



Distribution of Land Title under FRA 2006 in Kerala

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Abstract: Forest policies in both colonial and post-colonial Kerala ignored the forest dwelling STs Claims over their resources. Forest Right Act, 2006 is made a historical change in the policies towards the tribes. The act provides for the restitution of deprived forest rights across India including individual rights to cultivate land and community rights over common property resources. A decade after the FRA remains under implemented. A slow progress is shown in majority of states.

Key Words: FRA 2006, Tribe, Forest policy

Introduction: Forests are a critical part of every nation. The tribes are known for their association with forests (Rao,2001).Forests are an important source of livelihood and means of survival to them (Gregory,2008). India has more than 100 million tribal people .As per 2011 census 8.5 percent of the total population are tribes and in Kerala tribes constitute 1.45 percent of the total population in the state.

Twenty percent of total population in India live in and near forests (Citizens Report 2013 on community Rights). The symbolic relationship between tribes and forest is transformed due to various forest policies (Chaithanya E.P,2012). According to food and agriculture organisation of United Nations ,forest policy is a negotiated agreement among government and other stakeholders on a shared vision on forests and their use . During the pre colonial period STs are the masters of forest (Gandhan Bulliyya,2006). Since the colonial period tribes lost their traditional rights over forest .The increased forest exploitation led to the loss of control over the habitant to the tribes (Ramachandra Guha ,1987).

The Scheduled Tribes and Other Forest Dwellers (Recognition of Forest rights) Act 2006 (FRA 2006) came into force on 2008. FRA 2006 is considered as path breaking legislation that acknowledges the historical injustice to India's forest dwellers particularly tribes (UNDP, 2011). Unlike the earlier forest policies present policy recognise and restore traditional rights of forest dwelling scheduled tribes in India. The provisions in the act promises the right to live and to use Minor Forest Produce (MFP). As per this law forest dweller is resident in forests and depend on forest for the livelihood (Ministry of Tribal Affairs, 2006).The act provides mainly three types of rights. The section 3 (1) which provides the right to hold and live in the forest land under the individual or common occupation for habitation or for self cultivation for livelihood by member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers. The Section 3 (2) of the act ensures development rights, which securing rights of forest dwelling STs over development facilities such as

health and educational facilities. It empowers the Gramsabha or village assembly with initiating the process of recognition. The scheme is implemented in all districts of Kerala except Kasargod and Alappuzha in 2008. The nodal agency for implementing the act is Scheduled Tribe Department. In collaboration with forest department and Revenue Department, Individual rights, Development Rights and Community Rights are recognised in the state.

Over a decade is completed since the FRA was passed. But the rights of 190 million people over 30 million hectares of forests remain unrecognised (Promise and Performance :Ten years of forest right Act,2006)

Objectives

1. To evaluate the forest policies in Kerala
2. To assess the implementation status of FRA 2006 in Kerala.

The study is based on the secondary sources of data. The sources include Annual Reports of Ministry Tribal affairs , Monthly Progress reports of Ministry of Tribal Affairs and Economic Review.

Forest policies in Kerala: Historical overview

Before the formation of Kerala, it is under the three political entity; Travancore, Malabar and Cochin. They followed forest policies with similar nature. The State of Travancore followed protective policy towards tribes and tribal lands. The government guaranteed the property rights of them. The Hillman rules 1891 and The Hillman settlement Act 1903 were offered special protections to tribes (Rajeevan R,2010). The Travancore Forest Act 1887 declared Konni as first reserve forest and in 1889 more areas are declared as reserve forest (Forest and wild life Department, Government of Kerala).The state of cochin monopolized the forest area in 18th century and the tribal community came under the direct control of government. Kochi forest act passed in 1905 and most of the tribes turned out to be agriculturalist (Rajeevan R,2010).

The Independent state of Kerala passed the Kerala Private forest (vesting and assignment) act in 1974 and took over private forests in the state. It directs to assign land on registry or lease to members of scheduled caste and scheduled tribe who are willing to take up agricultural as their means of livelihood. According to Kerala scheduled tribes (Restriction of Transfer of Lands and Restoration of alienated lands) Act 1975,the transfer of immovable property, possessed, enjoyed or owned by tribes to non tribes was declared illegal and restored and future transfers of land prohibited. The rules of the act formed in 1986 as Scheduled tribes Restriction of Transfer of Lands and Restoration of alienated lands Rules,1986 . The state government announced that it was impracticable to implement the act (Jyothis Sathyapalan and M. Gopinatha Reddy ,2010). The Kerala Restriction on Transfer by and Restoration of lands to Scheduled Tribes Act,1999 , restricting the transfer of lands by scheduled tribes and for the restoration of possession of lands alienated by such members. It also offered a grant for payment of compensation to the landholder. The act also promised

one acre of land to each tribal families (Jyothis Sathyapalan and M. Gopinatha Reddy, 2010). The provisions of the Panchayaths (Extension to Scheduled Areas) Act 1996 (PESA) extends part IX of the constitution to the fifth schedule areas notified under article 244(1) of the constitution. Kerala government is not declared Scheduled areas as per PESA act 1996. The Kerala forests (Vesting and management of ecologically Fragile lands) act 2003, is an act to provide for the vesting in the government or ecologically fragile land in the state and management of such lands with a view to maintaining ecological balance and conserving the biological diversity. Similarly, state government scheme of Tribal Resettlement and Development Mission (TRDM) aims at providing at least one acre of land for landless tribal family, subject to a maximum 5 acres. It also providing infrastructure facilities like road, electricity, housing etc. and providing self-employment schemes to the resettled tribes.

It is clear that forest policies in both colonial and post colonial Kerala ignored the forest dwelling STs claims over their resources.

Forest Right Act implementation in India

The percentage of titles distributed over number of claims is just...percent. Till 2017 in India, more than 17.60 lakh individual titles have been granted over an area of 41.20 lakh acres of forest land with an average of 2.36 acres of average land per title . A total of 64000 community titles have been distributed over an area of about 99.8 lakh acres of forest land. Odisha issued highest number of titles in all India ,which is 4,16,531. In Kerala a total of 24, 599 titles have issued out of 37,533 claims received. , 4210652 lakh claims were submitted from all over India of which 1921554 lakh rejected. (Annual Report 2016-17, Ministry of Tribal Affairs).

The state of Odisha distributed the maximum number of land title rights in India 17,71,714 people have got Individual rights and 68,656 got community rights. It is also top in percentage of titles distributed over the number of claims raised. The states of Uttarakhand, Haryana and Punjab are shown poor performance in title distribution. Titles distributed in these states are in the range of less than one percent to five percent. The state with a good majority of forest dwelling tribes performed poorly in the implementation process. Table 1.1 shows overall performance of states in India.

Table:1.1

Broad categorisation of states in terms of FRA implementation

Type	States
Laggared states: No or extremely poor performance on all fronts	Assam, Bihar, Goa, Himachal Pradesh, Tamil Nadu, Uttarakhand, Haryana, Punjab, Sikkim, West Bengal
States with only IFR implementation	Tripura, Uttar Pradesh
States with high IFR and CFR recognition, but very little or no CFR rights recognition	Telangana, Andhra Pradesh, Madhya Pradesh
States with high IFR but low CFR rights recognition (less than 2% of minimum potential)	Rajasthan, Karnataka, Jharkhand, Chhattisgarh
States with high IFR and significant CFR rights implementation	Maharashtra, Odisha, Kerala, Gujarat

(Source: Kundan Kumar et.al ,2017)

It is clear from study that Kerala is one among four significant states in terms of FRA implementation when compared to rest of states.

FRA implementation in Kerala

The state of Kerala is concentrated entirely on the implementation provisions of individual rights. Kannur district is top in the percentage of the title distribution over total claims. Of the the total 39 300 claims submitted under FRA 2006only 25081 have received final approval and title.A total of only 769 claims for development rights have been filed in the state. Ernakulam and Malappuram districts tops in percentage of percentage of title distribution over total claims.

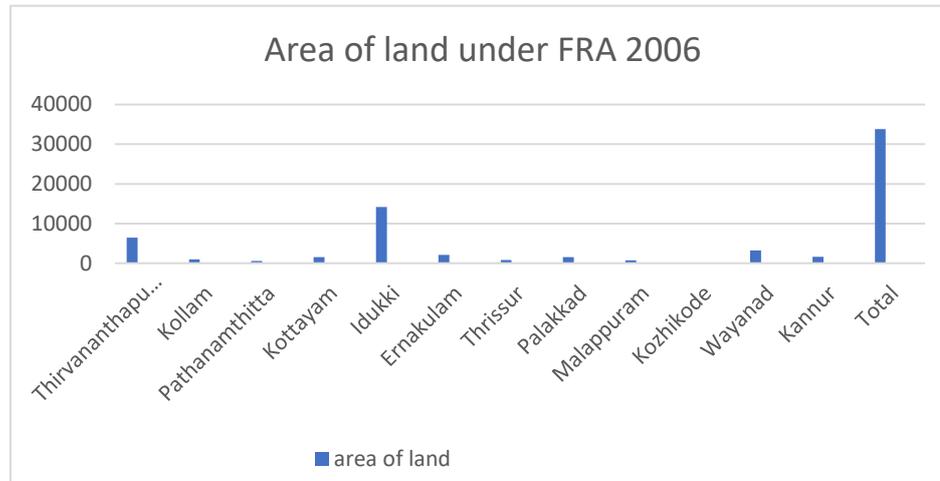
District	Individual rights		Community Rights		Development Rights	
	Claims received	Titles Distributed	Claims received	Titles Distributed	Claims received	Titles distributed
Thiruvananthapuram	5695	4633	169	0	169	0
Kollam	1214	1158	14	4	14	4
Pathanamthitta	1130	861	20	0	20	0
Kottayam	1704	1377	2	02	2	02
Idukki	11201	7729	84	0	84	0
Ernakulam	1574	1042	12	9	12	9
Thrissur	1341	810	52	21	52	21
Palakkad	5954	1222	110	0	110	0
Malappuram	1493	945	133	0	133	0
Wayanad	20	11	7	4	7	4
Kozhikode	6937	4262	321	124	321	124
Kannur	1037	1031	31	0	31	0
All Kerala	39300	25081	955	164	955	164

(fra 2006 ProgressbReport,Forest department,Government of Kerala)

As on 30 April, 2017 as many as 39300 individual cases of FRA claims filed at the gramsabha out of which the 35352 recommended to SDLC .The SDLC recommended 26884 Cases to the DLC and DLC approved 25892 cases. Finally 25081 titles issued in the state. (FRA progress Report 2017). The rejection level of claims is comparatively higher. About Kerala Budget 2017-18 allocated 100 lakh for the implementation of this act in the state (Budget Statement 2017-18).

Land Distribution Under FRA 2006

Figure:1



(Source: FRA progress report 2017)

An extent of 33778 hector area is distributed in the state so far. Largest area is distributed in Idukki district .There is variation in land distribution in various districts.(Table:2)

Conclusion

The traditional rights of forest dwelling STs is lost due to various forest policies of colonial government . The post colonial policies also followed colonial attitude towards tribes .FRA implemented to solve historical injustice towards tribes by recognising and securing traditional rights on forest. There is lack of progress in the implementation of FRA 2006 in Kerala. The average size of land distributed under the act is lower than what the act prescribed. There is exists a wide gap between claims and title distribution in the state. But when compared to other states overall performance of Kerala is better than other states. FRA 2006 is the best policy that promote and protect the rights of tribal people. Kerala needs to improve on the implementation of FRA.

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