CHAPTER-3
EVACUEE PROPERTY PROBLEM
EVACUATED PROPERTY PROBLEM

The problem of evacuted property had its origin in the great trek that followed the communal carnage described in Chapter II. The Indian sources put the number of Hindu and Sikh refugees from West Pakistan alone at 'nearly five millions', while the figure over four millions is often mentioned as the total for the refugees from East Bengal.¹ The Pakistan Ministry of Refugees and Rehabilitation places the number of Muslim refugees to West Pakistan at 7,900,000.²

This is the greatest recorded movement, mankind has ever witnessed. These refugees left behind their vast immovable property uncared for, their movable property was either lost or destroyed to a great extent, and not much of what remained could be carried by the early migrants to their new homes.

1. 'Rehabilitation Retrospect' Ministry of Rehabilitation, India, New Delhi, 1957, Page 4-5.
2. Cf. J.B. Schechtman-'Evacuated Property in India & Pakistan,' Pacific Affairs, Richmond, Dec. 1951, Page 406. The figures relating to the evacuees vary greatly. In 1950 Pakistan's Ministry of Refugees and Rehabilitation placed the number of the Muslim refugees to Pakistan at 7,000,000. In December 1951, Mr. Schechtman, quoting the same Ministry, put the figure at 7,900,000 for West Pakistan alone, while Mr. Tisor Manje in his work South East Asia between two worlds - London, 1955, put the figure at 6,600,000 for the whole of Pakistan as on March 14th, 1953, on the authority of the Finance Minister of Pakistan.
According to calculations made in India, the tentative figures for the Non-Muslim evacuees' properties in West Pakistan, are as follows:

i) Urban houses - 500,000 (in round figures)
ii) Building plots - 22,000
iii) Industrial properties - 12,000

Agricultural land abandoned in West Pakistan amounts approximately to 9,000,000 acres, the major portion of which is rich canal irrigated land. Over one million rural houses appurtenant to agricultural lands as well as independent, were also abandoned. In addition, there were over 7,000 properties belonging to the religious, charitable, educational and other trusts and endowments. The Governments of India claimed that the figures had been obtained after elaborate verification of the claims registered by the refugees under the 'Displaced Persons (claims) Act 1950'.

Evacuee properties left by the Muslims in India are calculated as follows:

i) Urban Buildings - 2,87,000
ii) Building plots - 10,000
iii) Industrial undertakings - 1,700
iv) Agricultural land - Approximately 5,800,000 acres of comparatively much inferior quality.

Figures relating to the Muslim evacuee property in India had been obtained through a census conducted by

3. 'Frozen Fortunes'/India Information Service, New Delhi, March 1953, Page-3.
4. Ibid - Page-3
custodians of evacuee property in the States where the evacuee property was located.

As regards the value of the properties involved, Mr. Schectman, quoting Indian sources, mentioned the sum of 38.1 billion rupees (U.S.$ 8 billion) for the non-Muslim evacuee property in Pakistan, while the value of similar properties of the Muslim evacuees in India was mentioned by him as 3.8 billion rupees (U.S.$ 800 million). The Indian figure for the verified claims of the urban immovable evacuee property of West Pakistan was Rupees 5000 million only, while similar Muslim property in India was valued at Rupees 1000 millions only.

On June 21, 1952, India News, London, computed the total value of the Non-Muslim evacuee property in Pakistan at £ 1500 million only, and the Muslim evacuee property in India was likewise valued at £ 375 million only by the very same source. Pakistan did not accept these figures, neither did she offer any alternative figure. Ministry of Refugees and Rehabilitation, Karachi stated in "The Evacuee Property Problem - Pakistan's Case" (1950, page 3) "Pakistan has been unable in the time available to catalogue the extent of property left by the Hindus and Sikhs and makes no pretension of knowing the value of the property abandoned in India by Muslims."

ECONOMIC STATUS OF THE REFUGEES

It is obvious that there was a great disparity in the value of the evacuee properties of the two countries. Giving due allowance to Pakistan's objections as to the correctness of the Indian figure, it can be assumed that the Hindu and Sikh migrants were, relatively speaking, richer and more prosperous. Their prominence in trade, commerce and industry and the superior services, legal, medical and the white collar professions, was out of all proportions to their numbers. In contrast, the Muslims who migrated to Pakistan belonged, for the majority, to the poorer classes of the population, being mostly cultivators, artisans, mechanics and other categories of workers. The fact was so pronounced that even 'Dawn' was forced to observe that "the people who migrated into India belonged on the whole to the capitalist class. The people who replaced them in Pakistan belonged economically to the toiling classes." 7

In the light of the above mentioned observation, it is easy to understand why negotiations between India and Pakistan over the disposal of the evacuee property failed. If the Indian figure is to be trusted, the value of the property left by the Hindus in Pakistan was at-least five times the value of similar property left by the Muslims in India. In 1948-50 Pakistan was hardly in a position to face the issue adequately.

7. Dawn, June 22, 1952
NEGOTIATIONS

The evacuee property issue was first discussed on August 29, 1947, at a meeting of the Joint Defence Council of India and Pakistan attended by the Prime Ministers of both Countries under the Chairmanship of Viscount Mountbatten, the then Governor General of India. An official communiqué issued on August 30, 1947, stated, inter alia, as follows -

"It was also agreed that each Government should appoint a Custodian of Refugee Property, close liaison between the custodians will be arranged. Representatives of India and Pakistan repeat that illegal seizure of property will not be recognised."8

Again, in order to stop the practice of illegal seizure and usurpation of the evacuee property by unauthorised persons, the two Prime Ministers issued a joint communiqué on September 3, 1947, which contained the following -

"The Governments of India and Pakistan, as well as the provincial Governments concerned, have already declared that illegal seizure of property will under no account be recognised. They have decided to appoint custodians of Refugee Property."9

The central idea behind the joint action was to restore the properties to their rightful owners after the internal situation had been stabilised, to ensure the return of the migrants from the places of refuge to their home

9. Ibid, September 11, 1947
countries, and to appoint a custodian in each country to protect such properties against misappropriation. Both Governments implemented the declaration by suitable executive enactments. The West Punjab Government, by an ordinance issued on September 9, 1947, provided for the appointment of a custodian who was to take charge of the evacuee property within his area with a view to preserving the same, 

pening restoration to their rightful owners on payment of the dues to the same custodian (Sections 3 and 9 particularly).

The East Punjab (India) Government followed suit on September 14, 1947. The provisions of the ordinance of the West Punjab Government of September 9th, meant for the preservation and restoration of the evacuee property, were reproduced verbatim in the Indian ordinance (Clause 5, Section 12 (i) of the ordinance).

Somewhat surprisingly, the West Punjab Government (Pakistan) issued an altogether different ordinance on the same date i.e., 9.9.47 to provide for economic rehabilitation of West Punjab. Under this ordinance, the Rehabilitation Commissioner of the Province could inter alia, assume possession and control of abandoned lands, business undertakings, grant temporary leases of abandoned agricultural holdings to refugees for a term not exceeding one year, permit the occupation of any abandoned building by refugees or other persons (Section 4(2) of the ordinance). The

---

10. "West Punjab Evacuee Property(Preservation)Ordinance 1947

Rehabilitation Commissioner could also assume possession or control of any property under the control of the custodian of Evacuee Property (Section 8).

Although such occupation was contemplated for the period of one year only, 'it was bound to create innumerable 'fault accomplishments' which were not apt to be undone later,' and thus reduced the likelihood of the evacuees ultimately recovering their property. 12 The ordinance in question contravened in a subtle way the spirit of the Indo-Pakistan undertakings made public through official communiques on August 29, and September 3, 1947, respectively, but it did not arouse Indian opposition owing to the prevalent unsettled conditions. Moreover, the pressure of immigration on Pakistan was no less severe than on India, in the Punjab sector especially, and Pakistan, with her backward economy, obviously could ill afford the luxury of keeping the vast properties of the Hindus and Sikhs under custody for their ultimate return while millions of refugees were pouring in from across the borders demanding immediate assistance. The whole process of the negotiations, at that stage, assumed, thus, an air of unreality which augured ill for future parleys. However, the representatives of India and Pakistan agreed at a conference held in Lahore on Oct. 5, 1947, that both governments should consider questions regarding the treatment of the property of the evacuees and

make proposals with the object of framing a common policy.13

The Government of Pakistan did not attach much importance to this undertaking. On the contrary, it issued a fresh ordinance on December 1, 1947, 'in pursuance of instructions received from the Governor General of Pakistan, and without reference to the Government of India.'14 It made the transfer of the properties of the evacuee owners dependent on so many complicated provisions, that in effect it deprived them of their right to dispose of their own properties.15 Moreover, even if the evacuee owner could satisfy all restrictive conditions, the Pakistan custodian was empowered to refuse to accord legality to any transfer of property, if he regarded such transfer to be prejudicial to the prescribed objects of the ordinance, the most important of which was the provision for the rehabilitation of the Muslim refugees from India. Section 15 of the ordinance made restoration of the property to the evacuee owner contingent upon his return to Pakistan. It was impossible for the Indian refugees to return to Pakistan to claim their properties in those days of mass killings, but even if they did so, they could be prevented from taking

possession of their properties on the strength of the said ordinance and on grounds of the same prescribed objects. Thus, the evicuee owners were rendered incompetent either to recover, sell or exchange their properties.\textsuperscript{16}

\textbf{FIRST INTER-DOMINION CONFERENCE (DEC. 19-20, 1947)}

At the instance of India, a conference was therefore called at New Delhi on December 19, to discuss these and other connected issues arising out of the mass migration. Indian sources assert that when Pakistan’s attention was drawn to these ordinances which clearly repudiated known undertakings, Pakistani representatives, replying to Indian protests, suggested that the Indian Government could also take similar action with regard to the Muslim evicuee property abandoned in India.\textsuperscript{17} Pakistan officials deny emphatically that such a suggestion was ever made.\textsuperscript{18} It was agreed, however, that each Dominion should furnish its own scheme for the disposal of the evicuee property, both movable and immovable, to a joint committee of officials, not later than January 5, 1948, in order to arrive at an agreed solution.

\textbf{CHANGE OF APPROACH}

The Indian approach towards the problem of the evicuee property was governed from the beginning by the

\textsuperscript{16} 'Concerning Evicuee Property' Op. Cit., Page-16

\textsuperscript{17} J. Vijayatunga - The Problem of Indian Refugee Property, New Delhi, Page-5.

\textsuperscript{18} J.S. Schectman, Op. Cit., Page-408
consideration that the evacuees should be allowed to return and take possession of their properties. However laudable, this approach was unrealistic - The two nation theory and the communal holocaust had already shattered the prospects of peaceful co-existence of the Muslims and non-Muslims in North-West India and Pakistan. Pakistan's above mentioned ordinances also made the goal almost unrealisable. In addition, the recrudescence of communal violence in Pakistan in January 1948, drove further the non-Muslims out of Pakistan. India drew two important conclusions from these incidents. -

1. The hope that the evacuees would return to their original homes was to be abandoned.

2. The evacuee property problem could only be solved on a government to government basis.

Indian sources claim that in order to strengthen their hands in their negotiations with Pakistan concerning evacuee property, East Punjab Government (India) amended their evacuee property law on January 12, 1948, to bring it into line with the practice in Pakistan. In effect, it established the rule that no sale, mortgage, pledge, lease, exchange or other transfer of any interest or right in or over any property, made by an evacuee or by the agent, assignee or attorney of the evacuee or such person on or after August 15, 1947, shall confer any right or remedies on

the parties to such transfer or any person claiming under
them, unless such transfer is confirmed by the custodian
upon applications made to him on their behalf within the
prescribed period. 20

JOINT OFFICIAL COMMITTEE
(MARCH 22 - 25, 1948)

The Joint Official Committee, scheduled to meet on
January 5, 1949, met at Lahore on March 22 and took stock of
the changed situation. India pressed for a solution on the
basis of exchange of property at governmental level after
proper valuation. This would have entailed a payment by the
debtor Dominion to the creditor Dominion of the difference
in value of such properties. Out of these discussions
emerged a formula on the following lines:

A - AGRICULTURAL PROPERTY

With regard to agricultural property, the general
principle agreed upon was as follows:

The Dominion, in which the evacuee agricultural
property was situated, should acquire it upon payment of a
fair value, except that part thereof in respect of which the
government concerned had accorded permission to exchange or
sell by private treaty or had allowed restoration. A Joint
Valuation Board was to be set up to assess the value of the
agricultural property. It was agreed that with regard to this
property, there should be an inter-governmental deal, the
debtor Dominion paying the creditor Dominion the difference
in value.

20. Referred to by Mohamed Absen Chaudhri in his article
'Scavues Property in India & Pakistan', Horizon, Karachi,
June, 1957, Page-98
B. **URBAN IMMOVABLE PROPERTY**

While admitting the rights of the provincial governments to acquire or requisition urban immovable property on payment of fair compensation, to be determined by a joint government agency, the committee agreed that in other cases the owners should be given complete freedom to sell or exchange such property in any way they preferred. To supplement individual efforts, the two governments were advised to set up a 'Joint Government Agency for Sales and Exchanges.'

To ensure, further, that owners of the urban immovable property should continue to receive rent from the property until sales or exchanges could be arranged, the Official Committee recommended that a Joint Urban Assessment Board be established.

C. **MOVABLE PROPERTY**

With regard to movable property, the principle agreed upon left the owners free to take possession of such property and then to dispose of it freely, should they so decide, either personally or through Government liaison officers or personal agents, except where such property was requisitioned by the provincial governments. In the latter contingency, provision was made for compensation.21

The Government of India signified its readiness to implement the proposals of the Joint Official Committee, but

---

it took four months for the Ministers of the two governments

to consider it. Before the conference took place, another

was hastily arranged to consider the situation of East

Pakistan.

THE SECOND INTER DOMINION CONFERENCE

(APRIL 15 - 18, 1948)

Until the end of 1947, the two way migration of

the Muslims to Pakistan and of the non-Muslims to India was

confined more or less to the Punjab. There was, in fact, an

exodus of the Hindus from East Bengal as early as October

1946, following the wide spread communal rioting in Noakhali

and Tippera districts of East Bengal. But the second and more

serious phase of the exodus started soon after the partition

at about the end of 1947 and that continued for long, in large

or small measures. At the beginning of 1948, 'houses of non-

Muslims were being requisitioned by the Pakistan government

all over East Bengal and people were being thrown out of

their ancestral houses.' The total value of the real

property and other assets abandoned in East Pakistan upto

June 30, 1950, was officially estimated by the Chief Minister

of West Bengal at 870 million rupees. The Muslims who

migrated to East Pakistan left 350,000 acres of land in West

Bengal, of which 250,000 acres had been distributed to the

Hindu refugees by mid-1950. The Government of India

therefore became anxious and invited the Government of Pakistan


to consider the matter. A conference at ministerial level was accordingly held at Calcutta from April 15 to April 19, 1948. The decision reached with regard to the evacuee property in East and West Bengal ran on the following lines:

It was agreed that the Governments of East and West Bengal would provide for legislation with a view to setting up Evacuee Property Management Boards in districts from which a substantial exodus had taken place. These Boards would assume the management of the properties only on the definite request of the owners and without any right of alienation.24

As regards its implementation, the Indian Government sources maintain that, on the whole the agreement in regard to East and West Bengal has been implemented by both the Dominions.25 The problem of the Punjab, however, was to be discussed in the third Inter Dominion Conference scheduled for July 1948.

THE THIRD INTER DOMINION CONFERENCE

(JULY 22, 1948)

On July 22, the third Inter Dominion Conference at Ministerial level took place in Lahore to discuss the recommendations of the Joint Official Committee which had earlier submitted an agreed report at the end of March. To

24. Statesman, Calcutta, April 20, 1948
25. 'Concerning Evacuee Property', OP. Cit., Page 30
the bewilderment of the Indian representatives, Pakistan re-opened the basic question about the method of settlement of the agricultural property i.e., whether the settlement should be as between the Governments of the two Dominions or between the evacuees themselves. With regard to that, the Joint Official Committee had already suggested that the agricultural property should be taken over by the Dominion government concerned and that the debtor Dominion should pay the creditor Dominion the difference in value. Pakistan was unwilling to implement this agreement forthwith. The following extracts from the record of the official proceedings of the conference throw light on Pakistan's attitude:

"Pakistan were of the view that no definite decision could be taken on this point until more data were available. For this purpose, special Revenue officers were to be appointed by both Dominions. Copying of revenue records should start forthwith. A special Joint Committee should be set up to supervise and expedite the whole work."

Thus the settlement of the issue of agricultural land was postponed. There was also no agreement as to the urban immovable property, but it was agreed that the proposed Joint Urban Assessment Board should be set up immediately in order to prepare a list of all urban immovable evacuee property localitywise in both Dominions and to assess

---

the value of such property. The scheme suggested by the Joint Official Committee with regard to movable property was accepted. Finally, at the instance of the Government of Pakistan, the area in which the recommendations of the Joint Official Committee were to be applicable, were enlarged to include in India, Ajmer Marwara Malerkotla State, the Matsya and Rajasthan Unions, Saurashtra, Jaipur State, Jodhpur State and the Western districts of the United Provinces, East Punjab and Delhi. In Pakistan, these included West Punjab, Sindi the N.W.F.P. and Baluchistan and the states of Bahwalpur and Khairpur. The areas in which the agreed scheme would be applicable took the name of 'agreed areas' a term, over the implication of which the two Governments differed sharply in subsequent negotiations.

**INDIAN CHARGE OF NON-IMPLEMENTATION**

**OF THE AGREEMENT**

India accused Pakistan of bad faith with regard to the Agreement on the following grounds:

1. Dilatory tactics were employed in exchanging records of agricultural property.

2. The Joint Urban Assessment Board was never allowed to be set up.

3. Instead of returning the movable properties to the owners, as envisaged by the Agreement, the Pakistan Government started taking over movable property.
without paying any compensation. In actual practice, a hunt began for all movable evacuee properties in Western Punjab and they were all seized on one excuse or the other.\(^{27}\)

(4)

Moreover, the Pakistan Government extended the confiscatory provisions of the West Punjab Evacuee Property Ordinance and the West Punjab Rehabilitation Ordinance to the whole of West Pakistan.\(^{28}\)

Two central Ordinances of the Pakistan Government were also directed to that end.\(^{29}\)

**THE FOURTH INTER DOMINION CONFERENCE**

(December 6-9, 1948)

These anomalies were discussed at the fourth Inter Dominion Conference held in New Delhi, in which the half-hearted response of the Pakistan Government evoked strong Indian resentment. Pakistan's stand in the fourth Inter Dominion Conference may be summed up thus:

---


29. (a) Ordinance No. XVIII of October 18, 1948, Concerning Evacuee Property.

(b) Ordinance No. XIX of October 18, 1948, Restoration of the Economic Life of Pakistan.
(1) Pakistan was not in a position to give her considered views as to the area to which the agreement should be extended about the treatment of the urban immovable property. She wanted more time to collect all the important data.\textsuperscript{30}

(2) The Government of Pakistan was under the impression that these minutes were subject to ratification by both Governments and that the Government of Pakistan...had not yet ratified them.\textsuperscript{31} India, on the other hand, held that certain agreements had already been reached at the Ministerial Conference of 22nd July 1948 and there could be no question of re-opening the agreements already arrived at.\textsuperscript{32} The conference consequently failed to record an agreement, except to meet at Karachi with in a month, to review the entire problem.

\textbf{THE FIFTH INTER DOMINION CONFERENCE - KARACHI AGREEMENT}

(\textit{JANUARY 10 - 13, 1949})

The fifth Inter Dominion Conference found the two governments in agreement over the following points -


\textsuperscript{31}Ibid.

\textsuperscript{32}Ibid.
(1) Each dominion was authorised to collect rents for agricultural land and urban immovable property. Rents so collected were to be transferred to the other Dominion to which the owners had migrated. At the instance of Pakistan, it was decided that further consideration for the settlement of the agricultural property problem, on a government to government basis, should be postponed pending compilation and exchange of records of agricultural land.

(2) Free sale and exchange of the urban immovable evacuee property was to be allowed. Rents were to be paid.

(3) Movable property was to be allowed to be transported to the Dominion to which the evacuees had migrated or alternatively complete freedom should be granted to the evacuees to dispose of the aforesaid property within the Dominion concerned.

(4) The definition of the 'agreed areas' in which the Agreement was to operate was again reconsidered. It was finally decided that the scheme should apply, in Pakistan, to West Punjab, Sindi, Karachi, the N.W.F.P., Baluchistan, the States of Bahawalpur and

Khairpur; The N.W.F.P. and Baluchistan were to be taken to include the States which had acceded to Pakistan but to exclude unadministered agency areas. In India, the areas to be included were the Provinces of East Punjab and Delhi, Himachal Pradesh, Patiala and the East Punjab States Union and the States of Alwar, Bharatpur and Bikaner. With regard to urban immovable property however, the areas in India were to be extended to include Ajmer-Marwar as the Dholpur and Karamgi states, the Rajasthan Union, Saurashtra union and the States of Jaipur and Jodhpur and the Districts of Saharanpur, Dehradun, Meerut and Musaffarnagar in the United Provinces. Indian sources hold that 'agreed areas' were meant only to define the areas to which the scheme would apply and had nothing to do with the enactment or otherwise of the evacuee property law in other areas. 34

During the course of the discussions leading to the Agreement, India expressed a desire to make the provisions of the agreement applicable to the whole of the country; but on Pakistan's insistence that the evacuee property Agreement should apply to those regions only from which mass migration had taken place, India yielded ground to her. 35

The task of executing this Agreement was entrusted to a Commission and in addition, there was to be an Inter

34. 'Concerning Evacuee Property' Op.Cit., Page-42
dominion refugee and evacuee council to consider issues left unsolved by the Commission, and further to discuss questions of policy which needed to be dealt with at the ministerial level. The Commission, so constituted, advised the two Governments to undertake certain legislation to provide facilities to the evacuees for the private disposal of their properties. 36 On 10th April 1949, however, India demanded revision of the Agreement on the grounds of Pakistan's non-implementation thereof. The Government of Pakistan replied on 6th May, 1949 pleading for this solemn Agreement to be given a fair trial and offered to consider any practical difficulties that might have been experienced! 37

At this stage, both India and Pakistan started accusing each other of non-implementation of the Agreement. The Indian arguments ran as follows –

(1) Twenty six days after the Karachi Agreement was signed and without consultation with India, Pakistan promulgated an ordinance under which any visitor to Pakistan was required to obtain an Income Tax Clearance Certificate before he could leave Pakistan. 38

(2) On February 16, 1949, Pakistan issued sweeping orders, slashing the rent of all urban immovable evacuee property.

36. Pakistan News Digest, Karachi, June 1, 1954.
Muslim refugees occupying the vacant premises of the non-Muslim evacuees were allowed a reduction of eighty percent of rents realisable. Since the Karachi Agreement stipulated payment of the rent so collected by one Dominion to the other, New Delhi correctly read the order as constituting a subtle effort to undo the Agreement. 39

(3) Pakistan refused also to collect anything more than the land revenue from the allottees of the agricultural evacuee property. 'I would add that ... it may be impracticable to recover anything beyond revenue dues from refugee allottees.' 40 Earlier, when Pakistan first made allotments of such property to the Muslim refugees, rents were fixed at six times the land revenue. A similar procedure was adopted in India with regard to the evacuee agricultural lands. Now, with the Karachi Agreement requiring Pakistan to transfer the rents, thus collected, to India, she found it expedient not to collect anything more than the land revenue which, incidentally, went into the coffers of Pakistan. India held that it meant virtual confiscation of the agricultural evacuee property since the owners were rendered incompetent either to sell and exchange their properties or to receive rents from them. In her formal protest to Pakistan, India informed her that the reductions in rents would not be recognised by India.


The Indian sources also assert that the Karachi Agreement proved most unsatisfactory insofar as the disposal of the Urban immovable property was concerned. Before the Agreement, so runs the Indian argument, sales and exchanges took place unhindered in Karachi and in Sindh. However, the Agreement stipulated that such transactions were to be carried out with the approval of the custodians.

'In a period of six months after the Agreement was signed, only one evacuee property was sold and 28 were exchanged in the whole of West Pakistan. In Karachi the custodian did not function for at least five months after the signing of the Agreement.'

A perusal of neutral comments tends to confirm this view: Richard Symonds wrote that the implementation of the Agreement in Pakistan did not work well. 'Prospective buyers have been discouraged because the premises were not available for immediate occupancy and there has been a wide gap between prices asked and prices offered.' The Government of Pakistan, on the other hand, maintained that until 31st July 1949, the number of sales confirmed for the territories of West Pakistan was 207 and there were also 27 exchanges. For the same period there were 1999 sales and several exchanges in Karachi and Sindh.

41. 'Frozen Fortunes' Op. Cit.. Page-25
As regards Pakistan’s failure to reach an Agreement with India on the agricultural property issue, her case rested on the following arguments -

There was no agreement because the Government of Pakistan could not commit themselves to any liabilities in the absence of any records and revenue statistics.\(^{44}\)

They further contended that the continuous influx of refugees from India jeopardised any chance of settlement of the problem. Moreover, the value of the land was rendered doubtful because of the uncertainty of future water supplies for very considerable acreages of land, owing to India’s ‘possession’ of the head works of two very extensive canal systems as a result of the Boundary Award of Sir Radcliffe. The fraudulent occupation of Kashmir by India is another factor in preventing any final decision in respect of agricultural land.\(^{45}\)

Pakistan maintained further that India had not implemented the Agreement. Her arguments can be summarised thus -

(1) India was determined not to implement the Agreement, especially its provision regarding

\(^{44}\) The Evacuee Property Problem - Pakistan’s case. O.P., Cit. Page-9.

\(^{45}\) Ibid, Page-9.
the disposal of urban immovable evacuee property
by private sale and exchange. With that in
view, the Bombay Government was allowed to
promulgate a most objectionable evacuee
property legislation enabling them to declare
a person an evacuee if he had left his home
in the Bombay Province even for a visit to a
place outside the Province but with in India.\(^\text{46}\)

Secondly, on June 13, 1949, India promulgated
an ordinance which embodied a clause 'enabling
the Central Government to prohibit the transfer
of ownership of any immovable property with in
any specified areas.'\(^\text{47}\)

By June 1949, the Government of India had
extended the operation of the evacuee property
laws beyond the presribed areas in
'Violation of the Agreement of January 1949.'\(^\text{48}\)

This measure needs explaining. In mid-1949,
the Government of India requested all the Provincial
governments, with the exceptions of West Bengal and Assam,
to promulgate ordinances and laws in respect of the evacuee


\(^{47}\) 'The Evacuee Property Problem'—Pakistan's Case, Op. Cit.,
Page-22 (This refers to Clause 15, Section-2, of June 13
Ordinance of Government of India (Administration of
Evacuee Property Ordinance 1949)—Gazette of India, Extra
Ordinary, dated June 13th 1949. This was an enabling
and permissive ordinance, unlike the subsequent Pakistani
ordinance which was compulsion.)

\(^{48}\) Pakistan News Digest, Karachi, June 1, 1954.
property, in order to bring about uniformity of legislation throughout the country. Hitherto such laws were in force only in those areas of India from which large scale migration of Muslims had taken place. It should be mentioned that the enactment of evacuee property laws enabled the governments concerned to take charge of the abandoned evacuee property, and hence an extension of the area in which the laws were to operate meant virtually increased governmental authority to take possession of the said property within those extended areas. To Pakistan's complaint that such enactment beyond the agreed areas constituted a breach of the Karachi Agreement, India replied by asserting that the said agreement limited India's capacity to legislate on the evacuee property to areas technically termed as 'agreed areas' only. Outside those areas, she was free to legislate and 'the claim that enactment of a uniform law in certain parts of India is a breach of the Karachi Agreement, does not therefore stand scrutiny."

The failure of the Karachi Agreement led to another Inter Dominion Conference in June 1949. By now, the Government of India was convinced that the only reasonable

solution lay in taking over the entire evacuee property by each dominion. The Government of India pressed Pakistan for a solution of the problem on a government to government basis. The idea was, first, to make a fair valuation of the entire evacuee immovable property by a joint board and then to resolve the dispute by making provision for the debtor dominion to pay the difference in value to the creditor dominion according to some agreed arrangements. A somewhat similar solution appeared attractive to the Indian Government in view of the frustrating experience of the past agreements. It was in this frame of mind that they proposed and sat with the Pakistani representatives at another conference in order to discuss the relevant issues.

THE SIXTH INTER DOMINION CONFERENCE

( JUNE 25 - 29, 1949 )

India proposed only two items for the conference -

(1) Review of the results of the Agreement reached at Karachi in January 1949 regarding private exchange and sale of urban immovable property and reconsideration, if necessary, of the Agreement in the light of these results.

(2) The entire question relating to the agricultural property.

When the conference met, Pakistan argued that the enactment of the new uniform evacuee property
law in India was a breach of the Karachi Agreement. India refused to entertain such a view. As to the practical method of settling the dispute, Pakistan declined to consider settlement of the urban immovable evacuee property on the governmental level, and as to the agricultural property, she was not willing to make any categorical commitment.  

One more conference was thus broken, shattering the hopes of the millions of refugees on both sides. In a communication dated August 22, 1949, the Government of India wrote -

"Without a just and fair solution of the vexed question of evacuee property, the great bitterness that now exists between the people of the two Dominions is bound to continue indefinitely."  

The repudiation of the Karachi Agreements can be traced back to a series of enactments on both sides, beginning from the Government of India's ordinance of 13th June, 1949, which prohibited 'transfer of ownership' of some urban immovable evacuee property. This was followed by a Pakistani ordinance passed on July 26, 1949, forbidding all transactions in urban evacuee property - 'thus formally repudiating the Agreement's most important provision.'

---

50. Concerning Evacuee Property, Page 57-58
Before the year ended, two more central ordinances, one each by India and Pakistan, sealed the fate of those who pinned their hopes on a negotiated settlement of the dispute. By April 1951, a new type of legislation had also emerged, which victimised even the 'intending refugees' i.e. those who were contemplating migration from one to the other dominion. Both India and Pakistan legislated to cover the cases of the intending evacuees, thus vesting their custodians with almost unlimited power in respect of the evacuee property.

MOBILE PROPERTY AGREEMENT

Although the problem of movable property proved insoluble, the agreements regarding movable property were more or less finalised. An agreement signed on April 6, 1950, by the Prime Ministers of India and Pakistan provided that the refugees from Bengal should be permitted to carry with them all of their movable personal effects and cash upto Rupees 150. The agreement was signed under the stress of the Bengal disturbance of February 1950, and as such its application was limited to the Bengal refugees only. But a series of conferences in June and August 1950 completed the process and arrived at a compromise solution to the problem of movable property in general. It was agreed that proceeds

53. (1) 'Central evacuee Property Ordinance' (Pakistan) dated 15.10.49.
(2) 'Administration of evacuee property ordinance' (India) 1949, converted into a Central Act with the passing of the 'Administration of evacuee Property Act 1950' (Act XXI of 1950)
from the sale of movable property should be paid either directly to the evacuee owner or to the government of the country to which the evacuee had migrated. Movable property seized for the purpose of rehabilitation of incoming refugees was to be restored to the owner or alternatively compensation was to be paid through the diplomatic representative of the receiving country.

In the beginning, the Agreement did not work well. A conference held in July - August 1953 considered the progress towards the implementation of the Agreement and recommended certain steps for further implementation. Another conference held in Karachi in March 1955, paved the way for continued discussions in Karachi in April 1955 between the Indian Minister for Rehabilitation and his counterpart in Pakistan, with Pakistan's Finance Minister participating. As a result of this meeting and discussions, all outstanding issues relating to movable property of the evacuees and to evacuees' bank accounts were resolved.

**IMMOVABLE PROPERTY - FURTHER NEGOTIATIONS**

As regards immovable property, the stalemate unfortunately continued. Pakistani sources asserted that in the improved atmosphere following the Ali-Nehru Agreement of April 1950, Pakistan made an effort to get the Government of India to agree to a limiting date, beyond which the evacuee property laws in both countries should not be applied. Towards that end, the same sources maintained, the enforcement of
the evacuate property law in Pakistan was suspended for several months, but this gesture was not reciprocated by India.\textsuperscript{54} A series of correspondence between the Prime Ministers of India and Pakistan running through the whole of 1950, produced no agreement, nor did the formal communication from the secretary of the Government of India to his counterpart in Pakistan sent on October 13, 1952, prove any success.

In the above mentioned communication India suggested that the two governments should assume responsibilities for all the rural property left behind in their territories. A-valuation of the said property by a joint commission or by an impartial body was also recommended. It was suggested that the difference should be paid by the debtor dominion to the creditor dominion according to certain agreed arrangements. As regards the urban immovable property the return of the evacuees to their countries of origin no longer being within the bounds of possibility, the Government of India suggested that the two governments should take over the urban immovable evacuate property in their respective territories and should compensate the evacuate owners according to principles which might be decided upon by negotiations or arbitration.

The Indian Government also informed the Government of Pakistan that it intended to proceed to takeover

\textsuperscript{54} Pakistan News Digest, Karachi, June 1, 1954
property of the evacuees in India on the basis of the 
aforesaid proposals, and they invited the Government of 
Pakistan to do likewise in Pakistan, this move of India 
needs to be explained. In India the demand of the refugees 
from Pakistan for compensation for their properties in 
Pakistan, out of the evacuee property held by the 
Government of India, grew louier with each set back in 
the negotiations with Pakistan. With no prospects of 
settlement in sight, the Government of India decided to 
utilise the evacuee property in India to meet, in part, 
the claims for compensation which had been filed by the 
displaced persons from Pakistan. It was decided that a 
compensation pool was to be set up out of the proceeds of 
the rents paid by the occupiers of the urban evacuee 
property in India plus the value of such property expressed 
in terms of money. The sum thus arrived at (Rs. 100 crores) 
was to be augmented by providing for about Rs. 90 crores 
in the form of property constructed by the Central and 
State governments for the use of displaced persons.

Accordingly an interim scheme of compensation 
was worked out and put through on November 28, 1953, pending 
enactment of suitable laws. In May 1954, the Displaced 
Persons (Compensation and Rehabilitation) Bill was 
presented in the Parliament and became an Act on October 
9, 1954. This Act empowered the Central Government to 
acquire evacuee property for relief and rehabilitation of

the displaced persons and for payment of compensation to such persons for their properties abandoned in Pakistan.

Pakistan countered the Indian move by offering to scrap the entire evacuate property law if India agreed to do the same. It was proposed by Pakistan that if India withdrew the evacuate property law from the non-agreed areas, she would consider the withdrawal from the agreed areas on a reciprocal basis. The Indian Minister rejected this offer. India, however, unilaterally abrogated for the future, the Evacuee Property Law in India in October 1954. (Pakistan did likewise in November 1956).

This momentous and unilateral decision by the Government of India to acquire the rights, titles and interests of the evacuate owners to their properties, doubtless constituted a landmark in the history of the dispute, but India maintained that the fate of the refugees could not hang in the balance in anticipation of a settlement with Pakistan. India, however, provided in the said enactment for compensation to the Muslim evacuees from India, in case Pakistan expressed her readiness to come to a settlement on mutually agreed lines. Clause 13 of the Displaced Persons (Compensation and Rehabilitation) Act 1954 runs as follows-

There shall be paid to an evacuate, compensation in respect of his property acquired under section 12 in accordance with such principles and in such manners as may...

56. Pakistan News Digest, Karachi, June 1, 1954.
57. 'Rehabilitation Retrospect', Op.Cit., Page-72
be agreed upon between the Government of India and Pakistan.

Even after the enactment of the Displaced persons Act in October 1954, India asked Pakistan to continue negotiations and to that end, letters were exchanged in Nov. 1954, and early 1955.

**AGREEMENT UPON THE PROCEDURE**

It was announced simultaneously in New Delhi and Karachi on November 9, 1955 that the Governments of India and Pakistan had agreed upon a procedure to restore to evacuees of one country, shares securities, insurance policies etc., lying with banks in the other country. Dec. 31, 1955, was fixed as the last date for submitting applications by displaced persons or their heirs in respect of these properties. It was also decided that outstanding lists of personal and household effects including merchandise with custodians in either country would be exchanged en bloc by the end of 1955. After that date, the custodian would be free to dispose of such articles in the list as were deteriorating after giving a month’s notice to the diplomatic representative of the other country.

Evacuees could remove their personal and household effects without paying customs duties. Claims to items not included in the lists were to be submitted by the end of April 1956. Movable property falling in the category of trade goods and merchandise which might be required by Government for a public purpose, might be acquired on payment, if the owner could not accept the value of the property
estimated by Government, the matter could be referred for adjudication to a joint - Committee appointed for the purpose.

Personal and house-hold property left with friends and relatives could also be removed by the end of February 1956.

Procedure was also evolved for inviting and settling third party claims against articles belonging to evacuees kept in lockers or left in custody of Banks for safe deposits and bulk release of such articles. The last date for submission of claims in respect of them was set November 30, 1955. Lockers and safe deposits about which there were no third party, claims were to be released en bloc by the end of May, 1956. 58

**LIST OF EVACUEES MOBILE PROPERTY EXCHANGED**

At the end of the talks between Pakistani and Indian delegates in Karachi, a communiqué was issued on February 5, 1957, saying that India and Pakistan had exchanged "all outstanding lists relating to the movable property of evacuees" from either country after partition, such as personal and house-hold effects, lockers and safe-deposits, sale proceeds and court deposits. Bank deposits in respect of sale proceeds of movable property were also exchanged. 59

The communiqué gave the following details of the various decisions taken by the Committee at the meeting:

---

58. Asian Recorder 1955, page-493
59. Asian Recorder 1957, page-1347
It was agreed that action would be taken by both the Governments to expedite physical restoration of movable property included in the lists exchanged at the meeting. Lists of claims in respect of movable property belonging to evacuees lying with railway authorities would be exchanged between the two countries by March 31. Fire arms covered by the lists exchanged up to end of February 1956, would be exchanged by March 15, 1957. " Ways and means for the speedy verification of claims of contractors, pensions, provident funds etc. were considered and it was decided that both the Governments should take necessary steps to complete this work as early as possible. Claims relating to movable property not covered by the exchanged lists will, when brought to notice, be enquired into by the Governments concerned. Suitable procedure would be evolved by the two Governments in mutual consultation for providing facilities for the exchange of shares of non-evacuee joint stock companies."60

**EVACUEES MOBABLE PROPERTY RESTORATION - AGREEMENT WITH PAKISTAN**

On April 21, 1956, India and Pakistan agreed to ensure the "immediate" restoration of movable property.

60. *Asian Recorder 1957, Page - 1347*
in respect of which lists had already been exchanged. The two countries also agreed to complete within four months enquiries into cases in which documentary evidence had been supplied by displaced persons in support of their claims. These decisions were taken by the Implementation Committee set up under the Movable Property Agreement between India and Pakistan at its meeting in New Delhi on April 16 and 17, 1958. It was decided that the final date for the filing of claims under the transfer of Evacuee Deposits Act would be July 31, 1958. No claims would be entertained thereafter.

**REHABILITATION AND SETTLEMENT WORK OF REFUGEES IN PAKISTAN**

President Gen. Mohammad Ayub Khan approved an ordinance on January 4, 1959, relating to compensation to displaced persons. The Rehabilitation Minister Lt. Gen. Azam Khan gave the following details of the scheme of compensation, embodied in the Ordinance, on January 5, 1959. He said that, 'the transfer of property to displaced persons from India would begin within three months. The settlement operations would fall into three broad phases:

1) Evacuee property would be distributed amongst claimants.

2) Left over property would be offered to non-claimant displaced persons.

3) The remaining property would be disposed off by public auction in which every body, including

---

the local people would have the right to bid. Those who have claimed would be settled on
land or urban immovable property in lieu of the property left behind by them. Those, who were non-claimants and were
unable to find shelter for themselves would be settled in
new colonies and satellite towns consisting of a mixed
population of refugees and local people on a community basis.

'Evacuee property would be disposed of in
categories of houses, shops, building sites, big mansions
and registered factories. Irrespective of the fact whether
the claims have been verified or not, the claimants would
be allowed provisional adjustment of their claims against
the value of the property obtained by them.

'The formula to be adopted for this purpose
would be, for verified claims 40% of the first Rs.100,000
and 25% of the remainder, subject to a maximum of Rs.3,00,000
for verified claims, 20% of the first Rs. 100,000 and 15%
of the remainder, subject to a maximum of Rs. 3,00,000.

'Final adjustments would be made when the
correct position of the total amount of claims and the
value of evacuee property was known and the percentages of
compensation had been determined. Compensation out of the
rent pool would also be allowed for loss of rent on urban
immovable property abandoned in India.'63

The Rehabilitation Minister Lt. Gen. Azam Khan issued orders on January 29, 1959 conferring permanent proprietary rights on 14,20,000 allottees of rural land in the area constituting the former Punjab. This meant approximately 60,00,000 acres of land was to be distributed on a permanent basis before the end of March 1959, ending the "air of uncertainty" among the refugees in the rural areas of the former Punjab.

Gen. Azam Khan announced the final scale of compensation to displaced persons at a news conference in Karachi on November 10, 1959. This scale for compensation for settling the claims of the displaced persons, was a major step towards their re-settlement. The scale for compensation out of the compensation pool against the amount verified under schedules 1, 2 and 3 to the Registration of claims (Displaced persons) rules of 1955 was as follows:

- For the first Rs. 5,000 - 70 percent
- for the next Rs. 5,000 - 60 percent
- for the next Rs. 90,000 - 50 percent
- and for the remainder - 20 percent

This was subject to a maximum compensation of Rs. 3,00,000. Gen. Azam said that the Government had strained all its resources and could not go beyond that, as this was the final scale.64

64. Asian Recorder 1959, Page = 3039.
On December 31, 1959, he announced over Radio Pakistan that the 'rehabilitation and settlement work of refugees in Pakistan had been completed.' He said, "the democratic institutions have now come into existence and there will be no distinction between Refugees and others." 65

REHABILITATION OF REFUGEES IN INDIA

Of the 88.57 lakh displaced persons from Pakistan who had migrated to India till the end of 1959, 47.40 lakhs came from West Pakistan and the rest from East Pakistan. 66 The task of rehabilitating displaced persons from West Pakistan was virtually completed by 1960, while the final phase of work relating to the rehabilitation of displaced persons from East Pakistan began. The assistance provided by the Government towards the relief and rehabilitation of these persons till the end of March 1960 is shown in the following table –

EXPENDITURE ON DISPLACED PERSONS
( IN CRORES OF RUPEES )

<table>
<thead>
<tr>
<th>Relief</th>
<th>On B.P.S. [India]</th>
<th>On B.P.S. [Pakistan]</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grants</td>
<td>89.47</td>
<td>77.59</td>
<td>166.06</td>
</tr>
<tr>
<td>Loans</td>
<td>25.62</td>
<td>39.42</td>
<td>65.04</td>
</tr>
<tr>
<td>Housing</td>
<td>62.37</td>
<td>38.43</td>
<td>100.80</td>
</tr>
<tr>
<td>Establishment</td>
<td>2.43</td>
<td>0.67</td>
<td>3.10</td>
</tr>
<tr>
<td>Loans by Rehabilitation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Finance Administration upto</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>0.01</td>
<td></td>
<td>0.01</td>
</tr>
<tr>
<td>Damiekaranya Scheme</td>
<td></td>
<td>5.05</td>
<td>5.05</td>
</tr>
<tr>
<td>Rehabilitation Industries</td>
<td></td>
<td>0.25</td>
<td>0.25</td>
</tr>
<tr>
<td>Corporation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>165.71</td>
<td>166.06</td>
<td>332.52</td>
</tr>
</tbody>
</table>

65. Asian Recorder 1960, Page 3147
66. An India 1960, page 155
Permanent rights were transferred to 2,63,804 allottees, covering an area of 19,32,408 standard acres worth Rs. 87.00 crores. Property rights in 94,459 houses were also transferred. Of the new township set up in the Western region, the Central Government was directly associated with the construction and administration of four townships of Faridabad, Rajpura, Milokheri and Hastinapur. About 2.03 Lakh displaced persons were provided with gainful employment in services and trades till the end of 1959. An aggregate of Rs. 14.89 crores was advanced as loans through State Governments and Rs. 7.28 crores by the Rehabilitation Finance Administration to enable the urban displaced persons to set up trade and industries. Upto January 1960, a sum of Rs. 128.30 crores (Rs. 56.48 crores in cash, Rs. 51.53 crores by transfer of properties and Rs. 20.29 crores by way of adjustment of Public dues) was paid as compensation to 4.49 Lakh claimants.

**DANIKARANYA SCHEME**

An area of 30,052 square miles in selected areas in Baster district of Madhya Pradesh and Koraput and Kalahandi districts of Orissa was chosen under the Danikaranya Scheme for resettling a sizable displaced population from East Pakistan. The Danikaranya Development Authority was set up in September 1958. 10,000 acres have been fully reclaimed and 1631 displaced families brought to the area up to the end

67. 'India - 1960' Page-158.
of February 1960. The actual target was reclamation of about 45,000 acres, construction of about 5,000 village houses, construction and improvement of roads involving an expenditure of about Rs.90 Lakhs, completion of surveys and construction of minor and medium irrigation works, establishment of transport consumer goods and dairy cooperative societies and multipurpose farms.

By 1966, over 1.7 lakh acres had been reclaimed and 12,095 families had been moved into the project area. Over 10,000 families were moved to the village sites, of which about 8,800 had been settled. Against 2.5 percent quota earmarked for resettlement of tribals, 21,692 acre of reclaimed land had been assigned to the state Governments of Mahya Praiesh and Orissa and 1,845 families were settled. Mixed farms at Umarkote and Paralkote and a central horticulture farm at Durniput were set up and crops and vegetables grown. Thus 42,391 acres of land had been brought under cultivation. A poultry farm was also started at Manale. The fisheries scheme was evolved and Industrial Centres had been set up at Soregan Jagnalpur, Ambagula, Umarkote, Murthana, Govinipalli, Malkangiri and Paralkote which employed about 800 people and produced various items including furniture, textiles, carpets, etc. Medical facilities were provided and more than 14,500 students were receiving education in 212 schools. Till Dec. 1965, Rs. 27.35 crores had been spent on the Janakaranya project.68

68. 'India - 1966' Page-115
CONCLUSION —

As the work of resettlement and rehabilitation continued in both the countries and the Governments decided to acquire ultimately the rights, titles and interests of evacuee owners and payment of compensation to refugees, the dispute gradually lost importance. Pakistan accused India of forcing the Muslims out of India through the indirect means of evacuee property legislation. On the other hand, India maintained that she welcomed the Muslim evacuees back to India and a notification was issued on July 3, 1950 in order to facilitate their rehabilitation under this notification. Properties of the Muslim migrants who had returned from Pakistan to India before July 18, 1948, were exempted from the operation of the evacuee property laws. The notification also exempted all those migrants who had returned thereafter, but before October 18, 1949, under a permit of permanent resettlement in India. 69

One major cause of the dispute was the disparity in the value of the property abandoned in both countries. The fact that Pakistan did not agree to the Indian valuation is no proof of absence of disparity, although one is entitled to a genuine doubt as to the accuracy of the Indian claim in the absence of any joint valuation. On the other hand, Pakistan's refusal to lend her assistance to the

69. 'Rehabilitation Retrospect' Op. Cit. Page-70
Indian agencies set up for such valuation, only confirms the impression that the Indian claim was not without foundation. Secondly, Pakistan could afford to stall, rather it was distinctly to her advantage to do so because displaced persons in Pakistan were, in the majority of instances, better off than they had ever been in India; they were more comfortably housed in evacuee property and in the enjoyment of larger evacuee assets. In 1952, India suggested that the question of the method of valuation might be referred to the International Court of Justice or to an aihoc court consisting of the nominees of the two governments. Pakistan did not agree.

Since both the Governments have enacted evacuee property laws and the rehabilitation work completed, this search for harsher attitudes of the other country is now, not only fruitless, but is likely to increase bitterness by reopening past wounds. Therefore the chapter is closed here.

****