



IMPLEMENTATION OF FOREST RIGHTS ACT IN JAMMU AND KASHMIR: UNDOING HISTORIC INJUSTICE

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Abstract

On 18th December 2006, Parliament of India passed the Forest Rights Act (FRA), and it received Presidential assent on 29th December 2006. It was not extended to Jammu and Kashmir at that time due to the state's special constitutional status under Article 370. FRA 2006 was extended to Jammu and Kashmir on 31st October 2019 after the abrogation of special status on 5th of August 2019. The Act acknowledges the individual and community rights of the forest-dwelling Scheduled Tribes and other traditional forest-dwelling communities. This paper critically examines whether this historic extension is translating into meaningful realization of rights for Gujjar, Bakerwal, Gaddi, and Sippi communities or whether the historic injustice acknowledged in the Act's preamble continues under new institutional conditions.

Keywords: *Forest Rights Act 2006, Jammu & Kashmir, Gujjar-Bakerwal, Tribal Displacement, Gram Sabha, Historic Injustice*

Introduction

Forest-dwelling tribal communities of Jammu and Kashmir principally Gujjar and Bakerwal communities constituting approximately 11.9 percent of the population of Jammu and Kashmir (Census 2011) remained excluded from FRA's protective framework for thirteen years after its enactment. Prior to 2019, there was no proper law in the erstwhile state of J&K regarding forest land use by Gujjars, Bakerwals, Gaddis, and Sippis, despite their Scheduled Tribe status since 1991 (Rahi, 2019). The extension of FRA in October 2019 generated substantial hope. After its implementation, tribals were hopeful that now they would not be harassed at the hands of forest officials, Developmental Authorities, and other state authorities. However, more than five years later, this expectation remains largely unfulfilled.

Research Literature Survey

Nikawat (2024) in a critical study of FRA observes that forest bureaucracy remains the principal structural obstacle to rights realization, and that power relations among implementing actors significantly affect effective implementation. The Fact-Finding Committee Report (2024) documented that from 2010 to 2022, 594 Gram Sabha-approved claims received no response from higher bodies (SDLC/DLC), illustrating systemic administrative failure.

For J&K-specific contexts, Dar and Wani (2024) document the Bakarwal community's double paradox of marginalization within a sensitive border region. Rajput, Jadhav and Rahi (2022) highlight the extreme vulnerability of transhumant livelihoods to external disruption. Wani (2025) demonstrates that geographic isolation, economic exploitation, and limited access to education perpetuate multidimensional tribal marginalization. Research on Van Gujjars in Uttarakhand (Pulitzer Center, 2024) shows that of 3,587 individual FRA claims filed through November 2022, only 184 were accepted a pattern of rejection with direct parallels in J&K.



Implementation Status of the Forest Rights Act in Jammu and Kashmir

The poor implementation of the Forest Rights Act in Jammu and Kashmir is starkly evident from official data. Despite the Act's extension to the Union Territory in October 2019, its ground-level realization has remained alarmingly slow. In several districts including Samba, Jammu, and parts of the Kashmir Valley, not a single individual forest rights claim has been settled even years after the Act came into force. Bureaucratic delays, lack of awareness, procedural complexity, and inadequate institutional support have collectively hindered the recognition of rights, leaving Gujjar and Bakerwal communities without legal security over lands they have inhabited for generations.

In the Jammu Division, a total of 27,568 claims were received and 27,543 were processed, yet only 5,195 titles were issued of which a mere 38 relate to Individual Forest Rights. Rajouri and Poonch account for the bulk of titles issued, while districts like Samba, Jammu, and Reasi record negligible or zero individual title issuance despite completed verification. In the Kashmir Division, 18,522 claims were received and nearly all were processed, yet only 748 titles were issued a recognition rate of barely four percent. Kupwara received 6,039 claims but issued only 15 titles, while Srinagar recorded zero claims and zero titles. Across both divisions combined, out of 46,090 claims received, only 5,943 titles were issued a title issuance rate of approximately 12.9 percent. This data reveals that procedural processing has largely occurred but substantive rights recognition has not followed, pointing to systemic institutional failure and absence of political will to fulfill the Act's mandate (Ayoub & Bhat, 2025).

Key Issues in Fra Implementation in J&K

Delayed Realization of the claims and Continuing Displacement

The thirteen-year exclusion of J&K meant that institutional infrastructure for FRA like trained officials, empowered Gram Sabhas, legal aid access was never built. Displacement of tribal communities continues both in Jammu and Kashmir division even after the extension of FRA in Jammu and Kashmir. Forest-dwelling communities who were historically never properly recorded in land records cannot meet the Act's requirement to demonstrate 75 years of residence through documentary evidence a structural impossibility rather than an administrative lapse.

Forest Enclosures and Pastoral Livelihoods

A substantial portion of grazing land has been converted for developmental projects threatening tribal livelihoods entirely dependent on these lands (Rahi, 2019). FRA Section 3(1)(c) and (d) recognizes NTFP rights and grazing rights, yet the J&K government's NTFP policy of December 2022 while aligned with FRA in text remains contested in practice. The forests are the home of nomadic Gujjar-Bakerwals and their economy is completely dependent on forest lands and products (Rahi, 2019). Tribal communities and other traditional forest-dwelling populations are facing hardships due to the enclosures, which have restricted their traditional access to grazing lands and common village resources. The fencing and demarcation of forests have disrupted migratory routes and restricted the access to vital pastoral spaces such as *dhooks* and upper pastures that have historically sustained their livelihoods.

Developmental Interventions and Seasonal Migration

The developmental projects and expanding tourism have disrupted traditional migratory routes and pastures historically used by nomadic tribal communities. A major concern is growing difficulty faced by nomadic communities in migrating through forest areas due to continuous demarcation and fencing



undertaken by the Forest Department. Forest enclosures across forest have restricted the movement, making it difficult for them to access migratory routes and grazing areas essential for their livelihood.

While forest conservation and protection measures, including fencing, is necessary for ecological management, such interventions often fail to adequately consider the socio-economic realities of communities that are historically dependent on forests for their survival and livelihood. The absence of a participatory approach has led to growing tensions between forest authorities and tribal populations. Therefore, there is a need for a more inclusive and rights-based approach to forest governance, one that ensures environmental protection while simultaneously safeguarding the grazing rights, and livelihood security of nomadic and pastoral tribal communities.

Gram Sabha Challenges

Another major factor behind sluggish FRA implementation is the challenge posed at the level of Gram Sabha. The Gram Sabha, as the primary institution mandated under the Forest Rights Act to initiate, verify, and approve forest rights claims, has emerged as a critical bottleneck in Jammu and Kashmir. Considerable delays in claims settlement have been recorded at this stage, particularly in areas where tribal communities are numerically in the minority. In such areas, entrenched local power hierarchies, limited tribal awareness of legal provisions, non-tribal apprehension over changes to existing land use, and broader anti-tribal sentiment have resulted in either prolonged delays or outright non-approval of claims at the Gram Sabha level. This institutional failure at the very first step of the process is undermining the overall effectiveness of the Act's implementation machinery. In this way, legislation conceived to correct centuries of historical injustice against Tribals and other forest-dwelling communities finds its purpose defeated at the very threshold it was designed to cross.

Documentation Barriers

It is extremely difficult for tribal communities to provide the documents required for FRA claims. Arbitrary rejection of title applications without clear reasons constitutes a systematic governance failure. A significant impediment to the settlement of forest rights claims in Jammu and Kashmir is the documentary deficiency prevalent among tribal claimants. A large proportion of tribal communities lack the requisite documentation necessary to initiate and substantiate their claims under the Forest Rights Act, and even those who manage to assemble partial documentation find themselves compelled to make repeated visits to offices, only to have their claims deferred or rejected on procedural grounds. This bureaucratisation has led to frustration among communities that are already marginalized and largely unaware of the precise evidentiary requirements mandated by the Act. The situation is further compounded by the absence of legal aid, or administrative guidance at the grassroots level that might otherwise bridge the gap. (Rising Kashmir, 2025).

Research Methodology

This study adopts a mixed-methods design within a critical realist framework, integrating quantitative and qualitative approaches across Jammu and Kashmir.

Policy Recommendations

1. Establish a dedicated FRA Implementation Mission under the Tribal Affairs Department with district-level units and block-level facilitation teams for awareness and claims assistance.
2. Constitute functional Gram Sabhas in all tribal habitations with tribal population only.



3. Adopt alternative evidence standards for nomadic communities like community testimonial evidence, satellite imagery, livestock census records as admissible proof of 75-year habitation.
4. Mandate FRA compliance review as prerequisite for all Developmental authorities 'developmental plans and project clearances in areas with tribal habitations.
5. There should not be any evictions where FRA claims are pending, pending completion of the claims settlement process.

Conclusion

The Forest Rights Act 2006 was extended to Jammu and Kashmir in 2019 as a moment of restorative justice acknowledging the historic injustice committed against forest-dwelling communities by decades of colonial and post-colonial forest governance. Five years later, the evidence reveals that this injustice continues in new institutional forms: through documentation barriers that structurally exclude nomadic communities, through Gram Sabhas weakened by the absence of a PESA framework, through harassment by forest officials, and through development projects that sever traditional pastures and routes without tribal consent. The transformation from historic injustice to genuine rights realization demands urgent policy reform, institutional redesign, and sustained political will. The tribal communities of Jammu and Kashmir whose relationship with the forests is ecologically sustainable and constitutionally recognized deserve not merely the letter of the Forest Rights Act, but its spirit.

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