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Friday, June 11th 2021

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**FOREST RIGHTS**

In Kashmir, the long-awaited Forest Rights Act is a boon for some – but pastoralists are anxious

Herders and shepherds, who do not have Scheduled Tribe status, fear that they will be blocked from grazing grounds and evicted from their summer shelters.

Athar Parvaiz

Apr 20, 2021 · 09:30 am



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Abdul Rashid, a forest dweller and pastoralist from Budgam, is worried about his community's land and their livelihood. | Athar Parvaiz

Thousands of forest dwellers in Kashmir are hoping that the Forest Rights Act, 2006, which is finally being implemented in the region 12 years after it came into force elsewhere in India, will protect their rights over forest resources.

But Kashmiri-speaking pastoralists known as Chopans, who are also the traditional forest dwellers, fear that they “might get a raw deal” considering the “tough conditions” that apply to them under the Act.

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going to implement the Act in the region.

The long delay in implementing the Act [amid the eviction](#) of tribals from the forests of Jammu had already [raised suspicion](#) and has created a [big political controversy](#).



Kashmiri pastoralists with their sheep in a forest. Photo credit: Athar Parvaiz

Delayed implementation

Despite its implementation in other states of India in 2008, [The Scheduled Tribes and Other Traditional Forest Dwellers \(Recognition of Forest Rights\) Act, 2006](#), also known as the Forest Rights Act, was never implemented in Jammu and Kashmir.

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“Unfortunately, the special status was used as an excuse by some politicians for not implementing the Forest Rights Act in Jammu and Kashmir for 12 years despite the fact that a legislator from our community had moved a Bill in the state assembly in 2018 seeking the implementation of the Act,” Zahid Parwaz Choudhary, president of the Jammu and Kashmir Gujjar Bakarwal Youth Welfare Conference, told *Scroll.in*.

Otherwise, he said, over 100 other laws made in the Parliament had been implemented in Jammu and Kashmir in the past. “Only this law was being singled out,” he said.

According to the Forest Rights Act, if an individual or family from a tribal group can prove that they were living in a forest area in December 2005 or before, then they have legal rights over that land and forest products except for timber. Forest dwellers other than tribals should have lived in that forest area for three generations or 75 years.

Mostly concentrated in (or near) forests, Kashmir has an tribal population belonging to the Gujjar and Bakerwals community of [14 lakh](#) as per India’s 2011

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In November 2020 and December 2020, [videos](#) of the demolition of houses and [property](#) in some areas of Kashmir [went viral](#) with people linking it to the government's "land-grab exercise" months after the removal of the special status of Jammu and Kashmir and its bifurcation into two Union Territories.

**Zahid Parwaz Choudhary**

@ZahidParwaz



Reign of terror has been unleashed against poor Gujjar Bakerwals across J&K, the video is somewhere from Rajouri, how a Police wala doing non sense with poor lady she is being draged from her home & the utensils & other belongings being thrown out clearly can be seen in video.

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The notices issued to the people and the reports of people being evicted from forest areas or facing this possibility created fear among forest dwellers. Over the past three months, the forest department has not taken any further action against the forest land “encroachers” after Forest Rights Act’s formal implementation in December last year.

But, fears remain among forest dwellers, especially among the Kashmiri-speaking pastoralists who do not fall in the Scheduled Tribe status and have, therefore, fulfil the conditions under the Other Traditional Forest Dwellers category.

‘No conducive atmosphere’

Thankfully, Choudhary said, the law is now being implemented, but there are lots of doubts in the minds of forest dwellers.

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“The Forest Rights Act is a very good Act which empowers forest dwellers and, therefore, can hugely encourage them to protect forests,” Choudhary said. “But, Union Tribal Affairs Ministry did not make the forest dwellers aware of their rights under the Act. Neither it bothered to create favourable conditions for the hassle-free implementation of Forest Rights Act in Jammu and Kashmir.”

For example, he said, no advertisements were run on state media in the languages spoken by tribal communities besides the fact that the Act was rolled out when the harsh winter began in Kashmir. “Most regrettably, the nodal agency for implementing the Forest Rights Act in Jammu and Kashmir is not the Tribal Affairs Department like other states across India, but the Forest Department, the same department which has officially accused thousands of traditional forest dwellers of encroaching upon forest land,” he said.

Raja Muzaffar, a prominent rights activist in Kashmir, said, “There is a huge confusion about the Act here in our region.” People, he said, are generally under the impression that it applies to tribals only.

“There is no clarity on other traditional dwellers,” Muzaffar told *Scroll.in*. “When we look at it from Kashmir’s perspective, we have a large population of other forest dwellers comprising Chopans [shepherds/herders] who are the largest stakeholders in our region.”

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“They are totally dependent on forests for their livelihoods,” he said. “They leave their home for six months for grazing livestock in the alpine pastures where they need protection for their grazing rights and temporary shelter in the forests.”



Villagers near a forest walking into a forest near Kashmir's Doodhpathri. Photo credit: Athar Parvaiz

Mixed population

Every year, he said, their kothas (summer or temporary shelters) get damaged by snowfall and need repairing, but the forest department does not allow them to carry out the repair work which is carried out by using fallen trees and mud.

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the forest adjacent to Mujpathri village in the Budgam district, but he has not been allowed to do so by the forest department.

“I live in that hut when I migrate to the forest along with the livestock for six months in summer,” Ahmad said adding that dozens of other herders have also not been allowed.

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“We live off the money which we earn during summer by herding other peoples’ livestock against remuneration,” he said. “How can we earn if we are not able to live in the forest?”

Abdul Rashid Sarhadi, another forest dweller and pastoralist in Bassant Wooder village of Budgam said that he and his fellow villagers are worried about their land and livelihoods considering the tough conditions they have to fulfil.

“In our village, we have both the scheduled tribe population and Chopans living there for decades,” Sarhadi told *Scroll.in*. “In other villages also you have a mixed

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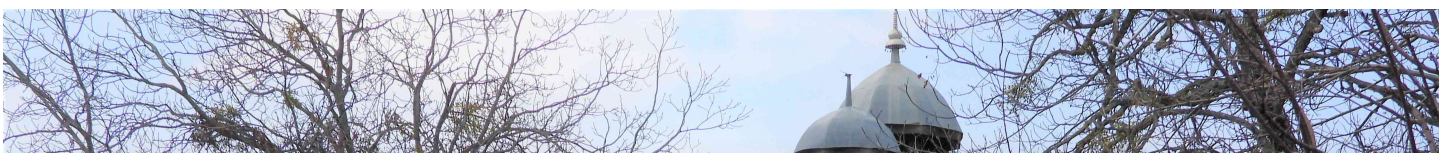
economically backward. Despite being pastoral and tribal, they are not included in the ST category by the Central government.”

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He said that in 2000, the Jammu and Kashmir Legislative Assembly passed a resolution to include the Chopan community in the list of tribes, but the Centre did not take it seriously. “I have recently made a representation on this to the Lieutenant Governor, Manoj Sinha, and he has assured me of taking it forward,” Muzaffar said.

Tribal ministry team’s visit

Priya Tayde, a consultant with the Ministry of Tribal Affairs, who was part of a four-member expert group from the Union Ministry of Tribal Affairs on a visit to Kashmir in the last week of March to assess the implementation of the Forest Rights Act in Jammu and Kashmir, said that her team met with different stakeholders and noted down their perspectives on the implementation of the Act.



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Forest dwellers during a meeting with Tribal Affairs Ministry team at a forest village in Budgam. Photo credit: Athar Parvaiz

“We were particularly interested in pastoralist communities and we wanted to understand what kind of activities the pastoral communities are involved in and how they have been practising pastoralism in different pockets, durations, the kind of livestock they raise and the kinds of forest resources they have been using for generations,” Tayde told *Scroll.in*.

The primary objective of the team, she said, was to understand the context in which the Act could possibly be implemented in Jammu and Kashmir.

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“The traditional practices in this region are more elaborative and more intensive than the rest of the country,” she said. “Majorly, in other states, it is the tribal communities [which] exercise pastoralism while, here in [Jammu and Kashmir], even other traditional dwellers are equal stakeholders when it comes to grazing and livestock-related occupations.”

The other difference, she said, is that of the weather which is very intensive here. It has a significant impact on the lives of the communities unlike in the rest of India, Tayde said.

So, can the concerns being expressed by Kashmiri-speaking pastoralists be addressed under the provisions of the Forest Rights Act? “Yes, there is a flexibility provided under the Act based on region-specific aspects,” she said. “Also, mass public representation can also help the communities to get their grievances heard.”

Pertinently, the areas where the Forest Department claims that people have illegally encroached upon forest land have been officially recognised by successive governments by extending facilities such as roads, electricity and piped water to those areas. This official recognition of these forest villages in the past has made it a complex challenge for both the forest dwellers and the government.

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