



**GOVERNMENT OF KERALA
KERALA STATE PLANNING BOARD**

**FOURTEENTH FIVE-YEAR PLAN
(2022-2027)**

**WORKING GROUP ON
AN ASSESSMENT OF THE IMPLEMENTATION OF
THE FOREST RIGHTS ACT, 2006 IN KERALA**

REPORT

**Agriculture Division
March 2022**

FOREWORD

Kerala is the only State in India to formulate and implement Five-Year Plans. The Government of Kerala believes that the planning process is important for promoting economic growth and ensuring social justice in the State. A significant feature of the process of formulation of Plans in the State is its participatory and inclusive nature.

In September 2021, the State Planning Board initiated a programme of consultation and discussion for the formulation of the 14th Five-Year Plan. The State Planning Board constituted 44 Working Groups, with more than 1200 members in order to gain expert opinion on a range of socio-economic issues pertinent to this Plan. The members of the Working Groups represented a wide spectrum of society and include scholars, administrators, social and political activists and other experts. Members of the Working Groups contributed their specialised knowledge in different sectors, best practices in the field, issues of concern, and future strategies required in these sectors. The Report of each Working Group reflects the collective views of the members of the Group and the content of each Report will contribute to the formulation of the 14th Five-Year Plan. The Report has been finalised after several rounds of discussions and consultations held between September to December 2021.

This document is the Report of the Working Group on “An assessment of the implementation of the forest rights act in Kerala.” The Co-Chairpersons of Working Group were Dr.Geetanjay Sahu and Mr. D. Jayaprasad, IFS. Dr.R.Ramakumar, Member of the State Planning Board co-ordinated the activities of the Working Group. Sri.S.S.Nagesh, Chief, Agriculture Division was the Convenor of the Working Group and Dr. Reji D.Nair, Research Officer ,Agriculture Division was Co-Convenor. The terms of reference of the Working Group and its members are in Appendix 1 of the Report

Member Secretary

PREFACE

As part of formulation of the 14th Five Year Plan, the Kerala State Planning Board had constituted working groups of experts in all the major sectors. In Agriculture and Allied Sectors, 6 working groups were constituted viz. Agriculture and Cooperation, Animal Husbandry and Dairy, Inland and Marine Fisheries, Forest and Environment, Water Resources and Regional Packages. To discuss and frame policies in each of these sectors, the working groups were further divided into 28 Expert Sub-Groups (ESG) with specific mandates.

Each Expert Subgroup held at least three meetings beside one focused group meeting before finalising the report. We, the Co-Chairs, place our deep appreciation and gratitude to all the esteemed members of the ESG for their valuable contributions in preparing the report. We are extremely grateful to Dr. V. K. Ramachandran, the Honourable Vice-Chairperson, Kerala State Planning Board, Dr. R. Ramakumar, Member, Kerala State Planning Board and Sri. S. S. Nagesh, Chief, Agriculture Division for their consistent guidance and suggestions in preparing the report. The drafting team put in commendable work in bringing together all the views and opinions of the members. We sincerely hope the recommendations in the report can lead to important changes in the public policy for the rights of communities inside the forest in the State.

Dr. Geetanjoy Sahu
Expert co-chairperson

Mr. D. Jayaprasad IFS
Official co-chairperson

CONTENTS

Executive Summary	05
1. Introduction	09
2. Methodology	13
3. Trends in the implementation of Forest Rights Act in Kerala	15
4. Major Issues and Challenges in Implementation	25
5. Administrative and Legal Challenges	29
6. Key Recommendations	31
References	36
Appendix 1	37

HIGHLIGHTS

- Forest Rights Act seeks to restore the rights of eligible forest-dwelling scheduled tribes and other traditional forest dwellers, whose rights could not be recorded during both the colonial and post-colonial periods for several reasons, to occupy and use forest land.
- Trends in claims for individual and community forest rights are analysed.
- Concrete suggestions to simultaneously ensure the welfare of forest-dwelling communities and protect the ecological balance have been provided



AN ASSESSMENT OF THE IMPLEMENTATION OF THE FOREST RIGHTS ACT, 2006 IN KERALA

EXECUTIVE SUMMARY

INTRODUCTION: The terms of reference for the working sub-group are: (a) To undertake a detailed assessment of the implementation of the Forest Rights Act in Kerala between 2006-2021, (b) To identify gaps in policy and suggest measures to improve the implementation of the Forest Rights Act in Kerala over the next five years, (c) To identify outstanding issues in the legal structure and administrative reforms to facilitate a smoother implementation of the Forest Rights Act in Kerala, and (d) To suggest a framework for the regular monitoring of the implementation of the Forest Rights Act in Kerala over the next five years.

The working sub-group consisting of ten members from diverse backgrounds met thrice between 14th September and 22nd October 2021. The members deliberated on the tasks assigned for the working group and gathered all the key information from different sources in compiling this report. The major findings are discussed below:

KEY FINDINGS ON IFR CLAIMS: The trend in the recognition of both individual forest rights (IFR) and community forest rights (CFR) between 2008-2021 suggests that 86% of forest rights claims were recognised in the first four years of implementation of the Act i.e., by 31st May 2012. While the average number of IFR claims per year has reduced drastically, the recognition of CFR has improved over the last eight years in comparison to the first four years. However, the average area of IFR claims has reduced from 1.38 acres before May 2012 was 1.38 acres to 0.94 acres between June 2012 and July 2021. The average area for recognised IFRs is 1.32 acres, which is less than the national average of 2.18 acres. Claims from Idukki, Thiruvananthapuram, Palakkad, and Wayanad constitute 70% of the total claims in the state. Also, these four districts constitute 72% of the recognised claims. Meanwhile, 87% of rejected IFR claims are from Idukki, Palakkad, Wayanad and Thrissur and 82% of pending claims are from Idukki, Palakkad, Wayanad and Thiruvananthapuram.

KEY FINDINGS ON CFR CLAIMS: Only 17% of CFR claims have been recognised so far. Wayanad district accounts for 71% of recognised claims. The district is also associated with the rejection of the largest number of CFR claims. There is no dataset on the recognised area for each CFR claim. Majority of the claims are pending at the SDLC. Not a single CFR claim has been approved in the Kasaragod district, despite having the second highest tribal population in the state

MAJOR IMPLEMENTATION ISSUES AND CHALLENGES: The major issues in the enforcement of the FRA in Kerala are highlighted below.

Gap in the claimed and recognised areas – Even though Section 4 (6) of FRA enables forest dwellers to claim up to 4 ha of forest land under individual or common occupation for habitation or for self-cultivation, the average IFR recognised area in Kerala is only 1.32 acres and has reduced to 0.94 acres since 2012. There is no consolidated data regarding recognised CFR titles.

Recognition of CFR is limited – In Kerala, 99.35 per cent of the total recognised claims (26600 out of 26774 total claims) till 31 July 2021 are related to IFRs.

Post-recognition intervention is yet to take place - While addressing ineffective implementation of FRA is important, interventions to support the beneficiaries of recognised claims both for IFR and CFR are equally important, particularly to enhance the livelihood of forest dwellers and promote sustainable forest management. At present, there is no dedicated and defined institutional mechanism to support title holders.

Non-delineation of Critical Wildlife Habitat (CWH) - As per Section 2(b) of FRA, “Critical wildlife habitat” refers to areas specified by a Central Government-led committee that includes local experts and officials in national parks and sanctuaries based on sub-sections (1) and (2) of Section 4. These specified areas must be kept inviolate for wildlife conservation. However, no attempt has been made to delineate the CWH in the state. In this context, awarding other rights could lead to the destruction of many areas that have high ecological/biological/hydrological value.

CFR management plans yet to be prepared - While a total number of 174 CFR claims have been recognised in the state, the tribal settlements are yet to begin their CFR management plans for the recognised areas.

Overlap of IFR- and CFR-claimed and recognised areas - In addition to the absence of CFR management plans, several Gram sabhas are yet to get their CFR-recognised survey maps, leading to lack of clarity whether the recognised CFR is based on the customary boundary of the tribal settlement. There are also IFR claims within the CFR recognised areas, especially in Wayanad.

PVTG rights are not recognised - There are five Particularly Vulnerable Tribal Groups (PVTG) in Kerala, namely, Cholanaikkan (a section of Kattunaikkans), Kadar, Kattunayakan, Kurumbas, and Koraga. Tribal officers in Kerala report that there is no process or initiative to submit claims of these PVTGs for their habitat rights, and no such habitat has been recognised so far.

NTFP Rights Under Section 3 (1) (c) - In addition to the recognition and vesting of rights to forest-dwelling communities over their homestead and self-cultivation land, the FRA 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. However, ground reality reveals that the non-timber forest products (NTFPs) are not exclusively handed over to the Gram sabhas. They are still managed by the VSS or Eco Development Committee even after the FRA has been released.

- (i) Forest Claims Are Rejected Without Following the Due Process - 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 mechanism to provide the claimant in writing the reasons for the rejection of their claim.
- (j) Increasing number of dubious claims – Misuse of FRA by filing false claims for non-existent land and excess land has been reported. Though the Act clearly delineates

requisite procedures such as the joint survey and verification of documents, there are instances where this process was not satisfactorily followed.

- (k) Demand for awarding development rights before individual rights are recognized - Demand for awarding development rights without settling IFR claims has created confusion and operational difficulties. There is no provision in the Act for awarding development rights in a settlement that is not legitimized via individual rights. Besides, it is pointed out that in the absence of clear boundaries on the ground, this could lead to further fresh occupation of forest land and could also be a disincentive for those who have opted for individual rights.
- (l) Request for swapping of RoRs already given - There have been demands from the community to swap the locations of allocated RoRs due to natural disasters, human-wildlife conflict, and poor access to development, often for relocating from interior forests to the periphery. However, the Act does not provide for this at present.

KEY RECOMMENDATIONS: The committee suggests the following measures to make the process of recognition of forest rights more effective and thus enhance the access and forest management rights of Gram sabhas.

Saturation of potential forest rights claims in a time-bound manner - Map all the potential villages/tribal settlements and forest-dwellers for forest rights claims. This exercise should be completed in the next six months by the tribal department officers at the SDLC and DLC level.

Resolving Pending Claims – Hear pending IFR and CFR claims in the next six months and inform claimants about the decision on their claims. There are 4253 pending IFR claims—271, 3634, and 348 at the Gram sabha, SDLC, and DLC level, respectively, and 256 CFR claims—17, 218, and 21 at the Gram sabha, SDLC, and DLC levels, respectively.

Review of Rejected Claims - Review rejected claims (11515 IFR and 373 CFR) in the state as per the direction of the Supreme Court of India to all states to review rejected claims, in response to the grievance that claims were rejected arbitrarily.

Record of Rights - Provide the forest right holder with a final title document that includes a clear description of the forest right conferred, the demarcation of boundaries, and other relevant information. The forest rights claim recognised under the FRA is a legal title in the form of a signed document by a competent authority. The recognised title is non-transferable and inalienable, but heritable.

Delineation of Critical Wildlife Habitat (CWH) on a priority – Complete the delineation of CWH on a priority basis. The FRA Act gives equal importance to the rights of forest dwelling tribal communities and forest conservation. So, in the best interest of both, CWH should be identified to protect areas of high ecological/biological/hydrological value.

Institutional Support to Recognised Titleholders (Both IFR and CFR) - Ensure that the IFR title holders and CFR-recognised Gram sabhas are provided technical and institutional support regularly. Section 16 of the FRA, Amendment Rules 2012 specifies that the State Government shall ensure through its departments that all government schemes including

those relating to land improvement, land productivity, basic amenities, and other livelihood measures are provided to such claimants and communities whose rights have been recognized and vested under the Act.

Maximisation of Development Rights Provisions under the FRA - Maximise provisions for the development rights in each tribal settlement and map the need for basic amenities in each settlement. The recognition of approximately 700 development rights under Section 3.2 of the FRA in Kerala is commendable.

Role of the State Tribal Department - Tribal Department in the state must take ownership of the Act and its implementation by addressing the roadblocks as discussed in this report in the claiming, appeal, and post-recognition assertion process. The nodal agency needs to be systematic in devising strategies to address roadblocks so that it can enable implementation in the true spirit envisaged in the Act.

Awareness Programs – Conduct regular training programs for all the key actors - Gram sabha representatives, Forest Department Officers, Tribal Department Officers and Revenue Department Officers on the FRA and on rules and notifications regularly issued by the Central Government.

Empowerment of Gram sabhas – Form Forest Rights Committees (FRCs) democratically by involving all hamlets and social groups, especially women, the landless, and the most vulnerable sections of the society at the village level. Orient and train FRCs on their role, responsibility, and authority to ensure due process for claim filing and avoid delay and omissions at the Gram sabha level. Effectively communicate the importance of CFR rights to Gram sabhas for the long-term sustainable use of resources.

Synchronizing the objectives of Participatory Forest Management (PFM) and FRA – Effectively harness the potential of PFM institutions by considering them as the institutions identified in the FRA for operationalizing the CFR, drawing on Kerala's robust history of PFM.

Unlocking the economic opportunities of non-timber forest products (NTFPs) – Use well-established PFM institutions to promote the utilization of NTFPs for improving tribal livelihoods while ensuring forest conservation.

Addressing dubious claims and procedures – Curtail attempts to undermine the spirit of FRA by misusing its provisions by filing false claims for non-existent land and excess land.

1. INTRODUCTION

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Rights) Act, 2006, popularly known as the Forest Rights Act (hereafter FRA or Act), seeks to restore the rights of forest-dwelling Scheduled Tribes (STs) and other traditional forest dwellers (OTFDs), who have been residing in such forests for generations but whose rights could not be recorded during both the colonial and post-colonial periods for several reasons, to occupy and use forest land. The non-recognition and non-regularisation of forest dwellers' rights, as the preamble of FRA reads, has resulted in historical injustices to the forest dwelling STs and OTFDs who are integral to the survival and sustainability of forest ecosystems. FRA aims to remedy this through a highly decentralised and democratic governance process for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.

Section 2(a) of the FRA suggests that forest dwellers are eligible to claim not only their rights over the forest land within the boundary of their respective revenue villages, but are also entitled to own, access, use, and manage their forest land within the traditional and customary boundaries of the village, irrespective of the classification of the forest. In other words, forest dwellers who have lived in and depended on any type of forest land on or before December 13, 2005, are eligible to claim their rights over that forest land. Moreover, the recognised rights can be inherited by the family members of the title holder, which means that the title deed will pass on to the next generation of the title holder and cannot be alienated after their demise. Broadly, the rights specified under the FRA can be categorised into four types as discussed below.

INDIVIDUAL FOREST RIGHTS (IFR)

Under Section 3(1)(a) of the FRA, forest dwellers can claim the right to hold and live on forest land under individual or common occupation for habitation or self-cultivation purposes. They can claim this right over forest lands that they held in possession on or before December 13, 2005. For both habitation and self-cultivation, a nuclear household can claim a maximum of four hectares (approximately 10 acres) of forest land.

COMMUNITY FOREST RIGHTS (CFR)

Prior to the regulation of forest land and forest resources by British colonial authorities and the subsequent nationalisation of forest produce by the Government of India after independence, forest dwellers all over the country enjoyed customary and traditional rights over forest land and resources. The processes of regulation and nationalisation prohibited forest dwellers from owning, accessing, using, and selling forest resources without the permission of the Forest Department. This affected their socio-economic condition severely. Chapter II of the FRA mentions that the Act seeks to restore all customary and traditional usufruct rights of forest-dwelling communities within the traditional or customary boundaries of the village, irrespective of the ownership, classification, and size of forests. These include grazing and fishing rights; nistar rights; and ownership, access, use, and disposal rights of minor forest products traditionally collected within or outside village boundaries.

COMMUNITY FOREST RESOURCE MANAGEMENT RIGHTS

The significance of the FRA is not limited to its emphasis on remedying the historical injustice done to forest-dwelling communities and extends to the recognition of forest dwellers as integral to the very survival and sustainability of the forest ecosystem. There are two important provisions in the Act that recognise the forest resource management rights of forest-dwelling communities. Firstly, Section 3(1)(i) of the Act: “the forest-dwelling communities are entitled to protect, regenerate, conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use.” Secondly, Section 5 of the Act, which states that “recognised forest-dwelling communities, gram sabhas and village-level institutions are empowered to protect forest resources from destructive practices carried out by any authority that is likely to affect their cultural and natural heritage.”

Local development rights

Several studies have pointed out that forest areas in India, inhabited by millions of forest-dependent people, lack basic infrastructural facilities and essential services. This situation arises from the centralised forest diversion process for non-forest activity under the Forest Conservation Act, 1980. The FRA aims to address this complex process by empowering state governments to undertake development projects on forest land to improve basic services in local areas. Permissible development activities include the establishment of schools, dispensaries or hospitals, anganwadi centres, fair price shops, electric and communication lines, minor water bodies work, drinking water supply pipelines, rainwater harvesting structures, minor irrigation canals, roads, non-conventional sources of energy, skill upgradation training centres, and community centres. However, these activities are subject to three conditions: (a) a single development activity shall not involve the felling of more than 75 trees per hectare, (b) the proposed activity space shall use less than one hectare, and (c) each development activity must be approved by the gram sabha of that area.

Forest dwellers, especially tribals in Kerala, would benefit significantly from the above provisions under FRA. First, Kerala is an important state from the viewpoint of tribal settlements in and around the reserved forests. Tribals constitute 1.5 per cent of total population in the state, and around 29 per cent of the land in Kerala is under forest cover, which is largely inhabited by STs (Census of India, 2011; Forest Survey of India, 2019). District-wise details of tribal settlements and forest cover are presented in Table-1. The land is closely linked with their livelihood since most of them are collectors of forest produce, hunter gathers, shifting cultivators, pastoral and nomadic herds etc. Second, realising the alarming rate of alienation of tribal lands, Kerala has enacted several legislations to protect the land rights of tribals. As early as 1960, the Dhebar Commission recommended that all tribal land alienated since January 26, 1950 - the day the Constitution came into force – should be returned to the original Adivasi owners. The Kerala Scheduled Tribes (Restriction on Transfer of land and Restoration of Alienated lands) Act, 1975 was enacted to restrict the transfer of tribal lands and for the restoration of lands alienated by tribals. The notification was issued on 24th January 1986 with retrospective effect from 1st January 1982. Thus, the Kerala Scheduled Tribes (Restriction on Transfer of Lands and Restriction of Alienated

Land) Rules, 1986 came into force 11 years from the enactment of the act. Owing to ineffective implementation, the 1975 Act did not serve to ameliorate the problems of scheduled tribes, and the Kerala Restriction on Transfers by and Restoration of Lands to Scheduled Tribes Act, 1999 was passed on 20th April 1999 with retrospective effect from January 24th, 1986. In addition, utilising the powers conferred by section 7 of the Kerala Land Assignment Act, 1960, the government enacted rules for the assignment of government lands to scheduled tribes vide the Kerala Assignment of Government Land to Scheduled Tribe Rules, 2001. As per the rules, assignment could be made for house sites, personal cultivation, and beneficial enjoyment by the assigning authority (Tahsildar or any other officer empowered by government for this purpose). These rules were also not fully implemented. Kerala has seen various agitations such as Chengara, Muthanga, and Aralam farm by tribals for the assignment of lands to them.

Table 1: District-wise Tribal Settlements, Tribal Population and Forest Cover in Kerala

Sl. No	Name of the District	ST Population (As per 2011 Census)	% ST Population to Total Population of the district in 2011	Total No. of Tribal Settlements	Area of Tribal settlement (In ha.)	District-Wise Forest Cover (In sq. km)
1	Idukki	55815	5	159	11829.04	3,150.65
2	Thiruvananthapuram	26759	0.8	130	2442.16	1,303.93
3	Palakkad	48972	1.7	54	562.19	2,083.59
4	Wayanad	151443	18.5	169	3956.11	1,580.22
5	Kollam	10761	0.4	23	270.71	1,322.51
6	Kottayam	21972	1.1	15	434.65	1,104.29
7	Ernakulam	16559	0.5	12	917.48	1,365.71
8	Pathanamthitta	8108	0.7	25	790.932	1,955.52
9	Thrissur	9430	0.3	28	249.976	1,159.22
10	Malappuram	22990	0.6	31	203.85	1,981.33
11	Kannur	41371	1.6	79	654.73	1,653.97
12	Kozhikode	15228	0.5	0	0	1,436.97
13	Alappuzha	6574	0.3	0	0	79.90
14	Kasaragod	48857	3.8	0	0	966.48
Total		484839	1.5	725	22311.828	21,144.29

Source: <https://forest.kerala.gov.in/images/flash/tribalkerala.pdf> ;
<https://fsi.nic.in/isfr19/vol2/isfr-2019-vol-ii-kerala.pdf>

According to an assessment based on the Forest Survey of India report 1999 and Census of India report 2001, it is estimated that FRA has the potential to benefit around 725 tribal settlements in Kerala. However, a close look at the available database on the recognition of forest rights claims in the state reveals that the nature and process of enforcement of FRA has been uneven over the last thirteen years. The objective of this working sub-group is to assess the implementation of the Forest Rights Act, 2006 between 2006-2021.

Terms Of Reference For The Working Sub-Group

The tasks outlined for the working sub-group are discussed below:

- (a) To undertake a detailed assessment of the implementation of the Forest Rights Act (FRA) in Kerala between 2006-2021
- (b) To identify gaps in policy and suggest measures to improve the implementation of the FRA over the next five years
- (c) To identify outstanding issues in the legal structure and administrative reforms to facilitate smoother implementation of the FRA
- (d) To suggest a framework for regular monitoring of the implementation of the Forest Rights Act in Kerala over the next five years.

2. METHODOLOGY

The working sub-group consisting of ten members from diverse backgrounds met thrice between 14th September and 22nd October 2021. The members deliberated on the tasks assigned for the working group and gathered relevant information from different sources in compiling this report. The discussion on the implementation status of FRA in Kerala is primarily based on two reports: (1) Monthly Progress Report (MPR) on FRA Status in India released by the Ministry of Tribal Affairs, Government of India, and (2) District-wise status report on the implementation of FRA as on 31st July 2021, accessed from the ST Development, Government of Kerala. These provide reliable data for our analysis of FRA implementation in the state. Field visits to tribal settlements were also conducted by the working sub-group members to get a first-hand experience about the challenges of enforcing the act at the grassroots level. The working sub-group members also interacted with experts and civil society members working on similar issues to get a broader perspective on the implementation of the act and the opportunities and challenges associated with it.

3. TRENDS IN THE IMPLEMENTATION OF FOREST RIGHTS ACT IN KERALA

In this section, we analyse the trends of FRA implementation in the state. Though the implementation of FRA came into force on 1st January 2008, the implementation status report for the state of Kerala was not available for the period between January 2008 and April 2012. However, a comparison of the available dataset on the FRA implementation status of May 2012 with the July 2021 dataset reveals a set of important trends in the direction of FRA implementation in Kerala.

Table 2: Overall Status of Implementation of FRA as on 31st May 2012

No. of IFR and CFR Claims Received		No. of IFR and CFR Claims Recognised		No. of IFR and CFR Claims Rejected		Extent of Forest Land Recognised for both IFR and CFR Claims (In acre)		
IFR	CFR	IFR	CFR	IFR	CFR	IFR	CFR	
36140	1369	23143	4	Not Available	Not Available	32091	Not Available	
Total		37509		23147		4252		32091

Table 3: Overall Status of Implementation of FRA as on 31st July 2021

No. of IFR and CFR Claims Received		No. of IFR and CFR Claims Recognised		No. of IFR and CFR Claims Rejected		Extent of Forest Land Recognised for both IFR and CFR Claims (In acre)		
IFR	CFR	IFR	CFR	IFR	CFR	IFR	CFR	
43452	1012	26600	174	11515	373	35349.29	Not Available	
Total		44464		26774		11888		35349.29

The data show that 86% of the forest rights claims were recognised in the first four years of implementation of the Act i.e., by 31st May 2012. The average number of IFR claims per year has slowed down drastically, but the recognition of CFR has improved over the last eight years in comparison with the first four years of CFR recognition. However, the average area for IFR has reduced over the last eight years. The average area for each recognised IFR claim before May 2012 was 1.38 acres, which has reduced to 0.94 acres between June 2012-July 2021. The total recognised area for the CFR claims is not available.

Fig. 1 Trend in the Total Forest Rights Claim (Both IFR and CFR) Recognition

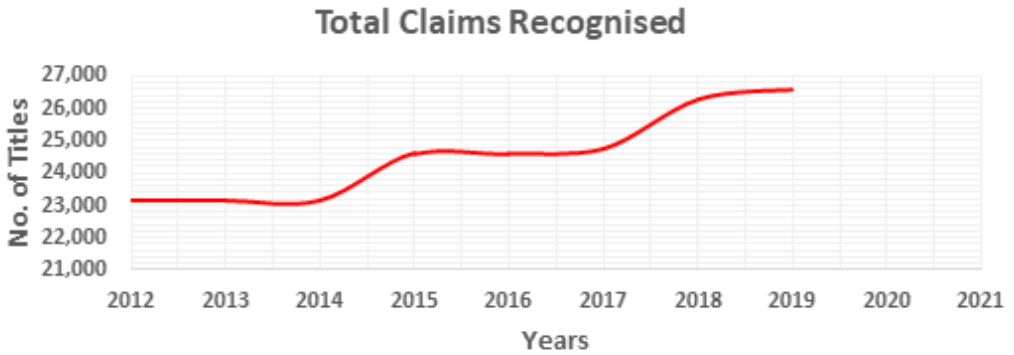


Fig. 2 Trend in the Total Individual Forest Rights Claim Recognition

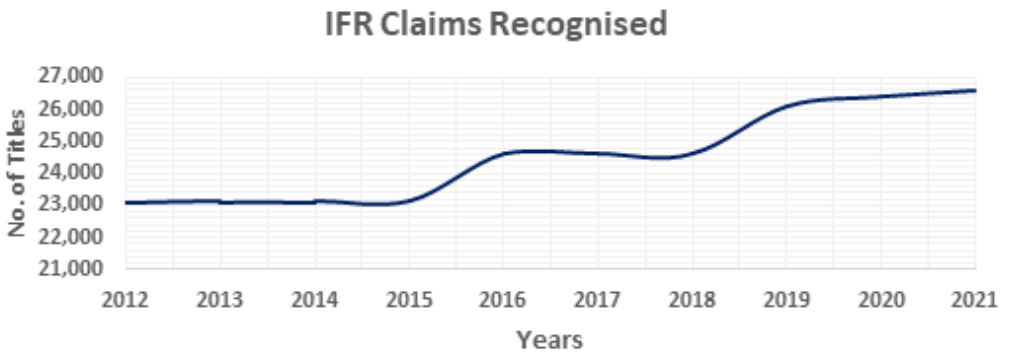


Fig. 3 Trend in the Total Community Forest Rights Claim Recognition



Table 4: District-wise Status of Individual Forest Rights Claims

Sl. No	Name of the District	Total No. of IFR Claims	Total No. Of Recognised IFR Claims	Extent of recognised forest land (in acres)	Average area for the recognised IFR claims (in acres)
1	Idukki	13350	8414	14584.50	1.73
2	Thiruvananthapuram	6060	4654	6527.39	1.40
3	Palakkad	5968	1575	2285.68	1.45
4	Wayanad	5108	4501	3351.98	0.74
5	Kollam	1216	1158	983.76	0.84
6	Kottayam	1704	1401	1560.58	1.11
7	Ernakulam	1691	1144	2239.28	1.95
8	Pathanamthitta	1504	943	609.00	0.64
9	Thrissur	1345	823	899.89	1.09
10	Malappuram	1300	945	710.36	0.75
11	Kannur	1197	1031	1590.00	1.54
12	Kozhikode	11	11	6.87	0.62
13	Alappuzha	0	0	0	0
14	Kasaragod	0	0	0	0
Total		43452	26600	35349.29	1.32

Key observations

- Average recognised area for IFR is 1.32 acres which is less than the national average of 2.18 acres.
- Lowest average area is recognised in Kozhikode district i.e., 0.62 acres, whereas the highest average area is recognised in the Ernakulum district, which is 1.95 acres.
- Claims from Idukki, Thiruvananthapuram, Palakkad, and Wayanad constitute 70% of the total claims in the state. Also, these four districts constitute 72% of the recognised claims.

Table 5: Top Five Districts in the Rate of Recognition of IFR Claims

Sl. No	Districts	Total No. of Claims Received	Total No. of Claims Recognised	Rate of Recognition
1	Kollam	1216	1158	95%
2	Kannur	1197	1051	87%
3	Kottayam	1704	1408	82%
4	Thiruvananthapuram	6060	4797	79%
5	Ernakulam	1691	1232	73%
	Total	11868	9646	81%

Table 6: Bottom Five Districts in the Rate of Recognition of IFR Claims

Sl. No	Districts	Total No. of Claims Received	Total No. of Claims Passed	Rate of Recognition
1	Palakkad	5968	2038	34%
2	Kozhikode	20	11	55%
3	Wayanad	7918	4713	59%
4	Malappuram	1493	948	63%
5	Idukki	13350	8488	63%
	Total	28749	16198	56%

Table 7: District-wise Status of Rejection of Claims at Gram sabha, SDLC and DLC

Sl. No	Name of the District	Total No. of IFR Claims	Total No. of Claims Rejected at Each Level			Total No. Of Claims Rejected
			Gram sabha	SDLC	DLC	
1	Idukki	13350	1102	3090	26	4218
2	Thiruvananthapuram	6060	0	0	0	0
3	Palakkad	5968	0	2549	183	2732
4	Wayanad	5108	2782	0	0	2782
5	Kollam	1216	52	0	2	52
6	Kottayam	1704	116	112	63	291
7	Ernakulam	1691	89	139	161	389
8	Pathanamthitta	1504	99	121	8	228
9	Thrissur	1345	0	9	465	474
10	Malappuram	1300	0	308	0	308
11	Kannur	1197	5	23	0	28
12	Kozhikode	11	9	0	0	9
13	Alappuzha	0	0	0	0	0
14	Kasaragod	0	0	0	0	0
Total		43452	4254	6342	908	11513

Key observations

- 87% of rejected claims are from Idukki, Palakkad, Wayanad, and Thrissur districts
- Highest number of claims are rejected by the Gram sabhas in Wayanad
- Highest number of claims are rejected by the SDLCs in Palakkad
- Highest number of claims are rejected by the DLC in Thrissur

Table 8: Top Five Districts in the Rejection of IFR Claims

Sl. No.	Districts	Total no. of Claims Received	Total no. of Claims Rejected	Rate of Rejection
1	Idukki	13350	4218	31.59%
2	Wayanad	5108	2782	54.46%
3	Palakkad	5968	2732	45.77%
4	Thrissur	1345	474	35.24%
5	Ernakulam	1691	389	23%
Total		27463	10595	38%

Table 9: Bottom Five Districts in the Rejection of IFR Claims

Sl. No.	Districts	Total no. of Claims Received	Total no. of Claims Rejected	Rate of Rejection
1	Thiruvananthapuram	6060	0	0
2	Kannur	1197	28	2.33%
3	Kollam	1216	52	4.27%
4	Pathanamthitta	1504	228	15.15%
5	Kottayam	1704	291	17.07%
	Total	11681	599	5.12%

Key observations

- 82% of pending claims are from Idukki, Palakkad, Wayanad and Thiruvananthapuram
- 93% of claims are pending at the SDLC and DLC level
- Highest number of claims are pending in Thiruvananthapuram
- Lowest Number of claims are pending in Kozhikode

Table 10: District-wise Status of Pending Claims at Gram sabha, SDLC, and DLC

Sl. No.	Name of the District	Total No. of IFR Claims	Total No. of Claims Pending at Each Level			Total No. of Claims Pending
			Gram sabha	SDLC	DLC	
1	Idukki	13350	0	644	0	644
2	Thiruvananthapuram	6060	0	1260	3	1263
3	Palakkad	5968	0	993	205	1198
4	Wayanad	5108	28	395	0	423
5	Kollam	1216	0	2	0	2
6	Kottayam	1704	0	0	5	5
7	Ernakulam	1691	50	16	4	70
8	Pathanamthitta	1504	0	280	12	292
9	Thrissur	1345	0	0	1	1
10	Malappuram	1300	193	0	44	237
11	Kannur	1197	0	44	74	118
12	Kozhikode	11	0	0	0	0
13	Alappuzha	0	0	0	0	0
14	Kasaragod	0	0	0	0	0
	Total	43452	271	3634	348	4253

Table 11: Top Five Districts in the Rate of Pending of IFR Claims

Sl. No	Districts	Total no. of Claims received	Total no. of Claims pending	Rate of pending
1	Idukki	13350	644	4.82%
2	Thiruvananthapuram	6060	1263	20.84%
3	Palakkad	5968	1198	20.07%
4	Wayanad	5108	423	8.28%
5	Pathanamthitta	1504	292	19.41%
Total		31990	3820	11.94%

Table 12: Bottom Five Districts in the Rate of Pending of IFR Claims

Sl. No	Districts	Total no. of Claims received	Total no. of Claims pending	Rate of Pending
1	Kozhikode	11	0	0%
2	Thrissur	1345	1	0.07%
3	Kollam	1216	2	0.16%
4	Kottayam	1704	5	0.29%
5	Ernakulam	1691	70	4.13%
Total		5967	78	1.30%

Table 13: District-wise Status of Community Forest Rights Claims

Sl. No.	Name of the District	Total No. of CFR Claims	Total No. Of Recognised CFR Claims	Extent of recognised forest land (in acres)	Average area for the recognised CFR claims (in acres)
1	Thiruvananthapuram	169	0		
2	Kollam	15	4		
3	Pathanamthitta	20	0		
4	Kottayam	2	2		
5	Idukki	90	0		
6	Ernakulum	12	9		
7	Thrissur	52	21		
8	Palakkad	120	6	Not Available	
9	Malappuram	148	0		
10	Kozhikode	8	8		
11	Wayanad	321	124		
12	Kannur	22	0		
13	Alappuzha	0	0		
14	Kasaragod	0	0		
Total		1012	174		

Table 14: District-wise Status of Rejection of Claims at Gram sabha, SDLC and DLC

Sl. No.	Name of the District	Total No. of CFR Claims	Total No. of Claims Rejected at Each Level			Total No. Of Claims Rejected
			Gram sabha	SDLC	DLC	
1	Thiruvananthapuram	169	0	72	0	72
2	Kollam	15	0	0	0	0
3	Pathanamthitta	20	0	5	0	5
4	Kottayam	2	0	0	0	0
5	Idukki	90	0	0	81	81
6	Ernakulum	12	0	0	0	0
7	Thrissur	52	0	0	0	0
8	Palakkad	120	0	0	0	0

9	Malappuram	148	0	10	16	26
10	Kozhikode	8	0	0	0	0
11	Wayanad	321	170	13	2	185
12	Kannur	22	0	2	2	4
13	Alappuzha	0	0	0	0	0
14	Kasaragod	0	0	0	0	0
Total		1012	170	102	101	373

Table 15: District-wise Status of Pending Claims at Gram sabha, SDLC and DLC levels

Sl. No.	Name of the District	Total No. of CFR Claims	Total No. of Claims Pending at Each Level			Total No. Of Claims Pending
			Gram sabha	SDLC	DLC	
1	Thiruvananthapuram	169	0	97	0	97
2	Kollam	15	0	0	0	0
3	Pathanamthitta	20	0	0	0	0
4	Kottayam	2	0	0	0	0
5	Idukki	90	0	0	0	0
6	Ernakulam	12	3	0	0	3
7	Thrissur	52	0	0	0	0
8	Palakkad	120	0	47	1	48
9	Malappuram	148	0	64	16	80
10	Kozhikode	8	0	0	0	0
11	Wayanad	321	0	0	4	4
12	Kannur	22	14	0	0	14
13	Alappuzha	0	0	0	0	0
14	Kasaragod	0	0	0	0	0
Total		1012	17	218	21	256

Key Observations

- Only 17% of the CFR claims have been recognised so far
- 71% of recognised claims are from only Wayanad district
- Also, majority of the CFR claims are rejected in Wayanad
- There is no dataset on the recognised area for each CFR claim
- Majority of the claims are pending at the SDLC level
- Not a single CFR claim in the Kasaragod district, despite second highest tribal population in the state

Table 16: District-wise Status of Development Rights

Sl. No.	District	Total Number of Claims Filed under Section 3.2	Total Number of Claims Recognised as on 31st July 2021	Extent of Forest Area Diverted for Recognition of Rights under Section 3.2 (In ha)	Average Area of Recognised DR Claims (In Acres)
1	Thiruvananthapuram	167	163	33.470	0.20
2	Kollam	29	24	0.247	0.01
3	Pathanamthitta	11	4	2.223	0.55
4	Kottayam	59	5	0.049	0.009
5	Idukki	184	150	20.329	0.13
6	Ernakulum	48	48	14.487	0.301
7	Thrissur	29	28	21.789	0.77
8	Palakkad	31	31	0	0
9	Malappuram	38	38	11.590	0.305
10	Kozhikode	0	0	0	0
11	Wayanad	176	159	75.235	0.47
12	Kannur	17	7	7.962	1.13
13	Alappuzha	0	0	0	0
14	Kasaragod	0	0	0	0
	Total	789	657	187.38	0.28

4. MAJOR ISSUES AND CHALLENGES IN IMPLEMENTATION

In this section, we highlight the major issues related to the enforcement of the FRA in Kerala.

(a) Disparity in claimed and recognised areas

Section 4 (6) of FRA enables forest dwellers to claim up to 4 ha (around 10 acres) of forest land under individual or common occupation for habitation or for self-cultivation. However, the average IFR recognised area in Kerala is only 1.32 acres only, which has reduced to 0.94 acres since 2012. There is no data or area mentioned in the recognised CFR titles.

(b) Recognition of CFR is limited

FRA identifies and empowers the Gram sabha as the appropriate authority for the rights recognition process and identifies 13 pre-existing rights of forest communities, relating to all categories of forest land including Protected Areas. The Act validates individual and community rights of access, use and sale of forest resources; rights to manage and govern the forests within the traditional boundaries of the village; and conservation and protection of the forests, wildlife and biodiversity (as identified as CFR). Until 31 July 2021, 99.35 per cent of recognised claims in Kerala (26600 out of 26774 total claims) are on individual forest rights. This pattern is common to all states. In certain areas, the delineation of land under CFR has been done quite arbitrarily and there is much variance with what was traditionally used by the tribal communities. Non-delineation of CWH has compounded this problem.

(c) Post-recognition intervention is yet to take place

Discussions on FRA has largely focused on the implementation of forest rights. While addressing the ineffective implementation of FRA is important, interventions to support the beneficiaries of recognised claims for IFR and CFR are equally important to enhance the livelihoods of forest dwellers and promote sustainable forest management. Rule 16 of the FRA Rules, 2012 prescribes that the state government shall ensure that all government schemes, including those relating to land development, productivity, basic amenities and other livelihood measures are provided to such claimants and communities whose rights have been recognised under the Act. While efforts are on to integrate state housing schemes with the recognised habitation right, there is no policy guideline on the integration of line department schemes with the recognised IFR agricultural lands. However, all developmental schemes operating elsewhere will not be suitable for implementation in the tribal settlements located in forests. The focus should be on low impact developments that suits local ecology, tribal culture, and lifestyle.

(d) CFR management plans yet to be prepared

While 174 CFR claims have been recognised in the state, the tribal settlements are yet to begin their CFR management plans for the recognised areas. In Kerala, community management of forests as envisaged under Section 3(1) (i) and Section 5 of the FRA has remained almost non-existent in the recognised tribal settlements. The Gram sabhas are yet

to constitute the community forest resource rights committees under 4 (1) (e) of the FRA. Also, the recognised CFR title does not have a map of the recognised CFR forest area.

Kerala has a robust history of participatory forest management (PFM). There are 152 tribal VSS and EDCs in the state that were established before the enactment of the FRA. These institutions have been involving tribal communities in forest governance. Each VSS/EDC has a micro plan prepared through a community-driven participatory process with the objective of forest conservation and livelihood security. Sustainable management of forest resources require the integration of customary and modern knowledge. PFM institutions provide for this. The potential of utilizing PFM institutions for the effective implementation of CFR has not been seriously attempted till now.

(e) Non-delineation of Critical Wildlife Habitats (CWH)

As per Section 2(b) of FRA, “Critical wildlife habitat” refers to areas specified by a Central Government-led committee that includes local experts and officials in national parks and sanctuaries based on sub-sections (1) and (2) of Section 4. These specified areas must be kept inviolate for wildlife conservation. Considering that Forest Rights Act gives equal importance to the rights of forest-dwelling tribal communities and forest conservation, this process should have happened as a pre-runner or at least in tandem with the process of deciding the rights provided in the Act. However, no attempt has been made to delineate the CWH in the state. In this context, awarding other rights could lead to the destruction of many areas that have high ecological/biological/hydrological value. Similarly, it would also be prudent to expand the scope of application of CWH to all forest and biodiversity areas apart from Protected Areas as currently mentioned in the Act, since most of the biological diversity in the state lies outside the premises of the Protected Areas.

(f) Overlapping of IFR and CFR claimed and recognised areas

In addition to the absence of CFR management plans, several Gram sabhas are yet to get their CFR-recognised survey maps, leading to lack of clarity whether the recognised CFR is based on the customary boundary of the tribal settlement. There are also IFR claims within the CFR recognised areas, especially in Wayanad. The FRC committee members find it difficult to demarcate IFR and CFR areas. In many villages in the study areas, the FRCs applied for CFR with the support of NGOs, but the IFR and CFR area disputes have not been resolved.

(g) Non-timber Forest Product (NTFP) rights under Section 3 (1) (c)

In Kerala, NTFPs are marketed through different channels depending on the nature of the product, demand, distance from the market, etc. (Muraleedharan et al., 1999). The Kerala State SC/ ST Federation, private traders, and tribes are the three main marketing agents for NTFP in the state. Those living in forest areas depend heavily on the forest resources for their livelihood. Collection of NTFPs is the major occupation of more than 68 per cent of the tribals in Palakkad, Thrissur, Wayanad, and Kannur districts of Kerala (Shanker, 1999). The tribes residing in the interior areas depend on forest resources for food, medicine, construction, religious ceremonies, firewood, and commercial collection of NTFPs. Studies have shown that NTFP collection contributes 58 per cent of the total income of the tribes

in Kerala (Thomas, 1996). The marketing of NTFPs is the main source of income for indigenous communities residing at the fringes of the forest. However, the state NTFP rules restrict the exclusive rights of Gram sabhas over the NTFPs. However, the FRA 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. However, ground reality reveals that the NTFPs are not exclusively handed over to the Gram sabhas in the absence of management plans. They are still managed by Vana Samrakshana Samitis (VSS) or Eco Development Committees (EDC) to ensure benefit flow to the tribes.

(h) Forest claims are rejected without following the due process

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 mechanism at the SDLC, DLC, or nodal agencies to provide the claimant in writing the reasons for the rejection of their claim. However, this is being remedied at the DLC level following the process of suo motu revision of claims rejected.

(i) Dealing with misuse and dubious claims.

Reports of misusing the provisions of the FRA by filing false claims for non-existent land and excess land have been made. Any attempt to misuse the provisions of the Act shall jeopardise the very objectives of the Act. Though the Act clearly says about fulfilling the requisite procedures such as joint survey and verification of documents, there are instances where this process was not used appropriately. In such cases, the claims have been rejected at appropriate levels viz., SDLC and DLC, thereby preventing misuse of the provisions of the Act.

(j) Demand for awarding development rights before individual rights are recognized

In a few tribal settlements in the State, particularly in those that prefer shifting cultivation, people claim individual ownership for than four ha (boundaries of some of these areas are still unclear on ground), which is the maximum extent provided in the Act. This has led to a situation wherein Individual Rights are not settled in such areas due to the refusal from the communities. However, there is demand for awarding development rights in such areas. This has created confusion and operational difficulties in the field. While legal uncertainties should not cause misery to people, there is no provision in the Act for awarding Development Rights in a settlement that is not legitimized via Individual Rights. Besides, in the absence of clear boundaries on the ground, this could lead to fresh occupation of forest land and could also be a disincentive for those who have opted for individual rights.

(k) Requests for swapping of RoRs already given.

There have been demands from the community to swap the locations of allocated RoRs due to natural disasters, human-wildlife conflict, and poor access to development, often for relocating from interior forests to the periphery. However, the Act does not provide for this at present.

5. ADMINISTRATIVE AND LEGAL CHALLENGES

The first administrative challenge in the implementation of FRA in the state is the paucity of human and technical resources in the Tribal Department, which is the nodal department for the enforcement of the law. While the Ministry of Tribal Affairs, Government of India, is the nodal agency for enacting FRA and issuing directions and guidelines from time to time, the Act has to be implemented by the respective state tribal development departments or any other department associated with tribal welfare. The Tribal Department of Kerala faces several challenges in facilitating the implementation of the act at the SDLC and DLC level. There are limited human resources (at present, only 55 tribal extension officers) to create awareness about the FRA, facilitate the formation of FRC committees at the Gram sabha level, initiate meetings at the SDLC and DLC level, arrange the necessary supportive documents for the Gram sabhas to file their claims, then prepare ground level report to submit affidavits in the court of law in case of litigation related to FRA, and integrate line department schemes with the title holders. Given the current level of human resource and financial support for the FRA, the officers feel that they are overburdened. They are also not technically equipped to understand the forest landscape and revenue maps to participate in the SDLC and DLC discussions.

Second, FRA envisages a three-tier institutional mechanism to recognise and vest the forest rights of forest dwellers. The detailed process for the recognition of the forest rights is mentioned in Section 6 of the Act. Section 6 (1) empowers the Gram sabha to initiate the claim process in each village, following which the claims would be verified and examined by SDLC and sent to DLC for its final approval (Section 6 (3)). The final title will be issued in the interest of the claimant by DLC (Section 6 (6)).

The state government shall constitute SDLC and DLC consisting of officers of the department of revenue, forests, and tribal welfare, along with three members of the Panchayati Raj institutions at the appropriate level. The role of these three departments, that is, Revenue Department represented by the District Collector, Forest Department represented by the Divisional Forest Officer, and Tribal Development Department represented by the Tribal Officer at DLC and SDLC levels, respectively, are very crucial in the recognition of forest rights in Kerala. Claims are pending because the survey department is yet to complete the survey of the submitted claims for both IFR and CFR in several of the tribal hamlets.

6. KEY RECOMMENDATIONS

In the light of the above analysis related to the implementation of FRA in Kerala, the committee makes the following recommendations to make the process of recognition of forest rights more effective and hence, enhance the access and forest management rights of Gram sabhas:

HANDLE POTENTIAL FOREST RIGHTS CLAIMS IN A TIME BOUND MANNER

Map all the potential villages/tribal settlements and forest-dwellers for the forest rights claims. This exercise should be completed in the next one year with the active coordination of all the three stakeholder departments viz., Revenue, Forest and Scheduled Tribes Development Department. The SDLC and DLC should exercise their responsibilities in the claim process as prescribed under the Section 6 of FRA Rule 2012.

DEFINE FUNCTIONS OF THE SUB-DIVISIONAL LEVEL COMMITTEE

The sub-divisional level committee (SDLC) shall:

- (a) provide information to each Gram sabha about their duties and duties of holders of forest rights and others towards the protection of wildlife, forests, and biodiversity with reference to critical flora and fauna that must be conserved and protected.
- (b) provide forest and revenue maps and electoral rolls to the Gram sabha or the Forest Rights Committee.
- (c) collate all the resolutions of the concerned Gram sabhas.
- (d) consolidate maps and details provided by the Gram sabhas.
- (e) examine the resolutions and the maps of the Gram sabhas to ascertain the veracity of the claims.
- (f) hear and adjudicate disputes between Gram sabhas on the nature and extent of any forest rights.
- (g) hear petitions from persons, including State agencies, aggrieved by the resolutions of the Gram sabhas.
- (h) co-ordinate with other Sub-Divisional Level Committees for inter sub-divisional claims.
- (i) prepare block or tehsil-wise draft record of proposed forest rights after reconciliation of government records.
- (j) forward the claims with the draft record of proposed forest rights through the Sub-Divisional Officer to the District Level Committee for final decision.
- (k) raise awareness among forest dwellers about the objectives and procedures laid down under the Act and in the rules.

In this connection, the nodal department i.e., the tribal department officers at the SDLC and DLC need to anchor the claim process and extend all possible supports to the claimants.

Resolve pending claims

The pending IFR and CFR claims need to be heard within the next one year, and the claimants should be informed about the decision on their claims. There are 4253 pending

IFR claims—271, 3634, and 348 at the Gram sabha, SDLC, and DLC level, respectively, and 256 CFR claims—17, 218, and 21 at the Gram sabha, SDLC, and DLC levels, respectively.

Review rejected claims

In February 2019, the Supreme Court of India had directed all the states to review the rejected claims. Forest dwellers across the country have complained that their claims were rejected arbitrarily without following the due process of law. In this connection, it is important to review the rejected claims in Kerala. As of 31st July 2021, a total number of 11515 IFR claims were rejected across the state—out of which 4254, 6351, and 910 IFR claims were rejected at the Gram sabha, SDLC, and DLC level respectively. Similarly, 373 CFR claims were rejected so far—out of which 170, 102, and 101 CFR claims were rejected at the Gram sabha, SDLC, and DLC level, respectively. The rejection of forest rights claims (including both IFR and CFR) in Kerala is 27% which should be addressed immediately by the state government. The Revenue Department and Tribal Department have already started the process of suo moto review of rejected claims at the DLC level and below. This shall be expedited and completed in a time bound manner.

The forest rights claim recognised under the FRA is a legal title in the form of a signed document by the competent authority. The recognised title is non-transferable and inalienable, but heritable. Therefore, the final title document given to the forest rights holder should have a clear description of the forest right conferred, the demarcation of boundaries, and other relevant information. In reference to the records of rights, Rule 12 A of the FR Rules (as amended on 6.9.2012) provides that on the completion of the process of recognition of rights and issue of titles, the Revenue and Forest Departments must prepare a final map of the forest land. The concerned authorities must also incorporate the forest rights so vested in the revenue and the forest records within the specified period of record updating. This position has been reiterated in the Ministry of Tribal Affairs Circular dated 3.3.2014, which noted that the FRA process will be completed only when the RoR (record of rights) was created.

Odisha and Maharashtra have already issued orders stating that all titles issued under FRA should be recorded in the 7/12 (RoR) extract under the column 'other rights'. The titles under FRA will be heritable, but non-alienable. The names of the husband and the wife should be recorded as title holders. In case the title holder(s) are without a direct heir, the nearest family member should be appointed as the heir. The ownership of the land, however, will continue to be under the Forest Department of the State Government. Similarly, on 28th December 2018, the Tribal Development Department issued an order directing the government to ensure that IFR title holders are issued independent 7/12 extracts by actual measurement of the land. While most of the IFR titles have record of rights of their recognised land, the record of rights is not prepared for the community forest rights in Kerala. The Government of Kerala should issue orders and prepare the RoRs for all the recognised CFR titles.

Delineation of critical wildlife habitat (CWH) on a priority

The FRA accords importance to the rights of forest dwelling tribal communities and forest conservation. To streamline both, the delineation of CWH should be completed on a priority so as to protect areas of high ecological/biological/hydrological value as envisaged in the Act. Similarly, it is recommended to request the Central Government to take steps to expand the scope of application of CWH to all forest and biodiversity areas apart from Protected Areas as currently interpreted in the Act, since most of the biologically diverse areas in the state lie outside Protected Areas.

Institutional Support to the Recognised Titleholders (Both IFR and CFR)

Section 16 of the FRA, Amendment Rules 2012 specifies that the State Government shall ensure through its departments that all government schemes including those relating to land improvement, land productivity, basic amenities and other livelihood measures are provided to such claimants and communities whose rights have been recognized and vested under the Act.

First, efforts must be made to ensure that the IFR title holders should be given access to bank loans and other schemes based on their IFR titles. The Government of Kerala should issue an order directing the banks to remove the hurdles in accessing formal credit for agricultural activities on the recognised forestland. The district administration should be directed to chalk out plans to allow IFR title holders to access other government schemes. In district development plans, IFR title holders should be given priority in land improvement schemes and income-augmenting schemes. They should also be prioritized during the shortlisting of beneficiaries for schemes under the departments of agriculture, tribal development and rural development. This will enhance the livelihood of forest dwellers and contribute to the productivity of the recognised IFR land.

Second, Gram sabhas with recognised CFR rights should be provided technical and financial support to prepare their community forest resource management plan. The line departments, especially revenue, forest, and tribal department must facilitate a community-driven micro plan to access, use, and protect the recognised CFR areas. A district level convergence committee consisting of at least one representative from each department, along with representatives from the Gram sabhas and NGOs is desirable to identify the key areas for intervention and possible mechanisms to integrate the line department schemes with the titleholders. The district-level convergence plans, which aim to integrate various line department schemes with forest rights, need to be consistent and communicated at the ground level, to allow communities to avail them. These plans need to be implemented through the involvement of the Gram sabha, instead of creating multiple non-inclusive institutions.

Maximisation of development rights provisions under the FRA

With the enactment of the FRA, basic amenities that require the use of forestland can be provided in the tribal settlements. The recognition of around 700 development rights under Section 3.2 of the FRA in Kerala is commendable. Under Section 3.2 of the Forest Rights Act, permissible development activities include the establishment of schools, dispensaries

or hospitals, anganwadi centres, fair price shops, electric and communication lines, minor water bodies work, drinking water supply pipelines, rainwater harvesting structures, minor irrigation canals, roads, non-conventional sources of energy, skill upgradation training centres, and community centres. These can be initiated and approved by the Gram sabhas for their local development. However, these activities are subject to three conditions:

- (a) a single development activity shall not involve the felling of more than 75 trees per hectare
- (b) the proposed activity space shall use less than 1 hectare, and
- (c) each development activity must be approved by the Gram sabha members of that area.

There is huge scope for the state government to maximise these provisions for the development rights in each tribal settlement in Kerala. The basic amenity needs of each tribal settlement should be mapped and accordingly, the service provider/user agency can apply for land diversion to provide the basic services in the tribal settlements. The state nodal department should ensure that procedural and evidential requirements are not the reasons for the non-recognition of development rights.

Role of the state tribal department

First, there is an urgent and critical need for the Tribal Department in the state to take ownership of the Act and its implementation by addressing the roadblocks in the claiming, appeal, and post recognition assertion process. The nodal agency needs to be systematic in devising strategies to address roadblocks so that it can enable the implementation in the true spirit envisaged in the Act.

Second, the department should facilitate the presence of a nodal agency representative at the ground level who can make forms, maps, and documents available and ensure due process in claim filing and verification by all those eligible. This will minimise exclusions and unfair rejections. Appointing dedicated staff for FRA facilitation at the block level to address the lack of communication and liaison between the applicants and the committee might help bridge the gap between village-level FRCs and SDLCs/DLCs.

Third, the capacity building and orientation programs for SDLC and DLC members on due process to ensure clarity on the provisions of the FRA is crucial, and this can help reduce unlawful rejections and other violations, like non-recognition of the total occupied land.

Fourth, both district and state-level databases on the status of claims submitted, recognised, and pending must be made available to the public. This will enable the claimants to follow up and appeal to the concerned authority about her/his claims under FRA and help assess progress and problem areas.

Fifth, the tribal department should follow-up regularly to organise a state-level monitoring committee once in three months to assess the status of compliance of the Forest Rights Act and give necessary instructions to the SDLC and DLC members to enforce the FRA at the grassroots level.

Awareness programs

Currently the level of awareness about the various provisions of the Act is fairly low among the tribals as well as the officials of the forest and tribal welfare departments. We recommend regular training programs for all the key actors - Gram sabha representatives and Officers from the Forest, Tribal, and Revenue Departments on the FRA and the rules and notifications regularly issued by the Central Government.

Gram sabha-level intervention

Forest Rights Committees (FRCs) need to be formed democratically by involving people from all hamlets and social groups, especially women, landless, and the most vulnerable sections of the society at the village level. These FRCs must be trained and oriented on their role, responsibility, and authority, to ensure due process for claim filing and avoid delay and omissions at the Gram sabha level. The priority so far, both at the state and village level, has been on IFR and not on CFR rights. The gap in understanding the importance of CFR rights among the members of Gram sabha must be addressed for the long-term sustainable use of resources. Examples of best practices from other areas should be shared with Gram sabha members and exposure visits to successful collective action villages that have asserted their rights under the FRA should be carried out. Villages must always be given the option of operating at the hamlet level – for FRC formation, CFR application, etc., to ensure better representation and easier functioning.

Swapping of allotted RoRs

There have been several cases where tribal communities have demanded to relocate to new locations from areas where RoRs have already been given on account of natural disasters, human wildlife conflict, and improved access to development. Often, the demand is for relocating from interior forests to the periphery, which could be beneficial for avoiding forest fragmentation also. However, the Act does not provide for this at present. The State government could consider such demands on a case-by-case basis using the eminent domain doctrine and may also request the central government to include provisions for the swapping of RoRs in exceptional situations.

Synchronizing the objectives of PFM and FRA.

Kerala has a robust history of participatory forest management (PFM), with 152 tribal VSS and EDCs in the state established even before the enactment of the FRA. These institutions have been involving tribal communities in forest governance. Each VSS/ EDC has a Micro Plan prepared via a community-driven participatory process for forest conservation and livelihood security. Sustainable management of forest resources require the integration of customary as well as modern knowledge. PFM institutions provide for this. This potential of PFM institutions could be effectively harnessed by considering PFM institutions as institutions identified in the FRA for operationalizing the CFR.

Unlocking the economic opportunities of NTFPs

The potential of a well-established PFM institutions may be harnessed to utilize NTFPs for improving tribal livelihoods while ensuring forest conservation.

Addressing dubious claims and procedures

Any attempt to undermine the spirit of FRA by misusing the provisions of the FRA and filing false claims for non-existent or excess land should be curtailed. This may be addressed by enforcing requisite procedures such as joint surveys involving the officials of the concerned departments and proper verification of documents.

Miscellaneous

- Recognised titles should be translated to local languages
- Better coordination among the officers of revenue, forest and tribal department at the SDLC and DLC should be encouraged. The collector and sub-collector should facilitate the process at the DLC and SDLC, respectively.
- Panchayat members should be involved in the recognition of the FRC process.
- Process to declare CWHs should be initiated as soon as possible to avoid future encroachment of lands and ensure protection of the forest and wildlife.
- Swapping of equivalent recognised forest areas for habitation and cultivation in other areas with the consent of the villagers should be explored

References

1. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, Ministry of Tribal Affairs, Government of India, New Delhi.
2. <https://forest.kerala.gov.in/images/flash/tribalkerala.pdf>
3. <https://fsi.nic.in/isfr19/vol2/isfr-2019-vol-ii-kerala.pdf>
4. Muraleedharan, P.K., Chandrashekhara U.M., Seethalakshmi K.K. and Sasidharan, N. 1999. Biodiversity in tropical moist forests: A study of sustainable use of non-wood forest products in the Western Ghats, Kerala: monitoring and evaluation of ecological and socio-economic variables. Kerala Forest Research Institute Research Report No. 162, p. 36.

APPENDIX 1

PROCEEDINGS OF THE MEMBER SECRETARY STATE PLANNING BOARD

(Present: Sri. Teeka Ram Meena IAS)

Sub: - Formulation of Fourteenth Five Year Plan (2022-27) – Constitution of Working Group on Forest and Environment – Revised Proceedings - reg.

Read: 1. Note No. 297/2021/PCD/SPB dated: 27/08/2021

2. Guidelines on Working Groups

3. This Office order of even number dated 08.09.2021

ORDER No:SPB/342/2021-Agri (4) Dated:14.09.2021

As part of the formulation of Fourteenth Five Year Plan, it has been decided to constitute various Working Groups under the priority sectors. Accordingly, the Working Group on **Forest and Environment sector** is constituted. For the smooth functioning of the Sectoral Working Group (SWG), it is decided to split the Working Groups into Expert Sub Groups (ESG). Hence the Working Group is categorized into four Expert Sub Groups as indicated in the proceedings. The names of the members of the SWG are indicated under each ESG. The Working Group shall also take into consideration the guidelines read 2nd above in fulfilling the tasks outlined in the ToR for the Working Group.

1. ENVIRONMENT AND BIODIVERSITY

Co - Chairperson

1. Dr T. Jayaraman, Former Member, Kerala State Planning Board
2. Suneel Pamidi ,IFS, Director, Directorate of Environment and Climate Change

Members

1. Dr C. George Thomas, Chairman, Kerala State Biodiversity Board
2. Dr Raman Sukumar, Eminent Ecologist, Expert in Human Animal Interface
3. Dr A. B. Anitha, Former Executive Director, CWRDM, Kozhikode
4. Dr A. G. Pandurangan, Former Director, TBGRI, Palode
5. Dr John Mathai, Scientist-G (Rtd.), NCESS
6. Dr P. S. Harikumar, CWRDM
7. Dr Syam Viswanath, Director, KFRI
8. Dr K. V. Thomas (Retd NCESS)
9. Dr R. Prakashkumar, Director, JNTBGRI
10. Mr B. Pradeep Kumar, Chairman, Kerala Pollution Control Board (KPCB)
11. Mr Reney R. Pillai, Member Secretary, Kerala State Biodiversity Board
12. Dr A. Gopalakrishnan, Director, Central Marine Fisheries Research Institute, Kochi
13. Dr K. Ranjeet, Associate Professor, KUFOS
14. Mr Joseph Vijayan, Social worker & Activist

15. Mr C. Baldwin, Kerala Karshaka Sangham, Aryardram, Kundara, Kollam
16. Dr. Aravindan Nagarajan, Sr. Lecturer, Azim Premji University, Bengaluru

Terms of Reference

1. To briefly assess the available information on the impacts of climate change on Kerala and how public policy should begin to address them.
2. To suggest a comprehensive framework for the design and implementation of schemes related to environment and climate change in Kerala.
3. The framework suggested may outline special problems pertaining to specific sectors of concern including infrastructure, the likely impact of climate change in specific sectors like agriculture and the impact of sea-level rise and other climate impacts on coastal regions and ecosystems.
4. The framework suggested may also list specific measures and schemes for knowledge generation and/or specific action as appropriate in these sectors.
5. To assess the design and implementation of existing schemes of Government of Kerala under the Department of Environment and Climate Change and suggest measures to improve their scientific orientation.
6. To outline special problems pertaining to biodiversity conservation, suggest a road map for their development, and examine the role of various agencies/departments/local self-governments in the implementation of biodiversity conservation-related programmes.
7. To suggest measures to better converge the activities and programmes of different line departments and agencies to meet the challenges of climate change and preservation of biodiversity.

2. ADDRESSING ISSUES RELATED TO HUMAN-WILDLIFE INTERACTIONS

Co - Chairperson

1. Mr P. K. Kesavan IFS, Principal Chief Conservator of Forests & Head of Forest Force
2. Shri. Bennichen Thomas IFS, PCCF(Wildlife)& Chief Wildlife Warden

Members

1. Dr P. S. Easa, Department of Wildlife
2. Dr Mani Chellappan, Professor, College of Horticulture, Vellanikkara
3. Mr O. P. Kaler, (Retd) APCCF, Kerala
4. Mr James Zacharia, (Retd) Forest Officer, Kerala
5. Dr S. Nandakumar, SIAD, Palode
6. Mr P. Viswan, Kerala Karshaka Sangham, Palothari, Koyilandi, Kozhikode
7. Mr K. Ramachandran, Adivasi Kshema Samithi, Panamaram

Terms of Reference

1. To assess the various interventions of the Government of Kerala in addressing the issues arising from human-wildlife interactions over the past decade.

2. To document the economic cost of crop losses arising out of human-wildlife interactions over the past decade.
3. To document the human and animal losses arising out of human-wildlife interactions over the past decade.
4. To suggest a multi-pronged plan of action on the different measures to be adopted to reduce human and animal losses as well as crop damages arising out of human-wildlife interactions over the next 10 years.
5. To ensure that the suggested plan of action includes a mixture of traditional and modern measures and that context-specific solutions are prioritised over generalised blanket solutions.
6. To suggest changes in forest governance and administration to allow a more effective resolution of issues arising out of human-wildlife interactions.

3. AN ASSESSMENT OF THE IMPLEMENTATION OF THE FOREST RIGHTS ACT IN KERALA

Co - Chairperson

1. Dr Geetanjay Sahu, Associate Professor, Tata Institute of Social Sciences, Mumbai
2. Mr D. Jayaprasad IFS, PCCF (Planning and Development), Kerala Forests and Wildlife Department

Members

1. Mr P. N. Unnikrishnan, (Rtd) PCCF, Kerala Forest Department
2. Dr A. V. Santhoshkumar, Professor and Head, Department of Forest Biology and Tree Improvement, College of Forestry, Thrissur
3. Dr G. Shine, Assistant Professor, College of Forestry, Thrissur
4. Mr O. R. Kelu, MLA, Mananthavady
5. Dr V. R. Najeeb, Independent researcher, Wayanad
6. Mr P. K. Suresh, Kerala Karshaka Sangham, Sarayu, Kammana, Wayanad
7. Mr.G.Anilkumar, Deputy Director, Tribal Resettlement & Development Mission, Vikas Bhavan
8. Mr.C.Herald John, Tribal Development Officer, Parappa, Kasargod.

Terms of Reference

1. To undertake a detailed assessment of the implementation of Forest Rights Act in Kerala between 2006 and 2021.
2. To identify gaps in policy and suggest measures to improve the implementation of the Forest Rights Act in Kerala over the next five years.
3. To identify outstanding issues in the legal structure and administrative reforms to facilitate a smoother implementation of the Forest Rights Act in Kerala.
4. To suggest a framework for a regular monitoring of the implementation of the Forest Rights Act in Kerala over the next five years.

4. TOWARDS A SUSTAINABLE MANAGEMENT OF FORESTS IN KERALA

Co - Chairperson

1. Prof T. K. Kunhamu, Professor, College of Forestry, KAU
2. Dr A. V. Raghu, Scientist, KFRI

Members

1. Mr S. Santhosh Kumar, ACF (Planning), Kerala Forests and Wildlife Department
2. Mr Tiju C. Thomas, Associate Coordinator-Communities, WWF India
3. Dr P. Niyas, Assistant Professor, College of Forestry, Thrissur
4. Ms T. R. Suma, Scientist, Hume Centre for Ecology and Wildlife Biology, Kalpetta
5. Mr Balan Madhavan, Senior Fellow, International League of Conservation Photographers
6. Adv. K. J. Joseph, Kerala Karshaka Sangham, Kuryasserri House, Chunkakunnu, Kottiyoor
7. Mr Rajith M R, Assistant Professor, Department of Economics, Dr.B.R Ambedkar Memorial Arts and Science College.

Terms of Reference

1. To critically assess efforts made in the last decade to improve the sustainability of forest management in Kerala.
2. To identify gaps in policy and suggest measures for improvement over the next five years.
3. To document the new global developments in the field of forest management and suggest best practices for adoption in Kerala.
4. To suggest measures to ensure that future policy on forest management blends the objectives of forest conservation and the livelihoods of people living inside and near forests.
5. To suggest measures to ensure that community participation is deepened in the design and implementation of the government's programmes and schemes towards forest management.

Convener

Mr.S.S.Nagesh, Chief, Agriculture Division, State Planning Board

Co- Convener

Dr.Reji D Nair, Research Officer, Agriculture Division, State Planning Board

Terms of Reference (General)

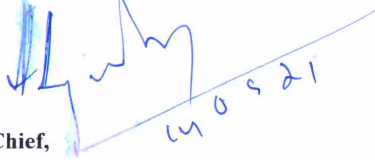
1. The non-official members (and invitees) of the Working Group will be entitled to travelling allowances as per existing government norms. The Class I Officers of GoI will be entitled to travelling allowances as per rules if reimbursement is not allowed from Departments.

2. The expenditure towards TA, DA and Honorarium will be met from the following Head of Account of the State Planning Board “3451-00-101-93”- Preparation of Plans and Conduct of Surveys and Studies.

The order read as reference 3 is modified to this extent.

(Sd/-)
Member Secretary

Forwarded By Order


Chief,
Agriculture Division

To

The Members concerned

Copy to

PS to Vice Chairperson
PA to Member Secretary
CA to Member (Dr.Ramakumar.R)
Economic Advisor to VC
Chief, PCD,SPB
Sr. A.O, SPB
The Accountant General, Kerala
Finance Officer, SPB
Publication Officer, SPB
Sub Treasury, Vellayambalam
Accounts Section
File/Stock File