Study Of IKP’s Work On
Tribal Land Issues

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Report submitted to Rural Development Department by
Dr. V.N.V.K.Sastry,
Director (Retd.),
Tribal Cultural Research and Training Center
The Directive Principles of State Policy (Article 46) state that “the State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation. The Fifth Schedule of Constitution comprises most comprehensive provisions for the protection of tribals living in Schedule Areas. The provisions of the Fifth Schedule shall apply to the administration and control of the Schedule Areas in any State other than the States of Assam, Meghalaya, Tripura, and Mizoram. The Fifth Schedule empowers the President of India to declare such areas to be scheduled areas.

In Andhra Pradesh the Schedule Areas falling in fifth Scheduled areas extend to an area of 31485.34 Sq. Kms in 9 districts comprising of 5936 villages as follows:

<table>
<thead>
<tr>
<th>Sl.No</th>
<th>District</th>
<th>Scheduled Area (Sq. kms.)</th>
<th>Scheduled Villages (Number)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Srikakulam</td>
<td>1289.32</td>
<td>108</td>
</tr>
<tr>
<td>2</td>
<td>Vizianagaram</td>
<td>1740.98</td>
<td>298</td>
</tr>
<tr>
<td>3</td>
<td>Visakhapatnam</td>
<td>5904.51</td>
<td>3368</td>
</tr>
<tr>
<td>4</td>
<td>East Godavari</td>
<td>4191.65</td>
<td>559</td>
</tr>
<tr>
<td>5</td>
<td>West Godavari</td>
<td>1006.10</td>
<td>102</td>
</tr>
<tr>
<td>6</td>
<td>Khammam</td>
<td>6899.82</td>
<td>889</td>
</tr>
</tbody>
</table>
The Fifth Schedule has specific provisions such as i) The Governor shall send annual report to President of India regarding the administration of Scheduled Areas, ii) a Tribes Advisory Council shall be established to advice on such matters pertaining to the welfare and advancement of the Schedule Tribes, iii) Governor can restrict the application of any Act of Parliament or of Legislature to schedule areas and iv) Governor may make Regulations for the peace and good government in Scheduled Areas, especially in matters relating to regard to land and money lending. Thus The Andhra Pradesh (Scheduled Areas) Land Transfer Regulation, 1959 made under these provisions and amended from time to time is in force in Scheduled Areas of the State.

Prior to Independence, the Scheduled Areas of Andhra area were under administration of British while the Scheduled Areas of Telengana areas were under Nizam’s rule. Ganjam and Vizagapatnam Act, 1839 (Act no. XXIV of 1839), and the Scheduled Districts Act 1874 (Act XIV of 1874), Government of India Act. 1935, Chapter V – Excluded and Partially Excluded Areas provided for separate administration of the specified areas during British period.

The protective Regulations in British ruled areas date back to 1917 when Agency Tracts Interest and Land Transfer Act. 1917 (Act I of 1917) was promulgated. In Nizam’s Dominions, The Hyderabad Tribal Areas Regulation, (Regulation No. III of 1359F) was in force to restrict Transfer of land in Scheduled/Notified areas. Some of these scheduled areas

<table>
<thead>
<tr>
<th></th>
<th>Warangal</th>
<th>3122.46</th>
<th>177</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>Adilabad</td>
<td>6138.50</td>
<td>412</td>
</tr>
<tr>
<td>9</td>
<td>Mahaboobnagar</td>
<td>1191.90</td>
<td>23</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>31485.34</strong></td>
<td><strong>5936</strong></td>
<td></td>
</tr>
</tbody>
</table>
were under different forms of Estates like Muttas, Mahals, Zamindaries, Watandari and Inams given to various persons. At one time, the Nizam’s government has even invited outsiders to migrate in to tribal areas to increase revenues from these areas.

The provisions of various Acts promulgated prior to independence are briefly are as follows:

a. **Ganjam and Vizagapatnam Act, 1939 (Act No. XXIV) of 1839**

   - Zamindaries and Hill Zamindaries (Tracts) of Ganjam and Vizagapatnam District covered by this Act were mentioned in the Act.

   - Administration of Civil and Criminal justice (Superintendence of Police ), Collection and the Superintendence of revenue vested with the District Collector as Agent for the State Government.

   - State Government is competent to prescribe Rules for Agents and has powers to alter limits of tracts

b. **Scheduled Districts Act 1874 (Act XIV of 1874)**

   - Extended to Scheduled Districts mentioned in the first Schedule

   - Local Government may from time to time

     - may declare what enactments are actually in force or Not actually in force

     - may correct any mistake of fact in any notification issued under this section

   - Local Governments may from time to time appoint officers to administer Civil and Criminal justice,......to conduct the administration within Scheduled Districts.

   - Under Agency Rules issued, Agent to state government vested with same powers as are vested in district and revenue courts
and Agency Divisional officers with the same powers as are vested in the subordinate and revenue courts.

- Agent empowered to appoint any of his subordinates as Agency Munsif.

c. **Agency Tracts Interest and Land Transfer Act. 1917 (Act I of 1917)**

- H.E. SULLIVAN, First member Board of Revenue enquired into disturbances in Rampa Country in 1880.
- Manasabdari of tenure of Rampa held by Rampa Bhupathi Devu was cancelled absolutely and forever.
- Muttas were settled for hill Zamindars
- Act I of 1917 to Regulate the Rate of Interest and Transfer of Land in the Ganjam, Vizagapatnam and Godavari Agency tracts promulgated.
- Agency tracts, Agent, Hill tribe, Immovable Property, Prescribed and Transfer were defined.
- Transfer of immovable property by a member of a Hill Tribe shall be absolutely null and void unless made in favour of another member of a Hill Tribe or with the previous consent in writing of the Agent or of any other prescribed officer.


- Present day Fifth Schedule Areas broadly correspond to Partially Excluded Areas.
- No Act of the federal legislature or of the provincial legislature shall apply to excluded or partially excluded areas unless
Governor by public notification, so directs .... for its application totally or to any specified part

- Governor may make Regulations for the peace and good Government in excluded or partially excluded area.

e. The Hyderabad Tribal Areas Regulation, *(Regulation No. III of 1359F)*

- Agent and Assistant Agent appointed by Government.

- Government may by notification in the official gazette direct that any Act, Regulation or Rule for the time being in force shall not apply to any notified tribal areas or shall apply with omissions and modifications as may be so specified.

- Government may, by notification in the official gazette make such rules as appear to them to be necessary or expedient for the better administration of any notified tribal area in respect of tribals and of their relations with non tribals.

  ✤ Barring jurisdiction of courts of law.

  ✤ To transfer to Agent of all suits or proceedings pending before any court of law or revenue authority for the eviction of any tribal from lands or house site in notified area.

  ✤ Vesting in the Agent or Assistant Agent of all Civil and Revenue Jurisdiction in all cases involving the rights of any tribal in any land, house or house site situated in any notified tribal area.

  ✤ To try any criminal offence in which a tribal is involved as a party

  ✤ Prohibiting the grant of patta right over any land in any notified tribal area to a non tribal and empowering the Agent to cancel or revise any title.
Authorizing the Agent to recommend to government for revision or cancellation of any forest settlement made under Hyderabad Forest Act 1355F.

To exclude land from a reserve forest, up to limited extent with concurrence of DFO.

To dismiss official of any government department who is guilty of abusing his position.

To extern from a notified tribal area any non tribal who is presence in notified area is likely to be detrimental to the interests of tribals.

To abolish Patel and Patwari Watans.

To control money-lending

After Independence, The Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959, with amendments from time to time, was issued with the following important features.

a. Transfer means mortgage with or without possession lease, sale, gift, exchange or any other dealing with immovable property not being testamentary disposition and includes a charge on such property or a contract relating to such property in respect of such mortgage, lease, sale, gift, exchange or other dealing.

b. Not withstanding any thing contained in any enactment, rule or law in force in the Agency tracts, any transfer of immovable property situated in the Agency tracts by a person, whether or not such person is a member of a Scheduled Tribe, shall be absolutely null and void, unless such transfer is made in favour of person, who is a member of a Scheduled Tribe of a society registered or deemed to be registered under the Andhra Pradesh Co-operative Societies Act,
1964 (Act 7 of 1964) which is composed solely of members of the Scheduled Tribes.

c. Until the contrary is proved, any immovable property situated in the Agency tracts and in the possession of a person who is not a member of Scheduled Tribes, shall be presumed to have been acquired by such person or his predecessor in possession through a transfer made to him by a member of a Scheduled Tribe. (Amendment, 1 of 1970)

d. Transfer of land between non tribal and non tribal is prohibited. (Amendment of 1970)

e. Mortgage without possession to any co-operative society or to a bank permitted (Amendment of 1971)

f. Offences under this Regulation to be cognizable (Amendment of 1978).

In spite of existence of such laws over decades, 48% of land in scheduled areas has gone into the hands of non-tribals. Even where cases have been booked by Special Deputy Collectors (Tribal Welfare) under LTR, 1.62 lakhs of acres of land was decided in favor of non-tribals in SDC’s courts and there are apprehensions among tribals that the law was misinterpreted or ignored to favor the non-tribals. Further, out of 1.25 lakh acres of land decided in favor of tribals, only 1.06 acres was physically restored to tribals leaving about 25,000 acres not restored to tribals as per SDC court orders. How much of the land reported to have been restored to tribals is under actual enjoyment of tribals is another question. Non-tribals are also cultivating sizeable extents of land in Scheduled Areas by taking them on lease from tribals even though such transfer is also prohibited under Law. This kind of situation is continuing because of ignorance of law on the part of tribals, passive response from
officials designated to implement the Law and non-availability of legal support from outside to tribals.

Under **Indira Kranti Patham (IKP)**, Legal Assistance Programme is being implemented in Agency areas of East Godavari, West Godavari, Khammam, Warangal and Adilabad districts with the following objectives.

a. Provide legal assistance to tribals
b. Create legal awareness among tribals
c. Provide necessary information to tribals and
d. Giving legal support to the adjudicating authorities.

It has been proposed to study the impact of the initiates to enable Rural Development Department to develop ideas for next phase of the project for additional financing.

**Objectives of the Study**

As per TOR, the study tested the following hypothesis:

- The strategy of evolving tribal youth/women as Para Legals is the best way in mapping and addressing land issues of the tribals
- Physical inventory is the most appropriate way to identify problems that limit effective land access and utilization by the poor
- Establishing and strengthening legal aid clinics in law colleges is an effective way to provide access to the tribals to justice
Sample

The study was conducted in May, 2006 in the agency areas of Utnoor of Adilabad district and in K.R. Puram of West Godavari district by focusing on the following:

- 60 cases scrutinized in which appeals can be preferred / already preferred
- 2 villages in each of Scheduled area in which physical inventory was completed
- Focused Group Discussions with officials, Para Legals, Mandal Samakya and Village Organizations and tribals

Time frame

The time period for conducting the study was planned as follows:

<table>
<thead>
<tr>
<th>Activity</th>
<th>End of April,2006</th>
<th>May,15,2006</th>
<th>May,30,2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inception Report</td>
<td>XXXXXXXXXXXX</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Draft Report</td>
<td></td>
<td>XXXXXXXXXXXX</td>
<td></td>
</tr>
<tr>
<td>Final Report</td>
<td></td>
<td></td>
<td>XXXXXXXXXXXX</td>
</tr>
</tbody>
</table>

However, the study was delayed by few days as the field officers were busy with special Government Programmes like Praja Padham and visits ofVVIPs as part of this programme.
Methodology

The study is basically a qualitative assessment of the initiatives. However, quantitative data was gathered from ITDAs to serve as background to understand the trends.

Check lists for collection of data collection were prepared to cover the following issues.

a. Secondary data
   - Land Tenure systems in tribal areas of Telangana and Andhra areas
   - Protective Regulations –before independence and after independence
   - Other Acts governing Land Administration in Scheduled Areas
   - Progress of implementation of Land Transfer Regulation
   - Cases disposed in favor of tribals and non-tribals
   - Number of cases scrutinized so far
   - Number of appeals filed
   - Extent of land physically handed over to tribals
   - Extent verified and status of enjoyment of restored land and procedure followed in physical verification
   - Are cases of lease are also being verified?
   - Number of cases pending on Courts-SDC, Agent, High Court, Government
   - Number appeals filed in different Courts
   - Legal support
Legal Coordinators

Para Legal

Educating Mandal Samakhya and Village Organizations

Land Information Centers

Involving Law Colleges and their students

Role of PO, ITDA and Sub Collector

b. Focus Group Discussions:

- Mandal Samakhya and Village Organizations
  - Awareness of Law
  - Earlier experiences of dealing with LTR cases
  - Perception of their roles in the project
  - Number of LTR cases taken up
  - Type of data gathered to support the cases
  - Level of confidence in dealing the cases
  - Institutional support available and expected

- Para Legals
  - Educational levels
  - Training received
  - Knowledge levels of LTR and related law
  - Perception of their roles
  - Number of LTR cases taken up
  - Type of data gathered to support the cases
  - Level of confidence
  - Institutional support being received and expected
Further training required and from SDC office and received

Ideas about expansion of programme

- PO, ITDA, SDC, and Sub-Collector
  - Ideas about Legal Assistance Programme
  - Institutionalization of the Programme

- Tribal Elders and other tribals
  - Awareness of programme
  - Ideas about peoples role

**Study Results**

After opening of tribal areas with roads, the influx on non-tribals has increased from 1970s and a stage has come by 1991 and 2001 census periods, when the once predominantly tribal areas have become tribal minority areas. Utnoor Agency in Adilabad district and Polavaram Agency in West Godavari District are the standing examples of such tilt in population proportion.

The population of non-tribals has also increased in absolute numbers, thus increasing pressure on land. The position during 1991 and 2001 is as follows:

<table>
<thead>
<tr>
<th>Sl.No</th>
<th>Agency</th>
<th>Percentage Of Tribal Population</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>1991</td>
</tr>
<tr>
<td>1</td>
<td>Utnoor</td>
<td>43.97</td>
</tr>
<tr>
<td>2</td>
<td>K.R.Puram</td>
<td>43.15</td>
</tr>
</tbody>
</table>
The following statement shows the extent of occupation of land in tribal areas by non-tribals.

<table>
<thead>
<tr>
<th>Sl. No</th>
<th>Agency</th>
<th>Cultivated Area (Acres) under occupation of</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Total</td>
</tr>
<tr>
<td>1</td>
<td>Utnoor</td>
<td>516544.48</td>
</tr>
<tr>
<td>2</td>
<td>K.R.Puram</td>
<td>80601.04</td>
</tr>
</tbody>
</table>

The non-tribals used various methods to change records or create fake documents to legalise their occupations in scheduled areas. The impact is reflected in the number of cases decided in favour of non-tribals.

<table>
<thead>
<tr>
<th>Sl. No</th>
<th>Item</th>
<th>Utnoor</th>
<th>K.R.Puram</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Total Cases booked</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a) Nos</td>
<td></td>
<td>7493</td>
<td>11162</td>
</tr>
<tr>
<td>b) Acres</td>
<td></td>
<td>51871.03</td>
<td>57515.76</td>
</tr>
<tr>
<td>2</td>
<td>Total Disposed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a) Nos</td>
<td></td>
<td>6998</td>
<td>11040</td>
</tr>
<tr>
<td>b) Acres</td>
<td></td>
<td>49946.03</td>
<td>56658.54</td>
</tr>
<tr>
<td>3</td>
<td>In favour of tribals</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a) Nos</td>
<td></td>
<td>3717</td>
<td>2456</td>
</tr>
<tr>
<td>b) Acres</td>
<td></td>
<td>26710.10</td>
<td>10140.85</td>
</tr>
<tr>
<td>4</td>
<td>In favour of non-</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------------------------------</td>
<td>------</td>
<td>------</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3281</td>
<td>5145</td>
<td></td>
</tr>
<tr>
<td>tribals</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a) Nos</td>
<td>2325.93</td>
<td>29809.14</td>
<td></td>
</tr>
<tr>
<td>b) Acres</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>3069</td>
<td>2425</td>
<td></td>
</tr>
<tr>
<td></td>
<td>22781.03</td>
<td>9965.25</td>
<td></td>
</tr>
<tr>
<td>5 Restoration to tribals</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a) Nos</td>
<td>495</td>
<td>122</td>
<td></td>
</tr>
<tr>
<td>b) Acres</td>
<td>1925</td>
<td>857.22</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The AP(SA)LTR,1959 was extended to the Utnoor scheduled areas only in 1963 and in the gap between 1949 Regulation and 1963 was so large that lot of lands of tribals were lost during period. In case of K.R.Puram Agency, the area decided in favour of non-tribals is almost three times of the area decided in favour of tribals giving raise to serious doubts in the minds of tribals about the manner in which in cases were disposed. There were agitations in tribal areas of West Godavari district resulting deputing a representative by Human Rights Commission to enquire in to the various issues relating to land problem. This was followed by survey of all lands by Revenue Department which has also not satisfied the tribal organizations. In Utnoor Agency also there were demands to implement LTR in letter and sprit. Similar agitations were seen in Khammam and Warangal Agency areas also now and then. Therefore, comprehensive surveys through Para Legals were initiated in all scheduled areas by IPK. The survey taken up in three wholly Scheduled area Mandals in Utnoor Agency and in all scheduled villages in K.R.Puram Agency covered the following aspects.
<table>
<thead>
<tr>
<th>Sl.No.</th>
<th>Agency</th>
<th>Total Mandals surveyed</th>
<th>Type of survey done so far in</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Utnoor</td>
<td>3</td>
<td>All lands in all villages</td>
</tr>
<tr>
<td>2</td>
<td>K.R.Puram</td>
<td>4</td>
<td>Only assigned lands in all villages</td>
</tr>
</tbody>
</table>

**Paralegals**

Paralegals are mostly tribal educated youth from the scheduled areas and they were trained briefly in survey methods. It was found during the study that the Para legals in Utnoor area are sound in knowledge and therefore, are able to survey all areas. Further the tribal boys or girls of the area who are educated beyond 10\textsuperscript{th} class and coming from the same area, are able to appreciate the purpose of the survey. Their advantage is that they were able to speak tribal dialect which helped in establishing rapport quickly. Their general knowledge of the area and problems relating to land had helped them to relate the issues quickly. The number of Para legals is small now but a clarity on their roles in future is yet to emerge.

During discussions at field level, it was suggested that the number of Para legals should be at least one per village and they may be involved in survey, collection of required documents to fight the cases and pursue with officers till the lands are restored where ever the cases are decided in favour of tribal. In cases decided in favour of non-tribals they should assist the tribals and advocates in appeal process. This would mean continuous and heavy work which also requires working knowledge of the legal matters, for which they need to be trained. As they were conducting surveys, the non-tribals are getting agitated. The details are
discussed in survey chapter. However, the hypothesis that “the strategy of evolving tribal youth/women as para legals is the best way in mapping and addressing land issues of the tribals” proved to be correct provided they are from the same area, adequately trained and work continuously for at least five years.

**Physical Inventory**

Physical inventory is a method by which the information available in office records can be verified with people concerned in Gram Sabha or in one to one discussion. To understand the process followed, two villages each in Utnoor and KR.Puram areas were studied.

In Gowri village of Utnoor area, it was reported that the disputes over lands between Kolams and Muslims who occupied Kolam lands has already resulted in clashes a few months ago. A communal color was also given to this clash by vested interests. This survey was opposed by Muslims as they may lose those lands. Some of the Kolams who came to Jainoor village on the weekly market day have informed that it was not desirable to go to that village. This clearly shows that the follow up action on survey has also to be planned very carefully. Village wise details of physical verification are as follows:

**Utnoor Agency**

**a. Vankamaddi Village, Sirpur (U) Mandal**

There are 180 families in three hamlets of this village namely Vankamaddi - I (40), Vankamaddi - II(40) and Pittaguda (100). In this village, there is Survey No.5 which is a Government land (Khzim Khata) measuring about 1371.28 acres and is under cultivation of tribals. They need to be issued pattas to tribal cultivators. It was also reported during
the survey that about 200 acres of forest land is under cultivation of tribals but claimed by forest officials as Reserve Forest. A joint survey by forest and revenue officials may be taken up to determine the status for taking further action as per Rules.

b. Marlawai Village, Jainoor Mandal

There are 90 families in the village and 214 survey numbers as per survey report. On physical verification in Gram Sabha attended by about 30 members (many others have gone to Weekly market), the following issues emerged.

i. Area mentioned in the survey report is more than the area actually owned by the cultivator.

ii. Area mentioned in some other cases in survey report is less than actually owned by the cultivator.

iii. It was also verified whether the cultivator is informing about un-divided property, forest land Etc. On detailed enquiry, it was found that there are variations between record and actual field situation which needed to be verified again.

iv. During discussions on the subject with officials, it was informed that they depended mostly on data from Pahani (land register) in the survey report without verifying with cultivators in one to one discussion or in Gram Sabha.

v. Two problems may arise out of this data. One is that a person cultivating smaller extent of land may end up with that land only even though he is entitled to larger area as per record. If it was a survey error during preparation of land records itself in late 1980s under TGMS, it will be difficult after so many years to give satisfactory answer to the cultivator for the variations in records.
and field situation. Secondly, in case of the cultivators who are actually owning more land than what is recorded in Pahani, he may not get patta for the entire land owned by him. Therefore, each case has to be studied carefully before finalizing the record.

vi. In survey number 57 and 9 reported to be Ghat (Government Land) numbers, 20 acres is under cultivation by tribals.

vii. In the Pahani, the land-holdings are arranged as per Survey numbers. However, the villagers recollect their land-holdings by their locations and total holding they own. Therefore, it will be easy for verification, if the survey numbers are arranged cultivator-wise.

viii. It was reported that there are no non-tribal occupations.

c. Discussions at Jainoor with Mandal Samkhya office bearers and members:

During discussions held at Jainoor with Mandal Samakhya leaders and some of the Para Legals who did survey in other villages, the following issues emerged:

i. The Mandal Samkhya members are aware of that non-tribals cannot own land in scheduled areas and if they own a land in scheduled areas, they should prove it legally.

ii. In Wadesara h/o Addesera village, there are no tribals at all even though it is a scheduled village. Non-tribals mostly belonging Scheduled Caste and Backward classes communities are cultivating 253 acres of land in this village. They do not possess Pattas. There was a discussion among members on this issue. They felt that Pattas may not be issued to them as it is against Law but they may be allowed to continue cultivation as they are as
poor as tribals and also that they have not usurped lands from any tribals.

iii. In Shivnoor village, Gonds are cultivating a land belonging to a Muslim who left the village long back (Parari Pattedar). Such land can be assigned to those Gonds who are cultivating them over decades.

iv. In Gowri village, Muslims have occupied Kolam lands forcefully. They should be evicted as per Law and land restored back to Kolams.

v. It was reported that, after prolonged legal battle, Smt Manku Bai’s family was restored the land assigned to their father by government invoking the provisions of The Andhra Pradesh Assigned Lands (Prohibition Of Transfers) Act, 1977 (Act No. 9 Of 1977). The tribals proudly quote this achievement and Mandal Samakhya members are also acknowledging the support from Government through IKP scheme in achieving the goal. (They still refer it as VELUGU scheme). But the case booked under LTR is reported to be pending in High Court has to be with drawn as it is no more relevant. Any stay order obtained from court may delay restoration of land and dampen the sprits of Mandal Samakhya members.

vi. The Mandal Samkhya members informed that they have not discussed so far on the follow up action to be taken after the survey is completed. But they are sure that those tribals who lost lands to non-tribals should get back the lands. Further, they wanted that the tribals cultivating government lands be given Pattas on priority. In case of Forest lands under cultivation of tribals, they may not be evicted.
d. Discussions with Project Officer, ITDA and Administrative Officer, IPK, Utnoor

During discussions with officials on the survey the following issues emerged:

The TPMU attached to ITDA is involved in the survey. The Village Organizations are also involved in the Survey. There are 412 scheduled villages spread over five wholly scheduled Mandals and 28 partly scheduled Mandals. On an average, there are 200 survey numbers in a village. That means, there are more than 80,000 survey numbers to be physically verified. In Ghat Numbers, there are several cultivators and this adds to the number of cultivators to be verified. After the survey is completed, the following action is required:

- Pattas to be given to all tribals cultivating government lands,
- Pattas to be given to present cultivators, where ever the ancestral property is divided among legal heirs as per tradition
- Cases have to be booked wherever there are violations of LTR

Polavaram Agency

In Polavaram Agency, a detailed survey was taken up by Revenue Department earlier as a follow up of agitations by tribals under the leadership of some NGOs, left wing political parties, discussions in cabinet sub-committee and an enquiry by Human Rights Commission a few years ago. Tribals in general and NGOs and political parties in particular were not satisfied with the outcome of this survey. Several fake judgments of High Court favoring non-tribals were also unearthed recently from these Agency areas. Therefore this survey by IKP through Para Legals assumes larger importance. Since there is no TPMU in ITDA, K. R. Puram, the survey was carried out by IKP officials through
Para legals. The survey was limited to assigned lands only but it is being now being extended to cover all lands in all the village. It was reported that survey of assigned lands in all villages is completed. The following is the outcome of physical verification in selected villages.

a. Palakunta Village, Buttayagudem Mandal

It is a Koya Village. The P.O. ITDA, APD, IPK, the lady Koya tribal Sarpanch, the office bearers of Village Organization, about 40 tribals were present during verification.

i. Only 29 persons have Patta Pass books. Some tribals assigned lands in 1988 were not given Pass Books till today.

ii. About ten families were assigned lands in 1998 but lands were not shown to them till now.

iii. One non-tribal who was formerly a Village Officer owns 100 acres in this village but these details are not reflected in Adangal. It was discreetly informed that such deliberate omissions by Village Officers are very common in these areas to avoid cases under LTR which are not booked basing on Adangal only.

b. Ammapalem Village, Buttayagudem Mandal

The details of field verification in this Konda Reddy village are as follows:

i. A Koya tribal women from neighboring village has about 18 acres of land in this village and it was being cultivated by a former Village Officer of Kannapuram Village. Konda Reddies argued that lease can be given to tribals only as per Law. Therefore some landless Konda Reddies occupied the land and are cultivating the land jointly and sharing the produce. The Koya woman has not demanded any share so far.
ii. In this village also, large areas under occupation of non-tribals are not shown in the Adangal and therefore not covered by LTR cases.

iii. Few examples of variations between survey record and field situation are as follows:

- Sri Korla Dasi Reddi owns 10.00 acres of land but only 4.30 acres was recorded in the survey record based on Adangal.
- Sri Miditivada Posi Reddi owns only 1.02 acres but 2.00 acres was shown in survey record.
- Sri Kurla Jogamma owns only 1.70 acres but survey shows that she was shown as having 4.35 acres.

iv. The reasons for variations have to be very carefully analyzed.

v. Pattas were distributed in special land assignment programme in 2005 but land was not physically handed over to tribals so far.

vi. There is a fear of attacks by non-tribal during surveys in the entire scheduled areas.

c. Rajanagaram Village

Most of the villagers are available in the village as a marriage was being celebrated in the village. However, not much time could be spent with them as they were busy with marriage function. This village was surveyed by a Koya tribal girl who passed 10th class and she is from this area only. It was reported that this Para Legal has met each and every land owner at their residences and enquired about the details. Even though, a few variations were noticed between survey record and as reported by land owners, the survey is satisfactory. Some more training will result in perfection.
In view of the large scale variations between field situation and record, it is recommended that a re-survey of all lands all cultivators may be conducted in entire Agency area by holding Gram Sabhas and one to one discussions with cultivators. The Para Legals should be thoroughly trained.

**d. Meeting with Project Officer, ITDA and APD, IKP**

- PO, ITDA insisted that ITDA should be involved in IKP survey and other activities
- Land being a sensitive problem in this area, the survey and follow action may be taken up in consultation with P.O.

**Legal Aid Clinics**

In ITDA, Utnoor, the PO, ITDA as Addl. Agent is hearing the appeals over the judgments of Special Deputy Collector while the appeals over the judgments of Special Deputy Collector in ITDA, K.R. Puram are being heard by the District Collector as Agent. The Cases decided in favor of non-tribals and appeal cases pending in courts of Addl. Agent/Agent were analyzed by students of Law Colleges. The cases fit for appeal are identified and material required for appeal are gathered by Legal experts (who are fresh graduates from Law Colleges) with the help of Para Legals. This chain was very well planned. The status is as follows:

- In Utnoor, the Law students scrutinized all cases and found about 150 cases fit for appeal. The legal expert joined a few weeks ago and he has not made any progress so far. The legal cell in IKP office at Hyderabad is initiating follow action.
- In K.R. Puram, the legal expert is in place for the past six months and it was found after scrutiny by him that there are about 180 cases fit for appeal in Agent’s court over the judgments of SDC. It
was reported that the material required for filing appeals was gathered.

- The data collected for appeals and cases pending in High Court were analyzed.

- During discussions with officers, it was informed that Legal Clinics with young and qualified Advocates at ITDA level also would be useful along with those proposed to be established at Law Colleges. The Law students do have enthusiasm but don’t have experience in analyzing the cases, especially the LTR cases which require the understanding of legal-historical back ground of the area also. It was found that the work of scrutiny of cases of K.R.Puram area taken up by students of Law College, Bhimavaram motivated many students to join as Legal Experts in IKP after they passed out of the college.

- The Legal experts after gathering data are expected to assist senior Advocates from Panel of Advocates chosen. It was reported such a panel is yet to be in place in both the ITDAs.

- The details of cases pending at various levels are as follows:

<p>| Sl.No. | Where pending | Utnoor | | KR.Puram | |
|--------|---------------|--------|---------------|--------|
|        | Number | Extent(Acres) | Number | Extent(Acres) |
| 1      | Agent    | 74 | 426.35 | 61 | 360.51 |
| 2      | Govt     | 10 | 75.27  | 38 | 254.52 |
| 3      | High Court | 280 | 1450.09 | 69 | 581.45 |
| 4      | Supreme  | 0 | 0 | 0 | 0 |</p>
<table>
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<th>Court</th>
<th>83</th>
<th>23.23</th>
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<tr>
<td>Total</td>
<td>447</td>
<td>1974.94</td>
<td>168</td>
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</table>

- It was informed that in many of the cases pending in Government / High Court, no stay orders were issued on the appeals but the orders of lower court / government were not implemented on the plea that the cases are pending in Government / High Court only to favor the non-tribals.

- In cases where the judgments in SDC / Agent’s court are in favor of tribals, the physical restoration is delayed by revenue officials to give time to non-tribals to approach appellate authorities.

- The situation strengthens the hypothesis that Legal Aid Clinics are required to be set up at ITDA level and at the same level ensuring that they function independent of ITDA or SDC office. It may also be examined whether the same cell which collects data pertaining to the tribal cases can assist tribals in Agent /Addl. Agent Courts and engage senior lawyers to fight appeals on behalf of tribals at government or higher courts.

**Some typical court cases**

Altogether 30 cases from Utnoor Agency pending in High Court and 30 cases which have already been decided in SDC court, KR Puram and fit for appeal in court of Agent at Eluru were studied. 28 out of 30 cases in Utnoor Agency are filed by non-tribals in High Court. All the cases fit for review in KR.Puram have tribals as losers. The argument put forward by petitioners in Utnoor agency areas in most cases is that the transfers took place prior to 1963 when the Land Transfer
Regulation, 1959 was extended to Telangana areas. In case of transfers between Non Tribal to Non Tribal, the argument was that the transaction took place prior to 1970 when amendment to LTR 1959 was made (1/70). In some cases, it was argued that the transaction was registered but when there is a prohibition on registration such an argument is not valid. All the registrations made in Scheduled areas also should also be reviewed. There are cases of Lambadas who sold their land to non-tribals prior to 1976 in Telangana and prior to 1956 in Andhra area when they were not Scheduled Tribes. They would not get protection under LTR.

Out of 30 cases pending in High Court, 26 are pending for more than a decade in High Court. Only one case was filed in 2005. As already pointed out earlier, it has to be verified whether there are any interim orders passed by High Court and if no such order was passed or stay granted, action may be taken on the basis of orders passed in the lower court. In case of K.R. Puram several fake High Court orders were unearthed and in all such cases the culprits and their supporters in the offices should be punished. There are also cases of non tribals obtaining tribal certificates and seeking protection under LTR. Their certificates should be first cancelled after due enquiry as per Act 16 of 1993 and the land transaction should also be cancelled as per LTR, 1959. There are still some cases kept pending disposal since two and a half decades as per stay orders given by government in GO 129 S. W. Dept of 1979 even though the Government Order was set aside by High Court long ago. The following are some of the typical cases from these areas.

a. Utnoor

i. Smt. Vachala Bai, a Non-Tribal petitioner claimed in High Court that her land transaction was registered and a proof was enclosed to her petition in Special Deputy Collector court which
was not taken cognizance of. However, no proof was submitted by her in High Court also.

ii. Sri K Raja Reddy s/o Ashanna, a Non-Tribal petitioner claimed that he has purchased land from another non tribal prior to 1970 but could not produce any record to substantiate his claim. Further the person who is reported to have sold the land to him was not a legal owner or not is not known.

iii. Sri Sheikh Abbas, a Non -Tribal petitioner claimed that he purchased land from another Non- Tribal in the year 1966 but no proof could be produced. However, the case is pending since 1987 and it was reported that he is permitted to cultivate the land by revenue officials.

iv. Sri Kodapa Manohar is a tribal petitioner contended that the land belonged to his father is recorded in the name of non tribal with the connivance of Village Administration Officer. His claim was not verified and therefore details were not submitted to high.

b. KR.Puram

v. In case number 89/81, a judgment was reported to have been passed in 1982 by the SDC court setting aside the claim of Non -Tribal that he is a poor non-tribal and he should not be evicted from his land. The eviction orders were not implemented for the last 24 years giving protection under an invalid GO 129, SW Department, 1979. Similarly in case no 72/81 also the eviction orders were kept pending since 1981 giving protection under same invalid government order.

vi. In case number 534/01, a non tribal contended that he never purchased the land under dispute from a tribal but he purchased a land from a non-tribal in 1968. It has to be verified
whether a non tribal from whom the land was reported to have been purchased is a legal owner or not.

vii. In case number 13/2004, a Ryotwari patta was reported to have been issued in contravention of LTR 1959 which is not valid under Ryotwari Settlement Regulation of 1970 (2/70).

viii. In case number 20/02, it was contended by non tribal that she got the land as a gift (Pasupu Kumkuma) from her parents but gift is not valid under LTR. Similarly in case 936/90, a fake Will (Veelunama) was produced which is also not valid if the original transferor could not prove his legal ownership.

ix. In case number 402/2001, the name of persons from whom land was claimed to have been purchased was given differently at different points of time and hence it might be a cooked up record.

x. In Case number 286/99, the petitioner is reported to belong to Telaga caste but obtained Koya Tribal Certificate. Therefore, the caste certificate and the transaction should be cancelled after following due procedure as per Law.

An analysis of 60 cases has shown that the cases are simple in nature and benefit can be ensured to tribals if only officials have produced the correct records before courts. The benefit is going to non-tribals by default for several years. The project Officers informed that the posts of Special Deputy Collectors are vacant for long periods and very few Deputy Thasildars are willing to work in ITDA or SDC office as they are located in tribal area. The situation may not improve also. This confirms that an independent legal cell is required to assist tribals to fight their cases in various courts till the land is physically handed over to tribals.

**Conclusions and Suggestions**
After detailed survey of the villages and discussions with officials, Mandal Samakhya and Villagers, it was found that:

- The strategy of involving tribal youth/women as Para Legals is the best way in mapping and addressing land issues of the tribals provided they are from the same area and can speak tribal dialect fluently, well trained and they are employed by Village Organizations for about five years to assist Village Organizations in conducting survey, filing of cases in the Courts of SDC, Agent /Addl. Agent and High Court or Government through Legal Cells at various levels and take follow up action in physical restoration of land when the case is decided in favor of tribals.

- Physical inventory is the most appropriate way to identify problems that limit effective land access and utilization by the poor, provided the inventory is done through one to one discussions with cultivators and also by holding discussions in Gram Sabha.

- It would be effective if Legal Cells /clinics are established at ITDA level to be managed by Mandal Samakhya and consists of young Law graduates with right aptitude employed by Mandal Samakhya to work for tribals to provide access to justice to the tribals in addition to establishing and strengthening legal aid clinics in law colleges as envisaged in the hypothesis.

Keeping in view the above, it is suggested that a comprehensive five year programme of physical verification, filing of cases/pursuing pending cases, physical restoration to tribals (when ever cases are decided in favour of tribals) and comprehensive land development may be taken up in all tribal lands in scheduled areas. The following action plan is suggested.
1. Local tribal educated youth may be employed as Para Legals by Village Organizations as per area wise requirement, preferably a tribal from the same area and trained in Survey methods and LTR provisions and continued for at least for five years in one place subject to acceptance by the Village Organization.

2. The survey may be done cultivator wise taking in to consideration all the survey numbers held by the cultivator.

3. The extent of land under occupation as claimed by the cultivator may be compared with the details recorded in Pahani / Adangal in one to one discussion and in Gram Sabha for cross check.

4. Lands held by non-tribals and not brought to records may also be surveyed.

5. After the survey is completed, action may be initiated, *slowly and steadily*, so that this may not be taken advantage of by vested interests to stall the whole process, as land is a sensitive problem. The following prioritization may be followed:

   i. Physically handing over lands in cases where Pattas were given to tribals and land was not physically handed over;

   ii. Issue of Pattas to tribals who are cultivating government lands which are not under dispute with Reserve Forest;

   iii. Issue of Pattas in the names of present cultivators who are legal heirs of earlier patta dars;

   iv. Physical restoration of land in LTR cases decided in favor of tribals by various courts;

   v. Booking cases under LTR where a tribal land is occupied by non-tribals;
vi. Booking cases under LTR where a tribal land is under long lease (covered by written or oral agreement even if it renewed year after year) by non-tribals which is almost equal to permanent occupation;

vii. Booking cases under LTR where a non-tribal is in occupation of government land and allotment to landless tribals;

viii. Enabling Mandal Samakhya to establish Legal Clinics/Cells and provision of Corpus Funds to Mandal Samakhya to engage Paralegals, legal specialists, filing cases in courts, organizing training programmes etc.

ix. Providing knowledge to Mandal Samakhya to review all cases decided in favor of non-tribals in the courts of SDC/Agent/Addl. Agent/High Court and Government and fight in courts on behalf of tribals.

x. Recognizing Mandal Samakhya by government, as a sub-group to be authorized by Gram Sabha to perform the role given to Gram Sabha under LTR in PESA.

xi. Establishing Legal Cell in SERP/IKP to assist the Mandal Samakhyas in their work in coordinating/organizing training programmes, legal support etc.

6. Comprehensive development of tribal lands starting with assigned lands and LTR restored lands may also be taken through Mandal Samakhya as a comprehensive package for Scheduled Areas.