

One Day Training Programme on Human Rights

APHRDI in Association with NHRC

10th January, 2017

Bapatla

Dr Palla Trinadha Rao

Pre Existing Forest Rights' Deprivations

- The state gradually gained monopoly over forests.
- During the process of declaration of RF or as sanctuaries and national parks rights of tribals trampled.
- Cultivating land, collecting Non-Timber Forest Produce and felling of trees became illegal.
- Evictions from their forest land occupations.
- No title deeds or any other rights were given in these forests.
- State owned Agencies had monopoly over MFP, restrictions on access and disposal of MFP imposed.
- Displacement under projects without recognition of tribal rights.

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

Individual Forest Land Rights(Podu)

- 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.

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.

Community Forest Resource Rights:

- Community Forest Resources which provides Gram Sabhas the right to conserve, protect and manage forests.
- This right is a critical one which has a bearing on forest governance and tribal development.

Institutional Frame Work

- FRC
- Gram Sabha
- SDLC
- DLC
- State Monitoring Committee

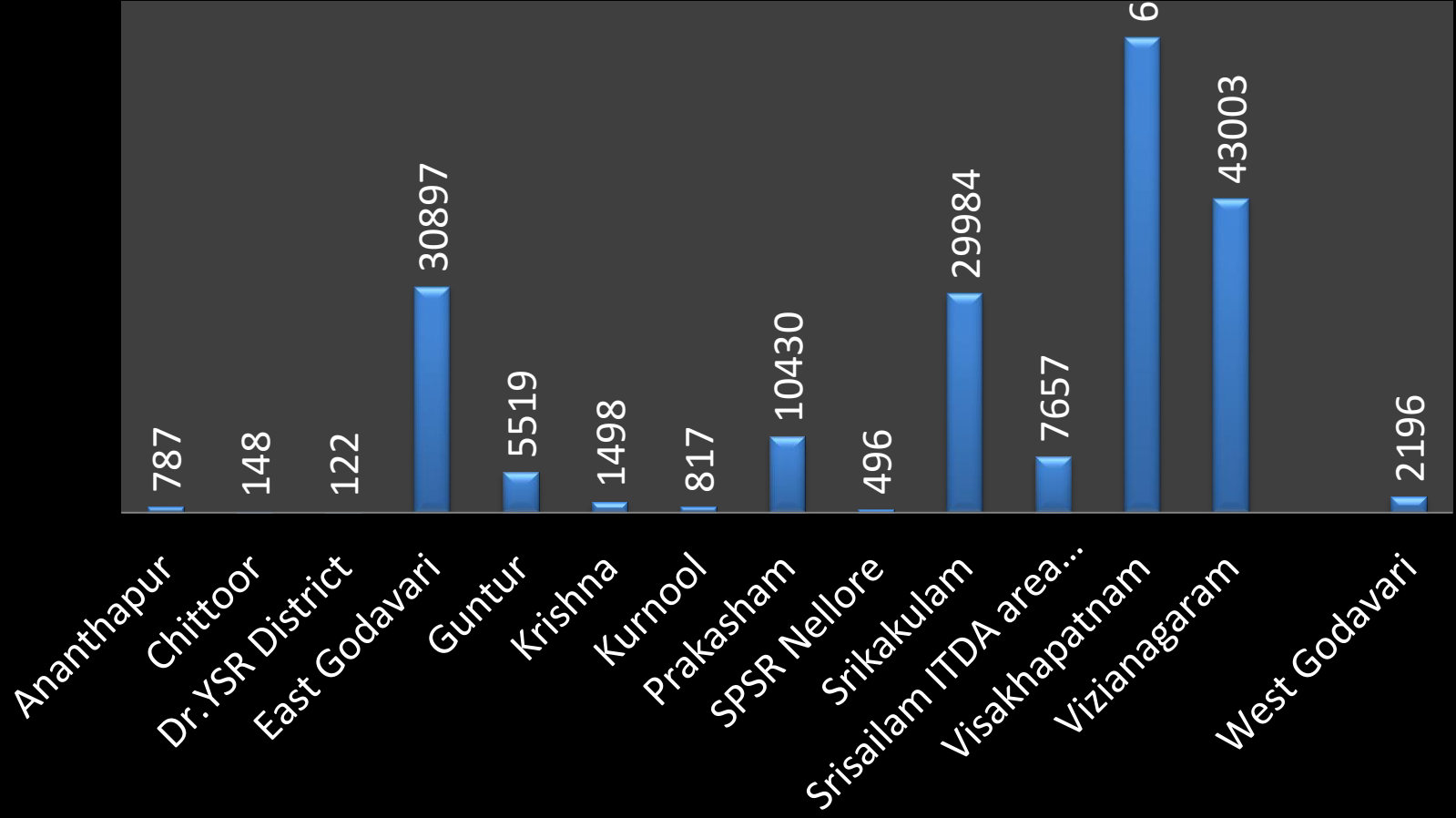
Scope for implementation of the FRA in AP

- Approximately, 24.56 Lakh acres of forest land is situated within the cadastral boundaries of 2,982 Revenue Villages in AP (Census of India, 2011).
- Additionally, there are 66.60 Lakh acres of forests outside the village boundaries in the state.(At least 20% of these forest lands -13.19 Lakh acres)

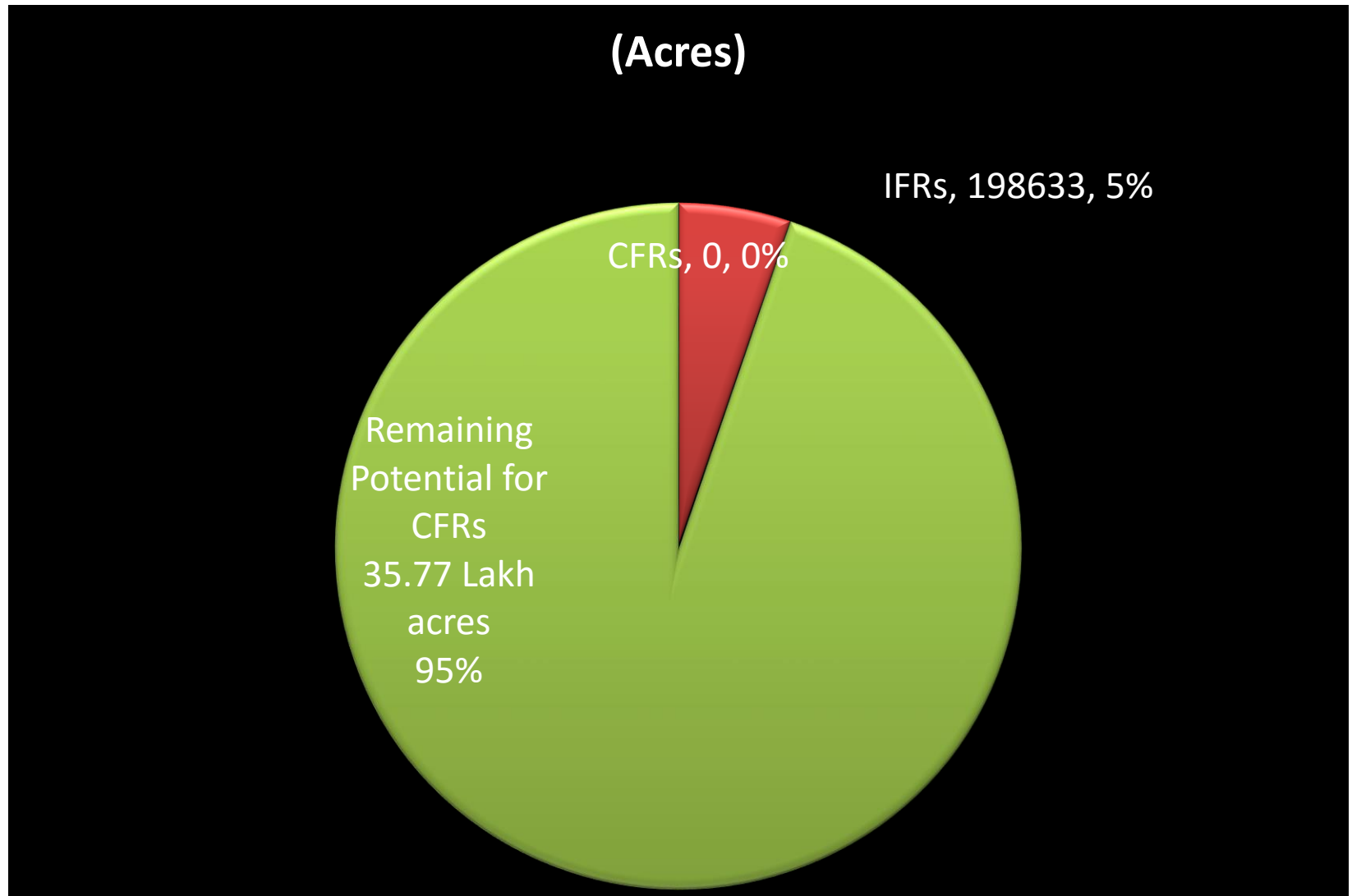
Minimum Potential for CFRs

- Thus the total potential forest land coming under the jurisdiction of Gram Sabha through the FRA is estimated to be at least 37.75 lakh acres.
- However, since Individual Forest Rights are located in the same forest lands,(1.98 lakh acres)
- **Thus minimum potential for CFRs in AP is estimated to be 35.77 lakhs acres**

IFRs Claims recognised districtwise in AP (Acres)



Promise and Performance of FRA in AP: A comparison



Community Rights-10 % of Estimated Minimum Potential Forest Area

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

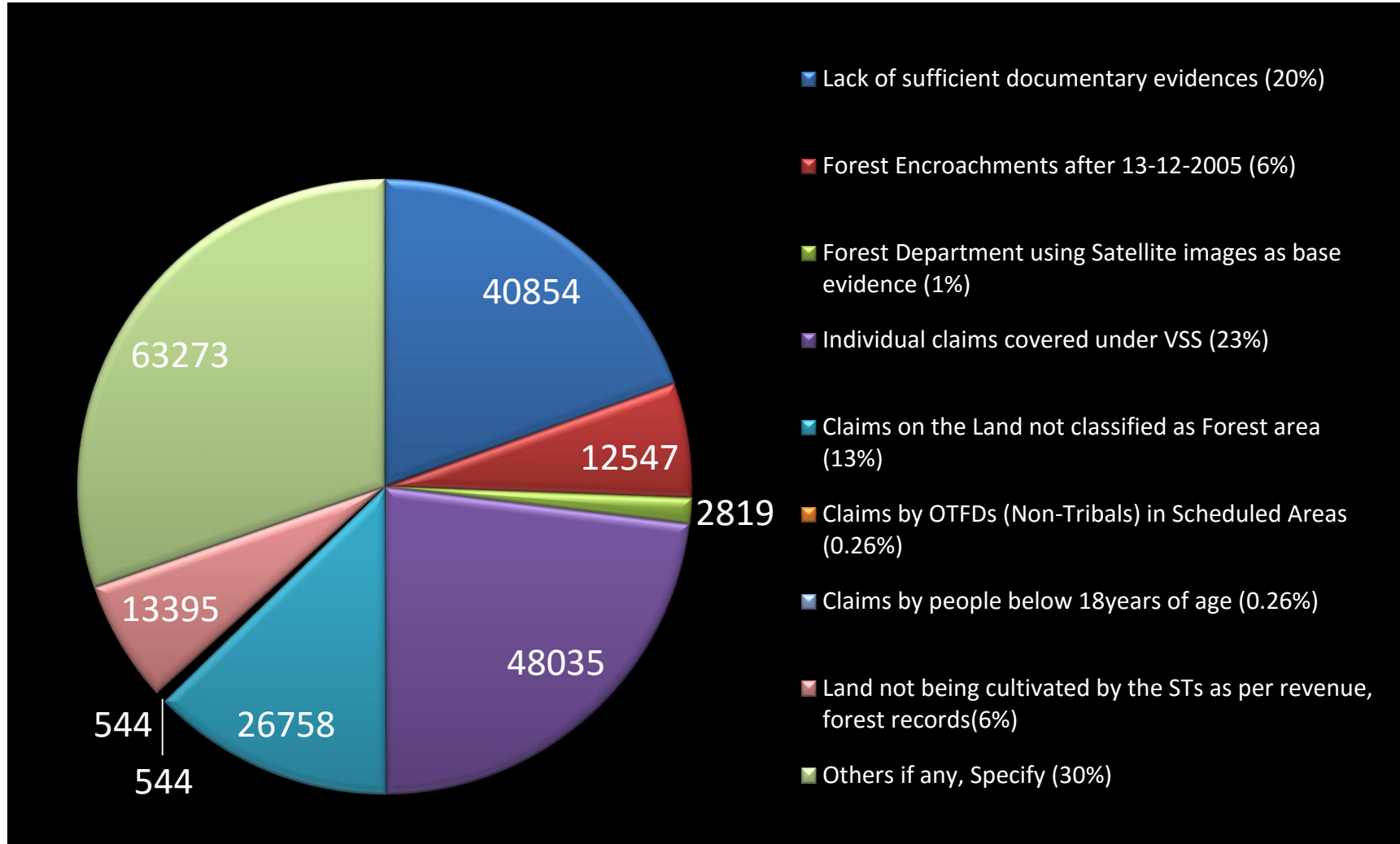
Community Rights Questionable

- 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)

Individual Forest Land Rights(Podu)

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

IFR claims: Reasons for IFR claims rejection (Acres) – In Andhra Pradesh



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

Scope (Potential Forest Area) for implementation of FRA in Telangana State

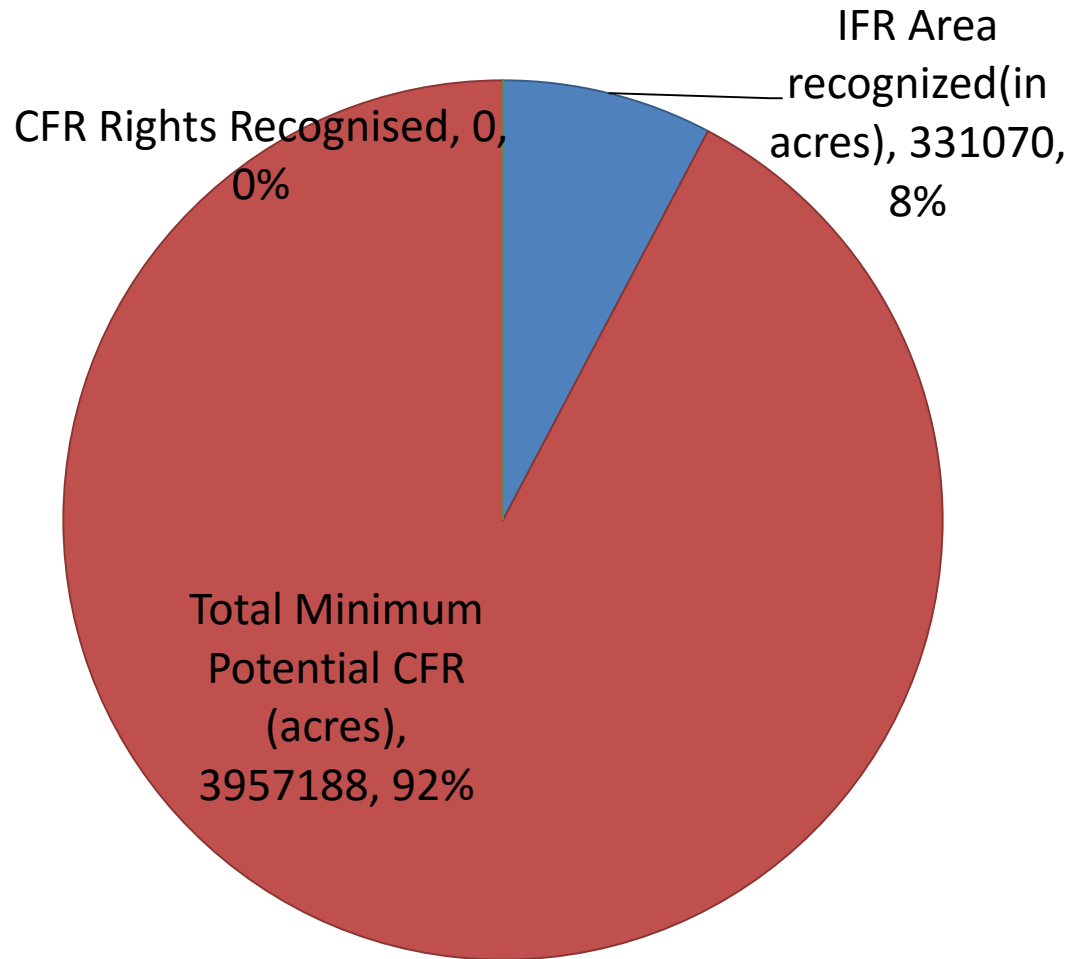
- Approximately , 37.04 lakh acres of forest land is situated within the cadastral boundaries of 2641 revenue villages in Telangana (Census of India, 2011).
- Additionally, there are 29.40 lakh acres of forests outside village boundaries in Telangana.
- 20% of these forest lands will come under the jurisdiction of Gram Sabhas through FRA, which is calculated at 5.88 lakh acres.

- Thus the total potential forest land coming under the jurisdiction of Gram Sabha through FRA is estimated to be at least 42.92 lakh acres.
- IFR already recognised over 3.31 lakh acres i.e only 8 % of the estimated potential forest area.
- Thus the minimum potential for CFR is 39.57 lakh acres (92%)

Community Rights?

- While 3769 claims for community rights either by the people or VSSs for recognition over 5.42 lakh acres were submitted.
- Of the total community rights 761 were allowed covering an extent of 5.15 lakh acres which comes around 95 percent of the total land claimed for community rights in Telangana State.

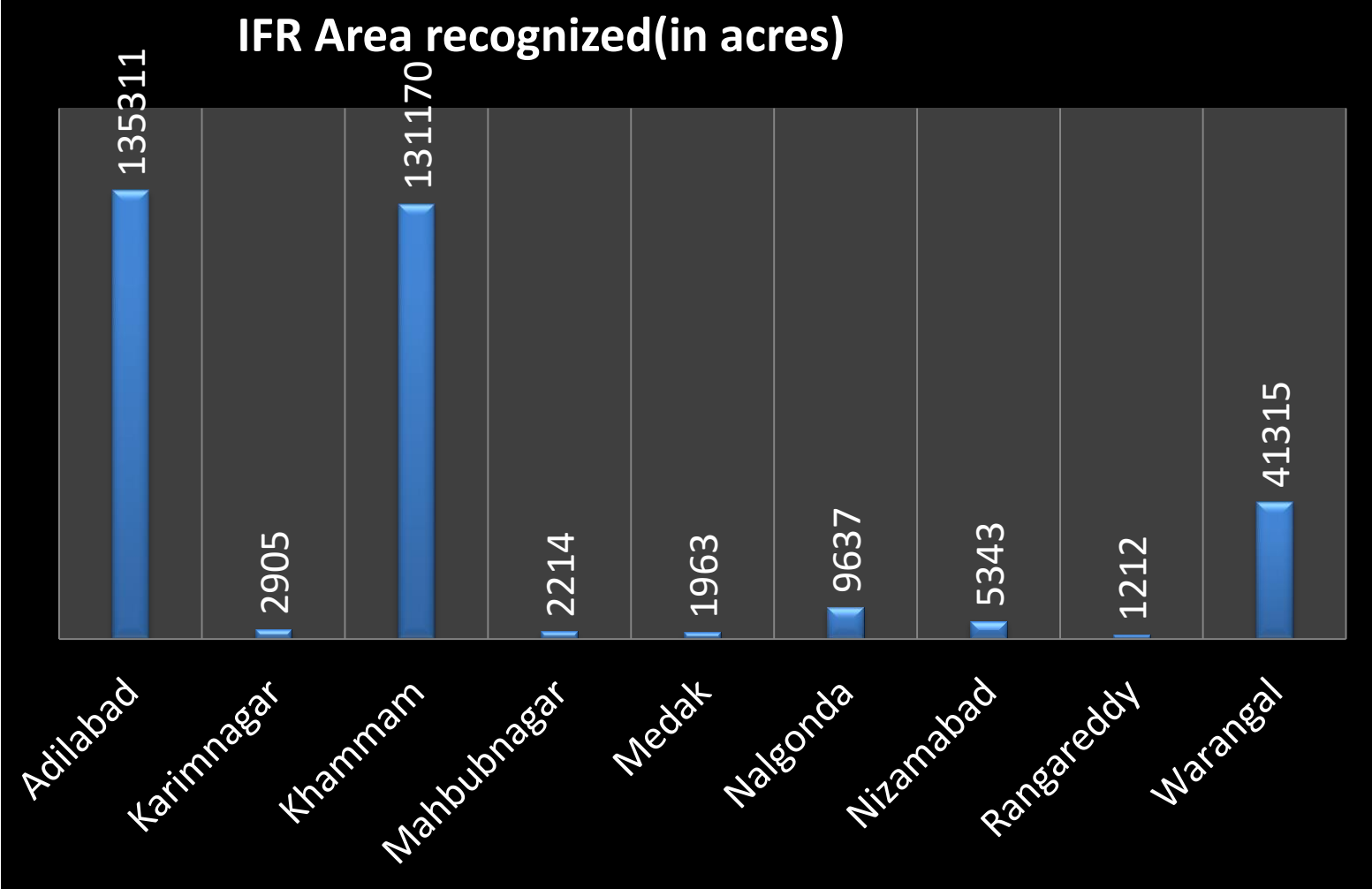
Telangana: FRA Implementation performance



Individual Forest Land Rights

- High Rates of Rejection: Individual forest rights claims of 211973 were filed covering an area of 7.61 lakh acres of which 99486 claims over an area of 3.31 lakh acres' were recognised which constitutes 43.50 percent of the total claimed land.

Individual Forest Rights Recognized in Telangana



Tribal Forest Rights Deprivations- Institutional and Procedural Challenges

- Titles conferred on VSSs not yet withdrawn and transferred to Gram Sabha/Community.
- The monopoly right conferred on GCC under MFP Trading Regulation 1979 continued , without nullifying it.
- Rights over CFR not yet recognised.
- Community or Individual Rights in Protected Areas not yet recognised. Steps are taken to relocate tribals from Tiger Reserves(GO Ms No 214(2015)Amrabad/Kawal Reserves in Telanganaa)
- Without recognition of the forest rights of tribals under FRA, tribals are relocated under Polavaram Project(3731 hectares) against the 2010 MoEF condition.

- Habitat and Habitation Rights ensured for PVTGs not yet recognised.
- Conversion of forest villages in to revenue villages not yet initiated. (There are 290 Chenchu settlements in United AP)
- Gram Sabhas constituted at GP level instead at Gram Sabha level under PESA Act.
- FRCs not yet constituted at notified Gram Sabhas level. (Notification in 2013)

- Doors to access to justice closed: The rejection orders are not communicated to the aggrieved parties, enabling them to prefer appeals.
- Diversion of forest land for infrastructure works, being dubbed as community Rights(W. G.Dist)

Questionable role of Forest Department

- Satellite images being considered as a superior evidence than the ground level field reports and GPS survey . (Visakha agency area-Tribals are deprived to get titles over Podu lands having Coffee Plantations)
- 149 claims of tribals in Paderu, G.Madugula and GK Veedhi mandals are denied on a ground that forest maps are not available(Prl CCF-File no 9641/2016)
- Eviction of tribal farmers from Podu lands by Forest Officials in Erstwhile Khammam district-Instances of tribal resistance. In spite of several orders from the High Court against eviction of Adivasis from forest lands, forest officials are evicting Koyas and others from occupation of over 1,200 acres in Enkur, Julurpadu and Dummugudem mandals. Further, they are threatening to evict Adivasis from 1,300 acres in Pinapaka and Chandrugonda mandals. (Telangana)

- The District Level Committee had approved 456 eligible claims for 1,499 acres in Khammam district. However, the Divisional Forest Officer, Palvoncha, and the DFO, Wildlife Management, had refused to sign the approved title deeds of 191, saying that they had instructions from their higher-ups not to do so.
- An attempt by tribal welfare officials in Khammam district to convert 102 CFR claims in the names of VSSs to those in the names of Gram Sabhas was also foiled by the forest officials, citing instructions of the Principal Chief Conservator of Forests (File No 27554/TG/ October 2015) not to entertain fresh claims under the FRA.

A Way forward

- 1) FRCs to be constituted at Gram Sabha level.
- 2) Operational guidelines to be issued to recognise the forest rights in protected areas, and implementation of habitat/habitation rights of PvTGs and community forest resources rights.
- 3) Titles conferred on VSSs should be withdrawn to confer further on GSs.

- 4) Rejected order to be communicated to the concerned aggrieved parties.
- 5) The enquiries before the SDLC/DLCs must be transparent and to ensure fair play of justice.
- 6) The unwarranted interference of FD officials in implementation' process should be halted.
- 7) There should be coordination at higher level particularly among the TW and FD to clear the blocks in implementation.

- Queries?

Thanks