

Implementation of Forest Rights Act-2006 and some Emerging Conflicts in Telangana State: Implications for Sustainable Forestry Development



Prof. M. Gopinath Reddy
CESS, Hyderabad

Presentation at the “Sustainable Forestry in South Asia – Current Status, Science and Conservation Priorities” 7-9th November, 2019, New Delhi, India

Introduction

- FRA-2006, as we know, recognizes and vests diverse pre-existing rights over forest land.
- These include rights over occupied forest land, rights to ownership of MFP, Community Forest Resource (CFR) rights etc.
- The total potential forest land coming under the jurisdiction of Gram Sabha through FRA is estimated to be atleast 37.75 lakh acres in Andhra Pradesh and 42.92 lakh acres in Telangana.
- In clear violation of provisions of the FRA, more than 1669 VSSs were granted community forests rights over 9.55 lakh acres in undivided Andhra Pradesh by the end of May 2010.
- About 37,493 acres of community forest lands are located with in the Polavaram Irrigation Project submergence done in East and West Godavari districts and rights of the communities are yet to be recognized over these lands.

Gram Sabhas and Conservation/Management of Forest

- The successive government have failed to recognize the rights of the gram sabhas over these forests lands for conservation and management of forests.
- The forest department in Telangana went a step further and evicted tribals from their forest lands during the present TRS government.
- The colonial mentality of forest officials is obstructing and creating impediments to the tribal welfare/department officials in recognizing forests land rights of the tribals.
- The tribal land alienation is the single most critical issue in the scheduled areas of the state.

LTR in Telangana State

- 56 percent of the tribal land disputed cases booked (15,949) under the land transfers regulation 1 of 59 amended by 1 of 70 (LTR) enacted to protect land rights of tribals were decided in favor of non-tribals covering an extent of 61 percent of the disputed land of 89,762 acres of October 2018 in Andhra Pradesh.
- The tribal land rights further are trampled upon the in the Polavaram Project submergence areas.
- Unmindful of the illegal land deeds, the Land Acquisition Officers (LAOs) continued to pay compensation to non-tribals under Polavaram Project.
- In fact there is no special machinery to scrutinize the legal validity of the land deeds being produced by the non-tribals to determine whether these are fake or original.
- The State Rehabilitation Policy GO(68) mandates the LAO to pay monetary compensation for acquisition of lands of non-tribals in the scheduled areas only after verification of their claims under the LTR.

Contd....,

- Some positive steps taken by the Tribal Welfare Department of AP.
- A legal process has been initiated to scrutinize the orders issued in favour of the non-tribals to challenge the same before the appellate authorities under the LTR as a part of implementation of Koneru Ranga Rao Land Committee recommendations.
- The Tribal Advisory Committee has approved the notifications under the Vth Schedule for further strengthen the LTR by removing existing limitations to challenge the orders issued in favor of non-tribals.
- However, the Telangana state government has completely ignored the implementation of LTR.

New Reforms by Telangana Government and conflicts Emerging Around them

- On the other hand it has brought land reforms including “Comprehensive Land Survey” in Telangana negating the tribal land rights ensured under tribal land rights ensured under LTR favoring non-tribals.
- The administrative reforms further initiated by Telangana State Government for the creation of new districts (now there are 31 districts) is insensitive to tribal rights and against the sprit of the fifth schedule of the constitution of India and depriving the right to self-rule of Adivasis.
- The Scheduled Areas tagged to non-tribal dominant villages in delineating the administrative boundaries for the district.

Community Forest Resource Rights and Community Rights

- The United Government of Andhra Pradesh issued operational guidelines (G.O.Ms. No. 102) in 2008 to implement the FRA.
- The Government Order (GO) allows the members of VSSs to claim rights within the operational area of VSSs. The GO was further amended through another GO (Ms No 168) in the same year giving eligibility to VSSs to claim community rights.
- This was in violation of the provisions of the FRA. Based on this GO, by the end of May 2010, more than 1,669 VSSs were granted community forest rights over 3.82 lakh hectares of forest land in undivided Andhra Pradesh.
- According to the Implementation Completion Report of the World Bank funded AP Community Forest Management project, as the AP Forest Act could not be amended to grant legal status to VSSs formed under the project, the FRA was 'invoked' to grant such status to VSSs with 100% ST population. Not only did this violate the eligibility criteria for claimants under the FRA but the top down decision-making was also in contravention of the Gram Sabha based claim making process.
- The Ministry of Tribal Affairs (MoTA), Government of India, held that the grant of CFR Rights titles to VSSs is illegal and directed the Government of AP to immediately withdraw these titles. However, the MoTA order has not been complied with and the CFR Rights titles to VSSs have not been withdrawn yet. ⁷

Contd....,

- Even after formation of the new state the Government of Telangana has completely avoided recognition of the most crucial and empowering CFR rights under the FRA.
- This is despite the fact that hundreds of Gram Sabhas in 8 districts of undivided AP had strongly objected to CFR rights being granted to VSSs without following the due process and had submitted their own claims with mapped boundaries showing their claimed CFRs. All those claims remain ignored to date.
- There has been only one rare case of recognition of community rights over bamboo in Sirsanapally in Chintoor Mandal of erstwhile Khammam district in Telangana, now in East Godavari District.
- However, this was due to the efforts of the Project Officer of the ITDA and the Prime Minister's Rural Development Fellow who facilitated bamboo harvesting by the Gram Sabha from the area allocated to their VSS.
- The recognition process was not strictly in compliance with the provisions of the FRA.
- 50 percent of the proceeds from the bamboo sale were deposited in the joint account of the VSS. The FD and the CFR title is in the name of the VSS with the condition that management of the forest area shall be in accordance with the state JFM resolution.

Contd....,

- While 3,769 claims for community rights either by the people or by VSSs for recognition over 2.18 lakh hectare were submitted, 761 were allowed covering an extent of 2.07 lakh hectares which is around 95 percent of the total land claimed for community rights. This outcome was due to the intervention of Forest Department in securing titles largely in the name of VSSs. **As per law, all these titles are illegal.**

Individual Forest Rights

- In the initial years the major focus of the Government of undivided AP was to recognise individual forest rights. This was taken up in a campaign mode during these years, and as discussed later, there were major problems in the rights recognition process.
- In Telangana, approximately 331,070 acres of Individual Forest Rights have been recognised for 99,486 right holders. The majority of the IFR rights recognised are in the three districts of Adilabad, Khammam and Warangal.
- As compared to the approximate potential of 42.92 acres of forest land over which rights need to be recognized under the FRA, the total area over which IFRs have been recognized is 3.31 lakh acres, i.e. only 7.7 percent of the estimated potential.
- No CFR right has been recognized in the state of Telangana. The CFR rights granted to the VSSs are illegal and cannot be included as the performance of the FRA.

- **Community Rights: Major problems and difficulties**
 - The habitat and habitation rights of the Particularly Vulnerable Tribal Groups (PVTGs), rights of the pastoralist communities and rights of the displaced communities have still not been recognized as per the FRA.
 - Conversion of forest/unsurveyed villages into revenue villages is yet to be done.
- **Community forest resource rights granted illegally to VSS instead of Gram Sabhas.**
- **GCC monopoly over NTFPs a violation of community ownership Rights over Minor Forest products.**
- **CFR rights under section 3(1) (i):** No CFR right has been recognised in Telangana. In fact, even the community rights illegally vested in VSSs are effectively community rights over NTFPs and grazing and not CFR rights to protect, conserve and manage forests.

Individual Forest Rights: Major problems and difficulties

- **High Rates of Rejection:** 2,11,973 individual forest rights claims were filed for area amounting to 7.61 lakh acres. 99,486 claims over area amounting to 3.31 lakh acres were recognized which constitutes only 43.50 percent of the total claimed land.
- The Act provides for transparent and participatory procedures for investigating claims.
- It also ensures the admissibility of diverse forms of evidence, recognizing that many official records may not have accurate records for the claims of tribal people. In practice, these requirements are often not adhered to, leading to high rejection rates of claims.
- Claims are often rejected at sub-divisional or district levels without hearing the claimant and this is in violation of the FRA Rules.
- Officials also often seek documentary evidence, rejecting other evidences which are admissible by the law.
- Even the claimants are not communicated about the rejection of their claims which would have enabled them to take further legal recourse.

Evictions from Podu lands:

- illegal evictions of tribal communities from podu lands are evident from the number of cases against unjust eviction filed in the High Court.

Haritha Haram

- **Telangana Ku Haritha Haram** or **Haritha Haram** is a large-scale tree-planting program implemented by the Government of Telangana State was launched by Telangana Chief Minister K Chandrashekar Rao on 3 July 2015.
- **Main Objective** - to increase the amount of tree cover in the state from 24% to 33%.

Approaches and Implementation of the Programme

Approaches adopted to achieve the objectives:

- **First objective** is sought to be achieved by a multi-pronged approach of rejuvenating degraded forests, ensuring more effective protection of forests against smuggling, encroachment, fire, grazing and intensive soil and moisture conservation measures following the watershed approach.
- **Second objective** - Major fillip is sought to be given to **Social Forestry**

Constraints and Conflicts

- No clarity on recognising tribal rights on forest land.
- Conflicts in identifying the boundary between forest land and individual land allotted under FRA.
- In a gruesome incident, during a plantation programme at Sarasala village of Kumram Bheem Asifabad district, Kagaznagar Forest Officer C Anitha and her staff were attacked with bamboo sticks by Zilla Parishad vice-chairperson Koneru Krishna and his supporters (The Hindu, 30 June 2019).
- Despite the enthusiasm, the programme was only partially successful largely owing to truant monsoon. (Swathi V, 2015).
- It was reported that Forest department are planting on plots left fallow by the tribals for lack of rains, thereby depriving them of forest rights. Foresters do not even know that forest fires are desirable for germination of certain varieties of plants.
- **Tension in Kakunur village over land survey** - A tense situation prevailed in Kakunur village in Jaipur mandal when police and forest officials attempted to take back forest land that the locals said they have been cultivating the nearly 2,000 acres in Surveys No. 154 and 185 for several years. (Deccan Chronicle, Jun 19 2018).

Conclusion

- The high rejection rate of IFR and CFRs are depriving the legitimate rights of tribals.
- The redressal mechanism put in place is not transparent and accountable to anyone.
- Added to this, new 'reforms' launched by Telangana Government are adding to the conflicts between tribal and the State.
- The CM has promised to address this issue but the process has not yet began.

