

# ENHANCING TRIBAL LAND TENURE SECURITY IN ODISHA:

## O TELP- LANDESA PARTNERSHIP



### Context

- Landlessness continues to be high, more so among scheduled tribe (ST) households, in tribal dominant states such as Odisha. This can primarily be attributed to the existence of historical weaknesses in land administration systems.
- Current legal frameworks to prevent tribal land alienation, ensure restoration and implement provisions to settle Government lands - both agricultural and homestead - are not adequate.
- Tribal development projects aided by external entities have been trying to improve the tenure security of tribal communities by enhancing access to un-surveyed agriculture lands on hill slopes, as well as homestead lands.

### Interventions

- Landesa, an NGO, partnered with the Odisha Government on its Tribal Empowerment and Livelihoods Project (OTELP) to enhance the land rights of tribal households by facilitating grants to homestead land as per existing legal and schematic provisions. This involved the engagement of trained Community Resource Persons to assist the Revenue Department in terms of enumeration, coordination and land allotments and also entailed specific provisions for women.

### Lessons

- A flexible project framework and strategic government-NGO partnership can help overcome resource gaps in the land administration framework and improve service delivery to address tribal homesteadlessness.
- Village level assistance and enumeration is critical to identify actual cases of land-deprivation and also de-facto land availability for homesteads.
- While it is possible to address homesteadlessness through such a bottom-up process (involving assistance provided to the Revenue Department), overcoming agriculture landlessness and improving access to cultivated land will require strong political buy-in and administrative coordination at a large scale.

## Introduction

Landlessness is increasingly becoming endemic in India's rural areas. As per the Socio-Economic Caste Census, 2011, the proportion of landless households deriving a majority of their income from manual casual labour was 38 percent in India and 39 percent in the state of Odisha, while the same figures for female headed households were slightly higher at 42 percent and 43 percent, respectively (Gol, 2011). Landlessness and lack of access to productive assets like land have been identified as a major cause for rural and tribal poverty, impacting the income, social security, health and education of the rural landless poor. Furthermore, landless households that access farmland through informal leasing arrangements often lack proper documentation of their property rights. This, in turn, limits their security of tenure and reduces their access to credit & other entitlements intended to improve their livelihoods.

Given that the post-independence land reform agenda to redistribute land more equitably remains unfinished, the Central Government has been trying to address landlessness among women, men and disadvantaged communities, such as tribal people and Dalits, since the early 2000s, through various legal reforms and institutional measures (World Bank, 2015). These include settling government land in favour of landless and the poor, including members of scheduled castes (SC) and scheduled tribes (ST); joint titling of land records in the names of husbands and wives; and promulgating legal reforms, such as the Hindu Succession Act Amendment in 2005 to enhance women's inheritance rights, as well as acts to promote tribal land protection and restoration. The central and state governments have also supported numerous projects and institutional interventions to enhance land rights viz. para-legal assistance, common resource centres and land record computerization.

Similarly, the Forest Rights Act (FRA) enacted in 2006 recognizes the land rights of tribal people and other forest dwellers that



Image Credit: OTELP

have been cultivating lands classified as forests for years and enhances formal channels for accessing agricultural lands. Odisha has been one of the leading states in terms of implementation of the FRA; it has recognized the individual forest rights (IFR) of 0.44 million people over 0.26 million ha as of March 2020 (Gol, 2020). However, there has been limited implementation of field demarcation and integration of these rights into the Record of Rights (RoR), as well as of specific activities to promote the inclusion of women's names in the land records, as mandated by the FRA. Moreover, without verifying beneficiaries' possession of the land formally documented in their name and ensuring women's inclusion, the FRA objective of undoing historical injustice may remain unfinished.

Compared to India, Odisha has a relatively large tribal population<sup>1</sup> (22 percent of the state population), with up to 44 percent of its area classified under Schedule V<sup>2</sup>. In these Scheduled Areas, three-fourths of the land is owned by the State. This, even as landlessness in tribal communities remains a concern<sup>3</sup> with about 41 percent of all households being landless (own no land) in tribal districts (Kumar et al., 2005). Illegal

land transfers from tribal to non-tribal landholders is also rampant. Tribal landowners have lost their land due to lack of repayment of land mortgages and concealed land leasing, despite protective provisions in the Orissa Schedule Area Transfer of Immovable Property (OSATIP) regulation 1956. It's important to note that both state and non-state policies have had a debilitating impact on tribal livelihoods and land. As per a World Bank Study, tribal people's poor access to land is not only the outcome of land alienation (sales, mortgage and other transfers) to non-tribal people, but also of the land and forest policies followed by the State. These include the lack of a proper record of occupation rights of tribal lands during survey and settlement exercises, non-recognition of rights on land classified under shifting cultivation (which are more often than not categorized as state land) as well as a complete lack of survey of lands with more than 10% slope. Such lands with higher gradients are usually occupied by tribal people. Even the process of reservation and declaration of forests either did not record or completely denied the existence of tribal rights. Although the Indian Constitution provides for protection of land

<sup>1</sup>To the total population of the state

<sup>2</sup>Schedule V areas in Odisha as declared by the Indian Constitution are areas with higher tribal population. Scheduled areas of the state contain almost 70 % of the forest areas of Odisha, even though they form only 44 % of the State area.

<sup>3</sup>In tribal districts, about three-fourths of the village lands (excluding forest lands located outside village boundary) is owned by the land revenue department of the state and in districts like Gajapati and Kondhmal, less than 10% land is owned by tribals.

rights for scheduled tribes, the scheduled tribes have been substantially affected by large-scale displacement due to dam construction, industrial and mining projects (Kumar et al., 2005).

In Odisha, the state (the revenue and forest departments together) owns almost two thirds of all land (Kumar et al 2005), while about 60 percent of the land in the state is upland or hilly. One of the reasons the proportion of state-owned land is so high is that officially all un-surveyed areas, as well as lands with over 10 percent slope, are considered state land. Across the state, land above 10 percent slope was categorized as state-owned land because it could not be surveyed using the available instruments<sup>4</sup>, even though it was often used for shifting cultivation and in many cases even for permanent terraced cultivation, largely by tribal people. Thus, the lack of survey in the upland areas effectively left the tribal people using these lands, 'legally landless' (Kumar et al., 2005).

In the revenue villages of Odisha, i.e those which have been officially surveyed, an average of 70 percent of land is private and 30 percent is under different categories of government lands viz. cultural waste (Abad jogya anabadi) and unculturable waste lands (Abad ajogya anabadi). The availability of government lands for potential settlement of landless households (i.e. legal recognition of

their de facto possession) is relatively high in Odisha. In 2014 there was 0.28 ha on average per household in Odisha<sup>5</sup>, which if settled in favor of the landless community, could substantially address landlessness in the state. Over the years, Odisha has brought in several acts and schemes to settle government land in favour of the landless, women, dalits and tribal peoples (World Bank, 2014).

The International Fund for Agriculture Development (IFAD) - sponsored Orissa Tribal Development Project (1988-97) had strengthened tribal people's land rights<sup>6</sup> on hill slopes through a government order that allowed for the settlement of dongar land<sup>7</sup> between 10 and 30 percent slope and the recognition of their usufruct rights to lands above 30 percent slope. This unique government order<sup>8</sup> was extended to all tribal areas of the State later, in 2000<sup>9</sup>, to allow for settlement of land up to 30 percent slope with tribal shifting cultivators.

This practice was proposed to be upscaled by the subsequent IFAD-funded project, the Odisha Tribal Empowerment and Livelihoods Project (OTELP)<sup>10</sup>, starting in 2004. The OTELP during 2006-08 had entered into a partnership with a resource NGO called Vasundhara to support the land rights component of the project, which aimed to address tribal land alienation, restoration<sup>11</sup> of tribal lands illegally transferred to

non-tribal people and tribal landlessness through legal support and participatory land rights mapping. This led to a pilot in two micro-watersheds in Kalahandi and Phulbani districts, based on which about 100 landless (legally landless, meaning owning less than 1 standard acre) tribal households, were made eligible for formal recognition of their rights over the government lands they possessed. This was done by applying for provisions under existing land laws viz. Odisha Prevention of Land Encroachment (OPLE) Rule, 1972 and Odisha Government Land Settlement (OGLS) Rule, 1968.

One of the challenges behind continuing landlessness and tribal land alienation has been the limited capacity of the Land Revenue Department. Not only have there been high rates of vacant positions in the department, but also the workload has increased, negatively affecting the service delivery (Mearns and Sinha, 1999)<sup>12</sup>. Poor coordination between the Forest and Land Revenue Departments has also restricted the state's ability to secure the land rights of tribal people and other forest dwellers.

<sup>4</sup>Viz. Dumpy level, theodolites required to measure slope; During that time only chain survey method was followed.

<sup>5</sup>ibid, p.A-3

<sup>6</sup>to 6,837 tribal households in 236 villages covering a total area of 17,175 acres

<sup>7</sup>Dongar is a land classification under Odisha Revenue Law, which is defined as highland (land on hill slopes) above 10 degree slope.

<sup>8</sup>For the first time, GOO accepted the need to settle hill slopes with cultivators and issued an order vide GOO letter no TD-I(IFAD)-18/91/2628/HTW dated 10th April 1992 issued following a review meeting on Orissa Tribal Development Project sponsored by IFAD under the chairmanship of Chief Minister of Orissa.

<sup>9</sup>Vide GOO letter no. 14643-R-S-60/2000 dated 23rd March 2000

<sup>10</sup>Land rights initiatives in OTELP included (1) Providing a legal defence fund to assist tribal people in pursuit of land alienation/restoration cases. (2) Supporting operational costs for improved detection and disposal of land alienation cases and monitoring enforcement of land restoration orders. (3) Funding the survey and settlement process for the hill slopes between 10° and 30°. (4) Regularization of un-recorded tribal possession over non-dongar lands and non-delivery of ceiling surplus land in the program villages.

<sup>11</sup>Restoration of the property means actual delivery of possession of the property to the transferor or his heir. Orissa Land Reform Act and Orissa Schedule Area Transfer of Immovable Property (OSATIP) Regulation, 1956 and subsequent amendment in 2002, have provisions to restore land back to ST and SC owner, if they were transferred or mortgaged without following the provisions in the Acts. Any transfer of land belonging to STs and SCs to people not belonging to STs and SCs without the prior permission of the competent authority is declared void and illegal as per Section 22 of OLR Act, 1960. In Fifth Schedule Areas of Odisha any transfer of immovable properties belonging to the STs to non-STs is illegal under Orissa Scheduled Areas Transfer of Immovable Properties Regulation 1956. Through progressive amendments made in 2002 to the OSATIP Regulation, transfer of land of STs to Non-STs was banned. The competent authority either suo-moto or on a petition by the interested person or on an information received from Gram Panchayat on that behalf can declare such transfer as illegal and shall restore the land to the lawful landowner or his/her heirs with intimation to the Gram Panchayat. It also provides for eviction of persons in forcible occupation of the land belonging to any tribal and restoration thereof. As per provisions of this Act, Land Restoration Officers were appointed in Scheduled districts who oversaw restoration of hundreds of thousands of acres of land back to ST owners in the first decades of this century (Odisha LGAF Report, 2014).

<sup>12</sup>A Revenue Inspector (RI) allocates about 25 percent of his time for updating land records and maintenance of other records (Mearns and Sinha, 1999). Over the years, the scope of RIs' operations has increased both in terms of the area to cover and the quantum of tasks to perform. On an average, an RI circle in Odisha consists of 20-30 villages, with an annual revenue demand that is nearly 10 times the figure prescribed in the 1961 'Manual of Tehsil Accounts' (Tripathy, 1992). The conference of state revenue secretaries in 1985 agreed that 'the real jurisdiction of the Revenue Inspector should be brought down to a manageable level such as four villages or 3000 khatiyans per [RI]' (GOI, 1985: 53).





Image Credit: Navin Amang

## Objective

This case study analyses Landesa's interventions in Odisha to assist the state government, specifically the OTELP, by demonstrating an alternative approach to secure land tenure rights of poor tribal

farmers over their land, especially landless farmers and women. Landesa in Odisha primarily focused on supporting landless households to claim their land tenure rights (homestead, agriculture and forest land)

within the existing legal framework (Table 1). It also promoted the recognition and inclusion of women's rights in land title documents.

Table 1: Institutional and legal framework by type of land tenure

Land Tenure	Beneficiary Type	Implementation Partner	Network Support Partner	Legal Framework
Homestead Land	ST,SC, Single Women, Widow	OTELP	Revenue & Disaster Management Department ST & SC Development Department	OGLS Act <sup>13</sup> , OPLE Act <sup>14</sup> , Vasundhara <sup>15</sup> Scheme, Mo Jami Mo Diha <sup>16</sup> Scheme
Agricultural Land	ST,SC, Single Women, Widow	OTELP	Revenue & Disaster Management Department ST & SC Development Department	OGLS Act, OPLE Act, Mo Jami Mo Diha Scheme, Orissa S & S Act
Forest Land (Individual Forest Rights <sup>17</sup> )	ST	OTELP	Revenue & Disaster Management Department ST & SC Development Department Forest Department	Forest Rights Act 2006
Women's Land Rights	Women	District Administration, Women Support Centers	Panchayati Raj Department Revenue and Disaster Management Department	Odisha Special Survey and Settlement Act 2012 <sup>18</sup>

<sup>13</sup>The Orissa Government Land Settlement Rules, 1983 may settle land to a homesteadless and/ or landless family whose annual family income from all sources does not exceed 40,000; the family does not have any homestead land in the state; and the family owns less than one standard acre of agriculture land. The extent of land to be settled in favour of each person having no homestead land shall be 1/25th of an acre. Where the land is not sufficient to accommodate all such persons, settlement shall be made subject to the limit of availability. For agriculture land the settlement will be made upto one standard acre subject to availability of tenable agriculture land in the village.

<sup>14</sup>The Odisha Prevention of Land Encroachment Act 1958 and Rules deals with the Government lands that are encroached or in possession of another person. As per Section.7 of the Act, where the land is occupied by a homesteadless person and utilized for homestead purposes, the Tehsildar shall settle the occupied land up to 1/10th of an acre. However, this act is not applicable for reserve d category (Grazing, Graveyard etc.) of land.

<sup>15</sup>Under Vasundhara Scheme government land up to the extent of four decimals was being provided free of premium to each homesteadless family for house site purpose since 1974-75. The maximum extent of land to be distributed has been enhanced to 0.10 Acres. This scheme is being governed under the provisions of Odisha Government Land Settlement Rules, 1983.

<sup>16</sup>The Government of Odisha launched a campaign named as "Mo Jami Mo Diha" during 2007 to protect the land rights of the poor. The objectives of the campaign are (a) to protect and ensure the land rights of the poor, who were allotted lease of Government land earlier or to restore their lost land (b) to achieve convergence with the development schemes to see that the land allottees are in a better position to utilize the land and (c) to assist the poor, with emphasis on those belonging to ST and SC communities to retain their land and homestead within the existing legal framework.

<sup>17</sup>Right to hold and live in the forest land under the individual occupation for habitation or for self-cultivation for livelihood by a member or members of forest dwelling Scheduled Tribes or other traditional forest dwellers.

## Institutions Involved and Their Roles and Responsibilities

Landesa worked in partnership with the IFAD-supported OTELP from 2010-14 after starting their work in Odisha during 2009 (IFAD, n.d). The OTELP had a mandate to allocate land from the un-surveyed lands available between 10<sup>0</sup> to 30<sup>0</sup> slope to landless tribal families in project villages. Surveying of these sloping lands through modern instruments, however, required making necessary amendments in the existing legal provisions<sup>19</sup> in the state to allow for the use of modern surveying tools, such as Differential Global Positioning System (DGPS) & Electronic Total Station (ETS). However, political and administrative bottlenecks restricted the amendment of the Orissa Survey and Settlement Act 1958 and the survey and settlement operation in project villages could not be implemented. Instead, other legal options provided for by Government land settlement provisions under different acts (legal provisions in Table 1) were explored, as done earlier in partnership with Vasundhara, to settle lands in favour of legally landless households<sup>20</sup>.

Landesa as a development partner in the program assisted OTELP first in the enumeration of the homesteadless and landless families and also in their categorisation based on their landholding.

This was done especially keeping in mind their eligibility to receive formal land rights as per the State's existing land acts. Tribal households without either homestead land or agriculture land were prioritized for support, and Landesa supported the OTELP to settle homestead and agriculture land for them. Moreover, this program was used as a platform to experiment with collaborative, community-led land settlement interventions in Odisha to overcome the capacity limitations of the Land Revenue Department.

Landesa worked closely with the Tehsildar, Revenue Inspector etc. at the Tehsil (subdistrict land administration unit of land administration in Odisha) level. The program engaged local youths as Bhumi Sanyojak (Community Resource Persons - CRP<sup>21</sup>) at the village level, who provided basic facilitation services to the eligible families to claim rights over available or possessed Government land as their homestead and agriculture land within the existing legal provisions of the state. The facilitation services provided by Bhumi Sanyojak include identifying the landless households through enumeration, assisting them to complete the requisite application form to apply for land, organising the

requisite documents for submission along with the application form and helping them comply with the required information needed under relevant laws<sup>22</sup>.

The Bhumi Sanyojaks are semi/moderately literate youth (male and female) from the program villages selected by the communities with the consent of the Gram Panchayat. Landesa prepared a comprehensive capacity building plan for these Bhumi Sanyojaks and provided hands-on orientation to them through an iterative process. In addition, for ease of facilitation, Landesa developed standardized tools and manuals, such as data collection forms and tools to identify the landless (both homesteadless and agriculture landless), assess eligibility, classify government land categories (tenable or non-tenable<sup>23</sup>) for settlement etc. Data was collected in two stages<sup>24</sup>. The Bhumi Sanyojaks were trained and acquainted with the data collection process in the village at the revenue inspector level. Once the data was collected, they were further consolidated at Tehsil level. These consolidated data were further validated in two phases. The first phase of validation was made through conducting a village meeting where the list of identified landless households based on

<sup>19</sup>The provision under the act was to use chain compass method of survey

<sup>20</sup>Landless Household: Household with land holding of less than one standard acre of agricultural land. This does not include the households without homestead land. A standard acre is defined as 1 acre of class I land, 1.5 acres of class II land, 3 areas of class III land and 4.5 acres of class IV land. Class I land is round the year irrigation facilities land where two or more crops can be raised whereas class II land has limited irrigation facilities which can grow not more than a single crop. Class III land is unirrigated on which only paddy can be grown. Class IV land includes all other types of land.

<sup>21</sup>The "CRP Model to secure land rights for the poor" has been identified as one of the high-impact innovations in the Bihar Innovation Forum organized in January 2014 by the Bihar Rural Livelihoods Promotion Society (BRLPS). <https://www.inclusivefinanceindia.org/uploads-inclusivefinance/publications/1048-1004-FILE.pdf>

<sup>22</sup>Viz. Orissa Government Land Settlement Act, 1968, Rule, 1983; Orissa Prevention of Land Encroachment Act and Rule, 1972

<sup>23</sup>As per Odisha' land laws, particular types (kissam) of government land can be settled or regularized as private land or with raiyats (farmers) while some other cannot be; the former are called tenable and the later non-tenable viz. Abad Jogya anabadi (Cultivable wastelands) land including cultivable land within village boundaries not settled with raiyats (farmers), abandoned holdings, surrendered holdings, land reserved for Panchayats and armed forces personnel. These lands are "unobjectionable" for regularization and can be settled with raiyats. "Uncultivable wastelands" (abad ajogya anabadi) such as water bodies (including rivers, lakes and sea), hillocks, mountain, hilly areas and sandy areas are the most important category of non-forest government land in tribal areas, where hills and sloping areas have been categorized as abad ajogya anabadi. This category is also treated as "objectionable" for settlement, as it is presumed to be uncultivable. However, Rakshit(Reserved) lands, including acquired lands (under Land Acquisition Act, 1894) but not transferred lands (already transferred to other government departments/agencies), irrigation works, lands transferred to Gram Panchayats, Gochar lands (grazing land), land for village-habitation settlement, poramboke land (village common land), Gramya jungle (village forest) etc. cannot be regularized as such and are non-tenable. The data was collected in two stages. At the first stage land data from the Revenue Inspectors' office was collected, which included land holding data as per the RoR (viz. Khata No., Name of the land holder, Father/ Husband's Name, Caste, Plot Number, Local Name of the land, Land Kissam- type, Area and name of the land owners located in north and south of the plot). The second set of land data collected were details of land allotted under government schemes. These data included name of the holder, father/ husband's name, Khata No., Plot No., Category, Area and year of settlement. Similarly, data on forest lands settled under FRA were also collected, with similar information, such as Name of the Holder, Father/ Husbands' Name, Khata No., Plot No., Area for homestead & agriculture land. And the final set of land data collected was the availability of government land in the village. The data points collected for government lands were khata no., type of khata (Reserved/ Common/ Uncultivable waste/ Cultivable waste), Kissam (eligible for homestead, Grazing, Village Forest, eligible for commons, orchard etc.) and area.

<sup>24</sup>At the second stage, the household data was collected taking Anganwadi Center (AWC) as cluster unit of data collection. The purpose behind taking as cluster unit was to get the updated list of households in the village. Although the Gram Panchayats have lists of households, those are not updated in a regular manner. Thus, the AWC as a cluster for household data collection was taken. The household data collection tool was segregated in two parts. The first part was used to collect data on the name of the head of the household, spouse name, father/ husband's name, gender, caste, category wise number of single women residing in the household (widow, abandoned, divorcee, unmarried women below 30 years and disabled). The second stage household data collection drilled down further to collect the details of the single women residing in these households. The data points included in this tool were name of the single woman, father/ husband's name, age, caste, number of family members, whether she lives in a single women/ women headed household, category, occupation, residing with whom (independent, parents, in-laws, brother/ sister, relative etc.), whether she is a SHG member, inclusion under social security scheme (BPL, Pension, NFBS, MGNREGA, IAY etc.).

the data shared in the meeting. The second stage validation was done by triangulating the data with tehsil level data, where the list of identified landless households was shared with the tehsil office especially the respective Revenue Inspectors for corroboration. Once these validations were completed, the final list of landless households was assessed for their eligibility to claim land under existing legal provisions governing settlement or regularization of government land possession in Odisha viz. Orissa Prevention of Land Encroachment Rule, 1972, Orissa Government Land

Settlement Act, 1968 and land allocation/ grant schemes, such as Vasundhara<sup>25</sup> and the Mo Jami Mo Diha<sup>26</sup> scheme of the Government of Odisha. The trainings for the Bhumi Sanyojaks were organised by Landesa and also involved the local revenue department officials based at the Tehsil.

At Tehsil level, OTELP supported the Land Revenue Department by providing the services of Data Entry Operators, retired Revenue Inspectors, Surveyors etc. to assist the Tehsil officials in preparing the requisite documentation and map

preparation activities viz. scrutiny of the application form, making the trace map, preparing case records, conducting the field verification etc. The Bhumi Sanyojaks ensured the proper documentation and filing of cases in the Tehsildar's office, which expedited the process of land settlement implemented by these additional team members in program villages (Figure 1).

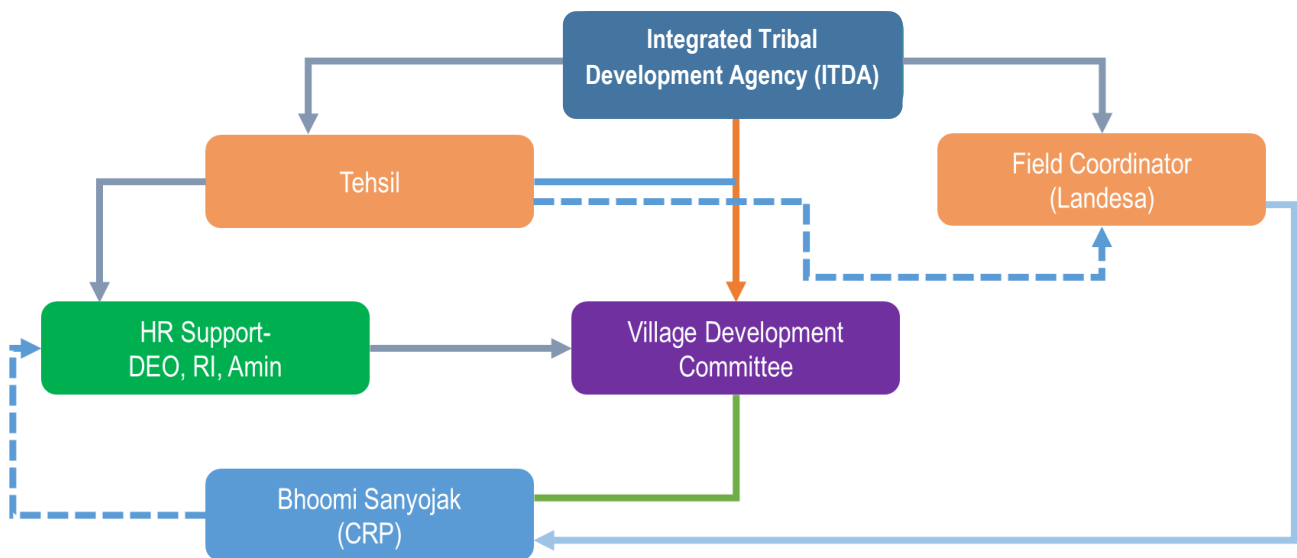


Figure 1: Institutional framework around Bhumi Sanyojak (CRP) model in OTELP (ITDA is the Integrated Tribal Development Agency, the nodal implementing agency of Tribal Department- SC SCT Development Department in Odisha, at the District/sub-district level)



<sup>25</sup> Under this program, Government land up to the extent of four decimals is provided free of premium to each of the homesteadless family for house site purpose under the Odisha Government Land Settlement Act, 1960 and the Odisha Government Land Settlement Rules, 1983.

<sup>26</sup> My land My homestead: It is a campaign for the protection & restoration of land rights of the poor along with assured possession (especially for ST and SC).



## Implementation Status

O TELP was completed in 2016. While Landesa's involvement in the whole process was intensive during the initial period, its support was gradually reduced as the program took over the responsibility for scaling up of this initiative. Although some of the field functionaries of Landesa were engaged in the program in their field units and continued their support, the role of Landesa as an institution was limited to technical backstopping and improving the process with a focus on technical content. A comprehensive management information system (MIS) was developed by the program and Landesa jointly to track the progress of implementation in a routine manner.

Sl. No.	Parameters	Value
1	No. of Districts	7
2	No. of Blocks	30
3	No. of Villages	1,042
4	No. of Households covered under Project	58,276
5	No. of Landless Households (Zero House site and Zero Farmland)	12,118
6	Households allotted House sites	15,620
7	Households allotted Farmland	2,006
8	No. of households settled land under OGLS	2,905
9	No. of households settled land under OPLE	9,773
10	No. of households settled land under Vasundhara Scheme	3,515
11	No. of households settled land under Mo Jami Mo Diha	638
12	No. of households settled land under FRA (IFR)	8,611
13	No. of households whose land was restored under Regulation 2 of Odisha Land Survey and Settlement Act 1956	596
14	No. of Bhumi Sanjoyaks promoted	550

Table 2. Scale of Implementation (GoO, 2015).

## Impacts

The Project Completion Report of O TELP published by IFAD in 2016 explicitly mentioned the collaboration with Landesa and noted that the engagement of this specialised agency facilitated the land survey and settlement process (GoO, 2016). It noted the role of trained Community Resource Persons (CRPs) in identifying landless families, in locating the land available and eligible for distribution, as well as in facilitating the land allocation process by working closely with the revenue officials. By increasing the cultivators' tenure security, the allocation of formal property rights to lands on hill slopes has also reduced shifting cultivation practices in the areas targeted as reported by the project<sup>27</sup>.

In addition, the immediate benefits from the project included better land and water management (watershed) investments and increased access to agricultural inputs and training. This, in turn, increased productivity. On an average, a household's production increased from 532 kg/household to over

1,283 kg/ household for cereals, pulses and oilseeds. Furthermore, average household production also included fruits, vegetables, tubers and spices. Incomes, excluding the value of family labour, increased from INR 1,938 to INR 36,990 on project completion. This would increase to INR 50,530 on full development. In terms of sustainability, benefits include minimized soil erosion, reduced runoff, increased infiltration and enhancement of organic contents of the soil. These benefits, however, have not yet been entirely quantified.

This joint initiative identified 29,979 households (53 percent of project-targeted households in these geographies) as landless, of which nearly 90 percent were tribal. By March 2016, 26,038 households (about 87 percent of the total landless) had benefited from the program, including 17,427 who had received land titles under OPLE and OGLS and 8,611 who had received land titles under the FRA. Among these land beneficiary households (26,308),

11 percent of the titles were for farmland and 89 percent were for homestead land, which typically includes a small backyard garden. The bias towards homestead land allocation may be due the relatively more straightforward process to allocate homestead land under present law, the fact that it typically involves smaller transfers of land per person than farmland and also the Government's prioritization of homestead land settlement. All land titles were in the joint name of the husband and wife. Having a land title enables households to access support under government programs and gives a sense of dignity and confidence to women as landowners. The engagement of CRPs has been one of the key factors in the success of these initiatives.

By identifying almost half of the project populace as landless, the Landesa - O TELP collaboration demonstrated that landlessness could be as grave an issue in all Tribal Sub-Plan (TSP)<sup>28</sup> areas as in O TELP areas. This motivated the

<sup>27</sup>Tribal districts viz. Kandhamal, Gajapati, Kalahandi, Koraput, Rayagada, Nabarangpur and Malkangiri

<sup>28</sup>The Tribal Sub-Plan (TSP) is a planning concept used in India to channelize the flow of benefits from the Central government for the development of tribal populations in the states. O TELP was implemented in 1042 villages in 40 TSP blocks out of 118 TSP blocks in Odisha. The Government of Odisha eventually expanded this program to all the 118 TSP blocks.

Government of Odisha to scale up the CRP model to 18,000 villages in 118 TSP blocks across 12 districts in three overlapping phases to be implemented as a Comprehensive Program on Land Rights to Tribals over five years (2012-2017) (GoO, 2012). The program aimed to formalize rights over land for households possessing government land-both for homestead and agriculture. The aim was, as far as possible, to settle households on their occupied house and cultivation sites. The Program meant to use CRPs/Bhumi Sanyojaks to provide additional capacity to local revenue officials for accurate enumeration of homesteadlessness and landlessness. Local Revenue Inspectors were envisaged to play a key role in the selection of the CRPs/ Bhumi Sanyojaks through a consultative and transparent process with support from the community and partner NGOs. For the implementation of the program, landless or homesteadless were to be identified as per

definitions provided in the Odisha Government Land Settlement Act, 1962 and Odisha Prevention of Land Encroachment Act, 1972. ST & SC Development Department of Government of Odisha was identified as the nodal department for program intervention; while OTELP was to anchor the program with collaboration and technical assistance from Landesa (RDI). The Revenue Department was however to be the key implementing partner, while other line departments like Panchayati Raj and Agriculture were expected to provide necessary implementation support for land development and ensure the convergence of government programs and schemes to augment local livelihoods. The Integrated Tribal Development Agency (ITDA) was identified as the fulcrum and entrusted with the facilitation of the intervention at the district level. Block level facilitation was to be done through local facilitating NGOs already in partnership with

OTELP. The district revenue administration was expected to ensure the support of the revenue officials at different levels to work closely with respective ITDAs, FNGOs, Landesa (RDI) professionals and also with the CRPs/Bhumisanjojaks during the process of identification and settlement. The primary responsibility of the district administration was planning, monitoring and review support and to provide necessary and regular instructions to tehsils for effective implementation of the program.

## Challenges

As the project was designed, the settlement of land rights should have preceded land and water management measures under the watershed approach adopted by OTELP to allow the benefits of these investments to accrue to the poor. However, legal challenges, such as amendment of the Orissa Survey and Settlement Act 1956, and a lack of timely decision making<sup>29</sup> in approving the survey of 10 to 30-degree slope dongar land, procurement of DGPS

and ETS equipment, constitution of the survey team etc. initially delayed the settlement process. These issues were only partially resolved later through collaboration with Landesa to allow the landless and homesteadless to benefit from watershed investments.

The scaling of this model was planned for all the tribal sub-plan blocks and was approved by the Government of Odisha (GOO); how-

ever, following a subsequent leadership change in the Tribal Department, it was discontinued.



<sup>29</sup>This was planned in OTELP, drawing on the IFAD-supported OTDP in Odisha and other states. Exposure visit to Andhra Pradesh was organized for a core senior team to understand the technology and best suitable methods. After the visit, a detailed plan for survey, including procurement of equipment was prepared. The Board of Revenue had notified the villages in 10 blocks of OTELP Phase I to be surveyed by constituting the survey and settlement teams. However, the GOO decided not to go for procurement, anticipating no post-project use. Therefore, no systematic survey was carried out covering dongar land below 30-degree slope.



## Box 1: Scaling up CRP Model: Potential and Challenges

The success of this land rights innovation resulted in two immediate scaling up strategies

- a. A Comprehensive Program on Land Rights to Tribals through CRPs in all Tribal sub-plan blocks over five years (2012-2017) with resource allocation and identification of implementation strategies, institutional arrangement and Standard Operating Procedure (para 20) (GoO, 2012);
- b. Design of 'Land Allocation and Recording of Land Rights' as an important activity under Natural Resource Management Sub-component of IFAD-funded Odisha Particularly Vulnerable Tribal Groups (PVTGs) Empowerment and Livelihoods Improvement Program (OPELIP)<sup>30</sup>. It aims at ensuring 100% of the PVTG households to have homestead title and 75% of the households to have agricultural land title, with identification of Landesa as implementing partner.

A major motivation behind these upscaling plans has been a team of champions concerned with tribal land issues and willing to break the department siloes to adopt a flexible approach. They included the leadership at OTELP, SC & ST Development Department and Landesa-Odisha team, involved in designing and demonstrating the CRP models. IFAD on the other hand as a champion institution was known to further tribal land rights in Odisha through the two projects discussed earlier (OTDP in para 7 and OTELP). These protagonists could see the potential of this institutional innovation viz. CRP model as a critical support mechanism for strengthening the frontline of resource-poor yet the legitimate Revenue Land Administration to address the chronic tribal land deprivation. This mechanism was found to be able to effectively, inclusively and participatorily document the landlessness, identify the spatial extent and location of the actual possessions and/or availability of potential parcel for subsequent regularization and possession. This strategy and success were similar to that of Indira Kranthi Pratham-Bhoomi's Land Access Model in Andhra Pradesh Society for Elimination of Rural Poverty Project (GoAP, n.d).

However, while the Comprehensive program remained a non-starter, the OPELIP program continued to struggle implementing the land rights component. In absence of critical analysis, on what constrained the scale up, we delineate the following reasons as the probable causes, based on the available information with us and our own analysis.

- a. A change in leaderships at all the facilitating institutions (viz. OTELP, SC ST Development Department and Landesa), which almost followed one another, could have derailed the agenda. It must be noted that, these leaders could revive the land rights implementation in OTELP in 2010, long after it was paused, with an initial momentum in 2006-07 (para 8), despite the fund availability and clear mandates outlined in the project. They could overcome the problems around technical survey equipment by focusing on existing possession on Government lands for housing and farming and using existing legal provisions as well as the schematic focus (viz. Vasundhara and Mo Jami Mo Diha scheme). Subsequent leaderships in Government were not convinced with NGO partnership and may not have prioritized land rights agenda. Land rights is often perceived as a complex problem with a strong inertia to change, and many officials find it not very motivating to engage with.
- b. Lack of funding support from Tribal Sub Plan fund of the Government of India for the Comprehensive Land Rights Program expansion. It seems Ministry of Tribal Affairs, the nodal agency that sanctions TSP, was not convinced about the project and had sought many clarifications from the state government. In the absence of a committed leadership, it could have been difficult to persistently follow and mobilize the resources.
- c. Similarly, while rolling out OPELIP, the initial leadership was a little apprehensive of engaging an INGO directly on a single-source bidding, despite clear mention of Landesa's name in both the project documents<sup>31</sup>. Subsequently, however, OPELIP tried to hire a Survey agency through open bidding twice but was unsuccessful.
- d. There was also a leadership change in Landesa and as a result of the change in operational strategy, India's operation, particularly Odisha's, was substantially downsized post 2015.
- e. Another reason which could have acted as a factor in diluting the focus on such land rights settlement over Government Revenue land through CRP was the new focus towards the implementation of Forest Rights Act. With individual forest rights (IFR) providing an easier alternative to settle tribal land rights quickly and on a comparatively larger scale (both number and area) and the Tribal department seeing it in a bigger role as the nodal agency, the focus and efforts shifted towards recognition of IFR claims. Even politically, this had a bigger appeal with the state leadership trying to present a pioneering image. Forest rights was also mandated in the land rights agenda of the OTELP and OPELIP. A large number of players including NGOs, local institutions viz. Forest Rights Committee (FRC) and Gram Sabha in the village level provided a more constitutionalized and democratized space. The role of CRP could have been played by the Secretaries of FRCs. However this option was not explored.

<sup>30</sup>OPELIP identified PVTGs to be not landless in literal sense and recognized them to be lacking title on the land they cultivate on both revenue and forest land. As both the GoI and GoO have already enacted several acts to issue land title to PVTGs and other STs, the issues such as issuance of title only for a small extent of land irrespective of the extent of land under occupation and non-issuance of a map with boundaries for these lands were major challenges, it highlighted. Accordingly, the program aimed to facilitate settlement of individual and community rights under Forest Rights Act (FRA) and assignment of available revenue lands to the landless for homestead and agriculture under relevant Government laws. Land titles were expected to be issued in the names of both husband and wife. Under Natural Resources Management sub-component, OPELIP envisaged to address issues of landlessness by recording rights under FRA comprehensively and distributing available revenue land under extant GoO policies and engaging the services of LANDESA for land survey and issuing of land rights titles to PVTGs. LANDESA, an agency with the expertise and experience in land allocation was identified as an implementation partner for OPELIP given its knowledge and experience in partnering with government and civil society organisation to help secure land rights for rural communities. LANDESA is currently engaged by the State of West Bengal, Odisha, Karnataka, Uttar Pradesh and Andhra Pradesh, Telangana in India. As a strategy for upscaling its intervention and success under OTELP requested the mission to include LANDESA as strategic partner under OPELIP. The S.T. & S.C. Department would enter into a MOU/contract with LANDESA for implementing the land allocation related activities under retroactive financing.

## Lessons Learnt

**1. A flexible project framework and strategic GO-NGO partnership can help overcome land administration resource gaps and improve service delivery to address tribal homesteadlessness.**

There has been greater flexibility in externally aided projects being implemented by the state government to accommodate innovations through the inclusion of different approaches and methodologies within the existing legal framework. Given this context, this initiative provides evidence that government institutions can deliver land tenure security services effectively when supported with enabling technical assistance (by Landesa), institutional innovation (CRP) and human capacity building (augmenting the capacity of Tehsils).

**2. Village level assistance and enumeration is critical to identify actual cases of land deprivation and also de-facto land availability for homesteads.**

Despite Census data, land record information in the RoR and computerized database (Bhulekh), ground truthing through participatory and consultative processes is critical to ensure accurate and up to date information and also for better community acceptance. When such processes are steered by local youth, local acceptance and buy-in helps to better capture ground realities, while also facilitating a follow up application and land allocation process. The revenue department also finds such on-the-ground assistance helpful and effective.

**3. While it may be relatively straight forward to allocate homestead lands, allocating agricultural land to landless households requires strong political buy-in and administrative coordination.**

The Political and administrative bottlenecks, such as amendment of the Odisha Survey and Settlement Act 1956, procurement of high-tech equipment viz. DGPS & ETS, notification of survey area, notification of survey team for resettlement etc. remained barriers in addressing the settlement of land between 10 to 30 percent slopes as envisaged under the OTELP. Subsequently, the said act was amended and the new Odisha Special Survey and Settlement Act was passed in the year 2012, which allowed the use of modern technology, instruments and the employment of a licensed surveyor. After the passing of the new act, the OTELP continued for 4 years; however, the survey of dongar land between 10 to 30 percent slope could not be implemented during that period, largely due to lack of proper coordination between the project officials and the Revenue Department. There also seems to have been a lack of the necessary political will to facilitate such a survey in the 1990s, during an earlier IFAD project (paragraph 6). While the initial partnership between the OTELP and the resource NGO Vasundhara (paragraph 7) indicates that agricultural landlessness can also be addressed to some extent through settling possession of Government land already surveyed below 10 percent slope, this potential was not fully tapped, perhaps due to the expertise and preference of Landesa to support settlement of homestead lands. IFAD in its next project in Odisha targeting the Particularly Vulnerable Tribal Groups (PVTGs)<sup>32</sup> adopted the land rights model that had been piloted in its previous project

in the project memorandum. However, it does not provide for the survey of un-surveyed land, and in the absence of any technical support and institutional innovation, there has not been much progress yet in the desired direction.

<sup>31</sup>OPELIP Design Completion Report even strongly rationalized Landesa's inclusion with references to past documents and prescribed its single source selection as a procurement strategy.

<sup>32</sup>Odisha PVTG Empowerment and Livelihoods Improvement Program aims to enable improved livelihoods and food and nutrition security primarily for 32,090 PVTG households, 14,000 other tribal households and 16,356 other poor and Schedules Caste (SC) households. This in turn will be achieved via building the capacity of the target households, securing them their entitlements over land and forest, improving their agricultural practices for enhanced production, promoting income-generating micro-enterprises for alternate livelihoods and ensuring access to education, health and other services and improving community infrastructure. [http://www.opelip.org/Opelip\\_Goals.asp?mnu=2&pg=1](http://www.opelip.org/Opelip_Goals.asp?mnu=2&pg=1). It includes provision to settle both revenue land and forest land which PVTG families are currently using for agriculture or homestead purpose.

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