

CITIZEN OUTSIDER: RECTIFYING THE FAULTLINES IN THE CASE OF WEST PAKISTAN REFUGEES IN JAMMU & KASHMIR

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ABSTRACT

Justice eluded West Pakistan Refugees (WPRs) residing in the State of Jammu & Kashmir for more than seven decades since independence. Their existence and identity was continuously held in breach within the realm of a State of their own country. Caught in the labyrinth of being a citizen of India and Non-Permanent Resident in the State of J&K has not only produced consequences from a socio-political, legal and economic perspective, but also created problems that have inevitable repercussions on the extensive catalogue of human rights. The WPRs were denied acquisition to immovable property, permanent settlement in the State, recruitment to State services, right to State scholarship and voting rights in State elections, to name a few. As WPRs strived for the acknowledgment of their basic civil, political, social, cultural and economic rights, their succeeding generations continued to be handicapped at the hands of inflexible code of laws governing the State of J&K, thereby reducing WPR to the status of a 'Citizen Outsider' who has become invisible in the political and economic landscape of the State that destiny chose for him to seek refuge and settle post partition. It is only recently that the scrapping of special status of J&K by amending Article 370 has come as a breather for them.

1. INTRODUCTION

Displacement is a primary fact of social life that impacts social environs profoundly when it is induced by violent conflicts. Conflict induced displacement has given rise to different categories of population, notably, Refugees, Internally Displaced Persons, Asylum Seekers, Migrants, et.al., depending upon the characteristics these vulnerable groups share as per globally accepted definitions. The problems faced by these categories of people are more or less similar with related causes and needs. They are forced to flee from their places of habitual residence to new locations in order to save their lives. Their vulnerable position

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makes them categories of concern because it is linked with the violation of their core human rights. They are social groups with relative exposure to risk factors (Adekola et al., 2019). They are marginalised, disadvantaged and disenfranchised from mainstream society (Fineman, 2008). Displacement causes 'collateral damage' to population in the sense that besides taking toll on their lives and property, it also introduces the element of uncertainty and unpredictability in their lives. Conflict induced displacement thus leads to serious repercussions on individuals, households and communities.

Although displaced people share challenges yet the intersecting vulnerabilities of groups such as women, children, disabled and elderly section need unique attention (Abimbola & Adisote, 2012; Adeyeye, 2013; Joshua & Olanrewaju, 2016). Women and girls are vulnerable at every stage of the displacement cycle. Children's experiences of conflict and displacement are nonetheless less intense than those faced by women and include being severely restricted in their mobility and forced to live in built environment. Displaced Children, whether refugee or internally displaced, face grave risks to their health and safety along with significant barriers that limit access to the services they need to thrive and flourish. Worldwide, nearly 31 million children have been forcibly displaced at the end of the year 2017. This number includes some 13 million child refugees, approximately 936 thousand asylum-seeking children and an estimated 17 million children displaced within their own countries by violence and conflict (UN International Children Emergency Fund, 2018). Nonetheless, the effect of displacement on elderly population is much profound as indicated by various researchers. Besides facing numerous mental health issues, this section also experiences loss of power, authority and role in their host communities (Barbelet, 2018). Keeping in view its multifarious effects and causes, the UN Secretary General has cited displacement as one of the world's greatest humanitarian challenges.

It is important to mention here that largely the human rights activists, policy makers and social scientists viewed displacement crisis from cause and effect perspective. However, certain peculiarities that are region specific remain unaddressed and prevented us from having a holistic understanding about their sufferings and rehabilitation. One such case that has been the focal point of present research paper is the case of West Pakistan Refugees that remains invisible in the backdrop of Kashmir conflict. The status of West Pakistan refugees was different owing to the disputed and unsettled nature of the Kashmir issue and promulgation of Article 370 and 35A of the Constitution of India. They were not granted Permanent Resident Status and thus suffered multiple discriminations at every stage of human cycle in the State of J&K. Thus when Parliament of India scrapped Article 370 of the Constitution of India, the WPR community thanked Prime Minister for this 'bold and historic' decision which freed them from the chains of slavery.

2. TRACING THE HISTORICITY

Transitions are always painful. Same happened when partition brought in its wake emergence of two nations accompanied by series of communal riots, loss of life and property and displacement of millions of people on either side of the border. The partition of 1947 has distilled two types of migration. The one is West Pakistan Refugees who moved from Pakistani town adjacent to the State of Jammu and Kashmir and Pakistan Occupied Jammu and Kashmir (POJK) displaced persons. Most of the refugees in Jammu region migrated from

two districts of West Pakistan, viz., Sialkot and Gurdaspur. As per the official data, 47,215 people consisting of 5,764 families, mostly Scheduled Castes and other Backward Castes, migrated to Jammu region from Sialkot district. Upon arrival, no land was allotted to them but some of the families did manage to occupy some government land and evacuee property. They were later allowed to retain these properties with certain conditions. A few families even got land allotted to them by Sheikh Mohammed Abdullah, the then Prime Minister of J&K. In all, over 46,466 kanals of land was occupied by these families that migrated from Sialkot. Unfortunately, this was the land they cultivated, but never owned and subsequently lost soon after the 1965 and 1971 Indo- Pak war (Desai, 2010).

The families who settled in other parts of the country are enjoying all fundamental and other basic human rights. But WPRs settled in the State of J&K in 1947, even after seven decades, are not provided fundamental and basic human rights in the State. They failed to obtain the citizenship of the State as they are not considered permanent residents of the State (Vide Sec. 6 of the J&K Constitution). Accordingly, they were not able to get admissions in professional colleges of the State nor were they eligible for government jobs. They do not possess the right to vote for the State Assembly but can vote for the Parliament elections. Majority of the WPR population belong to the Scheduled Caste and other backward caste categories. The Kashmir conflict has influenced them in a way that before 1990 there were provisions for the recruitment of WPR in the Central forces but after the surge of militancy they were even deprived of such provisions. It is estimated that there are over 2.5 Lakh WPRs living in the border districts of Jammu, Samba and Kathua of the State and demand the right to vote, citizenship rights, right to contest assembly polls, rehabilitation package, right to apply in government jobs and to purchase property in the State of J&K. (Bhat, 2019). Most notably, while refugees who settled in other parts of India received substantial attention and rehabilitation from State agencies, these WPRs on the other hand continue to live even today like 'Slave People of a Free Country' (Desai, 2010).

3. RESEARCH METHODOLOGY

A. Study Design

The present study made use of both Focus Group Discussions (FGDs) and Interviews to analyse the problems faced by West Pakistan Refugees. In-depth, semi-structured and structured interviews particularly focusing on understanding the condition of WPRs who have experienced displacement, varying dimensions of conflict, coping mechanisms and survival strategies adopted to mitigate the impacts of conflict-induced displacement and relief provided by State and various Non-state actors since their displacement were helpful in gaining in-depth understanding of the present study during field surveys. The field surveys were comprised of day long visits to their camps and other areas in the Jammu region. Further, FGDs were resorted to understand the ground realities. Some NGO's were also taken into consideration that works for the welfare of the WPRs. The participative observation behaviour has been adopted by the researchers and the interviews of the participants were recorded for the narrative analysis. Along with primary data, secondary sources were also used which includes books, journals, publications, research articles, and internet sources. The

prime consideration was given to the analysis of those studies that hold relationship between conflict, displacement and their implications on social, economic and political status of different groups within the displaced population. Thus, a combination of desk based secondary research supplemented by mixed method research technique is employed for the present study. Finally, collected data were classified, tabulated and interpreted and accordingly conclusion was drawn.

B. Study Location

The study was carried out in three districts viz., Jammu, Samba and Kathua. These areas were selected because West Pakistan Refugees are largely settled in these three districts within the State of J&K. Efforts were also made to ensure that all respondents were appropriately informed about the study and thoroughly understood that their participation in the study was voluntary.

C. Sample Size

A sample of 200 respondents was selected for the present study with relevant socio-economic background to understand WPR's perceptions regarding the subject under study as well as goals, opportunities, achievements and contributions to society as a social being.

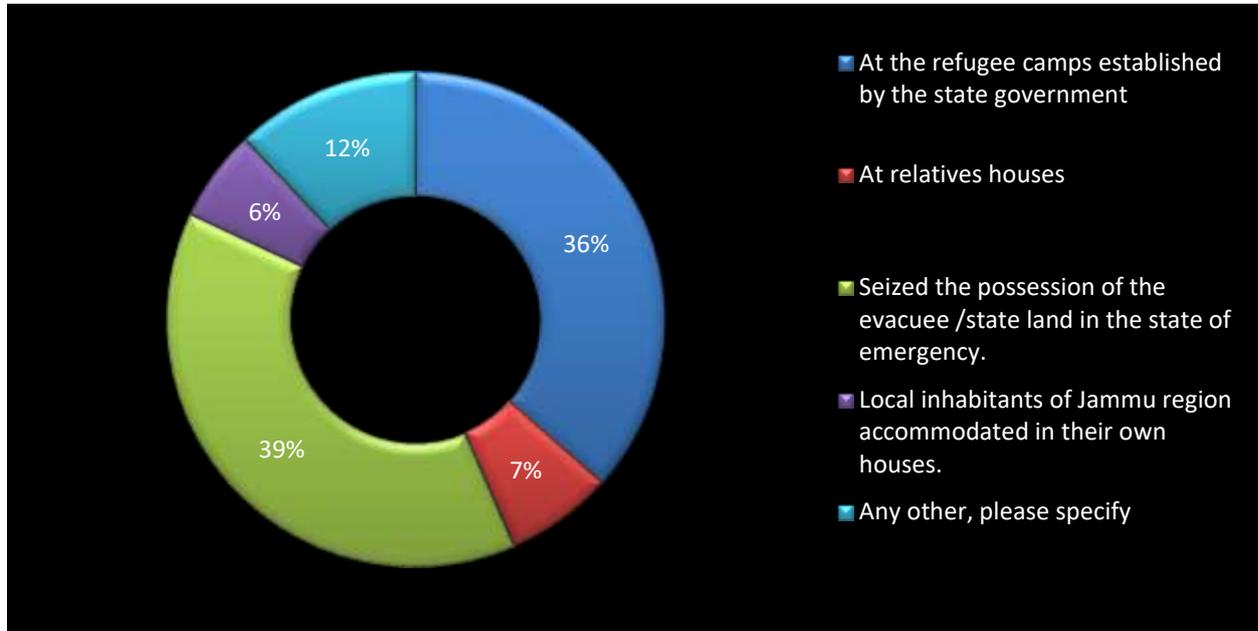
D. Data Analysis

Field notes were taken throughout all the interviews and focused groups sessions. Observations were also noted. Responses from all respondents were first and foremost transcribed and thereafter analysed through systematic content analysis.

4. EFFECT OF DISPLACEMENT ON WEST PAKISTAN REFUGEES

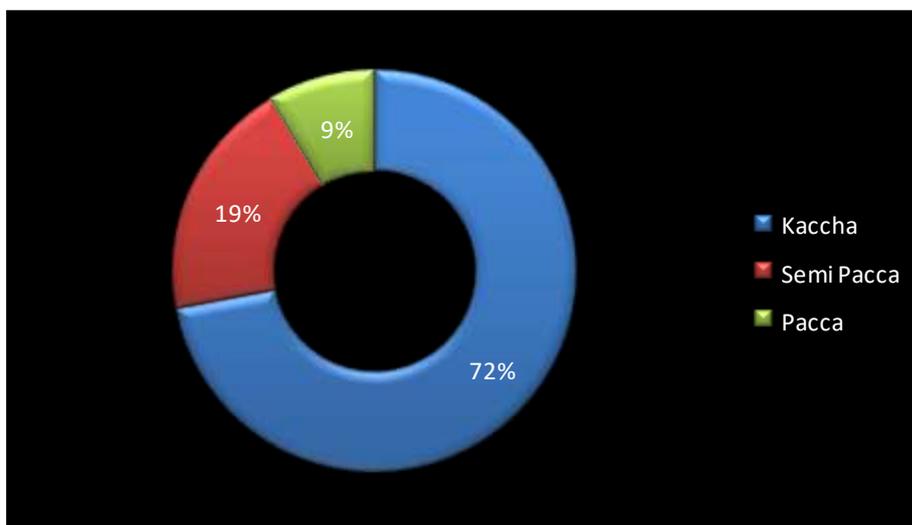
SHELTER

After your arrival in the State of Jammu & Kashmir, where did you seek immediate refuge?



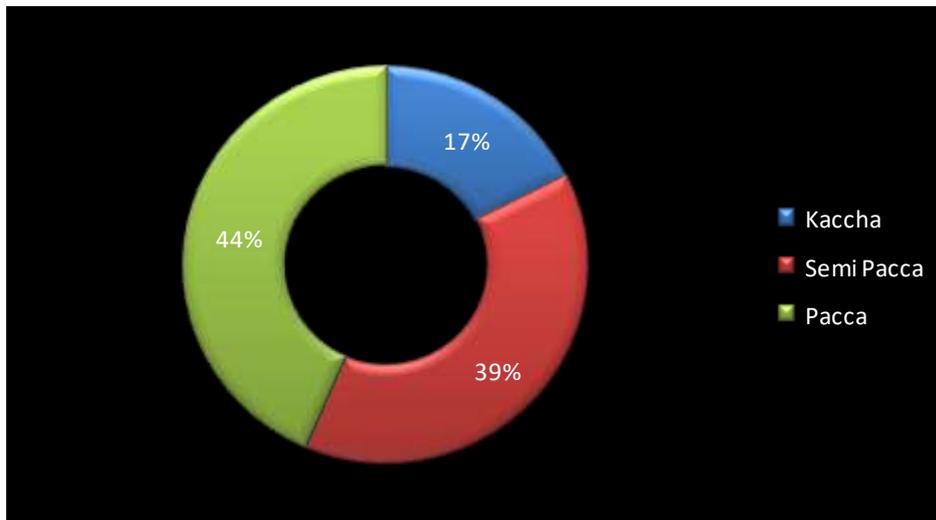
Findings: West Pakistan Refugees seized the possession of the evacuee/ state land in the state of emergency.

What was the type of housing before displacement?



Findings: Before displacement WPRs primarily lived in kaccha houses.

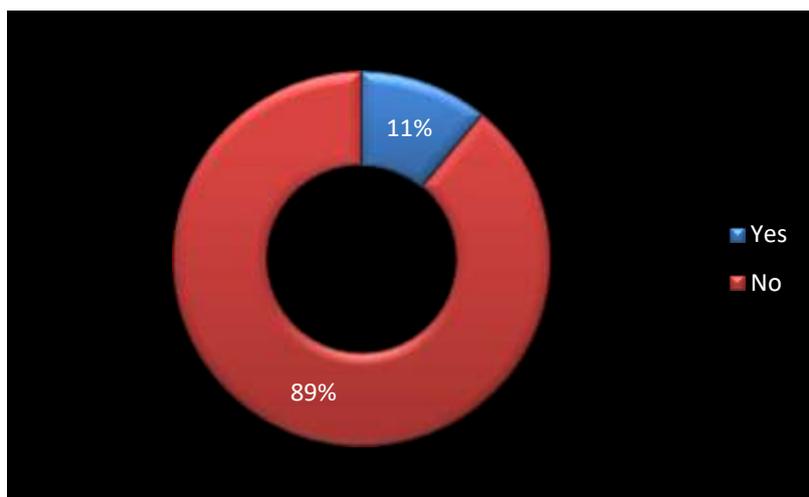
What was the type of housing after displacement?



Findings: After displacement although majority of WPRs live in pacca houses yet a significant proportion of them still reside in Semi Pacca and Kaccha Houses.

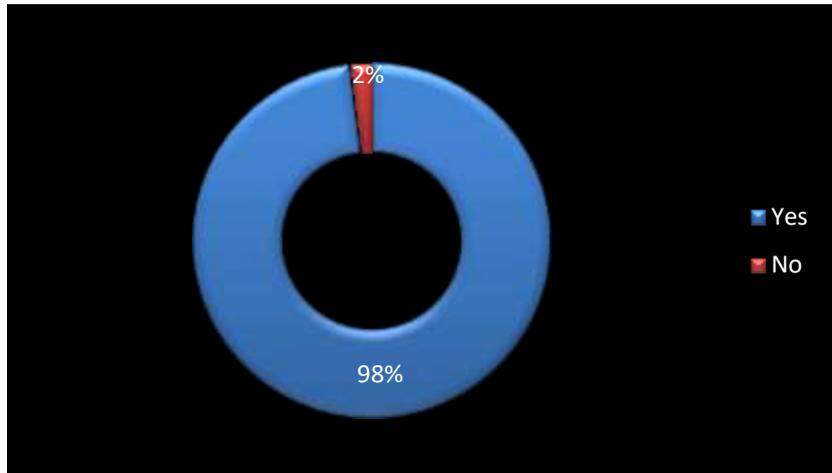
EDUCATIONAL OPPORTUNITIES

Did you get proper educational opportunities after coming to the State of J&K/ different locations within Jammu Province as a result of migration after displacement?



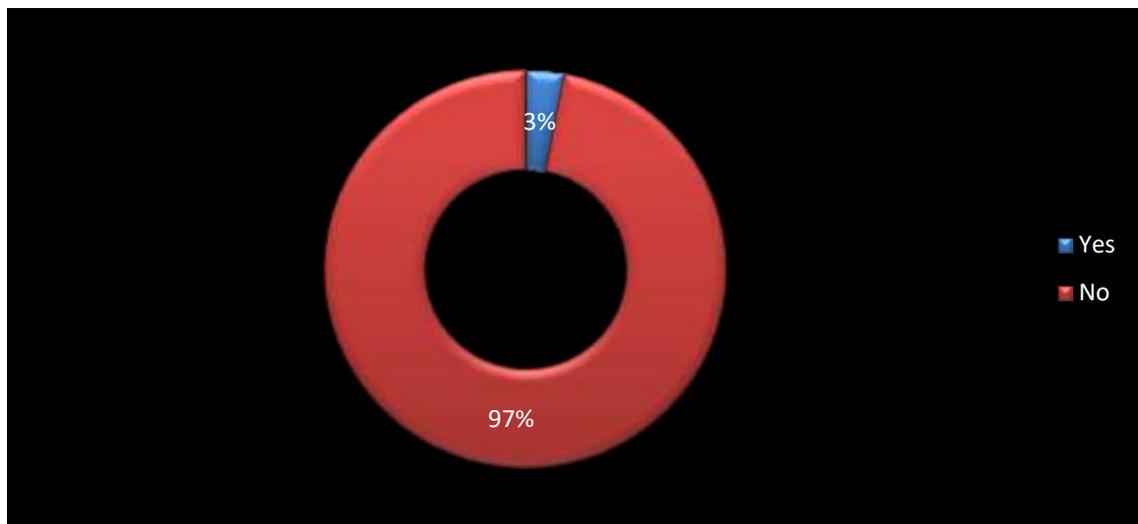
Findings: As a result of migration to the State of J&K after displacement, WPRs are denied Permanent Resident Status. They were able to acquire education up to 9th standard. However, further admission to 10th standard required verification of State domicile which they didn't possess and thus they were debarred from continuing further education leading to deprivation of educational opportunities.

Did your children get admission to Government Schools in the State of J&K?



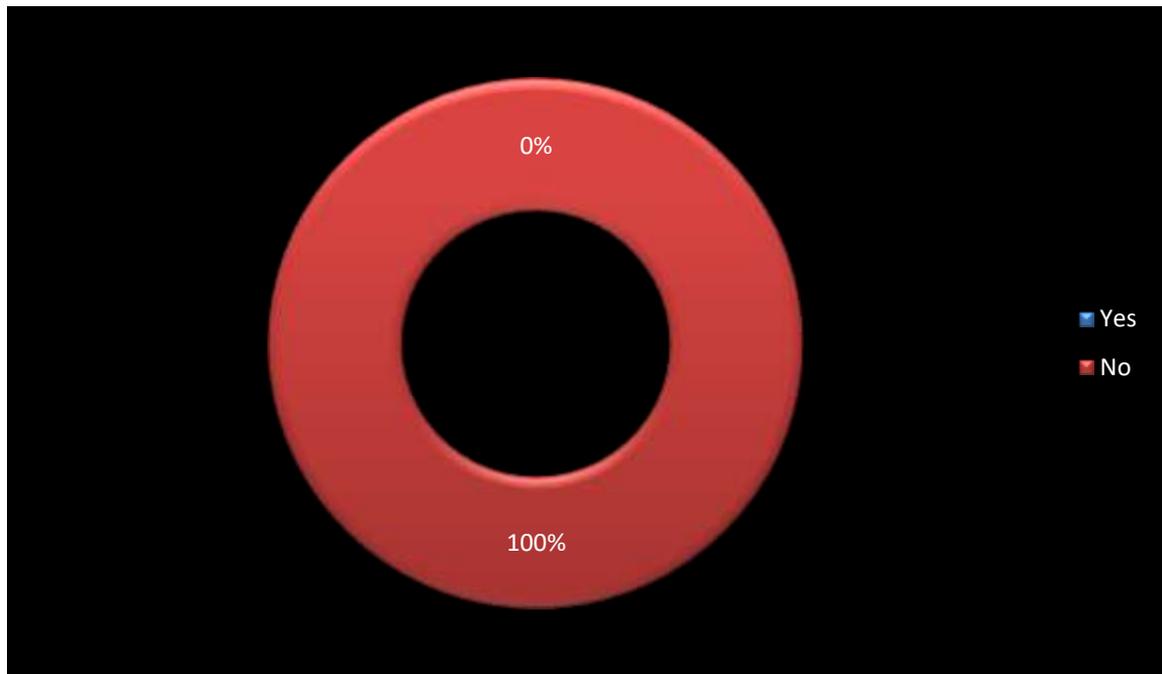
Findings: The children of WPRs got admission to government schools in J&K up to 9th standard.

Did your children get admitted to Government Institutions for Higher Education like Colleges, Universities etc.?



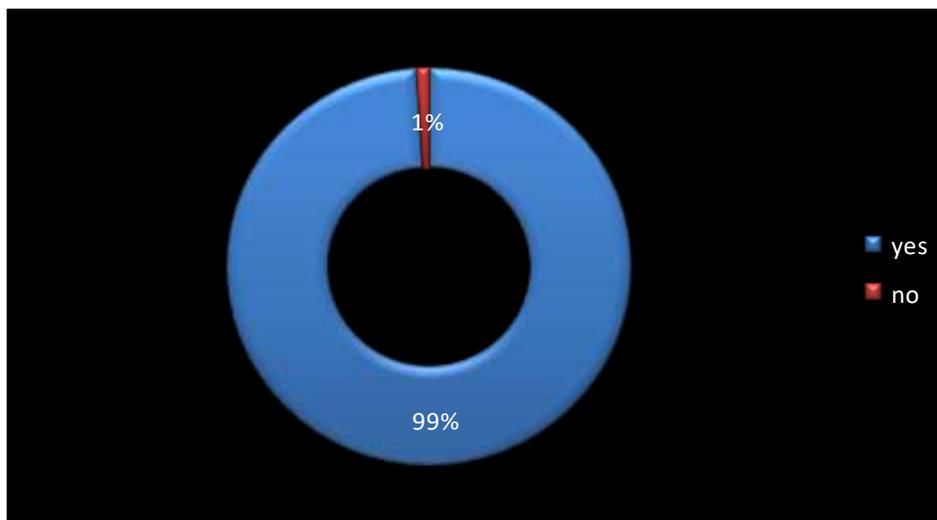
Findings: The children of WPR did not get admission to Government Institutions for Higher education like Colleges, Universities etc. in the State of J&K.

Whether you received any Special Aid/Scholarship for your education in J&K?



Findings: WPRs were not provided any special aid/ scholarship by Central and State Government for education purposes.

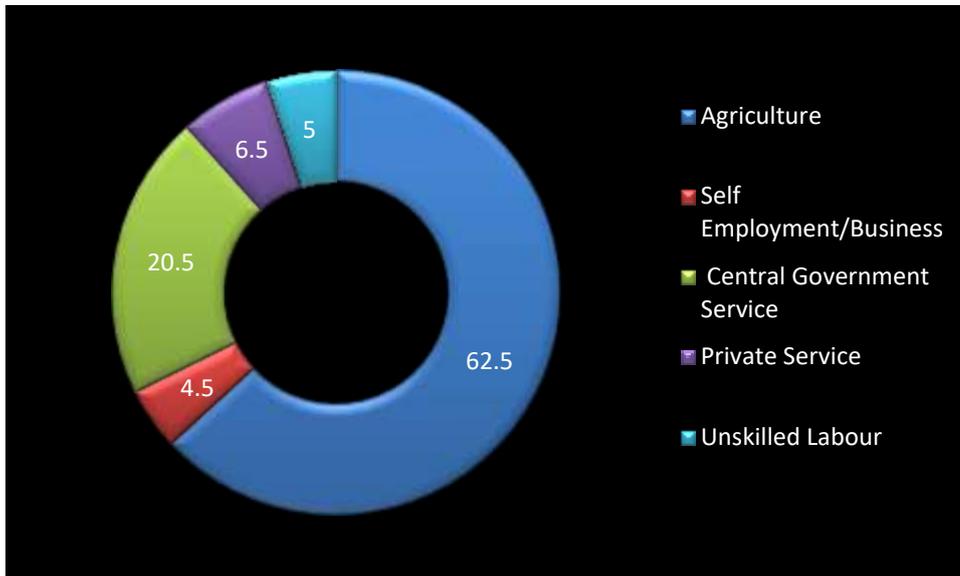
Are you getting any reservation in admission to educational institutions?



Findings: WPRs do not enjoy any reservation in educational institutions both at the Centre and State levels.

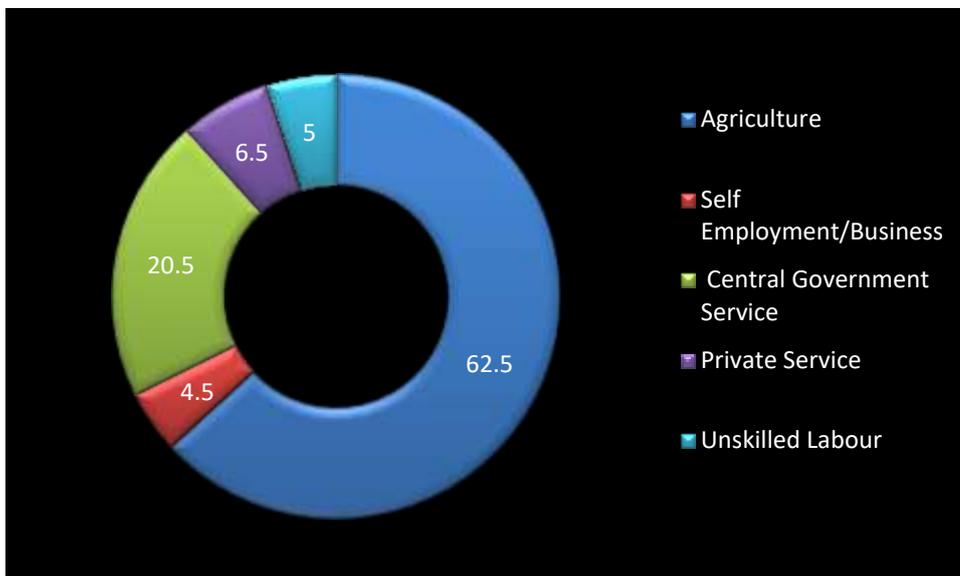
EMPLOYMENT OPPORTUNITIES

What was your occupation at the native place before displacement?



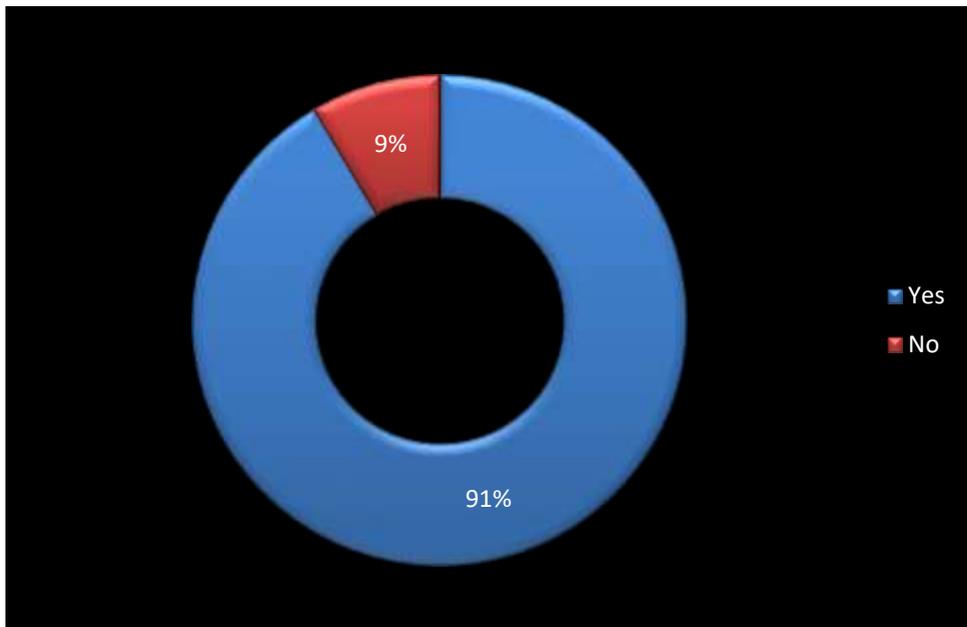
Findings: The main occupation of WPRs at their native place was agriculture.

What is your present occupation?



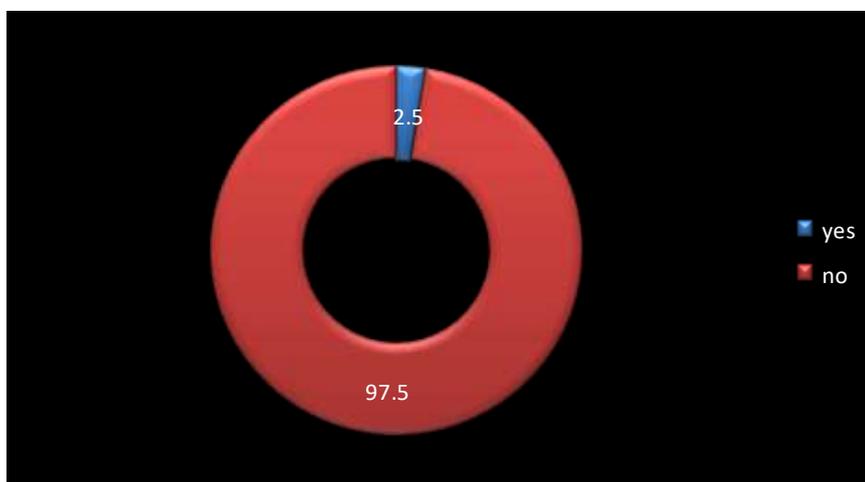
Findings: After displacement the WPRs are employed as unskilled labourers on small agricultural fields.

Do you face any restriction/prohibition in getting Government job because of your displacement?



Findings: WPRs are not privileged to enjoy Government jobs in the State of J&K due to non-possession of PRC. However, they are eligible to apply for jobs in at Central level.

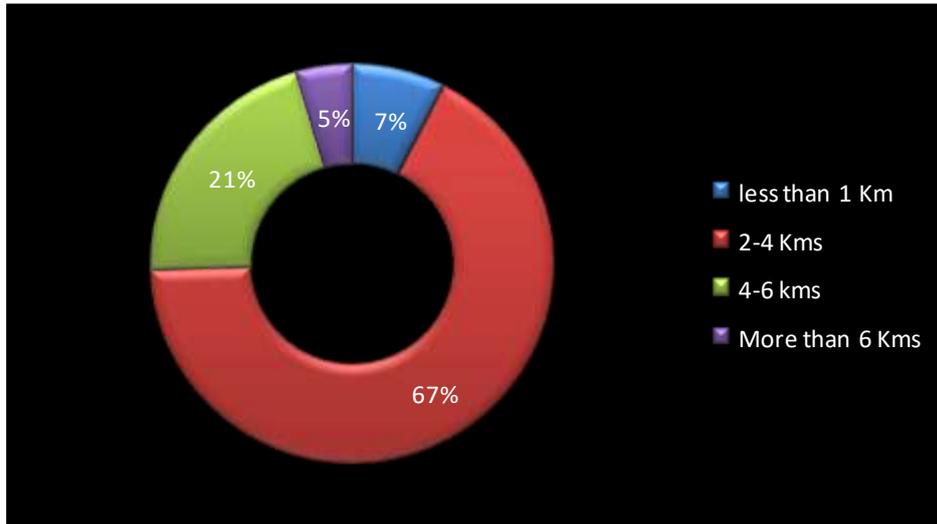
Are you getting any reservation in Government jobs at the Central level?



Findings: WPR are not entitled to any reservations in Government jobs at Central level.

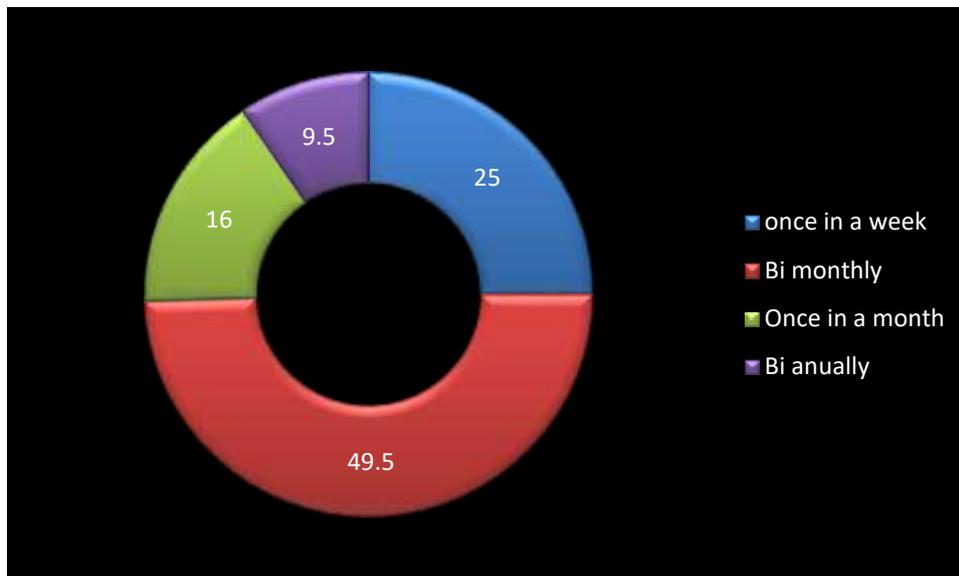
HEALTH

What is the approximate distance of health centres from you residence?



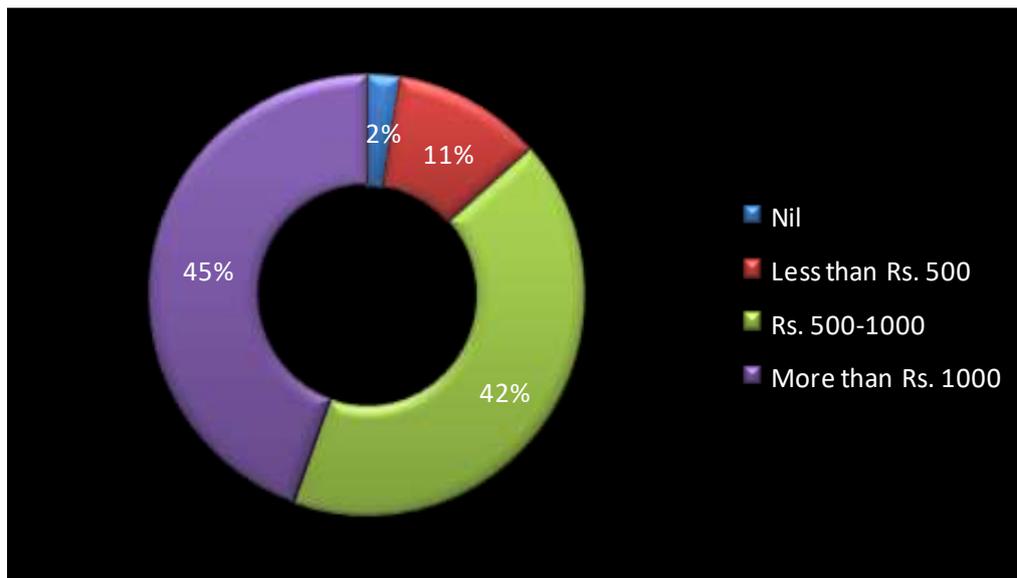
Findings: The health centres were located between 2-4 kms from the residential dwellings of West Pakistan Refugees.

How often did you visit the doctor in last six months?



Findings: WPRs usually visited the doctor once in every 15 Days.

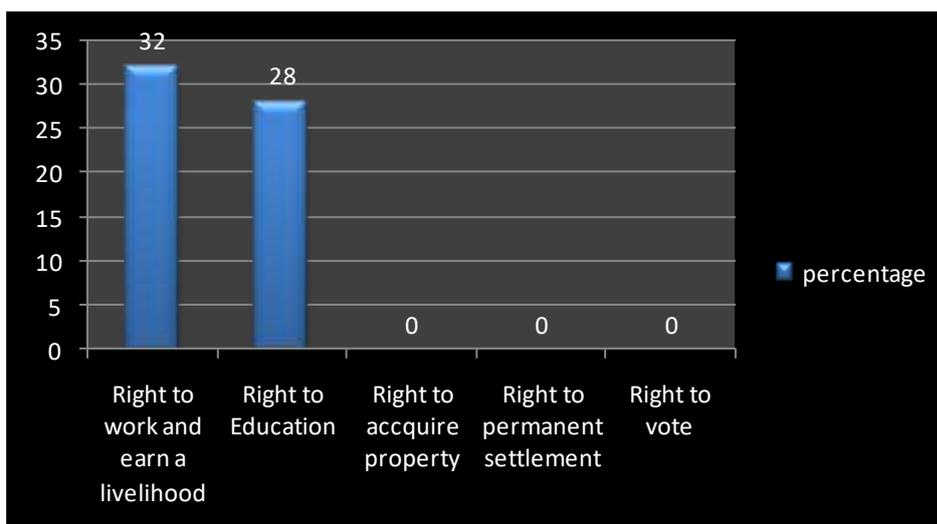
How much money did you spent in the last 30 days for availing medical facilities (treatment, medicine and care)?



Findings: The data collected in this regard revealed that WPR spent more than Rs. 1000/- on medical health facilities in the last 30 days.

CIVIL AND POLITICAL RIGHTS

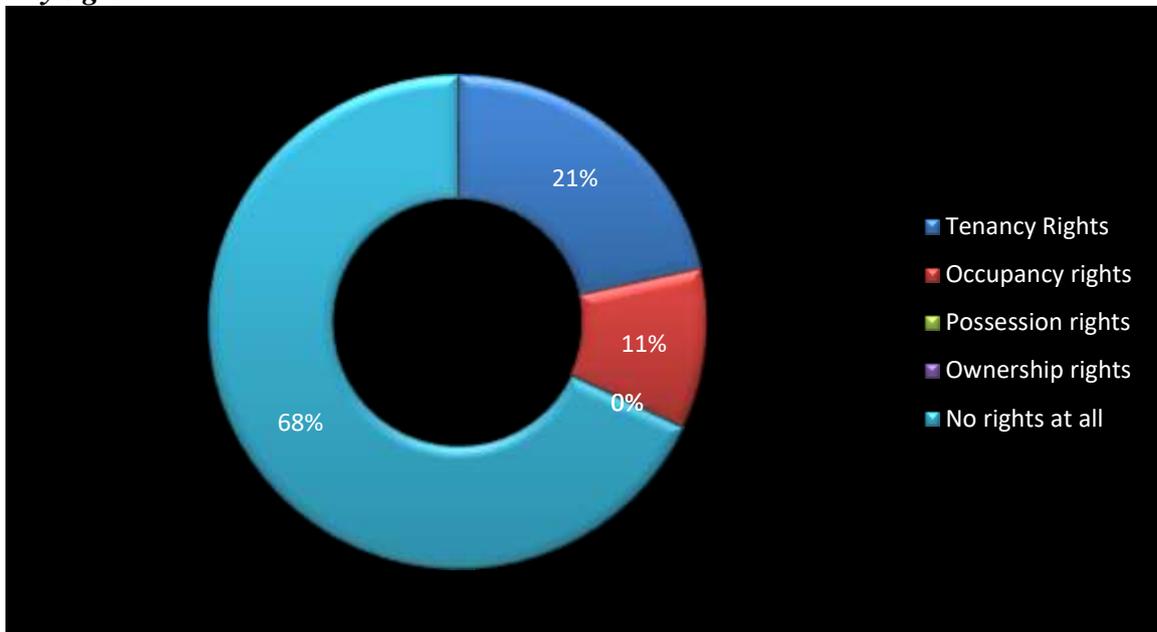
How many of the following rights have been made available to WPRs in the State of J&K?



Findings: WPR are denied the PRC of the State of J&K. As a consequence, they are deprived of basic fundamental rights. They cannot acquire the ownership of land and any other immovable property. They are kept out of the electoral procedure in the Assembly and Panchayat elections. They do not have access to higher education after

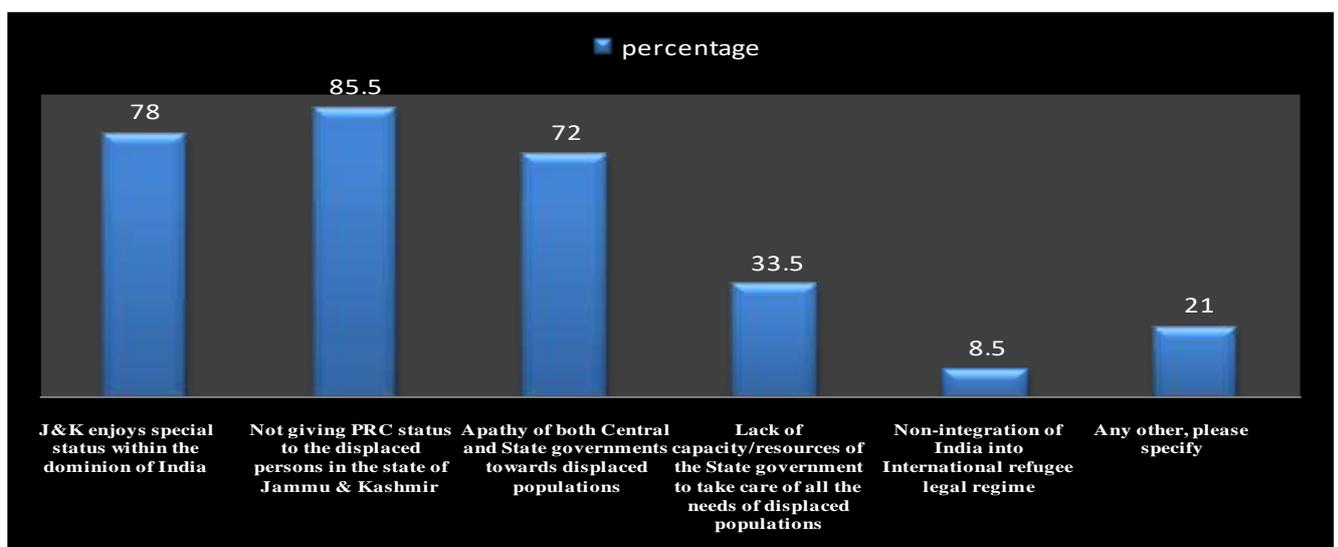
Class 9th in the State. The right to employment in State government sector is prohibited. However, they can rely on other sources to earn their livelihood. They can engage in private units, small businesses, agricultural fields and Central government sector to earn their subsistence.

What is the nature of rights you possess in relation to the accommodation you are staying in?



Findings: The WPRs possess no rights at all in relation to the accommodation they are staying in due to the deprivation of PRC status.

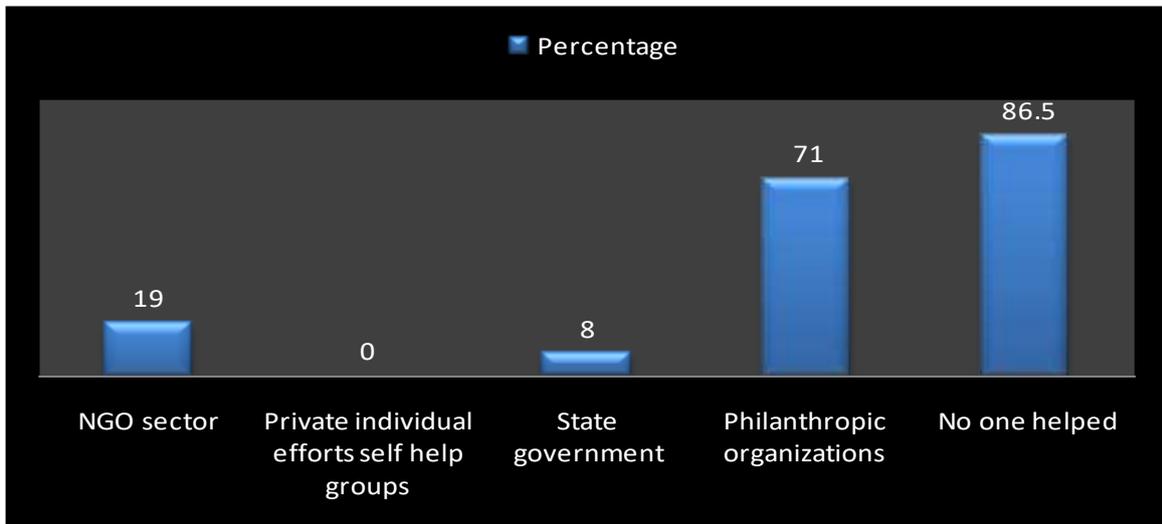
What, according to your opinion, may have been the reasons for not providing the aforesaid rights to the WPR population in the State of J&K?



Findings: The major reason attributed for the deprivation of aforesaid rights to WPRs in the State of J&K is that the State is not giving PRC status to the WPR community.

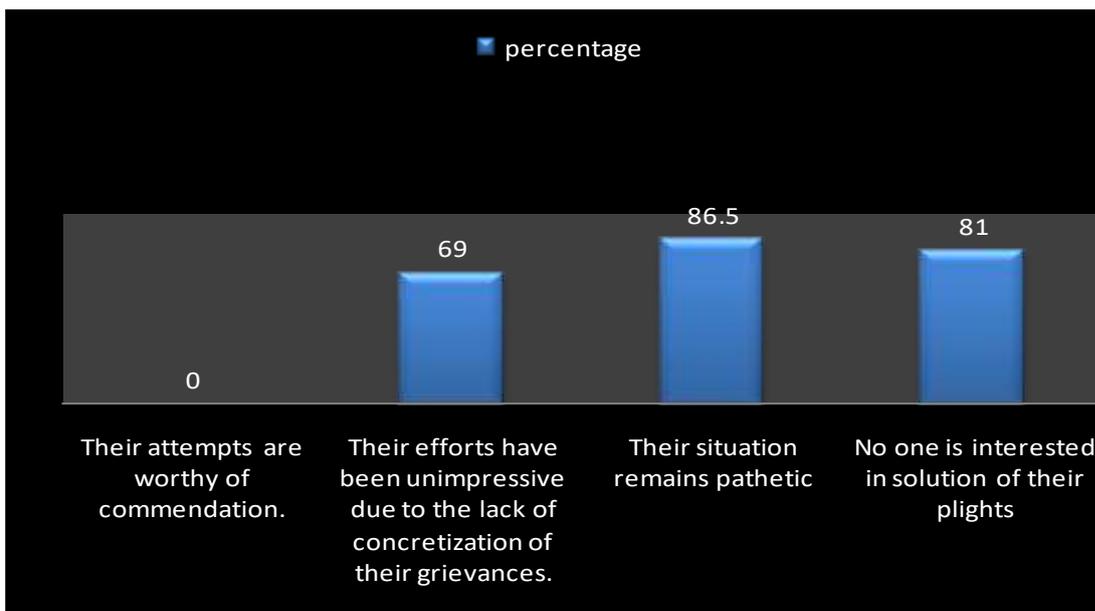
SUPPORT FROM NGOs AND GOVERNMENT

What support did you get from the Agencies working for the welfare of WPRs?



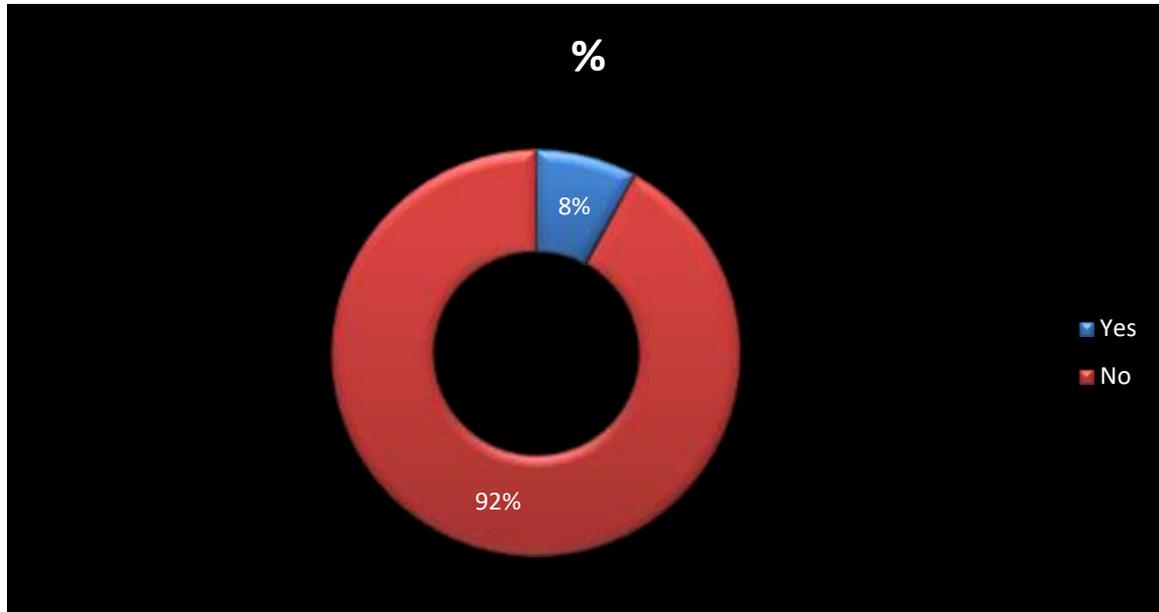
Findings: WPR acquired negligible support from NGOs, State Government, Central Government sector and other philanthropic organizations.

Up to what extent the efforts of different agencies ameliorated the lot of WPRs?



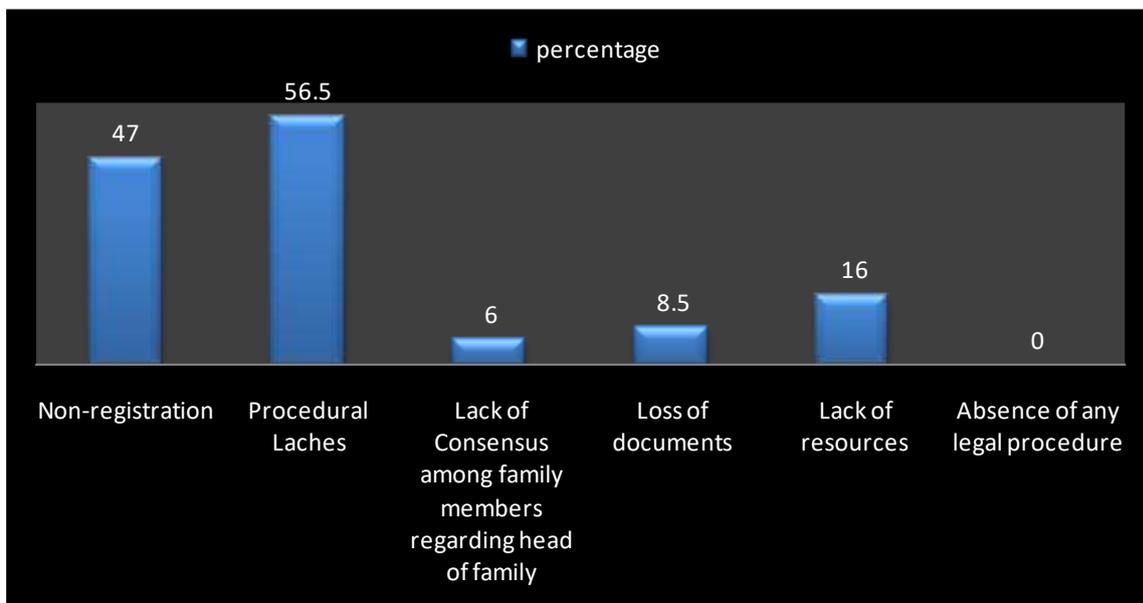
Findings: The situation of WPRs remains pathetic. Few, if any, seemed to be interested in the solution of their plights.

Recently, Government of India has announced a package of Rs 5.5 Lakh per family to West Pak Refugees. Did you receive such compensation?



Findings: WPRs have not received any compensation of Rs 5.5 Lakh per family which was announced by the Government of India.

What are the reasons for the denial of financial package?



Findings: WPRs have not received financial compensation of Rs. 5.5 Lakh per family due to procedural laches and delays in the system.

CONCLUDING OBSERVATIONS

The chief concern before West Pak Refugees is identity crisis and thereby permanent settlement in J&K. Due to the prevalence of Article 370 and 35 A of the Constitution of India, the WPRs are denied the citizenship rights in the State. Their counterparts settled in other states of India enjoy full citizenship rights. As a result of denial of PRC, they are not allowed to take admissions in higher education institutions nor are they eligible to apply for the government jobs in the state. They can vote in Parliamentary elections but cannot participate in State Assembly elections. They are not entitled to buy or acquire any property in the State of J&K. They are denied benefits of State Government schemes. They are deprived of basic fundamental rights in the State of J&K as a consequence of migration. However, in order to mitigate their plight, the Government of India has announced financial package of 5.5 Lakh per family to WPRs in 2018 yet the identity crisis remained a pertinent issue. Their charter demands were mainly focused on obtaining PRC of the State of J&K. They demanded ownership rights over the evacuee land and claims in lieu of the property left behind. They wish to seek relief at par with POJKs and Kashmiri Pandits. They are of the view that reservation in educational institutions and in jobs at State level must be provided to the WPR youth. A development board should be constituted by the Government of India for their financial, social and political inclusion in the State that could pave way for their upliftment and betterment.

It will not be out of place to mention that the State of J&K has always received immense attention nationally and internationally due to its disputed status. However, this attention acquired a centre stage on August 5, 2019 when Government of India made a historic move and revoked Article 370 that provided special set of rights and position to the State of J&K and removed preferential treatment and applied entire Constitution of India to J&K on 5th August, 2019. The President of India 'in exercise of the powers conferred by Clause (1) of Article 370 of the Constitution, issued Constitution (Application to Jammu and Kashmir) Order 2019 which superseded Constitution (Application to Jammu and Kashmir) Order 1954 'as modified from time to time' and proceeded to apply the entire Constitution of India to the State with immediate effect. The Abrogation of article 370 automatically rendered Article 35 A which empowers the Jammu and Kashmir legislature to define the Permanent Residents of the State, and their special rights and privileges, null and void. The Presidential Order, 2019 extended all provisions of the Constitution of India to Jammu and Kashmir, including the chapter on Fundamental Rights thereby rendering discriminatory

provisions under Article 35A as unconstitutional. Further, the Parliament passed the J&K Reorganization Act, 2019 under which two UTs were carved, viz., UT of Jammu and Kashmir, and UT of Ladakh.

The abrogation of Article 370 and removal of bar created by Article 35 A has brought cheers to the WPRs as the impediment created by PRC is no more there and thus they shall be automatically entitled to their basic civil, political, social, cultural and economic rights. They will be entitled to be included in electoral rolls of state assembly and vote/ get elected in local bodies or other institutions' elections. They will be further entitled to purchase land and access to any service under the state government as well as grants of scholarships and admissions in government run institutions. In essence, WPRs shall be entitled to all the rights and privileges which were earlier offered to the exclusive beneficiaries of the State. The modalities for the same are in the process of being worked by the present government in J&K.

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 - (a) defining the classes of persons who are, or shall be, permanent residents of the State of Jammu and Kashmir; or
 - (b) conferring on such permanent residents any special rights and privileges or imposing upon other persons any restrictions as respects—
 - (i) employment under the State Government;
 - (ii) acquisition of immovable property in the State;
 - (iii) settlement in the State; or
 - (iv) right to scholarships and such other forms of aid as the State Government may provide, 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.”

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