

## A Study of Problems faced by West Pakistan Refugees in Jammu & Kashmir State, India

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**Abstract:** Every year in the world, millions of people get uprooted from their respective homelands to escape persecution, war, human rights violation, political upheaval etc. It is because of the wars and political conflicts that millions of people get uprooted from their own homeland and have to live a life of exile. In this way, it is the conflicts and the violence which become the fundamental reasons for the refugee problem. (UNHCR). When the conflicts or civil wars rise in a particular place a huge population have to get displaced and get uprooted from their homeland. The government adopts some ways for their political opponents like harassments, human rights violation; ethnic cleansing is done in the wake of domestic politics, which in turn also effects a huge population of the area who are the left with no choice except running away from their homeland. Some governments create such situations for their own benefits. (Idean Salehyan) The overall refugee problem is a complicated matter in itself and so are its causes and consequences. When we look at the refugee problem keenly it is always an individual who is a victim and who faces the consequences in one way or the other. On the practical grounds, it can be said that refugee problem is a humanitarian problem, ethical and developmental problem which the mankind is facing. (Hakovirta, 1988). The present study focuses on the problems of the West Pakistan refugees, they have been facing since their migration. These people migrated to the J&K State from West Pakistan in 1947 due to the Partition of India. These refugees in Jammu and Kashmir State have been struggling for their basic rights and identity.

**Keywords:** human rights violation, homelands, refugee problem.

### INTRODUCTION

The term refugee apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or whole of his/her country of origin or nationality is compelled to leave his/her place of habitual residence in order to seek refuge in another place outside his/her country of origin or nationality (UNHCR). Across the world, there are huge numbers of people becoming refugees at an alarming rate. These people are forced to flee their homeland to escape persecution, war or severe human rights violation. Refugees are one of the most vulnerable sections of the society. The refugee situation makes refugees face very bitter experiences, especially destruction of their homes, properties, death of their dear ones and separations, physical and sexual assaults, mental traumas [1]. In the year 2012, a visible increment of refugees was seen and the conflicts going on in different places like Democratic Republic of the Congo, Mali, Syria and Sudan has a visible and big contribution in the outflow of the refugee population. The living conditions of the majority refugees are mostly difficult especially it is

hectic during conflicted situations and when the hopes of betterment are less. After the brutal civil war in Syria, it led to a huge number of people become refugees in 2013. The continuous persecution and the insecurity in the countries which originate refugees have become a matter of concern. Many refugees want to return to their homeland but the matter of ongoing conflict, insecurity, fear of discrimination becomes a matter of their being continuing to be a refugee. Such refugees lack the basic amenities of life like food, shelter, drinking water and have very little access to education, healthcare, and livelihood. The refugees are vulnerable to harassments, violence and are being exploited via human trafficking [2]. When people run away from their homeland to save their lives, they do this at their own risk. In such situations where conflict, the civil war of such type is going on the rule of law is mostly a failure. The violence in such conditions make them movement of a large number of people very dangerous, during the movement anything can happen with them, so a continuous multidimensional risk remains. During such conditions, the refugees have to choose dangerous and hectic terrains. This is the time

when, refugees have also to face cheatings, where some dishonest people take advantage of their agony. They take money from refugees for safe transporting them from one place to another, but such people only take their money and don't help them. Sometimes refugees are being beaten, raped or even killed. It is during flights that the many people get separated from their family, relatives and friends, which is the reason of psychological trauma and also increases their vulnerability. (A Field Guide for NGOs).

The refugees have to the trauma of killings of their dear ones. It is because of such harsh situations to save their lives are mostly unable to take even their belongings to the new place they seek refuge. In such conditions, they are a burden for the countries they seek refuge especially for the local people with whom they have to share the resources. Some countries welcome the coming of refugees whereas many countries restrict the entry of refugees and in case if refugees arrive in such countries they have to face maltreatment which leads to a threat to their safety [3]. Now-a-days due to conflict violence is used for ethnic cleansing. Violence is intentionally used in different ways on some specific groups of people which also includes the sexual and gender-based violence. In present times, the when there is a war it kills less people as compared to the past conflict, but many civilians come to the threshold of being at risk, especially when their state cannot assure them the security and citizens have to face the loss of livelihood, lack of their fundamental needs and rights etc. Such reason then adds up to insecurity and leading to displacement. Such conflict affects everyone especially the women, children, older people. Extended conflicts lead to everlasting displacement and people live in the very bad conditions and have to depend on support [4].

### **West Pakistan refugees**

The partition of India made millions of people to get uprooted from their homelands. This is the darkest part of the history which witnessed a huge bloodshed and violence. It was the Plan of Mountbatten of Two Nation Theory that British India got divided into two nations on communal lines. This division was not limited to the division of land only, but it divided people, emotions, relations etc. Communal enmity was rampant which killed millions of people from both the sides. Due to partition millions of Hindus and Sikhs have to migrate to India and the same way millions of Muslims migrated to Pakistan. The Hindus and Sikhs who migrate to India settled in different part especially Punjab, Rajasthan and Gujarat. A chunk of the population also migrated to the Jammu and Kashmir State. The West Pakistan refugees in Jammu and Kashmir State are the sufferers of the Partition holocaust in 1947. These refugees got settled in different parts of India especially Jammu in three

districts namely Jammu, Kathua and Samba [5]. Most of the refugees in Jammu region migrated from two districts of West Pakistan Sialkot and Gurdaspur. The West Pakistan refugees came to Jammu due to various reasons. The Jammu was the nearest area across the line of control/partition from Sialkot. Besides this many of them arrived with the perception that the J&K State was ruled by a Hindu King and they can be safe. At the same time, many of them arrived in Jammu due to the confusing circumstances. The refugees who arrived in Punjab and Jammu had most of the similarities with the host population especially in terms of language, religious and cultural. As per the official data, 47,215 people comprising of 5,764 families migrated to Jammu especially from Sialkot district and the maximum population is from the scheduled caste. The initial group of refugees arrived in Jammu in April 1947, after the riots in March 1947 in Punjab, Rawalpindi, Attack, Murree, Bannu and Hazara. This migration touched the pinnacles in late 1947 [6]. In Jammu region these refugees are facing many problems and are denied of the basic right. In this regard, these people have been struggling for their right and identity for the last 70 years. As per the 1947 West Pakistani Refugees Action Committee (WPRAC), an organization of these refugees which is struggling for the rights of West Pakistan refugees revealed the data that there are total 18,428 families as identified in the year 2012. As per WPRAC there are 1970 families of West Pakistan refugees in Akhnoor, 3100 in R.S.Pura, 5007 in Jammu, 1612 in Samba, 1419 in Hiranagar, 3204 in Kathua and 2116 families in Bishna.

### **METHODOLOGY**

The present study aims to analyse the problems faced by the West Pakistan refugees in Jammu as well as the denial of the basic citizenship rights. The study has been conducted in two tehsils of district Jammu namely R.S. Pura and Bishna. The data was collected through primary sources as well as secondary sources. The primary data was collected by using the interview schedule and field observations/information by Snowball sampling, while as secondary data included reports, newspapers, and journals. A sample of 150 respondents was selected for the study from both the tehsils.

### **Problems of West Pakistan refugees in Jammu Region**

The data analysis revealed that none of the respondents had the permanent residents status and citizenship of J&K State. The West Pakistan refugees in the J&K State are not considered the state subject of the State, hence no Citizenship, however, these people are considered the citizens of India as per the provisions of the Constitution of India. The West Pakistan refugees who migrated to other parts of India are enjoying all the right, being the citizens of India. Technically the

citizenship of India becomes significant only if accompanied with the Status of Permanent Residents of the J&K State. The Article 370 confers a Special Status on the J&K which is why except for the matters specified in the Instrument of Accession (defence, foreign affairs and communication), the Indian Parliament needs the concurrence of the J&K State Government for making laws for the State. It is historical fact that at the time of partition the J&K State did not merge in the India Union and got the right to frame its own Constitution. Special provisions were made in the Indian Constitution under Article 35-A and 370 for the J&K State. The Section 6 of the J&K Constitution creates a special privilege class of persons who are called "State Subject". The State does not accept the citizenship laws of India and the Status of its permanent residents did not alter. These refugees are not the permanent residents of the J&K State, which makes them ineligible for the citizenship Status of the State. In this regard, the analysis of the present study found that these refugees have to face many problems as follows.

#### **Denial of Political Representation**

This is one of the basic denials to these refugees in the J&K State. These refugees being the citizens of India have the right to vote in the Indian parliamentary elections, but cannot vote in the State Assembly elections and other local bodies. Technically the right to vote and contest the J&K State elections is meant for the permanent residents of the Jammu and Kashmir State. Due to the lack of political representation, they feel alienated which increases their insecurity that they don't have anybody to represent them and fight for their rights. The lack of political representation is one of the major setbacks for their identity which keeps them at periphery from the development. They are deprived of any say in the political system of the State. It is pertinent to mention that, in case, these refugees are given political representation it will lead them to the grant of Permanent Resident Status.

#### **Problem of Landlessness**

When the West Pakistan refugees arrived in Jammu they were allotted land, but the land was allowed to retain on the temporary basis. They do not have the ownership rights and ownership of land is linked to the status of a person only when he/she is a permanent resident of the J&K State. These people have been allotted the State land and the evacuee land and these refugees cannot own this land. The real owner of the State land is the Government itself and that of evacuee land are the people who migrate to Pakistan during the partition of India in 1947. Besides this these refugees due to lack of permanent residents status cannot buy and own any land other than the allotted in any part of the J&K State. Further, the distribution of the land was uneven and many of these refugees don't

have the land holdings. Moreover, no further land has been allotted to these people after the first allotment which has increased the problems among this population. In this regard, the increase in refugees population lead to the further distribution of the land within the families associated with no further allotments has decreased the land holdings. The present land holdings do not cater to their needs which increase food scarcity and poverty and have brought stagnation in their hope to grow.

#### **Education and Employment**

The refugees have been deprived of education beyond X class due to the reason that they are non-permanent residents of the Jammu and Kashmir State. Whenever they go to get their children admitted after class X, the concerned authorities ask them to produce the Permanent Resident Certificate. These people do not have the right to higher education and other technical courses. Due to the denial of higher education, the children are showing less interest in education which increases the dropout rate. The first generation of these refugees is almost illiterate with very a few having studied up to middle class. The second and third generation refugees are mostly matric as they are denied higher education opportunities. The denial of higher education due to lack of permanent resident status ultimately deprives them of employment. The West Pakistan refugees don't have any reservation in the central government services, nor do they can seek employment in the Jammu and Kashmir State government services. This is a very serious situation that leading to many other problems relating to livelihood and subsequent poverty. Many refugees of the Jammu region serve in the Armed forces and quit a few were now pensioners. But getting a job in armed Forces has become very difficult now as even they face problems when asked to produce the permanent resident certificate to prove their residence. These refugees revealed that on not being able to produce the permanent resident certificate of the J&K State, they are being turned out and denied. Further due to the lack of education these people remain ineligible for the Central jobs. Due to the lack of education and employment, they have to choose the informal sector to earn livelihood. These people have been working as daily labourers and for the last seven decades, they have been working in the informal sector. The lack of proper access to education with no support from the government and lack of employment has made their day to day life very difficult.

#### **Less Accommodation**

The houses of these refugees are very small with very less accommodation. The accommodation is very less to accommodate all the members properly. Due to crowdedness, the occupants face psychological trauma due to lack of privacy. These people are not

allowed to construct houses and do major renovations. After migration, these houses were constructed in a hurry without proper ventilation etc. as, at that time, there was a dire need of shelter. After that, no further major renovation or construction was allowed by the concerned department. It is as per the section 9 of the (Administration of Property) Act, 2006 that the evacuee property is maintained by the custodian department. Further, the Section 9-A of the Act imposes restrictions on the occupiers of evacuee property from constructing or re-constructing any building without the permission of the department and further the Act disentitles these refugees for any ownership rights. In the case of violation, these people have to pay the compensation. Most of the houses are in dilapidated conditions with ill ventilations and are in urgent need of renovation. Most of the houses are kaccha houses commonly called as "kullis" which are in miserable conditions. Such houses leak during the rains which make the life of occupants miserable for habitation. The leakages of the houses even wash away the floor and ruin their belongings, books, clothes etc. These difficult living conditions affect the physical and psychological health of the occupants. There is no support in this regard from any governmental and non-governmental agency.

#### **Reserve Category benefits**

A huge proportion (82 percent) of the West Pakistan refugees in Jammu belongs to the Scheduled Caste (SC) and Other Backward Caste (OBC) categories. But these people have not been issued the Reserve Category Certificates. Due to this they are not eligible for the Constitutional rights including reservation in education and employment as per Article 15 and 16 of the Constitution of India and political reservation as per Article under Article 330, 332, 243-D and 243-T in the House of people, legislative assembly of the State and other local bodies and also Article 17 which abolishes untouchability. Further the statutory protections of the laws like Protection of Civil Rights Act, 1955 amended in 1976, and the Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act, 1989 as per the Article 17 of the Constitution of India. Due to this, these people are disentitled from special schemes and benefits meant for the reserved category people by the Indian Government. The entitlements of reserve category benefits are of no use without the citizenships of the Jammu and Kashmir State. To avail the benefits of the reserve category the West Pakistan refugees need to be the permanent residents of the J&K State. In this regard, the Wadhwa Committee also recommended that since most of the refugees belong to the Scheduled Caste and Other Backward Categories, so the government issues the instructions for granting them the reserve category certificates meant for employment in the Central Government or in other State governments as well as in the Central Paramilitary forces.

#### **FINDINGS**

- 93 percent of the respondents said that Article 370 is the reason for their not been granted citizenship rights whereas 7 percent were in ignorance about the reason.
- It was found that none of respondents had the political representation in the J&K State Legislative Assembly and other local bodies.
- 86 percent of the respondents said that they have the right to education up to X class where as remaining 14 percent were in ignorance about the right to education.
- 87 percent of the respondents had the kaccha houses (made of mud) with improper ventilation. These houses leak during the rains.
- Out of the total 150 respondents, 83 percent of the respondents belonged to Scheduled Caste Category followed by 9 percent from Other Backward Category. It was found that none of these belonging to these special categories get any benefit of the said category.

#### **Demands of West Pakistan refugees**

The West Pakistan Refugee Action Committee 1947, J&K has made many representations to meet their demands. These people were assured by the Government for providing of their right, but nothing happened till date. They have been asking the Government of India and Government of Jammu and Kashmir to provide

- Special relief and rehabilitation package for refugees in the State of Jammu and Kashmir.
- Permanent resident status and Citizenship rights for the State of Jammu and Kashmir.
- Political representation: Right to vote for the Assembly of Jammu and Kashmir.
- Free education for children in Government schools, Central schools, colleges, universities.
- Reservation for employment in J&K State and Government departments.
- Implementation of Wadhwa Committee report constituted vide Govt. order no. Rev/Rehab/151 of 2007 dated 06.05.2007(The recommendations has been submitted by the committee since 27.11.2007 but the Government of J&K State has not declared any relief as per the recommendations.
- Persons belonging to Scheduled Castes among the West Pakistan refugees have not received SC certificate because of Lack of Permanent Residence Certificate.
- Recruitment in Central Services and training in professional intuitions that is Central Military Forces.
- Registration of unregistered families
- Sanction of bank loans in favour of West Pakistan refugees

- Survey of West Pakistan refugees who are Below Poverty line.
  - Ownership of right over evacuee land.
  - Claim over property left behind.
  - Relief at par with Kashmiri Pandits.
  - West Pakistan Refugees, Development Board should be constituted with all financial powers and liberal aid for their upliftment and betterment.
  - Inclusion of refugees in the dialogue on J&K at every level.
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## CONCLUSION

The West Pakistan refugees have been struggling for the basic rights and for the identity for the last seven decades. The condition of the West Pakistan refugees in Jammu region is very bad on the whole. The trauma of the partition and migration still has great the impact on the lives of these refugees. They are traumatized even more due to the apathy, neglect and poverty even after 70 years. The study depicts that the refugees in Jammu region have been facing many problems, especially problems arising out of not being the permanent residents of Jammu and Kashmir State. These refugees don't have the citizenship rights which forbids them from owning land, getting employment, right to vote and other related rights. These refugees (in Jammu region) are being kept at the periphery of the developmental process and are being alienated each passing day. In this study, it was found that refugees are full of fear due to the insecurity of their future and that of their next generations. Even 70 years of habitation in Jammu region could not make them eligible for the citizenship of the State. The children are not given the State citizenship which is why there is great insecurity in the minds of these people about their future. As a result of this denial, the refugees do not have wealth, properties and other assets which they can pass on to their next generations. To pass on to the next generation is only the struggle, the sense of statelessness, the sense of alienation. It is very sad that these people have been struggling for identity even after staying for 70 years in the State of Jammu and Kashmir.

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