

REPATRIATION VS SETTLEMENT: THE FUTURE OF POST-1989 KASHMIRI REFUGEES IN AZAD KASHMIR

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Abstract

Due to the diverse reasons, people have been migrating from one place to another since centuries. Kashmir conflict is one of the world's unsettled conflicts, which has negative implications on regional security and stability, with no termination in sight for the tumult. Since the beginning of uprising in 1988, the Jammu & Kashmir region has been the spot of dreadful violence, death and displacement. Due to the unrest, thousands of refugees have crossed over to Azad Jammu & Kashmir (AJ&K, shortly AK) and encountered a number of tangible and intangible challenges; however, the AK Government has given certain incentives to these refugees. On the other hand, the Government of Jammu & Kashmir (J&K, also known as Indian Occupied Kashmir) has introduced Surrender and Rehabilitation Policy in November 2010 to facilitate the return of these refugees, yet, due to certain reasons, the policy has remained unsuccessful in achieving its goal. Though refugees have been entering into the social fabrics of the local communities through intermarriages and socio-economic ventures since 1989, yet the Government is still indecisive about their future settlement. This study is focused on the issues and challenges to the refugees, Government response and the possible solution regarding their future settlement.

Key Words: *Repatriation, Settlement, Baradary, IDPs, Ceasefire Line, Line of Control, Identity, Indo-Pak, Gojri, Pahari/Hindu, UNHCR, Azadi, Refugee-like, Forced Migrants, Rugs, Namdas, Kurtas, Paper Machie and Pherans*

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Introduction

Forced migration is an intricate practice opted by numerous people for many centuries. There are certain reasons for migration which have displaced millions of people across the world and as a result of migration people face various types of challenges in the new regions of settlement, which take decades in settling down, particularly in the conflict zones. Jammu & Kashmir region has been one of these conflict zones that forced millions of people to leave their homeland for their safety and security since decolonization and partition of British-India in 1947. Since then, there have been certain spells of migration in both directions as a sizeable Muslim-population migrated from Jammu & Kashmir to Azad Kashmir (Under Pakistani Control), especially after the India-Pakistan War (Indo-Pak War) of 1947, followed by 1965, 1971 and finally after the 1988 uprising in the J&K. Similarly, the Non-Muslims, predominantly Hindu-community settled in the liberated part of AK migrated to J&K.

According to some analysts, the position of 1989 refugees is relatively different as compared to the earlier Kashmiri refugees which made their position more critical as they have been directly or indirectly involved in the uprising since 1988 while the earlier refugees were the war-refugees. After the migration, these refugees had to face certain snags; however, the official sources claim that Government tried to address their anxieties at its level best. These Refugees can be divided into two categories: (A)-Migration from Kashmiri speaking belt mainly from the urban areas such as Srinagar, Baramulla, Pulwama, Badgam, Kupwara, Islamabad (Anantnag) and Shopian. Majority of these individuals had crossed the LoC for arms training and later they involved themselves in militancy in J&K.

(B)- Migration from Gojri, Pahari/Hindu speaking belt (mostly families) chiefly from the areas adjoining to the Line of Control (LoC). Later, these refugees from urban areas married local girls in AK and since the introduction of Rehabilitation Policy of J&K Government 2010, around five-hundred militants along with their families have returned to J&K. Some sources claim that owing to cultural and linguistic barriers, these families could not modify themselves into the Kashmiri-culture. Therefore, some people are of the opinion that the remaining refugees should be settled in AK without any prejudice to their original status.

Methodology

Qualitative approach is utilised in this study. The data is collected through one to one in-depth elite interviews. Apart from audio and video recording, hand written notes are taken from participants. The sample is comprised of 20 interviews from leading figures amongst Kashmiri refugees, mid-rankers refugees living in the camps, opinion makers and officials of

Rehabilitation Department, Government of AK Muzaffarabad. An attempt is made to get access through email or telephone in taking the opinion of certain researchers from J&K on board who are working in the same area of study. Some data including documents (in soft & hard copies), prepared by Government departments, and NGOs working with refugees is also used.

A Brief History of Human Migration

Migration has been a complex practice that opted by numerous people within the geographical confines of the respective States and sometimes across the borders. Conflicts and wars were amongst the leading causes of mammoth migration athwart the world. The first gigantic migration in the modern era took place after the World War II in which around 40 million refugees displaced across the Europe which was one of the largest migrations in European history.¹ Similarly, the partition of British India on religious lines in 1947 led to the migration of approximately 14.5 million people in both directions followed by the millions of refugees till today.² Since then, the process of migration is on its way in different regions of the world in different shapes, however, with the termination of cold war, the pattern of global migration or internally displacement has been shifting from international level to intra-State conflicts which caused intensifying numbers of displaced people within their own States.³

On the other hand, there has been a difference in interpretation amongst the political analysts and jurists as far as the difference between refugees and Internally Displaced People (IDPs) are concerned. The word refugee is often used for the people who leave their homeland and migrate from one place to another place as a result of natural or man-made disasters. Natural disasters include volcanic eruptions, earthquakes, tsunamis and floods and man-made disasters like conflicts, wars and violence etc. According to the Lexicon Universal Encyclopaedia, “refugees are the persons who have fled their country or been expelled from it and who cannot or will not return because they fear persecution.”⁴

¹ Mona Chalabi, “What happened to history’s refugees?,” *The guardian*, July 25, 2013, accessed May 28, 2016, <http://www.theguardian.com/news/datablog/interactive/2013/jul/25/what-happened-history-refugees#World War II>

² Adrienne Millbank, *The problem with the 1951 Refugee Convention* (Information and Research Services, Department of the Parliamentary Library, 2000), accessed May 28, 2016, http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp0001/01RP05#refugee

³ Conflicts in Iraq, Kashmir and Syria are its prime examples.

⁴ S. J. Foderaro, A. C. Kimmens, and S. Moll, “Lexicon universal encyclopedia,” *New York: Lexicon Publications, Inc* 5 (1983): 125.

Recognition of Refugees and Internally Displaced People

Even until World War II (WWII), there was no fixed definition of refugees and Internally Displaced People (IDPs). It was 1948, when under Article 14 of United Nations General Assembly Resolution 217 A, accepted the Universal Declaration of Human Rights which was the landmark in history of human rights in acknowledging the right of refugees in the other States.⁵ Later, in 1951, United Nations Refugee Convention established guidelines regarding the Status of refugees, which was the significant valid document in defining the status of refugees, their rights and the licit liabilities of countries.⁶ According to the Article 1A (2) of the 1951 of the Geneva Convention on Refugees, “a refugee is a person who is outside his/her country of nationality on the sound reasons for anxiety of being victimized because of his/her race, religion, nationality, membership of a specific social group or political belief, and is incapable to attain protection from home State or the person who do not having a nationality and being outside the country of his former habitation.”⁷ In Europe, “a person is entitled for subsidiary protection status means a third country national or Stateless who would face a real risk of suffering serious harm⁸ if he/she returns to the country of origin.”⁹

The definition of IDPs is relatively different from that of refugee because the term IDPs is used for those people who move from one place to another as a result of war, disaster, political or racial discrimination but do not cross an international boundary and unlike refugees they do not need to go through any practice to determine their legal status while refugees are those people who cross international borders in order to escape themselves from the human rights abuses and conflicts.¹⁰

⁵ United Nations, “The Universal Declaration of Human Rights,” (1948), accessed May 29, 2016, <http://www.un.org/en/universal-declaration-human-rights/>

⁶ United Nations High Commissioner for Refugees, “The 1951 Refugee Convention,” *UNHCR, The UN Refugee Agency*, accessed May 12, 2016, <http://www.unhcr.org/pages/49da0e466.html>

⁷ United Nations High Commissioner for Refugees, *Convention and Protocol relating to the Status of Refugees*, UNHCR, 1967, accessed May 12, 2016, <http://www.unhcr.org/protect/PROTECTION/3b66c2aa10.pdf>

⁸ Serious harm is defined as the risk of death penalty or execution, torture or inhuman or degrading treatment or punishment of an applicant in the country of origin.

⁹ Council Directive, “83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted,” *OJ L 304*, no. 30 (2004): 09, accessed May 29, 2016, <http://www.refworld.org/docid/4157e75e4.html>

¹⁰ A. Bets, and Gil Loescher, *Refugees in International Relations* (Oxford: Oxford University Press, 2011).

Forced Migration of Kashmiris

As a result of decolonization and partition of British India into India and Pakistan on communal lines, one of the world's largest displacements of population in both directions took place in the mid of 20th century wherein around 8.5 million people migrated from India to Pakistan and about 6 million from Pakistan to India, however, some estimates indicated that the figure of displaced persons may have been as high as 25 to 30 million.¹¹ Since then, both the countries have entrenched into the conflicts and wars.¹² Due to wars, conflicts and fear of persecution, massive migration of Kashmiri refugees/IDPs from J&K to AK took place in diverse spells. During the Indo-Pak war of 1947-48, approximately one and a half million refugees migrated from J&K to AK and settled in the various cities in AK and Pakistan.¹³

The Indo-Pak war of 1965 caused the second round of migration from J&K to AK. According to the Department of Rehabilitation and Relief Muzaffarabad, approximately ten thousand families (around forty thousand people) migrated, which were settled in different areas of Punjab (Pakistan).¹⁴ The third stage of migration took place during the war of 1971, when around ten thousand people crossed the Ceasefire Line and entered into AK.¹⁵ These migrants were settled in different camps in Azad Kashmir. The fourth phase of migration was witnessed after the mass movement against the Indian occupation in the J&K in 1989.

According to the report of Department of Rehabilitation and Relief Muzaffarabad, Government of AK, the number of registered refugee-families who crossed over since 1989 is 6853, out of which, 3735 families are living in refugees' camps while the rest of the families residing in hired accommodations in and around cities.¹⁶ According to record of Azad Kashmir Rehabilitation Department, there are 20 refugee camps in different districts of AK including: Poonch, Bagh, Muzaffarabad, Mirpur and Kotli; however, an overwhelming of them temporarily settled in Muzaffarabad district.¹⁷

¹¹ Ragini Trakroo Zutshi, Jayshree Satpute, and Masood Tahir, *Refugees and the Law* (New Delhi: Socio Legal Information Cent, 2011), 58.

¹² Donald Johnson, "India-Pakistan Relations: A 50-Year History," *Asia Society*, accessed May 17, 2016, <http://asiasociety.org/countries/conflicts/india-pakistan-relations-50-year-history>

¹³ P. Banerjee, Sabyasachi Basu Ray Chaudhuri and Samir Kumar Das, *Internal Displacement in South Asia* (New Delhi: Sage Publication, 2005).

¹⁴ Khalid Rahman, "Kashmiri Refugees: Facts, Issues and the Future Ahead," *Policy Perspectives* (2006): 43-67.

¹⁵ Robinson, *Body of Victim Body of Warrior*, 56.

¹⁶ Data (1989-2016) collected from the office of the Azad government of the State of Jammu & Kashmir Commissionerate Rehabilitation, Muzaffarabad.

¹⁷ Ibid.

Pattern of Migration

The Kashmiri forced refugees can be divided into two main categories:

1. Refugees from 1947 to 1988
2. Post-1989 refugees

The refugees, who crossed over from J&K to AK till 1988, were the war-effectees of 1947, 1965 and 1971. The security and safety of these refugees was their main preference while the sizeable refugees of 1989 have been involved in militancy since 1988.¹⁸

The refugees of 1989 can be further divided into two groups:

- (A) Migration from Gojri, Pahari/Hindu speaking belt chiefly from LoC adjoining rural areas.
- (B) Migration from Kashmiri speaking belt mainly from the urban areas such as Srinagar, Baramulla, Pulwama, Badgam, Kupwara, Islamabad (Anantnag) and Shopian.

According to Raja Izhar Khan, Community Leader & Spokesperson for Nisar Camp Chehla, Muzaffarabad, “The refugees who left their home from the J&K side of LoC catchment areas mainly due to harassment of Indian security forces in suspicion connections with militants as their facilitators in crossing LoC.”¹⁹ Since 1989, these refugees have been crossing LoC in diverse intervals along with their families to reach AK and settled in the different camps in AK. The paramount objective of the migration was the security and safety of their families while the refugees from Kashmiri speaking belt were mostly from the cities, they were individual youngsters who settled in the cities and mostly living in hired houses. Their main purpose of migration was to get arms training and then return to J&K to fight against the Indian occupier forces.²⁰

Status of Kashmiris Forced Migrants

In several cases, it becomes grim to segregate between refugees and IDPs as in case of Kashmiri-refugees who moved from J&K (Indian Occupied Kashmir)²¹ to AK (under Pakistani Controlled part of Kashmir)²²

¹⁸ David Devadas, *In search of a future: the story of Kashmir* (New Delhi: Penguin, Viking, 2007), 165. (On July 31, 1988, the Jammu Kashmir Liberation Front (JKLF) had started an arms struggle in Jammu & Kashmir against the Indian occupation with two-bomb blasts at the Central Telegraph Office Srinagar and Srinagar Club).

¹⁹ Raja Izhar Khan, Personal Interview with main author, Chehla Camps, Muzaffarabad, April 9, 2016.

²⁰ Ibid.

²¹ Terms IOK is used because under 370, India has declared Jammu & Kashmir as its constitutional part.

²² Terms PAK is used because Pakistan did not declare AK as its constitutional part.

by crossing the Ceasefire Line or Line of Control (LoC).²³ Some people are of the opinion that these people are the refugees because they have migrated from the other side of LoC (J&K) which is now under the Indian sovereignty to AK which is under Pakistani sovereignty and even the AK Government has also issued them the refugee cards.²⁴

On the other hand, some law experts consider that the people who migrated from J&K to AK are actually IDPs as they have displaced from the same part of the land and they did not cross the international border while the final decision of the future of the State is still pending.²⁵ A renowned researcher from University of Washington (U.S.) argued that “the Princely State of Jammu and Kashmir was not included in the territorial partition of British colonial India, its subjects were not considered partition-refugees, therefore; they were not counted as people who would have to be rehabilitated into the political life of the new States.”²⁶ Under the terms and conditions of the Ceasefire,²⁷ the geographical division of Jammu and Kashmir was theoretically temporary till the final settlement through the plebiscite which was endorsed by the part III the UN resolution of August 13, 1948.²⁸

According to the UN report of 1951 on post-war refugees concluded that Partition refugees were not considered refugees by the international community because they have not lost their nationality; therefore, the 1951 Refugee Convention should not apply to Kashmiris.²⁹ “Kashmiri-refugees settlement was legally temporary and provided for future return to specific properties from which refugees were originally displaced. Each part of the former State of Jammu and Kashmir has made constitutional provisions to preserve the hereditary State Subject Status of displaced people.”³⁰ The Government of AK had enforced “Azad Jammu & Kashmir Evacuee Property Act” in 1950 which protects the evacuees’ properties in AK.³¹ The Cross LoC Travel has further enhanced their status as IDPs because both sides of Kashmir, people cross LoC from the designated points on travel

²³ Ceasefire Line was converted into Line of Control after the Simla Agreement of 1972.

²⁴ Justice (R) Manzoor Hussain Gillani, Personal Interview with main author, Muzaffarabad, April 29, 2016.

²⁵ Syed Mudassar Hussain Gardezi, Personal Interview with main author, University of AJ&K, Muzaffarabad, April 27, 2016.

²⁶ C. D. Robinson, *Too Much Nationality: Kashmiri Refugees, The South Asian Refugee Regime, and a Refugee State, 1947–1974* (Oxford University Press, 2012), 353.

²⁷ A cease-fire line was recognized under the provision of Part I of the resolution of 13th August 1948 as a counterpart of the deferment of conflict in Jammu and Kashmir on 1st January 1949.

²⁸ Resolution adopted by the United Nations Commission for India and Pakistan on 13th August 1948. (Document No.1100, Para. 75, dated the 9th November, 1948).

²⁹ Robinson, *Too Much Nationality*, 346.

³⁰ Ibid.

³¹ A. A. Malik, *Law: Rehabilitation and Property Evacuee Azad Kashmir* (Islamabad: Kashmir Law Publishers, 1996).

permit rather than using passport as a travel document since 2005. Moreover, the identity cards are being issued to these IDPs as the citizens of AK.

Where Do They Stand?

Despite the UN and other definitions and explanations, AK Government³² has declared that refugees from J&K who have taken refuge in AK or in Pakistan and could not return to their homes in J&K, would be considered as refugees.³³ However, the interesting point is that despite the notification, the Kashmiri refugees could not get the full refugee status under the United Nations High Commissioner for Refugees (UNHCR) because the 1951 Refugee Convention should not apply to Kashmiri and Indian partition-refugees, either they saw them as being political refugees.³⁴

The exclusion of partition-refugees from the definition of refugees because they had not lost their national identities and the protection of their States, however, Indian and Pakistani representatives had protested on it in Refugee Convention.³⁵ Therefore, Pakistan has neither applied for their refugee status in UNHCR nor asked for aid to UNHCR for these refugees.³⁶ These refugees are lacking the most of the fundamental rights including the political rights those adopted by UN on July 28, 1951 in line with Universal Declaration of Human Rights of December 10, 1948 which confirms the principle that “human beings shall enjoy fundamental rights and freedoms without discrimination.”³⁷ Mohammed Akram, a refugees, told that “We are not getting our basic fundamental rights as refugees.”³⁸

Under the UN definition, Kashmiri refugees do not fall in the refugee category, however, analysts argue that this act from AK Government to give them the refugees status, is equivalent to accept the status of LoC as an international border as Justice (R) Syed Manzoor Hussain Gilani, a distinguished jurist, articulates that “indirectly Pakistan has already accepted the status of LoC as a “De-facto border” verified through Simla Agreement

³² Under the Rules of Business for Azad Kashmir Government 1952, no draft legislation shall be put before the Council without obtaining the advice of the Ministry of Kashmir Affairs.

³³ Board of Revenue, “The Land Laws of Azad Jammu & Kashmir,” *Board of Revenue AJ&K, Muzaffarabad*, fifth edition 1996, 852.

³⁴ Robinson, *Too Much Nationality*, 346.

³⁵ *Ibid.*

³⁶ Under the Karachi Agreement of 28th April 1949, regarding Kashmir, Pakistan Government is responsible for all activities such as procurement of food, civil supplies running of refugee camps and medical aid.

³⁷ Adopted on 28th July 1951 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened, under General Assembly resolution 429 (V) of 14th December 1950, with effect from April 22, 1954, in accordance with article 43 of UN charter.

³⁸ Mohammed Akram, Personal Interview with main author, Mirpur, January 12, 2015.

of 1972 and Lahore Agreement of 1998 respectively.”³⁹ So, where do they stand? The simple answer is that they are the internally displaced people who practically are living in “refugee-like” situation in tents or in rented property in AK and even in some cases few refugees have constructed their own houses in Rawalpindi and Islamabad. Anyhow, the term “refugee” will be used from hereafter for these internally displaced people because this is their legal status under the AK law.⁴⁰

Problems of Refugees and the Government Response

Refugees from LoC catchment areas had a poor background while majority of them were living below the poverty line.⁴¹ They were the dwellers of underdeveloped bordering areas and had very limited access to the basic opportunities of life like health, education, and employment. After the migration, shelter, food, health, education and identity were their main trepidations. Despite the limited sources, the AK Government has made efforts to provide them these basic facilities and tried to address other refugees’ problems.⁴² While the refugees of second category, married local girls in AK (a significant number) and have developed their families. They were expecting the freedom of Kashmir from Indian occupation, however, the movement got steady decline after the 9/11 incidence when under international pressure, Pakistan had to impose a ban on some of Kashmiri militant organizations.⁴³ Now some of them believe that the promised destination of Azadi (freedom) is like a day dream.⁴⁴

After their migration and partial settlement in camps, they had to face certain challenges including rehabilitation, education, employment, identity and housing. Government has been taking their issues on its priority list and established a Department of Rehabilitation, headed by Commissioner which acts as a bridge between Government and refugees and is responsible for keeping record of refugees and providing them the financial assistance. Government provides a monthly budget of 30 million rupees to the Rehabilitation Department for the subsistence allowances and other refugee matters.⁴⁵ The AK Government has allocated 1500 rupees (equivalent to nearly US\$ 15) per month subsistence allowance for each member of

³⁹ Gilani, Personal Interview.

⁴⁰ Revenue, “The Land Laws of Azad Jammu & Kashmir.”

⁴¹ Mahmood Bin Muhammad, *The Anatomy of Terrorism* (New Delhi: A.P.H Publication, 2004).

⁴² Khawaja Abdul Qayyum, Commissioner Rehabilitation, Personal Interview with main author, Muzaffarabad, April 21, 2016.

⁴³ BBC News, “Profile: Lashkar-e-Taiba,” *BBC News*, May 3, 2010, accessed May 30, 2016, http://news.bbc.co.uk/2/hi/south_asia/3181925.stm

⁴⁴ Manzoor Ahmed, Personal Interview with main author, Kotli, December 4, 2015.

⁴⁵ Rehman, “Kashmiri Refugees.”

refugees whereas head of the family gets 90 rupees on top of allocated allowance.⁴⁶

However, refugees are not satisfied with existing ratio of stipend as “it is quite unfair because for an average family of six people, the normal monthly budget is roughly RS. 18,000-20,000, hence, we are breathing considerable below the poverty level.”⁴⁷ In these circumstances, it becomes almost impossible to bargain the basic essentials of lives. Raja Shehzad Khan narrates, “When my father died, I was crying not for the death of my father but for the reason how will I bury him?”⁴⁸ AK Government has promised many times to increase the rate of stipend but nothing happened on ground. Mohammad Shafi, a refugee, states that “This is one of the reasons that some Kashmir families have returned to J&K in last few years and more were ready to return because many families were under the severe pressure of heavy loans.”⁴⁹ The AK Government Commissioner Rehabilitation is of the opinion that this is fair amount for refugees as “we [Government] pay stipend to each member of the refugees family even then a vast majority of these refugees have been involved in private sector jobs while we [Government] do not pay any stipend to our [Government] unemployed local people.”⁵⁰

Secondly, the refugees are demanding for allotment of land and construction of houses as promised by Government because the rehabilitations efforts from 1989-2016 in statistical terms met with dulled results in rehabilitation process because of faltering efforts from Governmental sector or international community at holding to its promise of construction.⁵¹ Government has acquired 300 canals land for IDPs while Saudi Arabia and Kuwait are funding the project for the construction of housing colony at Thotta near Langurpura on Jehlum Valley road nearly 20 kms from Muzaffarabad. At its first phase, around 240 houses (4-Marla house) will be constructed, however, due to the political grounds, this process is very slow as Raja Izhar is of the view that “politicians want to keep us in their own constituencies for voting purpose and here we have to adopt the tribal (baradary system) lines and we are now being identified as Rajas, Gujjars, Awans, Chaudharies, Khawajas and so on which is new trend for us.”⁵² Secondly, at the time of the planning of the housing colony, “we had a small family while it took many years in completing the housing

⁴⁶ Rehabilitation Commissionerate, accessed December 2014, http://bord.ajk.gov.pk/index.php?option=com_content&view=article&id=61&Itemid=91

⁴⁷ Raja Izhar Khan, Personal Interview.

⁴⁸ Raja Shehzad Khan, Personal Interview with authors, Muzaffarabad, December 10, 2014.

⁴⁹ Mohammad Shafi, Personal interview with main author, Muzaffarabad, April 9, 2016.

⁵⁰ Khawaja Abdul Qayyum, Personal Interview.

⁵¹ Raja Izhar Khan, Personal Interview.

⁵² Ibid.

colony and now our families are bigger; hence, the 4-Marla house is insufficient for us.”⁵³

In education sector, the AK Government has provided all the available facilities to the children of refugees. The children studying in class 6th, 7th and 8th classes get 100 rupees while the students of 9th and 10th classes obtain 150 rupees and from Inter (12th class) to Master level get 300 rupees while university education is free for them. Government has allocated 6% quota for refugees and under this quota, 6% admission seats are reserved for their children in medical colleges, universities and other professional institutions which is huge incentive from the Government end. Muhammad Afzal Dar, Refugee from Nisar Camp, narrates that “We did not have this educational facility in J&K because we belonged to the far flung areas from Srinagar, the capital city of J&K and the J&K Government did not care for us.”⁵⁴ Today, the adult literacy rate of refugees in various camps is around 74% which is higher than literacy rate of India (65), Pakistan (56) and AK (64).⁵⁵ There are approximately 10-12 doctors and engineers in each refugee-camp in Muzaffarabad.⁵⁶ Similarly, 6% employment quota for refugees is also reserved in all the departments, it means that after completing the education, their new generation will be able to get jobs or develop their own businesses for their better future and will be accepted in the local community. Likewise, there is a free access for the refugees to the health facilities.

Identity has been a problem for these refugees since 1989 because National identity is a political perception and a basic dimension of national realization where the inhabitants of the State feel a sense of belonging and recognition. Living in the refugee-camps, these refugees have considerably changed over the decades. Now they have entered into the new phase of their loss of identity. At first, the AK Government issued them ‘Refugee Card’ for their identification which was a matter of great concern amongst them because they had lost their national identity within the geographical limits of the former State of Jammu and Kashmir. Raja Arif Khan states that “in the absence of identity card, the travelling is very difficult for us. We do not possess any documentation for our own identity.”⁵⁷ Now the Government has started issuing the ‘National Identity Cards’ to refugees as citizens of AK with the special reference to their place of birth in J&K.⁵⁸

⁵³ Ibid.

⁵⁴ Muhammad Afzal Dar, Refugee from Nisar Camp, Personal Interview with main author, University of AJ&K, Muzaffarabad, April 7, 2016.

⁵⁵ A. M. Dar, “Refugees camps of Kashmiri migrants,” (Unpublished M. Phil diss., Institute of Kashmir Studies, University of Azad Jammu & Kashmir, Muzaffarabad, 2016), 41.

⁵⁶ Ghulam Hassan Butt, Personal Interview with main author, University of AJ&K, Muzaffarabad, April 7, 2016.

⁵⁷ Raja Arif Khan, Personal Interview with authors, Muzaffarabad, December 12, 2014.

⁵⁸ Nusrat Izhar, Personal Interview with main author, Chehla Camp, Muzaffarabad, April 9, 2016.

This is not the issue only with the refugees from J&K in AK but also the almost same situation with the refugees who crossed over the Ceasefire Line from AK to J&K in 1947.⁵⁹ These refugees living in Kathua, Samba and Jammu districts of J&K State (known as West Pakistan Refugees), are deprived of their basic fundamental rights.⁶⁰ They have been demanding citizenship rights, a right to vote for J&K Assembly, right to contest State-Assembly elections for last seven decades. Recently, the J&K Government has decided to issue them the identity certificates so as to help them get jobs in paramilitary forces and other central government establishments as citizens of India which is considered a first step towards getting them permanent resident status and property rights in the State.⁶¹

Role of NGOs

On top of the Government efforts, certain Nongovernmental Organizations (NGOs) are also working with refugees in training and developing their skills in various fields. The positive aspect of NGOs training and skill developing programs is that most of them are focusing their training courses to unlock the potential of women who are around 50% of total population, which will further enhance the 'Government Self-reliance Program for Refugees.' Amongst these NGOs, International Central Asia, in collaboration with Department of Small Industries, has started six-month embroidery training course for women and after the completion of course, each woman is given a loan of RS 0.2 million (two hundred thousand rupees) for opening her own small business.⁶² Al-Ansar Welfare Trust is working for uplifting the education standard of refugees children while K-Creations has directed viable support projects on Kashmiri shawl, suiting, knitting products, bed covers, cushions, bags, rugs/namdas (A unique piece of wool-made carpets), Kurtas, Paper-machie and Kashmiri Pherans (traditional winter outfit for both males and females in Kashmir).⁶³ These entire efforts by the Government and NGOs are indeed resilient efforts that

⁵⁹ Suba Chandran, "The Forgotten People of Jammu and Kashmir: 'Refugees' from PoK," *Institute of Peace & Conflict Studies*, #2182 (2007), accessed May 14, 2016, <http://www.ipcs.org/article/india/the-forgotten-people-of-jammu-and-kashmir-refugees-from-pok-2182.html>

⁶⁰ <http://www.hindustantimes.com/india-news/west-pakistan-refugees-in-j-k-empty-handed-even-70-years-after-independence/story-Vf3eeYCbvskrykOyi7bFLL.html>

⁶¹ In 1947, 5,764 families migrated to J&K, have now grown to 19,960 families with a population of around 80,000 to 85,000. Of these only 20 families are Muslims. Details available at: <http://indianexpress.com/article/india/west-pakistan-refugee-vs-rohingya-muslim-refugee-turns-into-kashmir-vs-jammu-identity-certificates-spark-protests-and-violence-4446449/>

⁶² Dar, "Refugees camps of Kashmiri migrants," 56.

⁶³ Ibid.

can potentially be coupled as a growth locomotive for the economic reintegration of refugees.

Travel Across the LoC

The Kashmiri refugees are the product of Indo-Pak endless conflict over Kashmir which caused divided families across the LoC. After the long waiting of around 58 years, both India and Pakistan issued certain standard operating procedures in 2005 regarding the reunion of the divided families across the LoC. However, it was kept limited only to those refugees who had migrated prior to the uprising of 1988, hence, a sizeable number of Kashmiris have been excluded from this facility. Abdul Majid Dar states that “We are very much interested to visit our relatives and area of origin which is natural as we were born and grown up there and anxiously waiting for any good decision regarding softening the LoC and upgrading the agreement for the divided families of 1989 refugees.”⁶⁴ On the other side, Khawaja Abdul Qayyum is of the view that “the refugees residing in camps are interested in returning to J&K but it seems almost impossible at this stage because civil and criminal cases have been registered against many of these refugees.”⁶⁵

Repatriation VS Rehabilitation Policy

At the moment, Government has no policy in place regarding the future settlement of these refugees.⁶⁶ However, there is a debate between the analysts whether they should be allowed to return to J&K or should be settled in AK. Some analysts believe that option should be given to refugees under the Government of J&K policy announced on November 23, 2010, which enabled the return of ex-militants who belonged to J&K and had crossed over to AK or Pakistan between January 1, 1989 and December 31, 2009 for arms training purposes but have given up mutinous actions and were disposed to return to the State.⁶⁷ “The returnee shall not be entitled to any of the special benefits or Privileges available in the existing surrender/rehabilitation Policy.”⁶⁸

Currently, the Rehabilitation Policy of J&K Government seems to be complex and problematic because the former militants were permitted to enter only through the designated crossings points like Wagah, Salamabad, Chakan-da-bagh or through the Indira Gandhi International Airport, New

⁶⁴ Abdul Majid Dar, Personal Interview with main author, University of AJ&K, Muzaffarabad, April 9, 2016.

⁶⁵ Khawaja Abdul Qayyum, Personal Interview.

⁶⁶ Ibid.

⁶⁷ Government of J&K Home Department, “Policy and Procedure for return of Ex-Militants to Jammu and Kashmir State,” *Order No. Home 1376 (ISA)*, 23/11/2010, accessed April 20, 2016, <http://jkhome.nic.in/Rehabilitation%20policy.pdf>

⁶⁸ Ibid.

Delhi.⁶⁹ Under this policy, around 500 families have returned to J&K through Nepal border.⁷⁰ Therefore, they could not take any advantage of the said policy and face strict security restrictions.⁷¹ The miserable part is that “our families in J&K are constantly being interrogated by intelligence agencies while if we go back; we will be viewed with suspicion as Pakistani agents.”⁷²

India wants refugee to return through the designated points, however, there is an opinion that Indian policy makers can take statements from these returnees regarding the Pakistan’s involvement in Kashmir’s uprising or Kashmiris’ betray from on-going movement and release it through the electronic and print media to the international community that Kashmiris have surrendered their movement. On the other hand, Pakistan will not allow them to travel through the LoC because the policymakers think that the return of refugees will last negative impact on on-going Kashmir movement.⁷³ Moreover, foreign delegates visit these refugee camps which provide an opportunity for Pakistan in moving a campaign against India for committing human rights violations in J&K. In all this regional politics, the people of Kashmir suffer at worse.⁷⁴ Equally, under the Rehabilitation Policy, going back to J&K would mean surrendering to India and accepting its rule, which would give an edge to the Indian Government.

Secondly, due to the bitter failure on the economic front, J&K Government have been unable in creating job opportunities for returnees where according to the report of Economic Survey for the financial year 2011-12, the number of unemployed youth is 6.01 lakhs (5.3 percent unemployment) in September 2011 as compared to 1.11 lakhs in 2007.⁷⁵ This situation is quite alarming for refugees in AK who are thinking to choose the return-option. Another serious issue with Kashmiri speaking youngsters (90 % militants) who married local girls in AK and returned to J&K with their families under 2010 Rehabilitation Policy is that their families could not modify themselves in the new environment as people of Valley of Kashmir are culturally and linguistically distinct from the people of AK.

⁶⁹ Ibid.

⁷⁰ Abdul Majid Dar, op. cit.

⁷¹ http://www.bbc.com/urdu/regional/2016/06/160625_pakistani_woman_in_kashmir_sr

⁷² Human Right Watch, “With Friends Like These: Human Rights Violations in Azad Kashmir,” *Human Rights Watch*, Volume 18, no. 12 (C) (2006):63, accessed April 30, 2016, <https://www.hrw.org/reports/2006/pakistan0906/pakistan0906web.pdf>

⁷³ Dar, Personal Interview.

⁷⁴ Raja Majeed, Personal interview with main author, Chehla Camp, Muzaffarabad, April 10, 2016.

⁷⁵ Sumit Hakhoo, “JK has 6 lakh jobless youth,” *Greater Kashmir*, March 3, 2012, accessed March 12, 2016, <http://www.greaterkashmir.com/news/news/jk-has-6-lakh-jobless-youth/114847.html>

These returnees live in Kashmiri (Koshur) speaking areas where Kashmiri language is new for their wives and children while Kashmiris live in joint family system as compared to the small-family system in AK which is unaffordable for these families.⁷⁶ Thirdly, at the time of their arrival in AK in 1989 or early 1990s, they were single but after 20 years on, each of them has developed his family from 4-6 people (including children). Due to the financial crisis, they have no mechanism in place to settle themselves there. Additionally, the local people considered these people as traitors who caused trouble for them.⁷⁷ It is reported that one of the families have been returned back to AK and even in few cases, some of the refugees have left their families behind in AK and returned to J&K which caused economic, social and psychological problem for these families and particularly, the children are being vulnerable.⁷⁸ Despite certain concerns, most of refugee-families are exultant to settle in AK because they got the better opportunities to develop their families here as compared to J&K. Raja Arif Khan is of the view that “We want to settle here because we have been socially integrated into local communities, however, would like to visit our own area of origin where we born and grew up but equally love to return AK because socially and economically we are now the part of this system.”⁷⁹

Particularly, in the education sector, their new generation performed well in the professional and technical education. During the visit, Raja Izhar, told that there are around 55 doctors and 48 engineers in the 310 families who moved from Karen sector on the other side of LoC in 1990, which is marvellous and makes a big difference when we compare these conditions with the area of our origin.⁸⁰ We are anxious to return but will come back as our new generation has been engaged in inter-marriages system with local families and our new generation is part of this society. Will they return to J&K and adjust in that society or will that society accept their new generation? This is big question mark, but Abdul Majeed Dar is of the opinion that “once you settle down yourself in the new society and it is quite unfair to move your children in an entirely new culture because it will last negative impact on their education and capacity.”⁸¹ The Government of Azad Kashmir is allotting the lands and properties to these refugees as numerous refugees’ families have obtained land in Thotta (Muzaffarabad).⁸²

⁷⁶ Khan, Personal Interview.

⁷⁷ Dar, Personal Interview.

⁷⁸ Yasir Sameer, Personal Interview with main author, Jaffna Sri Lanka, March 15, 2016.

⁷⁹ Khan, Personal Interview.

⁸⁰ Ibid.

⁸¹ Dar, Personal Interview.

⁸² Tariq Naqash, “Protesting Kashmiri Refugees Demands Fulfilled,” *Dawn*, June 11, 2013.

Way Forward

The human history of migration indicates that refugees do not re-migrate to the areas of their origin. The settlement of Prophet Muhammad (PBUH) in Madina after migration from Makkah is one of the key examples. Even after the conquest of Makkah, he (Prophet Muhammad, PBUH) returned to Madina. Likewise, since the departure of Soviet Forces from Afghanistan, Pakistan has been struggling hard in deporting the Afghan refugees back to Afghanistan. So, the best way forward is to settle the Kashmiri refugees in the different areas of AK with the “Right of Return” by supporting them economically, culturally, socially and politically in becoming the part of local community.

Conclusion

The uprising that started in 1988 has displaced a sizeable population of Kashmiris. Many of them are living as refugees in different parts of AK and Pakistan. Despite the Government incentives, these refugees are still facing certain hitches and living under unsociable environment while the Government is still faltering about their future settlement. There is also a difference between the Government policy and practice as Government has declared them refugees without refugee-rights under UNHCR. However, they are living in refugee-like situation within the geographical confines of former State of Jammu & Kashmir. In 2005, both India and Pakistan have agreed on certain policy and procedures for the divided families to visit each other across the LoC, however, the refugees of 1989 were left out of this facility.

On the other hand, in order to facilitate these refugees, the Government of J&K introduced Surrender and Rehabilitation Policy in November 2010; however, due to several barriers, the policy could not achieve its targets. Particularly, due to the economic instability and security grounds, the J&K Government is inept to provide the economic openings for these returnees. Militants who opted J&K Government Surrender and Rehabilitation Policy, and returned to J&K with their families have been facing unemployment and strict security restrictions while their families could not adjust themselves into the Kashmiri-culture. The refugees from LoC contiguous areas who migrated to AK are constantly entering into the social structure of the local societies through inter-marriages and socio-economic values. Therefore, the remaining refugees should be settled in AK without any prejudice to their original status.

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