

WITH LAND RIGHTS, BUT NO LAND

Relevant for: Developmental Issues | Topic: Rights & Welfare of STs, SCs, and OBCs - Schemes & their Performance, Mechanisms, Laws Institutions and Bodies

A Bakherwal woman heads out to the meadows of the Kashmir Valley from the plains of Rajouri. File | Photo Credit: [NISSAR AHMAD](#)

Tribal politics in the erstwhile State of Jammu and Kashmir was focused on the twin issues of political reservation and enactment/extension of the [Forest Rights Act \(FRA\) of 2006](#). Mainstream political parties, which are now arguing for these rights for the Adivasis in J&K, failed to provide them these rights when they were in power for years. This failure continues to aggravate the problems of the Adivasis in J&K who were provided reservations in jobs, but no political reservation though this was constitutionally mandated.

It is this lack of political reservation that has been a major reason for their marginalisation. The Adivasis have had to largely depend on non-tribal leadership to represent their issues and demands. Lack of political reservation meant that their issues were never adequately represented in the Legislative Assembly. The vote share of Adivasis is a major deciding factor in almost 21 Assembly constituencies, yet they remain politically marginalised. After the [abrogation of J&K's special status](#), there was no delay in providing political reservation for the Adivasis. Its actual impact will be seen only after elections are conducted for the Legislative Assembly of the Union Territory of J&K. However, similar urgency wasn't shown in the extension of the FRA to J&K after the abrogation of special status though many other Central laws were extended to the Union Territory.

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In fact, the FRA should have been in place in J&K long time ago — nothing in [Article 370](#) prevented the Legislative Assembly from enacting a similar law. Adivasi lands have not been protected, nor have these communities been given ownership rights. Instead, evictions of Adivasis have intensified in the last few years. The FRA would have provided Adivasis in J&K access and ownership rights, forest-based livelihood rights, and minor forest produce rights. Adivasis, especially nomads, have neither land rights nor rehabilitation rights.

The J&K government has now decided to implement the FRA. On November 18, the J&K Chief Secretary reviewed the implementation of the FRA. It has been decided that the survey of claimants by the forest rights committees for assessing the nature and extent of rights being claimed at the village-level would be completed by January 15, 2021. Subsequently, the claims would be scrutinised by the sub-divisional committees, which will then prepare a record of forest rights by or before January 31, 2021. District-Level Committees will give the final approval and grant forest rights by March 1, 2021.

Implementing the FRA is a welcome step. However, instead of alleviating fears of displacement and disempowerment, the law has only increased those fears. This is primarily because this is happening against the backdrop of the J&K government's decision on October 31 to declare the State Land (Vesting of Ownership to the Occupants) Act, 2001, also known as the Roshni Act, null and void. This Act has been controversial due to the questionable transfer of ownership of state land to many influential people, including Ministers, legislators, bureaucrats, and police officers. Some say that it provided ownership rights to many poor, landless Adivasis as well; now the land will be retrieved from them. In such a scenario, the Adivasis will fail to prove their claims of ownership under the FRA. Further, in the last few weeks, the eviction and demolition drives

against nomads have intensified without any rehabilitation plans in place. The FRA, then, is unlikely to benefit such poor, landless Adivasis.

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In the rest of India, the FRA provided and recognised the forest rights of forest dwellers who had occupied forest land before December 13, 2005. No such cut-off date has been mentioned in the case of J&K. Without a cut-off date, with land being retrieved after declaring the Roshni Act null and void, and with forceful evictions taking place, many tribal families are unlikely to benefit from the implementation of the FRA.

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