

PARLIAMENT OF INDIA
RAJYA SABHA

**DEPARTMENT-RELATED PARLIAMENTARY
STANDING COMMITTEE ON HOME AFFAIRS**
ONE HUNDRED AND THIRTY SEVENTH REPORT
ON
REHABILITATION OF J & K MIGRANTS

(PRESENTED TO RAJYA SABHA ON 13 FEBRUARY, 2009)
(LAID ON THE TABLE OF LOK SABHA ON 13 FEBRUARY, 2009)

RAJYA SABHA SECRETARIAT
NEW DELHI
FEBRUARY, 2009/MAGHA, 1930 (SAKA)

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COMMITTEE ON HOME AFFAIRS
(Constituted on 5 August 2008)

1. Smt. Sushma Swaraj - Chairperson

RAJYA SABHA

2. Shri Rama Chandra Khuntia
3. Shri Rishang Keishing
4. Shri R.K. Dhawan
5. Shri S.S. Ahluwalia
6. Shri Janeshwar Mishra
7. Shri Prasanta Chatterjee
8. Shri Satish Chandra Misra
9. Shri Sanjay Raut
10. Shri Tiruchi Siva

LOK SABHA

11. Shri L.K. Advani
12. Dr. Rattan Singh Ajnala
13. Shri Ilyas Azmi
14. Km. Mamata Banerjee
15. Smt. Sangeeta Kumari Singh Deo
16. Shri Biren Singh Engti
17. Shri Tapir Gao
18. Shri T.K. Hamza
19. Shri Naveen Jindal
20. Prof. K.M. Kadermohideen
21. Shri Hemant Khandelwal
22. Shri Ram Chandra Paswan
23. Shri Sachin Pilot
24. Shri Ashok Kumar Pradhan
25. Shri M. Raja Mohan Reddy
26. Shri Bajju Ban Riyan
27. Choudhary Bijendra Singh
28. *Ms. Agatha K. Sangma
29. @ Vacant
30. # Vacant
31. Vacant

SECRETARIAT

* To be inserted at printing stage.

Shri Tapan Chatterjee, Joint Secretary
Shri. P.P.K. Ramacharyulu, Director
Shri D.K. Mishra, Deputy Director
Shri Bhupendra Bhaskar, Committee Officer

* nominated as a Member of the Committee w.e.f. 1st December, 2008.

@ Consequent upon change in nomination as Member and appointment as the Chairman of DRPSC on Agriculture, Shri Mohan Singh ceased to be a Member of the Committee w.e.f. 5 December, 2008.

Consequent upon vacation of his seat in Lok Sabha as a result of his election to Legislative Assembly of Chhattisgarh, Shri Ajit Jogi ceased to be a Member of the Committee w.e.f. 26 December, 2008.

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6. @ Shri Prasanta Chatterjee
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8. Shri Sanjay Raut
9. **Shri Rama Chandra Khuntia
10. \$Shri Tiruchi Siva

LOK SABHA

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16. Shri Biren Singh Engti
17. Shri Tapir Gao
18. #Shri Hemant Khandelwal
19. Shri Naveen Jindal
20. Shri Ajit Jogi
21. Prof. K.M. Kader Mohideen
22. *Shri Amitava Nandy
23. Shri Ram Chandra Paswan
24. Shri Sachin Pilot
25. Shri Ashok Kumar Pradhan
26. Shri M. Rajamohan Reddy
27. Shri Baju Ban Riyan
28. Choudhary Bijendra Singh
29. Shri Brij Bhushan Sharan Singh
30. Shri Mohan Singh
31. Vacant

SECRETARIAT

Shri Tapan Chatterjee, Joint Secretary
Shri P.P.K. Ramacharyulu, Director
Shri D.K. Mishra, Deputy Director
Shri Bhupendra Bhaskar, Committee Officer

Δ Renominated to the Committee w.e.f. 14th May, 2008 on expiration of his Membership from Rajya Sabha on 9.4.2008.

@ Renominated to the Committee w.e.f. 14th May, 2008 on expiration of his Membership from Rajya Sabha on 2.4.2008.

- ** Nominated as a member of the Committee w.e.f. 14.5.2008.
\$ Nominated as a member of the Committee w.e.f. 21.5.2008.
* Nominated w.e.f. 12 December 2007 vice Shri T.K. Hamza who was nominated to Standing Committee on Commerce.
Nominated as a member of the Committee w.e.f. 13.6.2008.
Shri V. Narayanasamy ceased to be a member of the Committee w.e.f. 6.4.2008 consequent upon his induction in the Union Council of Ministers,
Shri N. Jothi ceased to be member of the Committee w.e.f. 27.3.2008 consequent upon the resignation from the membership of the Rajya Sabha,
Shri Raghunath Jha ceased to be a member of the Committee w.e.f. 6.4.2008 consequent upon his induction in the Union Council of Ministers,
Shri G. Karunakara Reddy ceased to be a member of the Committee w.e.f. 3.6.2008 consequent upon his induction in the State Council of Ministers

**COMMITTEE ON HOME AFFAIRS
(Constituted on 5 August 2006)**

1. Smt. Sushma Swaraj - Chairperson

RAJYA SABHA

2. Shri V. Narayanasamy
3. Shri Rishang Keishing
4. Shri R.K. Dhawan
5. Shri S.S. Ahluwalia
6. Shri Janeshwar Mishra
7. Shri Prasanta Chatterjee
8. Shri N. Jothi
9. Shri Satish Chandra Misra
10. Shri Sanjay Raut

LOK SABHA

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13. Shri Ilyas Azmi
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19. Shri Raghunath Jha
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27. *Shri M. Rajamohan Reddy
28. Shri Baju Ban Riyan
29. Choudhary Bijendra Singh
30. Shri Brij Bhushan Sharan Singh
31. Shri Mohan Singh

SECRETARIAT

Shri Tapan Chatterjee, Joint Secretary
Shri P.P.K. Ramacharyulu, Director
Shri Rohtas, Under Secretary

Shri Sanjeev Chandra, Committee Officer

* Nominated w.e.f 10th October 2006 *vice* Shri Rahul Gandhi who was nominated to Standing Committee on Human Resource Development.

Sub-Committee on

**Civil Defence and Rehabilitation of Jammu & Kashmir Migrants
(Constituted on 13 April 2007)**

1. **Shri S.S. Ahluwalia - *Convenor***
2. Shri N. Jothi
3. Shri Satish Chandra Misra
4. Shri Sachin Pilot
5. Smt. Sangeeta Kumari Singh Deo

(Re-constituted on 9 August 2007)

1. **Shri S.S. Ahluwalia - *Convenor***
2. Vacant
3. Shri Satish Chandra Misra
4. Shri Sachin Pilot
5. Smt. Sangeeta Kumari Singh Deo

(Revised Composition on 26 May 2008)

1. **Shri S.S. Ahluwalia - *Convenor***
2. Shri Rama Chandra Khuntia
3. Shri Satish Chandra Misra
4. Shri Sachin Pilot
5. Smt. Sangeeta Kumari Singh Deo

SECRETARIAT

Shri Tapan Chatterjee, Joint Secretary
Shri P.P.K. Ramacharyulu, Director
Shri D.K. Mishra, Deputy Director
Shri Bhupendra Bhaskar, Committee Officer

Shri N. Jothi ceased to be a member of the sub-committee w.e.f. 27.3.2008 consequent upon resignation from the membership of the Rajya Sabha.

PREFACE

I, the Chairperson of the Department-related Parliamentary Standing Committee on Home Affairs having been authorised by the Committee to submit the report on its behalf, do hereby present this One Hundred and Thirty-seventh Report on Rehabilitation of J&K Migrants.

2. The Department-related Parliamentary Standing Committee on Home Affairs constituted a sub-Committee on Civil Defence and Rehabilitation of J&K Migrants of on 13th April 2007 for in-depth examination of the subject. The sub-Committee was reconstituted on 9th August, 2007.

3. The sub-Committee heard the official presentation of the representatives of the Ministry of Home Affairs on 2nd August 2007. The Secretary, Border Management gave a detailed account of various schemes implemented by the Government for rehabilitation of J&K Migrants. The Secretary, Border Management informed the sub-Committee about the major initiatives taken for rehabilitation of J&K Migrants like enhancement in cash relief to Kashmiri Migrants periodically; payment of ex-gratia relief of Rs. One lakh to the kins of victims of militancy; initiatives to protect and restrain the distress sales of properties of migrants left in the valley, by enacting J&K Migrants Immovable Properties (Preservation, Protection & Rehabilitation of Distress Sales) Act 1997 and J&K Migrants (Stay of Proceedings) Act, 1997; restoration of temples in the valley, etc. The sub-Committee was informed that an inter-ministerial team was constituted to prepare a plan to rehabilitate Kashmiri Migrants as announced by Prime Minister during his visit to J&K in November, 2004. The inter-ministerial team recommended for construction of two-room tenements at Jammu to accommodate migrants' families living in various camps/government/semi-government accommodation at Jammu.

4. The sub-Committee thereafter decided to hear the representatives of Kashmiri Migrants and also the organizations representing them on the subject. In pursuance thereof, the sub-Committee in its sitting held on 30 October heard the oral evidence of Shri C.L. Gadoo, a journalist and on 7 November 2007, heard the representatives of All India Kashmiri Samaj, All States Kashmiri Pandit Conference, Panun Kashmir, Kashmiri Samiti, All India Kashmiri Pandit Conference, Jammu Kashmir Vichar Manch, Kashmir Sikh Migrants Forum, Kashmiri Pandit Sabha and Jammu and Kashmir National Panthers Party.

5. The sub-Committee while preparing its report relied on the following:-

- (i) detailed background note furnished by the Ministry of Home Affairs;
- (ii) the official presentation of the representatives of Ministry of Home Affairs;

- (iii) oral- evidence of non-official witnesses;
- (iv) replies to the queries of members raised during its sittings; and
- (v) report of an Inter-ministerial team headed by Ms Sushma Choudhury constituted by the Prime Minister during his visit to Jammu & Kashmir in November 2004, to prepare a rehabilitation plan for Kashmiri migrants.

6. The sub- Committee considered and adopted its report in its sitting held on 11th April, 2008 and the convenor of the sub-Committee presented the report to the Chairperson of the DRPSC on Home Affairs for its consideration and adoption.

7. The Committee in its sitting held on 10th February, 2009 considered and adopted the present report.

8. For facility of reference and convenience, observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

**New Delhi
February, 2009**

**Sushma Swaraj
Chairperson
Department-related Parliamentary Standing
Committee on Home Affairs**

Report

Jammu and Kahmir Migrants-An Overview

The disturbed condition existing in the Kashmir Valley in the 1990's due to the onset of militancy led to the exodus of Kashmiri Pandits, Sikhs, Muslims and Punjabi Hindus to the Jammu province, Delhi and some States/Union Territories. It is estimated that more than 56,000 families migrated out of the Valley.

1.1 The migration continued over the years, although in a trickle, even in respect of the people who stayed back initially for variegated reasons, like economic considerations, old age or a sense of security derived from clustered population and the support given by their neighborhoods. However, the stray incidents of attacks by militants and the killing targeted at the minority habitations gave a spurt to the migration.

1.2 According to the representatives of J & K Migrants, the primary cause for the migration of Kashmiri Pandits and other Minorities from the valley in the 1990's was "insecurity of life and honour" due to the total collapse of the structure of governance and the anarchy that prevailed in the face of pro-Pakistani movement led by some sections of

the people with covert support from Pakistan in terms of indoctrination, training, arms and trained manpower. The pattern and manner of killing of politicians, officials and common people reflected the tactics of creating terror among the minorities by making a public exhibition of brutalized killings to paralyze the structures of authority.

1.3 With due regard to the magnitude of the problem of migration and the overarching objective to sub serve socio-economic, educational and security considerations, the Union Ministry of Home Affairs and the State Government of Jammu and Kashmir initiated a number of measures in the wake of the migration to provide succor to the affected families and secure their temporary rehabilitation. According to the Ministry of Home Affairs, all these measures in effect had been backed and endorsed by the overall policy espousal for creating a positive security environment in the Valley for facilitating the safe return of the Migrants.

2.0 RELIEF MEASURES UNDERTAKEN BY THE GOVERNMENT

2.1 The sub-Committee initially obtained a status note on the relief and rehabilitation of J&K Migrants from the Ministry of Home Affairs. The sub-Committee, thereafter, heard the presentation of the Secretary, Border Management (BM) and other officers of the Ministry of Home Affairs in its sitting held on 2nd August 2007. The Secretary, Border Management gave a detailed account of various schemes implemented by the Government for rehabilitation of J&K Migrants. The relief operations undertaken by the Government, as indicated in the status note and explained in the official presentation, are given in the succeeding paragraphs:-

2.2 Major Initiatives

2.2.1 The Secretary (BM), Ministry of Home Affairs stated that cash relief to Kashmiri Migrants was being paid at the rate of Rs.1,000/- per head per month since 2006, which was earlier revised to that level seven times initially from Rs.250/-. It was also stated that *ex gratia* relief of Rs.1,00,000/- to victims of militancy and Rs.75,000/-, Rs.5,000/- and Rs.1,000/- for permanent disability, grievous injury and minor injury, respectively, were being paid. It was further stated that for facilitating employment, the Government was providing relaxation of upper age limit of five years to all persons who had ordinarily been domiciled in the State of J&K between 1.1.1980 to 31.12.1989. This relaxation was extended up to 31.12.2007.

2.3 Educational Facilities being provided to Kashmiri Migrants:-

2.3.1 The sub-Committee was informed that the following concessions were being extended to the J&K Migrants on the educational front:

- (i) (i) Extension in date of admission by about 30 days;
- (ii) (ii) Relaxation in cut-off percentage up to 10 per cent, subject to minimum eligibility requirement;

- (iii) (iii) Increase in intake capacity up to five per cent - course-wise;
- (iv) (iv) Reservation of at least one seat in merit quota in technical/professional institutions;
- (v) (v) Waiving of domicile requirements; and
- (vi) (vi) Facilitation of migration in second and subsequent years.

2.3.2 It was also stated that besides Delhi, the States where the seats had been reserved for migrant students in professional institutions were Gujarat, Uttar Pradesh, Karnataka, Maharashtra, Punjab, Haryana and Himachal Pradesh. The Secretary (BM), during his presentation before the Sub-Committee, stated that the migrants were entitled to both the Jammu & Kashmir quota and the quota for Jammu & Kashmir Migrants. The guidelines were issued by the Ministry of Human Resource Development that at least one per cent of seats should be reserved. He, however, added that all the State Governments had not done it and only some had taken the initiative and provided them the quota.

2.4 **Preservation and Protection of Migrants' Properties:-**

2.4.1 The Ministry informed the sub-Committee that in order to preserve, protect and restrain the distress sale of migrants' properties left behind in the Valley, Government of Jammu & Kashmir enacted two important pieces of legislation, namely, The J&K Migrants Immovable Property (Preservation, Protection and Restraint of Distress Sales) Act, 1997 and The J&K Migrants (Stay of Proceedings) Act, 1997. The salient features of these Acts are given as under -

2.5 ***The J&K Migrants Immovable Property (Preservation, Protection and Restraint on Distress Sales) Act, 1997***

2.5.1 The Act provides that the immovable property of a migrant cannot be alienated without the prior permission of Revenue and Relief Minister or such officer as may be authorized by him on his behalf.

2.5.2 It has been provided that the District Magistrate shall take over possession of immovable property of the migrants within 30 days from the commencement of this Act and it shall be the duty of the District Magistrate to take all the steps necessary for preservation and protection of such property and that he cannot hand over the property without express consent of the migrant in writing.

2.5.3 The competent authority has been authorized to take action for eviction of unauthorized occupants and can enter upon any immovable property of any migrant and make or cause to be made any survey, including measurement and do any other act for carrying out the purposes of this Act. But, it has been provided that no such survey or measurement shall be done otherwise than on a written complaint by a migrant.

2.5.4 The Civil Courts have been barred to settle, decide or deal with any question or to determine any matter arising under this Act.

2.6 *The J&K Migrants (Stay of Proceedings) Act, 1997*

2.6.1 It has been provided that all the proceedings pending or hereinafter filed against a migrant for recovery of loan raised in the Kashmir Division or relating to immovable property situated in the Kashmir Division shall remain stayed from the commencement of this Act till the Government notified otherwise. Provided that nothing shall apply to a dispute relating to recovery of money or immovable property *inter se* migrants.

2.6.2 The Secretary (BM), explaining about the houses vacated, abandoned by migrants due to militancy, stated that some of them were under occupation of security forces for which rent was being provided and some of them were under unauthorized occupation. In regard to protecting the property under the J&K Migrants Immovable Property (Preservation, Protection and Restraint on Distress Sales) Act, 1997, the Secretary stated that under the Act, the immovable property of migrants could not be alienated without the prior permission of the Revenue Officer nor the property could be sold out. In regard to the properties under illegal occupation, he stated that the Competent Authority had the power under the Act to take action for eviction of unauthorized occupants. He further stated that when the Collector took possession of a house, he would do it only for the safety of the house or the safe custody of the house. He would not be using the house unlike the security forces.

2.6.3 The Secretary in the presentation also stated that efforts were being made to restore the temples in the Valley affected by militancy. The following are the details of the restoration efforts:

(i)	No. of temples prior to 1989	-	436
(ii)	Temples intact	-	266
(iii)	Temples got damaged	-	170
(iv)	Temples renovated	-	90
(v)	Expenditure incurred	-	Rs.32.50 lakh

2.7 Improvement of Facilities in Migrant Camps

2.7.1 The Sub-Committee was informed that the living conditions in the Migrant Camps were closely monitored by the Ministry to make improvements. It was also stated that the following measures had been taken towards improvement of facilities in Migrant Camps:

2.8 2.8 Prime Minister's Relief Package

2.8.1 The Prime Minister in 1996 had announced a special package of Rs.6.6 crore for improvement of facilities in Jammu Camps. The amount was utilised on the following items:-

- construction of 800 one-room tenements;

- construction of Sulabh-type toilet complex - 19 Nos.;
- drainage scheme in five camps; and
- 10-room pre-fabricated school buildings - 3 Nos.

2.9 Funds released under Security-Related Expenditure (SRE) of MHA:-

2.9.1 It was also stated that an expenditure of about Rs.70.00 crore was incurred annually towards providing cash assistance and rations to the migrants at Jammu. The total expenditure incurred for providing cash relief and ration since 1990 was Rs.689.21 crore. The expenditure was reimbursed to the State Government of Jammu & Kashmir by the Central Government under Security-related Expenditure (SRE). The expenditure for providing relief to the migrants at Delhi was borne by the Government of NCT of Delhi and was about Rs.20.00 crore annually. It was also stated that in addition to cash relief and ration, the details of expenditure incurred since 1990 for providing infrastructural facilities in the migrant camps at Jammu were:

			(in Rs. Crore)
(i)	Civic amenities	-	Rs.16.50
(ii)	Grant for camps/schools	-	Rs.59.20
(iii)	Construction of one-room tenements -		Rs.20.15
(iv)	Improvement in infrastructure	-	<u>Rs. 7.24</u>
Total			<u>Rs.103.09</u>

2.10 Construction of two-room tenements at Jammu

2.10.1 The Ministry informed the Sub-Committee that in accordance with the announcements of the Prime Minister and recommendations of an Inter-Ministerial team constituted by the Prime Minister's Office in December, 2004, the State Government submitted a proposal involving an expenditure of Rs.185.00 crore (approx.) for construction of two-room tenements at Jammu. As per the proposal, 5242 two-room tenements were to be constructed to accommodate all the Migrant families presently living in the camps and those living in Government/semi-Government accommodation at Jammu in a period of three years.

The covered area of each set would be 473 sq. ft. as under:

One bedroom	-	10' x 12' (with balcony)
One living room	-	10' x 14'
One kitchen	-	8'4" x 6'
One toilet	-	8' x 4'9"

2.10.2 It was further stated that construction of 1024 TRTs had started at three different locations, viz., Muthi, Nagrota and Purkhoo Phase-IV and were at various stages of completion. As regards the remaining 4218 TRTs, the State Government took a decision to set up a separate township with all infrastructural facilities at Jagti Nagrota and invited bids from reputed constructors/firms/builders as per Tender Notice issued on 14.3.2007. The Secretary, during the course of his presentation, further stated that everyone was to

be provided two-room tenements because the living conditions were very pitiable. Therefore, the Government had approved the scheme of two-room tenements. He also stated that 1,024 tenements were in the advanced stage of construction and likely to be completed soon.

2.10.3 As indicated by the State Government, the infrastructural facilities/allied items of the work had resultantly increased the cost. The total cost was estimated as Rs.270.00 crore.

2.11 Establishment of a Corpus Fund of Rs.5.00 Crore for Catering to Miscellaneous Development Needs of the Migrants:-

2.11.1 The Sub-Committee was informed that the State Government of J&K had constituted an Empowered Committee headed by the Chief Secretary for administration of a corpus of Rs.5.00 crore to be established for catering to miscellaneous development needs of the Migrants, viz., health, education, vocational skill building, library facilities, sports facilities, etc. Rs.4.50 crore to be provided as Additional Central Assistance and Rs.0.50 crore to be met by the State Government.

2.12 Issues/Problems of Migrants in Delhi:-

2.12.1 The Sub-Committee was informed that the Ministry of Home Affairs had constituted a Standing Committee to review issues concerning Kashmiri Migrants on a quarterly basis. Further clarifying, the Secretary informed the sub-Committee that the Standing Committee was set up under the Chief Secretary, Jammu & Kashmir for monitoring the progress of relief and rehabilitation work only for the migrants residing in Delhi.

2.13 Inter-Ministerial Team:-

2.13.1 The Ministry of Home Affairs informed the sub-Committee that as per the announcement made by the Prime Minister during his visit to J&K in November, 2004, an Inter-Ministerial team was constituted to prepare a rehabilitation plan for Kashmiri Migrants, particularly to cover their development needs, especially those related to the living conditions in the camps, the means of livelihood, education, health and the security of women. The important recommendations made by the Inter-Ministerial Team were as under:-

- O Construction of two-room tenements at Jammu to accommodate migrant families living in camps/Government/semi-Government accommodations at Jammu;
- O Creation of a corpus fund of Rs.5.00 crore for catering to miscellaneous development needs of the migrants;

- O Creation of job opportunities;
- O Restoration and repair of temples/shrines;
- O Establishment of self-help women's groups;
- O Entrepreneurial development programmes;
- O Setting up of 1000 cottage/small-scale industries; &
- O Provision of soft loans and other confidence-building measures.

2.14 **Action Taken regarding Return of Kashmiri Migrants:-**

2.14.1 The Ministry of Home Affairs informed the sub-Committee that in order to enable safe and honourable return of migrants to their native places in the Valley, the State Government constituted an Apex Level Committee under the Chairmanship of Revenue, Relief and Rehabilitation Minister to look into all the aspects of this problem and suggest solutions. The Secretary,(BM), Ministry of Home Affairs during his presentation before the sub-Committee stated that the ultimate intention of the Government was that the migrants should go back to the valley, to their respective places, and re-settle there.

2.14.2 The Ministry, in their written note further stated that the sub-Committee constituted under the Apex Level Committee finalized an Action Plan for the return and rehabilitation of Kashmiri Migrants in October, 2000 involving a total amount of Rs.2589.73 crore to enable them to return to the Valley. The Action Plan envisaged return of migrants in phases. The Cabinet Committee on Security in its meeting held in May, 2001 gave in-principle approval to the pilot project of rehabilitating 200 families of Migrant Kashmiri Pandits at Srinagar under the Action Plan. The State Government identified 166 houses forming 15 clusters in Srinagar and Budgam Districts, which were considered safe for the return of the owners of these houses. The list of these clusters was published in the newspapers and steps were taken to identify the families and find their willingness to return to their homes. It was further stated that about 50 families who were registered with the Relief Organisation, Jammu were contacted personally to give their consent for return to the Valley on the basis of the package announced by the Government. Interaction meetings with some of these families were also held but none of the families agreed to return to the Valley. As a result, the Action Plan could not be implemented by the State Government.

2.14.3 The Ministry also informed the sub-Committee that as indicated by the State Government, the shrines in Mattan and Kheer Bhavani had been proposed to be developed into two model clusters containing temporary shelters for Kashmiri Migrants, where the Kashmiri Migrants displaced from these places could be settled temporarily, till such time they can repair their existing residential houses. The Ministry of Finance

provided a grant of Rs.10 crore to the State Government in December, 2002 for the reconstruction/renovation of the houses and shrines at Kheer Bhavani and Mattan.

2.14.4 The sub-Committee was further informed that the Government of India also approved the proposal for the return of the Kashmiri Migrants to the Valley, on an experimental basis.

2.15 Non utilisation of allocated amount

2.15.1 The Committee was given to understand that during 2005-06, Rs. 153.11 crore was allocated at BE stage, which was reduced to Rs.129.30 crore and the actual amount spent was Rs. 108.73 crore. In 2006-07 a provision of Rs. 120 crore was kept at BE for rehabilitation schemes and relief measures for Kashmiri Migrants and this amount had been retained in BE 2007-08 in spite of projection of Rs. 130 crore for the same year. The officials of Ministry of Home Affairs during their presentation stated that the amount of Rs. 120 crore had been retained in BE 2007-08 due to receipt of fewer claims for reimbursement from the State Government of J & K.

2.15.2 The Ministry of Home Affairs stated before the Committee that as it was a reimbursement scheme, as soon as proposals for rehabilitation are received from the State Government, the grants are provided accordingly. The Ministry further stated that the schemes were not forthcoming from the State of J&K. As a result of this, though migrants were living in sub-human conditions in rehabilitation camps, funds allocated for that purpose were not utilised fully. In view of this, the Standing Committee on Home Affairs in its 119th Report presented to the Parliament in 2006, had recommended that Government should impress upon the J&K Government to come forward with schemes in time and implement them without delay. The Committee in its 126th Report presented to the Parliament in 2007 once again strongly urged upon the Ministry to further impress upon the J&K Government about the necessity of sending schemes expeditiously and implement them in time so that all the J&K Migrants are rehabilitated without further delay. The Ministry in its Action Taken Notes on the recommendation made in the 126th Report presented on 26th April, 2007, stated as under:

“The concern expressed by the Parliamentary Committee has been noted and conveyed to the State Government through letters dated June 8, 2006, October 5, 2006 followed by a demi official letter dated January 19, 2007 requesting State Government to make efforts to utilize the funds provided for in the Budget under the head ‘SRE Relief and Rehabilitation’. The issue was also discussed with the State Government officials in the SRE Standing Committee meeting held on 25th July, 2007. The State Government was requested to take necessary steps to expedite the expenditure under this Head.

The relief and rehabilitation schemes of the Ministry are meant for Kashmiri Migrants, Border Migrants, ex-gratia payment to the next of kin of security forces personnel and civilians killed in terrorist violence and compensation for damaged civilian property and incentives for surrendered militants.

The State Government has also made efforts to utilize the funds available under this head. Since the State Govt. could not utilize the allocated amount, a sum of Rs. 12 crore remained unspent last year under the sub-head for cash relief to Kashmiri Migrants. The arrears of enhancement of the cash relief w.e.f. 1.7.2006 have been disbursed at the revised rates by the State Government. There was a saving of Rs. 10.50 crore on ex-gratia and surrender of militants. Expenditure on this count is incident driven. The State Govt could not utilize the major portion of the allocated fund for rehabilitation of Border Migrants in view of delay in acquiring land due to a stay granted by the Court which led to a saving of Rs. 27 crore on this account. It has now been informed by the State Govt. that the stay granted by the Court has since been vacated and this will facilitate the implementation of the rehabilitation scheme for the Border Migrants resulting in the better utilization of funds this year.

To further facilitate the State Govt. in improving their fiscal management, a special audit of SRE related expenditure has been undertaken. The ongoing scheme for return of Kashmiri Migrants, such as two-room flats at Budgam are being expedited for which Rs. 18 crore has been released so far. The State Govt. has assured that this scheme would be completed by November 2007. The Ministry is conducting regular reviews for monitoring the expenditure under SRE.”

The Committee, while considering the Demands for Grants for 2008-09, noted that the actual expenditure during 2006-07 was only Rs. 69.31crores as against the allocation of Rs. 120 crores. The Committee also noted that though Rs. 120 crores was kept for 2007-08 (BE), Rs. 100 crore only was kept at RE 2007-08. It was also noted by the Committee that since enough claims were not received from the Government of Jammu & Kashmir, in the BE 2008-09 Rs. 110.00 crore only was kept."

3.0 VIEWS OF REPRESENTATIVES OF J&K MIGRANTS

3.1 The sub-Committee decided to hear Kashmiri Migrants and also the organizations representing them on the subject. In pursuance thereof, it heard Shri. C.L. Gadoo a journalist and also the representatives of All India Kashmiri Samaj, All States Kashmiri Pandit Conference, Panun Kashmir, Kashmiri Samiti, All India Kashmiri Pandit Conference, Jammu Kashmir Vichar Manch, Kashmir Sikh Migrants Forum, Kashmiri Pandit Sabha and Jammu and Kashmir National Panthers Party, in its sittings held on 30 October and 7 November 2007.

3.2 The issues raised and demands made by the witnesses before the sub-Committee are mainly as under:-

(i) The migration of Kashmiri Pandits and other minorities from the Valley in the first half of 1990 took place due to “insecurity of life and honour” felt by them. This was because of the total collapse of the structure of governance and the anarchy that

prevailed in the face of pro-Pakistani movement led by some sections of the people. This was done with the covert support from Pakistan through indoctrination, training, arms and trained manpower.

(ii) The tactics of creating terror among the minorities by making a public exhibition of brutalized killings to paralyze the structures of authority is reflected in the manner and pattern in which politicians, officials and common people are killed.

(iii) There is apathy on the part of the Government in implementing rehabilitation programmes for J&K Migrants and also in implementing directions of various High Courts and the Supreme Court.

(iv) The condition of about 4000 Kashmiri Pandits living in the Kashmir Valley is pathetic. Technically they are not migrants but their condition is worse than that of the migrants.

(v) There should be special budgetary provision for Kashmiri Pandits left behind in the valley for fulfilling genuine needs of housing, employment/self employment and general living.

(vi) A White Paper on causes of sudden exodus of cent percent of a peace loving minority Kashmiri Pandit community from their homes in 4-5 months from January till May 1990 should be issued by MHA, Government of India.

(vii) A Commission of Inquiry should be set up to look into all aspects relating to the exodus, under the Chairmanship of a Supreme Court Judge.

(viii) There should be a constitutionally guaranteed rehabilitation plan (social, political and economic) for displaced Kashmiri Pandits at their present dwellings, till their eventual return to the valley.

(ix) Even though the National Human Rights Commission was of the view that the conditions at the time of the mass exodus were akin to genocide but it did not actually treat the condition as such, as the number of deaths which took place was only 2000. The NHRC, did not even consider declaring the situation as "ethnic cleansing", whereas it is public knowledge that Kashmiri Migrants were targetted because of their religion.

(x) Kashmiri Pandits may be declared as "Internally Displaced Persons' as per the guiding principles on Internally Displaced Persons adopted by office of the UN High Commissioner for Human Rights (UNHCHR). The Government of India should announce a rehabilitation package for them which fully addresses their internal displacement.

(xi) Even though 2000 persons were killed during the exodus, not even a single person responsible for the massacre has been convicted; not a single case has been registered; cases were not investigated; FIRs were not lodged and no arrests were made.

(xii) The investigation of all the cases of massacre and murder of Kashmiri Pandits be made through CBI and trial thereof conducted through Special Courts set up for the purpose. The accused be tried outside Kashmir Valley.

(xiii) Simultaneously, there should be grant of a liberal compensation package with interest, to kith & kin of those killed in terrorist violence or those handicapped by injuries.

(xiv) An apex committee on relief under the Chairmanship of the Revenue Minister of the J&K, had assured that within a period of three months, all encroachments would be got vacated and the details of the Kashmiri Pandits' properties, which had been taken over by the Divisional Commissioner of each District, would be displayed on the internet. However, not even one of those properties has been vacated till now.

(xv) There should be a Custodian of Kashmiri Pandits' properties appointed by the Department of Kashmir Affairs in the Ministry of Home Affairs.

(xvi) All houses of Kashmiri Pandits lying in dilapidated condition should be rebuilt by Government or a liberal grant be offered to owners of the properties to rebuild them. Further, all encroachments should be got vacated immediately by the State Government. A report on the present status of the ownership of the properties in respect of all the cases of encroachments should also be made available by the State Government.

(xvii) The Government should declare all the properties, movable and immovable, sold by the displaced persons after 1989-90 as "Distress Sales" and in consequence declare the sales as null and void. As the District Collectors of respective districts are duty-bound to protect these properties, they must ensure restoration of the properties back to the respective Kashmiri Pandits who were the recorded owners. Security Forces occupying the properties of Kashmiri Pandits may also be evicted immediately.

(xviii) There should be a blanket ban on the acquisition of the properties of Kashmiri Pandits by the State Government. The Jammu & Kashmir Migrant Immovable Property (Preservation, Protection and Restraint on Distressed Sales) Act, 1997 should be implemented *in toto*. It can act as a strong confidence building measure for the community to return.

(xix) Either Kashmiri Pandits may be included within the purview of National Commission for Minorities or a Separate National Commission for Kashmiri Pandits be set up.

(xx) A separate autonomous body for restitution and maintenance of temples destroyed and desecrated after 1989-90 should be appointed. The Government should ensure immediate passage of the Temples and Shrines Bill which is pending with the State Government.

(xxi) Any amount which the Central Government allocates to the State Government is placed under the composite head called "Security Related Expenditure

(SRE)". It is lumpsum expenditure and would be difficult to find out how much has been spent and what has not been. Central and State Governments therefore should earmark corresponding amount in the budgetary allocation, exclusively for Kashmiri Pandits.

(xxii) Recommendations of the high powered inter-ministerial team appointed by Prime Minister, regarding medical fund, immediate employment of 1000 persons and construction of two room flats at existing places of dwelling in Jammu based camps should be implemented. State Government should be advised to give a timeframe for implementing the recommendations.

(xxiii) Central and State Government of Jammu & Kashmir should provide 10% reservation for Kashmiri Pandits in recruitment to all jobs in or under the State Government, its bodies and PSU's as also the Central Government, its bodies and PSUs in the Kashmir Region of the State. The process can start with recently announced 60,000 jobs proposed to be created by State Government in next six months.

(xxiv) In order to instil in Kashmiri Pandits a sense of belongingness to the State, the Government of India and the State Government of Jammu & Kashmir should induct prominent Kashmiri Pandit leaders in Union and State Cabinets.

(xxv) A mechanism should be evolved for enrolment of all migrant Kashmiri Hindus as voters and provide reserved seats according to their numerical strength in the State legislative bodies. The Government should also provide all displaced pandits their constitutional rights to vote for the candidate of their choice for which a system on the pattern of "constituencies in exile" may be created.

(xxvi) Kashmiri Pandits should be included in all multi pronged deliberations aimed at restoring peace in the valley and facilitation of their return to their homes.

(xxvii) There are more than 2200 families of the Jammu Migrants who have not been provided any relief. Because of poverty and hunger, several parents mortgaged their children to ensure survival of the rest of the families.

(xxviii) The High Court of Jammu and Kashmir directed the State of J& K and Central Government to provide relief to the Jammu Migrants at par with the Kashmiri Migrants which were never implemented by any of the Governments. The Supreme Court of India on July 12, 2006, on the appeal by the State Government, directed that the Relief Commissioner may see whether they (Jammu Migrants) have been provided with all relief measures to which they are entitled, as per the policy. The Supreme Court also directed that any arrears to be paid to the migrants shall be made available to them at the earliest. But no steps have been taken to provide relief to the migrants. Immediate steps may be taken to implement the direction of Supreme Court.

(xxix) The sub-Committee should visit Jammu and see the appalling condition of the migrants living in camps.

OBSERVATIONS/CONCLUSIONS/RECOMMENDATIONS

4.1 The Committee is moved by the pitiable condition of the migrants. Over the years the conditions have only worsened as families have grown and there has been no addition to their resources. The unhygienic environment in which migrants live is extremely deplorable. The Committee is, therefore, of the strong view that the Government should give a serious thought to the problems of Kashmiri displaced person and improve their living conditions.

4.2 The Committee also expresses its deep concern over the pathetic condition of about 4000 Kashmiri Pandits living in the Kashmir Valley. The Committee feels that there should be special budgetary provision for Kashmiri Pandits left behind in the valley for fulfilling genuine needs of housing, employment/self employment and improving living conditions.

4.3 The Committee notes with concern that in the absence of adequate and comprehensive policy for rehabilitation, the Kashmiri displaced persons are reportedly being compelled to live in shanty-like camps set up in places like Udampur, Nagrota, Jammu and Delhi. The displaced persons had left behind their properties, household goods, business establishments, agricultural land and other means of livelihood and continuing to lead their lives in scarcity and insecurity. Neither the Central Government nor the State Government has adopted a holistic approach to tackle the problems being faced by the displaced persons. The Committee, therefore, recommends that there should be clear directions by Central Government to all the State Governments and Union Territories to provide relief and rehabilitation on a uniform and holistic basis to Kashmiri Displaced Persons living in those States and UTs. The Committee also feels that all State Governments should provide land to them for construction of houses under group housing schemes and for construction of cultural centres. To the extent possible, registration charges and stamp duty should be waived as per a uniform policy throughout India.

4.4 The Committee is of the view that recommendations of the high powered inter-ministerial team appointed by Prime Minister, regarding medical fund, immediate employment of 1000 persons and construction of two room flats at existing places of dwelling in Jammu based camps should be implemented without further delay.

4.5 The Committee feels that the Displaced Persons living out side the camps need enhanced relief commensurating with the cost of living index and to countervail the burden of rent payments and therefore, desires that the Government should take appropriate steps in that direction immediately. The Committee also desires that the Government should implement the recommendations of the Sushma Chodhury Committee Report on Kashmiri Displaced Person residing outside the camps for improving their condition of living.

4.6 The Committee feels that the Displaced Persons should be encouraged to undertake self employment and micro and small scale industries. For this they require loans from the banks. The Committee recommends that the Government should provide the Kashmiri displaced persons the facilities of seeking soft loans from the banks to enable them to take up self-employment projects for earning their livelihood.

4.7 The Committee understands that the purpose of monthly allowance given to Kashmiri Displaced Persons is to ensure that difficulties and hardships faced by them are minimized and the needy families are provided with a reasonable quantum of sustenance and support. Keeping in view the requirement for a decent living and the expenditure needed to be incurred, the Committee recommends that the Government should consider increasing the monthly sustenance allowance from Rs.1000 per month per head to a reasonable amount commensurate to the current cost of living.

4.8 The Committee strongly feels that the Government of Jammu and Kashmir and the Central Government should take the matter of the health care of Kashmiri Pandits with utmost seriousness and sanction them a reasonably enhanced medical allowance so that they do not die of any ailments due to lack of medical attention. It would be appreciated if the Government also make a provision for providing insurance coverage to Kashmiri Displaced Persons who are leading a miserable life and many of them suffering from ailments.

4.9 The Committee is of the view that given the complexity of the situation, confidence-building measures among the displaced persons are necessary which needs utmost attention on the part of the Government.

4.10 The Committee expresses its serious concern about the criminal intent of vested interests to alter the demography in the State of J & K by not only forcibly ousting the minorities out of the State but also by changing the property rights in the revenue records, so that the migrants are left with no stake to return back to the valley. The Committee strongly feels that appropriate and effective action is required to safeguard the right to properties of the Kashmiri Pandits who have been compelled to fled the state their homes and hearths for fear of their lives and dignity.

4.11 The Committee was given to understand that an Apex Committee on Relief under the Chairmanship of the Revenue Minister of the J&K, had assured that within a period of three months, all encroachments would be got vacated and the details of the Kashmiri Pandits' properties, which had been taken over by the Divisional Commissioner of each District, would be posted on the internet. However, no action appears to have been taken on this front. The Committee, therefore, strongly recommends that the authorities should act forthwith with all

seriousness, to remove the encroachments and instill the much needed confidence in the migrants by undertaking suitable action in this regard in a time bound manner.

4.12 The Committee recommends that all houses of Kashmiri Pandits lying in dilapidated condition should be rebuilt by Government or a liberal grant be offered to owners of the properties to rebuild them.

4.13 The Committee is also of the opinion that the Government should explore the possibility of declaring all the properties, movable and immovable, sold by the displaced persons after 1989-90, as "Distress Sales" and declare the sales as null and void and accordingly restore possession of the properties back to the respective Kashmiri Pandits who were the recorded owners through the custodian of properties duly constituted.

4.14 The Committee strongly feels that there should be a blanket ban on the acquisition of the properties of Kashmiri Pandits by the State Government. The Jammu & Kashmir Migrant Immovable Property (Preservation, Protection and Restraint on Distressed Sales) Act, 1997 should be implemented in letter and spirit.

4.15 The Committee is of the considered view that the word 'migrant' used in the context of the Kashmiri Displaced Persons is not an appropriate expression because the affected persons had been forced to give up their homes and hearths against their own will due to the mayhem caused by the militants. The Committee is also of the view that those persons cannot wait endlessly for normalcy to return to the valley and there is no harm if some such people prefer to settle outside the valley for the sake of their lives and livelihood. The Committee therefore desires that the Government should consider this aspect and announce suitable and appropriate policy measures.

4.16 With the displacement of Kashmiri Pandits from the Valley, they not only lost their homes but also means of livelihood which aggravated their agonies and miseries. The Committee, therefore, recommends the Ministry of Home Affairs to explore all avenues for providing employment to them under the package announced by Prime Minister in 2004 with a time-bound programme.

4.17 The Committee was given to understand that the direction of the High Court of Jammu and Kashmir to provide relief to the Jammu Migrants at par with the Kashmiri Migrants has not been implemented either by the Central or State Governments. The Committee also notes the order dated July 12, 2006 of the Supreme Court that the Relief Commissioner may ensure whether Jammu Migrants were provided with all relief measures to which they were entitled as per the policy and any arrears to be paid to the migrants should be made available to them at the earliest. The Committee expresses its anguish that no step have been taken to provide relief to the Jammu Migrants. The Committee recommends that immediate steps may be taken to implement the directions of the Supreme Court.

4.18 The services of Kashmiri Displaced Persons who have been appointed as Teachers on ad hoc basis in MCD and Government of NCT of Delhi Schools, should be regularized. The Committee was given to understand that there are cases where Kashmiri teachers have been working on contract for the last thirteen years. The Committee is of the view that all such cases should also be regularized as soon as possible.

4.19 The Committee recommends to the Government to examine the demand made by the Kashmiri Displaced Persons for providing constitutionally guaranteed schemes for their social, political and economic upliftment and come out with appropriate measures.

4.20 The Committee takes a serious note of the fact that the actual expenditure on account of implementation of rehabilitation programmes for J&K displaced persons during 2006-07 was only Rs. 69.31 crore as against the allocation of Rs. 120 crore and against Rs. 120 crore kept for 2007-08 in BE, only Rs. 100 crore was provided at RE 2007-08. The Committee once again took serious note that as enough claims were not received from the Government of Jammu & Kashmir, only Rs. 110.00 crore was kept in the BE 2008-09. The Committee in its successive Reports, i.e. 119th, 126th and 130th Reports, urged upon the Ministry to impress upon the J&K Government about the necessity of sending schemes expeditiously and implement them in time so that all the J&K Displaced Persons are rehabilitated without further delay. In spite of those recommendations, it is unfortunate that the Government of J & K has not taken requisite action.

4.21 At the same time, the role and responsibility of the Ministry of Home Affairs do not end by merely requesting and advising the State Government. It has to play a proactive role in the matter and vigorously pursue with the Government of J&K at the highest level so as to convince the latter the need for formulating rehabilitation schemes and sending them on time to the Central Government for further action.
