

MAKE INDIA STRONGER

The policy which India has adopted these days to bolster defence capabilities under the Prime Minister Narendra Modi regime seems to be the best among all as looking into the situation across the world especially in Russia and Ukraine one can understand that self-reliance in safeguarding a country's interests is utmost necessary. In this context, Defence Minister Rajnath Singh has rightly said that India has no option but to make itself stronger to ensure its defence, peace and stability as the world order is changing rapidly. The country is fortunate enough that during such critical times when the world is passing through ups and downs or various kinds, the Government in India is strong enough to sustain all kinds of pressure without allowing anything detrimental to the country. Like the situation in Russia and Ukraine, India is also facing multiple challenges with countries having common borders but due to the strong government sitting at New Delhi the people of the country are carefree as everything is being looked after satisfactorily by the PM, HM and Defence Minister of the country. The veracity of the aforesaid assertion can be checked easily by taking a look at the situation along China border in eastern Ladakh and of course the rejuvenated truce pact along LoC. There are a lot of things happening in the world that is affecting India therefore it is vital that the country becomes stronger to ensure defence, peace and stability. One can gauge the situation well after looking into the reactions of the neighbouring countries after India took a decision to buy Rafale fighter jets from France. Both China and Pakistan had become restless and started revamping their defence stocks making it necessary for the country to remain two steps ahead of the both countries. The thing which is soothing for the people of the country is that the country is in safe hands and whatever is necessary to ensure safety of the country will be done well in advance by the trio-the PM, the HM and the Defence Minister.

POLICE MODERNIZATION NECESSARY

The need of the time is to equip police and other security edifice with all the state of the art modern technologies to counter the crime and criminals who have gone ultra modern possessing the latest gadgetry and high-end technology. The sophistication in crime has changed the scenario as police with land-line phones and cane in the hands can no longer prove effective when criminals have remote control of multi-faceted drones which can do anything and everything sensing touch of their masters on the dedicated remote controls. In this context, Home Minister Amit Shah has rightly averred that policing in the country should be upgraded as conventional policing is full of dearth and lacunae which are making it handicapped in front of hi-tech outlaws and unprecedented crime scenes. Linking the police force with modern technique and the requirement for making it part of training thus has become necessary to effectively counter crime and criminals. Even a child knows that narcotics, counterfeiting, Hawala and cyber crime cannot be solved without modern technique although measures like beat patrolling generate satisfaction among the populace. It is good that the conventional tag of a corrupt police system has changed now with honest officers and staff taking the charge and the police stations becoming model places to visit and seek assistance in various kinds of issues. Unlike earlier instances where visiting police stations was used to be the last option for the people who were afraid of the men in khaki due to obvious reasons, the situation now has changed and people fearlessly seek help from cops. The relatively new threat is cyber crime which can only be tackled by technological advancement. Though police are working on the matter, the pace of offenders is extraordinary as these crimes are changing on a daily basis thus making it necessary for the cops to remain abreast and update themselves with the latest innovations. No doubt, the passion of policing is still at the top to make this force vibrant but adopting technology is also something which matters much and cannot be ignored under present circumstances.

YOUR COLUMN

KPs have high hopes from PM's visit

Dear Editor,

We, the victim Kashmiri Pandits, have high hopes from the visit of Prime Minister Narendra Modi to Jammu on April 24, 2022 and hope that following burning issues and genuine demands will seriously be considered: -

1. One place settlement of displaced KPs at 'Land of Kashyap' in Kashmir valley to live as a community together under constitution of India and granting of indigenous status to unique community of Kashmiri Pandits which has more than 5000 years of history.
2. High level commission of enquiry to be constituted to probe for genocides, ethnic cleansing and mass exodus of KPs in 1989--90.
3. PM package to be delinked from KPs' return to valley, its benefits to be given at present locations of displacement.
4. KP Shrine bill to be passed at the earliest in order to safeguard and maintenance of KP temples and shrines in valley.
5. Registration of FIR and action against all those who are responsible for KPs' massacre and other killings, looting and ransacking of property during turmoil.
6. Granting four constituencies for displaced KPs in the valley and one seat each in Rajya Sabha and Lok Sabha.
7. Release of 50 per cent of pending amount against ex-gratia granted to displaced KPs in lieu of their houses burnt and damages during turmoil.
8. Displaced KP youth be appointed in Central Government departments / undertaking like railway, LIC, Income Tax, customs and taxation, IB, CBI and others.
9. One time financial assistance to be given to overage KP youth of Rs 50 lakh to start their own business.
10. Nullifying distress sale of KPs' land & property since 1990 to till date.
11. Providing safe and secure accommodation to all PM package employees.
12. Interests of traders and shopkeepers should be safeguarded, shops allotted at railway stations from Jammu to Srinagar.
13. Bifurcation of migrant ration cards.
14. Jagti type quarters to be constructed at Delhi /NCR for displaced Kashmiri Pandits.
15. Allowing delegation of displaced KP, leaders & other representatives to meet Prime Minister and Home Minister.

Kundan Kashmiri,
President, Kashmiri Pandit Conference

There has been no regular count of 1947 POJK DPs, still bureaucracy gives number as total 31,619 families

The 1st unsung victims of Pakistani Atrocities (1947 Displaced Families from POJK)

■ DAYA SAGAR

The affairs, concerning areas & the families displaced from the areas of J&K state (POJK DPs 1947) that Pakistan had illegally occupied (after openly attacking on 22nd October 1947 the then Princely State of J&K) have remained in confusions & in political complexities even internally after 1947 and have also remained under very less focus of the political & social leadership from the point of view of vacation of said areas by Pakistan and rehabilitation of the displaced families till they can return to their ancestral hearths; instead more focus has remained on political rivalries for local governance.

In addition to having remained under economic stresses from day one only since they were not even given the claims for the properties/assets left behind while fleeing from the areas under attack by Pakistan in 1947 to safer areas of J&K / other Indian states for saving their life/ honor, no any regular exercise has been done over last 7 decades to even invite applications for their registration to atleast know the real number count of the displaced families/those killed by invaders but to talk of atleast taking on record the assets left behind by them even if the claims were not to be paid due to technical reasons of considering them displaced persons and not exercise.

But when ever some information is required to be conveyed to some committee / some member parliament both State government as well as central government have been quote the number of families displaced from POJK in 1947 in absolute numbers i.e the number of families displaced from POJK in 1947 as 31619 .Where as that was the number (31619) in government records of the families belonging to only some categories who were paid some ex gratia amount in 1960/ or other token assistance. Since the same number is being quoted since 1978 in same style it clearly shows that the affairs concerning POJK DPs 1947 are not taken seriously . To quote (i) A Petition addressed to The Council of States (Rajya Sabha) Parliament of India was presented at a sitting of Rajya Sabha on 26 December 1978 by Sheikh Abdul Rehman as signed by Bachan Singh Panchi President Jammu Kashmir Sharnathi Action Committee and six others praying for settlement of problems of displaced persons uprooted from Pak Occupied areas of Jammu &

Kashmir and Sixty Second report dated 11-04-1980 of the Committee on Petitions of Rajya Sabha headed by Bipinpal Das (MP) was presented in Rajya Sabha on 13-06-1980.In reply to Rajay Sabha Committee on Petitions letter No. RS5 (18)/78-Com. II date 27 July, 1979 the Secretary to Government of J&K, Rehabilitation (1947) Department, Jammu had vide letter No. RAHAB-9/II/79 dated 27-11-79 had said : "With the decision taken for the partition of The country in two parts viz India and Pakistan, the communal disturbances Started the influx of refugees from POK as also from other parts of the country now known as Pakistan flooded into State in large number. There was no department known as Rehabilitation Department in existence at that time. The size of problem was enormous. No adequate arrangements to look after the DPs did exist at that time. A large number of DPs went outside the State and out of those who remained within the State a large number joined the Camps when those were established,. Where as others remained outside the camps. There was no agency to register these refugees immediately on their entry into the State. There was no formal; registration of these DPs. Registration was done only when they submitted applications for rehabilitation benefits like loans/ land/ quarters/ lots.":

The only registration therefore, which may be taken as correct but only of some categories made on the basis of declaration forms filed in response to notice inviting applications for ex gratia grant which scheme was sanctioned by the GOI in 1960. The number of such families is 31619 number (subsequent to Pakistani aggression about 135000 persons had left their homes from Pak occupied areas of J&K State). The relief and rehabilitation assistance was provided to these migrant families as due as per the policy of GOI. It was made before the committee by GOI that in all 31696 applications were received for ex gratia grant and 31683 applications had already been finalized by then. Only 262 families were not paid ex gratia because of income being more than Rs.300 pm and 344 applications had been rejected because they had not migrated along with head of the family within the crucial migration period.

But it was on the 11th Feb. 2020 that in



A Look through the Mist

reply to unstarred Lok Sabha Q.No- 1485 from COL. RAJYAVARDHAN RATHORE (asking number of people displaced from Pakistan occupied J&K (PoJK) in 1947) the Minister of State in Ministry of Home Affairs (G. Kishan Reddy) had said that as per the Registration records maintained with the Provincial Rehabilitation Officer (PRO), Jammu and Kashmir (J&K), a total of 31,619 displaced families from Pakistan Occupied Jammu and Kashmir (POJK) got registered after Indo-Pak war of 1947. Out of these, 26,319 families got registered and settled in the erstwhile State of Jammu & Kashmir and 5,300 families initially registered with PRO, J&K subsequently moved to other parts of the country. Similarly in reply to Unstarred Question No. 1608 from P.P. Chaudhary: Kaushal Kishore as replied on 20th September, 2020/ Bhadrapada 29, 1942 (Saka) Minister of State in the Ministry of Home Affairs (G. Kishan Reddy) said that due to the Indo-Pak war of 1947, a total of 31,619 families got displaced from the Pakistan Occupied Jammu and Kashmir (POJK), out of which 26,319 families got registered and settled in the erstwhile State of J&K. A total of 5,300 families who were initially registered with the PRO, J&K subsequently moved to other parts of the country.

In replies quoted here in firm numbers were conveyed and also they were referred as registered where as these numbers are not out of any general registration but are in terms of application invited in 1960 for payment of an ex gratia of Rs.3500 to some families that fell in particular category of displace POJK DPs and not from all. So many families had not applied and even some families who did apply but as they did not fall in the category of families from whom applications were invited for gratia they were rejected for payment of ex gratia of 3500/ family. So there were many more families who were not included in the number 31619 being quoted in these replies , in a way the information has been wrongly conveyed and the innocent leaderships/ community of POJK 1947 displaced community out of their simplicity too have not so far questioned the govts. for carrying a wrong absolute number of 31619 of POJK 1947 DPs with them.

Not only that 183rd Report on problems

being faced by refugees and displaced persons in J&K was presented in Parliament on 22nd December, 2014 was laid on the table of Lok Sabha on 22nd December 2014 drawn by a sub-committee on Action Taken on 137th Report on Rehabilitation of J & K Migrants (Department- Home Affairs related committee (2013) with Rajiv Pratap Rudy MP as convener that visited J&K during first week of September 2013) at Para 3.2.1.4 says that the Committee takes into account the fact that non-registered families are not given proper relief and compensation amount and is of the view that for that purpose, their fresh enumeration is necessary to understand the problems being faced by PoJK DPs and to have updated policy guidelines for them . The Committee, therefore, recommended that the Government should take adequate steps immediately to ensure official registration of Displaced Persons from PoJK in order to ensure that benefits of schemes meant for refugees and Displaced Persons reach the targeted group. Similarly at Para 3.2.12.3 the Committee desired that one nodal officer may be appointed in Delhi for granting Permanent Resident certificates to POJK DPs living outside the State of J&K as being done for Kashmiri migrants. The committee went to the extent of saying that rather Govt may campaign to attract more and more POJK DPs living in other parts of the country by issuing advertisements in national dailies and the rules for applying the PRC may be simplified. Although the said observations were not that medicating but still the committee appeared having taken serious note. But even those half recommendations have not been made use of in seven years after that.

In reply to an starred question CQ 637 by Ajatshatru Singh MLC in the Legislative Council of J&K in 2016 Minister Incharge Relief and Rehabilitation had said 2631 families from POK had settled in various districts of Jammu Province (particularly Jammu, Kathua, Samba and Rajouri districts) and even the other data mentioned there in too appeared having been drafted casually. Even those who have been from POJK DP community appear having taken the case of their people not that seriously, may be due to there being no local political / administrative support at their back.

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Compensation to crime victims under law

■ ADV MEENU PADHA & TAVLEEN KAUR

There are individuals who are in excruciating pain. They are helpless victims who did not bring this on themselves. They are the victims of the sins of others. While it may be difficult to notice, it is critical to recognize that these people exist. Throughout the world, proper laws and acts protect, assist, restitute, and recompense crime victims. The victims of crime in India play an in-significant role in the criminal justice system. The one that proposes a victim-oriented approach to criminal justice administration is one of the many reforms being proposed in the criminal justice system. Greater respect and consideration for victims and their rights in the investigative and prosecution process, provisions for victims to provide more choices in the trial and disposition of the accused, and a scheme of reparation/compensation, particularly for victims of violent crimes are all instances of victim-orientation. The Report of the Committee on Reforms of the Criminal Justice System, chaired by Justice V S Malimath, highlighted the importance of providing justice to crime victims. There are various provisions in the Indian Constitution and parts in the Code of Criminal Procedure, 1973 to protect victims' rights and provide compensation, however criminal courts at the lower level in India have ignored those rules and have not used them throughout their sentencing processes. However, over the last two decades, various judgments in both the High Courts and the Supreme Court have come to the aid of victims of not just classic crimes where the offender is another citizen, but also cases where the victimization has been inflicted by State entities.

The Indian judiciary devised a novel notion called as victim compensation in order to secure justice. By providing relief tools to compensate victims, the modern concept of justice has demonstrated great concern. As a result, victim compensation laws and regulations have been evolving since the Indian Constitution was drafted. Following the UN Declaration on the Basic Principles of Crime and Abuse of Power in 1985, victims' rights began to emerge in the previous few decades. Since then, there has been a recognition that the victim is at the heart of the criminal justice system, and constant efforts have been made to better their circumstances. Compensation for the injury suffered was seen as a fundamental proponent of the right to life under Article 21 of the Indian Constitution.

Later, Section 357A of the 1973 Code of Criminal Procedure made it essential for the state to compensate victims and their dependents that were injured as a result of the damage perpetrated. Almost all states in the country developed Victim Compensation Schemes to give proper compensation. The discovery of restitution in Indian law dates back to the British colonization period. According to Section 545, sub-clause (1) (b) of the Code of Criminal Procedure of 1898, a court may order an individual to pay compensation for losses incurred or injury caused by the offence if substantial compensation is rightfully considered recoverable by such individual in civil courts in the court's opinion. The relevance of compensability was initially distinguished by the word substantial in the 41st Report of the Law Commission of India presented in 1969, which alienated cases of recovery of nominal costs.

On the basis of the recommendations made in the Law Commission's report, the Government of India drafted the Code of Criminal Procedure Bill, 1970. Section 545 was revised and re-introduced in the manner of Section 357, which is still in effect and has resulted in significant changes in the framework. The legislative foundation in India for compensatory redress to crime victims can be traced back to the Code of Criminal Procedure. The Probation of Offenders Act of 1985, the Motor Vehicles Act of 1988, the Consumer Protection Act of 1986, the Indian Railways Act, the Protection of Women from Domestic Violence Act of 2005, the Sexual Harassment (Prevention, Protection, and Redress) Act of 2013, and the Fatal Accidents Act of 1855 all include provisions

for compensating victims of crime. Aside from these statutes, the Constitutional plan for compensatory victims can be found in Supreme Court rulings interpreting fundamental rights or directive principles of State Policy, or in Articles 32, 136, and 142, where the court may direct payment of compensation to victims of crime.

In Indian law, the phrase 'victims of crime' is not defined. Its legal definition dates back to the United Nations General Assembly's Declaration of Basic Principles of Justice for Victims of Abuse of Power, which was adopted in 1985. According to Articles 1 and 2 of the Declaration, 'victims of crime' are individuals who have suffered harm, including physical or mental injury, emotional suffering, economic loss, or substantial impairment of their fundamental rights, as a result of acts or omissions that violate criminal laws in force within Member States, including those laws forbidding criminal abuse of power: A person may be considered a 'victim' regardless of whether the perpetrator is identified, caught, prosecuted, or convicted, and regardless of the perpetrator's familial relationship with the victim. As a consequence, 'victims' are those who suffer a loss or injury as a result of another's act or omission, and include all those who are, in the regular course of natural events, dependent on such person at the time the act in issue was performed or omitted.

'Victim' means a person who has suffered any loss or injury as a result of the act or omission for which the accused person has been charged, including his or her legal heir or guardian, as defined in section 2 (wa) of the CrPC

The Indian Constitution has a number of sections. Several clauses in the Indian Constitution support the notion of victim compensation. The articles dealing with Fundamental Rights (Part III) and State Policy Directive Principles (Part IV) provided the groundwork for a new social order in which justice, social justice, and economic justice would blossom in the country's national life (Article 38).

Article 41, which is pertinent to victimology in general, requires the state to make necessary preparations for 'securing public aid in cases of disablement and other cases of unjustified want.' Crime victims and other victims will almost certainly seek refuge under Article 41. Article 51-A states that it is every Indian citizen's primary obligation 'to maintain and improve the natural environment and to have sympathy for living creatures' and 'to cultivate humanism.' If we interpret them sympathetically and imaginatively, we can trace the constitutional roots of victim-logy here. Furthermore, the guarantee against unjustified deprivation of life and liberty (Article 21) includes provisions requiring the state to compensate victims of criminal violence.

Prior to independence, the rule was that the King could do no wrong. Following this norm, the Supreme Court has ruled in a number of situations that a victim of State misconduct cannot be compensated. Article 300 of India's independence constitution stipulated that the state might sue and be sued. The first of its kind, Radul Shah, which came before a three-judge bench of the Supreme Court, raised questions about the Courts' competence to grant adequate compensation/exemplary costs to victims of abuse of power by the State and its administration while deciding a writ petition under Article 32. There are several impediments in India in the process of victimization prevention and victim protection, which are being addressed through certain constructive measures. Among the challenges and countermeasures are:

A. There is no separate law for crime victims. Nonetheless, ongoing efforts are being made to enact a nationwide statute protecting victims. The Victim Bill proposed by the ISV is a model draft Bill.

B. Corruption in the Criminal Justice System of India
Corruption by public officials harms society's overall health and victimises people from all walks of life. The government has made numerous attempts to eliminate corruption and the acquisition of

unlawful wealth. A recent example is the declaration of assets and wealth by judges of the higher judiciary and government ministers.

C. Women's Empowerment to Prevent Women's Victimization
NGOs and the government have made serious attempts to modify women's traditional submissive and oppressed roles. One attempt is the ongoing battle and active attempts of women's organizations to gain more political power for women in the form of representation in Parliament, state legislatures, and local bodies through a 33 percent reserve of seats in these bodies. Women have already gained representation in local self-government, but the fight for reservations for women in Parliament and state legislatures continues. Many concessions, special privileges, and tax deductions are available to female students in order to encourage them to pursue higher education and employment, as well as to help senior female citizens to achieve economic self-sufficiency. The Tamil Nadu State Government's Cradle Baby scheme is an important step toward protecting female babies and combating female infanticide.

D. Children's Empowerment
Making basic education a constitutional right is a significant move toward empowering children, as education is the tool for development. Other forms of victimization, such as child labour; would be affected by the adoption of this right. Strengthening the Noon Meal scheme in schools, as well as introducing it in other states, will encourage more children from underprivileged backgrounds to attend school and pursue education.

E. Major Challenge is Implementation
The major challenge is transparency and honesty among policymakers, as well as the commitment of government officials entrusted with policy execution. We must work hard with government and civil society to ensure that the fundamental provisions envisioned in the UN Declaration of Victims are implemented in the majority of states of India. The preceding discussion implies that there is still a long way to go in terms of compensating victims of crime. The global experiences, especially the United States, illustrate that there is a lot that has to be done at the macro level. However, at the micro level, certain quick and possible measures may be implemented to assist crime victims in India. As a result, the first goal in the grand scheme of things is to sensitize everyone involved. The natural sequence of delivering real social and legal justice should be as follows:

1. Treatment that is fair, considerate, and empathetic by the police, hospitals, welfare groups, prosecutors, and courts.
2. Immediate restitution/compensation to the victim for the injury or loss sustained by the use of existing laws; and
3. Security for victims and potential victims from future victimisation. Among the different services and help provided to victims during a criminal inquiry are the following:
" The first step in aiding a crime victim is to:
o enable their access to existing services; and
o to be compensated for the consequences of crime
This is partially a matter of gathering information from victims, partly of persuading victims to apply for services, and partly of sensitizing the service to the requirements of the victims.
2. The police should improve their support for crime victims by ensuring that the responding officer gives the victim a card with important phone numbers of organizations. The following information should also be included on the card:
o Case's filing number (crime number);
o Name of the officer in charge of the investigation; and
o Phone number to call if you have any questions about the case's progress.
3. To coordinate things connected to crime victims, a victim's assistance unit should be established inside the police department, preferably at the sub-divisional level. Hence, if law enforcement agencies in India take the procedures outlined above, the status of victims in the criminal justice system will significantly improve.