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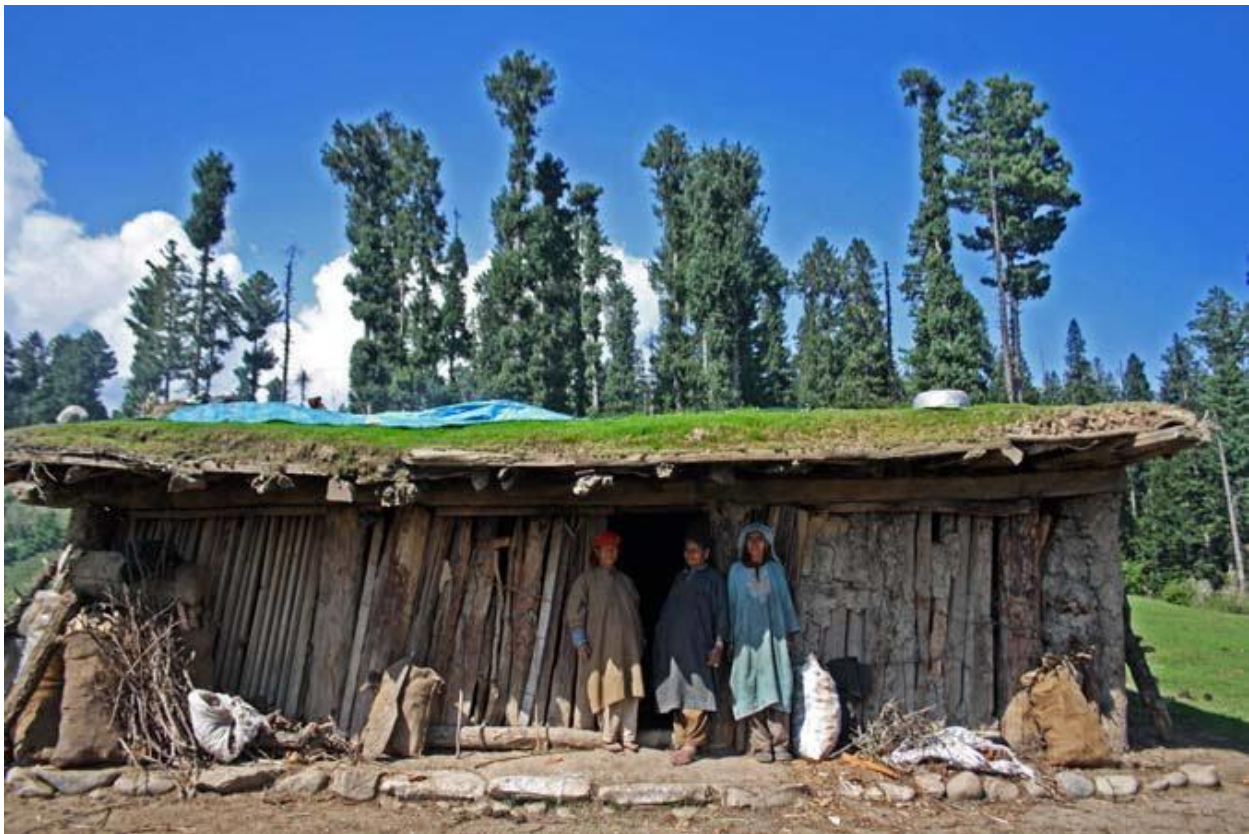
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Forest Governance under Forest Rights Act in Jammu and Kashmir

The Forest Rights Act, 2006 was extended to the UT of Jammu and Kashmir on 31st October 2019. The act was passed by the Parliament of India on 18th December 2006 and received the assent of the president on 29th December 2006. The act recognizes the Forest Dwelling Scheduled Tribes (FDST) and Other Traditional Forest Dwellers (OTFD) as an important and integral part for the conservation of forests and thereby the goal of forest conservation is best served by letting them stay on their lands and not by evicting them. Under this act, the members of the Scheduled Tribes dwelling forests along with other traditional residents will have the right over forest land. Soon after the implementation of this act in J&K, several reports surfaced in Jammu and Kashmir which clearly showed that the Forest dwellers are not getting their rights properly. The Gujjar and Bakarwal families alleged that they being forcefully evicted from their traditional forest areas and a lot of videos and photos emerged on the social media platforms from the various parts of the UT, which invited the attention of rights activists and intense media scrutiny. Forest Rights act should be properly implemented in Jammu and Kashmir. This act will help in ensuring a dignified life to the tribal population. It is duty of government and Forest department to take all the necessary steps by virtue of which people can enjoy the benefits of this act.

INTRODUCTION

The Forest Rights Act was passed by the Parliament of India on 18th December 2006. This act received the assent of the president on 29th December 2006. The act was meant to correct the historical injustice suffered by forest dwelling communities. It also recognized and protected their rights over the forest land and resources. The act also provided for the constitution of community-based governing bodies



for the protection and management of the forest areas inhabited by these communities. The act at that time remained unextended to the state of J&K, due to the restrictions imposed on parliament's legislative powers in respect to the state under Article-370 and forest dwelling communities of the state couldn't enjoy the rights granted to them under this act, however after the Indian parliament passed the "Jammu and Kashmir Reorganization Act" in August 2019, the Forest Rights Act was extended to the newly created

Union Territory in October-2019, in order to vest these communities with the rights guaranteed by act.

BENEFITS OF FOREST RIGHTS ACT AND ITS IMPLEMENTATION IN JAMMU AND KASHMIR

Jammu and Kashmir is the only region in the north-west India with a considerable share of Scheduled Tribes population. According to the 2011 census STs constituted 11.9% of the total population of the state. These communities (FDST and OTFD) have mostly been described in relationship with the natural

resources like land, forests and water and such long association has resulted in innovative and useful practices related to the use of forest resources in a sustainable manner and the development of the forest areas in which they reside. Historically, the tribal groups of the region enjoyed access to forests with proper registration during the Dogra rule (1846-1947) and families were allotted patches of land for habitation and cultivation, however these rights were slowly eroded as the time went on, due to which these tribes faced many problems over the issue of access and control of forest land. The early evictions of these tribes took place, when pastures like Gulmarg were converted into tourist resorts and with the spread of militancy in the region during the 1990's, these tribes lost access to many forest areas and their traditional routes of movement got closed. As the state enjoyed special status under the Article-370 of the Indian constitution, which stopped the direct application of many central laws on the state including " The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition Act,2006), which recognizes and vests the forest rights and occupation in forest land in forest dwelling STs and other traditional forest dwellers , who have been residing in such forests from generations, but whose rights could not be recorded, the law provided a framework for the recording, recognition and vesting of forest rights. After the abrogation of Article-370 of the Indian constitution on 05th August 2019, the 2006 FRA act was extended to J&K along with the other 106 central laws and came into force in october-2019.

The act recognizes the Forest Dwelling Scheduled Tribes and Other Traditional Forest Dwellers as an important and integral part for the conservation of forests. The goal of forest conservation is best served by letting them stay on their lands and not by evicting them. This act not only recognizes their rights, but also authorizes and empowers them to govern, conserve and manage the forest areas. It also facilitates the political empowerment of these communities by giving them equal stake as a citizen of the country. The act made a clear paradigm shift towards the treatment of these dwellers and provided a much-needed counterweight to state-centric forestry, as it reinstated the rights of forest dwellers in all dimensions of forest governance and sought to strengthen forest conservation. The act envisages the bottom-up approach by vesting critical powers to Gram Sabha and the creation of Forest Rights

committee to assist the sabha in the process of vesting rights, the act also democratized the policy implementation by making the village-level meeting the first point of initiation in the process of claiming of rights and not the bureaucracy. The Gram Sabha under this act is empowered to regulate the access to community forest resources and stop any activity, which adversely affects the wild animals, forests and the Biodiversity. The act requires the states to constitute forest rights committees at four levels such as the village level committee, Sub-Divisional level committee, District-Level committee and State-Level monitoring committee for the proper implementation of the act. The act also provides for various conditions in order to qualify as FDST and OTFD and be eligible for the recognition of rights under the FRA. In this act is clearly mandatory that a FDST applicant must be ST in the area, where the right is claimed and primarily resided in the area prior to 13-Dec-2005 and depend on the forest land for bonafide livelihood needs. In case of OTFD applicant to qualify and to be eligible for the recognition of rights, two conditions need to fulfill.

1. Primarily resided in the forest land for three generations (75 years) prior to 13-12-2005.
2. Depend on forests for bonafide livelihood needs.

PROBLEMS IN IMPLEMENTATION

The implementation of Forest Rights Act 2006 had been a long pending demand of activists in the J&K, particularly from the marginalised Gujjar-Bakarwal community, which comprises a large chunk off the population dependent on the forests, while traditionally these dwellers used the forest resources and lands for generations on quasi-official orders and to a large extent official indifference, at the micro-level forest dwellers have been in friction with and sometimes exploited by the forest officials. While the act officially came into force on oct-2019, But even before the implementation of the act could have taken place, the Forest Department of the region demolished dozens of huts of forest dwellers in the Pahalgam and other places and also razed to ground thousands of apple trees in Budgam area by claiming that they were following the kashmir high court orders of july-2019, which directed the government to remove encroachment of forest land, after these demolitions, the Gujjar and Bakarwal families alleged that they being forcefully evicted from their traditional forest areas and a lot of videos and photos emerged on the social media platforms from the

various parts of the UT, which invited the attention of rights activists and intense media scrutiny. The government subsequently announced in november-2020 that it would implement the law and set the deadline of january-15-2021 for the collecting of applicant's information, with the aim of approving all eligible claims by march-2021. The forest department on the other hand also published a list of about 63,000 people in December-2020, whom it claimed to be living and farming illegally on a total of 15,000 hectares of forest land and served eviction notices to many families, which acts as a direct contravention of the FRA 2006, the act makes it clear, that it overrules every other law that is operational, so the demolitions and evictions are illegal and go

against the spirit of the FRA. The FDST and OTFD of the region, had hoped that implementation of the FRA act will envisage them with the much delayed rights, however the implementation of the act on the ground not only remains slow, but seems to be facing various types of hurdles, due to which the forest dwellers continue to suffer.

CONCLUSION

Forest Rights act should be properly implemented in the UT of Jammu and Kashmir. This act will help in ensuring a dignified life to the tribal population. It is duty of government and Forest department to take all the necessary steps by virtue of which people can enjoy the benefits of this act.