

# **Real Estate Crimes against Overseas Pakistanis: A Socio-legal Perspective**

## **Executive Summary**

Approximately 9 million Overseas Pakistanis (OPs) around the globe is the 6th largest diaspora in the world who have sent almost \$100 billion remittances to Pakistan in the last three years. They have also invested billions in the real estate sector in Pakistan which has helped to create millions of jobs and supported allied industries. Furthermore, OPs are huge social capital for Pakistan who support their dependents and relatives to excel in their pursuits and to build soft image of Pakistan all over the world.

Despite their invaluable contributions, it is unfortunate that they are often victims of social inequalities, systematic vulnerabilities, and apathetic overlooking at various social and legal fronts. Of such injustice, glaring vulnerabilities in real estate sectors seem unending and their hard-earned homes and real estates are not safe for peculiar socio-legal factors. For decades, they have been considered an easy target of real estate crimes by land mafias, friends, neighbors, and even blood relatives. Moreover, socioeconomic status and certain contextual realities of some victims like being women and minorities cause them even more stark vulnerabilities. It seems the perpetrators and criminal justice system have hand in glove to deprive the OPs of their properties.

## **Genesis of Socio-legal Vulnerabilities**

The quantum of this issue can be gauged from the fact that only Overseas Pakistanis Commission (OPC) recovered immovable properties worth Rs.10 billion in 2020, not to mention recoveries of other departments like Police, FIA, ACE, NAB, and Courts. There is a myriad of social factors which exacerbate the vulnerabilities of OPs, including but not limited to absence of owner, familial misuse of trust, lack of exposure, neighborhood effect, and land mafia. But the epicenter of this menace is weak and ambiguous legal web. However, these social factors and credulity provide catalyst and yardstick to opportunists to access that how easy or dangerous it could be to grab the property of a particular OP. Every REC has its peculiar legal aspects however followings are the most glaring and pernicious legal factors which are causing to lose the legal battles of OPs.

## **Ambiguous Land Administration System**

Pakistan has several but recondite Land Administration Systems (LAS) to administer real estate properties. However, these systems often do not provide exclusive land titles and security of possession to the owners. This elusiveness and ambiguity in land titles and obscure possession engender room for culprits to commit REC against OPs. Specifically, in LAS under Board of Revenue (BOR), aspect of Joint holding is the greatest snag to establish title and possession security. The situation in other LAS is also not different wherein the entries and record are not safe and prone to alter or destroy at the whims and caprices of officials.

## **Laws with Overlapping Administrative Functions**

Since real estates in Pakistan are managed by many LASs which include BOR (computerized and manual record), excise department, cooperative housing societies, private housing societies, DHA, and development authorities, therefore, it is very often that the administrative functions are overlapping which create ambiguity that which forum the OPs should approach in case of any transgression against their properties. Since the administrative check is the first step to counter the RECs, the uncertainty and malleability of such forums let the perpetrator make a REC worst enough to comprehend by administrators and courts let alone by a common OP.

## Ineffective Accountability

Truly, there is an extensive list of forums where an aggrieved OP can file his/her complaint. Governments of Pakistan and Punjab have their dedicated and independent institutions by the name of Overseas Pakistanis Commission (OPC) and Overseas Pakistanis Foundations (OPF) to resolve real estate issues of OPs besides other legal problems. In addition, the OPs can also file their complaints before Prime Minister Complaint Cell, Chief Minister Complaint Cell, Police, Anti-Corruption Establishment, National Accountability Bureau, Ombudsman, High Court Complaint Cell, and the Supreme Court of Pakistan. Apparently, it seems the culprits cannot get scot-free. But paradoxically the situation in reality is quite opposite. Despite all this exhaustive list of forums, their effectiveness is yet to be realized for many legal reasons. Every forum has its certain procedural and legal issues due to which the accountability process remains ineffective, and the complaints kept pending for indefinite period.

## Overburdened and Impressionable Judicial Systems

After experiencing all legal forums, the victims' last resort is judicial system, where cases are infamously kept pending for generations. However, the judicial pundits claim that this bleak situation and decades long pendency of cases is due to insecure and incorrect record, intricate and intertwined complex legal issues, and nexus of state officials with the culprits. However, besides such claims of legal gurus, it is also an open secret that the court premises are fiefdom of land mafia and lawyer bodies. Moreover, besides these external social issues with judicial systems, there are also many inherent procedural and substantial legal inconsistencies and loopholes which provide room the culprits to manipulate the judicial systems.

## Policy Recommendations/Suggestions

It is quite complex issue which entails many socio-legal contexts, and therefore much is warranted to amend in both sociolegal settings. However, the following are direly needed in legal contexts:

1. Precautions are panacea of all evils. Therefore, some well-organized and emphatic social awareness campaigns should be executed at mass level.
2. Joint- holding based LAS by BOR should be eliminated by just partition of the holdings.
3. Urban areas are yet to be computerized which are still prone to exploitation by officials.
4. Record of cooperative authorities and development authorities should also be saved digitally.
5. Moreover, every LAS should have such systems which preclude an official to change land titles arbitrarily.
6. A strict internal accountability in LAS.
7. The OPC and OPF should be empowered to address real estate issues and implement their decisions by the respective LAS.
8. Judicial system warrants categorical procedural and substantive laws so that the judicial officer would be able repel delaying tactics by any mafia.