

IMPLEMENTATION OF FOREST RIGHT ACT IN JAMMU AND KASHMIR AFTERMATH OF ABROGATION OF ART 370

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ABSTRACT

This paper studies the post-2019 application of the Forest Rights Act in Jammu and Kashmir, with a specific emphasis on the Gujjar and Bakerwal communities of Jammu and Kashmir. The study analysis the administrative procedures, institutional mechanism and structural challenges in the recognition and enforcement of forest right act by drawing the source from secondary literature, policy reports and official documents. It contends that legal advancement of forest right act presents a significant development, but its practical application has been inconsistent due to bureaucratic delays, procedural ambiguities and illiteracy of tribals (Gujjar and Bakerwal) of Jammu and Kashmir. The paper highlights the persistent gap between constitutional recognition and the functional recognition of forest rights, offering insights into governance, inclusion, and social justice in post-2019 Jammu and Kashmir.

INTRODUCTION

The reorganization of Jammu and Kashmir in August 2019 and the subsequent abrogation of Article 370 marked a profound transformation in the constitutional, legal, and administrative framework of the region. As a consequence, several central legislations were extended to the newly constituted Union Territory, including the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereafter FRA). The extension of the FRA was projected as a significant step towards addressing the historical injustices faced by forest-dependent tribal communities by formally recognizing their customary rights over forest land and resources (Ministry of Tribal Affairs, 2019).

Among the most affected stakeholders in this transition are the Gujjar and Bakerwal communities, who constitute the largest tribal population in Jammu and Kashmir. These communities are predominantly pastoral and semi-nomadic, with livelihoods intricately linked to forest ecosystems. Traditionally, they have remained dependent on forests for seasonal grazing, cattle rearing, collection of minor forest produce, and temporary habitation during transhumant migration between alpine pastures and lower valleys (Khatana, 1992; Suri & Hooda, 2014). Their economic survival, cultural identity, and social organization are deeply embedded in forest landscapes.

People from Gujjar and Bakerwal communities own a different socio-cultural individuality that has grown in close interaction with nomadic life and forested landscapes of Jammu

and Kashmir. The Bakerwals are mainly pastoralists nomadic, they migrate from lower reaches to higher altitude during summer with their large herds of goats and sheep and follow the alter during the winter. But the people from Gujjar communities are mostly semi-nomadic, follows the practice of buffalo rearing, combining with small-scale agriculture and wage labour in some selected areas. Sources of livelihood for Gujjar and Bakerwal largely depicts the adoptions with the natural variability and climatic circumstances transversely the Himalayan topography. Patterns of migration among this communities are largely supported by a system of temporary settlements, locally knowns as dhoks, which are made up of mud, stone and wood. These structures are constructed along traditional migratory routes and grazing regions. Such a dwelling practice presents a long-standing ritual of coexistence on forests of Jammu and Kashmir rather than a perpetual territorial profession.

Culturally, the communities maintain a simple yet resilient way of life, shaped by environmental constraints and pastoral routines. Traditional attire—such as the pheran, woolen shawls, headgear, and handmade footwear—is well suited to cold climates and long migratory journeys. Clothing and material culture are often produced locally, relying on wool, leather, and other livestock-derived resources. Dietary practices further reflect pastoral dependence, with staple foods including milk, curd, ghee, maize, rice, and seasonal forest produce. Meat consumption, particularly during winter or ceremonial occasions, also forms part of their subsistence practices, reinforcing the centrality of livestock to everyday life.

Social organization within Gujjar and Bakerwal communities is closely linked to kinship networks, clan affiliations, and customary norms that regulate access to grazing lands, migration schedules, and resource sharing. Decision-making processes are traditionally collective, with elders playing a key role in resolving disputes and coordinating seasonal movement. Oral traditions, folklore, and customary laws serve as repositories of social memory, transmitting knowledge related to migration routes, pasture management, weather patterns, and animal health across generations.

Indigenous ecological knowledge constitutes a critical component of pastoral life. Community members possess detailed understanding of pasture regeneration, water sources, medicinal plants, and sustainable grazing practices, acquired through long-term interaction with forest environments. Gender roles within these communities, while shaped by customary norms, are also central to pastoral economies. Women contribute significantly to livestock care, dairy production, food processing, and household management, while also participating in migratory activities, thereby sustaining both economic and cultural continuity. Overall, the socio-cultural practices of Gujjars and Bakerwals demonstrate a dynamic relationship with forests characterized by mobility, adaptability, and ecological stewardship. These attributes challenge sedentary and enclosure-based models of forest governance and underscore the need for policy frameworks—such as the Forest Rights Act—to recognize and accommodate pastoral lifeways as legitimate and sustainable forms of forest use.

Despite this long-standing association with forest landscapes, these communities have historically faced legal invisibility and administrative marginalization. Colonial forest laws and post-independence conservation regimes often categorized their customary practices as encroachments, leading to evictions, restrictions on grazing, and limited access to forest resources. The FRA was enacted to correct these injustices by recognizing individual and community forest rights, including grazing rights, habitation, and rights over minor forest produce. However, in the context of Jammu and Kashmir, the implementation of the FRA after 2019 has been marked by significant challenges.

Emerging evidence indicates that the realization of forest rights in the Union Territory has been uneven and slow, constrained by bureaucratic delays, lack of awareness at the grassroots level, weak institutional coordination, and competing conservation priorities (Mongabay India, 2020; Land Conflict Watch, 2020). The transition from a special constitutional arrangement to a centralized administrative framework has further complicated the operationalization of FRA institutions such as Forest Rights Committees and District Level Committees. As a result, many eligible Gujjar and Bakerwal

households continue to face tenure insecurity, eviction threats, and exclusion from decision-making processes related to forest governance.

While existing scholarship has extensively documented the historical dependence, migration patterns, and ecological knowledge of Gujjar and Bakerwal communities (Sharma, 2009; Ambagudia & Xaxa, 2021), there remains a notable gap in studies focusing on the post-reorganization implementation of the Forest Rights Act in Jammu and Kashmir. In particular, there is limited systematic analysis of how newly restructured institutional and administrative arrangements shape the recognition of forest rights and affect the socio-economic security of these forest-dependent tribes.

This paper seeks to address this gap by critically examining the implementation of the Forest Rights Act in post-2019 Jammu and Kashmir, with specific reference to the Gujjar and Bakerwal communities. It analyzes the institutional challenges, emerging opportunities, and broader implications of FRA implementation for tribal livelihoods, cultural survival, and forest governance in the Union Territory. By situating the discussion within the larger framework of tribal rights and state restructuring, the study contributes to an informed understanding of tribal inclusion, legal reform, and social justice in contemporary Jammu and Kashmir.

RESEARCH QUESTIONS

This study is guided by the following research questions:

1. By what means has the abrogation of Article 370 and the reorganization of Jammu and Kashmir prejudiced the legal and administrative framework for implementing the Forest Rights Act 2006?
2. To what extent has the Forest Right Act been efficiently executed for Gujjar and Bakerwal communities in terms of grazing, forest dwelling, and socio-economic security?
3. What official, technical, and governance challenges deter the recognition of forest rights in post-2019 Jammu and Kashmir?

RESEARCH METHODOLOGY

The present study employs a qualitative and descriptive research design to observe the execution of the Forest Rights Act (FRA) in Jammu and Kashmir resulting the abolition of Article 370, by paying a particular attention to the section of Gujjar and Bakerwal communities. Given the investigative nature of the study and the inadequate accessibility of primary data in the post-reorganization context, the study mainly depends on the secondary sources of data. The finding is based on a systematic appraisal of numerous secondary sources, with governmental information and reports, such as notifications,

circulars, and execution rules given by the Ministry of Tribal Affairs and the Governance of Jammu and Kashmir. Secondary data also include literature from academia, including books, journals and edited works that study nomadic way of life, governance of the forest, tribal rights, and the political economy of forest administration in India.

The study adopts qualitative content analysis to observe legal work, policy outlines, and institutional doing related to FRA implementation. Appropriate credentials were analyzed to recognize designs of managerial delay, institutional vagueness, and governance challenges made difficulties in the recognition of forest rights. Specific consideration was paid to by what means prevailing forest governance structures involve with pastoral movement, usual practices, and community-based use of the resources.

A thematic analysis was used to establish the analysis around key dimensions such as legal transition, institutional devices, pastoral livings, conservation struggles, and post-2019 statecraft. This approach empowered a nuanced understanding of the gap amid formal legal recognition and practical realization of forest rights.

LEGAL TRANSITION AND FRA IMPLEMENTATION POST-2019

The removal of Article 370 on 5 August 2019 and the following reorganization of Jammu and Kashmir into a Union Territory manifest a pivotal shift in the region's constitutional and style of governance. This change taken Jammu and Kashmir entirely under the domain of central legislation, including the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. The formal extension of the FRA was envisioned to bring into line the governance of the forest in the region with the legal standards of the union and to guarantee constitutional recognition of forest rights for Scheduled Tribes and other traditional forest dwellers who had historically been excluded from formal legal protection. (Ministry of Tribal Affairs, 2019).

Within the legal framework, the extension of the FRA marked a significant departure from the earlier forest governance regime in Jammu and Kashmir, which had been primarily ruled by colonial-era forest laws and region-specific administrative mechanism. Building upon the extension of the FRA to UT of Jammu and Kashmir after the constitutional changes of 2019, the UT was fused into India's national framework for the recognition of the forest right. This evolution enabled the formation of a new institutional comprising Forest Rights Committees (FRCs), Sub-Divisional Level Committees (SDLCs), and District Level Committees (DLCs), each allocated explicit tasks for the dispensation, confirmation and endorsement of individual and community forest rights claims.

Through this constitutional procedure, the FRA wanted to establish a more participating and legally liable system of forest governance. In principle, this modification was expected to rise tenure safety, decrease arbitrary expulsions, and deliver legal protections to forest-dependent societies, predominantly pastoral tribes like Gujjars and Bakerwals.

Nevertheless, evolving evidence advocates that the operation of the FRA in post-2019 UT of Jammu and Kashmir has been marked by substantial administrative and institutional trials. Reports designate that entitlement verification procedures have been slow, with delays rising from limited administrative capacity, absence of clarity about jurisdictional roles, and inadequate management amid revenue and forest departments (Mongabay India, 2020). At the village level, awareness about FRA provisions remains uneven, particularly amid nomadic and semi-nomadic inhabitants who face structural obstacles in retrieving information and engaging with formal bureaucratic processes (Land Conflict Watch, 2020).

Official ambiguities have further complexed the execution process. In numerous cases, district and sub-divisional establishments have struggled to reconcile the provisions of FRA with current conservation laws, leading to inconsistent interpretations of eligibility criteria and forest rights. This has been chiefly evident in areas falling under wildlife reserves, eco-sensitive zones, and protected forest categories, where conservation priorities often take precedence over livelihood rights. Subsequently, the legal promise of the FRA has frequently been undermined by implementation practices that continue to view pastoral activities through the lens of infringement and illegality (Ambagudia & Xaxa, 2021).

The post-reorganization period has also highlighted the insufficiency of prevailing administrative outlines in addressing the cyclical mobility and transhumant nature of pastoral communities. While the FRA offers for community forest rights and grazing claims, its application guidelines do not adequately account for migratory routes, provisional settlements, and communal customary landscapes that cut across numerous administrative boundaries. The absence of region-specific operational guiding principle and the partial participation of pastoral representatives in decision-making processes have constrained the actual realization of these rights. This, in turn notwithstanding the formal extension of the FRA, Gujjar and Bakerwal communities remain subject to experience tenancy insecurity and restricted access to forest resources, revealing a persistent gap between legal reform and administrative practice in post-2019 Jammu and Kashmir.

IMPLICATIONS OF FRA IMPLEMENTATION FOR GUJJAR AND BAKERWAL COMMUNITIES

The execution of the Forest Rights Act (FRA) in post-2019 Jammu and Kashmir has been complex, uneven, and often contrary outcomes for Gujjar and Bakerwal communities, whose incomes are inseparably connected to forest-based pastoralism. As pastoral community and semi-nomadic groups, these groups rest on periodic access to forest meadowlands, seasonal migration routes, and traditional pasture use that extend across diverse ecological regions and administrative divisions (Khatana, 1992; Bhasin, 2011). These periodic activities are not just economic strategies nonetheless found a central constituent of Gujjar and Bakerwal cultural identity, social group, and ecological adaptation. All the same the FRA's legal recognition of community forest and grazing rights, its working mechanism have been inadequately allied with cyclic mobility patterns and livelihood plans that portray pastoral communities.

The present works on pastoral governance advocates that forest rule and regulations in India have historically have been formed by sedentary and territorially fixed models of resources use, ensuing in the marginalization of nomadic and semi-nomadic communities (Baviskar, 2005; Agrawal & Ostrom, 2001). This institutional prejudice endures to shape the application of the FRA in Jammu and Kashmir, even of the post 2019 administrative transition. Organizational procedures remaining unable to effectively address and recognize the seasonal settlements in the upper reaches (dhoks), and joint use of migratory resources, which did not adapt to traditional notions of permanent settlement or static territorial limits. Subsequently, Gujjar and Bakerwal families frequently face significant difficulties in filing forest rights claims, producing supporting documents of evidence of customary occupation or usage, and steering bureaucratic processes designed primarily for settled forest dwellers (Wani, 2019).

The insinuations of these bureaucratic constraints extend beyond legal recognition to wider issues of livelihood security and social protection. Without secure legal entitlements to forest land and resources, pastoral families remain defenseless to eviction fears, grazing limitations, penalties, and annoyance by forest authorities. Such uncertainty weakens the livestock-based economies, which is considered as the primary source of revenue and survival for these people. Apart from this, the absence of formal acknowledgement of community forest rights limits access to minor forest produce, seasonal shelters, and common grazing lands, thereby weakening traditional systems of resource sharing and collective governance that have historically sustained pastoral livelihoods.

These difficulties are further increased by the persistence of conservation-centric forest administration practices. A growing body of literature highlights by what means wildlife protection regimes, projects of eco-tourism, and forest

enclosure strategies have increasingly controlled pastoral access to customary grazing lands, frequently without suitable consultation or consent of affected communities (Lele & Menon, 2014; Springate-Baginski et al., 2013). In Jammu and Kashmir, such interferences have excessively affected Gujjar and Bakerwal people, predominantly in and around endangered areas and wildlife reserves. The resulting struggles between pastoralists and the management of forest have strengthened patterns of exclusion from forest governance and have dug out distrust between local groups and state establishments (Government of J&K, 2020).

The inadequate socio-economic influence of the FRA for Gujjar and Bakerwal communities thus replicates a wider disconnection among legal reform and institutional doings. Whereas the post-2019 application of the Act characterizes a vital symbolic acknowledgment of the historic wrong done by forest-dependent tribes, its operation has fallen short of addressing the structural realities of pastoral life. The failure to adequately incorporate pastoral mobility, customary institutions, oral tenure systems, and participatory decision-making has constrained the transformative potential of the FRA in the region. This underscores the urgent need for a differentiated and context-sensitive implementation strategy that recognizes pastoralism as a legitimate, sustainable, and rights-bearing form of forest use within the evolving framework of forest governance in Jammu and Kashmir.

FOREST GOVERNANCE, PASTORALISM AND POST-2019 STATECRAFT

The implementation of Forest Rights Act (FRA) in post-2019 Jammu and Kashmir divulges durable and deeply rooted tension among a right based lawmaking frameworks and central models of forest governance. The FRA, in its regulating design, try to find a democratize management of the forest by giving authority to the institutions of grassroot level and recognizing the participation of the community at central level to sustainable forest use. In contrast, the post 2019 reorganization governance framework in UT of Jammu and Kashmir has largely been characterized by central administrative control, which enhanced bureaucratic control and top-down decision-making processes. This governance approach has constrained the actual working of local institutes, particularly Forest Rights Committees (FRC) and Gram Sabhas, which establish the institutional basis for the recognition and execution of forest rights under the Forest Right Act.

This unifying tendency has substantial implications for pastoral groups whose earning do not conform to territorially fixed or sedentary models of forest use. Pastoralism, mainly in the Himalayan region, is categorized by periodic mobility, common use of the resources, and customary governance

arrangements that operate across multiple ecological zones and administrative boundaries. Conventional forest governance frameworks, however, tend to equate sustainability with fixed land tenure, enclosure, and regulatory control. As a result, pastoral practices are often viewed as administratively inconvenient or ecologically disruptive, rather than as adaptive livelihood strategies embedded in long-term ecological knowledge (Agrawal & Ostrom, 2001; Baviskar, 2005).

In Jammu and Kashmir, the post-2019 implementation of the FRA has struggled to reconcile these divergent governance logics. While the Act formally recognizes community forest rights and grazing rights, the absence of institutional mechanisms capable of accommodating mobility, temporality, and collective customary claims has limited its practical impact. This disjuncture risks reproducing historical patterns of exclusion, wherein pastoral communities remain legally recognized yet institutionally marginalized. The case thus demonstrates how legal recognition without corresponding institutional transformation can reduce rights-based legislation to a largely symbolic exercise.

From a broader political economy perspective, the post-reorganization context has reshaped state-community relations in ways that further complicate forest rights governance. The transition to Union Territory status has narrowed avenues for local political mediation, reduced spaces for negotiation, and heightened the role of bureaucratic authority in decision-making processes. In such a context, forest governance increasingly reflects top-down statecraft, where development, conservation, and security considerations often override participatory and rights-based approaches (Lele & Menon, 2014).

This shift underscores the importance of examining forest rights not merely as statutory entitlements but as outcomes shaped by power relations, institutional hierarchies, and governance structures. The implementation of the FRA in Jammu and Kashmir illustrates that the realization of forest rights depends as much on political and administrative willingness as on legal provisions. For pastoral communities like the Gujjars and Bakerwals, meaningful inclusion requires governance frameworks that recognize mobility, respect customary institutions, and enable genuine participation in forest decision-making processes. Without such reforms, post-2019 forest governance risks entrenching centralized control at the expense of social justice and sustainable pastoral livelihoods.

CONCLUSION

This paper examined the execution of the Forest Rights Act (FRA) in Jammu and Kashmir in the outcome of the removal of Article 370, with specific reference to the Gujjar and Bakerwal communities of the region. The findings of the paper present that the extension of FRA in the Jammu and Kashmir

constitutes an important legal and symbolic shift its practical impact on the ground has remained unsatisfactory. Because of insistent organizational rigidity, conservation-centric forest governance practices, and undue institutional recognition of pastoral practices remain to compel the actual realization of forest rights for transhumant communities of the Jammu and Kashmir.

The conclusions underline a clear disjunction amid formal legal recognition and practical application. While the FRA was intended as a rights-based and participatory framework pointed at rectifying historic prejudices. Post 2019 the operation of FRA has been shaped by the union government that are poorly associated with the socio-ecological realities of pastoral communities of Jammu and Kashmir. Thereby, the nomadic section of Gujjar and Bakerwal communities endure vulnerable to tenure uncertainty, constrained access to grazing lands, and barring from forest governance developments, disdain being legally recognized as legal pretenders according to the Act.

For the FRA to function and work in an effective manner for the protection of the forest dwellers, its (FRA) implementation must be uniform and present a better safeguard for the forest users in principle and in practice. But this required a constructive approach which can give a due recognition to pastoral nomad and acknowledge the pastoralism as a legitimate and sustainable mode of livelihood. The need of the administrative capacity is equally important to improve the coordination among the departments, and to ensure a due consultation with the people who are dependent upon the forest in the decision-making process about forest conservation and other developmental activities.

In a wider context, the experience of FRA execution in Jammu and Kashmir illustrates the significance of viewing forest rights not merely as legal privilege but as results molded by institutional measures, power relations, and state-public communications. Devoid of substantial official reforms that give precedence to participation, flexibility, and social integration, the commitment of the right based forest governance is unlikely to be effectively implemented. Discussion about these difficulties is not essential lonely for preservation of the livelihoods and cultural identity of Gujjar and Bakerwal communities but also for the effective implementation of the forest right act in the region.

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