

Some Fruits of Freedom: Partition and the History of Evacuee Property in Pakistan

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Introduction

The partition of the Indian subcontinent in 1947 was marked by one of the largest migrations in peacetime in modern history. Around twenty million people were displaced by Partition, with Hindus and Sikhs migrating to India and Muslims migrating to Pakistan.¹ The mass displacement was phenomenal in its scale and impact. The greatest task facing the new governments was the reception and rehabilitation of hundreds of thousands of refugees. The scale of the problem was both unexpected and staggering. ‘The tides of people’, as Yasmin Khan has observed, ‘were so fantastical, so vast and so thorough, that they unbalanced the entire substructure on which Pakistan had been built’ (Khan 2007, 156). There was no structure in place to deal with the massive scale of the crisis. Despite the scale of this refugee issue, historians have only just begun to gauge its larger social and legal impacts. Recent historiography has suggested that Partition, the movement of refugees and the pressures generated continue to shape state practices over citizenship, identity documents and property regulations in South Asia (Zamindar 2007). Remarkably, historians are yet to ascertain the extent to which the reallocation of resources to refugees impacted the shapes of legal structure and power in the region.

Recently, there has been growing engagement with the evacuee law and disputes showing the longevity of Partition, raging debates and outcomes over land laws, regulations, issues of citizenship and belonging (Zamindar 2008; Chatterji 2007a; 2012b; De 2018; Goel 2020; Kapur 2021). The current study focuses on the everyday experiences of subaltern refugees in India and Pakistan whose resettlement cases lingered on decades after Partition (Geva 2017; Umer 2019; Gould and Ansari 2019). Drawing on previously unexplored trial transcripts and property files, it carries out an in-depth investigation of the historical trajectory of the legal contestations and litigations over property arising from the evacuee property schemes in the wake of Partition. Many of the property litigation disputes continuing to this day are

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embedded in the Pakistani bureaucracy's complicated and 'informal' systems – which lent themselves to corruption – of allocation of refugee resources in the early period of the country's history. This exploration thus finds Vazira Zamindar's concept of 'Long Partition' – which 'stretch[es] the understanding of partition violence to include the bureaucratic violence of drawing political boundaries and nationalising identities that became in some lives interminable' – useful (Zamindar 2008, 2). In this case the 'bureaucratic violence' involves the administration's handling of evacuee property that has formed the basis for raging disputes and enduring legal battles from the 1950s to the present day (Chattha 2012a).

Practices of Evacuee Property Allocation

Before examining the forces at play, it is necessary to look at the kinds of evacuee property that individuals were scrambling to control. Evacuee property – the property abandoned by departing Hindus and Sikhs during the mass migrations following the 1947 Partition – fell into the categories of land, urban and rural dwellings, shops and their goods, factories and raw materials, vehicles and entertainment centres, such as cinema houses. Religious places, such as gurudwaras and temples, and their associated properties/lands, were declared part of the 'Evacuee Trust Property Board'. Corporate businesses, hotels and industrial concerns were categorised as 'Enemy Property'. However, the issue of evacuee property remained a bone of contention between India and Pakistan for years. India claimed that the Hindu and Sikh refugees left behind Rs 38.1 billion worth of resources in Pakistan, compared with the Muslim refugee evacuee property in India of just Rs 3.8 billion, and demanded that the Pakistan state should make up the difference to India. In addition, India claimed that the Hindu and Sikh refugees abandoned more than 6.6 million acres of agricultural land in West Punjab alone (even as Pakistan claimed that Muslim refugees left behind about 5.4 million acres of cultivable land in East Punjab²).

Pakistan disputed India's figures and pointed out that the state had to deal with a surplus migration (in West Punjab of a million people). While Pakistan rejected the Indian claims, it is undeniable that Hindu and Sikh migrants from West Punjab were far wealthier than the Muslim refugees from Indian East Punjab. Although Hindus and Sikhs comprised just 25 per cent of the undivided Punjab's population, they owned almost 50 per cent of the agricultural land and more than two-thirds of the urban properties and industrial units (Chattha 2012b). Legally, evacuee property could not be allotted permanently until issues relating to it were addressed between India and Pakistan. On 29 August 1947, both countries established a mechanism to protect and preserve the properties of the displaced persons by appointing custodians through the creation of the office of the Custodians of Refugees Property. To this effect, the Administration of Evacuee Property Act was issued on 23 September 1947 by the West Punjab government. This was followed by the West Punjab Protection of Evacuee Property Ordinance, which defined 'Evacuee Property' as:

Any property in West Punjab which owing to the recent disturbances, the owner cannot personally occupy or supervise, or take delivery of from the place of deposit, or in the case of a corporation property which forms the assets of any business or undertaking which has ceased wholly or partially to operate owing to the said disturbances.³

The refugees' claims to evacuee property were formulated according to their ownership of property in India, which opened up the floodgates of prolonged litigations in the competition for resources. Litigations among ordinary people and friction between provincial and federal governments arising from refugee rehabilitation have, however, been largely overlooked in Partition studies.

This essay reveals such conflict was present from the beginning and contributed to a mounting political crisis in the early years of Pakistan's history. This aspect of the early post-independence history of the country has not been previously considered at length, as nationalist accounts of successful nation formation ignore local-level developments.

One strand of the clash between the provincial and central authorities on the refugee question did have some ideological basis. The left-leaning Mian Iftikharuddin, the central minister for rehabilitation of refugees, argued that land reform was required to rehabilitate the refugee population; he came out with a radical solution for rehabilitating the refugees when he proposed breaking up the large estates in Punjab in order to distribute land among the refugees. Iftikharuddin recommended that 'a graded tax' should be levied on the income of all landlords drawing more than Rs 15,000 per annum from their agricultural land.⁴ This revolutionary proposal was turned down by the cabinet of the province of Punjab, which was dominated by the landed gentry; the chief minister, the Nawab of Mamdot, was one of the biggest landlords of the united Punjab. In turn, Mamdot criticized the central government's 'arbitrary decisions and interferences in the internal administration of the Province'.⁵ He targeted the refugees minister for failing to obtain for East Punjab Muslims the same treatment with regard to the property as West Punjab's Hindu and Sikh refugees. Mian Iftikharuddin severely criticized the Punjab government's handling of the refugee issue and categorically rejected Mamdot's claims of the settlement of 5,000,000 refugees in the province. With Mamdot and his landlord allies dominating the Punjab cabinet and refusing to countenance Iftikharuddin's demands, the refugees minister resigned. This was a setback as he was one of the few ministers who was actively seeking to address the refugee problem.

Relations did not ease between the provincial and central authorities despite Iftikharuddin's resignation. The Pakistan-Punjab Refugee Council, a liaison body between the Centre and the province, became increasingly impatient about the attitude in Lahore around the issue of refugee settlement and found the attitude of the provincial government to be 'totally non-cooperative'.⁶ There was also a clash over the 'delimitation of functioning' between the

Pakistan-Punjab Refugee Council and the Mamdot cabinet. This, in particular, reached its nadir over the issue of abandoned motor cars and vehicles, as the provincial government consistently interfered with and opposed the allocation of abandoned cars by the Refugee Council. Mamdot threatened to refuse to cooperate within the Council because, in his view, it had no regard for Punjabi opinion. Francis Mudie, the British governor of West Punjab, kept both Muhammad Ali Jinnah, the father of the nation, and the Pakistan-Punjab Refugee Council informed of the goings-on. Mamdot was, according to the governor, ‘double-crossing’ the Council by verbally instructing his officers not to carry out its decisions. Mudie laid all the failure to cooperate firmly at the door of the West Punjab ministry. He continued that it was almost impossible to get resettlement work out of the way in an environment where:

Mamdot’s sole object in life is to remain Premier in order that [when] it comes to allocating Hindu and Sikh zamindari he will be in a position to insist on favourable terms for himself. You may think that is a hard judgement, but I have watched him closely over the last year and that is my considered opinion. And not mine alone.⁷

The charges against Mamdot, in fact, included the misuse of public office to personally acquire huge amounts of evacuee property in different places within Punjab. They involved the allotment of hundreds of acres of Iqbal Nagar Farms in Montgomery district, which belonged to Lady Joginder Singh, the European wife of the late Sir Joginder Singh. In addition to this, Mamdot was alleged to have gained the ‘evacuee’ Okara Cotton Factory by allocating it to his brother and the high-priced Lyallpur Ginning Factory to his uncle.⁸ In particular, Lahore’s *Pakistan Times* – owned by Mian Iftikharuddin – became a public mouthpiece for the exposure of corruption scandals against the Mamdot government. In its 23 January 1949 leading article, after describing the present state of affairs as an ‘abysmal tragic-comedy’ and the party leaders as ‘intriguing self-promoters’, the paper advocated immediate general elections.⁹ While the accusations of corruption do not appear to be wholly fabricated, they were convenient for those in the central government who were concerned with ‘provincialist’ outlooks. The Centre did not exclusively direct corruption scandals against politicians. Provincial politicians also implicated rivals in cases.

Mamdot was the focus of severe press criticism at the time within Punjab for his handling of the refugee question. Twenty refugee members of the Provincial Assembly threatened to move a non-confidence resolution against him in the Assembly. One of them asserted that ‘the callousness and indifference of the Punjab rehabilitation authorities have demoralised the refugees to a considerable extent’.¹⁰ Within the Mamdot cabinet itself, there was a persistent tug-of-war over the allotting power regarding ‘abandoned industrial undertakings’ between the revenue minister and the industries minister. Mamdot was also embroiled in factional rivalries with other landlord politicians such as Mian Mumtaz Daultana and Sardar Shaukat Hayat. Their bickering was to culminate in January 1949 when the governor-general

of Pakistan, Khwaja Nazimuddin, ordered the governor of Punjab to dissolve the Punjab Legislature Assembly so that the central government could take over its functions.

Such tensions between the province and the Centre over the refugee resettlement question were by no means unique to Punjab. Sarah Ansari (2005) has pointed out the tensions in Sindh between the provincial authorities and the Centre over the issue and shown how the refugees 'found themselves caught in the middle' of such political bickering.

The post-independence resettlement of refugees and the allotment of abandoned properties opened up unprecedented avenues for profiteering and corruption in the early years of Pakistan's history. Long-established residents competed with refugees for the abandoned Hindu and Sikh properties. More than 50 per cent of the abandoned houses and 36 per cent of the shops were illegally occupied by local residents.¹¹ The politicians and officials of the Punjab rehabilitation department, ranging from the local Patwar circle to the Lahore Central Record Room, benefited themselves at the expense of the refugees. The cases of refugees misusing the resettlement scheme were far outweighed by those of politicians and officials taking over the abandoned resources. Politicians attempted to enrich themselves and their relatives by occupying evacuee property, or by illegally allotting it. There were many reports against the first two premiers of West Punjab, Nawab of Mamdot (as we have seen) and Mumtaz Daultana, for their misuse of power. For instance, the charges against Mumtaz Daultana were that he allotted the 'biggest flour mill of the subcontinent' to his brother-in-law in Sargodha, and in addition, a vacated shop on the Mall Road, Lahore, and Odeon Cinema in Lahore.¹² He also misused public office to secure prime land at low concessional rates as well as siphoned off abandoned properties for his followers and former tenants.

Corruption over the refugees' resources at the district and tehsil levels was even more acute, to the detriment of genuine refugee claims. The daily earnings of the Lahore Secretariat's pavement-sitting petition writers increased ten-fold, as is evidenced by the fact that over 1000 petitions were being filed every day by the refugees in Lahore alone. For many poor refugees, it was almost impossible to file their claims without offering bribes to the officials, or their 'touts'. A chain of functionaries, ranging from the local patwari to the Secretariat petition writers and the Central Record Room clerks and concerned officers, colluded in this racket. Many regularly ran 'like shuttle-coaches' between the district headquarters and the Central Record Office, Lahore, to obtain 'favourable orders from the concerned officers' for those who paid a bribe.

Stories of 'making money' from the refugees were occasionally reported by the local press. The Urdu daily *Inquilab* reported, on 13 March 1948, a Sub-Tehasidar of Sialkot district forcefully occupying the land of a refugee from Gurdaspur. The *Civil and Military Gazette* of 13 December 1949 published a detailed report on the inquiry against Ibrahim Ahmad Usmani, the deputy director for the Sialkot rehabilitation office, in which he was suspended for the position for issuing 'large-scale bogus ration cards'. The 11 September 1951 issue of

the *Civil and Military Gazette* carried a report of the Dera Ghazi Khan's rehabilitation office, in which he was reportedly arrested over accepting an 'illegal gratification' from a refugee from Amritsar for allocation of an evacuee shop. Apart from widespread corruption, nepotism was another important factor in the allocation of evacuee property. For example, district Okara's special magistrate, Mian Abdul Haq, was named and shamed by the Special Branch Secret Intelligence Police for 'dishonestly squeezing valuable property ... at nominal prices to his friends and relatives'.¹³

Refugees too illegally occupied the houses of non-Muslims, but also filed false and inflated applications for their claims and submitted false affidavits to prove them. Many obtained multiple allotments on a single claim. There were also many who were not genuine evacuees at all. Source material drawn from the Ministry of Refugees and Rehabilitation reports reveals that refugees exploited the resettlement system to enrich themselves. An official report of the Punjab Land Settlement Department revealed the situation of 'bogus claims': 'A number of cases were brought to the notice of the authorities, where displaced persons put forwarded [*sic*] bogus claims as they either did not possess any land in East Punjab or very little as compared to their claims.'¹⁴

Certainly, the abandoned evacuee properties offered a temptation to which many of the leading figures in the districts succumbed, and political considerations prevented suitable action from being taken in such cases, especially in the allocation of factories. A number of the leading Muslim League leaders were the chief beneficiaries of the material benefits of the flight of Hindus and Sikhs to India. The extent of political corruption in the urban evacuee property was indicated by a member of the Punjab Legislative Assembly, Mohammad Afzal Cheema, who blamed the Punjab Muslim League leaders on the floor of the House:

Mr Speaker ... Without disclosing the name of any honourable member of this assembly, I can inform ... this House, with full reliability and trust, that many seasoned members of this assembly ... have illegally occupied the big houses and bungalows [of the migrating Hindus and Sikhs] ... considering them as rewards of their services for the creation of Pakistan...¹⁵

Little attention has been paid to the recovery of Partition's illegally held properties. Undoubtedly, from time to time, the Punjab authorities warned that legal action would be taken against the 'looters' and the deadlines were issued to surrender the evacuee properties. There were occasionally police drives to recover the looted property. For example, the district police drive in mid-September 1947 in both Sialkot and Gujranwala recovered property worth about Rs 170,000 and 100,000 respectively.¹⁶ Occasionally, warnings were issued to the refugees to surrender voluntarily 'illegal transactions' that they had obtained on the basis of 'interpolated or bogus claims'. Such warnings and deadlines were rarely observed or implemented. The beneficiaries maintained their occupations by paying off local and provincial administrators and the police.

Some serious efforts were made by the military regime of General Ayub Khan (1958–1969) to recover ‘unauthorisedly held’ properties. This is evidenced from a 1959 recovery operation of the Enforcement Staff and Evacuee Property Intelligence Bureau, in which it ‘unearthed hidden evacuee property’ worth over Rs 20,000,000. The following year, the Directorate of Enforcement discovered urban evacuee property alone worth about Rs 70,000,000, besides illegally occupied agricultural land. While it is clear that the officials and politicians succumbed to temptation in the handling of evacuee property at the expense of genuine refugee claims, the way in which competition for resources generated conflict between the refugee and local groups, as well as exposed the fissures between the centre and provinces during the period straddling independence, requires far more careful study.

Categorization of Refugee Populations

The Pakistan government divided the refugee populations according to the origin of migrants in India into three main categories: (i) ‘Agreed Areas Refugees’: refugees who came from East Punjab province, East Punjab states and Delhi; (ii) ‘Non-Agreed Areas Refugees’ refugees who came from areas other than Punjab; (iii) ‘Kashmiri refugees’ who came from the Jammu and Kashmir region. The settlement of the refugees from the ‘agreed areas’ was considered relatively simple as almost all the holdings were allotted through the exchange of the non-moveable property record between the Indian and Pakistan Punjab. By the end of January 1949, revenue records of 15,184 West Punjab villages had been handed over to the East Punjab government, and in return, revenue records had been obtained from India of 14,449 villages of East Punjab and the East Punjab Princely States, and of 13 villages of Delhi areas.¹⁷

In contrast, the process of allotment in the ‘non-agreed areas’ was complex and involved many problems of ‘bogus’ and ‘multiple’ allotments. In this case, records were lacking as revenue records were not transferred between India and Pakistan from their ancestral homes. The rationale for not exchanging the records was that the refugees from out of Punjab moved voluntarily; it was not forced migration. In such a situation the only source of information on property ownership and claims to land were the refugees themselves who were invited to submit claims upon which a permanent scheme of resettlement could be drawn. Information on migrants’ holdings from these areas could not be officially verified and was dependent on their submission of affidavits signed or thumb-printed. There was no authentic mechanism to verify or cross-refer the affidavit. This created opportunities not only for forgeries, and thereafter, bogus allotments but also opened up possibilities for all kinds of property disputes and long litigations. Records of the West Punjab Land Settlement Scheme reveal that a great number of refugees misused the system to enrich themselves by registering ‘inflated’, ‘bogus’, ‘double’ or ‘multiple’ claims. An official report observes:

A number of cases were brought to the notice of the authorities, where displaced persons put forwarded bogus claims as they either did not possess any land in India or very little as compared to their claims ... [There were numerous who] were not genuine evacuees at all ... [and they submitted] false affidavit[s] to prove their claims.¹⁸

While the refugees were quickly processed or dispersed, in reality, the period of transition for the processing and settlement of urban refugees, unlike that for rural refugees, was long. Apart from the exchange of records between the two Punjabs, there was the huge task of addressing the shortage of housing, allocating and matching jobs, and most importantly, stimulating commercial activity once again. The acquisition of evacuee houses provided accommodation that was far from adequate. As the 1948 refugee census reveals, 1,315,000 urban Muslim refugees replaced an outgoing 1,102,000 Hindu and Sikh refugees in West Punjab.¹⁹ This meant that the urban areas of the province were burdened with an excess of over 213,000 refugees. Housing in urban areas was thus limited. The situation was exacerbated by the fact that many of the abandoned houses had been damaged during Partition-related violence and therefore had to be repaired before they could be allocated to the refugees. According to an official estimate, by the end of 1949, the government had spent a total amount of Rs 3,213,773 on repairing 23,000 evacuee properties in the various towns and cities of Punjab. The main difficulty associated with the repair of properties was the shortage of finance, technical staff, and above all, suitable construction agencies to carry out this work.

Even with respect to the 'agreed areas' there was ample scope for corruption and nepotism. This was particularly striking in the case of refugees whose revenue records ('Special Jamabandi') could not be obtained from East Punjab. It was, however, almost taboo in the nation-making accounts to describe the illegal appropriation by refugees because of their victimhood derived from the 'sacrifices' they had rendered to come to Pakistan. However, archival records from the settlement department suggest members of refugee populations exploited the resettlement schemes to enrich themselves. Among many examples, one included the 'bogus' case of Bagh Ali, who secured 'double allotment against a sole claim form' in Hafizabad tahsil. Subsequently, 'the allotment on the name of Bagh Ali was found a fake ... and no such person ever appeared before the Settlement Commissioner, (Rural)'.²⁰

In the early 1960s, some representatives of 'non-agreed areas' demanded an end to the distinction between the two categories of areas and the exchange of records between India and Pakistan. A migrant member of the Pakistan parliament claimed:

In U.P. before Partition, the Muslims owned 80 per cent of cultivable lands and the remaining 20 per cent lands was owned by the Hindus. In Pakistan, the refugees from these so-called non-agreed areas are being treating in a step-

mother manner. They are grieved because their claims were not settled judiciously. I suggest that a delegate should be sent to India to urge upon that Government to prepare the record of these refugees.²¹

It was not until 1966 that the Constituent Assembly of Pakistan abolished the distinction between agreed and non-agreed areas with respect to allotment of evacuee property on a permanent basis.

Evacuee Property Disputes and Litigations in Pakistan

‘Double’ allotments led to an explosion of litigation and generated a voluminous body of jurisprudence. Police records from Lahore reveal that the allotment of the same property to different claimants not only led to long legal battles but in some cases resulted in civic violence. For example, Lahore’s well-known Mozang Bakery, which was allotted to two different refugees at the same time, led to a dispute in which one refugee was killed and the other seriously injured.²² Similarly, a dispute occurred between two refugee families over the occupation of a house in the locality of Ramgarh in the city of Sheikhpura, which resulted in the arrest of two members of one family and grave head injury to a member of another refugee family.²³

Such squabbles not only led to legal disputes between the parties but also provided further opportunities for officials of the settlement department, courts and police to manipulate the situation and extract money from the disputing parties. In 1952, a revenue officer of Sheikhpura was arrested on the charge of taking bribes from both the contesting parties.²⁴ On its part, the government did initiate legal measures to protect and evict people from illegally gained properties. According to the rules of the settlement department:

In cases where forgeries in revenue records or in fardi-haqiat are detected, the allotments of the persons concerned should be cancelled forthwith. Further allotment in such cases should not be made until they have been finally decided and previous orders of the Rehabilitation Commissioner expressly obtained.²⁵

A number of bogus cases were subsequently cancelled, but there was no actual rights-enforcement system feasible to obtain physical possession from powerful people. Many retained their possessions over the years, by dragging the cases in the different courts and by paying off the officials. As the appeals and passing judgments of the court and settlement department show, the cancellation of the ‘faulty’ transactions generated a mass of litigation battles: many lasted decades and some even exist to the present day. For example, in one case, it took thirty-five years for the settlement department to take back land from a migrant from East Punjab who obtained it on a bogus claim and afterwards sold it to a local person.²⁶ In another dispute, a migrant from the East Punjab city of Jullundur (now Jalandhar), Rasool, spent almost four decades in a litigation battle to win, ultimately, a case against the Settlement

Auction Committee concerning the irregularity in ‘open auction’ of a prized property situated at Saidpur Road in the city of Rawalpindi.²⁷ There were many who obtained the properties on paper but could not get physical possession over the years from the illegal occupants. As a result, they were embroiled in enduring litigation battles. This included the case of a migrant, Khalid Shah, who was allotted the largest mansion of the city of Sialkot’s non-Muslim sporting goods trader in 1950 but could not get the actual property until recently, despite a decision of the Lahore High Court in his favour.²⁸

Regal Cinema and Some Other Cases

Spread over 7 acres, Regal Cinema was one of the largest buildings on Mall Road, Lahore. The pre-Partition owner of the cinema was a British lady named Mary Robinsons. Unlike most other properties left by British nationals, the cinema was declared evacuee property. On 16 May 1960, the Chief Settlement Commissioner (Industries) allocated the property to a film producer W. Z. Ahmed, who had migrated from Bombay, at the price of Rs 1,519,962 which he had to pay within a period of six years. Through his claim against evacuee property abandoned in India, Z. A. Bhutto (later prime minister of Pakistan) struck a deal with the allottees of Regal Cinema.²⁹ The allottees agreed to repay the entire amount within five years commencing 1 May 1960; the stipulated period could be extended by two years by mutual consent.³⁰

The property file shows the allottees did not pay a single paisa despite many notices being issued by the authorities. The allottees used their political clout and made efforts to get the property without money. There is also a letter addressed by Iqbal. Z. Ahmed, a high-profile industrialist and a brother of allottee (W. Z. Ahmed) to an official of Pakistan Board of Revenue:

Dear Zia Bhai,

I refer to my meeting with you long with Mrs. Rafia Rabbani daughter of Mr. W.Z. Ahmed (my uncle) regarding their issue about the Regal Cinema, Lahore. I am taking the liberty to attaching a one page Note along with a paper containing the brief facts of the case with a request that a hearing may kindly be done by the competent officer to finalize the matter as the issue has been outstanding for too long. Hope for good from your side...

With regards
Sincerely your,
Iqbal. Z. Ahmed³¹

The attached ‘Note’ contained a brief history of the case. The investigation officer stated that:

It is admitted in the note that they received all letters of payment and unable to pay ... it is thus established beyond doubt that it is a case of total default in payment of the transfer price of the cinema. The maximum period for payment of the transfer price for a claimant of the property is six years. The admitted fact is that the transfer price was assessed on 24.04.1964, therefore, the grace period for payment of the transfer price expired on 25.04.1971. On this date, the property reverted to the Compensation Pool.

The report of the investigation further shows, in addition to the cinema, the allottees had rented different portions of premises to different people. ‘Many have set up shops while others have built [residential] quarters ... and one Safdar Ali has opened up Motor Workshop ... The owners earn lakhs of rupees in rent.’³² The property record shows the ‘settlement mafia’,³³ with the connivance of officials, obtained the evacuee property illegally. First, they tried to buy the property at a nominal rate; when this failed, they obtained a forged document, got ‘status quo’ from the lower court, and went into prolonged litigations. Throughout this period, they consistently harassed the occupants.

A similar case involves the Allah Din Nursery at Lower Mall, Lahore. The file of this property shows there were three auction bidders in 1958, and over the years as the price of the property increased, their number increased to twenty-three.³⁴ Documents from the settlement archives reveal how the ‘settlement mafia’ systematically initiated litigations against ordinary people in order to purchase their property. Such practices were mainly carried out with the collusion of state officials, alongside political patronage. One example of this is the prolonged litigation of the West End Building, Lahore. Lala Roshan Kapoor, who passed away in India on 19 March 1945, owned this property. After Partition, a guardian judge in Lahore appointed Lala Roshan Kapoor’s Lahore-based wife Santosh Kapoor the guardian of the children and property, but the restoration order came with a condition that the refugee allottees of the properties would not be ousted or dispossessed though the owners would have the rights of landlords. The family left Pakistan for England in 1957 on a Pakistani passport. The dispute arose over whether the property should be regarded as ‘evacuee’ or not.³⁵ As time went by and prices rose, the number of people involved in the legal contestation over the property increased. The last hearing was held in the Supreme Court of Pakistan in 2007 when the petitioner who bought the property in an auction was granted leave to appeal; it was yet to be decided whether the disputed property fell into the category of ‘evacuee property’ or not.³⁶

Mrs Sahibzadi Naseema Begum versus Settlement Commissioner

One of the major problems with the settlement scheme was that rich and resourceful people not only grabbed the best pickings, but also secured a great deal more than they deserved.

They were politically well versed in the way the system functioned, knew how to ‘break the codes that the state had invented’, and traded the dislocation to extract maximum state benefits (Kaur 2005, 235). A high-profile example of this is provided by the case of Mrs Sahibzadi Naseema Begum versus Settlement and Rehabilitation Commissioner. This politically well-connected landlady not only misused the allotment scheme by obtaining hundreds of acres of agricultural land in different places on a single claim but also subsequently sold them to different people who faced litigation battles until quite recently. This case reveals the extent of problem in the process of refuge settlement and broadly the working of the judicial system.

In this case, Mrs Begum filed a claim over the extensive abandoned agricultural land (maximum limit of 36,000 units) in the village of Dahkoli, Karnal district. Despite the arrangement of the exchange of records between East and West Punjab, her claim could ‘not be verified’, like many others. It was therefore processed ‘on the analogy of claim under the non-agreed areas’ on the ‘basic [sic] of oral and [personal] documentary evidence’.³⁷ She was allotted hundreds of acres of land in eight different villages of the districts of Lahore and Kasur. A few years later, in 1963, a change in the Punjab government’s land allotment policy led to her allotment being reduced to 5350 units from 36,000. As mentioned earlier, in the absence of records, evidence was presented in the form of ‘affidavits’ for some areas, and was therefore tentative and could not be used as full proof for the regularization of the allotments. As a result, by the late 1960s, over 40 per cent of such cases of the allotment could not be made permanent.³⁸ Once the scale of the phenomenon was realized, the West Punjab government introduced a new policy concerning entitlement, verification and scale of allotment for the claimants in non-agreed areas for whose land ‘Special Jamabandi had not been received and there was no likelihood of their being received’. As per this revised policy, an allottee whose claim could not be verified was not entitled to more than 5500 units of land but had the choice of purchasing the ‘excess’ land. The excess land not purchased reverted to the ‘Compensation Pool’. So this revised policy benefited those who had claimed more than their share, especially in the form of exaggerated or bogus claims.

Mrs Begum was permitted, as per prescribed policy, to purchase the excess allotted land at the rate of Rs 10 per index unit within two months of the receipt of the revised entitlement. Instead of purchasing the excess land, she challenged the decision in court, pleading that she was a claimant from the ‘prescribed area’ [agreed areas]; therefore, her claims could not be dealt with in the matter of verification of allotment and ceiling curtailments. On such grounds, she obtained a status quo order from the lower court. During the operation of the stay order she ‘rapidly alienated the entire allotment to various vendees (about seventy-seven at one stage) through an oral sale and handed over the possession to them in spite of the stay order of the Civil Court granted in the Civil Suit’.³⁹

More than two decades later, in 1972, the Lahore High Court dismissed her suit. Thereafter, the settlement department confirmed some ‘rightful’ claimants’ ownership of some of the land against their verified claims. Meanwhile, Mrs Begum filed a writ petition in the Lahore High Court and obtained a status quo order, which enabled her vendees to remain in possession of the land. In the next two decades, she maintained possession by carrying on the litigation and ‘stay orders’ issued by the various courts:

| | |
|-----------------|-----------------------------------|
| Civil Court | Period: 08-10-1966 to 23-06-1972 |
| High Court | Period: 28-8-1972 to 23-01-1974 |
| Supreme Court | Period: 26-04- 1974 to 11-05-1974 |
| Pending/Hearing | Period: 12-04-194 to 15-08-1981 |

Finally, in 1981 the Supreme Court, upholding the Settlement Department’s decision that she could not lay claim more than 5350 units, dismissed her petition. The judge summed it up: ‘So, all the transactions, like allotments and sales m[a]de during the periods, are illegal and void.’⁴⁰ After the dismissal of the appeal from the apex court, Mrs Begum moved an application to the Member Board of Revenue (Settlement Unit, Lahore) for grant of permission to purchase land beyond her entitlement of 5350 units. At the same time, over seventy vendees of Mrs Begum filed petitions challenging the decision of the cancellation of land in their names, as it was done ‘without giving the notice/opportunity of being heard’. In sum, as recently as 2013, the majority of these cases were ‘pending’ in the court as well as with the Settlement Department.

Evacuee Property Litigations

More than seventy-five years after Partition, the plight of some of the refugees subjected to ‘bureaucratic violence’, in the words of Zamindar, can arguably be best viewed on the premises of the land courts, Evacuee Trust Property Board (ETPB), Auqaf Department and Settlement Department at Faridkot House (on Mozang Road, Lahore), where the ‘claimants’ have been making regular trips to win their decades-old pending ‘claims’. During my visits to the Settlement Department, Lahore, I came to know that plenty of records in the ‘Record Room’ had been intentionally destroyed. ‘I do not know who burned all these [settlement] files,’ a senior clerk told me. ‘Everyone knows they were burned deliberately.’ I met Baba Qayam Din at the settlement office on 30 January 2007. He was then about sixty-five years old and had migrated with his family from India to Lahore in 1947 at the height of Partition-related violence. Qayam Din’s father was a *payreiwala* (vendor) in Amritsar and his mother was killed during the 1947 disturbances. His father was given a ‘claim’ at the time and was granted a rentable shop by the Punjab government, which the family was told to buy after a period of time. At the time, the shop was allotted on compassionate grounds: ‘orphans, widows and infirm persons’ were entitled to get the evacuee property from the ‘compensation pool’ (Ali 1976, 45. His father would make periodic visits to the office to enquire about the possibility of the ownership of the shop and died without converting it into ownership.⁴¹

On the other hand, in an interview on 22 January 2007, the Punjab settlement secretary, Rana Abdul Hamid, explained to me that a number of refugees ‘filed bogus or inflated claim forms and submitted false oaths to prove them. As the time passed and the price of abandoned properties surged, many more submitted their claim forms.’ The settlement secretary was of the view that ‘it is better to leave the pending cases rather than to decide them’. It is no doubt for this reason that many of the cases in the settlement department still lie ‘pending’. He stated that over 10,000 cases are pending with the Lahore Settlement Department alone.⁴²

Baba Din’s decades-old experience was echoed by many other people as I witnessed the ‘daily hearings’ in the court of the settlement secretary. The stories of unsettled claims narrated by the majority of them were replete with misery, with the allotment process described as full of corruption and bribery. This makes the long-term consequences of Partition clear; it continues to influence individuals in their daily lives. Ravinder Kaur writing on Delhi has noted a similar enduring ‘plight’ regarding Partition’s non-Muslim refugees in India that has existed to the present day (Kaur 2005).

To conclude, this research questions the artificiality of the barrier of 1947 in discussing the effects of Partition, viewing Partition as a process rather than an event. This narrative of the enduring contestation of evacuee property in Pakistan recognizes the phenomenon of ‘Long Partition’, as articulated by Vazira Zamindar to underscore the ongoing impact of Partition in a variety of domains beyond the events of 1947, substantiating the longevity of Partition by highlighting the ‘bureaucratic violence’ involved in the handling evacuee property that took on ‘interminable’ contours in the lives of many individuals. The findings of the paper also underscore Joya Chatterji’s (2012b, 1166) argument on the regime of evacuee property as ‘the new post-partition order’ for the longevity of Partition.

This paper has shown that the upsurge in property litigations in Pakistan was an aftereffect of the enterprise of the redistribution of refugee resources. The political skirmishes and fierce competition for evacuee property and the associated levels of resentments and disillusionment were covered extensively in the local press, and they cast a shadow over popular culture and memories. Legal disputes between the opposing parties provided ample opportunities for the settlement department officials, courts and police to manipulate the situation and extract money from the disputants. From these episodes the beginnings of a ‘corruption discourse’ can be discerned and this discourse took away from the democratic faith of ordinary citizens in the early years of Pakistan’s history. In contemporary Pakistan, ‘accountability’ is often used to discredit opponents or political elites as a whole during periods of martial rule. The historical roots of this approach can be seen at the outset of Pakistan’s development. Charges of corruption became the weapon of first choice against rival politicians and were deployed as a means of manifesting political rivalries, making new political alliances and rationalizing the dismissal of governments.

Notes

1. For recent discussions on mass migrations, see Talbot 2006; Ansari 2005; Chatterji 2007.
2. Board of Revenue Records, Lahore (BRR), Rehabilitation Settlement Scheme Part 11, F. 20 (9)/56-R-I, 24.
3. BRR, Rehabilitation Settlement Scheme Part 11, F. 20 (9)/56-R-I, 24.
4. National Documentation Centre, (NDC), Pakistan Ministry of Refugees and Rehabilitation, File No. 2 (2)-PMS/48, Prime Minister Files, 26 March 1948, 2.
5. Ibid.
6. NDC, Pakistan Ministry of Refugees and Rehabilitation, File No. 2 (2)-PMS/48, Prime Minister Files, 26 March 1948, 2.
7. NDC, File No. F/164/51, Governor-General Correspondences, 2 August 1948, Francis Mudie to Khwaja Nazimuddin.
8. NDC, File No. F164/5, 'papers relating to imposition of section 92-A in West Punjab 1949'.
9. NDC, File No. F/164/51, Governor-General Correspondences, 12 October 1948, Francis Mudie to Khwaja Nazimuddin.
10. Punjab Assembly Debates, 3 November 1948, 157.
11. NDC, Pakistan Ministry of Refugees and Rehabilitation, File No. 128/CF/48, 262, PMS/48/52, Prime Minister Files, 36–37.
12. Ibid.
13. Ibid.
14. Ibid.
15. Punjab Secretariat Archives (PSA), Folder 33 E, Pakistan National Assembly Debates, March 1955, 22–24.
16. NDC, Pakistan Ministry of Refugees and Rehabilitation, File No. 128/CF/48, 262, PMS/62, Prime Minister Files.

17. PSA, E33, Part XIII, 1 July to 31 December 1954, 5.
18. PSA, Land Settlement, January to June 1955, E 33, Part XIV, 2.
19. NDC, Pakistan Ministry of Refugees and Rehabilitation, File No. 129/CF/48-50, PMS/66, Prime Minister Files.
20. Mrs Aisha Begum and others verses Settlement and Rehabilitation Commissioner, 1982 SCMR, XV, (judgement order: 283-30/1970, 1982 SCMR, XV, 638–639.
21. PSA, ‘Distinction between agreed and non-agreed areas’, Pakistan National Assembly Debates, 3 July 1962, 957–958.
22. FIR no. 854, Note Book 345, 20 June 1949 (Thana Mozang), District Police Record, Lahore.
23. FIR no. 755, Note Book 320, 20 December 1949, (Thana Civil Lines), District Police Record, Sheikhpura.
24. FIR no. 755, Note Book 29, 12 January 1952, (Thana Civil Lines), District Police Record, Sheikhpura.
25. BRR, Rehabilitation Settlement Scheme Part 11, F. 20 (9)/56-R-I, 24.
26. BRR, Ghulab Khan versus Settlement Rehabilitation Commissioner, Rawalpindi, Appeal No. 881/75, 1982 SCMR, XV, 849–850.
27. BRR, Rehabilitation Settlement Scheme Part 11, F. 20 (9)/56-R-I, 24.
28. File 22 EL, ‘Ismail versus Khalid Shah’, Records of District Office, Sialkot.
29. Land Record Numbers, R12/33, 1962/68, Faridkot House Record (FKH), Lahore. W. Z. Ahmed died in 2007 and his heirs still occupy the property.
30. TNA, FCO37/2187, ‘Pakistan Internal Political Situation’, 1960–1970.
31. FKH, Land Record Numbers, R12/33, 1962/68.
32. Ibid.
33. The property files describe ‘land mafias’ who fight to control property that provides profits and political power.

34. BRR, Rehabilitation Settlement Scheme Part 11, F. 20 (9)/56-R-I, 24. Prolonged and bitter litigation over it finally reached the Supreme Court, where it was pending in 2013.
35. Ibid.
36. Ibid.
37. See for the changes mentioned in Schedule V claims of the Registration of Claims (Displaced Persons) Act 1948, in BRR, Rehabilitation Settlement Scheme Part 11, F. 20 (9)/56-R-I, 112-114.
38. PSA, West Pakistan Year Book, 1960, E1 (12) 1960, PA, 58–59.
39. BRR, Mrs Sahibzadi Naseema Begum versus Settlement and Rehabilitation Commissioner (judgment order: NLR-1982-SCJ-1965), 1982 SCMR, XV, 913–920.
40. Ibid.
41. Interview with Baba Qayam Din, Lahore, 30 January 2007.
42. Interview with the Secretary of the Settlement Department, Rana Abdul Hamid at Faridkot House, Lahore, 22 January 2007.

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