



F I E L D R E P O R T S

Justice for Bagair Hukum Cultivators in Karnataka

Vikram Gopal*

Over 300,000 marginal and landless cultivators have been caught in the net of the Karnataka government's recent drive to recover government land that has been "encroached" upon over the last few decades. Known as Bagair Hukum cultivators, i.e., cultivators with no formal and documented ownership rights to the small plots of government land they occupy and continue to till, their livelihood uncertainties have recently doubled. Not only has the state ignored their longstanding demand for legal title to their land, it has also now threatened to evict them from their lands, treating them as encroachers. This article examines the rights of these farmers and their struggle against eviction, and argues that the Bagair Hukum cultivators must be treated as a distinct category of land occupants with traditional rights of use to the land — rights that the state must protect.

For the past nine years, Somegowda (65) and Ratnamma (56), Dalits from Hosagadde village in Sakleshpur taluk of Hassan, have been cultivating an acre of government land in the cadastral plot classified as Survey No. 48. Their land lies past the Dalit colony and up a steep climb on a mud road. In November 2013, the Hassan district administration, to the shock and dismay of the couple, decided to allot their plot, and 10 other plots in the area, to a group of freed bonded labourers brought in from outside the area (Sathish 2014a).

Somegowda and Ratnamma are among the four lakh applicants who have petitioned the government to regularise their land, that is, to give them ownership rights on land they and their families have long cultivated (*The Hindu* 2014a). They belong to a category of cultivators known as Bagair Hukum (a phrase that loosely translates from Persian as "without decree or mandate"), as they occupy Revenue and Forest Department land without legal title to the land.

Estimates of the extent of land classified as being in the Bagair Hukum category vary widely. The Karnataka Public Lands Corporation reports a figure of 385,461 acres as the total extent of encroached land in all districts of the State. The figure includes

* Freelance journalist, vikramgopal811@gmail.com

urban land, where encroachers are not classified as Bagair Hukum. Senior ministers who have been involved in the issue have referred to a figure of 1.3 million acres as being the extent of land under Bagair Hukum occupation (*The Hindu* 2014b).

The category of Bagair Hukum farmers spans a wide class spectrum. A majority are landless and poor. However, Bagair Hukum farmers also include plantation owners and large farmers who have encroached upon land near their existing holdings.

In contemporary Karnataka, the issue of the rights of Bagair Hukum cultivators has become intertwined with the larger issue of the encroachment of public land by private real estate developers and land speculators in urban and semi-urban areas. The latter issue has been the subject of public protest in recent times — and is also reflected in popular cinema, for instance, in the recent movie *Ambareesha* (*Deccan Chronicle* 2014).

Public anger against urban encroachment resulted in the establishment of two important inquiries into the issue of encroachment, the first a Joint Legislature Committee appointed in 2006, and the second a Task Force appointed by the Government of Karnataka in 2009. The proceeding of both these committees had an important bearing on the issue of Bagair Hukum cultivators.

As we shall see, however, in seeking to address the issue of encroachment, the State Government made no distinction between the impoverished and largely rural Bagair Hukum farmers, who have no rights of possession over the small parcels of land they cultivate, and rich, politically-connected land sharks who seek to benefit from speculation on urban land prices.

In June 2006, the issue of urban land encroachment was raised in the Legislative Assembly by G. V. Srirama Reddy of the Communist Party of India (Marxist) and Mukhyamantri Chandru of the Bharatiya Janata Party. In response, the Government appointed a Joint Legislature Committee headed by A. T. Ramaswamy, a Member of the Legislative Council. The committee submitted a landmark report the following year (Ramaswamy 2007). Its central finding was that 118,668 acres had been illegally encroached upon in Bengaluru Urban district.

The second inquiry was the Task Force for Recovery of Public Land and its Protection, headed by a retired civil servant, V. Balasubramanian (Balasubramanian 2011). The committee found, among other things, that the legal provisions for regularisation of encroached land were not utilised. It was also critical of the fact that the Karnataka Public Lands Corporation (KPLC) had no legal powers to remove encroachments because it was a company and did not have the agency to do so.¹

¹ The KPLC is a company formed by the Government of Karnataka in 2008 to “deal with the matters relating to lands belonging to Government of Karnataka or statutory bodies,” as quoted on its website, available at http://kplc.kar.nic.in/about_us.asp, viewed on April 5, 2015.

The recommendations of the two reports remained unimplemented till March 2013, when an important legal intervention on the issue of land encroachment brought the situation of Bagair Hukum cultivators to a head. The environmental activist S. R. Hiremath filed a public interest litigation petition with the High Court of Karnataka, asking the government to take action on the Balasubramanian Task Force recommendations (*The New Indian Express* 2013). In the affidavit it submitted to the Court, the Government promised to take such action, and proceeded to launch what became an eviction drive. It was when the drive began, then, that the Bagair Hukum cultivators found themselves clumped into a common category with urban and semi-urban property developers. The farmers believed that they were unfairly bunched with real estate developers. To redress this perceived injustice, a group from among them directly petitioned the High Court, which then directed the government to remove only encroachments of over five acres, putting a temporary stop to the eviction of small Bagair Hukum farmers.

Bagair Hukum Rights under the Karnataka Land Revenue Act

The condition of Bagair Hukum cultivators has been of concern to legislators in the State from at least 1991, when the government amended the Karnataka Land Revenue Act, 1964 to provide for the regularisation of encroached government land under section 94 (A) of the Act (Karnataka Land Revenue Act 1964).

According to the amendment, all those who had encroached on government land before April 14, 1990 were eligible to get their land regularised. Such persons were to have submitted an application for regularisation to the local government official by September 1991.

The amendment also made clear that land falling within 18 km of Bengaluru city, or within 10 km of the cities of Belagavi, Kalaburagi (Gulbarga), Hubballi-Dharwad, Mangaluru, and Mysuru, and within five km of all City Municipalities with a population of more than 50,000 people would not be considered for regularisation. The amendment also stated that the State Government had no power to regularise forest land.

Further Amendments

In 1998, another amendment was brought into force. This was Section 94 (B), which allowed for the regularisation of the land of landholders who had occupied land before April 14, 1990 but had failed to submit the documents within the specified period. Indeed, six amendments to the Act have been introduced for the sole purpose of extending the period within which the applications were to be dealt with.

In the text of the amendment introduced in 2012 the government noted that 26,000 applications in Form No. 50 and 402,000 applications in Form No. 53² were still lying

² Form no. 50 is used for applications made till September 19, 1991, and form 53 is used for applications made till April 30, 1999.

before the various committees for disposal. The amendment extended the period for three more years.

The amendments to the Land Revenue Act described above were, in essence, aimed at making it easier for the rural rich to acquire more land. In an interview, former Member of the Legislative Assembly Srirama Reddy said: “The problem was that not all Members of Legislative Assembly (MLAs) evinced interest in schemes to redistribute land, as most of them were landlords themselves; as a result, almost 30–40 per cent of the above-ceiling land was not distributed.”

He was scathing in his assessment of the intentions behind the amendments: “The primary aim behind the amendment (to the Land Reforms Act) in 1996 was to enable diversion of agricultural land for non-agricultural purposes. Land acquired for industrial projects has been diverted for real estate development.”

Hassan District: A Case Study

According to data from the KPLC, the encroached area in Hassan district is 30,024 acres — the fourth-highest extent among the districts of Karnataka.

While Chikkamagaluru (63,678 acres), Shivamogga (59,742 acres) and Dakshina Kannada (59,194 acres) have more encroached land (see Table 1), Hassan has a high concentration of small encroachers: there are 18,035 such cases in Hassan, a number only exceeded by the districts of Dakshina Kannada and Shivamogga.

In a note shared with the author by the Hassan district administration, as on November 19, 2014, there were 7,088 cases that had been booked for encroachments of 7,287 acres.

Of these 7,088 cases, orders for eviction have been issued in 1,439 cases for the seizure of 2,411 acres. The number of actual evictions is 1,244 in 1,129 acres — an average of less than an acre per case.

Hassan district has been the site of continuous protests by Bagair Hukum farmers. Indeed, the land movements in the district predate the Bagair Hukum farmer protests. In 1981, the Karnataka Rajya Raitha Sangha (KRRS) led a movement to occupy land in the district. The movement was for the occupation of 504 acres of Forest Department land under Survey No. 3 by 504 households from the five villages of Choudenahalli, Yelagunda, Ramadevarapura, Kelavatti, and Madehalli.

Puttaraju (60), a Bagair Hukum farmer from Choudenahalli, was a young man when the decision to occupy the land was taken during that struggle (he now owns a regularised two-acre holding).



Figure 1 Map of Hassan district

Source: http://www.legacykarnataka.com/hassan_district.htm#

In the 1960s, this land was given to a businessman from Bombay. He grew medicinal plants here, and we used to labour on this land. Then he incurred some losses and had to leave.

However, once he left, the land was sought to be given to the Forest Department. Immediately we organised ourselves with the help of the KRRS, and drove away the Forest Department officials.

We used to cultivate on small landholdings near our villages, but an acre of this land was as productive as four acres of our land.

Another Bagair Hukum farmer, C. M. Prakash, who is from Choudenahalli (the same village as Puttaraju), said, “Most of us have filed the requisite forms with the panchayat officials, not all of us have got grant certificates, though, here too, 12 farmers have received eviction notices.”

In most other villages in the district, however, the occupations were spontaneous and not part of any coordinated movement.

Pitting Poor against Poor

After the Bonded Labour System (Abolition) Act of 1976, States were expected to implement programmes aimed at the abolition of bonded labour and the freeing of bonded labourers. In Hassan district, the district administration instituted a scheme

Table 1 *Land encroachments in Karnataka State, extent and number of cases, by district*

District	Extent of encroachment (in acres)	No. of cases booked (as on December 31, 2014)	Extent involved in cases booked
Bagalkot	470	27	104
Bengaluru Rural	9261	3765	4462
Bengaluru Urban	12508	309	917
Belagavi	3969	514	1941
Ballari	26220	4603	13725
Bidar	14074	487	2227
Vijayapura (Bijapur)	2720	90	322
Chamarajanagar	10716	2862	3745
Chikkaballapur	15579	1271	2228
Chikkamagaluru	63678	138	1432
Chitradurga	16908	2402	4250
Dakshin Kannada	59194	76	239
Davanagere	13631	447	846
Dharwad	2350	822	659
Gadag	18	5	41
Kalaburagi (Gulbarga)	8837	398	1515
Hassan	30204	2006	1859
Haveri	1564	3545	11142
Kodagu	15096	68	1922
Kolar	16742	2908	3073
Koppal	2196	380	1069
Mandya	15465	179	1068
Mysuru	23766	726	2343
Raichur	4112	857	1540
Ramanagara	6221	799	1716
Shivamogga	59742	134	587
Tumakuru	5351	2574	4580
Uttara Kannada	1619	484	506
Udupi	8231	104	355
Yadgir	4267	1130	1302
Total	454709	34110	71265

Note: The resumption of encroached land (the column “Extent involved in cases booked”) is significantly below the total extent of encroachments in most districts. In the districts of Haveri and Gadag, the extent recorded in the final column exceeds the extent recorded in the second column, clearly an anomaly.

According to officials in the KPLC, this is because the authorities in the two districts have identified excess encroached land through separate surveys conducted by them.

Source: Karnataka Public Lands Corporation (KPLC).

Table 2 *Land encroachments yet to be removed, number of cases and extent, by size class of holding and district, Karnataka State*

District	Below 3 acres		3 to 5 acres		5 to 10 acres		Above 10 acres		Total	
	Cases	Extent	Cases	Extent	Cases	Extent	Cases	Extent	Cases	Extent
Bagalkot	46	64	22	84	17	116	7	121	92	385
Bengaluru Rural	6240	5192	335	1295	36	239	9	194	6620	6920
Bengaluru Urban	971	789	68	267	49	305	31	531	1119	1892
Belagavi	13148	2185	140	585	18	116	5	66	13311	2952
Ballari	10169	13239	2805	11221	1110	7009	284	6470	14368	37939
Bidar	872	934	361	1002	51	493	47	981	1331	3410
Vijayapura (Bijapur)	7954	1196	204	812	14	98	19	546	8191	2652
Chamarajanagar	3536	5156	661	2477	45	273	14	161	4256	8067
Chikkaballapura	6012	7379	417	2087	188	1475	179	2449	6796	13390
Chikkamagaluru	9462	11419	5416	19979	1927	10752	830	13783	17365	55933
Chitradurga	9006	12434	2464	8492	166	1118	30	328	11666	22372
Dakshina Kannada	26782	38147	4494	17181	1086	6936	82	2240	32444	64504
Davanagere	4116	11709	497	1651	34	202	6	82	4653	13644
Dharwad	3202	942	52	243	22	163	13	189	3289	1537
Gadag	20	83	1	4	0	0	0	0	21	87
Kalaburagi (Gulbarga)	965	1019	581	1649	67	452	6	137	1619	3670
Hassan	16238	15543	1797	5580	344	1960	136	2380	18515	25463
Haveri	4648	8709	1310	5558	414	3004	18	277	6390	17548
Kodagu	2878	3794	885	3439	377	2897	140	2788	4280	12918
Kolar	8363	6619	176	668	56	365	22	538	8617	8190
Koppal	800	877	89	361	19	126	6	144	914	1508
Mandya	6600	11728	1642	2422	23	498	49	1257	8314	15905

Mysuru	5964	7252	751	2652	42	255	4	52	6761	10211
Raichur	582	724	324	1185	74	412	19	363	999	2684
Ramanagara	237	601	8	57	9	63	6	147	260	868
Shivamogga	16180	21513	2002	5614	509	2447	115	2896	18806	32470
Tumakuru	3982	4509	863	1801	163	826	76	1373	5084	8509
Udupi	7567	2916	328	1125	89	503	7	87	7991	4631
Uttar Kannada	1697	849	86	342	28	184	5	155	1816	1530
Yadgir	1254	1606	420	1237	20	343	26	486	1720	3672
Total	179491	199127	29199	101070	6997	43630	2191	41221	217878	385461

Source: Karnataka Public Lands Corporation (KPLC).

to rehabilitate freed bonded labourers by giving them three acres of land each in the district. A provision for such redistribution was made in the Karnataka Land Reforms Act, 1961, through an amendment in 1974.³

However, the effect of the implementation of the scheme has been to pit poor against the poor, and, in this specific case, Dalit poor against Dalit poor.

In Hosagadde village, the Government has planned to distribute three acres each to eight Dalit families as part of the scheme to rehabilitate freed bonded labourers. The 24 acres that this will entail fall within a cadastral plot that covers a total of 58 acres. On the same cadastral plot, 11 Dalit Bagair Hukum farmers cultivate one acre each. The total area in the cadastral plot, thus, is well in excess of the 35 acres that are needed to accommodate both the beneficiaries of the bonded labour abolition scheme and the Bagair Hukum farmers. However, the Government has allotted land occupied by Bagair Hukum farmers to the freed bonded labourers, and is now attempting to evict the Bagair Hukum farmers from their land.

Earlier attempts to evict the Bagair Hukum families were thwarted by various factors (Sathish 2014b). The families argue that there is plenty of unoccupied land in the survey area that the government can acquire for redistribution. Recently, some of the freed bonded labourers have pitched tents in the area to establish their claim to the land (Sathish 2014c).

For the Bagair Hukum Dalits, the land has been the source of their livelihood. Access to Bagair Hukum land is also the reason why these farmers stopped working as agricultural labourers at the farm of a village landlord, who, they claim, has also encroached on government land in the area. “We have no ancestral land,” Ratnamma says. “For eight years we have toiled on this piece of land, and the meagre returns we now get are because of that effort.”

Elsewhere in the district, the problems faced by Bagair Hukum farmers are altogether different. For example in Kuppalli, located about eight kilometres from Hassan city, Kumar (45), who cultivates on two acres of government land, says farmers did not file the requisite forms for regularisation as they were told the last date for filing forms was over. Now that the government has said it will consider all those who have filed for regularisation, they feel cheated. He says

We have been cultivating here for over 20 years. We didn’t file the forms because the officials told us not to. Now we are definitely going to lose the land.

Cultivation in this area is mostly rainfed, and only one person has installed a pumpset. Where will we get similar land?

³ See clause (v), Section 77, “Disposal of Surplus Land,” Karnataka Land Reforms Act (1964).

There are other problems as well. For instance, although the number of pending applications seem high, it does not necessarily indicate the extent of the problem. As Ratnamma says, “We have filed the forms many times over just to be sure that at least one will be processed.”

Meanwhile, the district administration claims that it is following the instructions of the government strictly. An official in the Deputy Commissioner’s office, who did not wish to be identified, said that they had only received instructions to clear government land of evictions, and had not been informed about the future use of the land. “Encroachments are the same no matter what the size of the landholding,” he said. “We cannot be partial towards smaller farmers.”

Political Mobilisation

The government’s initial response to the protests in Bengaluru against encroachment by land grabbers was to ask officials across all districts to evict encroachers, whether rural or urban and regardless of the size of the landholding or its use.

On October 13, 2014, a State-wide mobilisation of Bagair Hukum farmers culminated in a protest in Bengaluru in which more than 10,000 farmers and agricultural labourers gathered under the banner of the Karnataka Prantha Raitha Sangha (KPRS) (*Deccan Herald* 2014). The government assured them that those farmers who had filed for regularisation of their land would be exempted from the eviction drive.

Back in Hassan, however, organising Bagair Hukum farmers has met with only moderate results. “This is because they are extremely divided among themselves,” says Naveen Kumar, district unit president of the KPRS.

“Earlier, there was the KRRS, but they broke up because of internal squabbles,” Puttaraju says. “After that, we have not been attached to any political organisation, till the KPRS was formed.”

Many cultivators, like Ratnamma and other members of the Dalit colony of Hosagadde, are being organised for the first time.

Srirama Reddy said that, in the short term, the strategy of the KPRS was to align with small plantation owners to further the cause in the State. He acknowledged that their problems were different from the poor Bagair Hukum cultivators, “but then we want to include in our movement as many people who have occupied less than five acres of land as possible.”

Bagair Hukum farmers remain on tenterhooks. “If this land is taken from us we will have to go back to labouring on other people’s land,” Ratnamma said.

More protests have been planned to pressure the government to act in the interests of the small and marginal Bagair Hukum farmers. There has been a measure of success in these mobilisations. Revenue Minister V. Srinivas Prasad promised to regularise more than 50 per cent of encroached land (Prabhu 2015). Implementation, however, has failed to keep pace with the promises. Srirama Reddy said, “The High Court’s observation on evicting encroachers above five acres was an oral observation. It took the government a long time to convey that information to its officials in the districts. We have planned protests to highlight the issue.”

In the initial stages of the eviction drive, the government targetted Bagair Hukum farmers who had encroached on less than five acres of land. The subsequent change in its approach to target those who have encroached over five acres came about only as a result of the High Court’s intervention. In light of this, evictions of small and marginal farmers have been halted at present, with the government agreeing to conduct surveys to ascertain the veracity of the Bagair Hukum farmers’ claims.

There are still, however, some 208,690 encroachers, who have occupied 300,197 acres, who are listed for eviction.

Organisational Weakness

Bagair Hukum farmers are present in all districts in Karnataka, but only a section of them have been organised. The KPRS, which appears to be the only organisation mobilising the Bagair Hukum farmers, remains organisationally weak in large parts of the State. One of the challenges it must overcome is the inherent division amongst Bagair Hukum farmers along caste lines.

The Bagair Hukum cultivators’ biggest demand is that the government process the applications that have been pending before it for so long. A cursory reading of the various amendments to the Land Revenue Act points to a virtual stagnation in processing applications. While in 2000 there were 10.54 lakh applicants according to the text of the amendment, in 2004 there were 55,267 applications under Form No. 50 and 753,727 under Form No. 53. This number came down to 29,361 and 435,842 in 2006. Since then, there appears to have been little progress.

Even figures for Forest Department land paint a similar picture with regard to the slow pace at which the bureaucracy processes applications. While the State Government has no jurisdiction over forest department land, in 1996 the Central Government had allowed regularisation of 14,848 hectares of forest land. This rule was applicable only to those who had encroached not more than three acres of forest land before April 27, 1978. Of the 18,353 cases approved for inspection by the Central government, 4,899 cases are still pending.

Concluding Note

This report, based on field visits and interviews, is an account of the problems faced by 300,000 Bagair Hukum cultivators (cultivators without land rights) in the State of Karnataka. In its efforts to remove those who have illegally encroached on land, particularly on the fringes of urban settlements, the Government has failed to distinguish between large landowners who have encroached on land illegally and these small cultivators. By taking away land from small Bagair Hukum farmers and giving it to landless labourers, the policy has also created tension and division among the poor, particularly among Dalits.

Keywords: Bagair Hukum, Karnataka, Karnataka Prantha Raitha Sangha (KPRS), Dalits, land, land encroachment, ownership rights.

REFERENCES

- Deccan Chronicle* (2014), “Land Grabbing: Ramaswamy, Others Start Indefinite Fast,” Bengaluru edition, Oct 7, available at <http://www.deccanchronicle.com/141007/nation-current-affairs/article/land-grabbing-ramaswamy-others-start-indefinite-fast>, viewed on April 5, 2015.
- Deccan Herald* (2014), “Protest March Cripples City Traffic,” Bengaluru edition, Oct 13, available at <http://www.deccanherald.com/content/435879/protest-march-cripples-city-traffic.html>, viewed on April 5, 2015.
- Balasubramanian, V. (2011), “‘Greed and Connivance’: Report of the Task Force for Recovery of Public Lands and its Protection,” available at <http://bangalore.citizenmatters.in/docs/2011/GoKVBalaTaskForceReport.pdf>, viewed on April 5, 2015.
- Ramaswamy, A. T. (2007), *Interim Report of the Joint House Committee of the Karnataka Legislature on Encroachment of Land*, part 1, Karnataka Legislature Joint House Committee, available at http://www.indiawaterportal.org/sites/indiawaterportal.org/files/AT%20Ramaswamy%20JLC_Encroachment%20of%20Bangalore%20Urban%20Lands_Interim%20Report%201_Feb%202007.pdf, viewed on April 5, 2015.
- The Hindu* (2014a), “Bagair Hukum Land Regularisation Process May Get Two-Year Extension,” *The Hindu*, Karnataka edition, Jul 29, 2014, available at <http://www.thehindu.com/news/national/karnataka/bagair-hukum-land-regularisation-process-may-get-twoyear-extension/article6258708.ece>, viewed on April 4, 2015.
- The Hindu* (2014b), “13 Lakh Acres of Land Encroached Upon in Karnataka,” Bengaluru edition, Jan 30, available at <http://www.thehindu.com/news/national/karnataka/13-lakh-acres-of-land-encroached-upon-in-karnataka/article5631681.ece>, viewed on April 4, 2015.
- The Karnataka Land Reforms Act (1961), available at <http://dpal.kar.nic.in/10%20of%201962%20%28E%29.pdf>, viewed on April 5, 2015.
- The Karnataka Land Revenue Act (1964), available at <http://www.finance.kar.nic.in/gos/othactrul/THE%20KARNATAKA%20LAND%20REVENUE%20ACT,%201964.pdf>, viewed on April 5, 2015.

The New Indian Express (2013), “11 Lakh Acres of Public Land Encroached,” Mar 30, available at <http://www.newindianexpress.com/states/karnataka/article1523020.ece>, viewed on April 5, 2015.

Prabhu, Nagesh (2015), “More Than Half of Encroached Government Land to be Regularised,” *The Hindu*, Bengaluru edition, Jan 9, available at <http://www.thehindu.com/todays-paper/tp-national/tp-karnataka/more-than-half-of-encroached-government-land-to-be-regularised/article6769628.ece>, viewed on April 5, 2015.

Sathish, G. T. (2014a), “Still Labouring to Cultivate Their Land,” *The Hindu*, Bengaluru edition, Aug 16, available at <http://www.thehindu.com/todays-paper/tp-national/tp-karnataka/still-labouring-to-cultivate-their-land/article6322486.ece>, viewed on April 4, 2015.

Sathish, G. T. (2014b), “Tension Prevails in Hosagadde as Woman Attempts Suicide,” *The Hindu*, Bengaluru edition, Dec 19, available at <http://www.thehindu.com/news/national/karnataka/tension-prevails-in-hosagadde-as-woman-attempts-suicide/article6705174.ece>, viewed on April 5, 2015.

Sathish, G.T. (2014c), “Land Allotted, But to No Avail,” *The Hindu*, Bengaluru edition, Dec 29, available at <http://www.thehindu.com/news/national/karnataka/land-allotted-but-to-no-avail/article6732984.ece>, viewed on April 5, 2015.