different districts)	545	18770	30	15515	28	15509	Nil	Nil	Nil	5382	19205	4141	14437	2461	7657
Visakhapatnam	1008	132589	1008	132589	233	75901	Nil	Nil	Nil	41447	86563	41447	86563	32350	65079
Vizianagaram	538	52297	199	39806	170	38833	Nil	Nil	Nil	24318	61032	16584	44917	15851	43003
West Godavari	418	104581	394	102904	141	48897	Nil	Nil	Nil	7062	18306	6909	17926	976	2196
Grand Total	4493	652780	2654	572954	1319	434355	0	0	0	150345	336577	123814	288015	83874	198641

COMMUNITY FOREST RIGHTS
LEARNING & ADVOCACY PROCESS

A website
(http://fra.org.in)
and a list serve based discussion group
(https://groups.google.com/forum/#!forum/CFR-la)
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