

Report of Visit of National Forest Rights Committee Team to Kerala¹

Dates of Visit: 2nd to 5th July 2010

Names and Addresses of Team Members:

| | | |
|---|--|--|
| Dr. C.K. Sreedharan, Retd. PCCF, Tamil Nadu Flat No. 17, Amar Apartments, 98, Second Main Road, Gandhinagar Adayar, Chennai-600020. E-mail: chambrasree@yahoo.com Ph: 09445737788 (M), 044- 24455563 | Shri Ravi Rebbapragada Executive Director, Samata 14-37-9, 1st Floor, Krishna Nagar, Maharanipet, Visakhapatnam - 530002 Andhra Pradesh (Andhra Pradesh) samataindia@gmail.com Tele/fax: +91(0)891 2737662 | Shri Rakesh Kumar Dogra Assistant Director General (Education), ICFRE, P.O. New Forests, Dehradun-248006 E-mail: dogrark@icfre.org Ph: 0135-2758348; 9410148935 (M) Fax: 0135-2758571 |
|---|--|--|

(This report is written for the purposes of the Committee's ongoing work; any views contained in this are not necessarily those of the entire Committee and are not to be taken as final views or recommendations by the Committee.)

Summary of the Key Observations:

- 1) All departments concerned of the state government are found to be quite active in implementation of FRA, which is evident from the positive response of the state government in addressing various issues arising. The state government has taken adequate steps to prepare and train the personnel of the departments of Tribal welfare, Survey and Settlements, Forest and Revenue to go through the process of implementation systematically more or less. The state government have also provided clear-cut schedule for the implementation of the Act to its officers. State government has issued a number of orders for facilitating smooth implementation.**
- 2) Efforts of the state government in spreading awareness about the act, mobilization of tribals and developing FRCs are quite conspicuous with equally appreciable response shown by the tribals.**

¹ The authors are thankful to state government of Kerala for providing all the requisite help for the visit of the committee members, including logistic support and providing all information pertaining to implementation of the Act in state of Kerala.

- 3) **The state level monitoring committee has been quite active. It has met seven times till June 2010 and monitored the progress quite effectively.**
- 4) **There is good inter-departmental coordination at the field level for the purpose of execution of various provisions of the Act.**
- 5) **The delineation of Gramsabha and constitution of FRCs at the hamlet or group of hamlets, rather than at the Gram Panchayat level (Oor-kootam) has been accepted well by the tribals and has succeeded in meeting the objectives of the Act.**
- 6) **The tribal department as the nodal agency is well organized at the district level, with a number of personnel's in place. The appointment of tribal developers and using their services in awareness creation, meeting of Gramsabha, formation of FRC, filling the claim forms, mobilizing the necessary documents like ST certificates, meting of FRC etc.have resulted in better implementation of FRA in Kerala.**
- 7) **The announcement by the Hon. Minister of Tribal Affairs, that at least one acre of land would be provided to tribals under FRA irrespective of their occupation led to a great deal of avoidable confusion in the implementation.**
- 8) **The survey and demarcation of the forestland using "Total Station Survey" instrument has played a major role in proper implementation of FRA in Kerala, since survey is the most important and vital step in any land settlement issue. The title deeds issued with proper surveyed sketch of the individually occupied land deserves appreciation.**
- 9) **No progress was noticed in the state in settlement of community rights. We have been informed that they are concentrating on the individual rights first and after settlement of the individual rights, they would take-up the determination of community rights. This is contrary to the directions issued by the MOTA.**
- 10) **The developmental rights under section 3(2) for diversion of the forestland are being settled as per the guidelines issued by MoEF. The diversions have been effected in Reserved Forest as well as National Park and Sanctuary areas alike. The settlement of developmental rights needs to be expedited as per the requirements all over the state. The user departments may have to be sensitized about their role to speed up the settlement of developmental rights.**

- 11) The issue of declaration of critical wildlife habitats has not received sufficient and adequate attention. It was evident from the fact that the committee constituted by the state government has not met for the past two years.**
- 12) The non-declaration of critical wildlife habitat (proposed at Forest Department level) has however not affected/deterred implementation of forest rights act, as was evident during our visit of the Wayanad Wildlife sanctuary.**
- 13) A system of joint verification has been put in place, wherein after receipt of the claims from the gram sabha, at the level of SDLC, these are verified by getting input from Forest, Revenue and Tribal department. It consumes some time, but is quite an authentic process, wherein the veracity of claims could be properly verified and only genuine claims are recommended.**
- 14) Mainstreaming of various developmental schemes, after the title deeds of forest rights have been issued was evident during discussions. The state is in a strong position to take various welfare measures especially the infrastructure works in tribal settlements with the funds of Rs.148 crores available under 13th finance commission. It calls for strong intra and inter sectoral coordination for sustainable development of forest based tribals.**
- 15) The state is yet to initiate any tangible, action under FRA to strengthen the conservation regime of forests through sustainable use, conservation of biodiversity and maintenance of ecological balance once the individual and community rights of tribals are settled. Therefore, it calls for needs immediate attention of the state.**
- 16) There were representations that the cut off date fixed for receiving claim application by gram panchayat is not in order and wanted it to be extended. State may consider this genuine demand and respond accordingly.**
- 17) There was a representation that the right to cut and use the standing trees on the land allotted to the tribals should not be interfered with by the Forest Department. The ambiguity on this matter that the trees are reserved to government needs to be resolved at the earliest.**
- 18) Right of Tribals staying in vested forest and who were chased out or left on their own fearing repression and law in 1978 has not been considered at all and therefore needs reconsideration.**

TOUR DIARY

2nd July, 2010

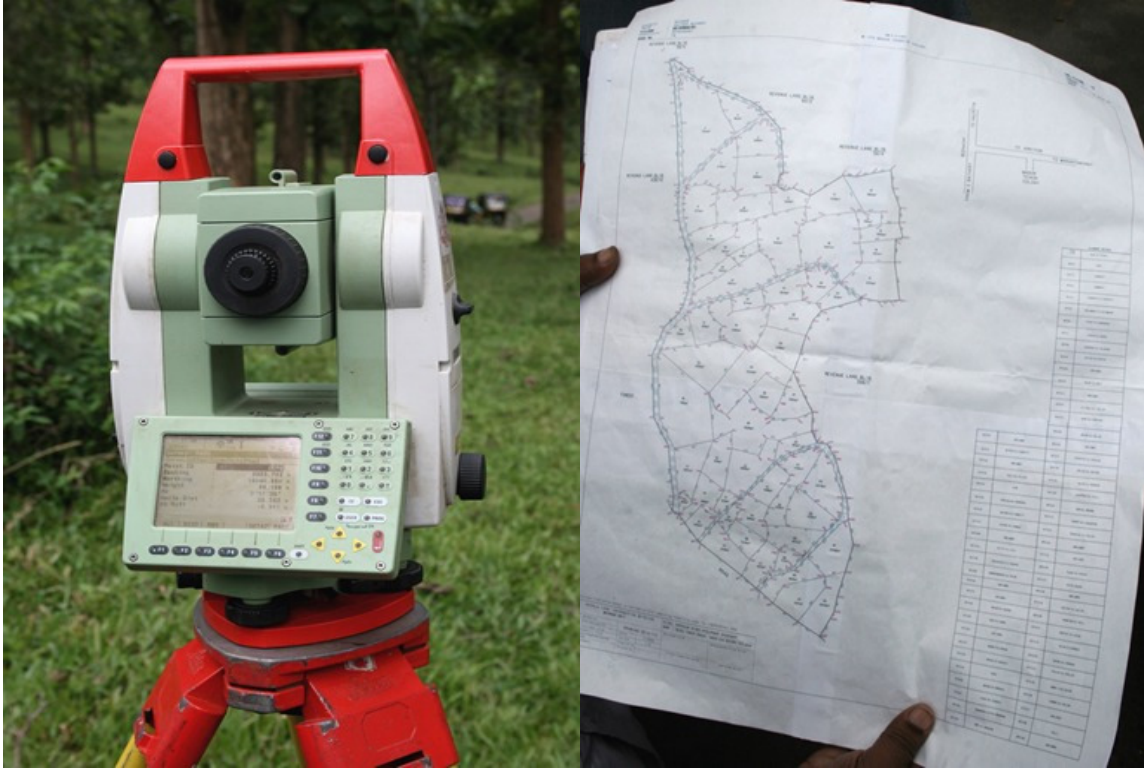
The committee had the first official meeting with District Collector Shri Bhaskaran, IAS and other district level officers from Forest, Revenue, Tribal Welfare and Survey Department at Wayanad collectorate 2nd July 2009. We also had a meeting with Shri Prasanth Kumar I.A.S Sub-collector Wayanad, who is the chairman of SDLC. The sub-collector and chairman of SDLC gave details of 8 meetings of SDLC that have taken place from November 2009 till July 2010 and Panchayat wise details of cases passed at SDLC level. The committee members camped at Priyadarshni Tea Estate, which is a government, run tribal-cooperative. We had extensive discussions with officers specially deputed by the state government for the committee's visit, Shri Jupidi Parsad, IFS, Chief Conservator of Forests, Tribal Mission and Shri Vasanth Kumar, Consultant Tribal Development department on various aspects of implementation of Forest Right Act.

3rd July, 2010

Visit of Madoor Thekkin Colony

We started our Field visit in Maddoor Reserve Forest area and Madoor Thekkin colony on 2nd July 2010. We were accompanied by Shri Sunil Kumar, D.F.O. South Waynad, Shri A.R. Shashi Kumar, D.F.O, North Waynad, Ms. Jessy, P.O. ITDP, Shri Vijayan, Deputy Collector, Deputy Director, Survey, Mr. Shashidharan Chettiar, A.D. Tribal Development Department, Shri Radha Krishan, Range Officer, Tribal Development officers, Tribal Promoters and other local staff.

The Survey Department made a demonstration of the survey work being carried out for actual verification and the marking the area under occupation by the claimants. The survey is being done by "Total station" instrument and we actually checked the correctness of the survey. Survey with this instrument is quite rapid and accurate. Survey department has employed specifically trained persons to carry out this type of survey. The area in question was demarked into sub-plots and each of the claimant's occupied area was being demarcated and plotted by the Survey department in presence of officials of Revenue Tribal department and the individuals of claimants.

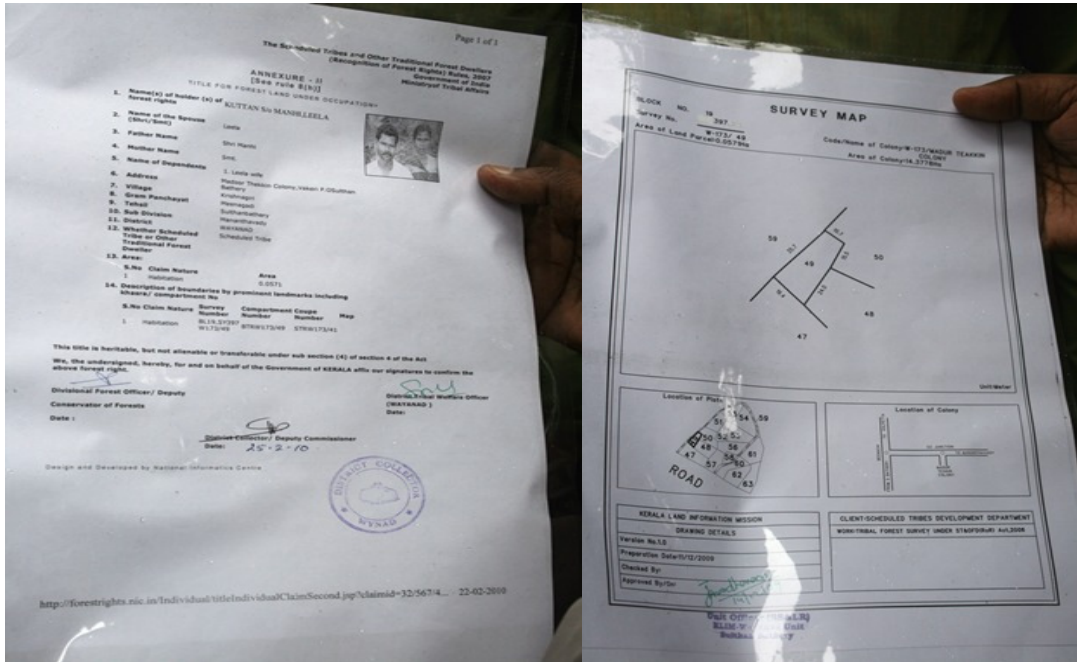


(“Total station” survey instrument and survey sketch of forest land)

We interacted with one of the individual beneficiary Shri Kuttan S/O Manhi who belongs to PTG Paniya tribal. The title deed of forest rights issued jointly in his name and that of his wife’s name (Leela) was verified. The certificate was issued on 25th February 2010 to an extent of 0.571 ha of land for habitation purpose and the details of survey no, compartment number and coupe number were clearly specified. On the reverse side of the certificate, the detailed survey sketch with location details, duly authenticated by the survey department was provided. The survey and demarcation which is the most fundamental aspect of settlement of rights has been done well and the committee appreciates the same.

The committee interacted freely with the people in the Madoor colony. In general, people seem to be satisfied with the implementation of FRA and no one complained. With recognition of the rights over land of occupation the initiation of developmental schemes have started, such as electricity connections, water supply, ration card and NAREGA. It was observed that there has been ambiguity on the right to fell trees standing on the land where the rights are already admitted as certain trees are reserved to

Government. As the “Title for Forest land Under Occupation” does not prohibit the felling of trees by the occupant it needs clarification at the earliest.



(Certificate of forest rights giving authenticated surveyed sketch overleaf)

Paniya tribals traditionally have been residing in very small size hutments, where families of 4 to 5 members stay. These hutments are with mud walls and thatched roof. We could see small areas being cultivated around their hutments like homestead garden.

(Paniya Tribal with his precious possession- habitat with certificate)





(Paniya Tribal family in traditional hut at Madoor and goat-shed on forest land)

Visit to Athikadavu:

Our next place of visit was to FRC Athikadavu. It is pertinent to mention here that FRCs have been constituted based on Gram Sabha at hamlet level (OORKUTTAM). The FRC was earlier constituted at Gramsabha (Panchayat) level and were subsequently disbanded because of operational difficulties and Government of Kerala issued an order specifically for the purpose. The committee verified the title deeds of forest rights issued to two individuals – (i) Balan and Lakshmi S/o Madoor to extent of 0.6 ha and (ii) Swari and Tulsi to extent of 0.39 ha. These people mostly belong to *Kattu-naikar* tribal community and they received the title deeds as early as February 25, 2010. In general we specifically inquired about the process and also difficulties, if any, experienced by the people and it was intimated that they experienced no such difficulties. They were very possessive of the certificates issued to them and have deposited all their certificates in the safe custody one of the trusted member of village.

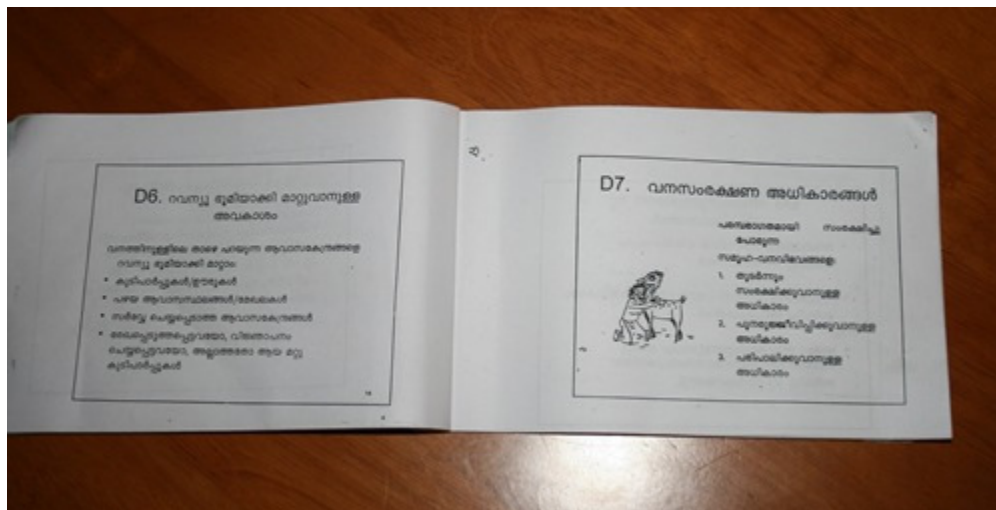
We next met some people who wanted us to visit as an area where FRC have not been constituted and the people alleged the denial of forest rights. The team visited Appadu area in Meenagudi Gram Panchayat. They made a representation that there were 53 families, who were in possession of this vested forest land of South Waynad Division till 2002, and they vacated the vested-forest voluntarily, when a case was registered in forest department offence No.11/2002. They cited a similar case of another 68 families, whose claims have been admitted since they reoccupied the forestland after vacating

earlier. They maintained that since these 53 families were law abiding, and feared the department, they did not reoccupy the forestland and as a result their claimant have not been even accepted. In fact, they were not able to file their claims, since no FRC was constituted for them and applications duly completed were in their hands. We requested the officials accompanying and subsequently the District Collector to look into their grievance. The District Collector joined the team at lunchtime after completing his earlier commitment and we had discussion about a number of issues.

Visit to Waynad Wildlife Sanctuary:

Afternoon we visited wayanad wildlife sanctuary accompanied additionally by Shri V.K. Srivalsan, the Wildlife Warden. Wayanad Wildlife Sanctuary is spread over an extent of 344.4 sq km of forests and is also one of the elephant reserves. Moreover it is part of a larger landscape with contiguity of Mudumalai in Tamilnadu and Bandipur in Krarnataka, together supporting world’s most viable tiger population. The wildlife warden intimated that the area has not yet been declared as critical wildlife habitat. He intimated that there are 110 settlements with more than 2600 families and a population of over 10,600 staying inside the sanctuary area for which 79 FRCs have been constituted. The Government of Kerala had in 2004 submitted a proposal for relocation of 25 selected settlements, consisting of 983 families (593 tribal and 390 non-tribals) at an estimated cost of Rupees 85 Crore. However, as on date the proposal has not got been approved. In the meantime the Forest Rights Act came into being and therefore the department will be reexamining the whole issue.

(Awareness brochure)





(Right settled in the Periphery of Wayanad Wildlife Sanctuary)

We went to the periphery of the sanctuary and could interact with some of the recipient of the title deeds of forest right. One such recipient with whom we could interact was Shri Kunchan S/o Cheluwan. Inhabitants made representation to the committee that the forest department officials have dug elephant proof trench (EPT) near to their habitation and requested that this should have been done a bit further to allow them more land for their cultivation. However, it was actually seen on the ground that the EPT was laid correctly and it did not impinge upon any land in occupation of the right holders. We went to another settlement *Ponkuzhi* where 58 families having 180 members were residing. A total number of 52 claims were received and settled in the hamlet. The tribal welfare department is implementing a scheme of providing brick house and construction work is in progress.



(Community place of worship-Wayanad WLS)

4th July 2007

Meeting with District Collector and other district officers

In the morning, first we had detailed meeting with District Collector and other district officers at collectorate in Kalpetta, the district headquarters. We reviewed the implementations of Forest Right Act in the entire district. The wayanad district is having 3 talukas with a total population of about 7.8 lakhs. 17.4% of this population is tribal (total ST population 136062 – Male – 67394 – Female – 68668) There are a total 359 tribals settlement in the forest areas, for which a total 6937 claims have been received by FRCs. 3852 claims were passed by SDLC and in 3538 cases claims were passed by DLC. As on the date of meeting 3297 title deeds of forest right were issued for an extent of 2689.84 acre of forestland.

We were provided with Panchayat-wise information on number of FRCs constituted and claims received (Annexure). The applications processes at FRC level, SDLC level, the applications recommended by SDLC and processes at DLC level and final settlements of the claims were discussed at length. Out of the total 6937 claims received, 2135 applications were rejected, mainly because of duplication, applications pertaining to the revenue land and applications made without actual genuine possession forestland, and finally 4892 applications were accepted. Out of these, 3852 applications were passed by SDLC and 3538 applications were passed by DLC. 318 applications were pending for survey to be completed. Mostly the applications were pending for final

approval of DLC for reasons like completion of survey, non-completion of joint verifications and the processes by objections in few cases where land was not in possession.

There were 13 cases, wherein land has been diverted for the community purposes as per section 3(2) of FRA. It is seen that 13 cases of diversion of forest land under section 3(2) of Forest Right Act have been approved for various developmental works like providing electricity, supply of drinking water, electrification, construction of anganwadi and approach roads etc. These cases pertain to both reserved forest as well as sanctuary area. The committee observed that as such there was no problem for diversion of forest as per provision of 3(2) of FRA since the permission was being granted at the level of DFO. The details are enclosed as Annexure.

We could observe that the District Collector has shown very clear leadership amply supported by a team of well-motivated district officers who have worked like a team to implement the FRA. They were hopeful that by end of July, they would be able to complete disposal of all the applications. One unique thing observed in the district was good presence of tribal department as the nodal agency appropriately supported by forest department. The tribal department in the district had one Project Officer ITDP, two tribal development officers, 13 tribal extension officers and tribal promoters at FRC level. These tribal promoters were educated youth taken from the respective villages, who were paid Rs.2500 per month consolidated salary, and were acting as facilitators for the processes at FRC level. It was intimated that there were 350 tribal developers in the district.

The committee observed during the consultations that there was an announcement by the Tribal Affairs Minister after discussions with Revenue, Forest and Tribal Affairs Minister's that every individual will be given at least One Acre of land. This announcement led to difficulties of implementation. Firstly, the people who had got title deeds of forest rights for less than one acre, based on actual possession of land were disgruntled and dissatisfied. So much so that at some places people refused to receive the title deeds. Many revising the claim to one acre made revised applications, in cases where the right admitted were less than one acre. People also got misled in a way that they tried to grab at least one acre to be in their possession, leading to encroachment of

sorts. At the same time, at a number of places where the processes were in progress, the claimants intimated that they were not ready to receive any thing less than one acre in extend, which vitiated the process. It also led to a situation exerting tremendous pressure and duress on the local forest officials, who found it difficult to implement the act in the right manner. In the meantime, a writ petition was filed in High Court Kerala WCP (C) No 1034/2010 (S) by on organization called Wayanad Prakruthi Samrakhshana Samiti and the High Court issued an order of restrain on this development and also directed state government that the revised applications submitted on account of this development will not be entertained, and no encroachment will be permitted..



(Committee members interacting with civil society groups at Collectorate in Kalpetta)

Meeting with NGOs, Civil Society and Groups

A consultation meeting was conducted in the Collectorate wherein 40 individuals representing various organizations participated. The following main points were raised during the meeting.

- Representatives of Wayanad Prakruthi Samrakhshana Samiti an NGO interested in Conservation of forest raised their concern over the proposed allotment of more land to claimants than what has been provided for in the act. A writ petition was filed in High Court Kerala WCP (C) No 1034/2010 (S) by Wayanad Prakruthi Samrakhshana Samiti and the High Court issued a restraintment order on this development and also directed state government that no applications resubmitted on account of this development will be entertained, and no encroachment will be permitted.

- A number of persons who spoke later criticized the Wayanad Prakruthi Samrakhshana Samiti for causing obstruction in implementation of the act as they want it to be.
- There were also criticism against both the Tribal welfare and Forest department for not acceding to the claim demand of every one who made them.
- There were suggestions that the extent of land permitted is too small and inadequate for construction of house with other facilities.
- There were representation that the cut off date fixed for receiving claim application by gram panchayat is not in order and wanted it to be extended
- There was a representation that the right to cut and use the standing trees on the land allotted to the tribals should not be interfered with by the Forest Department.
- There were complaints from a section that in certain areas the members of the FRC were not properly elected and they are not truly representative.
- It was also complained that the tribals were not given their due rights in the past. It was also alleged that when the encroachments in forest areas were all regularized in 1985 in Kerala with exemptions from Forest Conservation act the tribals were denied the same benefits.
- Right of Tribals staying in vested forest and who were chased out or left on their own fearing repression and law in 1978 has not been considered at all and therefore needs reconsideration.

Afternoon, we visited Kundamangalam Vayal area in Meppadi Range, where the claims were received for the forestland, which was actually not in possession of the individuals. We could see bamboo plantation done by the forest department, which could not come-up due to heavy browsing pressure. Without being judgmental on the issue, we requested the District Collector to deal with such cases on the merit.



(Inspection of disputed site Meppadi Range)

After completion of the consultations at waynad, we proceeded to Trivandrum via overnight train from Calicut.

5th July 2010

Meeting with Chief Secretary and State Government officers:

We had a meeting with the Chief Secretary, Principal Secretary Tribal Affairs, Principal Chief Conservator of Forests, Additional Chief Secretary Revenue, Principal secretary, Forests and other officers on 5th July 2010.. We were briefed on the efforts taken by Kerala Government in implementation of the act. We shared with the Chief Secretary and other officers about our observations during our visit to Wayanad

We specifically discussed the issue of notification of critical wildlife habitats and the PCCF informed that they have started the process and assured that it will be completed early after following all the guidelines. Regarding a specific query of one DFO not signing the title deeds in Mannarkad District, PCCF informed that there was litigation with reference to the land in question, which has now been sorted out and the DFO will sign accordingly. PCCF specifically informed that they have instructed all the field level officers to provide top priority in implementation of FRA, with a humane approach. We also interacted about the announcement of the Hon. Minister regarding allocation of

minimum one acre of land under FRA and its adverse implications on the implementation and the resultant court order. The Chief Secretary informed that they are following the court order meticulously. The points discussed have been highlighted in the summary of key issues in the beginning of the report.

List of Annexure to the report.

1. List of People/organizations/Groups/NGOs participated in Public consultation on 4th July 2010 at Kalpetta, District Headquarter of Wayanad.
2. Government Order Ms No 62/2008/SCSTDD dated 3-6-2008-Approval of report of the working group
3. Government Order Ms No 68/2008/SCSTDD dated 17-6-2008- Order-Time schedule for the implementation of the Act
4. District Wise status of Implementation of Forest Rights Act in Kerala.
5. Panchayat Wise Implementation status of FRA-2006 in Wayanad District.
6. Details of meeting of SDLC in Wayanad District
7. Order of Hon'ble High Court Kerala in WP9C) No 1034/2010 (S) regarding Order of stay of operation of Ext. P2
8. Details of diversion of forest land permitted in Wayanad District.
9. Representation-1
10. Representation-2
11. Representation-3
12. Representation-4
13. Newspaper cuttings on the visit of the National FRA Committee.





(Traditional Tribal Temple in Wayanad Wildlife Sanctuary)