

Land and Natural Resources : Politics of exclusion and Adivasi responses in Wayanad, Kerala

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Abstract

In this paper the material dispossession of the tribal people, the 'epistemological colonialism' and the resultant violence of the state in dispossessing Adivasis from their dwelling places are conceived as ethical and moral issues. This study on the background of Forest Right Act (FRA) 2006 in Waynad district indicate that The Adivasis in Wayanad not only have lost their resources for material existence but also their symbolic and cultural capital as well as their wealth of knowledge with the loss of access to forest and the bountiful nature around them with the exclusive politics and legislations. Without giving due recognition and promotion to the epistemological meaning attached to land by Adivasis, there is no possibility for inclusive spaces which assures historical and cognitive justice. Giving titles for forest right to Adivasis should be rooted on this abundant trust on Adivasi values

Introduction

Studies shows that the creation of 'state' during British rule and its consolidation in the post independent period used the tactics of scientific rationality and progress to expropriate the resource base of the Adivasis in the name of national development. The government policies and programmes for tribal development based on different approaches during the post colonial periods continued the colonial legacy and made the indigenous life support systems of Adivasis weak and fragile. As a shadow of the colonial legacies the modern laws and policies for Adivasis were defined by legislation and sanction and in contrast the customary laws of the Adivasis are dependent mostly on habitual observances and moral values. The Indian state has acknowledged the historical injustice done to the Adivasi people and passed the Forest Rights Act in 2006. The Forest Rights Act assures the right of the forest dependent communities on forest conservation and sustainable management and was efficiently formulated to contest the dispossession and injustice. However, the experiences of the Adivasis in Wayanad reveal that the state continues to be hostile to the land rights of Adivasi people in Wayanad and there was flaws and injustice even in the implementation of Individual rights over forest. The aspect of Community Right (CR)

and Community Forest Right (CFR) are completely neglected in Wayanad. In a way Adivasis are again displaced from their own cultures, community and knowledge systems and the alien values of the dominant societies are superimposed on them. The experiential wisdom of the Adivasis challenges the scientific rationality of modern world which see facts separate from values and thus perpetuating duality. In this context this paper unravels the specific experiences of Adivasi communities in Wayanad and the ethical dilemmas and the politics of exclusion with regard to the implementation of Land rights and Forest Rights.

This paper explores the historical dispossession and exclusion of Adivasis and especially the flaws and injustices involved in the land redistribution and implementation of Forest Right Act 2016 in Wayanad district. The paper is based on ethnographic data collected from selected Kattunaikka, Paniya and Kurichia hamlets and the land distribution and FRA implementation agencies in four panchayats in Wayanad. A bottom up approach is adopted and this paper give utmost importance to Adivasi's point of view and their everyday experience.

Socio- Cultural Context: Kattunaikkas, Paniyas and Kurichias

There are 6 major Adivasi communities reside in Wayanad and I have selected 3 communities- the Kattunaikka, Paniya and Kurichiya community for this study. Kattunaikkas belongs to the Particularly Vulnerable Tribal Group (PVTG) and stay in interior forests as well as in the forest fringes. They mainly depend on minor forest products and wage labour to fulfill their livelihood

needs. Paniyas are mostly wage labourers and still continue their semi nomadic style for fetching leafy vegetables and roots for their day today living. Kurichias mainly depend on subsistence agriculture along with forest dependence and wage labour for their survival.

To understand the social context of dispossession of Adivasis from Forest and common lands there is a brief mention about the socio political contexts existed in Wayanad. The Marginalisation of Adivasi communities begun in the feudal period was strengthened in the colonial period through the enforcement of different land laws and forest laws. Private property rights were established in Wayanad region through the imposition of colonial laws. By establishing the concept of private proprietorship, the British gave protection to the powerful landed class and made them the rent collecting agents under the British authority by conferring *Janmam* right to the Brahmins. In this process customary agreements were replaced by written agreements which could be produced in the courts of law if necessary. The colonial justice concepts of *res nullius* and *terra nullius* (land that belongs to none belongs to the sovereign) subjugated the concept of community rights of tribal communities. The concept of private property and legal ownership were alien to the Adivasi communities who followed community rights over land which intensified the process of dispossession and alienation and the historical injustice started unfurling its monstrous effect on them.

State Policies and exclusion of Adivasis

The policies adopted by the Indian state after independence were in continuation of the commercial and revenue approach of the British to increase state income. The extensive deforestation, growth of plantation economy under colonial rule and state initiated food crop cultivation changed the land availability and ownership pattern and consequent labour requirements of the region and affected the tribal communities drastically. With the Forest Acts and the much acclaimed Land Reform Act the condition of Adivasis deteriorated further.

Forest Rights

The colonial administration had established state monopoly over the forests by the end of the 18th century with the Forest Act of 1864 which empowered the British empire to declare any land covered with trees as government forest by notification. The roots of Adivasi alienation from forests lie in the policy of reserving forests during colonial rule (Sarin 2003). The focus of the colonial policy was on extraction of forest resources for commercial purposes and revenue generation neglecting the livelihood needs of the Adivasis (Saravana nd). He points out that plunder of timber, other forest resources and establishment of coffee, tea and other plantations in forest region became a source of decline of the environment and affected the Adivasis adversely. Sarin (2003) argues that the colonial government was more responsive to local claims than the post independent state. For instance, she points out that the colonial state institutionalised the settlement of existing local rights in the IFA of 1927 by constituting village forests for meeting local needs of fuel and fodder. She

criticises the state forest policies as well as the constitution of the Central Empowerment Committee (CEC) by the Supreme Court which views all lands with trees as forest and the reinforcement of its management responsibility to the Forest Department (FD), the biggest institutional landlord in the country.

There has been progressive depletion of forests in the district due to the forest policies of the colonial administration and the Indian state, with its large scale introduction of capitalist interest in forest wealth. Prasad (2003) points out that in 1803 when the East India Company established the monopoly to cut trees, people resisted and Colonel Watson, a police officer was appointed as conservator to suppress the resistance. According to Prasad, the British government tried to acquire forest land many times and Adivasis resisted their move.

Finally, with the Forest Act of 1927 the rights of Adivasis over forests were reduced to mere privileges conferred by the state. The Forest Policy of 1952, the Wild Life Protection Act of 1972 further reduced these privileges of the people to concessions of the state in the post independent period (Bijoy nd). It displaced the Adivasis from their lands in the forested areas and declared those areas as forest reserves. The Kerala state's Forest Conservation Act of 1980 advocated participatory forest management for conservation of forest when the state realised the importance of people's participation in conservation of forests. However, there were further attempts to discard even the concessions as indicated by the draft 'Conservation of Forests and Natural Eco

Systems Act' that is to replace the Forest Act and the amendments proposed to the Land Acquisition Act and the Fifth Schedule of the Constitution (Bijoy 2001).

According to Kjosavic and Shanmugaratnam (2007), the migration process gathered momentum in the 1940s with the 'grow more food campaign' and when the private forests used by the Adivasi communities, especially the Paniyas and Kattunayakas, were taken over by the settlers for cultivation. Also, under the Wayanad colonisation scheme, land was allotted for ex-service men from the Second World War period and this also had detrimental effects on common property rights of the Adivasis (ibid). Further, Prakash (2002) observes that in the 1960s, the migration intensified due to the private forest bill and land reform policies and it destroyed the ecological balance of the area as well as the Adivasi economy and life support systems by occupying their forest habitats.

According to Prakash (2002), migration to Wayanad destroyed the forest ecosystem as they indulged in deforestation for cash crop cultivation, oil grass cultivation, fuel and fodder. This resulted in soil erosion, climate change and failure of food crops. The yearly rainfall in the 1960s in Wayanad was 3441 millimeter and it reduced to 2000 millimeter in the 2000s. Kurichia's *punam* (slash and burn) cultivation practices and hunting was also affected due to lack of availability of forest land and this in turn

affected their health and their livelihood (ibid).

Prakash (2002) points out that the law to convert private forest into vested forest was passed in 1971 from which 50 per cent was earmarked for Adivasis.¹ On May 10, 1971 government took over the responsibility with an ordinance and on August 23, 1971 permission was given by the president. But these lands have been encroached upon by the non-Adivasis and the government is endeavouring to regularise the encroachment instead of distributing it to the Adivasis. Further, against this law, Grasim Industries who bought 12000 hector private forests from Nilamboor Kovilakam approached the High Court and the court abolished the private forest law. This indicates the anti-Adivasi stand of the legal apparatus, which completely negates the customary laws of Adivasis. The Janmis started cutting trees in huge numbers and in 1972 Kerala preservation of private forest ordinance was published by the government and state gave appeal to the Supreme Court. The Supreme Court passed the private forest (vesting and assignment) Act in 1973.

Madhava Menon Committee. To study the private forest law and to implement the conditions in private forest law, the Government appointed a Committee under Madhava Menon as special officer. During the enquiry, the Madhava Menon Committee found out that without any record many Adivasis lived in the vested forest for

1 Trough the private forest vesting and Assignment Act 1971, the ownership and possession of all private forests in the state of Kerala shall transferred and vested in the government free from all encumbrances

and the ownership of any other person in any private forest shall stand extinguished

centuries and the committee recommended that they should be given back their land from the vested forest (Prakash 2002). In the wake of this recommendation, many cases were filed related to vested forest and forest tribunals were established to settle the cases (ibid). In the 1971 law, there was no provision for appeal. But when the private forest law was amended in 1977, they included the clause to go for appeal. From 1978 onwards high court cases began between the government and private forest owners. The Government accepted defeat in the cases and the vested forests were captured back by *jenmis*, plantation owners and companies. After the Madhava Menon Committee recommendation to give 50 per cent of the vested forest to the Adivasis who had lived there for centuries, those who got the forest land through court cases started evacuating Adivasis using force (ibid). So the vested forests which the government acquired returned to private parties and the Adivasis did not get the 50 percent of the vested forest recommended by the Committee. In fact, they lost even the forest land they had used earlier for their livelihood. Big plantation owners continued to occupy the vested forest. Thick forests were converted into cash crop plantations and later for purposes of tourism due to the failure and loss in cash crop cultivation (ibid). Further, the government used the Forest Conservation Act of 1980 to avoid giving vested forest land to Adivasis, but the same government allowed cash crop cultivation and occupation of forest land for tourism development (ibid). This clearly indicates the anti-Adivasi policy and lack of political will of the state to take decisions in favour of Adivasis. For instance,

Prakash highlights the occupation of Nelliampathy forest by plantation owners where Adivasis had lived for a long period.

Later, the Scheduled Tribes (Recognition of Forest Rights) Bill, 2005 recognised the close relationship of the Adivasis with the forests and the historical injustice done to them through displacement. However, the subsequent Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, diluted the Adivasi preference by including other forest dwellers in the purview of the Act and by extending the cut-off date. Even though the Act purported to address the historical injustice done to the Adivasis, it has not materialised in the implementation of the Act and the experience of the Adivasi communities is explored in the section on Forest Rights Act 2006

Land Reforms

Landlessness has been a major issue for Adivasis from the time of independence. Land was the essential component around which Adivasis were mobilised in Wayanad as their land and common property resources got alienated from their hands in the feudal, colonial and post colonial periods. The Adivasis were not beneficiaries of the Kerala Land Reform Acts that abolished the ‘Landlord –Tenant’ system as they became victims in the process of such reforms.

As part of land reform, the Kerala Agrarian Relations Bill (KARB) introduced by the communist ministry of Kerala in 1957, was a landmark in the history of land legislations in post independent India. However, many modifications were made

due to agitations led by landlords and political parties. Continuing pressure of the landed interests resulted in the dilution of KARB. As a result, the KAR Act of 1960, excluded plantations and all the adjacent and scattered agricultural land within the boundaries of plantations by broadening the definition of plantations. This redefinition of the provision in the Act relating to plantations has to be seen in a serious light concerning the Adivasi population who followed a subsistence model of economy (Radhakrishnan 1989). The Amendment also permitted the eviction of labourers from small allotments of land given for hutments within the plantations. Further deletion of the provision invalidating land transfers after December 18, 1957 reduced the availability of surplus land. The one year time guaranteed to the *jenmis* for resumption of tenanted land also gave time for the *jenmis* to transfer lands securely (ibid). This again turned against the rights of the peasantry and Adivasis.

The land ceiling reform forced *Jenmis* to sell the land to the migrants at cheaper rate. The Paniya and Kattunaikka communities became the worst victims as they had no record for land ownership. The Paniyas, Kattunaikkas and Kurichias lost the common lands they had used for livelihood when the state took ownership of surplus land and waste land. The state policy of surplus land included the land where a plantation was not established or there was no plan to raise a plantation by the landlords in the near future. According to Rammohan (2008), the land ceiling reform that was expected to release land to the landless was severely inadequate with the exemption of plantations and the

landlords evading reforms through family partition arrangements.

Owing to continuous mobilisation and protest from *jenmis* and Devaswoms from different parts of the states, KARA was further diluted to Kerala Land Reforms Act (KLRA) and according to Radhakrishnan (1989) it is a mutilated version of the KARB as it eliminated the core provision of the earlier bills which allowed the rights of *jenmis* to transfer land to the tenants. It provided the *jenmis* and tenants to work out transfer of ownership mutually through the Land Tribunals (ibid). Also it allowed further exemptions in ceiling, such as cashew estates with an area of ten acres or more in one block, pure pepper or pure coconut gardens of more than five acres etc. (ibid). The leftist coalition government attempted to restore the major provisions of the KARB by amending KLRA in 1969 (ibid). However, the holding of untitled land and surplus land owned by the planters in Wayanad reveals the flaws in implementation of KLRA.

The plantation based model of development implanted by big companies and rich landlords with lavish support from the government has displaced many Adivasi people from their homelands and their work, as vast areas are occupied by them. Land was purposely converted into rubber plantations for overcoming the ceiling laws and there was no effective machinery to restrain this practice (Kunhi Krishnan 1993). Raman (2002) points out that the issue of land availability for distribution to the Adivasis could have been sorted out if the government was ready to redistribute the lands of big

planting companies who have vast tracts of uncultivated land.

During the period of migration to Wayanad, the Devaswom managers and landlords allotted land to migrants under tenancy rights. In some cases, these lands were earlier under the tenancy of tribal people. But when landlordism was abolished and the tillers became owners, tribal people were left out. Settler farmers acquired the land in the garb of tenants to 'tribal landlords' and the tribes lost their land as the settlers attributed the position of landlords to them. The Adivasis had no other option but to become agricultural labourers and refugees in their own land (Raman 2002; Kunhaman 1989). Also the landlords started leasing out the land for minimum remuneration to outsiders realising that their surplus land would be taken away by the government and tribal people could not claim the land on which they had worked for years. The long process of legislative deliberation and implementation also was a stumbling block for the illiterate tribes in claiming land.

The policy of occupation of wastelands also affected the Adivasis as they were not competent enough to occupy such lands and get legal sanction for the same. With the occupation of waste lands, tribal people lost the village commons they used freely before. In the KRA Act of 1960, land belonging to religious, charitable or educational institutions of 'public nature' and public trust were exempted from the purview of the Act (Kunhi Krishnan 1993). This helped in the mushrooming of Religious institutions and NGO organisations in the area at the cost of alienation and dispossession of Adivasis.

Further, Ajit (2002) highlights that the conversion of food crops to cash crop plantation economy and the destruction of vast areas of paddy fields and forest was not the choice of farmers but the result of imposition of political power through the means of tax exemptions and other incentives especially during the land reform period. He points out that in Kerala between the 1940s and the 1990s, the paddy fields reduced by 6 lakh acres. The destruction of paddy fields was a major blow to the Paniya community as these fields were the reservoirs of their food and employment.

When the Land Reform Act was passed, the feudal concept of ownership changed. However, the capitalists were not touched. For instance, the plantations - small holdings as well as estates were not touched in the land reform under the name of development. All the natural vegetated land with varieties of plant species has been taken up by the government and distributed to the *Kudiyans* and *Marupattakkar* (the tenants), taking a small amount from which one share goes to the *jenmis*. Thus, during land reform, these common lands which were freely accessed by the tribal people for livelihood purposes came under strong private ownership with land records. This shows the vested interest of the state to promote capitalist forms of cultivation with trading interests.

According to Bijoy and Raman (2003), the Kerala Land Reform Act was manipulated to suit the interests of the non-Adivasi people as they took land on short term lease for cultivation from the Adivasis. Accordingly, the Adivasis became 'landlords' and the non-Adivasi immigrants

in turn registered themselves as tenants. Later the non-Adivasi immigrants claimed *patta* and the Adivasis became dispossessed. As Rammohan (2008) points out, the land reform enacted for garden land and rice fields was primarily a tenancy reform with transfer of land to intermediate and small tenants that left out the landless masses. Thus, the Paniyas, Kattunaikkas the landless Kurchias and the non tenant Kurichias were at a loss, but Adivasi landlessness and land alienation was ignored during the implementation of land reforms.

Kerala Scheduled Tribes Act, 1975

The Debar Committee recommended in 1960 that all Adivasi land alienated since January 26, 1960 had to be restored to Adivasis. Considering the large scale land alienation, the Indian government promulgated an Act in 1975 called the Scheduled Tribes Act (restriction of transfer of land and restoration of alienated lands). This Act makes all transaction of Adivasi land during 1960 to 1976 invalid and states that they be restored to the original owners. However, it took fifteen years after the Debar Committee recommendation to enact the Kerala Scheduled Tribes Act 1975 (Singh 2001). The Government's lack of sensitivity towards the tribal population is again revealed in the reluctance showed to restore their alienated land according to the Kerala Scheduled Tribes Act, 1975. It took a long time to formulate the Act in 1986 and by the time the politically powerful migrants opposed the implementation of the Act.

In 1988, Dr. Nalla Thampi Thera, a non-Adivasi physician and activist filed a petition to the High Court seeking the restoration of

alienated land by implementing the 1975 Act. In October 1993, the High Court ordered that all alienated land be restored and all cases of land alienation be settled within six months. The United Democratic Front (UDF) and Left Democratic Front (LDF) government tried to make amendmends in the 1975 Act but the governor foiled the attempts. The case dragged on till the court issued a dead line that the alienated land be restored by September 1996. The Bill was amended in 1996 legalising all transactions that took place with the Adivasis during the period, 1960-86 and those that did not exceed one hectare from restoration. However, most of the land alienated was less than a hectare in area and the greatest number of encroachments occurred before 1986. The president, K.R Narayanan pointed out that the amendment to the Act was in violation of the Constitution. Raman (2002) observes that the 1999 amendment twisted the Adivasi land question further by deciding encroachments up to five acres (less than 2 hectares) of land were to be ignored. Also the land to be given in compensation to the Adivasis was halved from more than two acres to one acre to achieve more gain to the settler farmers (ibid). The State government ensured that the new bill did not go to the President of India by putting it under 'agricultural lands' - a state subject. Further, Raman (2002) points out the linguistic twist that happened in the 1999 Act - 'The Kerala Restriction on Transfer and Restoration of Lands to Schedule Tribes' - the word 'alienated' denoting the lands captured by the settlers was removed from the Act. In August 2000, the High Court declared the controversial provisions in the new 1999 Act as unconstitutional and pronounced that the

state government had willfully disobeyed the direction of the court to restore alienated lands and charged the state with contempt of court. The state government challenged the High Court judgement in the Supreme Court. As Bijoy (2002) opines, imposition of alien laws regulating ownership and an insensitive and biased administrative machinery alien to Adivasi culture contributed to the land alienation and marginalisation of Adivasis.

The 1996 amendment Bill was perceived by the Adivasis as an attempt to legalise the alienation of their land and they expressed their protest under the leadership of C.K Janu supported by the CPI (ML) group by organising an agitation before the state assembly (Singh 2001). Every single encroachment became legitimised and democratic, political and legal avenues of the dominant system neglected the survival needs of the Adivasis (Bijoy 2002 see also Raman 2002).

In Kerala, the total number of applications for land restoration under the 1975 KST Act was 8,754 as on April 4, 1991 claiming 9, 909.4522 hectares (Bijoy 2006). The government considered 8,088 applications requesting to restore 6,817.28 ha of land as valid. Only 463 applications were disposed off and an area of 544.5602 ha was restored. Over 3,000 applications were rejected for want of adequate documentation or recorded proof of ownership of land (Bijoy 2006). Critically examining the political lethargy in the issue of tribal land alienation, Bijoy and Raman (2003) point out that even though the CPI led Kerala government unanimously passed the Kerala Scheduled Tribes (Restriction on Transfer of Lands and

Restoration of Alienated Lands) Act, 1975, they remained inactive as regards its implementation. The situation today is that neither political parties nor the non-governmental organisations are found to be supporting the tribal communities in retrieving their alienated land (Centre of Excellence 2006). The following section will look in detail the KST Act and the more recent policies on land from people's point of view to understand the social context and how these lead the Adivasis in their dispossession, marginalisation and exclusion.

Kerala Scheduled Tribes (KST) Act and recent government orders, reflections from the field

In 1988 Dr. Nalla Thampy Thera, a Tamil born physician and a prominent fighter for Adivasi land issues from Sultan Bathery, Wayanad, filed a public interest litigation in the High court which demanded the enforcement of the KST Act of 1975. The High Court gave an order to the state government in 1993 to dispose the applications for restoration of land within six months. The Bill was passed in the Legislative Assembly. Meanwhile the Union Ministry of Welfare raised objections to the proposed provisions of the Bill. The Ministry was against the very purpose of the original Act of 1975 and it is not implemented till now according to the court order.

While visiting the Revenue Department Office for collecting land details of Adivasis, Palu and Sharu from a Paniya family had come to the office to reacquire their alienated land under the provision of KST Act. Palu said,

I do not remember the exact year in which they have alienated us from our land. We do not have any record. Everything got burned. They have broken our houses and we had to come away. They sold that land to somebody else now².

One Revenue Department office staff also affirmed,

In the case of the Paniyas and Kattunaikkas, there was no record of possession and so we are incapable of doing anything. Few Kurichia people were able to get back their alienated land.

The total number of claim applications received in Mananthavady RDO office, Wayanad was 2292 for restoration of alienated lands and the extent of land was 3443.49 acres. Out of these, applications for approximately 2500 acres of land were from the Kurichia community alone (Therakam 2009). According to Therakam's study most of the land that was claimed by Adivasis today is in the possession of Hindus (66%). The remaining land was with Christians (22%) and Muslims (12%) and a negligible area (.74 %) in the possession of other castes. This study challenges the finding of Centre of Excellence (2006), according to which Christian migrants had snatched away the Adivasi land. However, in Therakam's study, the land occupied for charitable institutions was not included as it was not claimed by Adivasis. Even though there were Adivasis inhabiting those areas, they could not claim it back due to lack of record and Paniya, Adiya and Kattunaikka people were the worst

victims of such occupations according to the narratives of Adivasis and their empathisers.

The number of valid applications was 1563 after village level verifications and after applying the amendments of the Act the total cases to restore land from non-Adivasis were reduced to 11 cases claiming 35.33 acres and this reveals the failure of the implementation of the Act.³ Sreerekha (2010) criticises the effort of the judiciary that insisted on alternate land for Adivasis and argues that the failure of the restoration of their alienated land compelled them to agree for alternate land.

The 1996 amendment of the KST Act legalised the land encroached upon during the period 1960-86, and those that did not exceed a hectare. Raman (2002) points out that majority of the lands alienated were less than a hectare in area and the greatest number of encroachments had occurred before the year 1986. The 1999 amendment legalised encroachments up to five acres and the land to be given to the Adivasi people is halved from more than two acres to one. According to the Act, if alienated land is developed by the encroacher, the expense amount has to be fixed by the RDO and that amount should be given back to the encroacher farmer. If there is no money with the Adivasi, the government will give it and the Adivasis have to pay back to the government. The process of KST Act implementation after amendments reveals the non-Adivasi inclination of the Act and in effect, Adivasis

² Personal interview with Palan and Sarada at RDO office, Mananthavady, on 8/7/2010 seeking help to regain their land.

³ Mananthavady Revenue Department office files

were denied of their rights even though alternate land distribution is in the process. According to Sreerekha (2010), the Supreme Court verdict of July 21, 2009 validated the 1999 Act and in the case of restoration of Adivasi land this judgement is a battle lost, legally.

From the files in Bathery taluk offices, it was evident that in most of the cases, the original ‘encroacher’ had sold the land to different individuals or divided it among their family members and the cases of more than two hectares in an individual’s name was very rare. Even though there is Constitutional protection against land alienation and the KST Act was passed to protect Adivasi land rights, during the process of implementation after the amendments, it was reduced to an act of giving compensation. When alternate land was given, they were actually displaced from their accustomed place to a different world and this has become a threat to their culture and livelihood. This indicates that the KST Act was not implemented to deal with the substantive issues in the everyday life of the Adivasi people.

Another recent government order related to land distribution was thoroughly criticised by Adivasi leaders. The specific statement in the order is given below.

In the G.O.(Ms) No.23/2010/SCSTDD regarding allotment of land-guidelines issued, it is stated that “The Government’s further order that the provisions of the Scheduled Tribes Assignment of Government Land Rules, 2001 shall be followed strictly in allotment of land to Adivasis, and specifically, that only

landless Adivasis having no land in their name or of their spouse, having no right to any land, and whose annual income is below Rs. 30,000/-, shall be considered for allotment of land under the Adivasi Resettlement and Development Mission. It is further ordered that in case there are no Adivasis in a district fulfilling these criteria for allotment of land, eligible applicants from neighbouring districts be considered for allotment of land”.

According to government request, the Supreme Court had thrice extended the date in its order to distribute land to the Adivasis. As there was no way for the government to approach the court again for extension of date, with a government order they managed to select only the literally landless Adivasis not even having one cent, thereby avoiding the government promise of one acre to five acres of land to all Adivasis. C.K Janu and other Adivasi leaders in the area see this as a trick by the government to avoid the Adivasis who have a few cents of land. Janu questions the order by asking:

By choosing the people not even having one cent, are they giving land to those Adivasis who go for begging?

While seeing the condition of the Paniya and Kattunaikka colonies where houses are thickly packed within one or two cents of land, Janu’s question appears very relevant.

Further, according to the Scheduled Castes and Scheduled Tribes Development Department (G.O (Ms) No.9/2010/SCSTDD dated 8/2/2010), the empowered committee of the Adivasi Resettlement and Development Mission (TRDM) at its 20th

meeting on 19-01-2010, had approved the proposal to acquire 1,000 acres of land in Wayanad for resettling Adivasi people at an approximate cost of Rs. 50 crores subject to the condition of plots for acquisition under the Fast Track. Based on the Government Order, the collector advertised for available lands. But there was no land available to purchase according to the fair value decided by the government. The District Collector quoted the market value as Rs. 8000/- per cent and it came to Rs. 8 lakhs per acre. But the fair value decided by the government in that area was much less and the project did not materialise except in very few cases .

One village officer stated that there were practical difficulties to move the land acquisition further even though they sent the report to the Collectorate regarding buying land in Thirunelly Panchayat. He mentioned,

Under Fast Track procedure government has no authority to acquire land for the fair value like the other government sanctioned projects. So unless there is an order to purchase land for market value, purchasing will not be possible.

Also the then functioning village officer shared that the fair value was decided by the government in 2005 and according to that, nobody was ready to sell their land and the purchasing was pending.

This reveals how the government policies itself became a stumbling block in the process of land distribution to the Adivasis. Also the process is getting delayed due to administrative apathy. In addition to this, the presence of land mafia and the booming real estate business in Wayanad

also make buying land for Adivasi people a difficult task today.

The distribution of 5 to 10 cents of land after agreeing for 1 to 5 acres of land indicate that even now politicians and administrators tend to perceive that the Adivasis, need land only for housing and not for cultivation. On the contrary, the Adivasis's narrations revealed their strong desire for land and its necessity for their material and cultural survival. The narrations of non-Adivasis revealed their vested interest to keep Adivasis as permanent landless labourers and dependents.

Ellan Mooppan from Nelli panchayat expressed his disgust about the land acquisition and distribution process in his panchayat,

During elections, party people said that they had bought land for us in Brahmagiri estate and Akkolly estate in Nelli Panchayat. But now the land purchasing and distribution process is blocked and till now, nobody among us has got land there. In Parison estate, few Paniyas and Urali Kurumas got 5 cents and a house. But where will they bury their dead? Where will they conduct their marriages and ritual celebrations? Providing us only one cent was not meant for our progress but for killing us by alienating us from our culture. Why is the government not keeping the promise of giving one acre land to every Adivasi? How many muthalalis (rich people) have unlawfully acquired government revenue land? If the Government is really interested in our life, they can reacquire those lands and give them to the Adivasis.

The District Collector reported,

There are roughly 8000 land less people among the Adivasis in Wayand. TRDM has sanctioned the project to buy land and from

the total budget of Rs. 100 crores, Rs. 50 crores were given to Wayanad for purchasing land for Adivasis.

According to the Collectorate files for purchasing 424 acres, the procedures were over and the concerned authority has recommended it for final permission. However, on further enquiry with forest officials, it was revealed that there is conflict regarding the boundary of the land fixed for buying in Nelly Panchayat for Adivasis with forest land. The Forest Department raised objection in selling the decided plot as they found encroachment of forest by the concerned party and they did not provide No Objection Certificate (NOC) which is a prerequisite for selling it. The Paniyas and Kurichias in the study area informed that till March 2012, land was not purchased or distributed to the Adivasis. On enquiry it is found that they could purchase only meager amount of land and the procedure got stuck in between.

Adivasi leaders expressed their discontent regarding the criteria of selecting only landless Adivasis to go to Aralam, as the agreement in 2001 promises one to five acres of land to all Adivasis. Adivasis expressed their difficulty many times when one family was selected from a settlement and asked to go to a distant place without promising continuous support. They had no wide social network and what was sustaining them was the community support at times of crisis.

Since there were only 308 landless Adivasi families in Kannur District and there was an approximate extent of 1100 acres (after keeping aside 3500 acres for the company) of land in Aralam farm, the TRDM chief requested the district collector (In response to a Writ Petition filed by *Neethivedi* on distribution of land to landless Adivasis) of Wayanad to select 800 landless and willing Adivasi families for allotment of land at Aralam, Kannur District based on the High court judgement⁴. Preference was given to the landless Adivasi families at Mananthavady. Thus, to allot land at Aralam applications with such criteria were invited and it was reported from the collectorate that among them very few were ready to go there. District collector reported,

Even though 500 people are found eligible to receive land in Aralam farm they are not ready to go there. They do not want to get scattered from their community. They expect to get land in Wayanad district under some other scheme. So the 500 selected Adivasi families have not been rehabilitated till now (collectorate office files).

It is evident that, to get Adivasis from the same area to go as a group, the criteria of selecting only the landless (zero land holding) has to be changed. It appears that the promises and procedures are just to pacify the Adivasis for the time being. If the officials are really interested, the whole colony (at least all those who have <5 cents) can be given land in the same area instead of selecting one or two from each colony to

⁴ The High court Judgment dated 22/06/2010; W. P(C) No.9148/10 had directed government to allot land to landless Adivasis of Kannoor from the rest of

land earmarked in the Aralam Farm for settlement of Adivasis.

provide a sense of security and assurance to go and cultivate in the given land.

However, Eva from Valli colony has a different experience to narrate,

I have applied to get land in Aralam farm. Other than this small hut we have no space even to spit. I was not selected while distributing land in Aralam. When I asked the reason for not giving land, the tribal officer told that people who did not receive any help from the government till now is selected for giving land at Aralam. Later I came to know that people who were better of than me got selected for giving land at Aralam. That can be due to official or political preference.

Eva's narration reveals that the political and bureaucratic nexus exists in Wayanad even after the establishment of the Panchayati Raj system. She reported that there was disparity in the selection procedure and the *oorukoottam* has not been given any role in the decision regarding allotment of land in Aralam.

According to the details collected from the office of the Wayanad Collectorate in the year 2010, the total number of records on land distributed were 4958. This include 364 *pattas* of assignment of surplus land,

3842 Record of Right (ROR) under Forest Rights Act, 51 *Bhupathivu pattas* and 701 possession rights. Requests for category wise data and the details of extent of land distributed elicited the reply that data was not ready.

The Supreme Court's judgement of *Samata* in Andra Pradesh in July 1997, was a model to be followed in every state, which reminds the authorities that they should protect Adivasi rights over their lands⁵. In the *Samata* Judgement, the provisions of Schedule V are also applied to the restriction of transfer of private or government land in schedule area to non-Adivasis. Analysing the implementation reveals that even a demand within the Constitutional provision has not been implemented according to the high court order but manipulated with various amendments.

After independence, constitutional provisions were made to protect tribal communities for their development. Article 244 of the Constitution provides for the administration of the scheduled areas in accordance with the Fifth Schedule and Sixth

⁵ In *Samata* Judgement the provisions of schedule V is also applied to the transfer of private or government land in schedule area to non-Adivasis. The relevant Andra Pradesh legislation read along with Schedule V of the Constitution also prohibited transfer of land in Scheduled areas by way of a lease for mining purposes in favour of non-Adivasis. The court also ruled that 20 per cent of all profits, including past profits, accruing from privately run mines or industries set up in these territories to be "set apart" for Adivasis. It ordered the establishment of a committee, made up of senior government officials at the state level to consider the feasibility of permitting the industry to carry on mining operations and if

necessary to place this before a Cabinet Sub-Committee to take appropriate action. The court held that similar committees should be set up in other states where similar acts do not totally prohibit granting mining leases of the lands in scheduled areas and also suggested that it would be useful for the Central government to take a policy decision and enact a suitable law in light of the courts guidelines to ensure a consistent scheme throughout the country in respect of Adivasi lands and mining (Facts against Myths, #2/2009 Vikas Adyayan Kendra, Information Bulletin)

Schedule of the Constitution. Kerala has not taken steps to bring tribal villages or habitation under the Fifth Schedule despite recommendations from the Dilip Singh Bhuria Committee. As a result, the constitutional provisions for self governance available at least in law have been denied to the tribal communities in Kerala (Bijoy 2006). The provision of Panchayats (Extension to the Scheduled Areas) Act – commonly known as PESA came into effect from December 24, 1996 by which the 73rd amendment extended to the Fifth schedule areas envisioning self rule was therefore not applicable to Kerala. In Kerala, no area has been declared as a ‘scheduled area’ and even after the state’s agreement with the Adivasis after Muthanga struggle no declaration was made to implement PESA. However, the Adivasi Gothra Mahasabha (AGMS), a movement led by C.K Janu (Adivasi leader in Wayanad from Adiya community) has revived the land issue of Adivasis in Kerala. With the culmination of *Nilpu Samaram* organised by AGMS at Secretariat there was agreement by the state with Adivasi leaders to declare tribal majority areas, Thirunelly and Noolpuzha Panchayats in Wayanad, as Adivasi Panchayats and to include in 5th schedule. However, the procedures are lagging and the agreement remains in paper.

Politics of Land, Redistribution and Experiences of the Adivasis

Treating land as private property and a commodity for making profit is widespread in Wayanad and the Adivasis’ perception of it as a composite, material, cultural and divine entity and a community asset is not taken seriously in the state’s redistribution

process. However, when the land question of Adivasis became crucial in Wayanad due to their movements, the state was forced to search for land to distribute. But the non-Adivasi perceptions still hold on to the idea that if at all they need land, they need only rocky and unfertile land in interior areas. For instance, in *Deepika* news paper it was reported that in Cee Cee, Kalpetta, Wayanad, 47 acres of revenue land was surveyed for being given to Adivasis. There are reports that non-Adivasis in the area blocked this move by saying that this beautiful landscape can be used for other developmental activities like tourism, educational institutions or other public institutions, and distributing it to Adivasis is described by non-Adivasis in that area as reflecting lack of long term vision of the Ministers. This prevented any further effort at redistribution (Deepika, 29 August 2012). In the study area, I have heard comments from non-Adivasis such as, “Adivasis are not interested in cultivating in their own lands”, “Adivasis need land only for making a house”, “If Adivasis were given land Wayanad would have remained a barren land” and so on. These are some of the ideological tools used by the non adivasis to disposes adivasis from their common lands they accessed freely. Small plots of burial lands were their last frontier and even that they lost due to non Adivasi encroachment (Isac 2013). "Where will we bury our dead?" is a heart breaking cry from Adivasis in Wayanad today. Even the much acclaimed land reform act excluded Adivasis from its benefits as mentioned in the earlier section. Polanyi’s (1964) analysis of the ‘enclosures’ in Britain and how it deprived the means of life of the poor

peasants and their heirs, helps us to understand the plight of Kattunaikka, Paniya and Kurichia people today. He calls this enclosure movement as the 'revolution of the rich against the poor' and explains how the lords and nobles broke down ancient laws and customs by means of violence at the price of social disorder. The conversion of Adivasis' living places to private enclaves and state administrative spaces is similar to the 'enclosure movement' or in Marx's terms, 'primitive accumulation' but not perceived as an injustice generally.

Further, Therakam (2009), in his study on socially denied and legally sanctioned rights of Adivasi people in Wayanad, argues that interpretation of customary laws of Adivasis may be brought before courts so that it can be applied by courts wherever it is necessary. Kujur (2010) points out that the Constitution of India has given a mandate for the cultural rights of the Scheduled Tribes under Article 13 to treat customary law at par with other branches of the civil law. Article 13 (2) has the provision that the state shall not make any law, which takes away or abridges the rights conferred in this article and any law made in breaking of this clause shall be void. So he argues that the customary rights have the force of law and can be taken as judicial notice by the courts under section 57 of Indian Evidence Act, 1872. In Wayanad, the customary laws are not included in the civil law and the court has no knowledge about the customary laws of Adivasis (Therakam 2009).

It is reported that most of the surplus land identified is under litigation with the plantation owners or rich landed class in

Wayanad. Many of these litigations started in 1973 but without final verdict. However, the greatest number of land distribution was done under the Forest Rights Act 2006 and the following section delineates the processes and experiences of the Adivasis with regard to this.

Forest Right Act 2006, Process of implementation

The Forest Rights Act 2006 was proclaimed as second land reform and a radical step to address the historical injustice done to the Adivasis. Even though the Forest Right Act (FRA) 2006 purported to address the historical injustice done to the Adivasis, it has not materialised in the implementation of the Act and this section delineate the flaws and injustice involved in the implementation process. However, FRA 2006 recognised the close relationship of the Adivasis with the forest and the historical injustice done to them through land alienation and displacement for development projects. The FRA 2006 is meant to exchange legally empowered constitutionally guaranteed right to the Adivasis. In the implementation process of FRA conferring right to Adivasis in Forest land was merely reduced to giving record of right for 5 or 10 cents of land to Adivasis and in very rare cases up to 1 acre. The decisions are made by the forest officials and revenue authorities and Adivasi Gram Sabhas are not constituted or designated as statutory authority as envisioned in FRA 2006.

According to the Act, the Gram Sabha is the authority to initiate the implementation process by constituting a Forest Rights Committee (FRC). First, the FRC clears the

application after checking the nature and extent of individual and community right to be provided to the Adivasis under its authority. Their decisions are examined by the subdivisional level committee where tahsildar is the head and forwarded to the district level committee which is headed by the sub collector. In Satyapalan's (2010) study, he stresses the need for sensitising communities to various provisions of the FRA legislation. His study reports that Adivasi promoters were recruited to the FRCs and were trained by the Kerala Institute for Research, Training and Development of Scheduled Castes and Scheduled Tribes (KIRTADS), but they could not reach out extensively to the entire Adivasi areas of the state due to limited number of trained personnel, geographical challenges of operating in a hilly region and so on. He suggests that it is important to devise an effective mechanism to impart information about the FRA to the Adivasis so that they can articulate their rights.

Few interviews and group discussions done in the *Adivasi Bhumi Vitharana Pattayamela* (Adivasi land distribution and title deed festival) site where land was distributed under FRA and other provisions conducted on December 19, 2009 near the Panchayat community hall Sulthan Bathery, Wayanad, revealed that Adivasis are not aware of the provision of community rights under FRA. Many of them were not aware about how much land they are entitled to and what rights are provided to them under FRA. They had not given applications for community right over forest due to their ignorance about the Act.

When asked for an explanation, an official who was responsible for land distribution under FRA for giving a minimum extent of land like 5 cents and 10 cents to the Adivasis mentioned,

The document can be given only for the land the Adivasis were using. Some of them showed only five cents, hence documents were given for five cents.

Anil, an Adivasi promoter in Ward 2 of Nelli Panchayat, reported,

In Nelli Panchayat, the government had distributed Kaivasarekha (Record of Right) to around 264 Adivasis according to the government record. But the extent of land given ranges from 2 cents to 1acre. In my ward, 3 people got land and it was 3 cents, 5 cents and 10 cents respectively. Most of the Adivasis got less than 30 cents and very few got 1 acre. Though up to 10 acres can be given to the Adivasis according to the Act, this was not followed as they have no proof of identity to show that they used more land in the past.

According to FRA, Adivasis can get land upto 4 hectares and when it came to implementation, the extent reduced drastically. Satyapalan's (2010) study also points out that Adivasi communities in Wayanad are given only small plots of land which fall below the one acre promised to them. Even though he notes that on an average they received 30 cents of land, in the study area and in the *pattaya mela* (title deed festival) held in December 2009, the land given mostly fell under very small measures beginning from 2 cents as mentioned above. A Village officer in the study area who was sympathetic to Adivasi community mentioned that Adivasis were cheated in the implementation of forest right Act 2006.

According to his assessment with this record they could make a shed and live in the forest fringes and not even helpful to pay tax, take bail from court or loan from banks and other economic institutions.

It is observed that in the document 'Record of Right' provided to the Adivasis does not mention any of their rights over the forest such as the right to collect forest products and to conserve the biodiversity of the area as envisioned and mentioned in the Forest Rights Act 2006. Thus in effect 'Adivasi colonies' are created in the midst of forest instead of 'Self governed Adivasi villages' and Forest Department continue to be the sole authority of the forest.

Table 8.2

Details of Claims and Individual rights in Wayanad under FRA 2006

Total number of claims received by FRCs	6 937
Number of claims passed by GramSabha	4 458
Number of claims rejected by GramSabha	2 479
Number of claims passed by Sub Divisional committee	4 458
Number of claims cleared by District Level Committee	4 450
Number of ROR issued	4 262
Number of cases in which ROR not issued	1 88

Extend of land distributed in acres	3 227. 06
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Source: Tribal Development office, Kalpetta, Report as on 31.03.2017

A few Kurichias in the study area reported that the party nominates Forest committees and decides the modalities and allotment of the Forest Right. Generally there were no Gram Sabha meetings at panchayat level and hamlet level to select FRC's. That means the authorities have violated Rule 3 of the Rules and of Section 6 (1) of the Forest Right Act 2006 and section 2(g) and 2(p) of the same.

One Adivasi promoter in Nelli Panchayat reported,

In my ward, forest committees were selected by the oorukoottam. All of them were wage labourers and had no time to contribute to the FRCs. If their signature was needed, we had to go to their houses and get it done. Actually they had to show the land and decide the areas which were utilised by Adivasis when surveyors came to measure forest land for giving records. But that process was not happening and decisions were taken by the tribal department and forest department. In one area, it was difficult to give land as there was some conflict with wild life areas.

A Kurichia, state ST advisory board member reported,

The Forest Rights Bill was passed in 2006. But the state government was inactive for a long period. When the state government got an order in 2009, pointing out that strong action would be taken if it was not implemented within six months, they called all ST state advisory board members and discussed the FRA. Then government entrusted an IAS officer to implement it

within six months and they had implemented it partially. If there was no compulsion from the centre, they could not have done it. However, this is not done in a democratic way. Party supporters were chosen to give records and they occupied vested forests and reserved forests in many places without distributing it in a transparent way to the people who lived there. In Pozhuthana Panchayath, Idiyam vayal one family was residing in the forest for long. But the party people destroyed his hut and cultivation and deprived him of land as he was affiliated to a different party.

The above descriptions indicate the partiality and lawlessness in implementing the much appreciated FRA. Janu the Adivasi leader, pointed out,

In the Madhava Menon Commission Report recommendations, 50 percent of the vested forest was meant for landless Adivasis for doing cultivation according to the Kerala Private Forest Vesting and Assignment Act⁶, 1971. In the agreement with AGMS, then Chief Minister, A.K Antony reaffirmed that the state government would take measures to identify and distribute the maximum extent of land especially vested forest land, to rehabilitate the Adivasis with the consent of the union government. 25,000 acres of land was earmarked for Adivasi people by the committee and this could have been enough to rehabilitate the landless Adivasis. However, this did not materialise because of vested interests.

The government appointed Madhava Menon Committee affirmed the presence of a large number of settlements of Adivasis in vested forests and recommended that the Adivasis be given their land (Prakash 2002). The total extent of vested forest reported by the Madhava Menon Committee was 169411.84

hectares and the vested forest specially earmarked for Adivasis was 23058.63 hectares. The vested forest found in Wayanad alone was 11082.02 hectares (26679.671 acre) (*ibid*). As mentioned in Chapter IV, instead of receiving the record for 50 percent of vested forest, they even lost their land which they were using as their own without any record. This clearly reveals the land politics in Wayanad and the hold of plantation owners, *Jenmis* and companies even in the Supreme Court to produce orders in their favour overriding the livelihood rights of Adivasis. Thus, it is evident that after independence, the land mafia and planters worked against Adivasi land rights and they kept the Adivasis away from acquiring a piece of land. However, the government has not taken measures to distribute at least the remaining area to the Adivasis even after the agreement with AGMS or during the implementation of the Forest Right Act of 2006.

It is surprising to note that the rights guaranteed by the government nearly four decades ago through the Private Forest Vesting and Assignment Act (High Court approved but defeated in the Supreme Court) are further defeated when officials decided to give meager measures of land to Adivasis according to FRA. Now the objection is not only from planters and *jenmis* but also from the Forest Department and thus indirectly from the state itself. One Village officer said,

In a few places like Nelli Panchayat, Mallika colony, only the house is given to them. The local leaders asked the Adivasis

6 Forest land was taken away from private land owners and vested it in the government by

abolishing the private forest law.

to demand more land but the forest department raised objection.

The Report of Visit of National Forest Rights Committee (2010) points out that when a few Adivasis objected and refused to receive the title deed for small areas, the Adivasi affairs Minister after having a discussion with the Revenue, Forest and Adivasi Departments announced that every individual should be given one acre of land. The Adivasis submitted revised applications and in some cases tried to encroach one acre and it created a clash with the forest officials. Even after the announcement, there were difficulties in implementation because of the objection of local forest officials. Further, when this process began, a writ petition was filed in the High Court by Wayanad Prakruthi Samrakshana Samiti (WPSS) in the name of conservation of forest. As a result, the High Court issued an order to restrain this development and directed the state government not to consider the revised applications and not to permit encroachment. According to Adivasi narratives, even during the Muthanga strike, the environmentalists in Wayanad were against the Adivasis. As Baviskar (1997) points out, when studying development projects, environmental sociology has devoted less attention to the plight of Adivasis and such oppressed groups are not counted as the subjects of environmental sociology.

However, WPSS and the investigating authorities forget that many of the younger Adivasi generation may not know how much land their ancestors had been using, as the forest department installs *jendas* and trenches and make new demarcations at regular intervals. Also it is a

relevant question to explore why the forest department and WPSS have been joining hands to stall the distribution of land to the Adivasis. In Muthanga, they objected to the occupation of land by Adivasis by arguing that it was reserved forest even though it was the dwelling place of the Adivasis according to Adivasi narratives. When they were given land according to the Forest Right Act and by Ministers Special Order, WPSS could not freeze the process. It was evident that, the Adivasi's right to possession may contest the FD's authority in controlling forest resources in the name of preservation and the environmentalist's concern for preserving forests. However, this conflict has to be analysed in the context of international environmental protection initiatives and their argument for including corporate investment in forest management and development. The Forest Department and Wild Life Trust of India supported by a UK based NGO, secured land for elephant corridor project in Wayanad and people were already evicted from Pulayankolly, Thirulukunnu and Valia emmidi under this project. The Adivasi families rehabilitated under this project in Panavally conveyed their grievances about their badly constructed houses and small plots of land and lack of livelihood options for survival. This reveals that FRA 2006 has not taken seriously while evicting the Adivasis from Forests.

However, when the central committee came for evaluation, they were happy about the procedure followed in Kerala in implementing FRA. But, the entire report reveals that it was not evaluated from the Adivasi's point of view, their experience and its benefit to them, even though there were

attempts to report people's grievances. It was appreciated for the rigorous procedure of giving training to the personnel in Adivasi departments, survey and settlements, forest and revenue to go through the process for implementation systematically (National Forest Rights Committee Report 2010).⁷ There was appreciation for survey and demarcation using "Total station survey instrument" and the ROR issued with a proper surveyed sketch of the individually occupied land. There is not even a single instance in Kerala, where community forests have been demarcated and plotted and the traditional right to forest resources has been given to the Adivasi people (*ibid*). The Central Committee also reported that non-settlement of community right is contradictory to the directions issued by the Ministry of Adivasi Affairs but not pointed out as a major flaw in the implementation. However, the evaluation report gives thrust to the technical and administrative process rather than the outcome and how it benefited the Adivasis.

One Adivasi promoter from Nelly Panchayat reported,

The Forest department is giving priority to send Adivasis out of forest and they sent out Adivasis from Kambilikkappu, Pulayankolly, Tholpetty and Nedunthana. According to FRA, they can be given up to 10 acres if they traditionally owned it for any purpose. They are told that if they apply for land using FRA they will not be given land outside and instead if they come out from the

forest they are tempted with promises of 30 cents of fertile land and good houses outside.

This is totally against FRA 2006, which promises the habitat right of the PVTG and pushing them out of forest is totally against the Act. In the case of other tribal groups FRA clearly mention that Adivasis can be evicted only after establishing forest right and if Adivasis are evicted, they have to be rehabilitated with enough livelihood options along with Rs.10 lakh as compensation.

As depicted in this section, according to the FRA, the Adivasis were not given *patta* or the right to self determination and self management of the area they used traditionally through customary law. Some officials see it as positive, as Adivasis might again lose the land if they were given the original *patta* as it could be acquired by other vested interest groups with record and this would again lead to alienation. However, this was against what was envisioned in the Act and it was advisable to enforce strict laws to prevent alienation rather than avoid giving *patta*. Besides, they neglected the fact that even for getting credit from the Bank to develop the land, they needed a *patta* and it was necessary when government support was reported to be nil to develop the land. It was becoming more evident that giving land to Adivasis was objected historically and the change was only in the groups such as *jenmis*, planters, companies, different vested interest

7 Report of Visit of National Forest Rights Committee Team to Kerala. Date's of visit: July 2-5, 2010. (It is mentioned in the report that this report is written for the purpose 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).

lobbies or the state itself according to each context.

The FRA 2006 is a radical step which challenges the state ownership of forest and assigning community right to the Adivasis for the forest area they were using in the past. According to the true spirit of the Act, Adivasis can use forest land for self cultivation, common occupation and habitation to ensure their livelihood. Under the provision of community right and community forest resource right they can use forest land for collecting minor forest products, for fishing activities, seasonal grazing, access biodiversity and claim intellectual property rights over traditional knowledge and cultural diversity. There are plenty of narratives by Adivasis to prove the injustice in distribution, the negligence of awareness building in the process of implementation of community rights and the control of forest department in the decision making. One Kattunaikka Mooppan stated,

"Nobody told us that we have right in the forest land. They told us that we have no land here and advised us to move from this place as there is possibility of attacks by elephants". The mooppan continued: "the solution to stop elephant's is not eviction of Adivasis in this area. If the natural forests which are the reservoirs of food for elephants is destroyed, they will come out seeking agricultural products to meet their food needs. If we go out from this forest and cultivate somewhere else, elephant's will come there". This wisdom of the Adivasis they acquired through centuries of life experience in the forest. This wisdom of the Adivasis is accepted in the FRA 2006 and the

power to conserve and control the forest is entrusted to the Forest based gramsabhas. However, in actual practice to assign forest rights to Adivasis, the forest department is solely depending on the demarcations created by forest officials such as *jendas*, tranches and Eucaliptus plantations. As we so early they try to evict Adivasis instead of entrusting forest based gramsabhas to demarcate the areas they traditionally used.

Instead of creating a livable atmosphere for the Kattunaikkas who lived in the Gajagadi and Mallikappara forests they were continuously de motivated and rehabilitated in other areas. Still few families are left inside the forest because of scarcity of land to rehabilitate them. The *jenda* erected by the forest department in one Kattunaikka house was in their small yard and the *Mooppathy* in that house reported,

" The forest officials did not allow us to cultivate even on small plots. And if elephants come to our field we are not allowed to chase them away. Without cultivation and chasing the elephant who destroy our cultivation how can we survive in the forest".

This is an ethical question posed by the Adivasis towards the state and the forest department. It is evident that the language of coexistence is not understood by the forest authorities and forest department and they still conceive forest as conservation spaces for revenue and profit and the survival needs of Adivasis and their knowledge about forest ecosystem acquired through years of co-living is neglected. However, there are studies to show that it is in the balanced use and protection of the forest dwellers that forest is conserved (Agarwal 1992). Further,

international conservation best practices has recognised that the protection and sustainable conservation of sensitive ecosystems requires the participation and democratic involvement of those who live and depend on the ecosystem as legally empowered right holders.

In a Kattunaikka colony a tribal promoter reported that in 1970's as part of the social forestry project, medicinal plants were planted by the forest department in their forest which they traditionally used for collecting medicinal plants for health care and for cultivating Ragi, collecting leafy vegetables, fruits and roots for their daily food supply. Local area people were not partners in this forestry project and the area from which they freely access lot of materials for their daily survival was fenced with electric shock lines and alienated from the people. The natural forest were cut for teak plantation. At present even the water pond from which they collect water is outside the electric shock wire and they expressed the feeling that they are tied in five cents without any free movement to fetch water and their daily food. Destruction of natural forests for raw materials and eviction of Adivasis from their lived spaces is very common in Wayanad even after the implementation of FRA 2006.

Another Kattunaikka promoter reported that Adivasis were threatened as forest officials and revenue officials talk about the possibility of monkey fever and elephant's attack if they stay in the forest. Even to erect shock line, *jendas* and trenches they use such tactics and keep Adivasis away from their natural habitat and force indirectly to depend

completely on wage labour for their survival. There was no need for the Forest Rights Act if *jendas*, trenches and electric shock lines are considered as the demarcation to fix the area for individual rights. Further, as the Gram Sabhas are not functioning as statutory bodies they still depend on the forest officials and Girijan cooperative societies to collect and sell the forest products. The importance of managing the commons and the plant species to assure a cost effective orderly supply of raw material for capitalist production led to the creation of new knowledge in managing commons and the decisions are inseparable from power regimes. As Baviskar (1997) points out when studying development projects environmental sociology has devoted less attention to the plight of Adivasis and such oppressed groups are not counted as the subjects of environmental sociology.

Another Paniya youth exclaimed,

"When an elephant or other animals like deer die in the forest, Forest Department seek the assistance of the Adivasis to locate the dead deer or elephant and when it comes to decision making our knowledge and evidences are not considered seriously".

One Kurichiya youth reported that they were not consulted by the forest officials before making plans to plant trees on a hill near their hamlet. Without having the practical knowledge, forest department selected trees which never grow on such hills and the hill remained barren as they did not sought after Adivasi knowledge. The Kurichiya youth admitted that they keep silent in meetings as they are labeled as illiterate and ignorant. The colonial legacy of treating Adivasis as relics

of the past continue after independence and these are real examples of epistemological colonialism, giving no importance or credit to Adivasis knowledge and lived experience in the forest eco system.

In Nelly Panchayat one Paniya lost his job as forest watcher as forest officials saw him throwing a dead deer in the forest without giving information to the forest officer. All the Adivasis told he is innocent and will not kill or eat the deer cheating the forest officials. They had no other option other than this employment for their daily survival and his wife begged to give that job to his son. He was given job for four months and the stringent forest laws did not allow him to continue after that. However, when I visited the village they were planning to protest when the Chief Forest Conservation officer visit the panchayat. A Kurichia leader from Vady Panchayat reported that petty cases were charged against Adivasis for accessing forest resources for their survival even after FRA 2006. The above mentioned incidents indicate that Adivasi survival is not a serious issue either in the development discourse, or in state policies and programmes for forest conservation and development.

The compensatory afforestation fund Act and wild life Action plan 2017-31, do not mention or incorporate the Forest rights Act 2006. The compensatory afforestation fund Act which was passed in Rajya Sabha will release more than Rs. 40,000 crores to states for afforestation, plantations, and protection of wild life and the forest dwellers (Bijoy). However, Adivasis did not have a say in its implementation unless the Adivasi Gram

Sabhas become functional with constitutionally guaranteed autonomy.

In Thrissur there is a replicable model of issuing community forest right titles to eight Kadar (PVTG) Adivasi community and one Malayar Adivasi community. Hornbill Foundation helped in the awareness building and implementation of Community Right (CR) and Community Forest Right (CFR) in Thrissur with the support of forest officials. Even though discussions to replicate this to other districts was done with the state forest and ST Minister, respective collectors and other officials, there was a freeze in the implementation process. With the stand still struggle of Adivasis at Thiruvananthapuram Secretariate, again it achieved momentum but within a short period it again got frozen.

The Kattunaikkas, Paniyas as well as the Kurichiyas lost their forest eco system and common property resources in many ways. When their relationship to land was threatened, Adivasis material and cultural survival became difficult and there were starvation deaths, incidents of resistance and fights for land in their day to day life. There were rare voices of dissent despite the fact that many of them were not fully aware of the land laws and forest rights Act 2006.

Conclusion

In this paper the material dispossession of the tribal people, the 'epistemological colonialism' and the resultant violence of the state in dispossessing Adivasis from their dwelling places are conceived as ethical and moral issues and need to be dealt with at most importance. In Ecological Marxist theories there is scope in community conservation and

regeneration process (O'Connor 1998). According to Marx alienation from nature is part of the total alienation of human being in the capitalist society. Marxist humanism provides scope for a new human society where there exist a harmonious relation between human being and nature. Capitalist development is a road block in this man nature interaction and creates ecological imbalance. Marx explains this in the first volume of capital and explains how capitalist production disturbs the metabolic interaction between man and the earth. However, it does not discuss enough the survival need of Advasis, and the repository of knowledge of the indigenous people based on the forest ecosystem and the possible coexistence and better protection strategies of Advasis in the Forest. Xaxa (2012) articulate adivasi experience as 'adverse inclusion' to highlight the politics of exclusion underlying in development projects and it is relevant in the Wayanad context too.

Adivasis have the patient understanding that if they preserve the forest ecosystem they can survive and they attach moral values to conserve and preserve it for future generation. Studies show that the material as well as symbolic values and meanings are inseparable in accessing and safeguarding the commons. The Adivasis in Wayanad not only have lost their resources for material existence but also their symbolic and cultural capital as well as their wealth of knowledge with the loss of access to forest and the bountiful nature around them. All their cultural and spiritual practices are tied to land. Moreover, they are not projecting a romantic relationship with land but their knowledge and wisdom about nature is

contextual. It has been developed through years of observation and coexistence as they lived a life close to nature and made a living from the fruits of it. As a Kurichia Karanavan revealed, they still have knowledge of more than 50 indigenous seed varieties of paddy. A Paniya youth shared that her mother had knowledge about more than 80 varieties of leafy vegetables and edible roots; a Kurichia youth said that they had better knowledge than the forest officials about trees that can be grown in different parts of the Western Ghats according to the contours and altitude. The practical knowledge and wisdom they gained cannot be belittled. However, development of modern science and technology excluded the Adivasis by labeling them ignorant and irrational and rejected the rich wealth of their traditional knowledge. The Adivasis are given little or no credit for their vast knowledge as their language is not domineering and as their knowledge is subjugated by the colonial legacy and post colonial power structures.

Adivasis firmly believe that they cannot limit earth and its resources as 'conditions for production' as ecological Marxists formulate in their theories, and thus Adivasi world views go beyond the ontological and epistemological limits of ecological Marxism. However, as Roy Burman (2004) observes, as people having cultures permeated with closeness to nature and empathetic identification with specific forms of nature, one cannot avoid the vanguard role of Adivasis in the 21st century to protect nature as the working class had enacted in the 19th century. The implementation of Forest Rights Act in its true spirit can lead to a harmonious living which challenges the

capitalist culture which destroy nature as well as Adivasi culture. As Smith (2005) advocates, an indigenous methodology that takes a critical position for decolonising Adivasi knowledge and wisdom is essential in the Wayanad context. Without giving due recognition and promotion to the epistemological meaning attached to land by Adivasis, there is no possibility for inclusive spaces which assures historical and cognitive justice. Giving titles for forest right to Adivasis should be rooted on this abundant trust on Adivasi values and which only can help the state and its bureaucracy to rectify the flaws and injustices in the implementation of FRA 2006.

Notes

1. This paper is partly based on the author's doctoral research study (2008-2013) and partly on the data collected in the year 2014 and 2015 during her voluntary service for the tribal people in Wayanad.

2. The four panchayats included to collect ethnographic data are Thirunelly, Mananthavady, Thavinjal and Edavaka. In this paper I have used pseudo names for panchayats and Adivasi participants in the for confidentiality

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