



NEW LAND RULES IN IIOJK: PROVERBIAL LAST NAIL IN THE COFFIN

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*(Views expressed in the brief are those of the author, and do
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The Indian Ministry of Home Affairs through an order on October 26, 2020 amended 14 land laws of the Illegally Indian Occupied Jammu and Kashmir (IIOJK) and repealed 11 other laws.¹ This step is considered as the last nail in the coffin of the process which began on August, 5, 2019 in which India snatched away the autonomy of the Indian occupied Jammu and Kashmir by revoking article 370 and 35-A.

IIOJK: Land for Sale

Major amendments have been made in the laws that deal with ownership, purchase and sale of the land in the Indian occupied Valley. These laws include: The J&K Development Act 1970; The J&K Land Revenue Act, 1996; The Agrarian Reforms Act, 1976; and The J&K Land Grants Act, 1960.

It must be noted that the most impactful change that has been made is to the J&K Development Act from which the very concept of “Permanent Resident of the state” has been removed and which has now created the space for non-residents to purchase land anywhere in the Valley.

The new rules also state that the government may, on the written request of an Army officer not below the rank of corps commander, declare an area as “strategic area within a local area”. This land

¹ Hilal Mir, “Kashmir sees strike against controversial new land laws,” *Anadolu News Agency*, October 30, 2020, <https://www.aa.com.tr/en/asia-pacific/kashmir-sees-strike-against-controversial-new-land-laws/2026542>

can be used for direct operational and training requirements of armed forces. According to a clause, "The strategic area will have to be declared and the government may satisfy itself about the reasons cited for declaring the area as a strategic area and will have such area notified accordingly with such conditions as may be required."²

Some of the important acts that the Indian government abolished with regard to land rights include:³

1. The Jammu and Kashmir Alienation of Land Act, 1938.
2. The Jammu and Kashmir Big Landed Estates Abolition Act, 1950.
3. The Jammu and Kashmir Common Lands (Regulation) Act, 1956.
4. The Jammu and Kashmir Consolidation of Holding Act, 1962.
5. The Jammu and Kashmir Land Improvement Schemes Act, 1972.
6. The Jammu and Kashmir Prevention of Fragmentation of Agricultural Holdings Act, 1960.
7. The Jammu and Kashmir Prohibition of Conversion of Land and Alienation of Orchards Act, 1975.
8. The Jammu and Kashmir Tenancy (Stay of Ejectment Proceedings) Act, 1966.
9. The Jammu and Kashmir Tenancy Act, Svt.1980.
10. The Jammu and Kashmir Utilization of Lands Act, Svt. 2010.
11. Jammu and Kashmir Underground Public Utilities Act (IV of 2014).

It is pertinent to note here that the two repealed land laws - The Jammu and Kashmir Alienation of Land Act, 1938 and The Jammu and Kashmir Big Landed Estates Abolition Act, 1950 - are of the great importance as these provided protection to the owner of land under permanent residents certificate holders. Also, Section 4 of the Jammu and Kashmir Alienation of Land Act stated that, "transfer of

² Ananya Bhardwaj, "Anyone in India can now buy land in Jammu and Kashmir," *The Print*, October 27, 2020 <https://theprint.in/india/anyone-in-india-can-now-buy-land-in-jammu-and-kashmir-but-conditions-apply/531828/>

³ Saqib Khan, "How Amended Land Laws Undo Historic Reforms in J&K," *News Click India*, November 2, 2020 <https://www.newsclick.in/how-amended-land-laws-undo-historic-reforms-jammu-kashmir>

land in favour of any person who is not a State Subject, is prohibited.”⁴ In this context, the state subjects were permanent resident certificate holders as defined in the now abrogated Article 35-A of the Constitution. Similarly, cancellation of section 20-A of the Big Landed Estates Abolition Act also nullified the restriction on the transfer of the property to any non-State Subjects (non-residents).⁵

Status of Agricultural Land in IIOJK

The Indian government has also changed the laws regarding the use of agriculture land. Section 133 of the IIOJK Land Revenue Act, 1996 states, “no land used for the agricultural purposes shall be used for any non-agricultural purposes except with the permission of the District Controller.”⁶ Also, sub-section 2 of Section 113-A adds that an owner who wishes to put his agricultural land to any non-agricultural use shall do so but after payment of the conversion charges as prescribed by the Board.”⁷ This clearly shows that either with the payment of conversion fee or with the permission of district controller, agricultural land can be used for non-agricultural purposes. This is an attempt to bring foreign investors in the region to take effective demographic control by all means.

It must be noted that all the laws whether repealed or amended were indirectly linked with sale and purchase of the land. After eliminating protections, the Indian government will push changes that would disrupt IIOJK largely self-sufficient rural economy, laying it open to industrial and commercial forces from outside. Similarly, by the creation of IIOJK Industrial Development Corporation, all powers and legal cover has been provided to business and real estate corporations to capture the areas selected by the government to bring rapid demographic changes in the region.⁸

Reaction by Kashmiris

Reacting to the changes in land laws, the People’s Alliance for the Gupkar Declaration⁹, an amalgam of mainstream parties of IIOJK said, “the fresh laws introduced through amendments are not only against the people of Jammu and Kashmir but undemocratic, unconstitutional and backward-looking

⁴ Shajki Mir, “Modi Govt’s New Land Policy for J&K Overturns 7 Decades of Land Reform,” *The Wire*, 28 October, 2020, <https://thewire.in/government/jammu-and-kashmir-land-policy-reform>

⁵ Ibid.

⁶ Mudasir Ahmad, “Contrary to Government Line, New J&K Land Laws Can Effect Sweeping Changes,” *The Wire*, November 3, 2020, <https://thewire.in/rights/jammu-kashmir-new-land-laws-sweeping-changes-government>

⁷ Ibid.

⁸ “Centre amends law to establish J&K Industrial Development Corporation,” *Business Standard*, 27 October, 2020, https://www.business-standard.com/article/economy-policy/centre-amends-law-to-establish-j-k-industrial-development-corporation-120102701252_1.html



⁹ Anando Bhakto, “People’s Alliance for Gupkar Declaration in Kashmir rattles New Delhi,” *The Hindu*, 20 November, 2020, <https://frontline.thehindu.com/politics/peoples-alliance-for-gupkar-declaration-in-kashmir-rattles-new-delhi/article32989784.ece>

with the only aim to disempower people and change the demography.”¹⁰ The alliance further stressed upon the fact that, “there are no starvation deaths that occur in Jammu and Kashmir, no farmers suicides have been ever reported and everyone in Jammu and Kashmir has available three fundamental necessities — food, clothing, and shelter, the position that is now sought to be reversed by making massive assault on the land law regime.”¹¹





The All Parties Hurriyat Leadership also reacted to the new land laws by issuing a statement “Rather than pursue a peaceful resolution of the Jammu and Kashmir issue involving millions of humans living in the uncertainty of a conflict as per their will and to ensure peace in the region, all attempts are being made to undermine that possibility by the Government of India and instead, a policy of permanent demographic change is aggressively being pushed - to snatch our land, destroy our identity and turn us into a minority in our own land.”¹²

Other prominent leaders also reacted to this important development in their tweets.

← Tweet

 **Omar Abdullah**  @OmarAbdullah · Oct 27 ⋮



Unacceptable amendments to the land ownership laws of J&K. Even the tokenism of domicile has been done away with when purchasing non-agricultural land & transfer of agricultural land has been made easier. J&K is now up for sale & the poorer small land holding owners will suffer.



  2.2K  3K 

← Thread

 **Mehbooba Mufti**  @MehboobaMufti · Oct 27 ⋮

Yet another step that's part of GOI's nefarious designs to disempower & disenfranchise people of J&K. From the unconstitutional scrapping of Article 370 to facilitating loot of our natural resources & finally putting land in J&K up for sale.

 198  155  923 

 **Mehbooba Mufti**  @MehboobaMufti · Oct 27 ⋮

After failing on all fronts to provide roti & rozgar to people, BJP is creating such laws to whet the appetite of a gullible electorate. Such brazen measures reinforces the need of people of all three provinces of J&K to fight unitedly .

 64  48  361 

¹⁰ Naseer Ganai, “Peoples’ Alliance Takes On Govt Defence Of Fresh Land Laws,” *Outlook*, November 03, 2020, <https://www.outlookindia.com/website/story/india-news-peoples-alliance-takes-on-govt-defence-of-fresh-land-laws/363526>

¹¹ Anando Bhakto, op.cit.

¹² “Hurriyat shutdown against new land laws disrupts normal life in Kashmir,” *Deccan Herald*, October 31, 2020, <https://www.deccanherald.com/national/north-and-central/hurriyat-shutdown-against-new-land-laws-disrupts-normal-life-in-kashmir-909508.html>

To conclude, the notification of new land laws is clearly indicative of the trajectory of Indian designs for bringing systematic demographic changes in the region. May analysts argue that the implementation of new land laws may be the conclusive step by India in achieving its objective of demographic flooding in IIOJK.