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IMPACT OF ARTICLE 370 ABROGATION ON THE LIVELIHOODS OF THE BAKARWAL TRIBE: A LEGAL AND SOCIO-ECONOMIC ANALYSIS

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Abstract

The constitutional changes associated with the abrogation of Article 370 in August 2019 and the subsequent reorganisation of the former State of Jammu and Kashmir have altered the legal and institutional environment within which tribal communities pursue their livelihoods. The Bakarwals, a semi-nomadic pastoral Scheduled Tribe, have historically depended upon livestock rearing, seasonal migration, access to pastures and forest resources, and supplementary agricultural and trading activities. Their economic security is therefore closely connected with mobility, access to common and grazing resources, and the continuity of customary practices.

This paper examines the livelihood implications of the post-2019 legal and policy transition for the Bakarwal community. It focuses on land rights and land use, grazing routes and transhumance, pastoral production, access to government programmes, forest rights, market access, and emerging opportunities associated with infrastructure, tourism and economic development. Rather than treating the abrogation of Article 370 as a single and self-executing cause of every socio-economic change, the paper situates the issue within the broader sequence of constitutional, legislative, administrative, development changes that followed 2019.

The analysis indicates that the central concern is not simply formal land ownership, but the continued ability of a mobile pastoral community to access and use the spatially distributed resources on which its livelihood depends. At the same time, the post-2019 framework also creates avenues for greater integration into welfare, education, financial, market and development programmes. The paper therefore argues for a livelihood-sensitive approach that recognises the distinct requirements of a transhumant community while ensuring equitable access to development opportunities, legal protections, public services and institutional participation.

Keywords: Article 370, Bakarwal Tribe, Transhumance, Pastoralism, Land Rights, Forest Rights, Livelihood, Tribal Development, Jammu and Kashmir.

1. Introduction

The constitutional changes of August 2019 represented a major transformation in the legal and administrative framework applicable to Jammu and Kashmir.¹ *The Jammu and Kashmir Reorganisation Act, 2019* reorganised the former State into the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh, while subsequent adaptation measures extended and modified the application of Central and locally applicable laws.² The Supreme Court, in *In Re: Article 370 of the Constitution* (2023), upheld the constitutional validity of the measures relating to Article 370 while also addressing the reorganisation of the territory.³ These developments provide the broader legal setting within which the subsequent socio-economic experiences of tribal communities must be examined.

The Bakarwals occupy a distinctive position within this transition. The Government of Jammu and Kashmir recognises the Bakarwal community as a Scheduled Tribe, and the Tribal Affairs Department describes the tribal population of the Union Territory as living in difficult and geographically dispersed conditions, with livelihoods closely connected to forests, agriculture, wages and traditional resource use. The Bakarwal economy, however, has a particular characteristic: its sustainability depends not merely on possession of a fixed parcel of land, but on continued seasonal access to multiple grazing areas connected through established migration routes.⁴

Before 2019, Jammu and Kashmir operated within a distinct constitutional and statutory framework concerning land, residence and other matters. It is more precise, however, to distinguish between Article 370 as the constitutional provision governing the relationship between the Union and Jammu and Kashmir, and the specific State laws that regulated land ownership, land use and access.⁵ The post-2019 transition therefore requires an examination of

¹ The special constitutional arrangement governing the relationship between Jammu and Kashmir and the Union was substantially altered in 2019, followed by the reorganisation of the erstwhile State into two Union Territories—the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh. The reorganisation was accompanied by significant changes to the existing legal framework, with several laws being adapted, amended, repealed, or replaced, while a number of Central laws were extended to the newly constituted Union Territory of Jammu and Kashmir.

² Government of India. (2019). *The Jammu and Kashmir Reorganisation Act, 2019* (Act No. 34 of 2019).

³ *In Re: Article 370 of the Constitution*, 2023 INSC 1058 (Supreme Court of India, 11 December 2023).

⁴ Tribal Affairs Department, Government of Jammu and Kashmir. (n.d.). *Tribal population of Jammu and Kashmir*, available at: https://tribalaffairs.jk.gov.in/Default.htm?utm_source

⁵ The Jammu and Kashmir Land Revenue Act, 1996; Jammu and Kashmir Big Landed Estates Abolition Act, Samvat 2007; Jammu and Kashmir Agrarian Reforms Act, 1976; and Jammu and Kashmir Alienation of Land

the laws that were amended, repealed, adapted or newly applied, rather than attributing every change in land relations directly to Article 370 itself.⁶

The central research concern of this paper is consequently the interaction between legal transformation and livelihood security. For the Bakarwals, questions of land and economic development are inseparable from mobility, seasonal access to pasture, animal health, market connectivity, public services, documentation and social protection. The paper examines these dimensions with a view to identifying both the vulnerabilities and the potential avenues for inclusive development.

Analytical focus of the paper

- How have post-2019 changes in land and regulatory frameworks affected the Bakarwals' access to grazing areas, common resources and seasonal migration routes?
- How do the changing legal and institutional arrangements interact with pastoral production, livestock trade, supplementary agriculture and market access?
- To what extent can tribal welfare, forest-rights recognition, education, health, infrastructure and livelihood programmes strengthen the community's economic security without undermining its pastoral way of life?

2. Conceptualizing Livelihood Security and Transhumance

A useful way of understanding the Bakarwal experience is through the concept of livelihood security, which refers to the capacity of a household or community to secure and sustain access to productive resources, withstand economic, environmental, and social shocks, and preserve its livelihood, social, and cultural practices over time. For a pastoral community, these resources include animals, pasture, water, mobility, market access, social networks, public services and legal recognition. Consequently, a change in one resource can affect several other components of the livelihood system.⁷

Act, Samvat 1995 collectively constituted the statutory framework governing landholding, agricultural land, land records, common and grazing lands, and the transfer and use of land in Jammu and Kashmir. The livelihoods of the Bakarwal community have historically depended not only on individual land ownership, but also on access to common grazing areas, seasonal pastures, and routes of pastoral mobility.

⁶ J&K Big Landed Estates Abolition Act, Samvat 2007 (1950): **Repealed**; J&K Right of Prior Purchase Act: **Repealed**; J&K Prohibition on Conversion of Land and Alienation of Orchards Act, 1975: **Repealed**; J&K Land Revenue Act, Samvat 1996 (1996): **Amended/adapted** under the 2020 framework; J&K Agrarian Reforms Act, 1976: **Amended/adapted** under the 2020 framework. Likewise, several other land-related enactments were repealed, amended, or adapted under the post-2019 legal framework, thereby reshaping the statutory regime governing landholding, land use, agricultural holdings, common lands, and related land matters in Jammu and Kashmir.

⁷ Abass, Z. (2018). *Socio-economic conditions of Gujjars and Bakarwals of Jammu and Kashmir*. International Conference on Social Science and Humanity. Global Academic Research Institute.

Transhumance is especially important to this analysis. It refers to the regular seasonal movement of livestock and pastoral households between geographically distinct grazing areas. In the Bakarwal context, movement between lower-altitude winter areas and higher-altitude summer pastures is not simply a residential preference; it is an economic strategy that distributes pressure on grazing resources and allows herds to access different ecological zones during different seasons. Mobility therefore functions as a form of productive infrastructure. When routes are blocked, grazing areas become inaccessible, or movement becomes administratively difficult, the economic consequences may extend to herd size, animal health, household income, food security and access to markets.⁸

This conceptualisation also clarifies why formal land title alone cannot fully capture the Bakarwals' relationship with land. A pastoral household may require repeated seasonal use of dispersed resources without holding conventional individual title over each location. The legal question is therefore broader: whether the legal and administrative system recognises and protects the community's legitimate patterns of access, use and mobility while balancing competing land-use priorities such as conservation, infrastructure, private development and public purposes.

3. Impact of Land Reforms and Ownership Laws

The post-2019 land-law transition is central to the livelihood question because the Bakarwals depend on a combination of private, common, grazing and forest-linked resources. The Jammu and Kashmir Reorganisation framework and subsequent adaptation measures changed the legal architecture governing land. Several earlier land enactments were repealed or modified, while the current Jammu and Kashmir Land Revenue Act contains specific provisions concerning common land, agricultural land, grazing land and transfers.⁹

The legal position is more nuanced than the broad proposition that all land in Jammu and Kashmir became freely available for acquisition by outsiders. The current framework includes restrictions on the transfer of agricultural land to non-agriculturists, subject to specified permissions and conditions, and expressly regulates the use and transfer of notified grazing

⁸ Dwivedi, M. D. (2018). *Cultural, Economic and Educational Status of Gujjar and Bakarwal Tribal of Jammu and Kashmir*.

⁹ The Jammu and Kashmir Land Revenue Act, 1996 (amended & adapted) Sec 133, 133-A, 133-BB, 133-H–133-K, contains specific provisions concerning common land, land reserved for public purposes, agricultural land, grazing land and restrictions on the transfer and conversion of land, thereby providing a statutory framework for regulating competing claims over land use.

land.¹⁰ This distinction is important for the Bakarwal analysis because the protection of grazing resources may depend as much on classification, revenue records, administrative enforcement and actual access as on the general law governing land ownership.

3.1 Changes in Land Rights and Land Use

Historically, the Bakarwal relationship with land has been mediated through customary use, pastoral mobility and access to seasonal resources rather than through extensive individually titled agricultural holdings. Changes in land classification, land-use conversion, registration requirements and development planning can therefore affect the community even where no individually owned Bakarwal parcel is directly transferred. The relevant issue is whether routes, pasturelands, water points and common resources remain functionally accessible.¹¹

- **Land classification and revenue records:** When a grazing or common resource is reclassified, converted or omitted from effective community access, the economic value of the resource to pastoral households may decline even without a formal transfer of ownership.
- **Formal documentation and customary use:** Households whose use of land rests on customary or seasonal access may find conventional title-based systems difficult to navigate. This can weaken their ability to demonstrate or secure access to resources and public benefits.
- **Competing land uses:** Urbanisation, tourism, infrastructure, conservation measures and private development may create new demands on land traditionally used in pastoral mobility. The challenge is to reconcile these competing uses without treating pastoral access as economically or socially residual.

3.2 Grazing Routes, Seasonal Migration and Mobility

For the Bakarwals, grazing routes are effectively a connected livelihood network. A route is valuable not only because it provides physical passage but because it links winter pasture, summer pasture, water sources, resting areas, local markets and social relationships. Fragmentation at even one point in the network can increase travel costs, reduce herd

¹⁰ **The Jammu and Kashmir Land Revenue Act, 1996**, Sec 133-BB, 133-H, 133-I and 133-J (as amended and adapted). Sec 133-H deals with restrictions on the transfer of agricultural land to non-agriculturists, subject to specified permissions and conditions, and expressly regulates the use and transfer of notified grazing land. Available at: https://law.jk.gov.in/jklawact/backendportal/uploads/acts/act64_1770488505.pdf

¹¹. *Supra* Note 7.

productivity or force households into less suitable grazing areas.¹²

The risk therefore extends beyond physical exclusion. If fewer grazing areas remain accessible, livestock concentrations may increase in the remaining commons, intensifying pressure on fodder and water. Reduced pasture availability can also encourage smaller herd sizes, alter breeding practices and raise the cost of purchased feed. In economic terms, the impact can move through the production chain: land-access constraints affect livestock inputs; reduced livestock productivity affects sales; lower sales affect household income; and lower income limits expenditure on education, healthcare and other livelihood investments.

3.3 Access to Government Land and Development Programmes

Government land and livelihood programmes have particular relevance for communities whose economic activities do not fit conventional models of settled agriculture. Programmes designed around fixed land parcels, permanent housing or stationary cultivation may not automatically match the needs of a mobile pastoral community. The issue is therefore one of institutional fit: whether programme design recognises seasonal migration, collective resource use and the specific asset base of pastoral households.

The Bakarwal livelihood question should consequently be examined in relation to access to livestock services, veterinary support, fodder, water, credit, insurance, transport, market infrastructure, education and healthcare. A development programme may formally be available to a tribal beneficiary while remaining practically inaccessible because of distance, documentation requirements, seasonal absence, weak connectivity or the absence of service delivery mechanisms along migration routes.

4. Forest Rights and Community Resource Governance

An important dimension that requires greater attention in analysing Bakarwal livelihoods is forest governance. The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 recognises a range of forest rights, and its statutory definition of community forest resource expressly contemplates the seasonal use of landscapes by pastoral communities.¹³ The Act was historically inapplicable to Jammu and Kashmir in its original

¹² Muzamil Rashid, Irfan Ali Banka & Abhik Ghosh, "Ecology and Time-space Dynamics: An Anthropological Study of the Gujjar and Bakarwal Migratory Routes in Jammu and Kashmir," 74(2) Journal of the Anthropological Survey of India 245–275 (2025). Available at: <https://doi.org/10.1177/2277436X251372481>.

¹³ The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, Sec 2(a), 3(1)(d), 3(1)(i), 3(1)(j). **Section 2(a)** defines "*community forest resource*", while the reference to seasonal access by pastoral communities comes more directly from **Section 3(1)(d)**, which recognises the right of access

territorial form, but following the constitutional and legal transition, the Union Territory constituted institutional mechanisms for implementation of the Forest Rights Act in 2020 and 2021.¹⁴

For a pastoral Scheduled Tribe, this framework is significant because forest rights can potentially address a dimension of livelihood security that conventional land-ownership law may not capture: the recognition of lawful access and use in forest landscapes.¹⁵ The analytical question is therefore not whether forest rights automatically resolve the Bakarwals' problems, but whether the implementation of the statutory framework is capable of recognising seasonal, collective and livelihood-oriented relationships with forest resources.

At the institutional level, effective implementation requires accessible claim procedures, accurate mapping, participation of Gram Sabhas and communities where applicable, coordination among revenue, forest and tribal authorities, and awareness among pastoral households.¹⁶ For nomadic and semi-nomadic groups, procedural design is particularly important because a system based entirely on permanent residence or continuous physical presence may create avoidable barriers to rights recognition.

5. Livelihoods and Traditional Economic Practices of the Bakarwal Tribe

Pastoralism and livestock rearing remain central to the Bakarwal economic system. Sheep, goats and cattle provide multiple outputs, including meat, milk, wool and animals for trade. The community's seasonal movement enables households to combine ecological adaptation with herd management. Agriculture and other forms of wage or market activity may operate alongside pastoralism, creating a diversified but interconnected livelihood portfolio.

to grazing and traditional seasonal resource access of nomadic or pastoralist communities. Available at: <https://tribal.nic.in/FRA/data/FRARulesBook.pdf>

¹⁴ The Forest Rights Act, 2006, in its original form expressly excluded the erstwhile State of Jammu and Kashmir from its territorial extent. Following the constitutional and legal changes brought about by the Jammu and Kashmir Reorganisation Act, 2019, the Forest Rights Act became applicable to the Union Territory, and implementation-related institutional and administrative measures were initiated, including training of forest officials of the Union Territory during 2020.

¹⁵ The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, For a pastoral Scheduled Tribe, this framework is significant because forest rights can potentially address a dimension of livelihood security that conventional land-ownership law may not capture: the recognition of lawful access to and use of forest landscapes, including grazing and traditional seasonal resource access

¹⁶ The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006; The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008, rule. 3, 6, 7, 12 (as amended by the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Amendment Rules, 2012).

5.1 Effects on Traditional Pastoralism and Livestock Rearing

Pastoral production depends on the availability and quality of pasture, access to water, animal health services, mobility and predictable movement across seasonal landscapes. Where these conditions are weakened, the economic impact may be reflected in smaller herd sizes, higher input costs, increased livestock mortality or morbidity, lower sale volumes and greater dependence on purchased fodder or wage labour.¹⁷ The impact is therefore cumulative rather than confined to the question of grazing land alone.

At the same time, market integration can create opportunities for better prices, improved livestock breeds, veterinary services, cold-chain or processing infrastructure, and new forms of value addition. The policy challenge is to enable such integration without requiring the abandonment of the pastoral system that generates the underlying productive asset—the herd.¹⁸

5.2 Challenges faced by Bakarwals in Sustaining the Nomadic Lifestyle

The sustainability of Bakarwal transhumance is affected by several interacting factors: changes in land use, restrictions on movement in particular locations, administrative requirements, infrastructure deficits, climatic variability, access to markets and public services, and the gradual expansion of permanent settlements and development projects. These factors should not be treated as isolated problems. A school, health centre or market may be physically available in the Union Territory but still inaccessible to a community that moves seasonally and spends substantial periods away from permanent settlements.¹⁹

Accordingly, the objective of public policy should not be limited to settling mobile communities. A more inclusive approach would recognise mobility itself as a legitimate socio-economic strategy and design services around seasonal movement. Mobile veterinary services, seasonal schooling support, portable documentation, digital access to welfare services, water points, designated transit facilities and improved connectivity could reduce the costs associated with maintaining a pastoral livelihood while allowing voluntary diversification where households choose it.

¹⁷ Ahmed, D. I., & Ahmed, J. (2015). Socio-economic and educational status of tribal (Gujjar and Bakarwal) of Jammu and Kashmir: An overview. Available at SSRN 3139413.

¹⁸ *Supra Note 7*

¹⁹ Dar, H. A., & Wani, Z. A. (2024). Paradox of Tribal Integration Amidst Resistance: A Study of Bakarwals in Jammu and Kashmir. *Sociological Bulletin*, 73(4), 431–442.

6. Changes in Economic Opportunities: Agriculture, Livestock Trade, Markets and Tourism

The economic consequences of the post-abrogation environment are not exclusively restrictive. Greater integration with wider markets, infrastructure expansion and public investment can create opportunities for tribal households. However, the distribution of these opportunities depends on whether Bakarwals can practically access them and whether programme design accommodates pastoral production.

6.1 Livestock Trade and Market Access

Livestock trade has historically formed an important component of Bakarwal livelihood. Seasonal movement can bring households into contact with local markets, but market access is shaped by transport, animal health requirements, information asymmetries, bargaining power and the distance between grazing areas and trading centres. Where mobility is constrained, households may have to sell animals at less advantageous locations or at times determined by logistical necessity rather than market conditions.

There is scope for strengthening the economic position of pastoral producers through producer groups, livestock cooperatives, veterinary outreach, market information systems, insurance, access to institutional credit and better transport linkages. Such measures can increase the value realised from existing pastoral assets without necessarily requiring major changes to the community's livelihood system.

6.2 Agriculture and Livelihood Diversification

Some Bakarwal households engage in limited agriculture or wage labour as supplementary activities. Diversification can strengthen resilience where it complements rather than displaces pastoralism. Policies that assume permanent cultivation as the principal form of rural development may not be well matched to a semi-nomadic community. A more appropriate approach would recognise a mixed livelihood portfolio that can include livestock, small-scale cultivation, wage employment, handicrafts, local trade and other activities depending on seasonal and household circumstances.²⁰

²⁰ Gulzar, D., Shameem, B., Bhat, J. A., & Kaur, R. (2023). Role of policy measures and non-state actors for tribal upliftment in Jammu and Kashmir: A socio-economic perspective. *Journal of Pharmaceutical Negative Results*, 2867–2876.

6.3 Tourism and Development: Opportunity and Distributional Risk

Tourism and infrastructure development may expand employment, market access and connectivity in the region. Yet the economic benefits of such development are not automatic. Where projects occupy or transform spaces used by pastoral communities, the same development process may increase livelihood costs. The relevant policy question is therefore distributional: who gains from new investment, who bears the opportunity cost of changed land use, and whether affected communities participate in planning and benefit-sharing mechanisms.²¹

7. Cross-Cutting Socio-Economic Implications for the Bakarwal Community

The preceding sections indicate that the livelihood effects of legal and policy change operate through several connected channels. For analytical clarity, the principal dimensions may be summarised as follows:

- **Resource security:** The availability of grazing land, water and forest-linked resources directly affects herd productivity and household income.
- **Mobility security:** Seasonal migration requires predictable access to routes, transit spaces and grazing areas; disruption at one stage can affect the entire transhumant cycle.
- **Economic security:** Reduced herd productivity or market access can increase dependence on wage labour and heighten vulnerability to poverty, food insecurity and economic shocks.
- **Service security:** Education, healthcare, veterinary care, banking and welfare benefits need delivery mechanisms suited to mobile populations.
- **Legal and institutional security:** Recognition of rights is meaningful only when affected communities can access procedures, documentation, grievance mechanisms and accountable local institutions.

8. Integrating Tribal Livelihoods with Post-Abrogation Development

The policy issue is not whether the Bakarwal community should remain economically isolated from wider development, but how integration can occur without eroding the productive and cultural foundations of pastoralism. Integration is most sustainable when it expands choices rather than eliminating existing livelihood options.²²

²¹ Dar, H. A., & Wani, Z. A. (2024). Paradox of Tribal Integration Amidst Resistance: A Study of Bakarwals in Jammu and Kashmir. *Sociological Bulletin*, 73(4), 431–442

²² *Supra* Note 20

A livelihood-sensitive development model should recognise that Bakarwal households may value both continuity and change. Some may seek better markets, education, formal employment or improved housing, while continuing pastoral activity. Others may gradually diversify or transition to alternative livelihoods. Public policy should therefore avoid assuming a single pathway for the community and instead support informed and voluntary choice.

Priority areas for policy and legal attention

1. Map and protect important seasonal grazing routes, transit areas and water points through coordinated land-use planning and updated administrative records.
2. Ensure that land-use conversion, development projects and tourism planning identify and assess their effects on pastoral mobility and community resource access.
3. Strengthen implementation of the Forest Rights Act, 2006 and ensure that procedural mechanisms are accessible to pastoral households whose use of forest landscapes is seasonal or collective.²³
4. Design welfare and livelihood programmes around mobility, including portable documentation and service delivery mechanisms for education, healthcare, veterinary care, banking and social protection.
5. Promote livestock value chains, market information, insurance, credit, cooperatives and producer organisations so that market integration strengthens rather than displaces pastoral livelihoods.
6. Institutionalise meaningful participation of Bakarwal representatives in local development and land-use decision-making, particularly where projects affect customary migration corridors or common resources.

9. Conclusion

The post-2019 period has produced significant changes in the constitutional, legal and administrative environment of Jammu and Kashmir, and these changes have implications for the Bakarwal community because its livelihood depends on access to dispersed natural resources and seasonal mobility. The effects should not, however, be understood through a simple binary of gain or loss. The legal transition has simultaneously altered regulatory conditions, created new institutional arrangements and opened possibilities for greater

²³ Government of Jammu and Kashmir, Tribal Affairs Department. Departmental materials on Scheduled Tribes and Gujjar-Bakarwal development programmes.

integration into welfare, infrastructure and market systems.

The principal analytical finding of this paper is that the economic position of the Bakarwals cannot be assessed solely through individual land ownership or formal income indicators. Their livelihood security is tied to the continuity of a wider pastoral system comprising grazing commons, forest-linked resources, migration corridors, water, livestock markets, veterinary services, public infrastructure and social protection. Any disruption within this network can generate consequences across the household economy.

A balanced development framework therefore requires recognition of pastoral mobility as a legitimate economic practice. The objective should be to protect lawful access to essential resources while enabling communities to participate in new economic opportunities. This requires coordination between land administration, forest governance, tribal development, rural infrastructure, livestock services, education, healthcare and local planning institutions. Such an approach can help ensure that economic integration does not come at the cost of livelihood insecurity or the erosion of the social and cultural practices associated with Bakarwal transhumance.

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