Issues Related to Implementation of the Forest Rights Act in Andhra Pradesh

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 has been passed by Parliament to address the injustice done to tribal and adivasi communities and other forest dwellers. It confers legal entitlements on the lands they were cultivating for centuries. This paper looks at various issues with regard to implementation of the Act in the state of Andhra Pradesh. It investigates why the Act emerged in relation to AP. It also reviews the range of forest rights deprivations and how they came about. The authors consider the likely livelihood impact of such a pro-poor institutional reform on the people of the state.

Andhra Pradesh (AP) is the fifth largest state in India, both in terms of geographical area (2,75,069 square kilometres) as well as in terms of population. AP had a population of 75.73 million in 2001, of which 55.22 million were rural, and 10.67 million people lived within forested landscapes; many of these may be considered “forest people”. An estimated five million were indigenous or tribal people. AP contains extensive forest landscapes, and has the third largest forest cover among the states in India (Forest Survey of India 2009). A long-term historical process of the state extinguishing forest people’s rights and expropriating them has led to severe livelihood insecurity and poverty.

The forested landscapes contain the highest concentrations of poverty. The relationship between the state and the forest people has been conflicted for at least a century, as the colonial state and the Nizam’s client state sought to take over control of the forests and delegitimise forest people’s use of the forests. After Independence, though these people became citizens, the conflictual relations continued, and indeed have been the root of much civil strife and insurgency across forested areas to this day.

The Forest Rights Act (henceforth FRA) was passed by India’s Parliament in 2006, finally recognising, 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:

1. [F]orest rights on ancestral lands and their habitat were not adequately recognised in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice.

The Act provides the legislative basis for redressing this injustice, and so has major implications across states, promising a more secure basis for forest people’s livelihoods. However, is it realistic to expect after more than a century of state oppression of the forest people, that the relationship can be reversed at a stroke of the legislative pen? Particularly given that the forestry establishment of the colonial regime 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 people 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.
A Historical Institutional Approach

Institutional theory tells us that social, political and economic institutions, both formal and informal, not only shape behaviour and opportunities, but also define rights and distribute power. They therefore have major implications for poverty and its alleviation. Historical institutionalists (such as Harriss 2006; Sanders 2006) hypothesise that institutions (i.e., “the rules of the game” by North’s (1990) definition) are inevitably framed in the context of power relations, and hence, institutional formation and change is essentially a political process which has far-reaching economic implications. Historical institutionalists take a politically realistic approach to the link between the authorship and distributional outcomes of institutional reforms. Those with the power to prevail in negotiations can organise institutions best suited to their interests and can ensure they endure, even if this leads to divisive or dysfunctional outcomes for wider society or particular sections of it.

This approach commonly applies two central analytical concepts – critical junctures and path dependency. The idea of “critical junctures” suggests that there are moments (“junctures”, similar to the concept of bifurcation points in the natural sciences) when sharp institutional changes can be made. At these points, contestation and power struggles play a critical determining role. Obvious examples of this are wars, colonial annexations, revolutions, coups d’état, and so on. Of course, the extent of criticalness can clearly vary greatly, as can the mix of precipitating causes, which may be due to environmental, political, or economic crises and may be internal to a polity/economy, or brought about by external events.

Fundamental changes in property and tenure regimes are good examples of a “critical juncture”. In terms of forest tenures, we will see how the colonial concern to secure sustainable timber supplies led, in the mid-19th century, to the creation of forest bureaucracies and legal provisions to create a national forest estate. This may be seen as the key “critical juncture” in India’s, and specifically AP’s, forest landscapes.

Explaining why this is the case brings us to the second and complementary key idea which historical institutionalists use, that of “path dependency”. This alludes to the pattern by which a consolidated institution becomes very hard to change so that once it is established it has a profound proclivity to remain in place even when regimes change. The sharp historical institutionalist in political science would recognise two aspects of this institutional “stickiness”. First, an institution is often embedded in a network of associated and complementary institutions (formal and informal). It is hard to change one without having effective change in others; moreover, there will be a culture of familiarity with a particular institutional network. Also, there may be strong ideological/political attachments to an institution and what it represents. Second, underpinning the resistance to change and hence sustaining the path dependency are questions of incumbent power and politics. Power is involved because there will be deep vested interests committed to defending the institutions (“an organisation’s biggest output is itself”, to paraphrase Stafford Beer’s 1995 paper); politics is implicated because there may be wider electoral considerations which governments do not want to threaten.

So, in historical institutional analysis, critical juncture and path dependency stand in tension with each other. There may be critical junctures with a political regime coming to power or major reform, such that there is room for manoeuvre. But these attempts at change may be thwarted by path dependent factors, power relations and resistance or diversion by bureaucracies and interest groups. In federal structures like India, a critical juncture which gives rise to new policy or legislation will have very different implementation effects across different states, due to the diversity of local institutional arrangements.

This study applies this historical institutional approach to help make sense of the complex historical processes and contemporary contestation over institutions relating to forest rights in the Indian context.

Research Questions and Methods

This study seeks to understand the extent to which the FRA 2006 can be considered a pro-poor institutional reform for AP. The study focuses on four key research questions in relation to AP:
• Why and how did the FRA emerge, in the context of the origins and extent of the underlying rights deprivation?
• Do the FRA’s provisions adequately cover the range of forest rights deprivation in AP?
• Does implementation of the FRA actually result in meaningful and pro-poor institutional reforms at the local level?
• Will the FRA lead to poverty alleviation and pro-poor growth, and if so, how?

In order to answer these questions, we conducted extensive primary research at the field level. This was complemented at the outset by state and district-level reviews, by interviews and discussions with key stakeholders – concerned officials, non-governmental organisations (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 on to primary data collection through field surveys at selected study sites using group meetings, as well as household and village questionnaires. Geographical Positioning Systems (GPS) were used to identify and map village locations. We selected six villages across five districts of AP to reflect the range of different local conditions and institutional arrangements in the state relating to forest rights deprivations. The factors we sought to cover in village selection were as follows:
• The three different agro-ecological regions (Telangana, Rayalaseema and Coastal Andhra), with their different administrative histories (i.e., the Nizam state in Telangana, Madras Presidency in Coastal Andhra and Rayalaseema).
• The different contemporary administrative patterns affecting forest people, especially:
  (1) Scheduled areas, districts where tribal populations are predominant and falling under the Constitution’s Fifth Schedule for specific administrative protections. This applies mainly to the northern tribal belt.
  (2) Tribal “sub-plan” areas, where tribals are not predominant in the district overall and therefore sub-plans are provided for these groups.
(3) Non-scheduled plains areas, mainly in Rayalaseema to the south.

- Variations in type of forest, nature of forest dependency, and social composition.
- The main forms of rights deprivation in each of the regions.

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

Within these districts, six panchayats were selected, based mainly on how they reflected forest rights deprivation scenarios. Within each panchayat, one village was selected randomly – Cheruvuvuda, Pamuluru, Panasanapalem, Koruturu, Goppulapalem and Nagalutry. Research was conducted across these villages between early 2008 and mid-2009, using a range of triangulated data collection methods and they were revisited in early 2010.

**FRA Coverage**

The FRA was the result of an intensely contested drafting process (Bose 2010). The subsequent implementation of rules to bring 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. It thus promises to redress the main rights deprivations listed above.

In all our study villages, the local people eagerly anticipated that under the FRA, they could receive private land titles or pattas to the land they presently are cultivating without titles. Private land is not the only rights issue that the 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, the local people have the right to their common resources, and are hoping to secure these rights through its implementation.

The Act, however is not a panacea. It is constrained in the extent to which it can redress rights deprivations. The specific wording of the Act leads to indeterminacy over how far it provides for such redressal. Furthermore, its provisions are limited in some significant ways.

First, the rights ensured under the Act remain subject to the state's eminent domain in acquisition of lands in the name of development projects (as is true of any land rights, although acquisition has been a particular problem in upland areas).

Second, the forest land titles assured under the Act are inalienable, and as such, the titles granted to the claimants contain no absolute and alienable right over the property. Private titles awarded under the forest settlement rules of the AP Forest Act created absolute title over the forest lands under occupation by claimants during the forest reservation process. Titles granted under the FRA are not creating ownership over lands in the same way.

Third, although the private rights to be granted are heritable under Section 4 clause (4), there is no provision to promote gender equity in inheritance. The FRA ensures joint title in the name of spouses in case of married persons. In the case of a single head, 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 Act nor the Indian Succession Act is applicable to the scheduled tribes (srs) in view of specific bars under the said laws. Only customary law is applicable for tribal communities in succession of properties, and in most tribal communities, customary law ensures patrilineal succession. These customary laws exclude tribal women from claiming a share in 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 or control over the land. Section 4(3) of the act gives eligibility for forest rights to srs and other traditional forest dwellers if they had occupied the forest land before the 13 December 2005. However, Section 4(6) restrains the claimant from 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 or nearly 10 acres. But tribals typically shift their cultivation plots from place to place over time to allow fallows.

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

Finally, the rules made under the Act, specifically Rule 11, fix a three-month period for filing claims. Although Rule 14 enables the aggrieved party to file appeals against the resolutions passed by committees at various levels within a limited period of 60 days, the law is silent about the communication of the decision of such bodies to these parties.

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

**FRA Implementation in AP**

This section considers the processes through which the nationally mandated institutional reform of forest rights is being implemented in AP, and the extent to which the letter and spirit of the Act is being realised at the local level and whether the anticipated rights' redress is actually occurring.

At the state level, there has been a rapid and apparently efficient response – very soon after the Act came into force on 1 January 2008, the AP government distinguished itself as one of the quickest to start FRA implementation. Table 1 (p 76) summarises the state-level process. Early in January 2008, the AP Chief Minister, Y S Rajasekhara Reddy, requested the coordinating principal secretary of the tribal welfare department to develop an implementation road map, in consultation with the forest department and the collectors. This was rapidly issued later in January. The plan originally required that title deeds be issued as improbably early as within 10 months by 30 October 2008, which to most observers familiar with the complexity of the issues involved seemed an absurdly brief period. This unrealistically rapid schedule required gram sabhas to be convened for forest
rights committees (FRCS) formed before 29 February 2008. Claims were to be received by 31 May 2008.

Table 1: Summary Timeline of FRA-Related Developments

<table>
<thead>
<tr>
<th>Date</th>
<th>Action</th>
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<tbody>
<tr>
<td>31 December 2006</td>
<td>Passing of FRA by Indian Parliament</td>
</tr>
<tr>
<td>1 January-31 December 2007</td>
<td>Interim period while rules were drafted</td>
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<tr>
<td>1 January 2008</td>
<td>Passing of rules leading to enactment of FRA</td>
</tr>
<tr>
<td>January 2008</td>
<td>AP government plan/road map for FRA implementation issued</td>
</tr>
<tr>
<td>March 2008</td>
<td>AP government orders to district magistrates to commence gram sabha meetings to form FRCS</td>
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<tr>
<td>13 August 2008</td>
<td>Government order misinterprets the term “community” to allow AP forest department Joint Forest Management (JFM) committees to usurp community lands under FRA</td>
</tr>
<tr>
<td>21 October 2008</td>
<td>AP chief minister reviews progress at a district collectors’ conference. Only 700-800 of estimated 5,000 forest villages mobilised</td>
</tr>
<tr>
<td>February 2009</td>
<td>Interim order of the high court to proceed with FRA implementation</td>
</tr>
<tr>
<td>1 May 2009</td>
<td>AP High Court accepts state government’s move to complete implementation and issue final title for rights</td>
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</table>

The plan focused only on private land rights; common property issues were 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 road map inevitably slipped as time passed, particularly reflected in the fact that the necessary claim forms did not reach many villages. By the 30 October 2008 deadline, mobilisation for FRA implementation had taken place only in 700 to 800 villages of an estimated 5,000 forest villages.

The overly hasty “command and control” implementation approach raises serious concerns. The hasty schedule offers only a minimal window of opportunity for rights redressal, and creates a sudden cut-off date beyond which redressal is impossible. Clarifying 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, rights-deprived citizens will miss their opportunity if compiling of claims takes more than a minimal period. Complete and proper implementation of the FRA inevitably demands a detailed and probably lengthy process of assessment. A hasty schedule at the time of the original forest settlements was the cause of considerable rights deprivation. Hasty road maps inevitably compound problems by cutting corners, as seen in the study villages. Whether a rapid disposal of the problem was the intent, or whether the complexity was not understood, is unclear.

Implications of FRA Rules

The FRA national rules oblige the state to create four tiers of committees to oversee implementation – state, district, sub-divisional level committees and habitation-level FRCS. The first three could be rapidly formed with administrators. In March 2008, the AP government issued administrative orders to the district magistrates to commence gram sabha meetings to form the lowest, fourth level FRCS.

According to the rules, the gram sabha meeting should be held at the hamlet or habitation level. However, this rule has been bypassed by the government of AP. Unlike in other states, under the AP Panchayat Raj Act, a “village” has been interpreted to mean an administrative village, a cluster of hamlets, i.e., a gram panchayat rather than the hamlet itself.3

Thus, in AP, the gram sabha equates with the gram panchayat, and as such, the FRA formation meetings have been held at the gram panchayat level, which typically encompasses many hamlets. This has been a very serious problem for FRA implementation. While it may be more convenient 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, villagers were not properly informed about the FRA process, and many could not properly file their claims. Despite the problems, the initial formation of FRCS went ahead, initiating the local-level process of awareness-raising, calling for and processing claims.

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 vested interests 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. First, over 2007-08, several writ petitions were filed in the high courts of several states, including AP, against the implementation of the Act on the grounds that this will lead to “degeneration” of the forest, and that people may misuse the Act. These somewhat desperate petitions were filed by retired forestry public servants, 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, 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 the final rights titles. The petition was transferred to the Supreme Court, although the prospects for a sympathetic hearing seem to be receding.

These legal contests created confusion among the local people, as well as in the implementing machinery. As of February 2009, the interim order of the high court led to general apathy among government officials, who widely interpreted the order as a stay order, when it was not one. Individual claims were mostly filed, though the FRCS was constituted mainly at the panchayat level. The AP High Court order of 1 May 2009, stating that the authorities are permitted to issue certificate of title to eligible dwelling STs and other traditional forest dwellers. It further held that the grant of such certificates would be subject to the result in the main writ proceedings challenging the legislation and also subject to the objections pointed out by the petitioners during the enquiry.3

A second effort on the part of the AP forest department to obstruct the full implementation of the Act, and one of the most serious breaches of the FRA by any state, came when the AP
government issued an administrative order Ms 162, dated 13 August 2008, to reinterpret the FRA provisions for community rights, in order to appropriate these rights for forest department local bodies, rather than the actual village community. The order enabled the Vana Samraksha Samithi (VSS) ad hoc administrative bodies under the control of the forest department, created to implement Joint Forest Management (JFM) schemes, to claim community rights. In doing so, the government wilfully misinterpreted the Act’s meaning of community. The VSS is not a community, but a selected committee constituted for project implementation.

The government order 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 this was eroded in a further government order. AP’s Environment, Forests, Science and Technology Department clarified that individuals cannot get rights in VSS areas as the claimants were not in possession of the land as on the cut-off dates of 13 December 2005 and 31 December 2007, as per the FRA.5

The implication of this government order can be observed in Adilabad district where 34 VSS have already been given community rights over the forest lands of 2,66,000 acres under the FRA.

Third, it is apparent that forest department staff have influenced the local processes of according rights in order to minimise redress, as we see in the next section.

Local-Level Implementation

The field staff of the Integrated Tribal Development Agency (ITDA), the nodal implementing agency, together sought to facilitate five stages of implementation:

(i) The initial gram sabha meeting and formation of FRC.
(ii) FRC awareness-raising and training.
(iii) Distribution of claim forms and receipt of submitted claims.
(iv) Verification of claims.
(v) Final issuing of titles.

It is difficult to ascertain just how many villages were covered by the local implementation process, but it seems at the time of writing that many tribal villages were not covered at all, although the most remote villages of all were most liable to be left out, as with the faulty forest settlements the FRA is supposed to correct.

As mentioned above, early reports from the AP government’s department of tribal welfare stated that of an estimated 5,000 villages, they could only mobilise 700-800. Undoubtedly this figure has increased with time, but it may be reasonably estimated, in the glaring absence of official figures, that perhaps 50-60% of the eligible settlements have not yet been included in the FRC formation process. Lack of information and transparency over this issue is a major problem with the implementation of the Act.

Initial Gram Sabha Meeting to Form FRCs

The first step at local level was to hold local gram sabha meetings to elect FRCs. The actual formal notifications from officials that they were to conduct gram sabha meetings for forming FRCs were received in our study sites at most only two days before the actual meeting date, and in some cases, only a day before; in several surrounding villages, local people told us that they were not even informed until the day of the meeting. Due to this short notice, many meetings were poorly attended and people were unclear about the purpose.

The holding of meetings at the inappropriate level has also been a serious problem. Gram sabha hamlet-level meetings as prescribed under the FRA were held at the panchayat administrative level, for several hamlets together. This process not only undermines the democratic rights of the members of the gram sabha, but also makes it impractical for many members of the gram sabha to attend and participate due to the distance. Particularly in the scheduled areas, the tribal habitations are situated far from village administrative centres, sometimes as much as 15 to 20 kilometres from gram panchayat headquarters. Nevertheless, in all our sample villages, gram sabhas were organised at the panchayat level, instead of at the hamlet level.

A third grave contravention was that whilst the rules direct that the gram sabha shall elect the FRC, in one-third of our study villages, the FRC members were selected by the officials, not elected, and elected in some cases by officials even without the knowledge of the local community, and in some cases even without the knowledge of those selected! Although this was not the case at our sites, there are many reports that in some FRCs, non-tribal representation is greater than that of the tribals, and that in many areas, ruling party and powerful sarpanches and village heads have become FRC chairpersons.

Thus villagers were hardly notified before government officials moved in to form FRCs. So when the government staff did arrive, the people had no idea about what was happening, other than the fact that government officials had entered their villages. In Panasnapalem village, the public servants behaved in an arrogant manner, warning the villagers that they would not get pattas if they did not form FRCs as instructed. However, local dissent towards this misimplementation has not been tolerated.

Despite the shortcomings of the process, FRCs have been formed across the eight districts of the state that fall within the scheduled areas,6 as well as in some non-scheduled districts. With the three grave problems outlined above, we can reasonably conclude that the initial FRC formation process was severely flawed in terms of inclusion and quality, due to both bureaucratic expediency and deliberate avoidance of devolution of power to the local government (Table 2, p 78).

FRC Training and Community Awareness Raising

After the FRCs were created, both committee training and community awareness raising programmes were conducted. For FRC members, specific training programmes were organised at mandal and ITDA levels to improve understanding of the implementation process, and to impart specific skills for filing claims, 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.
Moreover, the training was completed in one day at the mandal level, so there was little time to go into detail.

Many of the FRC members ended up not knowing their duties and responsibilities and so could not create awareness among the wider communities. Furthermore, for these severely deprived groups, a day away from work entailed a high cost and yet, travel and food allowances were not provided.

For the general village population, broad awareness-raising activities were conducted, although the extent of these activities was highly variable. In our study villages, the government staff, along with some NGOs, such as, Laya Human Rights in Pamuleru and Koruturu and Gondwana in Cheruvuguda village, organised:

- Mass awareness raising through poster display in all six villages.
- Performance-based cultural programmes or Kalajathas in two villages, Pamuleru and Nagaluty.
- Awareness-raising meetings in two villages, Pamuleru and Koruturu to create awareness regarding FRA provisions and about individual and community rights among village communities.

The outcome of these awareness-raising efforts has been mixed, and generally constrained. The key problem seems to have been the quality. The extent of the training has been too limited, and superficial in most areas.

Self-perceived awareness levels regarding the FRA in the study communities vary greatly, ranging from totally “unaware” to a “thorough understanding”. 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 villages, the people were not aware about community rights issues. In the other half (Panasanapalem, Koruturu and Nagaluty), despite official awareness programmes, most people were still very unclear about the FRA and its provisions.

Thus, a communication gap between the officials and the local people was evident across the study sites, and this seems to be reflected across the state. In many areas, even the officials were not aware about the Act and they were interpreting it in their own way. At senior levels, there was either an apparent lack of understanding, or a deliberate misinterpretation of the principles of the FRA. This is reflected in the fact that community rights have not been addressed properly either in FRC training or in awareness raising. For instance, in Adilabad district, the para-legal coordinator did not have much idea about the community rights claims. The local NGOs and community workers have generally not 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.

### Submitting Claims

Having formed FRCs and raised awareness, at least to some extent, the next stage was for the local people to actually make claims. There are two claims processes – individual (A forms) and collective (B forms). In the beginning of the implementation programme, claims being made were mostly individual with less attention to community rights. However, the collective rights issue also gradually gathered pace as understanding increased.

### 1 Individual Claims

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

<table>
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<th>Table 2: FRC Formation Meeting at Study Villages</th>
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<tr>
<td>Study Village</td>
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<tr>
<td>----------------</td>
</tr>
<tr>
<td>AP1 Cheruvuguda</td>
</tr>
<tr>
<td>AP2 Goppulapalem</td>
</tr>
<tr>
<td>AP3 Pamuleru</td>
</tr>
<tr>
<td>AP4 Panasanapalem</td>
</tr>
<tr>
<td>AP5 Koruturu</td>
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<td>AP6 Nagaluty</td>
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In addition to the ITDA, the other organisations are the state supported programme Indira Kranthi Patham (IKP), the Mandal Revenue Officer (MRO), the Mandal Development Officer (MDO) and the Village Tribal Development Agency (VTDA).

Source: Field ITDA officials and FRC members.
were not distributed in Koruturu and Panasanapalem villages because the land comes under the revenue department area; the villagers did not get the opportunity to claim that land according to FRA provisions.

The completion of a claim requires gathering of supporting evidence and documentation. Claims are then to be verified on the ground by the FRC. The local people complained that the month allowed for completion was inadequate, considering the requirements. Also in most areas, the land survey was conducted with the help of the project staff. The low level of local people's understanding, due to poor training, resulted in serious problems at this stage. Many eligible claimants lacked adequate knowledge about the Act and the rules, and could not assess their eligibility and the process for claims. Many eligible claimants also did not claim due to a perception that they lacked adequate evidence. Furthermore, many eligible claimants also lacked information about the dates of the gram sabha meetings and the cut-off dates for submitting the claim forms. A particular problem which many eligible claimants encountered was obtaining caste certificates, as many had no patta lands, but only customary rights on the land under their possession. In such cases, there was confusion over who would issue the caste certificate.

In order to address the difficulties in the claims process, a support role of social mobiliser was allocated to each village, deputed from the IJP project. These worked in conjunction with FRC members and the VTDAS to help prospective claimants complete their claim forms and find evidence such as, documentation and statement of elders other than claimants. We found their conduct to be generally fair and impartial at this stage.

In all, 275 individual claims were submitted in five of the six villages. In most villages, receipts were given for claims, although in some non-study villages, it was reported that this was not happening. In four of our six villages, over 80% of the households filed claims. In the remaining two villages, private claims could not be made under the FRA as they were revenue land and not forest land. For those for which we have data, the mean size of claims ranges from just 1.63 acres to 6.63 acres.

The overall picture is surprisingly positive. Private claims have been made across the majority of the villages for reasonable plots of land. This is understandable because there has been high focus and attention on private claims, at the cost of diversion of attention away from community claims.

2 Community Claims

Mainly due to the lack of awareness, in many settlements, community claim forms (form B) were either not distributed, or distributed but not used. Initially, no claim forms were issued for community rights; this was explained to be due to a shortage of claim B forms, even though only one form is needed per hamlet. However, the prevailing lack of awareness about community claims means that in many places, individual claims are being submitted. In two study villages, Goppulapalem and Nagalutty, community claims were not submitted simply because villagers were not aware about the possibility of community claims. And in many cases where community claims were made, the people were told to simply tick those rights that they wished to claim, but without proper corroboration, this practice led to their rejection.

However, awareness spread gradually, following mobilisation by grass-roots 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 seven community claims have been submitted across four of the six 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 areas, the claimants applied for their individual entitlements and not for community rights like grazing lands, pathways, burial grounds, temples, rivers and streams.

The process of recognition of community rights has incidentally led to rediscovery of many community lands that were illegally seized by the forest department. In some areas, as in the case of Orient Cement in a village in Adilabad, this contributed to helping people resist handover of their common lands to private companies.

Community claims are now being sent directly to the sub-divisional level committees (SDLCs). Although district collectors and RTDA officers have now agreed to accept claims for community rights, no facilitation for these is being provided by the government. Tracking the claim application process is difficult because of weak record keeping. In many places, there is a lack of transparency at the village level about claims received and sent to the next level.

Verification of Collective Claims

Community claims are submitted by the gram sabha itself to the SDLC, and the second and third verification stages are followed as with individual claims above.

Some communities, such as Cheruvuguda have however become aware of collective rights and made applications. But even communities that submitted collective claims find them pending with the SDLCs, due to lack of evidence.

Girijan Cooperative Corporation (GCC), a state-owned agency in AP, has obstructed tribals from taking away their non-timber forest produce (hill brooms) from the forests in the scheduled areas of East Godavari district. In response, the community mobilised on this issue and submitted a memorandum to the concerned officials under the FRA.

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 did not make it clear to the villagers that the gram sabhas can extend the claims period of three months.

The authorities are reluctant to entertain the claim forms after the period prescribed by the government. This is a distortion of the FRA. The gram sabha is the authority to receive the claim forms, and if the gram sabha decides that the forest rights recognition process is not complete, it can extend the cut-off date by passing a resolution, noting down the reasons for extension.
The forest department has been interfering with the community claims process in a number of ways.

In the Gudem area of Visakhapatnam district, the forest department has not been permitting the filing of any claims on the grounds that no survey of forest land had been done under the AP Forest Act 1967, and no final notification for that have been issued to date. However, the villagers have rejected this premise saying that there is no link between notification of the land and people's right to file claims under the FRA. Similarly, claims were not being entertained for the land to be submersed by the Polavaram dam or allocated for other development purposes.

In protected areas as well, the process of claiming rights is continuing. But due to the lack of organisation, for instance, among the Chenchus in Srisailam Tiger Reserve, there are efforts to illegally relocate them.

Overall, we can conclude that because of the shortcomings in the process, claims so far have been a small fraction of the total rights deprivation. There have also been some cases of abuse of the process. However, due to lack of records, it is hard to gather an overall picture of the extent of the total rights deprivation. There have been limited applications for community rights (like grazing lands, path ways, burial grounds, temples, rivers and streams). This is largely because the training has not raised awareness of the collective rights provisions in the Act. In most places, local community-oriented NGOs were not involved in the process, and so were unable to provide the services needed to help the communities claim their rights according to the requirements.

**VSS Usurpation**

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

On the surface, AP has also issued an impressive 2,276 community certificates of titles (presumably meaning titles for community rights) for a total area of 7,84,949 acres. Information obtained under the right to information (RTI) about the details of these community claims, however, has revealed that the majority of community forest rights which have been approved are claims filed by JFM committees, i.e., the VSS 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 community forest resources for sustainable use will be illegally deprived of their statutory rights under the Act while the forest department will retain control over the JFM committees 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 organised a protest against this abuse of the FRA in Adilabad and the villagers are planning to file fresh claims for community forest resource rights. Herding and grazer communities have been struggling to file claims for seasonal grazing rights which continue to be ignored.

**FRA Implementation Status**

The claim-filing process is believed to be almost complete as of by the end of August 2009 in Adilabad, Visakhapatnam, East Godavari, West Godavari and Kurnool districts of AP. The pattern of problems with the process that we have described has been prevalent across the state, testified by a range of newspaper reports and local studies.

As on 30 April 2010, individual claims numbering 3,22,955, covering an extent of 9,49,518 acres, were received. A further 6,903 community claims, covering an extent of 10,12,844 acres, were also received. Of the total 3,29,858 (19,62,362 acres) claims received, 45% (1,49,665) were rejected due to various reasons. The remaining 55% of the claims, numbering 1,63,108 and covering an extent of 14,08,654 acres, were distributed. Out of total titles distributed, 1,978 community claims certificates were issued for an extent of 9,48,749 acres. There is no break-up available on the status of the title distribution in respect of individuals and community claims, separately with regard to ST and other traditional forest dwellers. Of AP’s recorded forest area of 15.8 million acres, 12.4% of state forest, covering an extent of nearly 2 million acres of forest land, is approved for community and private rights in the state.

**FRA Implementation and Livelihoods**

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

In all the sample villages, forests land and forest resources, primarily minor forest products (MFPs) or 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 marginatus). Income from the sale of NTFPs in all the villages constitutes anywhere from 10 to 55% of the total household income. In the study villages, data indicated that small and marginal tribal households accrue a greater percentage of their income from forest produce. Common land and resources are the primary source of survival for the poorest households in all the villages.

The basic benefit is the legal right—household tenure over cultivated forest lands, and a legal basis for collection of forest products and grazing. These rights lay the foundation for a change in the social status of hitherto marginalised households. They can then expect to be free from regular harassment from forest department field staff. 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 community.

Furthermore, if the government makes a special provision for accepting inalienable titles as collateral, legal rights are likely to allow access to credit on the basis of land titles. Right holders may also be expected to be able to better access a range of government development programmes and normal service provision such as agriculture extension and land improvement schemes. Other developmental agencies will be mandated to work in the forest areas, which will have far-reaching effects on the development of forest-dependent communities, particularly programmes like the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) and microcredit schemes.

**Conclusions and Policy Recommendations**

**FRA 2006** promises to be a pro-poor institutional reform, and indeed, many poor have already benefited from its implementation. However, the process has been severely anti-poor, and so the pro-poor benefits have been restricted in many ways.

Most forest-dwelling families have been regarded as encroachers on forest land. The FRA aimed at providing poor people rights to forest land already occupied by them and access to forest produce for livelihood purposes. The Act is a major breakthrough enabling legislation, despite debate over the details, but its success, and whether it will actually lead to meaningful pro-poor institutional reform at the local level, depends on whether it is successfully implemented. Unless the rights are recognised and actually recorded in forest records, they will remain temporary.

The government is reluctant to go ahead with implementation of FRA in the Polavaram project submergence areas and areas allocated for other development projects to avoid future legal entitlement conflicts and payment of compensation to forest land occupants, though this is 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, in violation of the Act, claimants from protected areas are being pressurised to relocate without recognition of their rights.

There has been a lack of concerted coordination in the implementation of the FRA, such that the pro-poor outcomes envisaged by the act may not be widely achieved. This is due to a lack of coordination and transparency at various levels, as well as the continuing dominant role of the revenue and forest departments, which have inhibited democratic FRA implementation.

People’s institutions like gram sabhas and Panchayats have been reduced to a secondary position and because of this, genuine claims have not been sufficiently heard. Certainly as an institutional reform to undo the historical injustice done to forest-dwelling communities, FRA is a laudable achievement. Although this Act has good potential as a pro-poor measure, effective and transparent implementation is the key. It is here that civil society, political parties and academia need to put pressure on policymakers and ruling governments. Implementation of the FRA will definitely impact the forest-dependent people in terms of livelihood security. Transparent and honest implementation, giving scope for few errors and mistakes is the need of the day.

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**NOTES**

1. From the first page of the preamble to the Act.
2. However this definition is not applicable to scheduled areas. The applicable definition for village under the Panchayat Extension to Scheduled Areas (PESA) Act 1996, states that a village shall ordinarily consist of a habitation, a group of habitations, a hamlet or a group of hamlets.
6. These are Adilabad, East Godavari, Khammam, Mahabubnagar, Prakasham, Srikakulam, Visakhapatnam, Warangal and West Godavari districts.

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**REFERENCES**


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