

Future of Human Rights of Kashmiri Displaced Persons

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Abstract

Human rights are commonly understood as inalienable fundamental rights to which a person is inherently entitled simply because she or he is a human being. Kashmiri Displaced Persons are also human beings so they are also entitled to all these human rights. But their human rights are violated by militants in the Kashmir Valley to such an extent that they have no choice except displacement from the Valley leaving their beautiful houses. After displacement the conditions of most of the Kashmiri Displaced Persons is no better than slums. The government had failed to stop the mass exodus of Kashmiri's from the Valley during 1990's which was due to militant atrocities. Even after 21 years of Displacement of Kashmir's the government is unable to return and rehabilitate them to their native place the Kashmir Valley. They are facing hardship to live in the environment which is not suitable to their physique and health and in finding employments, business, etc. The objective of this paper is to enquire about the future of human rights of the Kashmiri Displaced Persons. The paper is based on the doctrinal and empirical research. For doctrinal research the researcher have gone through the primary and secondary sources of data and for empirical research the researcher has collected the data from the office of the Relief and Rehabilitation Commissioner (M), Jammu, Government of Jammu and Kashmir. In conclusion the researcher puts emphasis on the immediate return and rehabilitation of the Kashmiri Displaced Persons with suggestive measures.

Introduction

All human beings are born free and equal in dignity and rights.¹ Everyone has the right to life, liberty and security of person². No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.³ Human rights are commonly understood as "inalienable fundamental rights to which a person is inherently entitled simply because she or he is a human being." Human rights are thus conceived universal and egalitarian. These rights may exist as natural rights or as legal rights, in both national and international law. Internally Displaced Persons (Kashmiri's) are also human being so they have also entitled to all these human rights.

¹ Article 1 of Universal Declaration of Human Rights, 1948.

² Article 3 of Universal Declaration of Human Rights, 1948.

³ Article 5 of Universal Declaration of Human Rights, 1948.

The provisions of the United Nations Charter provided a basis for the development of international human rights protection.⁴ The Universal Declaration of Human Rights (UDHR) provides that the state has the responsibility to protect the human rights of their citizens. In 1966, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) were adopted by the United Nations, between them making the rights contained in the UDHR binding on all states that have signed this treaty, creating human-rights law. Since then numerous other treaties have been offered at the international level. They are generally known as *human rights instruments*.

In spite of all these covenants, conventions, and treaties (many of which were ratified by India) the government of Jammu and Kashmir, Government of India failed to protect the cultural and other rights along with the freedom of residence of these peace loving Kashmiri's. Not only this, even after 21 years of the mass exodus of Kashmiri's both the Central and State Government failed to rehabilitate and return them to the Kashmir valley their native place. Both these Governments failed to follow the Guiding principles on internal displacement, which lay out the responsibilities of states to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction before, during and after displacement⁵.

The militants in Kashmir have tarnished the image of Kashmir and have depicted and painted ugly, gloomy and dark picture of Kashmir by repudiating and negating all that was marvelous about Kashmir. Coupled with the sinister policies of the State and Central rulers, militancy caused mass exodus of the Kashmiri's (many of which are Hindu's) from the Valley. The displaced persons feel pained on their plight as also on reminisce connected with Kashmir, which they yearn for.

The militants unlike others singled out a minority community in Kashmir and meted out hostile, horrible and inhuman treatment to this community. The members of this community were not killed in a simple manner but slaughtered barbarously setting a grim example all over the world. The State of Jammu and Kashmir has enacted the Protection of Life Act to protect "Hangul" (Kashmiri stag), a mere species of animal in Kashmir. But Kashmiri's (bulk of whom is known as Kashmiri Pandits) has been allowed to be slaughtered barbarously and flee.

⁴ Article 55 of the United Nations Charter 1945,

⁵ Clause 1 of Principle 3 of Guiding Principles on Internal Displacement.

It is very shameful for the Central as well as the Government of Jammu and Kashmir who failed to give them protection from violence done by militants on them and providing relief after displacement. Where has the message of mercy of God's son Christ Gone? What happened to the Prophet Mohammad's teaching of tolerance? What has gone wrong with the preaching of Lord Rama's humility and humanity? Why has Lord Buddha's message of peace and non-violence been ignored? That today we are having a long listed developed human Rights concerning to the protection of all individuals and groups without any discrimination of any kind as to race, caste, colour, sex, community national or social origin, financial capacity, etc., etc. but still the no. of cases of violation of human rights of people are being increased day by day. People of today's world are being scared from the violation acts of antisocial elements, groups and even sometimes from its own states.

Constitution of India guarantees in Part III, right to live with dignity (Art. 21), prohibition of discrimination on the grounds of religion etc. (Art. 15), right to practice any profession, or to carry on any occupation, trade or business (Art. 19 (1) (f)), right against exploitation (Art.23 and 24), right to freedom of religion (Art. 25 to 28). All these guarantees are available to the permanent resident of the State of Jammu and Kashmir through Section 10 of the Constitution of Jammu and Kashmir. Then why these rights of Kashmiri Hindus are being violated and why not the government had protected their rights? Under article 47 of Part IV of the Constitution of India it is the duty of the State to raise the level of nutrition and the standard of living and to improve public health but the State is failed to provide such facilities to Kashmiri Displaced persons. There is also the Protection of Human Rights Act 1993 which provides for the composition of National Human Rights Commission to give recommendations relating to human rights violations in India, but this institution does not seem fruitful as it has no enforcement power. Constitution of Jammu and Kashmir, Jammu and Kashmir The Ranbir Penal Code, The Jammu and Kashmir Criminal Procedure Code which not only provides for protection of persons but also provides for punishment for those who violates human rights of others. But it is the matter of shame for our Government which had not provided protection to the Kashmiri's inspite of all these laws and Acts.

The Kashmiri displaced persons need to be rehabilitated with their return to the Valley, their birth place, along with compensation and with the promise of security from human rights

violence against them. It is required that Government should rehabilitate the Kashmiri displaced persons as early as possible so that they can enjoy their life with grace which is the prime objective of the Constitution. The paper aims at to discuss causes of displacement of Kashmiri's, the problems faced by Kashmiri Displaced Persons who have been the sufferer for many of the years. The paper also suggests some protective measures which can be used for improving their conditions and for their rehabilitation.

Internally Displaced Persons: Kashmiri Hindus

There is no legal definition as there is for a refugee. However, a United Nations report, Guiding Principles on Internal Displacement uses the definition: internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.⁶

Kashmiri's were forced to flee their homes in the Valley from 1990 onwards. They have settled elsewhere, with large numbers relocating to Jammu and New Delhi⁷. Only about 3,000 remain in the Valley⁸. According to Government of India estimates, there are over 55,000 Kashmiri Pandit families outside of the valley of whom nearly 35,000 are in Jammu, 19,000 in Delhi, and 1,000 in other parts of India. The long displacement of the Kashmiri Displaced Persons has led to a loss of identity especially among the younger generation⁹. During 1990-1991, in a spate of terrorist violence, 24, 00 people have died so far, and 300,000 people have been driven out of their homes. Pakistan's involvement in this carnage of violence is beyond doubt.

⁶ Deng, Francis. "The guiding principles on internal displacement". *E/CN.4/1998/53/Add.1, February 11. New York, NY: United Nations*. New York: United Nations. Retrieved 2007-10-23.

⁷. International Crisis Group (ICG), 21 November 2002, pp.1-2

⁸. Indo-Asian News service (IANS), 19 November 2008

⁹. Info Change News & Features, July 2008

Displacement of Kashmiris

The secessionist violence on an unprecedented scale erupted in the Kashmir Valley in 1989. The main organizations which launched a crusade against the Kashmiri's were the Jamait-e-Islami, Jamait-ul-Tulba, Peoples league and Muslim United Front. The entire vernacular Press and Muslim clergy plus certain elements in the administration gave their unstinted support to the separatist and fundamentalists plan designed to evict the entire Pandit community from the Valley and Islamize everything.¹⁰ Some of the Militants and fundamentalist outfits did try to involve the Pundits in their anti- India and pro-“Nizam-e-Mustafa” struggle by holding out a promise that they would be given protection as a minority in the Muslim State to be governed in accordance with the Islamic tenets. Some of them even asked to abandon their religion and culture and embrace Islam.¹¹

Determined as they were to preserve their 5000- year- old identity and culture, the Kashmiri Pundits resisted the “Islamic onslaught” for some time. In the process they suffered humiliation at the hands of the “zealots” who strove to the hilt to denigrate their history and culture. Their business establishments, temples and residential quarters were attacked. Their women were raped and dishonored. Several hundreds of them were brutally tortured and murdered. In fact, the terrorists perpetrated all kinds of crimes. Torture deaths were brought about by inhuman practices which included “stitching the lips of victim before killing him and nailing the chest and feet of the poor man till he bled to death¹², Strangulation by using steel wires, hanging, impaling, branding, with hot irons, burning alive, lynching, gouging of eyes before assassination, slicing, dismemberment of limbs, drowning, garaging to death, draining of blood and slaughter.”¹³

That they were subjected to torture of worst form is seen from the following instances catalogued in the M.K. Teng's *White Paper on Kashmir*¹⁴:- 1) Brij Nath Shah was kidnapped on April 27, 1990, from his home at Sadhu Ganga, Kupwara. Two days later, his

¹⁰ Om, Hari, “Beyond the Kashmir Valley”, Har-Anand Publicatios pvt. Ltd. Printed at print Line – New Delhi. PP. 105

¹¹ Ibid. P.105

¹² Jha, Himanshu Shekhar, “uprooted Pundits living in misery,” *Hindustan Times*, Aug.15.1995.

¹³ Teng, M.K. *White paper on Kashmi r* Jeoffry & Bell Inc.(N.D) Publishers, Delhi, P. 87

¹⁴ Ibid.

body was found hanging by a tree. 2) Sham Lal of Chiragam in Anantnag, Kashmir, was kidnapped in May 1990. The hands and feet of the man were chopped off, his skull battered. Sham Lal's body was stuffed in a sack and left on the threshold of his house, wherefrom it was recovered by his brother. 3) Prem Nath of Uttarsn in Anantnag district kidnapped on May 27, 1990. His body was found impaled; his chest and feet nailed. 4) Three officials of the Life Insurance Corporation of India were kidnapped in Srinagar. They were subjected to torture and then confined in an abandoned Kashmiri Hindu house. The house was set ablaze. Two of the officials were burnt alive, while the third official escaped with more than 50% burn. 5) Bushan Lal of Ompura in Budgam, Kashmir, was kidnapped on April 27, 1990. He was tortured and then strangulated to death. His body was found next day. 6) Girja a School teacher in Bandipora, was kidnapped from the house of a Muslim colleague. The women, after being gang raped, were sliced on a mechanical saw. 7) Brij Nath Kaul of Herman, Shopian, an employee of the Agriculture Department, and his wife were tied to a speeding vehicle. Their mangled bodies were recovered ten kilometers away from their home. The dead bodies of several Kashmiri Pundits were salvaged from various places in Kashmir. Their heads had been severed off. And, several dead bodies of Pundits were recovered which had been branded by hot irons before death. Several bodies were found with eyes gouged out.

The most “dastardly and inhuman acts of terrorism were”, according to Teng, “those committed in hospitals, where the Hindus brought in for treatment after being injured in terrorist attacks were either allowed to die for want of treatment or brutally murdered by the doctors and others who collaborated with the terrorists. A number of cases were reported where the injured Hindus were allowed to bleed to death. Scores of cases were reported where the kidnapped Hindus were drained of their blood and their lives were terminated.”¹⁵

The victim of militancy did wait and wait and wait for the Government to come to their rescue and perform its legitimate duty. But the authorities remained totally indifferent. Unable to withstand the April 14, 1990 terrorist “threat to leave the valley within 48 hours or face death,” the minority ultimately decided to quit the Valley, leaving behind property and

¹⁵ Ibid P. 88

everything worth thousands of crores. The Kashmiri's plight from the valley was sequel to a plan hatched well in advance from outside the State.¹⁶

The Muslims like Gulam Nabi Mir of Kandi, Kupwara, did come forward in defense of Pundits and to protest the terrorists busy in clearing villages of all Pundits. But they, according to Hamida, wife of slain Gulam Nabi Mir, were done to death. Hamida told Soma Wadhwa of *the Sunday Observer* in April, 1993 that "the militants hung him (Gulam Nabi Mir) when he protests against them. And, then threw him in rivulet. When we found him, his body was found swollen beyond recognition. Not one Muslim came for his burial- Gulam died labeled a Hindu *mukhbir* (informer) My reputation was ruined beyond repair – after all, I was the widow of a *mukhbir*. I would have been hacked to death had I stayed on in the village. So I ran for my life, for the life of my children. I came empty-handed, but with a heart of brimming with pain,"¹⁷

It is pertinent to mention here that the exodus, which started with the migration of Kashmiri Pundits, had affected all communities. In fact, their migration was accompanied by non- Kashmiri Hindus, several Sikh families and hundreds of secular Muslims who opposed the "Jehad" for the country's unity and integrity. By the middle of 1990, the total number of Sikhs and Muslims, who has registered themselves for relief in Jammu, had gone to 18000 and 800, respectively. A big chunk of Muslims migrants were activists of nationalist parties, relatives of political leaders and employees. They migrated following the kidnapping Prof. Mushir-ul- Haq, vice- Chancellor of Kashmir University, and spurt in the killing of political personalities.¹⁸

Causes of Displacement Kashmiri's During 1990

Between 1946 and 1990, they suffered silently despite grave provocations like the abduction in 1967 of their young girl, Parmeshwari Handoo,¹⁹ by a Muslim colleague in the Co-operative Department, who later forcibly married her; the 1981 decision of the Sheikh Abdullah's Government to replace the names of no less than "684 villages with Islamic ones"

¹⁶ Om, Hari, "*Beyond the Kashmir Valley*", Har Anand Publications Pvt. Ltd. Printed at Print Line New Delhi.P.108

¹⁷Wadhwa, Soma, "*Exiled in Jammu: To return means death.*" *the Sunday Observer*, April 18-24, 1993.

¹⁸. "Kashmiri Muslims migrated from Valley," *The Times of India*, July 16, 1990.

¹⁹. Sharma Shiv Chander, "Discriminated, exiled....in own land," *The Tribune*, Aug. 8, 1995.

and burning down of their temples and properties in Anantnag in 1986, which culminated in the “forced expulsion of (several) Hindus”,²⁰.

Referring about the fate and flight of Kashmiri Hindus, the book on Kuka Parry says: “..... In the mid-1990, the terrorist organization of Jamaat-a-Islami, Called Hizbul Mujahideen, came in the open to make their intentions clear: Through an English Daily, they granted 24 hours’ time to the Pundits to leave the Kashmir Valley, which caused exodus of major minority community of Kashmir from their birth place.”²¹

Once a group of militants asked a Kashmiri Hindu family to prepare the beef as this family was having a calf which the militants slaughtered. They cooked beef for them and ran away early the next morning from their house and migrated to a place outside the Valley, as the family could not put up with the mental shock of cooking beef.²²In a case *Mohd. Quareshi v. State of Bihar*²³ a question was raised whether the prohibition of cow slaughter affected the religious rights of Mohamedans. It was contended that the sacrifice of a Cow on the Bakar-id Day was enjoyed by the Quran and/or was a part of religion. Supreme Court held that the evidence was very unsatisfactory and the petitioner had not made out their case. It needs to mention here that Cow slaughtering and the sale of beef is prohibited in Kashmir under the State law and violation thereof is punishable offence.

Not only the Hindus but also the Kashmiri Muslims are not safe in the Valley (For instance many Muslim girls were lured to cross over to Pakistan to receive training in militancy. Their trainers and others connected with the adventurism showed these girls their full “sympathy” by sexually assaulting them. A large number of such unmarried girls have reportedly conceived and most of them have retained in Pakistan. It is also one of the reasons that many Muslim families migrated from Kashmir to Jammu and other parts of the country.

²⁰. Mukherji, Saradindu, “Kashmiri Migrants are refugees”

²¹. “Syed Sikander Shah Kashmiri”, Jang MagarJariHai, (Urdu) pp.246-47.

²². *Ibid.* p.318

²³. (1959) SCR, 629,680,(58) ASC, 731

They want to save themselves and their honour and spare their daughters and sisters from likely threat of mortification in the prevailing conditions.)²⁴

It is not wrong if we say that the uncontrolled militancy and Displacement of Kashmiri's from the Kashmir Valley is the result of lack of leadership in the Valley and negligence on the part of the Central Government.

Kashmiri Displaced Persons Cry for Future of their Human Rights

Ever since April 1990, the Kashmiri Pundits have been leading a nightmarish existence in exile. Crowded in tents and one room tenements under insanity conditions, dependent on doles for survival and without any prospect of returning to their beautiful Valley, they have been living a life of misery ever since the Pakistan-sponsored insurgency took a turn for the worse in the Valley.²⁵

There are indeed cogent reasons for the Kashmiri Displaced Persons to cry loudly for some effective political tools which protect and promote their distinct identity and personality, as also vest in them absolute powers to shape and mould their own future themselves within the Valley and under the Indian Constitution. It would not be out of place to point out that this is not the solitary occasion in the Kashmir history that the Hindus have left the Valley following terrorist attacks. They have been witnessing such agonizing situations from the beginning of 14th century, when Swat adventure and fortune –hunter, Shah Mir, usurped the throne of Kashmir and thereafter very discreetly sought to induce the aborigines to renounce their over 4000-year old religion and culture and adopt the faith of Muslims. (According to one estimate, as many as 37,000 Kashmiri Pundits embraced Islam during the reign of Shah Mir²⁶)

²⁴."Crisis in Kashmir" by Pyarelal Kaul, Printed and Published by Susheel Vakil at Tarany Printer's, Laxminagar, Delhi-92, p. 326.

²⁵. Hussain, Altaf, Kashmiri Pundits aliens in their land ," *The Times of India*, Dec.9;

Joshi Arun, "Kashmiri Pandits ignored," *The Hindustan Times*,27,1993;

Ved Mahindera, Kashmiri migrants' camps no better than slums, "*The Times of India*, July 5, 1995; Jha Himanshu Shekar, "Uprooted Pundits living in misery, "*The Hindustan Times*, Aug. 15, 1995 :Bhargava, G.S., "politisation of the plight of Kashmiri Pundits," *Koshur Samachar*, April 1997.

²⁶. *the Sahayogi Times*, Jammu, Dec. 10-16, 1995

The fact is that with the demolition of indigenous rule in 1339 that there began an era²⁷ which confronted the locals with a choice between religious persecution or proselytisation and migration. A majority of those relatively weak, gullible and unwilling to relinquish their original habitat and landed property preferred to embrace the new faith, But those with a spirit to suffer outside the land-locked Kashmir Valley for all they regarded very dear look to migration-the process which dotted the Valley's socio-religious and political scene with migration "seven times"²⁸till April 1990, when all but a handful of Kashmiri Hindus vacated their homes and hearths to become refugees in their own what we call "democratic and secular India"

Kashmiri Displaced Persons form an election forum to contest elections in order to save the future of their generations to come and to put their voice before the legislative assembly .In April 1995, the organizations like the All State Kashmiri Pandts Conference (ASKPC), Kashmiri Pandits Sabah (KPS), All India Kashmiri Pandits Sabah (AIKPS), All India Kashmiri Samaj Migrant Action Committee (AIKSMAC) jointly formed the Displaced Kashmir's' Election Forum (DKEF) for contesting the proposed assembly elections and demanded the transfer "three to five Assembly constituencies from the Valley to Jammu so that they could also contest election and send their representatives to the Assembly".²⁹However, their demand was rejected out of hand by the authorities. Consequently, their hope that they would be able to place their point of view on the floor of the Assembly dashed to the ground.³⁰

As a matter of fact, while organizations like the All State Kashmiri Pandts Conference (ASKPC) have been vouching for a dispensation that not only "reorganizes the scattered Hindu minority in a manner that will create a security zone with concentrated Hindu population in the Valley" but also recognizes its right to determine its own political future itself,³¹ the outfits like Panun Kashmir, PKM, IAKF and daughters of Vitasta have been advocating that "four percent (8,4000) sq.kms." of the land area in Jammu and Kashmir north-east of Vitasta be set apart

²⁷.R.K. Pramu's, "A History of Muslim rule in Kashmir" (1969)

²⁸.*The Sahayogi Times*, Dec. 10-16 and 25, 1995 and Jan. 26 and Feb. 18, 1996

²⁹. Kak, M.L., "Constituencies in exile' sought", *The Tribune* April 15, 1995.

³⁰. OM, Hari, "*Beyond the Kashmir Valley*", Har-Anand, Publications Pvt. Ltd. Printed at Print Line, New Delhi, p.119

³¹.*Future of Kashmiri Hindus*, All State Kashmiri Pundit Conference, Jammu, July 15, 1990

forthwith for the setting up of “homeland” for the Kashmiri Hindus: that the area so earmarked be granted the “status of Union Territory”; And that the “proposed Union Territory must grantee undiluted flow of the Indian Constitution, which stands for democracy, pluralism and freedom.”³²

Rehabilitation of Kashmiri Displaced Persons

The victims of militancy did wait, wait and wait for the government to come to their rescue and perform its legitimate duty. But the authorities remained totally indifferent. Due to the 1990's terrorist threats from militants they leave the Valley to save their lives. It needs to be mention here that as per Guiding Principles of Internal Displacement it is duty of the Government of India to identify rights and guarantees relevant to the protection of Kashmiri Displaced Persons from further forced displacement and to their protection and assistance during displacement as well as during return or resettlement and reintegration.

Both the State and the Central government have taken many steps for the relief and rehabilitation of the Kashmiri Displaced Persons. The Govt. of Jammu and Kashmir created Relief Organization in 1990 for the Relief and rehabilitation of the Kashmiri displaced persons. This Organization continues to provide facilities to the Kashmiri displaced Persons since 1990 and has established field offices at various places for their convenience.

In 1997 the State Govt. constituted a Committee called Koul Committee for suggesting a plan for return and rehabilitation of Kashmir migrants. The Committee in 1997 submitted an interim report for rehabilitation of Kashmiri migrants in valley involving an amount 2799.00 crores. But no action was taken on the report.

³². Ashwani Kumar, “ReturnofKasmiri Pundits with security and dignity” , *KoshurSamachar*, Jan. 1997;
 Raina R.R., “Panun Kashmir” , *KoshurSamachar*, June ,1994;
 Sazawal, Vijay Kumar, “The Making of political demand” , *KoshurSamachar*, Oct. 1994;
 “Homeland for Kashmiri urged”, *The Times of India*, June 11, 1993,
 “Pundits renew homeland demand”, *The Times of India* ,Dec.25, 1993:
 “Migrants reiterate plea for homeland,” *The Times of India*, July 11, 1993;
 “ Panun Kashmir demands U.T.in Valley,” *The Indian Express*, Sept.17,1993;
 Kaw, Sanjay, “Homeland call may fuel secession,” *The Times of India*, Dec.27, 1993;
 “Pundits meet calls for saving culture,” *the Times of India*, Dec. 28, 1993.

During the year 2004 the Government decided to construct transit accommodation at Sheikhpora and Mattan in order to provide temporary shelter to such displaced family who would return to valley. These flats have been constructed by J&K Housing Board. Prior to 2008, no policy or package was available for return and rehabilitation of Kashmiri displaced persons. However, in view of the improved situation the Govt. of India sanctioned a package called the Hon'ble Prime Minister's package of Rs. 1618.40 crores for their return and rehabilitation. The Package provides for Rs.7.50 lakhs as cash assistance for construction or renovation of house, Transit accommodation for a period of six months, Scholarship to the School going children at the rate of Rs.750 per month, employment package for 6000 unemployed displaced Kashmiri youth. 3000 to be borne by Govt. of India and 3000 by State Govt., Subsidy for installing income generating units, cash assistance for re-cultivation of agricultural or horticultural land up to a maximum ceiling of Rs.1.00 lakhs and Rs.1.50 lakhs respectively etc.³³ (Information from the Office of the Relief and Rehabilitation Commissioner (M), Jammu, Government of Jammu and Kashmir, See Annexure II)

So far no family has returned to valley. However, providing of employment to unemployed Kashmiri youth is expected to be the beginning of the return of Kashmiri migrants to Valley.

In the third week of December 2009, Jammu and Kashmir government issued a notification laying down mechanism for the recruitment drive to 3000 jobs for the "migrants" under Prime Minister's package.

The Government of Jammu and Kashmir is giving cash relief of Rs 600 per head per month, subject to a maximum of Rs 2400 per month per family plus dry rations: nine kilos of rice, two kilos of atta (flour) per person and one kilo of sugar per family per month. The Government of Delhi is also providing the same rate of cash relief plus basic dry rations. The rates have been revised for Jammu and Kashmir and Delhi as on April 1, 1999. Other State or UT Governments, where Kashmiri migrants are residing, are also giving relief as per the rates prescribed by them. Both the Central and the State Governments are keen on the return of migrants to their homes and the State Government is engaged in the preparation of a detailed

³³. Information from the Office of the Relief and Rehabilitation Commissioner (M), Jammu, Government of Jammu and Kashmir

action plan in this regard. The matter of safe and honorable return of migrants to their native places in the Valley has been assigned the topmost priority by the State Government. A comprehensive policy for the return and rehabilitation of Kashmiri migrants is under formulation by the State Government.

There are 29,074 migrant families registered in Jammu, 19,338 families registered in Delhi and 2,710 families registered in other States. Out of this, 4674 families are staying in relief camps in Jammu and 235 families are staying in relief camps in Delhi. In Jammu, where a sizeable number of migrants are staying in relief camps, migrant families have been provided with one-room tenement accommodation. Necessary physical facilities like water, electricity, sanitation, etc., have been provided free of cost. There are 12 dispensaries within Jammu to provide medical facilities. The living condition of the migrants in these camps is closely monitored by the Ministry of Home Affairs to make improvements. In 1996, the then Prime Minister announced a special package of Rs 66 million for improvement of facilities in Jammu camps. The amount was utilized on construction of one-room tenements, Sulabh-type toilet complexes, drainage systems and school buildings. A sum of Rs. 20 million was released from SRE in late 1998-99 for improvement of living conditions in Jammu camps.

Conclusion and Suggestions

What they need is their immediate rehabilitation in the Valley and a political instrument which saves them in future also against all odds and fundamentalists and defends and promotes their political, cultural and economic rights. Their rehabilitation in the Valley has become all the more imperative in view of the fact that their population is declining very fast because of the low birth and high mortality rate among them. And, among the reasons responsible for a fast fall in their population, the important ones are: premature menopause in women, hypo-function of the reproduction system, lack of adequate accommodation and privacy, delayed marriages and reproduction or no reproduction at all, sun-stroke and snake bite. All of us need to come forward to protect the fast shrinking Pundit population and empower it politically and thereby establish our credentials as the champions of pluralism, cooperative federalism and secularism.

Some of the Suggested measures for the Relief and Rehabilitation of internally displaced Kashmiri Hindus are as following:-

1. Kashmiri Displaced Persons should be consulted on issues regarding their return to the valley and rehabilitation.
2. Special cell should be set up to deal with the problems of the Kashmiri Displaced Persons community.
3. Cash assistance should be enhanced from time to time.
4. Proper compensation should be given to them.
5. The migrant families, engaged in agriculture and horticulture must be given the required assistance to renew their occupation in the field.
6. The conditions should be improved for their return and rehabilitation with security and dignity of their life.
7. Good and hygienic accommodation should be provided to and grants till they are completely rehabilitated and return to Kashmir.
8. A separate institution for the redressal of grievances of Kashmiri displaced Persons should be set up with proper funding by the government.
9. Demand of separate homeland for internally displaced Kashmiri Hindus should be considered by the both central and State governments respectively.
10. Guiding principles should be followed for the protection, relief and rehabilitation of Kashmiri displaced persons.
11. Principles contained in the international instruments should be followed for the Protection and rehabilitation of Internally Displaced Kashmiri Persons.
12. The Supreme Court should consider the case of Kashmiri Displaced Persons as Public Interest Litigation and direct the State as well as Central government for their immediate rehabilitation with proper arrangement of security and compensation.
13. Strict laws should be enacted by the State legislature to combat militancy so that situation like mass exodus of 1990 could not be repeated.
14. Constitutional safeguards should be effectively implemented for their protection.
15. The provisions of the Jammu and Kashmir The Ranbir Penal Code and Jammu and Kashmir Criminal Procedure Code should be strictly followed so that the Incidents like that of 1990's will not be repeated.

16. Proper punishment should be given to those who are responsible for Displacement.
17. Fundamentalism should be curbed.
18. Political empowerment should be granted to Kashmiri displaced Persons.
19. National Human Rights Commission and Jammu and Kashmir State Human Rights Commission should be given wide investigation and enforcement powers for providing protection and assistance to the internally displaced Kashmiri's.
20. NGOs should be encouraged to work for their return and Rehabilitation with sufficient funds.
21. Constitutional minority status should be given to the Kashmiri displaced persons.
22. Exodus is not migration. Therefore their return is governed by established norms of return of IDPs set forth by the UN Guiding Principles for IDPs.
23. Proper nomenclature of IDPs should be given to Kashmiri Displaced Persons instead of branding them as "migrants".
24. Relaxation in upper age limit should be given to them because most of them are over-aged for normal recruitment in government service.
25. Separate reservation should be given to Kashmir displaced persons in armed forces, police, and civil services.
26. Separate political reservation should be fixed in State assembly and Parliament for internally displaced Kashmiri Hindus.
27. Political will is required to be established without which the return of the internally displaced Kashmiri Persons are not possible.
28. Last but not the least people of Jammu and Kashmir particularly Kashmiri Muslims should come forward with their helping hand for the return and rehabilitation of the internally displaced Kashmiri Persons.

Rehabilitation of internally displaced people is essentially a matter of goodwill generated between the majority and the minority. Positive role of political leadership on both sides is a crucial catalyst to this process. In the absence of political will, neither the bridges of understanding can be created nor the concept of peaceful co-existence implemented. Rhetoric is different from what the ground situation is.

Once the return of the natives to the valley is recognized as an important factor of social cohesion, the question before the committee will be to hammer out a consensual blueprint of rehabilitation. Though return to homeland has been the common refrain of all Kashmiri Displaced Persons organizations ever since in exile yet views on modus operandi of rehabilitation plan have often been divergent. No attempt should be made to bulldoze the varying views and the principle of free expression of ideas should prevail. This is how the traumatized community can be restored its lost confidence.

References