



ANALYSIS OF JAMMU AND KASHMIR DOMICILE LAW

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Abstract

On 5th August 2019, two Jammu and Kashmir specific provisions, Article 35-A and 370, were abrogated and diluted respectively and the Jammu and Kashmir Reorganisation Act, 2019 was passed. As per the provisions of this act, the State of Jammu and Kashmir was reorganised and re-constituted into the Union Territory of Jammu and Kashmir and the Union Territory of Ladakh. The reorganisation prompted fears of demographic change in Jammu and Kashmir in absence of a state domicile law which would shield the local residents of J&K from outside competition in education and employment. Taking cognizance of the public opinion, the Central Government enacted the Jammu and Kashmir Reorganisation (Adaptation of State Laws) Order in April 2020, which introduced new eligibility criteria for the grant of domicile status in the territory by inserting a new section dedicated to the same in the Jammu and Kashmir. This paper aims to analyse whether the new domicile law sufficiently protects the rights of locals in employment, employment and acquisition of land. To this effect, the paper begins with a thorough explanation of the concept of domicile as it has evolved in English common law and Indian case law. This is followed by a brief account of eligibility criteria for domicile

status in different Indian states and an enumeration of the law's salient features, which also includes comparisons with the previous law. Lastly, the paper offers a critical perspective on the law and suggests possible modifications / suggestions which would assist in fulfilling the law's objective.

The concept of 'domicile' in English Common Law

In India, the term 'domicile' usually denotes place of origin, birth and /or residence of the individual in a particular state or a union territory. The term is familiar to ordinary Indians in the context of seat reservation in educational institutions and employment in public services. However, in the legal parlance, the term 'domicile' has some specific legal connotations which are discussed forthwith. In doing so, it is imperative for us to understand the exact legal meaning behind terms such as 'place of birth', 'place of origin', 'place of residence', 'domicile' and 'residency', since these are often used interchangeably in common parlance. The concept of domicile is borrowed from English common law. Dicey defines "Domicile of origin of a person means "the domicile received by him at his birth"¹. He further opines: "The domicile of origin, though received at birth, need not be either the country, in which the infant is born, or the country in which his parents are residing, or the country to which his father belongs by race or allegiance, or the country of the infant's nationality".² Lord Cranworth observed in "Domicile meant permanent home, and if that was not understood by itself no illustration could help to make it intelligible"³. In *Somerville v. Somerville*,

¹ Dicey, A., Morris, J., Collins, L. and McClean, J., 1949. *Dicey And Morris On The Conflict Of Laws*. 6th ed. London: Stevens, p.87.

² *Id.* at 88

³ *Whicker v. Hume*, 10 HLC 124 (1858).



Arden, Master of the Rolls, observed: "I speak of the domicile of origin rather than of birth. I find no authority which gives for the purpose of succession any effect to the place of birth. If the son of an Englishman is born upon a journey, his domicile will follow that of his father"⁴.

Here, it is important to analyse different perspectives by which the aforementioned three jurists have arrived at the definition of 'domicile statuses'. Out of the three distinguished jurists discussed above, none of them have agreed that domicile refers to the civil status which he/she has received at the place of birth. Dicey says that domicile status, though accorded legally at the time of birth, does not mean that the domicile status received at the time of birth is the same as the place of birth, or is the same as the nationality to which his/her parents belong to. In *Somerville v. Somerville*, the Master of the Rolls clearly emphasises on the domicile of origin rather than of the place of birth. In this case, domicile is a hereditary civil status derived from the parents' domicile at the 'time of birth', regardless of the 'place of birth'. Lord Cranworth, however, categorically emphasises that domicile status is the place of residence of the individual where he/she is residing permanently, thereby rejecting the definition on the basis of origin or place of birth.

Another major principle of domicile law under English common law is that domicile is different from nationality, and every individual is invested with a domicile status legally. This principle was laid out in the famous *Udny v. Udny case* in this proposition:

"The law of England, and of almost all civilised countries, ascribes to each individual at his birth two distinct legal statuses or conditions: one by virtue of which he becomes the subject of some particular country binding him by the tie of national allegiance, and which may be called his political status, another by virtue of which he has ascribed to him the character of a citizen of some particular country and as such is possessed of certain municipal rights, and subject to certain obligations, which latter character is the civil status or condition of the individual, and may be quite different from his political status. The political status may depend on different laws in different countries, whereas the civil status is governed universally by one single principle, namely, that of domicile, which is the criterion established by law for the purpose of determining civil status. For it is on this basis that the personal rights of the party, that is to say, the law which determines his majority or minority, his marriage, succession, testacy or intestacy, must depend".⁵

The concept of State Domicile, its legal status and constitutionality

In India, the definition of 'domicile' has been under ambiguity for quite some time. This is because, in the Indian context, 'domicile' is usually referred to as the domicile of the state. However, traditional legal position has differed varyingly on this issue. In Halsbury's Laws of England, it is stated that "English law determines all questions in which it admits the operation of a personal law by the test of domicile. For this purpose it regards the organisation of the civilised world in civil societies, each of which

⁴ *Somerville v. Somerville*, 31 E.R. 839 (1801).

⁵ *Udny v. Udny*, 1 L.R. 441 (1869).



consists of all those persons who live in any territorial area which is subject to one system of law, and not its organization in political societies or States, each of which may either be co-extensive with a single legal system or may unite several systems under its own sovereignty"⁶. In the Indian context, since the country has a single integrated legal system with no states having legal systems co-existing with the national one, it can be theoretically argued that the concept of 'state domicile' doesn't exist in India. Therefore, the questions on domicile status may arise only in the case of deciding the application of law on individual (s) in a different territory with a different legal system as per traditional legal jurisprudence. However, in *D.P. Joshi vs. State of Madhya Bharat*⁷, in which the court was to decide whether charging capitation fee on non-domiciled residents of Madhya Bharat was constitutional or not, the court made an important observation by citing Dicey:

"The area contemplated throughout the Rules relating to domicile is a 'country' or territory subject to one system of law'. - The reason for this is that the object of this treatise, in so far as it is concerned with domicile, is to show how far a person's rights are affected by his having his legal home or domicile within a territory governed by one system of law, i.e. within a given country, rather than within another. If, indeed, it happened that one part of a country, governed generally by one system of law, was in many respects subject to special rules of law, then it would be essential to determine whether D was domiciled within such particular part, e.g.

California in the United States; but in this case, such part would be pro tanto a separate country, in the sense in which that term is employed in these Rules".⁸

The court explained that while within a single legal system of a territory, different set of laws for different parts of the country may exist. The court cited the example of marriage laws in India in this case since these laws are different for different classes of people, while existing within a single integrated legal system. Therefore, in a country where under the same legal system, different laws apply to different parts of the country on different subjects: the domicile status shall be considered that of the region to which these laws apply to, and not the entire territory. The court further explained that 'state domicile' is consistent with the Indian Constitution because the Constitution provides for the Union, State and Concurrent Lists which bifurcates the subjects for the Union Legislature and State legislature to legislate. Continuing with the example of marriage laws (which falls under the Constituent List) to explain the constitutional validity of 'state domicile', it held "until the Centre intervenes and enacts a uniform code for the whole of India, each State might have its own laws on those subjects, and thus there could be different domiciles for different States. We do not, therefore, see any force in the contention that there cannot be a domicile of Madhya Bharat under the Constitution".⁹

In *Dr. Pradeep Jain v. Union of India*, while deciding upon the issue of domiciliary reservation in undergraduate and

⁶ Volume 6 of Halsbury's Laws of England, 198 (3 ed. 1954).

⁷ *D.P. Joshi v. State of Madhya Bharat*, 1 SCR 1215 (1955).

⁸ DICEY, *supra* note 1 at 83

⁹ *D.P. Joshi v. State of Madhya Bharat*, 1 SCR 1215 (1955).



postgraduate medical institutions, the court observed: "It is true and there we agree with the argument advanced on behalf of the State Governments, that the word 'domicile' in the Rules of some of the State Governments prescribing domiciliary requirement for admission to medical colleges situate within their territories, is used not in its technical legal sense but in a popular sense as meaning residence and is intended to convey the idea of intention to reside permanently or indefinitely"¹⁰. This is similar to the position adopted by the court in *D.P. Joshi v. State of Madhya Bharat*. Therefore, the court, in both these cases, has invariably confirmed that while using the term 'domicile status' within the Indian legal system, the court does not construe the meaning of the term in its traditional legal sense and instead construes in the sense of its meaning in common bureaucratic parlance. To lend further credence to the constitutionality of 'state domicile', the court cites Halsbury's Laws of England which states "In federal states some branches of law are within the competence of the federal authorities and for these purposes the whole federation will be subject to a single system of law and an individual may be spoken of as domiciled in the federation as a whole; other branches of law are within the competence of the states or provinces of the federation and the individual will be domiciled in one state or province only."¹¹

Eligibility criteria for domicile status in Indian states

¹⁰ *Dr. Pradeep Jain Etc vs Union Of India And Ors. Etc*, 1 SCR 942 (1984).

¹¹ Volume 8 of Halsbury's Laws of England, 422 (4 ed. 1974).

¹² Karnataka Examinations Authority (KEA), Eligibility Clauses to claim for Government seats (2018).

Many Indian states set domicile status requirements on the basis of a combination of both domicile of origin and the domicile on the basis of choice of residence. To certify domicile status of an Indian citizen in an individual state, the citizen is required to produce a domicile certificate. The domicile certificate is usually issued by the Tahsildar or equivalent officers. Some common requirements are as follows:

Proof of duration of continuous stay for the minimum prescribed time in the state: The minimum duration of continuous stay differs from state to state. While states such as Karnataka require mere 6 years of continuous stay in the state¹², states like Maharashtra¹³, Jharkhand¹⁴ and Himachal Pradesh¹⁵ require much longer durations of continuous stay in the state (15, 30 and 20 respectively).

Proof of having passed the Std. X and / or Std. XII qualifying examination: The said exam should be passed from within the territory of the state and from any Government-run or government-recognised institutions. It is pertinent to note here that this requirement does not imply that the individual should have passed the qualifying examination from the respective State Board of the state only.

Domicile of parents: Domicile may also be passed down hereditarily, in consonance with the principle of domicile of origin – if either of the parents is domiciled in the state (i.e. they possess a domicile certificate), the ward

¹³ Government of Maharashtra, Gazette, Extraordinary, Part-IV-B 138 (2018).

¹⁴ Government of Jharkhand, झारखण्ड के स्थानीय निवासी की परिभाषा एवं पहचान (2016).

¹⁵ Government of Himachal Pradesh, Bonafide Domicile Policy (1972).



may also be considered a domiciled resident of the state.

Provisions for Central and State Government employees: Central and State Government employees or employees working in a Union or State government undertaking or the wards of such employees are also eligible to apply for domicile status provided they have served in the state for a certain period of time.

Some state-specific requirements: In Jharkhand and Uttarakhand, domicile residents are considered those who have been resident in a state since or before a cut-off date (in this case, 1985)¹⁶. In Maharashtra and Karnataka provide domicile status on the basis of mother tongue to those who live in the border districts of the corresponding neighbouring states. Therefore, Maharashtra accords domicile status to those who have mother tongue as Marathi in the Marathi-speaking border districts of Karnataka¹⁷ and Karnataka does the vice-versa with Kannada-speaking border districts of Maharashtra¹⁸. Furthermore, Jharkhand accords domicile status on the basis of culture – residents who have their names in local gram panchayat / *khayatan* records are accorded domicile status on the basis of the culture which the residents belong to in the respective region¹⁹.

Jammu and Kashmir (Decentralization and Recruitment) Act, 2010

(Hereinafter referred to as the ‘act’)

The definition of ‘domicile’ is defined in Section 3A of the Jammu and Kashmir Civil Services (Decentralization and Recruitment) Act, 2010 which was notified in Jammu and Kashmir Reorganisation (Adaptation of State Laws) Order, 2020. It states:

“(1) Any person who fulfils the following conditions shall be deemed to be a domicile of the Union territory of Jammu and Kashmir for the purposes of appointment to any post carrying a pay scale of not more than Level-4 (25500) under the Union territory of Jammu and Kashmir or under a local or other authority (other than cantonment board) within the Union territory of Jammu and Kashmir:

(a) who has resided for a period of fifteen years in the Union territory of Jammu and Kashmir or has studied for a period of seven years and appeared in Class 10th /12th examination in an educational institution located in the Union territory of Jammu and Kashmir; or

(b) who is registered as a migrant by the Relief and Rehabilitation Commissioner (Migrants) in the Union territory of Jammu and Kashmir.

(2) Notwithstanding anything contained in sub-section (1), following persons shall be deemed to be domicile under sub-section (1)

:- (a) children of those Central Government Officials , All India Services Officers, Officials of Public Sector Undertaking and Autonomous body of Central Government, Public Sector Banks, Officials of Statutory bodies, Officials of Central Universities and

¹⁶ Ipsita Chakravarty, To which inhabitants should a state grant domicile status? Scroll.in (2016), <https://scroll.in/article/808438/to-which-inhabitants-should-a-state-grant-domicile-status> (last visited Jul 19, 2020)

¹⁷ *see supra*. note 13

¹⁸ *see supra* note 12

¹⁹ Raghubar Das announces Jharkhand’s new Domicile Policy, Avenue Mail (2016), <https://www.avenuemail.in/ranchi/raghubar-das-announces-jharkhands-new-domicile-policy/91791/> (last visited Jul 19, 2020).



recognised Research institutes of Central Government who have served in Jammu and Kashmir for a total period of ten years; or
 (b) children of parents who fulfil any of the conditions in subsection (1); or
 (c) children of such residents of Union territory of Jammu and Kashmir as reside outside Union territory of Jammu and Kashmir in connection with their employment or business or other professional or vocational reasons but their parents fulfil any of the conditions provided in sub-section (1)".

Salient Features of the Jammu and Kashmir Domicile Law

Erasure of distinction between permanent residents and non-permanent residents:

The law, while prescribing fifteen-year duration of continuous stay as a criterion for domicile status, essentially clubbed locals (who were defined as permanent residents of the state) and non-locals in the same bracket. The Central Government entirely omitted the reference to 'permanent residents' in the new law.

For context, Article 35-A provided for the erstwhile state of Jammu and Kashmir the power to define what classes of people would be permanent residents and confer privileges in the fields of education, employment and acquisition of property²⁰. Under the power vested in it by Article 35-A, the Jammu and Kashmir Constitution defined permanent residents as those who were state subjects

since or before 14th May 1954 or those who had been continuously resident in the state for 10 years and had acquired immovable property before the mentioned date²¹. Before 5th August 2019 (i.e. the day of abrogation), all jobs in state services were reserved for the permanent residents only²². Under the new law, residents who do not wish to or haven't resided permanently in the state shall be eligible to receive domicile status, thereby bringing parity with those who have resided permanently. Therefore, a resident in Jammu and Kashmir who has met the minimum requirements as prescribed in Section 3A Sub-Section (1)²³ could theoretically attain domicile status and receive associated privileges even if the resident in question was born and raised in a different state and had no historical / cultural links to the state. An example of this, which was reported in the media, was that of an IAS officer from Bihar who received domiciled status despite being a non-local officer.²⁴

Reservation for only Level 4 level jobs: The law reserved only Level 4 jobs for domiciled residents while jobs for higher classes and with higher pay-grades were thrown open competition between domiciled and non-domiciled residents.

Possibility of obtaining domicile status without actually residing in the territory: Sub-Section 2 clause (a)²⁵ implicitly allows wards of employees employed in services / public sector undertakings / institutions

²⁰ INDIA CONST. art. 35

²¹ J&K CONST. art. 6 (1)

²² Jammu and Kashmir (Decentralization and Recruitment) Act, 2010, 15 (2010).

²³ Jammu and Kashmir Reorganisation (Adaptation of State Laws) Order, 53 (2020)

²⁴ Peerzada Ashiq, Non-local IAS officer from Bihar gets domicile certificate in Jammu & Kashmir The

Hindu (2020), <https://www.thehindu.com/news/national/other-states/non-local-ias-officer-from-bihar-gets-domicile-certificate-in-jammu-kashmir/article31925839.ece> (last visited Jul 19, 2020).

²⁵ see *supra*. note 23



defined in the said clause to attain domicile status of the territory of Jammu and Kashmir even if they had never resided in the territory itself. This is because the said clause under the said sub-section is exclusive of the domicile requirements set out in sub-section (1)'s clauses²⁶. This is subject to the requirement that the parents in this case have to serve in the territory for a period of ten years. Sub-Section clause (c) provides a similar implied exemption to the children of those who are residents of the state but are working outside the state for vocational / professional reasons²⁷. For example, if a resident who has passed the Std. X qualifying examination from an educational institution in the territory after a period of study of seven years leaves the state for employment purposes to a different state/territory, his child, even though he/she may have been born and raised in a different state / territory and has never resided in the territory shall be eligible for domicile status, equivalent to the status of those who have resided in the territory for ages.

Grant of domicile to excluded communities:

The new domicile law grants domicile status to West Pakistan refugees, Valmiki and other communities in J&K (who were migrants to the erstwhile state)²⁸. These communities were not considered permanent residents since they were not state subjects. When Jammu and Kashmir was a princely state, the Maharaja of Jammu and Kashmir issued two notifications in 1927²⁹ and 1932³⁰ respectively which defined who qualified as state subjects. Under the erstwhile Jammu

and Kashmir Constitution, only those who were state subjects as defined by the notifications issued in 1927 and 1932 were considered permanent residents. In the case of West Pakistan refugees, they had migrated to Jammu during the partition years in 1947 and were not state subjects at the time of migration³¹. Therefore, despite residing in the state since and before the cut-off year of 1954, they were not considered permanent residents. The Valmiki were safai-karamchari (sanitary workers) brought over from Punjab in the 1950's³², and were granted permanent residency only on the condition that they would not seek any other different form of employment than their current one. The new domicile law granted the disenfranchised communities the right to be domiciled in the territory under Sub-Section 1 (b) of Section 3A of the act.

Response to the newly enacted law

In accordance with the provisions of this Act, on May 18th 2020, the Jammu and Kashmir Grant of Domicile Procedure Rules were issued by the government. The new domicile law received negative criticism from Jammu and Kashmir's political class. An NC (National Conference) spokesman said the amended domicile law was made in exercise of power under the **J&K Reorganization Act 2019**, "which stands challenged in number of petitions before the Supreme

²⁶ *Id.*

²⁷ *Id.*

²⁸ Khalid Shah & Prithvi Iyer, Decoding the new domicile law of Jammu and Kashmir | ORF ORF (2020), <https://www.orfonline.org/expert-speak/decoding-new-domicile-law-jammu-kashmir-68777/> (last visited Jul 19, 2020).

²⁹ His Highness' Government of Jammu and Kashmir, State Subject Definition (Legal Document no.44) (1927).

³⁰ His Highness' Government of Jammu and Kashmir, Government Gazette Notification no.13-L (1989)

³¹ *see supra* note 28

³² *Id.*



Court".³³ The PDP stated that order was aimed at effecting a demographic change of J&K and rejected the amended domicile law and the recent order³⁴. In response to the same, the Central Government amended the order by reserving jobs at all levels for the domiciled residents of Jammu and Kashmir.³⁵

Critical Assessment of the Jammu and Kashmir Domicile Law

The domicile law of Jammu and Kashmir, on the face of it, does not appear to be quite different from domicile laws enacted in other parts of India. After reorganisation, the territory of J&K's administrative structure was envisaged to be modelled after that of Puducherry, a similarly governed union territory with an elected government and legislature of its own, but with greater control from the Centre. Many of the provisions in Jammu and Kashmir's domicile law and Pondicherry's domicile law are similar, but comparing Puducherry's territorial domicile laws with that of Jammu and Kashmir, an important difference stands out - children of employees working in government services / public sector undertakings / institutions of the Central Government as well as of the Puducherry Administration are eligible for domicile status (similar to J&K), but the children mentioned above should have studied for minimum two years in any secondary/higher secondary school in the territory and should have passed their

qualifying examinations from the same school³⁶. In the case of Jammu and Kashmir, children of employees serving in institutions / public sector undertakings / banks / governments listed in clause (a) sub-section 2 of section 3A of the act³⁷ need not study and pass the qualifying examinations from an educational institution located in the territory (as in the case of Pondicherry). This seemingly small detail is in fact a free-pass for non-residents to compete with locals (most of whom were permanent residents under the erstwhile law) in employment by claiming a domicile status equivalent to those of the locals. A more potent game-changer in this regard is clause (c) sub-section 2 of section 3A³⁸ of the act, which broadens the prospect of non-residents to claim themselves as domiciled residents of the state, thereby increasing competition in employment. Pondicherry does not any such provision, and neither do majority of the states. A notable state in this regard is Karnataka, which provides for a similar law which states that any non-resident who derives domicile status by origin from any one of his/her domiciled parents and has passed the requisite qualifying examination from an educational institution located outside the territory of Karnataka is eligible to be considered as a domiciled candidate for government seats in education and employment if he/she speaks Kannada, Tulu or Kodava as his/her mother tongue.³⁹ As a proof of mother tongue, the candidate is required to sit for a language test in the

³³ Peerzada Ashiq, NC, PDP reject J&K domicile law The Hindu (2020), <https://www.thehindu.com/news/national/nc-pdp-reject-jk-domicile-law/article31622785.ece> (last visited Jul 19, 2020).

³⁴ *Id.*

³⁵ Tariq Bhat, Centre amends J&K domicile law to reserve all govt jobs for residents The Week (2020),

<https://www.theweek.in/news/india/2020/04/04/centre-amends-j-k-domicile-law-to-reserve-all-govt-jobs-for-residents.html> (last visited Jul 19, 2020).

³⁶ Government of Puducherry, G.O. Ms. No. 04 of the Chief Secretariat (Hr. & Tech. Edn.) 19 (2016).

³⁷ *see supra* note 23

³⁸ *Id.*

³⁹ *see supra* note 12



respective mother tongues listed above. A similar provision enacted in Jammu and Kashmir to protect non-residents taking advantage of local rights would further enhance local rights in Jammu and Kashmir without being an affront to national integrity, while protecting cultural identity of the territory at the same time.

With respect to land rights, the J&K domicile law has been alleged to not have provided sufficient protection to J&K residents in terms of ownership of land. There have been demands in Jammu to enact laws similar to that of Himachal Pradesh to protect local land from outsiders, especially after the protective cover provided by Article 35-A was removed⁴⁰. The specific provision in focus for similar application to J&K is Section 118 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 which prevents transfer of land owned by agriculturists to non-agriculturists in the state of Himachal Pradesh, whether they are Himachal Pradesh or non-Himachal Pradesh residents⁴¹. However, land may be purchased by special approval from the Government of Himachal Pradesh⁴². This is essentially a protective measure to protect the lands owned by Himachal Pradesh-domiciled residents. However, while the abrogation of Article 35A implies permission for non-local residents to purchase private property, land

for industrial and commercial purposes may not be purchased by non-local residents⁴³. Leasing of land for a certain period of time (maximum 90 years) is permitted for non-residents⁴⁴. This is because the Jammu and Kashmir Industrial Policy, 2016 (which lists these provisions), was put in effect before the abrogation of Article 35-A and was not amended after the dissolution of the state and it remains in force till 2026⁴⁵. This essentially means that the current system of reserving land for industrial purposes shall continue to remain in the hands of local residents. It is desirable that this policy be continued after its expiration also, since Jammu and Kashmir's fragile ecology and scarcity of usable land may not support large-scale industrialisation. A more suitable provision in this regard to protect the land rights' of domiciled residents is Article 371 and the state-specific provisions listed for Nagaland and Mizoram. Article 371A (1) (a) (iv)⁴⁶ and Article 371G (1) (a) (iv)⁴⁷ of the Constitution of India states that no Act of Parliament shall apply to the State of Nagaland and Mizoram respectively regarding ownership of land and transfer of land and its resources. This is a safeguard for local residents with respect to land rights since these states share similar economic and socio-political characteristics with Jammu and Kashmir, and therefore the insertion of a similar provision under Article

⁴⁰ Arteev Sharma, Chorus for 'domicile-like options' to protect land rights of locals TribuneIndia News Service (2020), <https://www.tribuneindia.com/news/archive/j-k/chorus-for-domicile-like-options-to-protect-land-rights-of-locals-816144> (last visited Jul 19, 2020).

⁴¹ Revenue Department, Government of Himachal Pradesh, Compendium of Rules, Instructions and Clarifications relating to Section 118 of the H.P. Tenancy & Land Reforms Act, 1972. 1 (2020)

⁴² *Id.*

⁴³ Safwat Zargar, Special status for Jammu and Kashmir has gone, but outside investors cannot buy

land there Scroll.in (2020), <https://scroll.in/article/953922/special-status-for-jammu-and-kashmir-may-be-gone-but-outside-investors-cannot-buy-land-there> (last visited Jul 19, 2020).

⁴⁴ *Id.*

⁴⁵ Department of Industries and Commerce, Government of Jammu and Kashmir, Industrial Policy 2 (2016).

⁴⁶ INDIA CONST. art. 371A (a) (iv)

⁴⁷ INDIA CONST. art. 371G (a) (iv)



371 would go a long way in allaying fears over the new domicile law.

Conclusion

The new domicile law of Jammu and Kashmir can be summarized as a concerted attempt to bring parity with the domicile laws prevailing in other parts of the country. This is of course, justified since the special status of the state has been withdrawn. It is even advantageous because it does provide a limited level of protection to the rights of local residents, and importantly, previously disenfranchised communities excluded under the permanent residency laws of the erstwhile state also gained their rights. However, more safeguards would be appreciated in this regard considering the fears over demographic change and the tense political situation in the territory.

