

# **GRANT OF COMMUNITY RIGHTS ENVISAGED IN FOREST RIGHTS ACT 2006 TO FOREST DWELLERS OF KERALA**

**A Dissertation submitted to the Panjab University, Chandigarh for the award of Master of Philosophy in Social Sciences, in partial fulfillment of the requirement for the Advanced Professional Programme in Public Administration (APPPA)**

**By**

**BRIGADIER JAYACHANDRAN CJ**

**(Roll No 4814)**

**Under the Guidance of**

**DR KUSUM LATA**



**48<sup>th</sup> Advanced Professional Programme in Public Administration  
(2022-23)**

**Indian Institute of Public Administration**

**IP Estate, Ring Road, New Delhi**



## **SELF-DECLARATION**

It is hereby declared that this dissertation titled “**Grant of Community Rights Envisaged in Forest Rights Act 2006 to Forest Dwellers of Kerala**” for the award of Master of Philosophy in Social Sciences from Punjab University, Chandigarh is my original piece of work and that this work or part of has not been submitted for the award of any degree or diploma of either this or any other university. I am aware of the University’s norms and regulations regarding plagiarism including the disciplinary action that it may invite. Any use of the works by any other author, in any form, is **adequately acknowledged** at their point of use or in the References and Bibliography.

Date: March 2023

(Brigadier Jayachandran CJ)

Place: New Delhi

Roll No - 4814

Indian Institute of Public Administration

New Delhi - 110002

## CERTIFICATE

I have the pleasure to certify that Brigadier Jayachandran CJ has pursued his research work and prepared the present dissertation titled “**Grant of Community Rights Envisaged in Forest Rights Act 2006 to Forest Dwellers of Kerala**”, under my guidance and supervision. The dissertation is the result of his research undertaken by him and to the best of my knowledge, no part of the same has been part of any monograph, dissertation or book earlier. This is being submitted to the Punjab University, Chandigarh for the purpose of Master of Philosophy in Social Sciences, in partial fulfillment of the requirement for the Advanced Professional Programme in Public Administration (APPPA) of Indian Institute of Public Administration, New Delhi.

I recommend that the dissertation of Brigadier Jayachandran CJ is worthy of consideration for the award of M Phil Degree of the Punjab University, Chandigarh.

Date: March 2023

Place: New Delhi

(Dr Kusum Lata)

Associate Professor

Indian Institute of Public Administration

IP Estate, Ring Road,

New Delhi - 110002

## ACKNOWLEDGMENT

The research has been made possible with the positive and willing support of many people who directly or indirectly contributed to my endeavour; therefore I express my gratitude to all of them.

I would particularly like to thank my Guide and Mentor **Dr. Kusum Lata** for supporting me throughout the process despite her busy schedule. The positivity and supportive nature of Dr. Kusum Lata were instrumental in facilitating my field visit which was crucial to the research. It has been a privilege for me to work under her able guidance for this M Phil dissertation.

I also would like to express my gratitude to Shri SN Tripathi, Director General, Indian Institute of Public Administration (IIPA), New Delhi for providing me the opportunity to select this topic and providing me with the necessary facilities in completing the research work.

I also thank Dr. V N Alok, the Program Director of 48 APPPA for providing adequate time and a conducive environment. I also want to thank Dr. Roma Mitra Debnath for her valuable inputs concerning research methodology and statistical techniques.

I would like to thank Shri HL Yadav, the Librarian, IIPA and his team for their cooperation and efficiently arranging all the books and online documents for the conduct of my research work. I am also grateful to Shri Anil Sharma, Shri Manish Rawat and Shri Rajesh of the APPPA Office for their excellent support and proactive approach.

I also want to express my gratitude to the respondents who gave their input which helped me arrive at a clearer picture of the subject. My sincere thanks also to the many

subject matter experts from the field of tribal welfare, rural development and forestry including many senior serving and retired government officials who granted me physical or telephonic interviews. The field research could not have been possible without assistance from the officers from the Kerala Tribal department, particularly Mr Shumin T Babu, Deputy Director, Kerala State Tribal Mission. My special thanks to my dear friend Mr Sajith Sukumaran, Chief Executive Officer of Kudumbashree NRO who coordinated the ground support at Mananthavady for field research and also gave valuable inputs. I was immensely helped in the conduct of field research by the project officer of Kudumbashree at Mananthavady, Mr Sai Krishnan and his team of animators. And most importantly my most sincere gratitude to the members of the tribal communities of Mananthavady Taluk, who despite all their trials and tribulations, were most forthcoming in sparing their time and giving valuable inputs to me.

I am also grateful to my daughter Malavika for all the assistance she provided in this pursuit. I would finally like to thank my wife Mrs Jayasree for her unconditional support in my professional pursuits in general and the conduct of this research work in particular.

Date: March 2023

Place: New Delhi

(Brig Jayachandran CJ)

Roll No - 4826

Indian Institute of Public Administration

New Delhi-110002

## Table of Contents

Ser No	Topic	Page No
1.	Self Declaration	i
2.	Certificate	iii
3.	Acknowledgment	iii
4.	Table of Contents	v
5.	List of Abbreviations	ix
6.	List of Tables	xi
7.	List of Figures	xiv
8.	Abstract	xv
9.	Chapter 1: Introduction	1-18
	1.1: Background of the study	1
	1.2: Statement of the problem	2
	1.3: Rationale for the study	4
	1.4: Context of the study	5
	1.4.1: Demography & geography of Kerala	5
	1.4.2: Overview of the demographic profile of the tribal population of Kerala	7
	1.4.3: Specific area of study	12
	1.5: Chapter Summary	16
10.	Chapter 2: Research Methodology	19-29
	2.1: Introduction	19
	2.2: Research objectives	19
	2.3: Research strategy and research design	20
	2.4: Research questions	21
	2.5: Data sources	21
	2.5.1: Secondary data	21
	2.5.2: Feedback on perception	23
		24

	2.5.3: Feedback on the implementation of FRA from the Subject Matter Experts	27
	2.5.4: Feedback from the affected community	29
	2.6: Scope and limitation	
11.	Chapter 3: Literature review	30-82
	3.1: Forest management in India	30
	3.1.1: Indian Forest Act, 1927	31
	3.1.2: Wildlife Protection Act, 1972	32
	3.1.3: The Forest (Conservation) Act, 1980	33
	3.1.4: National Forest Policy, 1988	35
	3.2: Evolution of Forest Rights Act	37
	3.2.1: Evidence examined for policy formulation	39
	3.2.2: Stakeholders' engagement	41
	3.3: Key provisions of FRA 2006	45
	3.3.1: Salient definitions	46
	3.3.2: Rights listed under the act	47
	3.3.3: Forest Rights Rule	49
	3.4: Implementation of FRA in India	50
	3.5: Tribal development and FRA in perspective	58
	3.5.1: Notion of development and tribal welfare in India: Conceptual overview	60
	3.5.2: Verrier Elwin and isolationism	62
	3.5.3: The assimilation school	64
	3.5.4: The integration approach	65
	3.5.5: Tribal development and federalism	67
	3.5.6: Tribal development strategies followed in India	69
	3.5.7: Role of FRA in tribal welfare and development	72
	3.6: Land alienation of STs in Kerala: Key milestones	74
	3.7: FRA in context in Kerala	78
	3.8: Conclusion	80
12.	Chapter 4: Comparison of implementation of FRA in Kerala with other states	83-108
	4.1: Development indices and demography: Kerala and other states	83
	4.2: Forest cover and tribals: Kerala and other states	85

	4.3: Status of implementation of FRA: General trends	87
	4.3.1: Trends in IFR	88
	4.3.2: Trends in CFR	93
	4.4: Implementation of FRA: Kerala and other states	98
	4.4.1: Geographic factors	98
	4.4.2: Demographic factors	101
	4.4.3: Comparison with states of similar geography and demography	104
	4.5: Conclusion	106
13.	Chapter 5: Analysis of grant of Community Forest Rights in Kerala	109-171
	5.1: Introduction	109
	5.2: Highlights of the inter-district variation	112
	5.2.1: Individual Forest Rights	112
	5.2.2: Community Forest Rights	114
	5.3: Reasons for poor record in the grant of CFR in Kerala	117
	5.3.1: Ambiguities regarding scope	119
	5.3.2: Lack of awareness	127
	5.3.3: Lack of political will	129
	5.3.4: Community participation and mobilisation	131
	5.3.5: Inadequate understanding of the spirit of CFR	135
	5.3.6: FRA vis a vis other schemes	139
	5.3.7: Economic motivation	142
	5.3.8: Fear of deforestation and resistance from MoEF&CC	147
	5.3.9: Structural weakness of the nodal agencies	152
	5.3.10: Inter-departmental coordination	153
	5.3.11: Capacity building	156
	5.3.12: Post-CFR intervention	159
	5.3.13: Need for institutional reforms	160
	5.3.14: Other Challenges	161
	5.4: Implication of Supreme court order on eviction	163
	5.5: The new Forest Conservation Rules and FRA	165
	5.6 : Impact of FRA on lives of STs in Wayanad	167
	5.6: Conclusion	170
14.	Chapter 6: Conclusion and Recommendations	172-190

	6.1: Tribal development and FRA	172
	6.2: Summary of findings	176
	6.3: Recommendations and the way forward	179
	6.3.1: Recommendations to improve CFR approvals in Kerala	179
	6.3.2: Points for consideration at the National level	185
	6.4: Conclusion	189
15.	References	191-202
16.	List of Appendices	203-247
	Appendix A- Questionnaire administered to Group 1 on the implementation of FRA in India	203
	Appendix B- Questionnaire administered to subject matter experts on the Grant of Community Forest Rights in Kerala	208
	Appendix C- Sample questionnaire for FGD	217
	Appendix D- List of persons interviewed	219
	Appendix E- Selected photographs taken during the field visit	220
	Appendix F- Format for applying for grant of CFR as per FRR 2012	228
	Appendix G- Format for applying for CFRR as per FRR 2012	230
	Appendix H- Cover page of Malayalam booklet on FRA	232
	Appendix I- Summary of responses of Group 1	233
	Appendix J- Summary of responses Group 2	239

## List of Abbreviations

Abbreviation	Full Form
CFR	Community Forest Right
CFR-LA	Community Forest Rights-Learning and Advocacy
CFRR	Community Forest Resource Right
CPR	Common Property Resource
CWH	Critical Wildlife Habitat
DLC	District Level Committee
EDC	Eco Development Committee
FCR	Forest (Conservation) Rule
FRA	Forest Rights Act
FRC	Forest Rights Committee
FRR	Forest Rights Rule
HDI	Human Development Index
HLC	High Level Committee
IFR	Individual Forest Right
JFM	Joint Forest Management
JPC	Joint Parliamentary Committee
KIRTADS	Kerala Institute for Research, Training and Development Studies of Scheduled Castes and Scheduled Tribes
LWE	Left Wing Extremism
MFP	Minor Forest Produce
MHA	Ministry of Home Affairs
MNREGA	Mahatma Gandhi National Rural Employment Guarantee Act
MoEF&CC	Ministry of Environment Forest and Climate Change
MoTA	Ministry of Tribal Affairs

MPR	Monthly Progress Report
NCST	National Commission for Scheduled Tribes
NFC	National Forest Commission
NTFP	Non-Timber Forest Produce
OTFD	Other Traditional Forest Dweller
PESA	Panchayats (Extension to Scheduled Areas) Act
PFM	Participatory Forest Management
RoR	Record of Rights
SC	Scheduled Tribe
SDLC	Sub-District Level Committee
SLMC	State-Level Monitoring Committee
SME	Subject Matter Expert
ST	Scheduled Tribe
STDD	Scheduled Tribe Development Department
TDO	Tribal Development Officer
TEO	Tribal Extension Officer
TRDM	Tribal Resettlement and Development Mission
VSS	Vana Samrakshana Samiti
WGEEP	Western Ghats Ecology Expert Panel

## List of Tables

Table 1.1: ST Population in districts of Kerala.....	8
Table 1.2: Distribution of tribal communities across districts of Kerala.....	9
Table 1.3: Number of tribal settlements in different districts of Kerala .....	10
Table 1.4: Number of families in tribal settlements across districts of Kerala.....	10
Table 4.1: Forest Cover in different districts of Kerala .....	86
Table 4.2: Demographic and geographic commonality of Kerala with other states .	104
Table 4.3: Kerala's comparison with similar states on implementation of FRA .....	105
Table 5.1: Details of developmental rights granted under FRA in Kerala .....	126

## List of Figures

Figure 1.1: Map of Kerala.....	6
Figure 1.2: Wayanad and adjoining areas .....	13
Figure 1.3: Map of Wayanad District .....	14
Figure 1.4: Taluks in Wayanad district.....	15
Figure 1.5: Development blocks and panchayats in Wayanad .....	16
Figure 3.1: Evolving Concept of Development .....	61
Figure 4.1: HDI of different states of India .....	84
Figure 4.2: HDI of STs of different states of India.....	84
Figure 4.3: Disparity between HDI of STs and non-STs across states .....	85
Figure 4.4: Tribal Population density .....	88
Figure 4.5: Increase in receipt of IFR claims 2017-2022 .....	89
Figure 4.6: Percentage increase in IFR claims 2017-2022 .....	89
Figure 4.7: Percentage approval of IFR claims 2017-2022 .....	90
Figure 4.8: Variation in approval of IFR in 2022 compared with 2017 .....	91
Figure 4.9: Average area per IFR claim 2017-2022 .....	92
Figure 4.10: Percentage variation in average land allotment for IFR 2017-2022.....	92
Figure 4.11: Receipt of CFR claims 2017-2022 .....	93
Figure 4.12: Percentage variation in receipt of CFR claims 2017-2022.....	94
Figure 4.13: Percentage approval of CFR claims 2017-2022.....	94
Figure 4.14: Variation in percentage approval of CFR in 2022 compared to 2017.....	95
Figure 4.15: Average land allotment under CFR 2017-2022.....	96
Figure 4.16: Percentage variation in average land allotment under CFR 2017-2022..	97
Figure 4.17: Correlation between forest cover and land distribution for IFR.....	98
Figure 4.18: Forest cover as percentage of state area and IFR land distribution.....	99
Figure 4.19: Correlation between forest cover and land approved for CFR.....	99
Figure 4.20: Forest land as percentage of state area and CFR land allotment.....	100
Figure 4.21: Correlation between tribal population and grant of IFR .....	101
Figure 4.22: ST population as percentage of total population and grant of IFR.....	102
Figure 4.23: Correlation between tribal population and grant of CFR .....	102

Figure 4.24: ST population as percentage of state population and grant of CFR.....	103
Figure 5.1: Potential vs realisation of CFR.....	112
Figure 5.2: Tribal population, number of hamlets and grant of IFR.....	113
Figure 5.3: Number of hamlets vis a vis CFR claims processed .....	114
Figure 5.4: Claims received from various districts as % of the number of hamlets ..	115
Figure 5.5: Number of tribal hamlets, CFR claims receipt and approval % .....	116
Figure 5.6: General perception on the relation between CFR and deforestation.....	120
Figure 5.7: Perception on the impact of CFR on infrastructure development .....	121
Figure 5.8: SME opinion on awareness of STs about the provisions of FRA .....	128
Figure 5.9: SME opinion on reasons for poor results in the grant of CFR in Kerala	130
Figure 5.10: SME response on the role of FRA in tribal development .....	132
Figure 5.11: SME response on the interest of ST communities of Kerala in FRA....	133
Figure 5.12: SME response on forest dependence of STs of Kerala .....	133
Figure 5.13: SME response on the interest of older generation in FRA .....	134
Figure 5.14: Group 1 response on awareness about FRA.....	136
Figure 5.15: Group 1 knowledge about provisions of FRA.....	136
Figure 5.16: Group 1 response on the nodal agency for FRA implementation .....	137
Figure 5.17: Perception on adequacy of IFR for improving the condition of STs ....	137
Figure 5.18: SME view on adequacy of IFR to improve condition of STs in Kerala	138
Figure 5.19: Number of PFM Institutions and forest area under management.....	144
Figure 5.20: Group 1 view on forests as a source of revenue for STs.....	145
Figure 5.21: SME view on forests as a source of revenue for STs .....	146
Figure 5.22: SME view on the impact of FRA on forest cover .....	148
Figure 5.23: SME view on approach to forest management in Kerala .....	149
Figure 5.24: SME view on rehabilitating STs away from forests.....	150
Figure 5.25: SME view on inter-departmental coordination for implementing FRA	154
Figure 5.26: SME view on the correctness of documentation for CFR.....	154
Figure 5.27: SME opinion on CFR demarcation .....	155
Figure 5.28: Perception on the ability of tribal communities to manage forests .....	157
Figure 5.29: SME view on SC order on eviction of illegal forest dwellers.....	164
Figure 5.30: SME view on the impact of FCR 2022 on FRA implementation .....	165
Figure 5.31: SME view on FCR 2022 and fast tracking of development projects ....	166

Figure 6.1: Perception on the relation of tribal peoples with forests ..... 173  
Figure 6.2: SME view on need to re-evaluate FRA provisions ..... 175  
Figure 6.3: Relevance of JFM for protection of forests as well as forest dwellers.... 181

## ABSTRACT

*“Continuity is at the heart of conservatism: ecology serves that heart”*

*Garrett Hardin*

*“The worst form of injustice is pretended justice”*

*Plato*

The profound concern of our constitution makers regarding the welfare of the scheduled tribes are reflected in various constitutional safeguards specifically designed for them. Enactment of Forest Rights Act in 2006 was seen as yet another step towards upliftment of the tribal people of India. It aimed at undoing the historical injustices brought on the Scheduled Tribes and Other Traditional Forest Dwellers and enhance their livelihood security. By restoring traditional rights over forest resources, which could not be vested during the consolidation of forests, the act aimed at empowering the tribal people of India. The specific provision of community forest rights listed in the act needs to be seen as a continuum in the process of democratic decentralisation. Analysis of the available data shows that the implementation of FRA leaves much to be desired. In Kerala State there has been high rate of approval of Individual Forest Rights claims, but very few community forest rights have been granted. Based on primary research conducted in Manathavady block of Wayanad Panchayat, this dissertation enquires into the reasons for the low rate of approval of community forest rights in Kerala. The results of the study indicate the complexities involved in implementing the CFR provisions and the need for focused political intervention.

---

The founding fathers of our Nation had acknowledged a great deal of deprivation suffered by large sections of our population. It is against this backdrop that special provisions including measures of positive discrimination were incorporated as constitutional safeguards in working towards our resolve to secure justice, liberty,

equality & fraternity for all its citizens. The Scheduled Tribes (STs) who constitute 8.6% of India's national population have been one segment that suffered on account of various historical conditions. The key facet of the suffering of the tribal people was their alienation from forests, on account of the policies first implemented by the colonial administration and later adopted by the Independent Indian Government. The enactment of "*Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006*", commonly known as Forest Rights Act, 2006 (FRA) was an attempt to undo this historic injustice brought upon the STs and Other Traditional Forest Dwellers (OTFDs).

The FRA caters not only for the recognition of 13 types of forest rights (individual as well as community) but also prescribes duties for and empowers the community institutions such as gram sabhas and local level institutions to protect forests, biodiversity, habitat as well as cultural and natural heritage. Thus, the act was founded on two different, yet complementary ideational foundations. First, by ensuring livelihood and tenurial security in the form of Individual Rights (IFR), basic human rights were sought to be ensured for these traditional forest dwellers. Second, by restoring traditional community rights (CFR), these communities were to be empowered and enabled to stand on their feet. This also conforms to the federal principle of devolution of powers and thus a part of the ensuing legacy of democratic decentralization.

### **Status of Implementation**

The FRA came under legal challenge immediately on enactment when a group of environmental organisations challenged its legality in court. Despite the lapse of over a decade and a half after the passing of the law, the implementation of FRA has been poor. Conceptually, it continues to face opposition from both ends of the development

spectrum; while the conservationists argue that FRA will lead to deforestation, the modernists argue that it will impede development.

The analysis of the data published by Ministry of Tribal Affairs (MoTA) indicate that against a total of 44,66,617 claims (42,97,245 individual and 1,69,372 community claims) filed, only 22,49,671 titles (21,46,782 individual and 1,02,889 community titles) have been distributed till November 2022. The land distributed under both claims are substantially smaller in size than the limits laid down in FRA. There were also wide inter-state variations in the status of implementation. This research analysed the implementation of FRA in Kerala State which had a very poor record of grant of CFR despite being among the better performing states in granting IFR.

The receipt of claims for IFR has gone up only by 6% in the period between 2017 and 2022. There has also been a 6% improvement in the approval rate of IFR claims during this period. However, the average land holding of IFR has decreased from 2.44 acres to 2.13 acres. During the same period, the increase in receipt of CFR claims was 22% and in approval rates was 12%.

### **Analysis of inter-state variation**

Only six states, namely Andhra Pradesh, Chhattisgarh, Kerala, Odisha, Jharkhand and Tripura have passed more than 50% IFR claims. However average land holding has gone down from 2.44 acres to 2.13 acres from 2017 to 2022. Tripura, Madhya Pradesh and Telangana are the only three States with a figure of over 3 acres per IFR claim. Nine states, namely Chhattisgarh, UP, Maharashtra, Gujarat, Tripura, Madhya Pradesh, Jharkhand, Andhra Pradesh and Odisha, have approved more than 50% of community claims. Chhattisgarh leads the way with 90% approval as on 30th November 2022

A positive correlation was observed between the total ST population as well as ST population as a percentage of the population of the State and implementation of FRA. States with substantial ST population (in absolute numbers) as well as states where STs form 10% or more of the state population have approved more claims. This applies to both IFR as well as CFR. Similarly, there was positive correlation between forest cover and the quantum of land distributed.

Kerala is an exception in larger share of approvals of IFR despite having limited ST population. Historical analysis shows that this is attributable to the legacy of reform movements and land struggles. However, in terms of per capita area under IFR, the state has a poor average of 1.32 acres per family, which is far less than the national average of 2.13 acres. Kerala has a poor record in the rate of CFR approvals, but the area allotted under CFR is substantially large compared to all other states.

### **Grant of Forest Rights in Kerala**

Significant inter- district variation was observed in Kerala. Wayanad district, which has the maximum ST population in Kerala had approved only 45% of the IFR claims; the average size of forest land allotted was 0.74 acres which is far less than the State average of 1.32 acres. Although maximum CFR claims were received from Wayanad district, it also accounted for maximum rejections. The record of districts with higher number of ST population was observed to be poorer compared to those with lesser ST population.

Based on field research and analysis of primary as well as secondary data the following reasons were identified for the poor record of Kerala in granting CFR to STs:

- Ambiguities about the scope of the law, not only amongst the STs, but also those responsible for implementing the Act.

- Lack of data on the forests that were traditionally being managed or have the potential to be managed by the ST communities.
- Lack of awareness amongst the tribal people of Kerala about CFR. While most of them knew about IFR, there was very little knowledge about CFR.
- Lack of political will. The focus of political intervention has been on IFR. Lack of numbers, the divergent cultures of the various tribes and the fragmented settlement makes STs of Kerala an unattractive political constituency.
- Lack of community mobilization seeking CFR.
- Inadequate understanding of the spirit behind the act. In Kerala, it continues to be interpreted as an act to grant tenurial security and habitat rights to the STs and an extension of continuing land allotment process. Its power and potential for community empowerment have not been realized.
- Lower priority of FRA compared to many other welfare schemes being run in the state. Unlike targeted schemes which can have visible, tangible impact in a short time frame, grant of community forest rise is slow and laborious.
- Economic viability. A viable forest-based economy is mandatory to motivate the tribal community to engage itself in the management of forest resources. Such an ecosystem has not developed in Wayanad.
- Fear of deforestation and resistance from the Forest Department. The feeling that forests of Kerala are unique and pristine, and that a radical transformation in forest governance would lead to depletion of forest cover dominates the thinking.

- Structural weakness of the tribal affairs ministry. The central as well as the state tribal department and functionaries at various levels lack the institutional strength to push the agenda of CFR.
- Effective implementation of FRA is not feasible without enacting corresponding institutional reforms. This will need to include amendments to processes and procedures jointly by MoTA and MoEF&CC.
- Lack of coordination between the various departments.
- Lack of capacity building amongst the tribal communities of Kerala.
- Poor data management, book keeping, land record maintenance etc.

The research also highlighted the contextual nature of CFR and the need for tailor-made, area and community-specific solutions. As such there cannot be a pan-Indian answer, but the larger aim can be achieved if the underlying spirit of the act is grasped in totality.

### **Measures to improve CFR approval in Kerala**

Strong political will is imperative to ensure effective implementation of FRA, particularly the CFR provision. Political parties of the state cutting across party lines need to arrive at a consensus and direct the executive for a definitive action plan based on area specific demands and resource availability.

- An institutional endeavour to enhance awareness about the CFR provisions must complement the clear-cut political direction. All stakeholders need to be sensitized not only about the scope and provisions of CFR, but also the underlying rationality and the larger aim of empowerment envisaged.

- Need to develop a viable economic model either completely forest based or in convergence with other schemes, based on the resource availability of specific regions.
- Charter a road map with be mechanisms in place to effect a gradual transformation. Hand-holding by the forest department and synchronizing the objectives of PFM and CFR.
- A definitive action plan to tackle the issue holistically to cover assessment of potential, address pending claims and process new claims where applicable.
- The priority at the state as well as village level, having been on IFR, the focus now needs to shift to community forest resource rights.
- Building up the institutional capacity of the State Tribal Department as well as energising Kerala Institute for Research Training and Development Studies of Scheduled Tribes and Scheduled Castes (KIRTADS).
- Better and dynamic data management with transparency and accuracy.
- Kerala Government needs to pay particular attention to Wayanad district which has the maximum number of STs.

## **Conclusion**

Many of the lessons drawn from Wayanad have applicability across the country, while some may not be applicable. These can be adapted based on local conditions. At the apex level, there is a definite need for MoEFF&CC and MoTA to work in concert to achieve a better understanding of the implementation of FRA. The ‘perceived’ clash between the provisions of the forest laws and FRA needs resolution in order to take FRA implementation to fruition.

There is a need for a concerted effort synergising the focus of all stakeholders, if genuine welfare of the STs in India is to be achieved. While there may be some tangible improvements in terms of quantitative indicators, the eventual benefit needs to be weighed against the improvement in quality of life, catering for all needs, aspirations, and hopes of the generation.

## CHAPTER 1: INTRODUCTION

*“Earth provides enough to satisfy every man's needs, but not every man's greed”*

*Mahatma Gandhi*

### 1.1. Background of the Study

The preamble of our constitution enunciates the solemn resolve of our nation to secure justice, liberty, equality and fraternity for all its citizens. This national resolve needs to be seen against the backdrop of the historical conditions before independence, where many communities of the fledgling nation were victims of a great deal of deprivation and oppression over centuries. Having recognized the adverse impact of these on the disadvantaged sections of society, the founding fathers of our Nation chalked out measures of positive discrimination and incorporated these into our constitutional framework. One of the prominent measures in this regard was the framing of article 342 of the Constitution which deals with scheduled tribes (<https://www.constitutionofindia.net/>). The article clarifies that only those communities will be considered to be scheduled tribes (ST), who have been declared as such by the President *“through an initial public notification or a subsequent amendment act of Parliament”*. The essential characteristics, for a community to be identified as scheduled tribe were first laid down by the *‘Advisory Committee on the Revision of the Lists of Scheduled Castes and Scheduled Tribes’* (Lokur Committee, 1965) convened by the department of social security under the Government of India. The prerequisites for ST classification were indications of *“primitive traits, distinctive culture, shyness of contact with community at large, geographical isolation and backwardness”*. In addition to the grant of reservation for government jobs and admission in educational institutions, special protective measures were also made in the form of the Fifth and Sixth schedules.

As per the last Census of India (2011), the STs constitute about 8.6% of the National population. These communities were traditionally dependent on forests for their livelihood. A large number of them continued to be hunter-gatherers or pastoral cultivators. Naturally, these peoples remained isolated from the technological and societal trajectory followed by the rest of the population. In their seminal work based on ‘mode of resource use’ approach, Gadgil and Guha (1992) argue that the hunter-gatherer societies viewed humans as a part of a community of beings and that prudence characterized the nature of forest use by these societies. Even while the forests were under the suzerainty of the kings, the tribal people could comfortably inhabit in forests and extract produces from them without any restrictive interference (Guha, 1983). However, the situation underwent drastic change under the colonial dispensation. The British administration viewed forests purely as reserves for exploitation, the timber for railway lines being a high-value resource. Under such conditions, forests were viewed as colonial property, thus turning the original inhabitants, the tribal people into 'encroachers'. The usurpers used power and force to gain control over the forests, which were the legitimate property of the traditional dwellers (Bijoy, 2008).

One of the major initiatives in promoting the interests of the STs, albeit an endeavour which took nearly six decades after independence, was the enactment of “*Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006*”, commonly known as Forest Rights Act, 2006 (FRA). Data available on the subject indicates that the law has not yet achieved the desired impact on the forest dwelling communities, the target populace.

## **1.2. Statement of the Problem**

The FRA unambiguously acknowledged that the scheduled tribes (STs) and certain other traditional forest dwellers (OTFDs) were residing for generations in

forests but their rights could not be recorded in the consolidation of forests during colonial period as well as in Independent India and that this amounted to historical injustice. The Act intended to address the longstanding insecurity of tenurial and access rights of the forest dwellers including those who were forced to relocate on account of State development interventions. Amongst the many provisions of FRA, was the grant of different types of rights to STs and OTFDs. These include individual rights dealing with tenurial security and community rights that deal with macro issues of forest dependence and management.

The latest report (as on 30 November 2022) on implementation of FRA available on the Ministry of Tribal Affairs (MoTA) website (<https://tribal.nic.in/>) indicates that only 22,35,845 claims have been passed out of the total 44,46,104 applications received. There is also wide variation between the percentage approvals of claims between different States. What is also noticeable from the Monthly Progress Report (MPR) available on the website is that no claims are now being processed for grant of forest rights from certain states. Also, fresh distribution of title deeds is now happening only in few select states. This stalemate needs to be seen in the backdrop of two recent developments, which have ramifications on the achievement of the end state envisaged as per FRA 2006. Firstly, the Supreme Court order of Feb 2019, although under temporary stay, which directed 16 States to evict all those occupying forest land whose claims were rejected (Pillai & Amritha, 2021, Sethi, 2019); secondly, the recently proclaimed Forest (Conservation) Rules 2022 (FCR 2022) which has modified the rules for diversion of forest land for development purposes. The newly promulgated rules allow private players to obtain permission to clear forest land for infrastructure projects by resorting to compensatory afforestation. It has been interpreted that the procedure laid down in the new rules dilutes the provisions of FRA. The earlier guidelines issued

by the Ministry of Environment, Forest and Climate Change (MoEF&CC) in August 2009, mandated that prior consultation with gram sabhas was essential before any decision on the diversion of forestland was taken. While the Central Government has clarified that the new rules do not supersede the FRA, it is feared that the grant of ‘In Principle’ approval for forest diversion without the collective involvement of the communities will render the gram sabha approval to a mere formality.

The State of Kerala presents a very unique picture. Despite being one of the first states to proactively set up institutional mechanisms for the implementation of FRA, its record has not been outstanding. While it has a high passing rate of claims for individual forest rights (IFR), there has been very little grant of community forest rights (CFR).

### **1.3. Rationale for the study**

There are already prevalent ambiguities in the enforcement of FRA 2006 on account of the conflicting provisions contained in interrelated laws such as the Indian Forest Act, Forest Conservation Act, Wild Life Protection Act, etc. These have further been accentuated by the Supreme Court Order of 2019 and the notification of Forest (Conservation) Rules 2022 (Pillai & Amritha, 2021). Even after the lapse of one and a half decades since the inception of FRA, there are contradictory claims concerning its efficacy, viability, legality and effectiveness.

It is very interesting to note that two opposing strands of argument confront the implementation of FRA. On the one end of the spectrum are the conservationist ideologues who claim that the implementation of FRA has led to the fragmentation and degradation of millions of hectares of forest land in a short span by regularization of unauthorized forest encroachments (Singh, 2021). The advocates of this school argue that FRA has virtually negated the benefits accrued from the historic Forest

(Conservation) Act of 1980 and hence the act needs to be repealed. On the other end are those of the developmental school who say that the FRA has been a major hindrance to implementation of infrastructure projects essential for national progress. Saddled between these two extreme arguments, which manifest in multiple hurdles, the implementation of FRA leaves much to be desired. Thus, there is a need for a fact-check on the implementation of FRA 2006 and identify the hurdles so that a justifiable course can be charted.

On account of constraints of time and resources, a pan-India study will not be feasible. Kerala has been chosen as the geographic location for research on account of the under-mentioned reasons:

- It is the state with the highest human development index in the country.
- Kerala has a legacy of being a forerunner in implementation of social welfare schemes such as the land reforms act.
- While Kerala has a fair overall record of 63% title distribution over the number of individual claims received, the grant of community rights stands at a poor 17%. Moreover, there are district-level variations within Kerala on the grant of IFR and CFR.
- The researcher being a native of Kerala could access primary data with less difficulty.

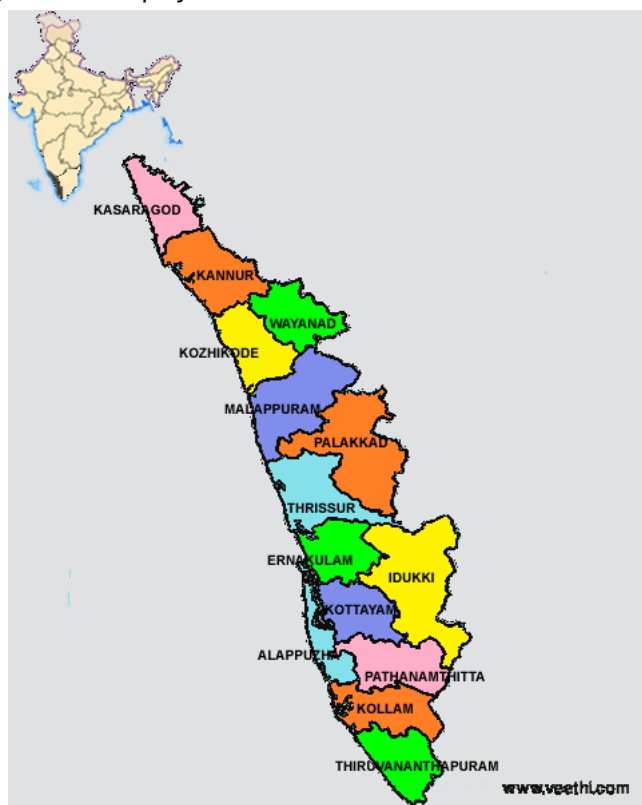
#### **1.4. Context of the Study**

##### **1.4.1 Demography and geography of Kerala**

Kerala, known as ‘God’s own country’, is the southernmost state of India. Kerala State came into being on November 1, 1959, under the States Reorganization Act 1959 with the merger of Travancore-Cochin state (which was the union of Travancore and

Kochi princely states in 1949) and Malabar under the Madras province. Kerala lies between 8° 17' 30" and 12° 47' 40" north latitude and 74° 51' 57" and 77° 24' 47" east longitude. It is bounded by Karnataka on the north and the northeast and by Tamil Nadu on the east and the south (Menon 2021). Kerala is divided into 14 districts, namely Alappuzha, Kannur, Ernakulam, Idukki, Kasaragod, Kottayam, Kozhikode, Malappuram, Palakkad, Pathanamthitta, Kollam, Thrissur, Thiruvananthapuram and Wayanad. These are further divided into 61 taluks.

Figure 1.1: Map of Kerala



(Source: Veethi.com)

As per the Census of India (2011), Kerala has a population of 3,34,06,061 people within a geographical area of 38,863 sq km. The population density is 655 persons per sq. km. It ranges between 192 in Idukki (206 in Wayanad; 456 in Palakkad and 565 in Kannur) and 1,248 in Alappuzha (followed by 1,055 in Ernakulam). The sex ratio in Kerala is 1084 females for every 1000 males, which is much higher than the national average of 940 as per the census of 2011. Boasting of the highest literacy rate (93.91%)

in India and very good social development features, the state is classified as the one with the highest Human Development Index in India.

Kerala is characterized by a long and narrow terrain - barring a wide gap at Palakkad- which is confined by the Arabian Sea on the west and the Western Ghats on the east. The length of the seacoast is 579 km and the width from west to east varies between 11 km and 120 km. The State is bestowed with great natural beauty and pristine evergreen forests. The drainage system is formed by 44 rivers, along with backwaters and connecting canals. Of these 44 rivers, 41 are west flowing and three are east-flowing rivers which are the tributaries of the Kaveri. The longest of these rivers is the 251 km (156 miles) long Bharathapuzha. The total catchment area in Kerala is 37,884 sq. km. Its beautiful landscape comprising of beaches, rivulets, rivers and hills offers breathtaking scenic views. This has made the state a great tourist attraction.

Approximately 55% of the people of Kerala are Hindus, while Muslims and Christians constitute 27% and 18% respectively of the total population. While Hindus constitute the majority in most districts, Malappuram is a Muslim-majority district that has almost 70% Muslims. Kottayam, Idukki and Ernakulam have substantial Christian population. Amongst the Hindus, Nairs and Ezhavas form the largest and most dominant castes accounting for 14% and 23% of the total population. Scheduled Castes account for approximately 10% of the total population and STs about 1.5%.

#### **1.4.2 Overview of the demographic profile of the tribal population of Kerala**

The population of STs in Kerala is 4,84,839 which accounts for 1.5% of the total population of the state (Census of India, 2011). There are thirty-six scheduled tribal groups in Kerala, though the Ministry website lists thirty-seven. This difference is owing to the non-inclusion of Maratti Community as ST in the 2011 Census. This

community, which was earlier de-notified, has now been classified as ST. Tribes of Kerala are said to be descendents of the ancient Dravidian stock. They are characterized by dark complexion and short height. Majority of the tribes of Kerala had their traditional dwellings in the dense forest grounds and the hill ranges on the Western Ghats, mainly along the Tamil Nadu/ Karnataka border. The population of STs in different districts is given in the table below.

*Table 1.1: ST Population in districts of Kerala*

<b>District</b>	<b>Scheduled Tribe population (2011)</b>	<b>%</b>
Kasargod	48857	3.8
Kannur	41371	1.6
Wayanad	151443	18.5
Kozhikode	15228	0.5
Malappuram	22990	0.6
Palakkad	48972	1.7
Trissur	9430	0.3
Ernakulum	16559	0.5
Idukki	55815	5
Kottayam	21972	1.1
Alappuzha	6574	0.3
Pathanamthitta	8108	0.7
Kollam	10761	0.4
Thiruvananthapuram	26759	0.8
<b>Kerala</b>	<b>484839</b>	<b>1.5</b>

(Source: IJCRT, Volume 7, Issue 2, 2019)

Wayanad district has the maximum tribal population followed by Idukki. The Northern districts of Kannur, Kasargod and Palakkad also have a relatively larger number of STs. Alappuzha, Pathanamthitta and Trissur are the districts with the least ST population. The tribal demography of Kerala is also characterized by concentration of different communities in distinct geographic regions. Depending on the geographic variation, there are distinct cultural, linguistic and demographic differences between these communities. The distribution of different tribal communities across of the districts of Kerala is shown in the table below.

Table 1.2: Distribution of tribal communities across districts of Kerala

S No	District	ST Communities	Population
1	Kasargod	Koraga, Kudiya, Mala vettuvan, Paniyan, Mavilan.	48857
2	Kannur	Kurichiyen, Paniyan, Mala vettuvan, Mavilan, Karimpalan.	41371
3	Wayanad	Adiyan, Kadar, Kuruman, Kurichiyen Kattunaikkan, Paniyan, Uraly Kurumar.	151443
4	Malappuram	Aranadan, Kattunaikkan, Chola Naikkan, Mala Panikkar.	22990
5	Kozhikode	Kadar, Kattunaikkan, Kurichiyen, Paniyan, Karimpalan, Thachanadan.	15228
6	Palakkad	Eravalan, Irular, Kadar, Kattunaikkan, Kurumba, Maha Alasar, Malasar.	48972
7	Thrissur	Kadar, Malayan, Ulladan.	9430
8	Eranakulam	Malayan, Muthuvan, Ulladan.	16559
9	Idukki	Malai Arayan, Mannan, Muthuvan, Palliyan, Uraly kurumar.	55815
10	Kottayam	Malai Arayan, Malai vedan, Malayarayar, Uraly.	21972
11	Alappuzha	Ulladan.	6574
12	Pathanamthitta	Kochuvelan, Mala pandaram, Malai vedan.	8108
13	Kollam	Kanikkaran. Mala pandaram, Malai vedan.	10761
14	Thiruvananthapuram	Kanikkaran, Malakkuruvan.	26759

(Source: Scheduled Tribes of Kerala: Census 1961-2011)

The Paniya (Paniyar) is the largest of the 36 major tribes, with a population of 88450 forming 18.24% of the total tribal population of the State. Kurichiyen is the second largest tribe having a population of 35171 constituting 7.25% of the total ST population. Six other STs, namely Malai Arayan (33216), Mavilan (30867), Kurumans (24505), Muthuvan (23746), Irular (23721), Kanikkaran (21251) are the other major tribes. Cholanaikkan is the smallest tribe with a population of 124 forming 0.026% of the total Tribal population. At the district level, Paniyan has the highest percentage in the Malappuram (51.86%) and Kannur (33.24%) districts whereas Kurichchan has the highest proportion in Kannur (23.97). Among the other larger Tribes Malai Arayan mainly concentrated in Kottayam (65.25%) and Mavilan (55.56%) in Kasaragod districts. These STs usually live in small hamlets which cater for all groups of families. The district-wise summary of these settlements is appended below.

*Table 1.3: Number of tribal settlements in different districts of Kerala*

(1)	(2)	(3)
Thiruvananthapuram	: 226	4.75
Kollam	: 26	0.55
Pathanamthitta	: 43	0.9
Alappuzha	: 34	0.71
Kottayam	: 101	2.12
Idukki	: 299	6.28
Eranakulam	: 61	1.28
Thrissur	: 59	1.24
Palakkad	: 426	8.95
Malappuram	: 229	4.81
Kozhikode	: 126	2.65
Wayanad	: 2167	45.51
Kannur	: 353	7.41
Kasaragod	: 612	12.85
Total	: 4762	100

(Source: IJCRT, Volume 7, Issue 2, 2019)

The district-wise details of the number of families staying in the above-mentioned settlements are given in the table below.

*Table 1.4: Number of families in tribal settlements across districts of Kerala*

District	Families	%
(1)	(2)	(3)
Thiruvananthapuram	: 5183	4.80
Kollam	: 1303	1.21
Pathanamthitta	: 1791	1.66
Alappuzha	: 872	0.81
Kottayam	: 4353	4.03
Idukki	: 14315	13.26
Ernakulum	: 2370	2.20
Trissur	: 1481	1.37
Palakkad	: 13223	12.25
Malappuram	: 3656	3.39
Kozhikode	: 2680	2.48
Wayanad	: 36135	33.47
Kannur	: 9005	8.34
Kasargod	: 11598	10.74
Total	: 107965	100

(Source: IJCRT, Volume 7, Issue 2, 2019)

The decadal growth of ST population in Kerala during 2011 census was 26.62% which was 11.86% higher than the growth of the ST population in 2001 Census. In

terms of gender composition, there are 238203 male members (Rural-213208, Urban-24995) and 246636 female members (Rural-219884, Urban-26752). The ST male population forms 1.48% of the total male population and female population forms 1.42% of the total female population of the State. The sex ratio of the total ST population in Kerala is 1035 females per 1000 males which are significantly higher than the national average. Muthuvan has a sex ratio akin to the national average at 990, while Cholanaikkan has the least sex ratio 722. Kochuvelan (727), and Kudiya Melakudi (748) are the other tribes with poor sex ratio. The ST population of Kerala is predominantly rural as 89.33% of them reside in villages and only 10.67% of them reside in urban areas. The decadal increase in absolute numbers is 120,650 people. Wayanad district has the highest number of tribals (1,51,443) which is 18.53% of the total population of the district and 31% of the total ST population of the state. It is followed by Idukki (55,815), Palakkad (48,972) and Kasargod (48,857). Alappuzha has the minimum tribal population (6,574) followed by Pathanamthitta and Thrissur (KIRTADS, 2017).

Tribal people groups who have a declining or stagnant population, pre-agricultural level of technology and economic backwardness and very low or little literacy rates are called as particularly Vulnerable Tribal Groups (PVTGs). Cholanaikkans, Kurumbas, Kattunaikkans, Kadars and Koragas are the five PVTGs in Kerala. They constitute nearly 5% of the total tribal population in the State. (KIRTADS, 2017). Kattunaikkan is the largest among the PVTGs. Cholanaikkans are said to be the most primitive of them and are found only in the Malappuram District. There are only a handful of families of this tribe who are found in the Mancheri hills of the Nilambur forest division. Kurumbas are settled in the Attappady Block of Palakkad district. Kattunaikkans, another lower-hill community related to Cholanaikkans, are mainly

found in Wayanad district and some parts of Malappuram and Kozhikode. The Kadar population is centred around Thrissur and Palakkad districts. The Koragas mostly inhabit the plain areas of Kasaragod district.

The overall literacy rate of the STs has risen from 64.4% recorded at the 2001 Census to 75.8% at the 2011 Census which is higher than the national average of 59% of the total STs. Male literacy rate has increased from 70.8% to 80.8% and the female literacy from 58.1% to 71.1% during 2001- 2011. Malai Arayan has the highest percentage of literates (96.3%) followed by Kochuvelen (91.4%), Ulladan (88.4%), Kanikkaran (88%), Kurumans (84.1%), Kurichiyan (83.6%) etc. Cholanaickan have the lowest percentage of literates (19.8%).

### **1.4.3 Specific Area of Study**

Wayanad district of Kerala was chosen as the specific area of study for field research on account of the following reasons:

- Wayanad has the maximum tribal population in Kerala. It accounts for 31% of the total STs of Kerala.
- Wayanad also has the maximum tribal population as a percentage of the total population in any district within Kerala. The STs make up 18% of the total population of Wayanad, far more than any other district.
- The district is inhabited by a variety of tribal groups.
- Tribal groups of Wayanad are also found in the adjoining Northern districts of Kerala.

Wayanad is bounded by Karnataka State on the East and the North East and Tamilnadu to the South East. To the North West, West and South, it borders the Kannur,

Kozhikode and Malappuram Districts of Kerala. There are six major adivasi communities in Wayanad, namely Kurumar, Kurichiyar, Paniyar, Adiyar, Kattunaicker and Kadar. The historical relations of these communities with land and forests did not have a common strain. Kurumar and Kurichiyar were customary agriculturists, Paniyar and Adiyar were agrestic slaves and bonded labourers, Kattunaicker were hunters and gatherers and Uralis were artisans.

Figure 1.2: Wayanad and adjoining areas



(Source: mapsofindia.com)

The total area of Wayanad district is 2,130 sq. km, out of which only about 41 sq. km. area is under urban region while the balance is under rural region. The total population of the district was 817,420 as per Census 2011, which included 401,684 males and 415,736 females. Thus, the density of Wayanad district is 384 people per square km. The total literacy rate of Wayanad district at 89.03% in 2011 was less than the average literacy rate of Kerala (94%). Tribal people account for about 18.5% of the district population.

Figure 1.3: Map of Wayanad District



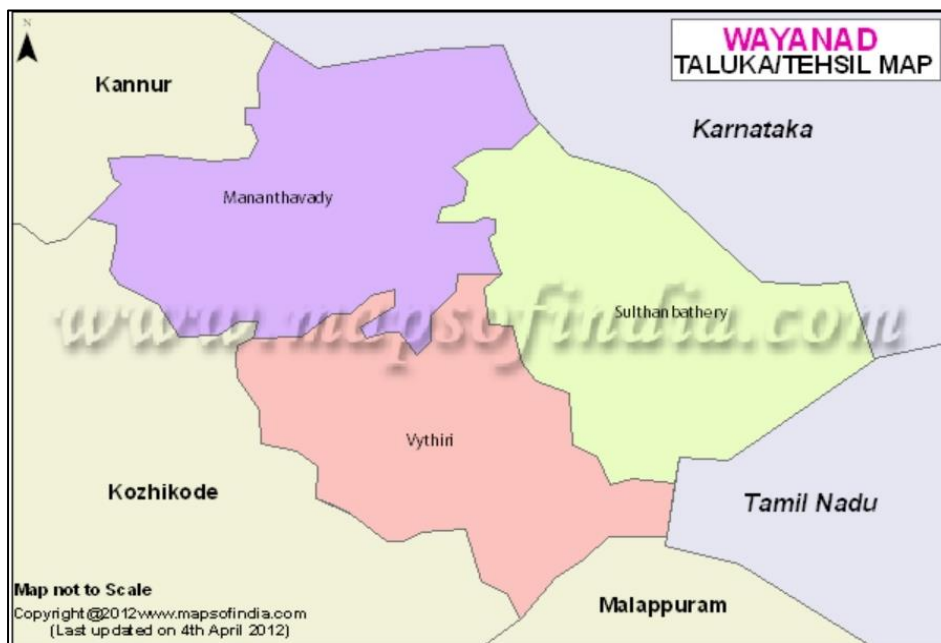
(Source:mapsofindia.com)

It has been estimated that organised human life existed in Wayanad, at least ten centuries before Christ. Countless evidence about New Stone Age civilisation can be seen on the hills of Wayanad such as the caves of Ampukuthimala located between Sulthan Bathery and Ambalavayal. The recorded history of this district is available from the 18th century. In ancient times, this land was ruled by the Rajas of the Veda tribe. In later days, Wayanad came under the rule of the Pazhassi Rajahs of Kottayam royal dynasty (Menon, 2019). When Hyder Ali became the ruler of Mysore, he invaded Wayanad and brought it under his sway. However, Tipu entered into an agreement with Kottayam royal dynasty and restored Wayanad to them. In the wake of the demise of Tipu, the legendary Kerala Varma Pazhassi Raja of Kottayam forged a fierce war against the British along with the Kurichiya tribals and engaged the British in several guerrilla encounters (Menon, 2019). Even after a prolonged military campaign, led by the famed Arthur Wellesley, the British could not capture Pazhassi Raja. Eventually, in the face of defeat, the Raja killed himself somewhere in the interior of the forest. After the death of Pazhassi Raja, the British authorities opened up the plateau for cultivation

of tea and other cash crops. Roads were laid from Kozhikode and Thalassery across the tricky slopes of Wayanad, and extending to Mysore and Ooty through Gudalur.

At the time of Kerala State formation in November 1956, Wayanad was part of Kannur district. Later, south Wayanad was added to Kozhikode district. In order to fulfill the developmental aspirations of the people of Wayanad, North Wayanad and South Wayanad were carved out from Kannur and Kozhikode and reconstituted to form the present Wayanad district. It came into being as the 12<sup>th</sup> district of the state on November 1, 1980 (Menon, 2019a). The District headquarters is located at Kalpetta. The district has only one Revenue division named Mananthavady. Wayanad is divided into three 3 Taluks Vythiri, Manathavady and Sulthanbathery.

Figure 1.4: Taluks in Wayanad district



(Source:mapsofindia.com)

The district is also organized into four development blocks namely Vythiri, Manathavady, Panamaram and Sulthanbathery each of which forms a block panchayat. This district has a total of 23 Gram Panchayats and three Municipal Panchayats

(Kalpetta, Mananthavady and Sulthan Bathery). There are a total of 49 Revenue villages in the district.

Figure 1.5: Development blocks and panchayats in Wayanad



(Source:mapsofindia.com)

STs constitute 21.6%, 14.6% and 19.2% respectively of Mananthavady, Vythiri and Sulthan Bathery. Considering the numbers and the variety of tribal settlements available, Mananthavady Taluk, which consists of 16 villages, was chosen as the specific area of study. Accordingly, field survey was conducted in the areas under this Taluk which included visits to tribal hamlets and meeting with officials working in field.

## 1.5. Chapter Summary

The summary of the ensuing chapters are listed below.

- **Chapter 2.** Having explained the background and rationale for the study, the next chapter deals with the research methodology. The research objectives, strategy, design and research questions are amplified in this

chapter. It also lists the various data sources and means adopted to access them.

- **Chapter 3.** This chapter is completely dedicated to literature review. The review has been carried out under the following broad heads:
  - Forest management in India. An analysis of the important forest and wildlife legislations is discussed under this.
  - Evolution of FRA in India. The conditions leading to the enactment of FRA 2006 are explained under this.
  - Amplification of the key provisions of the act and FRR.
  - Progress on implementation of FRA in India.
  - Tribal development and FRA in perspective. A conceptual overview of tribal development, different schools of thought, strategies adopted by the government, and the role of FRA in the development framework are discussed under this head.
  - Key milestones regarding land alienation of STs in Kerala.
  - FRA in context in Kerala.
- **Chapter 4.** The implementation of FRA in Kerala is compared with that in other states. Based on quantitative analysis of government data, trend analysis has been carried out. Geographic and demographic factors of states are compared with implementation of FRA to check for correlations.
- **Chapter 5.** This chapter begins with the analysis of inter-district variation in grant of IFR and CFR titles. Further, based on the analysis of primary as well as secondary data, the reasons for poor status of grant of CFR in Kerala are identified. The implication of the Supreme Court Order of 2019 and FCR 2022 are also brought out.

- **Chapter 6.** The concluding chapter highlights the summary of findings and lists the recommendations to improve implementation of FRA in Kerala. Issues of significance at the national level are also highlighted.

## CHAPTER 2: RESEARCH METHODOLOGY

*“Experience without theory is blind, but theory without experience is mere intellectual play”*

*Immanuel Kant*

### 2.1. Introduction

*‘The Schedule tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006’* is to be weighed against two parameters on which it was founded. First, ensuring livelihood and tenurial security to the traditional forest dwellers who were victims of ‘historical injustice’. This ideation conforms to the basic norms of human dignity envisioned in the preamble and the fundamental rights guaranteed in the constitution. The second is the federal principles envisaged in the devolution of powers at different levels of governance. This is an ensuing legacy of devolution of powers across various levels of governance manifesting in many forms such as Panchayati Raj institutions, PESA etc.

While the grant of individual rights conforms to the first idea, community rights in many ways correspond to the second aspect of federalism, democratic decentralization and devolution of powers to the people directly. The research methodology has been finalized based on the above-mentioned precept.

### 2.2 Research objectives

FRA 2006 recognizes that forests are not only places of residence, but also a source of livelihood for forest-dwelling communities. Axiomatically, it becomes imperative that individual as well as community rights are given adequate weightage.

Analysis of the available data indicated lack of uniformity in passing of claims in the country. In the State of Kerala, there was high degree of approval of Individual Forest Rights (IFR), but very poor state of grant of community forest rights (CFR). In this backdrop, the following objectives emerged for the research:

- To analyse the passing rate of forest right claims of various states and find out the elements of convergence as well as divergence.
- To ascertain the reasons for low passing rate of CFR claims in Kerala under FRA 2006.
- To identify the perceptual cleavages of the various stakeholders on implementation of FRA in the wake of the Supreme Court judgment of 2019 and the notification of Forest Conservation Rules 2022.
- To recommend measures to improve the implementation of FRA, particularly the grant of CFR.

### **2.3 Research strategy and research design**

The first objective is proposed to be met through a quantitative strategy with a descriptive design based completely on secondary sources. The second and third objectives will be addressed through a mixed strategy. The design will be explorative and descriptive. It is proposed to use questionnaires as well as Focused Group Discussions to obtain Primary Data. The target audience from the affected populace will include forest communities in Wayanad district of Kerala, which has the maximum tribal population. In addition, inputs from other stakeholders including officials from various government departments such as forests, tribal affairs, revenue and civil society organizations were obtained. Analysis of these was utilized to derive the recommendations.

## **2.4 Research questions**

The following questions emanated from the research objectives:

- Are there linkages between the demographic and geographical conditions in different states of India with the passing of forest rights claims which result in salient variations in the passing rate of Forest Rights in various States of India?
- Are there any significant variations in approval of forest rights claims between districts of Kerala?
- What are the hurdles and major reasons for poor grant of community forest rights (CFR) in Kerala? Can these be clubbed to evolve a pattern?
- Is there gross divergence between various stakeholders on the understanding of the Supreme Court judgment of 2019 and the notification of Forest Conservation Rules 2022? If so, how is it likely to impact the implementation of FRA, concerning grant of CFR?
- What measures can be adopted to mitigate the situation and meet the stated objectives of FRA?

## **2.5 Data sources**

### **2.5.1 Secondary data**

As part of this, the complete data on passing off claims for IFR as well as CFR available in the dashboard of history of tribal affairs was analyzed. This data was then compared against the backdrop of historic, demographic and geographic conditions of each of the states. The data for these were obtained from the figures of Census 2011 (latest available figures), the UN report on Human Development Indices, the State of

Forest Report 2021 released by the MoEF&CC and the Monthly Progress Report (MPR) on implementation of FRA published by the MoTA. The idea was to establish if there are any causal relationships between these factors and the grant of claims. Since the last national-level study on the subject was done in 2014 (HLC Report, 2014), a trend analysis across two timelines separated by five years (November 2017 and December 2022) was also done to examine the significant variations/ recent progress. In addition to this, various reports and research projects concluded in the interim period were also accessed and analysed.

Since the data pertaining to Kerala State is not available on the website of the Kerala State Scheduled Tribes Development department (STDD), the MPR published by the central ministry was used as the basic data. Several studies, projects, as well as doctoral theses focused on pointed issues about specific geographic regions, were used to supplement the data available in the central repository. Clarifications were obtained from the Tribal Resettlement and Development Mission (TRDM), Kerala. TRDM, which functions under the ST department works on the mandate of achieving overall socio-economic development of tribal families in the state, particularly those who are landless and those who own very little land. The mission's major focus is on land distribution and has been tasked to identify assignable vested forestland in Wayanad district and get clearance from the Government of India for allotment. It has also taken steps for declaration of the lands under the occupation of the tribal families as Scheduled Areas.

Kerala Institute for Research, Training and Development Studies of Scheduled Casts and Scheduled Tribes (KIRTADS), which is the Tribal Research Institute of the State was also visited as part of data collection. This institute is a repository of knowledge on Tribal Affairs in the State and maintains literature on various facets of

tribal life including tribal development. The Institute also runs a vigilance wing dedicated to checking fraudulent means adopted by non-tribals in seeking admissions or jobs as tribals. The institute also has a museum, which throws light into the tribal ways of life in Kerala and brings out the nuances of customs and traditions of different tribes.

Another data set utilized was the details of implementation of FRA in Wayanad District accessed through RTI by a Non-Governmental Organisation (NGO) called the Keystone Foundation. Documents pertaining to the pending court case in Supreme Court were obtained and perused for this purpose. These were obtained from the lawyers representing the Adivasis in the ongoing court case on the legality of the FRA. The affidavit given by the Government of Kerala also forms part of this. The Kerala Government has mentioned that it did not have any objections to implementing the FRA in the State.

### **2.5.2. Feedback on perception**

It has been concluded in almost all the studies and reviews conducted that the implementation of FRA leaves a lot to be desired. At the same time, although the law has been enacted 16 years ago, the case challenging its legality is pending in the Supreme Court for almost a similar duration. A case was filed immediately after the passing of the act by forest conservation groups like Wildlife First and Wildlife Trust of India before the Supreme Court. They questioned the constitutionality of the FRA on two grounds. The first argument was that the union had no legislative power to enact this law as 'land' was a state subject. Secondly, it was alleged that the Act would facilitate illegal encroachment and deforestation. While there had been no major progress with respect to the constitutionality of the Act, its focus shifted to eviction of

illegal dwellers in 2019, with the Court ordering immediate eviction of all those forest dwellers without sanctioned approvals. Given that the very validity of the law is still under debate, it was felt necessary to obtain feedback from the members of the executive.

The basic idea of the feedback was to get an insight into the general perception of sufficiently senior government executives who, at some point in time would be involved in either drafting such laws or implementing them. This would also provide a general idea in the minds of government about tribal development and adaptation of policy towards tribal development in future.

A questionnaire was framed keeping these two aspects in mind and circulated to government officers and select people who deal with the government in policy implementation as well as policy framing. This questionnaire was not circulated to officers and people directly involved in Forest Rights, but to those who deal with the other facets of governance. Members of the advocacy fraternity involved in civil rights etc were also incorporated into this list. A total of 200 responses were received from officers from various government departments such as Cabinet Secretariate, defense, telecom, railways, National Highway Authority of India (NHAI), Border Roads Organisation (BRO) and many other departments as well as from the bar. This group of informed citizens who form part of the executive machinery or who deal with the government has been referred to as Group 1 in the research. A copy of the questionnaire is attached as **Appendix A**.

### **2.5.3 Feedback on implementation from Subject Matter Experts**

The next step was to elicit responses from those directly involved in implementing the FRA. The core of this was the representatives of the three

departments involved in the implementation of FRA. A pointed and detailed questionnaire specifically addressing the implementation of CFR in Kerala was circulated to a wide section of government officials from the Revenue, Forest and Tribal Affairs departments. In order to widen the choice, officials from rural development working in tribal areas of Kerala, as well as retired officials from the three departments with experience in the implementation of FRA were also added. To further enhance the sample, people from Academia and civil society organisations who have specifically worked on FRA, tribal development and forestry were also incorporated. This group has been referred to as Group 2 in the dissertation. A copy of the questionnaire administered to these subject matter experts (SME) is attached as **Appendix B**.

Key informant interviews were carried out with the experts and officials dealing with the subject to obtain direct feedback about the ground situation. They included the under-mentioned.

- Officials of the State Tribal Department and TRDM at the State Capital. The field visits were also coordinated by the TRDM.
- Sub Collector of Mananthavady Tehsil who is also the ex officio chairperson of the Sub District Level Committee (SDLC). Detailed in-person interview was carried out in the office of the sub-collector.
- Tribal Development Officer (TDO) at Mananthavady who is the nodal officer for all tribal development programmes in the block, which includes implementation of FRA.
- Tribal Extension Officer (TEO) at Kattikulam Panchayat who works under the TDO and is the nodal officer at the Panchayat level.

- Group discussion with 30 ST Promoters working in different areas of Mananthavady block. The ST promoters are members of the community, who are contracted for a period of one year at a stretch, by the state government and serve as a link between their communities and their access to welfare facilities. They are mandated to bring out the problems faced by the communities and work along with the Tribal affairs department as well as local bodies to ensure implementation of welfare schemes. The ST Promoters are also responsible for ensuring proper medical treatment for those in need and also other facilities for the tribal communities. They carry out a review meeting at the office of the TEO periodically. Group discussion with the promoters was carried out during one such review meeting.
- Field members of Kudumbashree, the Kerala State Rural Livelihoods Mission acted as the interface for the interaction with the community. The Project Officer of Kudumbashree at Mananthavady was interviewed and interacted with in detail.
- Inputs were also sought from a large number of officers from the Indian Forest Service who have been or are currently involved in implementation of FRA. These included not only the officers from the State of Kerala but also some from different States who could highlight salient issues which are common across the country as well as bring out conditions that distinguish different geographic regions as far as implementation of FRA is concerned.
- In person interview was held with Dr NC Saxena, who headed the Joint Committee on implementation of Forest Rights Act in 2010.

- Telephonic interviews with a number of retired officers of the government of Kerala as well as people who have worked specifically on FRA and tribal development in Kerala.

#### **2.5.4 Feedback from the affected communities**

Kerala Government had categorically stated that there are no OTFDs in the state who come under the purview of FRA. Hence the study sample consisted only of STs. Focused Group Discussions with the members of the tribal community formed the mainstay of obtaining direct feedback from members from the affected population. As explained in the previous chapter on the context of the study, Mananthavady Taluk which has the maximum population of STs within Wayanad District was chosen as the specific area of the study. Of the six tribes found within the District, Mananthavady Taluk has representation of five tribes namely Adiyar, Paniyan, Kuruman, Kurichiyar and Kattunaikkar. Of these, Kattunaikkar also comes under PVTG. Thus, the Taluk is representative of all tribes except Kadar.

FGDs were conducted at nine hamlets with people consisting of men as well as women. Kudumbashree field workers who interact with the tribal people acted as the link for interaction. The sample of the questionnaire is attached as **Appendix C**. However, the discussions were held in an informal manner allowing free flow of ideas to elicit maximum response. The following ten hamlets were visited as part of the primary data collection trip and FGDs held with the residents:

- Irumbupalam.
- Thondukappu.
- Thondarnadu.
- Edayoor.

- Puthiyoor.
- Nedumthana.
- Thrislerry.
- Godavary Colony.
- Ambedkar Colony.

Of the above colonies, most of them are exclusive to one tribe, except for Godavary and Ambedkar, which have a mix of two or more tribes. In course of the field visit, the researcher had the opportunity of interacting with about 20 Kudumbashree animators. These animators, who are contractual employees of Kudumbashree are the community resource persons from various STs, working on development. Their charter includes creation of tribal neighbourhood groups, children groups (*balasabha*), adolescent clubs, data collection, programme harmonization, conduct of awareness classes, coordination of convergence program with line departments, bookkeeping etc. Being from the community, they could give input on FRA in their capacity as members of the community in addition to being those responsible for programme coordination.

Members of Civil Society groups that work for tribal development in Wayanad district also gave inputs from the perspective of the Tribal Community. Keystone Foundation, an NGO which works on tribal welfare, had taken special effort to instill awareness about FRA among the STs in Wayanad. The researcher had the opportunity of attending one session of briefing on FRA held by one of the representatives of the foundation at Thondarnadu in Mananthavady Taluk. Shri Amitha Bachan KH, of the Hornbill foundation which played a key role in the grant of community rights in Thrissur was another key person who provided inputs.

The details of persons who were interviewed in person or telephonically are attached as **Appendix D**. Selected photographs taken during the field visit to Mananthavady are attached as **Appendix E**.

## **2.6 Scope and limitations**

The scope of the study will be restricted to the state of Kerala with primary research based on Wayanad district which has the highest tribal population in the State. Being a subject of national relevance recognized by the Parliament, the lessons will have certain pan-national and pan-state applicability. However, tribal people do not constitute an organic homogeneous demographic entity. Hence there could be some variations within the districts of Kerala as far as conclusions are concerned. Moreover, the cultural and historical trajectory of each state in India being unique, all the lessons learned from the study may not be applicable in totality across India.

## CHAPTER 3: LITERATURE REVIEW

*“Injustice anywhere is a threat to justice everywhere”*

*Martin Luther King Jr*

*The ultimate resource in economic development is people. It is people, not capital or raw materials that develop an economy.*

*Peter Drucker*

### **3.1 Forest management in India**

Since time immemorial forests have played a significant role in the social economic and religious lives of Indians. Forest legislation in India can be traced back to 1865 when the first Indian forest act was passed, which provided for the protection of trees, prevention of fires and prohibition of cultivation and grazing in forest areas. This act which was later revised in 1878 was extended to most provinces of British India (Kaur, 2017). The revised act constituted forests into two categories; ‘reserve’ and ‘protected’. In ‘reserve’ forests all rights were extinguished after payment of compensation, whereas in ‘protected’ forests most rights were allowed to continue and were recorded in settlement reports. This process continued further until the evolution of the Indian Forest Act of 1927. The underlying aim of these legislations was to exploit the Indian Forests for the benefit of the colonial empire. The British Empire treated Indian forests purely as an exploitative resource. Timber from the forests was extensively used for laying off railway lines and other commercial activities. Hence it was imperative that the forests remained under the exclusive control of the colonizers

which resulted in prevention of unhindered access of the traditional dwellers to these forests (Bijoy, 2008, Bose, Arts & Djak, 2012, Guha, 1983, Kasana, 2020).

The consolidation of Indian forests by the British which commenced in the second half of 19<sup>th</sup> century continued into the first half of 20<sup>th</sup> century. 20<sup>th</sup> century also saw the rise of environmental consciousness which paved the way for ‘scientific management’ of forests (Guha, 2000). With the abolition of Zamindari system and the merger of the princely states into the Indian Federation, forests came under exclusive State control. The net result was the inheritance of the colonial legacy and consequent alienation of the tribal communities, which were integral to the survival and sustainability of the ecological system, from their traditional preserve, the forests (Bose, 2010, Kasana, 2020). Historically the relationship between tribal communities in India and the forests was characterized by coexistence. This symbiotic relationship was traditionally acknowledged and manifested as customary rights over forest produce (Gadgil & Guha, 1992). But this facet was completely neglected by the government while consolidating state forests under the colonial administration as well as in independent India (Rupvath, 2019). Thus, the customary rights which were inherent to tribals were neither recognized and nor recorded.

### **3.1.1 Indian Forest Act 1927**

The emphasis of Indian Forest Act 1927 was the protection of reserved forests which was then meant for the exclusive use of the crown (Sharma, 2009, Kaur, 2017). Under this act central government was the authority to approve any diversion of forest land for non-forestry purposes. The nature of the act is amply evident from its very purpose of it which has been defined as one to “*consolidate the law relating to forests,*

*the transit of forest-produce and the duty leviable on timber and other forest-produce”*  
(Indian Forest Act 1927).

The act bestows on the state governments the power to constitute any forest land, waste land, any other land over which the government has proprietary rights, or any land from which the government is entitled forest produce either as reserved forest or protected forest. The act also unambiguously lists creation of any clearing as well as pasturing of cattle in reserved forests as a criminal offence. However, under the act, the state governments are entitled to frame rules for regulating use of forest resources, including timber, from protected forests (Rice, 2012). The Indian Forest Act also allows the State governments to assign the rights of the government pertaining to certain reserved forests to village communities. Such forests will be called village forests, and the state government will prescribe the conditions under which the nominated community may be endowed with rights over forest produces (including timber) as well as sanction for pasture. The states are also authorized to list their duties for the protection and improvement of such forests (Indian Forest Act, 1927).

### **3.1.2 Wildlife Protection Act 1972**

During the British Raj wildlife conservation was not given adequate consideration. Hunting of various animals was quite common amongst the elite and hunts were even organized as part of various ceremonial functions. Notwithstanding this elitist pastime, certain protectionist laws were indeed passed by the British Indian Government. These include the Wild Birds Protection Act, 1887 which prohibited the possession as well as sale of specified wild birds that were either killed or captured during a breeding season and the Wild Birds and Animals Protection Act of 1912 which was amended in 1935 (Kasana, 2020, Kaur, 2017, Rice, 2012).

The wildlife protection act of 1972 gives out the legal framework for conserving wildlife in India. The act was amended twice -in 1991 and 2006- to make it more comprehensive. The act caters for the formation of wildlife advisory boards and wildlife wardens as well as setting up of Zoo Authority of India to oversee the management of all zoos in the country (Kaur, 2017). The Act created six schedules that gave varying degrees of protection to classes of flora and fauna. A comprehensive list of the endangered wildlife of the country was prepared under the act and ban was imposed on hunting of endangered species as well as trading of scheduled animals. The Wildlife Protection Act also led to the establishment of the National Tiger Conservation Authority. The act contains clauses providing individuals with the power to file complaints against offenders (Wildlife Protection Act, 1972). In addition to this Act, forest officials can invoke a number of laws and rules related to the Indian Contract Act, Indian Evidence Act, Indian Penal Code, etc in situations warranting their application to safeguard forest property.

### **3.1.3 The Forest (Conservation) Act 1980**

The rising environmental consciousness and the demand for ecological protection in the face of the widespread degradation of forest cover led to the formation of this Act (Kaur, 2017, Sharma, 2009). Aimed at centralizing the power of diversion of forest land for non-forest purposes, this act made sanction of the Central Government mandatory for de-reservation of reserved forests (Forest Conservation Act, 1980). The modalities for implementation of this Act were listed in Forest Conservation Rules 2003.

On 28 June 2022, the Ministry of Environment, Forest, and Climate Change notified the Forest (Conservation) Rules (FCR), 2022, which is expected to streamline

and expedite India's existing forest clearance process. The FCR 2022 has amended some of the previous provisions. According to this, every state or Union Territory is required to form a project screening committee for an initial review of proposals involving the diversion of forest land, which will provide advice in a time-bound manner. The new rules also include a clause on compensatory afforestation in a different geographical region against the diversion of forest land. The promulgation was met with opposition from forest rights groups and activists across the country. The reservation against the FCR also came from the National Commission for Scheduled Tribes (NCST), an autonomous constitutional body to advance and protect tribal rights. In his communique to the environment ministry, the chairperson of the NCST stated that "*the FCR has done away with the requirement of seeking consent altogether and has left the process of recognition of rights to be carried out after Stage I clearance or even Stage II clearance*" (Lakshman, 2023).

Section 5 of the FRA empowers the gram sabhas to "*ensure that the habitat of forest-dwelling scheduled tribes and other traditional forest dwellers is preserved from any form of destructive practices affecting their cultural and natural heritage; and ensure that the decisions taken in the gram sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and the biodiversity are complied with*". Forest Conservation Act, 1980 and FRA, 2006 read in conjunction with this provided stage-by-stage processes for forest clearance process. Before the FCR, 2022, the procedure to divert forests for non-forest was determined under Rule 6(3)(e) of the FCR, 2003, and the subsequent order of the MoEF&CC dated 3 August 2009 and an amendment to the FCR in 2017. As per this, the district collector has to complete the process of recognition and vesting of forest rights in accordance with the provisions of FRA, 2006 for the entire forest land indicated in the proposal,

obtain the consent of each gram sabha having jurisdiction over whole or part of the forest land involved, and then forward the findings to the conservator of forests.

Apprehensions have been raised about the provisions of the new amendments that these amendments would undermine the powers of the gramsabha and thus subvert FRA (Basu, 2023). Sahu (2022) contends that FCR 2022 is a step towards establishing a highly centralized and single-window forest clearance process to facilitate the diversion of forests for non-forest purposes, which could undermine the FRA. However, the Ministry of Environment Forestry and Climate Change has clarified that the new rules do not inhibit the commencement of processes envisaged in other laws including Forest Rights Act, 2006, Wildlife (Protection) Act, 1972, Environment (Protection) Act, 1986, Land Acquisition Act, 1896, etc and that the provisions envisaged in other statutory laws can simultaneously be commenced by the respective nodal implementing agencies (MoEF&CC, 2022).

#### **3.1.4 National Forest Policy, 1988**

The Government of India, through the erstwhile Ministry of Food and Agriculture, had first enunciated a Forest Policy in 1952. The serious depletion of forest cover over the years on account of relentless pressures arising from multifarious demands as well the perceived inadequacy of the protection measures forced the Central Government to frame the new National Forest Policy in 1988 (Gupta, 2011). Although the Wild Life (Protection) Act 1972 and Forest Conservation Act 1980, were commendable environmental objectives, they contributed centralization of management processes and consolidation of forest resources which aggravated the deprivation of the rights felt by the forest dwellers of India (Dash & Kothari, 2013).

The Forest Policy aimed at maintenance of environmental stability through preservation and restoration, if required, of ecological balance, conservation of the natural heritage preserving the remaining natural forests with the vast variety of flora and fauna while meeting the livelihood needs of fuel-wood, fodder, MFPs (including small timber) for the rural and tribal populations (National Forest Policy, 1988). It also aimed at increasing the forest/tree cover through large-scale afforestation and social forestry programmes. The policy made specific reference to protection of rights and concessions enjoyed by the STs and Forest dependent communities (Sharma, 2009, Rice, 2012). Whereas the Wildlife Protection Act and the Forest Conservation Act concluded environmental protection and recognition of the rights of the tribal people as mutually incompatible, the National Forest Policy, 1988 acknowledged the umbilical cord that connected the STs to forests. Section 4.6 of the policy states,

*“Having regard to the symbiotic relationship between the tribal people and forests, a primary task of all agencies responsible for forest management, including the forest development corporations should be to associate the tribal people closely in the protection, regeneration and development of forests as well as to provide gainful employment to people living in and around the forest.”*

It was the promulgation of the National Forest Policy and the recognition of the rights of the forest dwellers that led to the formulation of the concept of Joint Forest Management (JFM). It is an approach to forest management wherein the forest department supports local communities to protect and manage forests and share the costs and benefits from the forests with them (Sharma, 2009). The guidelines for JFM were issued in June 1990, which authorised communities along with forest department to organize themselves into a JFM Committees to protect and manage nearby forests,

guided by locally prepared micro plans and by-laws, catering to the specific needs of the community. The government further tried to strengthen the JFM mechanism and expand its scope through further guidelines in June 2000 and December 2002 (Damodaran & Engel, 2003).

### **3.2 Evolution of Forest Rights Act**

As per Census, 2011 the scheduled tribes of India constitute about 8.6% of the national population. There are 645 tribes scheduled by GOI, representing 24% of the world's indigenous peoples. Commonly termed Adivasis, which literally means 'original people', they are said to be the indigenous inhabitants of our country. Although there is some debate amongst anthropologists on the aboriginal status (there are some who speculate that India was peopled through multiple migrations) the traditional dependence of the STs on forests for their livelihood is well accepted (Chowdry, 2012).

In the Pre-British era, the tribal people could comfortably inhabit the forests without any restrictive interference. This situation underwent a major change during the colonial period, wherein the British viewed Indian forests as a resource for exploitation. (Bose, Arts & Djak, 2012). Consequently, rules were so framed as to impede the access of general populace to forests and a forest bureaucracy was established to exert control. The net result was the severe restriction on the access of traditional forest dwellers to forests. The paradigm of 'scientific management of forests' can also be traced back to the colonizers (Guha, 1983). The newly independent India inherited the British legacy towards the Forests including the outright adoption of the Indian Forest Act 1927, which led to large-scale alienation of forest-dwelling communities from their traditional dwellings (Bijoy, 2008).

This legacy was inherited by the newly independent Indian Republic. Declaration of un-surveyed community lands as reserved or protected forests further limited the forest access of the other forest dwellers. Further, the serious concerns over environmental degradation and the public focus on the decline in the number of Tigers in India led to a series of legislations in the seventies. The founding fathers of our nation did realize the historical injustices done to various oppressed communities including the traditional forest dwellers by making special provisions in the constitution including the Fifth and Sixth Schedules. However, the issue regarding access to forests remained unresolved. The dominant ideology was that of scientific conservation which made the forest bureaucracy responsible for the business of forest conservation (Guha, 2000).

While the protective legislations strengthened the conservation regime, repeated surveys and censuses brought out that the conditions of the STs worsened. The percentage of tribals living below the poverty line was far higher than the national average. The lack of access to forest resources was found to be one of the key factors contributing to the poor condition of the STs. The 29th report on the conditions of SCs and STs was taken out in 1990 under the leadership of the then SC/ST commissioner, Shri B.D. Sharma brought out the disputes between the Adivasis and the State related to forest lands (Bose, 2010). In the wake of this, clarifications were issued distinguishing the ‘encroachers’ from those with ‘disputed claims’ over forest land. It was also recommended that the claims could be verified in consultation with gram sabhas, essentially permitting any State to regularize the pre-1980 claims to forest land. Internal conflicts including the rise of Left Wing Extremism (LWE) in tribal-dominated areas of the country in the late 90s further highlighted the need for resolution over contestations for forest resources (Kumar & Kerr, 2012).

In the meanwhile, a Public Interest Litigation (PIL) was filed by Godhavarman in 1995 to stop all commercial activities in forests. The Supreme Court issued an order to stop any regularisation of encroachments. The Ministry of Environment Forests and Climate Change (MoEF&CC) interpreted this as an order to evict encroachers and ordered the removal of all tribal settlements from forest areas, which led to a series of evictions in 2002. As a countermeasure, forest dependent communities, guided by certain civil society organisations filed tens of thousands of claims for ownership of their lands under the 1990 guidelines (Asher, 2019).

### **3.2.1 Evidence examined for policy formulation**

India had a total of 131 Wildlife reserves in 1975. Consequent to enactment of various forest laws, this rose to 572 in 1999, covering about 156,000 sq. km. At the same time, a survey conducted in the mid-1980s revealed that about 69% of India's wildlife reserves were inhabited by local human communities, whose population was almost 4.5 million. It was also estimated 57% of these were subjected to collection of Non-Timber Forest Produces (NTFP) and that the majority of the wildlife reserves were at least partly grazed by local livestock. The 29th report (1987–89) on the conditions of SCs and STs highlighted the disputes between the Adivasis and the State related to forest lands (Bose, 2010).

Census 2001 and the sixth report of the National Commission for Scheduled Castes and Scheduled Tribes (2001-02) reports showed the following:

- 84% of the STs which constituted 8.3% of the Indian population lived in forested areas.

- In 1993-94 nearly 46.5 % of the STs were assessed to live below the poverty line, which was much greater proportion than the 35.97 % for the rest of the society.
- As of 2001, more than 93 % of the tribal population of India lived in rural areas as against the national average of 74 % of the rural population. The proportion of cultivators amongst them decreased from 68.18% in 1961 to 54.5% in 1991.
- The Institute of Social Sciences (ISS), in its report to the Planning Commission in December 2003, observed that there had not been any appreciable reduction in poverty levels of the tribal people in India.
- Periodic review by the MHA showed a regular upward trend in the LWE influence and incidents of violence in tribal areas indicative of the surging discontent amongst tribals.

While the state control on forests was continuously tightened with the passing of new sets of conservation laws such as the Wildlife Protection Act, 1972 and the Forest Conservation Act, 1980, large tracts of forests were also diverted for large infrastructure projects like highways, industries and dams. The net result was a severe adverse impact on the livelihood of Adivasis and of the forest-dwelling communities (Asher, 2019).

India had already had antecedents of community forest management in the form of the Chotanagpur Tenancy Act, 1908 (CNTA) and the Santal Pargana Tenancy Act, 1855 in the State of Jharkhand. These have two special and local laws recognised by the Constitution of India and the subsequent, supplementary amendments, which provide for tenurial rights over land and forests to the communities and raiyats. Both of

these Acts pre-date the Indian Forest Act 1927 (Desor, 2013). The system of community forest management had also been practiced in the neighbouring country of Nepal since 1995 (Bhattarai, Jha & Chapagain, 2009).

### **3.2.2 Stakeholders engagement**

The key stakeholders involved and their interests are elucidated below (Bose, 2010, Asher& Agarwal, 2007).

- **STs.** The STs consistently maintained that they were traditional forest dwellers whose livelihood was dependent on forests. They also argued that they were the sole inhabitants of forests and sought exclusive rights to live in forests and use forest resources.
- **OTFDs.** These people also staked claim to forest resources on grounds that they had been dependent on forests for livelihood for generations even if they were not listed as STs.
- **Civil Society Organisations supporting the tribals.** The groups which spearheaded the tribal cause, like the Campaign for Survival and Dignity (CSD), felt that the forest dwellers were victims of ‘historic injustice’. They argued that the government was handing over forest land to private entrepreneurs, while denying access to tribals.
- **Environmental Groups.** The conservation groups were divided in their viewpoints. One group argued that the traditional forest dwellers shared a symbiotic relationship with the forests and giving them forest access would ensure their livelihood while strengthening the conservation regime. The opposite group of environmentalists which included wildlife protectionists

advocated ensuring the pristine characteristics of the forests, keeping them free of human intervention.

- **MoEFCC & Forest Bureaucracy.** The Ministry as well as the Forest Officials favoured adherence to the prevalent norms of forest governance to facilitate conservation. They were against unhindered forest access of humans to forests.
- **MoTA.** MoTA was of the view that amelioration of the conditions of the tribals required provision of access to forests.
- **Political parties.** None of the political parties wanted to be seen as antagonistic to the interests of the STs. The United Progressive Alliance (UPA), had advocated a National Common Minimum Program as part of its Election Manifesto which promised the provision of minor forest produce rights to forest labour and halting evictions of tribals and forest dwellers.
- **The Media.** The media was used to voice diverse viewpoints. One section of the media dubbed the demand for FRA as “archaic, extremist and unconstitutional” and opposed it on the ground that tribals and their future generations cannot be torn apart from the mainstream and placed in an archaic world. The other section highlighted the plight of the tribals on account of the denial of customary tenurial rights.

A national-level Jan Sunwai was organised in Delhi in 2003 in the wake of National level agitation. This was followed by intensive lobbying and parliamentary advocacy with Members of Parliament, leaders of major political parties. Special sessions were also held with opinion makers. The Campaign for Survival and Dignity (CSD), the umbrella organisation held discussions with the National Advisory Council

(NAC) of the government in November 2004. Subsequently, a dialogue was convened between the MoEFCC and campaign activists (Bijoy, 2008).

The government ordered the constitution of a Technical Resource Group comprising representatives of the MoEFCC, Rural Development & Tribal Affairs, Law & Legislative Affairs, Social Justice & Empowerment, Panchayati Raj. The other members included two environmental activists, two Adivasi rights activists and two legal specialists. During the deliberations, differences emerged over the exclusion of non-tribals from the drafts (Asher & Agarwal, 2007). While some key leaders of the CSD wanted the Bill to be tabled on the premise that intricacies could be addressed at a later stage, others insisted on moving forward only after the other forest dwellers were included. The MoEF&CC raised a series of objections regarding provisions of the FRA which were perceived to be in contravention to the existing conservation laws for national parks and wildlife sanctuaries. They argued that this open opportunities for misuse (Tyagi, 2019).

The bill was tabled in December 2005 and a Joint Parliamentary Committee (JPC) which comprised 27 MPs (mostly tribal representatives from different political parties) was constituted in January 2006. The JPC made a press communiqué explaining the provisions of the bill and sought comments from state governments and others. A total of 109 memoranda were received from various organisations/NGOs/experts and individuals. The JPC also took oral evidence from other individuals/organizations (Bose, 2010, Asher, 2019).

The JPC considered the recommendations and made changes to the Bill by May 2006. The key changes were inclusion of OTFDs as an ‘entitled’ group, the change in the cut-off date to 15 December 2005, grant of powers to gram sabha as the final

authority for verification of rights and the extension of the 2.5 hectare limit on the size of land for occupation.

While the bill was introduced the National Forest Commission (NFC) raised a red flag pointing out many anomalies. The chairman of the NFC wrote to the then Prime Minister pointing out that the bill was tabled without consulting the commission and highlighted what the commission perceived as the weaknesses in the proposed bill (Singh, 2021). Some of the points raised by the NFC are listed below.

- The proposed act would harm the interests of the forests and pose challenges to the ecological security of the country. It was also bad in law and was in contravention to the rulings of the Supreme Court.
- Forest encroachments to the extent of 3.60 lakhs per annum were already regularized. Settlement of any future claims should be dealt with by quasi-judicial bodies and not left to the discretion of gram sabhas.
- The bill implied that the tribals were permitted to exploit Forest Resources for commercial purposes and not only for bona fide livelihood purposes as was originally intended. The extent and nature of forest exploitation on an ecologically sustainable basis ought to be carried out by the Forest managers in consultation with local communities.
- The National Parks and sanctuaries need to be taken out of the purview of the proposed legislation. Grant of tenure rights inside such havens of biodiversity will irrevocably impair their ecological viability.
- The clause that no encroachment should be evicted from forest land till the finalization of the claims, is self-defeating. The absence of a sunset clause

and lot laying down a time limit for such process will encourage more encroachments.

When the Bill was not tabled in the monsoon session, a series of protests were organised by activist groups (Bose, 2010). Protest in Delhi's Jantar Mantar on 7<sup>th</sup> December 2006 was addressed by the Tribal Affairs Minister and the amended Bill which was named '*The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act*', was finally passed on 18<sup>th</sup> December 2006. The passing of this act, can in many ways be termed as the culmination of the efforts commenced by Shri BD Sharma with his 29<sup>th</sup> on the condition of SCs and STs with particular reference to forest-related issues with nationwide mobilization of tribal groups report as the SC/ST Commissioner. The act could not have possibly come into being without the relentless effort of Shri BD Sharma, often hailed as the 'Mahatma' of the tribals of India (Dharmadhikary, 2016).

Consequent to the passing of the Act, a technical support group was set up to prepare the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules to supplement the procedure for implementation of the act. After delay of a year, the rules were notified in January 2008. Based on the experiences of implementation, these were later amended and new rules were promulgated (FRR, 2012).

### **3.3 Key provisions of FRA, 2006**

As evident from the discussion listed above, FRA, 2006 passed by the Parliament was the outcome of a long process of struggle and negotiation. The Act recognizes the legacy of oppression and prejudice suffered by the traditional forest

dwellers as well as the symbiotic relationship that they share with the forests. This is evident from the preamble of the act (FRA, 2006) which states

*“AND WHEREAS the forest rights on ancestral lands and their habitat were not adequately recognized in the consolidation of State forests during the colonial period as well as in independent India resulting in historical injustice to the forest dwelling Scheduled Tribes and other traditional forest dwellers who are integral to the very survival and sustainability of the forest ecosystem”*

This is not only an admission of the centuries of oppression suffered by the traditional forest dwellers but also an acknowledgment of the inappropriateness of our approach to forest management. It also brings out clearly, the role of such communities in the conservation of the forest ecosystems. By its own admission, the Ministry of Tribal Affairs, on its website states (<https://tribal.nic.in/>),

*“The forest management policies, including the Acts, Rules and Forest Policies of Participatory Forest Management in both colonial and post-colonial India, did not, till the enactment of this Act, recognize the symbiotic relationship of the STs with the forests, reflected in their dependence on the forest as well as in their traditional wisdom regarding conservation of the forests.”*

### **3.3.1 Salient Definitions**

The three objectives of the act listed on the website of the Ministry of Tribal Affairs are undoing the historical injustices that occurred to the forest dwellers, ensuring tenurial, livelihood as well as food security of the STs and OFTDs, and

strengthening of the conservation regime (<https://tribal.nic.in/>). The last objective is to be accomplished by including the responsibilities and authority of the forest rights holders for sustainable utilization of forest resources, preservation of biodiversity and maintenance of ecological balance.

Section 2 of the Act lists the salient definitions. Under this, "community forest resource" has been defined as the customary forest land which had been traditionally accessed by forest-dependent communities including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks. The Act makes a mention of 'critical wildlife habitat' which are to be kept inviolate for the purposes of conservation. "gram sabha" is amplified as the assembly of all adult members of a village and elected village committees, with complete participation of women. Other Traditional Forest Dwellers (OTFDs) are those primarily resided in and who depend on the forest or forest land for bona fide livelihood needs for three generations as on 13 December 2005. For the purposes of the act, one generation has been estimated at 25 years (FRA, 2006).

### **3.3.2 Rights listed under the act**

Section 3(1) of the act lists 13 specific rights granted to the STs and OTFDs. These include the following:

- Right to hold and live in forest land which has been under occupation for the purpose of habitation and livelihood.
- Traditional community rights such as *nistar*, including those used in erstwhile intermediary regimes.

- Restoration of traditional rights such as access to MFPs, entitlements such as fish and other products of water bodies, grazing of nomadic or pastoralist communities.
- Community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities.
- Conversion of Pattas or leases earlier on forest lands to titles.
- Conversion of forest villages to revenue villages.
- Right to protect, regenerate, conserve and manage any traditional community forest resources which were traditionally utilized by the communities.
- Right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity.
- Right to in-situ rehabilitation including alternative land in case of eviction or displacement.

The FRA provides powers to the State to divert forest land for development purposes; however, limit for such diversion has been fixed at an upper limit of one hectare for any single-use, provided the felling of trees does not exceed 75 trees per hectare. The Act allows the provision for resettlement of the forest dwellers from CWH, subject to certain preconditions, including informed consent of the gram sabha and provision of a viable resettlement package. Rights conferred under FRA are “*heritable but not alienable or transferable*”. The act lays down that the rights shall be registered jointly in the name of both spouses in case of married persons. It also forbids eviction of occupants from forest land until completion of the recognition and verification procedure. The act empowers the gram sabha/ village committee to protect forest resources and regulate any activity that can adversely impact the bio-diversity. It also elucidates the procedure for vesting of forest rights.

### 3.3.3 Forest Rights Rules

The Forest Rights rules promulgated in 2008 and subsequently amended in 2012, were the means of recognizing and vesting the forest rights. These rules amplify “*bona fide livelihood needs*” as the fulfillment of the livelihood needs of the family through exercise of any of the rights mentioned in the Act including sale of surplus produce. These rules direct the state governments to identify the forest settlements and initiate the process for consolidation. It also lists the functions of the gram sabha and the various committees involved in the process of granting Forest Rights (FRR, 2012).

- The first layer after the gram sabha is the Sub Divisional Level Committee (SDLC) headed by the SDO with a representative each from the forest department and tribal department/subdivision and three members from the Block Panchayat of whom a minimum two should be from the STs/OTFDs as applicable. The SDLC is mandated to raise awareness amongst all stakeholders, do the complete groundwork, carry out adjudication and forward the claims to the next echelon for final decision.
- The Divisional Level Committee (DLC) headed by the District Collector will have the Deputy Conservator of Forest, officer from the Tribal department and three representatives, two of whom are from the STs/OTFDs from District Panchayat as members. The main mandate of the DLC is to examine the claims and approve them. The DLC is also the first appellate body to hear grievances.
- At the State level would be the State Level Monitoring Committee under the Chief Secretary with the mandate of implementation and compliance.

The Forest Rights Rules list out the methodology for applying for the rights as well as the process of verification of claims by the Forest Rights Committee (FRC) specifically formed for the purpose. The rights would be granted by the order of the District Collector on completion of the verification process by the DLC. It has been laid down that the map of the forest land vested should be prepared by the Revenue and the Forest departments. In case of any modification or rejection of a gram sabha resolution, detailed reasons for the same need to be communicated to them (FRR, 2012).

The Forest Rights Rules mandate the District Level Committee (DLC) to ensure that the forest rights relating to protection, regeneration, conservation or management of community forest resources, which were under the traditional protection of the forest are recognized in all villages and the titles are issued. The rules give out a comprehensive list of evidence to be considered for passing of claims. These rules also highlight the importance of handholding of the forest rights recipients in the wake of passing of claims (FRR 2012, High Powered Committee, 2014).

### **3.4 Implementation of FRA in India**

The passing of the act in itself did not result in the amelioration of the conditions of the STs and OTFDs. The first challenge was a legal one. Conservation of organizations and group of ex forest bureaucrats who considered this to be a disastrous move filed petitions in court challenging the legal validity of the Act (Bose, 2010, Pillai & Amritha, 2021). These cases are still pending in Supreme Court.

Many states have hardly made any progress on implementation including Uttarakhand, Himachal Pradesh and North Eastern States. The Schedule VI states have argued that the act does not apply to them. Article 371 specifically provides that no act of parliament in respect of ownership and transfer of land and its resources, shall apply

to the schedule VI states unless the Legislative Assembly of the state pass a resolution to the effect. The current state of forest management of North Eastern States is as under (<https://tribal.nic.in/>) as elucidated by the states in question.

- Arunachal Pradesh claims that being a 100 % tribal-dominated state, almost all lands are wholly possessed by the various ethnic tribal groups.
- Manipur has claimed that apart from reserved forest/wildlife sanctuaries, the other forests are ancestral land of tribal communities; hence the tribal chiefs already hold the ownership of these.
- In Meghalaya, only 5.10% area out of the total forest cover which amounts to 76.44% area, is under the direct administrative control of the state forest department. These are in the form of reserved forests, protected forests and protected areas. Balance of the forests are either private property or community-owned land. Most of these are administered by the traditional institutions like Syiem, Dolloi, and Nokma and communities are enjoying surface rights and sub-surface rights.
- Mizoram state claims that it has nearly 100% ST population as a Sixth Schedule state. The non-reserved forest lands are under common ownership of the jurisdiction of every village.
- Government of Nagaland avers that FRA is not applicable in view of the provisions of Article 371 A of the Constitution which gives special status to the State with regard to the rights of the people over land and its resources. Since no resolution has been passed by the Legislative Assembly to make FRA applicable to the State, it has not been implemented. The inhabitants of the State are predominantly tribal with distinct linguistic, cultural, tradition, customs and socio-political characteristics. As per the custom of the state, the land and forests

belong to the private individuals, clans or community in the villages. Land holding and resource management are thus governed by traditional and customary practices of the local communities.

A number of localized studies were carried out by independent researchers on the implementation of FRA. One thing that emerged clearly from most of the studies is the clear and continued lack of awareness of the affected forest dwellers about the provisions of the act. (Dash & Kothari, 2013, Bandi, 2014, Green, 2015, Jithin, 2020, Nayak, 2015, Kurup & Gupta, 2020). The awareness among women was further found to be abysmally low (Sawarkar, 2019).

However, there have been only two national-level reviews. The Report in December 2010 by National Committee on Forest Rights Act (Manthan, 2010) observed large-scale variation in the approach of various States towards implementation of FRA. This report noted that barring few exceptions, the implementation of the Act left much to be desired, and hence we were far away from realizing the full potential of FRA. This Committee, jointly convened by MoTA and MoEF&CC gave detailed recommendations on the way forward to specifically deal with process and institutions, individual forest rights, community forest rights, execution of development projects, issues pertaining to protected areas and critical wildlife habitats (CWH), future model for forest governance, livelihood enhancement through NTFP and convergence of development programmes for STs and OTFDs. It was also suggested that the government should establish a National Forest Rights Council to closely monitor the FRA implementation, provide guidance to states to take appropriate action, and undertake public consultations and independent assessments (Manthan, 2010). In the initial years, the multiple aims of achieving livelihood security of the Forest Dwellers and ushering in changes in forest governance along with

strengthening forest conservation were not achieved (Manthan, 2010, Sathyapalan, 2010).

A broad baseline study commissioned by Oxfam to cover four states of Orissa, Jharkhand, Chattisgarh and Maharashtra in 2013 observed a huge cleavage between the policy and implementation (Green, 2014). The major shortcomings were the lack of awareness amongst STs and OTFDs about FRA itself. At that point commenced the preparation of lists of hamlets/habitations or forest villages, which was the first step for filing of claims. Moreover, 96% of the panchayat representatives did not know that the FRA warrants consent from the gram sabha for diversion of forest land for mining. However, with the focused endeavour partnered by the tribal communities and civil service organizations, tangible progress could be made particularly in states like Chattisgarh and Madhya Pradesh. On 7<sup>th</sup> September 2013, 34 villages in Chattisgarh got their NTFP and grazing right as part of the CFR claims. Today, the approval rate of IFRs and CFR in Chattisgarh stands at 51% and 90% respectively (<https://tribal.nic.in/>).

A comparative study of implementation of FRA between Gujarat and Chattisgarh (Bandi, 2014) revealed that notwithstanding the development trajectory of the states, large ground was needed to be covered in implementing FRA in letter and spirit. The main shortcomings included creating awareness amongst the tribals and OTFDs and controlling the overindulgence of the state government Officials. It was observed that in both states, community claims came to be identified more for claiming infrastructure-related means than proper means of livelihood. The state governments were found wanting in their efforts to grant ownership rights of forest land to tribals. However, there was no dearth in creation of legal and procedural hurdles to prevent the implementation of FRA even to the extent of bypassing the Act itself on some occasions.

While the Forest Right Act came into being through a Gazette of Jan 2007, the Rules for the same were published only in 2008, with addition of amendments in 2012. However, there have been frequent disagreements over the implementation between Ministry of Tribal Affairs (MoTA), the nodal agency for implementation and Ministry of Environment, Forest and Climate Change (MoEFCC), the ‘traditional’ guardians of the forest. A comment by a former minister of MoEFCC claiming that obtaining consent of gram sabhas was not practical sparked a controversy (Menon, 2016). The State governments were also found to make legal provisions that challenged the spirit of FRA. For example, The Village Forest Rules notified by Maharashtra Forest Department in 2014 emphasised the supremacy of forest officials, defeating the spirit of the FRA.

IFR and CFR are two clearly distinguishable, yet closely interrelated facets of FRA. This point was highlighted by the study on implementation of FRA conducted by Sathyapalan (2010). The report by National Committee on Forest Rights Act (Manthan, 2010) had clearly highlighted the importance of grant of CFRs which is closely linked to the traditional way of living of the STs and OTFDs. The report emphasized that provision of livelihood security to the forest dwellers is possible only with the grant of CFRs. A ten-year review on implementation held in 2016 (Kumar, Singh & Rao, 2017) observed that most states prioritized the implementation of IFRs, thereby effectively making FRA a land distribution scheme rather than an act recognizing pre-existing rights. The focus on distribution of individual titles amounted to attempting to undo historical injustices of centuries by distributing few acres of forest land (Savyasaachi, 2011). This really undermined the act.

The provision of CFR was not only being implemented differently by states, but also amongst different regions within a state. A study in the treatment of community

rights under FRA across the forests of Karnataka found different interpretations within the state. The authors of the study argued that these differences stem from the influence of social, ecological and tenurial history of the forests. (Kutty, Kodiveri, Lele, & Setty, 2019).

Based on a national-level analysis of forest cover availability, it was assessed that only 3% of the estimated potential for CFR rights was achieved by 2015 (Tatpati, 2015). Realising the full potential and meeting the stated goal of redressing the disadvantages suffered by STs and OFTDs over centuries, will require greater convergence between different departments of the government and other state holders.

From the perspective of political economy, it has been argued that three different factors have impacted the rightful implementation of FRA (Sahu, Dash & Dubey, 2017). These are the limitations of the tribal departments at the Centre as well as the States, resistance from MoEFCC as well as the Forest Officials and pressure from various interest groups ranging from Wildlife Conservation NGOs to contractors to industrial lobbies. There have also been various dilutions which undermined the effectiveness of FRA. Contradictory policies and litigations challenging the constitutional validity have also impacted the implementation of the act. The poor state of implementation of FRA can be said to indicate the lack of government empathy which is a pointer towards the systematic deficiency in realizing the growing alienation of forest dwellers. Yet another study in the backdrop of Sundarbans pointed out that vested political interests, at specific geographical areas, deeply implicated the implementation of FRA (Sen & Pattanaik, 2018).

One of the major criticisms of FRAs, particularly from the wildlife protection groups and the forest bureaucracy is that they will lead to further erosion of India's

limited forest cover. On the other hand, the ‘development’ advocates allude that wresting the power of veto on the gram sabhas hinders industrial and infrastructural progress. Those favouring the FRA implementation argue that the traditional management by forest dwellers actually strengthens ecological protection (Bhullar, 2008, Broom, Rai & Tatpati, 2017). Given the need to undo the historical injustice brought upon the forest dwellers over decades by the colonial masters and the fledgling Indian State, the advocates of FRA argue strongly in favour of grant of forest rights. They also see the enactment of the act as a vindication of the long struggle of the marginalized populace (Gopalakrishnan, 2017).

An important question that arises is the impact of the implementation of FRA on the affected populace. A study conducted on Tripura (Khosla & Bhattacharya, 2018) indicated positive outcomes in terms of socioeconomic status, but the impact was only marginal to affect overall development of the tribal population. Like most other states, the focus in Tripura has been on IFR, which is concerned with boosting the microeconomics of the forest dweller, unlike CFR which has the potential to boost the macroeconomics of the State. The net outcome has been that there has not been any significant economic growth experienced by the potential beneficiaries. The lack of inclination on the part of the State to pass on the reins of forest management to the tribal populace was also evident.

A similar study based on extensive fieldwork in Odisha and Jharkhand (Sarangi, 2020) showed that forest is a critical source of livelihood for poor tribal households, thus corroborating the need for grant of CFRs. This study also brought out the ambiguity that persisted even after 12 years of passing of the Act regarding the actual process of implementation. The results showed some improvement in the ownership and quality of land to individual households after the implementation. There was also

some improvement- although not substantial in income from agriculture and forest collection.

One of the key areas of FRA is decentralized forest governance which attempted to alter the concept of centralized forest management which dates back to the practices of the British colonial regime. This can also be termed as a ‘rights-based approach’ to conservation and forestry as well as a means to alleviate poverty, which is based on the primordial idea that all people should have a right to a minimum standard of well-being and that governments have a sole duty to promote the right. A critical assessment conducted by Lee and Wolf (2018) showed a positive correlation between forest cover and high distribution rates, as well as presence of LWE with high rejection rates.

While there has been resistance to the grant of forest rights to traditional dwellers, government departments and hotels have encroached forest land in many areas such as Jim Corbett. The status report by MoTA of 2017 also stated that diversion for development projects was the main reason for forest degradation. While there is no consolidated data available, a reply by the ministry in Rajya Sabha in Dec 2018 showed that 203.14sq km area of forest land was diverted from 2015-18 for mining, irrigation and industrial development (Tyagi, 2019a).

It was the Forest Conservation Act 1980, that laid down the procedure for diversion of forests for non-forest purposes, with MoEF&CC being the nodal agency. In 2009, the Environment Ministry linked the FRA with FCA, which was reflected in the Forest Conservation rules 2017. This mandates written consent of the gram sabha for diverting forest land (Kurup & Bhaya, 2020). In July 2022, the Government of India notified Forest (Conservation) Rules, which superseded Forest (Conservation) Rules 2003 (FCR, 2022). These rules provide for formation of Advisory committee to

advise with regard to approval, in respect of proposals referred to it on any matter concerned with conservation of forests referred to it by the central government. It also caters for forming Project Screening Committee at the state level to deal with forest diversion proposals in a time-bound manner. One of the key provisions in the rules is compensatory afforestation which allows the applicants to obtain forest land in lieu of forest land diverted for development projects. There has been wide criticism that these rules undermine the FRA and that they allow diversion by the central government even before the state government obtains consent from the forest dwellers (Sahu, 2022). Shri Ashwini Kumar, the Minister of State in MoEFCC stated in a reply to a question in Rajya Sabha that these rules do not inhibit the commencement of processes under other related rules and laws including the FRA (MoEF&CC, 2022).

### **3.5 Tribal development and FRA in perspective**

The special status of the tribal peoples were aptly acknowledged by our constitution makers. Based on this recognition several special provisions were made in the constitution to provide social, economic and political guarantees to the disadvantaged sections of the society (Manjula, 2020). The salient amongst these are listed below.

- Article 14 which confers equal rights and opportunities to all citizens which include the STs.
- Article 15 which prohibits discrimination on the ground on grounds of sex, religion, race, caste etc.
- Article 16(4) which enjoins upon the state to make provisions for reservation for backward class citizens with 16(4A) specifically referring to SCs and STs.

- Article 46 contained in the directive principles of state policy for promotion of educational and economic interests of weakest actions including SCs & STs.
- Article 244 an administration of scheduled areas and tribal areas.
- Article 275 which deals with grants in aid to be made from the consolidated fund of India to the states for promoting welfare of STs and enhancing the level of administration of the scheduled areas.
- Article 330 and Article 332 on reservation for SCs and STs in the House of the people and legislative assemblies.
- Article 335 dealing with appointments to services and posts along with relaxation in qualifying criteria.
- Article 338A National Commission for the scheduled tribes.
- Article 339 on the control of the union over administration of scheduled areas and welfare of the scheduled tribes.
- Article 342 on presidential powers to specify to specify the tribes are tribal communities ask scheduled drives.

Prior to inquiry into the research objectives, it is imperative that the connect between tribal development and the FRA be established. Given the context of the Forest Rights Act, there is a need to dwell into some of the leading arguments that have shaped the Indian approaches to tribal development. To begin with, the subject of tribal development has been an arena of contestation amongst policymakers and development experts on account of the many philosophical contradictions ingrained in the multiple schools of thought. On top of that, the very concept of development itself is temporal, transient and is being constantly redefined.

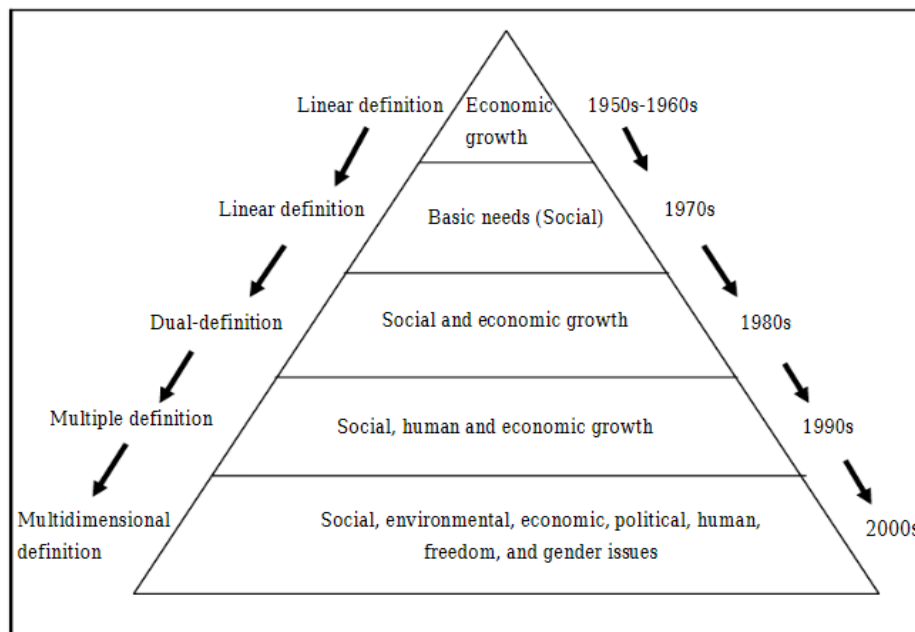
### **3.5.1 Notion of development and tribal welfare in India: Conceptual overview**

The first issue that needs to be addressed is the question of what constitutes ‘development’? There is no emphasizing the fact that the idea of development itself is transformational and is prone to changes in meaning and interpretation. Cobbinah, Black, & Thwaites, (2011) had put forth the proposition that development needs to be comprehended as a relative rather than an absolute notion. Only then can the concept be effectively applied across divergent geographical and cultural settings.

Whereas development was considered equivalent to industrial progress which was believed to be the driver of economic progress, in the 1870s, accomplishing higher and higher output and income came to be believed the crux of development towards the first half of the 20<sup>th</sup> Century (Kumar, 2022). In the wake of large-scale decolonization and democratization which gained momentum after the Second World War, there was increased participation of people in political movements. This added a new dimension to the connotation of the word development, paving the way for the emergence of what came to be described as the ‘modernization theory’. However, it was during the 1950s and 1960s that development gained prominence as a concept of social sciences. This also led to theories of development such as social justice theory, dependency theory, and human capital theory etc to give explanations to the well-being of people, nations and regions. These theories also influenced and were impacted by the parallel discourse on governance. The field of public administration witnessed the emergence of modern theories of New Public Administration, New Public Management, Public Value Management, New Public Service and New Public Governance (Pyun & Edey, 2018). Along with the multidimensional and inter-lined progress in the fields of study of governance and public administration came the multiple manifestations of development such as economic development, human development, social development, development

as freedom etc. What has gained momentum of late is the idea of sustainable development focusing on environmental, social and economic factors (Cobbinah, Black, & Thwaites, 2011). The figure depicted below gives the evolution of the concept of development over the years.

*Figure 3.1: Evolving Concept of Development*



(Source: Cobbinah, Black, & Thwaites, 2011)

While the 1950s and 1960s saw amassing of national assets as the focus of development pursued by countries across the world, the 1970s and 1980s witnessed the advent of ‘human development’ as the primary objective of all development initiatives. However, by the end of the 1980s, the attention of development pundits shifted to neo-liberal policies dictated by international lending agencies. The development perspectives in India were invariably influenced by the worldwide phenomena. Nehru’s vision of Five Years bore the influence of the Western, Harrod–Domar model, while the Mahalanobis’ strategy of heavy industrialization as the route to overcoming the problems of abject poverty, unemployment, growth rate, was influenced by the prescriptions of the Soviet Union (Kumar, 2022). Similarly, the social welfare schemes

that evolved over the years did focus on human development while the footprints of the neo-liberal policies are visible in the liberalization process and the market reforms.

In addition to the divergent precepts on development per se, the unique characteristics of the tribal communities living in different parts of the country adds another reason for the differing views of the academicians and experts on tribal development. There are three broadly recognised approaches to tribal development in India; the isolationist approach propounded by Verrier Elwin, the not-so-popular assimilation approach and Jawaharlal Nehru's integration school of thought (Purkayastha, 2015).

### **3.5.2 Verrier Elwin and Isolationism**

Verrier Elwin was a British citizen who came into India in 1927, purportedly for missionary activities. However, his regular interaction with Mahatma Gandhi is said to have made him a philanthropically inclined anthropologist (Guha, 2001). Verrier Elwin asserted that the way of life of the tribal communities being distinctly different from that of plainsmen, they needed to be accorded special consideration. He believed that any specifically designed attempt to modify or 'modernize' them will be counter-productive by thwarting their original way of life. Hence, his advocacy to deal with tribal development and related issues was the strategy of isolationism. He suggested establishment of sort of 'National Parks' in wild, inaccessible parts of the country directly under the control of a nominated tribal commissioner. This area would be under the exclusive control of the tribal populace with wide powers delegated to the old tribal council. The authority of the village headman would be established and no missionaries of any religion would be allowed to interfere to with the tribal life (Purkayastha, 2015).

Verrier Elwin classified the tribals in India into four categories. The first category, according to him, was the most pristine, who live in un-impaired settings, with their mythology vitalizing healthy organisation of tribal life. The second group was the ones who came in contact with other people and were influenced by them. Their social organization is more akin to that of village life than the primordial community life practiced by the first group. The third group which constitutes about four-fifths of the total tribal population, was in a peculiar state of transition. While they bear tribal in name, most have them have become either part of the lower rung of Hindu society or got converted to Christianity. This group has been most negatively impacted by the economic and political policies adopted by the British, as a result of which they were dragged into the orbit of the Indian colonial-capitalist system. Members belonging to this were uprooted from their mode of production as a result of which a large section of this population was reduced to the status of bonded slaves or agrestic serfs of contractors, money-lenders and zamindars who emerged as products of the British policies. While a large number from this section was reduced to slave labourers working on plantations, mines, railroad construction etc, many of these tribes were also branded as criminal tribes. The fourth group according to Elwin were the ones who won the battle of cultural contacts. These were part of the old aristocracy of the country, represented by Bhil and Naga Chieftains, Gond Rajas, korku noblemen, wealthy Santal and Uraon leaders and some highly cultured Mundas. They continue to retain their own tribal names, clan and totem rules. They observe elements of tribal religion despite adopting the full Hindu faith and adopting in modern living style (Purkayastha, 2015).

The British rulers had traditionally adopted a policy of keeping tribal people isolated from the plainsmen. The reasons were threefold. One, the British found it extremely difficult to administer the tribal areas which were far-flung and difficult to

reach and control. Second, they found administering tribal areas uneconomical. Third, the British did not want the political ideas from the 'mainland' to permeate into the tribal communities for the fear that it would make them aware of the deadliest and most exploitative British policies. While Elwin was probably an outright isolationist to start with, his visit to North East India brought a remarkable transformation in his viewpoint. In his book written in 1957, Elwin elucidated that he stood only for the ad-hoc isolation of tribal communities, and not a permanent one as others interpreted (Kumar, 2022). He observed that the essential problem was how to enable tribesmen of the first and second classes to advance directly into the fourth class without having to suffer the misery and deprivation of the third. The means to achieve this, according to him, was the policy of isolation and by according protection to the tribal people in the transition period during which they would learn to become self-reliant and become strong enough to resist those who exploit them (Purkayastha, 2015). The isolationist school has often been criticized that it is akin to putting animals in zoos.

### **3.5.3 The Assimilation School**

Although not popularly supported by academia, there are some anthropologists and economists who argue for the assimilation of tribal communities into the mainstream culture. G.S.Ghurye was one of the proponents of this idea who argued that the tribal communities were essentially backward Hindus and, therefore, they ought to be assimilated under the ambit of the broad Hindu culture. (Kumar, 2022). Ghurye, like Elwin, divided the tribal people of India into various groups based on their state of contact with the outside society. The first was the Rajgonds and such like tribes, who have been successful in achieving high status within the Hindu society. The second category consisted of those who came under close contact with Hinduism or have partially been Hinduised, while the others were the hill sections who had powerfully

resisted alien influence. According to Ghurye, the tribal solidarity had been broken down on two accounts, the assimilative process under Hinduism as well as the British policy. He felt that tribal sections joining the Hindu fold would develop an internal organization of caste pattern and generate a regulating and controlling power within. He quotes a large number of tribal people giving up drinking and adopting traditional practices as an example to support this. (Purkayastha, 2015).

DN Majumdar, while argued that leaving the tribal people on their own was unjust and was tantamount to ignoring them. While expressing the difficulty in fully absorbing them into the Hindu fold, he put forth a schedule and programme for their welfare (Mondal, 2012). However, the assimilation has not only been to the fold of Hinduism. A large number of tribal people have also converted to Christianity under the influence of missionaries. Most academicians and anthropologists have not favoured this school of thought, on account of the apprehension that it would destroy the basic fabric of the tribal way of life.

#### **3.5.4 The integration approach**

The origins of the integration approach can be traced to Pandit Nehru's view on tribal progress (Puvvada, 2018). This is often regarded as the modernists' approach to tribal development. Nehru was completely opposed to the idea of treating tribal people as anthropological specimens. According to him, the tribal people should gradually be integrated with the mainstream of society, but at the same time, they should not go through the pains of exploitation at the hands of plainsmen in the process. Nehru was against Elwin's approach of putting tribal communities with all their cultural ethos and social relations into typically constructed isolated settings. He believed that this was

akin to treating them as museum pieces and was an insult (Kumar, 2022, Purkayastha, 2015).

Nehru embraced the idea that the benefits of modern science and amenities must be invariably percolated into the socio-economic fabric of tribal communities without damaging their value system. ‘*Gradualism and passive interference of the state*’ formed the bedrock of Nehru’s idea of tribal development. The cornerstones of Nehru’s idea were enshrined in his Panchsheel for tribal progress, which is said to have been designed on the foundation of the more famous set of five principles, which he proposed for establishing harmony among the nations in the international arena (Guha, 2001). These five principles are listed below.

- *“People should develop along the lines of their own genius and we should avoid imposing anything on them. We should try to encourage in every way their own traditional arts and cultures.*
- *Tribal rights in land and forests should be protected.*
- *We should try to train and build up a team of their own people to do the work of administration and development. Some technical personnel from outside will, no doubt, be needed, especially in the beginning. Nevertheless, we should avoid introducing too many outsiders into the tribal territory.*
- *We should not over-administer these areas or overwhelm them with a multiplicity of schemes. We should rather work through, and not in rivalry to, their own social and cultural institutions.*
- *We should judge results not by statistics or the amount of money spent, but by the quality of human character that is evolved.”*

### 3.5.5 Tribal development and federalism

Federalism, the mode of political organization that divides powers at various levels of government within an overarching political system, is the hallmark of the Indian republic. It allows the separation of powers in such a way as to allow each to maintain its own integrity (Varshney, 2013). Singh (2022) highlights that political federalism is characterised by the following crucial components:

- Executive and administrative federalism which deals with inter-governmental relations between the executive organs at two different levels
- Legislative Federalism which is about the division of legislative powers between two sets of legislatures.
- Fiscal federalism which deals with the vision of powers on taxation and revenue share.
- Natural resource and economic development federation. Internal security federalism.
- Ecological federalism.

The tribal people who have an intimate relationship with nature are most suited to actually establish ecological federalism (Rodgers, 2007). Ethno-federalism is another concept that can be added to this list. Successful reorganization of states along linguistic lines in India has been quoted as an example which demonstrates that ethno-federalism decreases rather than increases conflict. (Katharine, 2017). Devolution of powers to tribal people can add another layer to ethno-federalism.

The Indian Constitution caters for special provisions for the protection and development of tribal communities, in the form of the Fifth Schedule which lays down the administration and control of tribal areas and the Sixth Schedule which provides for

the administration of tribal areas in the north eastern states (Wahi & Bhatia, 2018). The Indian Republic has also witnessed an increasing trend in the quantum of decentralisation over the years. Political, societal as well as economic factors have all played a role in contributing towards this (Singh, 2022). Enactment of PESA in 1996 in the wake of the 73<sup>rd</sup> and 74<sup>th</sup> amendments was a major step in this direction.

As part of the devolution of powers in accordance with the constitutional provisions, several states have set up Tribal Advisory Councils to provide a platform for tribal communities to participate in decision-making and voice their concerns. In some states, Adivasi Autonomous Councils have been set up to provide a degree of self-governance to tribal communities. The central and state governments have also implemented several tribal welfare schemes aimed at improving the socio-economic status of tribal communities. These include schemes for education, health, housing, and employment, which encourage participative decision-making. There have been efforts to promote economic development in tribal areas, including the implementation of tribal-centric development schemes and the promotion of traditional livelihoods such as agriculture, forestry, and handicrafts (Sharma, 1977). Despite these efforts over nearly five decades, tribal communities in India continued to remain marginalised and face several challenges such as poverty, limited access to education and healthcare, landlessness, and loss of traditional livelihoods and cultures.

It was in the background of the above situation that the Panchayats (Extension to the Scheduled Areas), Act 1996, (PESA) was enacted by the government. As an important piece of legislation in India aimed at empowering the STs in the Scheduled Areas, it applied to the Scheduled Areas as defined under the Fifth Schedule of the Constitution of India, which covers tribal areas in several states including Chhattisgarh, Jharkhand, Madhya Pradesh, Odisha, and others. PESA empowers the gram sabhas

(village councils) in the Scheduled Areas with the authority to manage and conserve their natural resources, such as forests, water bodies, and minor minerals (Manjula, 2020). The aim was to promote decentralized governance in the Scheduled Areas by giving the gram sabhas a greater role in decision-making and development planning. The Act also recognizes and strengthens the traditional management systems of the STs and OTFDs in the Scheduled Areas. PESA provides for the resolution of disputes through traditional dispute resolution mechanisms, such as the gram sabhas, and empowers them to prevent the alienation of land and resources of the STs and OTFDs. Despite the potential of PESA to empower tribal communities and protect their rights, the act has continued to face challenges in implementation due to lack of awareness, limited capacity of gram sabhas, and resistance from the state and non-tribal interests (Bijoy, 2012).

The potential of PESA for promoting decentralized governance and conserving traditional resources and cultures has not yet been achieved. The Forest Rights Act of 2006 also provides for the recognition of the rights of tribal communities over forest lands and resources, which they have traditionally inhabited and conserved should thus be seen as a part of this continuing process of decentralisation. Thus, the FRA was conceived not merely as a means of livelihood assurance, but also as an instrument of community empowerment conforming to the governance principle of democratic decentralisation. It is hence imperative that the theoretical construct of the legislation as a part of the federalist continuum be analysed to place it in context.

### **3.5.6 Tribal development strategies followed in India**

Based on the special provisions of the Constitution of India for the socio-economic development of the STs, large number of programmes were launched by the

Government of India. The first five-year plan's focus was on improving the quality of life and basic amenities. It concentrated on sectoral programmes like agriculture, drinking water, housing, health, education, and communication in tribal areas. Community Development Programme (CDP) was also initiated during this period, under which community development blocks were constituted to implement the sectoral programmes with the active participation of the people. The second five-year plan included the establishment of 500 tribal development blocks. It also focused on education and research by providing post-metric scholarships for scheduled tribes, printing of textbooks in tribal dialects, re-designing of the curriculum for the tribal schools, and research work in tribal activities etc. Multipurpose projects initiated under this included setting up of colonies, habitat construction, road development and improvement of access to scheduled tribe areas, opening of new medical units and health centres, initiating measures to eradicate diseases such as leprosy, V.D. etc, sinking of drinking water wells, development of cottage industries along with establishment of vocational and technical training centres of welfare workers. For economic upliftment of STs, schemes such as the establishment of multi-purpose cooperative societies, forest co-operatives, training cum production centers for various cottage industries and grants for economic aids to the trainees to enable them to settle in small industries were also initiated (Puvvada, 2018).

The broad policies for the development of tribal populations and tribal areas were reviewed by the study team on social welfare during the third five-year plan (1961-1966). The scheduled areas and schedules tribes commission, set up in April 1960, submitted an interim report which highlighted the need for specific programmes on land improvement, land reclamation cum soil conservation, agricultural self-sufficiency in tribal areas. During the fourth five-year plan (1969-1974), the focus shifted from an

area development approach to an area and group specific approach. During this phase, six Tribal Development Agencies were started in predominantly tribal areas across the country. It was realized during this period that the earlier tribal development programmes did not fully comprehend the nuances of tribal ways of life and were tailored more or less along the SC and OBC programmes. Hence, in the fifth five-year plan (1974-1979), there was a change in tack and schemes were formulated exclusively for the special needs of the tribal communities, with a shift to integrated area development from the previous sectoral approach. A distinctive, approach known as the Tribal Sub-Plan Approach was initiated, which was characterized by an integrated, group-specific approach taking cognizance of the needs of the local populations and the local resources (Puvvada, 2018, Manjula, 2020).

The sixth five-year plan (1980-85) set the objective of improving the socio-economic conditions of the tribals and bridging the gap between tribal and non-tribal populations. In addition to continuation of other programmes, enhanced attention was devoted to the promotion of indigenous tribal crafts and related activities. The main thrust of the policy for the development of the SCs and STs during this plan included amalgamation of services for developing self-reliance, skill development and introduction of latest technology, based on local resources skills. During the seventh five-year plan (1985-1990), special consideration was accorded to SCs and STs in the integrated rural development programmes. A wage employment programme named Jawahar Rozgar Yojna was framed, according priority to SCs, STs and bonded labourers. Special attention was paid to tribes who were living below the subsistence level. It was during this period that 75 Primitive Tribal Groups(PVTGs) were identified all across the country and group specific programmes were initiated (Wilson, 2019, Manjula, 2020).

The eighth five-year plan (1992-1997) attempted to streamline the mechanism of planning and implementation of programmes of special component plan, tribal sub-plan with other schemes specially targeted for the welfare and development of SCs and STs. Tribal research institutes were established under this plan to carry out research and to serve as input repositories for a balanced and speedy development of tribals. Another major milestone was the recognition granted to voluntary organizations as an important tool in the promotion of tribal welfare. The main objective of the ninth five-year (1997-2002) was to rapidly the gap between scheduled castes/tribes and the rest of the population. There was a policy shift towards micro-planning based on principles of community participation, stressing on accountability, transparency and participatory management (Puvvada, 2018). The Panchayati Raj Extension to Scheduled Areas (PESA) was also to take effect during this period with the aim of making the grass root democratic institutions active agents in the developmental process. Along with improving the quality of life, employment generation and self-reliance were prioritized in order to minimize regional imbalances. In the tenth five-year plan (2002-2007), the key theme was sustainable management of natural resources like water and land and increase in forest cover. The major focus in this plan was to '*resolve the unresolved issues*' and '*solve the persisting problems*' through social and economic empowerment and delivery of social justice (Approach paper, 2001). The Forest Rights Act also emerged as a piece of legislation during this period.

### **3.5.7 Role of FRA in tribal welfare and development**

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006 which has been hailed as a historic piece of legislation was enacted by the Parliament to "*recognize and vest the forest rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers*

*who have been residing in such forests for generations but whose rights could not be recorded*". The following conceptions formed the foundational basis for framing the act:

- The Act recognizes that the rights of the forest dwelling STs and OTFDs include the responsibilities and authority for sustainable use, protection of biodiversity and preservation of ecological balance. Granting the rights for sustainable exploitation and preservation will strengthen the conservation regime of the forests while ensuring livelihood and food security of the forest dwellers.
- The forest dwelling STs and OTFDs are integral part of the forest ecosystem in India and hence critical to their very life and sustainability. However, the rights on the traditional abode of these indigenous peoples were not recognised when the state forests were consolidated by the colonial empire as well as independent India, which resulted in unjust deprivation them.
- It is imperative to grant habitat and access rights to these traditional forest dwellers including those who were relocated and alienated from their dwellings due to State development interventions.

Viewed from the point of view of constitutional principles, the following can be said to be implicit in FRA:

- By granting tenurial and access rights, the Act intends to undo the historical injustices brought upon the forest dwellers. In doing so, the State intends to secure for these oppressed peoples Justice, Liberty, Equality and Fraternity

guaranteed under the preamble of the constitution. These also conform to the fundamental rights listed under Sections 12 to 35 of the constitution.

- The second part dealing with the responsibilities and right to protect and manage forest resources can be said to relate to the principle of federalism. It is also attuned to the precept of democratic decentralization articulated as part of directive principles of state policy under Article 40 and can be viewed as the extension of the legacy of the 73<sup>rd</sup> amendment and Panchayats Extension to Scheduled Areas Act of 1996.

### **3.6 Land alienation of STs in Kerala: Key milestones**

It has been well established that a major portion of the lands of the indigenous people of India (the Adivasis) was misappropriated by a combination of means for various state and non-state purposes. These usurpations were legitimized by a series of legislations beginning from the early part of the nineteenth century. While the Indian Forest Act of 1865 and 1878, followed by the Forest Rights Act of 1927 of the colonial regime, the Wild Life Protection Act 1972 and the Forest Conservation Act 1980 facilitated nationalisation as well as privatisation of forests, the Adivasis became landless (Kjosavik & Shanmugaratnam, 2021).

The following are the important legislations with regard to the forests in Kerala, which have had an impact on the lives of the tribal population whose traditional habitat were the forests.

- The Kerala Forests Act of 1961, which gave the power to the state government to reserve any land in its control as Reserved Forest. The Act also laid down the measures for control of timber and other forest produces while listing the forest offences (The Kerala Forest Act, 1961).

- The Kerala Private Forests (Vesting and Assignment) Act, 1971. This Act transferred the ownership and possession of all private forests in Kerala too and vested the same in the state government. Exemption was accorded to some parts of private forests under personal cultivation provided ceiling limits for land holdings specified under the Kerala Land Reforms Act, 1963 were not exceeded (Bijoy, 1999, Haseena, 2014, Kjosavik & Shanmugharatnam, 2020).

Landlessness had been a main source of deprivation for the tribal people of Kerala who were driven out of forests on account of various historical conditions. The centuries old *Janmi-Kudiyam* (landlord-tenant) landholding system was prevalent in Kerala, until the late 50s. This system had pushed the Adivasis as well as the Dalits into abject servitude/slavery, landlessness and displacement. This feudal arrangement offered no laws to protect the *kudikidappukaran* (cultivating tenant) from eviction (George, 2014).

The 1950s witnessed several efforts in Kerala to get rid of the land-tenure system and to implement equitable distribution of land (Lal, 2016). An effective end to the feudal system was brought into effect by the passing of the historical land reform act, '***Kerala Land Reforms (Amendment) Act, 1969***' which ensured the rights of the tenants on land. The passing of this legislation was considered to be a revolutionary moment. It was envisaged that the government would distribute surplus and revenue forest land to Kerala's landless poor, of which the Adivasis formed a major part. However, there were problems related to proper implementation of the provisions (George, 2014). Taking cognisance of this, the state government enacted '***The Kerala Scheduled Tribes (Restriction on Transfer of Lands and Restoration of Alienated Lands) Act, 1975***' for the restitution of alienated adivasi land with retroactive effect from 1960 (Bijoy, 1999). This conformed with the Dhebar Commission recommendations of early 1960. Convened under Article 339 of the Constitution, this

commission had recommended that all tribal land alienated since January 26, 1950, be returned to the original adivasi owners (Bijoy and Raman, 2003). In conjunction with land reforms, The '*Bonded Labour System (Abolition), Act, 1975*' was an important piece of legislation that worked towards the emancipation of the tribal people of Kerala. The Act took into consideration the prevalent system of bonded labour in Northern Kerala. It entailed payment of cash called '*vallurkavu panam*' or '*nilpupanam*' through which people of scheduled tribes were to render labour or personal service to the '*creditor or owner*' for a specified period, either without wages or on payment of nominal wages. Subsequently, the Central Govt also passed '*The Bonded Labour System (Abolition) Act*', in 1976.

Although the Land Alienation Act was passed in 1975, its implementation was fraught with hurdles (Kjosavik, and Shanmugaratnam, 2021). In the wake of the settlement of people from the plains, the government, presumably on grounds of appeasing the larger political constituency, did not find the will to carry out land redistribution to the Adivasis. In response to the public interest litigation filed in the Kerala High Court by Nalla Thampi in 1988, the high court issued a writ of mandamus in October directing the government to dispose of the pending applications within six months. An ordinance amending the 1975 Act was issued by the State, but the governor refused approval. Unable to implement the provisions in the face of what the government described as pressure from organized encroachers, the state government passed the Kerala Scheduled Tribes (Restriction on Transfer of Lands and Restoration of Alienated Lands) Amendment Bill, 1996 (Bijoy and Raman, 2003). However, assent to the same was not accorded by the President. Another bill was enacted on February 23, 1999 with a caveat that only land in excess of 2 hectares would be restored, while

alternate land would be given elsewhere in lieu of alienated land up to 2 hectares (Bijoy, 1999). This was also rejected by the High Court.

In 1999, an organization named Adivasi Vimochana Munnani (AVM) began mobilizing the Adivasis of Kannur for land allotment. At this juncture, the Adivasis were joined by representatives of Dalit and several other organizations. This group organised a convention in Peravoor, where they resolved for a land seizure movement. The protestors aimed to recapture surplus land, reserve forest land, government project lands and lands of large landowners (Raman, 2002). While the imbroglio was going on, reports of starvation deaths started emerging from the Adivasi-inhabited of the State from July 2001. Adivasi campaigners under Janu then pitched tents outside the official residence of the Chief Minister's in Thiruvananthapuram in August 2001 demanding five acres land each to all landless tribal families in the State. They were organised under the banner of the "Adivasi Dalit Action Council", (later renamed Adivasi Gothra Maha Sabha or AGMS) which claimed the support of all Adivasis in the State (Krishnakumar, 2001). The protestors remained in the state capital for 48 days and left after receiving an assurance from the government about receipt of cultivable land to the landless poor. However, nothing materialised for the next two years. In February 2003, several hundred Adivasis walked into the Muthanga Wildlife Sanctuary located close to the border of Karnataka and Tamil Nadu and set up camp there (Ameerudheen, 2018). Attempts at evicting the Adivasis led to violence which also resulted in the charge-sheeting of 33 men under various sections of Indian Penal Code (IPC) and 99 women under the sections of the Wildlife Protection Act (Haseena, 2014).

Under pressure from the rising agitations amongst the tribals for land, the Kerala Government signed an agreement with the State Farms Cooperation of India in June, 2004 to use the 3,060 hectares of the Central State Farm in Aralam to resettle the tribals

of Kannur and Wayanad. The process of rehabilitation however got delayed; also the tribals from Wayanad were excluded from the list. This instigated a fresh movement by the Adivasis. Thousands of Adivasis encroached into the farmlands of Aralam and started living there, which brought pressure on the State Government start the process of distribution of title deeds (George, 2014, Haseena, 2014).

### **3.7 FRA in context in Kerala**

The social and cultural renaissance that took place in Kerala during the first half of the 1900s and which later intensified towards the end of the British rule has often been acknowledged as the reason for the progress achieved by the State in achieving high human development index (Nithya, 2013). This has had a significant impact on influencing the policy formulation and governance in the State. These reformist movements comprised both the struggle among the lower caste (socially deprived/marginalized) communities against local property owners, demanding basic social needs as well as the ones against the practices of discrimination and untouchability. Contributions have been made in this regard by eminent social reformers like Sree Narayana Guru, Chattampi Swami, V.T. Bhattathirippadu Ayyankali, Sahodaran Ayyappan (Martinez-Rodríguez, Marcelino-Aranda, Saseendran & Kumar, 2020). The land reform movements and the land struggles in the State can thus be viewed as a continuum of this process of struggle for emancipation and essential human dignity.

The enactment of FRA and its implementation in Kerala hence needs to be viewed against the legacy of the reformist movements and the land reforms which commenced in the 20<sup>th</sup> Century. While a number of downtrodden and oppressed people were emancipated in the wake of the reform movements as well as the land reforms,

the tribal people were the least to benefit. The land reform act exempted the plantation areas, but tribal communities who mostly lived in forest areas could not benefit from this act. (Martinez-Rodriguez, et.al., 2020).

While the FRA was enacted in December 2006, Kerala witnessed the Chengara land struggle when 300 families from various parts of the state converged on the rubber estate owned by Harrison Malayalam Plantations Ltd. alleging that the company was in possession of much more land than what was granted under the government's lease. The agitators sought five acres of land for cultivation (later reduced to one acre) and Rs 50,000 as financial assistance per family (George, 2014). A compromise solution was reached, by which 1,432 families out of a total of 1,738 were to get land and financial aid to construct a house. However, the distribution of land as sought by the protestors has not yet been carried out (Sooraj, 2018).

The Kerala State Government made its first serious attempt to implement the provisions of FRA in 2009. The proposed action plan included training of all District Level Committees (DLC)/ Sub-District Level Committee (SDLC), conduct of regional workshops, preparation of a handbook in Malayalam and talks in local radio/ FM station etc. The fact that the efforts did not immediately bear fruit was evident in the wake of further land struggles that broke out in the State. This included the *Arippa Bhoosamaram* of 2009, the Puyamkutti Land Struggle in 2010, and the Perinchamkutti land issue in 2012 (George, 2014).

The land struggle of the Adivasis and the oppressed classes in Kerala commenced along with the various social reform movements of the early 20<sup>th</sup> Century. The struggle for land gained momentum along with the spread of political activism and rising awareness amongst the masses. The reformist endeavour in the form of a series of

legislations starting from the early 1950s gave impetus to the land movement. The primary focus of these struggles was to obtain land for habitat which would guarantee basic human dignity to all human beings. In many cases, the STs joined with the SCs and the OBCs in making a common cause for respectable living. Historically, Kerala did not witness major struggles for autonomous forest management akin to what was seen in central India.

### **3.8. Conclusion**

The following issues emerge from the literature review and the analysis of the secondary data available in open sources:

- The Forest laws in India have been evolving over time, with the National Forest Policy of 1988, creating a paradigm shift by endeavouring community participation and incorporating the concept of JFM.
- The 29th report on the conditions of SCs and STs of in 1990 highlighted the disputes between the adivasis and the State related to forest lands. In the wake of the rising unrest in Central India and the nationwide struggle by various Adivasi groups a series of negotiations were initiated which eventually led to the formulation of FRA in 2006.
- Despite 16 years having elapsed after the passing of the act, the progress of implementation has been poor. There is large variation in the rate of passing of IFR and CFR claims in various States of India. This makes it prudent to carry out a comparative analysis of the track record of different States in the implementation of FRA to draw suitable lessons.
- The constitution had made special provisions for the upliftment of the STs who were recognised as oppressed sections of society. Development and

empowerment of these weaker sections being a continuous process that calls for regular reappraisal, introduction of new acts are inevitable. FRA 2006 is one important piece of legislation that sought to undo the historical injustices brought upon the STs and OTFDs.

- FRA needs to be seen as an act that blends the twin aims of granting equality, fraternity, justice and liberty to the STs as well as achieving democratic decentralisation conforming to the federal principle by devolution of power and community empowerment. The act seeks to enhance the livelihood security while strengthening the conservation regime.
- Kerala State had witnessed a series of land struggles and social reformist movements in the previous century which paved way for a series of reformist legislations.
- Kerala has a comparatively good record of grant of IFR under FRA, but very few claims have been approved under CFR. This seems anomalous in the case of a state with a good track record of social progress and land reforms. CFR is a key ingredient in ensuring social justice for the traditional forest dwellers whose livelihood security is intricately linked to the forests. Hence there is a need for an inquiry into the reasons for the poor state of approval of CFR in Kerala.
- A survey of the available data thus reveals that the implementation of FRA falls much short of the end state envisaged while framing the act. Today, FRA faces two challenges each at the conceptual as well as the implementation ends of the Policy. As an Act of Parliament, it faces the twin challenges of legality -in the form of the challenge to its tenability

pending in Supreme Court- as well as ‘plausible subversion’ with the promulgation of the new FCR 2022. The new Forest Conservation Rules of 2022 have also given scope for diverse interpretations. As far as implementation is concerned, the implementation has not only been poor, but also seems to have lost steam.

- The 2019 Supreme Court Order had induced lot of anxiety amongst those STs and OTFDs whose claims have not been passed as they feel that they could be evicted from the forest land they are now occupying. Hence there is a need to identify the dissonance in interpretation so that a road map can be charted.

The specific issues listed above have facilitated the identification of the research gaps, which have already been listed. The ensuing chapter will carry out a comparative analysis of the implementation of FRA across States of India. The chapter following that will inquire into the poor state of grant of CFR to the tribal people of Kerala. The backdrop of the historic land struggles of the Adivasis in the state will form the backdrop of the analysis which will weigh the results against the goal of community empowerment envisaged in the FRA legislation.

It is expected that the study will throw light into the problems related to and the reasons for poor grant of CFRs in Kerala. The lessons emerging from the state of Kerala can then be extrapolated, where feasible, for addressing the problem at the National level.

## CHAPTER 4: COMPARISON OF IMPLEMENTATION OF FRA IN KERALA WITH OTHER STATES

*“Development is about transforming the lives of people, not just transforming economies”*

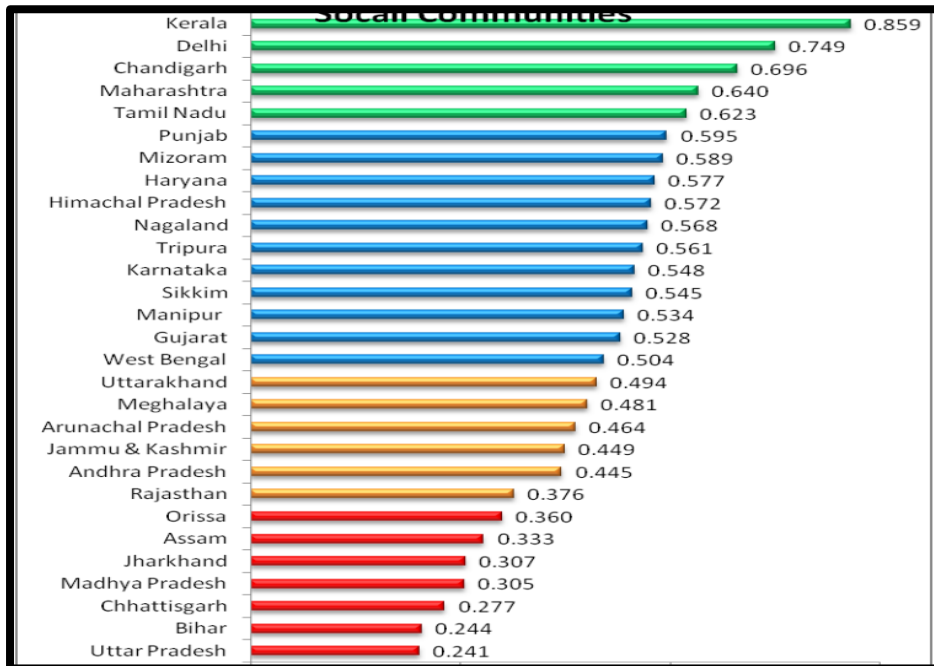
*Joseph E. Stiglitz*

### 4.1. Development indices and demography: Kerala and other states

With an area of over 38,000 square km Kerala is the 23<sup>rd</sup> in size amongst the States of India, accounting for 1.18% of the National area comparable with Punjab, Haryana, Uttarakhand, Himachal Pradesh and J&K. However, it accounts for 2.76% of the national population (3.34 crores of people as per Census 2011) and is the 13<sup>th</sup> most populous State of India. In comparison, Punjab has a population of 2.77 crores, Haryana 2.53 crores, Uttarakhand 1.01 crores, Himachal Pradesh 0.69 crores and J&K 1.23 crores. Kerala is the 3<sup>rd</sup> in population density in India, behind Bihar and West Bengal, (UTs excluded from the list) with a figure of 860 people per square km which is a little over the figure of 829 of Uttar Pradesh. Kerala is also the 11<sup>th</sup> most urbanized State of India, with nearly 48% of the people residing in urban areas; the more urbanized ones being Delhi, Chandigarh, Goa, Karnataka, Tamilnadu and Mizoram.

Kerala had recorded the least decadal growth in population during 2001-2011 after Nagaland and has the best sex ratio in the country, far ahead of all other states (Census, 2021). Kerala is also the State with the second highest Human Development Index in India, behind Goa. Amongst the other states, Sikkim, Himachal Pradesh, Punjab, Haryana, Uttarakhand and Tamilnadu can be said to have high levels of HDI. The figure given below gives the State wise HDI of different States of India (Hanagodimath, 2020).

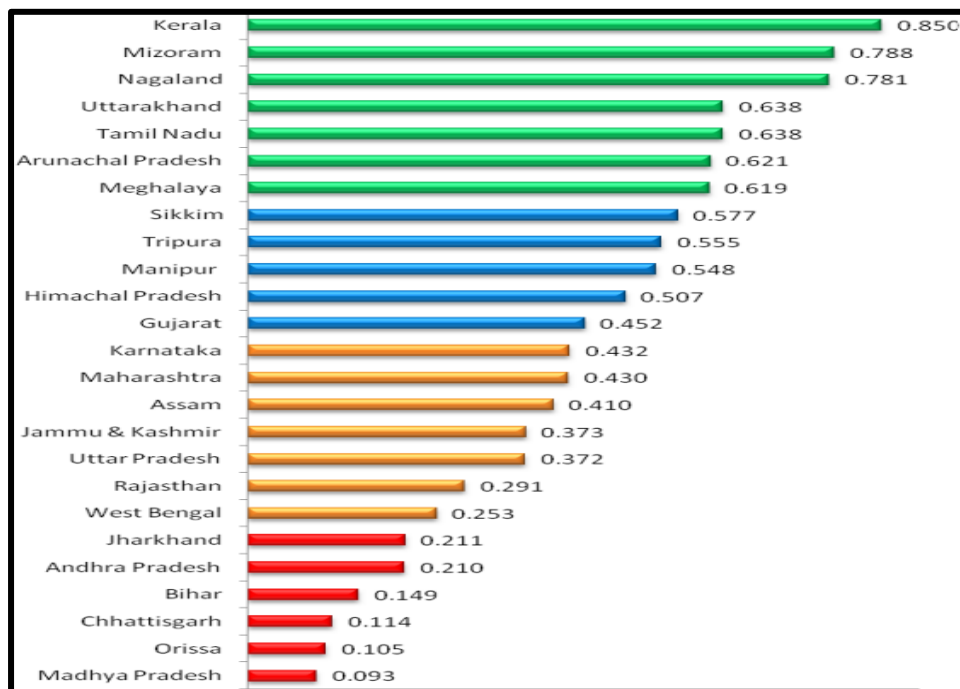
Figure 4.1: HDI of different states of India



(Source: International Journal for Sustainable Development, 2020)

The total population of tribal people is similar to that of Himachal Pradesh, Sikkim and Uttarakhand. The next table lists the HDI of STs across the states of India.

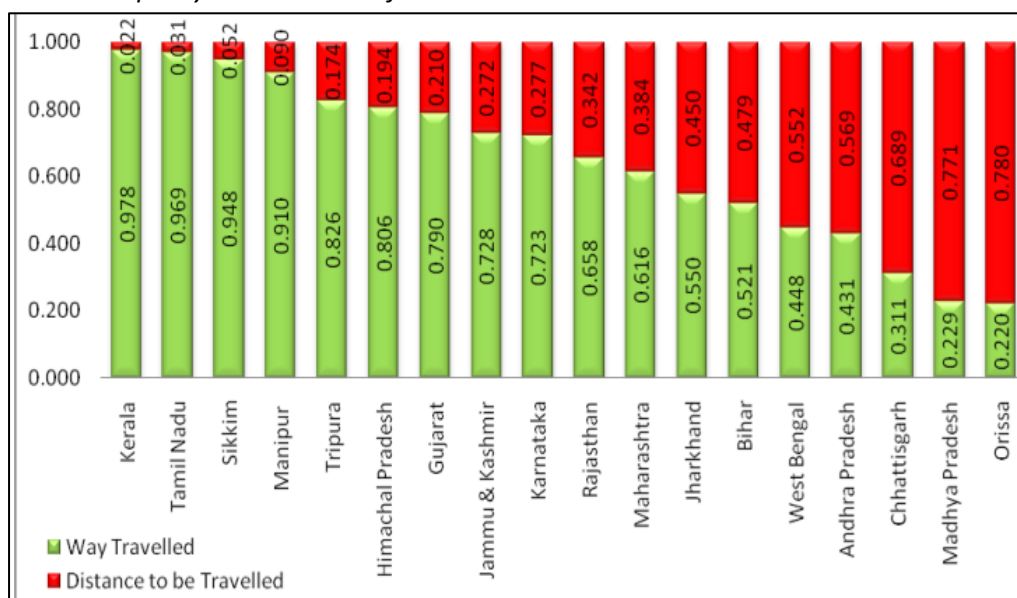
Figure 4.2: HDI of STs of different states of India



(Source: Hanagodimath, International Journal for Sustainable Development, 2020)

In terms of HDI of STs, Mizoram and Nagaland are the only States that can compare with Kerala. The other States which are immediately behind Kerala barring the Schedule VI states are Tamilnadu, Uttarakhand and Himachal Pradesh. That notwithstanding, the STs of Kerala have often been cited as ‘outliers’ who did not reap the benefits of the socioeconomic progress generally achieved in the State (Nalinam, 2019). However, Kerala is also earmarked by the least disparity in HDI between STs and others within any State in India as shown in the graph given below.

Figure 4.3: Disparity between HDI of STs and non-STs across states



(Source: Hanagodimath, International Journal for Sustainable Development, 2020)

#### 4.2. Forest cover and tribals: Kerala and other states

In terms of Forest Cover, Kerala State accounts for 21,253 square km consisting of 1942 square km of very dense forests, 9472 square km of moderately dense forests and 9837 square km of open forests. Very Dense forests are defined as lands with tree canopy density of 70 percent (0.7 tree density) and above, while moderately dense ones are all lands with tree canopy density between 40 percent and 70 percent (0.4 to 0.7 tree density). Open forests are areas with tree canopy density between 10 percent and 40

percent (MOEF&CC, 2021). The Salient features with regard to the demography and forest cover in Kerala in relation to other States is as under.

- Although the State is 23<sup>rd</sup> in terms of size, close to Punjab, Haryana, Uttarakhand, J&K and Himachal Pradesh, it is 13<sup>th</sup> in terms of the forest cover available. In terms of total forest cover Uttarakhand, Jharkhand and Telangana have profiles comparable to Kerala.
- In terms of forest cover as a percentage of the total land area, Kerala approximates Goa, Sikkim and Uttarakhand.
- J&K, Tamilnadu, Assam, Jharkhand, Telangana, J&K and Himachal Pradesh have similar areas of very dense and moderately dense forests as Kerala.
- Albeit marginally, Kerala is a state which has shown an increase in forest cover compared to 2019.
- Kerala has six National Parks covering 560 square km and 18 Wildlife sanctuaries which cover about 2170 square km area. (<https://www.wii.gov.in/>).

Table 4.1: Forest Cover in different districts of Kerala

District	Geo-graphical Area (GA)	2021 Assessment				%of GA	Change wrt 2019 assessment	Scrub
		Very Dense Forest	Mod. Dense Forest	Open Forest	Total			
Alappuzha	1,415	0.00	27.00	53.54	80.54	5.69	0.64	0.00
Ernakulam <sup>TH</sup>	3,063	165.52	614.40	604.56	1,384.48	45.20	18.77	5.60
Idukki <sup>TH</sup>	4,356	355.72	1,783.33	1,016.27	3,155.32	72.44	4.67	2.51
Kannur <sup>TH</sup>	2,961	58.00	489.63	1,121.23	1,668.86	56.36	14.89	0.18
Kasaragod <sup>TH</sup>	1,989	1.90	288.70	692.97	983.57	49.45	17.09	0.00
Kollam <sup>TH</sup>	2,483	104.40	656.88	572.50	1,333.78	53.72	11.27	0.00
Kottayam	2,206	11.31	525.73	562.01	1,099.05	49.82	-5.24	0.00
Kozhikode <sup>H</sup>	2,345	70.77	409.94	967.11	1,447.82	61.74	10.85	0.80
Malappuram <sup>TH</sup>	3,554	142.67	424.68	1,416.32	1,983.67	55.82	2.34	6.47
Palakkad <sup>TH</sup>	4,482	402.14	637.77	1,063.77	2,103.68	46.94	20.09	12.71
Pathanamthitta	2,652	164.92	1,229.12	554.88	1,948.92	73.49	-6.60	0.51
Thiruvananthapuram <sup>TH</sup>	2,189	59.12	702.42	555.50	1,317.04	60.17	13.11	0.07
Thrissur	3,027	218.86	477.79	469.60	1,166.25	38.53	7.03	0.62
Wayanad <sup>TH</sup>	2,130	188.99	1,204.61	186.91	1,580.51	74.20	0.29	0.43
<b>Grand Total</b>	<b>38,852</b>	<b>1,944.32</b>	<b>9,472.00</b>	<b>9,837.17</b>	<b>21,253.49</b>	<b>54.70</b>	<b>109.20</b>	<b>29.90</b>

(Source: State of Forests Report 2021)

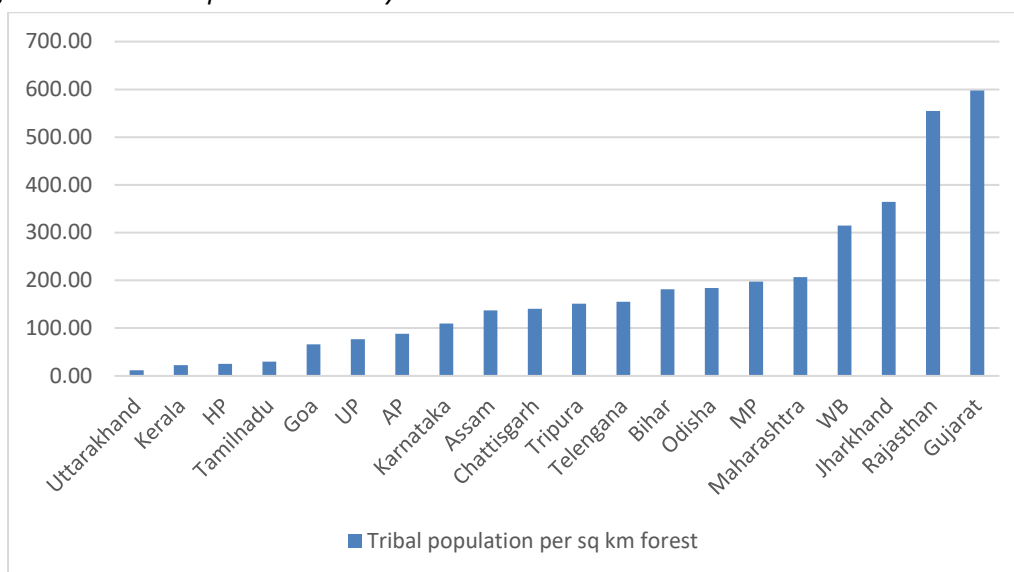
#### **4.3. Status of implementation of FRA : General trends**

MoTA is mandated to publish a monthly status report on the implementation of FRA and upload the same on the website. As on January 2023, the latest available report pertains to the period ending November 2022. This report indicates that only 22,35,845 claims have been passed out of the total 44,46,104 applications received. This includes both individual as well as community rights. The reports also indicate that data pertaining to only 20 States are available on the dashboard of the MoTA website.

The North Eastern States have argued that being VI Schedule States, the FRA does not apply to them. Nagaland has also averred that the provisions of Article 371 A of the Constitution imply that the FRA has no locus standi in the state. Sikkim government has contended that there are no forest dwelling STs and OTFDs in the true sense of the term in the State. Andaman & Nicobar Administration has argued that the area inhabited by the STs in the Union Territory had been declared as Reserved Areas under The Andaman and Nicobar Islands (Protection of Aboriginal Tribes), Act. As such there are no claims applicable for settlement under FRA. Punjab and Haryana have intimated that there are no forest dependent STs or OTFDs in their state. Thus, data of only 20 states are available, that too incomplete. The wide variation between the approval rates of claims between different States is distinguishable from the data.

As a first step, a correlation was established between the forest cover and the ST population. Based on the premise that the STs are forest dependent, the figure of tribal density was arrived at by dividing the total ST population by the total forest cover available. OTFDs being a loosely defined term with no reliable database was excluded. The graph below depicts the tribal density of the 20 states affected by FRA.

Figure 4.4: Tribal Population density



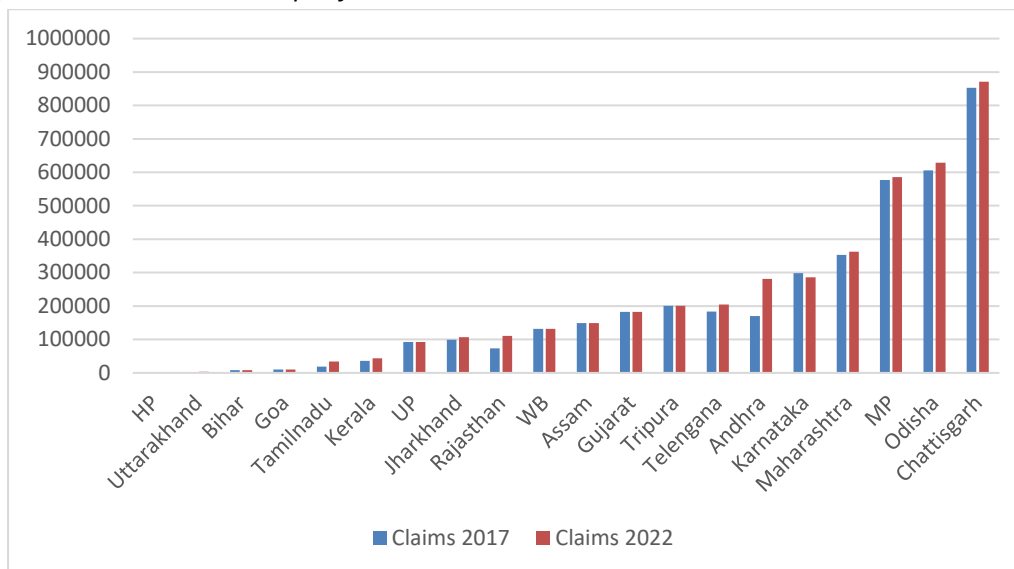
(Source: Generated by the author)

The figure of tribal density has been arrived at by dividing the total ST population of the state (Census, 2011) by the total forest area in the state. This parameter, intended to establish the link between the tribal population and forest cover gives out the number of tribal people per sq km of forest area within the State. Given the substantial forest cover available compared to the limited strength of STs, Kerala has one of the lowest densities of tribal people compared to the available Forest Cover at 22.82 ST members per sq km of forest area compared to a maximum of 598 per sq km for Gujarat. A detailed study of the processing of claims and the eventual culmination of the distribution of titles was done to draw a comparison of the situation in Kerala with the other states. Analysis of the trend was also carried out across two timelines; 2017 and 2022 (<https://tribal.nic.in/>). The interpretations are depicted in the graphs given below.

#### 4.3.1 Trends in IFR

The first graph gives out the status of receipt of claim applications in various States for grant of IFR at two data points, December 2017 and November 2022.

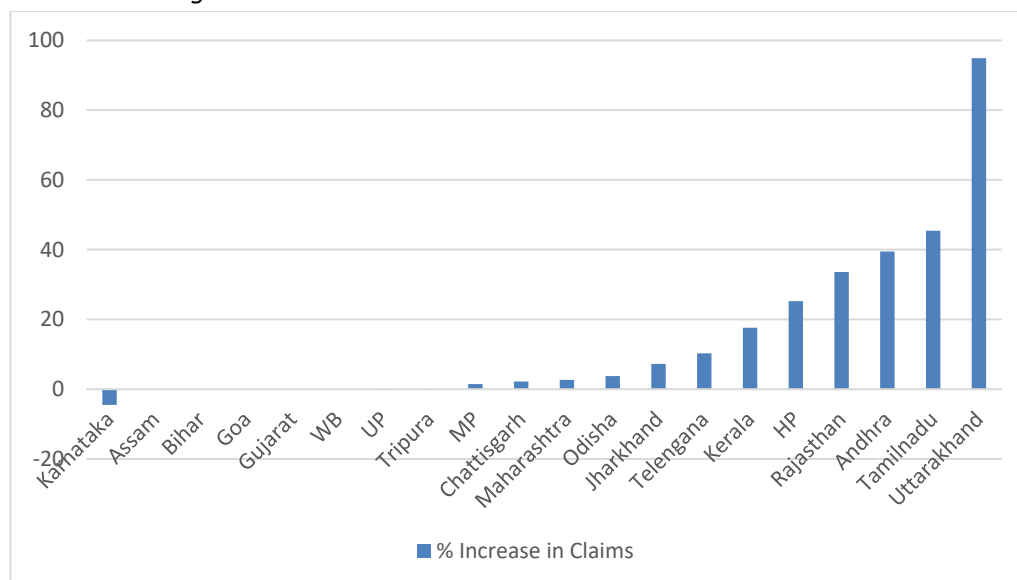
Figure 4.5: Increase in receipt of IFR claims 2017-2022



(Source: Generated by the author)

There has only been marginal increase of 6% in the submission of claims for grant of IFR in the last five years, barring few States. The state wise increase in receipt of claims as on 30<sup>th</sup> November 2022 compared to the figure of 31<sup>st</sup> December 2017 is depicted below.

Figure 4.6: Percentage increase in IFR claims 2017-2022

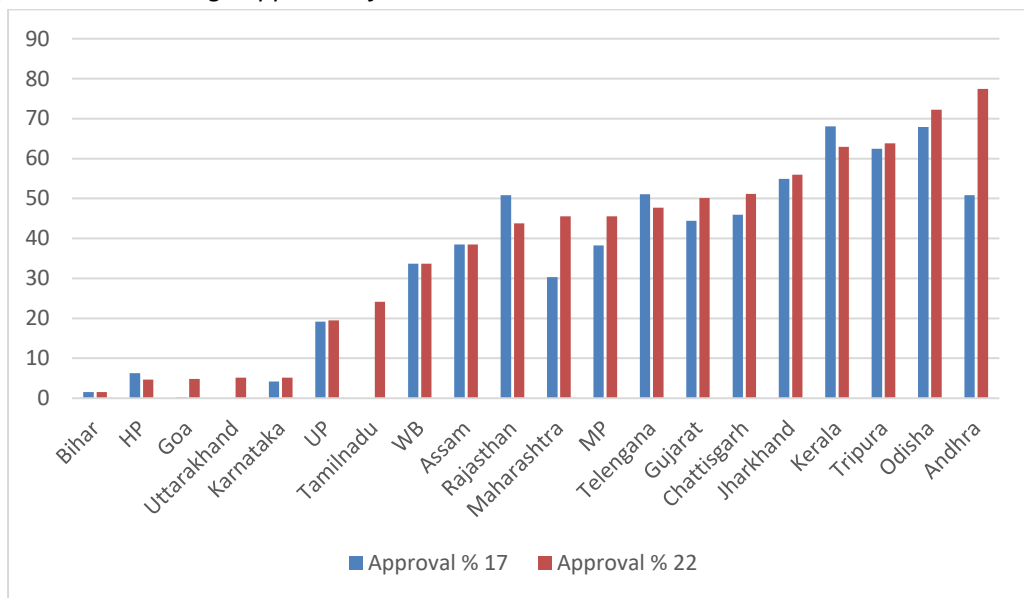


(Source: Generated by the author)

The total number of claims being very small in some of the States, perceptible increase is shown in states like Uttarakhand and Himachal Pradesh. However, in terms

of absolute numbers, increase was only felt in the case of Tamilnadu, Andhra, Rajasthan, Kerala and Telangana only. Karnataka shows negative figures, which indicate that some of the rejected claims were not resubmitted or perused further. Having established marginal increase in receipt of IFR claims, the approval rate of these claims over the timelines 2017 to 2022 was analysed.

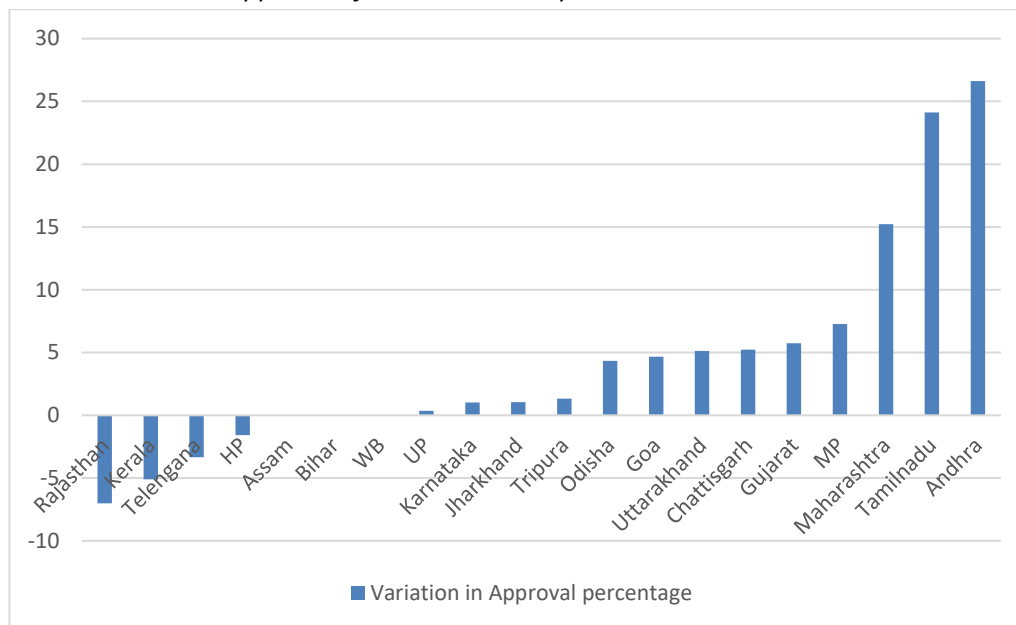
*Figure 4.7: Percentage approval of IFR claims 2017-2022*



(Source: Generated by the author)

As per the report of 30 November 2022, there has been a minor increase of 6% in the passing rate of IFR over the last five years. Only six states, namely Andhra Pradesh, Chhattisgarh, Kerala, Odisha, Jharkhand and Tripura have had more than 50% passing rate of IFR. Andhra Pradesh, Tamilnadu and Maharashtra stand out as three States which showed a substantial increase in the rate of approvals over the last five years. While Kerala had the best rate of approval of IFR claims in 2017, currently it is 4<sup>th</sup> amongst the States of India with 63% grant of claims against all applications received. The relative variation in approval of IFR claims in 2022 against the figures of 2017 is depicted in the next graph.

Figure 4.8: Variation in approval of IFR in 2022 compared with 2017

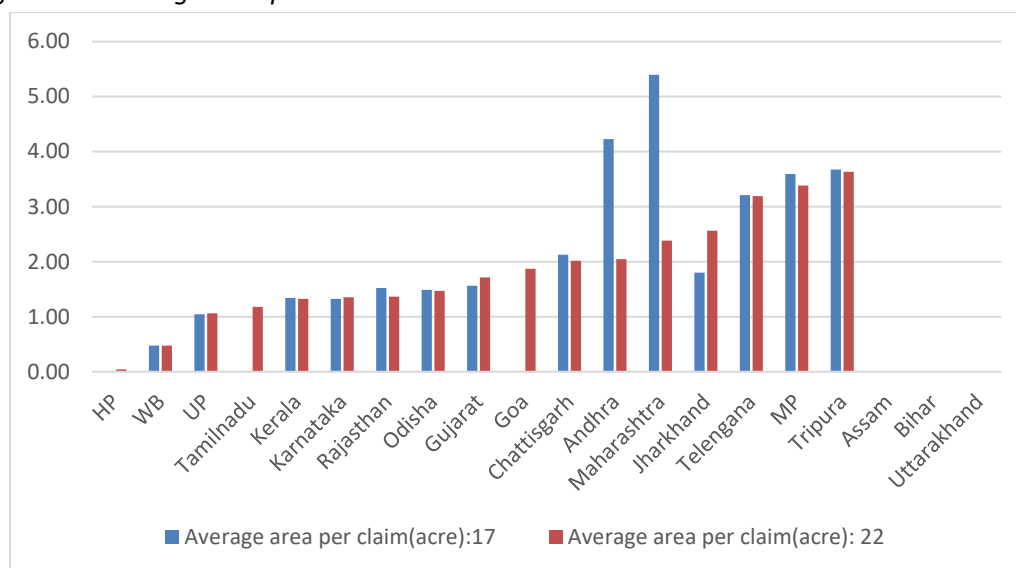


(Source: Generated by the author)

While the general trend has been of a marginal increase in the rate of passing of IFR claims, there are some states which have shown a reduction in approval rates with increased receipt number of applications. Kerala is one of the four states with negative growth in approval of IFR claims as depicted in the graph above. Only Rajasthan has shown higher negative trend than Kerala in approval of IFR claims.

The provisions of FRA lay down an upper limit of 10 acres of Forest land per family for livelihood and staying purposes. The trend on grant of IFR titles was followed up by the analysis of the size of forest land distributed amongst the STs for livelihood purpose in various states. The national average of land area distribution per claim under IFR was 2.44 acres in 2017. This has come down to 2.18 as on 30<sup>th</sup> November 2022. The state wise figures are depicted below.

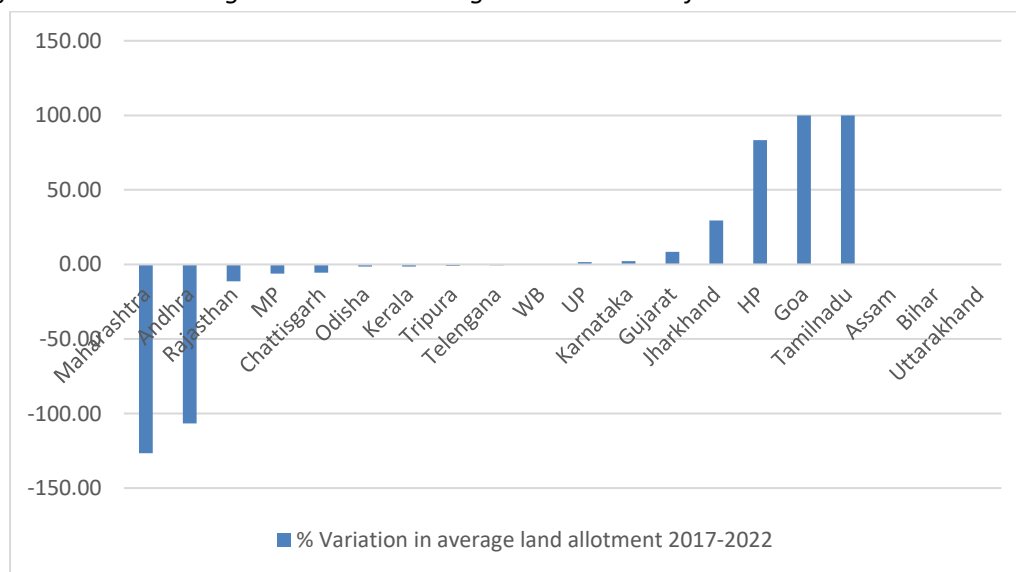
Figure 4.9: Average area per IFR claim 2017-2022



(Source: Generated by the author)

No State today has reached anywhere close to 10 Acres average allotment per family. Tripura, Madhya Pradesh and Telangana are the only three States with a figure of over 3 acres per IFR claim. Land details pertaining to Assam, Bihar and Uttarakhand are not available in the Central portal whereas the figures pertaining to Maharashtra appear to be incorrect (total area of land distributed in 2022 is far less than that in 2017 although the numbers approved are much higher). The variation in land allotment for IFR in November 2022 compared to the figure of December 2017 is depicted below.

Figure 4.10: Percentage variation in average land allotment for IFR 2017-2022



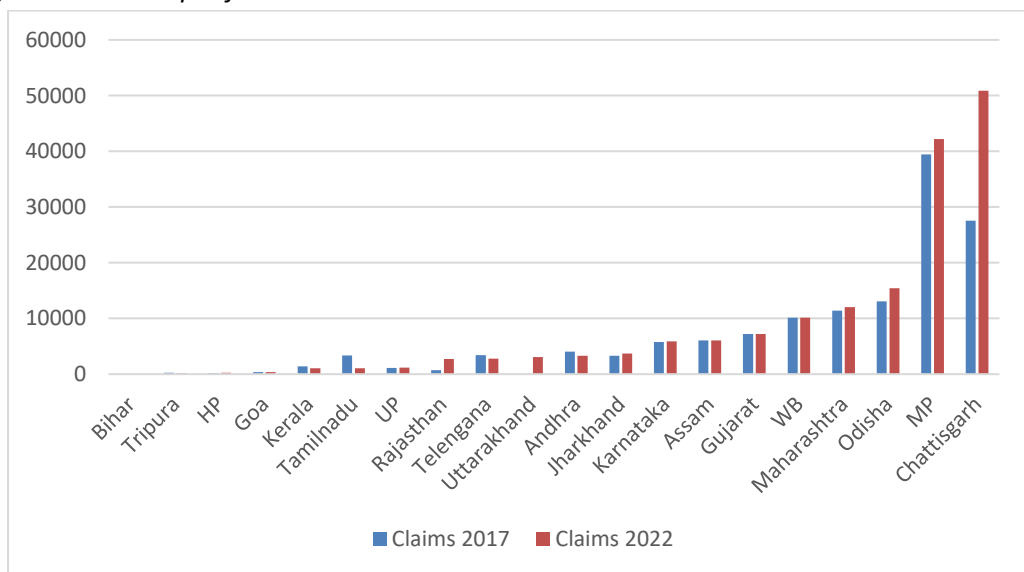
(Source: Generated by the author)

The figure above depicts the percentage variation in the average land holding in 2022 compared with the figure of 2017. Kerala is one of the nine states where the average land holding has gone down from the figures compared to 2017. In the case of Andhra, the total area reflected in 2022 has not been commensurate with the number of additional claims approved and hence large reduction in the average area per IFR claim. This indicates that far less area of land plots were distributed during 2017-2022 compared to those before 2017.

#### 4.3.2 Trends in CFR

Similar analyses on CFR was carried out across the same two data points, December 2017 and November 2022. The first graph shows the receipt of CFR claims.

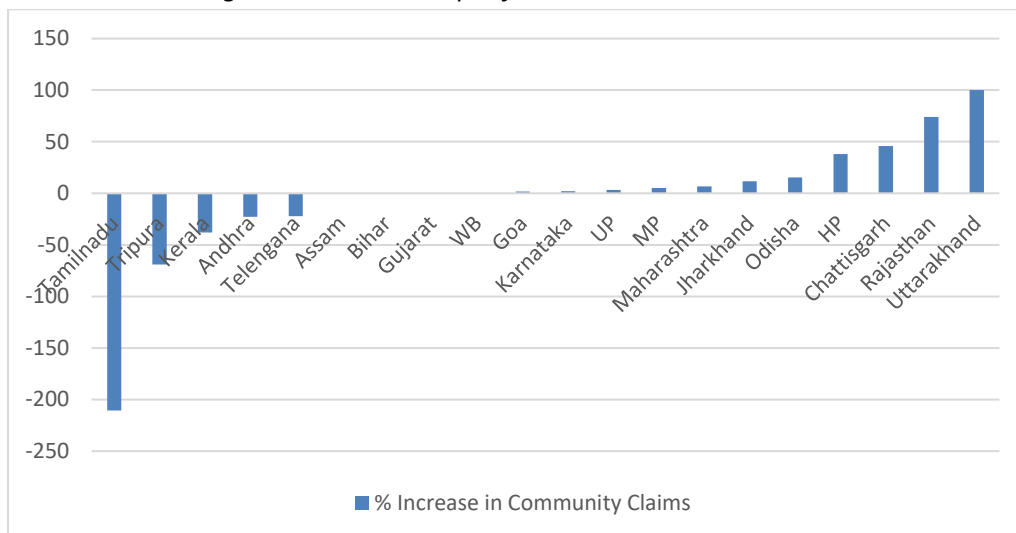
Figure 4.11: Receipt of CFR claims 2017-2022



(Source: Generated by the author)

Whereas IFR claims saw only a marginal increase in the period 2017-2022, the increase for CFR claims in the corresponding period was 22%. This was primarily attributable to processing of a large number of claims in Chattisgarh. In the case of other states, the increase has been marginal only, like IFR. The state wise percentage variation is depicted in the next graph.

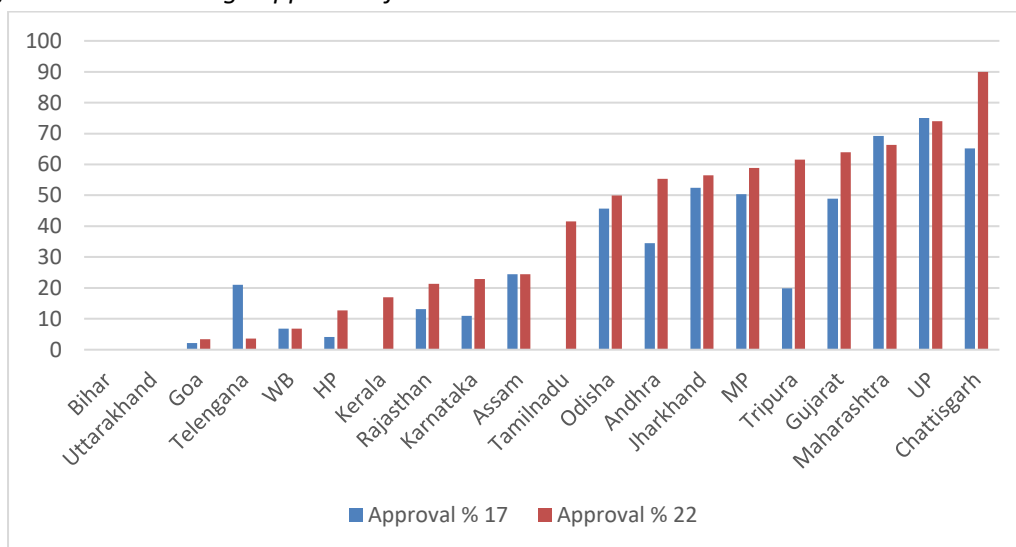
Figure 4.12: Percentage variation in receipt of CFR claims 2017-2022



(Source: Generated by the author)

Chhattisgarh, witnessed a quantum jump in receipt of CFR claims. Uttarakhand, Rajasthan & Himachal Pradesh have been reflected highly in terms of percentage, but the absolute numbers were quite small in all the three cases. Tripura as well as all southern states (barring Karnataka) showed a negative trend, thereby indicating that the claims earlier put up were not pursued after rejection/non-finalization. The worst figure is of Tamilnadu, which now has only 1082 claims for community rights against 3361 claims in December 2017. Kerala saw a decrease of 27% in the five year period.

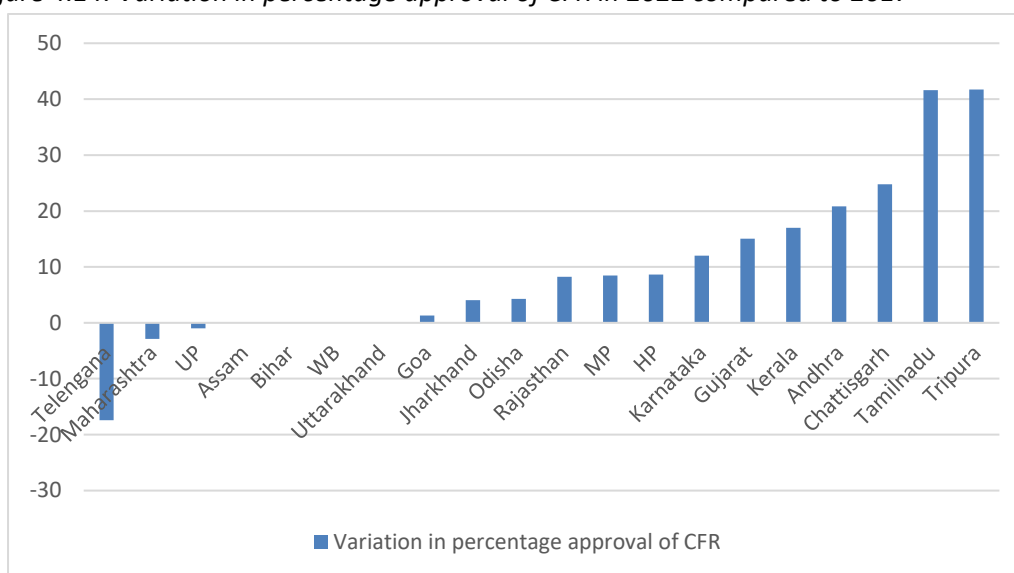
Figure 4.13: Percentage approval of CFR claims 2017-2022



(Source: Generated by the author)

Nine states, namely Chhattisgarh, UP, Maharashtra, Gujarat, Tripura, Madhya Pradesh, Jharkhand, Andhra Pradesh and Odisha, have approved more than 50% of community claims. Chhattisgarh leads the way with 90% approval as on 30th November 2022. Bihar has had no community claims passed and Uttarakhand has been showing passing of one claim. While Kerala did not grant any community claim in 2017, the approval as per the progress report of November 2022 stands at 17%. The percentage variation in passing of claims in 2022 compared to 2017 is reflected in the next graph.

Figure 4.14: Variation in percentage approval of CFR in 2022 compared to 2017



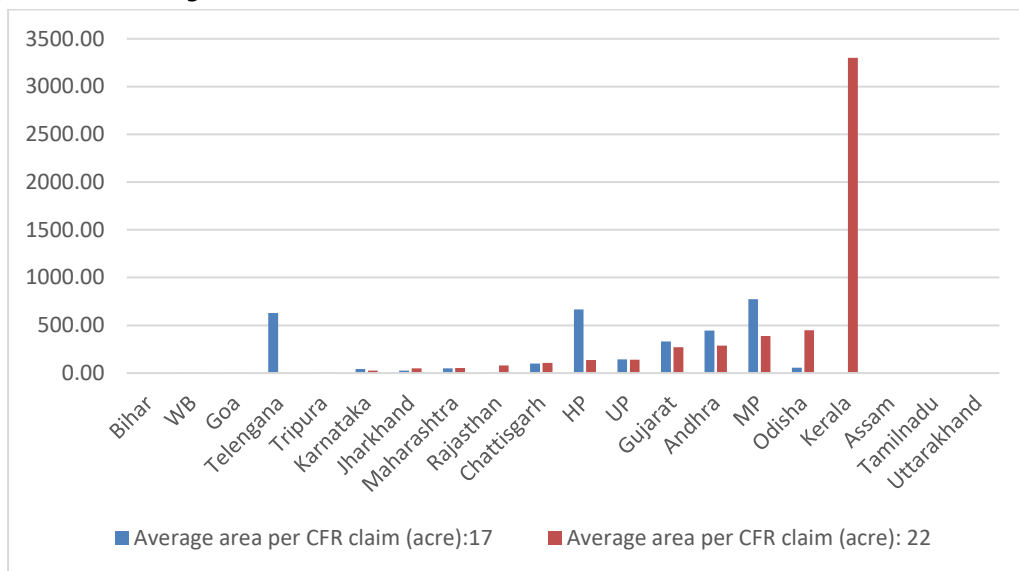
(Source: Generated by the author)

In terms of percentage increase of approvals, Tripura, Tamilnadu, Chhattisgarh, Andhra and Kerala have shown perceptible differences. Telangana stands out as a poor example which has shown negative trend in submission as well as approval of community claims.

The grant of CFR under FRA envisages the right of access to biodiversity, to access, collect, use and dispose of MFP, uses or entitlements such as fish and other products of water bodies, grazing and other traditional rights customarily enjoyed by

the forest dwelling STs or OTFDs. It is in the backdrop of this that an analysis of the forest area over which CFR was granted was carried out. As on 30<sup>th</sup> November 2022, 1,02,889 community titles have been distributed against 1,69,372 claims received so far accounting for 1,22,61,811 acres (49622 sq km) which accounts for approximately 6% of the total forest cover in India. In terms of acreage, it comes to an average of 119 acres (0.48 sq km) per claim. An area of 0.48 sq km is too small an area that would have been the traditional community resource of any tribal community. Naturally, this raises the question about the correctness of implementation of CFR. It has been reported that in many places the CFRs have not been given in the name of the gram sabha, but in the name of individuals or Vana Samrakshana Samiti (VSS) convened under Joint Forest Management (Saxena, 2017). The data of area allotment under CFR in different states, nevertheless, have been analysed as depicted in the next graph.

Figure 4.15: Average land allotment under CFR 2017-2022

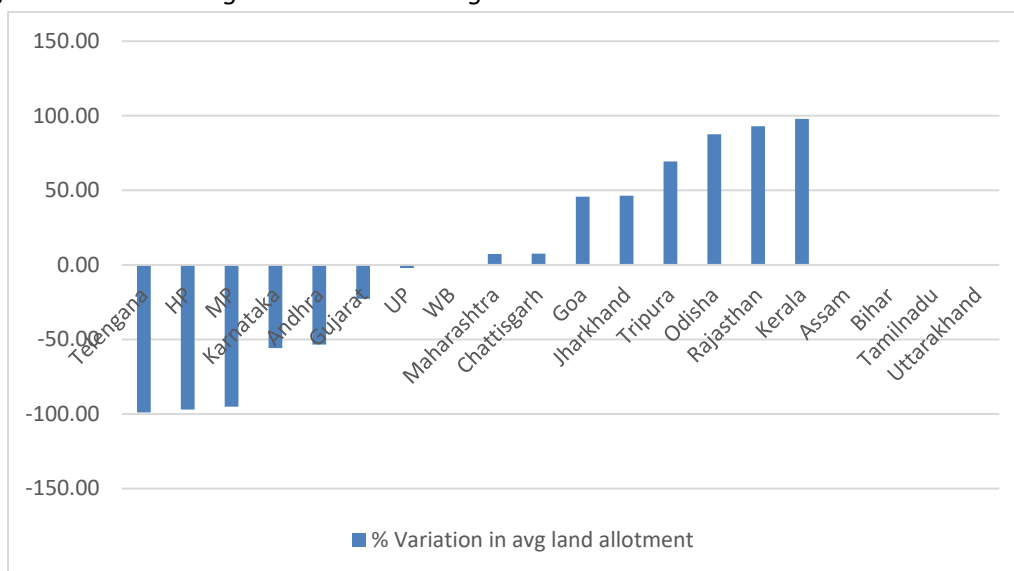


(Source: Generated by the author)

The State wise figures on land allocated under CFR also throw up a very intriguing picture. Average area granted under CFR of States like Goa, West Bengal, Telengana and Tripura are shown at abysmally low figures under 10 acres. Naturally,

this raises questions about the kind of rights being asserted by those who have been granted titles. Allotment of CFR in the name of individuals rather than the gramsabha have been reported at many places, which could be one of the reasons for the low average area of CFR in many of the States. Kerala stands out as an exception with an average CFR area of 4231 acres (approx. 17 sq. km). Madhya Pradesh and Odisha are the only other states where the figures are more than 350 acres (1.5 sq km). The percentage variation in land distributed per claim in the trend line 2017-2022 is depicted below.

Figure 4.16: Percentage variation in average land allotment under CFR 2017-2022



(Source: Generated by the author)

Seven states have shown reduction in the Area distributed for CFR compared to the figures five years earlier. No data on the area of land distributed in Assam, Bihar, Tamilnadu and Uttarakhand are available. In Kerala, the first CFR titles were distributed only after 2017 and hence higher progress is indicated in the above-mentioned graph. Based on the figures available, and taking into account the approval rate of claims as well as the area of land distributed, it would be prudent to conclude that the aspect of community rights in implementation of FRA leaves a lot to be desired.

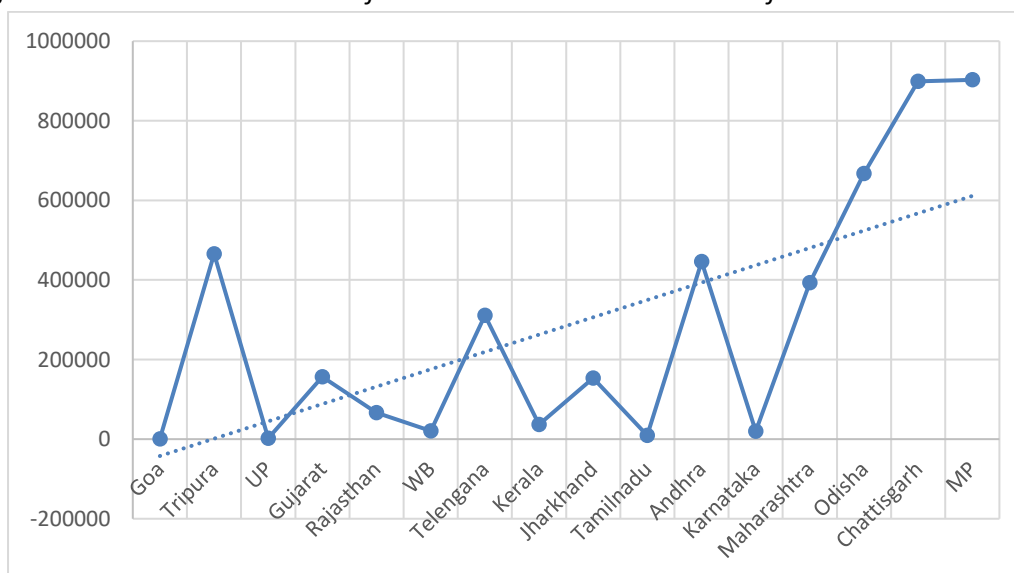
#### 4.4 Implementation of FRA: Kerala and other states

Having analysed the passing of claims for individual and community claims, a check was done to establish the correlation between geographic and demographic factors and the passing of claims. These are elucidated in the figures in the succeeding paragraphs.

##### 4.4.1. Geographic factors

The first step was to plot the area allocated for IFR in various states against the total forest cover available. States of Assam, Bihar, Himachal Pradesh and Uttarakhand were removed from this for want of adequate data. In the graph below, states in the ascending order of forest cover available were plotted against the total land allotted under IFR.

Figure 4.17: Correlation between forest cover and land distribution for IFR

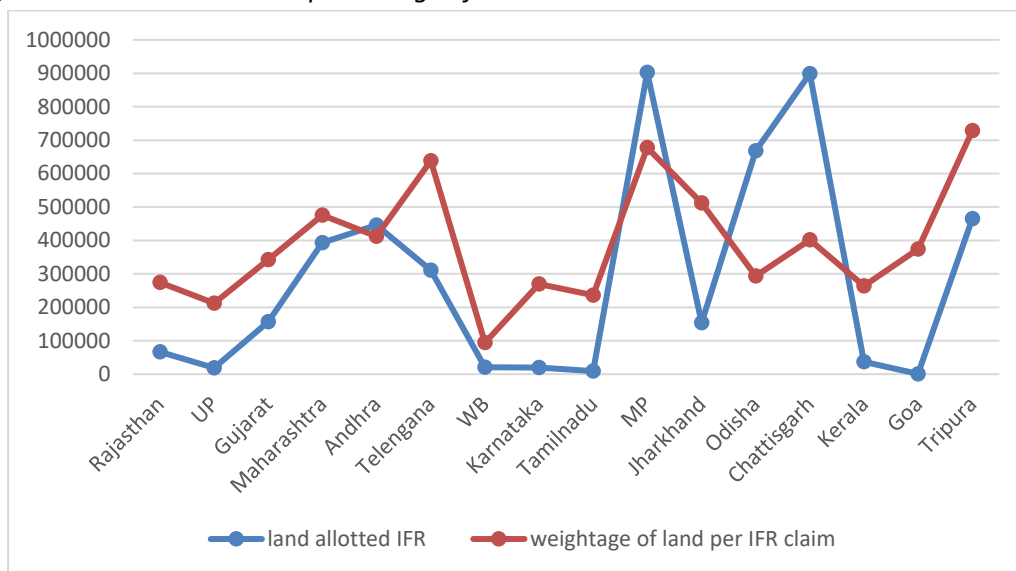


(Source: Generated by the author)

While there is a general trend line, there is no direct correlation between the availability of forest cover and land distributed under IFR. As the next step, states were arranged in ascending order in terms of the forest land as a fraction of the total land area

of the state. Against this, the land allocation under IFR was plotted under two heads; total land distributed under IFR and land distributed per claim under IFR.

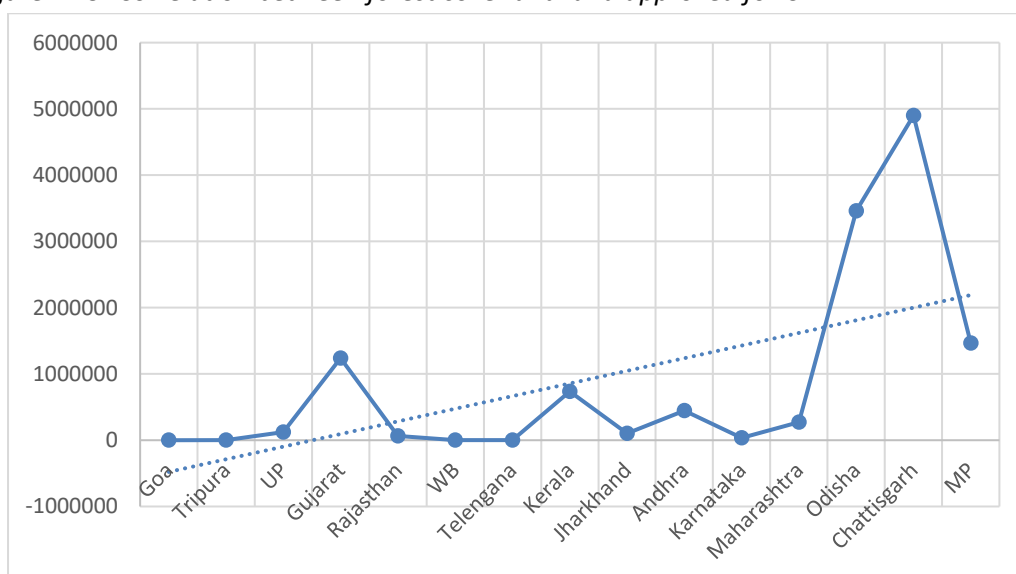
Figure 4.18: Forest cover as percentage of total state area and IFR land distribution



(Source: Generated by the author)

Again, no correlation could be established between the forest cover percentage and land allocation for IFR. Similar exercise was now carried out for CFR plotting the states along the X-axis in the ascending order of forest cover availability. Tamilnadu was further omitted from the earlier 16 for want of land data on CFR.

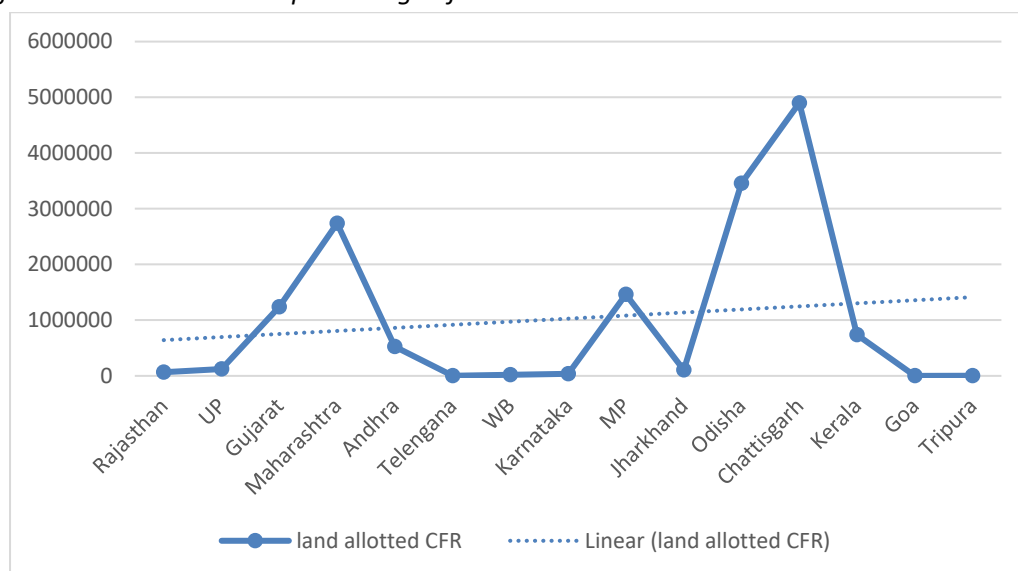
Figure 4.19: Correlation between forest cover and land approved for CFR



(Source: Generated by the author)

In the case of CFR, the positive correlation between the total forest cover and the land allocation under CFR was more pronounced than in the case of IFR, barring some exceptions such as Gujarat on the positive side and Karnataka, Maharashtra, Telangana and MP on the negative side. Jharkhand cannot be really counted on the negative side on account of the nuances related to the Chota Nagpur tenancy act. As in the case of IFR, the total forest cover was now replaced with forest cover as a percentage of land along X axis. However, the land allotted per CFR was not considered given the lack of clarity as elucidated earlier.

Figure 4.20: Forest land as percentage of state area and CFR land allotment



(Source: Generated by the author)

No correlation could be established between the factor of forest cover as a percentage of the total land of the state and land distribution of CFR

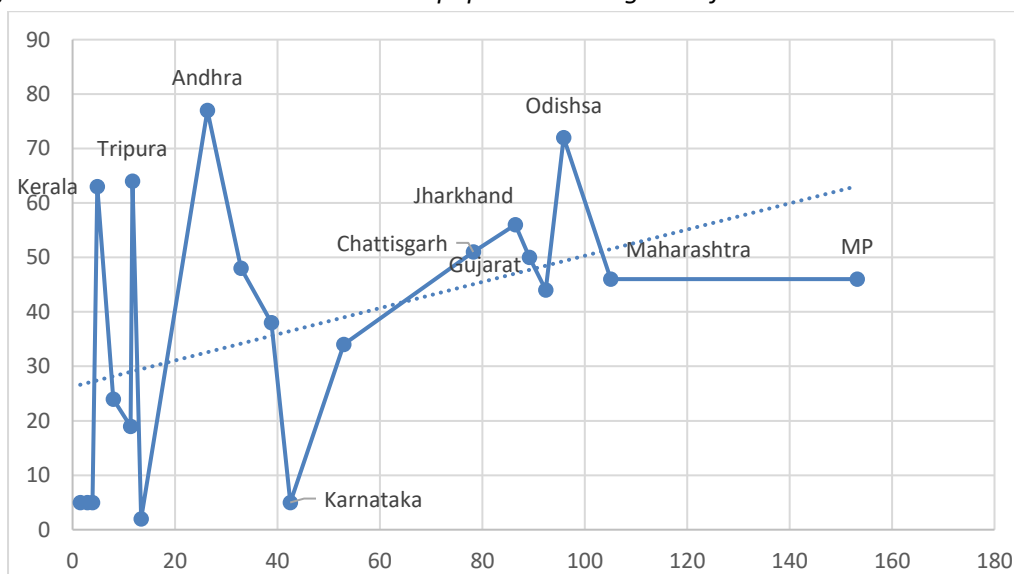
Analysis reveals that there is some sort of positive relationship between the total forest cover available and the land allotted as part of implementation of FRA, with some exceptions. Kerala and Gujarat stand out as exceptions on the higher side (more land distributed compared to forest cover) while Karnataka and Telangana are two states where far less land has been distributed under FRA. However, no correlation was found

between the land distributed under both the rights and the forest cover available as a percentage of the total land area of the State.

#### 4.4.2. Demographic Factors

Having done the comparison of the FRA implementation with geographic factors, the next step was to establish connect, if any, between the tribal demography and the approval of claims. The first factor to be considered was the tribal population in states and the rates of approval. In the graph below, the total tribal population of states was plotted on the X axis against which the percentage approval of IFR claims was plotted on the Y axis.

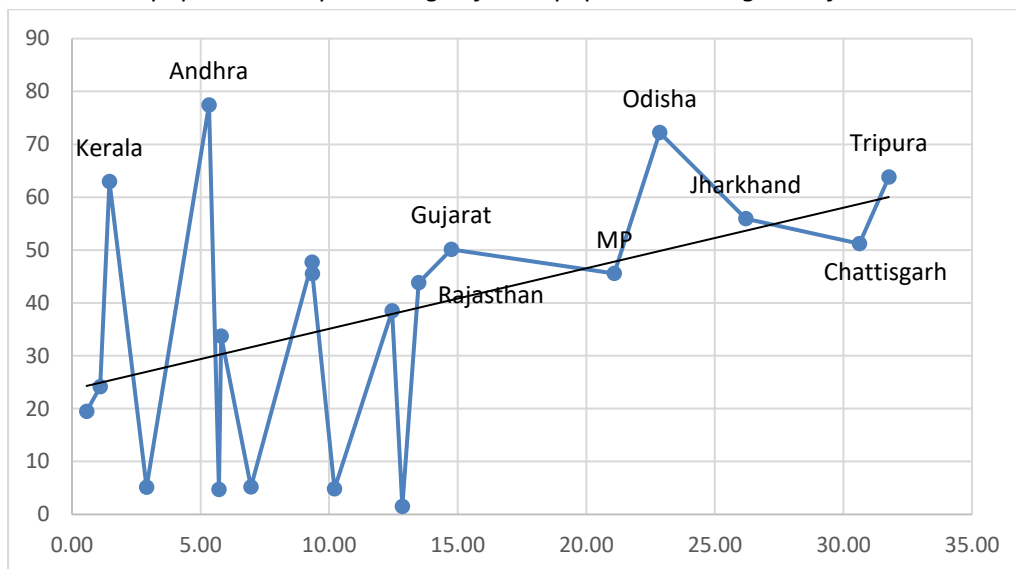
Figure 4.21: Correlation between tribal population and grant of IFR



(Source: Generated by the author)

Table 4.21 shows the correlation of tribal population with approval rates of individual claims. States with more tribal population tend to have higher approval of IFR with an exception of Karnataka. Kerala), Tripura and Andhra are states on the left-hand side of the graph with higher approval rates of individual claims. As the next step, the total tribal population was replaced by the tribal population as a percentage of the total state population on the X axis, Y axis remaining the percentage approval only.

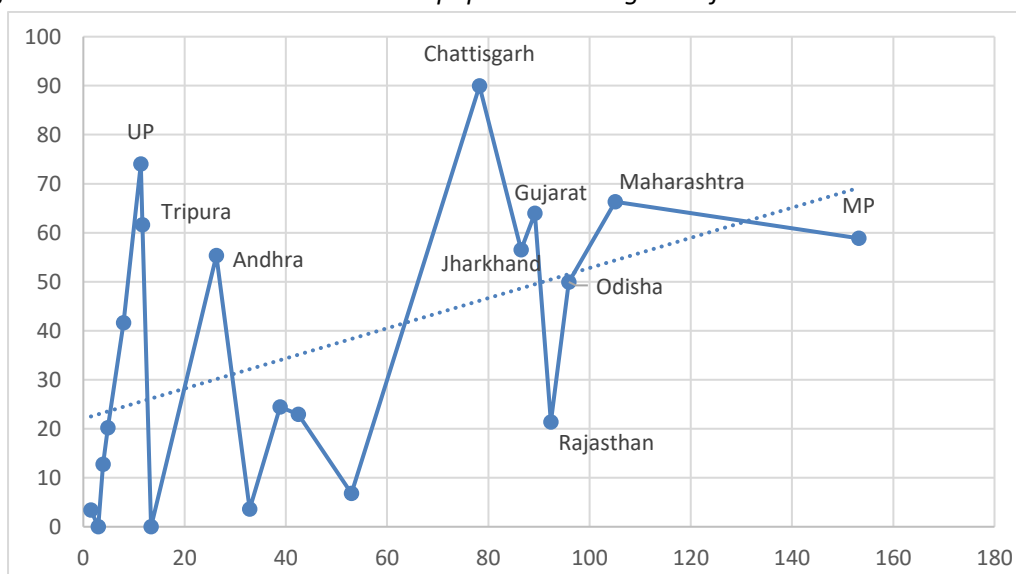
Figure 4.22: ST population as percentage of total population and grant of IFR



(Source: Generated by the author)

In states where tribal population is significant, say around 10% or more, the approval of individual claims is over 40%; Bihar (12.84% ST) and Goa (10.21% ST) being exceptions. Andhra and Kerala are two States where the ST population is not significant as a proportion of the total population, but with high approval of IFR claims. Similarly, the percentage approval of CFR claims was plotted on the Y axis against the total tribal population of states on the X axis.

Figure 4.23: Correlation between tribal population and grant of CFR

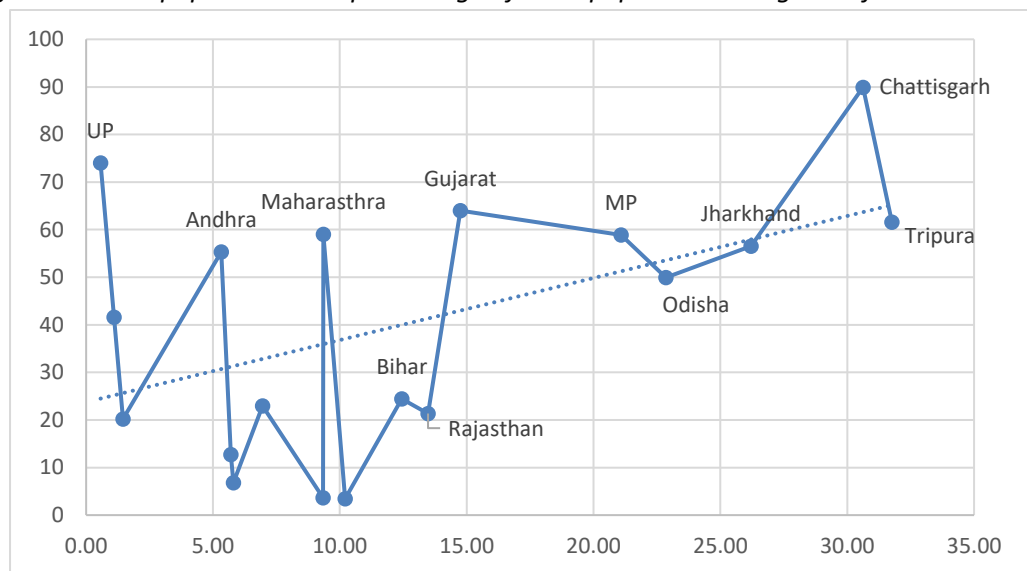


(Source: Generated by the author)

Table 4.23 shows the correlation between the tribal population and approval of CFR claims. States with higher ST population have higher rate of approval of CFR claims barring Rajasthan. Andhra Pradesh, Tripura and Uttar Pradesh are states with lesser ST population that have higher approval of CFR claims.

In the next graph, the total ST population was replaced with ST population as a % of the state population, along the X-axis. The corresponding rate of approvals of CFR was plotted on the Y axis.

Figure 4.24: ST population as a percentage of state population and grant of CFR



(Source: Generated by the author)

A pattern similar to that of IFR approvals emerges here too. In States where the tribal population is a significant, say around 15% or more, the approval of individual claims is over 50%. UP, Maharashtra and Andhra Pradesh are three States where STs form less than 10% of the population, but more than 50% approvals have been granted for CFR claims.

The higher rate of approval of both IFR and CFR claims where the ST population constitutes a significant number -both in absolute numbers and as a fraction of the total population- conforms to the pressure group theory (Becker, 1983).

According to the pressure group theory, pressure is exerted by groups for political influence and the relative ability has a bearing on the outcome. The population, in a democracy, is a significant measure of the ability to exert political influence.

#### 4.4.3 Comparison with states with similar geography and demography

In a quest to further establish any causality between demographic and geographic factors with the implementation of FRA, points of commonality of Kerala with other States was drawn out. The table given below has compared 12 parameters to evolve a matrix to compare Kerala with States which have similarity in geographic and demographic characteristics. These 12 parameters are geographic area, population, population density, Human Development Index, Level of urbanization, tribal population, tribal population as a fraction of total population, ethnicity/culture, forest cover available, forest land as a percentage of total area of the State, forest cover over tree density of 40% (sum of what had been defined as very dense forest and dense forest as per SFRI) and tribal density which would be the determinant of forest dependency. The table has listed States which are closest to Kerala for each of the parameters.

Table 4.2: Demographic and geographic commonality of Kerala with other states

Area	Population	Population Density	HDI	Urbanisation	Tribal Population	Tribals population as % of total	Ethnicity Culture	Forest Cover	Forest Cover %	Dense Forest cover	Tribal density
Punjab Haryana Uttarakhand HP J&K	Punjab   Telangana Jharkhand Assam	      UP	Punjab Haryana Uttarakhand HP  Sikkim Goa  Tamilnadu	   Goa Tamilnadu Karnataka Mizoram	Uttarakhand HP  Sikkim  Tamilnadu	Uttarakhand HP   Tamilnadu  AP	    Tamilnadu Karnataka	Uttarakhand  J&K Telangana Jharkhand  Tamilnadu	Uttarakhand    Sikkim Goa	HP J&K Telangana Jharkhand Assam  Tamilnadu Meghalaya	Uttarakhand HP   Tamilnadu Arunachal

(Source: Prepared by the author based on Census 2011 data)

From the above, it can be concluded that Tamilnadu, which has similarities in eight out of the twelve parameters listed is the closest to Kerala in terms of geographic and demographic conditions. Himachal Pradesh and Uttrakhand also have considerable points of convergence. Telangana, Jharkhand and Goa do have few elements of commonality (Sikkim and J&K could have been included, but not incorporated due to unavailability of adequate data on FRA implementation). A matrix involving Kerala and these six States was evolved to check for any correlation. The factors considered were the rate of approvals of IFR and CFR and the average land allocation under both these rights. The results are summarized in the table given below.

*Table 4.3: Kerala's comparison with similar states on implementation of FRA*

State	Approval % of IFR	Average Area per IFR (Acre)	Approval % of CFR	Average Area for CFR (Acre)
Kerala	63	1.32	17	4231
Tamilnadu	24	1.18	42	NA
Uttarakhand	5	NA	0	0
HP	5	0.05	13	135
Jharkhand	56	2.56	56	49
Telangana	48	3.19	4	36
Goa	5	1.87	4	1.5

(Source: Prepared by the author)

Amongst the above States, Kerala and Telangana display the has the same tendency of substantial approval of IFR claims coupled with poor grant of CFR titles. However, the quantum of average land distributed shows a completely different pattern. The average extent of land title per IFR claim in Telangana -where the forests form much less fraction of the total land area and which has much higher tribal density than Kerala- is more than double the size of that in Kerala (3.19 acres in Telangana against 1.32 km in Kerala).

## 4.5 Conclusion

Detailed analysis of the secondary material based on the government data and previously compiled research summaries brings out the following key points:.

- The HDI of the STs in Kerala is far lower than that of the non-ST population; also, the improvement in HDI of the STs lags behind the improvement rate of others. But the state has the least disparity in HDI between STs and non-STs compared to all other states of India.
- The receipt of claims for IFR has gone up only by 6% in the period between 2017 and 2022. There has been 6% improvement in the approval rate of IFR claims during this period. However, the average land holding of IFR has decreased from 2.44 acres to 2.13 acres. This figure is far less than the upper limit of 10 acres for IFR laid down as per FRA. Only six states, have approved more than 50% of the claims received for IFR. Andhra Pradesh, Tamilnadu and Maharashtra are three States which showed substantial increase in rate of approvals of IFR over the five year period 2017-2022.
- During the period between 2017 and 2022, there has been a 22% increase in the receipt of claims for CFR. This is primarily due to large number of CFR claims in Chattisgarh. The rate of approvals during this period has improved by 12% from 49% to 61% approval of the CFR claims received. The details of land area distributed under CFR appear wrong. However, if a calculation is done based on the available data there is an indication that average land per CFR has decreased from 151 acres to 72 acres during this five year period.

- The figures of land allocation indicate that qualitatively the results of IFR and CFR title distribution has been poor.
- The analysis indicates a positive correlation between the total forest cover available and the land distributed under both IFR and CFR. Barring exceptions, more area has been distributed in states with more forest cover. Kerala stands as an exception, having distributed more land under CFR despite having less quantum of forest in absolute terms. No correlation could be established between forest cover as a fraction of the total area of the state and the land allocation.
- There is a positive correlation between the total ST population in a state as well as ST population as a percentage of the population of the State and implementation of FRA in quantitative terms. States with substantial ST population (in absolute numbers as well as states where STs contribute 10% or more of the state's population) have approved more claims. This applies to both IFR as well as CFR.
- Kerala is an exception in larger share of approvals of IFR despite having limited ST population. Historical analysis shows that this is attributable to the legacy of reform movements and land struggles. However, in terms of per capita area under IFR, the state has a poor average of 1.32 acres per family, which is far less than the national average of 2.13 acres. Kerala has a poor record in the rate of CFR approvals, but the area allotted under CFR is substantially large compared to all other states.
- The approval pattern of IFR and CFR in Kerala do not show any similarity with states of similar geographic and demographic disposition. In terms of approval pattern, Kerala State did display a common tendency of high

approval of individual claims and low approval of community rights with the state of Telangana. However, its demographic and geographic similarities with Telangana are minimal. Thus, it can be concluded that Kerala does not conform to any of the positive correlations observed from the analysis of secondary data.

While the states where STs make up significant numbers (both in absolute terms and as a percentage of the State population) have shown more proclivity to pass both individual as well as community rights claims, it does not have a positive correlation with per capita area of land distributed. Also, the forest cover availability has no bearing on the area divested from the guardianship of the Forest department while implementing FRA. At the same time, there is enough qualitative evidence available that the implementation of FRA is directly dependent on political action. STs become a significant political constituency with the power to negotiate, in states where they form significant numbers. Political action and focused demands, such as the land rights movement in Kerala, can manifest in two forms; one popular movement emerging from below or movements emanating through a deliberate process of mass mobilization instigated from the top. In the absence of such political mobilization, the results can only be achieved through focused government action.

## CHAPTER 5: ANALYSIS OF GRANT OF COMMUNITY RIGHTS UNDER FRA IN KERALA

*“However good a constitution may be, if those who are implementing it are not good, it will prove to be bad. However bad a constitution may be, if those implementing it are good, it will prove to be good”*

*Dr B R Ambedkar*

### 5.1. Introduction

The first National Review on implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 took place in the year 2010. This was undertaken by a committee convened jointly by the Ministry of Environment and Forests and the Ministry of Tribal Affairs in April 2010. The committee members included experts from a wide array of experts from diverse backgrounds. They consisted of retired civil servants, forest officers, tribal department officers and representatives of civil society organizations and NGOs. The terms of reference of the Joint Committee included the following in addition to the review of the progress of implementation (Manthan, 2010).

- Recommending policy changes for future management of the forestry sector in India which may be warranted as a consequence of implementation of FRA.
- Identifying the role of various agencies in enabling the forest-dwellers to carry out their roles of forest conservation and management. Also redefine the role for the forest department vis a vis the gram sabha for forest conservation and regeneration.

- Suggesting means to ensure convergence of various beneficiary-oriented programmes taken up by various government departments for the forest rights holders.

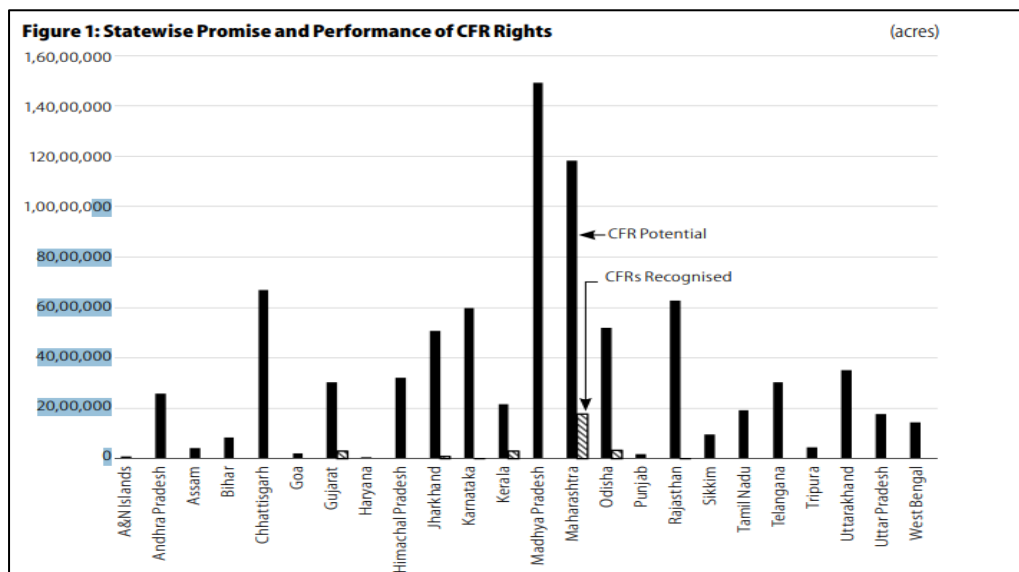
It is evident from the above terms of reference that the grant of community rights was envisaged as a means of democratic decentralization and empowerment of the STs and OTFDs. Inspiration could be said to be drawn from Van Panchayats in Kumaon, customary tribal practices and forest access practices of Andhra Pradesh, Tamil Nadu, etc, the Chhotta Nagpur Tenancy Act in Jharkhand etc. The careful recording of *nistar* rights in certain parts of central India and tribal ownership of forests in parts of north-east India could be used as benchmarks for establishment of community rights.

The Report had highlighted that many states considered the implementation of the FRA 2006, albeit myopically, as an opportunity to ‘distribute’ forest land with the aim of securing the tenurial rights of forest-dwellers including tribal people. Setting of deadlines with an eye on electoral politics and setting up of target-oriented review mechanisms, it was noted, had contributed to distorted execution, overlooking the quality of the process, despite there being no deadline for implementation. The report specifically pointed out to lack of preparedness, inadequacy of trained staff to deal with the complex process of land survey, demarcation of boundary and settlement of land rights in forest land (Manthan, 2010). Similar sentiments were also reflected in the HLC report, 2014 convened under the chairmanship of Prof Virginius Xaxa. It was observed that even in 2014, the awareness among claimants and FRC members about CFR was abysmally low; it stood out in stark contrast even when compared to awareness about IFR dealing with habitation (HLC, 2014).

In this regard, Kerala could be listed among the states that took proactive action to implement FRA. By 2009, 504 Forest Rights Committees were formed in Kerala. The state also had a legacy of social reforms including the historic *Kerala Land Reforms (Amendment) Act, 1969* which put an end to the feudal system and *Kerala Scheduled Tribes (Restriction on Transfer of Lands and Restoration of Alienated Lands) Act, 1975*. (Radhakrishnan, 1981). It also boasts of a very high level of political awareness. It was possibly on account of these that 85.45% of the total claims were filled by 2009, covering 1086 total settlements spread across the state with 742 of them filling all the claims (Sathyapalan, 2010). While political mobilization did result in granting priority to land allocation to individual families, grant of CFR has not seen adequate progress.

A study by Community Forest Rights-Learning and Advocacy (CFR-LA) in 2016 had estimated that the CFRs in the country had the potential of recognizing up to 85.6 million acres (34.6 million hectares) of forests excluding the states of Arunachal Pradesh, Manipur, Nagaland, Mizoram and Meghalaya. This translated to potentially an estimated 200 million beneficiaries which included STs and OTFDs in over 1,70,000 villages as the users of this potential area. The magnitude of this number can be gauged from the fact that India's joint forest management programme, as per the data hosted by Forest Research Institute on behalf of MoEF&CC, indicates that 22.94 million hectares (56.68 million acres) of forest area is currently under JFM (<http://www.frienvi.nic.in/>). This contributes 28.3% of the total forest cover of India amounting to 80.9 million hectares. The state wise potential for the extent of CFR as assessed by CFR-LA (2016) is presented in the figure below.

Figure 5.1: Potential vs realisation of CFR



(Source : CFR-LA, 2016)

In the case of Kerala, the potential was estimated at about 2.2 million acres which translates to about 9000 sq km. The figures of 2016 pitched the figures recognized for CFR in Kerala at about 3,00,000 acres. If one were to depend on the MoTA website figures, the area covered under CFR is under 8,00,000 acres (about 2900 sq.km) which translates to more than 10% of the forest cover in the State. However, this figure has not been supported by the latest report submitted to Kerala State Government (Sub-working group report, 2021).

## 5.2. Highlights of the Inter-District Variation

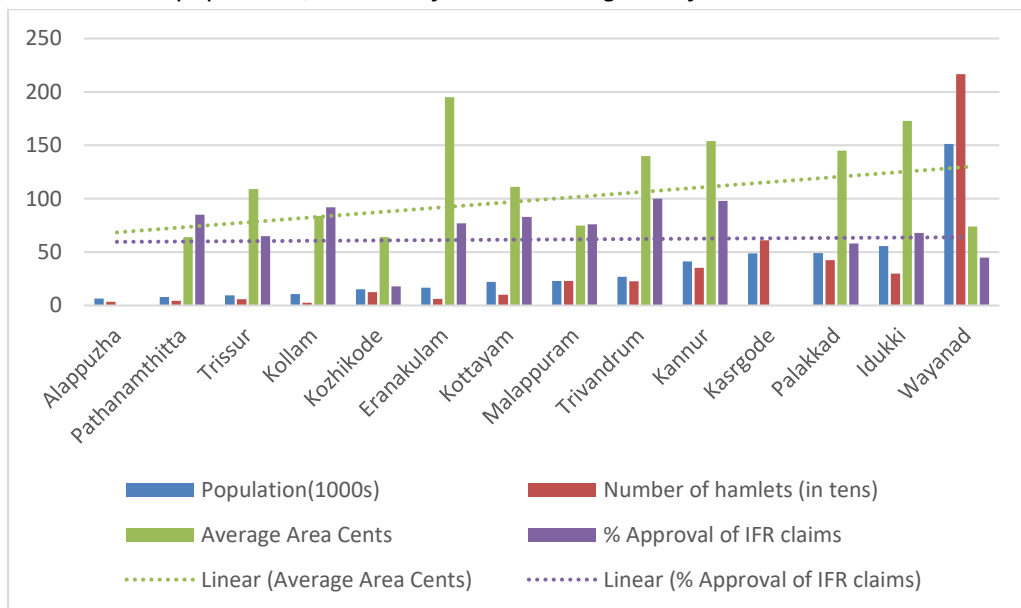
### 5.2.1 Individual Forest Rights

The data accessed from Kerala State Government, forest department, Tribal Mission, previously published research papers (Raj, 2019, Jithin, 2020), the Report of the Working Sub-Group for the ‘Assessment of the Implementation of the Forest Rights Act in Kerala for the Fourteenth Five Year Plan 2022-27’ (hereafter referred to as Working sub-group report, 2021), were analysed to carry out the comparison between different districts within the State. Particular focus was given to Wayanad which has

the maximum population of ST population within the State. In Wayanad district, the average size of forest land allotted was 0.74 acres which is far less than the State average of 1.32 acres. During the field visit, it was observed that in many places the families were staying in congested colonies and most families did not possess any agricultural land.

The figure given below depicts the parameters of grant of IFR pertaining to different districts. It gives the relative figures of the ST strength, number of hamlets, average land allotment for IFR and approval rate of IFR across the districts of Kerala. The districts have been arranged in the ascending order in terms of the ST population.

Figure 5.2: Tribal population, number of hamlets and grant of IFR



(Source: Generated by the author)

Following are the highlights on the approval of IFR claims in different districts of Kerala:

- 87% of rejected claims are from Idukki, Palakkad, Wayanad and Thrissur districts.
- Highest number of claims are rejected by the SDLC in Palakkad.

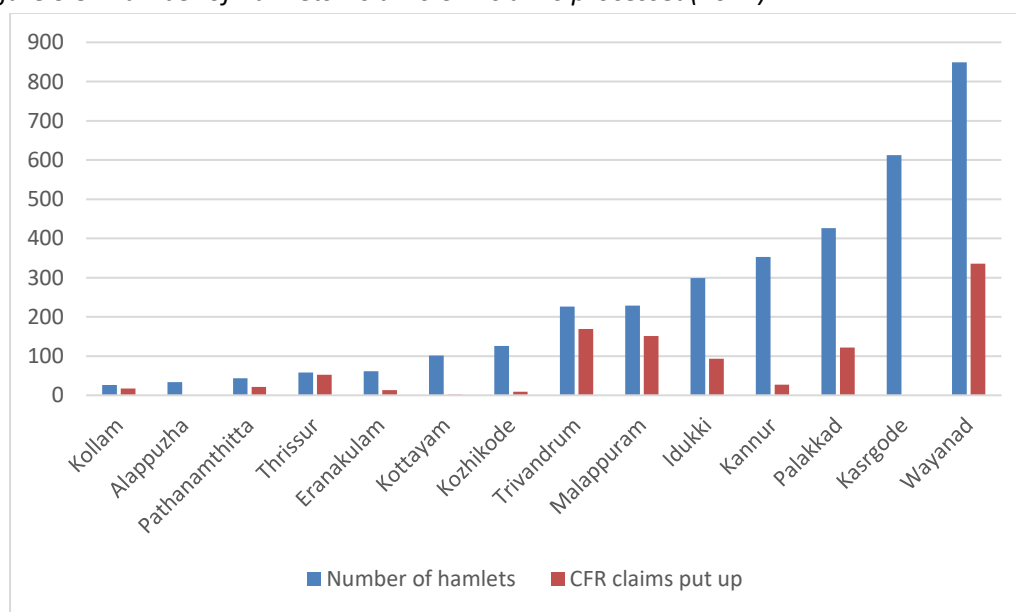
- Highest number of claims are rejected by the DLC in Thrissur.

Although there is a general tendency for higher per capita allotment of land for districts with higher ST population, the trend in approval rates does not show this trend. In Wayanad district which has the highest population, the land allocation is drastically low compared to all other districts. Wayanad also has a very poor approval rate of 45% of IFR claims. At the same time, the Working sub-group report (2021) mentions that the rejection at the gram sabha level also was the highest in Wayanad.

### 5.2.2 Community Forest Rights

Because the core issue of research is the grant of community forest rights, greater focus was laid on analysing the issue. The basic assumption for the community access and management of forest areas and produces is that the resource is the common property of the community. Thus, the smallest unit which can stake claim to the forest resource is a hamlet, though it could even be a group of hamlets. The graph below depicts the comparison between the number of hamlets and the number of claims.

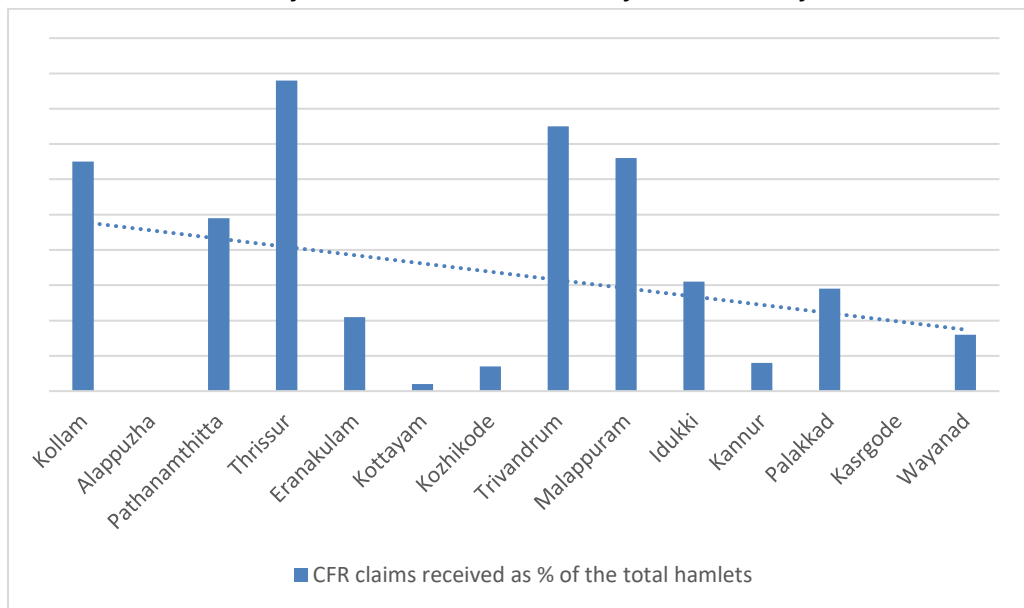
Figure 5.3: Number of hamlets vis a vis CFR claims processed(2021)



(Source: Generated by the author)

The graph has arranged the districts in ascending order of the number of tribal hamlets which are shown in blue bar. Shown in red is the number of claims forwarded for grant of CFR. There were very few numbers of claims for CFR compared to the total number of hamlets in districts with large tribal population. In fact, despite having the second largest number of tribal hamlets, there have been no CFR claims from Kasargod. In Wayanad there are 2167 settlements, but only 362 claims were received for CFR. Idukki, which has the second largest ST population with 299 settlements saw only 93 claims for CFR. On the contrary, there was larger proportion of demand for CFR from districts such as Trivandrum, Thrissur and Malappuram. The community claims received as a fraction of the total number of hamlets in the various districts are illustrated in the graph below.

Figure 5.4: Claims received from various districts as % of the number of hamlets



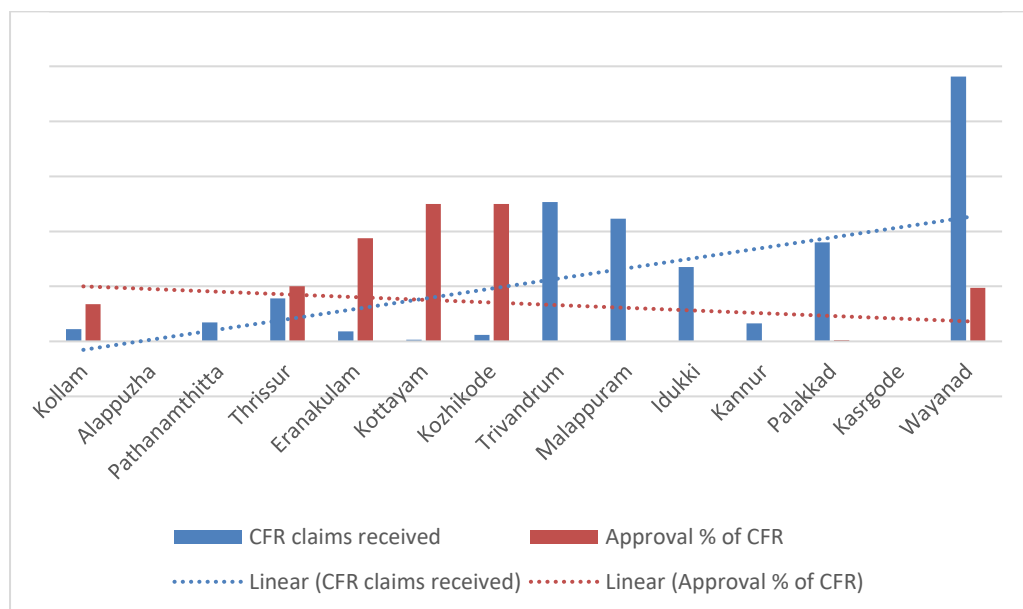
(Source: Generated by the author)

The graph has been arranged with the X axis depicting the districts in ascending order of the number of hamlets in the district. The Y axis depicts the number of CFR claims received per 100 hamlets in each district. Wayanad, Idukki, Kasargode, Palakkad and Kannur which have relatively large tribal population have seen lesser

proportion of demand for CFR. The receipt of CFR claims as a fraction of the total number of settlements show a negative correlation to the number of settlements; the districts with more settlements tend to process relatively lesser number of claims. The districts of Thrissur and Trivandrum which account for 2% and 5% respectively of the total tribal population of the state and 1% and 5% of the number of tribal hamlets in the state had more claims for grant of CFR compared to the districts with more number of settlements. One of the reasons for this anomaly is that not all communities were traditionally forest dwellers. For example, Paniyars the largest tribe and Adiyar, another major tribe were traditionally agrestic slaves and bonded labourers.

The total number of hamlets has been compared with the receipt and approval of CFR claims in various districts in the next graph. Shown in the graph along the X-axis are the districts in the ascending order of the number of hamlets. The Y axis depicts the number of CFR claims received and the approval rate of the CFR claims.

Figure 5.5: Number of tribal hamlets, CFR claims receipt and approval %



(Source: Generated by the author)

While in absolute terms, there is a positive correlation between the number of settlements and the receipt of CFR claims, there is a negative correlation between the number of settlements and the approval of CFR claims. There has been receipt of no CFR claims from two districts (Alappuzha and Kasargode), while out of the balance 12 districts, there have been no approvals in five districts. These five also happen to be the largest in the number of tribal settlements after Wayanad.

The major observations about community claims are summarized below.

- Only 17% of the CFR claims have been recognised so far.
- Maximum recognised claims (70%) are from only Wayanad district.
- Majority of the CFR claims were rejected also in Wayanad.
- Majority of the claims are pending at the SDLC (Working sub-group, 2021).
- While the MoTA website lists certain quantum of land as having been distributed under community rights, there is no authentic dataset on the recognised area for each CFR claim as per the report of the Working sub-group (2021).

While the approval rates of IFR are reasonably high, the average land allotment is poor in Kerala and very poor in Wayanad. The progress on the grant of CFR has been extremely poor. The analysis of the data as well as the field visit portray a very dismal picture of the implementation of FRA in Kerala, particularly concerning CFR.

### **5.3 Reasons for poor record in grant of CFR in Kerala**

The Forest Rights Act does not specifically mention the term individual rights. However, the MoTA website which reflects the data on implementation of FRA classifies the rights into two, individual and community. In the case of Kerala, there is

a high percentage of approval in the case of individual rights, but the approval of community rights claims is very poor. Analysis of the distribution of land titles under FRA in Kerala showed variation in land distribution in various districts. Idukki district which had the second largest tribal distribution had the largest area distributed, while Wayanad featured lower than Thiruvananthapuram which had very limited tribal population. At the same time, an impact assessment on socio-economic and livelihood improvement (Mathew and Umesh, 2019) found that implementation of FRA had different impact on different communities; the Kuruma tribe benefitted the most amongst all the communities of Wayanad and had ‘very good’ socio-economic condition after the implementation of the act. A similar study in Palakkad district concluded that there was improvement in the different domains of the developments in the lives of tribals on account of FRA (Wilson & Rajesh, 2018).

A similar study undertaken by the Department of International Environment and Development Studies at the Norwegian University of Life Sciences concluded that the FRA could not achieve the promised objectives of remedying the historical injustice and providing effective land rights to the Adivasis of Wayanad. What the tribes received as security of tenure merely amounted to dwelling sites. Moreover, those who were able to gain some rights were those involved in land occupation struggles. This indicated the importance of struggles over state intervention in gaining effective rights in land (Kjosavik & Shanmugharatnam, 2019). Both these facets of FRA implementation were corroborated during the field visit. Firstly, it was observed at the hamlets visited that the land available to most families amounted to dwelling space and there was very limited cultivable area in the name of Adivasi families. Many of them had resorted to leasing land and undertaking cultivation of rice, plantain etc. Secondly, there were areas in Wayanad that the government was forced to regularize after forcible

occupation by Adivasis. Godavary colony which had a mixed community composition was one such hamlet.

The absence of a central database on status of grant of CFR makes quantitative analysis of CFR more challenging than IFR. In most areas across different states of India, the affected people are simply unaware of the CFR provisions. But even when they have applied for these rights, the claims have met with multiple hurdles. Sahu, Dash and Dubey (2017) list the following shortcomings in grant of CFR:

- Claims left unattended for several years.
- Claims are illegally rejected.
- Claims are either partially granted or granted with preconditions that do not conform to the CFR provisions of the Act.
- Area much smaller than being used by the community granted.
- CFR titles issued in the name of the gram panchayat or joint forest management committee but not the gram sabha.

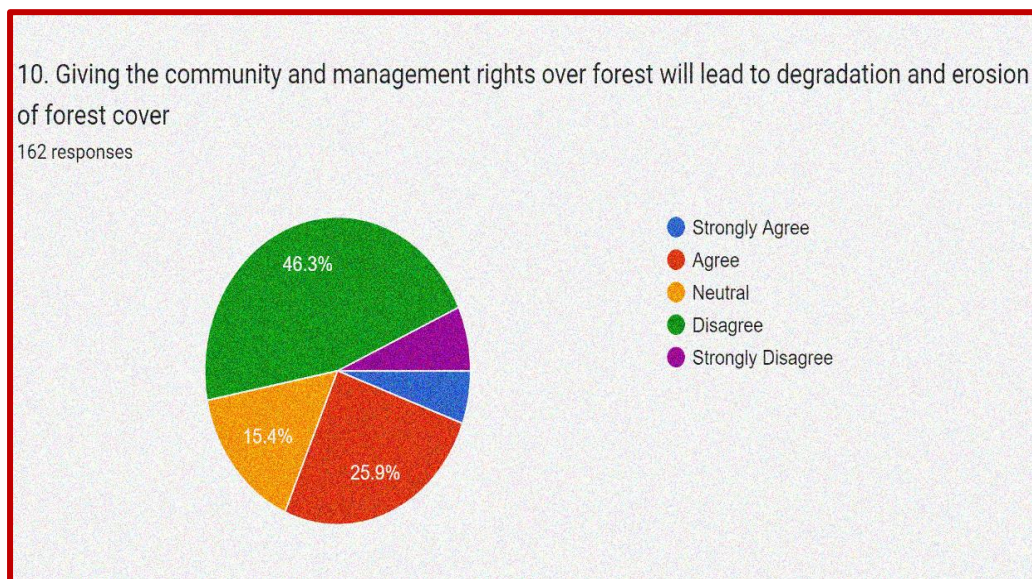
After obtaining inputs from all the Stakeholders and conducting primary research, the reasons for poor grant of CFR titles in Kerala can be summarized. The reasons for these are discussed under separate heads with the corroborative analysis and findings.

### **5.3.1 Ambiguities regarding scope**

From its very inception, the law came under challenge from various sections of the society, with many wildlife groups challenging its validity in court. What is even more interesting is that the challenge to the legality, viability and utility of FRA actually comes from both ends of the 'development spectrum'. The conservationists feel that granting community rights and free access to forests to tribals would lead to

deforestation. This argument is corroborated by the pending case in Supreme court which has challenged the validity of the law. Amongst the grounds for challenge is a claim that land being a State subject, the union government is not entitled to enact such a law. As far as implementation goes, the final authority for approval is the DLC and the final authority for monitoring is the State level monitoring committee. There is nobody prescribed under FRA or FRR at the Centre to oversee the implementation of the act. Contrary to what the conservationists argue, the ‘modernists’ feel that rendering the veto power on the forest dwellers hinder the country’s march towards development. The survey amongst the government servants and informed citizens with linkages to the government (Group 1) seemed to confirm this dichotomy.

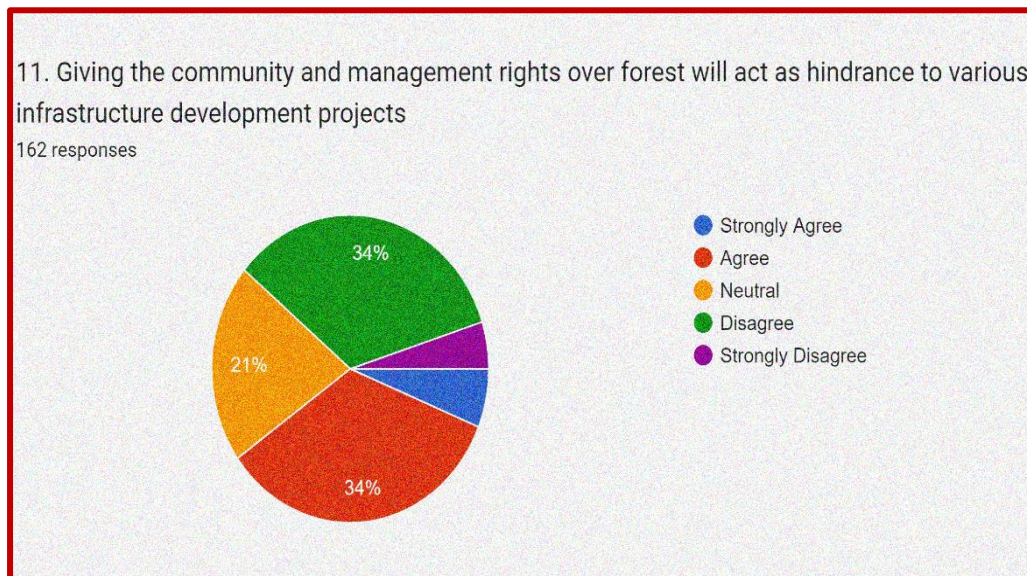
*Figure 5.6: General perception on relation between community rights and deforestation*



(Source: Summary of responses to question addressed to Group 1)

Although the majority of respondents from Group 1 (53%) did not believe that conferring community and management rights to tribal people would lead to degradation and erosion of forest cover opinion, there were a fair number of skeptics (32%) too in Group 1. In the case of the impact of grant of CFR on infrastructure development in the country, the opinion of Group 1 was more or less equally divided.

Figure 5.7: Perception on impact of CFR on infrastructure development



(Source: Summary of responses to question addressed to Group 1)

Those who felt that grant of CFR to tribal communities would hamper development projects (40%) and those who felt it would not (39%) were nearly the same in number. These divergences, in many ways, is also linked to the debate on the choice between ‘sustainable development’ and ‘the greater common good’ (Menon, 2007).

In addition to the confusion regarding the legality and the need for FRA, there are ambiguities regarding the amplification of different rights contained in the FRA. The Forest Rights Act lists 13 specific rights under sections 3(1) (a) to 3(1) (m). Amongst these thirteen is Section 3(1) (i), which grants the ‘*right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use*’. Community forest resource is defined in Section 2(a) as “*customary common forest land within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities, including reserved forests, protected forests and protected areas such as Sanctuaries and National Parks to which the community had traditional access.*” The

area to be earmarked as community forest reserve is a bone of contention since it includes not only those adjoining the settlements but also those areas which the communities were accessing seasonally. There has been ambiguity among different government departments about determining the limits of community resources. While some people argue that the grant of CFR automatically entails the communities right to manage forests, others, particularly forest officials argue that the management rights are to be determined separately.

Unlike the community rights, Section 3(2) talks about the provision for the diversion of forest land by the central government for certain categorically listed purposes with a caveat on felling of trees, and has been called as developmental rights.

The traditional access of forest-dwelling communities to forests was not uniform. The resident communities would customarily resort to daily access, use, management, and/or protection, mostly of areas in proximity to the settlement. They would also consistently have seasonal access, use and management, of farther areas for NTFP collection, grazing, etc and occasionally have access and use of certain areas, in times of crisis, or for particular social occasions. The first two kinds of access merge or overlap in the case of nomadic or mobile communities, such as many pastoral herders. Keeping this factor of customary utilization of forest resource in mind, the community rights need to be viewed in the context of the community empowerment; duties of traditional institutions and forest-rights holders envisaged in the act in this regard are amplified in Section 5, which grants them the following rights:

- *“Protect the wildlife, forest and biodiversity.*
- *Ensure that adjoining catchments area, water sources and other ecologically sensitive areas are adequately protected.*

- *Ensure that the habitat of forest-dwelling STs and OTFDs are preserved from any form of destructive practices affecting their cultural and natural heritage.*
- *Ensure that the decisions taken in the gram sabha to regulate access to community forest resources and stop any activity which adversely affects the wild animals, forest and biodiversity are complied with.”*

The implementation of the provisions as envisaged in the Act has implications for governance of forests. However, the community rights claim form (Form B) did not mention anything about the rights under Section 3(1)(i) about the right to manage and conserve (Manthan, 2010). The Forest Rights Rule 2008 which was framed to implement the Act provided for two formats - Form A and Form B respectively - to apply for individual and community rights. Based on the report of the Joint Committee in 2010, the amendments to the Rules of 2008 were promulgated in the form of amended rules of 2012. So, in the Forest Rights Rule 2012, there are two separate formats of application for grant of community rights and community resources rights. These were inserted by Rule 14 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E). dated 6th September, 2012). These formats are enclosed as **Appendices F & G**.

Community rights (CFR) have been listed specifically as the following under the 2012 rules:

- *“Rights such as nistar, rights over MFPs.*
- *Uses or entitlements (fish, water bodies), grazing, traditional resource access for nomadic and pastoralists.*

- *Community tenures of habitat and habitation for PTGs and pre-agricultural communities.*
- *Right to access biodiversity, intellectual property and traditional knowledge*
- *Other traditional right, if any.”*

Unlike the former, the Right to Community Resource (CFRR) is a claim to a resource to which the community had traditional access and which they have been traditionally ‘*protecting, regenerating, conserving and managing for sustainable use*’. This resource could be either of the following:

- *“A resource within the traditional or customary boundaries of the village.*
- *Seasonal use of landscape in the case of pastoral communities to which the community had traditional access and which they have been traditionally protecting, regenerating, conserving and managing for sustainable use.”*

Rule 4(1)(e) of the Forest Rights Rule grants the gram sabhas the authority to “constitute committees for the protection of wildlife, forest and biodiversity, from amongst its members.” Section 3(1) could be interpreted that the right to manage forests is limited only to those areas where the community has traditionally been protecting and conserving such forests for sustainable use. In all other cases, rights are to be given for use, ownership of MFPs, and access only. The Rules of 2012 seem to conform to this distinction as there are different forms for the two categories of rights. Form B is meant for community rights such as nistar, grazing and collection of MFPs, whereas Form C specifically seeks the rights to community forest resources specifically granted under Section 3(1)(i) of the act. This has been defined as Community Forest Resource Right (CFRR).

The variation in scope between CFR and CFRR presents challenges in implementation. While some people understood that the grant of community rights automatically empowered the gram sabhas to manage those resources, others felt that the management rights is limited to separately notified, much smaller area. Notwithstanding the provisions of FRR 2012, Section 5 of the FRA seems to suggest that the gram sabha or its committees would manage even such forests where there has been no history of community management (Saxena, 2017). The term ‘traditional and customary boundary of a village’ is also vague and contestable which can lead to difference in views. Moreover, the data on the areas which were traditionally managed by the forest-dwelling communities is also sketchy. Thus, the scope of CFR can vary grossly based on the interpretation of areas of traditional access. The forest officials in Kerala were clear in their conception that the right of management was only limited to an area separate from those to which the tribal people had access. Although the FRR, 2012 distinguishes CFR from CFRR, the data sets given out by all implementing agencies only mention community rights under one head.

As per the handbook on implementation of FRA issued by the Kerala State Government, the two, community forest rights (CFR) and the community forest resource rights (CFRR) require separate processing of the claims. Different formats are also listed in the handbook. However, the difference between the two is hardly known to most of those involved in implementation as well as other stake holders. This was evident during the interaction with various stake holders. This difference between CFR and CFRR is not clear to most of the stake holders. In Kerala, this kind of CFRR has only been implemented in two areas in Thrissur district.

Many a time, the development right, i.e; the diversion of forest land for creation of infrastructure has been misunderstood as the community right. The table below gives

the details of forest land diverted for various development projects sought by the ST communities.

*Table 5.1: Details of developmental rights granted under FRA in Kerala*

District Name	Total Number of Claims Filed Under Section 3.2	Total Number of Claims Recognised as on 31 <sup>st</sup> July 2021	Extent of Forest Areas diverted for the recognition of rights under Section 3.2 (in ha)	Average area for the recognised DR claims (in acres)
TVM	167	163	33.470	0.20
Kollam	29	24	0.247	0.01
Pathanamthitta	11	4	2.223	0.55
Kottayam	59	5	0.049	0.009
Idukki	184	150	20.329	0.13
Ernakulum	48	48	14.487	0.301
Thrissur	29	28	21.789	0.77
Palakkad	31	31	0	0
Malappuram	38	38	11.590	0.305
Kozhikode	0	0	0	0
Wayanad	176	159	75.235	0.47
Kannur	17	7	7.962	1.13
Alappuzha	0	0	0	0
Kasaragod	0	0	0	0
Total	789	657	187.38	0.28

(Source: Sub-Working group Report, 2021)

There is also lack of clarity on “*community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity*” listed at Section 3(1) (k). The obligations of the state towards people/communities with such rights is vague as in the case with the older Biological Diversity Act 2003, which has a similar clause for protection of traditional knowledge (Manthan, 2010). The data available with the state as well as the report in the MoTA list only one column of community rights. There is no central repository at national level that lists the details of CFRR granted.

The provisions of FRA only grant eligibility to those adivasis who had already occupied forest land before the cut-off date of 13 December 2005. This precondition has been harsh and unjust on those who were displaced from their forests and did not get the opportunity to occupy forest land anew before the cut-off date (Kjosavik and Shanmugaratnam, 2021). This has also rendered the approval of claims prone to

subjective interpretations. While this refers primarily to IFR, the delays in approval of Individual claims create a second order effect by not giving the tribal population the time or inclination to concern themselves with CFR.

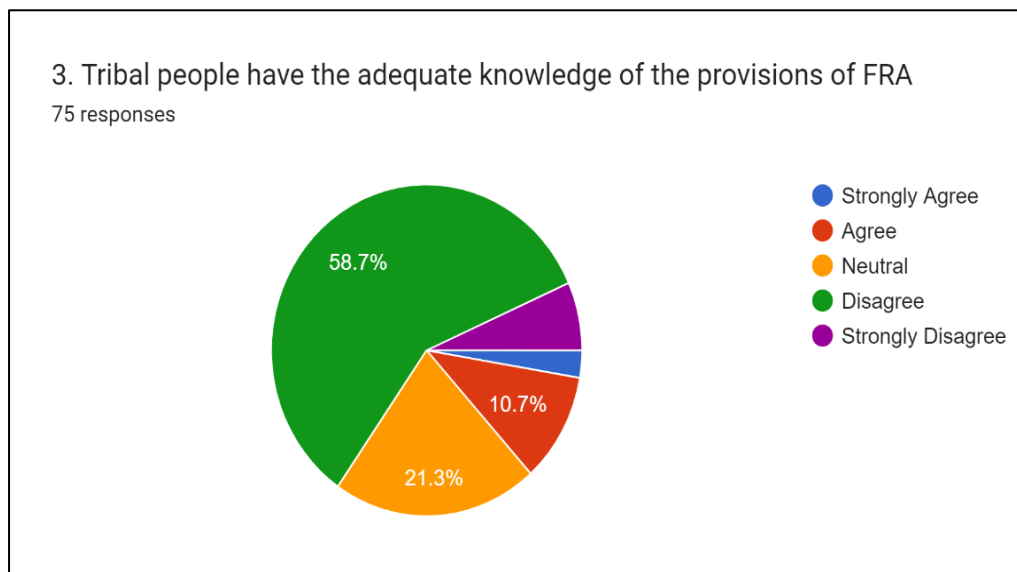
### **5.3.2 Lack of awareness**

Akin to ambiguity amongst the implementers regarding the scope of community rights, there exists lack of awareness about CFR amongst the target populace. During the Focused Group Discussions (FGD), it was evident that the tribal people simply lacked the understanding of community rights. The act was simply being viewed by them as a means to ensure the security of a home and a place to live. Neither the tribal promoters working specifically on the subject of tribal welfare nor the animators of Kudumbashree had any idea about the scope and implications of the facet of CFR.

Certain training programmes were conducted during the initial stages to spread awareness amongst the target population as well as the staff of various government departments for implementing FRA. However, this does not seem to have had the desired impact on implementation of FRA. During the field visit the researcher had an opportunity to attend one of the sessions on FRA conducted at Thondarnadu village by representative of the Keystone Foundation, an NGO working on tribal welfare. The ‘*Oorukoottam*’ (gram sabha) was assembled for the discussion. It emerged clear that the gram sabha was completely unaware of the provisions of CFR. One of them did mention that the papers for CFR were given for certain areas, but were not aware of the limits or areas earmarked.

In the survey carried out amongst the subject matter experts (Group 2,), the majority opined that the level of awareness amongst the tribal people regarding FRA in general and CFR in particular was very low.

Figure 5.8: SME opinion on awareness of STs about the provisions of FRA



(Source: Summary of responses to question addressed to Group 2)

Unlike many other states, Kerala has much lesser homeless people amongst the STs. Most of them also have some land allotted in their names either as part of FRA implementation or under some other re-distributive scheme. This included non-forest land allocated to ST families, such as in Godavary colony. In certain other places such as Irumbupalam hamlet, the families who were staying deep inside the forests were rehabilitated to the periphery.

In all the places in Mananthavady Taluk, there were hardly any families which did not have a dwelling space, even though the condition of many of these left a lot to be desired. Houses were constructed through multiple schemes. In some cases, they were built and given to the families while in other instances, financial aid was provided and construction executed by the families through sources of their choice.

The documentation in some of these cases are pending and people are yet to get the land possession documents. The concerns expressed by the people during the field visit, revolved around IFR only. The main points raised were the following:

- The land area approved is far less than the area which was originally occupied.
- Inordinate delay in receipt of possession documents.
- The “Record of Rights” granted does not translate to complete ownership.
- The land ownership not being absolute and the allotted property being non-transferrable, cannot be mortgaged to obtain bank loans.
- Poor quality of construction of houses.
- Lack of funds for maintenance of older houses.

There was no strong community demand from any of the groups for CFR. FGDs and the interaction with the adivasis of Wayanad district clearly brought out their lack of awareness about CFR.

### **5.3.3 Lack of political will**

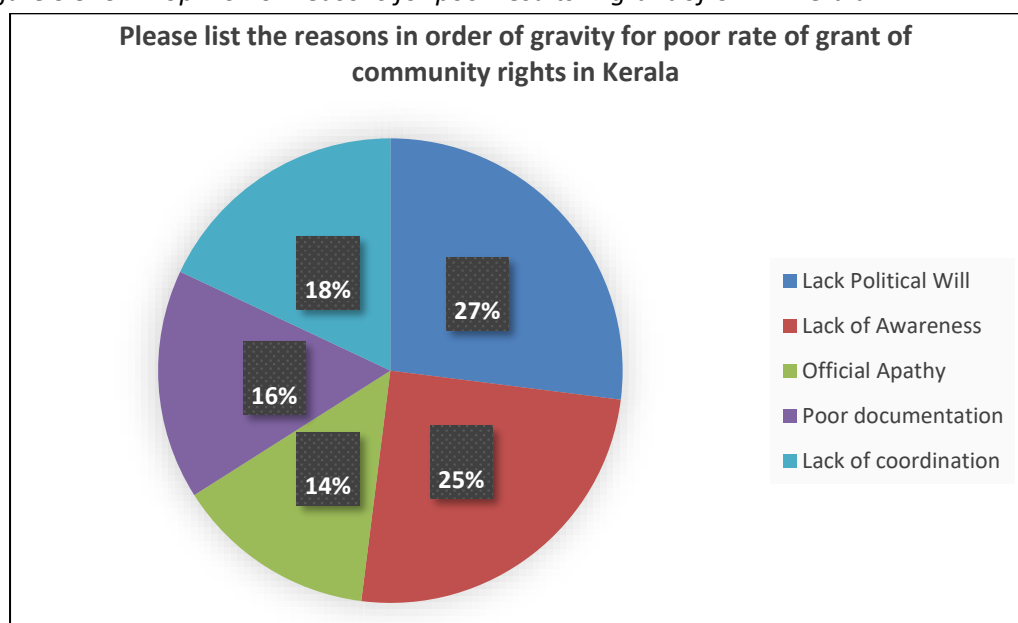
States with considerable tribal population such as Madhya Pradesh, Chattisgarh, Jharkhand, Odisha, Maharashtra, Gujarat and Tripura have a better record in grant of CFR. Chattisgarh stands out as the State with the highest percentage of approval of CFR claims. Invariably, political will has been a key factor leading to this outcome.

Individuals develop a group identity based on multiple factors such as ethnicity, language, and many other real or imagined commonalities. It is this sense of group identity that also organizes people into pressure groups capable of political action. The economic approach to political behavior presupposes that the efforts of individuals and groups to further their own interests determine the actual political choices. Arthur Bentley had argued in his 1908 book ‘The Process of Government’ that political redistribution of income and other public policies are built on competition among pressure groups for political favours (Becker, 1983). In places where the STs contribute

a significant fraction, they do form an effective pressure group which enhances the scope for affirmative action.

Kerala suffers in this regard since the STs make up only 1.45% of the total population of the state. Even this small population belongs to 36 different tribes spread over 14 districts. These different groups cannot be brought under a homogeneous classification on account of the differences in their traditions, way of life, belief systems and model of forest dependence. Further, they live in small hamlets with an average strength of around 30 families, with many of them with an adult population of under 25 people. In such a condition organizing the tribal groups into an effective political constituency possess a significant challenge. This is quite unlike the Scheduled Castes who, by virtue of their different cultural and demographic conditions, have been able to organize themselves into effective pressure groups. The responses received from Group 1 also list out lack of Political will as the most significant reason for poor implementation closely followed by the lack of awareness.

Figure 5.9: SME opinion on reasons for poor results in grant of CFR in Kerala



(Source: Summary of responses to question addressed to Group 2)

Kerala has had a legacy of revolutionary social reformist initiatives, with particular emphasis on land re-distribution. Organised movements for empowerment of SCs and other oppressed classes followed the wake of the rise of left movements in the State in the first half of the 20<sup>th</sup> Century (Lal, 2016). Such movements saw celebrated successes as in the case of the temple entry movement in Travancore (Jeffrey, 1976). However, the ST population, which has a fragmented habitat pattern has never been a significant political constituency as a pressure group. This factor contributes significantly to the poor record in grant of CFR in Wayanad district and Kerala State.

#### **5.3.4 Community participation and mobilisation**

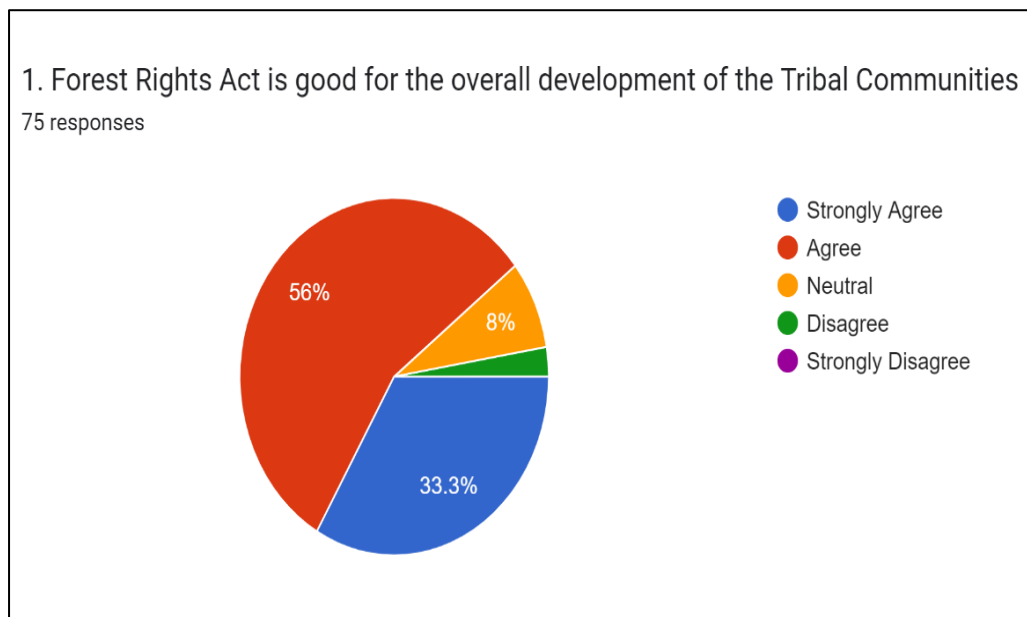
The Niyamgiri resistance movement is often quoted as one of the key incidents of assertion of community rights. In Niyamgiri, the Supreme Court turned down the permission for allowing mining permit, ordering that the Dongria Kondh tribe's right to worship their sacred mountain must be "protected and preserved". According to the court order, those with religious and cultural values connected with the area must form an indispensable ingredient in the decision-making process. The mining project was unanimously rejected in a local referendum by affected villages (Borde & Bluemling, 2019, Dash & Kothari, 2013).

Lessons from Niyamgiri as well as the examples from Maharashtra indicate that the key to grant of CFR lies in larger community participation and demand (Sahu, 2020). Effective community participation is contingent on a felt need from the forest dependent community (Dash & Kothari, 2013). It also warrants the STs forming a politically significant community. The weak capacity of the communities even in tribal dominated areas has been highlighted by Ramanujam (2017) based on a study based at

Baiga in Madhya Pradesh. The demand for community action, in the absence of internal drivers, could often require an external impetus.

In the case of Kerala, there has really not been a mass mobilization for the grant of CFR, although the past is replete with many examples of the struggle for habitat space. During the field visit, it emerged that the ST population did want to utilize the forest resources to earn livelihood. The STs of Wayanad are accessing forests for collection of MFPs. The people stated that there was no embargo from the forest department in accessing forests. However, there was no overwhelming passion for CFR akin to the demand for IFR. The Group 2 survey also corroborated this.

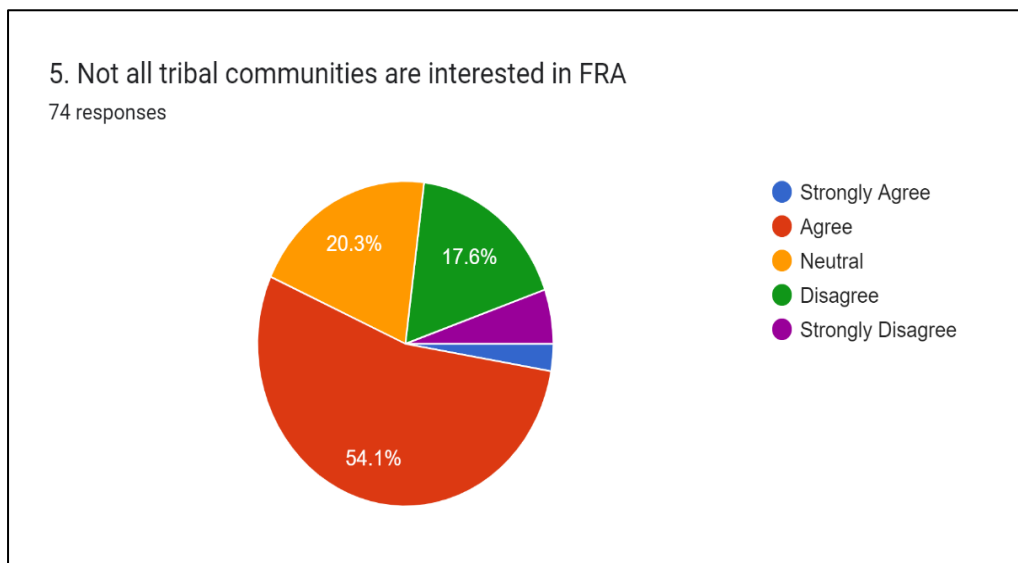
Figure 5.10: SME response on role of FRA in tribal development



(Source: Summary of responses to question addressed to Group 2)

Although there was an overwhelmingly positive response to the question of whether FRA was good for the tribal communities, the same was not reflected in the question of regarding the level of interest of ST communities on the implementation of the act.

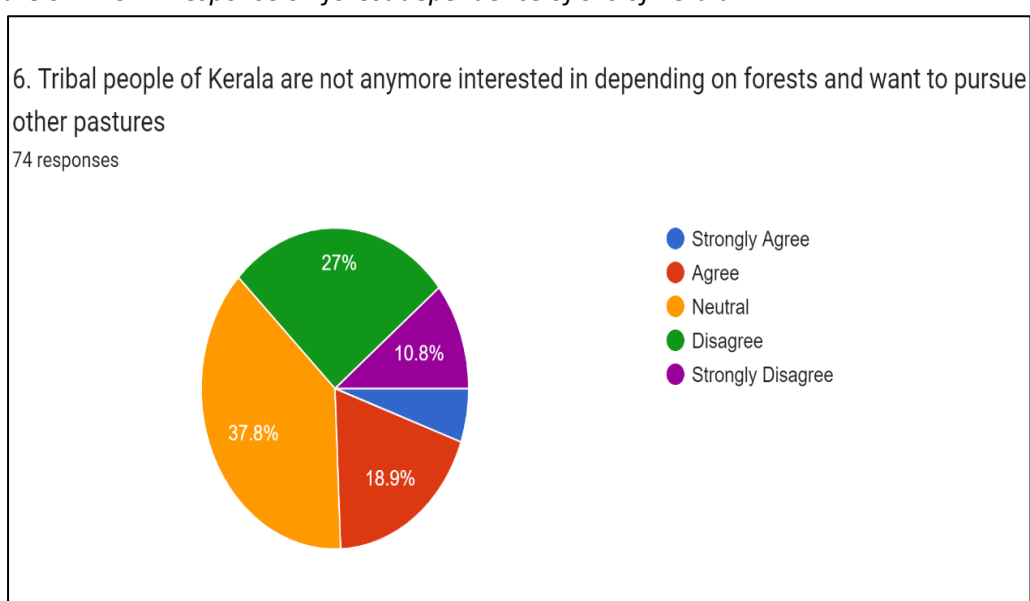
Figure 5.11: SME response on interest of ST communities of Kerala in FRA



(Source: Summary of responses to question addressed to Group 2)

57% of the SME believed that not all communities were interested in FRA. Only 23% held contrarian belief with 21% being neutral. This finding is also corroborated by the fact that not all tribes of Kerala were always forest dependent. This could also be the reason for low receipt of CFR claims from areas dominated by Paniyan, Adiyani communities. The level of forest dependence being a significant factor in the claim for CFR, this question was also put forth to Group 2.

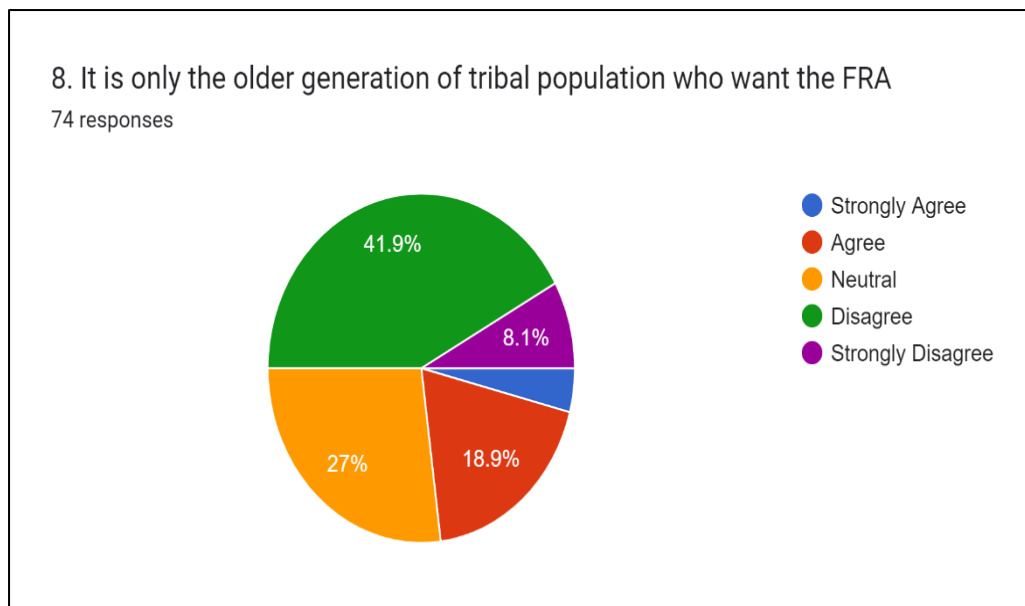
Figure 5.12: SME response on forest dependence of STs of Kerala



(Source: Summary of responses to question addressed to Group 2)

There was no conclusive answer to the question whether the tribal people of Kerala wanted to continue depending on forests or move to other pastures. While 38% felt that the STs were not interested in forest dependence, 25% felt that they wanted to depend on forests. It was also sought to be ascertained whether there is a shift in attitude towards forest dependence amongst the newer generation.

Figure 5.13: SME response on interest of older generation in FRA



(Source: Summary of responses to question addressed to Group 2)

Most respondents did not believe that only the older generation was interested in FRA. During the field visit, the people did convey that they were interested in grant of FRA, particularly the IFR. They did express their continued demand to access forest produces, but did not voice the demand for being stakeholders in management of forest resources. The impact of changing aspirations of the youth and the shift in people's conception of the environment have been highlighted in a study by Ramanujam (2017).

In addition to limited political will and lack of awareness, the reduced community participation and demand for CFR stems from the following reasons:

- Fragmented settlements.

- Lack of unity of purpose amongst different ST groups.
- Inadequacy of the forest dependent economy in providing adequate means of livelihood.
- Focus on IFR which has been internalized as a continuum in the series of struggles for livelihood, poverty alleviation and demand for dignity.

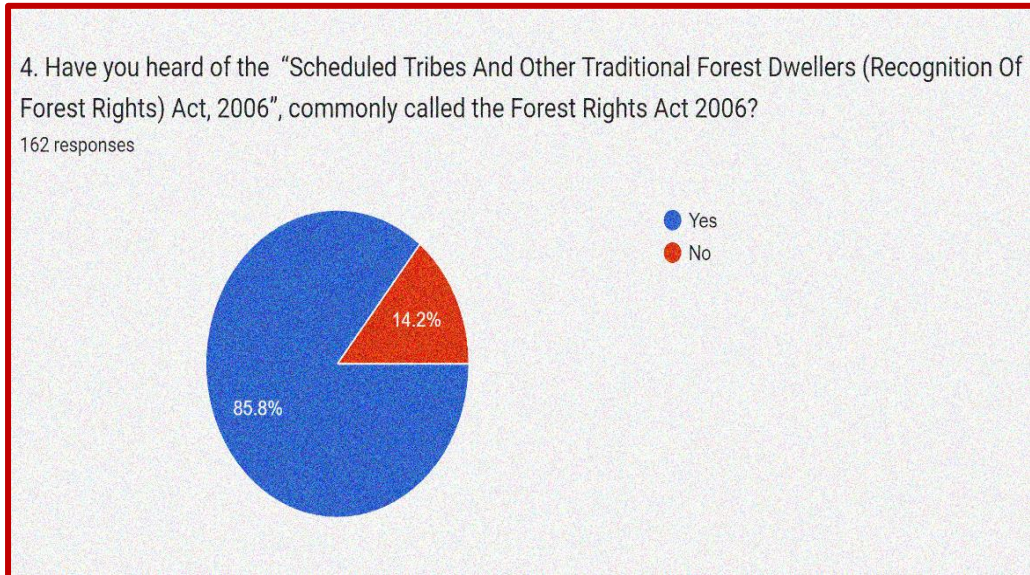
### **5.3.5 Inadequate understanding of the spirit of CFR**

A survey of the national debate on tribal development reveals that the FRA occupies a very minimal space in today's discourse. There are very few studies available on the impact of implementation of FRA on the livelihood of the STs of India. Even the few studies available are biased heavily towards IFR.

Two major national-level surveys, the Joint Committee report (Manthan, 2010) exclusively on implementation of FRA and the HLC Report (2014) on socio economic condition of STs pointed out specific anomalies in the implementation of the FRA and gave out recommendations to overcome the roadblocks. While these did lead to some improvement, particularly with regard to IFR, the progress on the grant of CFR leaves much to be desired. In the case of Kerala State, the FRA title document which is the RoR is accepted for receiving electricity connection, registering for Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA) schemes, applying for a house number, etc. Studies in Wayanad district have shown that the household incomes of those who have received RoR have increased (Kjosavik and Shanmugaratnam, 2021, Mathew and Umesh, 2019, Mini, 2018). However, the same cannot be said about the aspect of CFR. Despite exhaustive recommendations being given by the Joint Committee in 2010, unequivocally explaining the rationale behind the CFR idea, the fundamental paradigmatic shift which warranted a change of approach to forest

governance has not yet taken place. The issue of FRA in general and the nuance of CFR does not seem to be a priority at the national level. This could also be gauged by the understanding of informed citizens about the act.

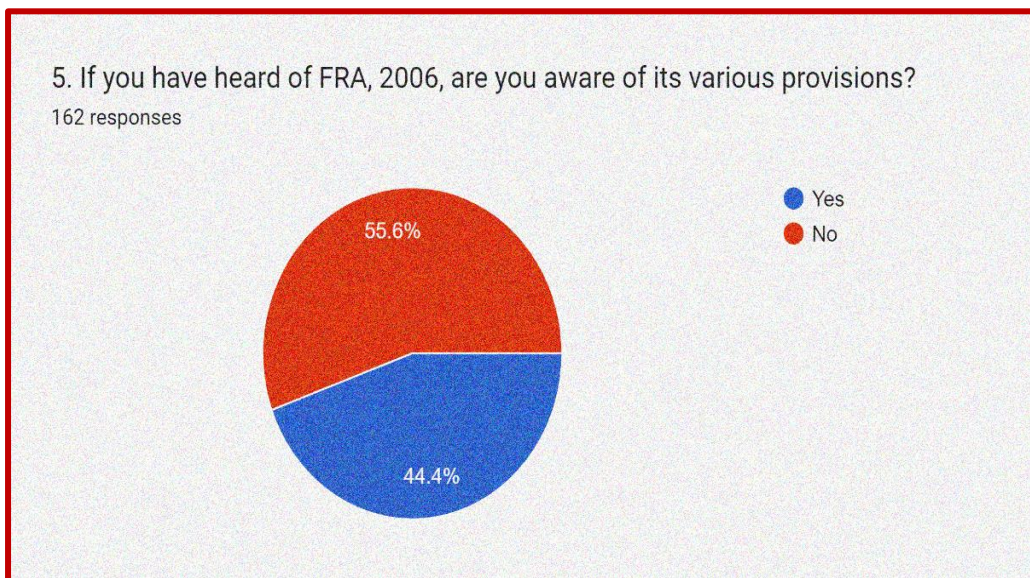
*Figure 5.14: Group 1 response on awareness about FRA*



(Source: Summary of responses to question addressed to Group 1)

While most of the respondents from Group 1 had heard about FRA, their knowledge about the provisions of the act was low.

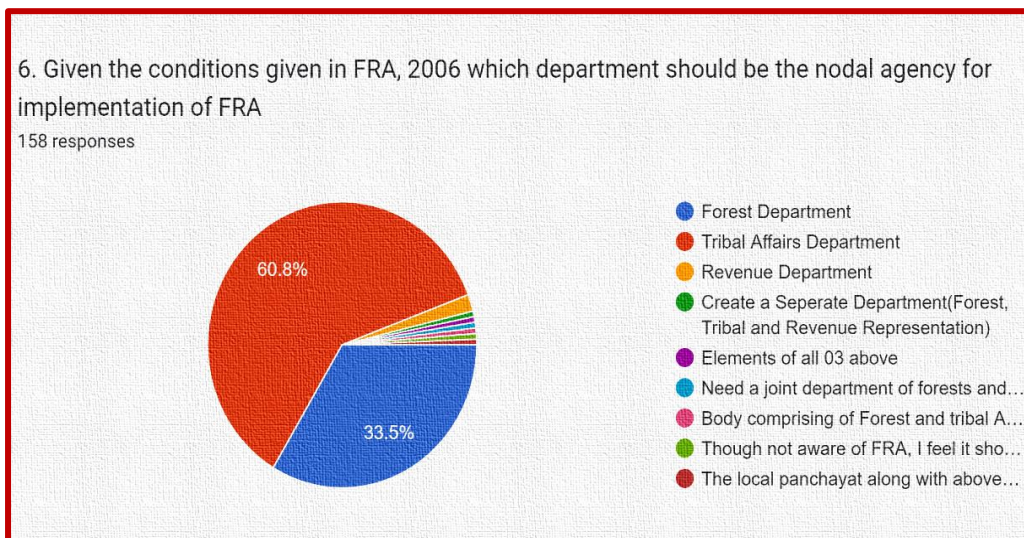
*Figure 5.15: Group 1 knowledge about provisions of FRA*



(Source: Summary of responses to question addressed to Group 1)

Nearly 50% respondents were not aware of the various provisions of FRA. This inadequacy was further reflected in the response to the next question on nodal agency.

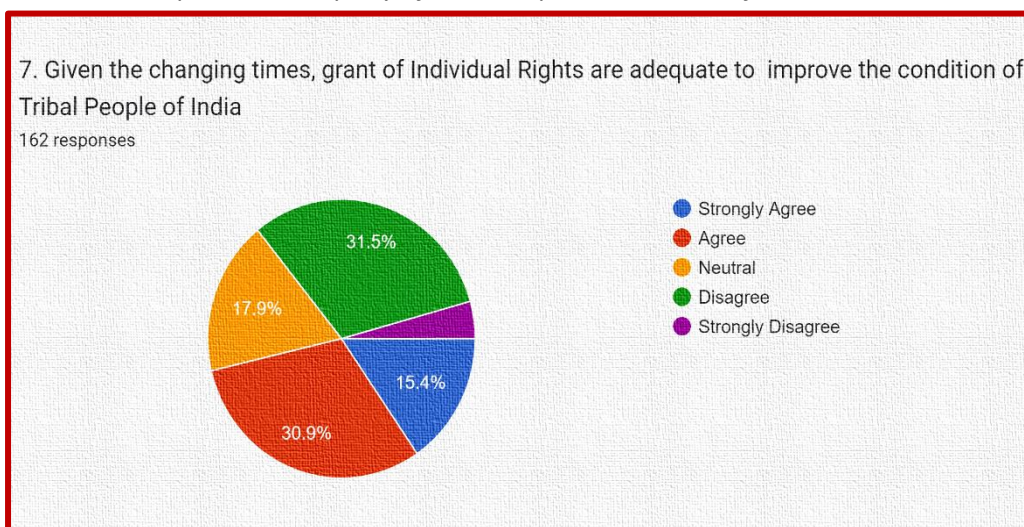
Figure 5.16: Group 1 response on nodal agency for FRA implementation



(Source: Summary of responses to question addressed to Group 1)

While 60% of the Group 1 respondents felt that the MoTA should be the nodal agency, nearly 34% felt that this mantle should be that of the forest department. There were also recommendations to create separate departments for implementing the Act. To validate the entrenched institutional belief about the provision of individual security being higher state priority, a question on the subject was posed to Group 1.

Figure 5.17: Perception on adequacy of IFR to improve condition of STs

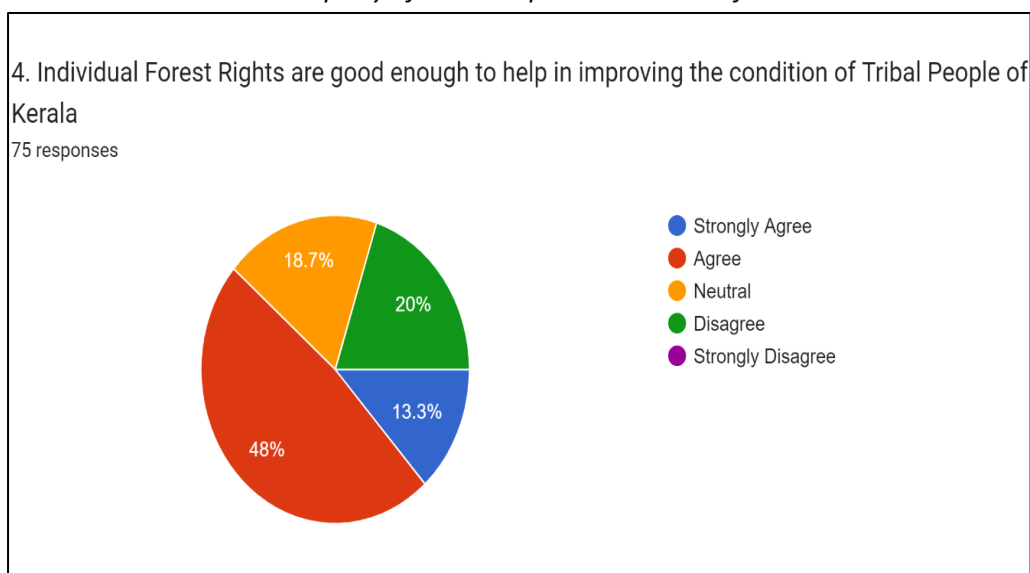


(Source: Summary of responses to question addressed to Group 1)

Regarding the question whether individual rights are adequate to improve the condition of STs in Kerala, 46% answered that grant of IFR was adequate, while about 36% felt the opposite, with 18% of the respondents remaining neutral.

The lack of understanding of the spirit of FRA becomes clearer in the response of Group 2 to the similar question. The majority of those involved in implementation of the act voiced the opinion that the grant of IFR was good enough to alleviate the condition of the tribal people of Kerala.

Figure 5.18: SME view on adequacy of IFR to improve condition of STs in Kerala



(Source: Summary of responses to question addressed to Group 2)

More than 60% from Group 2 felt that the grant of individual rights was adequate to improve the condition of the ST people in Kerala. Only 20% did not believe that grant of IFR was not good enough. Naturally, the act has been viewed as a means of distributing 'pattas'. This was precisely the point about the lack of comprehension of the spirit behind the law brought out by the joint committee (Manthan, 2010). From the activities and focus of all the stakeholders, namely the government in general and the tribal department, the affected community as well as civil society organizations in particular, it is evident that FRA is understood more as a welfare scheme than an

empowerment endeavour. It can be safely concluded that the wider ambit of the community empowerment envisaged in FRA has not found the requisite resonance with people in decision making positions.

### **5.3.6 FRA vis a vis other schemes**

The website of the Kerala State Scheduled Tribes Development Department (<https://www.stdd.kerala.gov.in>) lists various schemes for the STs under eight heads.

These are:

- Land, Homestead and Housing.
- Habitat.
- Education.
- Employment, Income generation and skill development.
- General Schemes.
- Health care Schemes.
- Modernisation and Research.
- Protection of Civil Rights.

Forest Rights Act does find a mention under the last item of protection of civil rights as a small four-line paragraph, which incidentally, does not mention CFRR separately, but only says community forest rights. There is a separate icon for FRA, under which the only material available is the 2014 handbook published by the Central ministry which contains the Act, the Rules and Guidelines. The website neither has any dashboard nor any data pertaining to any of the following:

- Details of the claims approved.
- The status of claims pending at different levels.

- Area of forest land distributed.
- Maps/ Photographs.

The Kerala Government had taken out a booklet in Malayalam in 2012 listing out the procedure for applying for forest rights as well as the methodology for approval. (Copy of the front page is attached as **Appendix H**. However, this handbook has not been uploaded in the website for ready reference. While the website hosts formats in Malayalam for the STs to apply for different schemes, such as house repair, housing, inter-caste marriage grant, medical treatment, tribal girls marriage grant, post matric scholarship, Ayyankali talent search development scheme etc, the application form for applying for forest rights is not available.

During the field visit also it was revealed that the tribal mission, the TDOs and TEOs rarely discussed the issue of FRA in general and CFR in particular. While certain NGOs were active in this arena in the earlier days of implementation, most of them have either withdrawn or focusing on other schemes. Only one NGO, Keystone Foundation was found to be dealing with FRA in Wayanad.

Even within FRA, the aspects of IFR and development rights hold more attraction in terms of immediate visibility. Developmental rights have the advantage of the tag of ‘larger community good’ over individual rights. It is also easy to implement catering for minimum forest clearance and blending with some other existing welfare schemes. The demand for these can also be artificially generated. No wonder, Kerala state has had high approval of developmental rights. Unlike these, the implementation of CFR is fraught with challenges of techno-legal hurdles, prolonged negotiations and long gestation period. As such, it holds less attraction and far less power for immediate

impact compared to other targeted welfare schemes. Naturally, CFR figures much lower in the pecking order, when weighed against other welfare schemes.

One of the major issues with respect to the grant of CFR is the conflict in the jurisdictional limits between Participatory Forest management (PFM), the Kerala terminology for JFM & CFR. The central government had earlier ordered JFM institutions to be placed under gram sabhas, but the same has not worked. Later there was a proposal to scrap JFM where CFR was granted, but this has not been implemented on account of the slow progress in approval of CFR claims. While the forest officers were nearly unanimous in their advocacy of PFM, there are also apprehensions about its success. There has not been any transparent and independent assessment of JFM by the government; nor has any attempt been made to engage with the critics for any suggestions to restructure the programme. (Bera, Shrivastava, Pallavi, Paliwal & Narayanan, 2011). The last guidelines were issued by the union ministry on JFM in 2002. Even Ajit Banerjee, hailed as the father of JFM in India had later favoured community forest management over JFM. (Community forest management is the future, 2000). In Kerala, the last PFM guidelines were issued in 2009 while FRA implementation was at a very nascent stage.

The report on implementation of PFM in Kerala brought out that the programme had failed to meet the stated objectives laid down by the state government in the 2009 guidelines. It observed that initiation into PFM in Kerala was project driven than people driven. Excessive politicization and lack of democratization were key issues pointed out for the failure of PFM to meet the expectations (TIES, 2016). The report found that 76% of the secretaries/coordinators were appointed by higher officials and not democratically nominated. The PFM institutions have representation from all sections and is not exclusive to STs. The experience has been that the STs, even if they find

representation, are invariably over shadowed. Naturally, they do not have a say in the decision making. JFM may look good in theory, but does not facilitate community empowerment of Adivasis.

However, in case FRA is blended with other schemes, it can reap better benefits. A study based on Parambikulam Tiger reserve showed that participation and community involvement in the activities like eco-tourism have improved the source of livelihood of the tribals while making significant contribution in reducing forest and wildlife crime (Jithin, 2020).

### **5.3.7 Economic Motivation**

Older literature on the subject of implementation often refers to intransigence of the forest bureaucracy and the unwillingness of the forest officials to let go of their stronghold on the natural resources as one of the major hindrances in implementation of FRA. In Mananthavady, none of the members of the tribal community complained about any restrictive interference from forest officials on access to forest resources. The situation now is such that the tribal people can access MFPs and NTFPs from the forests freely. The main forest produces are *Adalodakam* (Acanthaceae), *cheruthen and vanathen* (wild honey), *then muzhukku* (bee wax), *kasthuri manjal* (Zingiberaceae) and various types of fruits etc. In order to make CFR attractive, a viable economic model based on the MFPs is imperative.

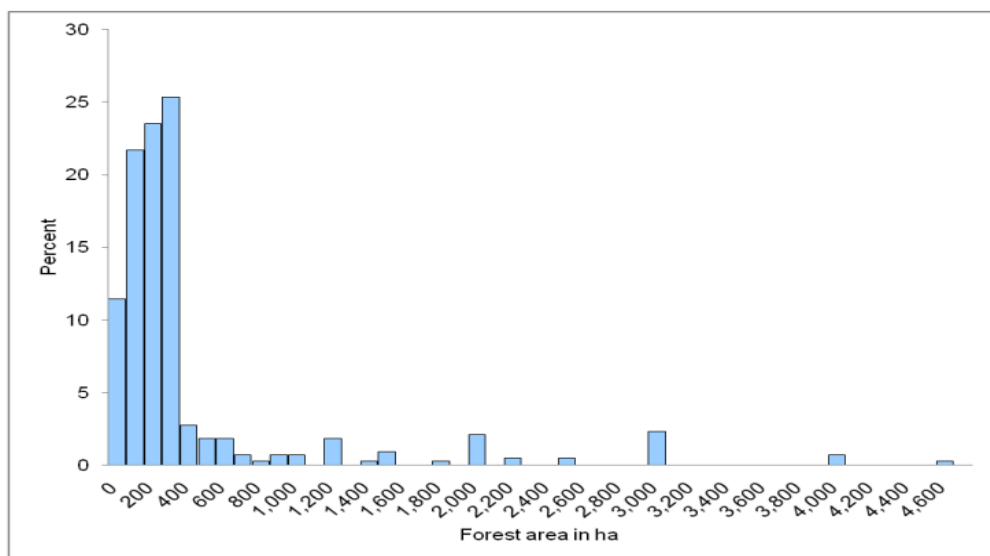
FRA, in addition to recognition and vesting of rights over homestead and self-cultivated land, explicitly recognises the statutory rights of forest dependent communities to own, access, use and dispose of minor forest produce in all types of forests irrespective of their classification. Currently, most of the MFPs and NTFPs are being either sold directly by the collectors to vendors or middlemen or are being

managed by the VSS or Eco Development Committee (EDC), which come under the ambit of PFM. To provide institutional support services to the VSS and EDC in '*scientific collection*', value addition and marketing of NTFP, a "Vanasree Cell" has been set up by the Kerala Forest Department. Value-added products are marketed as "Vanasree" products. The gram sabhas do not play any role in the management of these forest produces. There are no community managed organisations that market the NTFPs or convert them into value-added products. But the ground reality reveals that the NTFPs are not exclusively handed over to the gram sabhas.

The PFM model throws up some key pointers on economic viability. Income generation through PFM, as per assessments, has also not improved to the expected level. As per the report of TIES (2016) success of PFM institutions wherever they have worked, was more attributable to plantation/ nursery and eco-tourism. Vanasree figured below NTFP in accruing economic benefits. Vanasree is being partly managed by the forest department itself. As such, employees of the department are involved in running the enterprise. An independent audit would be required to ascertain the actual economic viability.

As per the records (TIES, 2016) the total area covered under VSS & EDC in Kerala is 1,86,152.63 hectares, about 9% of the complete forest cover. In the case of Mananthavady Taluk and adjacent area, the North Wayanad division manages 16 VSSs covering a total of 224 sq.km (Interview with DFO, North Wayanad). The number has come down to 16 after some of the VSS were closed down. Amongst other aspects, one of the key reasons for the inadequate performance could be the limited land holding under each of the VSS/EDC. The pattern of land under PFM in Kerala (TIES, 2016) is depicted in the graph below.

Figure 5.19: Number of PFM Institutions and forest area under management



(Source: TIES, 2016)

About 80% of the PFM Institutions (VSS/EDC) only manage less than 400 hectares of land, as evident from the graph above. In case this is to be excluded from CFR, the area available for CFR and CFRR will reduce, which will reduce its economic viability. It has also been the experience that despite many attempts, the forest department continues to have a stronghold on JFM, being an interest group. In places where CFR has been accorded, there is a need to dismantle the PFM institutions.

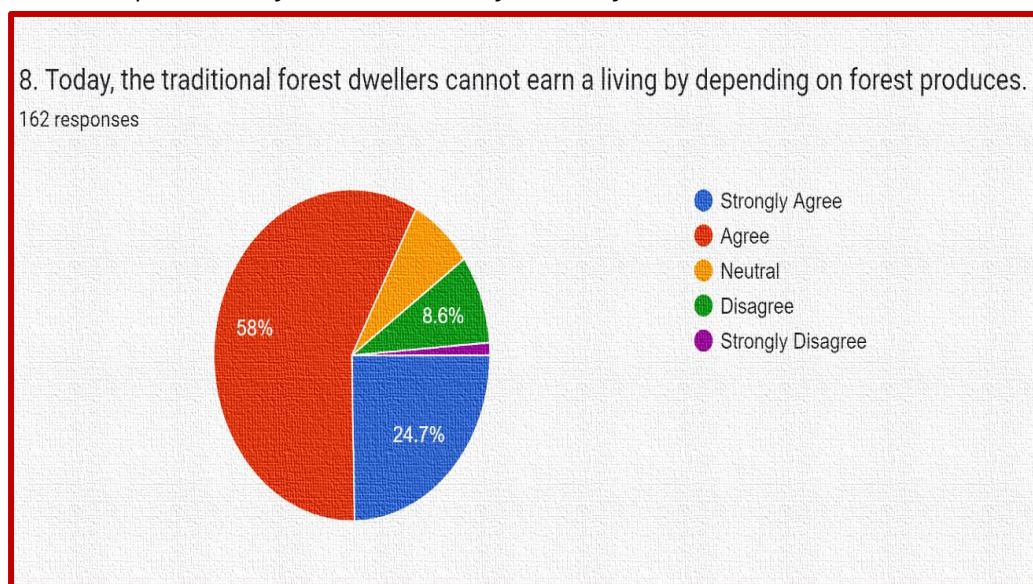
PFM is also providing some sort of employment to the ST people. It was intimated during FGDs and interactions that some men are engaged as forest guards. Others get seasonal employment for preparation of fire lines, fencing and other sundry tasks. These are organized under the forest department/VSS. Unless a community owned and managed enterprise is able to offer better dividends, it will be difficult to motivate people to shift away from the current system.

During the field visit, there was an opportunity to meet several people from the tribal communities who have resorted to conventional paddy cultivation to earn a living. The absence of a viable forest economy is one reason for this shift. Few members of

the tribal community usually get together and take land on lease from the land owners. There are different models of profit sharing in this. In some a lump sum is paid to the land owner whereas in others a portion of the produce is shared. In addition to economic viability in small agricultural land, this arrangement is fraught with the challenge of crop destruction caused by elephants and wild boar. With the increase in habitation near the forest area the human-animal conflict in the region has seen a drastic increase in the near past. A fortnight after the conduct of the field visit one person was killed in a tiger attack at Mananthavady (“Farmer Dies..”, 2023). Environmentalists attribute the increase in human-animal conflict to the mushrooming of resorts, homestays etc close to the forest boundary.

To enable the CFR to sustain itself into a vibrant ecosystem positively enhancing the quality of life of the forest dwellers, the requirement of a viable forest-based economy is indispensable. The respondents of Group 1 decidedly tend to believe that in today’s context, the forest produces cannot render a decent living to the traditional forest dwellers.

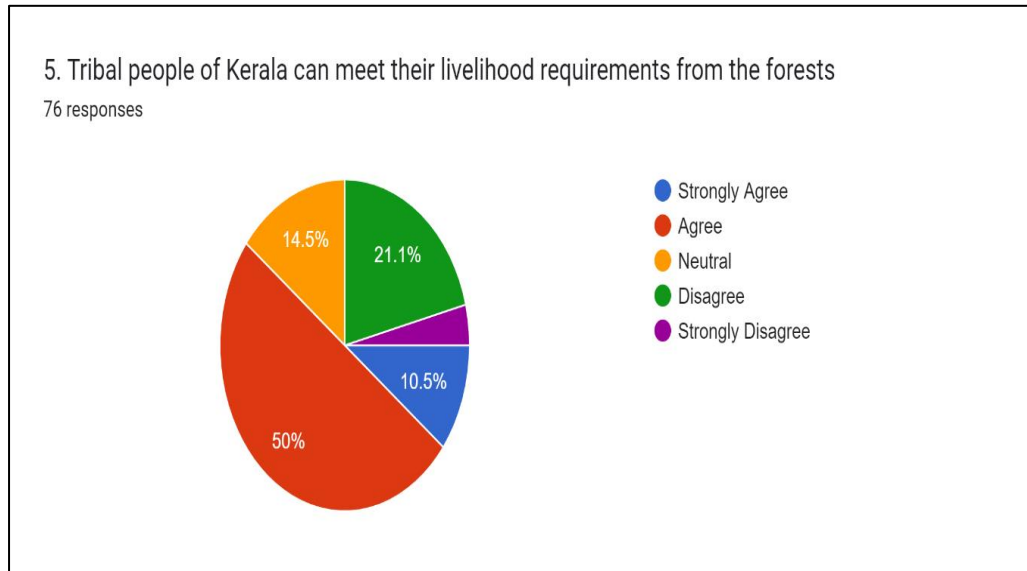
Figure 5.20: Group 1 view on forests as source of revenue for STs



(Source: Summary of responses to question addressed to Group 1)

72% of the Group 1 respondents felt that forests cannot be the source of livelihood for the forest dwellers, in the contemporary world. But the same question elicited a different response from Group 2.

Figure 5.21: SME view on forests as source of revenue for STs



(Source: Summary of responses to question addressed to Group 2)

The response of Group 2, which has first-hand information on tribal affairs also points out that forests hold the potential to provide livelihood to forest dwellers. The intuitive opinion of Group 1 has also been refuted by many experts in the field as well as field researches on the subject (Gnaneswari, 2020, Reang, 2019, Sarangi, 2019, Saxena, 2018, Shivaprasad, 2016) which indicate that the forests do offer scope for providing livelihood to forest dependent communities. However, in the case of Kerala, barring few exceptions, the ST communities have not been able to generate a viable forest dependent economy. As regards CFRR is concerned, it has only been implemented in two locations; nine CFRR titles for 40000 ha land in Vazhachal Forest Division and 6835 ha in Peechi Forest division, both in Thrissur district (Purushothaman, Devi & Amrita, 2017, WWF-India, 2015, information shared by TRDM).

Economic motivation is also a key to forest protection. In the absence of financially viable models or alternate sources of income, there will invariably be a tendency to overexploit the available resources. A study based on Sonbhadra in UP (Kohli, 2019) clearly highlighted such a case when abject poverty forced the tribal people into non-sustainable extraction of fodder and fuel wood. It is only the prospect of long term livelihood security that will motivate people to be effective stakeholders in sustainable utilization of forest resource.

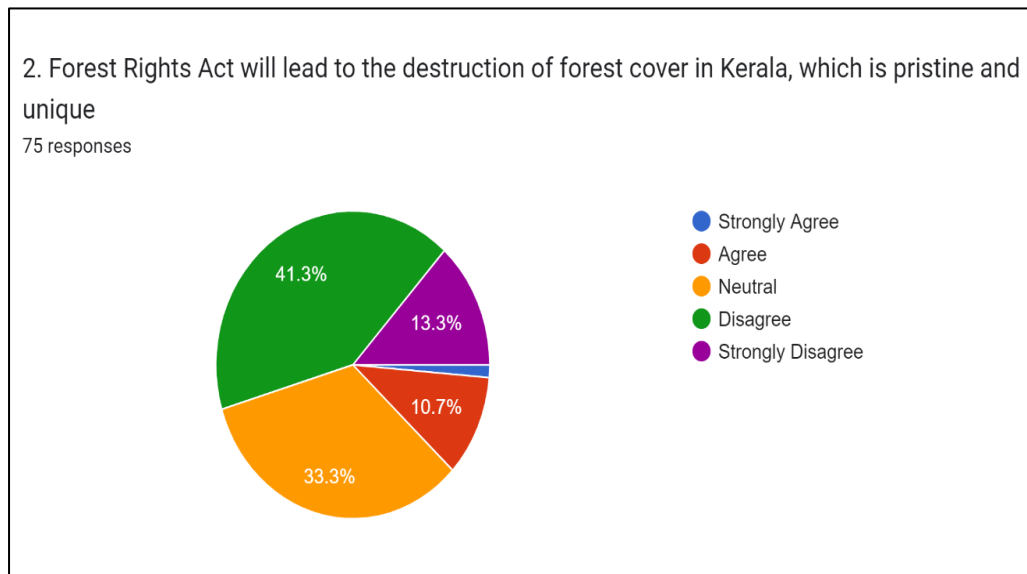
The lack of economic motivation is also one of the reasons for low demand from the ST community for grant of CFR. Under the current arrangement, the members of the tribal community are able to freely access the forests and collect MFP without any prohibitive interference, but barring few areas, they have no role in either managing the forests or running a forest-based economy. In the absence of an economic motivation where in management of forests offer better dividend to the members of the community, status quo will invariably prevail.

### **5.3.8 Fear of deforestation and resistance from MoEF&CC**

The core of the conservationists' position on FRA was that it would lead to depletion of forest cover in India. An argument that FRA would lead to deforestation was the theme of a book on this specific issue; one of the few voices against FRA per se, in written literature (Singh, 2021). However, the evidence on ground after more than one and a half decades of implementation of FRA does not support this argument. The Status of Forest Report (2021) shows that the country's forest cover has increased by 1540 sq km from the figures of 2021. The area where there has been a reduction in forest cover was the North Eastern States, where FRA has not been implemented.

To check this, a question was posed to those involved in implementation of FRA (Group 2), which consisted a large number of forest officials, including Indian Forest Service Officers, whether they believed that FRA would lead to the destruction of Forest Cover in Kerala.

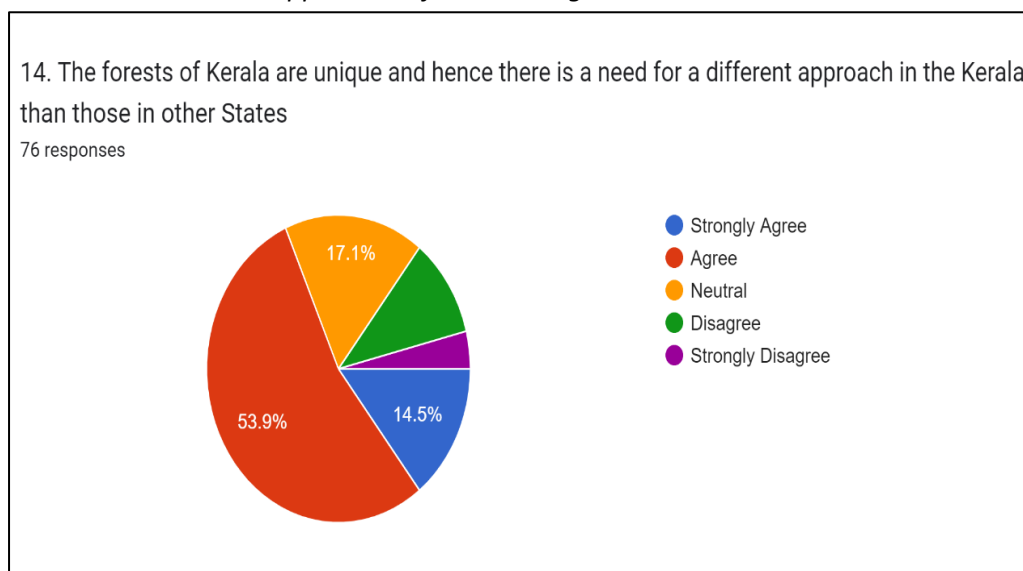
Figure 5.22: SME view on impact of FRA on forest cover



(Source: Summary of responses to question addressed to Group 2)

Only a minimal percentage of the SME tended to believe that implementation of FRA would lead to depletion of forest cover of Kerala. Nearly 55% believed that FRA would not result in deforestation, while 33% were ambivalent. These findings are at variance with the observations of the study by Munster & Vishnudas, (2012). Specifically concerning the area of study, they had observed that environmental activists and forest officials in Wayanad felt that FRA would seriously endanger this ‘biodiversity hotspot’ in Western Ghats. Notwithstanding this variation in perception, there was a concern regarding the approach to be adopted with forest management in Kerala.

Figure 5.23: SME view on approach to forest management in Kerala



(Source: Summary of responses to question addressed to Group 2)

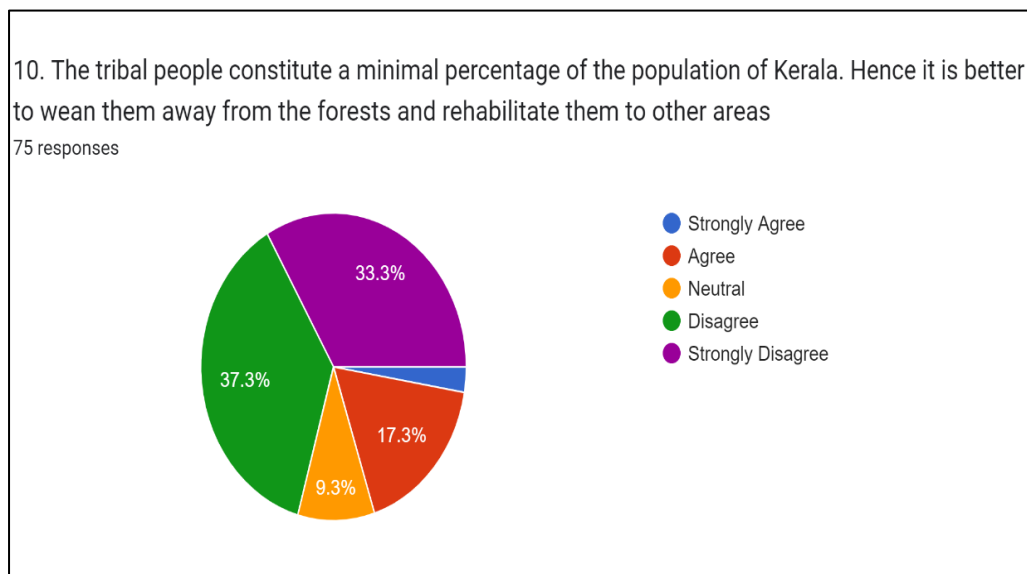
When asked about the nature of forests in Kerala, there was an overwhelming agreement that the forests of Kerala were unique, which warranted a different approach compared to other states. While almost 70% agreed with the statement, only about 13% respondents disagreed, while 17% were neutral. Discussions held with many Indian Forest Service Officers evoked a deep sense of concern towards protection of forests and the commitment towards environmental challenges.

The forest officials from the Kerala cadre expressed a deep sense of association with the pristine nature of the forests of Kerala. These concerns can be termed to be indicative of the professionalism of the Forest Officers displaying the three ingredients of expertise, corporateness and responsibility (Huntington, 1957). As such, it cannot be construed negatively; however, this concern does pose resistance to implementation of FRA, particularly grant of CFR.

The concern with forest protection as well as the power drawn from legal position over forests do make the forest bureaucracy an interest group in implementation of FRA. There have also been pointers that the unwillingness to let go the control over

forest resources has been the main motivation of the forest departments as well as the ministries at the Central and State levels to subvert FRA. This opinion has been voiced by many tribal activists as well as members of the tribal department. Opposition to the provisions was indeed conveyed by the Forest Ministry during the deliberations of the technical committee during the framing of the Act (Asher, 2019). Forest ministry’s active obstruction has been listed as one of the key reasons for poor implementation of CFR in India (Asher, 2022, Das, 2019, Ramanujam, 2017, Sahu, Dash & Dubey 2017). Against the backdrop of the opposition from forest guardians, the question of rehabilitating the tribals away from forests was put forward to Group 1.

*Figure 5.24: SME view on rehabilitating STs away from forests*



(Source: Summary of responses to question addressed to Group 2)

Although Group 2 believed in the need for a unique approach to Kerala forests, they did not want to break the umbilical cord that connected the tribals to the forests. 70% of respondents disagreed with the suggestion of weaning the tribal people away from their traditional abode and settling them elsewhere. Only about 20% respondents subscribed to the idea of ‘mainstreaming’.

During the interviews with the officers of the Indian Forest Service, most of them opined in favour of implementation of FRA, albeit with certain caveats. The main concerns expressed are summarized below.

- In many places, undeserving candidates, particularly non-tribals have been trying to get under the purview of the Act by exploiting the OTFD provision. Political calculations often put pressure to include undeserving people as beneficiaries. However, in Kerala, the State Government has clarified that there are no OTFDs.
- Grant of CFR is more problematic compared to IFR.
- While the community forest rights with regard to access to forest resources is not a major issue, granting Community Forest Resource Rights (CFRR) is fraught with challenges. The tribals can easily be manipulated and exploited by interested groups which will lead to rapid deforestation.
- While the STs who share a symbiotic relationship with forests are prone to sustainable exploitation of resources, the same may not be true for others.
- Areas earmarked for CFRR have to be much smaller while the CFR area for accessing MFPs can be larger.
- PFM/JFM is a good model which involves the community and works in concert with the Forest department.

It emerges clearly that the MoEF&CC executives at the State, as well as the Centre, are indeed apprehensive about the adverse impact of the grant of CFR on the health of Indian forests. They strongly feel the need for effective monitoring mechanisms as well as oversight from the forest department. Axiomatically, there is a direct impact on the progress of CFR.

### 5.3.9 Structural weakness of the nodal agencies

The ministries within the Government of India, traditionally have had certain perceived hierarchy amongst themselves. Accordingly, some ministries such as Home, Finance, External Affairs, Commerce etc fall into the category of those with exalted status, while others are considered to be the lesser among equals. The portfolio allocation in the council of ministers as well as the postings of the senior members of the bureaucracy do seem to confirm this perception. Unfortunately, the Ministry of Tribal Affairs falls under the category of less glamorous ones.

As the nodal ministry to implement FRA, the weakness of the tribal ministry has been commented upon by the Joint Committee of 2010 (Manthan, 2010). The Central Ministry which was carved out in 1999 from the Ministry of Social Justice, was observed to be grossly understaffed and under-resourced. Also, it had only 101 employees against a sanctioned strength of 137 employees as on 2016, despite the enhanced load of FRA implementation (CFR–LA, 2016).

At the State level also, similar weaknesses exist, which is evident in the case of Kerala too. There is a need for more effort to train the officers of the tribal welfare department in FRA matters, along with augmentation of resources. The FRA is a complex piece of legislation with multiple land and forest rights provisions. The tribal welfare departments have traditionally been dealing with welfare schemes and lacks exposure and institutional expertise on techno-legal aspects of an act like FRA. Implementing CFR provisions needs an indepth understanding of the forest dwellers' relationship with the forest, forest maps and archival records, as well as the the historical issues pertaining to forestland reservation and displacement of communities. In the absence of such an understanding, there is invariably a reliance on forest

department officials in the processing of claims. The statutory State-Level Monitoring Committees (SLMCs) for the FRA also leave much to be desired (Sahu, Dash & Dubey, 2017)

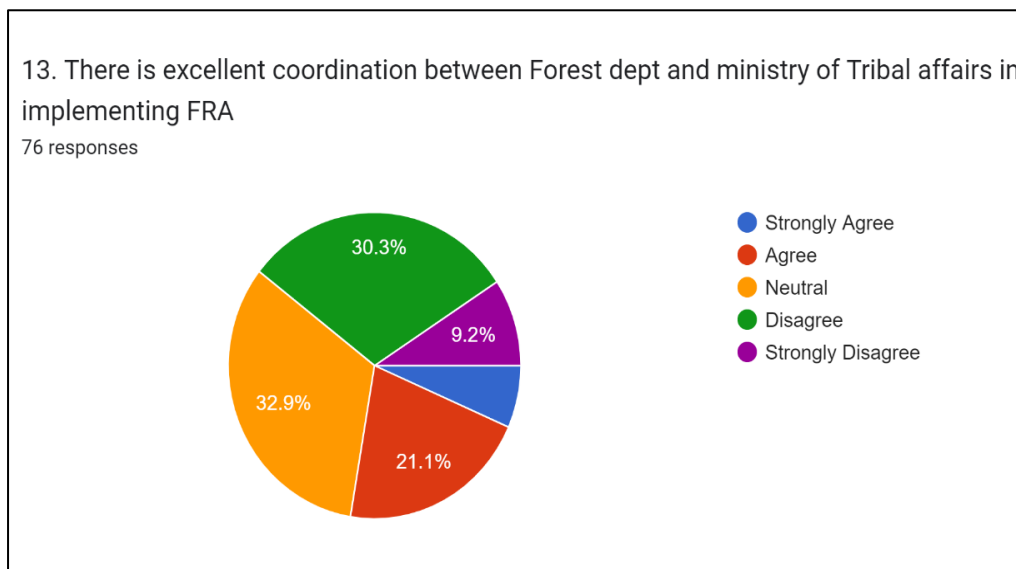
Recognition of CFR at the district and subdivisional levels also faces several operational challenges. The offices of the TDO at the block level and the TEO at the Panchayat level which have the pulse of the tribal affairs may have skill in handling welfare schemes, but lack the capacity to handle the complexities of CFR implementation. Other concerns at the lower level of governance include long-pending CFR applications, irregular and infrequent convening of SDLCs and DLCs, non-communication of information to gram sabha on the status of CFR claims, not changing records of rights after recognition of CFR claims and poor book keeping.

The lack of institutional capacity of the tribal affairs department implies that grant of CFR has invariably been the product of political outreach; and such political intervention happens only where the target populace constitutes an effective interest group or electoral constituency, as in the case of Chhattisgarh or Madhya Pradesh. In Kerala, the STs constitute a fragmented minority; naturally, they have limited capacity as a pressure group. The outcome is lack of focused political intervention and thereafter poor grant of CFR.

### **5.3.10 Inter-departmental coordination**

Sathyapalan (2010) had argued that the lack of coordination among the line departments of the state government, say the departments of forestry and tribal affairs, who hold concurrent jurisdictions over the same geographical area was one of the main impediments to implementation of FRA in Kerala. The question was also posed to the Group 1 to ascertain the situation on ground.

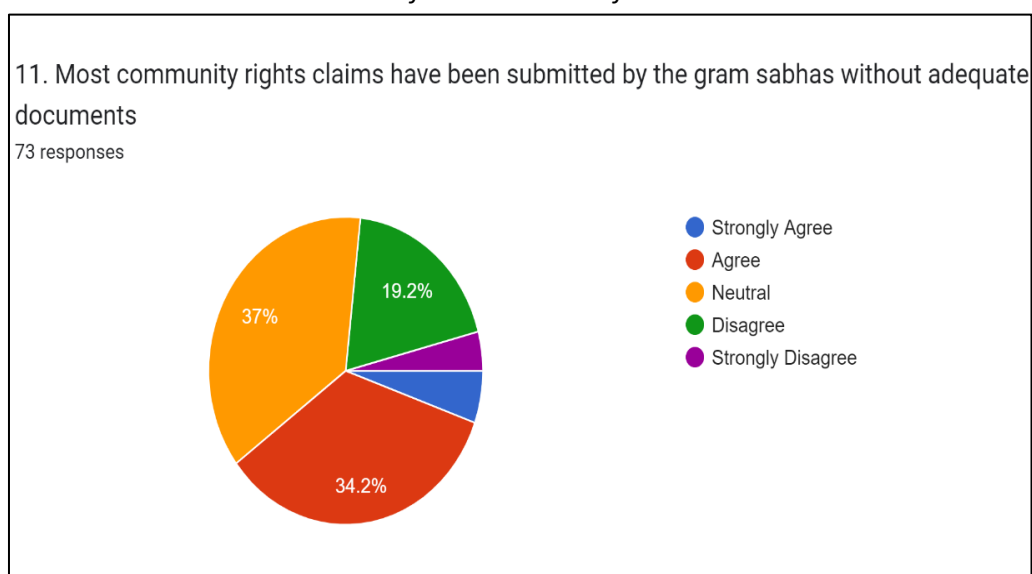
Figure 5.25: SME view on inter departmental coordination for implementation of FRA



(Source: Summary of responses to question addressed to Group 2)

40% of the respondents felt that the coordination was lacking, while 33% were not certain. Only 27% people felt that there was adequate coordination with just about 6% strongly feeling so. The aspect of lack of coordination as well as the difficulty in assembly of the SDLC and DLC were highlighted by functionaries of the tribal and revenue departments. To substantiate the aspect of inter departmental coordination, a question on the documentation for CFR claims was put forth to Group 2.

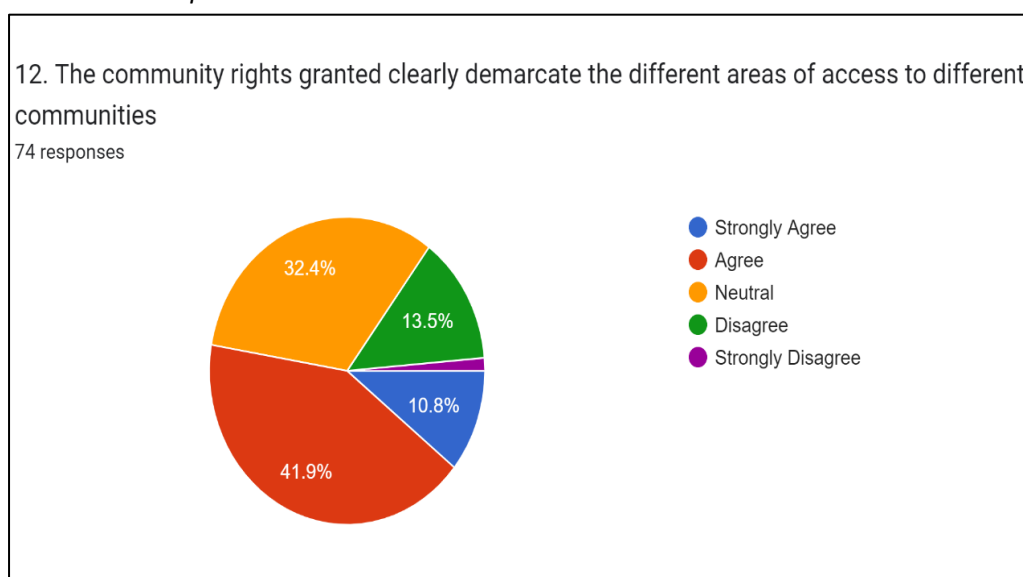
Figure 5.26: SME view on correctness of documentation for CFR



(Source: Summary of responses to question addressed to Group 2)

While 37% were not certain either way, over 40% felt that documentation was lacking. Only about 23% felt that the documentation was adequate. Processing of CFR claims ought to be a participative endeavour with all stakeholders. The nature of the response in itself is indicative of the scope for improvement in inter-departmental coordination. The input end of CFR (processing of claims) was followed by a question to cover the outcome end, namely the CFR area demarcation as per the title document.

Figure 5.27: SME opinion on CFR demarcation



(Source: Summary of responses to question addressed to Group 2)

The question on demarcation of the CFR areas elicited a more positive response, with more than 50% feeling that the title document clearly demarcated the areas of access to different communities. This however was not decidedly confirmative since about 15% disagreed and 33% were uncertain. During the field visit and FGDs, the affected population conveyed the opposite view. There were many areas of overlap that different communities from different hamlets would access for MFP collection. They were not aware of any maps or any clear demarcation. The lack of coordination was also evident in the inadequacy of the details of pending claims.

There is a definite need to improve inter-agency cooperation and coordination, effectively taking the community members into the decision making loop.

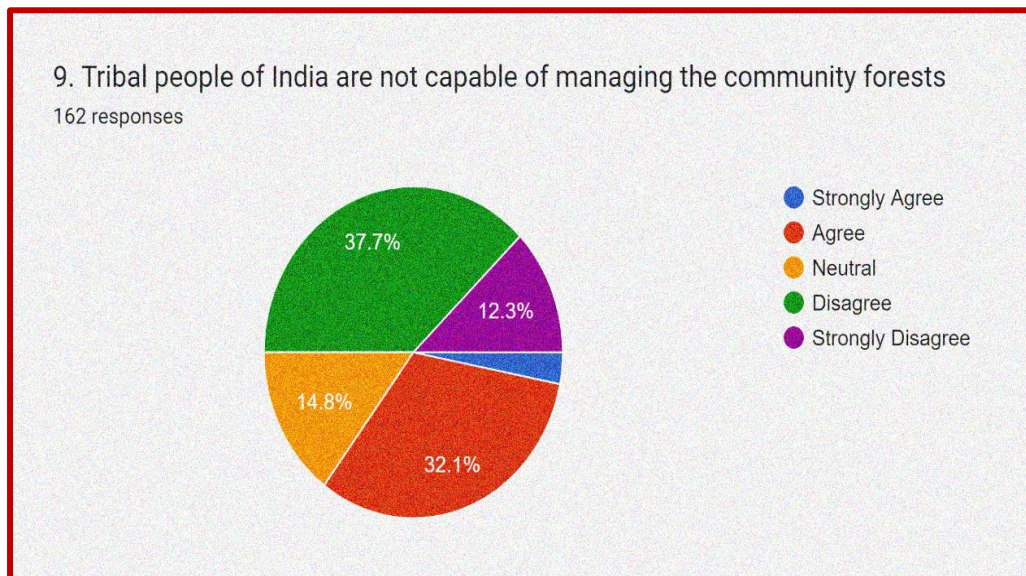
### **5.3.11 Capacity Building**

Kumar, Singh & Rao (2017) has argued that granting of CFR right in combination with conservation and protection rights is the most critical factor in the potential of FRA. Notwithstanding the debate over the difference between community forest rights (CFR) in terms of access to MFPs and management and preservation (CFRR) rights it needs no emphasis that the capacity to manage resources is an essential pre-requisite, to prevent any adverse impact on forest cover.

The tribal communities traditionally have been known to be inclined towards protection of natural resources. But the capacity of the local communities to manage forest resources and improve the conservation regime needs improvement since the mantle of protection has primarily been with the forest department for quite some time now. Youth also tend to become actively engaged in forest governance in case the forest-based economy improves the prospects of their own livelihood aspirations (Mecham, 2020).

Many studies have shown successful management of forest resources by various tribal communities as in the case of Mendha-Lekha village in Gadchiroli district and Melaghat Tiger Reserve both of Maharashtra (Broome, Rai & Tatpati, 2017), Vidarbha region of Maharashtra (Sahu, 2020), Godda District of Jharkhand (Mecham, 2020), Biligiri Rangaswamy Temple (BRT) Wildlife Sanctuary in Chamarajanagara district of, Karnataka (Dash & Kothari, 2013), selected districts of Chhatisgarh (Green, 2015) etc. In order to assess the potential of the tribal communities to manage the community forest resources on their own, a question on the aspect was posed to Group 1.

Figure 5.28: Perception on the ability of tribal communities to manage forests



(Source: Summary of responses to question addressed to Group 1)

While nearly 50% of the respondents of Group 1 felt that the tribal people were capable of managing community forests, about 35% felt that they were of the opposite opinion. However, most of the Indian Forest Service officers interviewed by the researcher thought that currently the ST communities do not possess the capacity to manage forests on their own. While they did not doubt the intent of the tribal people, most of them were wary of external influences. Many instances of non-deserving groups, particularly OTFDs claiming community resource rates were quoted to support this; one such example being off Gawlis getting themselves enrolled as STs in northern Karnataka much to the disadvantage of the aboriginal Siddis (conversation with an IFoS officer from Karnataka). The need for hand-holding of the STs by the forest department was highlighted by the forest officers. The same was also included in the comments given by respondents of Group 2. The need for further educating the ST community on management was also highlighted.

The example of North Eastern States of India is often quoted as an instance of poor management of forest resources by tribal communities. As per the State of Forest

Report 2021, the North Eastern States of India have seen depletion of Forest cover over the last few years. The interaction with officers from Border Roads Organisation (BRO) and National Highway Authorities of India (NHAI) brought out use of arbitrary claims by many tribal leaders to claim compensation. There was no coherent framework for forest land diversion. Rampant corruption in compensatory afforestation was also reported. While the communities are the legitimate owners of forests, they were widely being manipulated by the political leaders who were dominating a rent-seeking arrangement. This has not only led to delays in the implementation of many infrastructure projects, but also misappropriation of forest resources. While the issue is a complex one and there could be many factors that contribute to this, one of the reasons could be the poor institutional capacity to manage the forests.

In the current context, the communities in Wayanad lack the capacity to manage the forests. The inability of the communities to maintain in working condition, assets installed in various hamlets is often quoted to support the argument regarding capacity deficiency. In inaccessible areas of Idamalakkudy in Idukki district, many solar lamps were installed by Agency for New and Renewable Energy Research and Technology (ANERT). It was found that most of them hardly worked because the community response to the maintenance requirement was very poor.

It was found that despite the governmental regulations there are already a large number of resorts and homestays that have come up next to the ecologically sensitive areas adjacent to the forest in the district. It was found that Kerala has 70,582 constructions in the one-kilometre buffer zone around the 20 protected forests in the state. Most of the constructions are spotted around the Wayanad wildlife sanctuary. It went up from 13,577 in the first report to 20,045 at the latest (Mathrubhoomi, 02 March 2023). This has also led to increasing human-animal conflict. The interaction with the

tribal people of Kerala did show a clear lack of understanding of CFR. A subject with many technical and legal challenges, the nuances have not yet been grasped fully even by the officials of the Tribal affairs department. Naturally, there is a long way to traverse towards bringing up the capacity of the community. Capacity building faces multiple challenges including that of fragmented settlement.

### **5.3.12 Post CFR intervention**

The community forests need to be managed as effective Common Property Resources (CPR) sustainably exploiting their economic potential. The tragedy of commons theory argues that in the absence of governmental structures, the forests are bound to deplete. The theory of the tragedy of commons has been criticized as a flawed and racist metaphor by many environmentalists as well as tribal activists (Das, 2022), but the vestiges of the theory continue to influence if not dominate the modern notions of forest protection. Notwithstanding the veracity or otherwise of the tragedy of commons with respect to tribal communities, the change in forest governance in accordance with CFR provisions will involve a transformation. Naturally, there will be a need for intervention in the wake of grant of CFR titles to enable the title holding communities to become effective and efficient managers/guardians of the forests. This aspect was brought out by many Forest Officers as part of the response to the questionnaire and during interviews.

The interventions to support the beneficiaries of recognised claims both for IFR and CFR are as important as addressing the sub-optimal level of grant of titles. Only then can FRA achieve the twin aims of enhancing the livelihoods of forest dwellers and promoting forest management in a sustainable manner. Rule 16 of FRR, 2012 prescribes that the state government shall ensure that all government schemes,

including those relating to basic amenities, land development, productivity and other livelihood measures are extended to all claimants and communities whose rights have been recognised under FRA. Kerala State is making efforts to integrate housing scheme of the state with the recognised habitation rights but there is no policy guideline on integrating line department schemes with the recognised IFR agricultural lands.

While a beginning has been made for some sort of intervention post grant of IFR, there is no progress as far as CFR is concerned. Although 174 CFR claims have been recognised in Kerala, the tribal settlements are yet to begin their CFR management plans for the recognised areas. As far as CFRR which genuinely acknowledges community empowerment as envisaged under section 3(l) (i) and section 5 of the FRA is concerned, it has only been implemented at two locations. The gram sabhas are yet to constitute the Community Forest Resource Rights Committee as laid down under 4(l)(e) of the Act. These points were brought out by the Report of the Working Group on the Assessment of the Implementation of Forests Rights Act, 2006 constituted by the Government of Kerala.

### **5.3.13 Need for institutional reforms**

Decentralisation theory predicts positive outcomes when powers are devolved. This also forms the basis of federalism (Varshney, 2013). However, studies on decentralization reforms suggest that for decentralization to be effective, particularly in the developing countries, conditions to produce positive outcome are necessary (Siripurapu, Mohanty, Kotamraju, & Geores, 2016).

FRA was enacted as a step towards democratic decentralization of forest governance. The CFR clause which empowers the gram sabha specifically exemplifies this facet. However, the change in the governance structure as required to adapt to the

new laws has not happened (Manthan, 2010, Saxena, 2018). The results of the FRA implementation indicate that the root cause of conflicts in grant of CFR might be attributable to the continued inheritance of the colonial era institutional reforms (Siripurapu, Mohanty, Kotamraju, & Geores, 2016). These legislations have continued through post- independence also.

This also cites the need for necessary modification to rules and regulations to create economically viable groupings. Results achieved in implementation of CFR in Kerala indicate that the effective implementation of FRA is not feasible without enacting corresponding institutional reforms. This will need to include amendments to processes including review of the procedures laid down in FRR. The establishment of an inter-governmental panel could be one alternative.

#### **5.3.14 Other Challenges**

There are also many functional challenges to the implementation of CFR which were brought out by the stakeholders during primary survey and FGDs. Some of these are listed below.

- Unlike IFR, grant of CFR is a complex process that involves detailed mapping, and demarcation of land over a large geographic region. This poses technical challenges, especially when the land to be mapped has dense undercover, natural barriers and other impediments. There had only been limited attempts made to rely on modern technologies such as employment of drones, utilization of geographic information systems, etc. But these have not met with much success.
- There are no proper maps of the forest land delineated for grant of CFR even when titles are distributed (Working Sub-Group Report, 2021). During

the field visit it emerged that the gram sabhas were not certain if the recognised CFR is based on the customary boundaries of the tribal settlement or not.

- Currently, the ST people in Wayanad are not prevented by forest officials from accessing forests. They do so at their own will and overlaps if any are mutually reconciled through informal mechanisms. In the absence of adequate job opportunities, some people from Adiyar and Paniyan communities who were traditionally not forest dwellers have also now started collecting MFPs. Since there are no CFR areas in place in Wayanad, there has been no objection to this from the traditional forest goers. In the event of depletion of forest resources, these informal arrangements could become a potential source of conflict.
- There are also IFR claims within the CFR recognised areas, especially in Wayanad as brought out by the Working Sub Group in their report.
- It was highlighted that in many of the areas, the delineation of land under CFR has been arbitrary and much in variance/ excess of what was traditionally used by the tribal communities. As a result of the challenges involved in mapping, and for want of adequate effort, many areas have not been properly mapped. Non-delineation of Critical Wildlife Habitat has compounded this problem.
- Kerala Government had started the project of Digitization of land records in the form of '*Bhoomi Keralam*'. However, this system has failed and has not yet been revived.
- Poor book keeping is a reason for the inability to track progress and monitor the processing of claims. Both IFR and CFR claims are rejected without

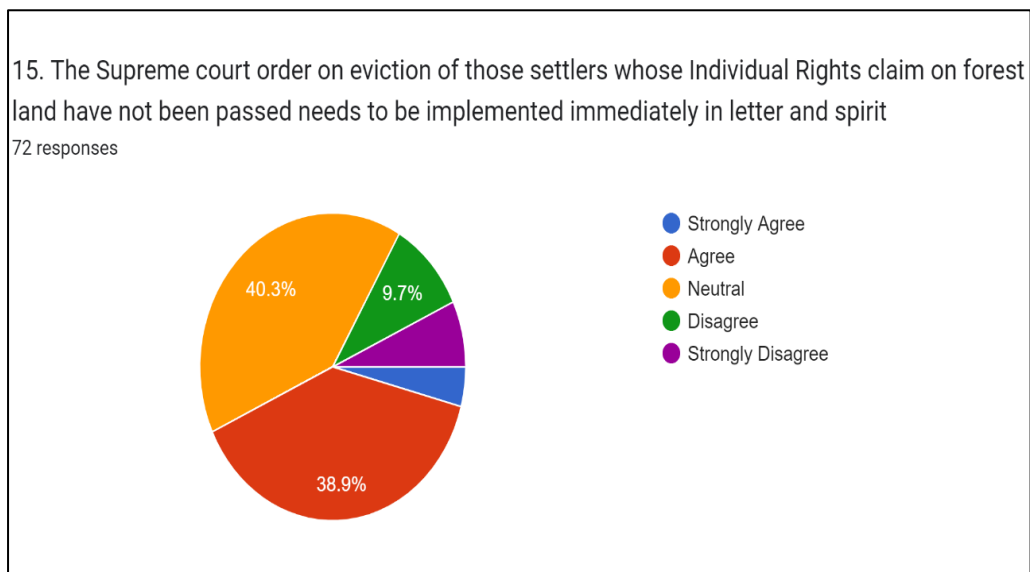
following the due process of the FRA under Section 12 A (c) FRA Rule 2012. There is no written document available at the SDLC, DLC and the nodal agency informing the claimant in writing the reasons for the rejection of her/his claim (Working Sub Group Report, 2021). Access to secondary data was found to be problematic. Keystone foundation had sought the status of FRA claims in Wayanad through an RTI. Only details about IFR was received, that too in a haphazard manner. The details on CFR could not be compiled by the DLC. The lack of exchange of information between the forest and tribal departments is a key factor.

- Coordination in conduct of surveys for demarcation warrants the presence of the community representatives, the Panchayat Secretary, representatives from tribal department and forest and the surveyors. Coordinating the assembly of representatives from diverse agencies was found to be problematic which often led to postponements. The shortage of qualified surveyors, in particular was conveyed during the interactions.

#### **5.4 Implication of Supreme Court order on eviction**

While the challenge to the constitutional validity has not yet been disposed of and is still pending, the Supreme Court issued a directive in February 2019 to evict from forest lands, all those in people whose rights have not been recognized. This amounted to declaring such people as ‘encroachers’. Many tribal groups had raised protest against this order. However, this was stayed consequent to the filing of an affidavit by the central government and no action has yet been taken. While the matter is pending, it continues to hang like a Damocles’ sword over the forest dwellers. A response on the issue was sought from Group 2.

Figure 5.29: SME view on Supreme Court order on eviction of illegal forest dwellers



(Source: Summary of responses to question addressed to Group 2)

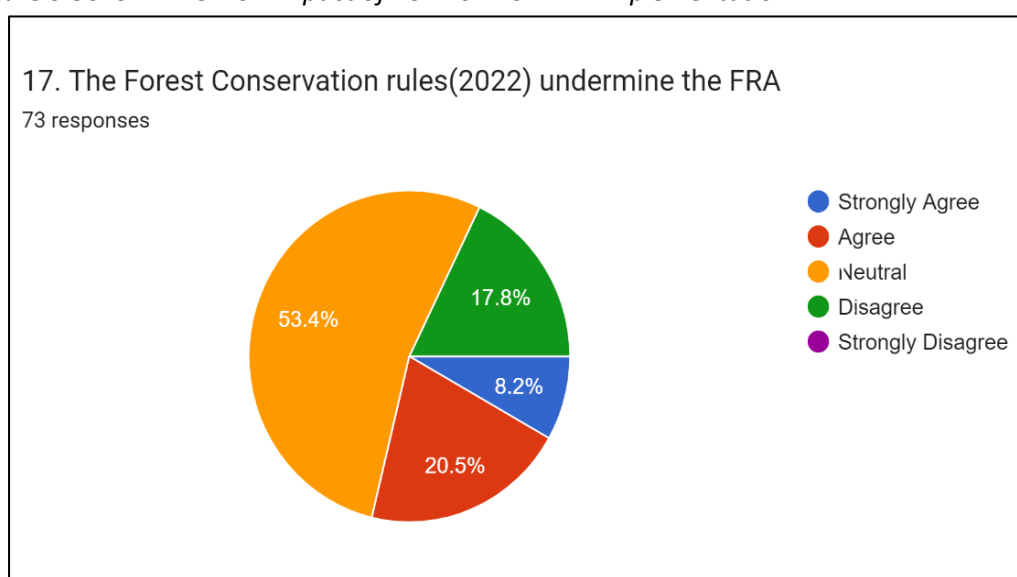
While 40% of the respondents were neutral, about 43% felt that the immediate eviction was the answer. Only about 17% felt that the eviction should not be carried out. However, given the contours of our politics, the eviction does not appear imminent. The possibility of eviction did not emerge as a concern during the FGDs. Examples of Aralam and Muthanga show that even occupied land was always regularized. The State has a history of land allotment to the landless. As such the stakeholders feel that getting the Record of Rights for IFR is only a matter of procedure and time.

Some of the tribal promoters did convey apprehensions about the buffer zone regulations. In June last year, the Supreme Court had issued directions that a buffer zone of 1 km be maintained around forests and sanctuaries across the country. This was challenged by both Central and Kerala Governments, on grounds that there were already existing properties. However, this is distinguishable from the provisions listed in FRA, as an Act of Parliament. As such the Supreme Court Order is unlikely to have any significant impact on the IFR of the STs of Kerala.

## 5.5 The New Forest Conservation Rules and FRA

Recently promulgated Forest (Conservation) Rules (FCR), 2022, has amended certain provisions of the previous rules. It is feared that the new FCR, 2022, turns the tables on the power of gram sabhas envisaged in FRA. In the case the gram sabhas refuse to give consent to projects after the approval had been obtained from the union government, it is apprehended that, the project proponents and state agencies would plead before the Court to legitimise the projects invoking the *fait accompli* principle. The Government of India has clarified that the new rules do not contradict the existing provisions (MoEFF&CC, 28 July 2022), but this has not been able to allay the fears of NGOs working in tribal welfare. Against the backdrop of the haziness on the conditions of FCR 2022, a question on its impact on FRA was put forth to Group 2.

Figure 5.30: SME view on impact of FCR 2022 on FRA implementation

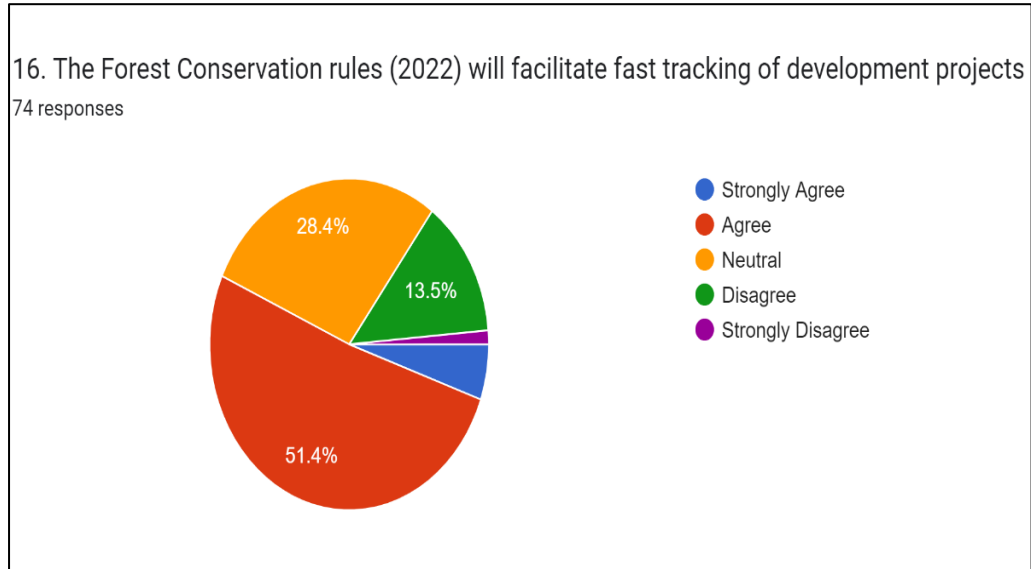


(Source: Summary of responses to question addressed to Group 2)

About 30% of the respondents felt that FCR 2022 undermines FRA while about 18% felt that it did not. As expected, the majority were not clear on the impact of FCR 2022 on the implementation of FRA. Naturally, MoTA and MoEFF&CC need to work

in concert to bring more clarity on the issue. For further clarity a question on the ability of FCR 2022 to speed up development projects was also included.

Figure 5.31: SME view on FCR 2022 and fast tracking of development projects



(Source: Summary of responses to question addressed to Group 2)

However, majority of the respondents (57%) felt that the new rules will enable fast tracking of development projects, axiomatically conveying that the gram sabha clearance has instilled a power of veto in them. But the discussions with the officials in Kerala indicated that its impact in Kerala is likely to be negligible.

- The State is not characterized by implementation of big-ticket projects in forest areas. There are no major industries in the State, particularly in the tribal areas. Also, no such major industries are foreseen in the immediate future. Western Ghats Ecology Expert Panel (WGEEP), commonly known as the Gadgil Committee report also forbade construction of new dams based on large scale storage in Ecologically Sensitive Zone 1 in Western ghats where most tribals of Kerala live (Gadgil Committee, 2011). This was further corroborated in the report of the High-Level Working Group on Western Ghats commonly called the Kasturirangan committee report

(2013). Mining, quarrying and sand mining in ecologically sensitive areas (ESA) was proposed to be completely banned. Along with this, all existing mining areas were to be gradually phased out. It also warned against thermal power projects in the ESA.

- The State has a history of environmental movements and civil rights struggles for ecological protection. Hence projects involving large scale diversion of forest land are unlikely.
- There is already caution imposed in the mind of the decision makers in the wake of the Gadgil Committee Report and the Kasturi Rangan report on the Western Ghats.

While Kerala may not face any radical changes in forest management on account of the promulgation of FCR 2022, it may not be the same for other states. But, the true implications of FCR, 2022 on further grant of forest rights as well as the continued assertion of CFR in places where they have been granted is yet to be assessed.

## **5.6 Impact of FRA on lives of STs in Wayanad**

Since the focus of the governments of Kerala concerning ST upliftment over the years has been on welfare schemes than empowerment, it would be prudent to take a brief look at the results achieved. The comparative figures on the socio-economic status of STs highlighted the following:

- The literacy rate amongst STs of Kerala, as per the 2011 Census was 67% against the State average of 94% (Nath & Hima, 2015). This figure has improved in the last decade, but a survey conducted by the Kerala State Literacy Mission Authority (KSLMA) in 2017 revealed that more than 30% of the tribals in Wayanad were illiterate.

- The health standards of the tribal communities are way below that of the Kerala average, particularly infant mortality and maternal mortality rate. Infant mortality rate among the tribal stood at 17.3 while that of the general category male child was 9 and female child is 12. Maternal mortality rate of the STs of Kerala was found to be 258.9 against the figure of 25.8 for the non-tribal population (Martinez-Rodríguez. et.al, 2020).
- Nutritional deficiency, sickle cell anemia, tuberculosis, cancer, etc. are also known to be prevalent among the tribes of Kerala.
- According to the census 2011 only 16.7% of tribal households had the access to clean drinking water. Another 10% households were using impure water resources (Martinez-Rodríguez. et.al, 2020). These percentages have increased today, but leave a lot to be desired, as witnessed during the field visit.
- NSSO Consumer expenditure survey of 2011-12 brought out that the incidence of absolute poverty among STs of Kerala was 13.6% for urban and 41% for the rural population. Since most of the STs of Kerala are part of the rural population, the average of abject poor amongst STs comes to 39% against the state average of 16% for SC, 7.1% for OBC and 5.8% for other categories. Thus, the incidence of abject poverty among the rural ST residents is very high in Kerala and only a little lower than the national average, which is a matter of concern (Niyati, 2016).
- Abject poverty combined with implementation of some of the welfare schemes have had some unforeseen consequences also. For example, the distribution of free rice has led to changes in dietary habits with adverse impacts. It was revealed during the field visit that many of the poor

households are in the habit of eating only rice and chilies. The resultant nutrition deficiency has led to a drastic increase in the incidence of diabetes.

- Genuine empowerment of STs has not taken place in Wayanad District. They continue to stay in isolated habitats, sometimes adjoining other population pockets. While they have adopted most of the modern technologies (most of them including women access social media, use digital payment etc as revealed during the field visit), they have not been integrated into the ‘mainstream’. This has created some sort of ‘ghetto’ like lifestyle condition, leading to frustration. This situation which is not good for the overall well being of the ST population.
- Most of the tribal children study in separate model schools specially established for them. However, there are not enough opportunities for employment after completing graduate or post graduate education, which creates stress amongst the youth. It was brought out during various interactions, particularly with members of Kudumbashree that the incidence of depression and mental ailments are on the rise amongst the tribal youth.
- The lack of employment opportunities and viable economic avenues also tend to alter the inter-tribal dynamics. For example, it was brought out during the field visit that some of the communities which were traditionally not forest dependent have also started accessing the forests for collection of MFPs. The outcome is not positive; for example, in the absence of traditional skill sets the new forest goers are not able to extract honey from the upper reaches of the trees. In the absence of understanding of the ways of the jungle, sustainable exploitation may suffer which could have adverse

effects on the health of the forests. Since the areas of CFR are not clearly demarcated, free and open access irrespective of areas could be a source of conflict in future.

- Alcohol usage and substance abuse are also set to be on the rise. In the areas of Wayanad District bordering Karnataka, the male folk prefer to work in Karnataka even though they get higher rates for labor in Kerala. This is because liquor is available cheaper across the border. Labour contractors from Karnataka are known to collect laborers *enmasse* in jeeps and return them in the evening providing adequate liquor.
- It is mostly ST women who seek labour under MNREGA. Men prefer to work as daily labourers for construction jobs or in resorts and tea estates . Many of them do not get adequate work every month.

The absence of adequate employment opportunities combined with erosion of the conventional way of life has created a dire situation. Today the tribal population of Wayand are alienated from the rest of the population, while at the same time, they are unable to flourish through their traditional ways of life.

## **5.7 Conclusion**

Primary data was collected by a combination of field visit cum physical survey and online survey to ascertain the reasons for poor rate of approval of CFR claims in Kerala. It involved two separate questionnaires to targeted respondents as well as FGDs with cross sections of all tribal communities of Manathavady Taluk of Wayanad district. In addition, interviews were held with the subject matter experts spanning various departments, field executives appointed by the government as well as members of civil society groups. The data from primary research was compared with the

secondary data provided the various government departments. Open source material, archival records and previous research papers were perused to verify, corroborate or negate the findings.

The research found interdistrict variation in implementation of FRA. In terms of land allocation per IFR claim Wayanad district had a very poor record. A negative correlation was observed between the receipt of claims as well as approval of CFR per 100 hamlets and the number of settlements in districts. The research also identified structural as well as functional impediments in the grant of CFR to the STs of Kerala. These had been elaborated in the previous paragraphs. The recent Supreme Court order on the eviction of forest dwellers is unlikely to upset the current status quo on FRA implementation in Kerala. However, whether or not the newly promulgated FCR, 2022 undermines the FRA is a matter of debate and will only become clear as events unfold in future. It has been conclusively shown by the research that the implementation of FRA in Kerala has fallen well short of the objective of community empowerment envisaged in forest rights act.

## CHAPTER 6: CONCLUSION AND RECOMMENDATIONS

*“Poverty is not just a lack of money; it is not having the capability to realize one’s full potential as a human being”*

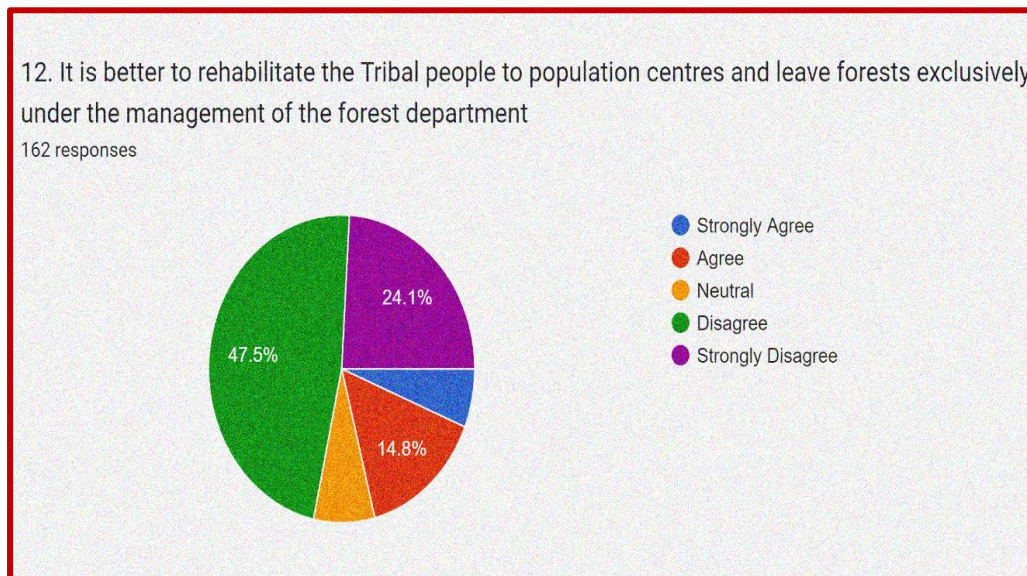
*Amartya Sen*

### 6.1 Tribal development and FRA

As humankind makes accelerated progress in adoption of modern technologies and more and more population gets urbanized, the space for public discourse on tribal welfare keeps shrinking. Today, there are hardly any news reports relating to tribal affairs that occupy the front pages of the newspapers or capture headlines, barring occasional reporting of naxalist violence in some tribal areas. There are many proponents of the argument to do away with special dispensation to any segment of the population, irrespective of the injustices suffered in the past. The proliferation of information technologies and the process of globalization, such advocates argue, has made the world ‘flat’ and equitable, thus doing away with the need for special treatment. The ongoing debate in Australia about the status of the aboriginals is a case in point. The rise of the demand for national homogenization as a reaction to globalization (Kaldor, 2004) has also brought pressure on special dispensations accorded to various sub-national groupings.

In the backdrop of this ongoing debate about modernization and homogenization a question on the road map for tribal development in India was put forth to the government Group 1.

Figure 6.1: Perception on relation of tribal peoples with forests



(Source: Summary of responses to question addressed to Group 1)

The responses indicated that there was an overwhelming endorsement of the symbiotic relationship that the tribal people shared with the forests of India, with nearly 72% of the respondents acknowledging it. Only about 20% concurred with the idea of ‘mainstreaming/assimilating’ the tribals.

This acknowledgment was also the foundational idea behind FRA, which has been hailed as a historic piece of legislation. The following conceptions formed the ideational basis for framing of the act:

- The forest dwelling STs and OTFDs are integral to the existence and sustainability of the forest ecosystem in India. Non-recognition of this and denial of rights has caused historical injustice. In order to grant justice, grant of tenurial and access rights to these traditional forest dwellers including those who were forced to relocate on account of State interventions is mandatory.
- The rights of the traditional forest dwelling communities include the responsibilities and authority for sustainable use, preservation of

biodiversity and maintenance of ecological balance. Granting of the rights for sustainable exploitation and preservation will only strengthen the conservation regime while enhancing the food and livelihood security of the forest dwellers.

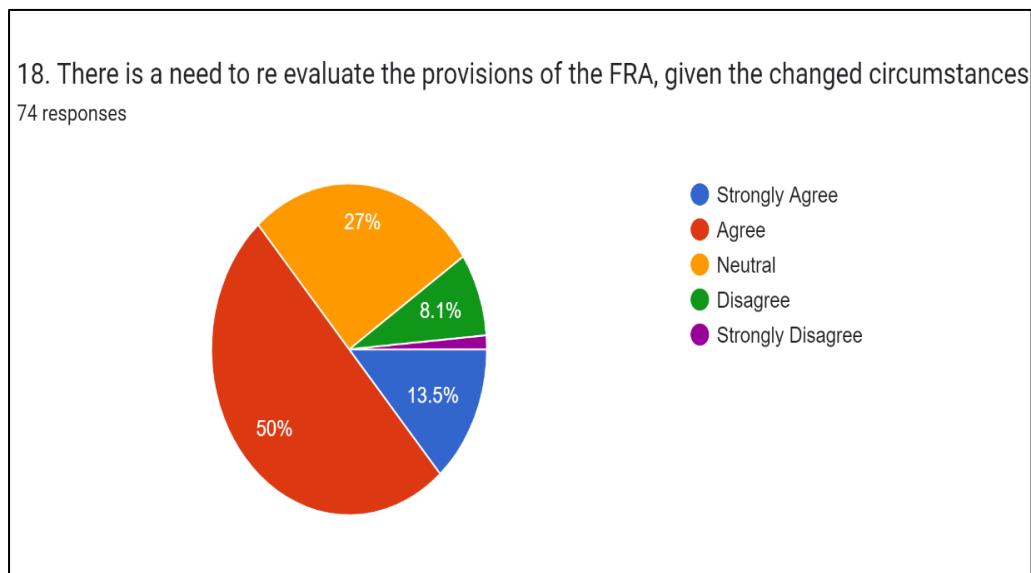
Viewed from the point of view of constitutional principles, the points listed below can be said to be implicit in the act:

- By granting tenurial and access rights, the Act intends to undo the historical injustices brought upon the forest dwellers. In doing so, the State intends to secure for these oppressed peoples justice, liberty, equality and fraternity guaranteed under the preamble of the constitution. These also conform to the fundamental rights listed under sections 12 to 35 of the constitution.
- The second part dealing with the responsibilities and right to protect and manage forest resources can be said to relate to the principle of federalism. It is also attuned to the precept of democratic decentralization articulated as part of directive principles of state policy under Article 40. It should also be viewed as the extension of the legacy of the 73<sup>rd</sup> amendment and PESA act of 1996.

The FRA caters not only for the recognition of 13 types of forest rights (individual as well as community) but also prescribes duties for and empowers the community institutions such as gram sabhas and local level institutions to the protect forests, wildlife, bio-diversity, habitat as well as cultural and natural heritage. These two facets of the act need to be blended and implemented in concert so that the rights, duties, and powers mentioned in the act mutually support and sustain each other. This task has been made difficult because right from its germination, the idea of granting '*pattas*' of forest

land always took the lead. The vestiges of this perception continues to dominate the outlook even today not just among masses but also amongst some of the implementers and policymakers (Manthan, 2010, Gadgil Committee, 2011). This disconnect in the understanding of the policy was exemplified in the responses of Group 1 (the informed general public) as well as Group 2 (the policy implementors) who both felt that grant of IFR was adequate to uplift the tribal community (responses summarised in the previous chapter). A question on the relevance of the act in its original form substantiated this finding.

*Figure 6.2: SME view on need to reevaluate FRA provisions*



(Source: Summary of responses to question addressed to Group 2)

The majority of respondents from Group 2 (nearly 64%) felt that there is a need to re-evaluate the provisions of the FRA. The broad contours of the responses throw some interesting contradictions.

- The forest dependence of the STs is universally accepted and FRA is considered good legislation for the overall well-being of the target populace, but there is a felt need for review of its provisions.

- The opposition to FRA comes from the conservationists as well as the modernists.

The findings need to be understood in the context of these contradictions so that the future road map can be chartered.

## **6.2. Summary of Findings**

The research had looked into the specific aspect of grant of Community Forest Rights (CFR) to the scheduled tribes of Kerala. Based on primary research carried out in Mananthavady Taluk of Wayanad District -which had the highest population of tribal people in the state- the research inquired into the reasons for poor record of the state in grant of CFR.

Based on field research and analysis of primary as well as secondary data the following reasons could be identified for the poor record of Kerala in granting CFR to STs:

- Ambiguities about the scope of the law, not only amongst the ST population, but also those responsible for implementing the Act.
- There is a lack of data on the forests that were traditionally being managed or which have the potential for management by the ST communities. In the absence of the involvement of communities in management, they will not only be weaned away from the forests, but will also lose their traditional skill sets in sustainable exploitation and management.
- Lack of awareness amongst the tribal people of Kerala about CFR. While most of them knew about IFR, there was very little knowledge about CFR.

- Lack of political will. The focus of political intervention has been on IFR. Lack of numbers, the divergent cultures of the various tribes and the fragmented settlement makes STs of Kerala an unattractive political constituency.
- Lack of community mobilization seeking CFR or CFRR.
- Inadequate understanding of the spirit behind the act. In Kerala, it continues to be interpreted as an act to grant tenurial security and habitat rights to the STs and an extension of continuing land allotment process. Its power and potential for community empowerment have not been realized. CFRR which genuinely empowers communities has only been granted at two locations, accounting for a total of 46000 hectares.
- Lower priority of FRA compared to many other welfare schemes being run in the state. Unlike targeted schemes which can have visible, tangible impact in a short time frame, grant of community forest rise is slow and laborious. Naturally the implementers as well as the target population have less interest in FRA when weighed against other schemes.
- Economic viability. A viable forest based economy is mandatory to motivate the tribal community to engage itself in the management of forest resources. Such an ecosystem has not developed in Kerala.
- Fear of deforestation and resistance from the Forest Department. There are genuine fears amongst the officers from the forest department, who feel that the forests of Kerala are unique and pristine, and that a radical transformation in forest governance would lead to depletion of forest cover in the state.

- Structural weakness of the tribal affairs ministry. The central as well as the state tribal department and functionaries at various levels lack the institutional strength to push the agenda of CFR.
- Effective implementation of FRA is not feasible without enacting corresponding institutional reforms. This will need to include amendments to processes and procedures jointly by MoTA and MoEF&CC.
- Lack of coordination between the various departments.
- Lack of capacity building amongst the tribal communities of Kerala.
- Poor data management, book keeping, land record maintenance etc.

Amongst all the reasons mentioned above, deficiency of political will and the lack of awareness amongst the tribal population emerged as the most significant. The research also highlighted the contextual nature of CFR and the need for tailor-made, area and community specific solutions.

In Kerala the Adivasis have been settled in various hamlets which comprise a mix of forest and non-forest lands. While the RoR have been issued in most of the cases, it is pending in many. However, there has not been any institutionalized initiatives for eviction of Adivasis from any land in the State after the disastrous events in the wake of Muthanga issue of 2003, barring one incident at Pooyamkutty (George, 2014). The State also does not have a problem of differentiation since the state government has stated that there are no OTFDs affected by FRA in Kerala. Hence, it is unlikely that the Supreme Court Order on eviction will have any impact on implementation of FRA in Kerala.

In Kerala, there were no major apprehensions that the new FCR 2022 would undermine the implementation of FRA. In the absence of any major

industrial/infrastructure projects and the backdrop of Gadgil Committee and Kasturirangan reports, FCR 2022 is unlikely to have any major implication on FRA implementation in Kerala.

A study based on the STs of Wayanad (Mini, 2018) indicated that there has been marginal increase in the standard of living. However, this does not match the overall improvement in the socio-economic condition of the non-ST population. As regards the specific impact of CFR is concerned, it is evident that it has neither been able to empower the ST community nor been able to develop a forest-based livelihood ecosystem.

### **6.3. Recommendations and the Way Forward**

The research has shown clearly that FRA implementation has failed in achieving democratic decentralization and empowerment of ST community in Kerala. It is evident that a concerted effort is required with complete cooperation between all the stakeholders if we are to achieve the larger intent envisaged as part of the FRA legislation.

#### **6.3.1 Recommendations to improve CFR approval in Kerala**

The start point of effective implementation of the CFR provision is certainly political will. In the absence of definite political direction, affirmative action for grant of CFR and empowerment of the ST community as envisaged in FRA is not feasible. Political parties of the state cutting across party lines need to arrive at a consensus and direct the executive for a definitive action plan implementation of the CFR provisions. While granting community rights, particularly CFRR, the factor of traditional forest dependence needs to be established. Not all communities of the state have traditionally

been forest dependent. While some of them do share a symbiotic relationship with the forest many tribes who do not. Instead of employing a broad-brush classification of STs this nuance which distinguishes the forest dependent communities needs to be factored in mind while evolving a framework for implementation.

Along with clear cut political direction there needs to be an institutional endeavour to enhance the awareness about the CFR provisions. Under the gambit of this campaign should not only be the affected community, but also the officials from all the stakeholder departments. The officials need to be sensitized not only about the scope and provisions of CFR, but also the underlying rationality and the larger aim of empowerment envisaged.

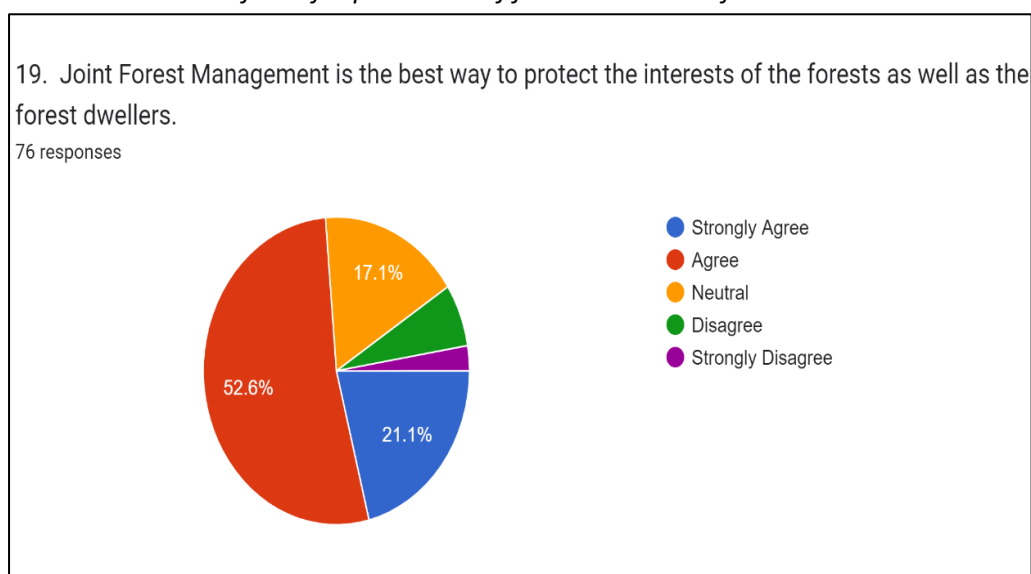
Even after political direction and awareness campaign, the CFR endeavour can succeed only if there is community participation. This is feasible only when the State can guarantee a viable forest-based economy, which meets the aspirations of an evolving tribal community. There is a need for efficient collection of forest produce and marketing them. Along with this there needs to be a system of converting the forest produces into value added products under the aegis of the community rather than through intermediaries or forest department. A viable economic model needs to be developed for all CFR areas; these can either be completely forest based or in convergence with other schemes, based on the resource availability of specific regions.

Evolving a viable economic model is indeed challenging given the fragmented nature of the tribal settlements in Kerala in general and Wayanad District in particular. There could be a need to arrange the forest dependent gram sabhas into some sort of clusters and organize the collection and sale of MFPs. There would also be the need to employ professionals and financial support at least in the beginning to establish

efficient market practices. The specific areas of focus should include changes in agricultural practices if required with the twin aims of product diversification as well as productivity enhancement. Based on uniqueness of the regions eco-tourism needs to be incorporated into the forest based, community run eco system. The help of experts in the field must be sought for conversion to secondary products, marketing and re-investment of forest produces. As a beginning, an independent audit of Vanasree should be carried out by an independent agency to draw out lessons.

The fear of deforestation and exploitation of the tribals by interested parties is real and genuine. Hence there need to be mechanisms in place to effect a gradual transformation. The point of hand-holding by the forest department during the initial phase was highlighted by many Forest Officers. This was also a comment from many respondents of Group 2. The importance of integrating the implementation of FRA with the participatory forest management programmes for providing CFR was highlighted as early as 2010 in a study on FRA implementation in Kerala (Sathyapalan, 2010). To a specific query on JFM too, a strong concurrence was received from Group 2.

*Figure 6.3: Relevance of JFM for protection of forests as well as forest dwellers*



(Source: Summary of responses to question addressed to Group 2)

As many as 74% of the respondents believed that Joint Forest Management is the way forward to protect the forests as well as the interests of the forest dependent population. There were less than 10% who felt otherwise. However, the experience from the past indicates that JFM has failed to inculcate a sense of ownership amongst the forest dwellers. Lack of community participation, inadequate representation of women, ineffective leadership, lack of statutory institutional support, were found to be major hurdles in making JFM effective (Kallur, et.al, 2003). Even conceptually, the joint structure defeats day to day autonomy (Lele, 2011). On ground, it continues to be controlled by the forest officials (interview with experts).

Hence JFM should be viewed not as an end, but a means to empowerment. However, the ST members need to have more say in the VSS to start with. There has to be a gradual shift from JFM to complete devolution of responsibility to the communities in case of CFRR areas, if we are to empower the communities and achieve the real ends of FRA. Redefining the current objectives of PFM duly incorporating the spirit of FRA 2006 and suitably modifying the 2009 PFM guidelines of Kerala government has already been recommended in a study (TIES, 2016).

Having established a framework and road map for CFR, there is an urgent need at the State level to map all the potential villages/tribal settlements and forest-dwellers for the forest rights claims. This exercise should be completed in a time bound manner by the tribal department officers at the SDLC and DLC levels (Sub Working Group, 2021). This should be followed up by a time-bound plan for implementing CFR including finalization of the pending ones and detailed review of the rejected ones. At the same time, misuse of the provisions of the FRA by filing false claims for non-existent land and excess land should be ruthlessly curtailed.

The priority at the state as well as village level, having been on IFR, the focus now needs to shift to community forest resource rights. The gap in understanding the importance of community forest resource rights among the members of gram sabha must be addressed for the long-term sustainable use of resources. Best practices from other areas should be shared with gram sabha members and also exposure visits to successful collective action villages that have asserted their rights under FRA can be carried out (Sub Working Committee Report, 2021). In 2014, the ST community of Vazhachal forest division in Thrissur became the first community in the state to receive Community Forest Resource (CFR) rights. The success story of Vazhachal can be attributed to three things; a mission mode of implementation with clear responsibilities, involvement of committed, active and informed NGOs, and proactive community leadership (Purushothaman, Devi & Amrita, 2021). This was followed up by CFRR in Peechi in the same district. Lessons from Thrissur district needs to be studied and adapted for other areas.

The institutional capacity of the State Tribal Department is also an issue that needs to be addressed. The department in Kerala is facing several challenges in facilitating the implementation of the act at the SDLC and DLC level. There are limited human resources present only 55 tribal extension officers) to create awareness about the FRA, facilitate the formation of FRC committees at the gram sabha level, initiate meeting at the SDLC and DLC level, arrange the necessary supportive documents for the gram sabha to file their claims, in case of litigation related to FRA then prepare ground level report to submit affidavits in the court of law, and integrate line department schemes with the title holders. Given the current human resource and financial support for the FRA, the officers are disadvantaged and overburdened (Sub Working Group Report, 2021). This point was also highlighted by the officers of the tribal department

who were interviewed at the Tribal Mission Office as well as in field. The TEOs are also not technically equipped to understand the forest landscape and revenue maps to participate in the SDLC and DLC discussion.

KIRTADS has been working without a permanent director and has been spending most of the time on vigilance functions which is not the core charter. There is a need to energise this unique establishment to be an effective institutional repository. The institute needs to be improved and developed as a centre for excellence. Ethnographic studies with qualitative data will better bring out the nuances of tribal issues than quantitative studies. This calls for motivation, focus and specialization, for which KIRTADS is most suited.

It was observed that most of the websites of the government departments of Kerala are devoid of dashboards that give actual status of projects. Visibility of the status of claims will not only bring transparency and instill confidence, but also bring the issue of FRA to the forefront of public debate. There is an urgent need to have both district and state-level databases made available to the public, with the status of claims submitted, recognized and pending along with reasons for rejection/delay. These should be updated in the website of the State Tribal Department as dynamic dashboards. This will enable the claimants to follow up and appeal to the concerned authority about the claims and also help assess progress and problem areas.

Kerala Government needs to pay particular attention to Wayanad district which has the maximum number of STs, but amongst the worst record in implementation of FRA. Visible improvement here would not only reap tangible benefits for the affected people but also send the correct signals.

The State should also organize regular meeting of state level monitoring committee to assess the status of compliance with FRA and give necessary directions to the SDLC and DLC members to tide over the difficulties in implementation, particularly related to inter-departmental issues.

### **6.3.2 Issues for consideration at national level**

The proliferation of information technologies, developments in infrastructure and the commissioning of many industrial projects in tribal areas has made isolation of the tribal people from the balance population an impossibility. Thus, today these indigenous peoples of our country stand at a cusp between modernity and traditional systems. This induces dissonance which can have grave implications for the overall well being of the people of our Nation. It is thus imperative that a national level assessment of the impact of FRA on the socio-economic conditions of the STs and OTFDs is carried out.

The last time implementation of FRA was analysed at the national level was when it formed a part of the survey on the '*Socio Economic, Health and Educational Status Of Tribal Communities of India*' in 2014. There has neither been any further inquiry on the reasons for sub-optimal implementation of FRA nor an impact study on the results achieved in the wake of the grant of titles. It may be appropriate to thus carry out evaluation of the FRA from three basic facets; namely policy content, implementation and impact.

From the viewpoint of policy content, FRA had two distinct objectives. The first was to ensure habitation security and tenure rights to the STs and OTFDs who were alienated from traditional abodes which resulted in historic injustice. The second was the larger aim of democratic decentralization and community empowerment

conforming to the federal principles and positive discrimination articulated in the constitution. While the policy content comprised two different and clearly distinguishable objectives, the implementation is focused primarily on former and utilized the act primarily as a means of distributing ‘pattas’. The amendment to Forest Rights Rules promulgated in 2012 tried to address this deficiency but failed to do so. The ambiguity between access rights (CFR) and management and protection rights (CFRR) has been a major shortcoming in understanding the policy content. Thus, while the policy content was clear in its envisaged objectives, its articulation by the government and assimilation by the target audience falls short in the policy content test.

With respect to policy implementation there is a wide gap between different states in the country. There is also wide variation within the country in grant of IFR and CFR. States with substantial tribal population, where they form an effective pressure group have been found to have a better record in the percentage of claim approvals. However, in qualitative terms, the implementation falls short. As far as IFR claims go, the average area of land allotment stands at 2.18 acres against the upper limit of 10 acres laid down in the Act. The figures of the area dispensed for CFR clearly are unreliable and do not match what would traditionally have been the regions accessed. There are also a large number of issues associated with regard to the type of rights that are being asserted by the affected communities under CFR. The most glaring impediment in carrying out the policy implementation check with grant of CFR under FRA is the lack of reliable data. It can be concluded that grant of IFR has been partially successful, while that of CFR has been an overall failure.

There has not been a major national level study on the impact of FRA implementation on the socio-economic condition of the STs and OTFDs. In the absence

of robust research which combines quantitative and qualitative tools and collation of baseline data, realistic assessment is not feasible.

To enable FRA realise its full potential, the aspect of CFR is most crucial. While the statistics may show a good quantitative success rate in grant of CFR, qualitatively the implementation has been very poor. The effective assertion of gram sabha authority has rarely occurred across India. The empowerment mechanism should involve strengthening of the gram sabhas. Forest Rights Committees (FRC) should be formed democratically, and through the involvement of people from all the forest dependent hamlets and social groups, especially women, landless, and the most vulnerable sections of the society at the village level. These FRCs need orientation and training on their role, responsibility, and authority, to ensure due process for filing of IFR and CFR claims. The gram sabha members must be able to interact with SDLC and DLC on sure footing.

The effectiveness of implementation of FRA and the grant of CFR would entail a change to the structure of forest governance in the country (Saxena, 2018) which has not yet happened. There is a serious need to undertake reforms in this direction to achieve the necessary paradigm shift. Given the perceptual cleavage between tribal and Forest ministries, a multilayer governance mechanism could be the way forward. This mandates the separation of policy framing, policy regulation and routine operation to different levels for execution by different actors/ organisations, taking into account diverse landscapes and geography of a vast country like ours. The right of local communities, to make operational decisions about their forests is respected. But, since there are some legitimate stakes, which have implications beyond the local, credible and impartial processes need to be put in place to operationalise the concepts of

sustainable exploitation and conservation. A democratic mechanism which caters for external regulation with role for foresters is one of the ways suggested (Lele, 2017).

While facilitating grant of more CFRs, the government needs to ensure and monitor the forests are not degraded. Two or three basic criteria of sustainability and health of forests can be prescribed, the simplest and easily measurable indicators of these can be identified, baseline data for these indicators are obtained and periodically monitored. Two key critical criteria that could be considered are forest cover and biodiversity, for which crown cover and biodiversity richness respectively are the indicators. Both these indicators are comparatively easy to measure. Satellite monitoring for forest cover of CFR patches can indicate changes in crown cover periodically. This can further be integrated into a GIS system to facilitate monitoring and take remedial action when the indicators show problems with the health of forests (Kumar, 2014).

To establish viable forest based economy, a review of the silvicultural practices is mandatory, to boost the production of gatherable biomass, and not merely timber. Shift from trunk based to not crown-based forestry is one of the suggested approaches (Saxena, 2018). While the State is right in executing targeted welfare schemes, the larger aim of empowerment needs to be kept in mind. Incentivization mechanisms need to be brought in place for self-reliance initiatives.

There is a definite need for MoEFF&CC and MoTA to work in concert to achieve better understanding of implementation of FRA. The 'perceived' clash between the provisions of the forest laws and FRA needs resolution in order to take FRA implementation to fruition. There had earlier been contestation over the issues of

precedence between FCR 1980 and FRA 2006 (Kohli, 2017). FCR 2022 is likely to accentuate this conflict which needs to be addressed jointly by both ministries.

The study also shows the deficiencies with linear narratives and highlights the significance of comprehending the nuances of tribal dynamics. This brings out the clear need for adjusting to the local dynamics. There cannot be a universal classification for all STs and OTFDs but a need for adaptation based on local conditions. While the act per se need not be modified there is scope improvement in the forest rights rules to facilitate implementation of the act in a better manner.

## **6.5 Conclusion**

As amplified, the Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act of 2006 sought to undo the historic injustices brought upon the STs and OTFDs by recognizing and vesting their forest rights and occupation in forest land. The Act provided a framework for recording the forest rights so vested. In doing so, the FRA sought to provide individual forest rights which would grant tenurial security and the fundamental rights guaranteed under the constitution. In catering for CFR, the act sought to empower these traditional communities, in tune with the principles of federalism, democratic decentralization and positive discrimination.

Solutions for Adivasi livelihoods correlate directly with meeting global objectives such as the U.N. Paris Climate Agreement, Biodiversity Convention, and Sustainable Development Goals. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP, 2004) by the General Assembly addresses both individual and collective rights; it encompasses identity and cultural rights, rights to education, health, employment, language, and others. It outlaws discrimination against indigenous peoples and promotes their full and effective participation in all matters that

concern them. From the viewpoint of International Humanitarian Law as well as constitutionality, the FRA goes far beyond mere ‘recognition’ of forest rights.

Despite 16 years having elapsed after the passing of FRA, we are far away from achieving the targets envisaged in the Act. There is a need for a concerted effort synergising the focus of all stakeholders, if we are to achieve genuine welfare of the STs. While there may be some tangible improvements in terms of quantitative indicators, the eventual benefit needs to be weighed against the improvement in quality of life, catering for all needs, aspirations, and hopes of the generation. It would be apt to thus conclude this paper with the last of the principles of Jawaharlal Nehru's Panchsheel.

***“Results should be judged not by statistics or the amount of money spent, but by the human character that is evolved”***

## REFERENCES

- Adeney, Katharine.(2017). Does ethno-federalism explain the success of Indian federalism. *India Review*. 16:1, 125-148, doi: 10.1080/14736489.2017.1279933
- Ameerudhin, TA. (2019). In Kerala, Adivasis continue to fight for land rights 15 years after violent agitation. *Scroll.in*, Retrieved from <https://scroll.in/article/869166/in-kerala-adivasis-continue-to-fight-for-land-rights-15-years-after-violent-agitation>.
- Approach Paper to the 10<sup>th</sup> Five Year Plan. (2001). *Planning Commission, Government of India*. [https://www.education.gov.in/sites/upload\\_files/mhrd/files/document-reports/appdraft\\_1.pdf](https://www.education.gov.in/sites/upload_files/mhrd/files/document-reports/appdraft_1.pdf).
- Asher, Manshi. (2019). Evolution of Forest Rights: A Historical Perspective. *The Indian Journal of Social Work*. Vol. 80, Issue 4, October 2019, doi:10.32444/ISJW.2019.80.4.405-422.
- Asher, Manshi. (2022). A Decade of Resisting Law That Gives Adivasis Rights Over Forests: Climate Disasters For Himachal Pradesh. Retrieved from <https://article-14.com/post/a-decade-of-resisting-law-that-gives-adivasis-rights-over-forests-climate-disasters-for-himachal-pradesh--632a76b4c9269>.
- Asher, Manshi., & Agarwal, Nidhi. (2007). Recognizing The Historic Injustice: Campaign for the Forest Rights Act 2006. *National Council for Advocacy Studies*. Retrieved from <http://awsassets.wwfindia.org/downloads/forest.pdf>.
- Bandi, Madhusudan. (2014). Forest Rights Act: Towards the End of Struggle for Tribals?. *Social Scientist*, Vol. 42, No. 1/ 2 (January-February 2014), pp. 63-81.
- Basu, Sheela (2023). Forest Conservation Rules 2022: The smokescreen of compensatory afforestation'. *Centre for Legal Polity*. Retrieved from <https://vidhilegalpolicy.in/blog/forest-conservation-rules-2022-the-smokescreen-of-compensatory-afforestation/>.
- Becker, G. S. (1983). A Theory of Competition Among Pressure Groups for Political Influence. *The Quarterly Journal of Economics*, 98(3), 371–400. <https://doi.org/10.2307/1886017>.
- Bera, Sayantan., Shrivastava, Kumar Sambhav., Pallavi, Aparna., Paliwal, Ankur., & Narayanan, Sumana. (2011). Wealth of Forests Withheld. *Down to Earth*. Retrieved from <https://www.downtoearth.org.in/coverage/wealth-of-forests-withheld-33942>.
- Bhattacharai, Sushma & Jha, Prakash & Chapagain, Niraj. (2009). Pro-poor Institutions: Creating Exclusive Rights to the Poor Groups in Community Forest Management. *Journal of Forest and Livelihood*. doi:10.3126/jfl.v8i2.2304.

- Bhullar, Lovleen. (2008). The Indian Forest Rights Act 2006: A critical appraisal. *Law, Environment and Development Journal*. 4.
- Bijoy, CR (1999). Adivasis Betrayed: Adivasi Land Rights in Kerala. *Economic and Political Weekly*, May 29 - Jun. 4, 1999, Vol. 34, No. 22.
- Bijoy, CR. (2008). Forest Rights Struggle: The Adivasis Now Await a Settlement. *American Behavioral Scientist*, August 2008, doi:.10.1177/0002764208318929.
- Bijoy, CR. (2012). Policy brief on Panchayat Raj (Extension to Scheduled Areas) Act of 1996. *UNDP Policy Brief*. Retrieved from [https://d1wqtxts1xzle7.cloudfront.net/34944864/CRB\\_UNDP-Policy-Brief-on-PESA-2012-libre.pdf?](https://d1wqtxts1xzle7.cloudfront.net/34944864/CRB_UNDP-Policy-Brief-on-PESA-2012-libre.pdf?)
- Bijoy, CR., & Raman, Ravi K. (2003). Muthanga: The Real Story. *Economic and Political Weekly*, May 17-23, 2003, Vol. 38, No. 20, pp. 1975-1977.
- Borde, Radhika., & Bluemling, Bettina. (2020). Representing Indigenous Sacred Land: The Case of the Niyamgiri Movement in India. *Taylor and Francis online*. <https://doi.org/10.1080/10455752.2020.1730417>.
- Bose, Indraneel. (2010). How did the Indian Forest Rights Act, 2006, Emerge, *IPPG Discussion Paper Series Thirty Nine*, Retrieved from <http://re.indiaenvironmentportal.org.in/files/forest%20rights%20act%202006-emerge.pdf>.
- Bose, Purabi., Arts, Bas., & Dijk, Han Van. (2012). Forest governmentality: A genealogy of subject-making of forest-dependent ‘scheduled tribes’ in India. *Land Use Policy*. Volume 29, Issue 3, Pages 664-673, ISSN 0264-8377, <https://doi.org/10.1016/j.landusepol.2011.11.002>.
- Broome, NP., Rai, ND., & Tatpati, Meenal. (2017). Biodiversity Conservation and Forest Rights Act. *Economic & Political Weekly*. June 24, 2017 vol LII. Nos 25 & 26.
- Chowdry, Satbir Lochan Singh. (2012). *Why we fight: Policy & Planning in India’s tribal areas and the search for ‘inclusive growth’* (Thesis submitted for MSc at the School of Oriental and African Studies, University of London). [https://www.academia.edu/1122935/\\_Why\\_we\\_fight\\_Policy\\_and\\_Planning\\_in\\_Indias\\_Tribal\\_Areas\\_and\\_the\\_Search\\_for\\_Inclusive\\_Growth](https://www.academia.edu/1122935/_Why_we_fight_Policy_and_Planning_in_Indias_Tribal_Areas_and_the_Search_for_Inclusive_Growth).
- Cobbinah, Patrick., Black, Rosemary & Thwaites, Rik. (2011). Reflections on six decades of the concept of development: Evaluation and future research. *Journal of Sustainable Development in Africa*. 13. 134-148.
- Community Forest Rights Learning and Advocacy Process (CFR–LA). (2016). Promise and Performance: 10 Years of Forest Rights Act in India. Retrieved from [https://rightsandresources.org/wp-content/uploads/2016/12/Promise-and-Performance-10-Years-of-the-Forest-Rights-Act-in-India\\_December-2016\\_Community-Forest-Rights.pdf](https://rightsandresources.org/wp-content/uploads/2016/12/Promise-and-Performance-10-Years-of-the-Forest-Rights-Act-in-India_December-2016_Community-Forest-Rights.pdf).

- Community forest management is the future. (2000). *Down to Earth*. Retrieved from <https://www-downtoearth-org-in.iipalibrary.remotexs.in/interviews/community-forest-management-is-the-future-18852>.
- Das, Bidhan Kanti. (2019). Denial of Rights Continues: How Legislation for ‘Democratic Decentralisation’ of Forest Governance was Subverted in the Implementation Process of the Forest Rights Act in India. *The European Journal of Development Research*, 2019. pp. 957–983. <https://doi.org/10.1057/s41287-019-0195-2>
- Das, Pamela. (2022). Tragedy of the Commons: How a Flawed and Racist Metaphor Continues to Dominate Environmental Thinking. *The Bastion*. Retrieved from <https://thebastion.co.in/politics-and/environment/tragedy-of-the-commons-how-a-flawed-and-racist-metaphor-continues-to-dominate-environmental-thinking/>.
- Dash, Tushar., & Kothari, Ashish. (2013). Forest Rights and Conservation in India. In Holly Jonas, et al (ed). *The Right to Responsibility: Resisting and Engaging Development, Conservation and the Law in Asia*. Natural Justice and United Nations University, Institute of Advanced Studies, Malaysia.
- Damodaran, Appukuttan Nair., & Engel, Stefanie. (2003). Joint forest management in India: Assessment of performance and evaluation of impacts. *ZEF Discussion Papers on Development Policy*, No. 77, University of Bonn, Center for Development Research (ZEF), Bonn. <https://doi.org/10.22004/ag.econ.18752>
- Desor, S (eds). (2013). *Community Forest Rights Under the Forest Rights Act: Citizens’ Report 2013*. Kalpavriksh Pune and Vasundhara, Bhuvaneshwar with Oxfam India, Delhi for CFR-LA. Retrieved from <https://www.fra.org.in/document/community%20forest%20rights%20under%20fra%20citizens%20report%202013.pdf>.
- Dharmadhikary, Shripad. (2016). Remembering B D Sharma. *Economic & Political Weekly*. Vol.15, Issue No.12, 19 March, 2016.
- Farmer dies in tiger attack in Wayanad. (2023, January 12). *The Hindu*. Retrieved from <https://www.thehindu.com/news/national/kerala/farmer-died-in-tiger-attack-in-wayanad/article66370432.ece>.
- Forest Survey of India. (2021). *Indian State of Forest Report, 2021*. Retrieved from <https://fsi.nic.in/>.
- Gadgil, Madhav., et.al. (2011). ‘*Report of the Western Ghats Ecology Expert Panel*’. Retrieved from <https://www.cpnr.in/wp-content/uploads/2013/03/Gadgil-report.pdf>.
- Gadgil, Madhav & Guha, Ramachandra (1992). *The Fissured Land: An Ecological History of India*. Oxford University Press.
- George, PT. (2014). The Promised Land: Adivasi Land Struggles in Kerala. *Climate Change, Corporate Accountability, Indigenous Struggles for Land, Mining Scams*

- and Urban Displacement*. Retrieved from <https://www.ritimo.org/The-Promised-Land-Adivasi-Land-Struggles-in-Kerala>.
- Gnaneswari, Koram. (2020). *Forest Rights Act 2006: Its Implementation and Impact in Mulugu District of Telengana-A Study*. (M Phil Dissertation at Kakatiya University). <http://hdl.handle.net/10603/301287>.
- Gopalakrishnan, Shankar. (2017). The Forest Rights Act: Political Economy of Environmental Questions. *Economic and Political Weekly*. Vol.LII, No.31, August 2017, pp. 71-76.
- Green, Duncan. (2015). The Chattisgarh Community Forest Rights Project, India. *Oxfam Active Citizenship Case Study*. Retrieved from <https://policy-practice.oxfam.org/resources/the-chhattisgarh-community-forest-rights-project-india-338434/>.
- Guha, Ramachandra (1983). Forestry in British and Post-British India: A Historical Analysis. *Economic and Political Weekly*, Vol.18, No.44, pp. 1882-96.
- Guha, Ramachandra (2000). *Environmentalism: A Global History*. Oxford University Press.
- Guha, Ramachandra. (2001). *Savaging the civilized: Verrier Elwin, his tribals, and India*. Oxford University Press.
- Gupta, Ranjana. (2011). *Evolution of National Forest Policy and Other Institutional Mechanisms Towards Peoples Participation and Involvement of Women: A Case Study of Madhya Pradesh*. (M Phil Dissertation at Indian Institute of Public Administration, New Delhi).
- Hanagodimath, Shiddalingaswami Veerayya. (2020). HDI of Dalits and Tribes in India: The Distance to be Travelled. *OIDA International Journal of Sustainable Development*. Retrieved from <http://www.ssrn.com/link/OIDA-Intl-Journal-Sustainable-Dev.html>.
- Haseena, VA. (2014). Land Alienation and Livelihood Problems of Scheduled Tribes in Kerala. *Research on Humanities and Social Sciences*. ISSN (Paper)2224-5766. Vol.4, No.10, 2014.
- Huntington, Samuel P. (1957). *The Soldier and the State*. Harvard University Press.
- Indian Institute of Public Administration (IIPA). (2019). Impact Evaluation of the Scheme of Development of Particularly Vulnerable Tribal Groups in India. Report submitted to Ministry of Tribal Affairs.
- Jatav, Arjun Lal. (2018). *Forest Right of Tribal Society: A Sociological Study of Impacts of Forest Right Act 2006*. (Doctoral Dissertation at Mohanlal Sukhadia University, Udaipur). <http://hdl.handle.net/10603/242655>.
- Jeffrey, R. (1976). Temple-Entry Movement in Travancore, 1860-1940. *Social Scientist*, 4(8), 3–27. <https://doi.org/10.2307/3516377>.

- Jithin, VJ. (2020). *Governance of Forest Rights in Protected Areas in India: A Case Study of Parambikulam Tiger Reserve*. (Doctoral dissertation at Central University of Punjab). <http://hdl.handle.net/10603/297235>.
- Kaldor, Mary. (2004). Nationalism and Globalisation. *Nations and Nationalism*, Volume 10, Issue 1-2, January 2004, pp. 161-177. First published: 03 February 2004. <https://doi.org/10.1111/j.1354-5078.2004.00161.x>.
- Kallur, Murali., Rao, Jagannatha., Sudha, P., Sangeetha, G., Murthy, Indu K., & Ravindranath, NH. (2003). Evaluation studies of Joint Forest Management in India: Social and institutional implications. *International Journal of Environment and Sustainable Development*. 2. 19-35. 10.1504/IJESD.2003.002361.
- Kasana, Arjun (2020). *Protecting Guardians of Forest*. Notion Press.
- Kasturirangan, et.al. (2013). Report of The High Level Working Group On Western Ghats. *MoEF&CC*.
- Kaur, Manleen. (2017). *Laws Relating to Forest Protection in India: A Study with Special Reference to Rights of Forest Dwellers*. (Doctoral dissertation at Thesis at Panjab University). <http://hdl.handle.net/10603/204338>.
- Kerala's expert panel locates 70,582 buildings in buffer zones; most number of structures in Wayanad. (2023, March 02). *Mathrubhumi*. Retrieved from <https://english.mathrubhumi.com/news/kerala/>
- Khosla, Ayesha., & Bhattacharya, Prodyut. (2018). Tracking the Implementation of Forest Rights Act 2006 and Its Impact on the Livelihood of Forest Dependent People in the State of Tripura, India. *IOSR Journal of Humanities & Social Science*, Volume 23, Issue 3, Ver.1 (March, 2018) pp. 01-13.
- KIRTADS. (2017). *Scheduled Tribes of Kerala:Census 1961-2011*. Government of Kerala.[https://repository.tribal.gov.in/bitstream/123456789/75207/1/ST\\_Census.pdf](https://repository.tribal.gov.in/bitstream/123456789/75207/1/ST_Census.pdf).
- Kjosavik, Jose Darley., & Shanmugaratnam, Nadarajah. (2021). The Persistent Demand for Land Rights and the Forest Rights Act, 2006 in Kerala, India. *Social Sciences*, 2021. [doi.org/10.3390/socsci10050158](https://doi.org/10.3390/socsci10050158).
- Kohli, Kanchi. (2017). An Unresolved Legal Question about Forest Rights. *Human Rights Law Journal*. Retrieved from <https://cprindia.org/an-unresolved-legal-question-about-forest-rights/>.
- Kohli, Priyanka. (2019). *Impact of decentralized forest governance under "The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006" on REDD-plus in India*. (Doctoral dissertation at Teri University). <http://hdl.handle.net/10603/296604>.
- Krishnakumar, P. (2001). The Adivasi struggle. *Frontline*, October 13, 2001. Retrieved from <https://frontline.thehindu.com/other/article30252208.ece>.

- Kumar, Kundan. (2014). Community Forest Resources Governance in India: Strategic Directions. *Brief note on management strategies for CFR*. Retrieved from [https://www.academia.edu/14483718/Community\\_Forest\\_Resource\\_Rights\\_Management](https://www.academia.edu/14483718/Community_Forest_Resource_Rights_Management).
- Kumar, Kundan., & Kerr, John M. (2012). Democratic Assertions: The Making of India's Recognition of Forest Rights Act. *Development and Change*. 43(3): 751–771. doi:10.1111/j.1467-7660.2012.01777.x
- Kumar, Kundan., Singh, NM., & Kerr, JM. (2015). Decentralisation and Democratic Forest Reforms in India: Moving to a Rights-based Approach. *Forest Policy and Economics*, Vol 51, pp 1–8.
- Kumar, Kundan., Singh NM., & Rao, GY. (2017). Promise and Performance of the Forest Rights Act: A Ten-Year Review. *Economic and Political Weekly*, Vol.LII, Nos 25 & 26, June 2017, pp. 40-43.
- Kumar, Pradeep. (2022). Revisiting Major Approaches to Tribal Development in India: A Brief Review of Isolationist, Integrationist and Assimilative Approaches. *Contemporary Voice of Dalit*. doi:10.1177/2455328X221122600.
- Kurup, Rajita., & Bhaya, Sreetama Gupta. (2020). Beyond Land Titles, Towards Resilience: An Experience from India through the Implementation of Forest Rights Act, 2006., *Oxfam Research Report*. Retrieved from <https://policy-practice.oxfam.org/resources/beyond-land-titles-towards-resilience-an-experience-from-india-through-the-impl-621112/>.
- Kutty, Roshni., Kodiveri, Arpitha., Lele, Sharachchandra., & Setty, Siddappa. (2019). India's Forest Rights Act, 2006 Stuck in a Maze of Bureaucratic Interpretations?. *The Indian Journal for Social Work*. Tata Institute of Social Sciences. Volume 80, Issue 4 October 2019. doi:10.32444/IJSW.2019.80.4.439-460.
- Lakshman, Abhinay. (2023). National Commission for Scheduled Tribes' position on new Forest Conservation Rules 'will be same'. *The Hindu*. 2023, January 02. Retrieved from <https://www.thehindu.com/sci-tech/energy-and-environment/>.
- Lal, Lenin M. (2016). The Emergence of Left Movement in Colonial Travancore: An Introspection. *Proceedings of the Indian History Congress*, 77, 435–444. <https://www.jstor.org/stable/26552669>.
- Lee, Jocelyn I., & Wolf, Steven A. (2018). Critical Assessment of Implementation of Forest Rights Act in India. *Land Use Policy* 79 (2018). pp. 834-44. doi:10.1016/j.landusepol. 2018.08.024
- Lele, Sharachchandra. (2017). Forest Governance From Co-option and Conflict to Multilayered Governance?. *Economic and Political Weekly*. June 24, 2017 vol LII Nos 25 & 26. Pp. 55-58.

- Lele, Sharachchandra. (2011). Rethinking forest governance: Towards a perspective beyond JFM, the Godavarman case and FRA. *The Hindu Survey of Environment 2011*. pp. 95-103.
- Lokur, BN., et.al. (1965). The Report of the Advisory Committee on the Revision of the Lists of Scheduled Castes and Scheduled Tribes. *Department of Social Security, Government of India*. <https://tribal.nic.in/downloads/Statistics/OtherReport/LokurCommitteeReport.pdf>.
- Manjula, SR. (2020). *Tribal Communities in India with reference to Forest Rights Act of 2006*. Xpress Publishing.
- Manthan. (2010). *Report National Committee on Forest Rights Act*. <https://slic.org.in/uploads/2020/05-May/22-Fri/fra-committee-report-final-dec-2010.pdf>
- Martinez-Rodríguez, María-Concepción., Marcelino-Aranda, Mariana., Saseendran, Prasanth., & Kumar, Nitheesh. (2020). Contradictions of the development model of the state of Kerala, India: the tribal population. Retrieved from <https://www.revistaespacios.com/a20v41n38/a20v41n38p02.pdf>.
- Mathew, Merlin., & Umesh, K.B (2019). Tracking the Status of Forest Rights Act, 2006 and its Impact on the Livelihood of Tribal Communities in Wayanad District of Kerala, India. *Economic Affairs*, Vol.64, No.3, September 2019, pp. 621-32. doi:10.30954/0424-2513.3,2019.19.
- Mecham, Jefferson. (2020). *Forest Rights Act Implementation and Tribal Livelihoods: A Community Based Field Study in Jharkhand, India*. (Project Paper for the Degree of Master of Professional Studies at Cornell University). <https://ecommons.cornell.edu/handle/1813/72650>.
- Menon, Ajit. (2007). Engaging with the Law on Adivasi Rights. *Economic and Political Weekly*, Jun. 16-22, 2007, Vol. 42, No. 24.
- Menon, Meena. (2016). The Unmaking of the Forest Rights Act. *Economic and Political Weekly*, Vol.LI, Nos.44 & 45, November 2016, pp. 15-18.
- Menon, Sreedhara. (2019). *A Survey of Kerala History*. DC Books.
- Menon, Sreedhara. (2019a). *Political History of Modern Kerala*. DC Books.
- Mini, PV. (2018). *Impact of Forest Rights Act on the Scheduled Tribes of Kerala: A Study Based on Wayanad District*. KIRTADS Development Studies Wing.
- Ministry of Home Affairs. (2011). *Census of India, 2011*.
- Mondal, Pujá. (2012). Various Approaches to Tribal Development in India. <https://www.yourarticlelibrary.com/tribes/various-approaches-to-tribal-development-in-india-essay/4356>.
- MoEF&CC. (28 July 2022). *New Forest Conservation Rules, 2022*. <https://pib.gov.in/PressReleasePage.aspx?PRID=1845824>.

- MoTA. (2014). *Report of the High Level Committee on Socio Economic, Health And Educational Status of Tribal Communities of India*. <https://cjp.org.in/wp-content/uploads/2019/10/2014-Xaxa-Tribal-Committee-Report.pdf>.
- MoTA. (2023). Monthly Progress Report on Implementation of FRA. Retrieved from <https://tribal.nic.in/FRA.aspx>.
- MoTA. State/UT Wise Overall Population, ST Population. Retrieved from <https://tribal.nic.in/ST/Statistics8518.pdf>.
- Muhammed, Febin. (2019). Tribals in Kerala– a situational over view. *International Journal of Creative Research Thoughts*. Retrieved from <https://www.ijcrt.org/papers/IJCRT1133826.pdf>.
- Munster, Ursula., & Vishnudas, Suma. (2012). In the Jungle of Law: Adivasi Rights and Implementation of Forest Rights Act in Kerala. *Economic and Political Weekly*, Vol. XLVII, No.19, pp. 38-45.
- Nalinam, M. (2019). Poverty And Morbidity- A Study of Tribal Communities in Kerala. *Cochin University*. Retrieved from <https://dyuthi.cusat.ac.in/xmlui/bitstream/handle/purl/5474/Dyuthi%20T-2517.pdf?sequence=1>.
- Nath, Baiju K., & Hima, T. (2015). Scheduled Tribes in Kerala and their education. *University of Calicut*. Retrieved from [https://www.academia.edu/14453495/Scheduled\\_Tribes\\_in\\_Kerala\\_and\\_their\\_Education](https://www.academia.edu/14453495/Scheduled_Tribes_in_Kerala_and_their_Education).
- National Forest Policy, 1988. Ministry of Forests and Environment. <https://asbb.gov.in/Downloads/National%20Forest%20Policy.pdf>.
- Nayak, Subrata Kumar. (2015). Habitat Rights. *Vasundhara News Letter*. Retrieved from [https://www.fra.org.in/document/Habitat%20Rights\\_\\_1st%20Newsletter\\_Subrat%20Kumar%20Nayak\\_Vasundhara.pdf](https://www.fra.org.in/document/Habitat%20Rights__1st%20Newsletter_Subrat%20Kumar%20Nayak_Vasundhara.pdf)
- Nithya, NR. (2013). Land Question and The Tribals of Kerala. *International Journal of Scientific & Technology Research*, Volume 2, Issue 9, September 2013 Issn 2277-8616.
- Niyati, S. (2016). A Note on Absolute Poverty in Kerala. *Foundation for Agrarian Studies*. Retrieved from <https://fas.org.in/a-note-on-absolute-poverty-in-kerala/>.
- Pillai, Devashree., & Amrita, C. (2021). The Road so Far: Forest Rights Act and Constitutionality. *Azim Premji University*. Retrieved from <https://practiceconnect.azimpremjiuniversity.edu.in/the-road-so-far-forest-rights-act-and-constitutionality/>.
- Purkayastha, Nabarun. (2015). Tribal Development Approaches in India. *International Journal of Multidisciplinary Research and Development*. Volume: 2, Issue: 8, 630-633 Aug 2015. Retrieved from [www.allsubjectjournal.com](http://www.allsubjectjournal.com).
- Purushothaman, Seema., Devi, Rema., & Amrita, C. (2017). Implementation of Forest Rights Act: Observations from Wayanad District of Kerala. *Azim Premji*

- University*. Retrieved from <https://practiceconnect.azimpremjiuniversity.edu.in/implementation-of-forest-rights-act-observations-from-wayanad-district-of-kerala/>.
- Purushothaman, Seema., Devi, Rema., & Amrita, C. (2021). Implementation of Forest Rights Act: Lessons from Vazhachal Division of Kerala. *Azim Premji University*. Retrieved from <https://practiceconnect.azimpremjiuniversity.edu.in/implementation-of-forest-rights-act-lessons-from-vazhachal-division-of-kerala/>
- Puvvada, Vishwanadha Gupta. (2018). Tribal Development in India - Status and Strategies. *International Journal of African and Asian Studies*, Vol 48, 2018. Retrieved from [https://www.researchgate.net/publication/348620568\\_Tribal\\_Development\\_in\\_India\\_Status\\_and\\_Strategies](https://www.researchgate.net/publication/348620568_Tribal_Development_in_India_Status_and_Strategies).
- Pyun, HO., & Edey, Gamassou C. (2018). Looking for Public Administration Theories?. *Public Organization Review*, 245–261. doi:10.1007/s11115-017-0374-6.
- Radhakrishnan, P. (1981). Land Reforms in Theory and Practice: The Kerala Experience. *Economic and Political Weekly*, 16(52), A129–A137. Retrieved from <http://www.jstor.org/stable/4370526>.
- Raj, Niranjana. (2019). Distribution of Land Title under FRA in Kerala. *Research Guru*. Journal No. 63726, Vol-14, Issue-4, March-2019, pp. 565-9.
- Raman, Ravi K. (2002). Breaking New Ground: Adivasi Land Struggle in Kerala. *Economic and Political Weekly*. 37:9, 9 March, pp. 916-19.
- Ramanujam, Venkat R. (2017). Forest Rights in Baiga Chak, Madhya Pradesh. *Economic and Political Weekly*. Vol.LII, Nos.25 & 26, June 2017, pp. 48-51.
- Reang, Kharandra. (2019). *Impact Assessment of Forest Rights Act in Tripura*. (Doctoral dissertation at Visva Bharati). <http://hdl.handle.net/10603/274539>.
- Reddy, A.A. (2021). Village Action Plans Through Local Participation. *Academia Letters*. Article 3555. <https://doi.org/10.20935/AL3555>.
- Rice, Melissa Woytek. (2012). *In the Name of the Tiger: Narrative Analysis on Conservation and Indigenous Forest Rights in India*. (Thesis submitted to the Department of Environmental Studies, Mount Holyoke College). <http://hdl.handle.net/10166/1011>.
- Rodgers, W H. (2007). Tribal Government Roles in Environmental Federalism. *Natural Resources & Environment*, 21(3), 3–8. Retrieved from <http://www.jstor.org/stable/40924821>.
- Rupavath, Ramdas. (2019). Tribal Alienation and Conflict in India: A Perspective from Below. *Contemporary Voice of Dalit*. SAGE Publications. pp. 1–16. DOI: 10.1177/2455328X18822907.

- Sahu, Geetanjoy. (2023). Implementation of Community Forest Rights: Experiences in the Vidarbha Region of Maharashtra. *Economic and Political Weekly*. Vol. 55, Issue No 18, 02 May 2020.
- Sahu, Geetanjoy. (2023). FCR 2022: An Attempt to Subvert the Power of Gram Sabhas. *Economic and Political Weekly*. Vol. 58, Issue No 2, 14 January 2023.
- Sahu, Geetanjoy., Dash, Tushar., & Dubey, Sanghamitra. (2017). Political Economy of Community Forest Rights. *Economic and Political Weekly*. Vol.LII, Nos.25 & 26, June 2017, pp. 44-47.
- Sarangi, Tapas Kumar. (2020). Reform in Forest Tenure and Livelihood Impact: Implementation of Forest Rights 2006 in Odisha and Jharkhand. *Journal of Land and Rural Studies*, doi: 10.1177/232//9883/44.
- Sathyapalan, Jyothis. (2010). Implementation of Forest Rights Act in the Western Ghats Region of Kerala. *Economic and Political Weekly*, Vol.XLV, No.30, July 2010, pp. 65-72.
- Savyasaachi. (2011). Forest Rights Act 2006: Undermining the Foundational Position of the Forest. *Economic and Political Weekly*. April 9-15, 2011, Vol. 46, No. 15 (April 9-15, 2011), pp. 55-62.
- Sawakar, Neelima Kadu. (2019). *Right of Adivasi Women over Natural Resources and Traditional Knowledge in the Light of Relocation for Conservation: A Study of Melghat Tiger Reserve, India*. (Doctoral dissertation at Symbiosis University, Pune). <http://hdl.handle.net/10603/329481>.
- Saxena, NC. (2018). Need for change in forest management and silviculture. *Economic and Political Weekly*. February 24, 2018 vol LIII no 8, pp. 62-65.
- Sen, Amrita., & Pattanaik, Sarmistha. (2018). The political agenda of implementing Forest Rights Act 2006: Evidences from Indian Sundarban. *Springer Nature 2018*, doi.org/10. 1007/s10068-018-0138-7.
- Sethi, Nitin. (2019, February 19). SC Orders Forced Eviction of More Than 1 Million Tribals, Forest-Dwellers. *thewire.in*. Retrieved from <https://thewire.in/rights/sc-orders-forced-eviction-of-more-than-1-million-tribals-forest-dwellers>.
- Sharma, BD. (1977). Administration for Tribal Development. *Indian Journal of Public Administration*. 23(3), 515–539. <https://doi.org/10.1177/0019556119770307>.
- Sharma, Jitendra Vir. (2009). *The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006: Impact on Forest Conservation in India*. (M Phil Dissertation at Indian Institute of Public Administration, New Delhi).
- Shivaprasad, TM. (2016). *Emerging Trends in Collection and Marketing of Minor Forest Produce In Karnataka. A Study of Large Sized Adivasi Multi-Purpose Co-Operative Societies (Lamps) In Mysore and Chamarajanagara Districts*.

- (Doctoral dissertation at Institute of Development Studies University of Mysore).  
<http://hdl.handle.net/10603/138927>.
- Singh, Mahendra Prasad (2022). *Federalism in India*, Sage Press.
- Singh, Brij Kishore (2021). *Forest Rights Act: Accelerated Deforestation*, Notion Press.
- Siripurapu, Kanna., Mohanty, Prasant., Kotamraju, Kameswararao., & Geores, Martha. (2016). The Political Ecology of Forest Rights Act, 2006 -Internal Colonialism, the Main Challenge for Democratic Decentralization of Forest Resource Governance in India. doi:10.13140/RG.2.1.5093.0965.
- Sooraj, SR. (2018). Families in Chengara Await Land Titles for 12 Years. *Land and Conflict Watch*, Retrieved from <https://www.landconflictwatch.org/conflicts/chengara-land-struggle>.
- Strengthening Community Forest Resource Use Rights in Vazhachal (2015). *WWF-India*. Retrieved from <https://www.wwfindia.org/?12761/Strengthening-Community-Forest-Resource-Use-Rights-in-Vazhachal>.
- Tatpati, Meenal (ed). (2015). *Community Forest Rights Under the Forest Rights Act: Citizens' Report 2015*. Kalpavriksh Pune and Vasundhara, Bhuvaneshwar with Oxfam India, Delhi for CFR-LA. Retrieved from <https://www.fra.org.in/document/Citizen%20Report%202015.pdf>
- The Forest (Conservation) Act, 1980. Government of India. [https://prsindia.org/files/bills\\_acts/bills\\_parliament/2005/bill53\\_2007010153\\_Handbook\\_of\\_Forest\\_Conservation\\_Act\\_1980\\_and\\_Forest\\_Conservation\\_Rules\\_2003.pdf](https://prsindia.org/files/bills_acts/bills_parliament/2005/bill53_2007010153_Handbook_of_Forest_Conservation_Act_1980_and_Forest_Conservation_Rules_2003.pdf).
- The Forest (Conservation) Rules 2022. MoEF&CC. [https://thc.nic.in/Central%20Governmental%20Rules/Forest%20\(Conservation\)%20Rules,%202022.pdf](https://thc.nic.in/Central%20Governmental%20Rules/Forest%20(Conservation)%20Rules,%202022.pdf)
- The Indian Forest Act 1927. Government of India. [https://www.indiacode.nic.in/bitstream/123456789/15385/1/the\\_indian\\_forest\\_act%2C\\_1927.pdf](https://www.indiacode.nic.in/bitstream/123456789/15385/1/the_indian_forest_act%2C_1927.pdf).
- The Kerala Forest Act 1961. Government of Kerala. <https://forest.kerala.gov.in/images/legislations/Kerala%20Forest%20Act%201961.pdf>.
- The Kerala Private Forests(Vesting and Assignment) Act, 1971. Government of Kerala. <https://forest.kerala.gov.in/images/legislations/Kerala%20Private%20Forest%20Vesting%20Assignment%20Act.pdf>
- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006. Ministry of Tribal Affairs. <https://tribal.nic.in/WriteReadData/CMS/Documents/201306070147440275455NotificationMargewith1Link.pdf>.
- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (Forest Rights Rules 2012). MoTA. [https://www.fra.org.in/document/fra%20rule\\_2012\\_complied%20version.pdf](https://www.fra.org.in/document/fra%20rule_2012_complied%20version.pdf).

- The Wildlife Protection Act, 1972. Government of India. [https://legislative.gov.in/sites/default/files/A1972-53\\_0.pdf](https://legislative.gov.in/sites/default/files/A1972-53_0.pdf).
- Tropical Institute of Ecological Sciences (TIES). (2016). Report on Participatory Forest Mangement in Kerala. *State Forest Development Agency (SFDA), Department Forests & Wildlife, Government of Kerala*. 2016.
- Tyagi, Aparna. (2019). *Assessment of implementation of “The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006” in Sonbhadra District of Uttar Pradesh*. (Doctoral dissertation at TERI School of Advanced Studies). <http://hdl.handle.net/10603/335978>.
- Tyagi, Isha (2019a). Forest Rights Act, 2006: Past, Present and Future. *Social and Political Research Foundation*, Issue Brief. Retrieved from [https://sprf.in/wp-content/uploads/2021/02/11.05.2019\\_Forest-Rights-Act-2006.pdf](https://sprf.in/wp-content/uploads/2021/02/11.05.2019_Forest-Rights-Act-2006.pdf).
- Varshney, A. (2013). How has Indian Federalism Done?. *Studies in Indian Politics*. 1(1), 43–63. <https://doi.org/10.1177/2321023013482787>
- Wahi, Namita., & Bhatia, Ankit. (2018). The Legal Regime and Political Economy of Land Rights of Scheduled Tribes in Scheduled Areas of India. *Centre for Policy Research*. Available at <http://dx.doi.org/10.2139/ssrn.3759219>.
- Working Sub Group. (2021). ‘*Report of the Working Sub-Group on the Assessment of the Implementation of the Forest Rights Act, 2006 in Fourteenth Five year plan (2022-27)*’. Report submitted to Kerala State Planning Board.
- Wilson, CA. (2019). *Effectiveness of Forest Rights Act, 2006 for the Protection of Human Rights of Tribes of Palakkad District of Kerala*. (Doctoral dissertation, Bharathiyar University). Retrieved from <http://hdl.handle.net/10603/362253>.
- Wilson, C.A., & Rajesh. M. (2018). An Analysis on the Impact of Forest Right Act 2006 among the Tribal People in the District of Palakkadu, Kerala. *International Journal of Pure and Applied Mathematics*. Volume 119, No. 15, 2018. Retrieved from <http://www.acadpubl.eu/hub/>.

## Implementation of FRA in India

I am Brigadier Jayachandran doing the Advanced Professional Programme in Public Administration at the Indian Institute of Public Administration. As part of this, for the award of M Phil Degree, i am required to do a dissertation. I have taken the subject of Implementation of Forest Rights Act (FRA), with specific topic as 'Grant of community rights under FRA to Forest Dwellers of Kerala' for my dissertation. This questionnaire is purely intended for academic research only to gain an idea of General perception on the subject.

One of the prominent measures with regard to alleviating the condition of the Scheduled Tribes in India was the framing of Article 342. In addition to grant of reservation for government jobs and admission in educational institutions, special protective measures were also made in the form of the Fifth and Sixth schedules.

Scheduled Tribes, which constitute about 8.6% of the National population, were mostly traditional forests dwellers who depended on the forests for their livelihood. Under the British administration, which viewed forests as reserves for exploitation, restrictions were imposed on Tribal people to access the forest produces. The adoption of the principle of Scientific Management of Forests and the establishment of the Imperial Forest Service established the firm control of the Federal government and the forest bureaucracy on the forests of India. The subject of Forestry was transferred to the "Provincial List" by the Government of India Act, 1935 and recruitment to the Imperial Forest Service was discontinued in the 1930s. However, the constitution of Indian Forest Service in 1966, the enactment of acts such as The Indian Forest Act 1927, The Wildlife Protection Act 1972 and The Indian Forest (conservation) Act 1980 as well as the increasing concern for ecological protection cemented the role of State and the forest bureaucracy in management of the Indian Forests.

The Forest Rights Act, passed by the Govt of India in 2006 intended to address the longstanding insecurity of tenurial and access rights of the Forest Dwellers including those who were forced to relocate on account of State development interventions. Amongst the many provisions of FRA, the most prominent were the grant of Individual Rights (right to live in forest land for habitation and self cultivation, subject to upper limit of 10 acres) and Community Rights (right for non exploitative use of forest produces within traditional areas) to Scheduled Tribes and Other Traditional Forest Dwellers. It also endows on the traditional forest dwellers the right to protect,

regenerate, conserve or manage the community forest resource which they have traditionally been protecting or conserving.

Analysis of the available data shows that the implementation of FRA leaves a lot to be desired. The issue needs to be reviewed under the backdrop of our approach to Tribal development. As a senior government/ ex government official but not serving/served in Ministry of Tribal Affairs, or person having dealt with the government, please give your views on the following questions.

**\*Required**

Untitled section

1. 1. What is your name?

---

2. 2. Please give your mail id \*

---

3. 3. Which branch/department of the government are you from (in case not in \* government, then mention the field of work and any affiliation or project done with government)

---

*Skip to question 4*

Untitled section

4. 4. Have you heard of the “Scheduled Tribes And Other Traditional Forest Dwellers \* (Recognition Of Forest Rights) Act, 2006”, commonly called the Forest Rights Act 2006?

*Mark only one oval.*

Yes

No

5. 5. If you have heard of FRA, 2006, are you aware of its various provisions? \*

*Mark only one oval.*

Yes

No

6. 6. Given the conditions given in FRA, 2006 which department should be the nodal agency for implementation of FRA *Mark only one oval.*

Forest Department

Tribal Affairs Department

Revenue

Department

Other:

---

7. 7. Given the changing times, grant of Individual Rights are adequate to improve \* the condition of Tribal People of India *Mark only one oval.*

Strongly Agree

Agree

Neutral

Disagree

Strongly Disagree

8. 8. Today, the traditional forest dwellers cannot earn a living by depending on \* forest produces.

*Mark only one oval.*

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

9. 9. Tribal people of India are not capable of managing the community forests \*

*Mark only one oval.*

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

10. 10. Giving the community and management rights over forest will lead to degradation and erosion of forest cover \*

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

11. 11. Giving the community and management rights over forest will act as hindrance to various infrastructure development projects \*

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

12. 12. It is better to rehabilitate the Tribal people to population centres and leave \* forests exclusively under the management of the forest department *Mark only one oval.*

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

---

This content is neither created nor endorsed by Google.

**Google** Forms

# Implementation of Forest Rights Act in Kerala: Grant of Community Rights

I am Brigadier Jayachandran, currently undergoing the 48th Advanced Professional Programme in Public Administration (APPPA) at the Indian Institute of Public Administration (IIPA). As part of this, I am required to submit a dissertation to Panjab University, Chandigarh for the award of the degree of Master of Philosophy in Social Sciences in partial fulfillment of the requirement for the Advanced Professional Programme in Public Administration at IIPA..

The subject of my research is implementation of 'THE SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006' commonly known as the Forest Rights Act. The specific topic of my dissertation is 'GRANT OF COMMUNITY RIGHTS ENVISAGED IN FOREST RIGHTS ACT 2006 TO FOREST DWELLERS OF KERALA'. The research is being carried out under the guidance of Dr Kusum Lata, faculty member at IIPA and Assistant Course Director of 48 APPPA. As part of my primary data collection, I intend to collate views of experts, government servants, academicians and students from the fields of tribal development, forestry, rural development and civil administration on the multiple facets of Forest Rights Act. The data is collected purely for academic purposes only.

One of the prominent measures with regard to alleviating the condition of the Scheduled Tribes in India was the framing of Article 342. In addition to grant of reservation for government jobs and admission in educational institutions, special protective measures were also made in the form of the Fifth and Sixth schedules.

Scheduled Tribes, which constitute about 8.6% of the National population, were mostly traditional forests dwellers who depended on the forests for their livelihood. On account of various historical conditions, various restrictions were placed on the Scheduled Tribes and Other Traditional Forest Dwellers from accessing the forests as well as utilising forest resources for livelihood requirements. The enactment of acts such as The Indian Forest Act 1927, The Wildlife Protection Act 1972 and The Indian Forest (conservation) Act 1980 as well as the increasing concern for ecological protection cemented the role of State in management of the Indian Forests. These impeded unhindered access of the forest dependent communities to forest resources.

The Forest Rights Act, passed by the Govt of India in 2006 intended to address the longstanding insecurity of tenurial and access rights of the Forest Dwellers including those who were forced to relocate on account of State development interventions.

Amongst the many provisions of FRA, the most prominent were the grant of Individual Rights (right to live in forest land for habitation and self cultivation, subject to upper limit of 10 acres) and Community Rights (right for non exploitative use of forest produces within traditional areas). It also endows on the traditional forest dwellers the right to protect, regenerate, conserve or manage the community forest resource which they have traditionally been protecting or conserving.

Analysis of the available data shows that out of a total of 4446734 claims received till June 2022 only 2235845 were passed, which translates to 50%. The national rate of passing of individual rights claims and community rights claims are 50% and 60% respectively. A state known for many social justice movements and community empowerment endeavours, Kerala paints a unique case in terms of implementation of FRA. While nearly 62% of the claims received for individual rights in Kerala have been passed, only 16.5% of the community rights claims have yet been approved. With your experience in Tribal Affairs/ Forestry, please give your views on the following questions.

**\*Required**

- 1. Your department/ Area of specialisation (Tribal Affairs/Forestry/Revenue etc)**

---

- 2. your name or email id \***

---

- 3. 1. Forest Rights Act is good for the overall development of the Tribal Communities**

*Mark only one oval.*

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

4. **2. Forest Rights Act will lead to the destruction of forest cover in Kerala, which is pristine and unique** *Mark only one oval.*

- Strongly Agree  
 Agree  
 Neutral  
 Disagree  
 Strongly Disagree

5. **3. Tribal people have the adequate knowledge of the provisions of FRA**

*Mark only one oval.*

- Strongly Agree  
 Agree  
 Neutral  
 Disagree  
 Strongly Disagree

6. **4. Individual Forest Rights are good enough to help in improving the condition of Tribal People of Kerala** *Mark only one oval.*

- Strongly Agree  
 Agree  
 Neutral  
 Disagree  
 Strongly Disagree

7. **5. Tribal people of Kerala can meet their livelihood requirements from the forests**

*Mark only one oval.*

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

8. **6. Tribal people of Kerala are not anymore interested in depending on forests and want to pursue other pastures** *Mark only one oval.*

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

9. **7. Not all tribal communities are interested in FRA**

*Mark only one oval.*

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

10. **8. It is only the older generation of tribal population who want the FRA**

*Mark only one oval.*

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

11. **9. Increased grant of community rights will lead to conflict between different sections of the tribal population** *Mark only one oval.*

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

12. **10. The tribal people constitute a minimal percentage of the population of Kerala. Hence it is better to wean them away from the forests and rehabilitate them to other areas** *Mark only one oval.*

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

13. **11. Most community rights claims have been submitted by the gram sabhas without adequate documents** *Mark only one oval.*

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

14. **12. The community rights granted clearly demarcate the different areas of access to different communities** *Mark only one oval.*

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

15. **13. There is excellent coordination between Forest dept and ministry of Tribal affairs in implementing FRA** *Mark only one oval.*

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

16. **14. The forests of Kerala are unique and hence there is a need for a different approach in the Kerala than those in other States** *Mark only one oval.*

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

17. **15. The Supreme court order on eviction of those settlers whose Individual Rights claim on forest land have not been passed needs to be implemented immediately in letter and spirit** *Mark only one oval.*

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

18. **16. The Forest Conservation rules (2022) will facilitate fast tracking of development projects** *Mark only one oval.*

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

19. **17. The Forest Conservation rules(2022) undermine the FRA**  
*Mark only one oval.*

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

20. **18. There is a need to re evaluate the provisions of the FRA, given the changed circumstances** *Mark only one oval.*

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

21. **19. Joint Forest Management is the best way to protect the interests of the forests as well as the forest dwellers.**

*Mark only one oval.*

- Strongly Agree
- Agree
- Neutral
- Disagree
- Strongly Disagree

22. **20. Please list the reasons in order of gravity for poor rate of grant of community rights in Kerala. The most serious reason to be given 1 and the least serious reason be given 5** *Mark only one oval per row.*

	1	2	3	4	5
Lack of political Will	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lack of					

awareness amongst

---

Official Apathy

---

Poor documentation

---

Lack of      tribals

---

coordination between departments

23. **21. Recommendations if any**

---

---

This content is neither created nor endorsed by Google.

**Google** Forms

## Appendix C

<b>QUESTIONNAIRE FOR FGD</b>	
<b>QUESTION</b>	<b>ANSWER</b>
<p><b>What do you know about Forest Rights Act?</b></p> <p>Have you heard about this? Who gave you information about FRA? Have you been discussing with others in the community about FRA? Is the issue of FRA discussed in Gram Sabhas? How often is FRA talked about in the community?</p>	
<p><b>Are you aware of the different provisions of the Act?</b></p> <p>Are you aware of individual rights? Do you know about community rights under FRA? Are you aware of the provisions of development rights? Do you know the difference between community rights and development rights?</p>	
<p><b>How have Individual Rights been granted?</b></p> <p>How many people have been granted individual rights? How did you apply for Individual rights? How much area have you been allotted under individual forest rights? Is the area allotted the one inhabited by your father and grandfather? Do you have any papers showing ownership of the land granted under individual rights granted under FRA?</p>	
<p><b>How effectively has community rights been implemented?</b></p> <p>How dependent is the community on forest resources? Have you been granted any community rights? How and in what format did you apply for community rights? How did you decide on the area to be covered under community rights claim? How do you demarcate the areas of access between different communities?</p> <p>Did you get any intimation regarding rejection of the claim?(only for those not granted) In case rejected, do you know the reasons for rejection? Did you try to apply again?</p> <p>In case claim has been granted, is it in the same form as you envisaged? If not, what action has been taken by you?</p>	

<p>Has the grant or rejection of community rights claim impacted the access to Minor Forest Produces?</p>	
<p><b>Can PFM go hand in hand with FRA?</b></p> <p>How is PFM being implemented in the forest area? Does it impinge on the access to traditional forest resources? Has PFM impacted the developmental rights sanctioned under FRA? What do you think is better for the forests, PFM or exclusive control of the forests by the community? Do you think PFM helps in avoiding conflict between various forest dwelling communities?</p>	
<p><b>What do you know about the new forest conservation rules?</b></p> <p>Have you heard of the Forest Conservation rules 2022? Are you aware of the various provisions of the rules?</p>	
<p><b>How do you foresee the future of your relationship with forests?</b></p> <p>Do you think you can continue to meet your aspirations by depending on the forests? Would you like your children to continue depending on forests for earning their livelihood or move to the city?</p>	
<p><b>Do you have any questions for us?</b></p>	

## Appendix D

### LIST OF PERSONS INTERVIEWED

1. Shri Amitha Bachan KH - Hornbill Foundation
2. Shri Babu M Prasad - TEO, Kattikulam Panchayat
3. Dr Gadadhar Mohapatra - Faculty, IIPA
4. Shri Herold John - TDO, Parappa
5. Shri Hrishikesan Nair - Former joint director, TRDM
6. Shri Ismayil - TDO, Mananthavady
7. Dr Jibini - Kerala Institute of Local Administration
8. Shri Martin Lowel, IFoS - DFO, North Wayanad
9. Shri Mohan Kumar - Former Deputy Director, KIRTADS
10. Dr N C Saxena, IAS (Retd) - Former Chairman, National Committee on FRA
11. Shri Narikodan Sushant - Tribal leader, Vanavasi Kendra, Kolayad
12. Shri Narandra Babu, IFoS - Conservator of Forest, Kerala
13. Dr Nupur Tiwari - Officiating Director TRI & Faculty IIPA
14. Shri P Sivakumar, IFoS - Chief Conservator of Forest, Assam
15. Dr Pradeep - Deputy Director, KIRTADS
16. Shri Pramod Krishnan, IFoS - Chief Conservator of Forest, Kerala
17. Shri Prashant R, IFoS - Conservator of Forest, Daman
18. Shri Ramachandran - Keystone Foundation
19. Shri Sai Krishnan - Project Officer, Mananthavady, Kudumbashree
20. Shri Sajith Sukumaran - CEO, Kudumbashree NRO
21. Dr Seema Purushothaman - Professor, Azim Premji University
22. Shri Shumin T Babu - Deputy Director TRDM
23. Smt Sree Lakshmi, IAS - Sub Collector, Mananthavady
24. Shri Sreekumar, IFoS (Retd) - Retired from Kerala Forest Department
25. Shri Sunny - Assistant Conservator of Forest, Kerala
26. Dr Suresh Kumar - Former Director, Kerala State Planning Board
27. Shri Tiju C Thomas - Activist, Tribal Affairs
28. Shri Vani Das - Joint Director, TRDM, Kerala
29. Shri Yashpal Kshirsagar, IFoS - Conservator of Forest, Karnataka

## Appendix E

### PHOTOGRAPHS OF THE FIELD VISIT



FGD at Irumbupalam



Photograph with the Oorumooppa (village head) and community members at Irumbupalam



A nursery of all rare species of flora being developed under the aegis of Kudumbashree at Irumbupalam



FGD at Thondukappu



FGD at Godavary Colony



With community members at Godavary Colony



With community members Kudumbashree field workers including Project Officer at Mananthavady Shri Sai Krishnan



Improvised early warning cum sound system to counter elephant menace



Plantain cultivation next to jungle



A Bison encountered during the visit



View of the jungle



At the children's camp organised for ST Children by Kudumbashree  
at Government LP School, Palvelicham



With community members and Kudumbashree animator Sheeba



Puthiyoor: Guard post established on the farm land leased by ST members for night picket to ward off elephants and wild boar



Discussion with tribal promoters at Kattikulam Panchayat office



Awareness class cum FGD at Thondurnadu under the aegis of Keystone Foundation



House visit and discussion at Thrisslery



Machan for pickets to warn about elephants



Paddy cultivation on leased land



KIRTADS MUSEUM



Field expedients used by tribal people on display ay KIRTADS MUSEUM

## Appendix F

### FORMAT FOR APPLYING FOR COMMUNITY FOREST RIGHTS AS PER FRR 2012

**FORM – B**  
**CLAIM FORM FOR COMMUNITY RIGHTS**

[See rule 11(1)(a) and (4)]

1. Name of the claimant(s):
  - a. FDST community: Yes/ No
  - b. OTFD community: Yes/ No
2. Village:
3. Gram Panchayat:
4. Tehsil/ Taluka:
5. District:

Nature of community rights enjoyed:

1. Community rights such as nistar, if any:  
(See Section 3(1)(b) of the Act)
2. Rights over minor forest produce, if any:  
(See Section 3(1)(c) of the Act)
3. Community rights
  - a. Uses or entitlements (fish, water bodies), if any:
  - b. Grazing, if any
  - c. traditional resource access for nomadic and pastoralist, if any:  
(See Section 3(1)(g) of the Act)
4. Community tenures of habitat and habitation for PTGs and pre-agricultural communities, if any:  
(See Section 3 (1)(e) of the Act)
5. Right to access biodiversity, intellectual property and traditional knowledge, if any:  
(See Section 3 (1)(k) of the Act)
6. Other traditional right, if any:  
(See Section 3(1)(l) of the Act)

7. Evidence in support:  
(See Rule 13)

8. Any other information

Signature / Thumb Impression  
of the Claimant (s):

The Scheduled Tribes and Other Traditional Forest Dwellers  
(Recognition of Forest Rights) Rules, 2007  
Government of India  
Ministry of Tribal Affairs

## Appendix G

### FORMAT FOR APPLYING FOR COMMUNITY FOREST RESOURCE RIGHTS AS PER FRR 2012

"FORM – C<sup>24</sup>

#### CLAIM FORM FOR RIGHTS TO COMMUNITY FOREST RESOURCE

[See section 3(1)(i) of the Act and rule 11(1) and 4(a)]

1. Village/Gram Sabha:
2. Gram Panchayat:
3. Tehsil/ Taluka:
4. District:
5. Name(s) of members of the gram sabha [Attach as separate sheet, with status of Scheduled Tribes/Other Traditional Forest Dwellers indicated next to each member].  
Presence of few Scheduled Tribes/ Other Traditional forest Dwellers is sufficient to make the claim.

We, the undersigned residents of this Gram Sabha hereby resolve that the area detailed below and in the attached map comprises our Community Forest Resource over which we are claiming recognition of our forest rights under section 3(1)(i).

[Attach a map of the community forest resource, showing location, landmarks within the traditional or customary boundaries of the village or seasonal use of landscape in the case of pastoral communities to which the community had traditional access and which they have been traditionally protecting, regenerating, conserving and managing for sustainable use. Please note that this need not correspond to existing legal boundaries.)

6. Khasra / Compartment No.(s), if any and if known:

7. Bordering Villages:

(i)

(ii)

<sup>24</sup> Inserted by Rule 14 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012 (vide Notification No G.S.R. No. 669 (E), dated 6th September, 2012)

(iii)

(This may also include information regarding sharing of resources and responsibilities with any other villages.)

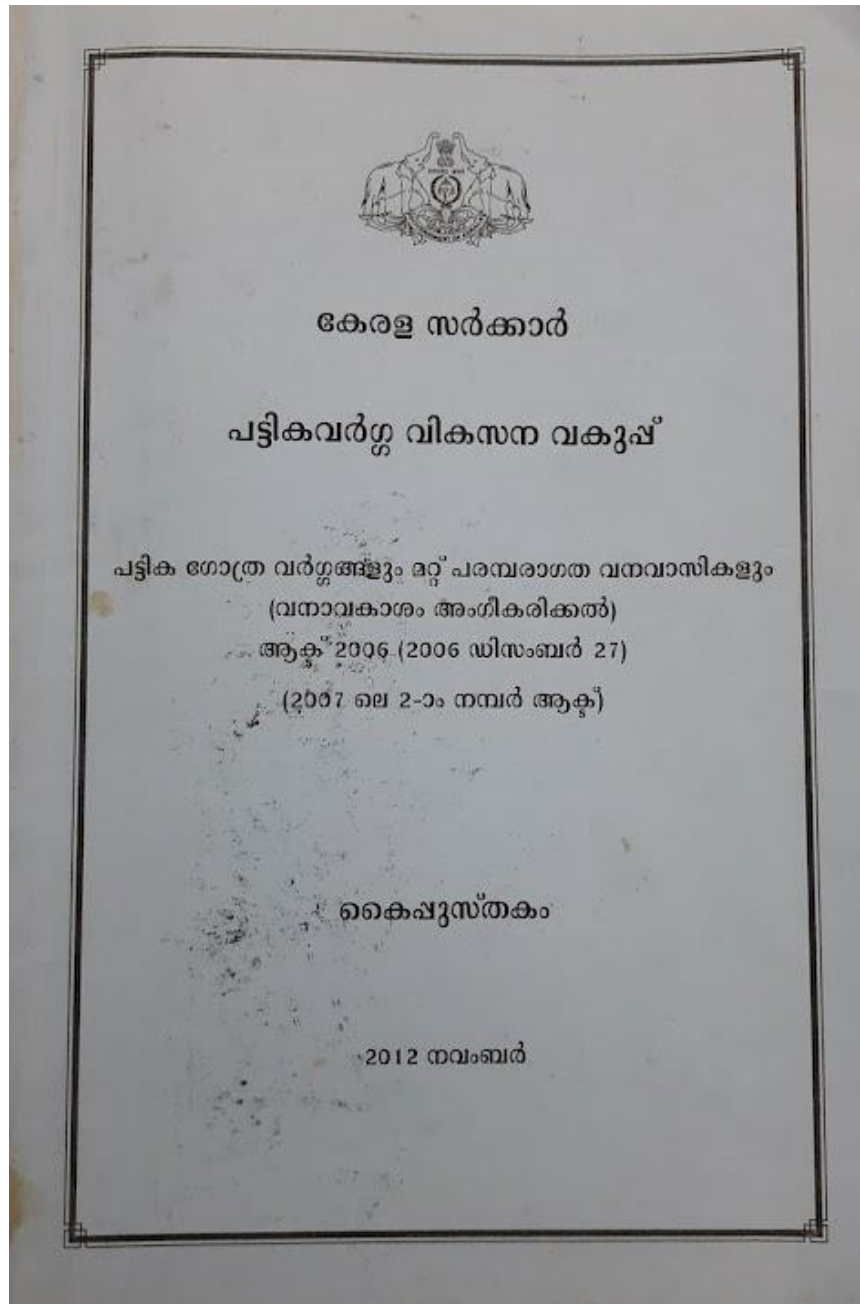
8. List of Evidence in Support (Please see Rule 13)

Signature / Thumb impression of the Claimant(s):

*The Scheduled Tribes and Other Traditional Forest Dwellers  
(Recognition of Forest Rights) Amendment Rules, 2012  
Government of India  
Ministry of Tribal Affairs*

Appendix H

**COVER PAGE OF THE BOOKLET ON FRA ISSUED BY  
GOVERNMENT OF KERALA**



## SUMMARY OF RESPONSES OF GROUP 1

# Implementation of FRA in India

162 responses

[Publish analytic](#)

Untitled section

Untitled section

1. What is your name?

159 responses

Vishal Guleria

Gaurav

Captain Anil Kumar

Amandeep Garg

Samir Bhalla

Prashant Agarwal

JS Prakash

Puneet Kapoor

Gurpreet Singh Bhatia

## 2. Please give your mail id

162 responses

guleriavishal@rediffmail.com
kpadvaith@gmail.com
anilduhan@gmail.com
amandeepgarg.ias@gmail.com
Samriddh1998@yahoo.co.in
Prashant.irss@gmail.com
prakash.js10@yahoo.in
puneetkapoor2000@gmail.com
gsbsurg.48appapa@gmail.com

## 3. Which branch/department of the government are you from (in case not in government, then mention the field of work and any affiliation or project done with government)

162 responses

Defence
Army
Indian Army
Defence
Armed Forces
Indian Army
Railways
MoD

DENTAL SURGEON AND PRIVATE PRACTITIONER. TRAINED AS A VOLUNTEER FOR KARNATAKA FOREST DEPT BY KEDB

Financial Services Industry

Education/ Defence

Oil Public Sector

DRDO

Army Engineers

Engineering consultancy

Lawyer

NHAI / Min of Road transport and Highways

Defense

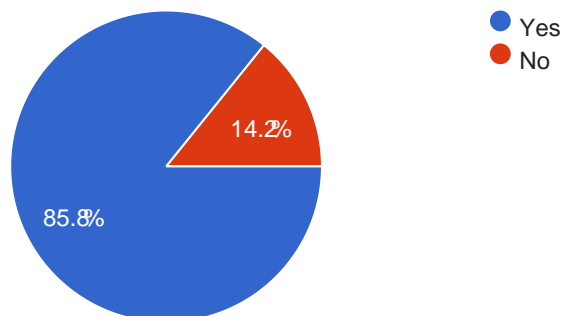
Kerala State, Power Department, ANERT

1 more response is hidden

Untitled section

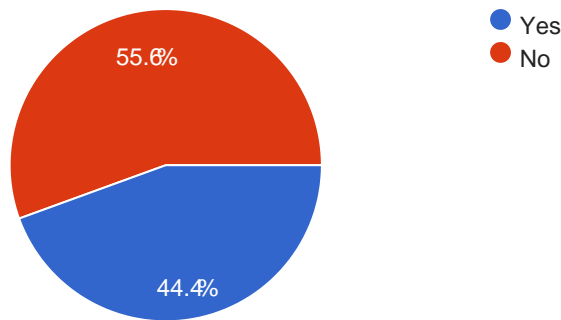
4. Have you heard of the *Scheduled Tribes And Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006*, commonly called the Forest Rights Act 2006? [Copy](#)

162 responses



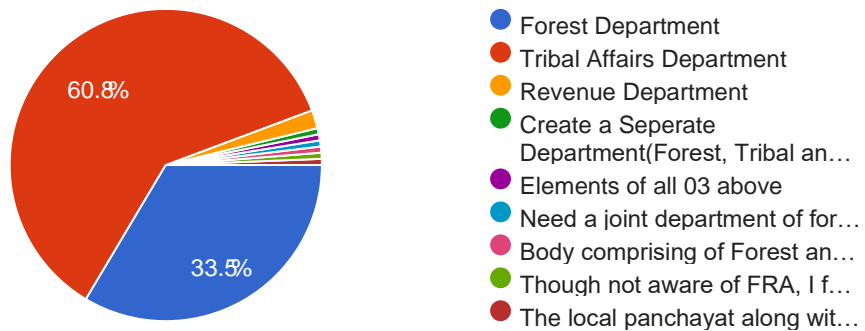
5. If you have heard of FRA, 2006, are you aware of its various provisions? [Copy](#)

162 responses



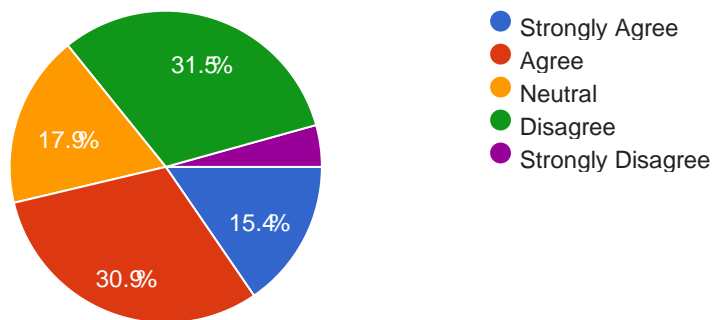
6. Given the conditions given in FRA, 2006 which department should be the nodal agency for implementation of FRA? [Copy](#)

158 responses



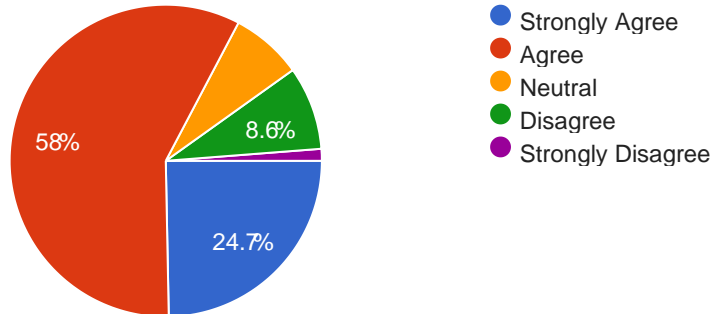
7. Given the changing times, grant of Individual Rights are adequate to improve the condition of Tribal People of India? [Copy](#)

162 responses



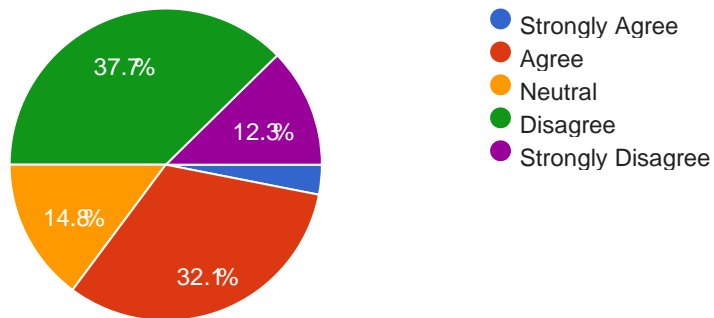
8. Today, the traditional forest dwellers cannot earn a living by depending on forest produces. [Copy](#)

162 responses



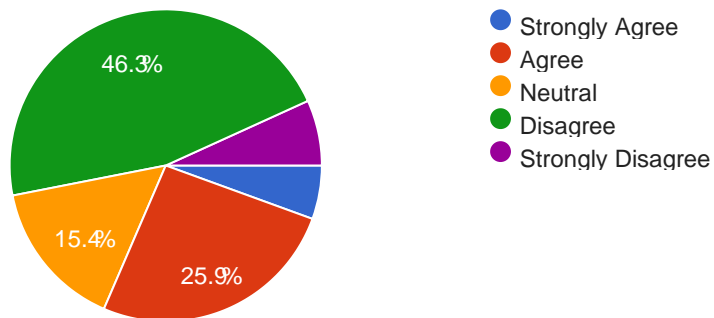
9. Tribal people of India are not capable of managing the community forests [Copy](#)

162 responses



10. Giving the community and management rights over forest will lead to degradation and erosion of forest cover [Copy](#)

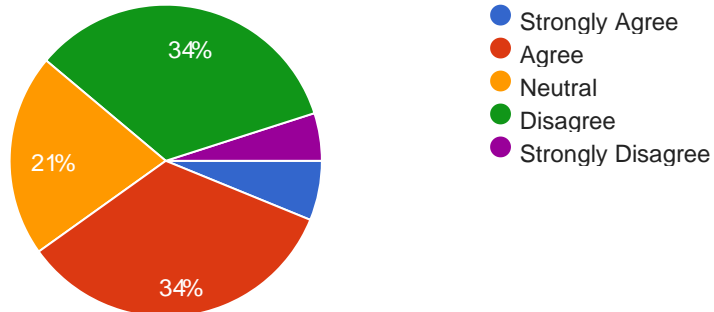
162 responses



11. Giving the community and management rights over forest will act as hindrance to various infrastructure development projects



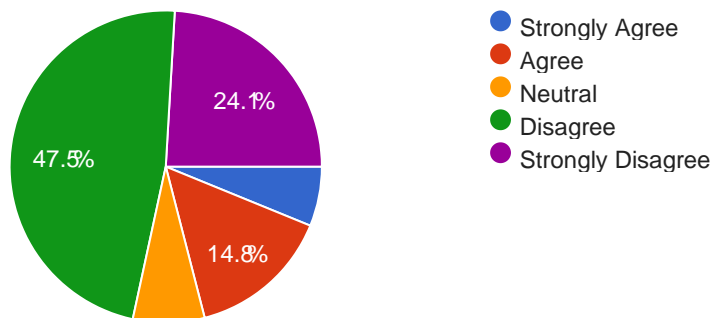
162 responses



12. It is better to rehabilitate the Tribal people to population centres and leave forests exclusively under the management of the forest department



162 responses



This content is neither created nor endorsed by Google. [Report Abuse](#) - [Terms of Service](#) - [Privacy Policy](#)

Google Forms

Appendix J

SUMMARY OF RESPONSES OF GROUP 2

# Implementation of Forest Rights Act in Kerala: Grant of Community Rights

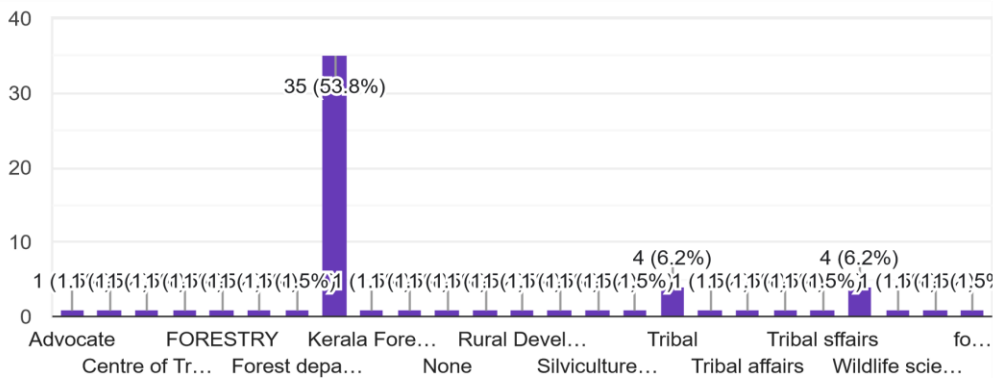
77 responses

[Publish analytics](#)

## Your department/ Area of specialisation (Tribal Affairs/Forestry/Revenue etc)

 Copy

65 responses



## your name or email id

77 responses

[gopihreshikesan@gmail.com](mailto:gopihreshikesan@gmail.com)

[mchandran1955@gmail.com](mailto:mchandran1955@gmail.com)

[gopikasuresh20tcr@gmail.com](mailto:gopikasuresh20tcr@gmail.com)

[adila-2019-47-025@student.kau.in](mailto:adila-2019-47-025@student.kau.in)

[adithyansure@gmail.com](mailto:adithyansure@gmail.com)

[sarathchandranv478@gmail.com](mailto:sarathchandranv478@gmail.com)

[anoopalbert007@gmail.com](mailto:anoopalbert007@gmail.com)

[nilavayalumkal@gmail.com](mailto:nilavayalumkal@gmail.com)

[paramusreekumar@gmail.com](mailto:paramusreekumar@gmail.com)

Babu M Prasad

Shiju K

Jayara Pramod

yashpalforis@gmail.com

majeshvasudevan83@gmail.com

teomarayur@gmail.com

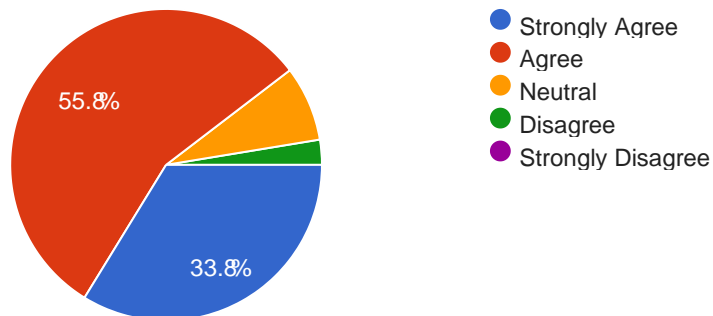
Rajan AY

kspradeep76@gmail.com

induvmenon@gmail.com. Dr. Indu Menon

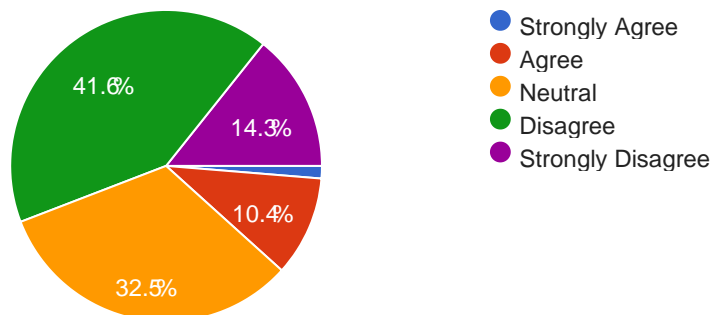
### 1. Forest Rights Act is good for the overall development of the Tribal Communities

77 responses



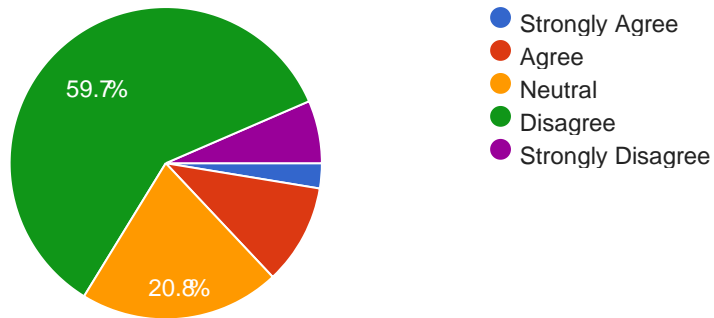
### 2. Forest Rights Act will lead to the destruction of forest cover in Kerala, which is pristine and unique

77 responses



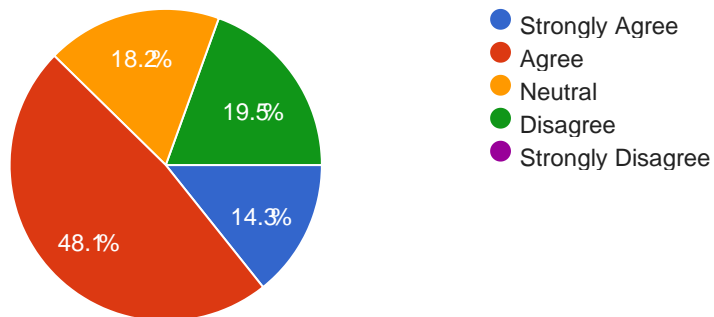
### 3. Tribal people have the adequate knowledge of the provisions of FRA

77 responses



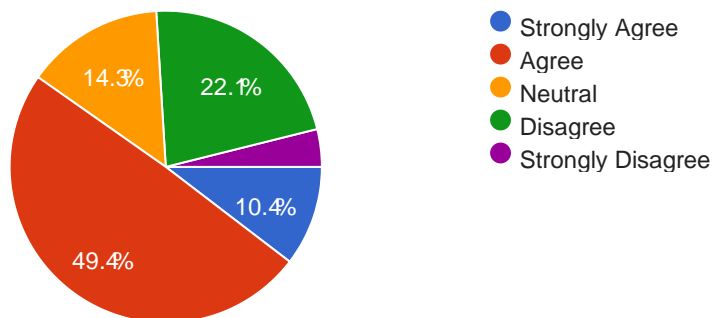
### 4. Individual Forest Rights are good enough to help in improving the condition of Tribal People of Kerala

77 responses



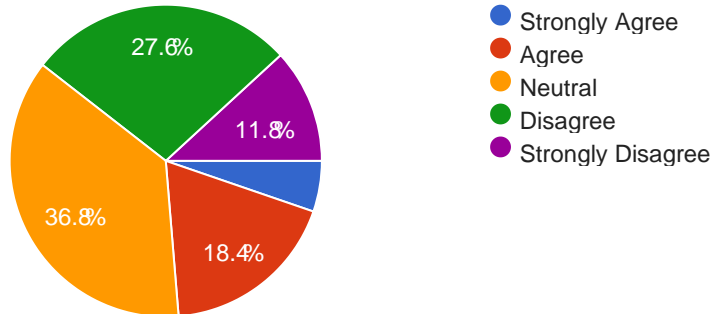
### 5. Tribal people of Kerala can meet their livelihood requirements from the forests

77 responses



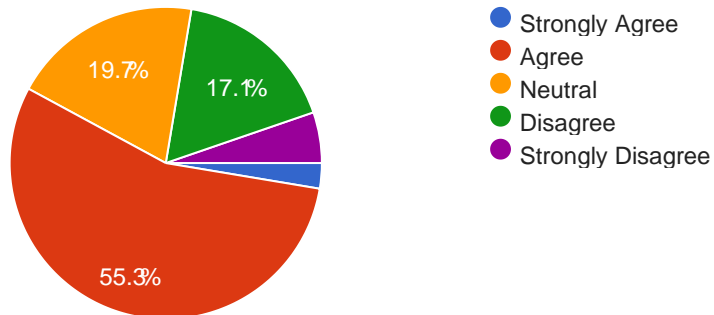
**6. Tribal people of Kerala are not anymore interested in depending on forests and want to pursue other pastures** [Copy](#)

76 responses



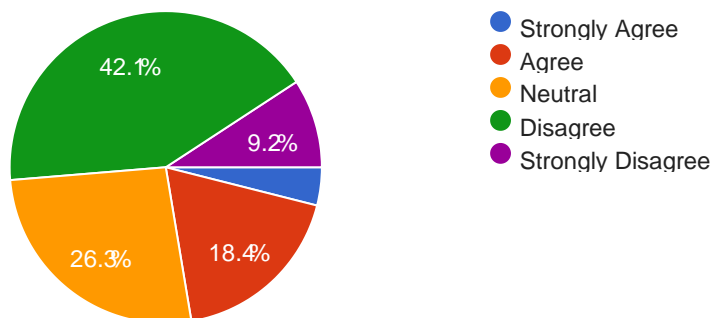
**7. Not all tribal communities are interested in FRA** [Copy](#)

76 responses



**8. It is only the older generation of tribal population who want the FRA** [Copy](#)

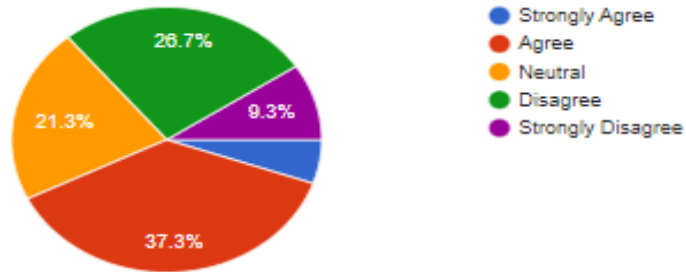
76 responses



**9. Increased grant of community rights will lead to conflict between different sections of the tribal population**

[Copy](#)

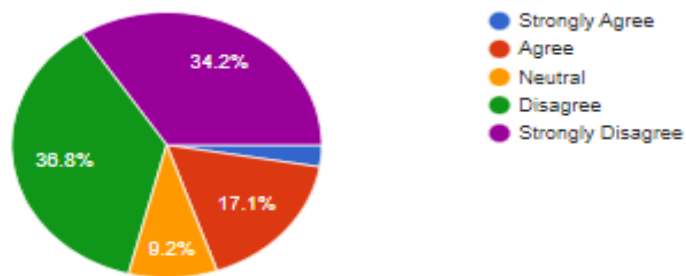
75 responses



**10. The tribal people constitute a minimal percentage of the population of Kerala. Hence it is better to wean them away from the forests and rehabilitate them to other areas**

[Copy](#)

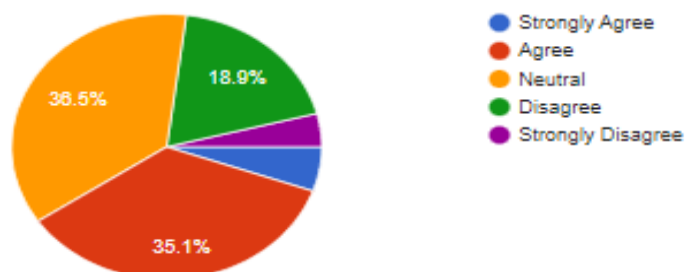
76 responses



**11. Most community rights claims have been submitted by the gram sabhas without adequate documents**

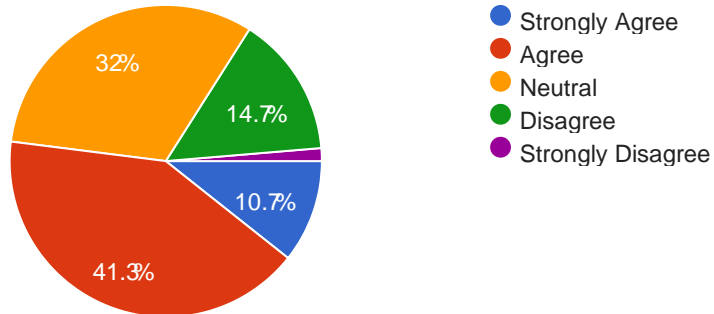
[Copy](#)

74 responses



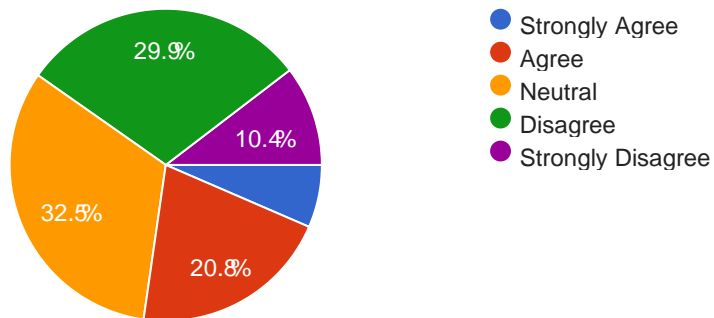
**12. The community rights granted clearly demarcate the different areas of access to different communities**

75 responses



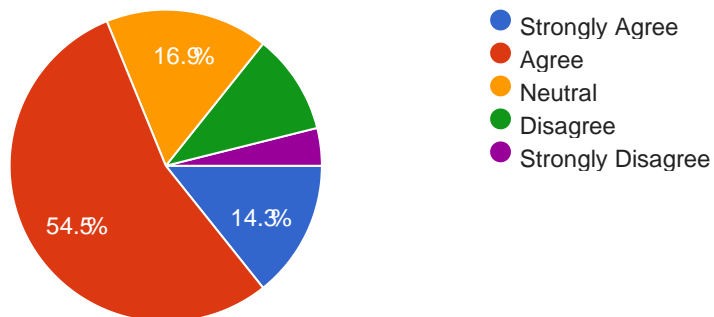
**13. There is excellent coordination between Forest dept and ministry of Tribal affairs in implementation**

77 responses



**14. The forests of Kerala are unique and hence there is a need for a different approach in the Kerala than those in other States**

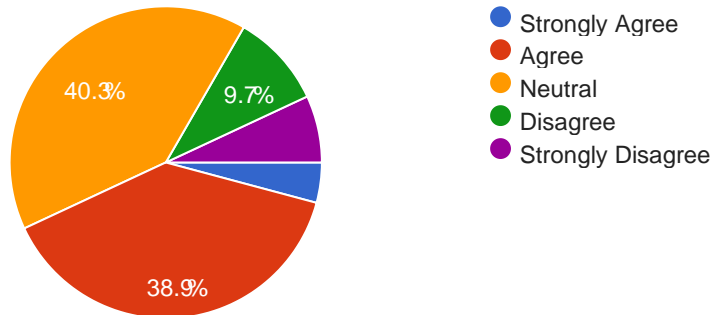
77 responses



**15. The Supreme court order on eviction of those settlers whose Individual Rights claim on forest land have not been passed needs to be implemented immediately in letter and spirit**



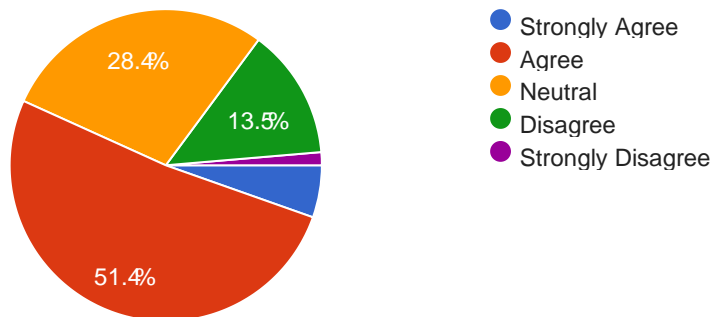
72 responses



**16. The Forest Conservation rules (2022) will facilitate fast tracking of development projects**



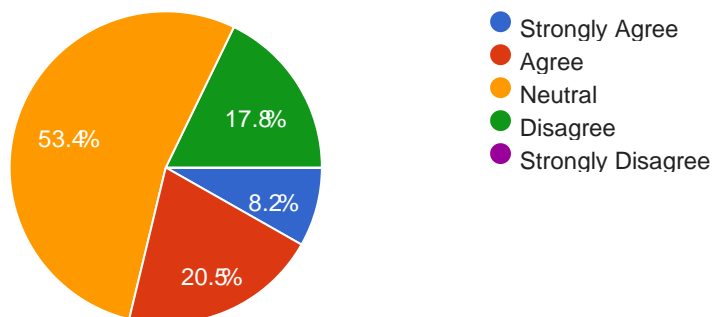
74 responses



**17. The Forest Conservation rules(2022) undermine the FRA**



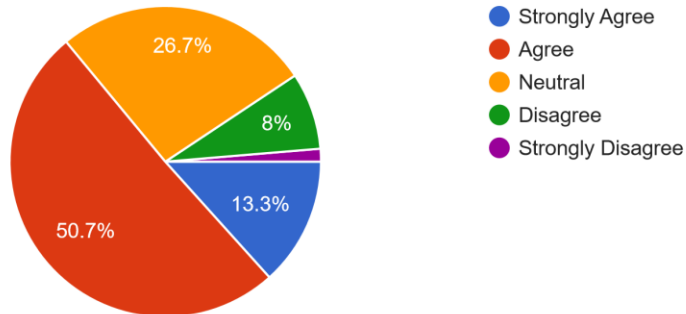
73 responses



**18. There is a need to re evaluate the provisions of the FRA, given the changed circumstances**

[Copy](#)

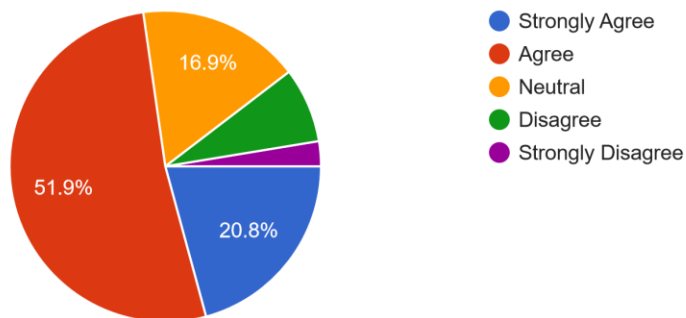
75 responses



**19. Joint Forest Management is the best way to protect the interests of the forests as well as the forest dwellers.**

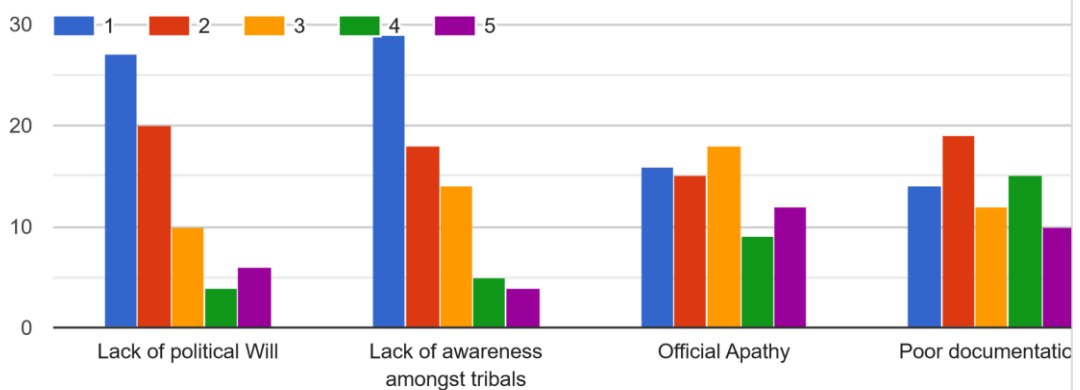
[Copy](#)

77 responses



**20. Please list the reasons in order of gravity for poor rate of grant of community rights in Kerala. The most serious reason to be given 1 and the least serious reason be given 5**

[Copy](#)



## 21. Recommendations if any

17 responses

FRA should be implemented after assessing and documenting the exact regalities. Apart from mechanical implementation the socio economic scenario of each and every settlement should be taken into consideration separately.

During initial phase of implementation of CFR, handholding by Forest Department is absolutely required.

Even without issuance of community rights tribals are utilising all sorts of benefits under community rights.

NIL

Community rights should superceed individual rights.

FRA implementation may focus on areas where tribal communities depend on forest for livelihood. A concerted effort is needed and for this, the chief secretary of the state should effectively monitor FRA implementation.

Institutional Convergence is important to implement the Act meaningfully Tribal

population need to live in their own habitat with their own culture.

Forest dwelling ST will not destroy the forest but conserve it for their sustenance. Efforts have made to popularise the provision of FRA but it is inadequate. There are educated ST in every settlements and they will understand the provisions of Act. It is imperative to train them properly and empower them to enjoy the provisions of the to improve their living conditions by effectively utilise the NTFP making it value added products etc. I feel FRA, especially,

Community Forest Management Right and Community Forest Management Right Committee are the one of the best choice for improving the quality of life of Forest Dwelling ST families in our State. In Kerala, an Act for providing rights to Forest Dwelling ST have been introduced in 1064 restricting land alienation and ensuring the rights of ST but it cannot be implemented due

to illegal legal intervention വ ഹജ്ജം പട്ടണത്തിന്റെ പരിധിയിൽ, ഭൂപരി ഹാരം ഉണ്ടാക്കി മാറ്റി മാറ്റി പല പല വർ ഘങ്ങളുടെ ഭൂ പ ഹാരം പരിഹരിക്കാനായിരുന്നു ഈ ആ നിയമം നട മാ നിയമി ഹം

Government should take earnest efforts to implement the Act in its full sense under the leadership of Respective Hon Ministers SCST Forest and Revenue. Adequate support to the ST's to enjoy the provisions with out further cheating will also be ensured. imp

There is serious need of evaluating the recent forest conservation rules (2022), because it may violate the supreme objective of FRA in the name of fast forward development.

Giving brief introduction about some recent cases studies in forest rights act issues and the lobbies involved in introductory part would be much helpful in answering.