



**Obstructed Access to Forest Justice:
an Institutional Analysis of the Implementation
of Rights Reform in Andhra's Forested Landscapes***

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Abbreviations

APFD	Andhra Pradesh Forest Department
CFM	Community Forest Management
DLC	District-Level Committee
FD	Forest Department
EDC	Eco Development Committees
FRA	Forest Rights Act: in full, the 'Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006'
FRC	Forest Rights Committee
GCC	Girijan Co-operative Corporation – <i>A parastatal organisation in Andhra monopolising non timber forest product marketing</i>
GoAP	Government of Andhra Pradesh
GoI	Government of India
GPS	Global Positioning System
GS	<i>Gram Sabha – hamlet level community assembly</i>
IKP	Indira Kranthi Patam project: <i>A state wide World Bank-funded poverty reduction project previously known as 'Velugu' or 'District Poverty Initiative Project' (DPIP)</i>
ITDA	Integrated Tribal Development Agency
JFM	Joint Forest Management
MDO	Mandal Development Officer (also known as Mandal Parishad Development Officer or MPDO)
MoEF	Ministry of Environment and Forests
MPDO	Mandal Parishad Development Officer (also known as Mandal Development Officer or MDO)
MRO	Mandal Revenue Officer
NGO	Non-Government Organisation
NREGS	National Rural Employment Guarantee Scheme
NTFP	Non-Timber Forest Produce
PESA	Panchayat Extension to Scheduled Areas (1996)- <i>National legislation devolving government power in tribal areas</i>
PTG	Primitive Tribal Groups - <i>A government label, of colonial origin, used to categorise less assimilated indigenous groups</i>
RFA	Reserve Forest Area
SDLC	Sub Divisional Level Committee
SLC	State Level Committee
ST	Scheduled Tribe
VSS	Vana Samarakshana Samithi: <i>Forest Department created and controlled ad-hoc village forest management group, lacking legal basis or link to constitutional local government bodies.</i>
VTDA	Village Tribal Development Association

SUMMARY AND KEY FINDINGS

This paper considers the extent to which the Forest Rights Act 2006¹, potentially the most comprehensive institutional reform of forest rights in India since Independence, may ameliorate the high levels of chronic and acute poverty in forested areas of Andhra Pradesh.

The passing of the Act in 2006 appeared to presage an historic reversal of the colonial origin processes of state marginalisation and oppression of the many millions who inhabit India's forested landscapes, and to usher in a more democratic era, albeit 60 years overdue. But can a stroke of the legislative pen so easily change the fortunes of the poor? Considering the huge momentum of the *status quo* forest institutions and marginalisation processes, and the minimal political power of the marginalised, what are the realistic prospects for actually achieving pro-poor reform? From a lifetime of fighting to protect the interests of the poor in Andhra, the late Balagopal reached a pessimistic conclusion:

'... the motto of all land reform measures in India has been to do what little can be done for the poor without hurting the rich too much. ... lobbies of the privileged constantly work to weaken reform.'²

Is dilution of reform inevitable, or can the weak really challenge the strong effectively using the democratic structures? This paper takes an institutional perspective to answer these questions, considering the implementation processes of FRA in the field. It is based on primary research conducted across six villages over 2008 to 2010.

Of Andhra's 76.2m population, over five million are Scheduled Tribes and there are at least another five million other citizens of forest landscapes³. Most depend on forests for a substantial part of their livelihoods, many have close cultural affinity with forests.

These are the poorest citizens of the state, and the high levels of poverty in Andhra's forest landscapes are largely an outcome of historically-rooted institutionalised marginalisation: as the state appropriated forests and forest land for itself it deprived local people of their customary rights in the forest. The local realities of forest rights deprivation are extremely complex, reflecting a century and a half of compounded processes.

These deprivations have led to highly conflictual relations between the state and local people and tribal forest areas in AP remain centres of disaffection and insurgency to the present. Although there has been very limited political organisation by tribal and forest dwelling groups there has been substantial participation in the nationwide campaign for forest rights reform from 2002 to 2006.

The FRA does, despite some limitations, contain extensive provisions to substantially redress most of the rights deprivations. However securing redress depends critically on its implementation, and much of the provisions depend on the discretionary interpretation of the implementing staff. Reform of such fundamental

¹ The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006

² Balagopal, K., 2007. Land Unrest in Andhra Pradesh-III Illegal Acquisition in Tribal Areas. EPW, 4029.

³ Of AP 26,586 (administrative) villages, 5,080 have forest as a stated land use, the forest area in these villages being 2.57 mha and total population in these villages, 10.67 million persons or 21.95 percent of the state's rural population only 26 percent of these 5,080 with-forests villages have more than 500 ha of forested area (FSI,1999).

rights deprivations will inevitably involve long term process and likely much contestation.

Our assessment has shown a complex pattern of implementation, involving both much effort and also patterns of limitations, partly reflecting wider problems of bureaucratic managerialism in AP, and partly reflecting the sort of obstruction of reform that Balagopal alludes to, particularly on the part of the Forest Department:

- ✓ **Implementation has been occurring** – in contrast to some states which have not put efforts into rolling out the FRA, in AP implementation has gone ahead rapidly, and numerous people have put sincere and conscientious efforts to try to ensure the Act is implemented. Much has already been achieved to start to reverse the long term rights deprivations.
- × **More haste less speed** - the GoAP has sought to implement the Act in a matter of months according to a very unrealistic timescale for an issue of justice which should 'take as long as it takes'. This rush may be attributed to a government seeking to be 'efficient' in executing its responsibilities, neglecting often the resulting losses of effectiveness and equity. Quantitative target chasing, typically at the cost of process quality, is considered a hallmark problem of the AP bureaucracy. (as seen in numerous 'participatory' projects) The qualitative indicators we have used show how poor FRC formation, awareness-raising and training have been. Haste may have been fuelled by political desire to demonstrate patronage to prospective voters ahead of then slated state elections.
- × **Lack of understanding** – forest rights deprivations are an intricate issue, involving arcane historical legal and institutional details which vary across the landscape. The haste discussed above partly indicates the lack of grasp on the part of the bureaucracy of the complexity involved. Additionally the haste has meant there has not been enough time for personnel involved to develop a full and proper understanding of the issues and concepts involved in rights deprivations, and in the Forest Rights Act's provisions (particularly the case with community rights and common property issues). Lack of understanding amongst the senior staff responsible has been compounded as the implementation has been rolled out to lower levels, particularly in the context of the artificial rush created.
- × **Forest Department obstruction** - of state process through the courts: The FD has been a major perpetrator and beneficiary of the 'historical injustice'. It acquired ancestral tribal lands as 'forests' unjustly, and is an interested party in the reforms as it stands to lose control. It has been a serious obstructor of the proper legal process and as such illustrates its autonomy from the democratic process. Although these cases have not succeeded in the study villages? they have cast doubts on prospects and dissipated focus to some extent.
- × **Wrong level of formation of local Forest Rights Committee (FRC)** - the AP Government has been forming the FRCs to implement the act locally not at the habitation / settlement or the administrative village level as required by the Act, but at the Gram Panchayat level which often has multiple villages and hamlets. This undermines the democratic intent of empowering the village assembly to act as the initiating authority for the local process for claiming rights in a number of ways.
- × **Poor FRC formation and awareness raising process** - the FRCs have been formed in a rush, and so awareness raising and training have not resulted in clear understanding of the Act's provisions or the implementation processes. Many of the public servants responsible for implementing the Act have exhibited an

arrogant manner, (which incidentally tribals are accustomed to) which has made the process more difficult. A lack of awareness on the part of implementers and limited awareness-raising have led to an atmosphere of confusion over precisely what the legal provisions are.

- ✓ **Private claims effectively submitted** - despite all of the above problems local private, claims have in many cases been effectively submitted by eligible claimants. This is undoubtedly thanks to the conscientiousness of FRCs and local facilitators in the study villages who are taking their responsibilities seriously.
- × **Obstruction of claims** – has occurred in a number of ways: relocation of claimants from Protected Areas without recognising their rights, illegal ignoring of claims in areas from where claimants may be displaced (e.g. Pollavaram dam area)
- × **Local plot survey and verification technically poor and subject to FD interference** – the most serious impediment to implementation has come at the stage of field mapping of the land claims. Firstly, effectively handling the GPS devices seems to have been beyond the ability of many of the assigned staff (the GPS instruments in A.P. were used by staff of IKP and FD) leading to inaccurate surveys. Many people are now demanding resurvey of their claims. Further, Forest Department field staff have grossly and systematically interfered with this stage of the process, obstructing and diminishing claims on a range of spurious grounds without mandate to do so.
- × **High level of individual claim rejection** – recent aggregate state data suggests that only 49% of claims submitted have been approved, and it is likely most of these are individual claims. Although the reasons for rejection are not given, we can see from our study villages that they are likely to include lack of adequate evidence, claims on ineligible revenue land, and spurious summary dismissal of claims by the Forest Department field staff and the claimants were not given an opportunity to appeal against rejection of their claims required by the Act and Rules
- × **Lack of transparency** regarding the extent of implementation - the state has provided only limited data on the key implementation parameters and indicators. Clearer and more frequently updated data on the status of implementation, the basis for rejection of claims, and disaggregation of data by geographical region would help to understand how activities are proceeding.
- × **Avoidance, obstruction and subversion of community rights issues.** State implementation focussed initially on individual rights. There has been very limited awareness raising or promotion of community rights. Further, the Forest Department has sought to usurp community rights through 'their' Joint Forest Management Committees claims, which are not legitimate claimants under the Act.

The outcome in terms of rights has been mixed. Whilst it is encouraging that so many individual claims have been submitted and many verified and approved, many eligible claimants have not been able to submit claims, have had their claims dismissed arbitrarily without giving them an opportunity to appeal, or have had lands surveys misconducted thereby reducing the area claimed. Furthermore, many communities have not been able to claim their community rights as yet.

There have been systematic obstruction and efforts at dilution of the full and proper implementation of the Act. These patterns reflect the asymmetrical power of the bureaucracy and particularly the Forest Department, and the 'path dependent' behaviour of these organisations. Local people have not been in a position to challenge mis-implementation. Community organisations, social workers and NGOs acting on their behalf have generally been excluded from the process.

The problems above have compounded each other and led to very limited access to forest justice at the local level. This has frustrated expectations across the tribal and other forest peoples whom the Act was intended to help.

The pro-poor implications, despite the difficulties are nevertheless significant. Already many of the over 10 million forest peoples hitherto subsisting on a very tenuous basis are receiving land asset titles, and are experiencing improved food security.

However it is too early to say to what extent the full rights reform can be achieved or to gauge the full extent of livelihood improvements. For instance, if the village forests were to be managed for local priorities, how much more income or livelihood security could be generated? The longer-term processes of improvements will take many years to come to fruition, and will require significant complementary reforms, such as NTFP processing and marketing initiatives before the full gains can be achieved.

Implementation problems may be seen as inevitable in the early stages of such a fundamental reform, as the inertia of 'path dependent' behaviour only changes gradually. An optimistic view would be that reform is ongoing and a positive learning process will gradually assure its full achievement. A more critical view would be that, rather than representing initial 'teething problems' for change, the institutional resistance is effectively diluting the reform and foreclosing the 'window of opportunity'. This would confirm Balagopal's hypothesis that minimising the pro-poor implications of any legislative reform mandate is 'business as usual' for a powerful bureaucracy representing the interests of the powerful, including its own staff, and accustomed to limited democratic or judicial oversight.

We conclude that the truth lies somewhere between these two over-deterministic views. The reform process involves political contest between sincere individuals at every level working to the legislative mandate and its pro-poor principles. But that there are strong interests working against this, sometimes openly as in the gross interference of FD field staff in the mapping of claims.

Our key policy recommendations:

1. After almost 2 and a half years of implementation, clear lessons have emerged over the AP Government's implementation performance. The AP Government should renew its implementation of the FRA according to an open-ended process approach.
2. The AP Forest Department, being the incumbent forest manager is an interested party in the reform, and any more than an observational role would self-evidently give rise to an acute conflict of interest. FD staff's involvement in rights claim verification has provided opportunities for this conflict of interest to manifest, leading to a high proportion of legitimate claims being rejected. If forest justice is to be done it is essential that FD staff are kept at a safe distance from opportunities for interference, particularly the field survey.
3. Tribal movements and concerned NGOs should be brought in and included in the process in a co-learning mode. The state should not only induct 'tame' and obedient service provider NGOs
4. All citizens, including those resident in forest areas, should be able to expect *access to justice* from their state, and that when it is denied genuine channels for recourse should exist. Checks on abuse of discretionary power, whether individual or systematic, are a foundation for democracy

1. UNDERSTANDING RIGHTS DEPRIVATIONS AND THE RIGHTS REFORM PROCESS IN ANDHRA'S FORESTED LANDSCAPES

1.1 The problem

The Forest Rights Act was passed by India's Parliament in 2006. It finally recognised, 60 years after Independence, that across almost one quarter of India's land 'historical injustice' has been perpetrated by the state forestry bureaucracy against rural populations:

'... forest rights on ancestral lands and their habitat were not adequately recognized in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice ... (FRA p.1)

The Act provides the legislative basis to redress this injustice, and so has major implications across Andhra, promising a more secure basis for forest people's livelihoods. However, is it realistic to expect that, after more than a century of the state's oppression of forest peoples, the relationship can be reversed at a stroke of the legislative pen, particularly when the colonial-origin forestry establishment seems so securely entrenched in its control of the extensive state enclosed lands (about 23% of AP) which it annexed in this way? Does the FRA really signify a fundamental change in the political position of forest peoples in India? Or will the reform turn out to be more symbolic than material? The FRA process is an important case of apparently pro-poor contemporary institutional reform, and its implementation is clearly a central determinant of just how pro-poor it turns out to be in practice.

This paper presents the findings of a study in which we sought to understand the extent to which the Forest Rights Act 2006 can be understood as a pro poor institutional reform for Andhra. A previous paper (Reddy et al. 2010) discussed our findings concerning why the FRA emerged in relation to AP, reviewing the range of forest rights deprivations and how they came about. This paper now presents findings related to implementation, and whether it is actually resulting in meaningful and pro-poor institutional reform at the local level.

1.2 Our Research Approach

In order to answer these questions we conducted extensive primary research at field level. This was complemented at the outset by state and district level reviews by interviews and discussions with key stakeholders; concerned officials, NGOs, and various others, to elicit their views, experiences and suggestions. Secondary data was compiled from reports, appraisal and evaluation documents of the World Bank and the forest department, Government Orders, and so on.

We then moved to primary data collection through field surveys at selected study sites using group meetings, household and village questionnaires. Geographical Positioning Systems were used to identify and map village locations.

We purposively selected 6 local villages across 5 districts of AP to reflect the range of different local conditions and institutional arrangements in the state relating to the forest rights deprivations (see table and map below). Factors we sought to cover in village selection were:

1. The three different agro-ecological regions (Telangana, Rayalseema. and Coastal Andhra) and the different administrative histories (i.e. Nizam in Telangana; Madras Presidency in Coastal Andhra and Rayalseema)
2. The different contemporary administrative patterns affecting forest peoples:

- a. *Scheduled areas*; districts where tribal populations are predominant and so are 'scheduled' under Schedule 5 of the constitution for specific administrative protections. This applies mainly to the northern tribal belt
 - b. *Tribal 'Sub-plan' areas*; areas where tribals are not predominant in the overall districts – therefore 'sub-plans' are provided for these groups.
 - c. *Plains non-scheduled areas*; mainly in Rayalseema to the south
3. Variations in type of forest, nature of forest dependency, and social composition.
 4. The main forms of rights deprivations in each of the regions.



Map 1: Location of Study Sites

Source: Google Earth 2009; site locations from GPS data.

Through careful selection, we chose five districts with high forest extent which are known to contain extensive forest rights deprivations: Adilabad, East Godavari, West Godavari, Visakhapatnam and Kurnool.

Within these districts, six Panchayats were selected, to reflect the diversity of forest rights deprivations. Within each Panchayat one village was selected randomly (Cheruvuguda, Pamuleru, Panasanapalem, Koruturu, Goppulapalem and Nagaluty). See map 1 above for the location of the study sites across Andhra. Research was

conducted across these villages from early 2008 to mid 2009, using a range of triangulated data collection methods.

2. FOREST RIGHTS DEPRIVATIONS ON THE GROUND IN ANDHRA

Andhra Pradesh contains extensive forested landscapes, areas with either contiguous forests, or more domesticated lands where different forms of agriculture, pasture and forests make up a mosaic of land use. Forests cover 16.4% the state (FSI 2009).

Of Andhra's total population of 76.2 million, there are 5.024m Scheduled Tribes, and another five to 10 million non-'scheduled' occupants of forest areas (the absolute number depending on how they are counted). Rural livelihoods in forest landscapes have historically involved close interactions with forests, including for habitation, shifting and sedentary agriculture, grazing, hunting and other forest product collection, spiritual practices and so on.

From the mid 19th century the colonial state and the princely Hyderabad state both gradually appropriated forests and land, so that today the forest estate represents about 23.2% of the state (63,814km²). Almost all of this area has been classified as 'Reserved Forest' (95.93%) in which virtually no access or use rights are permitted. Furthermore, through its management the Forest Department has transformed much of the original forest ecology into ecologically simplified timber-oriented tree plantations, thereby reducing the availability of forest products and other ecosystem services important to local people.

2.1 Forest rights deprivations in study villages

The institutional arrangements through which the state appropriated the forests led to deprivations of forest peoples customary rights in a number of ways, (summarised in an earlier paper Reddy *et al.* 2010). The six study villages reflect a cross section of the main types of forest rights deprivations (details are summarised in Table 1 below). These villages are typical of those found across the forest landscapes of AP.

We found that each of our field study villages had experienced a combination of forest deprivations which contribute to their poverty and marginalisation in a range of overlapping ways.

1. Extinguishment of hereditary customary tenures through the 'normal' forest settlement and criminalisation of NTFP collection and trading

Through the 'normal' due process of forest settlement during both colonial times and post-Independence, forest laws and forest policy deprived local people of their customary rights in all six study villages, as the state gained a monopoly over forest landscapes. The felling of trees, and cultivation, collecting, transporting and marketing of timber and non-timber forest produce in these areas became illegal. (This means all village forest use has been criminalised and villagers must break the law for their food security and livelihoods and thus be exposed to punitive treatment and bribe-seeking from FD staff.)

2. Irregularities in the settlement process

Settlement processes are extremely complex and lengthy, and so inevitably shortcuts and other irregularities have occurred. In Panasanapalem, Pamuleru and Koruturu there are a vast number of irregularities in the forest settlement process, where settlement was not properly conducted according to the due process (e.g. people were not notified or all areas were not checked, or the areas were 'deemed' reserved without completing settlement of rights).

Table 1: Details of Study Villages

Village, District Region	Scenario / Colonial administrati on	Social composition: tribal groups	House- holds	Dept. Control- ling land in which village situated	Forest category (reserved / protected / sanctuary)	Tenurial status of main private land holdings	Forms of state local forest managem ent	Rights deprivations										Major Rights issues		
								1. 'Normal' Forest settlement	2. Settlement irregularities	3. Shifting cultivation	4. Evictions	5. Land grabbing	6. Recent in-migration	7. Displacement	8. 'Participatory' forestry	9. Revenue/FD dispute	10. Sanctuaries			
AP1 Cheruvuguda Adilabad Dist Telangana	Scheduled Area / Nizam Region	Kolam tribe (PTG)	44	Forest	Reserved	Cultivating without land title	None	x												x Villagers rights to cultivate and to collect NTFP in the forest were deprived by the FD.
AP2 Goppulapalem Visakha Dist Andhra / Coastal	Tribal Subplan / Madras Pres.	Konda Kammara tribe	95	Revenue	Reserved	Cultivating without land title	JFM/ CFM	x		x					x	x	x			x The FD created 'reserved forest' depriving many villagers podu lands and right to collect forest products
AP3 Pamuleru East Godavari Andhra / Coastal	Scheduled area / Madras Pres.	Konda Reddi Tribe	47	Forest	Reserved	Cultivating without land title	JFM/ CFM	x	x	x	x					x				x The FD took over their land as reserved forest and evicted the people who were cultivating podu.
AP4 Panasanapalem East Godavari Andhra / Coastal	Scheduled area / Madras Pres.	Konda Reddi, Konda Kammara, Valmiki, OTFD	167	Forest	Reserved	Cultivating without land title	JFM/ CFM	x	x	x						x				x FD denied villagers the right of collecting most forest products and imposed quantity controls on firewood and bamboo.
AP5 Koruturu West Godavari Andhra / Coastal	Scheduled area / Madras Pres.	Konda Reddi, Koya tribe, OFDs.	97	Forest/ Revenue	Reserved & Sanctuary	Cultivating without land title	JFM/ CFM/ ECD	x	x	x		x			x	x				x In the 1970s the FD created a wildlife sanctuary & excluded villagers from collecting forest products. Many villagers had to shift cultivation to common Revenue land. x The govt also occupied villagers' land for 'eco-development tourism without compensation.
AP6 Nagaluty Kurnool Dist Rayalseema	Non- Scheduled area / Madras Pres.	Chenchu tribe (PTG)	86	Forest	Reserved & Sanctuary	Cultivating without land title	ECD	x								x				x Wildlife sanctuary restrictions imposed by the FD: illegal to collect forest products in the reserved forests, and many families were evicted without rehabilitation and compensation

Note: EDC – Eco-Development Committee groups; OFD – Other Traditional Forest Dwellers; PTG – 'Primitive Tribal Group'

3. Criminalisation of shifting cultivation (podu)

Podu (shifting cultivation) has been a particularly contentious issue. It was a livelihood practice in three of the study villages (Panasanapalem, Pamuleru and Koruturu). However, shifting cultivation lands were declared 'reserved forests' without recognising the rights of the cultivators, criminalising the practice and applying punitive treatment to offenders. Much forest cultivation has become sedentary, with insecure tenure, due to the fallows being declared as state forest.

4. Unjust evictions

This category corresponds in our study villages to the shifting cultivation issue discussed above. In Pamuleru village the FD took over the podu land under 'reserved forest' and forcefully evicted everybody from the area.

5. Land grabbing

The Forest Department took over villagers' occupied and cultivated land in the Koruturu village, to create 'ecotourism' lodges, without giving compensation.

6. Recent in-migration of tribal groups

In-migration in Cheruvuguda occurred 20 years ago. In 2001, 10 landless families in the village began cultivating about four acres of forest land each. The FD booked encroachment cases against them, and they were remanded for 20 days. The case is still continuing and these families have no tenure on the land they cultivate, as no land rights have been recognised. Village rights to cultivate and to collect NTFPs in the forest were deprived by the FD.

7. Displacement for 'development' initiatives

Two of the villages are subject to displacement issues. In Goppulapalem village, 30 households lost agricultural land and displacement occurred during the 1980s due to the major Pedderu reservoir dam. All households received compensation of Rs.25,000/family (although families from a neighbouring village did not). Koruturu village is expected to be inundated under the massive Polavaram Project and the inhabitants displaced in the years ahead. Without land titles they are not entitled to whatever minor compensation package might be normally offered.

8. Evictions through 'participatory' forest management schemes

In Goppulapalem, Koruturu, Panasanapalem, and Pamuleru villages, common forests and cultivated lands tenure have been brought under JFM plantation by the Forest Department, leading to evictions of cultivators. Also in Koroturu and Nagaluty, 'Eco Development Committees' have been created for the protection and development of protected areas, placing increased restrictions on livelihood use.⁴

9. Non-recognition of tenures due to Revenue and Forest Department boundary disputes

In Goppulapalem village, displacement occurred during the 1980s due to the Pedderu reservoir dam. When the project work started, the government occupied 50 acres of land, belonging to 30 families in the village. The 50 acres of land acquired by the government came under the disputed land of the Revenue and Forest Department, hence the non-recognition of tenure rights of the displaced families in the village.

10. Marginalisation through creation of sanctuaries and National Parks

⁴ EDCs are constituted under Wild Life (Protection) Act 1972 (As amended in 1991), Andhra Pradesh Forest Act, 1967 and Forest (Conservation Act, 1980). Community receive 'benefits of eco-development activities' (i.e. wage labour opportunities), subject to observance of rules and regulations in relation to forest conservation.

In Koruturu and Nagaluty villages, government sanctuaries have been created, and people's use rights were extinguished without due legal process, leading particularly to restriction of cultivation in the forest.

2.2 Livelihood impacts of forest rights deprivations

In all the study villages, people are cultivating their forest land and collecting NTFPs and fuelwood, but without clear rights. Restrictions are variably enforced. The range of rights deprivations listed above is therefore a major cause of poverty and insecurity.

Andhra's rural households have an average annual income of around Rs. 42,000 (or US\$900 (AP Human Development Report 2007)). Households in our study villages however, have a mean annual income of only around one-quarter of this, at Rs.10,000-12,000 (about \$230).

In each of these study villages, agriculture is the main household occupation and source of income, complemented by forest produce and fuelwood collected from the forest, as well as wage labouring. Families engaged in agriculture own on average about two acres of land, and also cultivate about 1.5-2 acres of 'forest' land without title. Each family has an average of two cattle, which graze in the forest or in the village common land. In all, the villagers' rate for agriculture and casual labour is around Rs. 50-60 per day.

Due to poverty and the contributory rights deprivations, many people in the study villages (particularly Koruturu, Nagaluty, Goppulapalem and Panasanapalem) are out-migrating to nearby towns; both seasonally to seek labouring work in construction, and more permanently.

2.3 Political contest over forest rights

The processes through which forest peoples have been expropriated have led to a range of responses, from resignation to non-violent protest movements, to outright insurrection in tribal uprisings, such as the Gudem-Rampa rebellions (1839-1924), the Gond revolt of 1940, the insurrectionary movement of the 1970s, and indeed ongoing insurgency in forest areas to this day. In recent years, these movements have not been led by tribals, but have undoubtedly received their sympathies, as they challenge the authority of the state which has routinely persecuted them.

However, there has been very limited political self-organisation of tribal groups within the democratic process to seek redress. Forest peoples are remote and fragmented, having limited education and literacy or acculturation into the socio-political processes. Nevertheless, the absence of political organisation remains very surprising. There are currently only two strong tribal organisations, namely *Adivasi Samkshema Parishad* and *Tudumdebba*, which are not associated with NGOs, are primarily taking up land conflict issues between tribals and non-tribals (rather than forest-based land issues), and are also evincing keen interest in tribal employment issues.

Most political representation of forest peoples' interests has come from NGOs and activist groups working on behalf of tribals. These express concerns over a wide range of grievances, including violation of their rights (particularly lands, forests and other natural resources), lack of development service delivery, negligence and lapses in government functioning, and exploitation by non-tribals, money-lenders, traders, and public and private industries. These NGO groups also work towards strengthening tribal communities, in their assertion for self-rule and governance, and protecting their cultures and customary rights. However, few NGOs are actually involved in direct field-level advocacy on land and forest issues in tribal areas. The

majority of these NGOs lack field capacity, but instead engage in articulating issues through print media and court litigation, rather than mobilising the community themselves to raise the issues. Tribal groups associated with NGOs virtually never meet other tribal groups associated with NGOs.

Due to very limited self-organisation, external political groups have also stepped in to organise forest peoples, although this may have led to a tendency for outside agendas to be imposed upon them. The *Ryutu Coolie Sanghams*, affiliated to the Communist Party of India (Marxist Leninist), encouraged tribal communities to clear the forests for their survival across tribal areas of AP, and later mobilised the tribal communities to resist the Forest Department's objections (a widely observed phenomenon), and to fight against the forest cases booked by the Department. The extreme left-wing 'Peoples War Group' has also supported and helped to defend tribal settlers in forest areas. It is hard to say whether on balance this so-called 'Naxalism' (the collective term for the wave of left-wing insurrection movements that emerged in Naxalbari in West Bengal) has led to a furthering of forest peoples' grievances or not. Certainly, organised insurgency has forced the government to be more sensitive to forest people issues, including land rights. On the other hand the militarisation of forest landscapes has led to much oppression, and several non-violent movements have become labelled as 'Maoists' along with the Naxalites.

Across India, the main impetus for the civil society forest rights campaign (coordinated by the Campaign for Survival and Dignity) was the 2002 countrywide wave of evictions by Forest Departments, prompted by an Ministry of Environment and Forests Directive to evict 'illegal encroachers' (which covers the rights-deprived forest peoples) in response to a Supreme Court enforcement request. Nationally, 1,343,000 ha of forests lands are occupied and categorised as 'under encroachment' by Forest Departments. In AP alone, 295,383 ha are occupied without rights (Rao 2007). However, the APFD did not use the 2002 MoEF demand to evict these occupiers, due to legal hurdles, particularly the Samata Judgement. Nevertheless, forest peoples' extreme insecurity has been a major factor in mobilisations for rights reforms, and forest peoples from AP have participated significantly in the national movement.

Although direct political organisation and mobilisation of forest peoples has been limited, discontent and disaffection has led to unrest and support for extremism. The state has only gradually come to recognise this as not simply a problem of law and order, but of underlying injustice to be remedied. Furthermore, the extreme rights deprivations led to the active participation of tribal groups and supportive NGOs in the mobilisation led by the Campaign for Survival and Dignity to pressure the political class to sanction the Bill. The political class has also been sensitised to the issues through the left-wing extremism in forest areas, which has contributed to recognition by the political class at national and state level of the need to take account of grievances.

2.4 Does the FRA Adequately Cover Andhra's Forest Rights Deprivations?

The Forest Rights Act, passed by the Indian Parliament at the end of 2006, was the result of an intensely contested drafting process (see Bose 2010). The subsequent implementation Rules bringing the Act into force were issued on 1 January 2008. Overall, the FRA's key institutional reform is that legal rights will be accorded to private occupation, and to village common property resources currently in state

forest land, subject to checks and proofs.⁵ It thus promises to redress the main rights deprivations listed above.

In all our study villages, local people eagerly anticipated that under the FRA they could receive private land title (*patta*) to the land they are cultivating without title. In Pamuleru village, for instance, several families have homes inside the forest boundary from which they had previously been evicted. They hoped to receive rights to the land from which they were evicted under the Act.

Private land is not the only rights issue that local people are eager to have reformed. Access to common lands has also been legally denied by the state through a range of policies. Under the FRA, local people have the right to their common resources, and are hoping to secure them through implementation. Although in four of the six study villages there are *ad hoc* JFM/CFM groups, through which the APFD tolerates NTFP collection, there are no legal rights, and so local people seek to put forest product collection and grazing on a legal basis, taking over their village forests from Forest Department control.

The Act, however, is not a panacea, as it is constrained in terms of the extent to which it can fully redress rights deprivations. The specific wording leads to indeterminacy over the extent to which its provisions actually provide for redress of rights deprivations. Furthermore, its provisions are limited in some significant ways.

Firstly, overall the rights ensured under the Act remain subject to the right of the state to continue eminent domain principles for its acquisition of lands in the name of development projects (as with any land rights, although acquisition has been a particular problem in upland areas).

Secondly, the forest land titles assured under the Act are inalienable, and as such the titles granted to the claimants have no absolute and alienable right over the property. Private titles awarded under the Forest Settlement Rules under AP Forest Act created absolute title over the forest lands under occupation by claimants during the forest reservation process. Therefore the titles granted under the Act are not creating ownership over the lands in the same way.

Third, although the private rights to be granted are heritable under Sec4 cl(4), there is no provision to promote gender equity in inheritance. The Act ensures the joint title in the name of the spouses in the case of married; or, in the case of the single head, if headed by a single person, and in the absence of a direct heir, the heritable right shall pass on to the next of kin. However, who that successor would be is not specified. Neither the Hindu Succession nor the Indian Succession Act is applicable to Scheduled Tribes in view of specific bars under the said laws. Only customary law is applicable for the tribal communities in succession of properties, and most tribal communities practise customary law, which ensures patrilineal succession of properties. These customary laws exclude the tribal women from claiming their share in the inherited property. This is a clear case of gender discrimination.

Fourth, the FRA is not explicit about whether the claimant should be in actual possession of land or have control over land. The Act (Sec.4(3) gives eligibility to claim forest rights to STs and other traditional forest dwellers if they had occupied forest land before 13 December 2005. However, Sec4(6) restrains the claimant to claiming forest lands which are not under cultivation. The provision ensures title to the 'actual occupant' of forest land, to the extent of four hectares. Tribals typically shift their cultivation plots from place to place over time to allow fallows.

Fifth, the FRA has instituted a cut-off period, i.e. 13 December 2005, which means that rights deprived after that time will not be considered for redress.

⁵ Readers are referred to the paper by Sarin (2010) for a detailed analysis of the content of the Act and Rules.

Finally, the rules made under the Act (Rule 11) fix a three-month period for filing claims. This provision restricts the claimants to make their right to claim. Although Rule 14 enables aggrieved parties to file appeals within the limited period (60 days) against the resolutions passed by various levels of committee, the law is silent about the communication of the decision of such bodies to the parties.

Thus there are a range of concerns over the extent to which the Act may fully redress rights deprivations. Evidently a major part of its potential remains contingent upon how it is interpreted and followed during implementation. Yet the implementation provisions in the Rules (2008) themselves also leave a large number of ambiguities to the discretionary power of the implementing agencies, as discussed in Sarin (2010).

3. THE STATE LEVEL FRA IMPLEMENTATION PROCESS IN AP

This section considers the processes through which the nationally mandated institutional reform of forest rights is being implemented in Andhra Pradesh,

At state level there has been a rapid and apparently efficient response to the mandate from the State Tribal Welfare Department. Almost immediately after the Act came into force on Jan 1st 2008, the AP government distinguished itself as being one of the quickest states to start FRA implementation. (Table 2 below summarises the state level process).

Table 2: Timeline of main State level FRA related developments

	Action
31 Dec. 2006	Passing of FRA by Indian Parliament
1 Jan. – 31 Dec. 2007	Interim period whilst Rules being drafted
1st Jan 2008	Passing of Rules leading to FRA coming into force
Jan. 2008	GoAP Plan / 'roadmap' for FRA implementation issued
Mar 2008	GoAP Orders to District Magistrates to commence Gram Sabha meetings to form FRCs
13 Aug. 2008	Govt Order misinterprets 'community' to allow AP Forest Department JFM Committees to usurp community forest resource rights under FRA
21 Oct. 2008	AP Chief Minister reviewed progress at a District Collectors' conference Only 700-800 of estimated 5,000 forest dependent villages mobilised
Feb 2009	Interim order of the High Court to proceed with FRA implementation
1st May 2009	AP High Court accepts State government move to complete implementation and issue final titles for rights

Early in January 2008 the GoAP Chief Minister at the time (Y.S. Rajashekhar Reddy) requested that the coordinating Principal Secretary Tribal Welfare Department develop an implementation 'road map', in consultation with the Forest Department and the Collectors. This was rapidly issued later in January, containing a detailed schedule for implementing the various stages, and requiring that title deeds should be issued as early as 30 October, 2008, within ten months, which to most observers familiar with the complexity of the issues involved seemed improbably brief. However in a series of joint meetings the Chief Minister expressed his desire that even this hasty schedule be accelerated, and that a major portion of the title deeds (for land grants) should be distributed by 15 August 2008⁴. This unrealistically rapid schedule was planned with a view for the next forth coming assembly election slated to held in May 2009. But it required that village meetings were to be convened for

FRC formation before 29 February 2008, and the claims were to be received by 31 May 2008.

The Chief Minister also asked the Tribal Welfare Department and Forest Department to 'speed up' the survey, verification, mapping and identification of the land so that its ownership would be handed over to the genuine 'beneficiaries'.

There has been virtually no engagement with civil society groups at the state level, which would undoubtedly have helped make planning more realistic and adapted to local realities and needs.

The plan focussed only on private land rights, with community forest rights being neglected. The welfare language of 'beneficiaries' was used widely by the late Chief Minister to give the impression of a patrimonial gift, rather than correction of prior injustice.

The GoAP announced that Rs.20 crore (about US\$4.4m) was to be allocated for FRA implementation in the 2008-09 budget, apparently indicating that the matter was being treated with some seriousness. However in practice only a fraction of this was received: Rs.2.73 crore (about US\$0.6m)⁶

The road map inevitably slipped as time proceeded, shown by the fact that the necessary claim forms did not reach many villages in time. In practice mobilisation for FRA implementation had taken place in only 700 - 800 villages of the estimated 5,000 'forest' dependent villages by the deadline of 30 October 2008 according to anecdotal government statements.

The overly hasty 'command and control' implementation approach raises serious concerns: the hasty schedule offers only a minimal window of opportunity for seeking to redress rights deprivations, and creates a sudden 'cut-off date' beyond which redress is impossible despite the Act providing no such time limit. Clarifying these extremely complex tenure issues for many local people requires a significant period of time if it is to be completed properly. However under the rapid programme proposed, if compiling claims takes more than a minimal period rights-deprived citizens will miss their opportunity. Full and proper implementation of the FRA inevitably demands detailed and probably lengthy processes of assessment. A hasty schedule at the time of the original forest settlements was the cause of many of these rights deprivations. Hasty 'road maps' inevitably lead to the compounding of problems by cutting corners, as we can see from the study villages. Whether a rapid disposal of the 'problem' was the intent, or whether the complexity was not understood is unclear.

The FRA National Rules oblige the state to create four tiers of committees to oversee implementation: state, district, sub-divisional level committees and village/habitation level Forest Rights Committees. The first three could be rapidly formed with administrators. In March 2008, the GoAP issued Administrative Orders to District Magistrates to commence *Gram Sabha* meetings to form the lowest, fourth level, Forest Rights Committees (FRCs).

According to the Act the *Gram Sabha* meeting should be held at the hamlet or village level. However, this provision has been bypassed by the government of Andhra Pradesh⁷, and the *Gram Sabha* has been equated with the assembly of the multi-

⁶ Source: Article 275 (1) Tribal Welfare Department Andhra Pradesh Hyderabad 2010

⁷ However this definition is not applicable to Scheduled areas, and the applicable definition given to "village" under PESA Act 1996 (central legislation) states a village shall ordinarily consist of a habitation, or a group of habitations or a hamlet or group of hamlets.

village *Gram Panchayat*, so the FRA formation meetings have been held at Gram Panchayat level, which typically encompasses many villages and hamlets, rather than in the hamlets themselves. This has been a very serious problem for the FRA implementation. Whilst it may be a greater convenience to allow the administrators to rapidly cover many citizens, the much larger Panchayat meetings cannot focus on the specific needs of the most rights deprived hamlets. As a result people or villagers were not properly informed about FRA process which meant that many could not properly file their claims, as we discuss in more detail in the section below.

Despite the problems, the initial formation of FRCs went ahead. This initiated the local-level process of awareness-raising, calling for claims, and processing claims. Towards the end of 2008, on 21 October, the AP Chief Minister reviewed implementation progress at a District Collectors' conference. Progress in approving claims and distribution of title deeds district-wise was considered. It seemed apparent from this meeting that the government was considering the recognition of forest rights and granting of entitlements as a private land distribution program rather than as their statutory obligation. Additionally the Government has not shown any interest or deliberate effort to register the community rights over forests by this stage.

Over and above the bureaucratic shortcomings in implementation, there has also been attempted obstruction from the current and retired public servants of the Forest Department, an organisation with a vested interest affected by reform. Both before and after the Act came into force the AP Forest Department has made several efforts to obstruct the implementation of the Act at the state level. Firstly, over 2007 – 2008 several Writ Petitions were filed in the high courts of several states including Andhra Pradesh against the implementation of the Act on the grounds that this will lead to "degeneration" of the forest and people may misuse the act. These somewhat desperate petitions were filed by associations of retired forest officers, seeking to obstruct the rights redressal process in the interests of their former employer and colleagues.

A stay order was granted by the AP High court on 19 August, 2008, directing the state to proceed with the process but not to hand over final titles. Subsequently, in February 2009 the AP High Court issued an Interim order to proceed with FRA implementation, and on 1 May 2009 the AP High Court, after hearing and dismissing objections from the Writ Petitioners, gave clearance for the state government's move to complete implementation and issue final rights titles. The Petition has been transferred to the Supreme Court, although prospects for a sympathetic hearing seem to be receding..

These legal contests have often created confusion among the local people, as well as the implementing machinery. As of February 2009, the interim order of the High Court had led to a general apathy among government officials (who widely interpreted the order as a stay order, when it was not one). Individual claims had mostly been filed however, though Forest Rights Committees had been constituted mainly at the *panchayat* level. The AP High court passed an order on 1 May, 2009 stating:

"the authorities are permitted to issue certificate of title to the eligible forest dwelling STs and other Traditional forest dwellers, and further held that the grant of such certificates will be subject to the result in main writ proceedings challenging the legislation and also subject to the objections pointed out by the petitioners during the enquiry."

The AP High Court has accepted State government move to complete implementation and has issued final title for rights: the implementation process is on-going at present.

A second effort on the part of the APFD to obstruct the full implementation of the Act, and one of the most serious breaches of the Forest Rights Act by any state, came in August 2008. The Andhra Government issued an administrative Government Order Ms 162 (dated 13 August 2008) to re-interpret the Forest Rights Act provisions for community rights, in order to appropriate these rights by Forest Department constituted committees, rather than by the actual village community. It enabled the '*Vana Samrakshana Samithi*' (or VSS: *ad hoc* village bodies under the control of the Forest Department, created by administrative orders to implement their Joint Forest Management schemes) to claim community rights. In doing so the government wilfully misinterpreted the Act's meaning of 'community' consisting of the Gram Sabha (village assembly) of all resident adults. The VSS is not the *Gram Sabha*, but a selected committee constituted for project implementation. The GO did give some minimal consolation;

"if any individual member of VSS had at any time occupied or was in possession of forest land which has subsequently been brought under common use, he may claim such rights under the FRA."

However, even these were eroded in a further Government Order. Andhra's Environment, Forests, Science and Technology (For.III) Department, clarified (in Ref No 5032/For.III/2007, dated 24 July 2009) that individuals *cannot* get rights in VSS areas as the claimants were not in possession of the land on the cut-off dates of 13 December 2005 and 31 December 2007 'as per the FRA'. The consequences of this attempt by the Forest Department to usurp community rights have already been very grave, as we will discuss in the next section.

Thirdly, it is apparent that Forest Department staff have been influencing the local processes of according rights in order to minimise redress, as we also review in the next section.

Overall, we can see that the state-level process has been characterised by a combination of bureaucratic haste, plus deliberate obstruction. In the next section, we consider how these state-level processes have affected the local level.

4. LOCAL-LEVEL FRA IMPLEMENTATION PRACTICES

This section considers the extent to which the letter and spirit of the Act is being realised at local level and whether the anticipated rights redress is actually occurring.

The Tribal Welfare Department has acted as the 'nodal' agency to coordinate the four departments implementing the Act at the local level, coordinating with the Revenue, Forest and Panchayat Raj Departments. These organisations have mobilised their field staff and also project workers and NGOs. Table 3 below summarises the staff who have been involved. These field staff have together sought to facilitate five stages of implementation:

1. The initial *Gram Sabha* meeting and formation of Forest Rights Committee;
2. FRC awareness-raising and training;
3. Distribution of claim forms and receipt of submitted claims;
4. Verification of claims; and

5. Final issuing of titles.

However from what transpires below it is apparent that the Tribal Welfare Department has not been disciplining the Forest Department to keep within its mandate.

Table 3: Staff Implementing FRA in AP

Department / Organisation	Staff
Tribal Welfare	- Integrated Tribal Development Agency (ITDA) staff Project Officer (PO) and other subordinate staff - Village Tribal Development Association (VTDA) (<i>a village level organisation officially accepted by the government for all the major decisions in the village</i>)
Revenue	- Sub Collector, Mandal Revenue Officer (MRO), Mandal Parishad Development Officer (MPDO)
Forest	- Divisional Forest Officer / Forest Ranger / Forest Beat Officer / Forest Guard
Project	- Indira Kanthi Patam (IKP) project staff (World Bank funded)
Local level/village level staff	- Gram Sabha, FRCs, Bare foot surveyors, Social Mobilisers, Social Animator
NGOs	- Sakti (<i>supporting training to stakeholders to identify Common Property Resources in conjunction with the Dept of Tribal Welfare</i>)-in East Godavari district

4.1 Initial Gram Sabha meeting to form Forest Rights Committee

The first local step was to hold local Panchayat assembly (*Gram sabha*) meetings to elect Forest Rights Committees. As per the 'road map' the government fixed the first week of March 2008 for this, and District Collectors duly issued a letter in February directing all the concerned departments to proceed. Meetings were then held across many Panchayats.

It is difficult to ascertain just how many villages have been covered by the local implementation process because data has been very limited. Lack of information and transparency over this issue is a major general problem with the implementation of the Act. It seems at the time of writing that at least some tribal villages still have not been covered *at all*, and it is the most remote villages which are most liable to be left out, as with the faulty forest settlements the FRA is supposed to correct.

Early reports from the Department of Tribal Welfare (GoAP) stated that of an estimated 5,000 eligible villages 700-800 had been 'mobilised' by the end of 2008. Undoubtedly this figure has increased with time, and best current estimates as on 16-05-2009 they could able to mobilise 3,719 villages.

The officials' actual formal notification to local people that they were to conduct *Gram Sabha* meeting might reasonably be expected to give at least 7 days notice or more. However they were received in our study sites at most only two days before the actual meetings were to be held, for some only one day, and in several surrounding villages local people told us they were not even informed *until the day of the meeting*. Because of this short notice many meetings were poorly attended and people were unclear as to the purpose, especially in the more remote hamlets.

Meetings have been held at the inappropriate level in all cases, a serious breach of the Act. What should be *gram sabha* hamlet level meetings as prescribed under the FRA have been held at *panchayat* administrative level (several hamlets together). This process undermines the democratic rights of the members of *Gram Sabha*, making it more impractical for many members of the *gram sabha* to participate due

to the distance and communication problems. Tribal habitations in rugged areas can be situated sometimes as much as 15 to 20 km from the *Gram Panchayat* headquarters. Nevertheless in all our sample villages *Gram Sabhas* were organized at Panchayat level, instead of hamlet level.

A third grave contravention has been that whilst the Rules direct that the Gram Sabha shall *elect* a FRC, in one third of our study villages FRC members were *selected* by officials, not elected. They were selected in some cases by officials without the knowledge of the local community, and in some cases without even the knowledge of those selected!

There are also many reports that in some places non tribal representation on FRCs is greater than that of tribals, and that powerful ruling party *sarpanches* (Panchayat heads) have become FRC chairpersons in many areas. However we haven't encountered these problems in our sites

Villagers were thus hardly notified before the government officials moved in to form FRCs, and so had no idea about what was happening. However when dissent from this apparent rushed and mis-implementation programme was expressed it was not tolerated by the apparently arrogant staff. In the Panasanapalem study village, the public servants warned the villagers that they 'will not get *pattas* if they do not follow instructions' for FRC formation.

Table 4: FRC formation meeting at study villages

Study village	Organisations involved					✓Village or ✗Panchayat Level	Notice received (days)	Distance of meeting from hamlet?	Attendance (apprx)	Date FRC formed	✓Elected or ✗selected	Local people's perceptions
	I T D A	I K P	M R O	M D O	V T D A							
AP1 Cheruvuguda	✓	✓	✓	✓		✗Village	2	2km	800	05/03/08	✓Elected	✗ Process poor ✓ But happy with FRC secretary performing well
AP2 Goppulapalem		✓	✓	✓		✗Village	2	2Km	200	29/02/08	✓Elected	✗ Process poor ✓ But FRC doing good job.
AP3 Pamuleru	✓	✓	✓	✓		✗Village	2	4Km	300	24/03/08	✓Elected	✗ Dissatisfied with process: informed only 2 days before meeting ✓ FRCs doing good job.
AP4 Panasanapalem	✓	✓	✓	✓		✗Village	2	0km	250	01/03/08	✗Selected	✗ Dissatisfied with process ✗ Few people informed of FRC meeting ✗ FRC members selected - and not informed they are members
AP5 Koruturu	✓	✓	✓	✓		✗Village	1	0km	320	20/06/08	✗Selected	✗ Dissatisfied with process - officials notified about meeting only one day before.
AP6 Nagaluty	✓			✓		✗Village	2	5Km	250	26/02/08	✓Elected	✗ Process poor ✓ FRCs doing good job.

Source: field ITDA officials and FRC members

Despite the shortcomings of the process FRC's have been formed across the nine districts of the state that fall within the Scheduled areas⁸, as well as in some other non-scheduled districts as well.

Due to these three grave problems outlined above, we can reasonably conclude that the initial FRC formation processes were severely flawed in terms of

⁸ Adilabad, East Godavari, Khammam Mehboobnagar, Prakasham, Srikakulam, Visakhapatnam, Warangal, West Godavari, and Kurnool districts

inclusion and quality. This is due to both bureaucratic expediency and deliberate avoidance of devolution of power to local government

4.2 FRC training and community awareness raising

After the FRCs were created, both committee level training for the FRC members and community awareness raising programmes were conducted for the general village groups, in order to clarify the Act's provisions, eligibility and the claims process.

For FRC members specific training programmes were organised across several groups (at Mandal and ITDA levels) to improve their understanding of the Act implementation process, and to impart specific skills for claim filing and GPS land survey.

FRC capacity building does not seem to have been effectively conducted in two thirds of our study sites. Villagers complained that at the time of training capacity building was not done properly and was not really effective. The training was completed in one day at Mandal level, so after travel there and back there was little time remaining to go into the level of detail needed.

Consequently, many FRC members complained that they did not end up knowing their duties and responsibilities, and could not therefore create proper awareness among the wider communities. Furthermore, for these severely deprived groups taking a day away from work entails a high cost, yet travel and food allowances were not provided.

For the general village population, broad awareness raising activities were conducted, although the extent of activities has been highly variable. In our study villages government staff, along with some NGOs (e.g. 'Laya' Human Rights' in Pamuleru and Koruturu and 'Gondwana' in Cheruvuguda village) organised the following:

Table 5: Training and awareness raising programme

Study village	FRC training <i>Date and place</i>	FRC perceptions	Community awareness raising activities	Resulting awareness	Local people's perceptions
AP1 Cheruvuguda	08/03/08 Utnoor	✓ happy with orientation / training programme - held twice. ✗ not paid to travel / food allowance	✗ Poster	~moderate	✓ Most villagers aware about FRA because FRC secretary was from the village and mass awareness conducted.
AP2 Goppulapalem	02/03/08 V.Madugula	✗ orientation/ training programme poor - just nominal	✗ Poster	~moderate	✗ No mass awareness was conducted ✓ most people aware about FRA and process due to good FRC
AP3 Pamuleru	26/03/08 Rampa, Chodavaram	✓ happy with orientation/ training programme - held twice. ✗ not paid to travel / food allowance	✓ Poster, ✓ Cultural prog. ✓ Village meeting	~moderate	✓ Mass awareness programme conducted by officials - Most people aware about FRA and its activities
AP4 Panasanapalem	03/04/08 Rampa, Chodavaram	✗ training programme was very poor. ✗ not paid to travel / food allowance	✗ Poster	✗ poor	✗ people are not aware about FRA.
AP5 Koruturu	No training	✗ no training - when they attended they found it cancelled.	✓ Poster, ✓ Village meeting	✗ poor	✗ Most people not aware about FRA.
AP6 Nagaluty	04/03/08 1: Atmakur 2: Sundipenta	✓ FRC Training conducted twice	✓ Poster, ✓ Cultural prog.	✗ poor	✗ though mass awareness programme conducted; the people are hunters & gatherers and were in the forests at the time, so majority not aware

At the most basic level mass awareness raising was conducted through displaying poster in all six villages. However in three villages this was the only form of general awareness raising.

Performance-based cultural programs (*Kalajathas*) were also conducted in two villages (Pamuleru and Nagaluty). Finally full awareness raising meetings were held in two villages (Pamuleru and Koruturu), creating awareness regarding FRA provisions and about individual and community rights among village communities by the staff of IKP.

Outcomes of these awareness raising efforts in relation to the objectives mentioned above have been generally poor. Awareness levels regarding the FRA in the study communities varies greatly, ranging from totally "unaware" to moderately aware in almost all. In half of the six study villages (Pamuleru, Cheruvuguda and Goppulapalem) most people were roughly aware of the provisions of the FRA and the implementation process, although in Goppulapalem and Nagaluty village people had no awareness of community rights issues. In the other half of the study villages (Panasanapalem, Koruturu and Nagaluty), despite official awareness programmes, most people are still very unclear about the FRA and its provisions.

Lack of proper awareness has emerged for two main reasons. One major cause has been because the *gram sabha* meetings have been held at Panchayat and not hamlet level, and so villagers have often neither known they were being held, nor were able to spend the time to travel and attend the meetings at distant locations, especially as they were busy with daily activities. The second issue has been that even when local people attended meetings they complained that they were too superficial and vague.

A 'communication gap' between officials and local people is evident across most study sites, and this seems to be reflected across the state. Furthermore, in many areas officials themselves are also not aware about the act and they were interpreting in their own way

At senior levels there has been either an apparent lack of understanding or a deliberate misinterpretation of the principles of the FRA, reflected in the fact that community rights have not been addressed properly in either FRC training or awareness raising. For instance, the para-legal coordinator in Adilabad district has little understanding of the community rights claims, yet local NGOs and community workers with better grasp of the issues have not generally been involved in the process and so are unable to provide need based services to the community for claiming their rights as per the directions given by the Government.

A key policy implication is that awareness raising is a fundamental foundation for effective implementation. It seems clear that well managed training of the FRC members is critical to ensure the learnings are spread to the village, even if the mass awareness doesn't succeed.

4.3 Submission of individual claims

Having formed FRCs and raised awareness (at least to some extent), the next stage has been for local people to actually submit claims. There are two claims processes: individual ('A' forms) and collective ('B' forms). In the initial stages of the implementation programme, claims were being mostly individual with less attention on community rights.

At four of the six sample villages, the FRC distributed claim forms, allowing one month for completion, and subsequently received back applications from the claimants.

"A" forms for private land were not distributed in Koruturu and Panasanapalem villages because the land is not forest land and claims under the FRA can only be filed on forest land. However the Revenue department can grant assignment *pattas* under the Board of Standing Orders in favour of eligible tribals.

The completion of a claim requires gathering supporting evidence and documentation (claims are then to be verified on the ground by the FRC). Local people complained that the month allowed for completion was inadequate for them considering the requirements, and also in most areas land survey has also been conducted with the help of project staff.

The low levels of local people's understanding due to poor training has resulted in serious problems at this stage. Many eligible claimants lack adequate knowledge about the Act and the rules, and don't understand their eligibility and the process for claiming. Many eligible claimants have also not claimed due to a perception that they lack adequate evidence. Furthermore, many eligible claimants also lacked information about the dates of *Gram Sabha* meetings and the cut-off dates for submitting the claim forms.

A particular problem which many eligible claimants have encountered has been obtaining 'caste certificates'. Many of them have no *patta* lands but only customary rights on the land under their possession. In such case there is confusion over who will issue the 'caste certificate'.

Table 6: Individual claims

Village	Number of households	Number of claims	% households claiming	Extent of claims (acre)	Mean size of claim per household (acre)	Detail and perception from village
AP1 Cheruvuguda	44	35	80%	232	6.63	✓ Virtually all eligible households claimed for reasonable sized plots
AP2 Goppulapalem	95	80	84%	130	1.63	✓ Virtually all eligible households claimed, but for the small plots which they cultivate
AP3 Pamuleru	47	38	81%	est.208	est. 5.50	✓ Virtually all eligible households claimed for reasonable sized plots
AP4 Panasana-palem	167	42	25%	est.160	est. 3.80	✗ Almost all claims submitted in error - people unaware that claimed land belongs to revenue dept and so is not eligible.
AP5 Koruturu	97	0	0	0	0.00	~ No-one sought to claim because the land is Revenue dept assigned land which can't be claimed under FRA
AP6 Nagaluty	86	80	93%	400	5.00	✓ Virtually all eligible households claimed for reasonable sized plots
TOTAL	536	275	51%	1150	4.18	

The difficulties of the claims process have been sought to be addressed through allocating a support role to a 'social mobiliser' in each village, deputed from the IKP project. These have worked in conjunction with FRC members and the Village Tribal Development Association to help prospective claimants to complete their claim forms and find evidence (e.g. documentation and oral statements of elders other than claimants). We found their conduct to be generally fair and impartial at this stage.

In total, 275 individual claims were submitted in five of the six study villages (shown in Table 6 below). In four of our six villages, over 80% of households have claimed. For those we have data for the mean size of claims at village level ranges from just 1.63 acres to 6.63 acres, with an overall mean of 4.18 acres (about 1.7 hectares).

In the remaining two study villages, private claims cannot be made under the FRA as it is 'Revenue' not 'Forest' land.

In most villages receipt slips were given for the claims, although in some non-study villages it is reported that this is not happening.

The overall picture of individual claims is surprisingly positive: private claims have been made across the majority of the villages for reasonably sized plots of land. This can be understood because there has been a high level of focus and attention on private claims in implementation. However this has partly served to distract attention away from community claims

4.4 Verification of individual claims

Verification of *individual* claims involves 3 levels; at each stage claims are checked and decisions passed up:

1. FRC with Gram Sabha (involving field survey with claimant and Forest Department invited to observe)
2. Sub District Level Committee (SDLC)
3. District Level Committee (DLC).

The official text of the mandated procedure is reproduced below.

Forest Department field staff are only observers at the *gram sabha* level and are supposed not to interfere. At the SDLC level the Forest Department staff may only observe and provide land records as requested. The SDLC forwards their decision to the District Level Committee (DLC).

If the Gram Sabha rejects a claim it must state its grounds for rejection. Rejections can be contested with the higher level body.

Procedure for filing, determination and verification of claims by the Gram Sabha

- a) *Gram Sabha shall call for claims and authorize the Forest Rights Committee to accept the claims. And such claims shall be made within a period of three months from the date of such calling of claims although the gram sabha may extend this period after giving reasons. The FRC shall, after due intimation to the concerned claimants and the Forest Department ... visit the site and physically verify the nature and extent of the claim and evidence on the site; receive any further evidences or record from the claimant and witnesses; prepare a map delineating the area of each claim indicating recognizable landmarks. The FRC shall then record its findings on the claim and present the same to the Gram Sabha for its consideration. After verification of the claims, by the Grama Sabha pass a resolution on claims on forest rights after giving reasonable opportunity to interested persons and authorities concerned and forward the same to the Sub-Divisional Level Committee (SDLC).*
- b) *SDLC shall provide forest and revenue maps and electoral rolls to the Gram Sabha or the FRC; collate all the resolutions of the concerned Gram Sabhas; examine the resolutions and the maps of the Gram Sabhas to ascertain the veracity of the claims; after verification forward the claims with the draft record of proposed forest rights through the Sub-Divisional Officer to the DLC for final decision.*
- c) *any person aggrieved by the resolution of the Gram Sabha may within a period of sixty days from the date of the resolution file a petition to the Sub-Divisional Level Committee.*
- d) *any person aggrieved by the decision of the Sub-Divisional Level Committee may within a period of sixty days from the date of the decision file a petition to the District Level Committee.*

Government of India, Ministry of Tribal Affairs www.foresights.gov.in

a) Gram Sabha / FRC stage

In AP, claims are not being directly submitted to the Forest Rights Committees for verification, but instead the process is as follows: 1) they are initially submitted to the *Panchayat*, entered into computer records and then 2) the list is passed to the FRC for checking evidence and field verification, after which those approved are 3) placed before the *Gram Sabha* for approval.

Under the FRA, the FRC is the authority to lead the field level verification enquiry. If the forest department has any grievance it can place its claim before the Gram Sabha before resolution is passed.

In the field we found that local *gram sabhas* / FRCs have frequently rejected individual's claims on the grounds of 'lack of evidence', but it was reported that the complaints had actually originated from Forest Department field staff, through applying informal pressure on FRC members. Forest Department staff have in this way been responsible for getting many claims rejected at the Gram Sabha level without proper enquiry.

Once the FRC has confirmed the supporting evidence, individual claims are verified in the field and surveyed using GPS devices (for identifying, geo-referencing and mapping the claimed plots). In all our study villages the social mobilisers worked with Forest and Revenue department staff along with FRCs to survey land, and ITDAs have also sent surveyors.

It has been this stage of the process more than any other that has led to fundamental problems for local people in securing their rights. Two key issues are causing problems. Firstly the technical skills of the surveying teams to effectively use the GPS devices have been lacking, likely to be due to inadequate training. Many technical problems emerged due to operators inexperience with using the GPS devices effectively, particularly in forested, hill areas with clouds – all factors which make getting an accurate reading with the most basic GPS devices difficult. In many of our study villages survey teams have struggled to use the equipment, and complained of ‘instrument problems’. More thorough training is obviously the solution, as GPS devices in the hands of a skilled and patient operator are highly reliable, (particularly with newer more accurate models). The result, though, has been that a large number of readings have been completely inaccurate, leading to invalid or incorrect survey data for claims.

A second, even more concerning problem has been that during land mapping Forest Department field staff have been grossly interfering. They have obstructed and/or misdirected surveys in what they are treating as ‘their’ forest land, acting (without legal mandate) as *de facto* judges in the process. During the time of survey verification many claims have been obstructed or arbitrarily ‘rejected’ by forest guards, sometimes directly and sometimes working through FRC members. At the time of survey many people were not cultivating some plots although they were in occupation of the same, and this criteria was used by FD staff as a reason to insist claims should be rejected.

Both problems are evident, for instance, at our Cheruvuguda study site (AP1). The survey was not properly conducted by the GPS survey team who were evidently not properly trained and complained of ‘instrument difficulties’ especially dealing with cloud and uneven ground. Furthermore the FD field staff played a dominant role, obstructing the survey team from surveying claimed lands which people were not currently cultivating (due to the season or lack of money for seeds) and dismissed the claims. Furthermore the FD staff insisted local people should not get several different plots that they use but only one, and have directed surveyors to exclude such multiple plots and thereby reduce the overall extent of claims.

Variations on this pattern were seen in all of our study villages, and it seems that this is institutional practice across AP. At the time of the verification survey, the FRC invites the claimant and FD field officer, and all can go to the field site. Whereas the National Rules require only a minimal observer role for the FD staff, in reality the FD staff are not simply ‘assisting’ but totally dominating and controlling. Therefore the claims approved at the Gram Sabha and other level are the claims which have been ‘accepted’ by the Forest Department rather than the statutory authorities under the FRA.

We estimate that as many as one quarter of prospective individual claims have been obstructed by such illegal conduct. It is unclear whether the field staff will be disciplined or prosecuted for this behaviour, or indeed whether local people have any realistic means of recourse. (They can file a complaint against such abuse to the

State Level Monitoring Committee which can penalise such officials. This has clearly not been explained to the claimants).

Furthermore, due to the technical problems many approved claims contain final survey maps which are much smaller, than the land being claimed (some even giving random locations) leading to a mismatch between what people seek to claim and the mapped plots. Consequently there are widespread demands for resurvey without the technical problems or FD interference.

In two of the study villages (Pamuleru and Panasanapalem), after the FRC had verified claims, they did not place the claims before the *Gram Sabha*. In a miscarriage of the process, they instead held a private meeting with the Forest Department staff and then directly sent the claims to Sub-Divisional Level Committee. The justification they gave for this miscarriage was 'due to lack of time because of deadlines'.

b) SDLC stage, DLC stage

The claims approved by the FRCs and Gram Sabha were sent to Sub-Divisional Level Committee.

The SDLCs examine the resolutions passed by the Gram Sabha, hear and adjudicate disputes between Gram Panchayats on the nature and extent of forest rights if any, prepare Mandal/ Tahsil wise draft record of forest rights and forward the claims to DLC for final decision. The DLC examine the claims, hear the petitions from persons aggrieved by the orders of SDLCs and finally approve the claims and communicate to claimants and Gram Sabha. There are frequent complaints in the field that the Government functionaries at local level prepared the documents and placed them before the SDLC. At SDLC level it is further purely an officials exercise with the involvement of the Forest Department. Although the SDLC and DLC have elected PRI representatives, in practice Government functionaries are looking after the preparation of documents.

c) Appeal stage

There has been no opportunity provided to the claimants to submit appeals against adverse decisions on their claims, despite this being a statutory requirement. The enquiries conducted at Gram Sabha are State managed and the enquiries conducted at higher level are without any transparency.

To summarise the verification process, most submitted claims have been assessed (and approved or rejected), although some are pending due to lack of evidence and cases which are under disputes between FD and RD. After verification of the claims people have not been informed about the rejected claims in many areas. Many claims are not verified at Gram Sabha level and but were forwarded directly to SDLC. Furthermore verification records were not maintained in many areas.

4.5 Issue of individual claim titles

Titles have been issued in some districts. However in the study villages titles have not yet been issued, except in Nagaluty. By January 2009 the FRA implementation process had been completed in all the sample villages and they are in the process of conferment of actual entitlements to the forest dwellers. *Pattas* have been prepared and are ready to be issued. In Nagaluty village some people received entitlements and in other villages process of entitlements were yet to be conducted.

Table 7 Verification process – individual claims

	Survey properly conducted	Claims approved have full extent mapped	FD non-interference	Legitimate claims approved by FRC?	Legitimate claims approved by DLC?	Verification
AP1 Cheruvuguda	✗	✗	✗	✗	-	<p>All 35 private claims were surveyed. 33 claims (227.5 acres) were approved by FRC and forwarded to SDLC 2 claims rejected <i>by the FD</i> due to 'lack of evidence - unable to produce despite cultivating for generations Approved claims not properly surveyed due FD interfering and technical problems- give incomplete / incorrect /too small plots. (Surveys being forwarded for approval are smaller than the extent being claimed.) Claims are pending, not passed by the DLC</p>
AP2 Goppula- palem	✗	✗	✗	✗	-	<p>50% of the private claims surveyed & all approved by FRC - At time of verification 50% claims rightly rejected which come under Revenue land. – Approved claims not properly surveyed. GPS inaccurate – due to slope and bushes / cloud, impatience, FD interference. People complaining plots wrong or too small</p>
AP3 Pamuleru	✗	✗	✗	✗	-	<p>30 of the 38 private claims approved - FRC and SDLC rejected some claims due to being ineligible Revenue lands Approved claims not properly surveyed (similar problems as above) - people demanding resurvey</p>
AP4 Panasana- palem	-	-	✗	✗	-	<p>Of 42 individual claims all surveyed, - One approved (4 acres) on forest land. - Rest rejected – all on ineligible Revenue land - People were unaware</p>
AP5 Koruturu	-	-	-	-	-	<p>No claims to verify as people aware Revenue land not eligible</p>
AP6 Nagaluty	✗	✗	✗	-	-	<p>75 of the 80 individual claims surveyed. 73 approved. Approved claims not properly surveyed – technical problems and FD interference. - - -Local people demanding resurvey</p>

(✓: good / ~ moderate / ✗ poor)

Table 8: Status of individual claims in study villages (as at August 2009)

Name of Village	Claims received		Claims surveyed		(Claims yet to be surveyed)		Claims approved (by FRC, SDLC & DLC)					Claims rejected		Comment / pending			
	#	Extent (acre)	#	Extent (acre)	#	Extent (acre)	#	Extent (acre)	Mean size	% of claims approved	% claimed area approved	#	Extent (acre)	Number	Extent		
AP 1 Cheruvuguda Village	35	232	35	232	0	0	33	228	6.89	94%	98%			Yet to be Approved by SDLC & DLC	2	4	
<i>-Entire Panchayath</i>	773	5,280	773	5,280	0	0	369	1663	4.51	48%	31%	404	3,618	APFD rejected claims on grounds that claimants did not produce 'proper' evidence			
AP2 Goppulapalem Village	80	130	39	63	0	0	39	63	1.61	49%	48%	41	67	Reasons for rejection: Revenue land			
<i>Entire Panchayath</i>	647	-	80	161	0	-	80	161	2.01	12%	-	567	-				
AP3 Pamuleru Village	38	-	30	165	8	-	30	165	5.49	79%	-			-			
<i>Entire Panchayath</i>	159	-	113	506	46	-	74	355	4.80	47%	-	12	41	Yet to be approved by SDLC & DLC	27	109	
AP4 - Panasanapalem Village	42	-	18	69	24	-	1	4	3.50	2%	-	17	65	Reasons for rejection: lands under Revenue land			
<i>Entire Panchayath</i>	96	-	72	1,296	24	-	6	25	4.23	6%	-	66	1,270				
AP5 Korotutu Village	0	0	0	0	0	0				-	-	-	-	Total land in this village comes under Revenue land; Not entitled for FRA process			
<i>Entire Panchayat</i>	0	0	0	0	0	0				-	-	-	-				
AP6 Nagaluty Village	80	400	75	227	5	25	73	227	3.11	91%	57%			Yet to be approved by SDLC & DLC. Also 5 claims of lands not clear to survey due to bushes	2	10	
<i>Entire Panchayath</i>	160	800	136	489	24	-	136	489	3.60	85%	61%						
Total for study villages	275	-	197	755	37	-	176	686	4.12	63%	68%	58	132		-	4	14
Total for Panchayats	1,188	-	1,094	7,570	94	-	585	2,532	3.43	37%	31%	482	4,929	!	27	109	

* Approved

A policy implication here is that where the village process is being hijacked by the Forest Department, an interested party, there need to be institutionalised protections and punishments. Complaint channels for local people, and if necessary legal recourse, needs to be established

Box 2: Politicisation of rights distribution

Following the Judgement of the High Court, the late AP Chief Minister, Dr. Y.S. Rajashekara Reddy, on 8 June 2009 formally launched a programme of distribution of forestland at Hyderabad.

At the camp office he initiated distribution of forestland to more than 200 people. A press release was circulated which says that the government received 3.23 *lakh* (100,000) individual claims for an extent of 9.62 *lakh* acres and 5971 community claims for an extent of 1.65 *lakh* acres. So far survey of 3.11 *lakh* claims had been completed for an extent of 11.27 *lakh* acres. After making all the exercises the district level committees approved 1.28 *lakh* claims for an extent of 4.44 *lakh* acres. Still some claims are pending at the Sub Divisional and District Level Committees and they are directed to complete the scrutiny of all these claims and complete the process by the end of June 2009.

August 15, 2008 had been announced as the date on which the recognition of rights through distribution of titles was to begin. Almost 2 *lakh* claims for individual *pattas* had been received by then and the state government was planning to issue titles for 30 - 40% of these when the High Court issued its interim stay order. Political parties, including CPI (M) put pressure on the state government to get the order vacated but nothing has happened to date. In November, several public rallies were organised against the Court order.

The Chief Minister was expected to 'distribute' land title deeds for an extent of 100,000 acres at Khammam district on July 19 and for another one *lakh* acres at Adilabad on July 26, 2009. The Chief Minister distributed titles to tribal representatives hailing from all the districts on June 8 2009 in the presence of the Minister for Tribal Welfare and tribal MLAs. This is evidently a matter of seeking to make political capital by styling the rights redressal as if it were an act of personal patronage. Following the death of the previous Chief Minister, the new one has not yet shown any keen interest in FRA

The Collectors have been asked to complete issuing the remaining certificates in the entire state by involving the ministers and local public representatives.

4.6 Community claims process

The second main area of rights claims are for community forest rights. However we have seen already how this issue has been played down in the implementation processes.

Due mainly to the lack of awareness, in many settlements community claim forms (Form "B") have either not been distributed or distributed but not used. Initially no claim forms were being issued for community rights, it was explained by officials to be due to a 'shortage' of claim B forms, even though only *one* form is needed per hamlet. B forms were subsequently issued to hamlets.

The prevailing lack of awareness of community claims meant that in many places solely individual claims have being submitted. In two study villages (Goppulapalem and Nagaluty) community claims were not submitted simply because they are not aware about possibility of community claims. And where community claims were

made, in many cases people were informed to simply tick those that they wished to claim, which without proper corroboration led to their rejection.

However gradually awareness has spread, particularly following mobilisation by grassroots groups and movements, who have been providing villagers training in mapping their community forest resources. Claims for community forest resource rights have now been filed by several hundred villages across the state.

In our study sites a total of 7 community claims have been submitted across 4 of the 6 study villages. A very significant reform in two study villages (Pamuleru and Panasanapalem) is that villages have applied to take back community forests from control of the forest department's JFM scheme.

In most of the areas, the claimants applied for their individual Entitlement but not applied for community rights like grazing lands, pathways, burial grounds, temples, rivers and streams etc.

Table 9: Community claims made in study villages:

Study village	Community claims	
	number	Detail
AP1 Cheruvuguda	3	~ 6 acres: includes village boundaries, internal roads and temple. only 1 acre surveyed for temple. 5 acres yet to be surveyed
AP2 Goppulapalem	0	✗ <i>Due to lack of awareness.</i> After explanation by the study team about community rights, villagers said that they will seek to claim
AP3 Pamuleru	1	✓ 101 ha community is claiming VSS land for communal rights
AP4 Panasanapalem	1	✓ 107 ha.VSS land for communal rights
AP5 Koruturu	2	~ NTFP rights and Internal Forest Routes.
AP6 Nagaluty	0	✗ <i>No claim due to lack of awareness despite this being a PTG village which can claim rights over it's larger habitat & has the highest forest dependence</i>

The process of recognition of community rights has incidentally led to rediscovery of many community lands that had been illegally seized by the Forest Department, and in some areas (as in the case of Orient Cement in a village in Adilabad) contributed to helping people resist handovers of their common lands to private companies.

The Gram Sabha is the authority to receive the community claim forms. However community claims are being sent directly to the SDLCs .Government appointed social mobilisers to prepare maps and records for the community claims. Velugu a department working under the ministry of rural development has taken the responsibility in implementing the provisions of FRA. They prepared community claims without placing before the Gramsabha for its democratic resolutions, and placed only before the SDLC. Most of the community claims were converted into claims by VSSs, which are not a legal entity eligible for claiming rights under the Act and the same were cleared. Because the forest department interests are rooted in its pet program-VSS. Although District Collectors and ITDA officers have agreed to accept claims for community rights, no facilitation for these is being provided by the government due to decision at higher level.

Tracking the claim application process is difficult because of the weak record keeping. There is in many places a lack of transparency at village level about the claims received and sent to next level.

Claims cut-off deadlines are proving a particular problem for community claims, due to the initial delays and the lack of awareness. As part of the road map the authorities initiated the process and informed the prescribed period. They did not

make it clear to the villagers that the *gram sabhas* can extend the claiming period of 3 months. However the process did not complete. After the dead line the entire implementing machinery was reluctant to entertain the claims. The implementation of the FRA is not left to the even district level officials. After the dead line no further instructions were issued for receiving claims. Now the district administration is only looking at the claims pending for other reasons. This is a deviation of the FRA. as if the Gram Sabha thinks that the forest rights recognition process is not completed it can extend the time by passing a resolution noting down the reasons for extension.

Furthermore the Forest Department has been interfering with the community claims process in a number of ways.

The first problem has been the obstruction of claims on spurious groups. In the Gudem area of Vishakhapatnam district for instance, the Forest Department has not been permitting the filing of any claims on the grounds that no prior survey of forest land had been done under the AP Forest Act, 1967, (for which no final notifications have been issued to date). The Government officials wanted to first finish the reservation process under a previous notification issued under the AP Forest Act, 1967 (APFA), and they encouraged claimants to urge the forest settlement officers appointed under the APFA to settle their rights. Officers not below the rank of Revenue Divisional Officers are appointed as Forest Settlement Officers to conduct enquiries on the claims filed under the AP Forest Act 1967. For instance in Paderu mandal awards were passed under AP Forest Act recognizing the rights over 3,069 acres benefiting 1,336 tribals by the Forest Settlement Officer in 2007. However the Forest Department challenged the awards before the District court, Visakhapatnam which remanded the matters for fresh enquiry. Now the FSO is enquiring all the claims afresh. Meanwhile the FRA came in to force. But the officials did not prompt the tribals to place their claims under FRA for quick disposal of the cases.

The situation in Kujjili *panchayat* in Paderu mandal, also highlights the problem of FD obstruction of community claims. There are 12 hamlets in Kujjili Panchayat, and about 359 applicants placed their claims under FRA over 471.45 acres and were allowed. In the same *panchayat* villages 409 claimants' cases covering an extent of 349.86 acres are still pending before the FSO under the AP Forest Act 1967. However, the villagers have rejected this premise saying, correctly according to the Act, that there is no link between notification of the land under the APFA and people's right to file claims under the FRA.

Similarly, claims were not being entertained for the land to be submerged by the Polavaram dam or allocated for other development purposes. Initially no process was initiated, however the district level administration had started subsequently on the instructions of State level officials. There are 23 villages in 5 panchayats in Polavaram Mandal in West Godavari District which are due to be submerged under the Polavaram project. Barring the villages under two Panchayat, claims were disallowed in all the other three Panchayats. Reasons being cited by the Government officials are that the claim lands are revenue lands as such they are not permitted to clear under the FRA. But the tribals are challenging this position saying that in the name of revenue lands, their claims were brushed aside by the forest department. For instance several claims of tribals in Kondrukota Panchayat were disallowed at the instance of forest officials, against the survey done by Velugu staff. The second problem with Forest Department interference is the FD seeking to illegally relocate claimants whilst claims are in process and *sub judice*. In protected areas the process of claiming rights is continuing. But due to the lack of organisation among the Chenchus in Srisailem Tiger Reserve, efforts are continuing to illegally relocate them.

4.6.1 VSS usurpation

A third significant issue of FD interference, and the most problematic of all has been the AP Forest Department using their village level *ad hoc* JFM committees to make community claims. This is putting land eligible for authentic community control back under forest department control, a complete perversion of the FRA provisions and may reasonably be seen as an attempted 'coup' against the community forest resource rights provision of the FRA.

On the surface, Andhra has also issued an impressive 2276 'community certificates of titles' (presumably meaning titles for community rights) for a total area of 7,84,949 acres. Information obtained under RTI about the details of these community claims, however, has revealed an attempted 'coup' of community forest rights by the forest department. The majority of community forest rights which have been approved are claims filed by JFM committees (VSSs in AP) which have no right to file claims under the Act. If the forest department created committees continue, the gram sabhas empowered to protect, conserve and manage their CFRs for sustainable use will be illegally deprived of their statutory right under the Act while the FD will retain control over JFMCs as before. In contrast, many of the community claims filed by villagers have either been rejected or approved for a much smaller area than that claimed. The Adivasi Aikya Vedike organized a protest against this abuse of the FRA in Adilabad and the villagers are planning to file fresh claims for CFR rights. Herding and grazier communities have been struggling to file claims for seasonal grazing rights which continue being ignored

(<http://forestrightsact.com/current-situation>) accessed 23/6/10

There are only two types of claims under the FRA; individual and community claims. However the Government has facilitated another category of claims: 'VSS claims' in the name of community claims. The VSS cannot be equated with the statutory *gram sabha* representing the community. The admission of member in to the VSS is an optional one unlike community. Under the Rules, the FRC is meant to demarcate the boundary of a village's community forest resource and then place it before the Gram Sabha for its approval. After the Gram sabha's approval, the claim has to be sent to SDLC and finally to the DLC. In case of a shared community forest between one or more villages, the FRCs of the concerned villages are to have a joint meeting for finalising their claim. In case of a dispute over boundaries between villages, the SDLC is meant to facilitate resolution of the same by calling a joint meeting of the concerned villages.

However, in the case of VSSs, the Chairperson submits the memorandum of association (VSS), map showing the VSS area, and list of the members of VSS to the FRC. The FRC will place before the *gram sabha*, and so on. No doubt, considering the VSS claim in the name of the community is against the provisions of FRA. However the Government is saying that the VSSs solely composed with the members of Tribals, only are allowed to claim the rights. This position is also legally not correct. The VSSs have separate procedure to take decisions, and are bound by the articles of the association and controlled by the Forest Department. Their decision in respect of the management of community forest lands need not reflect the decision of the community as a whole. As such, the divesting the community rights by the Government is unlawful. To claim the right over the VSS area, the community claim form "B" being used by the VSS. The entire procedure adopted by the Government to assign the right to VSS is predetermined and to link the market by changing the usage of the forest land. Community certificates of title issued for community forest

rights have not only been issued illegally in the names of VSSs (which are not legal entities or eligible claimants under the Act) but have also imposed conforming with the administratively issued JFM/CFM resolutions as a condition attached to the community forest right. This is an underhand way of converting administrative orders into statutory conditions.

In Adilabad District, where 341 VSS have already been given community rights over 2,66,000 acres of forest land under the FRA other approved community claims are only over 3542.54 acres.

It is surprising to note that the Government has not distributed titles for other community forest land claims but 100 titles were distributed to VSSs in Adilabad district. Even in the east Godavari district, *pattas* over community lands have not been distributed. Initially Tribal Welfare Department wanted to grant community *pattas* to the community in the State under FRA however the intervention of the forest department and rural development department has pushed the idea back – a clear example of government departments openly violating the law and colluding against the rights of forest dwellers.

A co-author if this paper is taking steps to move public interest litigation in the high court of AP to challenge the assignments in favour of VSSs against the FRA

A clearer picture is emerging reflecting the role of forest department in continuing their control over the forest resources irrespective of the provisions under FRA. Government data up to 31st May, 2010 shows that in the name of community claims, the Govt. issued title certificates to 1669 VSSs over 948076 acres in Andhra Pradesh. This data uncovers the state mask of the tall claim of implementation of FRA. As evident from the table below, the government has gone to the extent of creating a new category of 'VSS rights' as distinct from community claims for community forest rights.

Table 10: district update of FRA implementation for Adilabad May 2010

Total Mandals having forest interface	:	50						
Total Gram Panchayaths having forest interface :	499							
Total Forest Rights Committees	:	499						
Total Sub-Divisional Level Committees :	5							
Activity	Individual		Community		'VSS'		Total	
	No.	Extent (Acres)	No.	Extent (Acres)	No.	Extent (Acres)	No.	Extent (Acres)
No. of Claims received	55,663	2216,245	1,090	8,105	341	266,690	57,094	496,419
No. of Claims surveyed	55,663	221,625	1,090	8,105	341	266,690	57,094	496,419
No. of Claims to be surveyed	0	0	0	0	0	0.00	0	0
No. of Claims recommended by Grama Sabha to SDLC	36,319	132,194	67	3,543	341	266,689	36,727	402,425
No. of Claims rejected by the Gram Sabha (Non-Tribals)	18,604	85,303	0	0.00	0	0	18,604	85,303
No. of Claims pending with Grama Sabha	740	4,128	1,023	4,562	0	0	1,763	8,690
No. of Claims recommended by SDLC to DLC	36,319	132,194	67	3,543	341	266,689	36,727	402,425
No. of Claims rejected by SDLC	0	0.00	0	0.00	0	0	0	0
No. of Claims pending with SDLC	0	0.00	0	0.00	0	0	0	0
No. of Claims approved by DLC	36,319	132,194	67	3,543	341	266,689	36,727	402,425
No. of Claims rejected by DLC	0	0	0	0	0	0	0	0
No. of Title granted	34,977	126,425	67	3,543	341	266,689	35,385	396,656
No. of Claims pending with DLC	0	0	0	0	0	0	0	0

Source: ITDA GoAP March 2010.

So far no officer has sent the rejected memos to the claimants whose claims rejected at various levels of adjudicating forums in the State. This will deprive their right to appeal within a prescribed time period.

Overall we can conclude that, because of shortcomings in the process, claims have been a smaller fraction of the total rights deprivations so far, and there have been some cases of abuse of the process. However due to a lack of records it is hard to gather an overall picture of the extent. There has been limited application for community rights (e.g. like grazing lands, pathways, burial grounds, temples, rivers and streams). Even where villagers have claimed rights over their community forest resources, including over such forests brought under JFM/CFM, instead of recognising their claims, it seems that the claims have been changed and made in favour of VSSs. This is largely because the trainings have not raised awareness of the collective rights provisions of the act. In most places local community-oriented NGOs have not been involved in the process, and so have been unable to provide needed services to help the communities claim their rights according to the requirements.

4.6.2 Verification of collective claims

Community claims are submitted by the Gram Sabha itself to the SDLC, and the 2nd & 3rd verification stages are followed as with individual claims above.

Some communities (such as Cheruvuguda) have however become aware of collective rights and given applications. But even these communities that submitted collective claims find them pending with the Sub-divisional level committee, due to it is claimed to 'lack of evidences'.

The Girijan Cooperative Corporation (GCC), a para-statal agency in Andhra Pradesh, has obstructed tribals extracting their non-timber forest produce (e.g. hill brooms) from the forest area in the scheduled areas of east Godavari district. Community mobilised on this issue and submitted a memorandum to the concerned officials under the FRA.

Table 11: Current status of Community claims in study villages

	Survey properly conducted	
AP1 Cheruvuguda	✘	5 acres of community claims yet to be surveyed
AP2 Goppula-palem	✘	No community claims due to lack of awareness
AP3 Pamuleru	✘	101 ha of VSS land claimed under community rights approved SDLC it is under process at DLC
AP4 Panasana-palem	✘	107 ha of VSS land claimed under community rights approved SDLC it is under process at DLC
AP5 Koruturu	-	Applied community claims for NTFP and internal forest routes are under process at SDLC
AP6 Nagaluty	-	No community claims

This was the position when we did the second round of field investigation, late 2009.

4.7 Outcomes: Summary of local FRA implementation process

Table 9 above shows aggregate data for private claims across the study villages, and also in grey for the Panchayat administrative villages of which they form a part. We can see that in 3 of the sites the approval rates for private claims are over 75%. In the remaining villages there are much lower claim rates because the land on which people are cultivating is actually Revenue land and so not eligible for claiming.

Table 12: Summary indicators of local process

	1.FRC Formation process			2. FRC training & community awareness raising	3. Claim submission process		4. Verification			5. Issue of titles
	x	x								
	Prior notification of meeting	Meeting at appropriate hamlet level	FR Committees ✓ elected or x selected	Resulting awareness	Private claim of main eligible areas	Community claim of main eligible areas	Survey properly conducted	FD non-interference	Legitimate claims approved by FRC?	
AP1 Cheruvuguda	x	x	✓	~	✓	~	x	x	x	x
AP2 Goppulapalem	x	x	✓	~	✓	x	x	x	x	x
AP3 Pamuleru	x	x	✓	~	✓	✓	x	x	x	x
AP4 Panasanapalem	x	x	x	x	x	✓	x	x	x	x
AP5 Koruturu	x	x	x	x	~	~	-	-	-	x
AP6 Nagaluty	x	x	✓	x	✓	x	-	-	-	~
Overall	x	x	x	x	✓	~	x	x	x	x

Note: Good: ✓, Moderate: ~, Poor: x

Table 12 above summarises the qualitative process indicators we have used in this study. From it we can see that almost all aspects of the process in almost all the study villages are problematic, as has been discussed above

4.8 Aggregate status of FRA implementation in Andhra

The latest available data for the aggregate status of implementation was supplied by the Government of AP (the reliability of this data is very unclear however there is no alternative source). It states that a total of 3,22,313 individual claims (9,60,577 acres) and 5,960 (1,65,404 extent in acres) community claims had been received as on 31.03.2009. The details are given in the table below.

Of the total 3,28,273 claims received (11,25,981 acres) 94% were surveyed, and 65% (2,13,294 claims) were recommended by the Gram Sabha to the SDLC. It is not clear what the grounds for rejection are for the 35%.

Only 42% (1,38,597 claims) of these claims were recommended to the DLC by the SDLC by May 2009, and the DLC had finally approved 39% of the total claims (1,28,948 claims). However, three months later the status report for August shows that 53% of the claims have been approved by the DLC.

The total individual claims numbering 319012 covering an extent of 945459 were received. While 6876 community claims covering an extent of 998240 Ac received. Out of these titles numbering 158745 were distributed covering an extent of Ac 1402515. Although the claims were approved numbering 170550 covering an extent of 1429892. That means 48 percent of the claims received were considered and titles were distributed covering an extent of 72 percent including community lands. There is no breakup available to compute the data as to know the status of the title distribution in respect of individuals and community claims separately.

Reviewing this data we can see that almost half of individual claims, and more than half of community claims are rejected. However some rights, both individual and collective, have been allocated.

From latest data (April 2010)

Of AP's Andhra's 'recorded forest area' 6,381,400 ha

- Rights (community & private) approved is 1962362 acres

But

- private claims rejected through FD field interference as far as possible (49% of private claims rejected)
- Collective claims usurped: AP Govt. issued title certificates to 1978 community certificates issued for 948749 acres.
- Plantation programme being promoted for granted land

Table 13: Progress Report on Implementation of FRA Act 2006 (April 2010)

Sl.No.	Activity	Nos.	Extent (acres)
1	No. of Grama Panchayats having forest interface	3,830	
2	No. of Gram Sabhas convened	3,799	
3	No. of FRCs constituted	3,725	
4	No. of individual claims received	3,22,955	9,49,518
5	No. of community claims received	6,903	10,12,844
Total for Sl. No. (4&5)		3,29,858	19,62,362
Action Taken			
1	Titles distribution	1,63,108	14,08,654
2	Titles ready for distribution	10,688	46,740
3	Cases rejected	1,49,665	4,66,341
Total Cases cleared		3,23,461	19,21,735
Action to be taken			
1	Cases pending with Gram Sabhas (Including Survey)	2,491	10,717
2	Cases pending with SDLC	3,678	29,650
3	Cases pending with DLC	228	260
Total pendency		6,397	40,627
Under VSS 1,46,758 beneficiaries			

Sources: Andhra Pradesh State Status Report on Implementation of RoFR ACT 2009
Tribal Welfare Department Andhra Pradesh Hyderabad, till 30th April, 2010.

The table above indicates the following. 97% of Gram Panchayats identified as having a forest interface have FRC constituted. On average each FRC constituted has received 87 individual claims, for 2.96 acres each (1.2 hectare). Each FRC has submitted 1.85 community claims for 146.7 acres (59.4 ha) each

Of 329,858 claims submitted, 98% have been processed. 45.3% have been rejected, a surprisingly high number. Although no distinction is given between the community and individual claims, since the rejected claims make up only 23.8% of

the total area claimed it is reasonable to assume these are mainly private claims being rejected.

For almost half of claims, (49%), the data suggests claims have been approved and titles are ready for or have already been distributed. Approved claims covers 71.2% of the total land area claimed, indicating that the (larger) community claims are more represented than the individual claims.

4.9 End of process?

The aggregate data for May 2010 shows 98% of villages have been covered and 98% of claims from them processed. Although some interest has been expressed by government staff to perform some resurvey and perhaps follow up, for over 6 months there has been no more attention on the FRA issue, and no new FRA claims are being entertained by the Government under the.

Many government staff have been commenting that many claims remain pending before the *Gram Sabhas*, which have been neither rejected or approved, for want of clearances from the Forest Department. The reasons being cited include that the maps prepared by the IKP staff are mismatched with the Forest Department maps, and that the Forest Department staff are making conflicting claims against the local claimants.

In Adilabad district for instance, the district collector directed his subordinates to look in to these claims pending for disposal, also querying whether the DLC has cleared all the claims forwarded to it by the SDLC. The answer was that there are no claim pending before the Adilabad DLC , but that there are 8538 claims (covering an extent of 29132 Ac) still pending for consideration before the *Gram Sabha*.

We may conclude that although claims are no longer being accepted, the processing of these claims, and the correction of mis-processing still demands government attention, and is far from complete.

5. IS FRA IMPLEMENTATION PRO-POOR? PROSPECTS FOR LIVELIHOODS

It is too early to draw any definitive conclusions about the extent to which the FRA will reduce poverty. However, we can see that even despite a very problematic implementation process rights to private cultivated and collective land have been recognised, and for people living extremely insecure marginal existence these are very significant.

We can see from our study villages that most households are small and marginal farmers, for whom increasing land security has a significant positive impact.

From our wealth-ranking exercises based on the land holding status, we identified seven major occupational groupings:

- | | |
|-----------------------------------------|-----------------------------------------|
| (1) large farmers (10 acres and above), | (4) marginal farmers (0.1 - 2.5 acres), |
| (2) medium farmers (5 to 9.9 acres), | (5) landless, |
| (3) small farmers (2.5 to 5 acres), | (6) agricultural labour, and |
| | (7) others (salaried). |

Four occupational groups (small farmers, marginal farmers, landless and agricultural labourers) account for 77% of all households, with most households either small or marginal farmers (37% and 27% respectively).

Table 14: Number of households in different wealth groups in the sample villages

Study village	Total HH	Occupational groups						
		Large farmers	Medium farmers	Small farmers	Marginal farmers	Landless	Agri-cultural labour	Other (salaried)
AP1 Cheruvuguda	44 (100%)	4 (9)	10 (22)	26 (59)	04 (9)	0	0	0
AP2 Goppulapalem	95 (100%)	0	03 (3)	39 (39)	48 (48)	3 (3)	0	2 (2)
AP3 Pamuleru	47 (100%)	2 (4)	3 (6)	12 (25)	24 (51)	03 (6)	0	3 (6)
AP4 Panasanapalem	167 (100%)	5 (3)	32 (19)	50 (29)	26 (15)	26 (15)	11 (6)	17 (10)
AP5 Koruturu	97 (100%)	2 (2)	13 (13)	26 (26)	29 (29)	11 (11)	5 (5)	11 (11)
AP6 Nagaluty	86 (100%)	4 (4)	1 (1)	45 (52)	13 (15)	19 (22)	02 (2)	02 (2)
Total	536 (100%)	17 (3.17)	62 (11.57)	198 (36.94)	144 (26.87)	62 (11.57)	18 (3.36)	35 (6.53)

(Percentages for each village are in brackets)

The range of forest rights deprivations has had severe negative impacts on people's food security and levels of wellbeing. Lack of tenure for cultivated land and settlement has been a primary problem, and additionally lack of formal rights to collect NTFPs and to graze cattle make livelihoods more precarious.

In all the sample villages, forest land and forest resources, primarily non-timber forest products (NTFPs) play an important role in the viability and survival of tribal households. Tribals in the villages collect a large variety of NTFPs including tamarind (*Tamarindus indica*), adda leaf (*Bauhinia vahlii*), gum karaya (*Sterculia urens*), myrobalans, mahua flowers and seeds (*Madhuca indica*), wild brooms and soap nuts (*Sapindus emarginatus*) etc. Income from the sale of NTFPs in all the village constitutes between 10 - 55 percent of total household income, with small and marginal tribal households accruing a higher proportion of their income from the forest than others. Thus for the land poor, common land and the resources derived from it are the primary source of survival for the poorest households in all the villages.

In all the villages many individual and communal rights claims have been submitted, and if claims were to be accepted properly according to this Act, the poor definitely stand to benefit in a range of ways, summarised here:

The basic benefit is the legal rights: household tenure over cultivated forest lands, and legal basis for collection of forest products and grazing. These rights lay the basis for a change in the social status of the hitherto marginalised households. They would expect to be free from the regular harassment from the FD field staff which they have been experiencing. Furthermore they anticipate increased livelihood security and consequent dignity and social status. Rights would also help to resolve land disputes among the members of the communities.

Furthermore legal rights are likely to allow access to credit on the basis of land titles if the government makes a special provision for accepting inalienable titles as collateral. It may also be expected that right holders can better access a range of government development programmes and normal service provision such as

agriculture extension, land improvement schemes. Other developmental agencies will be prompted in the forest areas which will have far reaching effect on the development of forest dependent communities, particularly programmes like NREGA and micro-credit schemes.

It is too early to say what the actual livelihood impacts are in the study villages, beyond certainly that in the three villages where individual rights are approved the livelihood security has dramatically increased. More conclusive insights must await revisit.

However the biggest limitation on improved livelihood security so far is the rejection of legitimate claims or providing titles for reduced areas than those claimed.

Further livelihood benefit may accrue from improving the productivity of the land resources, both private and collective. Achieving this may need some extension support to the new right-holders, however the AP Government new initiative for 'land development' through plantations, risks reducing local peoples livelihood options through being imposed rather than offered. Recently issued orders for development of lands under FRA under NREGS in convergence with the Rubber Board of India, Coffee Board of India and Banks indicate substantial funding, before it is established whether local people actually want the specific options on their land;

- 1) Coffee and pepper development in Paderu- Rs. 350.00 crores.
- 2) Rubber plantations in R.C.Varam-Rs. 162.00 crores.
- 3) 'Land development and horticulture' in Adilabad-Rs. 160.00 crores; Rs. 128.00 crores for Bhadrachalam, Rs. 48.00 crores for Warangal, Rs. 28.00 crores for West Godavari.

Lastly, funding is now being allocated for the development of village forests now under re-asserted Forest Department control through the VSS rights to the forest department!

- 4) Forest department development of Vana Samrakshana Samithi (VSS) forests for tribals- Rs. 167.36 crores.

The total 'land development' budget is being implemented at an estimated cost of Rs.1043.36 crores (US\$230m) in lands given under FRA. It is paradoxical that the state seems to be seeking to control the use of lands for which it has transferred rights to local people. Many community groups are expressing concern that such an initiative may not increase household livelihood options, but rather force them to adopt plantations through again compromising their new rights and livelihood/food security. The contest between the state and forest peoples for control of forest landscapes seems destined to continue, albeit in changing forms.

6. CONCLUSIONS

The FRA, 2006 promises to be a pro-poor institutional reform, and indeed already many poor have benefited from its implementation. However the implementation process has not been pro-poor, and so the benefits to the poor have been restricted so far in a range of ways

Most forest dwelling families have been regarded as 'encroachers' on forest land. Forest Rights Act aimed at recognising poor people's pre-existing rights to forest land already occupied by them and access to forest produce for livelihood purposes. The forest rights act is a major breakthrough of enabling legislation, despite debate over the details, but its success, whether it will actually lead to

meaningful pro-poor institutional reform at the local level, stands or falls on whether it is successfully implemented.

There are several operational problems:

- The Act requires FRCs to be formed at the level of *hamlet level Gram Sabhas* in Scheduled Areas and *revenue village Gram Sabhas* elsewhere. However the government has been organising FRCs at *Gram Panchayat* level which includes multiple revenue villages and multiple hamlets
- There has been very poor FRC formation and awareness raising.
- Claims have been received through Panchayats rather than by Forest Rights Committees.
- The AP government has been focusing entirely on individual claims rather than community claims.
- Many claims were illegally rejected by forest officials during the verification at the initial stage, even prior to placing them before Gram Sabhas for their approval.
- Revenue lands, which many forest people cultivate without tenure are not eligible for rights redress under the FRA. The Revenue Department should conduct complimentary rights distribution in these areas.
- The AP government is reluctant to go ahead with implementation of the FRA in the Polavaram Project submergence areas and areas allocated for other development projects, in order to avoid future legal entitlement conflicts and payment of compensation to the forest land occupants despite this being a blatant violation of the Act. Section 4(5) of the Act bars the eviction of any forest land occupant till the process of recognition of their rights has been completed.
- Similarly, claimants from protected areas are being pressurised to relocate without recognition of their rights in violation of the Act.

There has been a lack of concerted coordination in the implementation of the FRA, it is feared that the pro-poor outcome envisaged by the Act may not be widely achieved. This would be due to a lack of coordination and transparency at the various levels, and the dominant role of Revenue and Forest Departments which have inhibited democratic FRA implementation. People's institutions like *Gram sabhas* and FRC have been reduced to a secondary position, and because of this people's genuine claims have not been properly heard.

POLICY RECOMMENDATIONS

Although this Act has good potential as a pro-poor measure, effective and transparent implementation is key. As an institutional reform FRA is certainly a laudable achievement, undoing the historical injustice done to communities in forested landscapes. But the spirit in which the FRA was passed will be lost if genuine implementation does not take place. It is here that civil society, political representatives and parties, and academia need to put pressure on policy makers and the concerned governments.

Implementation of the FRA will definitely impact communities in terms of livelihood security. Transparent and honest implementation limiting the scope for errors and abuse is urgently needed. Lack of commitment to FRA by the GoAP at state level is obstructing citizens in forest areas from accessing their rights, in a number of ways:

- Excessively rapid 'road maps' and emphasis on illegal 'cut off dates'.
- Sole focus on private rights.
- Promotion of APFD 'VSS' *ad hoc* groups to annex community rights from the actual community.

The Prime Minister has already declared that states are not implementing effectively, and must do so. GoAP is falling behind better performing states like Orissa, where the state administration has shown more commitment to a constructive process approach. An immediate change of State govt approach is needed, to embrace the following points:

1. Process oriented, non-time bound implementation approach
2. Involvement of NGO and civil society groups, (and not just tame compliant ones) in managing the process
3. Desistence of APFD from seeking to subvert and annex community rights through VSS ad-hoc and administrative groups
4. The key agencies such as (ITDA, IKP, MRO, MDO, MPDO, FD, and FRC) who are involved in implementation process strengthen their knowledge about the Act, and about GPS survey. FRC members should be trained to use GPS.
5. There is a need for vertical and horizontal coordination between various departments involved in FRA implementation.
6. There should be a citizen-centric approach in recognising rights, rather than Forest Department controlled.
7. Transparency, right of appeal and follow-up on rejected claims, from implementation to submission level: adequate awareness must be created about the claim process; transparency over reasons for rejection must be given, and rejected claimants must be permitted to exercise their right of appeal.
8. Land survey needs to be done in the presence of FRC members and claimants and FD staff illegally rejecting claims during verification must be penalised for violation of the law.
9. Boundaries of Forest and Revenue Departments must be clearly demarcated. Because of the disputes between the two departments claimants are currently not able to claim the land under FRA.
10. Claims verification must be shared with FRCs. Claims record should be maintained at all levels. Resolution of the claims must be stage wise (i.e. GS, SDLC, DLC, and SLC).
11. Implementing agencies must list community rights in all the villages and create awareness about claiming the community rights.
12. Regarding FRA, awareness must be created among PTGs (Primitive Tribal Groups) and other traditional forest dwellers because not many claims submitted by these people.
13. Community and individual rights need to be conferred even in Wildlife Sanctuaries, National Parks and Tiger Reserves as required by the Act.
14. Free and open consent is required in all the land development activities.
15. Tribal welfare machinery is to be set up to represent the forest-related issues of tribals before the adjudicating forums.

REFERENCES

- Andhra Pradesh Forest Department (2002) *Andhra Pradesh Community Forestry Management: Project Implementation Plan* (Hyderabad: APFD) <http://www.ap.nic.in/apforest/>
- AP NGO Committee on JFM (1998). *Joint Forest Management in Andhra Pradesh, Final Report..* (Hyderabad: AP NGOs Committee on JFM)
- Balagopal, K, (2007) *Land Unrest in Andhra Pradesh-III Illegal Acquisition in Tribal Areas*. EPW, October 6-12, P.4029.
- Borgoyary, Mamta (2002) *Impact of JFM on Encroachment of Forestland –Case Study of Five Selected VSS/FPC in Visakhapatnam, Andhra Pradesh*, (New Delhi: Resource Unit for Participatory Forestry (RUPFOR) Winrock International)
- Bose, Indranil 2010, *How did the Indian Forest Rights Act, 2006, emerge?* (IPPG Working Paper Series: University of Manchester)
- Burman, J.J. Roy (1990). "A Need for Reappraisal of Minor Forest Produce Policies." *The Indian Journal of Social Work*. 51 (4), 649-658.
- Census of India (2001) *Provisional Population Totals: Paper 1 of 2001*. (Hyderabad: Govt. of Andhra Pradesh Director of Census Operations).
- Centre for People's Forestry (2001) *Report on Stakeholder Consultations on Community Forest Management* (Hyderabad: CPF)
- Centre for Science and Environment (CSE) (2008) *Rich Lands Poor People: is Sustainable Mining Possible*. State of India's Environment: A Citizens' Report (6). (New Delhi: CSE)
- CESS (2002) *AP Situation Analysis and Literature Review: how to decentralise management over natural resources* (New Delhi: Ford Foundation).
- CESS (2008) *Andhra Pradesh Human Development Report 2007* (Hyderabad: Government of Andhra Pradesh & Centre for Economic and Social Studies)
- Cleghorn, H. 1964 *Forests and Gardens of South India* (London: H. Allen)
- Fernandes, W., N.G. D'Souza, A. Roy Choudhury and M. Asif. 2001. *Development-induced Displacement, Deprivation and Rehabilitation in Andhra Pradesh 1951–1995: A Quantitative and Qualitative Study of Its Extent and Nature*. (New Delhi: Indian Social Institute and Guwahati: North-eastern Social Research Centre)
- Forest Department, Government of Andhra Pradesh (2006) *AP Community Forest Management Project. Project Implementation Plan, Volume I*
- Forest Survey of India (FSI) (2009) *India State of Forest Report* (Dehra Dun: FSI) www.fsi.nic.in/sfr_2009.htm
- GoAP (1976). *Andhra Pradesh District Gazetteers – Mahbubnagar*. Rajagopal M.V. Ed. (Hyderabad, Govt. Of Andhra Pradesh).
- GoAP (2000). *Joint Forest Management: Forest Conservation with People's Participation - A Saga of Success Towards Swarna Andhra Pradesh*. (Hyderabad: Govt. of Andhra Pradesh).
- GoAP (2006) *Land Committee Report* (Hyderabad, Govt. of Andhra Pradesh)
- GoAP (2009) *Andhra Pradesh State Status Report on Implementation of RoFR Act* (Hyderabad: Govt. of Andhra Pradesh). www.aptribes.gov.in/RoFR31032009.pdf
- Godoy, Ricardo, Nicholas Brokaw, and David Wilkie (1995) *The effect of income on the extraction of non-timber tropical forest products: model, hypotheses, and preliminary findings from the Sumu Indians of Nicaragua*. *Human Ecology* 23(1): 29-52.
- Gogia, S. P: (2002) '*Andhra Pradesh Forest Laws*' (Hyderabad: Asia Law House).
- Government of Madras (1871) Board of Revenue Proceedings, June.

- Guha, R. (2001) 'The prehistory of community forestry in India', *Environmental History*, Vol. 6, pp. 213-238.
- Gujja, Biksham, Ramkrishna Sangem, Vinod Goud (ed.s) (2006) *Perspectives on Polavaram, A major irrigation project on Godavari* (Delhi: Academic Press:)
- Haimendorf, Christoph Von Furer (1985) *Tribes of India - The Struggle for Survival*. (New Delhi: Oxford University Press).
- Harriss, John (2006), *Notes on a Historical Institutional Approach to the IPG Agenda* (IPPG Discussion Paper Series, Number One, April, www.ippg.org.uk)
- Hegde, R., S. Suryaprakash, L. Achoth, and K. S. Bawa (1996) *Extraction of non-timber forest products in the forests of Biligiri Rangan Hills, India: contribution to rural income*. *Economic Botany* 50(3): 243-251.
- Jodha, N.S. (1992) *Common property resources. a missing dimension of development strategies*. (Washington, DC: World Bank Discussion Papers 169).
- Laxman Rao. S, Priya Deshingkar, John Farrington (2006) *Tribal Land Alienation in Andhra Pradesh Processes, Impacts and Policy Concerns*. EPW, Vol XLI, No (52), December 30, 2006
- Mukherjee, SD (2004) *Boddugunda VSS: Case Study 10'* in Mukherjee, S D et al. (Ed) *From Policy to Practice: A Study on Joint Forest Management in Andhra Pradesh* (Telangana Region). (Hyderabad: Swiss Agency for Development and Cooperation (SDC) Inter Cooperation (IC))
- Murali and Rao (1992) '*Tribal Agricultural Labour: An Enquiry into the De-peasantisation Process*' in Buddhadeb Chaudhuri (ed) *Tribal Transformation in India*, Vol 1, (New Delhi: Inter-India Publications
- Raman Rao A.V., 1958 *Economic Development of Andhra Pradesh:1766-1957* (Bombay: Popular Prakashan).
- Ramaswamy. K, Saghira Ahmad, GB Pattanaik (1997) *Samatha Vs State of Andhra Pradesh judgment* 11.07.1997 (Hyderabad: AP High Court)
- Rangachari C.S. & Mukherji S.D. (2000). *A Study of Joint Forest Management in Andhra Pradesh, India - Old Roots New Shoots*. (Delhi: Winrock International-Ford Foundation Series)
- Rao, Raghunath (1992) *Adhunika Andhra Desa Chititra*, (Telugu) (Hyderabad: Prajasakti).
- Rao, P. Trinadha (1996) *Policy in the Wilderness-a glimpse in to tribal life and governance in agency areas "Displaced Tribals 'Plight p. 47*, (Hyderabad: CARPED Publications).
- Rao, P. Trinadha (2007) *Persisting alienation of tribal lands* in Thomas Pallithanam (Ed) *Rekindling Hope Access, Retention and Development of Land A Dalit Perspective* Andhra Pradesh Social Watch Report 2007 (Hyderabad: Dalit Bahujan Shramik Union, Andhra Pradesh Social Watch)
- Reddy, M. Gopinath and Madhu Sudan Bandi 2004 *Participatory Governance and Institutional Innovation: A Case of Andhra Pradesh Forestry Project (JFM).?* Presented at the Tenth Conference of the International Association for the Study of Common Property, Oaxaca, Mexico, August 9-13, 2004.
- Reddy, M. Gopinath, K Anil Kumar, P Trinadha Rao and Oliver Springate-Baginski (2010) *The Making of Andhra's Forest Underclass: An Historical Institutional Analysis of Forest Rights Deprivations*, IPPG Discussion Paper Series, Number Forty Two, (Manchester: University of Manchester)
- Reddy, M.P.R. 1979 *Peasant and State in Modern Andhra History* (Kavali: Cilo Books)
- Reddy, Ratna V et al (2004) *Participatory Forest Management in Andhra Pradesh: A Review of Policies and Implementation*, Working Paper No 4, Center for Economic and Social Studies (Hyderabad) and Overseas Development Group (UK).

- Reddy, Redappa. V, G Sreedhar, K. Bhaskar, C Sudhakar, K Govindappa and M Muninarayanappa (2000) '*Impact Assessment Study of Joint Forest Management in Anantapur District*', (Anantapur: The Department of Rural Development and Social Work, Sri Krishnadevaraya University)
- Reddy, V. Ratna, M. Gopinath Reddy, Velayutham Saravanan, Madhuusudana Bandi, Oliver Springate-Baginski (2004) *Participatory Forest Management in Andhra Pradesh: A Review* (Hyderabad: CESS)
- Roy, Apia (2001) 'Joint Forest Management-Vital issues', Kurukshetra journal August
- Samata (2007) *Problems related to tribal people in Andhra Pradesh a Report to the Scheduled Areas and the Scheduled Tribes Commission* (Hyderabad: www.samataindia.org/documents/triballandproblems.PDF)
- Samatha (2005), *Andhra Pradesh Community Forest Management Project: A Preliminary Independent Evaluation of a World Bank Forestry Project*, (Hyderabad: Samata)
- Sarin, Madhu with Oliver Springate-Baginski 2010 India's Forest Rights Act -The anatomy of a necessary but not sufficient institutional reform (IPPG Working Paper: University of Manchester)
- Sastri, KAN 1956 History of South India (Delhi: OUP)
- Subramanyam, V. (2003): *Ecology, Technology and Resources Management Among the Tribes of Eastern Ghats: An Anthropological Study*. Paper presented at a Conference on Livelihood Strategies among Forest Related Tribal Groups of South India, Mysore, October, 17-19.
- Sunder, Nandini and Roger Jeffery (1999) *Introduction* in Roger Jeffery and Nandini Sunder (eds) '*A New Moral Economy for India's Forests? - Discourses of Community and Participation*', (New Delhi: Sage Publications)
- Suryakumari, D (2001) *Involvement of Women in Joint Forest Management (JFM) in Andhra Pradesh State-Grass Roots Concern*', in Energia News Vol.4, Issue 2 July, 3830 Ableusden, Netherland
- Suryakumari, D, K Bhavana Rao and C Vasu (2008) *Establishing Linkages with Other Players Towards Sustainable Livelihoods in Community Forestry Initiatives - The CPF Experience* (Hyderabad: Centre for People's Forestry)
- Tewari, D.N. (1989). *Dependence of Tribals on Forests*. (Ahmedabad, Gujarat Vidyapith)
- Thaha, A. (2000) *Forest Policy and Ecological Change in Nizam's State 1867-1948*, Unpublished thesis submitted to University of Hyderabad.
- Tribal Cultural Research and Training Institute (TCR&TI) (2008) *Basic Statistics on Scheduled Tribes of Andhra Pradesh* (Hyderabad: (TCR&TI) Tribal Welfare Department, Government of Andhra Pradesh)
- Tribal Welfare Department (TWD) 2007 *Recommendations of State Level Tripartite Committee Meeting - Constitution of District Level , Municipal Level & Mandal Level TSP Monitoring Committees* (Hyderabad: TWD) www.aptribes.gov.in
- UNDP (2007) AP Human Development Report (UNDP; Delhi)
- Yojana (2008) *Forest Rights: Salient Features of the Act, Fact File* (September Issue)

LOCAL TERMS

<i>'1/70' Act</i>	A.P. Scheduled Area Land Transfer Regulation 1 of 70. A law prohibiting transfer of lands between tribal and non tribal as well as between non tribals in the Scheduled areas of Andhra Pradesh (i.e. areas predominantly populated by tribal groups recognised in Schedule 5 of the Constitution)
<i>Ghat</i>	Hill
<i>Grama Sabha</i>	Village assembly
<i>Korralu, Samalu</i>	Small millets – food grains
<i>Mandal</i>	Territorial and administrative unit between the village and district levels
<i>Naxalite</i>	Militant left-wing group
<i>Panchayat</i>	Lowest unit of local self government
<i>Pappulu</i>	Pulses
<i>Patta</i>	Deed of ownership
<i>Podu</i>	Traditional long fallows forest cultivation. Fallows allow the soil fertility to recover in hill areas where <i>podu</i> is practiced, although in recent years, mainly due to tenure insecurity fallows periods have reduced, and <i>podu</i> has often become sedentary cultivation in forest landscapes
<i>Samities</i>	Committees
<i>Sangham</i>	Association
<i>Sarpanch</i>	Head of a Panchayat or village headman
<i>Usiri</i>	<i>Amla</i> : the wild fruit or a small shrub.
<i>Vari</i>	Paddy

Note:

Telangana, Coastal Andhra, and Rayalaseema are the three regions of Andhra Pradesh

The term 'forest people' is used here to connote people living in forested landscapes. This includes both non-tribal forest adjacent and forest dwelling communities. It must be recognised that any such term may be problematic – the inclusion or exclusion of groups within the term tribal is equally difficult as scheduling has excluded many groups. Scheduled Tribe is a constitutional term. The word Tribal is mostly used by government, whereas 'indigenous' is the internationally understood term. However the state contests the application of the term 'indigenous people' to the countries Scheduled Tribes.