

## WEST PAKISTANI REFUGEES: A MARGINALIZED COMMUNITY IN A COMMUNITY: AN ANALYSIS WITH HUMAN RIGHTS PERSPECTIVE

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### ABSTRACT

*Marginalization both as an educational subject furthermore as a difficulty for research studies involves an interdisciplinary and multidisciplinary approach and after all it's the convergence of several disciplines around this common concern that has brought attention to the topic. Now the emerging field of marginalization became a preserve not only of students of international relations but equally shared by sociologists, anthropologists, economists, historians and strategic thinkers also. We've enough literature on refugees and their marginalization in South-Asia generally and India particularly but the West-Pakistan refugees are neglected in the area of study. So it's very significant to spotlight the grievances of this deprived community. These displaced and marginalized people require immediate attention of the civil society through the researchers for providing a viable platform for representation of their long pending and unheard demands. There are number of studies associated with marginalization and its impact which are conducted by various scholars. This community has experienced styles of deprivation, denial, subordination and exclusion in the society. Their issues are unique and these need a through proving. The central objectives of the study have enlisted the turning events of West Pak refugees in which their historicity of displacement and arrival in Jammu and Kashmir are examined. This forced displacement has infested them with multiple marginalities and so various facets of marginalization are checked out and so as to interrupt the barriers of marginalization the role of civil society and political parties needs to be defined in the study.*

**Keywords:** *Marginalization, Inequality, Community, Deprivation, Deliberately, Consequences, Discipline.*

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### Introduction

The conversation that follows range extensively across questions of equality, justice, and wish in the global economic science has to describe. Inevitably, each are read in isolation, still as a part of the narrative that unfolds from the start to the tip. However these conversations are read, all encourage the reader to ask important questions of the link between global institutions, marginalization, and development, and therefore the manner in which we seek to attenuate the growing inequalities in and across the social world. Marginalization becomes more and more problematic, the more you speak about it without acting upon it, against it. From Social Justice at a personal level, to law, every part must contribute against marginalization, for it occurs at every level, deliberately, by choice, or without choice. The results of Marginalization are immense. Those that are marginalized generally suffer from a crisis of identity and this perhaps ends up in an increase in social militancy/ delinquency (in terms of castes, religions, ethnic and linguistic groups, people tormented by Medical problems (AIDS, etc) those of other sexual orientation (homosexuals); while women and also the physically handicapped, or mentally challenged, are simply smothered and subdued into the acceptance (without choice) of whatever is obtainable to them, and/or whatever views and beliefs are forced upon them. Though variety of studies are conducted on refugees in India, virtually there's no study on this category of refugees who could also be termed as partly stateless community. West Pak refugees face even worse situation after they are denied of their basic rights in J&K. By labelling them as refugee or 'Pakistani' in other words is undermining their strengths and therefore the positive roles they play in their own particularly it's detrimental to young people's well-being thus rendering them more prone to danger.

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### Why Pakistani Refugees Came to India

These refugees comprised of Hindu and Sikh families came from Sialkot, Gujarat, Gujranwala and Rawalpindi districts of the erstwhile Punjab province of India. These people chose to migrate to the state of Jammu and Kashmir in 1947 mostly due to their geographical and cultural proximity to Jammu and for having no contact or information to travel elsewhere. These refugees who were from the poor and illiterate background of the society couldn't foresee the ill consequences of their decision at that time. For them Jammu & Kashmir was politically no different from other states like Punjab, Rajasthan, Gujarat Delhi etc. They were unaware of the concept of state subjects as prevalent in Jammu and Kashmir. Infact, their choice of latest homeland led to an unending trail of complications and hardships. Significantly, against this displaced people from Pakistan Occupied Kashmir (POK) of 1947, 1965 and 1971 were attended seriously by the state by allotting the agricultural land for cultivation by the then government for his or her resettlement of the people that left for Pakistan. However, such facilities weren't extended to the West Pakistani refugee. Apparently a distinction was made between the refugee of Kashmir and Pakistan origin independent of their religious background.

### Marginalization of West Pak Refugees

West Pak refugees are the 'nowhere people' of Jammu and Kashmir. Their past was dark and future is insecure. State doesn't give them 'Permanent Resident Certificate' because they're not born residents of the state. The quantity of those refugees has increased manifold to 19960 families from 5,764 families (as per Wadhwa Committee report) and around 80,000 to 100,000 lakh souls. Since their migration they're living in a much marginalized state of affairs. First Partition, then migration and furthermore non-integration with society of J&K has affected their livelihood which involve human rights abuses, maltreatment, denial of statehood and raises questions of significant importance like their social identity, political rights and economic rights. Though they're Indian citizens and residing in the state for over seventy years but they cannot buy and own properties in the state. They can vote for Lok Sabha elections but the identical right isn't available for assembly being non-state subjects. They even cannot vote or contest Panchayati and Vidhan Parishad elections. Their children cannot get admissions in the professional and technical colleges of the state and when it involves government jobs, the youths from the community don't seem to be entitled to get jobs in the state government departments being outsiders and at the national level they suffer due to non availability of 'Identity certificate or domicile certificate' (Wadhwa Committee report, 2007). Though 80 percent of those refugees belong to scheduled castes as per their social interaction and traditional occupation in the local caste hierarchy but the advantages like reservations (as admissible to other dalits of India) in jobs, admissions in professional colleges, scholarships to their wards of being members of those reserved castes aren't available to them. The story of denial and cruelty given to those displaced people wouldn't end here rather intra-community basis, the West Pakistani Refugees who visited other parts of the country in 1947 were allotted land, extended various other benefits but this section is yet to induce their rights, it's further added that though the state has not recognized these Hindu families as state subjects but also no proper initiative or drive for his or her enumeration has ever been attempted in the state during the past seven decades. Therefore the difficulty of their rehabilitation and state citizenship has become the main challenge for the state authorities. Everywhere in the world refugees as a community experienced the matter of social, economic and political uncertainties, economic deprivations, cultural neglect and political apathy in their own place of origin i.e. native place they're described as unwanted. In the new place also they suffer from cultural contrast, conflict and alienation. In the due process the quantum of alienhood get mitigated with the support of state, civil society and therefore the neighborhood. However, the West Pakistani Refugees in Jammu and Kashmir have remained a particular community who are yet to be integrated with the most stream of society J&K specifically and of India generally. Nevertheless, over the decades they need been surviving by undertaking kinds of subsistence economic activities. They're also in the process of articulating their issues through civil society engagement, now in the broad developmental dynamics of the society they need been the arousal of recent aspiration of their life, livelihood and identity.

### Economic Profile of West Pak Refugees

Displaced persons of West Pakistani are poorest among different sections residing in J&K due to exclusion from participation in main economic activities and are forced to interact in menial works for subsequent life.

- **Occupational and Income Profile:** Work has in fact taken a large array of institutional forms across different cultures and historical periods, starting from forced or unfree labor. It saves us from the dullness and tedium of life. It puts our energies to a correct use. Unused energies create

disorders in us. They create us physically unhealthy and mentally unhappy. The occupational status of the respondents during which it indicates that no respondent among the West Pakistan refugees is in authorities job, they're not landlord but are labour lords and also no way regarding any profession or business. Singharoy (2010) ideas are relevant here to grasp marginalization from economic point of view, he points out that economic marginalization denies an outsized section of the society to possess equal access by economic non-integration or non-participation. It can be analysed from the above discussion that their lower economic status or low income level results in poor quality of life, their day today life is incredibly hard due to lack of any stable source of income. Unemployment or underemployment have greater impact on consumption patterns, this ends up in economic disintegration which have great impact on the opposite facets of their life like no or poor education facilities, least social mobility and poor health standards. This non-participation and non-integration hinders the affected from full participation in economic activities which keeps them dominated in the society and pushes to the margins of the society aloof from higher cognitive process process, pecking order and sharing of economic profits. Income level plays important role to grasp the day today life type of WPRs as an example occupation and income of family. Income is one in all the important factors which not only decides the access of WPRs to basic amenities of life but also decides their future prospects. From the study it will be analysed that WPRs reside in extreme poverty which engenders dimensional economic marginalization.

- **Land Issues:** Being non-permanent residents, the West Pakistan refugees cannot acquire or own any land in the State, all land-related legislations enacted by the State of J&K vest the land rights only in the permanent residents of the State. Even the laws pertaining specifically to displaced persons also make the identical provision. The west Pakistan refugees have completely been excluded from the purview of such laws subjecting them to an absence of ownership of land. When the West Pakistan refugees came to India in 1947, they occupied land available in keeping with their means of livelihood. The land was either the State land (owned by the State) or the evacuee land vacated by Muslims who fled to Pakistan in 1947. Though West Pakistani refugees cannot purchase land in the State, yet it's not only the little portion of land that produces them feel insecure, but also their relationship with the government officials. The displaced persons from POK granted lands, ownership rights but West Pakistan refugees were discriminated on similar issues. The vicious circle of marginalization continuing from landless to landlord and from landlord to again landless because of various reasons shows how the method of marginalization is reproduced in their life in one form or the opposite over the span of those 70 odd years.
- **Political Dimension:** West Pakistani refugees face exclusion in the state of Jammu and Kashmir due to statelessness. People of J&K are conferred with double citizenship rights by the Constitution of India. West Pak refugees who spent over seven decades are still fighting for his or her basic political rights. These legal disabilities make them marginalized among others who enjoy special rights. This refrain these refugees from political participation. Statelessness makes them non-permanent residents and it ends up in difficulty to induce registered as voter for Assembly and Panchayat elections. In order that they don't seem to be registered voters of the state. This bars them from participation in political activities like affiliation to some organization, campaigning for the party or altogether contesting for a party. As they're Indians so that they are eligible voters for parliamentary elections.

### **Refugees – The Legal Side**

There is no specific legislation enacted by India to cater to refugees. The question arises whether India should give due relation to the principle of non-refoulement. It's well established in India that such principles of customary law as are in conflict with the statutes can't be enforced by the courts. Courts in India have accepted and applied the doctrine of incorporation consistent with which customary rules are to be considered a part of the law of the land and enforced per se, with the qualification that they're incorporated only thus far as isn't inconsistent with Acts of Parliament. Just in case of conflict, the Municipal Law must prevail. In the light of this interpretation, absolutely the power to deport foreigners conferred on the government under the Foreigners Act, 1946, cannot be restricted by the principles of customary law of country. The interpretation goes well with the international obligations haunted by India by ratifying the 2 Covenants of 1966 and therefore the Convention on the Rights of the kid. As per the Supreme Court of India, even a foreigner or alien possesses rights in India. Thus the

liberty of movement and also the freedom to reside and settle in any a part of the territory of India guaranteed under Article 19 (1) (d) and (e) aren't available to foreigners or aliens, including refugees. A refugee in India is thus entitled to the protection available under Article 21 of the Constitution of India. To afford effective protection to refugees, the 1951 Convention and its 1967 Protocol must be legal sanction by enacting domestic laws which may be enforced in the Indian courts. This principle of interpretation is applied by the courts to enforce international obligations of the State for the protection of the fundamental human rights of the individuals. However, to avoid uncertainty, a national legal framework to implement the international Convention is required to be founded. Articles 14, 21 and 25 guarantee the proper to Equality, Right to Life or Personal Liberty and Freedom of faith to everyone. Variety of executive orders passed under the Foreigners Act, 1946, which have also contributed towards the upholding of human rights of the refugees in India. Under the Indian Constitution, all human rights jurisprudence has now developed under Article 21 of the Constitution. Thus all human rights of people including the refugees will be taken care of and enforced through Article 21. The refugees in India have all the rights available to aliens under the Constitution of India, that is, the proper to Equality, Right to Life or Personal Liberty and Freedom of faith under Articles 14, 21 and 25 respectively. These rights are often enforced in the Supreme Court under Article 32 and in the judiciary under Article 226 of the Constitution. However, the political rights to vote and elect representatives are restricted only to citizens.

### Conclusion

Refugees of West Pakistani are surrounded by plethora of marginalities except for integration they're infested with 'multiple ghost of tension' in their life. Firstly, the stress of securing subsistence in the absence of fixed and sturdy source of income. They're unemployed, underemployed, low paid and haven't any livelihood security. So tension of a way to ensure subsistence and in these limited resources a way to provide good education to their wards, make availability of food and shelter and other basic facilities like potable, electricity and hygienic atmosphere in the absence of governmental help. Secondly, they need tension about whether or not they should become a part of collective mobilization or not. These tensions or questions remain unanswered and prove as 'trap' for them because on the one side they require to induce mobilized to return out of relational-cumulative marginalization with relation to locals, other migrants in the state also as in India, and sometimes on intra-community basis also like in the case of village which pushes them and on the opposite their subsistence needs pull them back from participating in protest. India is thought for its multicity, tolerance, peace, accommodation, unity and variety and state of Jammu and Kashmir is its best example where multiple languages are spoken, multiple religions are practiced, multiple cultures are cultivated in the multiple regions then why such treatment is given to the present small section of Indians. The plan of WPRs integration must be formulated with immediate effect by discouraging the Political weapon of segregation in the state.

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