Recognition of Forest Rights Act

APHRDI- Induction Training for DSPs
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Pre Existing Forest Rights  
Deprivations

- The state gradually gained monopoly over forests.
- Large forest areas were either declared as reserve forests, or as sanctuaries and national parks from where tribals were driven out.
- Cultivating land, collecting Non-Timber Forest Produce and felling of trees became illegal.
- Tribals who occupied these forests earlier, lost their habitat, their land, livelihood and all else that they had.
- No title deeds or any other rights were given in these forests. Over a period of time, tribals and other poor people’s access to forest land and forest produce has been severely curtailed, tribals were removed from their familiar and settled livelihoods.
- Constructions of dams, reservoirs, hydro electrical projects and mining have further resulted in huge displacement of tribals on thousands of hectares of forest lands.
The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA or RoFR)- Rights Frame Work

Three broad sets of forest rights:

1) Individual forest rights (Podu)
2) Community Rights
3) Community Forest Resource Rights
Forest Rights Act 2006

Forest Rights

Community Forest Resource Rights
Community Rights
Individual Rights
Right to Govern
Development Rights
Any Other Rights except hunting

Customary and Traditional Boundary
Protect, Regulate, Conserve, Manage
Forest Rights Act 2006

**INDIVIDUAL RIGHTS**

- Self Cultivation up to 4 ha
- Habitation
- Restoration of Titles, Grant or Lease
- Disputed Lands
- Alternate Land *in situ* Rehabilitation
- Government acquired land not used within 5 years after displacement without Compensation
Individual Forest Land Rights (Podu/Slash and burn cultivation)

- Recognition of forest land occupations before 13-12-05. (Three generations for other traditional forest dwellers)
- Rights for Conversion of pattas or leases on forest lands to titles.
- Rights over disputed lands (forest/ revenue)
- Maximum claim for 4 Hec. for family.
- Entitlements (Patta) in favor of both the names of spouse. Rights only inheritable, inalienable.
- Right to retain possession till the recognition and verification procedure is complete.
Forest Rights Act 2006

Community Rights

- Non Timber Forest Produce
- Water bodies, fisheries etc/ Grazing/ Seasonal resource access
- Nistar
- Conversion forest to revenue villages
- Access to biodiversity
- Intellectual property rights
- Traditional knowledge/ Cultural diversity
- Community Forest Resource
- Habitat

Community Rights
Community Rights

- Rights for conversion of forest villages to revenue villages.
- Recognition of Rights of re-settlement of the people residing in critical wild-life habitats (National Park, Sanctuaries etc.)
- Recognition of forest rights before diversion of forest land for any projects.
- Rights over ‘habitat’ for PTGs; other customary rights.
- Rights over common property resources; (ponds, grazing lands etc)
- Right of ‘ownership’ and access to NTFPs.
- Right to claim compensation (R&R benefits) if compensation not paid earlier for forest lands taken.

Development Rights: Permitted not to exceed one hectare which involve felling of trees not exceeding 75. Clearance must be recommended by Gram Sabha.
Forest Rights Act 2006

**DEVELOPMENT**
- School
- Anganwadi (supplementary nutrition and health care to children and mothers)
- Electricity / Telecommunication
- Drinking Water Supply / Water Pipe Lines
- Non-Conventional Energy
- Roads

**RIGHTS**
- Dispensary / Hospital
- Fair Price Shops
- Tanks/ Minor Water Bodies
- Minor irrigation Canals
- Vocational Training/Skill Upgradation Centre
- Community Centre
- Water or Rainwater Harvesting Structures
Forest Rights Act 2006

Forest Rights: Power to Conserve, Protect and Regulate

Section 3(1)(i) –

Rights to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use; ("community forest resource" means customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community had traditional access;)

Section 5

The holders of any forest right, Gram Sabha and village level institutions in areas where there are holders of any forest right under this Act are empowered to—

(a) protect the wild life, forest and biodiversity;
(b) ensure that adjoining catchments area, water sources and other ecological sensitive areas are adequately protected;
(c) ensure that the habitat is preserved from any form of destructive practices affecting their cultural and natural heritage;
(d) ensure that the decisions taken in the Gram Sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with.
Forest Rights Act 2006
Institutional Mechanism

Ministry of Tribal Affairs, Government of India
[Nodal Ministry]

Tribal Department
[State Level Nodal Agency]

State Level Monitoring Committee
Forest Rights Act 2006
Institutional Mechanism

Gram Sabha (GS)

Sub-Divisional Committee (SDLC)

District Level Committee (DLC)

State Level Monitoring Committee (SLMC)

Forest Rights Committee

Community Forest Resource Management Committee
Forest Rights Act 2006

Institutional Mechanism

Gram Sabha

Sub Divisional Level Committee

District Level Committee

APPEAL
OFFENCE

Section 7 and 8
- Any authority violating any provision is an offence
- The accused is to prove innocence
- The aggrieved or Gram Sabha to issue notice to State Level Monitoring Committee for action against the accused
- Action within 60 days [Also Rule 10(d)]
- If no action, approach court.
IFR claims:
Reasons for IFR claims rejection (Acres) – In Andhra Pradesh

- Lack of sufficient documentary evidences (20%)
- Forest Encroachments after 13-12-2005 (6%)
- Forest Department using Satellite images as base evidence (1%)
- Individual claims covered under VSS (23%)
- Claims on the Land not classified as Forest area (13%)
- Claims by OTFDs (Non-Tribals) in Scheduled Areas (0.26%)
- Claims by people below 18 years of age (0.26%)
- Land not being cultivated by the STs as per revenue, forest records (6%)
- Others if any, Specify (30%)

(Source: Director of Tribal Welfare, Govt. of AP, Vijayawada, as of August 2016)
In 2008 the Government of undivided Andhra Pradesh issued operational guidelines (G.O.Ms. No. 102) to implement the FRA, 2006. The GO allows the members of VSSs to claim rights within the operational area of the VSSs.

The GO was further amended through another GO (Ms No 168) in the same year making VSS eligible to claim community rights which was in violation of the provisions of the FRA.

Based on this GO, by the end of May 2010, more than 1669 VSSs were granted community forest resource (CFR) rights over 9.43 lakh acres of forest land in undivided Andhra Pradesh.

The Ministry of Tribal Affairs (MoTA), Government of India, held that the grant of CFR rights titles to VSSs is illegal (2013 orders)
thanks