

### HOMELESS IN HOME – KASHMIRIS IN IIOJK FACE EVICTION

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*(Views expressed in the brief are those of the author, and do  
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The never-ending plight of the people of Indian Illegally Occupied Jammu and Kashmir (IIOJK) has turned the lives of ordinary Kashmiris into a nightmare. Each day, a new misfortune befalls the hapless Kashmiri people. The 5 August 2019 unilateral and illegal steps of the Indian Government were aimed at altering the internationally recognized “disputed” status of IIOJK and changing the demographic structure of the occupied territory. These steps were in clear violation of the relevant United Nations Security Council resolutions on the Jammu and Kashmir dispute and international law, including the 4<sup>th</sup> Geneva Convention.

Following the abrogation of Articles 370 and 35A, a number of laws were introduced that aimed to fulfil the agenda of turning Muslim majority into a minority. On 31 March 2020, through an Executive Order “Jammu and Kashmir Reorganization (adaptation of state laws) Order 2020”<sup>1</sup> enacted new domicile law which envisaged that Indians who have resided in IIOJK for 15 years, students who have spent seven years and appeared for class 10 or 12 examinations, and children of Central government officials who served in IIOJK for 10 years will all be considered permanent resident of IIOJK. Few months down the lane, on 26 October 2020, the BJP Government announced new land laws which removed the condition of domicile or being a permanent subject of the state

<sup>1</sup> MHA orders adaptation of state laws of J-K, jobs to be reserved for “domicile”, “ Business Standard, April 1, 2020, [https://www.business-standard.com/article/news-ani/mha-orders-adaptation-of-state-laws-of-j-k-jobs-to-be-reserved-for-domicile-120040100621\\_1.html](https://www.business-standard.com/article/news-ani/mha-orders-adaptation-of-state-laws-of-j-k-jobs-to-be-reserved-for-domicile-120040100621_1.html)

for purchasing land in IIOJK.<sup>2</sup> A delimitation commission was also formed in March 2020 with the aim to politically dispossess and disenfranchise the Muslim majority of IIOJK.

The latest in the series is the BJP Government's decision to retrieve from people what it calls "encroached" government land. The motive behind this action is to disempower the Kashmiri people economically and grab their land to fulfil its agenda of creating an industrial hub in IIOJK as is indicated by various schemes and policies including the New Central Sector Scheme for Industrial Development of the Union Territory of Jammu & Kashmir, (2022); J&K Industrial Policy 2021-2030 (2021); J&K Private Industrial Estate Development Policy, 2021-2030, (2021) and J&K Industrial Land Allotment Policy 2021-30 (2021)<sup>3</sup>. Additionally, in its report on the current so-called "anti-encroachment" drive, BBC Urdu highlighted the fear of the Kashmiri people that the real purpose of this drive is to undermine the Kashmiris and force their eviction from their own land so that non-Kashmiris could be settled there.<sup>4</sup>

A circular was issued by the authorities on 9 January 2023,<sup>5</sup> directing all deputy commissioners to retrieve 178005.213 acres of land in Kashmir and 25,159.56 acres in Jammu region which they alleged had been "encroached" by individuals and communities.<sup>6</sup> However, contrary to the narrative of the Indian government, the residents of IIOJK have owned this land under various schemes introduced by the previous governments at different times such as the Jammu and Kashmir State Lands (Vesting of Ownership to the Occupants) Act 2001 which is commonly known as Roshni Scheme. The 2001 Act gave non-agricultural land at a nominal price, whereas agricultural land was given for free to people who were cultivating it.<sup>7</sup> As the BJP Government was aiming to change the demography of IIOJK, when the Central rule was imposed in 2018, the then Governor of IIOJK Satya Pal Malik had reversed the ownership rights, and later the Jammu and Kashmir High Court also

<sup>2</sup> "The Hindu explains | Who can buy or sell land in J&K, and what are the other rules governing it?," Hindu, November 1, 2020, <https://www.thehindu.com/news/national/the-hindu-explains-who-can-buy-or-sell-land-in-jk-and-what-are-the-other-rules-governing-it/article61942423.ece>

<sup>3</sup> "Industrial Policy for J&K," Ministry of Home Affairs, Government of India, April 6, 2022, [https://www.pib.gov.in/PressReleasePage.aspx?PRID=1814121#:~:text=The%20Government%20of%20India%20has,\(Upto%20the%20year%202037\).](https://www.pib.gov.in/PressReleasePage.aspx?PRID=1814121#:~:text=The%20Government%20of%20India%20has,(Upto%20the%20year%202037).)

<sup>4</sup> "Sairbeen: What is behind India's demolition drive in Kashmir?," BBC Urdu, YouTube, February 17, 2023, <https://www.youtube.com/watch?v=gZKUexlFaf4>

<sup>5</sup> "Anxiety and Chaos in Kashmir as changed land laws make way for the bulldozer," Milli Gazette, February 15, 2023, <https://www.milligazette.com/news/12-special-reports/34035-anxiety-and-chaos-in-kashmir-as-changed-land-laws-make-way-for-the-bulldozer/>

<sup>6</sup> "The great land-grab – Disempowering people in Indian occupied Jammu and Kashmir," Factsheet, Legal Forum for Kashmir, <https://lfkashmir.com/wp-content/uploads/2023/02/LFK-Factsheet-The-Great-Land-Grab.pdf>

<sup>7</sup> "Anxiety and Chaos in Kashmir as changed land laws make way for the bulldozer," Milli Gazette.

declared the act invalid from the beginning.<sup>8</sup> While a review petition was filed in the High Court in December 2020, but before it could conclude the case and announce its verdict, the bulldozers wreaked havoc across the occupied state.<sup>9</sup>

Like Roshni Scheme, the Big Landed Estates Abolition Act 1950 which was introduced by Sheikh Abdullah abolished landlordism and gave ownership rights to the tiller especially to the people from marginalized segments like Dalits or tribals to put an end to the centuries-old landless peasantry. As a result of this scheme, a total of 4.5 lakh acres of land was recovered of which 2.3 lakh acres were transferred to the tillers in ownership rights, whereas the remaining land was vested in the State. In total, around 70900 peasants that included 25000 lower caste Hindus from Jammu became owners of the land they tilled.<sup>10</sup> Hence, Kashmiris had been living on or cultivating land for decades, and from generation to generation, before they found out that their property has been included in the government's list as "encroached" land.

As bulldozers reached IIOJK, panic and fear gripped the entire occupied territory. Homes are being destroyed without giving people any prior notice. People who possess genuine legal documents are being denied a chance to prove their ownership. The prospect of losing a home or source of income (shops or offices, etc.) has devastated people and, resultantly, widespread protests erupted at various places across IIOJK. Sensing the panic, Lt Governor Manoj Sinha announced that only the rich and powerful will be evicted from the state land and poor people will be spared.<sup>11</sup> But this promise was not honoured and the common people have been at the receiving end.

This situation has obliged opposition leaders to raise their voices. Former Chief Minister and Peoples Democratic Party (PDP) leader Mehbooba Mufti equated this move with what Israel has been doing in occupied Palestinian territory. She said: "Earlier, we used to think that BJP has taken a cue from what Israel was doing in Palestine. But now they have turned it worse than Palestine. They want to make J&K like Afghanistan."<sup>12</sup> She lamented: "Whatever is happening since 2019 is an onslaught on

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<sup>8</sup> Nazir Masoodi, "Blog: Bulldozers, now most feared in Jammu and Kashmir," NDTV, February 17, 2023, <https://www.ndtv.com/blog/bulldozers-now-most-feared-in-jammu-and-kashmir-3792332>

<sup>9</sup> Ibid

<sup>10</sup> Asra Hamdani, "Marginalization of reforms: A historical study of land reforms in Jammu and Kashmir (1931-1988)," *Social scientist*, Vol.44, Nos. 11-12, November – December, 2016, pp. 37-57

<sup>11</sup> "LG assures no harm to common man in ongoing anti-encroachment drive in J-K," *Business Standard*, February 4, 2023, [https://www.business-standard.com/article/current-affairs/lg-assures-no-harm-to-common-man-in-ongoing-anti-encroachment-drive-in-j-k-123020400183\\_1.html](https://www.business-standard.com/article/current-affairs/lg-assures-no-harm-to-common-man-in-ongoing-anti-encroachment-drive-in-j-k-123020400183_1.html)

<sup>12</sup> "Thousands face eviction as bulldozers roll across Jammu and Kashmir," NDTV, February 8, 2023, <https://www.ndtv.com/india-news/thousands-face-eviction-as-bulldozers-roll-across-jammu-and-kashmir-3760282>

our identity, on our economy, on our jobs, on our lands.”<sup>13</sup> Similarly, Jammu & Kashmir National Conference leader and former Chief Minister Omar Abdullah, too, expressed his criticism and viewed the move as the Centre’s effort to reverse the radical “land to the tiller” reform introduced by Sheikh Abdullah that gave ownership rights to landless peasants across Jammu Kashmir in 1950.<sup>14</sup> Rahul Gandhi, leader of the Indian National Congress, also criticised the BJP Government saying that the people of Kashmir wanted employment, business, and love but instead got the BJP’s bulldozer.<sup>15</sup>

There is a widespread belief that bulldozers are being used on communal lines. This fear was expressed by Sajad Lone, President of the People’s Conference when he said that the Union Government was increasing homelessness through bulldozers. He highlighted that “In this drive, 90-95% of encroachers are Muslims.” Lone, who is considered to be close to BJP, also questioned as to “What is the objective of the government? Do they want to retrieve land or humiliate people? I think humiliation is more important for them.”<sup>16</sup> He went on to say that “to show that they (administration) act against everybody, a few people from other communities are also being targeted. But the rest of them are Muslims.”<sup>17</sup>

Similar views were also expressed by Amnesty International. India’s Chair Aakar Patel demanded to halt the drive immediately. He said that the ongoing demolitions appear to be “an extension of brutal human rights violations of the region of Jammu and Kashmir, the only Muslim-majority region of India, has historically witnessed.”<sup>18</sup>

This so-called anti-encroachment drive by the Indian government is also in blatant violation of international laws which prohibit forced eviction of the civilian population. Article 17 of the Universal Declaration of Human Rights clearly states: “Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property.”<sup>19</sup> Similarly, Article 1 of Protocol No. 1 of the European Convention on Human Rights states: “Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his

<sup>13</sup> “Kashmir politicians break silence 6 days after start of eviction drive,” Kashmir Observer, February 6, 2023, <https://kashmirobsrver.net/2023/02/06/kashmir-politicians-break-silence-6-days-after-start-of-eviction-drive/>

<sup>14</sup> “Thousands face eviction as bulldozers roll across Jammu and Kashmir,” NDTV.

<sup>15</sup> “Jammu and Kashmir wanted employment, love but got BJP’s bulldozer,” Outlook, February 12, 2023, <https://www.outlookindia.com/national/jammu-and-kashmir-wanted-employment-love-but-got-bjp-s-bulldozer-rahul-gandhi-news-261533>

<sup>16</sup> “Kashmir politicians break silence 6 days after start of eviction drive,” Kashmir Observe.

<sup>17</sup> “Thousands face eviction as bulldozers roll across Jammu and Kashmir,” NDTV.

<sup>18</sup> “India: JCB bulldozers being used in house demolitions in Kashmir,” Press Release, Amnesty International, February 7, 2023, <https://www.amnesty.org.uk/press-releases/india-jcb-bulldozers-being-used-house-demolitions-kashmir>

<sup>19</sup> “The great land-grab,” Factsheet, Legal Forum for Kashmir.

possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.”<sup>20</sup>

While revoking Articles 370 and 35A, the BJP Government had claimed that this step would help in the “development” of the occupied State. But today, it is evident that the development of IIOJK was never the goal. Similar vows are once again being made as people are being evicted from their homes and their businesses are being demolished. It is clear beyond any doubt that the Indian intentions have always been to turn the only Muslim-majority region under its occupation into a Hindu-majority area by encouraging non-Kashmiri Indians to settle there permanently. As the unemployment rate in IIOJK stands at 14.6 percent,<sup>21</sup> the demolition of houses and especially shops will increase the financial woes of the Kashmiri people manifold. By disempowering the Kashmiri people politically and economically and by attacking their cultural and religious identity, the Indian Government intends to break the spirit of the Kashmiris and their quest for “Azadi” (freedom). It is high time for the Kashmiris to convey their message to the world community that they are united in protecting their unique cultural, political, and religious identity. In this regard, great responsibility lies on the shoulders of Kashmiri diasporas, particularly those living in the US and the United Kingdom. Pakistan, too, must further increase its diplomatic efforts to unmask the real designs of the BJP government and convince the world community to play its due role in facilitating a just and lasting solution to the Jammu and Kashmir dispute according to the wishes of the Kashmiri people and relevant UNSC resolutions.

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<sup>20</sup> Laurent Sermet “The European Convention on Human Rights and Property Rights,” Council of Europe, [https://www.echr.coe.int/LibraryDocs/DG2/HRFILES/DG2-EN-HRFILES-11\(1998\).pdf](https://www.echr.coe.int/LibraryDocs/DG2/HRFILES/DG2-EN-HRFILES-11(1998).pdf)

<sup>21</sup> “Anxiety and Chaos in Kashmir as changed land laws make way for the bulldozer,” Milli Gazette.