

To
Ms. Mehbooba Mufti
Hon'ble Chief Minister
Jammu and Kashmir

4th May 2018

Subject: Petition urging the government to prevent the evictions of the Gujjars and Bakarwals from forest lands and implement the Forest Rights Act in Jammu and Kashmir

Dear Madam,

We are writing to express our deep shock, anger and pain at the sheer brutality manifested in the abduction, repeated rape and murder of an 8 year old Bakarwal girl-child in Rasana village in the Kathua District of the Jammu region of Jammu and Kashmir in January 2018; amidst the continued harassment and eviction of the Gujjar and Bakarwal nomadic pastoralist communities in the state. We have been following with great alarm and trepidation, reports about attacks on the members of the community and their evictions from traditional winter *kothas* in Jammu.

While we appreciate and register our support towards the steps taken by the Government of Jammu and Kashmir to prevent illegal evictions of these communities through issuance of a directive in February 2018, stating that no member of the nomadic communities should be evicted without prior approval of the state's Tribal Welfare Department¹, we register **our firm opposition** to any demand that the order be withdrawn².

As you are aware, nomadic pastoralism as practiced by the Gujjars and Bakarwals has for centuries relied on the prudent and sustainable use of pastures and other grazing resources, including in designated forest lands, as they travel with their livestock to the upper reaches of Kashmir in summers and migrate to the valleys of Jammu in winters. Their contributions to the society and economy notwithstanding, they remain marginalized owing to their invisibility from the mainstream, their atypical lifestyles, and the general apathy of policy makers towards their livelihoods. The pastoral way of life is increasingly under threat from legal, economic, social and political disincentives which are either independently or together responsible for creating barriers to the mobility of pastoralists and their livestock.

The conservation model adopted by the independent Indian state has mirrored the colonial model of viewing all kinds of livestock grazing as being detrimental to the ecological integrity of forest ecosystems, while cordoning off forest land used by pastoralists and terming their traditional

1 <http://indianexpress.com/article/india/jammu-and-kashmir-no-eviction-of-nomads-without-approval-of-tribal-affairs-dept-5090074/>

2 <https://timesofindia.indiatimes.com/india/jk-govt-told-to-withdraw-tribal-directive-ram-madhav/articleshow/63763353.cms>

resource use as ‘encroachment’.³ For the Gujjar and Bakarwal community in Jammu and Kashmir, other developmental demands like infrastructure, industry and energy, including establishment of tourist resorts on traditional grazing lands; and issues associated with climate change⁴ have increasingly made pastoralism a challenging livelihood, fraught with risks for the community⁵. Social insecurity, along with long-standing security issues that have plagued the state have also interfered with the practice of nomadic pastoralism of the Gujjars and Bakarwals⁶, making several thousand acres of grazing resources and routes inaccessible. To make matters worse, landlessness and being viewed as ‘encroachers’ on forest land, is making them more vulnerable to evictions. With rising instances of resource contestations between pastoralists and some resident village communities, the age-old practice of pastoralism has become unsustainable and fraught with risks.

We would like to draw your attention to the atrocities faced by the Gujjars and Bakarwals on account of an order passed by the General Administration Department in 2015⁷ to delineate forest land from other lands to avoid encroachments, which is based on a misguided notion of the Gujjars and Bakarwals being ‘encroachers’ on forest land. The said communities have historically been users of these lands, as had also been recognised by the Jammu and Kashmir Government in 1975⁸. It is unfortunate that owing to the alleged selective implementation of this order, several settlements belonging to them have been destroyed, and entire families displaced, along with their livestock, from traditional migratory routes.⁹ It is shocking that the forest department, police department as well as the Jammu Development Authority have been complicit in these anti-encroachment drives¹⁰. Your government’s order of February 2018 is therefore a welcome step in this regard.

We would also like to apprise you of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, which was passed by the parliament of India in 2006, and its Rules published in January 2008. The Act seeks to undo the historical injustice that forest

3 Gupta, S. (2018). The micropolitics of Forest Use and Control. In. New Spaces for Cooperation and Conflict. In Contesting Conservation: Shahtoosh Trade and Forest Management in Jammu and Kashmir in India. Advances in Asian Human-Environmental Research. Springer International Publishing.

⁴ <http://www.thehindu.com/todays-paper/tp-national/Jammu-and-Kashmir-Gujjars-Bakarwals-advance-seasonal-migration-by-a-month/article16009103.ece>

⁵ <http://indianexpress.com/article/india/the-walk-bakarwal-udhampur-cow-vigilantes-jammu-4654582/>;
<https://thelocalindian.com/story-feed/exclusive/the-fourth-world-of-jammu-and-kashmir-gujjars-and-bakarwals/>;
<https://kashmirreader.com/2017/08/28/250-gujjar-families-evicted-establish-aiims-jammu/>

⁶ <https://scroll.in/article/853144/a-people-without-voice-why-gujjar-muslims-in-jammu-are-feeling-under-siege>;
<http://indianexpress.com/article/india/the-walk-bakarwal-udhampur-cow-vigilantes-jammu-4654582/>

⁷ Order is available at: <http://jkgad.nic.in/common/showOrder.aspx?actCode=O11917>

⁸ An order passed by the J&K government in 1975, allowed Gujjar-Bakarwals to stay on forest land, and use forest produce. See: <http://indianexpress.com/article/india/the-walk-bakarwal-udhampur-cow-vigilantes-jammu-4654582/>

⁹ <http://www.milligazette.com/news/12670-conspiracy-to-uproot-jammu-muslims>; https://thewire.in/204966/madrassa-demolition-jammu-nomadic-communities/?utm_source=alsoread; <http://www.dnaindia.com/locality/srinagar/gujjar-bakarwal-community-threatens-countrywide-stir-against-forced-eviction-61822>; <http://indianexpress.com/article/india/india-news-india/jk-gujjars-agitation-against-anti-encroachment-drive-continues-traffic-hit/>;

¹⁰ <https://scroll.in/article/853144/a-people-without-voice-why-gujjar-muslims-in-jammu-are-feeling-under-siege>;
<https://www.firstpost.com/india/gau-rakshaks-attack-gujjar-family-in-kashmir-outdated-laws-arent-helping-muslims-in-jammu-3402524.html>; <http://indianexpress.com/article/india/the-walk-bakarwal-udhampur-cow-vigilantes-jammu-4654582/>;
<https://scroll.in/article/853144/a-people-without-voice-why-gujjar-muslims-in-jammu-are-feeling-under-siege>

policies have wreaked on tribal, nomadic and other forest dependent communities. The following sections of the Act, among others, have great significance for nomadic communities of Jammu and Kashmir, like the Gujjars and Bakarwals:

- Sec 3(1)(i) vests with communities the right to protect, regenerate, conserve or manage any Community Forest Resource (CFR) which they have been traditionally protecting and conserving for sustainable use, where CFR means ‘...customary common forest land within the traditional or customary boundaries of the village *or seasonal use of landscape in the case of pastoral communities*, including reserve forests, protected forests, and protected areas such as Sanctuaries and National Parks, to which the community had traditional access’ (Sec 2(a)).
- Sec 3(1)(d) also vests ‘other *community rights of use or entitlements* such as fish and other products of water bodies, grazing (both settled and transhumant) and *traditional access of nomadic and pastoral communities*’.

We understand that the implementation of this Act in the state of Jammu and Kashmir has been a long-standing demand of the Gujjar and Bakarwal communities¹¹. We join our voices in solidarity with them in demanding that the Act be extended to the State as is, or with modifications as are deemed necessary by the community within the context of Jammu and Kashmir. We understand that in the case of pastoralism practiced by transhumant communities like the Gujjars and Bakarwals, 'commons', across a wide range/landscape play a very important role. At the same time, securing safe access to the traditional/seasonal migratory routes of the community is also of vital importance if the communities' right to practice its traditional livelihood is to be safeguarded. We urge your government to take up this issue urgently in the upcoming assembly session in the State and create an enabling policy environment for empowerment of Jammu and Kashmir's traditional nomadic communities, who are bearers of traditional knowledge of natural resource management and conservation. Loss of pastoral livelihoods and ways of living will mean a loss of this knowledge, and all its consequences for the society at large.

We also hope that the state government takes urgent steps to dissipate the atmosphere of antagonism and mistrust that has spread among several villages in the Jammu division against the Gujjars and Bakarwals, by taking strict action against vigilante groups trying to divide the valley along communal lines.

Thanking you,

1. Meenal Tatpati and Neema Pathak Broome, Members, Kalpavriksh Environment Action Group, Pune (www.kalpavriksh.org)

¹¹ <http://www.scoopnews.in/det.aspx?q=44392>

2. Soma KP, Independent Researcher
3. Arpitha Kodiveri, Environmental Lawyer and Legal Researcher
4. Praneitha Mudliar, PhD. Postdoctoral Fellow, University of Denver
5. Rashmi Mahajan, PhD Student, (Ashoka Trust for Research in Ecology and the Environment (ATREE), Bengaluru

6. Shubhada Deshmukh, Gadchiroli
7. Shrenik Mutha, Pune
8. Sanjay Barnela, Film-maker
9. Shraddha Mahadik, PhD student, University of Mumbai
10. Jaya Krishnan, GIS professional
11. K Babu Rao, Human Rights Forum, Hyderabad
12. Mona Mishra, Development Sector Consultant, New Delhi
13. Purnima Upadhyay, KHOJ, Melghat, Amravati
14. Dr. Satish Gogulwar, Kurkheda, District Gadchiroli
15. Chitra Ravi, Azim Premji University, Bengaluru
16. Soumitra Ghosh and Swarup Saha, North Eastern Society for the Preservation of Nature and Wildlife (NESPON), Siliguri

17. Lal Singh Bhujel, Uttar Banga Ban Jan Shramajibi Manch
18. Lila Kumar Gurung, Himalayan Forest Villagers' Organisation, Darjeeling
19. Aruna Chandrasekhar, Independent Journalist
20. Dr. Harini Nagendra, Ecologist, Bangalore
21. Suhas Kolhekar, Pune
22. V Arun, The Forest Way
23. Amita Baviskar, Sociologist, Institute of Economic Growth, Delhi
24. Nikita Sonawane, Centre for Social Justice, Ahmedabad
25. Radhika Chitkara, Lawyer and Researcher
26. Varsha Mehta, Independent Researcher/ Consultant, New Delhi
27. Anita Sharma, Sociologist, New Delhi
28. Kavya Chowdhury, Muniguda, Odisha
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31. Sanghamitra Dubey, Researcher, Odisha

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