

Reconstructing identity and institutional integration: a study of displaced persons of Pakistan occupied Jammu and Kashmir of 1947

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ABSTRACT

Independence of India was shortly followed by Pakistani attack on the princely state of Jammu and Kashmir. The attack was so brutal and heinous that it forced the people to displace from their habitual place of residence for their safety. It not only left scars on the collective memory of the displaced persons of Pakistan occupied Jammu and Kashmir for decades together but also tended to shatter the identity of the displaced community as a whole. The delayed administrative policies and discriminatory state laws further created societal inequilibrium for displaced persons. Therefore, the present paper attempts to understand the violence faced by the displaced persons, at the hands of Pakistani invaders. It also seeks to understand the issues and challenges faced by them along with the entire process of reconstructing their identity and institutional integration through various rehabilitation policies which attempted to re-integrate Displaced Persons.

Keywords: *Displaced Persons, Identity, Jammu and Kashmir, POJK, Rehabilitation.*

Introduction

Jammu and Kashmir was the largest princely state at the time of independence of India ruled by Maharaja Hari Singh. The state had four main regions namely Jammu, Kashmir, Ladakh and Gilgit with total geographic area of 222236 square kilometres which was roughly double the size of Denmark, Netherlands, Belgium and Luxembourg put together. The state of Jammu and Kashmir was strategically significant because of its geo-strategic location. To its north lies the Wakhan corridor that connects Afghanistan with China's Xinjiang region. To the north of this narrow corridor lies Tajikistan. To the east and north is Tibet. To the south lies Punjab and Himachal Pradesh. To the southwest lies North West Frontier Province (Bajwa, 2004).

Before the independence of India there were unfathomable chaos, confusion, violence, displacement and sufferings all around when partition of British India was announced in June 1947. The scars of that chaos are one of the tragic

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legacies of the partition of British India into two dominions- India and Pakistan that was announced by Lord Mountbatten on 3rd day of June, 1947 also called as 3rd June plan. The India Independence Act (1947) made the provision for the setting up of two independent Dominions as from 15th day of August, 1947. Upon the lapse of paramountcy, the rulers of the princely states were given the choice to accede to either of the two Dominions as per their own interest subject to their geographic contiguity with any of the Dominion.

After announcing 3rd June plan, when Lord Mountbatten was discussing the policy of accession of Indian States to one Dominion or the other, he became particularly concerned about the princely state of Jammu and Kashmir. In the Indian Independence Act 1947, it was entirely left to the wisdom of the rulers of the princely state to accede to either of the two dominions. So, many people tried to meet Maharaja Hari Singh- the then ruler of the princely state of Jammu and Kashmir to influence his decision regarding accession. Though Maharaja was continuously in touch with concerned authorities in Delhi through his Prime Ministers regarding the issue of accession but in the meantime, he sent a standstill agreement to both India and Pakistan through telegram. In response to the telegram of August 12, 1947 from the Prime Minister of Jammu & Kashmir on behalf of Maharaja Hari Singh, Pakistan agreed to enter into a *Standstill Agreement* with it with effect from August 15, 1947 where as India sought some clarifications and asked for more time (Jagmohan, 1993). As a result of the agreement, Pakistan promised to continue the existing arrangements by which the State imported essential wheat, cloth, ammunition, kerosene oil, petrol from West Punjab. But these relations with Pakistan deteriorated very soon with the communal rioting in whole of the Punjab and North West Frontier Province (Prasad and Pal, 1987).

Desperate Pakistan invaded Jammu and Kashmir in October, 1947. There was a chronology of events that took place in the princely state of Jammu and Kashmir during this invasion. This invasion was purely communal in nature and affected different regions Jammu and Kashmir one after another. The Hindu-Sikh population of the affected regions became victim to this communal violence. There were many incidents of Pakistani atrocities in terms of mass killings, loot, and arson which forced people to flee from their habitual residences to safer zones. The forced displacement and further rehabilitation was not easy for these DPs. The state laws and policies also marginalised them for decades to come. Therefore, the paper attempts to understand the violence faced by POJK DP community, the issues and challenges they faced during entire process of reconstructing their identity and institutional/structural integration.

Analytical framework

Structural functionalism and Social Constructivism in Diaspora Studies are the two theoretical approaches that are used to understand the entire incident of in

1947 with regard to the princely state of Jammu and Kashmir. Structural functionalism is applied to POJK DPs focusing on viewing the POJK DPs community as a social system and explains how the structural disruptions like forced displacement and delayed administrative policies created societal inequilibrium for decades among the people of POJK DPs community. This perspective assessed how the state sponsored institutions attempted to re-integrate DPs in to broader socio-economic fabric of the state through its rehabilitation policies.

Social Constructivism in Diaspora Studies is a framework that examines how community identity, social meaning and historical memory are actively constructed and preserved by the members of a community across generations. Therefore, in this paper, this perspective is used to understand that how POJK DPs construct their identity in terms of Pahari ethnic group anchored in their cultural roots and how they perceive the social meaning of being a displaced community. Along with this, through constructivism it analyses that how through oral histories, sense of belongingness, displacement trauma and cultural ethos are being transferred from one generation to another.

Jammu and Kashmir invaded under *Operation Gulmarg*

Pakistan invaded the princely state of Jammu and Kashmir in October, 1947 through Muzaffarabad with the single agenda of forcibly occupying it. The invasion was planned and launched by the Pakistani Army and given code name *Operation Gulmarg*. The day for final attack was decided as 22nd of October, 1947. In the early morning of 22nd October, the raiders comprised of Pakistani Army regulars, tribal afridis, wazirs, mashuds, Swatis crossed the frontier from Garhi Habibullah and attacked Muzaffarabad and Domel (Prasad and Pal, 1987.) The invasion was launched under the command of Major Khurshid Anwar and Khan Rahim Dar Salar. The invaders were joined by the deserters from state forces who provided the strategic details invaders needed. Muzaffarabad witnessed large scale killings of Hindus and Sikhs, loot, arson and rapes of non-Muslim women by the invaders. Later Major Khurshid was blamed of being more concerned with gathering loot than reaching Srinagar. He was dismissed and in his place Colonel Akbar Khan was appointed as the new chief under the code name *General Tariq*. Colonel Akbar Khan was relieved in February 1948 and Colonel Sher Khan was given the charge. Later he again rejoined and stayed until the ceasefire took place in 1949 (Tamiri, 2023).

The dark morning of 22nd October, 1947 in Muzaffarabad

The first attack was launched on Muzaffarabad district of Kashmir province on the mid-night of 21st October, followed by a morning of 22nd October, 1947 which will always remain dark in the history of Jammu and Kashmir as that was the morning the valley wept and bled. Around 5,000 armed men with rifles, brenguns, mortars and grenades crossed the border and fell upon the Hindu-Sikh

inhabitants of Muzaffarabad, created havoc by looting and burning their houses and bazars with the aim of cleansing of non-Muslim population. On the morning of 24th October, 1947 Domel fell due to treachery of the Muslims in the State forces. The non-Muslim inhabitants of Domel were massacred. The Wazir-i-Wazarat of Muzaffarabad Mehta Duni Chnad was also shot dead by the raiders and his family was later captured by the raiders at Domel. About 6000 Hindus and Sikhs were captured by the raiders (Vaid, 2002). The raiders embarked upon murder and loot of the 4000-5000 Sikhs and Hindus in the rural areas of Muzaffarabad. More than 1600 women were abducted to save their dignity many jumped in Kishenganga River, and even ended their lives by consuming poison. Rest of the few who could save their lives rushed to Jammu. After the sack of Muzaffarabad, the raiders pushed a large force of armed men in buses & Lorries towards Srinagar.

Savagery, brutality and wounds of Baramulla: 27th October, 1947

The havoc raiders wrecked on Baramulla will haunt the collective psyche of the people of Baramulla for generations to come. Baramulla had a mixed community of Hindus, Muslims and Sikhs with a small population of Christian missionary. Raiders entered the prosperous town of Baramulla in the evening of 26th October, 1947 and engaged in plunder and rape. The looters were however absolutely indiscriminate in execution of their barbaric objective. Hindus and Sikhs were hunted down and killed; their houses were looted and then burnt. Young women were forcibly abducted and carried off without distinction of caste, colour or creed to be sold like cattle in the streets of Rawalpindi and Peshawar, or to live and die as slaves in the mountains fastnesses of the distant tribal territory (Prasad and Pal, 1987). A group of raiders scaled the walls of Saint Joseph's Franciscan Convent Compound and stormed its hospital as well as the church. Twenty-four hours after the Indian Army entered Baramulla, only 1000 were left out of 14000 people. The surviving residents estimated that 3000 inhabitants including four Europeans, and a retired British Army officer, Colonel Dykes and his pregnant wife were shot dead (Singh, 2020). In the St. Joseph Convent, the Mother Superior Sister Taressline and her four 'Sisters of Mercy' were raped and killed. The nurses who rushed out to save patients in the Mission hospital, drew the wrath of the invaders and were killed after being raped.

The carnage of Rajouri: 10th November, 1947

In 1947, Rajouri had population of 4000, many of whom were rich businessmen. By November it rose up to 12,000 as Hindus and Sikhs from adjoining areas sought shelter at Rajouri considering it as safer zone but Rajouri was on the radar of raiders. It was attacked and taken over by the raiders in the middle of November. Plundering started on 10th of November, 1947 and ended on 12th of April, 1948. During these four months of occupation, the raiders indulged in brutal mass killings, loot and arson. Women were raped and abducted and to

save themselves from these atrocities they were compelled for Johar. When Pakistani raiders heard of advance of Indian troops towards Rajouri in April 1948, they collected thousands of civilians near the present airfield and massacred them. The city of Rajouri itself was half burnt, with half the survivors of the holocaust who sought refuge in the hills (Vaid, 2002). On 12th April, 1948 Rajouri was liberated by Indian Army. Even today every year 13th April is celebrated as Rajouri Day and Diwali is observed as Balidan Diwas to commemorate the supreme sacrifices made by people of Rajouri in those horrible four months.

The fall of Mirpur: 25th November, 1947

On 14th August, 1947, Muslims of Mirpur city hoisted Pakistani flag on their homes, shops and mosques to celebrate Pakistan's independence. Next day, on 15th August, Hindus and Sikhs hoisted India's tricolor on their shops, homes, temples, Gurudwara and Government offices to celebrate India's independence. Tension started growing between Muslims and Hindu-Sikhs. In September the Muslims of Mirpur deserted their homes and shops. Some Muslims who had good intention warned their Hindu friends about the upcoming attacks by Pakistanis. They advised them to leave Mirpur for safer places (Gupta, 2012). The raiders attacked Mirpur on 25th November, 1947. At that time, Mirpur had a total Population of 15000 and it was swollen up to 25000 because people from surroundings took shelter at Mirpur considering it safe. A battalion of Pakistan forces attacked Mirpur city in great strength on the night of 25th-26th November 1947. By 25th November they had surrounded the Mangla fort and sealed all the withdrawal routes. They blew the gate of the fort and the front wall. Approx. 2500 people were killed in the infernos that erupted due to Pakistani artillery fire in Arya Samaj Mandir and Pandhi Middle School where many people had taken shelter. Next morning by 10 O'clock, the whole western Mirpur was reduced to ashes & merely in 48 hours, approximately 10,000-12,000 Hindus and Sikhs were slaughtered. Approximately, 2500 escaped with the retreating Jammu and Kashmir Army. And the remaining 20,000 were marched in a procession towards Alibeg. Along the way, Pakistani troops killed about 10,000 of the captured Hindu and Sikh men and kidnapped over 5,000 women. In January 1948, the Red Cross rescued 1,600 of the survivors from Alibeg. Between 1948 and 1954, around 1,000 abducted Hindu and Sikh women were recovered from Pakistan and POJK (Gupta, 2012).

Trail of blood and destruction in Poonch

Poonch was a Jagir of Jammu and Kashmir ruled by its own Raja, subject to the overall sovereignty of the State government. It is situated at the confluence of Suran and Bater rivers with hills on all sides. The inhabitants of Poonch were predominately Gujjars. The troubles flared up at a tehsil Bagh of Poonch Jagir for the first time in mid of October 1947. At Poonch, the Civil Administration

was functioning smoothly till the end of October 1947 but the situation changed suddenly when the outposts of the state forces at Plandri, Bagh, Rawlakote, Sundhnoti, Hajira and Madarpur and other places fell one by one. The raiders by 13 November 1947 occupied the heights surrounding the town of Poonch. The Mendhar and Poonch sector remained the scene of raiders' activity right upto the middle of December 1947. The defence of Poonch which held out for three months will go down in the history as one of the most outstanding achievements of the Indian Army and Air Force (Thakur, 2000; Vaid, 2002).

Gendered cost of ferocity

Menon and Bhasin (1998) and Butalia (1998) in their studies on partition provide rare insight into the lived experiences of women caught in conflict and gender politics of partition. They set out to uncover the violence of the event from the perspective of women who lived it, whether they were abducted, rendered destitute, recovered, widowed, rehabilitated or were from more privileged positions and worked with women in refugees' camps. This shows the vulnerability of women during wars and conflicts and how they become target of revenge. Gender as a category of analysis then becomes important. In the same vein, during the Pakistani invasion on Jammu and Kashmir, women were the worst sufferers who were kidnapped, raped, forcefully converted, married and even sold. In Muzaffarabad, Pakistani invaders abducted thousands of women and young girls who were taken in vehicles to Pakistan. Among these abducted women, nearly three hundred teenage girls were told that they would be temporarily shifted to refugee camps in Pakistan before their repatriation to India. The helpless girls sensed the plot and jumped into Kishanganga river. Many of them were saved and taken to Pakistan. These kidnapped girls were forcefully converted and were compelled to marry local men (Tamiri, 2023). In order to save their dignity at the hands of the Pakistani raiders, women were compelled:

- for *Johar*- compulsion of tragedy to preserve their honour
- to end their lives by jumping into Kishenganga river.
- to jump into wells
- to consume poison

Many women were raped in front of their family members, their bodies were mutilated, breasts were cut even bellies of pregnant women were ripped open. There were several unspeakable atrocities done to women in this holocaust.

Jammu and Kashmir acceded to India

Maharaja Hari Singh tried to approach the Government of Dominion of India for accession many times through his Prime Minister and Deputy Prime Minister but every time Pandit Jawaharlal Nehru put forth the condition of handing over power to Sheikh Mohammad Abdullah who was in jail at that time. But when

Pakistan invaded the princely state of Jammu and Kashmir, Maharaja agreed to all the conditions of Nehru to save its people and territory from Pakistani aggression. He signed the Instrument of Accession on 26th day of October, 1947 with the Dominion of India. Lord Mountbatten, the Governor General of India accepted the same on 27th day of October, 1947 (Jammu Kashmir Study Centre, 2016). V. P. Menon obtained the formal accession signed by Maharaja with an agreement that Sheikh Abdullah would carry the responsibilities in this emergency with Mehr Chand Mahajan, the then Prime Minister of Jammu and Kashmir. It was only after formal accession that the first contingent of Indian Army consisting of 1st Battalion of the Sikh Regiment landed at Srinagar airfield on the morning of 27th of October, 1947 (Palit, 1972). On 30th of October, 1947, Maharaja as agreed appointed Sheikh Abdullah as the Emergency Administrator and later on he was appointed as the first Prime Minister of Jammu and Kashmir State.

Pakistan Occupied Jammu and Kashmir and displaced persons

The UN-mandated ceasefire was declared effective on January 1st, 1949 which was followed by the establishment of Ceasefire Line between India and Pakistan on 27th July 1949. The State of Jammu and Kashmir was divided across this ceasefire line. Pakistan gained illegal control over the areas of Mirpur, Muzaffarabad, Gilgit, Baltistan and four tehsils of Poonch district called as Pakistan Occupied Jammu and Kashmir (POJK). The territory of Mirpur, Muzaffarabad and Poonch under Pakistan illegal occupation has an area of 13297 sq kms. While Gilgit-Baltistan has an area of 64817 sq kms. To save their innocent lives from the barbaric atrocities of Pakistani raiders, a large numbers of Hindus and Sikhs residing in Mirpur, Muzaffarabad and Poonch and adjoining areas had no other option than to flee from their habitual residence to safer zones in Jammu and other states of India. These uprooted people from POJK are called as POJK Displaced Persons of 1947 (Kumar, 2024). Once displaced these displaced persons (DPs) could never return back to their native lands ever. These POJK Displaced Persons are the first and real victims of Jammu and Kashmir. The forced displacement brought untold miseries and sufferings to them in their subsequent rehabilitation process.

Rehabilitation and assistance by the Government

The displacement has not only affected the history and geography but has ruined the overall lives of POJK Displaced Persons of 1947. After getting displaced from their original homeland, they were given temporary shelter in relief camps established at Nagrota, Chatha, Comany Bagh and Frash Khanna in Jammu and Yol Camp in Kangra district of Himachal Pradesh, Chinari and Hastinapur in Meerut, Uttar Pradesh. In these camps, they were provided with immediate relief and later they were settled in different areas of Jammu and other states of India. Since, then they have been the victims of negligence of the successive

Governments. Though, the Government of India sanctioned different relief and rehabilitation packages for these Displaced Persons but that were adhoc and inadequate to cater their needs (Bakshi & Kumar, 2020). There was another category of Displaced Persons who lived outside the camps and managed at their own.

In order to mitigate the hardships of POJK DPs, Government of India decided to provide them ex-gratia/rehabilitation assistance to the displaced persons of POJK. The sanction for payment was issued by the Government on 24th June, 1960 and the formal registration was commenced in 1960 and extended till 7th August, 1962. A total of 31,619 families were registered for financial assistance purpose and 9500 cases of the families were rejected due to various shortfalls. Thus, a total of 41,119 families were recognized at that point of time. Out of 31,619 registered families, 26,319 are living within the territorial boundaries of Jammu and Kashmir whereas 5300 families are residing outside the erstwhile state of Jammu and Kashmir in different States (Department-Related Parliamentary Standing Committee on Home Affairs [DPRSC], (183), 2014). They have been the worst sufferers because of the politics of exclusion by the State Government under the provisions of state laws and article 35 of the Constitution of India. Majority of these 26,319 families residing within Jammu and Kashmir are located in Jammu, Udhampur, Kathua, Samba, Reasi, Poonch and Rajouri districts of Jammu province. Out of 26,319 families, around 22,719 families are located in rural areas, whereas 3,600 families are located in urban areas of Jammu province (Wadhwa, 2007). It would not be wrong to say that there would have been many other families who could not even register due to prevailing circumstances. After their forced displacement from POJK, the life was never easy for these displaced persons. They had to start from scratch for their livelihood and even to fulfill their basic needs for survival.

Relief and rehabilitation assistance to POJK displaced persons:

The Government provided assistance to both the categories of POJK DPs-rural as well as urban settlers in Jammu and Kashmir.

Assistance to rural settlers

- (i) Allotment of 2-3 acres of irrigated land or 4-6 acres of un-irrigated land per family;
- (ii) Rs. 1000/- per family was given as ex-gratia payment;
- (iii) For the State land allotted, ownership rights were conferred on allottees in 1965;
- (iv) For evacuee land allotted, the State Govt. has stated that occupancy tenancy rights were given under the Agrarian Reforms Act, 1975;
- (v) 46 Basties constructed by rural settlers on their own were regularized (Department Related Parliamentary Standing Committee [DPRSC], Report (183), 2014).

Assistance to urban settlers

The Displaced families who settled in urban areas were provided the following assistance:

- (i) Ex-gratia cash payment of Rs. 3500/- per family;
- (ii) 1628 residential quarters were constructed and allotted by the Government of Jammu & Kashmir in Bakshi Nagar (Jammu), Udhampur and Nowshera and Rajouri. But the cost of the structure was deducted from the ex-gratia grant of Rs. 3500/- per family.
- (iii) In 793 cases, plots were also allotted to them by the State Housing Board free of cost (Department Related Parliamentary Standing Committee [DPRSC], Report (183), 2014).

Details of quarters and plots allotted to POJK DPs in J&K

Table 1: Details of quarters and plots allotted to POJK DPs in J&K

S. No.	Name of the Colony	No. of Quarters Allotted	No. of Plots Allotted
1.	Bakshi Nagar Colony, Jammu	1450	629
2.	Nowshera	50	Nil
3.	Udhampur	100	02
4.	Rajouri	28	Nil
5.	Natipora Srinagar	Nil	42
6.	Housing Colony at Patoli, Jammu	Nil	120
Total		1628	793

Source: Wadwa Committee Report, 2007

Rehabilitation packaged sanctioned in 2000

The rehabilitation package sanctioned by Govt. of India in 2000 comprised of the following:

- (i) Ex-gratia payment of ₹ 25,000/- per family;
- (ii) Payment of cash compensation for of land deficiency @ ₹ 5,000/- per kanal subject to maximum limit of ₹ 25,000/- per family;
- (iii) An amount of ₹ 2 crore to be provided for the allotment of plots to those Displaced persons who have already been settled in urban areas of J&K and who have not been allotted plots in the past;
- (iv) ₹ 25 lakh to be provided to the state government of J&K for improvement of civic amenities in 46 regularized colonies (Order No. 33/2/97-Settlement (Vol. IV), Government of India, Ministry of Home Affairs, Rehabilitation Division, Dated, 9th August, 2000).

Rehabilitation packaged sanctioned in 2008

In the year 2008, Government of India sanctioned ₹ 49 crore to the Government of J&K for providing cash compensation in lieu of land deficiency by increasing the amount from ₹ 5,000/- per kanal to ₹ 25,000/- per kanal subject to a ceiling of ₹ 1.5 lakh per family and ₹ 2 lakh to be provided in lieu of plots to the urban settlers, who have not been allotted plots in urban areas. (Department Related Parliamentary Standing Committee (DPRSC), Report (183), 2014).

Disbursement made by the State Government

From March 2002 to March, 2004 an amount of ₹ 6.17 crores was released to the Government of J&K for providing relief assistance to DPs from POJK for implementation of the relief package announced in 2000. In 2008, on the recommendation of the State Government of J&K, an amount of ₹ 49 crore was released to the State Govt. It was also informed that out of ₹ 55.17 crore released so far, 2550 families have received the cash compensation to the tune of ₹ 31.07 crore.

As per the scheme the following disbursement has been made by the State Government till September, 2014:

- (i) **Ex-gratia payment of ₹ 25,000 per family:** Out of 1011 applications received and verified, 1010 applications have been rejected and only one reimbursement has been made. As reported by the State Government the verifying committee has rejected 1010 applications on the ground that their monthly income was more than Rs. 300 per month at the time of migration and in many cases only application forms were received without the supporting documents;
- (ii) **Cash compensation in lieu of land deficiency @ Rs. 5000 per kanal which is now revised to Rs. 25,000 per kanal subject to a maximum of ₹ 1.5 lakh per family:** The Committee was informed that out of 4988 claims received, 3948 claims have been verified. Of these, 1028 claims have been rejected, 2841 approved and cash compensation given in 2524 cases and 79 cases are being re-verified;
- (iii) **Allotment of plots to the DPs who have already been settled in urban areas of the State but not allotted any plot, payment of ₹ 2 lakh per family instead of plot:** As per the report received from the State Govt., out of 198 applications received by them, 48 applications were found complete. Out of these, 18 applications were placed before the verification committee, of which 6 applications have been approved, 2 have been rejected and in 10 cases re-verification is required. Remaining 30 applications will be placed before the verification committee;

(iv) Improvement of civic amenities in 46 recognized colonies: The State Government has constituted a committee to prepare a survey report for improving the civic amenities in the recognized colonies. (Department Related Parliamentary Standing Committee [DPRSC], Report (183), 2014).

₹ 5.5 Lakh per family under PM development package for J&K 2015

The Government of Jammu and Kashmir vide their letter dated 20.10.2014 had sent a proposal of rehabilitation package for one time full and final settlement of the claims of 36,384 families of POJK of 1947 and Chhamb DPs of 1965 and 1971. The State Government had proposed a payment of ₹ 25 lakh to each family as a one-time compensation, amounting to a total of ₹ 9096 crore. But, in 2016 Ministry of Home Affairs of the Government of India sanctioned Rehabilitation to the Government of J&K for providing central assistance of ₹ 2000 crore for 36384 displaced families as one time settlement under Prime Minister's Development Package, 2015. As decided by the Government of India, the amount of central assistance of ₹ 549692/- per family will be distributed through Direct Benefit Transfer (DBT) to the eligible beneficiaries by the Central Government directly and the State Government will transfer the State's share of ₹ 308/- per family to the beneficiaries through DBT.

The study finds that the Government has always denied relief and financial assistance to POJK DPs living outside J&K as they were neither included in the definition of permanent residents of Jammu and Kashmir nor they were considered as Displaced Persons as defined in the Jammu and Kashmir Displaced Persons (Permanent Settlement) Act (1971). Therefore, they were excluded from availing every right and benefit as provided to 'Permanent Residents' and 'Displaced Persons' of Jammu and Kashmir.

POJK displaced persons after constitutional changes in August 2019

The President of India on 5th of August, 2019, issued an order namely the Constitution (Application to Jammu and Kashmir) Order (2019) C.O. 272 of August 5, 2019. It came into force at once and superseded the Constitution (Application to Jammu and Kashmir) Order (1954) C.O. 48 of May 14, 1954 as amended from time to time. Subsequently, the article 35A that was inserted through Constitution Order of May 1954 was abrogated. It ended the human rights violation of the non-permanent residents of Jammu and Kashmir. In addition to that, all the provisions of the Constitution of India, as amended from time to time were also applied in Jammu and Kashmir. On 6th of August another order namely the Constitution (Application to Jammu and Kashmir) Order (2019) C.O. 273 of August 6, 2019 was issued by which all clauses of Article 370 except clause 1 were made inoperative.

It is only after the abrogation of Article 35A and amendment in Article 370, the problems of Displaced Persons of 1947 residing outside Jammu and Kashmir

has been recognised. Now, those POJK DPs residing outside J&K are legally recognised as the residents of Jammu and Kashmir. They became eligible for bonafide registration and obtaining domicile certificates in the Union Territory of Jammu and Kashmir. Those registered families of POJK Displaced Persons of 1947 living outside Jammu and Kashmir are eligible for obtaining Domicile Certificates in the Union Territory of J&K under Rule 5, Clause 4 (a) of the Jammu and Kashmir Grant of Domicile Certificate (Procedure) Rules, 2020. The Relief and Rehabilitation Commissioner (Migrants) Jammu has been given the authority to register and issue domicile certificates to Displaced Persons of POJK living outside Jammu and Kashmir. They are now treated at par with POJK Displaced Persons living within Jammu and Kashmir.

The State Administrative Council in its decision No. 192/19/2019 dated 30.07.2019 approved the submission of a proposal to the Government of India for the inclusion of those left-out displaced families of POJK 1947 who initially settled outside State of Jammu and Kashmir but later returned and settled in the State. Following the State Administrative Council's proposal, the Union Cabinet chaired by the Prime Minister Narendra Modi has approved the inclusion of 5300 families of Displaced Persons of POJK-1947 who had initially moved outside the State of Jammu and Kashmir but later on returned and settle in the State, in the Rehabilitation Package approved by the Cabinet on 30th of November, 2016. In this direction, the Government of Jammu and Kashmir on 11.12.2019 vide order No. 07-JK (DMRRR) of 2019 sanctioned the inclusion of those left out families of Displaced Persons POJK. In the same order it was stated that in respect of POJK Displaced Persons settled in different states of country, a proposal shall be submitted to the Government of India for their financial assistance under the package through the respective State Governments. The State Administrative Council Decision No.26/4/2020 dated 05.02.2020 resulted in the issuance of Government Order No. 20-JK(DMRRR) dated 10.02.2020 by the Union Territory of Jammu and Kashmir for one-time settlement benefit in this regard.

The High Court of Jammu & Kashmir and Ladakh in December 2023 in a judgement disposed of all the writ petitions. The court directed the Government of India to treat the 5300 displaced persons of POJK of 1947 through their successors/heirs settled outside the erstwhile state of Jammu and Kashmir alike and equal with the 26319 families of POJK settled within the erstwhile state of Jammu and Kashmir with a direction to the Government of India to treat the 5300 displaced and consequently work out one time settlement rehabilitation package for them as admissible to 26319 families of POJK. It was also directed to accord same status and entitlements in their respective favour as held and enjoyed by the 23619 families of POJK settled within the erstwhile state of Jammu and Kashmir. Now, those 5300 families of displaced persons who were

excluded from the state for more than five decades got all their due rights and privileges in Jammu and Kashmir.

Issues and challenges of POJK displaced persons

The Government of Jammu and Kashmir constituted various Committees like Wadhwa Committee of 2007 and Parliamentary Standing Committee 2014 to understand the demands and issues of the people of this community but the recommendations of these committees were never implemented in reality. The main issues of POJK DPs are discussed as below:

1. First victims of Jammu and Kashmir

The POJK Displaced Persons are the first victims of Pakistan aggression on Jammu and Kashmir in 1947-48. The unavoidable circumstances and vicious communal violence during this aggression forced Hindu-Sikh population from Poonch, Mirpur, Muzaffarabad and adjoining areas to safer zones. After displacement from their ancestral homes, they have been forced to live in different districts of Jammu division and outside Jammu and Kashmir. The forced displacement and subsequent rehabilitation issues have impacted them in multiple ways.

2. Status of POJK DPs

The status of POJK DPs remained ambiguous for decades together. Generally, media, various organisations and government reports termed people uprooted from POJK in 1947 as POJK Refugees. Refugees are those people who because of fear of persecution for various reasons are forced to displace outside their national boundary and take refuge in some other country. But legally, they are not refugees but displaced persons because they have been displaced within their national boundary.

3. Issue of exact data of population of POJK DPs

As per the Government records, 31,619 families of POJK DPs were registered with Provincial Rehabilitation Organisation (PRO) in 1960-62. Out of 31619, 26319 families were settled in J&K and 5300 families settled outside the State. These figures include only those families who were able to register themselves with PRO. But many families could not even register themselves due to the then prevailing situations and circumstances. Moreover with the passage of time, the number of registered as well as unregistered families has also increased manifolds. But Government of J&K and Government of India have no information regarding the exact number of families of POJK Displaced Persons. After 1960, not even a single effort was ever made by the successive governments to collect the data regarding the present number of families of POJK Displaced Persons of 1947 and their exact population. It is estimated there

are about two lakh families of displaced person with approximate population of ten to twelve lakh.

4. POJK DPs outside J&K as the victims of article 35-A

After the registration in 1960, the issues and challenges of two categories of displaced persons became different i.e., those settled inside J&K and those settled outside J&K. As per the official Government records, only 5300 registered families were living outside J&K. Though these families and their successors were the state subjects of J&K but could not become permanent residents of the state of J&K because of the provisions of article 35A of the Constitution of India. Hence, they were deprived of all the benefits of permanent residents of J&K for many decades. These 5300 families of POJK DPs were not given any sort of relief and compensation as given to those DPs settled in J&K as they were not considered as the Displaced Persons as defined in the Jammu and Kashmir Displaced Persons (Permanent Settlement) Act (1971).

5. Loss of culture and identity

POJK Displaced Persons originally belonged to Poonch, Mirpur and Muzaffarabad districts of Princely State of Jammu and Kashmir which are hilly terrains. The community is a close-knit community having its cultural and linguistic proximity with each other. Long before displacement from their original homeland they were residing as a distinct social unit having attributes of distinct community having their own value systems which they carry even after their displacement. POJK Displaced Persons is basically a Pahadi tribal community belonging to Pahadi Ethnic Group having common origin, common culture and speaking common dialect i.e. Pahadi. They have been continued to live with their ancient old cultural ethos of their forefathers. They have rich cultural heritage and literary traditions. Displacement of people from POJK and their settlement into new settings has affected their culture and identity to a greater extent. Their subsequent displacement and scattered settlement in new settings have direct impact on their social structures and institutions due to assimilation and cultural contact with host community. In their new settings, the POJK DPs were not able to practice their tradition and retain their culture with the passage of time. This cultural change due to cultural contact leads to loss of their culture and identity.

6. Loss of language

Every culture identifies itself with a language or dialect. The POJK Displaced Persons is a Pahadi community speaking Pahadi language. They have rich cultural heritage and literary traditions. But displacement has impacted their linguistic identity to great extent. Those DPs who are living in scattered locations are not able to retain their mother language and converse in Pahadi because of the larger influence of the language of host community.

7. Issue of ownership rights on evacuee land

Many POJK DPs are residing on Evacuee land and properties. They have been given occupancy rights on these properties but denied ownerships rights for longer duration. It was only in 2024 that Jammu and Kashmir Administrative Council approved the conferment of ownership (proprietary) rights to POJK DPs over evacuee land.

8. Issue of political representation

The majority of the population of POJK DPs is scattered in Jammu, Samba, Kathua, Udhampur, Reasi, Rajouri, Poonch and Ramban districts of Jammu region. Today, the estimated population of these DPs is nearly twelve lakh. But this huge population lacks political representation in Jammu and Kashmir. POJK DPs allege that without political representation POJK DPs could not raise their voices with strength. Therefore, they remained unheard and neglected most of the times by all the successive governments. Though in the year 2022, only one seat was nominated for these DPs of POJK in the State Assembly but reserving only one seat for such a huge population is nothing than a mockery with the whole community. Moreover, this nomination is still pending.

9. Issue of ST-II status for POJK displaced persons

The Government of India has granted Scheduled Tribe-II status to the Pahari community of Union Territory of Jammu and Kashmir predominantly residing in Poonch, Rajouri and Kupwara districts. The POJK DPs residing in Poonch and Rajouri districts have also got the benefit of Scheduled Tribe-II status because of falling in the category of Pahari Ethnic Group, but the members of the same Pahadi community who are residing outside Poonch and Rajouri district are denied Scheduled Tribe-II status which is sheer injustice and discriminatory in nature. They also possess the same attributes of Pahadi tribe as possessed by those granted Scheduled Tribe-II status. Over the years they have been living in very harsh conditions because of their forced displacement since 1947 and suffered immensely. They have been marginalised socially, economically and politically. Now, due to denial of ST-II status they will be lagged behind in the social progression.

Discussion

In the backdrop of above-mentioned information, it can be said that the forced displacement of POJK DPs community has put it in predicament when they lost their land and property, people and relations, community and culture, and almost everything. The delayed rehabilitation and assistance and ambiguity in terms of land allotment, cash compensation etc. at the hands of government has also led to distress among the people of this community and brought a kind of inequilibrium in the community. Furthermore, 5300 families of displaced persons who were residing outside Jammu and Kashmir were the worst sufferers

at the hands of the state and became the victims of politics of exclusion. So, by using the Structural Functional analytical framework it can be said that the state itself structurally constrained this community through its various Policies, Acts and Legislations but now after the abrogation of Article 35A, amendment in Article 370 and by New Domicile Rules of 2020, an attempt has been made by the state for inclusion and to re-integrate this community.

Through the lens of Social Constructivism, it can be said that Displaced Persons of POJK living within the state or even outside the state have consolidated themselves into a unified Pahari identity through their shared culture, linguistic and cultural mobilisation, their ancestral geography, overstepping religious barriers, oral histories and collective memory. And hence, they made a shift from simply being a Displaced Persons community to a Tribe, though the quest for Scheduled Tribe-II status of those POJK DPs who resides outside the areas of Poonch and Rajouri still persists.

Conclusion

The Displaced Persons of POJK are the first victims and unheard voices of Jammu and Kashmir. They are the people who not only lost their cultural heritage but had also struggled a lot for their survival. Displacement disturbed their social cohesion and community solidarity. In fact, the entire social fabric of DPs got disturbed leading to social disarticulation. The Displaced Persons of POJK of 1947 are the living heritage of that geo-cultural region which depicts cultural resilience. They are the real stakeholders of POJK. A section of POJK DPs became the victim of article 35A and it is only post 2019 that there is a shift in their status from invisibility to recognition. But the complete rehabilitation of these displaced families cannot be done with mere financial assistance rather by honouring the historical and cultural identity of these Displaced Persons who were buried for decades but they reconstructed their identity, integrated themselves and blossomed exquisitely.

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