CHAPTER- VI

STATE RESPONSE TOWARDS HUMAN RIGHTS VIOLATIONS AMONG ADIVASIS

Since this study is based on the state response, it is imperative to analyse the actions of the state in all such situations of human rights violations. Here an effort is made to evaluate the manner in which the state responded or acted as and when such excesses committed against the Adivasis.

This study arrives at a point where on many occasions the state has responded by making legislations and establishing statutory bodies in order to uplift the tribal community. But how far these actions or measures bore fruit remains a matter of deep concern and hence this has been brought under the purview of the study. Before going to the state response, it is necessary to have an understanding of the concept of state.

The concept of state in the context of judicially enforceable fundamental rights and of obligatory directive principles calls for a close examination. The modern state exercises sovereign functions as well as social service functions. Today, the state is a provider, a regulator, an entrepreneur and an umpire.¹

Article 12 of the Indian Constitution defines ‘state’ from an institutional angle for the purpose of individual rights and freedoms. The definition, which is an inclusive one, does not expressly include the judiciary, the third branch of the state. However, after the enumeration of the two organs of state namely the legislature and executive and of local authorities, the definition ends with a vague phrase ‘any other authorities’. This phrase has widened the scope of judicial activism.

In a democracy, Legislature, Executive and Judiciary are the three compartments, which constitute the state. Legislature makes legislations or enactments. Executive is the implementing body. Judiciary is the watchdog of the Constitution and rights of the people. Therefore, the response of the state can be classified into three namely:- Legislative Measures by way of enactments, Institutional Mechanisms by way of establishing statutory bodies and the Judicial interference for protecting human rights. Hence further analysis has been structured as according to measures that concern with-
6.1. Legislature

6.2 Executive

6.3 Judiciary

6.4. Legislative Measures

A welfare state always aims to enact welfare laws for the welfare of its subjects. Legislations are made to cope with the social needs. Therefore, making legislations is a sine qua non condition in a welfare state especially for the weaker and vulnerable sections and people who are separated from the mainstream of the society at large. The union government makes legislations on subjects coming under the Union List and state governments are making laws on matters coming under the State List. The centre and the states make laws on items mentioned in the Concurrent List and if there is any dispute, central law shall prevail over state law.

This study concentrates on the state response towards human rights violations among Adivasis and as such it analytically studies two major state Legislations, namely:-

(1) The Scheduled Tribes (Restriction on Transfer of Lands and Restoration of Alienated Lands) Act, 1975 (Act No. 31 of 1975)

(2) The Kerala (Restriction on Transfer by and Restoration of Alienated Lands) to Scheduled Tribes Act, 1999 (Act No.12 of 1999)

Besides, two major central legislations are also analysed, namely :-


(2) The Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Act No.2 of 2007)

These laws are analysed in view of the fact that they are the landmark enactments in respect of Adivasis ever since in the history of independent India.
6.4.1 State Legislations

6.4.1.1 The Scheduled Tribes (Restriction on Transfer of Lands and Restoration of Alienated Lands) Act, 1975 (Act No.31 of 1975)

6.4.1.2 Aims and Objectives of the 1975 Act

It has been noticed that the extent of land which has been under the traditional occupation of the Scheduled Tribes in the state is steadily on the decrease due to alienation, lease, mortgage and above all, due to unauthorised occupation of tribal land by non-tribal people. In tribal areas the unsophisticated tribals are being duped into transactions which make them part with their traditional land for very small sums of money. The Evaluation Committee constituted by the government in 1961 has suggested that special legislation should be introduced to protect the interests of the tribals on lands under their traditional occupations; and that this legislation should result in a general prohibition of transfers whether by sale, mortgage, gift or lease of tribal lands to non-tribal people. The Scheduled Areas and Scheduled Tribes Commission (Dhebar Commission, 1961) had also made similar recommendations. It was proposed to accept the recommendations of the committees mentioned above and to enact a law restricting the transfer of lands belonging to Scheduled Tribes. This Act was enacted for this purpose.

Land is the major issue for the Adivasis in the state particularly in Wayanad and landlessness has become a bane to their very existence. Nearly two third of the total tribal population of Wayanad were traditionally land less- they were either bonded labourers or were forest dependants. Hence, land- holding has become the most sensitive issue relating to the tribal agitations all the times. Recently this issue received wide attention at the national level with the ‘Muthanga land stir’. It is to be noted that special provisions are incorporated in the Constitution (Article 46) for the protection of Scheduled castes and Scheduled Tribes from social injustice and all forms of exploitation. Even in the presence of this Constitutional provision, Adivasis have been incessantly exploited from all corners of the society. Though they were the true owners of forests and its produces, they have been unceremoniously ousted from the land in which they have birthrights. Unfortunately, the alienation of tribal land has become the order among the tribal communities in the state particularly in Wayanad.
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This has paved the way for the annihilation of the tribal sector in the state. The Adivasi question in Kerala thus moved to the centre stage of state politics.

In order to overcome this situation the state government passed the Scheduled Tribes (Restriction on Transfer of Lands and Restoration of Alienated Lands) Act, 1975 (Act 31 of 1975) and Rules made there under in 1986. The Act provides for restricting the transfer of lands by members of Scheduled Tribes in the state of Kerala and for the restoration of possession of lands alienated by such members. The Preamble of the Act says that “WHEREAS it is expedient to provide for restricting the transfer of lands by members of Scheduled Tribes in the state of Kerala and for the restoration of possession of lands alienated by such members and for matters connected therewith or incidental there to.” This Act was enacted with much zeal, but coming as it did at the through in the wave of political exuberance in redistributive justice, failed to take off lacking the political will and push from the mainstream Act. What is also striking is that the state being obliged to uphold the law that it passed, became a silent abettor of the violations of the 1975 Act.

The economic backwardness of the Scheduled Tribes forces them to depend upon the non-tribals for credit requirements. This ultimately results in the transfer of ownership rights of their land holdings to the creditors. The major part of the land transfers has taken place in favour of the non-tribal immigrants. The Survey data reveals that of the 146 cases of land alienation, the majority of land was transferred to the non-tribals. (mainly settlers from the plains) The manner of alienation of land shows that a substantial part of the land has been sold out for clearing their liabilities of debts. Initially the tribals mortgage their land and later to discharge the debt, they transfer the land to creditors. The Scheduled Tribes (Restriction on Transfer of Lands and Restoration of Alienated Lands) Act, 1975 is a welcome measure to ameliorate this situation. The Act imposes restriction on transfer of land effected by a member of a Scheduled Tribe, on or after the commencement of the Act, to a person other than a member of the Scheduled Tribe without the prior consent of the competent authority. The Act also invalidates all land transfers effected by tribals to non-tribals on or after 1st January, 1960. It provides compensation to the person from whom the property was restored. An amount equal to the aggregate of the actual amount of consideration received by the tribal at the time of transfer and an amount for improvements made
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thereon if any, have to be paid by the tribals. The Act gives a direction to the government to advance loans to tribals for this purpose.

6.4.1.3 The Kerala (Restriction on Transfer by and Restoration of Alienated Lands) to Scheduled Tribes Act, 1999 (Act No. 12 of 1999)

6.4.1.4 Historical Background of the 1999 Act

The Kerala Scheduled Tribes (Restriction on Transfer and Restoration of Alienated Lands) Act, 1975 (Act No. 31 of 1975) was brought in to force on the 1st January, 1982 as per notification GO(MS) No51/86/RD dated 20th January, 1986 published as S.R.O No.130/86 in Kerala Gazette Extra-ordinary No.89 dated 24th January, 1986. Consequent to the enforcement of the Act, numerous proceedings which were pending before the Revenue Divisional Officers for restoration of possession of tribal lands from non-tribal aliens and the eviction of the present occupants of tribal lands amounted to very serious and multi dimensional social problems. If the present occupants of such lands were evicted majority of them would become landless and that would pose a law and order problem in the state. In order to safeguard the interests of the members of the Scheduled Tribes as well as the transferees thereof, a bill called the Kerala Scheduled Tribes (Restriction on Transfer by and Restoration of Alienated Lands) Amendment Bill, 1996 was passed by the Kerala Legislative Assembly on the 23rd September, 1996 and sent it for the assent of the President of India. However, the President returned the Bill withholding his assent thereof on the ground that it was unconstitutional. Hence the necessity of evolving an amicable settlement to the issue has arisen once more.

6.4.1.5 A Comparative Study of the 1975 and 1999 Acts

Eventhough the objectives as set out in the preamble to both the Acts are worded in identical terms i.e., both seek to provide restriction on the transfer of lands by the members of the Scheduled Tribes in the state of Kerala and for the restoration of the possession of lands alienated by such members, regretfully the similarity ends there. While both enactments extend to the whole state of Kerala, the 1975 Act, was to come in force only on such date as the government may notify in the gazette, while the 1999 Act came in to force on the 24th day of January, 1986. Had the law makers of the 1975 Act specified that it was to come into force immediately, the issue of land
alienation would have been resolved decades ago, without snowballing into the ongoing social conflict.

Dilution in spirit can be perceived in the definitional incongruity in the term ‘transfer’ as seen in both the Acts. The 1975 Act enhances the scope of the term transfer by including in its cover the oral transactions too. But 1999 Act diminishes the significance of the term ‘transfer’ by excluding oral transactions. The 1975 Act applied to all transfers of ‘immovable property’ while the 1999 Act applies only to transfer of ‘lands’ as defined to mean any ‘agricultural land.’ Both the Acts seek to invalidate transfers from 1960 of immovable property/land possessed, enjoyed or owned by a Scheduled Tribe member to an outsider except with the prior written consent of the ‘Competent Authority’ who usually is the District Collector. Due to the restriction in the scope of the 1999 Act by making it applicable only to transfers of agricultural land, tribals can now alienate their immovable property excluding agricultural land without the permission of the district collector. Thus its restrictive provision by providing lesser protection to the tribals, infact runs counter to the preambular goals enshrined in the 1999 Act. This significant ‘loophole’ by the legislative design, can in the long run prove counter-productive to tribal interests since it may facilitate further tribal land alienation.

The problems faced by the tribals are not related only to the problem of land alienated between 1-1-1960 to 24-1-1986. Over 11000 tribal families are landless at that time. Discussions with tribal representatives brought about the fact of the reality that majority of them do not want to impact the present social dynamics and aggravate the social tensions and wanted the issues to be amicably settled by accepting alternate lands. It was also intended to provide land not exceeding one acre to each of the landless tribals in the district they reside. There was an urgent need to protect the marginal non-tribal transferees and re-convey the extent of land in excess of two hectares back to the tribal transferors. Apart from providing alternate land to the tribal transferors there is also an urgent need to provide houses and welfare measures to them. The aforesaid bill was intended to achieve the above objects. In order to overcome the constitutional deadlock, an Amendment was brought in the Assembly and got passed and later High Court of Kerala quashed it. Ultimately the case reached before the Supreme Court of India and the same by its judgment on 25th July 2009
partly upheld the Kerala Schedule Tribes (Restriction of Transfer by and Restoration of Alienated Lands Act, 1999 and pronounced that this legislation is more beneficial to the tribal people than the 1975 Act, that was repealed.

The state government through Tribal Resettlement and Development Mission (TRDM) in 2001 has identified 14031 Adivasi families who are landless. Moreover, it also identified 12184 families in Wayanad whose land holding is less than one acre.\(^4\) However, the Economic Review says that the Tribal Resettlement and Development Mission has identified 22052 landless tribal families and 32131 families with less than one acre of land.\(^5\) The highest number of landless tribals are found in Wayanad district with 60.32 percent of the total followed by Palakkad with 24.44 percent.\(^6\)

As per government agreement, all the Adivasi families whose landholding is less than one acre will be provided 1.5 acres of land, implying that out of the total 36,335 tribal families in Wayanad, 26215 families (as per Wayanad District Report, 2008) would be given land. Government identified 8713 acres of land in Wayanad. It also identified 11645 acres of land in neighbouring districts where Adivasi families-majority of them are from Wayanad-could be rehabilitated. The government in principle thus accepted many of the recommendations of the TRDM.\(^7\)

In Wayanad, land belonging to the rehabilitation projects, like Sugandagiri and Cheengeri has already been distributed among a few families. A few Panchayats too have distributed revenue land under the Panchayats to the Adivasis. The government of Kerala reassured that all landless tribal families would be provided with land during the year 2010 itself. The survey revealed that the state government has failed to keep its promise and thousands of Adivasi families in Wayanad still remain landless.

The land reform legislation has been introduced for the purpose of tenancy abolition, conferment of ownership right to kudikidappukars and distribution of surplus land. None of these provisions directly favour the Adivasis in the state as no provision for special preferences to the said community has been incorporated in the legislation. The only provision is that 50 percent of the surplus land should be distributed to the Scheduled Tribes in the state.
6.5 Central Legislations

6.5.1 Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Act No. 2 of 2007)

The Government of India has passed a historical enactment called The Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Act No.2 of 2007) on 29th December, 2006. The Act is intended “to recognise and vest the forests rights and occupation in forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded and to provide for a framework for recording the forest right so vested and the nature of evidence required for such recognition and vesting in respect of forest land”.

This Act is the first piece of legislation by the central government emphasising the tribal rights over forest. Forest lands were treated as no man’s land and freely available for satisfying multiple interests, such as land to be protected for ecological security, land for raising industrial raw materials, land for infrastructure development, land for wild life and biodiversity conservation etc. The state could decide whatever it wanted, neglecting the aspect of forests as tribal resource base. This Act recognises forest as a livelihood resource of tribal and other forest dwellers. Any conversion of forest land for non forestry purposes will become an infringement on their right to survive unless the directly affected tribal people are provided with proper rehabilitation package and non forest areas are added to forest land use through compensatory afforestation to restore the resource base of the tribal people. Any reduction of the extent of forestland for non forestry purposes will amount to deprivation of tribal resources or rights.  

Section 4(3) of the Act says that “The recognition and vesting of forest rights under this Act to the forest dwelling Scheduled Tribes and to other traditional forest dwellers in relation to any state or union territory in respect of forest land and their habitat shall be subjected to the condition that such Scheduled Tribes or tribal communities or other traditional forest dwellers had occupied forest land before the 13th day of December, 2005”.

Section 4(6) of the Act stipulates that “Where the forest rights recognised and vested by sub-section (1) are in respect of land mentioned in clause (a) of sub-section
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(1) of section 3, such land shall be under the occupation of an individual or family or community on the date of commencement of this Act and shall be restricted to the area under actual occupation and shall in no case exceed an area of four hectares.’’

The passage of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, on 18th December, 2006 is an important step in the struggle to reverse the historical marginalisation of the tribal people of India. The Scheduled Tribes, constituting 8.6 percent of the population of the country (as per 2011 census) have been denied access to benefit from land and forests by both the medieval and the modern state, which encouraged landlords to settle on fertile agricultural tracts. Thus, the displacement of tribal people in the forests was not a colonial phenomenon alone, but British imperialism accentuated it by setting up state monopoly over forests. As a consequence, a centralized, most often autocratic forest management came into force in India. This played an important role in converting tribal farmers and forest-produce collectors from producers in to wage labourers. It is pertinent to note that this legislation has been made in the wake of increasing hunger deaths, land alienation, migration and the threat of displacement of tribal people.9

In this context, the challenge is twofold: one, to ensure access to land and forest resources for providing livelihood security and, two, to democratise forest management in a manner that counters corporate-led development. Conventional conservationists argue that such an Act could lead to the destruction of all forests.10

Many tribal people who could not prove that they were living in forests before October 25, 1980, had been termed ‘encroachers’ in the wake of Forest (Conservation) Act, 1980, and an eviction order had been served on them in May 2002. But this legislation enabled to avert this situation.11 The Act, under chapter 2 provides 13 different rights over land and forest produce to tribal people and other traditional forest dwellers. They are:-

(a) Right to hold and live in the forestland under the individual or common occupation for habitation or for self cultivation for livelihood by a member or members of a forest dwelling Scheduled Tribe or other traditional forest dwellers;
(b) Community rights such as *nistar*, by whatever name called, including those used in erstwhile Princely States, Zamindari or such intermediary regimes;

(c) Right of ownership access to collect, use and dispose of minor forest produce which has been traditionally collected within or outside village boundaries;

(d) Other community rights of uses or entitlements such as fish and other products of water bodies, grazing (both settled or transhumant) and traditional seasonal resource access of nomadic or pastoralist communities;

(e) Rights, including community tenures of habitat and habitation for primitive tribal groups and pre-agricultural communities;

(f) Rights in or over disputed lands under any nomenclature in any state where claims are disputed;

(g) Rights for conversion of *Pattas* or leases or grants issued by any local authority or any state government on forest lands to titles;

(h) Rights of settlement and conversion of all forest villages, old habitation, unsurveyed villages and other villages in forests, whether recorded, notified, or not, into revenue villages;

(i) Right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use;

(j) Rights which are recognised under any state law or laws of any Autonomous District Council or Autonomous Regional Council or which are accepted as rights of tribals under any traditional or customary law of the concerned tribes of any state;

(k) Right of access to biodiversity and community right to intellectual property and traditional knowledge related to biodiversity and cultural diversity;

(l) Any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be, which are not mentioned in clauses (a) to (k) but excluding the traditional
right of hunting or trapping or extracting a part of the body of any species of wild animal;

(m) Right to *in situ* rehabilitation including alternative land in cases where the Scheduled Tribes and other traditional forest dwellers have been illegally evicted or displaced from forest land of any description without receiving their legal entitlement to rehabilitation prior to the 13th day of December, 2005.

The Act paved the way for a good opportunity to debate and democratises the nature of forest management in order to meet the needs of the local people. The Joint Parliamentary Committee which was set up to look into the Bill took on board several points made by activists, experts, and mass organisations. In short, the Act has become the ‘Magna Carta’ of tribal people and other forest dwellers. The recognition of Forest Rights Act, 2006 is definitely advancement in the administration of social justice and forest management. There is an element of natural justice in this enactment of the Parliament. History shows that almost all political parties, irrespective of their ideology, used to be pretty enthusiastic to protect the interests of forest encroachers ever since the time of national independence, much to the detriment of the livelihood of traditional forest dependent communities. A reversal, coming in the form of the Forest Rights Act, 2006, portents well, though somewhat too late.

The most obvious and positive fallout of the Forest Rights Act seems to be the legal empowerment of the defenseless forest communities to avoid / resist forced evictions from their traditional home settings and to claim legal remedies when subjected to such action by the authorities. The rights recognised in the Act are: (1) to occupy a piece of forest land and use it for family enjoyment and (2) to utilise the Minor Forest Produces (MFP) or resources of the traditional home ranges in a sustainable manner for meeting the basic livelihood needs of the communities. Here, the right to be recognised as an occupant of a certain location will act as a legal deterrent against being uprooted from this location if confronted with diversion of forest lands for development projects. However, the Act has been discussed with much criticism.
6.5.2 A Critical Appraisal of the Act

The Forest Rights Act, inspite of the positive spirit behind it, seems to have overlooked certain infirmities, which will render its administration highly confusing and full of potholes and pitfalls. It will be worthwhile to critically look at some of the provisions in the Act and evaluate their strengths and weaknesses.14

6.5.2.1 Sustainable Use of Minor Forest Produces

The Act seems to assume that sustainable management of MFP(minor forest produces) as defined in section 2 (n)of the Act will result in adverse impact if state controls are withdrawn and the communities are left free to follow traditional practices. This is far from truth in this age of globalisation. A blurred management vision, which will harness traditions on one side and unscrupulous global marketing networks on the other, will give rise to an imponderable combination, efficiently capable of fishing off many of our valuable species in the forest. The Act is silent about any mechanism for enforcing self or external regulations, though it is suggested that MFP resources be used wisely in a sustainable manner as per clause (a) of section 2 of the Biological Diversity Act, 2002.15

Second, all basic natural resources like forests, rivers, lakes, coastal areas etc. are public trust properties belonging to this and future generations. The so called ownership of even the state over these resources is limited to that of a custodian. Hence the right holder communities, which are micro level subsystems within the state, can be at the most a custodian, not an owner as made out in the Act.16

Third, authority is granted to the communities to protect, regenerate and manage the Minor Forest Produces so as to protect wildlife and the biodiversity. The Forest Department will manage the timber. Whether the Forest Department is in the picture, in matters of MFP management is not clear in the Act. The question whose decision will be final in the community management of forest area is silent in the Act. The position of the Act is indeterminate. Absence of clarity in this vital sector will create havoc. The Act does not specify the domains covered under this term and there is no mention of any mechanism to achieve the objective.

Fourth, the Act says that the land in possession of each family as on 13th December 2005 will be the entitlement of the family to a maximum extent of 4
hectares and is inalienable. This is the worst section in the entire Act. The land in possession as on the 13\textsuperscript{th} December, 2005 with each family must be the resultant of its/or its ancestor’s cleverness or muscle power to appropriate traditional community land for itself at the expense of fellow beings. Some families must have cleverly manipulated the corrupt administrative/political powers of the state to enhance their acquisitions. The Act legitimises the wrongful acquisitions of some and worst still, punishes those who were too weak or law abiding to make large scale acquisitions. Those with very little land will have to be contented with the tit bits in their possession. A vast majority of tribal families will have nothing or next to nothing at all for being too weak or too socially responsible to make land acquisitions. This is an unfair provision and clearly a violation of the principle of equality before justice.

There is another aspect also. The central government and the state governments have passed many Acts in the past, granting land to similar socio-economically poor and landless people and there is no uniformity in the extent of land assigned. For example, the Kerala Legislative Assembly has passed a resolution to grant one acre of land to each landless tribal family. The Forest Rights Act, 2006 assigns just a few cents of land in the possession of a large number of marginalised families whereas a landless tribal family outside forests in the state will be eligible to get one acre of land. Curiously enough, most cases of the landlessness of tribal families outside forests areas is directly the result of non implementation of the 1975 Act.\textsuperscript{17}

Lastly, the Act does not envisage formulation of state rule or local rules under this Act. Though there may be some merit in not leaving this crucial aspect to local whims and fancies, there is also a grave danger of the rules becoming too unwieldy in many local situations, grievously hurting the main intention of the Act itself.

Above all, no inch of fresh land is given to Adivasis under this Act rather they would get ownership on land up to 4 hectares under their long possession if they had.

In spite of all the shortcomings as discussed above, which can be rectified to a certain extent with proper amendments, this is one provision of exceptional significance to conserve the wild life in forests.

The government of Kerala is claimed to be the first state to implement the Act. Accordingly, forest land is being surveyed and as the first phase, one acre land each is
distributed among Adivasis in Wayanad of which the survey has already been completed. But now Government admits that it lacks land for further distribution and 1500 acres of revenue land will be purchased from the Revenue Department and the same shall be distributed on time bound basis. This shows that the government is not intending to implement the Act in its letter and spirit for protecting the right to live and livelihood of the Adivasis. Hence the state response is not adequate and ineffective.

6.6 The Act and the State

Kerala has been denied funds from central government for the rehabilitation of villages in protected areas for its failure to implement the Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Act No.2 of 2007). The state has not followed the guidelines of the Act in its letter and spirit in many cases and hence has been denied central funds. The state has been allotted Rs.4.4 crore for the development of wildlife habitats during the year-2011-2012 and of which only 2.88 crore has been utilised. The state government has failed to ensure that the Rules and Guidelines under the Act are strictly followed. Though the funds for the rehabilitation of villages have been set aside, it could not be released due to this lacuna. Kerala needs to improve on the implementation of the Forest Rights Act where 60 percent Adivasis are landless.

6.7 Rehabilitation of Adivasi families

The Sugandagiri Cardamom Project, Wayanad accommodated about 750 Adivasi families as on the year 2000. During the survey it became clear that most of the land in which governmental projects were started originally belonged to the Adivasis. The government should have returned the land to them which was given on lease, for five years as per the agreement. This is also one of the reasons how the Adivasis became landless in their own land. But the land in possession of each family can be subjected to re-classification as revenue land. History shows that the tribal people living in revenue land had landed properties with title deeds. The 1975 Act did not prevent alienation of tribal land. It also not helped them to restore a large extent of tribal lands in the revenue areas which have gone into non-tribal hands. Thus alienation continues even today. The tag of inalienability provided in the Forest Rights Act, 2006 Act is not likely to work wonders. The invincibility of the clause, ‘inalienable’, in the Act is short-lived as a soap bubble if past is an indicator of future. The Act converts such possession
into a kind of perpetual revenue lease. No sensible lending agency is going to accept this land or property as security. The only way to access financial assistance is from illicit money lenders who know how to recover money using third degree methods or unlawful methods. In such situations land management may easily pass on to powerful external players as is usually the case.

As part of implementing this Act in the state, the government decided to grant patta to Adivasis under the provisions of this Act and to complete it in three phases by January, 2010. The government also reiterated to take steps to restore the alienated land of tribals as per the legislation (1999 Act) enacted by the state Assembly in 1999. Earlier the government had decided to distribute 25 percent land in November, 50 percent in December and the remaining 25 percent in January, 2010. The Survey Department possessed a trained force of 480 personnel and they were directed to start the survey work. The Forest Rights Committees and the District-Level Committees (to be constituted under the provisions of the Act) have to be functioned on a war-footing to scrutinize the total 28500 applications received from the tribals for land from the different districts in the state including Wayanad during 2013. However, according to government most of the applications are found to be defective. Tribals who were eligible for one acre of land had applied only for 5 to 10 cents. Hence, it was decided to engage promoters to create awareness of their eligibility and secure fresh applications till mid-October, 2009\(^1\). As per the Act, they would get the right to collect minor forest produce from the forests. But the state government could not implement its decision to complete the distribution of land to Adivasis even by January, 2014.

According to government, of the total 5863 applications submitted by the tribals in Wayanad district for getting legally assigned forestland under their possession, only 1983 applicants were found to be eligible to grant patta of the forest land under their possession. Though the Act provides legal possession of the forest land up to four hectares, the survey disclosed that majority of Adivasis have only a few cents of forest land under their possession. It extends to 0.5 cent to 50 cents or in a very few cases one acre above. The survey by the Revenue Department is yet to be completed. It is also now clear that in Sulthan Bathery taluk alone there are 1600 families having not even a cent of land.\(^1\) As per previous Agreement, government is
bound to distribute 1-5 acres of land to landless Adivasis for which at least 8000 acres of land is necessary in Sulthan Bathery taluk alone if government sticks to the agreement.

Now the government decided to purchase revenue land for distribution among Adivasis as per applications received. Even after learning that the farmers had encroached upon tribal land, government took the decision to give protection to 5 acres to avoid a confrontation between the farmers and the tribals. The restoration of alienated land according to government should not be made under coercion, but should be a voluntary process. As per preliminary estimates, 71 farmers in Wayanad were holding more than the prescribed limit. However, all government decisions are only on paper and are remaining to be mere election manifesto.20

In short, by virtue of the Union Legislation (Forests Rights, 2006 Act), all Adivasis are entitled for legal possession of the forest land upto four hectares already under their possession till 13th December, 2005. At the same time, by virtue of the state enactment in 1999 and the court order all landless Adivasis are entitled for fresh land and restoration of alienated lands.

The state has sufficient laws intending for the overall welfare of the Adivasi population. The state forests were treated by the British as restricted access properties, except for the forest inhabitant tribal communities, whose access to their traditional resources remained mostly unaffected by this restriction. The access policy remained unchanged even after independence though in reality it was a vastly different affair in the field when the forests became an uncontrolled open access property until the advent of the Forest Conservation Act, 1980. The Forest Rights Act, 2006 also will sail to the same direction of open access for the benefit of primary forest dependent communities with greater internal restraints. How far these internal restraints will work in a political culture where self – governance is debunked as the virtue of the weak is a matter of deep concern. One can only piously hope for the best and believe that the Adivasis who are far away from the mainstream world still retain the sensibility and wisdom of Mother Earth and would not be let down. But then they must be well united and preserve themselves to sustain such a mission against the global main stream force.
6.8 Government Filed Affidavits

The state government informed a Division Bench of the Kerala High Court in an affidavit, filed before it on 22\textsuperscript{nd} February, 2010 that 14,200 tribal families still remain landless in the state.\textsuperscript{21} The affidavit was filed by the government in response to a directive of the High Court to provide the data of landless tribal people and the distribution of land to them when writ petitions filed by Sreyams Kumar, Member of the Kerala Legislative Assembly, Harrison’s Malayalam Limited and others seeking police protection for their land that came up before the court. The affidavit filed before the Division Bench comprising of Justice K. M. Joseph and Justice M. L. Joseph Francis, solemnly affirmed that government intended to allot one acre of land and a residential house each to the landless tribal families. The government had to find out 15000 acres of land for this purpose. But the government did not have much land with it. Therefore, the options were to buy or compulsorily acquire land. The affidavit further swears that the government was in the process of allotting Rupees 50 crore to Wayanad district for buying 1000 acres of land for the tribal people.\textsuperscript{22} As much as 1575.47 acres of land had been so far distributed to the tribal people in the district. However, the same remains on paper only.\textsuperscript{23}

The do or die type of agitation now being resorted to by the Adivasis make it clear that land is as much essential as air for the existence of human beings irrespective of their caste and colour. Being the real owners of the earth, Adivasis have a unique claim to regain their lost land. The Muthanga incident certainly unleashed a mild storm which was sufficient enough to open the eyes of the rulers in the state. The occupation in Muthanga land also paved the way for constant occupations in Aralam farm in Kannur and many areas in Kasaragod and Idukki districts and such other parts in the state.

6.9 The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989(Act No.33 of 1989)

This Act was another landmark legislation in the history of independent India to protect the Scheduled Castes and Scheduled Tribes from the atrocities and exploitation of the society. As such the Act was intended to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes, to provide for Special Courts for the trial of such offences and for
the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto.

Twenty two years after the passage of the Act, the vociferous advocacy of the same by almost all political parties and even the rise of the politics of SC/ST empowerment across the country, it seems “sufficient force” as visualised by Ambedkar could be achieved by them. The gaps in the implementation of the Act stand in stark contrast to the convictions that underlay its enactment. In simple terms the legislation aims to prevent the various forms of offences by persons other than members of the SCs and the STs against members of these communities. A number of factors have contributed to this state of affairs. The most important is the caste and class prejudices in the society. These prejudices have got institutionalised through religious and social practices, into the unique system of long standing apartheid.

The Act introduced an executive system specifically to govern justice for the SCs and STs in cases of twenty two broad types of atrocities relating to socio-economic discriminatory practices which are listed in it. This system should comprise special courts, a special public prosecutor, nodal officers in each state, an SC And ST protection cell, and state level and district level monitoring and vigilance committees to identify atrocity-prone areas and a special officer appointed by the district head to look after each case of atrocities.

The gaps in the implementation of the said legislation stand in stark contrast to the convictions that underlay its enactment. In simple terms the legislation intends to prevent the various forms of atrocities by persons other than the members of the SC and the ST against members of these communities. It could be studied at two levels-the executive and the judiciary. The National Human Rights Commission (NHRC) in its report says that “under-reporting is a very common phenomenon and the police resort to various machinations to discourage SC/ST (persons) from registering their cases, to dilute the seriousness of the violence, to shield the accused persons from arrests and prosecution.”

A study conducted by the National Dalit Movement for Justice (NDMJ), as part of the National Campaign for Dalit Human Rights (NCDHR) shows that between 1992 and 2007, only 33 percent of the atrocity cases were registered under SC/ST
The majority of cases were registered under IPC (Indian Penal Code) sections. It also shows that the conviction rate of case under SC/ST Act was just 3.3 percent for country as a whole.\textsuperscript{28}

The figures at the level of judiciary are equally pathetic. Between 1992 and 2007 as many as 80 percent of cases heard by the special courts (created under section 14 of the Act) were not registered under the Act. In 95.1 percent of the cases, charge sheet had not been filed. The monitoring advisories set up in states on an adhoc basis by the Ministry of Social Justice and Empowerment (MSJE) and the Ministry of Home Affairs (MHA) noted that in many cases the police willfully neglected the SC-ST Act and did not register First Information Report.

As per the Annual reports on the Act tabled in the Parliament,(for the years 1999 to 2003) only 50 to 60 percent of the cases reported to the police lead to charge sheets; only 8 to 21 percent of the cases in which charge sheets filed go on to the trial stage. Convictions are secured in only 11 to 13 percent of the cases that are tried. The percentage of conviction is only 1 to 2 percent when calculated against all cases that reach the court.

The Act came as a watershed in jurisprudence of protection for SCs and STs and their better cover by the right to life under Article 21 of the Constitution. Over the time, the Act created a certain measure of confidence in SCs and STs that they had a protective cover and also a wariness in potential preparators of atrocities. However, the state has been unwilling or unable to intervene actively in the caste situation because the leadership, both at the national and state level, is drawn from or is dependent on socially and economically powerful persons belonging to dominant upper and middle castes.

In Kerala the atrocities against the Scheduled Tribes are on the increase. The provisions of the Act are not properly followed or implemented. The failure of the state government to establish special courts in Wayanad, where cases from 14 police stations have to be registered under this Act, for providing speedy trial of the offences, as envisaged under section 14 in chapter 1V of the Act. However, the District court in Wayanad is designated as the special court in this regard and a Special Mobile Squad Unit is formed in Wayanad with one Deputy Superintendent of
police, one Sub Inspector of Police, two head constables and two police constables. The reports further reveal that in most of the cases which were registered both under the sections of this Act and the Indian Penal Code are either settled or due to lack of evidences, courts acquit the accused as the victims/witnesses turned to be against prosecution and got declared as hostile. It is also noticed that the accused if they belong to non-tribal community and influential persons in the society always tend to influence the victims and they become easy prey to them in terms of cash or kind. Here, being the complainant in all the criminal cases the state fails to ensure the proper punishment of the culprits by the courts.

However, the Act is not clear about the rules with respect to social and economic boycott of SCs and the STs and there is an ongoing advocacy campaign among Dalit groups to seek amendments to certain provisions of the Act to make it stronger.

6.10 Executive Mechanism

6.10.1 Scheduled Tribes Development Department

The Scheduled Tribes Development Department (STDD) of Kerala which was formed in 1975 has been the most important government unit to supervise the tribal development activities of the state. At the state level, a senior IAS officer who is a Secretary to government heads this department whose headquarters is in government Secretariat, Thiruvananthapuram. There is a Directorate under it. The STDD has the nodal responsibility for administering various developmental schemes and formulation, implementation and monitoring of various plans and schemes. The Director of the department is the supervising authority over the tribal development activities.

In Wayanad, tribal development activities of the STDD are undertaken by offices of the Project Officer Kalpetta and two Tribal Development Offices located at Sultan Bathery and Mananthavady blocks. The Project Officer based at Kalpetta and two Tribal Development Officers (TDOs) based at Sultans Bathery and Manathavady coordinate the development activities of that department in Wayanad. There are 15 Tribal Extension Officers (TEOs) working either under the Project Officer in Kalpetta or Tribal Development Officers in Sulthan Bathery and Mananthavady. At present there are volunteers and Tribal Promoters (TPs) to assist the department in carrying out the
developmental activities of the department. The promoters identify the issues confronted by the community, identify the beneficiaries and report to TEOs. The TEOs verify the reports submitted by the promoters and take action depending on the merit of the case and availability of funds. The activities include mainly the disbursal of the Tribal Sub Plan (TSP) fund allotted to the district. Allotment of funds under TSP is mainly based on the decision of the orukoottam (The community council). It also supports a few livelihood development programmes. The STDD in collaboration with the education department runs four Model Residential Schools and an Ashram school for communities classified as Primitive Tribal Group. The funds for these are coming directly from TSP allocations from the state budget.32 Even though the STDD is involved in a number of support programmes mainly relating to health and education in Wayanad, the respondents keep the view that they are not actually getting its full benefits. Their existing socio-economic backwardness supports this view.

At the district level a working group with District Collector as chairman and District Planning Officer as convener has been constituted to monitor the developmental initiatives of the STDD in the district. The district heads of various government departments including TDOs and Project Officer are the members of the Working Group. The projects are approved and the proposals are put before the State Tribal Advisory Committee (STAC) with minister for Scheduled communities as chairman and Director of STDD as convener for sanction. The District Working Group monitors the welfare activities of the department in the district. However, the Adivasi communities in Wayanad feel that the STDD is to a certain extent supportive and provide necessary help in an emergency. But the expectations of community members are high and they are not satisfied up to the expected level. From the survey it has been observed that the department staff as well as the tribal promoters are reasonably empathetic to the communities but they fail to provide maximum benefit to them. Therefore, the functioning of the STTD in respect of the Adivasis in Wayanad is inadequate.

The Funds allotted to the local bodies are supposed to be spent according to the decision of the orukkoottams. The orukkoottams are convened when the gramasabha meeting of the panchayat is convened. At the orukkoottams, the community members rarely speak out the issues confronted by the community. In
most cases they are mute spectators. Even elected tribal members of the panchayat are not eloquent at the orrukoottams. Often the decisions made at the orrukoottams become more beneficial to the non-tribals because projects are designed in ways that would benefit non-tribals. A larger portion of the fund allotted is spent on infrastructure development at the instance of vested interests. This is reached at the hands of the middlemen and the bureaucrats. This shows the failure on the part of the state to find out how the funds allotted by the government for the tribal development in Wayanad is drained without getting the benefits to the real beneficiaries. This is because,-

(a) The STDD of Kerala spends a large amount of TSP fund through NGOs in the district. However, the local department officials are not informed about the nature of the deployment projects undertaken by these NGOs. As such, there is no mechanism to evaluate the outcome of these projects. The projects taken up by the NGOs also turn to be more in number. Here also the Adivasis are exploited by the officials and the agents under them in the name of welfare.

(b) The projects designed for the betterment of health and education are not under the direct control of STDD, making it difficult for the department to involve directly in the activities of schools or health units meant for the Adivasis in Wayanad. Here also the interests of the Adivasis are not safeguarded and protected.

(c) Very often fund allocations are not adequate. Though an amount of Rs. 2,50,000/- is allotted for the construction of houses under the ‘House to Houseless’ programme for the homeless tribal community members, in many cases, a major part of the amount is spent for the transportation of materials to the site (some of which are not easily accessible) and thereby reaches at the hands of the middlemen. The Housing projects are implemented by the local bodies and the construction of which are undertaken by the committees that are functioning ‘on behalf of local contractors.’ Under these circumstances also the interests of the Adivasi communities are not protected in any manner.

From an evaluation of the institutions involved with the tribal development activities of the district it is found that STDD has a key role in ensuring better
outcome of the utilisation of TSP funds in the district not withstanding the fact that they get only a small share of TSP funds since the Ninth Plan. The Kerala Administrative Committee Report, 2001 has suggested that the Scheduled Tribes Development Department should play the vital role in monitoring and evaluation of TSP programmes in the state including those taken up by the local governments.

In the light of the study regarding the perceptions on STDD and PRIs, it becomes clear that the day-today relations between these institutions and the Adivasi communities needed a thorough change. The comments recorded are based on focus group discussions. The discussions have revealed that the Adivasi communities generally feel that the STDD is sympathetic to them. But they also note that the capacity of the department is limited. For instance, the Tribal Extension Officers do not have emergency funds that can be disbursed in emergency situations. During some focus group discussions, the community members pointed out that the tribal promoters rarely visit the settlements and they often show favouritism in identifying beneficiaries of various schemes undertaken by the department. From the discussions, it is found that while a majority of the community members prefer panchayati raj institutions under STDD as better agency to address the issues confronted by them whereas a significant section including prominent tribal leaders have raised apprehension about the panchayats (Local Self Government Institutions) saying that they are run by the political parties whose interests often contradict with the interests of the Adivasi communities.

6.10.2 The Kerala State Human Rights Commission

The Kerala State Human Rights Commission (KSHRC) was constituted on 11th December, 1998 consequent on the formation of the National Human Rights Commission at the central level, as per section 21 of the Protection of Human Rights Act, 1993. The head quarters of the Commission (KSHRC) are at Thiruvananthapuram. The Commission comprised of a Chairman and two members. The office of the Commission is now housed at a rented building at PMG, Thiruvananthapuram. The functions of the Commission are clearly spelt out in section 12 of the Protection of Human Rights Act, 1993. Justice J.B. Koshy is the present Chairman of the Commission.
Though the Commission was constituted for the better protection of the human rights of all sections of the society, the Annual Reports since its inception, (First Annual Report from December-1998 to March-2000 till 2009-2010 shows that except in the case of ‘Muthanga issue ’ in Wayanad, the Commission did not play any role for the welfare of the most vulnerable sections like Adivasi communities in the state particularly in Wayanad district.\(^{35}\) As per the report of the Public Information Officer of the KSHRC, no package or scheme has been formulated so far to protect the interest of the Adivasis who are the most vulnerable section in the society.\(^{35}\) However, the Commission’s functioning was limited only with a feasibility study report submitted by a Non-Governmental Organisation.

Being a state agency with statutory provisions, the Commission functions under grant-in-aid. The Commission is not an independent agency free from government control. Therefore, the vested interest and wrong policies of the government often reflect in its constitution and functioning.

### 6.10.2.1 The Intervention of the State Human Rights Commission

The Kerala State Human Rights Commission though intervened in the Muthanga land stir and made several recommendations to the state government in respect of the tragic incidents and police atrocities there, it has failed to see the fundamental issue i.e. the question of land, which led to the incident. Right relating to life and dignity of individuals is enumerated as human rights under the Protection of Human Rights Act, 1993. Therefore, land for survival is a pre-requisite for the enjoyment of human rights of Adivasis. The Commission failed to arrive at the most important finding that land for Adivasis is a sine qua non condition for their very existence and denial of which naturally culminates in resentment and protest. The Commission ought to have made a thorough enquiry of this issue haunting the governments in power for several years.

### 6.10.3 The Kerala State Commission for the Scheduled Castes and the Scheduled Tribes

The Kerala State Commission for the Scheduled Castes and Scheduled Tribes was constituted as per section 3 of the Kerala State Commission for the Scheduled Castes and Scheduled Tribes Act, 2007. The head quarters of the Commission is at Thiruvananthapuram.
State response towards human rights violations among Adivassis

The Commission shall consist of a Chairperson nominated by government from among the SCs /STs, two members who have special knowledge in matters relating to SCs-STs and Secretary to Government, SC/ST Department shall be the ex-officio Member-Secretary of the Commission.

Though the Commission is entrusted with important functions pertaining to Adivasi communities since its formation, it has an inherent defect in its constitution itself. Sub clause (b) of section 9 of the Act says that the Commission has the power to inquire into specific complaints with respect to the deprivation of rights of the Scheduled Castes and Scheduled Tribes in Kerala and to take up such matters with the appropriate authorities. From the Act itself, it is clear that Commission acts only as a nodal agency, which is hardly sufficient for uplifting the most vulnerable section- the tribals in the Kerala society.

6.10.4 State Forest Department

In Wayanad, 553 ooru (hamlets) are situated either in the reserved forest or its nearby areas of which 97 ooru (4.47 percent) and 2411 families (6.67 percent) are in the reserved forests. Most of such ooru and families are in Sulthan Bathery block i.e 38 ooru and 902 families. In Mananthavady block there are 19 ooru and 520 families whereas in Kalpetta block there are 14 ooru and 406 families situated in reserved forests. Adivasis in 249 ooru collect forest produces among which, honey is the major source of income. In 110 ooru, they collect forest produces from nearby areas whereas in 139 ooru they collect the same from distant places. In 66 ooru, the forest department does not permit them to collect forest produces. Among the Adivasi communities who reside in forests, Paniya, Vetta Kuruma, Adiya and Kattunaickan (PTG) mostly depend on forests as the means of their livelihood.

The Kadars, Urali Kuruma, Kurichiya families also have partial dependence on forest, as a substitute for income during the lean season. The Kurichia and the Mullu Kuruma who have a better development index compared to the other communities rarely use forest resources as a means for their livelihood. The Adiya and the Paniya had been involved with agriculture labour for more than three centuries. The dependence of Paniya and Adiya is limited to the extent of their settlements located in the fringes of the forestland. Their dependence is limited to the
extent of collecting fuel wood and sometimes fodder. For those inhabiting the forest, the forest resources hardly satisfy their needs owing to the shrinking resources and forest laws and regulations that restrict collection from sanctuaries. Some of them are associated with forest as forest labourers and the rest as collectors of Non Timber Forest Produces. Most of these families have very small landholdings within the forest where they cultivate mainly yam, coffee and pepper. The Non Timber Forest Produces are collected as per the demand expressed by the tribal co-operative societies, the returns for which are minimal considering the risks and labour involved in the extraction of products. It has been observed that some of the community members seek involvement with the collection of the NTFP only in the absence of manual and agricultural jobs available for them.38

The interaction between the Adivasis and the forest department, therefore, has much significance. Except in the circumstances of law enforcement by the state in the normal day-to-day life neither the Adivasis nor the forest officials have much complaints against each other. Eventhough the Forest department is not often protecting the interest of the Adivasi communities under the cover of stringent rules and regulations, the department to a certain extent is a source of employment for the forest dwelling Adivasis.

However, presently there are organised struggles for the allotment of forestland to the Adivasis. The struggles for the forestland come from all sections of Adivasis irrespective of their present compatibility to adopt a forest friendly life style. Of course the draft policy statement of the government of India too adopts a pro-Adivasi perspective. Since a large section of non forest dwelling Adivasi communities of Wayanad have adopted or is likely to adopt an urban life style may anticipate two different outcomes. Either the struggle for preservation of their identity and culture will continue or the exploitation of the forest resources will be intensified.

6.10.5 Tribal Sub-Plan

The Tribal Sub-Plan approach was adopted in 1976, to intensify the Tribal Development Programme of the state of Kerala. According to this approach, the tribal areas of the state were divided into five regions- Punalur, Idukki, Nilambur, Manathavady, and Attapady.39
During the Ninth Plan, 80 percent of the Tribal sub Plan (TSP) funds were allotted to the local bodies to implement tribal development programmes. Following criticisms raised by various sections, including tribal leaders, allotment of funds under TSP was withdrawn. Nearly 20 percent of the funds is utilised directly through the STDD. Lack of co-ordination between various departments in designing and implementing projects relating to tribal development is a matter of deep concern. Major portion of the Tribal Sub Plan fund allocated for local bodies is spent in Wayanad district. However, the existing socio-economic backwardness, miseries and bad plight of the Adivasi communities in Wayanad do not admit this fact. It is significant to note that the welfare schemes/development programmes have to be designed only with the representation of the Adivasi communities, without which it will be proved to be ineffective.

During 2013-14, the total plan provision set apart for the development of Scheduled Tribes is Rs.38985 lakh. This is 2 percent of the total state plan outlay. Out of the total outlay earmarked for Tribal Sub Plan, Rs 26555lakh is set apart for implementing at state level and the balance amount of Rs 12430.00 lakh is earmarked for local bodies as grant-in-aid for undertaking the tribal development programmes at panchayat level.40

The 13th Finance Commission has awarded an amount of 14800 lakh for the development particularly of the vulnerable tribal groups for a period of four years as additional intervention for their infrastructure development, health, soil conservation, primary education, and drinking water and nutrition sectors.41

The Wayanad district has 25 village panchayats, 4 block panchayats and a district panchayat. The TSP funds allotted to the local bodies are shared within these local bodies based on the nature of projects conceived by each one of them. To make the proper utilisation of TSP funds by the local bodies, the government of Kerala has set new guidelines based on which projects are to be conceived, implemented and monitored. The participatory development model now practiced for utilising Tribal Sub Plan funds allotted to the local bodies is based on Oorukoottam. These groups in each settlement will identify the problems, prioritize them and put them before the working group of the village panchayats. The local level working group includes the
tribal members of the local elected bodies, representatives of the NGOs., the tribal members of the community development society, tribal promoters etc. It is mandatory that at each Oorukootam nearly 50 percent of all the tribal community members should participate and in which at least 50 percent should be women.\textsuperscript{42}

The proposals from the oorukootam are presented at a mandatory ‘Development Seminar’ and the feasibility of the proposals are publicly debated at the panchayat level. The outcome of the Development Seminar is evaluated by the respective local level working groups and are submitted to the district level technical advisory committee with District Collector as chairman and departmental officials and experts as members. Once the advisory committee approves the proposals, it is sent to the State Working Group which approves the projects. Once the State Working Group approves the projects, local bodies have to assure people’s participation in implementing the projects. Details of the projects have to be made public (including the amount involved, methods of implementation etc). The local level working group has to disseminate the details in written form. According to the recent government directives, the public can freely access all documents in connection with Tribal Sub Plan expenditure. At the implementation level, social auditing by oorukootams have to be conducted at an interval of three months. The District collector has constituted a grievance cell where any defect in the implementation can be reported. Anybody misappropriating tribal fund can be punished in accordance with law.\textsuperscript{43}

However, it is a matter of deep concern that of the respondents, 47.6 percent in Mananthavady block, 54 percent in Sulthan Bathery block and 48.4 in Kalpetta block participate only occasionally in oorukkoottams. It is found in the group discussions that this is because of the lack of awareness among the Adivasis in the participatory model development. Moreover, this also points towards the failures of the state agencies to ensure the presence of the Adivasi communities in Wayanad in the participatory model development. It is also revealed from the interactions that the Adivasis are in a dilemma as to whom they trust first because they have only to tell the unending stories of exploitation, cheating, alienation and seclusion from the society and the rulers.
6.10.5.1 A Critical Appraisal of Tribal Sub-Plan

The sub-plan areas are not homogeneous in character. They differ in size, proportion of tribal population, composition of the different tribes and also in the level of development. Since many of the programmes under Tribal Sub Plan are now half way through, the question of their discontinuance or major revision is out of place. Experience has shown that almost all major programmes of tribal welfare have been found to be defective. The foremost requirement is the strengthening of the machinery for administrative programmes. The casework approach can be inculcated among the field work staff of the Tribal Welfare Department- especially the Tribal Development Officers and Tribal Extension Officers by appropriate training programmes. This method can be most effective in areas of tribal concentrations where case work approach could be supplemented with group work approach. At the same time in case of dispersed tribal population, the needy families could be approached and assisted with equal facility by the case work method. It may be pointed out that it is not the approach as such but the spirit in which the problem is approached that is more important.44

Moreover, a scientific analysis of the performance of schemes and programmes under Tribal Sub Plan is not carried out properly with a view to find out as to whether the benefits under it are reached at the hands of the deserved tribes. If it was done properly, the Adivasi sectors would free from the acute exploitation they suffer today.

6.10.6 The Tribal Development through Oorukottam

This has been introduced under the Local Self Government Institutions, aimed to empower the tribal communities so as to identify them for designing and implementing developmental programmes and plans through a participatory approach.

Its aim is to ensure the right of tribal communities to utilise all the resources set apart for their development and also to ensure participation of community members in developmental initiatives in tribal localities.

As an approach to tribal development, oorukottam provides sufficient space for participation in planning, execution and monitoring of the projects, but being a
model in its infancy, it is yet to be evaluated. One glaring deficiency that has been observed is that there is no consultation between panchayats in contiguous areas. Local Bodies as well as NGOs do not have any feasible project that would help the livelihood development of the Adivasi communities. However, no significant projects are conceived at the Oorukoottams or by the NGOs that would help livelihood development.

Eventhough the community members generally approve decentralised planning, many tribal leaders expressed concern over the decentralised planning and oorukoottam based participatory planning. They point out that in decentralised planning, the interests of political parties who run the local governments are pivotal as the local government is formed on party lines. The elected tribal members of the panchayats represent the interest of the political party he/she is affiliated to. Similarly the oorukoottam heads also represent such interests and it is difficult to assert effectively or even highlight community interests. To ensure meaningful participation of the communities in developmental initiative only a small portion of TSP funds is spent by the government. All these clearly show the failure of the implementation of participatory rule among Adivasis envisaged by the panchayat raj Act.

6.10.7 Attapaddy Hill Area Development Society in Wayanad

Attapaddy Hill Area Development Society (AHADS), the result of another executive initiative was formed in the year 1996 with the objective of halting the ecological and social degradations and improving the livelihood base of the affected communities- especially the Adivasis. The project aims to reclaim the degraded wasteland in the Attapaddy region through developmental programmes for land, water and biomass management, employment and income generation. The AHADS has started its functioning in Wayanad despite severe criticism from the public at large.

The Attapaddy Wasteland Comprehensive Environmental Conservation Project (AWCECOP), in short, the Attappaddy Eco- Restoration Project (AERP) is a 219.32 crore (JY million) sustainable development project. It is founded by the Japan Bank for International Co-operation (JBIC) to carry out with the objective of restoring the ecosystem as well as the livelihood security of the people of Attappady,
both of which had undergone severe degradation over the years due to various reasons.46

However, there has been a widespread feeling among the public that AHADS is a total failure in all respects. It has failed to serve the purpose for which it was constituted. Though, it started functioning with the aim of the restoration of ecological balance in Attapaddy, its activities were confined to a building agency since 2002. Since then the very object of the project was derailed. From 1996 to 2000 and from 2000 onwards it started project planning and field activities respectively. AHADS started construction works by reducing the amount earmarked for water and soil conservation. The major works undertaken by the AHADS were the construction of thousand houses for Adivasis and the puthoor bridge. But these were neither the aim nor the work of AHADS. The state government has a Public Works Department for the construction of bridges. As regards the construction of houses for Adivasis, there are several schemes and sufficient funds under the central and state governments. Eventhough both the governments are implementing these schemes, either the benefits of which are not often fully reached to the deserved or such schemes are inadequate to satisfy even the basic needs of the Adivasi communities.

However, before commencing the scheme like AHADS particularly in Wayanad, the most tribal populated district in the state, proper studies and analysis are required in order to ensure that its benefits are reached at the deserving hands like Adivasis.

6.10.8 Welfare Committees on Scheduled Castes and Scheduled Tribes

Being the constitutional obligation, the appointment of Welfare Committees by the Kerala Legislature comprising selected Members of the Assembly to study the problems among the Adivasis is one of the effective state actions to bring to light their grievances47.

Accordingly, the reports submitted by the Welfare Committees make far-reaching impact among all sections in the society and administration.48 However, the present socio-economic backwardness and the continuing exploitation on the Adivasis, clearly shows that these reports are neither examined nor implemented by the government in the right perspective.
Chapter VI

6.11 Administrative Lapse of the State Government

The performance of Wayanad, the lone district selected from the state for implementing projects using funds under the central government’s Multisectoral Development Programme (MsDP) for the welfare of minorities, has been dismal so far. The district has utilised only 7 percent of the funds till September, 2011 which is in sharp contrast to some other states that have spent more than 60 percent of the funds allotted to them, according to the latest report released by the Union Ministry of Minority Affairs. Wayanad is one of the 90 districts in the country chosen for the MsDP. The central government had approved funds of Rs.1.13 crores in rural development, health and education, as the first installment in December 2010. This is almost 50 percent of the funds (Rs.2.27 crores) sanctioned in the financial year 2010-11.

In this context, it is worthy to note that Jammu and Kashmir has utilised 74.39 percent of Rs 5.99 crores released to the state. Likewise, Orissa utilised 50 percent; West Bengal, 67.85 percent; Haryana, 65.69 percent; Madhya Pradesh, 65.03 percent; and Jharkand, 64.24 percent. According to the union ministry, the poor performers include Delhi, Sikkim, Andaman, and Nicobar Islands etc, are far below Kerala. However, the average percentage for 20 States and union territories under the MsDP is 49.97 percent.

The MsDP is being implemented from 2008-2009 in 90 minority concentration districts identified on the basis of substantial minority population and relative backwardness in terms of select socio-economic and basic amenities parameters based on data of the 2011 Census. The primary objective of the programme is to improve the backwardness of the people and to bring them on a par with the national average. Here also the inefficiency of the state government is apparently visible in implementing the central aided schemes for the welfare of the backward communities.

6.12 Role of Judiciary

In the post independence era Indian judiciary has played the role of the guardian of human rights. Since most of the civil and political rights are guaranteed by the Constitution in the form of fundamental rights, the Supreme Court and High Courts are armed with the power to enforce them invoking their jurisdiction under Article 32 and
226. Though most of the social and economic rights are included in the Constitution as Directive Principles of State Policy, the Supreme Court has elevated some, like right to education, right to health and right to clean environment, to the status of fundamental rights by treating them as an aspect of right to life. The State Human Rights Commission of Kerala was established only in 1998. Prior to the establishment of the Commission, the judiciary was the only effective mechanism to protect human rights. Following are the instances in which judicial decisions have turned to widen the horizon of human rights in general and of the Adivasis in particular.

Under Article 339(1) the executive power of the union government extends to the giving of directions in relation to welfare programmes and administration of Scheduled Areas. In the judgment dated 22nd December 1969 in Eachran Ittiathi Vs State of Kerala, the High Court of Kerala had examined the question of the legal competence of the states of enacting laws for the welfare or regulation of Scheduled Tribes while striking down the Kerala Hillmen Rules, 1964. It was held: Article 224 provides that the Fifth Schedule shall apply to the administration and control of Scheduled areas and the Scheduled Tribes in any states other than the state of Assam. Then, there are Articles like 338 giving powers to the President for the appointment of a special officer for the Scheduled Castes and Scheduled Tribes and Article 339 giving powers to the President for appointment of a Commission to report on the administration of Scheduled Areas and the welfare of the Scheduled Tribes in the state.49

Though the Protection of Human Rights Act, 1993 provides for the establishment of State Human Rights Commissions (SHRCs) some states have been very reluctant to establish a State Commission. In People’s Union for Civil Liberties, Allahabad, Vs State of U P, the Uttar Pradesh government filed an affidavit before the High Court stating that since several other authorities meant for protecting human rights like the Minority Commission, the Scheduled Castes Commission, the Backward Commission and Lokayukta were functioning in the state there was no need to establish a separate Human Rights Commission. However, the Allahabad High Court rejected this contention and observed:50
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On the spectrum of human rights, which are the very essence of human life, there are manifold subjects enumerated in Lists ii/iii of the Seventh Schedule of the Constitution. Some of the general topics are ‘Inhuman Existence’ ‘Freedom Of Religion’, ‘Right to Privacy and Information’, ‘Legal Aid, Clean and Wholesome Environment’, Custodial Violence’, ‘Torture’, ‘Terrorism’, ‘Gangsterism’, ‘Prisoner’s Rights / Prison Justice’, ‘Capital Punishment’. The SHRC is vested with the power to enquire into violation of human rights in respect of matters relating to any of the entries enumerated in List ii and List iii in the Seventh Schedule of the Constitution. The court further held that the aforesaid four Commissions and the LokAyukta can by no stretch of imagination be equated with SHRC. Thus it cannot be said that the existence of the said four Commissions and the Lok Ayukta obviated the need of SHRC. It appeared that the judiciary is very particular that separate Human Rights Commission should be established in every state. This has been a vibrant step from the part of the judiciary for the cause of human rights.51

Referring to the Scheduled Tribes (Restriction on Transfer of Lands and Restoration of Alienated Lands) Act, 1975 (Act No. 31 of 1975) the High Court of Kerala in Fr. Thomas Kumbukatu Vs Union of India made a commendable verdict. In the above case the petitioner challenged the validity of the Act as it is violative of Rule of Law and Constitution of India. The court upheld the view that there is no substance in this contention. Section 6 of the Act provides for re-conveyance of property to the Scheduled Tribes, but only after adjudication by the Revenue Divisional Officer.52 Enquiry is provided under sub–section (2) of section 6. The court further viewed that the Supreme Court in Waman Rao Vs Union of India, 1981(2) SCC 362 had held that High Court could go in to the question whether the basic features of the Constitution of India have been violated, even though the Act is placed in the Ninth Schedule of the Constitution.

In state of Kerala Vs Nalla Thampi Thera, the High Court of Kerala has made a landmark judgment regarding the 1975 Act.53 The Court observed that the Act was obviously intended to ameliorate the lot of the underprivileged tribes who despite “paper plans and multi-point programmes, are at the victim’s end of barbarity and injustice, privation and sharp practice inflicted on them by the “civilised gentry”.54 But despite the enactment, the same was not brought into force until 1st January, 1982,
that too by a notification under section 1(3) of the Act on 24th January, 1986 giving retrospective effect. This bringing into force of the law brought no succor to the tribals since nothing was done to enforce that law or to bring relief to the tribals. Ultimately, the petitioner in the Original Petition moved the Court in the year 1988 for the issue of a Writ of Mandamus to the state to implement the law and the union government to insist on its implementation. The High Court by judgment dated 15th October, 1993 directed the state to give instructions to the authorities under the Act to dispose off the applications pending before them within six months of that date. In that judgment, the Court recorded the assurance of the then Additional Advocate General that:

"utmost steps would be taken for the disposal of the applications and that the Act would be enforced in all its rigour."

The Court further observed that “this Court is not a Parliament of Policy; it is Court of Law. Judicial method is not concerned with ephemeral opinions of the tribal community. The law is most needed when it stands against popular attitudes sometimes engendered by those with power and when it protects the unpopular against the clamour of the multitude.”

Considering the significance of the enactment, the court on 13th August, 1996 issued the following directions:

(1) The Revenue Divisional Officers (RDOs) were directed to cause delivery of the properties covered by orders for restoration against which no appeals were pending and in which no compensation is payable, forthwith and in any event within six weeks from the date of this order.

(2) In view of the submission that the officers were meeting with resistance in restoring possession, the state and the District Superintendent of Police of all districts are directed to afford the needed protection to the Revenue Divisional officers to carry out their duty of restoring possession to the tribals.

(3) The state and the district Collectors of the various districts were directed to make available to the Revenue Divisional Officers the necessary manpower
and support to carry out the implementation of the orders for restoration passed under the Act.

(4) The RDOs are directed to file statements before the Court by 30th September, 1996 reporting compliance with direction No.1.

However, the tribal protection measures through rules framed under the Kerala Forest Act wrecked on the rockbed of constitutionality in Echaran Ittiathi’s case. It was also held that the power to make rules for the protection of hill tribes given under section 76(a) of the Kerala Forest Act was not one incidental to the power to legislate on forest and hence provision was unconstitutional for want of legislative competence.

While analysing the landmark decisions of the higher judiciary it is possible to discern that the judiciary is the most effective mechanism for protecting human rights particularly of Adivasis even after the establishment of the Human Rights Commission. A humanitarian approach was visible in the matter of interpretation of the provisions of law especially regarding Adivasis. The judiciary has been always positive in interpreting laws in favour of the marginalised communities. In order to protect the rights of the weaker sections of the society like tribals the Supreme Court and High Courts are playing the role of a protector. The catchment area of the socio-economic rights has been widened by the progressive interpretation of law by the Judiciary. However, in a Federal form of government, it is well settled that courts have limited powers to interfere in the policy matters of the Executive. Moreover, court can approach the issues that come under its ambit and within the purview of the Constitution. Eventhough the Constitution confers upon the judiciary the power of Judicial Review, the same can be exercised only to the extent of examining as to whether any enactment is ultravirous to the Constitution. Therefore, what matters is the political will of the party in power, which is the major source to empower and uplift the marginalised sections in the society, the Adivas.

6.13 State Response: An Evaluation

Eventhough state responded in many ways by making legislations and taking executive decisions, the rights and interests of the vulnerable sections in the society are neither protected nor valued. The attitude of the succeeding governments is
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totally indifferent and negative when it deals with its Scheduled Tribe population, which is far from the expectations of tribals in the state. It obviously is not a state that failed to deliver, but actually a state, which failed to distribute its resources among weaker sections particularly the Adivasis with regard to the following.

6.13.1 Constitutional Rights

Article 244 of the Constitution provides for the ‘Scheduled and Tribal Areas’ for administration of Scheduled Areas and Tribal Areas through the provisions of the Fifth Schedule and the Sixth Schedule. The provisions of the Fifth Schedule apply to the administration and control of the Scheduled Areas and Scheduled Tribes in any state other than the states of Assam, Meghalaya, Tripura and Mizoram. These provisions are therefore applicable to the Schedules Tribes of Kerala also making it mandatory for the state to ensure (Para 5(2) of Schedule V) total prohibition of transfer of immovable property to any person other than to a tribe, for peace and proven good management of a tribal area and to protect possession, right, title and interests of the STs. This has not been done so far.

6.13.2 Land Rights

In 1961, the Dhebar Commission (the Scheduled Areas and Scheduled Tribes Commission) appointed under Article 339 of the Constitution headed by UN Dhebar recommended that all tribal land alienated since January 26, 1950 – the day the Constitution came into force- be restored to the original Adivasi owners. But the Kerala government took another decade and a half to enact the Kerala Scheduled Tribes Act (Restriction on Transfer of Lands and Restoration of Alienated Lands) in 1975, a quarter century after the Constitution came into force, and that too restoration of land alienated since 1960 and not 1950. But rules were framed still a decade later in 1986. The 1975 Act was in fulfillment of the explicit requirement of Fifth Schedule of Article 244 to provide suitable legislation to restore alienated tribal lands and to prohibit transfer of tribal lands to non-tribals. However, no attempt was made by the governments to implement the Act instead tried to bury the same.

Despite explicit orders of the Kerala High Court in 1993, most of the alienated lands were not restored. Instead, the government replaced the 1975 Act with ‘The Kerala Restriction on Transfer by and Restoration of Lands to Scheduled
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Tribes Bill, 1999 which in effect denies restoration of alienated lands. The Kerala High Court struck down this part of the law as unconstitutional and declared the government to be ‘in contempt of the Court’ which the government challenged in the Supreme Court. Despite the knowledge that the very provision of not restoring alienated lands in the 1999 Act being unconstitutional, the government and the political parties are determined not to honourably withdraw the challenge in the Supreme Court, but instead insist on ensuring that the non-Adivasi land grabbers retain the ‘recorded’ lands of Adivasis. The 1975 Act, an obligation under Article 244 of the Constitution, was itself included in the Ninth Schedule to prevent it being challenged in any court of law. But the governments, the United Democratic Front and the Left Democratic Front alike took elaborate efforts to bury the 1975 Act. Firstly, the government tried to amend the 1975 Act with an ordinance in early 1996 which failed to get the approval of the Governor, and later enacted ‘The Kerala Scheduled Tribes (Restriction on Transfer of Lands and Restoration of Alienated Lands) Amendment Act, 1996’ on 23rd September 1996. This fast-track move was to beat the deadline of 30 September 1996 set by the High Court to restore alienated lands. When the President of India returned it withholding his assent, the government diabolically enacted the 1999 Act under ‘agriculture’, a state subject, and repealed the 1975 Act, in effect to avoid even any legal obligation to restore illegally alienated lands of Adivasis.

The ‘agreement’ between the United Democratic Front government and the Adivasi Dalit Samara Samithy (ADSS) on 16 October 2001 also contained the proviso that 5 acres of land would be given to all Adivasi families having less than one acre of land, before 31 December 2002. The government reported to the National Human Rights Commission in April 2002 that 568 families had been provided 1,308 acres of land since January 1, 2002 and another 434 families during the period since April 2002 to February 2003, i.e. less than 2 percent of the families received land within the stipulated period. Nothing as agreed was done by the government, is a clear manifestation of the ill response from the part of the state

6.13.3 Forest Rights

The total tribal families living within the forest areas of the state are about 21,500 with a population 73,500, spread over 1,744 settlements whose rights have not
been settled despite relevant orders from the Ministry of Environment & Forests, New Delhi in 1990 nor under the Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 (Forest Rights Act 2006) which, in addition, confers rights also to people residing outside forest lands but dependent traditionally on forests. In addition there are 23455 families (2411 ooru) living in the immediate vicinity of forests. The government identified only 404 villages for recognition of forest rights of which only 281 villages have constituted the Forest Rights Committees under the Act as on 28th February 2009 declaring that title deeds will be distributed in March 2009 when 1,36,699 title deeds have already been distributed in all other states put together with another 1,71,933 ready for distribution, notwithstanding the declaration of the Kerala government that it will lead among the states in settling the rights under the said Act.

However, no creative effort has been taken on the part of the state government to implement the Forest Rights Act, 2006. Everything remains on paper only. The fabulous promises of the rulers like ‘Zero Landless Kerala’ still remain as the line drawn in water.

6.13.4 Development Rights

Historically, tribal development has ignored empowerment approach and concentrated on dependence inducing top down provision of development inputs. The development delivery through the hegemonic command and control by the State Planning Board has resulted that ‘even after six decades of development efforts, STs continue to constitute relatively the most backward and vulnerable section of the population in the state with extremely weak economic base. Over half of the tribal population still live in below poverty line with the highest in the Tribal Sub Plan areas. The acclaimed decentralised planning process with the Panchayat Raj structure compounded with People’s Plan, instead of introducing democratic local self governance, perpetuated the hegemonic process of internal colonisation of Adivasis, their territories and livelihood resources in collusion with state structures and the tribal development inputs. The Planning and Economic Affairs Department made a quick analysis of the tribal situation in the state, which revealed the following features.
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(i) Extreme levels of poverty, deprivation and vulnerability.
(ii) High levels of exclusion both developmental and social.
(iii) Extremely low levels of empowerment – political, social and economic.
(iv) Rapid marginalisation due to unfair, unequal and exploitative relations of production and exchange between tribal communities and others.
(v) Low level of access to entitlements.
(vi) Practically zero participation in development matters with no autonomy in any form of decision making.
(vii) Abnormally huge siphoning off of developmental resources and benefits meant for tribal people by middlemen.
(viii) Poor human development with low levels of literacy and access to health care.
(ix) Rapid alienation of assets like land.
(x) Alarming depletion of social capital especially traditional forms of organization and leadership.
(xi) Quick deterioration of traditional knowledge systems and cultural attainments.
(xii) Fast increasing tendency to use tribal people as middlemen in criminal activities like illicit distillation, cultivation of narcotic plants, stealing of forest wealth etc.
(xiii) High levels of exploitation of women by outsiders.
(xiv) Weak delivery system of public services.
(xv) Dependency-inducing developmental programmes relying on distribution of benefits rather than building up of capabilities.
(xvi) Implementation of ad-hoc and stereotyped developmental programmes in the absence of proper planning.
(xvii) Very weak monitoring systems.

The state driven oorukkottams have been envisaged as an innovation in the above situation to improve delivery within the areas of welfare and development
inputs. This is not much fruitful for its inactive participation of the tribal communities. However, the distribution of land and delivery of development inputs to the Adivasis in their habitats by the state has failed.

**6.13.5 Governance Rights**

The Plachimada struggle, another long running struggle of Adivasis since 2002 against life and livelihood threatening corporate crimes from pollution and depletion of ground water of the villages by Coca Cola, who established its plant amidst them, is significant with the resounding reluctance and failure of the political and administrative machinery to take actions against the criminal violator, despite specific provisions in various laws. Instead, the government preferred to challenge the powers of the local bodies (panchayats) which itself were forced to take action due to the struggle. Decisions have been arbitrary, susceptible and vulnerable to influence, red-tapism and corruption, in the chain of command. What has primarily emerged from the politico-administrative and judicial response are the extent of the power of the local self-government (panchayat) with regard to their responsibility to public welfare, and the jurisdictional division of power between the panchayat and the state government to protect and regulate the natural resources. The fundamental issues thrown up while this struggle is who has the primary decision-making rights over water, ground water in this case- the communities, the elected panchayat, or the state; who decides and sets the priority over ground water use; and which is superior-water for survival or water for profit. Here also the state failed to deliver justice for the cause of Adivasis.

**6.14 Non Implementation of the Study Reports**

The Kerala State Human Rights Commission during 2002 had been given a ‘Feasibility Study Report’ by ‘Women Empowerment’, a Non Governmental Organisation in Thiruvananthapuram regarding the Adivasis in certain areas in Wayanad. The Commission did not take any action on the said report.

Further, the Scheduled Caste and Scheduled Tribe Development Department, government of Kerala had been given a situational Study Report in January, 2006 named ‘Wayanad Initiative’ by the Centre of Excellence-Indian Institute of Management, KIRTADS Campus, Kozhikodu for the comprehensive development of
Adivasi Communities in Wayanad. The same also sleeps on file in Secretariat for the last eight years without any action. Moreover, the Wayanad District Reports, 2008, part 1 and part 11 which have been submitted during August 2011 are also left without any action.

The discussions, analysis and observations made above clearly show that the response of the state with respect to the cause of the Adivasi issues particularly in respect of their right to live and livelihood when compared to its width and depth, is relatively inadequate and ineffective. Their existing socio-economic and cultural backwardness, miseries, bad plight and prevention from coming into the main stream of the society are the manifestations of this argument.
END NOTES


3. Ibid., 895.


6. Ibid.

7. Ibid., 418.


9. Ibid.


15. Ibid., 8.

16. Ibid.

17. The Scheduled Tribes, “*Restriction on Transfer of Lands and Restoration of Alienated Lands, Act, 1975.*”(Act No. 31 of 1975)

19. Saseendran Chettiar, (Tribal Development Officer, Sulthan Bathery) in discussion with the Researcher, October, 10, 2009.


21. Ibid.

22. Ibid.

23. Ibid.


25. Ibid.,6.

26. Ibid.


29. Information collected on the basis of “Right to Information Act” from the State Public Information Officer and Deputy Superintendent of Police, Special Mobile Squad Unit, Wayanad, October, 19, 2010.

30. Ibid.


37. Ibid., 100.


39. Ibid., 113.

40. STDD, Budget Circular, 2013-14, 3.

41. Ibid.

42. Wayanad Initiative, 2006, 102-103.

43. Ibid.


47. C.P Balan Vydyar Chairman,Tenth Kerala Legislature, “Seventh Report, 1996-1998, the Welfare Committee on SCs and STs, Wayanad, Kerala Legislature Secretariat, Thiruvananthapuram (December,19,1997):1-14 and


49. Kerala Law Times (KLT), High Court Road, Kochi, 1970, 1069.

50. All India Reporter, Supreme Court, New Delhi, 2000, 103.

51. Ibid.

52. Kerala Law Times, High Court Road, Kochi, 1994, Part (2), (Case No. OPNo.4229 of 1994): 25


