

**Changing Dimensions of Law & Justice:  
A Socio-Legal Study of the Marginalized Population Group of J&K**

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**Abstract**

The parliamentary democratic structure of India signifies a system of rules where each and every citizen of the country has equal rights and opportunities in social, political, economic and other areas of life. In a democratic set up anywhere across the world, principles of equality and justice get primordial importance. India is no exception to it as the Constitution of India, in its preamble, expressly provides a guiding light to attain liberty, equality and fraternity as principle of life. While talking about political rights and opportunities in India, there has hardly been any debate or discussion over a marginalized population group of J&K that has been categorized as a class called West Pak Refugees. Though they are very much the citizens of India, they are referred to as refugees by authorities, both, at State as well as Central level. West Pak Refugees are people who currently reside in some districts of the Jammu region, namely, Samba, Kathua and Jammu city. Their population is around two lacs with the majority of them belonging to other backward classes and scheduled caste communities. Shockingly, these West Pak Refugees have never been given the most fundamental right, i.e., the right to vote in legislative elections, panchayat elections, municipal council elections and other local elections. Against the spirit of democracy, these people have not been given the right to represent their own people in local elections of the districts they live in. Also, on account of non-conferment of Permanent Residence Status, three generations of the West Pak Refugees have been continually denied basic and fundamental civil rights and the current generation is still fighting and litigating in the Supreme Court of India to defend their rights. This paper is an attempt to highlight the plight of a marginalized population group in light of changing dimensions of law and justice particularly post 5<sup>th</sup> August, 2019 wherein the erstwhile State of J&K has been bifurcated into U.T of J&K and U.T of Ladakh. Article 35A has been repealed and the PRC condition has been replaced by newly issued domicile rights. Further, other aspects relating to the lives of West Pak Refugees like legal status and disabilities, economic status and opportunities, political initiatives, committees and recommendations have also been touched upon.

## **I. Introduction**

The Constitution of India protects the rights of all citizens of India. Thus, even if a single individual is deprived of his fundamental rights or any such right he possesses as a human, a big question mark arises upon the democracy of India. The Constituent Assembly members have drafted the Constitution of India very consciously with a cherished goal of setting up a democratic republic where institutions are informed about socio-economic and political justice. But this goal couldn't take shape in Jammu & Kashmir where thousands of citizens of India belonging to a particular marginalized community (called West Pak Refugees) have been denied equal opportunities and justice.

It would not be an exaggeration if one says that the problem which West Pakistan Refugees have been through is one of its kind and has no parallel in the world because values of democracy and fundamentals of the Constitution stop at the gate of the locality where these unfortunate people are forced to survive on a bare minimum. Generation after generation of West Pak Refugees has been consumed in their fight for justice.

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## II. BACKGROUND:

West Pakistan Refugees are those persons who migrated to India in 1947 from western Pakistan during the partition period and settled in different districts of Jammu region as, for them, this was the nearest place where they could take a safe refuge. They settled in districts like Samba, Rajouri, Jammu and Kathua of Jammu & Kashmir State (now a Union Territory) where their total population is around three lacs, today.<sup>2</sup> When the WPR came to Jammu & Kashmir, they were not given or allotted any land by the J&K Government. Later, the land on which they had initially settled upon (approx. 46,466 kanals)<sup>3</sup> was allowed to be retained by WPR, with a condition that the title of the land wouldn't be conferred upon them, because of not having a permanent resident certificate issued by the J&K Government.

In 1954, the erstwhile State government of J&K passed an executive order through its cabinet, whereby land up to twelve-acres of un-irrigated or eight-acres of irrigated was allowed to be retained by the West Pak Refugees. As a result, 46,466 kanals of State/Evacuee property land stands retained by these refugees under Cabinet Order no. 578-C of 1954.

West Pak Refugees are a big section of the population of Jammu & Kashmir who are struggling with the systematic anomalies in J&K for the past seven decades. Actually, this class of people is reeling under miseries cause not by their own fault, but by administrative and bureaucratic hurdles, constitutional conundrums and political apathy.

Nobody wishes to remain a refugee for a lifetime, but unfortunately, the erstwhile State government of Jammu Kashmir had stamped the words, "West Pakistan Refugees," on the fate of these people by their refusal to assimilate West Pak Refugees into the mainstream.

In spite of being a citizen of India, these people have been deprived of their basic rights of living and employment. They have been denied political participation in J&K. Such pitiful conditions were created by the erstwhile J&K State which resulted in these people struggling till date for a mere existence. Problems of these West Pak Refugees and their deplorable conditions are not clearly visible to other people of India, as any discussion about Jammu Kashmir instantly brings a picture of terrorism to one's mind which ends up concealing the reality. Thus, to gain access so as to identify this community and their problems which have continuing for three generations, a deep insight into the socio-economic fabric of this community is required.

## III. SOCIO-ECONOMIC CONDITIONS:

These West Pak Refugees primarily consist of Hindus and Sikhs. They, mostly, belong to scheduled castes and backward classes with around 80% of West Pak Refugees belonging to schedule caste<sup>4</sup> and 10% to other backward classes. About 10% of them are from the general category. Going through abject poverty, these people are still forced to live in mud houses and temporary makeshift structures. Even basic amenities like drinking water and sewer-line system

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<sup>2</sup> Desai R., *Slave People of a Free Country*, 7 (2010).

<sup>3</sup> Government Order No. Rev/Rehab/151 of 2007 (India).

<sup>4</sup> R. Chowdhary, *Border and People – An Interface* 98 (Centre for Dialogue and Reconciliation, 2012).

are scarcely available. It is pertinent to note that these are the conditions after seventy years of independence of India.

From a socio-economic point of view, this marginalized class, today, stands on the lowest rung of society's ladder. Youth in this community, by and large, belong to the labour class; they earn their living by doing domestic labour work and other petty jobs such as a helper in automobile garages, medical and departmental store.

Some among them engaged in farming, construction work of houses, road construction projects and only a handful of them have a regular income source by virtue of being retired army soldiers eligible for pension.

#### **IV. ISSUES OF PRC**

The biggest grievance of the West Pak Refugee community is the non-issuance of the permanent resident certificate to them. The erstwhile State of Jammu Kashmir, by not granting permanent residence status, deprived them of several rights and privileges<sup>5</sup>, like the right to acquire property in J&K, right of their children to get admission in professional colleges, right to employment in government services and many other aids offered by J&K Government.

The erstwhile State of Jammu Kashmir differentiated among the permanent residents of the State (now U.T) and the non-permanent residents of J&K by issuing permanent resident certificates only to permanent residents of the State.

#### **V. CAUSE OF ALL PROBLEMS:**

When West Pak Refugees entered into the erstwhile J&K State, there was no Article 370 in existence.<sup>6</sup> Later on, it was this article using which a new article, i.e., Article 35A was inserted into the Indian Constitution in a surreptitious manner.<sup>7</sup> This newly inserted article gave arbitrary powers to erstwhile J&K State to define permanent residents of J&K. The State Constituent Assembly inserted Section 6 in the Jammu & Kashmir Constitution. Here, the West Pak Refugees were deceived because when they entered J&K, a provision under the 1927 notification enabled non-state subjects to acquire State Subject, however, section 6 of the JK Constitution stripped them of this right in 1957 because of its retrospective application.

To understand the existing problems of these West Pak Refugees, we need to look into the brief legal history of the erstwhile J&K State.

In the year 1954, a Constitutional Order<sup>8</sup> was issued by the President of India for the erstwhile State of Jammu Kashmir, under clause (1) (d) of Article 370 of Constitution of India. The clause

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<sup>5</sup> Sant Kumar Sharma, *Article 370: Deceit and Fraudulent Communication 100* (Makhanlal Chaturvedi National University of Journalism and Communication, 2016).

<sup>6</sup> INDIA CONST. draft art 306A.

<sup>7</sup> "This article was never placed before the Parliament of India, nor was there any debate before its insertion in the Constitution of India. It was directly added to the Constitution by the President of India in the year 1954 through an executive fiat."

<sup>8</sup> The Constitution (Application to Jammu and Kashmir) Order, 1954, C.O 48 (Appendix-1).

(now amended) said that the President can apply the provisions of the Constitution of India in relation to Jammu Kashmir with such exceptions and modifications as he may specify.<sup>9</sup>

Using this power, the President of India issued an Order and inserted a new article in the Constitution of India as applicable to erstwhile State of Jammu Kashmir in the year 1954. This article<sup>10</sup> gave the Government of Jammu & Kashmir, allegedly, arbitrary powers to define the Permanent Residents of the erstwhile J&K State. The Government of Jammu & Kashmir was given powers to provide exclusive privileges to the Permanent Residents of the erstwhile State or impose some restrictions relating to matter as given under:

- Employment under the Government of Jammu Kashmir
- Acquisition of immovable property
- Settlement in the State
- Right to scholarship and such other forms of aid as the State Government may provide.

Shockingly, this article provided that the J&K Government could make laws to provide privileges to a defined class of residents of Jammu & Kashmir to the extent that it could violate fundamental rights of the citizens of India and that law shall not be void only on the ground that such law was incongruous with any rights guaranteed to the citizens of India under Part 3 of the Constitution of India.

Article 35A provided that no State law whether it existed prior to 1954 or enacted later by the legislature of the State of Jammu Kashmir,

“shall be void on the ground that it is inconsistent with or takes away or abridges any rights conferred on the other citizens of India by any provision of this part.”

The term permanent resident was further explained by the Constitution of Jammu Kashmir in Section 6-10 under part III. The definition of permanent residents in Section 6 was incorporated by the Constituent Assembly of the erstwhile State of Jammu Kashmir, which drafted the Constitution of J&K.<sup>11</sup>

So the question arises, whether this definition of Permanent Resident which came into effect after the adoption of J&K's Constitution in 1957 could be applied to the residents of Jammu & Kashmir, retrospectively? As of 1957, thousands of West Pak Refugees were living in JK; they sought refuge in the region in the wake of the Partition and were living in J&K for about 10 years. Is this arbitrary exclusion of West Pak Refugee from the definition of Permanent Resident by the erstwhile State of J&K justifiable?

## **VI. LEGAL STATUS AND DISABILITIES:**

The Erstwhile J&K State, under the Constitution of Jammu Kashmir, was directed to secure the men and women in the State the right to work, i.e., guaranteed work, and to make payment for the labour according to the amount of work undertaken, subject to minimum wages.<sup>12</sup>

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<sup>9</sup> INDIA CONST. art. 370.

<sup>10</sup> Id., at art. 35A.

<sup>11</sup> J & K CONST.

<sup>12</sup> J & K CONST. s. 19.

Apart from this, the erstwhile J&K State was also mandated to ensure that children of teenage and women were not spoiling their lives by engaging in jobs that affect their health adversely. But unfortunately, the erstwhile State was not duty-bound to provide such work, care or safety to the West Pak Refugees, as section 19 applied to Permanent Residents of the State only and West Pak Refugees were not covered under it. There were several other benefits like social insurance, medical aid, hospitals, etc., which the State was expected to provide its residents at the State's own expense, but the West Pak Refugees could never claim their stake for any of such aid offered by State.

The right to free and compulsory education under Section 20 of the Jammu & Kashmir Constitution mandates the state to secure free education up to the university standard. This was also available only to Permanent Residents of the erstwhile J&K State, which excluded West Pak Refugees.

### **(a) Employment**

West Pak Refugees are facing the heat from both sides, as on the one hand, the erstwhile State was not duty-bound to even endeavour to provide them with work or job opportunities; on the other hand, the West Pak Refugees and their children could not apply for government jobs in J&K, as these were exclusively reserved for permanent resident certificate holders. Jammu and Kashmir State Civil service regulations prevent a non-permanent resident to apply for any civil service post under the State Government<sup>13</sup>. In effect, a West Pak Refugee is eligible to become a secretary of the Union of India by qualifying the U.P.S.C examinations, but are not allowed to even sit for J&K Public Service Commission exams. Not surprisingly, a West Pak Refugee cannot even apply for the post of a clerk in the State. Hence, effectively, an Indian citizen who can reach the level of a top administrative service post in the Government of India is prevented from applying for a class IV government service post in the State of Jammu Kashmir.

### **(b) Education**

West Pak Refugees, until recently, were not allowed to get admission for professional and technical courses in Jammu & Kashmir. Many courses like M.B.A, MBBS, B-Tech (Engineering) or Polytechnology required the candidate to have a Permanent Resident Certificate before applying for it. In this regard, rules have been framed by Government of India under Section 16 of Jammu & Kashmir Board of Professional Entrance Examination Act, 2002, where under exists the BOPEE (Board of Professional Entrance Examination) which, under the Jammu Kashmir Board of Professional Entrance Examination Rules<sup>14</sup>, makes it mandatory to produce the Permanent Resident Certificate while applying for such professional courses. Thus, wards of West Pak Refugees have always been prevented from getting admission into such professional and technical courses which were offered by erstwhile State Colleges and institutions.

### **(c) Ownership of Property**

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<sup>13</sup> The Jammu & Kashmir Civil Services Rules, Rule 17(a).

<sup>14</sup> Jammu Kashmir Board of Professional Entrance Examination Rules, No. 4.

The Government of Jammu & Kashmir under Jammu & Kashmir Alienation of Land Act, 1995 has barred the purchase of property in the State by any person who is not conferred with Permanent Residence Status. Thus, under the statute, only a Permanent Resident of the State was entitled to purchase immovable property. Thus, West Pakistan Refugees were prohibited from owning any property in the State where they were born and brought up for seven decades. Also, a Bar was imposed on the sale or allotment of apartments to West Pak Refugees under Section 4 of Jammu & Kashmir Apartment Ownership Act, 1989. Such sale or allotment was allowed only to those persons who happened to be permanent residents of J&K.

#### **(d) Scholarships**

The wards of West Pak Refugees who excel in their studies never received treatment equal to other students of Jammu Kashmir. The erstwhile J&K State offered scholarships (apart from benefits and incentives bestowed upon girl children) to students who attained a certain level of merit in their academics and belonged to the lower economic strata of the society. However, children of West Pak Refugees couldn't get the advantage of such scholarships offered by J&K government as these benefits were reserved for permanent residents only.

All over India, the focus was on Skill India Programs and therefore, along the same lines, the UDAAN Scheme sponsored by Central Government was established in the U.T of J&K. This scheme seeks to enhance the skill of the youth and improve employability level so as to meet the demands of the industry. But unfortunately, this scheme also requires a permanent resident certificate to be eligible to apply under this scheme, thereby, excluding the West Pak Refugees from its ambit.

#### **(e) Prohibition for Trade & Business**

To obtain a license under the Drugs and Cosmetics Act, 1940, for the purpose of opening a Chemist or Pharmacy Store in Jammu & Kashmir, a permanent resident certificate was necessary to apply for a license (after 5<sup>th</sup> August 2019, PRC is no longer mandatory).

Those who wish to work for the J&K Government under a contract could not do so until and unless he or she carried a valid permanent resident certificate so as to get a contract for public works from the Government. Furthermore, it was necessary for the applicant to be registered as a contractor under the Jammu & Kashmir Registration of Contractors Act, 1956, as under Section 3 of the Act, it was mandatory for the contractor to be registered with the concerned authority. The rules which were framed under the Statute made it compulsory for the applicant for registration to be a permanent resident of J&K.

#### **(f) Professional Services:**

Not only were the doors to trading and business opportunities closed for West Pak Refugees, but they also could not dream of becoming a professional and render services thereafter for public interest. Many a time, these people were not in a position to hire highly paid legal professionals to espouse their cause before the judiciary and get some relief. So, these West Pak Refugees could not even dream of seeing their children as Advocates and Doctors since doors to their prosperity had been closed from every side. For example, even to enrol in the Jammu & Kashmir State Bar Council for practising as a lawyer, one was required to submit Permanent Resident Certificate

details while filling up the form for registration. Thus, to become a Professional in J&K, one was required to be a permanent resident of that region.

## VII. Political Initiatives

After running from pillar to post, these West Pak Refugees reached the doors of Mr Lal Krishna Advani (the then Home Minister of India) and gave him a brief insight of their plight to illustrate their state of helplessness and other grievances.<sup>15</sup>

Acting upon their complaint in the year 2001, Mr Advani wrote to Dr Farooq Abdullah, the then Chief Minister of erstwhile Jammu & Kashmir State, on the issues of West Pak Refugees and the problems they suffered from. He explicitly requested the C.M. of erstwhile Jammu & Kashmir State to grant permanent resident certificates to the West Pak Refugees by making the required amendments in the J&K Constitution. He also reminded Dr Abdullah of a previous letter that Mr Advani had himself sent to him four years back on the same issue, in which he had stated that the West Pak Refugees settled in Jammu & Kashmir are very much the citizens of India as recognized by the Indian Constitution and they have genuine grievances and hardships in matters of education and employment, which should be resolved at the earliest. He said,

“A sense of total helplessness seems to have gripped this community and they’re unable to see a future for their present and coming generations. I would, therefore, request you to consider the problems of West Pakistani Refugees in the State of J&K, sympathetically, and take necessary steps to grant State Subject Status to them to end their disenfranchisement as well as their disability as regards entry into institutions of higher education and State Government services”.<sup>16</sup>

In the year 2005, again, the then Home Minister of India, Mr Shivraj Patil, asked the erstwhile State Government of Jammu & Kashmir to give sympathetic consideration to the request of West Pak Refugees without any further delay. He stated that these people of Jammu Kashmir are suffering for the last 56 years. He also requested the erstwhile J&K State to consider the making of a law under section 8 of Jammu & Kashmir Constitution, so that permanent residence status could be granted to them.<sup>17</sup>

A large number of letters were exchanged between the Central and the J&K government through which one thing emerged that, apparently, the Union of India, through its representatives, had clearly expressed its views to the erstwhile J&K State that the Jammu & Kashmir Government should amend its Constitution so as to include West Pakistan Refugees in the definition of permanent resident under section 6 of J&K Constitution. It was the lack of permanent residence status to these people which was the root cause of all disabilities. However, the J&K Government has not shown any inclination towards declaring these displaced persons as State Subjects.

This marginalized class is a victim of a lack of political will and an indifferent attitude of the J&K Government. For decades, these people have only been getting lip service from the J&K authorities. Each time a West Pak Refugee approaches the authorities, the only answer they receive in return is that “we are looking into your matter”, “Your matter is under consideration” or, “We are trying to find a solution”. Through four generations of this community, there have been, typically, three to four responses that have permanently stuck to their fate.

A sense of kinship needs to be instilled in the West Pak Refugees by granting them permanent resident certificate (now replaced by domicile certificate) to ensure that their belief on fundamental

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<sup>15</sup> Letter from Mr L.K Advani to Dr Farooq Abdullah, Ref. no. D.O No. 15030/18/2001 – K.H (1).

<sup>16</sup> Id.

<sup>17</sup> Letter from Mr. Shivraj Patil to Mufti Mohammed Sayeed (Jan. 8, 2005).

rights and rule of law remain intact.

### VIII. Supreme Court Observations:

The Honourable Supreme Court in Bachan Lal Kalgotra's case observed that the West Pak Refugees are not permanent residents of Jammu & Kashmir as defined in section 6 of the Constitution of erstwhile Jammu & Kashmir State and, therefore, cannot register in the electoral roll of J&K under section 12(b) of Jammu & Kashmir Representation of People Act. They are not qualified to become a member of a village panchayat as provided under section 8(a) of Village Panchayat Act. No land can be transferred in favour of these West Pak Refugees because of section 4 of the Land Alienation Act, 1995. Rule 17(a) of Jammu & Kashmir Civil Services, Classification of Control and Appeal Rules prohibits them from applying for any service under the J&K Government by direct recruitment process.

*“In the circumstances, in view of the peculiar constitutional position prevailing in the State of Jammu & Kashmir, we do not see what possible relief we can give to the petitioner and those situated like him.”<sup>18</sup>*

The Apex Court further said in its judgment that, though these West Pak Refugees are very much the citizens of India and are entitled to enjoy the various fundamental right provided in Part III of the Indian Constitution, they are not entitled to the many of rights available in Jammu & Kashmir, where they've been living for nearly forty years.

### IX. Committees And Suggestions

#### (a) Wadhwa Committee<sup>19</sup>

For a long time, the West Pak Refugees in Jammu & Kashmir have been knocking on doors of the J&K government machinery by approaching political representatives and executive officers of the erstwhile J&K State for the redressal of their grievances and issues. After 57 years, a committee was formed under the chairmanship of Shri G.D Wadhwa (IAS, Financial Commissioner (Revenue)) in 2007 for the displaced persons of 1947, 1965 and 1971 as well as West Pak Refugees. The purpose of setting up this committee was to, firstly, prepare a separate list for the displaced persons of 1947, 1965, 1971 and the West Pak Refugees; secondly, for the identification of grievances of displaced persons; thirdly, to know the steps and measures taken by the J&K government to solve the problems of displaced persons and; fourthly, to provide suggestions for redressal of long pending problems of displaced persons.

Following are some issues on which committee gave its suggestions and recommendations:

- **Citizenship Rights:** The committee said that West Pak Refugees are very much the citizens of India, but their demand for Permanent Resident Certificate requires amendment of the State Constitution. Thus, it is for the State Government to take a decision.
- **Specific Funds for Basic Civic Amenities:** It was observed by the committee that this demand is genuine and deserves sympathetic consideration.
- **Reserved Category Benefits:** The committee observed that most of the West Pak Refugees belong to the scheduled caste category, thus, the State Government may issue a separate

<sup>18</sup> *Bachan Lal Kalgotra v. State Of Jammu & Kashmir*, 1987 AIR 1169 (India).

<sup>19</sup> Wadhwa, *supra*.



circular for granting reserved category certificates.

- Special Package & Application of Centrally Sponsored Scheme: The committee said that this is a justified demand and the State Government may consider it.
- Custodian Land and Prohibition on House Repairing: The committee observed that the Evacuee Property department should consider and allow West Pak Refugees to repair their houses as per the rules of the department.
- Extending Benefits of IAY/BPL: The committee said that the matter would be taken up by the division.
- Issuance of Domicile Certificate: Deputy Commissioners will be directed to issue the certificates after fulfilling procedural formalities.
- Special Package on analogy of POJK Displaced: The committee recommended that PRO (Jammu) shall formulate a package for West Pak Refugees and take the matter up with the Central Government through the administrative department.

**(b) Parliament Standing Committee<sup>20</sup>:**

In the year 2014, seven years had passed after the Wadhwa Committee had submitted its report to the Government of Jammu Kashmir. However, the J&K Government didn't implement the recommendations efficaciously. The Wadhwa Committee observed that demands of West Pak Refugees are genuine, justified and need sympathetic consideration. On being asked by the Central Government through Ministry of Home affairs about the steps taken to implement the Wadhwa Committee report, the representative of the J&K government had a clear reply on the non-implementation of the report: "This is an issue within the domain of the State Legislature".

The Department-Related Parliament Standing Committee on Home Affairs presented a report on the displaced persons of 1947, 1965, 1971 and the West Pak Refugees to the Rajya Sabha on 22<sup>nd</sup> December 2014. In its report, the committee took a considered view and recommended a list of measures that are to be taken by the J&K government as well as the Central Government. Following are some of the suggestions of the committee:

- Grant Permanent Residence Status to West Pak Refugees so that they can live in the State in a dignified manner.
- Without further delay, State government should honour the verdict of the Apex Court of India and issue the requisite executive orders, so that West Pak Refugees can become eligible to take admissions in professional colleges under State. Process of issuing of Caste certificates are also to be expedited.
- Reservation must be granted in higher educational institutions for wards of West Pak Refugees. Relaxation in minimum eligibility criteria may also be considered.
- Central Government should explore the mechanism to open schools for children of West Pak Refugees.
- Early finalization of a one-time financial package of Rs. 30 Lacs, without any delay.
- Create separate battalions for State police and paramilitary forces from the youths of West Pak Refugees.

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<sup>20</sup> Government of India, Report No. 183, *Problems being faced by Refugees and Displaced Persons in J&K Department- Related Parliamentary Standing Committee on Home Affairs* (Rajya Sabha, 2014).

- If required, amend the State Constitution for reservation of seats in Legislative Assembly and Legislative Council.

#### **X. Latest Developments:**

Acknowledging the dismal state of affairs of this marginalized community of West Pak Refugees, Ministry of Home Affairs, (Department of Jammu, Kashmir and Ladakh Affairs) has recently issued an order, i.e., The Jammu and Kashmir Reorganization (Adaptation of State Laws) Order, 2020, wherein an exclusive clause<sup>21</sup> for the issuance of “Domicile” has been provided. As per Order 2020<sup>22</sup>, category of persons explicated in Jammu and Kashmir Civil Services (Decentralization and Recruitment) Act, 2010, are eligible today to claim domicile of UT of J&K.<sup>23</sup> West Pak Refugees being inhabitants of J&K since 1947 are, thus, eligible to claim domicile of UT of J&K through which they will be able to apply for certain government jobs and other services which denied to them for seventy long years. Hopefully, this move of the Central Government will bring some prosperity in the lives of this marginalized population group of Jammu & Kashmir.

#### **XI. Conclusion:**

A group of people who were forced to leave their homes during the partition of 1947 from the west Punjab region took refuge in Jammu and settled therein while their counterparts settled in the rest of India. This group of people, later, came to be known as West Pak Refugees and the erstwhile State of J&K never gave them the rights due to them, rather this group was discriminated and denied the PRC status and domicile rights by successive governments of J&K by using the shield of Article 35A. These WPR were denied political representation in J&K, right to education, permanent settlement in J&K and many other basic rights. Generations after generation of this community struggled hard to earn a livelihood in the absence of education and any government support for seven decades. The central government led some initiatives to ameliorate their situation after the apex court’s order but no solution was finalized due to the erstwhile J&K State government’s apathetic attitude towards this weaker group.

On 5<sup>th</sup> August 2019, the President of India issued a Constitutional Order which repealed all the previous Constitutional Orders applicable to J&K and thereby, repealed Article 35A of the constitution. With this, the marginalized section of West Pak Refugees heaved a huge sigh of relief as the community had lived in mud houses for seventy years and continuously struggled against the discriminatory legal regime of J&K.

The sufferings of West Pak Refugee community seem to have come to an end with the changed regime of law in U.T of J&K post the amendment of article 370 in the year 2019. Now, a new domicile policy is in place which enables the people belonging to the WPR community to apply for domicile in J&K by virtue of being settled there since the 1950s. The WPR can acquire property rights in U.T of J&K and are also eligible to apply for jobs or any aid offered by the Government of J&K. With this, it can be said that WPR, being a marginalized population group of J&K are still far from the actual justice due to them but a step has been taken by government authorities in the

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<sup>21</sup>The Jammu and Kashmir Civil Services (Decentralization and Recruitment) Act, 2010, s. 3A.

<sup>22</sup> MHA Order S.O 1229 (E) (Mar. 31, 2020).

<sup>23</sup> Notification S.O No. 166, GAD, Govt. of J & K (May 18, 2020).

right direction to bring this weaker section into the mainstream.