The fact remains clear that the displaced persons were compelled to migrate from their homeland under circumstances beyond their control and overnight they were reduced to the status of displaced persons. It should be noted that the integration of such displaced persons with the general population of Jammu and Kashmir was and is in the long run inevitable. Immediately after their displacement, the trait they had in common with refugees as defined in international laws was that they feared of persecution, they had no home or work or that they were awaiting some sort of settlement with official and non-official help and cooperation. The government took the initiative to settle these displaced persons. Some displaced persons moved a number of times before finally settling down at present places. The loss and memories of their native place are evident through oral narratives that capture those traumatic years of being perpetually displaced.

The invasion by tribal raiders destroyed not only the life and property of lakhs of people but also the very fabric of human society and relationships. Thousands of innocent people were mercilessly and brutally slaughtered; property worth millions of dollars were looted and destroyed; women of all ages were kidnapped, abducted and ravished and unspeakable atrocities were perpetrated. Unfortunately, the state of Jammu and Kashmir and the government of India failed, which resulted in the total migration of Hindus and Sikhs from the part of Jammu and Kashmir presently under the control of Pakistan i.e. Pakistan occupied Kashmir. This made them displaced persons in their own state.

A large number of Muslim tribesmen attracted by opportunities of ‘love of fighting and desire for loot’ declared a jihad. The raiders who numbered about twenty thousand crossed the border and smuggled arms into Kashmir. They along with the Muslim deserters from the state forces and retired army men came to help the Muslims of Poonch, who were dissatisfied with their ruler because of heavy taxation and his administration. Their activities grew into a full scale revolt against the Hindu Dogra rule and culminated in the form of liberation of an area in western Jammu and Kashmir. They proclaimed the independent Azad Kashmir on October 24, 1947. In the backdrop
of the revolt, the raiders besieged the town of Kotli for nearly a month and Poonch for half a month, ruthlessly killing hundreds of Hindus and Sikhs.¹

Krishna Mehta provides a rambling account of her days in and around Muzaffarabad, where her husband was a member of the Kashmir Civil Service at the time of tribals raids in the Kashmir province. She writes²

Her husband was escorted by the tribesmen who drew their guns at him and shouted, you kafir, go on your knees and prostrate before us, we represent Pakistan. He stood motionless. Tell us if you are a Hindu or a Musalman? They demanded. When he said he was a Hindu, they all fired at him one after the other.

The killings and dispersal of the Hindu and Sikh population were a clear example of the ethnic cleansing of a group. In less than two months, a large stream of Hindus and Sikhs were forced to leave their places of habitation and migrate to the other side of line of control to save their lives. Many thousands took refuge in the state garrisons, which had not received food from outside since the attacks began. Because of the difficult terrain and the poor conditions of the roads, the movement of refugees and displaced persons was very slow. Many who struggled in the mountains were killed and the fortunate ones took shelter in the army run camps, notably the Yol Camp, where they had to wait years for their departure to India. The last batch of more than 900 Hindu and Sikh Kashmiri refugees and more than 250 former employees of the Dogra state administration were repatriated to the East Punjab city of Amritsar as late as in January 1951.³

Raiders don’t spare even the Muslims. They insisted on entering every Muslim home and pretended to be looking for Hindu women in hiding but they finally looted the homes of their coreligionists. They even kidnapped Muslim women also.⁴ Every men and women were thoroughly searched. All their money and jewellery were taken away. Women had currency notes sewn into the hem of their shirts and salwars, several had hidden their jewellery in the folds of their garments. The search was thoroughly

³ Ibid., p. 203.
⁴ Krishna Mehta, n. 2, p. 38.
humiliating. Women who had currency notes hidden in their shirts were made to take them off. Even their modesty was not respected.\(^5\) Girls and women were taken by Muslims to their homes and when the men tired of them, they sold them to the raiders for twelve or thirteen annas like so many crippled cattle which had outlived their use.\(^6\) A mass self-immolation was done by women. Prolonged suffering and fear of being used up by raiders had wiped all colour and emotion from their faces. First they threw their children in to rushing river and then they jumped in themselves to save their honour. The desire for self-immolation was complete and they all went to their death with a seeming lack of pain, pity or feeling.\(^7\) Koshalaya Devi, 100 years old narrated a tragic story which elucidated the facts and the fear of being raped and killed by Muslims, who were searching the Hindu people (especially women) like mad dogs, forced them to run in early September so as to reach the places where they will be safe from those mad dogs. The fear of losing modesty and dignity acted as catalyst for many families to leave their homes. The people had to travel on foot with their luggage. These displaced people carried with them some warm clothes, cash, their children, eating material and ornaments (jewellery); the jewelery of many families were looted in their way by tribals. Many people died because of hunger and tiredness. It was the state forces of Maharaja and Indian army who escaped them from such critical situations and in later stage provided shelter and safety at Poonch. Thereafter, some displaced persons remained in Poonch Qilla while others were airlifted to Jammu. Those who came to Jammu were placed at Nagrota camp and some of them were put in camps at Himachal Pradesh and Jallandhar. Settler’s narrative indicated the frustration and helplessness. A general analysis of displaced persons views reflects that they are afraid of their future. They express that theirs future is insecure and uncertain. They have insecurity of losing ownership right on the land possessed by them and once again getting displaced.

The attack by raiders which started in October 1947 brought untold miseries and trouble to the state. By the time the Indian army came to the rescue of the state, nearly two thirds of its territory had already fallen into the hands of raiders. The thousands of displaced persons and refugees were thirsting for food, shelter and revenge. Food and medical supplies were air-drooped at Bagh, Rawalkote, Kotli, Plandari, Poonch and other areas. One cannot say with certainty, what was the exact number of displaced

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\(^5\) Ibid., p. 40.
\(^6\) Ibid., p. 170.
\(^7\) Ibid., pp. 50-51.
persons families who could escape with their lives from the eight tehsils comprising Mirpur, Bhimber, Kotli, Mendhar, Haveli, Bagh, Sadnoti and Muzzaffranbad and from the border villages of other tehsils of Jammu and Kashmir, which continues to be under the occupation of Pakistan.⁸

Emergency responses were carried which tend to emphasise assistance over protection. Particularly in mass-influx situations, immediate needs such as food and health are given more attention than protection. This is partly because the former are easily identified. The government with the help of army men and dakotas supplied the food material for the survival of displaced persons who escaped violence. Thereafter, at suitable time they were airlifted to safer places in Jammu and in the places where camps were functional.

**Role of Government in Rehabilitation**

When the Indian army launched the rescue operation against the raiders, nearly two thirds area of the Jammu and Kashmir had been occupied by them.⁹ The inhumane incursion left behind a pain of sorrow and tears. It caused a serious displacement in the life of the people of the state and ruined its entire economy. Thousands of people found themselves destitute and homeless. Hospitals and dispensaries had been demolished by the invaders and were in ruins. The equipment had been removed or damaged and stores destroyed. The entire transport system had broken down. The invaders had also damaged roads, buildings and bridges in the state.¹⁰ This huge devastation caused the virtual collapse of the economy and administration of the affected regions. The first popular government, which assumed power in October 1947, faced enormous problems related to relief and rehabilitation of these homeless people of PoK. There were large numbers of displaced people searching for food, shelter and help in order to protect themselves and save members of their families. The exact number of these displaced people who could save their lives cannot be estimated because of having no proper registration by the state or the Union government. The proper registration of the displaced families could not be made in Jammu and Kashmir till 1960. Registration was, however, completed subsequently only in respect of those families who joined the

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⁹ Ibid., p. 62.
refugee camps. But it can be surmised on the basis of Census Report of 1941 that 61,427 Hindus and 32,034 Sikhs, previously dwelling in 61,813 houses in PoK, left their homes for settlement in safer regions of Jammu and other parts of India. The resettlement of these homeless people constituted the core problem of the state.\(^{11}\)

There was large scale influx of displaced persons from Pakistan occupied Kashmir into the Indian part of Jammu and Kashmir state particularly in Jammu region. It resulted into a severe crisis of their rehabilitation. By September 30 around 60,000 non-muslim displaced persons had arrived at Jammu. Two camps were established at Mohallah Ustad and Shahidi chowk for sheltering the pain stricken.\(^{12}\) The government set up a network of camps for the benefit of displaced persons who were rendered homeless as a result of the invasion. To mitigate the sufferings of the affected people and solve the humanitarian problem of thousands of homeless people, the government constituted the Central Refugee Committee vides Council Order No. JE/13/47 on November 19, 1947. The displaced persons and refugee relief camps were established at Pullanwala, Jourian, Nagrota, Chatha, Poonch town, company Bagh, Frashkhana at Jammu city to accommodate them in government and private buildings. Thereafter, a separate department was created to look after these displaced persons and to rehabilitate them. On April 14, 1948 under the Ministry of Health and Rehabilitation, the Department of Relief and Rehabilitation was established. This department took charge of displaced persons and refugee camps in Jammu province and immediately reorganised the displaced persons and refugees camps into ten big units which were kept under charge of ten paid camps officers. Besides, these displaced persons and refugee camps, ration of rupees 3, 18,741 was arranged and dropped from air in Poonch town through army dakotas for free distribution among displaced persons, where thousands of displaced persons from tehsils of Haveli, Mendhar, Bagh and Sudhnoti were staying.\(^{13}\) The government spent huge sums amounting to over rupees 3, 75,000 in the first year in helping them in the shape of interest-free loans, free rations and free house-building materials. Vast areas of land were reclaimed and distributed amongst them. Over

\(^{11}\) S.P. Vaid, n. 8, p. 62.
\(^{12}\) Ibid., p. 54.
2,00,000 of these displaced persons were rehabilitated and the government had spent over rupees 12, 75,000 on this work in the year 1949.\textsuperscript{14}

The government of India also set up its relief organisation in Jammu on June 1, 1948. The relief organisation of the government of India worked at Jammu till 1951 and cost on the maintenance of these camps reported to be rupees 260 lakhs.\textsuperscript{15} It established displaced persons and refugee relief camps at Nagotra, Chatha and Company Bagh. Besides this, a home for the unattached woman and children was also opened at Frash Khanna at Jammu city. Meanwhile, the number of displaced families rose to 32,000 constituting of about 8,780 families. Most of the displaced persons who moved out of state were admitted into the refugee camps at Jallandhar and Hoshiarpur. About 3,000 displaced persons originally admitted in Jallandhar camp was transferred to Hoshiarpur relief camp and then to Nagrotra camp in June 1950. These relief camps were closed in 1951, when the refugee relief camps for displaced persons were opened at Yole near Dharamshala, Chunar and Hastinapur in U.P.\textsuperscript{16}

All these relief camps were run by the Ministry of Rehabilitation at Jammu including Nagrota, Chatha, and Company Bagh and Frash Khanna and all displaced persons were eligible for receipt of relief and rehabilitation benefits.\textsuperscript{17} They were provided with tents for temporary shelter, free food and cash dole at different established camps by the government of India. At Nagrota camp, the cash dole of rupees four was fixed for those above the age of six years. Also free ration comprising of rice, flour, sugar and pulses were given to them. Apart from free ration the inmates were provided with free wood for cremation of dead bodies and cash relief for marriages of female members. Separate arrangements were made to keep the camp sites clean. Since there was every apprehension of outbreak of epidemics in these camps, free medical facilities were provided to the inmates of these camps as well.\textsuperscript{18} Some of the uprooted people were living either with their relatives or on rented private accommodation in Jammu. For such persons, the government had sanctioned rupees six as the daily cash

\textsuperscript{16} Report of the Inquiry Committee appointed to examine the Working of Land Reforms, Price Control etc. i.e. Wazir Committee, n. 13, p. 136. See also Y.R. Sharma, n. 13, p. 268.
\textsuperscript{17} S.P. Vaid, n. 8, p. 68.
\textsuperscript{18} Ibid., p. 65.
dole for those up to six months of age and rupees twelve for above the age of six months without any cereal ration. Both the centre and state governments spent rupees seven crores on the rehabilitation of displaced persons in these camps. It included rupees two crores and sixty lakhs on displaced persons at Nagrota camp, rupees two crores on Yol Camp and one crore through Joint Rehabilitation Board. 19 One old person named Basakhi Ram said, “Being displaced and to live in tents in camps was very difficult because there was too much difference between the life of home and life of camps. While living in camps, we faced so many difficulties which can be described in three ways viz. related to self respect, economic problems and social problems. In the camps, there were not proper food facilities and medical aid. The conditions in the camps were worse despite Jammu and Kashmir government and Indian government tried their best to give displaced persons all kind of help which they can provide. But that was not up to the mark.”

Sheikh Mohammad Abdullah, then Prime Minister of Jammu and Kashmir, did feel their agony in 1950 and named them as ‘displaced persons’ by issuing order No. 1476-C of December 16, 1950 (appreciating that they were forced out of their homes by the invaders and had not left their houses in view of their having anticipated some temporary adverse social conditions ). While Sheikh Abdullah named those who had left Jammu and Kashmir and gone to Pakistan (west Punjab) as migrants (anticipating some temporary adverse social conditions). But they were not given any assistance or relief proportionate to the material and physical loss each individual family had suffered. 20

For the rehabilitation of displaced persons the centre and state governments constituted Rehabilitation Board in 1950 known as the Indo-Kashmir Joint Rehabilitation Board. The main purpose of the Board was to devise measures for the rehabilitation of displaced persons registered or enrolled at the Jammu relief camps. 21 In its first meeting headed by Major General Tara Singh Bal, decision was taken to prepare a plan for the rehabilitation including collection of relevant data of displaced persons and their means of livelihood. In the same year the state government issued its Cabinet

19 Ibid., p.66.
20 Daya Sagar Sharma, ‘POJK Displaced Persons are Not refugees: GOI has made them suffer in the name of Technicalities’, September 10, 2012 at http://www.americanchronicle.com/articles/view/286591. For details see Appendix II-A.
21 Y.R. Sharma, n. 13, p. 268. See also S.P. Vaid, n. 8, p. 68.
Order No. 1476-C in which the evacuee property was reserved for the rehabilitation of thousands of uprooted and landless people from PoK. In the same order, they were termed as displaced persons.

The state government also constituted a Land Allotment Committee to coordinate the activities of all government departments which in some way or other were dealing with the rehabilitation of displaced persons. Immediately on the dispersal of the displaced persons from the relief camps, the displaced persons who were residing in rural areas were allotted land measuring eight acres irrigated (Abi agricultural land) or twelve acres non-irrigated (Khuski agricultural land) irrespective of their family size (by lot) under the direct supervision of Indo-Kashmir Joint Rehabilitation Board. But in 1951 due to shortage of land available for the settlement of other than displaced persons, the state government issued vides its Cabinet Order No. 913-C with fact that evacuee property can be used for the settlement of other than displaced persons. As a result of which only some got full allotment as per the scheme of state government prior to this Cabinet order whereas other displaced persons got less land and in some cases many victims got nothing. It was felt by the government that it might not be possible for them to provide land to each family at such a higher scale. Accordingly, the state government passed another order vides Cabinet Order No. 578-C of 1954 which contains rules for allotment of agricultural land at fresh scale of land which ranged from 2 to 4 acres irrigated or 3 to 6 acres non-irrigated depending on the strength of each displaced family. As per this Cabinet order approximately 21,116 families were resettled in different parts of the state. This includes 16,287 quarters and 793 plots in six colonies which were allotted to displaced persons in urban areas. As per the official record, about 31,619 families were settled by the government. From 1950 to 1956, land was allotted to these displaced families in rural areas at the rate of 32 Kanals Abi or 48 Kanals Khuski per family. After 1956, there has been no settlement programme under taken by the government. Still there are 4,988 families that have not been settled. These

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22 Evacuee property, the immovable property both land and houses left by the displaced persons who had migrated to PoK due to fear of actual or perceived anti-Muslim violence.
23 S.P. Vaid, n. 8, pp. 66-67.
24 Y.R. Sharma, n. 13, p. 268.
25 Ibid., pp. 268-69. For details see Appendix II-C.
unsettled families are claiming full compensation for non-allotment due to deficiency of land.\textsuperscript{27}

The state government in response to the demands of 1947 displaced persons issued an order in 1965 granting ownership right on the state land in favour of displaced persons. The ownership right in respect of evacuee land was not conferred.\textsuperscript{28} The displaced persons, however, were not satisfied over the measures taken by the government regarding conferment of ownership right over the state land allotted to them. Meanwhile the government decided to settle the displaced persons of 1965 Indo-Pakistan war. The steps taken by the government to rehabilitate displaced persons of 1965 added fuel to the fire. On January 12, 1969 an agitation was launched by the Shnarthi Action Committee which continued for seventeen days. The main demands, among others, were conferment of ownership right on evacuee land and houses allotted to them as a sequel to their permanent settlement.\textsuperscript{29}

In the rest of the country, evacuee property was entirely used for the rehabilitation of the refugees. The refugees, accordingly, were allotted land in lieu of the land left by them in Pakistan. The state government initially recommended that evacuee property be reserved for the rehabilitation of displaced persons vide its Cabinet Order No. 1476-C in 1950. This Order was however, subsequently superseded by another Cabinet Order No. 913-C of 1951 which did not reserve any evacuee land for displaced persons. The result of Cabinet Order No. 913-C of 1951 was that the total area of evacuee land available for settlement of PoK displaced persons shrank. A small number of them got allotment according to the full scale. The rest got in varying scales and most of them got even less than one acre.\textsuperscript{30}

Subsequently, the government enacted the Act X of 1971 on April 18, 1971. The Act among others things provided that the government for the permanent settlement of any displaced person may transfer any land owned by the state or which was related to the state and any evacuee land acquired by displaced persons in such form and manner on such terms and conditions as are prescribed in the Jammu and Kashmir Displaced Persons Permanent Settlement Act. Certain right over land was given to the displaced

\textsuperscript{27} Daily Excelsior, April 28, 2008.
\textsuperscript{28} Y.R. Sharma, n. 13, p. 273.
\textsuperscript{29} Ibid., pp. 273-74.
\textsuperscript{30} Ibid., p. 269. For details see Appendix II.
persons. In 1977, the leaders of Sharnarshi Action Committee met the then Prime Minister of India, Morarji Desai and requested him to solve their problems. Ultimately a Committee of Rajya Sabha member was formed to look into the problems and grievances of the 1947 displaced persons uprooted from Pakistan occupied areas of Jammu and Kashmir.

**Status determination**

Could those crossed the international borders between India and Pakistan in 1947 be considered ‘refugees’? Was this an exchange of population agreed by India and Pakistan along eastern and western borders or were these people forced to flee their place of origin under duress? This is the question looming around the intellectual class by what name they should be addressed. Western observers argued at that time in the United Nations that this was an exchange of population rather than a refugee exodus as these persons continued to enjoy the protection of the country of their nationality. Pakrasi argues that the displaced persons of West Bengal or of any state of the Indian Union were not refugees, they were displaced people from one socio-political environment to another. However, if we keep in mind the debate surrounding the international refugee definition, they cannot be called by the name of displaced persons. The displaced persons during the partition had lost the effective protection of the state and would certainly have been able to prove ‘a well founded fear of persecution’. Also this was not periodic or planned exchange of population. The Hindus and Muslims were not transferred as a matter of policy but the choice of the people themselves. If it was a matter of policy to exchange population than communal atmosphere would had not been there and millions of lives had not been lost. Millions fled to save their lives from the murderous mobs engaging in orgies of physical violence. These were the persons who were forced to flee their places of origin and seek admission into another country. Otherwise they would have died in the hands of murderous mobs. Contemporary commentators have described them by the title of refugees. Those persons who were forced to leave their homes at partition were refugees in a meaningful sense. They were fleeing persecution, individual and generalised. They had crossed international borders

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32 Ibid., p. 275.
in their flight. They were unable to return to their homes and the states in which they sought refuge, though not unwilling eventually to host them and believed that the vast majority of them would return to their places of origin.

In order to benefit from the provisions of the 1951 United Nations Refugee Convention, a refugee must first be recognised as someone who has a well-founded fear of persecution in his or her country of origin and is therefore in need of international protection. This process of identification and status determination takes place in two principal ways. When large numbers of people from a conflict-affected country cross an international border and seek asylum in another state, it is common for them to be recognised as refugee on a group or prima facie basis. This means that each individual does not have to be assessed on his or her need for protection. In India, however, the process of status determination was done outside the purview of 1951 United Nations Refugee Convention. India is not a signatory to the refugee convention as it excluded the partition displaced persons from the definition of refugees. So, government of India named them ‘displaced persons’. “Displaced person” means any person who on account of the setting up of the Dominions of India and Pakistan or on account of civil disturbances or the fear of such disturbances in any area now forming part of West Pakistan has after the first day of March, 1947 left, or been displaced from, his place of residence in such area and who has been subsequently residing in India and includes any person who is resident in any place now forming part of India and who for that reasons is unable or has been rendered unable to manage, supervise or control any immovable property belonging to him in West Pakistan and also includes the successors-in-interest of any such person.34

When over 6.5 million people took refuge in the newly born state of India following the partition of the subcontinent in 1947, the government of India took the necessary legislative and administrative measures by adopting the Rehabilitation Finance Administration Act, 1948 and the Displaced Persons (Claims) Act, 1950. It should be noted that those taking refuge in India after crossing the newly created India-Pakistan border were called displaced persons and not refugees. Under these two Acts, a ‘displaced persons’ meant ‘a person who, being displaced from any area (now forming part of Pakistan) on account of civil disturbances, has settled and is engaged or intends

34 As defined in Displaced Persons (Compensation and Rehabilitation) Act, 1954. See at http://www.unhcr.org/refworld/docid/3ae6b54ac.html
to engage in any business or industry in India’. Thus, these persons are not covered by international or regional conventions. The fact is that no procedure for the recognition of these persons crossing the border was put in place nor was it insisted upon. In order to administer the above mentioned Acts, a special ministry was created at the centre (with branches in all states), whose primary concern at that time was to look after these displaced persons, including matters such as transport, communication, provision for earning a livelihood, if necessary by allotting agricultural land.\(^{35}\)

The 1947 displaced persons arrived in this part of Jammu and Kashmir after partition and subsequent tribal invasion. The government tried differently to sort out the problem of resettlement in case of PoK displaced from the Punjabi refugees who arrived from West Pakistan or Bengali refugees. The 1947 PoK refugees were called “displaced persons”. By displaced what the government meant all those who had to leave PoK due to communal violence and tribal invasion and came in present Jammu and Kashmir in 1947 and 1948. In the Jammu and Kashmir Displaced Persons (Permanent Settlement) Act, 1971, displaced person means any person who is a permanent resident of the state and who, on account of the setting up of the Dominions of India and Pakistan, or on account of civil disturbances or fear of such disturbances in any area of the state occupied by Pakistan has, after the first day of March, 1947, left or been displaced from, his place of residence in such area and who has been subsequently residing outside such area in the state and also includes the successors-in-interest of any such person.\(^{36}\)

The Jammu and Kashmir government has categorically said refugees who came to the state from the Punjab province (now in Pakistan) during the 1947 communal riots are not eligible for the Permanent Resident Certificate. Better known as West Pakistan refugees, they are not state subjects of Jammu and Kashmir and hence not eligible for the certificate. According to official figures, 5,764 families, most of them belonging to Scheduled Castes, migrated from the neighbouring Sialkot district as communal riots rocked the entire Punjab belt in 1947. Though they have been Jammu and Kashmir residents for the past many years and are Indian citizens, they cannot buy property, get employment in the state or even vote in the assembly elections as they do not have the

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\(^{36}\) B.R. Gupta and Pranav Kohli, n. 31, p. 437.
Permanent Resident Certificate. As per Jammu and Kashmir government, West Pakistani refugees are citizens of India but not permanent residents of the state.

The Indian government has no national policy, legislation or other mechanisms to respond to internal displacement caused by armed conflict and ethnic or communal violence, even though there are internally displaced populations in several regions of the country. The responsibility for assisting and protecting the displaced has frequently been delegated to state governments and district authorities. The lack of a national policy has allowed representatives of certain states to claim that they are powerless to make decisions to protect and assist displaced people. While there is certainly a need for a national policy, its absence does not absolve state governments from their responsibilities. The National Human Rights Commission (NHRC) has intervened in conflict-related displacement issues related to Gujarat and Jammu and Kashmir. It has recommended that in order to protect the basic human rights of displaced people, human rights guarantees for the IDPs in India should be incorporated in appropriate legislation. At the very heart of the international asylum and refugee protection regime is the right of people whose lives and liberty are at risk to seek safety and security in another state. This principle underpins the notion of non-refoulement, which protects people from being returned to the frontiers of a country where they would be placed at risk on account of their race, religion, nationality, membership of a particular social group or political opinion. This principle is now recognised as a component of customary international law and is therefore considered binding on all states, including those that are not signatories to the 1951 United Nations Refugee Convention. States have consistently reaffirmed their commitment to refugee as well as displaced protection. However, there remain a number of gaps, mostly arising from long-standing problems such as economic, non-availability of means to provide basic necessities, lack of registration and documentation and shortcomings in refugee status determination procedures.

Identification, Registration and Documentation

The people who are in need of international protection have to be identified, registered and provided with appropriate documentation. It is the responsibility of the state to register the displaced persons by establishing appropriate administrative authority. The need to strengthen registration as a protection tool has been increasingly recognised. The proper registration and documentation of refugees and displaced persons are important in assessing and monitoring assistance needs. They are also significant protection tools. Registration facilitates in having accessibility to basic rights and family reunification, enables identification of those in need of special assistance and supports the implementation of appropriate durable solutions. Where registration procedures are weak or ineffective, the practical consequences can be severe. Unregistered and undocumented refugees may be at risk of arrest, detention, refoulement or deportation and may be denied the material assistance they need in terms of food, water, shelter and healthcare. They may be unable to benefit from the family tracing and family reunification activities that are normally established in the aftermath of a conflict or turmoil situation. Those persons who are not registered are at disadvantage and deprived of resettlement programmes that are intended to provide lasting solutions to their plight.

The state government and the government of India have not even done any regular registration of the families and the properties of the PoK displaced persons in spite of repeated requests since 1950s. Only registration that is available is of applications for one time ex gratia relief as ordered by government of India in 1960 for some selected families and that too to those whose income was less than Rs 300 per month. As per the official records available, 31619 displaced families of 1947 stand registered and no claim stand unregistered. This number of 1947 PoK displaced persons families are registered with Jammu and Kashmir government including all those who went outside Jammu and Kashmir and who came to Jammu. They are registered with the Provincial Rehabilitation office (PRO).\(^{40}\) Out of this, 26,319 families are residing in the state while 5300 families have gone outside the state. However, there are still families which are unregistered.

\(^{40}\) Office of the Custodian Ex-officio Provincial Rehabilitation Office, Jammu.
Number of families settled district-wise is not available as per records of custodian (Ex-officio Provincial Rehabilitation Officer) Jammu. ‘26, 319’ 1947 PoK displaced families were resettled under the resettlement and rehabilitation programme. Out of this 3600 family’s preferred to settle in urban areas, known as urban displaced persons while 22, 719 families were rehabilitated in rural areas, known as rural displaced persons.

Table 5.1: Number of Registered Families with PRO

<table>
<thead>
<tr>
<th>Registered Families</th>
<th>Numbers</th>
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<tbody>
<tr>
<td>Residing in J&amp;K</td>
<td>26,319</td>
</tr>
<tr>
<td>Residing outside J&amp;K</td>
<td>5300</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>31,619</strong></td>
</tr>
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Resettlement and Rehabilitation Measures:

In early September 1947, Prime Minister Nehru formed a Ministry to deal with the problem of refugee evacuation and relief i.e. Ministry of Relief and Rehabilitation. In addition, the government of India attempted to reduce administrative chaos by setting up a movement panel with representatives of the Ministries of Rehabilitation, Defence and States. The central and the state government of Jammu and Kashmir set upon different schemes to rehabilitate them temporarily at different places in houses, in shops and other available places. Refugees from Muzaffarabad desiring to settle in Kashmir valley were not allowed to settle there. Some 300 families of Muzaffarabad who had settled in district Kupwara of Kashmir valley were uprooted again and pushed to Jammu. The state government has always been of the Kashmiris, by the Kashmiris and for Kashmiris. Since PoK displaced persons were not Kashmiris, they were not allowed to settle in the Kashmir valley. The Jammu and Kashmir government never wanted PoK displaced persons to settle in the territory. It was the central governments support that allowed some displaced persons to settle in the Jammu region. Many others were forced to settle in other states like Punjab, Rajasthan and UP. Neither the Union nor the state government has been sincere in settling these displaced persons. There were schemes, but the administrators of these schemes have been confusing relief measures and small
ex-gratia grant with rehabilitation. These are clear instances of poor, innocent and uprooted people being deceived by their own government.41

After escaping from horrible situation, these displaced persons were first transported to relief camps established at Nagrota etc. The policy of transferring responsibility for displaced persons relief was prompted by the fact that matters pertaining to local law and order came under the purview of state governments, which could administer refugee or displaced persons camps more efficiently than the central government. Local authorities had drawn on their administrative and police services for personnel to manage the camps. The central government and specifically the Ministry of Relief and the Ministry of States would had overseen the administration and bear the vast majority of expenses. The government of India sanctioned rupees ten million for relief expenditure in 1947-48. State government had set up department of refugee and displaced persons relief and sent monthly reports to the central government.42

**Legislative Measures**

The extraordinary movement of displaced persons at partition necessitated the formulation of extensive legislation for their rehabilitation. Laws relating to compensation, claim realisation and settlement were enacted by both the central and provincial governments of the two new states, creating a body of legislation that is still largely in operation. Such legislation in India include interalia the Displaced Persons (Legal Proceedings Act), 1949 and the Administration of Evacuee Property Act, 1950 while in the same period Pakistan enacted inter alia the Pakistan citizenship Act, 1951 and the Displaced Persons (Compensation and Rehabilitation) Act, 1958.43

Within the terms of these legislations, the government of India and Pakistan formulated a particular displaced persons definition, which was avowedly used for the purpose of administering relief to partition refugees but continued to influence displaced persons policy in subsequent years. The government of India defined a refugee/displaced person as ‘any person who on account of the setting up of the  

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43 Ibid., p. 68.
dominions of India and Pakistan, or on account of civil disturbances in any area now forming part of Pakistan, has been displaced from or has left his place of residence in such area after March 1, 1947 and who has been subsequently residing in India.’ In addition, the official definition of a refugee or displaced person in the east was apart from the date of entry virtually identical. A refugee was accordingly described as ‘one who had entered India (who left or was compelled to leave his home in East Pakistan on or after October 15, 1947) on account of setting up of the two dominions of India and Pakistan.’ In striking similarity, the government of Pakistan defined a refugee in the Displaced Persons (Compensation and Rehabilitation) Act as ‘any person who, on account of the setting up of the dominions of Pakistan and India, or on account of civil disturbances in any area now forming part of or occupied by India, has on or after the first day of March 1947 left or been displaced from his place of residence in such area and has been subsequently become a citizen of Pakistan.’ Although these were not universal definitions as they were restricted to partition refugees within a strictly circumscribed time frame. It is apparent from this legislations that India and Pakistan saw refugees as those fleeing generalised violence, as opposed to the more narrow definition contained within the 1951 Convention.

After several attempts to resolve the problem of property left behind by refugees through bilateral negotiations, some of which were successful but most of which fell prey to the worsening relations between the two states. India instituted the Administration of Evacuee Property Act, 1950 which was directed at the property of persons who had left India for Pakistan and subsequently acquired evacuee property in that country. In October 1954 the Displaced Persons (Compensation and Rehabilitation) Act was passed which provided for the institution of a compensation pool out of which payments could be made to refugees in compensation for their financial losses. However, the Parliament had repealed the Displaced Persons (Compensation and Rehabilitation) Act, 1954 in 2005. But the government would ensure that the claims of

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44 Government of India, Annual Report of the Department of Rehabilitation, Department of Rehabilitation, Ministry of Labour and Rehabilitation, New Delhi, 1965-66, p. 7. See also Pia Oberoi, n. 43, pp. 68-69.
45 Pia Oberoi, n. 42, p. 69.
46 Ibid., pp. 69-70.
those in the category of ‘unsatisfied verified claims’ would be honoured under Clause 6 of the General Clauses Act.\textsuperscript{47}

The displaced persons of any state of Indian Union are not in a position to satisfy the definition of the refugees found in international laws which, on the other hand, treat a refugee as an alien for the state where he preferred to reside. The displaced persons of India were and are never considered socially or legally as aliens rather they have been accepted as lawful citizens of the country and Indian nationality has been accorded to them unquestionably.\textsuperscript{48} To the question of citizenship rights for displaced persons or partition refugees, the legislation recognised the automatic citizenship rights of the vast majority of displaced persons/refugees. Article 6 of the Constitution of India prescribed that any person who had migrated to the territory of India before July 9, 1948 and had ordinarily resided within the territory of India since the date of his migration would be considered a citizen of the state.\textsuperscript{49}

In the initial stages, the state authorities were mainly preoccupied with supplying the displaced persons with food, shelter and clothing. It was nearly impossible, in the beginning, when the Indian as well as Jammu and Kashmir economy had not even begun to crawl, to create additional employment, to build new houses or to transfer the displaced persons to the industrialised areas for better employment opportunities. Difficulties notwithstanding, a series of laws were passed to facilitate and to bring about the integration and assimilation of the entire body of displaced persons. The Central government passed many acts which included the Rehabilitation Finance Administration Act, 1948; Administration of Evacuee Property Act, 31 of 1950; Displaced Persons (Debts Adjustment) Act, 70 of 1951; Displaced Persons (Compensation and Rehabilitation) Act, 1954 and Displaced persons (Claims) Supplementary Act, 12 of 1954. These acts are not applicable to the state of Jammu and Kashmir, which had its own Acts and Cabinet orders to deal with the displaced persons.\textsuperscript{50} The states Cabinet orders dealing with displaced persons include Cabinet Order No. 1476-C, 1950; Cabinet Orders No. 913-C, 1951; R-941, January 28, 1953; Cabinet Orders No. 578-C, 1954 and Cabinet Orders No. 254-C, 1965. In 1971, The Jammu and Kashmir Displaced Persons

\textsuperscript{47} ‘Govt says no to 47 refugees’, \textit{Times of India}, January 31, 2006.
\textsuperscript{48} Kanti B. Pakrasi, n. 34, p. 51.
\textsuperscript{49} Pia Oberoi, n. 42, p. 70.
\textsuperscript{50} For details of all Cabinet Orders see Appendix II.
(Permanent Settlement) Act, 1971 was passed to provide for the permanent settlement of displaced persons and for matters connected therewith.

**Provision of compensation**

The compensation is of two kinds: (A) that to which all eligible persons are entitled as of right, viz. (i) Primary compensation, that is recompense for loss of immovable property; (ii) Compensation for loss of household goods and equipment. (iii) Compensation to the displaced persons for the loss of their savings. (B) Compensation in respect of losses to which the displaced persons are entitled on merits. These are: (i) Integration loans, which may be granted either loans to individuals or loans to firms for the creation of jobs. (ii) Assistance towards housing. This comprises of a number of measures including loans to facilitate lease or purchase of property by displaced persons; (iii) Grant of hardship relief i.e. financial and other assistance to such persons as they do not strictly come within the definition of the law, but are, nevertheless, in difficulty and distress; (iv) Maintenance allowance to old, infirm and destitute; (v) Miscellaneous assistance and welfare measures, which include vocational training of young persons, occupational training and establishment of hostels and vocational training center for displaced persons. Government has taken several measures for relief and rehabilitation of the displaced persons of 1947.

**Settlement on Land**

Within the framework of the land-settlement plan, each family received arable land in addition to the food supplies, medical assistance; blankets etc. Responsibility for the program was vested in the Rehabilitation department officials. The displaced persons were scattered all over the area during the few days of their movement. Army personnel made proper arrangement for food distribution for them in the garrison and places where they were staying after their safe escape. Signs of malnutrition became more evident, particularly among children. When it was decided that the displaced persons were to be transferred to other places for the sake of proper rehabilitation and administration, many were unwilling to go unless they were conveyed that there they will be properly rehabilitated with allotment of land and other things. The displaced persons remained in camps for few years (2-3 years) before they were resettled. Since
they were of the same region in PoK, they had intended to stay with their friend and relatives who opted for the same places for rehabilitation to the extent possible.

Out of 31,619 families, 5,300 families were sent for settlement outside the state mostly in Himachal Pradesh, Uttar Pradesh and parts of Rajasthan. Of the remaining 26,319 families, 22,719 applied for rehabilitation on land. During scrutiny 1,600 cases were rejected for various reasons and the remaining 21,119 were allotted land under Government Order No. 578-C of 1954, dated May 7, 1954. In 1955 agriculturist families, who had opted for settlement within the state, were given facilities by Jammu and Kashmir government. The first batch of displaced persons comprising 101 families of Jats of Pakistan occupied area of Bhimber reached Chak Salarian, tehsil Samba on August 21, 1952 from Yol and Nagrota camps. The second group of displaced persons from tehsil Sadhnoti of Poonch non-liberated area consisted of 697 families. They were rehabilitated in tehsil Nowshera while the last group of 680 families was settled in tehsil Hiranagar in district Kathua.51

According to a survey conducted by the state government, some time back in the year 1978, over 8400 families had been allotted land as per this order. The shortfall in the allotable land as worked out then come to more than 1,30,000 kanals. The State Government issued guidelines for cancellation of fictitious and double allotments of land in pursuance of the procedure laid down in Government Order No. Reh-371 of 1971.52 Full proprietary rights over state land measuring 2, 43,000 kanals have been conferred on all displaced persons in terms of Government Order No. 254 of 1965. Regarding evacuee land measuring 6, 11,122 kanals proprietary rights have not yet been conferred on those displaced persons who are in occupation of the same. However, they have been given occupancy tenancy rights on evacuee land under section 3 (A) of the Jammu and Kashmir Agrarian Reforms Act 1976, which entitles them to transfer the same by way of sale, mortgage, gift, exchange etc.53

The PoK displaced persons who chose to settle in rural areas were rehabilitated by the way of allotment of state land or evacuee land and those who chose to settle in urban areas were allotted quarters and plots. They were subsequently conferred

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51 S.P. Vaid, n. 8, p. 74.
52 Office of the Custodian Ex-officio Provincial Rehabilitation Office, Jammu. For details see Appendix II-E.
53 S.P Vaid, n. 8, pp. 76-77. For details see Appendix VI-B.
proprietary rights on the land in respect to state lands and occupancy rights under section 3A of Agrarian Reforms Act, 1976.\(^54\) The displaced persons who were residing in rural areas were allotted land measuring eight acres irrigated (Abi agricultural land) or twelve acres non-irrigated (Khuski agricultural land) irrespective of their family size under Cabinet Order No. 1476-C but as per this order, land was allotted to few families. Besides, loan of rupees 500 were granted to them for the construction of houses and purchases of ploughs, animals, agricultural implements and seeds. The loan was recoverable after two years with simple interest at 4.5 % in ten equal half yearly installments commencing from the date of their grant. However, the recovery of this loan could not be made within period stipulated in the agreements owing to the weak economic condition of these displaced persons. Ultimately, loan with interest were recovered from the ex-gratia grants sanctioned in their favour sometime in the year 1960.\(^55\)

The number of urban displaced families who sought rehabilitation within the state was 3600. It was some time in 1957 that the Government of India got 1600 quarters constructed through the Central Public Works Department (CPWD). These quarters were constructed at Jammu, Udhpamur, Nowshera and Rajouri. Out of these 100 quarters were earmarked for persons who got displaced from the border and were living at Jammu. The remaining 1500 quarters were allotted to the displaced families of PoK in various sectors viz. Roulki, Shopping Centre, Rehari, Sericulture, Sarwal and Gurrah sector of Bakshi Nagar colony. The allotments were made during the years between 1958 and 1960. On the basis of the norms fixed by the state government allotment of one quarter was made to a family of five members and families having more than five members were allotted double set of such quarters. Besides this, 700 plots were allotted to 600 families. However, it is pertinent to note that the cost of each quarter in Jammu urban colony was fixed at rupees 2200 which were built on plots of seven marlas i.e. (60x30) each, but that of those built on plots of only 11-12 marlas at Nowshera was fixed at rupees 7000. The contention of the government of India, in the matter of fixation of cost of quarters, was that the CPWD, entrusted with the

\(^{54}\) Office of the Custodian Ex-officio Provincial Rehabilitation Office, Jammu.

\(^{55}\) S.P. Vaid, n. 8, pp. 68-69.
construction, had to bear extra cost for carriage of building material from Jammu to Nowshera.\textsuperscript{56}

**Cash assistance** to the tune of rupees 3500 per family was given to the urban displaced persons of 1947. Besides this, plots and quarters were also allotted to the urban displaced persons at various colonies set up for their rehabilitation.\textsuperscript{57} The government of India had initially allotted 6.17 crores for payment of ex-gratia relief at the rate of rupees 5,000 per kanal subject to maximum of rupees 25,000 per family in lieu of land deficiency. The rates for payment of ex-gratia relief to the displaced persons have been subsequently enhanced and revised from rupees 5,000 to rupees 30,000 per kanal and rupees 25,000 to rupees 1, 50,000 per family. Moreover, an amount of rupees 49 crores has been sanctioned for distribution of land deficiency compensation in order to raise the socio-economic condition of displaced persons, the disbursement of which is under process. 4, 988 applications were received in the year 1998 when the government sanctioned cash compensation in lieu of deficiency of land. Out of the 4,988 received applications, 3948 applications were verified and 2,841 applications were approved for cash compensation. An amount of rupees 26.37 crores has been disbursed amongst 2,502 families and the process of distribution is going on.\textsuperscript{58} The pending issues, demands of displaced persons of 1965 and 1971 from PoK are also being examined.\textsuperscript{59} The government has asked the left out families to approach the revenue officers for land deficiency compensation.\textsuperscript{60}

In September 2000, the government proposed to pay an ex-gratia amount to the 1947 displaced families from Pakistan occupied Kashmir. The relief in respect of displaced persons of 1947 was to be given to those who did migrate during the crucial period between September 1947 and December 1950, where the head of the family did migrate with the family and where displaced family did stay in camps. The relief was also be subject to the condition that the income of the head of the family did not exceed rupees three hundred per month at that time in respect of these three categories. The displaced persons, however, are not satisfied with the government’s response and they

\textsuperscript{56} Ibid., pp. 78-80.
\textsuperscript{58} Office of the Custodian Ex-officio Provincial Rehabilitation Office, Jammu.
\textsuperscript{60} *Daily Excelsior*, September 18, 2011.
have approached the National Human Right Commission and Supreme Court for the redressal of their long pending demands.\textsuperscript{61}

It may be stated here that the only rehabilitation benefit given to the urban displaced persons in 1960 was a cash grant of rupees 3500 and a residential plot in 1958 per family. The scheme of paying ex-gratia grants was introduced in November 1960. Under this scheme, the ex-gratia grant provided to each rural family was rupees 1000. The sum of rupees 2500 deducted out of the ex-gratia grant was obviously the cost of land allotted to them. The amount involved in ex-gratia grants by the central government in and after 1960 came to rupees 4 crores 75 lacs. It is pertinent to note that Jammu and Kashmir government conferred full proprietary rights over allotted plots and quarters by virtue of sale deeds which entitled the beneficiaries to make use or transfer the said plot for residential quarters. The order for conferring proprietary rights was issued in April 1971.\textsuperscript{62}

The property claims as compensation for their immovable property have been denied to them under the plea by the government of India that if done so the claim of government of India on PoK will be lost. The PoK displaced persons have not been compensated for their properties left behind in PoK territory in 1947. Whenever this issue is raised with the government of India, they are told that the PoK territory will be retrieved and PoK displaced persons will be sent back to their places to live in their own homes. These displaced persons were further told that payment of compensation at this junction would jeopardise India’s case at the United Nations.\textsuperscript{63} The government of India will never retrieve PoK territory. The government of India has been employing this excuse to delay this most vital issue of compensation for more than six and half decades. The fact remains that over a million PoK displaced persons are denied the right to their property. They are being grossly fooled. Even though the government of India talks of retrieving PoK territory, it has practically closed the case of PoK displaced persons as a

\textsuperscript{61} Y.R. Sharma, n. 13, pp. 278-79.  
\textsuperscript{62} S.P Vaid, n. 8, p. 81.  
non-issue and is going to the extent of treating the holocaust of 1947 as a non-event and PoK displaced persons as non-entities.\textsuperscript{64}

It was in 1978 that government of Jammu and Kashmir suggested to government of India for registration of claims on the properties left behind by the PoK displaced persons. Jammu and Kashmir government opined that since it was a fact that there appeared very less hope that PoK displaced persons will return to their homes. The Jammu and Kashmir state government represented to the government of India that in view of the facts that—(i) areas recaptured in wars of 1965 and 1971 were given back to Pakistan; (ii) Chhamb areas which fell on our side of the ceasefire line have also been handed over to Pakistan; (iii) and ceasefire line has been replaced by line of actual control, the question of taking over Pakistan held areas (PoK) would seem to be unrealistic. The state government also said that even if it is assumed that these areas may be taken back, it may not be possible for Mirpur displaced persons to go back and settle there since after construction of Mangla dam and Mirpur town along with the large adjoining areas have been submerged under water. But the government of India repeatedly that PoK is a part of India but it is under the illegal and forcible occupation of Pakistan.\textsuperscript{65} So the genuine compensation is not being granted to the 1947 PoK displaced persons on the pretext of official position.

\textbf{Role of NGOs in Providing Relief}

The voluntary welfare organisations had played an important part in alleviating the distress of the displaced persons. At that critical juncture and humanitarian crisis, several social and religious organisations in Jammu particularly The Guru Singh Sabha, Dharmarth Trust, Mahajan Sabha, Rajput Amar Sabha, Dogra Brahman Pritinidhi Sabha had came forward for relief and humanitarian help to their uprooted co-religious brethren from Pakistan occupied areas. These organisations primarily aimed at supplementing the effort of public authorities. The activities of these voluntary agencies may be broadly classified as follows: first, to provide immediate aid - food, clothing and medicament - to those who were in dire distress; second, to establish personal relationship with the displaced persons and give them proper counsel; third, to act as

\textsuperscript{64} Ibid.

\textsuperscript{65} Daya Sagar Sharma, ‘POJK Displaced Persons are Not refugees: GOI has made them suffer in the name of Technicalities’, September 10, 2012 at http://www.americanchronicle.com/articles/view/286591.
liaison between the displaced and the government; fourth, to offer education and vocational training. Thus these welfare organisations have had multifarious functions and duties, ever working as ancillaries to government and performing auxiliary services of all sorts. They did the ground work, which is not always easy for a government to do, particularly when it is dealing with such a large mass of people. There is no doubt that they handled the problem with great sympathy and understanding; and their contribution to the solution of the problem can scarcely be overemphasised.

**Shri Guru Singh Sabha**

During the tribal raid of 1947, a large number of Sikhs displaced from the border areas particularly Muzaffarabad, Mirpur and Kotli took refuge in Jammu city and its adjoining areas. They were rehabilitated in camps by government at Nagrota, Simbal, Gole Gujral, Digiana and Bhor camps. Shri Guru Singh Sabha provided free food and shelter by opening all Gurudwaras in Jammu till the transfer of these uprooted people to the refugee camps run by government agencies. At that critical juncture, Guru Singh Sabha played a very admirable and important role in solving the acute problems of displaced persons and refugees.66

**Dharmarth Trust**

The Dharmarth Trust played a commendable job of rendering all possible help to homeless and uprooted displaced people. The trust opened all their dharmshalas and temples for the thousands of displaced people irrespective of their caste and creed. They were provided free cooked food and shelter in all dharmshalas and temples till the opening of governmental camps for them.67

**Mahajan Sabha**

The Mahajan sabha Jammu, like all other caste organisations provided every possible help to the homeless people of PoK. The sabha provided accommodation in its own building at Sabzi Mandi, Jammu as well as at the houses of sabha members. The volunteers of the Sabha served these homeless people by providing free cooked meals at several places in Jammu such as Gita Bhawan, different temples, dharamshalas and

66 S.P. Vaid, n. 8, pp. 111-12.
67 Ibid., p. 113.
school buildings where thousands of displaced persons were stationed before their transit to government run camps.68

**Rajput Amar Sabha**

The Rajput Amar sabha also came forward in providing relief and assistance to riot hit homeless people. The volunteers of the Rajput Amar sabha like other organisations provided every possible help to them, particularly shelters at different places at Jammu69.

**Brahman Pritinidhi Sabha**

The Brahman Pritinidhi sabha did a creditable job by providing shelter in sabha’s own building at Parade ground and even at individual houses of the members of the sabha till their transfer to the governments run refugee camps at Nagrota (Jammu), Yole (Himachal Pradesh), Hastinapur (Uttar Pradesh) and other places. Besides shelter, the sabha provided clothes and free cooked meals to thousands of shelterless and clothless people irrespective of caste and creed.70

**Table 5.2: Role played by NGO’s**

<table>
<thead>
<tr>
<th>NGOs Participation</th>
<th>Number of Respondents</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>108</td>
<td>27%</td>
</tr>
<tr>
<td>No</td>
<td>292</td>
<td>73%</td>
</tr>
<tr>
<td>Total</td>
<td>400</td>
<td>100%</td>
</tr>
</tbody>
</table>

NGO’s was active only at the relief camps but when these displaced persons were shifted in the respective places of resettlement, no voluntary organisation came forward for their help. “NGOs hardly bothered about the displaced persons when we had left the camp and we have managed ourselves afterwards” remarked Rajesh, displaced person from Mirpur whose family was resettled in Bajabain, Sunderbani.

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68 Ibid., p. 116.
69 Ibid., pp. 116-17.
70 Ibid., p. 120.
Analysis of Relief and Rehabilitation Measures

Most of the displaced people in India have been audible only at the local level. Those who have forged links with international organisations concerned with human rights or refugee issues have managed to project their cause well beyond that. State responses and the treatment meted out to the displaced persons have varied, both regarding different groups of displaced persons and regarding the same group over time. West Pakistan refugees and 1947 PoK displaced persons were ignored by the state but Kashmiri pandits on the other hand found themselves on the receiving end of policies. The state had remained completely indifferent towards their problem of resettlement and rehabilitation. However, Chief Minister, Omar Abdullah stated that Jammu and Kashmir government is working on resolving the issue of PoK displaced persons. This issue is under the consideration of the state government and has taken up the same with the central government for the displaced persons one time settlement.\(^71\)

Given the fact that neither India nor Pakistan is likely to reach a major agreement on uniting parts of Jammu and Kashmir and evolve a composite package, it will be prudent to expand cross-LoC interactions. The process of interaction began in 2005 with the historic initiation of the bus service between Srinagar and Muzaffarabad. Later, another service was started between Poonch and Rawlakote. Both these services address the needs and aspirations of the people living both, in the Kashmir valley and Jammu region, primarily in the twin districts of Rajouri and Poonch. The primary objective of the bus services is to cater to the divided families living along the line of control.\(^72\) Historically, after the 1947 War, Hindu and Sikh communities migrated to the Indian side of Jammu and Kashmir leaving behind their ancestral homes, now under Pakistan’s administration. This community, now settled all over the Jammu region, is extremely anxious to visit the other side. Unfortunately, since its members do not have divided families on the other side, they have not been permitted to use either of the two existing bus services meant only for divided families. While divided families of the Muslim community have been able to visit each other and make use of the bus services. Those from the Hindu and Sikh communities, who were also displaced post-1947, have


been denied this opportunity. It is only fair when these two communities be made part of the cross-LoC interactions.\textsuperscript{73}

Earlier in the past, centre had taken a decision to constitute a committee of officials of both India and Pakistan for the purpose of identification and scrutiny of the displaced persons cases. To mitigate the hardships of such families who have lost their heads during all that process-period, it was supposedly agreed by the Indian government that their legal heirs would be allowed to represent their claims supported by succession certificates. Additionally, Indian parliament took serious concern over belated delay in the settlement of the claims of all such uprooted PoK families and the matter was debated on December 26, 1978, considering the petition of Jammu and Kashmir Sharnarthi Action Committee and after prolonged deliberations; several positive recommendations were made in 1980. However, no serious efforts have started in earnest even after the lapse of more than three decades. It is apprehended that Indian government has the ambiguity over the status of the PoK people and seems messed up the acronyms like ‘refugees’, ‘migrants’, ‘displaced persons’ or ‘internally displaced persons’. However, whatever may be their presumed achieved status; government has specific benefits earmarked for every category of settlers. But PoK settlers are yet to get the needful.\textsuperscript{74} They have been deprived of all such benefits. The government of India is under an obligation to give them all such benefits.

The task of protection of displaced persons is ultimately the responsibility of government. It is the responsibility of the government to give due attention to the issues like the payment of compensation for property lost during displacement, registration of their claims, providing foods, shelter and clothing, medical assistance and their rehabilitation and resettlement. The UNHCR and other humanitarian organisations can do a little in such situations except requesting the host government to safeguard the life and security of displaced people. Since displaced persons remain under the jurisdiction of government because it is the government which is ultimately responsible for their protection.\textsuperscript{75}

\textsuperscript{73} Ibid., p. 2.
\textsuperscript{75} Y.R. Sharma, n. 13, pp. 262-63.
In the resettlement and rehabilitation of PoK displaced persons, the Jammu and Kashmir government had adopted a clear policy that no displaced persons can settle in the Kashmir valley and if possible all PoK displaced persons should be pushed out of Jammu and Kashmir. Thus, PoK displaced persons have been victims twice of communal fundamentalism - first, they were uprooted from their homes and second, they were treated most shabbily by the state government with regard to rehabilitation because they were non-Muslims. The Jammu and Kashmir government created an authority titled Custodian of Evacuee Property to safeguard the property of Muslims who migrated to Pakistan in 1947 and were settled there permanently as citizens of Pakistan. Instead, the government should have created an authority to assess the properties in PoK. The government Order No. R-9410-32/52 dated January 28, 1952 reads, “The Hon’ble Revenue Minister has been pleased to observe that in such cases where evacuee lands have been allotted to a displaced person and the evacuee returns, the latter (evacuee), should be given other cultivable land for about a year, by that time land for the displaced persons may be found out.” Most of the displaced persons do not know about this order and hence there is uncertainty in their minds. The displaced persons settled on these evacuee lands should be informed of this order and they should be assured that they would not be disturbed from the land on the return of the evacuee unless they are given some other land instead.76 However, in 1982, the Jammu and Kashmir government passed an Act in the assembly titled Resettlement Act 1982 by virtue of which Muslims who had migrated to Pakistan and settled there as permanent citizens could come back and claim their properties. This was yet another blow to the process of resettlement of PoK displaced persons.77 However, it was stated by then Jammu and Kashmir Chief Minister Mufti Mohammad Sayeed that Pakistan-occupied Kashmir displaced persons were not going to be dispossessed of land or property legally allotted to them. The Evacuee Property Act defended the rights of the displaced persons and ‘no power would dispossess them’ of the property.78

76 Report of the Inquiry Committee appointed to examine the Working of Land Reforms, Price Control etc. i.e. Wazir Committee, n. 13, pp. 146-147. For details see Appendix I.
78 ‘Refugees won’t be dispossessed’, Times of India, May 7, 2005.
The uncertain ‘national status’ of 1947 displaced persons is by no means unique to India. In Pakistan, the authorities distinguished the Kashmiri refugees from partition refugees and excluded them from the state resettlement schemes, because the princely state of Jammu and Kashmir was not included in the territorial division of India. Despite the central government of Pakistan’s consideration that the Muslims of Jammu and Kashmir had suffered ‘proportionally violence more than any other class of refugees’ and that they were the targets of real genocide, the country’s claims over the disputed territory of Jammu and Kashmir meant, however, that refugees from there were excluded from the permanent resettlement schemes of state refugees and were held in abeyance as a sign of unfinished agenda of the Kashmir dispute between India and Pakistan. There was a general expectation that they would return to the state as soon as the incomplete resolution of the disputed state ended. In fact, United Nations Security Council Resolutions of 1948 and 1949 established that all refugees who had left the state of Jammu and Kashmir for Azad Kashmir or Pakistan since 1947 were in fact, ‘citizens of the state’ and have ‘the right to return to the state’. To represent this fact, they were only allotted properties in Pakistan on a purely temporary basis and were not to be assimilated into the refugees-to-citizens-making process.\footnote{Ilyas Chattha, n. 1, p. 209.}

The official position of New Delhi is a total commitment to parliament’s resolution on Kashmir which says that the undivided state of Jammu and Kashmir, including the PoK and the Northern areas, was an inalienable part of India.\footnote{M.G. Chitkara, \textit{Kashmir: LoC}, APH Publishing House, New Delhi, p. 74.} Pakistan continues to occupy PoK across the LoC. Sixty-six years later, it is clear that many individuals still bear the physical and psychological scars of the violence. Many others still wait not only for the adjudication of their national status but their right to permanent ownership of the properties they were allotted from 1947 onwards. When they were uprooted from their homes and occupations, they were in feeling of helplessness and powerlessness. This feeling persisted for a long time. The persistence of such feelings has been observed among some displaced even six decades after resettlement operations were carried out. Many failures of resettlement operations are, then, traceable to administrative weaknesses as explained and narrated by the displaced people themselves. The local authorities had generally lacked professional capacity to cope with such challenges. Moreover, the shortage of economic resources was another
obstacle in their proper resettlement. Neither the Union nor the state government has been sincere in settling these displaced persons. There were schemes, but the administrators of these schemes have been confusing relief measures and small ex-gratia grant with rehabilitation. These are clear instances of poor, innocent and uprooted people being deceived by their own government.

Prime Minister, Manmohan Singh on his visit to Jammu in 2004 had assured that grievances of the 1947 PoK displaced persons would be resolved, but nothing is visible on ground. In 2013, several high level delegations of Congress had detailed interactions with the UPA Chairperson, Sonia Gandhi, Prime Minister and Home Minister. Thereafter, the state government had been told to submit a comprehensive proposal to the centre, but despite the lapse of nearly six months, nothing had been done on ground.\(^{81}\) Rajiv Chuni Chairman, SOS International – an organisation for PoK Refugees said, “Though several officials of state are talking about a comprehensive package, the Ministry of Home Affairs officials had categorically told us that those proposals had no relevance”, adding, “the proposal should be first passed in the state cabinet and then forwarded to the Union Home Ministry for its follow-up. The incumbents had stated in clear terms that there is no dearth of funds with government of India, but a comprehensive proposal has to first come from state government”. Refugees of 1947 from West Pakistan and displaced persons of 1947 from PoK, besides 1965 and 1971 who have settled in various districts of Jammu region face various problems which have remained unresolved so far. Despite over sixty five years after partition, the displaced persons, who fled Pakistan occupied Kashmir continue to live in camps scattered across Jammu. They have been deprived of compensation and all the benefits accorded to refugees till date.

**Safeguarding the rights of displaced persons**

The displaced persons had formed the Sharnarthi Pratinidhi Board headed by S. Faquir Singh, which submitted demands on their behalf to the Jammu and Kashmir government during 1950. The formation of Sharnarthi Pratinidhi Board followed the government’s decision to disband relief camps and send their inmates for permanent rehabilitation on evacuee and state lands then available in various tehsils of Jammu.


232
division. They opposed the idea of sending members of the same families encamped at Nagrota to different tehsils and their rehabilitation within four miles of the border. The displaced persons of Mirpur and Kotli were sent to Akhnoor and Nowshera but those from Muzaffarabad and Poonch refused to go to Rajouri. Infact, those who had once been forced to be refugees refused to meet the same fate once again by being resettled so close to the border. The board reviewed their petitions on December 16, 1950 and issued a directive that they be rehabilitated in the tehsils of Jammu, Jasmergarh, Basohli and Kathua. The blocks of land which remained unallotted in tehsil R.S.Pura were distributed to displaced persons from Bhimber and the task was completed by January 31, 1951. The other available blocks were allotted to the displaced persons from Poonch. The displaced persons of Muzaffarbad and Bhimber left their camps for Jammu and R.S. Pura tehsils, respectively, by January 1951. They included 366 families of Muzaffarbad and 1600 families of Bhimber in PoK.

PoK displaced persons in Jammu and Kashmir are scattered across the Jammu, Kathua, Rajouri, Poonch and Udhampur districts. Of the 1.2 million PoK displaced persons living in India, 40% live in camps in the Jammu region. These camps consist of cramped, one-room units that offer their inhabitants very little protection and security. Sanitation and drainage is poor. Residents also lack access to basic healthcare services. Camp residents say they have been ghettoised for three generations. Most schools in localities where children from camps enroll are understaffed and lack adequate infrastructure. They are deprived of quality education; youngsters from the camps find it impossible to get employment in a competitive work environment.

In 1950, the first Rehabilitation Board was constituted by the centre and state governments, known as Indo-Kashmir Joint Rehabilitation Board to take measures for the rehabilitation of displaced persons. The state government issued its Cabinet Order No. 1476-C in which the evacuee property was reserved for rehabilitation of thousands of uprooted and landless people from PoK and they were termed as displaced persons. A Land Allotment Committee was constituted to coordinate activities of all government departments working for the displaced persons. These PoK displaced persons, who choose to settle in rural areas, were rehabilitated by the way of allotment of state land and those who chose to settle in urban areas were allotted quarters and plots. They were

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82 S.P. Vaid, n. 8, pp. 69-70.
83 Ibid., p. 70.
subsequently conferred the land in respect to state lands and occupancy rights under section 3(A) of Agrarian Reforms Act, 1976. Data obtained from the Evacuee Lands Department of the Custodian’s Office in Jammu reveals that, in 1947, 31,619 families came to Jammu and Kashmir from PoK in 1947. Of this number, 26,319 families opted to settle within the state with 3,600 families in urban areas (primarily Jammu, Udhampur and Nowshera) and 21,116 in rural areas. 1603 families did not come forward for settlement of their cases at that time. These families were provided a total of 680,850 kanals of land, with 243,000 kanals of government land and 437,850 kanals of private land. Though these measures were adopted, a lot more is required to be done to meet the basic requirements of a decent living of these displaced peoples.