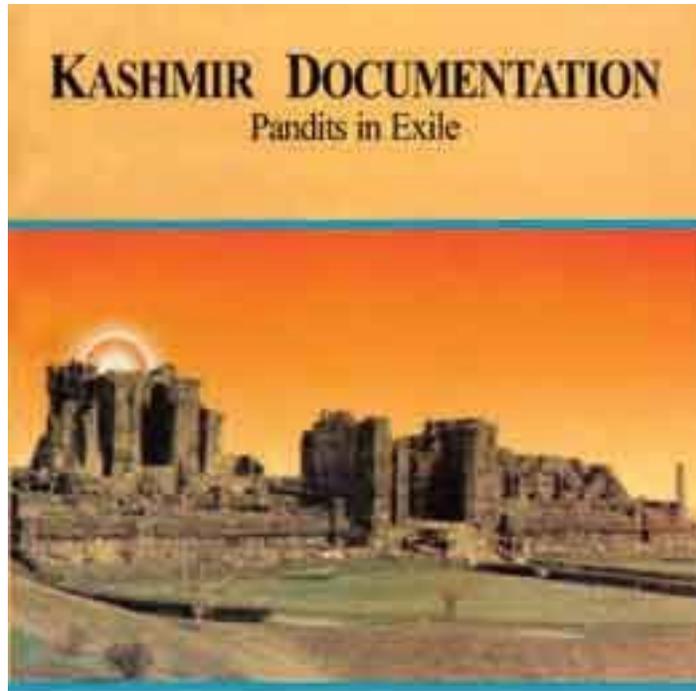


# KASHMIR DOCUMENTATION

## Pandits in Exile



**PANUN KASHMIR MOVEMENT (PKM)**

Central Camp Office

**Jammu (India)**

1st Edition  
2004

All rights reserved with –©  
Panun Kashmir Movement (PKM)  
Add. For correspondence-  
149, Lower Laxmi Nagar, Sarwal,  
Jammu-180005  
India

e-mail: [pkmashwani@indiatimes.com](mailto:pkmashwani@indiatimes.com)

**PREFACE**

Twenty years ago, a group of young and dedicated Kashmiri Pandits organised the 'Hindu Youth Convention' at Srinagar(Kashmir). With a burning desire to reshape the destiny of the Pandit Community in the Kashmir valley, the Convention raised its voice against repression, intimidation, persecution and Muslim precedence. These voices also reached the corridors of power in New Delhi, but the seat of power chose to turn a deaf ear to the alarming bells in Kashmir. In line with their policy of appeasement, the then authorities in power abdicated their obligations and what followed is history –the history of death and destruction, arson and loot, selective killings and mass massacres, genocide, exodus and ethnic cleansing of the aborigines of Kashmir –the Kashmiri Pandits. The Pandits, in exile, faced a new and unheard form of apartheid. They, after becoming the victims of majoritarianism and fundamentalism, terror and terrorism became the victims of the State too. In a struggle of new dimensions, while they were in the initial phase of their exile, the Pandits launched a movement in early 1990 to espouse their political aspirations. The very group of the Kashmiri Pandit youth, which was instrumental in organizing the 'Hindu Youth Convention' in 1985 in Kashmir, formed the core of the organisation to found and take the movement forward. As a part of this group, fortunately for me, I was a party and witness to the developments that followed.

The campaign began with the 'Kashmiri Hindu Convention' in 1990, followed by a massive and marathon public contact drive for more than one year, resulting in the holding of Margdarshan Conference of 1991 at Jammu. The Homeland Resolution of the Margdarshan-1991 caught the imagination of the people and made them rally round the leadership which took their concerns to new heights. It was however, observed that the concept which formed the basic foundation of the homeland resolution was being eroded which forced the cadres of the movement for homeland reorganise themselves with a view to resisting the derailment of the Margdarshan Resolution of Homeland. In this process, the Panun Kashmir Movement(PKM) was born.

The PKM faced many kinds of challenges. The Panun Kashmir Movement(PKM) spearheaded the struggle with a clear vision, despite heavy odds. With the experiences of success and failures, the PKM took the Kashmiri Pandit movement to new horizons, with special emphasis on the undiluted political ideology, application of human rights and unity of purpose within the Pandit community. In its presentations at the national and international level, the PKM made sincere and serious efforts to document facts about Kashmir and Kashmiri Pandits. A hard labour of days, months and years brought to the fore a voluminous material about issues of concern. We feel greatly satisfied that these meticulously drafted pieces of labour helped to make the parliamentarians, congressmen and senators, human rights bodies, commissions, courts and tribunals, international opinion makers and the key players in and outside the country, besides the general public, aware about the real face of Kashmir imbroglio.

The principal and prominent figures who contributed to the formation of these documents include Shri. B.L.Kaul and Sh. O.N.Pandita, the founding members of the PKM. We are proud of them and so should also the community be. It would be worthwhile here to mention the name of Dr.M.K.Teng for his notable initial contributions.

These documents of great value were quite in demand for a long time. The political and human rights activists, research fellows and students of history, politics and Kashmir affairs, the government and the non-government representatives from both within and outside the country, desired to have these documents for study, perusal, information, knowledge and follow-up action. In order to cater to these needs and demands, the PKM was of the view to reprint these documents and make them available, in the shape of a new book, to the people at large. It was a dream, difficult, if not impossible, to be realized.

After a great deal of thought, Prof. M.L.Raina, senior member of the PKM, was considerate and kind enough to own the responsibility to edit the new document. It is the outcome of his two years of vigorous efforts in the capacity of the Editor- Project Documentation, that we have **KASHMIR DOCUMENTATION Pandits in Exile** in our hands. No words are adequate enough to thank Sh. R.K.Raina, a dedicated activist of PKM,

for his outstanding help to Prof.Raina to complete the project. My special thanks are due to the Cyber Systems, Jammu(India) for their painstaking efforts to help us publish this document.

We hope our efforts will bear fruit. In a long drawn out struggle of generations, **Kashmir Documentation** is a precious gift of this generation to the generations that will follow. I salute the activists of the PKM for their unstinted support, assistance and encouragement. It would not have been possible, without their support, to realize this dream. I also feel indebted to those who were a part of us earlier, for their valuable contributions. They have been always a source of strength to me and the Panun Kashmir Movement(PKM). I salute them too.

On the occasion of the completion of the fifteenth year of the exile of Kashmiri Pandits and on the completion of ten years of its existence as an organization, the Panun Kashmir Movement(PKM) rededicates itself to the cause so dear to it. It is time to redefine the PKM to carry forward the legacy of ascetic commitment and Karmayoga -

An agitation of truth to expose brazen lies,  
A rebellion against subjugation,  
A fender against felony,  
A crusade to overcome neglect,  
A long battle to win the war of survival,  
A campaign for restoration of rights,  
A struggle to keep the issues alive,  
And a movement to regain what is lost.....  
Is the name that is called the  
Panun Kashmir Movement(PKM).  
It is verily the mission -with a vision- in action.

**Ashwani Kumar Chrungoo,**  
**President,**  
**Panun Kashmir Movement(PKM)**  
**Jammu - India**

pkmashwani@indiatimes.com

0191-2532400 / 2533252

14<sup>th</sup> April, 2004(Baisakh 2<sup>nd</sup>, Kashmiri Pandit Nirvasan Samvat-15)

## Invocation

यज्ञस जपस व्यवहारसयँ ग्वड चैयँ स्वरान प्रथ कारसयँ ।  
कारस अनान छुख चयँ जमा ओम श्री गणेशाय नमः ।।

**We reverently bow to you, gracious Lord Ganesh,  
And seek your kind help, ever and always.**

**All matters, spiritual and mundane,  
Be they sacred oblations,  
Or musings of a higher import,  
Or be they acts of worldly concern --  
All these are preceded  
By an ardent invocation of your name,  
For, all our pursuits on various planes  
See their fulfilment and fruition  
Through your free flowing grace.**

**We offer our humble obeisance  
To you, gracious Lord Ganesh.**

\* \* \*

## INTRODUCTION

Realities are, at times, stranger than fiction. Kashmiri Pandits, the aboriginal inhabitants of Kashmir, could have never imagined even in the wildest of their dreams, in this modern age of reason and enlightenment, that they would be pushed out, at gunpoint, and forced to live outside the Valley, the place of their birth and the ancient abode of their forefathers, with the status of refugees in their own country.

The forced exodus of the Kashmiri Pandits in 1990, designed to effect the motivated ethnic cleansing, will go down, as yet another dark period, in the chequered history of these aborigines of Kashmir, who have been facing continual persecution and genocide for hundreds of years at the hands of Muslim rulers. The embers of hatred against the Kashmiri Pandit Community were never allowed to die down with the passage of time, but were, instead, caused to flare up every now and then, and, as a result, the members of this hapless community could neither escape the wrath of the public nor the perpetual fear and panic, and suffered in silence. The atrocities they were subjected to reached their peak, during the dark days of despotic rule of Muslim kings. But it is a tragic irony that they did not get any respite even in the bright days of the enlightened modern times, especially in the post-independent days of their country, India.

After the accession of the J&K State to the Union of India, the claims of the leadership of the majority community to provide equality, liberty and protection of human rights to the Kashmiri Pandit Community, proved a hoax. A well orchestrated campaign, by the majority rulers was launched against the Pandits in the shape of communal hatred, discrimination, humiliation, ridicule, and more importantly, the latter's systematic exclusion from various walks of life. This was followed by a tendencious design of desecration of temples, with usurpation of their premises, and encroachment of even the cremation grounds. All this was done by hooligans and the authorities looked helpless when they were approached by the Hindus for the redressal of their grievances. This was a covert scheme of smashing, by and by, all the social, religious and cultural symbols of the minority Pandit Community. Furthermore, the Pandits of Kashmir were subjected to communal violence

from time to time. The violence against them, for instance, in 1967 and 1986, engineered by communal elements, was a signal to the Kashmiri Pandits to leave the valley steadily. Their position, as the natives of their motherland, began to become insecure by 1986. But despite all these onslaughts, and the long drawn-out political and economic squeeze, the Pandits, deeply attached to their motherland, Kashmir, took every kind of motivated harassment in their stride, and tried to co-exist with the Muslim majority. The intrinsic love of their sacred land compelled them to make compromises on every front.

This process of 'slow poisoning' of the Pandits, in different fields of life, reached its climax when gun-wielding terrorists appeared on the scene in 1989. They used different strategies to effect ethnic cleansing of the minority community. They harassed and threatened, maimed and killed, lynched and looted a large number of Kashmiri Pandits. The terror-stricken Pandits ran for life, leaving their homes and hearths behind them. They sought refuge in Jammu, Delhi and elsewhere in the country. After the cleansing process was completed, the terrorists and their sympathisers began another process of eliminating all chances of the Kashmiri Pandits' return in the near or distant future by burning the latter's houses, and occupying those which could not be torched because of their close proximity to the houses of the majority community. The canard spread by the State government and some vested interests that the Muslims of Kashmir are waiting, with open arms to receive the Pandits, is misleading. If it were so, these Muslims would not have, in desperate haste, purchased the immovable properties of the helpless Kashmiri Pandits, and this process is still going on. They are thus engaged in destroying the roots of the aboriginal natives of the valley without any qualms of conscience. The magnitude of the agony and trauma of the displaced Pandits, who have been languishing in forced exile for the last fifteen years, is too profound to be gauged. The Central as well as the State government has done precious little for the rehabilitation of the K.P. Community which has contributed, in a big way, to the freedom struggle of India against the British imperialism, and also to the national reconstruction in the post Independent era. Human memory is short and so is, unfortunately, the memory of our leaders.

The forced migration of 1990 left the Kashmiri Pandit Community shattered physically and psychologically. A couple of social organizations worked, day and night, on voluntary basis to bring succour to the exiled. They worked relentlessly for the rehabilitation of the unfortunate community. Their struggle is still going on.

It took sometime for the leadership of the community to put across its considered views on the ultimate resettlement of the entire Kashmiri Pandit Community in Kashmir on its own terms. A number of resolutions were passed and memoranda submitted to the authorities in 1990-91.

It was in 1994 that Panun Kashmir Movement(PKM), a frontline organisation began to work purposefully, and in right earnest, in different fields. Its multidimensional activities are documented in a voluminous material collected over the years, which reflects the persistent efforts of the organisation in the human rights, socio-economic and political areas, involving a vast spectrum of activities like political resolutions passed from time to time; interactions through correspondence, and interface sessions, with various organisations, political personages and individuals of consequence, inside and outside the country, focusing on the human rights violations of the Kashmiri Pandit Community; the genesis of the forced mass exodus of 1989-90 with its disastrous ramifications for the community; series of communications with the National Human Rights Commission(NHRC) and the latter's positive responses ; court cases fought; the callous indifference and apathy of the State government; exposition of the violations of human rights committed against the Kashmiri Pandits, by the Panun Kashmir Movement(PKM) at various fora etc.

Sh. Ashwani Kumar Chrungoo, President, Panun Kashmir Movement(PKM) presented the case of the human rights violations committed against the Pandits of Kashmir in the **Conference on Human Rights** held in July 2003 under the aegis of GLOBAL HUMAN RIGHTS DEFENCE(GHRD) which is an international network on human rights, based at The Hague, Netherlands. It is a matter of satisfaction and pride for our organisation (PKM) that its President, Sh. Ashwani Kumar Chrungoo, has been appointed the Representative of the GHRD for India, in recognition of his untiring efforts in the field of human rights and

especially for giving wide publicity, inside and outside the country, to the blatant violations of the human rights against his fellow Kashmiri Pandits.

It was our long cherished desire to sift the massive material in our possession and compile the most important documents in the shape of a book for full information of our readers within and outside India, regarding the forced mass exodus of Kashmiri Pandits and other allied matters.

It gives us satisfaction and pleasure to bring out the first edition of the book **KASHMIR DOCUMENTATION Pandits in Exile** for our readers.

**Prof. M.L.Raina**  
**Editor**

SECTION –I  
**HUMAN RIGHTS CONCERNS**

**CONTENTS**

<b>S.No</b>	<b>Name</b>	<b>Page No</b>
1.	Report (On Human Rights Violations in Kashmir) – Memorandum to National Human Rights Commission–(NHRC)	14
2.	Genocide	17
3.	Exodus	50
4.	Apartheid	60
5.	List of Martyrs	77
6.	Demographic Change	125
7.	Dispossession and Bias	131
8.	Interim List of Priorities	175
9.	Submissions to NHRC	186
10.	PKM Rejoinder	214
11.	Pallone urges NHRC	237
12.	NHRC Orders	239
13.	Asia and Pacific Regional Conference on Human Rights	295
14.	Conference on Human Rights (The Hague)	307
15.	KP victims of organized massacres	313

SECTION –II  
**POLITICAL AFFAIRS**

**CONTENTS**

<b>S.No</b>	<b>Name</b>	<b>Page No</b>
1.	Resolution No. 4 of 1990	318
2.	Margdarshan Resolution –1991	324
3.	Kashmiri Pandit Global Summit	330
4.	Response to Autonomy	351
5.	KP Response to Officers Committee (J&K Government) –1997	395
6.	Kashmiri Pandit London Meet	401
7.	Exposition of Treachery	414
8.	Declaration on 50 <sup>th</sup> year of Independence of India	444
9.	Kashmiri Pandit Representative Assembly-2000	449
10.	Kashmiri Pandit Nirvasan Samvat	464
11.	Resolution on Census Operation –2001	467
12.	Memorandum to K.C.Pant	473
13.	Memorandum to United Nations	478
14.	Memorandum to N.N.Vohra	480
15.	J&K State–Geography and Strategic Importance	485

## **SECTION – I**

### **HUMAN RIGHTS CONCERNS**

“In keeping silent about evil, in burying it so deep within us that no sign of it appears on the surface, we are implanting it, and it will rise again a thousand fold in future. When we neither punish nor reproach the evil doers, we are ripping the foundations of justice of which no trace will be left for our future generations for protection against evil.”

– **Alexander Solzhenitsin**  
**Nobel laureate**

### **The Process in Progress**

Pt. Kalhana initiated a process to document events about Kashmir and the thread was picked up by Jonaraja, Prajhatt, Shuka and Shrivara....

In this section of the document, the Panun Kashmir Movement(PKM) has made an effort to put on record the facts concerning human rights violations of the Kashmiri Pandit community. We enjoin upon all to pick up the thread and initiate a process to save this community of aborigines of Kashmir – the Kashmiri Pandits, with a recorded and written history of more than five thousand years, from annihilation and extinction and thereby the human values and peace from further plunder and devastation.

# **REPORT**

**(On Human Rights Violations in Kashmir)**

**PANUN KASHMIR MOVEMENT (PKM)**

**Central Camp Office : Jammu (INDIA)**

## **PART –I**

Fourth Memorandum For submission To The Hon'ble Chairman and members of the **National Human Rights Commission(NHRC), New Delhi, 20<sup>th</sup> December, 1995.**

1. A delegation of Panun Kashmir Movement(PKM) led by Shri Ashwani Kumar Chrungoo, Convener (PKM) submitted its first memorandum to the Commission on March 7, 1994. The delegation was joined by the representatives of AIKS and Kashmiri Samiti. Delhi.
2. As a follow-up action, Panun Kashmir Movement(PKM) submitted second detailed Memorandum to NHRC on its visit to Jammu on June 7<sup>th</sup>, 94.
3. After a long drag of one and a half years of correspondence and pursuance, Panun Kashmir Movement (PKM) delegation met the Secretary General of the Commission on Oct. 15<sup>th</sup>, 1995 at New Delhi and submitted its third Memorandum.
4. The delegation of Panun Kashmir Movement(PKM) again met the full Commission, on the latter's invitation, at New Delhi on 16<sup>th</sup> Nov.'95. Panun Kashmir Movement(PKM) in its discussion with the members of the Commission reiterated its request that the Commission may:
  - a) in pursuance of the powers vested in the Commission vide Proviso (a) of sub section (i) of section 17 of the Protection of Human rights Act 1993 initiate a suo- motto enquiry into the;

- i) Genocide
  - ii) Exodus and
  - iii) Apartheid
- of the Kashmiri Hindu Community
- b) consider to fix a time frame for finalisation of its finding/report;
  - c) fix up the responsibilities in regard to human rights violations committed against us and review the factors that inhibit to enjoy the human rights and
  - d) recommend appropriate remedial measures to redress the wrongs and humiliations suffered by the Kashmiri Hindu Community.

The discussions with the Commission included the matters regarding promotions of Kashmiri Hindu Government and Semi Govt. officials, traders, students, un-employed youths, agriculturalists and orchardists. The Commission desired the delegation to furnish some detailed information and data.

Panun Kashmir Movement(PKM) is of the belief that the misery of the displaced community of Kashmiri Hindus is quite visible to need any statistical backing or proof ordinarily. However, we submit as desired and annex here as part II with this memorandum, the requisite material for the information and necessary action of the Commission.

It is as follows:-

## Part II

### Sec.1 GENOCIDE

- a) Killings of Hindus in Kashmir.
- b) Destruction of Cultural symbols. (Shrines of Kashmir).

### Sec. 2 EXODUS

- a) Collapse of administration.
- b) Statistical data.
- c) Extermination  
(Burning of Hindu properties in Kashmir).

Sec-3 APARTHEID

- a) Effects of Exodus.
- b) Problems of students.
- c) Discrimination.

Panun Kashmir Movement(PKM), through this fourth memorandum, submits to the Commission to consider our request with understanding and prudence and initiate an exercise to save this full fledged community from annihilation and extinction.

The copies of this Memorandum (i.e., Part-1 of the document) are simultaneously circulated to the press and public for information, while we reserve the right to make public part II of this document in near future.

We are of the understanding that the National Human Rights Commission is a sacred product of an Act of Parliament, and therefore have high expectations of the sense of justice of the Commission. The representatives of the Kashmiri Pandit Community have been highlighting the issue of the Human Rights violations, committed by Islamic fundamentalists and terrorists, on various available forums in the past and will continue to do so in future as well. Panun Kashmir Movement(PKM) also shall continue to do so for apprising and approaching the available national forums, for redressal of the grievances, as well as the international forums to the establishment of which or to the aims and objectives of which the State of India is a signatory.

Regards

**For and on behalf of Kashmiri Hindu Community.**

**(Ashwani Kumar Chrungoo)**  
Convener

**(B. L. Koul)**  
Sr. Advisory Member

**(S. Raina)**  
Gen.Secretary

**(S. Krishan Koul)**  
Secy., Press & Publicity

**(Vijay Handoo)**  
North-India Coordinator

Part –II

**Sec. 1 GENOCIDE**

Genocide is destruction in whole or in part of a national, ethnic, racial or religious group. The terrorist violence in Kashmir has involved mass massacre of the members of the Hindu minorities at the hands of the Kashmiri Muslim terrorist groups. Genocide includes:

- i. Killing members of a community or a group because of their affiliations;
- ii. Causing bodily or mental harm to the members of a community or a group;
- iii. Deliberately inflicting conditions on the community or the group to bring about its physical destruction;
- iv. Imposing measures to prevent births in the community or the group;
- v. Forcibly transferring children from one group to another.

The State of India is a signatory to the Universal Declaration of Human Rights, United Nations Covenants on Human Rights, The Charter of United Nations, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on the 16<sup>th</sup> Dec. 1966. On the one hand responsibility of violation of human rights in the J&K State rests upon the terrorist organizations and the supporting structures and on the other hand there is colossal failure of the Indian State and its organs.

The fundamental violations in this regard can be listed under two broad headings:

- a) Killings of Hindus in Kashmir.
- b) Destruction of Cultural Symbols (Shrines of Kashmir).

a) **Killings of Hindus in Kashmir**

The terrorist killings have been accompanied by torture unheard of in the annals of human history. Torture deaths have been brought about by inhuman practices described below:-

- i. Strangulation by using steel wires;
- ii. Lynching;
- iii. Branding with red hot irons;
- iv. Draining of blood;
- v. Slicing;
- vi. Gouging of eyes before assassination;
- vii. Breaking of limbs;
- viii. Slaughter;
- ix. Hanging;
- x. Dragging to death;
- xi. Dismemberment of body;
- xii. Drowning alive;
- xiii. Burning alive;
- xiv. Impaling.

(For list of killings –see Annexure – A)

b) **Destruction of Cultural Symbols (Shrines of Kashmir)**

**Historic Perspective – Preliminary Remarks**

Desecration, damage and destruction of temples is not a new and unusual phenomenon. The process has been continuously going on ever since Kashmir passed into the political domination of Muslim rulers in the first quarter of the fourteenth century.

Islam like other Semitic religions enjoins upon the faithfuls to expand their religion by proselytizing the heathens, infidels and ‘Kafirs’ (non-believers) to their faith to gain religious merit. “Jihad” or holy war is the instrument that is used for proselytization. The

Muslim rulers of Kashmir, the Mughals and Pathans made full use of their political authority to effect conversion of Hindus of the Valley. To achieve the objectives, it became imperative for them to wipe out all traces of religious and cultural symbols of Hindus which included their temples, libraries, universities and ashrams etc.

In Kashmir, gun powder was used for the first time not for fighting a war but for destroying massive Hindu stone temples. When it was felt that the fissionable material was not available in a sufficient quantity for the iconoclasm, the nearby jungles were cut and used for setting on fire the giant stone structures of the Hindu temples. By excessive heat the stones burst, broke-away and crumbled these gigantic structures that spread through the length and breadth of Kashmir. The ruins of Martand, Avantipur, Devar etc. are mute witnesses of the depredation.

### **Desecration of Hindu temples in Kashmir from the advent of Islam 1339. A.D.**

(The following brief is based on the recorded findings of historians including Muslim chroniclers and foreign non-Hindu travellers).

#### **TAPER TEMPLES**

Sikandar the iconoclast desecrated and destroyed this temple which was built by Queen of Partapaditya II who reigned in Kashmir from 634 to 648 A.D.

Zain- Ul-Abdin (1420-70) A. D. used stones and idols in the construction of the Bund from the Naidkhai to Sopore.

#### **SHANKARACHARYA MANDIR (Srinagar).**

Noor Jehan, Queen of Jhangir built the grand Mosque known as Pather Masjid (Srinagar) with the sculptured beautiful stones which formed steps of the Mandir right from river Jhelum to the top of the hill.

#### NARPARISTHAN MANDIR (Srinagar)

Built by Likhana-Narainraditya who reigned Kashmir from 178 to 191 A.D. has been turned into a Muslim ziarat called Narparisthan.

#### KALI MANDIR (Srinagar)

Quab-ud-din usurped it in (1373-89) A. D. to be converted into a mosque in memory of Mir Sayed Ali of Hamdan of Persia who had come to the Valley to establish Islam. Hindu king Pravarsena II had dedicated the Kali- Shrine to the Goddess Kali (79-139 A.D.).

#### MAHARISHI MANDIR (Srinagar)

It was turned into a graveyard. Wife of Sikander was buried in its interior.

#### SKANDA BHAWAN (Srinagar Down-town)

Its sacred springs and massive temple construction were desecrated and spoilt. It was christened as Ziarat of Pir Mohd. Basur.

#### TRIBHAWANA-SVAMIN (Srinagar Down-town)

This temple built by Chandrapida (684 to 693 A.D.) was laid to ruins and its vast vicinity used as a graveyard.

#### KSHANA – GANVISHVARA

Built in (950-58A.D.) was desecrated, its sculptured stones removed. DIDDAMATHA (down –town Srinagar) Temple was converted into Tomb of Malik Sahib.

#### VIKRAMISHVERA (VICHARNAG)

Built (521-63 A.D.) It was destroyed by Sikander and its material utilized to build a mosque nearby.

#### AMRIT BHAWAN

Constructed by Queen Magavahana (22 B.C-13 A.D.)

There are other ruins of Hindu temples in its vicinity which have been converted into Ziarats and burial grounds and nothing is known about their antiquity.

#### RANESHVARA (SHALIMAR GARDEN)

Built by king Ramadatiya (414-74 A.D.)

On the North Eastern corner of the Dal Lake, Pravarsena II, the founder of Srinagar had built a Villa for a Hindu saint named Sukarna Swami. Bernier, who visited Kashmir with Aurangzeb, gives an interesting account of the garden in his travels and says that the doors and pillars made of stone used in the garden during Mughal era had come from some of the idol temples demolished by Shah Jehan and that it was impossible to estimate their value.

#### MARTAND

Built by King Ramadeva (2936-3005 B.C.) with large ornamented and beautifully carved stones erecting it to the height of 50 yards. Regarding this British Researcher Sir Walter Lawrence has remarked thus:-

“While the old Hindu buildings defy time and weather, the Muslman shrines and mosques crumble away. Other foreign travellers have recorded that Hindu temples were built to endure for all time. Their solidity of construction and their gigantic size strike one with wonder that a puny man could have built them. They often gazed upon them with amazement and lamented bigoted Muslim fanatics who laid them to ruins with tremendous efforts”.

#### TEMPLE OF BUZMA

It was usurped and converted into the Ziarat of Baba Bamdin. Another temple close by was turned into the tomb of Rukh Din, disciple of Muslim Priest Bamdin.

## SHRINE AROUND DAL LAKE

The slopes of the mountains overlooking the Dal Lake have adorned many ancient shrines mercilessly destroyed by bigoted Muslim fanatics.

## SHARDA UNIVERSITY AND ACADEMY OF LEARNING AT VIJAISHORI, NOW BIJBEHARA

Sir Walter Lawrance records in his “Vale of Kashmir” that all books of Hindu learning which bigoted Muslims could lay their hands on were sunk in the Dal Lake and Sikander flattered himself that he had extirpated Hinduism from the Valley. Alberuni, an Arab scholar, recording his visit to Kashmir has stated that in all their grandeur the Hindus of Kashmir never slackened in their ardent desire of doing that which was good and right. He also records they were men of noble sentiments and noble bearing. Books of science, astronomy, space travel, medicine and the like were destroyed –the labour of countless ages and countless researchers.

We quote hereunder from the world famous work of **Mr. M.A. Stein “Rajtarangini – Kalhana”** (Volume II),-Moti Lal Banarsidass Publishers, Pvt. Ltd. Delhi –reprint 1989.

## HILL OF SARIKA

Eastern slopes of the latter are now occupied by extensive buildings connecting famous ziarats of Maqaddam Sahib and Akhun Mullah Shah. It is probable that Mohammadan shrines have taken here place of Hindu religious buildings, just as at so many old sides of Kashmir.

Close to the foot of the southern extremity of the hill is a rock which has from ancient times received worship as an embodiment of Ganesa under the name of BHIMASVAMIN ..... In fact, if we are to believe Jonaraja, the rock image has changed its position yet a second time. This chronicler relates that BHIMASVAMIN from disgust at the iconoclasm of Sikander Butshikast finally turned his back on city.

Page 446, Para 95

#### TEMPLE OF SIVA PRAVARESVARA

A short distance to the S.E. of the BHIMASVAMIN rock and outside Akbar's fortress, lies the Ziarat of Bahu-ud-din Sahib, built undoubtedly with the materials of an ancient temple. The cemetery which surrounds it contains also many ancient remains in its tombs and walls. At the S.W. corner of this cemetery rises a ruined gateway, built of stone blocks of remarkable size, and still of considerable height. This structure is traditionally believed by the Srinagar Pandits to have belonged to the Temple of SIVA PRAVARESVARA which Kalahana mentions as the first Shrine erected by PRAVARESVARA in his new capital.

Blocks majoring up to sixteen feet in length, with a width and thickness equally imposing, were not convenient materials for the builders of Muhammadan Ziarats, hammams etc. who have otherwise done so much to efface the remains of ancient structures in Srinagar. The position of the ruins is very central and might have well been chosen by the founder of Pravarapura for prominent shrine in his new city.

#### POSITION OF RAMASVAMIN TEMPLE.

Not far from Baha-ud-din Sahib's Ziarat, to the S.W. stands Jamia Masjid, the greatest Mosque of Srinagar. Around it numerous ancient remains attest the former existence of Hindu Temples. Proceeding still further to S.W. in the midst of a thickly built city-quarter, we reach an ancient shrine which has remained in a comparatively fair state of preservation, probably owing to its conversion into a Ziarat. It is now supposed to mark the resting-place of the saint styled Pir Haji Muhammad. It consists of an octagonal cellar of which high basement and the side walls are still preserved. The quadrangular court in which it stands is enclosed by ancient walls and approached by an ornamented gateway. The position of this shrine has suggested me its possible identity with the ancient temple of VISNU RANASVAMIN which Kalhana mentions as founded by Ranaditya. This temple must have enjoyed considerable celebrity up to a comparatively late period. Mankha refers to it as an object of his father's devotion, and Jonaraja in his comments on the passage speaks of VISNU RANASVAMIN as one of the

chief shrines of Pravarapura. The evidence on which the suggested identification is based has been fully indicated in note iii.453. Page 447, Para 96.

#### SKANDABHAVANA

The site of Vihara has been traced by me in the close vicinity of Ziarat Pir Muhammad Basur. Certain ancient remains there were locally known and worshiped till the middle of the present century as a tirth sacred to Skanda. Near the SKANDAABHAVANVIHARA there stood once the temple of Sivaparavaguptesvara referred to by Kalhana as a foundation of King Paravagupta.

Page 448, Para 97

#### SAMUDRAMATHA

A little higher up, if we can trust local tradition, stood the ancient temple of VARDHAMANESA mentioned already in King SAMDHIMAT'S reign. The site so designated by the purohits of the adjoining Mohalla is close to the Malyar ghat. I have referred already in a previous note to the curious manner in which an ancient Linga supposed to be that of VARDHAMANESA was recovered a few years ago from a neighbouring mosque and a mahatmaya composed for the newly established shrine.

Page 450 Para 99

#### JUSKAPURA

A tradition, recorded already by General Cunningham, identifies this place (Zukur) with ancient JUSKAPURA. Kalhana names the place as a foundation of Turuska (i.e., Kusana) King Juska who also built Vihara there. The Muhammaddan shrines and tombs of the village contain considerable remains of the ancient buildings.

Page 456, Para 104

#### AMARESVARA

On the shore of the Anchar lies the large village of Amburher; it took its name from a temple of Siva Amaresvara which Suryamati, Anantas queen, endowed with Agraharas and a

matha. The ancient slabs and sculptured fragments which I found in 1895 in and around the Ziyarat of Forrukhazad Sahib, may possibly have belonged to this temple.

Page 456, 457 Para 104

#### VICHARNAG

It is held to be a manifestation of Ailapattra Nag who is mentioned also in Nilamata. An earlier designation seems to be MUKAMULAKANAGA which is given to the locality by Srivara and in the Tirthasamgraha. To the west of the village and near an inlet of Anchar are the ruins of three ancient temples now converted into ziarats and tombs.

#### TIRTHA OF SODARA:

Close to the mosque of Sodarbal and by the lake shore are two pools fed by perennial springs. These according to local tradition, were in old times visited by numerous pilgrims. Now all recollection of this tirtha has been lost among the Brahmins of Srinagar. But a name of the portion of the village area, Battapor, points to a former settlement of Battas or Purohits. It is curious too that we find only half a mile from the village the ziarats of Hazratbal, perhaps the most popular of all Muhammadan shrines in the valley. It is supposed to be built over the remains of the miracle-working Pir Dastagir Sahib. Is it possible that the presence of the rather ubiquitous saint at this particular spot had something to do with the earlier Hindu Tirtha.

Page 457, Para 104

#### PADMAPURA

The chief place of Vihi Pargana is now the town of Pampar, the ancient Padmapura, about 4 miles south west of Khunomoh. It was founded in the beginning of 9<sup>th</sup> century by Padma, the powerful uncle of puppet King Cippata/ Jayapida. Padma is said by the chronicle to have also built a temple of Visnu-Padmasvamin. To this may possibly have belonged the scanty remains of an ancient temple which have been described by General Cunningham.

## SANARA.

Only a mile to the South east of Khruv is the village of Sar, until recently the seat of flourishing iron-industry. Kalhana mentioned it by the name of Sanara an Agrahara founded by king Sacinara ----- . The ziarat of Khwaja Khizar which stands here near small springs is built with the remains of the Hindu Temple.

Page 459, Para 105

About two miles south-west of Sar are found the well preserved ruins of a temple near the village Ladu (not marked on survey map). They have been described by Bishop Cowie, but I am unable to trace any old reference to this shrine in the texts I have examined. It is remarkable for having a circular cellar, the only one known to me in Kashmir. A small square cellar to the east of this temple has been annexed to a neighboring ziarat.

Page 459-60, Para 105

## CAKRADHARA

It was once the site of one of the oldest and most famous shrines of the valley, the temple of Visnu Cakradhara ---- the plateau is still as TSAKDAR UDAR ----- . The shrine of Cakardhara is often mentioned as Tirtha of great sanctity. The temple seems to have been subsequently restored, and Jonaraja mentions the statue of CAKRADHARA among those chief divine images which Skandar Butshikast destroyed.

Page 461-62, Para 107

## TEMPLE OF SIVA VIJAYESVARA

The old Linga of Siva Vijayesvera seems to have been destroyed by Skander Butshikast.

Page 464, Para 109

## DISTRICT OF VAMAPARVA

It forms the modern Pargana of Khovurpor. An old site, undoubtedly the large village of Hutmar. Its modern name seems to identify it with the SAKTAMATA which Ksemendra

names as one of the stations in peregrinations of his heroine Kankali. The chief mosque of the place is built with the remains of a Hindu temple and preserves in its walls some sculptured fragments of remarkable beauty.

#### SHRINE OF BHIMAKESAVA

About a mile below Hutmar and on the bank of a branch of Lider lies the hamlet of Bumzu which contains an ancient structure of considerable historical interest. The ziarat of Baba Bamdin Sahib is nothing but a well preserved resting place of a Muhammadan saint.

Page 465, Para 110

#### TEMPLE OF MARTANDA

The ancient remains at the sacred spring itself are very scanty. All the more imposing are the ruins of the great temple which King Lalitaditya erected at a short distance of the presiding deity of the tirtha. The destruction of the sacred image is ascribed to Sikander Butshikast. Page 166, Para 111

#### SAMANGASA

About four miles to the north east of Kothar and on a branch of Arpath river lies the populous village of Sangas, the ancient Samagasa ---- some old carved slabs built into the chief ziarat of the place attest its antiquity. Page 467, 468, Para 112

#### DISTRICT OF KARALA

In the lower portion of the district and on the left bank of Visoka, we have the ancient Katimusa, the present village of Kaimuh. The place is mentioned by Kalhana as Agrahara, founded by Tunjina I, and contains some old remains built into its chief ziarat.

Page 471, Para 116

## PARIHASAPURA

It has received its name from the ancient Parihasapura which King Lilitaditya had built as his capital. The identity of the names Parspor and Parihasapura is evident on phonetic grounds, and was well known to the authors of the Persian abstracts of Rajatarangni. Yet curiously enough the site of Parihasapura had remained unidentified until I visited the spot in 1892 and traced the ruins of Lilitaditya's great structures as described by Kalhana on the Plateau known as Paraspor Udar. **The full destruction of the temples is attributed by Abu-I-Fazal and the Muhammadan chroniclers to Sikandar Butshikast.**

Page 477 and 478, Para 121

## VARAHAMULA

Varahamula, situated on the right river bank, has left its name to the present town of Varahmul, usually called Baramulla by Punjabis and other foreigners. The ancient temple of Varaha which seems to have been one of the most famous shrines of Kashmir, is repeatedly mentioned by Kalhana. According to the tradition of the local Purohits it stood near the site of the present Kotithirtha, at the western extremity of the town and close to the river bank. Some ancient Lingas and sculptures found at Kotitirtha may have originally belonged to the temple. The destruction of its sacred image is noted by Jonaraja in the reign of Skandar Butshikast.

Page 482-483, Para 124

After India achieved freedom and Kashmir acceded to the Union of India, temple desecration was resumed. Temple lands, cremation grounds etc. of Hindus were usurped for expansion of Islam. The famous Bhairavnath Temple of Chattabal, Srinagar was got locked through police. The judicial case pending in court concerning this temple was never allowed to be decided. Precious lands around Hari Parbat hill, Durganag Temple of Srinagar and lands at several Hindu places of worship in the valley were slowly and steadily turned into lands under occupation of Muslim trusts(Maqboozai-Ahali-Islam). In 1967 Shivala Temple, Chotta Bazar, Srinagar was desecrated. Again in 1984 Shri Hanuman Temple at Hari Singh High Street was damaged and in the same year Arya Samaj Temple of Wazir Bagh, Srinagar was

burnt. From 1986, the law and order situation in the Valley deteriorated day by day and temple desecration became the order of the day.

<b>Temples Vandalised in Feb. 1986</b>
--

ANANTNAG DISTRICT

1.	Anantnag Town:	Two temples damaged and one looted.
2.	Achhabal:	One temple desecrated, shit thrown on idols.
3.	Moripura:	One temple demolished.
4.	Sagam:	One temple partially burnt.
5.	Naogam:	One temple partially burnt.
6.	Telvani:	One temple partially burnt.
7.	Gautamnag:	One two-storied temple burnt and Dharamshala stoned.
8.	Krangsoo	Pujari Baba of a temple beaten.
9.	Akura(Mattan)	One temple and its entire property looted, and shed set on fire.
10.	Dialgam:	One temple heavily damaged by stoning.
11.	Salar:	One temple set on fire.
12.	Aishmuqam:	One temple set on fire.
13.	Bijbehara Town:	Two temples completely looted, ancient idol valued at more than Rs.10 Lakh, broken. Jai Devi Temple desecrated and idol stolen.
14.	Wanpoh(Gasipura):	Two temples and Samadhi of Swami Dama Kak, completely burnt.
15.	Dhanav (Bogund):	Two temples and one Dharamashala burnt.
16.	Chogam:	One temple stoned; its doors, windows and three pillars broken.

17.	Verinag:	One temple on the parikrama of the holy spring damaged, doors broken, idols thrown into the spring. Pawan Sandhya, a religious teerth converted into a place for construction of mosque.
18.	Larkipora:	Three temples of Goddess Durga, Siddha Lakshimi and Shiva completely burnt, idols broken into pieces.
19.	Fatehpura:	One temple completely burnt alongwith its entrance gate, Ancient Shiva idol broken to pieces.
20.	Quill(Pulwama):	One temple damaged partially.
21.	Trisal:	One temple stoned, compound wall of another temple damaged.
22.	Pawan Sandhya:	Converted into Mosque.

#### SRINAGAR DISTRICT

23.	Ganpatyar (Srinagar):	Temple heavily stoned.
24.	Jawahar Nagar:	Shiv Mandir desecrated and damaged; its property brought out and consigned to flames.
25.	Maisuma:	Dashnami Akhara, from where Charri Mubarak leaves for Holy Amarnath Cave, burnt down.
26.	Raghunath Mandir:	Damaged by stoning.
27.	Tulamulla:	One temple in the village burnt.
28.	Waskura:	The famous temple of Mata Rupa Bhawani partially burnt.
29.	Gandherbal:	Two temples burnt and two temples damaged.

BUDGAM DISTRICT

30	Yachhgam:	One temple partially damaged
31.	Badgam Town:	Sharda temple damaged
32.	Chadura:	One temple damaged

KUPWARA DISTRICT

33.	Tekpora:	One temple burnt.
34.	Lalpura:	One temple burnt.
35.	Handwara:	One temple damaged.

BARAMULLA DISTRICT

36.	Baramulla Town:	One temple partially damaged.
37.	Venkura:	One temple fully damaged.
38.	Sopore:	One temple partially damaged.
39.	Bandipora:	One temple partially burnt.

**Temples desecrated, damaged or destroyed in response to community calls for  
“Jihad” from 1987 to 1990**

1. Sri Puran Raja Bhairav at Hawal, Srinagar (Completely burnt)
2. Vandev Mandir, Hari Parbat (Completely burnt)
3. Kathlishwar Mandir, Zaindar Mohalla, Srinagar (partly damaged)
4. Gouri Shanker Mandir, Kani-Kadal (damaged)
5. Somyar Mandir, Habba Kaddal shopping complex (completely burnt)
6. Shiv Mandir, Shetalnath, Srinagar (burnt)
7. Shiv Mandir, Malapora, Srinagar (burnt)
8. Shailputri Asthapan, Mandir Baramulla (burnt)
9. Gautam Nag Mandir, Anantnag. Attacks have been frequent.
10. Raghunath Mandir, Anantnag. Attacks have been frequent.

11. Tikipora Mandir, Kupwara.
12. Sri Lakshmi Narayan Mandir, Bulbul Lankar, Srinagar. Ancient priceless idol removed by breaking one of the Temple walls.
13. Temple at Shopian with four buildings and shopping complex burnt. The Mahant at Napli mercilessly beaten, a South Indian Sadhu assisting the Mahant asked to kill a cow. Pine, walnut, apple, kikar and popular trees spread over 18 Kanals of temple land to a great extent destroyed. The Sadhu identified some people of Danda Mohalla mainly one Hussan Dand and Kuda Dand leading the mob besides Jamait-Islami workers on the carnage.
14. Idols in Shiv Mandir, Batayar desecrated.
15. Holy spring with Shiva idol desecrated at Khrew resulting in Hindu Muslim conflict in the village.

### **Temples desecrated and damaged in Kashmir from 1990-Dec.1992**

1. DASHNAMI AKHARA, Srinagar.

On the opposite side of the shopping complex of Aukaf building, housing a library, Reading Room and an office of Jamait-Islami, lies the age old Akhara in Budshah Chowk, Srinagar. The temple in the Akhara is surrounded by three storied shopping-cum-hotel-cum-office complex on three sides. There is a beautiful park in the premises, dharamshalas for Sadhus, residence of the Mahant etc. The Akhara has provided a vast area to Suraj Transport Company for godowns and parking space on rent.

The Akhara has been a chronic eyesore to the Jamait-Islami. It was attacked countless times but in early 1990, mobs forced entry into the premises causing a devastating fire, and loss of property in crores in godowns and a portion of Mahant residence. C.R.P.F suffered heavy injuries protecting the temple.

2. GANPATYAR TEMPLE

Ganapatyar has been attracting mob attacks right from 1953. Al-aksa episode, Satanic verses, Zia's death, fall of east Pakistan, defeat of Pakistan in cricket etc. have been the

causes. From the onset of insurgency it was stoned, attacked by bomb blasts and rockets at various occasions but CRPF in one of its Dharamshallas saved the shrine at great cost.

3. RAGHUNATH MANDIR, SRINAGAR

The school caught fire when the Dharamshalla of the temple was set on fire in early 1990 while worshipping in the Temple attendance was forbidden. However, the worshipers refused to stop worship. The premises were set on fire.

4. SHIV TEMPLE, JAWAHAR NAGAR, SRINAGAR

The property in the Dharamshalla was brought out along with some Puja material and idols from the Temple; some removed and some consigned to flames.

5. HANUMAN MANDIR, SRINAGAR

Desecrated long before the start of insurgency which necessitated round the clock CRPF Guard. The massive Panchamukhi Hanuman idol suffered some damage in early 1990.

6. SHIV TEMPLE, BARBAR SHAH, SRINAGAR

It was desecrated a number of times. What is desecrated is not safe. Desecration itself is a heinous sacrilege.

7. JAI DEVI TEMPLE, BIJBEHARA

Desecrated, idols stoned, compound wall broken in 1986.

8. VIJESHWAR TEMPLE, BIJBEHARA

Night soil was thrown on 10 Shiv Lingas inside the Temple in 1986, and compound wall broken.

9. SHIV MANDIR BIJBEHARA  
Ancient idols valued over Rs. 10 lakhs in the shrine were looted in 1986.
10. RAGHUNATH TEMPLE, ANANTNAG.  
According to Mahant Sukhram and other sources, mostly Muslims, it suffered 9 bomb attacks, 7 blasts. Police station, Anantnag, Refer FIR No.307/427 dated 9-1-91.
11. GAUTAM NAG TEMPLE, ANANTNAG.  
The double storey temple (60X40) was burnt to ashes in presence of Homeguards personnel, and property loss was estimated to the tune of Rs. 28 Lakhs leaving aside priceless ancient manuscripts in Sanskrit and Sharda. The orchard on 145 canals of land with thirty thousand fruit trees was mercilessly attacked by fanatical mobs leaving hardly three thousand trees to survive.
12. THREE TEMPLES OF LUKHBHAVAN, LARKIPURA, ANANTNAG.  
Damaged in 1986. Subsequently repaired. Dharamshala burnt, temple suffered some damage again in 1992.
13. WANPOH MANDIR, ANANTNAG.  
Damaged in 1986. Subsequently repaired. The idols have been desecrated publicly in respect of this shrine on 21-2-1992, according to sources.
14. SHAILPUTRI TEMPLE, BARAMULLA.  
Damaged in 1990.
15. DAYALGAM MANDIR, ANANTNAG.  
It was stoned heavily but somehow not razed to the ground.

16. BHAIHAVANTH MANDIR, BARAMULLA  
Damaged in 1990.
17. BHAIHAVANATH MANDIR, SOPORE.  
Desecrated and damaged.
18. RUPABHAVANI MANDIR, VASAKURA  
Idols, Ashram utensils removed. Night soil thrown on the steps in early 1990, a dozen times. Protesting Hindus of the vicinity mercilessly beaten.
19. KHIRBHAVANI MANDIR, GANDERBAL  
According to B.G.Verhghese “Its origin goes to epic times. The security forces in its precincts attracted rocket attacks on April 4, 1991, which chipped some concrete off the outer gate. It again came under attack on May 4. Bullet marks can be seen on the other structures”.
20. SHIV TEMPLE, GANDERBAL  
Desecrated and damaged.
21. MATTAN TEMPLE ANANTNAG  
A mob entered the premises, after Nimaz, claiming it to be a Muslim shrine.

**Minister of State for Home, Sh. M.M.Jacob told the Lok Sabha on 12-3-1993 that 38 places of worship were damaged in J&K State, 13 in 1989, 9 in 1990 and 16 in 1991.**

## **Report of Sh. Sukh Ram Dass, Deputy Mahant, Gautamnag Ashram**

One Sh. Sukh Ram Dass, Deputy Mahant, Gautamnag Ashram is also incharge of the Raghunath Mandir of Anantnag, Kashmir. He was kidnapped by Muslim insurgents on 6-3-1991, mercilessly beaten during his protracted interrogation. A date was fixed for executing him. He, however, managed his miraculous escape.

Gautamnag is an aeons-old shrine. Swami Sarawanand meditated here for sixty long years during Maharaja Partap Singh and Hari Singh's rule. He had made a big pond called "Lotus Lake". The lotus which grew here were of course more fascinating and awe-inspiring than those in the famed Dal Lake and Manasbal Lake of Kashmir.

The Shrine has been famous for its Gow-shallas, for centuries, for food and fruits lavishly served to pilgrims, Saints and Sadhus from all over the country, particularly during Shri Amarnath Ji Yatra. These food stuffs would, invariably, go to the needy Muslim neighbours, orphans and widows of all communities free of cost in absence of Ashram guests.

On Feb. 20, 1986 a two storeyed temple in the Ashram was razed to the ground by unruly Muslim mobs. The then Governor of J&K subsequently had a temple built on the debris of the burnt temples. The Deputy Mahant gives the dates of fire attacks during insurgency (from 1990) as under :-

12-12-90, 18-12-90, 6-1-91, 7-1-91, 18-1-91, 19-1-91, 27-1-91, 2-2-91, 19-2-91, 28-2-91, 28-2-91 and 6-3-1991.

### **BOMB BLASTS**

On 8-6-1991 at 8:30 (which were repeated 9 times).

**Grenade attacks on temples 21-6-91.**

**Petrol Bomb attacks:** 12,13 and 23-11-1993 etc.

Deputy Mahant approached the authorities to shift ten starving cows to Jammu or elsewhere. Nobody listened to his request. "I then sought help from voluntary organizations. They readily managed shifting of cows to Jammu on their own expenses and at the greatest risk to their voluntary workers including truck drivers", says Sukh Ram. "The Governor of

J&K State promised me on 24-6-91 to have back side wall of the Ashram buildings repaired besides some essential construction in the premises done but the assurance turned out a hoax” adds the Deputy Mahant.

“On 15<sup>th</sup> September 1990, I submitted representation to the concerned police station and also to the D.I.G. Police, concerned, the Governor and others for raising the strength of CRPF personnel guarding the Ashram from 8 to 16. To my great surprise and shock entire CRPF was shifted on 30-10-1990 and replaced by local armed police personnel who looked with contempt towards me and the shrine.”

Sukh Ram says that he made frantic appeals to the President of India, Home Minister, Governor of J&K State and lot of others but nobody could be moved. The result was that a double storeyed house, cow-shed, shali store house, other minor constructions were reduced to ashes on 19-10-91 at dead of night under the nose of local guards who did not move even their little finger and even whisper while the carnage was on.

Sukh Ram says he met the Hon’ble Home Minister personally and several other Congress leaders and apprised them about the continued desecration to the temple and shrines in Kashmir but he was unable to evoke any response.

\* \* \* \* \*

**DETAILS OF THE TEMPLES DESTROYED IN J&K STATE AFTER 6<sup>TH</sup> DEC. 1992**  
**DISTRICT ANANTANAG:**

<b>S.No</b>	<b>Date of occurrence</b>	<b>Description of temple</b>	<b>FIR No.</b>	<b>Police Station</b>
1	8-12-1992	One of Gouree Shankar temple	81/92	Pahalgam
2	10-12-1992	Two Shiv Jee Temples	278/92	Ananatnag
3	8/9-12/1992	Shiv jee Temple	45/92	Damhal Hanjipura
4	9-12-1992	Temple	45/92	Do
5	9-12-1992	Temple	46/92	Do
6	7/8-12-1992	Two Shiva Temples	165/92	Kulgam
7	7/8-12-1992	Shivala Temple	166/92	Kulgam
8	8/9-12-1992	Temples	168/92	Kulgam
9	8/9-12-1992	Shiv Temples	169/92	Kulgam
10	7/8-12-1992	Two Temples	172/92	Kulgam
11	7/8-12-1992	Shivalik Temple	173/92	Kulgam
12.	7/8-12-1992	Shiv Temple	42/92	Achabal
13	7/8-12-1992	Shiv Temple	43/92	Achabal
14	7-12-1992	Temple	80/92	Dooru
15	7-12-1992	Temple	81/92	Dooru
16	7/8-12-1992	Temple	84/92	Dooru
17	7/8-12-1992	Ganesh Temple	91/92	Dooru
18	7/8-12-1992	Ganesh Temple	86/92	Dooru
19	8-12-1992	Temple	93/92	Dooru
20	13-12-1992	Temple	45/92	Achabal
21	16-12-1992	Temple	46/92	Achabal

22	8-12-1992	Temple	93/92	Dooru
23	8-12-1992	Temple	171/92	Kulgam
24	8/9-12-1992	Temple	178/92	Kulgam
25	8-12-1992	Temple	40/92	Achabal
26	7/8-12-1992	Temple	167/92	Kulgam
27	8-12-1992	Temple	47/92	Hanjipora
28	7/8-12-1992	Temple	163/92	Kulgam

**DISTRICT BARAMULLA:-**

1	7/8-12-1992	Temple	185/92	Pattan
2	7/8-12-1992	Temple	186/92	Pattan
3	8-12-1992	Two Temples	78/92	Panzulla
4	8-12-1992	Temple	178/92	Sumbal
5	7-12-1992	Temple	188/92	Oattar
6	15-12-1992	Temple	71/92	Panzulla

**DISTRICT SRINAGAR:-**

1	18-12-1992	Temple Narayan Bagh	145/92	Ganderbal
2	18-12-1992	Shamshan Bhoomi	84/92	Karan Nagar
3	8-12-1992	Shiv Vashno Mandir, Bana Mohalla	265/92	S.R.Gunj

**DISTRICT BUDGAM:-**

1	7/8-12-1992	Temple	38/92	Chandpora
---	-------------	--------	-------	-----------

**DISTRICT KUPWARA:-**

1	10-12-1992	Temple	--	Watipora
---	------------	--------	----	----------

**TEMPLES VANDALISED IN KASHMIR AFTER DECEMBER 6, 1992**  
(SOURCE-LOCAL EYEWITNESSES OF CONCERNED PLACES)

S.No.	NAME OF TEMPLE	LOCATION VILLAGE/TOWN	DISTRICT	REMARKS
1	Vamu Mandir	Verinag	Anantnag	Ancient Idol publicly desecrated and then removed.
2	Temple on the Spring.	Verinag	Anantnag	Burnt.
3	Vitesta Mandir (Vetha Votur)	Verinag	Anantnag	Burnt. Temple as ancient as River Jehlum(Vitasta)
4	Buna Gund Mandir	Verinag	Anantnag	Burnt
5	Two Dharamshallas Manzgam Mandir	Tehsil Kulgam	Anantnag	This Temple is also known as Khir Bhawani Mandir. Burnt after removing whole movable property.

6	Uma Nagri	Brariangan	Anantnag	See Swami Syamananda's Letter sheet attached.
7	Kantiyani Mandir Under Dharamarth Trust	Kakran	Anantnag	Blasted and has got damaged.
8	Mirhama Mandir	Mirhama Kulgam	Anantnag	Burnt
9	Two ancient shrines	Hanand Chowalgam	Anantnag	Burnt
10	Kulwagishori Mandir Dharamshalla	Kulgam	Anantnag	Idols, pictures and scriptures, removed and burnt.
11	Devsar Mandir	Devsar Kulgam	Anantnag	Burnt
12	Ancient Temple of Tripursundri Khannabarni	Devsar Kulgam	Anantnag	Burnt to ashes along with three Dharamshallas and "Hawan" shed.
13.	Luka Bhawan	Larkipora	Anantnag	Three Temples and Dharamshalla burnt which were also damaged in 1986 and sub-sequently repaired

14	Botsar Mandir and Ashram	Uttarsoo	Anantnag	As per police control room written report, the temple, 8 houses, two cow sheds, 2 Kothars of minority community (which means Hindus) were set on fire.
15	Pahalgam Temple	Pahalagam	Anantnag	The tin shed of Pahalgam temple gutted partially. Fire was controlled by fire services as per police control room report.
16	Shiv Mandir	Sheer Gunj	Anantnag	As per police control room written report-the temple, 6 residential houses, 4 cow sheds, 2 kothars of minority community were set on fire on 8-12-92.
17	Ashmuji Mandir	Kulgam	Anantnag	Burnt along with Dharamshalla.
18	One Mandir	Chatargul	Anantnag	As per police control room, one temple at Chatargul, Achbal was set on fire.

19	One Mandir	Hard Chanan	Rafiabad Baramulla	Written report of police control, room- Baramulla confirms that militants attempted to set on fire temple at Hardchanan on 11-12/12/92 but got it partially damaged.
20	One temple	Palhalan	Baramulla	During the night intervening 9/10 Dec. 1992, militants set on fire a place of worship at village Palhalan (Pattan), reveals a written report of police control room.
21	One temple	Karihama	Baramulla	Burnt.
22	One temple	Kreri	Baramulla	Burnt.
23	Shiv Mandir	Baramulla	Baramulla	Burnt. This is also located on River Jehlum. (It is not Shailputri temple which was damaged in 1990).
24	Nandkishwar Bhirav Nath Mandir	Sumbal	-do-	Written report of Police control room reveals- it was set on fire on 8-12-92 but saved.

25	One temple	Nowgam	Budgam	Burnt.
26	One temple	Bana Mohalla	Srinagar	The Temple is on the bank of River Jehlum. Burnt by applying fire to varandah of a house of displaced Pandit touching the temple.
27	One Temple and shed at cremation site	Karan Nagar	Srinagar	According to police control room temple & shed gutted, cause of fire was mischievousness
28	Magarmal Bagh Mandir	Srinagar	Srinagar	Burnt. It is in the vicinity of police lines, Srinagar.
29	Kunzer Mandir	Kunzer	Baramulla	Burnt
30	Karihama Mandir	Karihama	Budgam	Burnt.
31	Karfali Mohalla Mandir	Habbakadal	Srinagar	Damaged
32	One temple	Areh, Kulgam	Anantnag	Burnt
33	Bata Gund Mandir	Handwara	Kupwara	Burnt
34	Chogal Mandir	Handwara	Kupwara	Burnt
35	Chak Narayan	Tangmarg	Baramulla	Burnt
36	Narayan Bag Mandir	Shadipora	Baramulla	Police control room confirms fire by throwing grenades on the temple & pathshalla.

37	Bhairavnath Mandir Nursing Garh	Karan Nagar	Srinagar	Burnt by mobs in broad day light.
38	Sri. Sanatan Dharam Sabha, Amira Kadal	Srinagar	Srinagar	As per Radio Kashmir, Srinagar, Kashmir Times, Daily Excelsior and eyewitnesses' messages, the buildings were set on fire.

**Incidentally the eyewitnesses' evidence corroborates  
with the State police reports in many cases.**

**INDIAN EXPRESS**

DEC. 15,1992

**J-K MILITANTS DEMOLISHED 40 TEMPLES, 150 HOUSES SRINAGAR**

Kashmiri militants have destroyed at least 40 temples and 150 houses during the past five days, even as pro-militant political leaders urged Muslim countries to enforce economic blockade on India for the Ayodhya incidents. Most of the incidents have been reported from rural Kashmir, especially Anantnag district in the south and Baramulla and Kupwara districts in the north. In Srinagar city, a temple and seven houses at Banamoholla and a cremation shed at Karan Nagar, migrant houses at Jawahar Nagar, Natipora and some other localities were burnt. In villages like Wadipora in Kupwara, Chinigund, Verinag, Peba, and Doru in Anantnag, Shergund in Baramulla, Kokernag and Chack-e-Narain, entire settlements of minority houses, schools, Dharamshallas and Ashrams were reduced to ashes. While official figures said nearly 14 hundred were burnt, the minority community put it around 4000. Several precious idols of Antique value were also burnt close with the temples.

The house of eminent Kashmiri poet, Sarwanand Premi at Amnoo in Kulgam was also reduced to ashes.

\* \* \*

**DAILY EXCELSIOR**

Dec. 31 1992

**Report on  
UMA NAGRI TEMPLE  
(FROM SWAMI SYAMANANDA)**

On Dec. 8<sup>th</sup> 1992 the militants attacked and set on fire the Uma Nagri Complex. In the complex, an old Dharamshalla depicting the Kashmiri art and craft was not even spared and everything was destroyed within the temple. Besides Sh. Dhooni Sahab which was burning since 1872 day and night even during the rule of Pathans has also been set on fire. In addition to it the famous temple constructed of marble stones inside a pool of water named Shiv Shakti Kund also was not spared. It was recently constructed at a cost of more than Rs. 10 to 12 Lakhs and with the help of people but it has been razed to ground by the hand grenades by the militants.

**DISTRICT POLICE OFFICE, ANANTNAG**

No: DYSPDAR/ 1109

Dated : 15-2-1993

Shri Swami Syamananda,  
Ashram Camp, Kashmiri Pandit Sabha,  
Amphalla, Jammu Tawi.

Sir,

Kindly refer your letter No. 1507 Dated 25-1-1993, regarding demolition of Uma Temple by blasting on 8<sup>th</sup> Dec. 1992. In this regard the FIR copy of the said incident is enclosed herewith for your kind perusal. The buildings of the trust have been gutted completely due to the fire. The Uma Devi idol has been broken by the miscreants into pieces, but the structure of the Temple is intact. The iron railing is partly damaged.

Hence the report is submitted for your kind perusal.

Your sincerely,

Sd/-

**(Superintendent of Police)**

District Anantnag.

Enc:- FIR copy vide No. 40/920/S 436, 295.

**DAILY EXCELSIOR**  
DATED:- AUG. 10 1995  
**97 TEMPLES DAMAGED IN MILITANT ATTACKS IN VALLEY.**

**New Delhi Aug.9** As many as 97 Temples were burnt or damaged in the incidents of terrorist violence in Jammu and Kashmir from 1992 till July this year and 1747 civilians lost their lives in the last 19 months, the Lok Sabha was informed today.

The Minister of State in the Prime Minister's Office Mr. Bhuvanesh Chaturvedi said in a written reply. 31 Temples were damaged only this year and added that security arrangements have been made in vulnerable areas including regular patrolling by security forces for the protection against possible attacks by militants. (PTI)

From 1990 onwards, ban was imposed by terrorist groups on the annual Shri Amar Nath Ji Yatra continuously upto 1995. For the last two years, the district administration of Anantnag has kept itself away from making Yatra arrangements. The local Ponywallas, shopkeepers, hoteliers and suppliers of tents for Yatris have also boycotted the Yatra.

For Hindus the temples have been the centres of spiritual solace and places of philosophical discourses and discussions. Their desecration, after independence, in Kashmir has ramifications... unknown till date.

## EXODUS

### Sec. 2

- a) **Collapse of administration.**
- b) **Statistical data.**
- c) **Extermination (Burning of Hindu properties in Kashmir).**

#### a) **Collapse of administration.**

In 2<sup>nd</sup> half of 1989, the Government of Jammu and Kashmir headed by Dr. Farooq Abdullah took the following three important decisions which became the immediate cause of collapse of administrative structures in Kashmir valley:-

- i) Release of seventy hard-core highly motivated terrorists who had received training in handling of weapons of destruction in Pakistan, despite the fact that the three member Advisory Committee headed by the Chief Justice had approved their detention, was the most unpatriotic act. The prevailing scenario of rise of terrorist violence in Valley, infiltration of terrorist moles into sensitive administrative set up, popular unrest and tension which was the order of day between July to December 1989 did not warrant treating hardcore dreaded terrorists in a casual manner. The result was that the released terrorists soon organized unprecedented bomb blasts, arson, killing of innocent citizens that was followed by mass uprising in the Valley.
- ii) Parliamentary elections were ordered to be held in an atmosphere surcharged with violence in the Valley during November 1989. The terrorists were confident of their success to curb people's participation in the poll. As a tantalising gesture they offered to gift a T.V. set to the person who would cast his vote at the

identified polling booths. The success of terrorists was total and complete in as much as hardly three percent of electorate only did cast votes in the Valley.

- iii) On Dec. 13 1989, the Government released unconditionally five top terrorists Hamid Sheikh, Sher Khan, Javed Ahmed Zargar, Mohd. Kalwal and Mohd Altaf Bhat to secure release of Dr. Rubaiya Sayeed D/o Mufti Mohd. Sayed, the then Union Home Minister, who had been taken hostage by the terrorists

The decision of the Government to release terrorists completely demoralised the law and order machinery of the State government. The terrorists, over-night, turned into heroes that enabled them to tighten their control over the State police force and turn it into a willing instrument for being used for furthering the cause of secession of the State from the Union of India.

The failure to ensure participation of people in the polls deprived the Government of the legal and constitutional legitimacy to govern which facilitated the virtual take over of the State administration by the gun wielding terrorists and their sympathisers.

The terrorists got under control highly sensitive organs of administration: -

- i. Police Department including various intelligence agencies became as submissive to the terrorists' designs that the constables on traffic control duty at road crossings would show 'V' sign of victory from their beat to terrorists passing by on their scooter or wagon. Even when massive anti-India processions were taken out under the leadership of gun-wielding terrorists in Srinagar, the policeman used to show 'V' sign. The intelligence sources dried up for the government. There have been three revolts during the last six years in the police force in Kashmir.
- ii. Doordarshan came directly under the control of terrorists after the assassination of its Station Director, Shri Lassa Koul by the terrorists. The

Government was obliged to shift this sensitive institution out of the valley for almost three years.

- iii. Telephone Department was also paralysed by killing Kashmiri Hindu employees of the department. Thereafter the services of this department had been used with ease for sabotaging the security operations of the Government.
- iv. The load carriers containing food supplies for the inhabitants of the Valley had been kidnapped in large numbers by terrorist groups for utilising these supplies in a manner that suited their purpose. They burnt the food-storage go-downs at far-flung and backward areas of the Valley and Doda district mostly in connivance with the local staff of the Food and Supplies Department.
- v. The Central Government offices like the Regional Passport office, Srinagar were burnt whereafter it had been shifted out of valley along with some other offices.
- vi. Many commercial banks were obliged to close their branches in rural areas and small towns and forced to open the counters of these branches in their Regional offices at Srinagar.
- vii. After the assassination of Prof. Mushir-ul-Haq, Kashmir University came directly under terrorist control. All its activities are conducted in accordance with the terrorists' directives.
- viii. The Revenue Department of the Government is fully under the grip of terrorists. The refusal of the staff of this Department to perform their duty in

connection with Sri Amar Nath Ji Yatra speaks volumes about the condition of the Department. Fraudulent mutation of the land of the displaced Hindus have been made by this Department.

- ix. The Chief Electoral Officer's organisation along with the Revenue Department staff have refused to associate with the work of updating electoral rolls.
- x. Hospitals have become the hide outs and sanctuaries for the terrorists.
- xi. Apart from failing to protect the properties of the displaced, the Government has failed to create an organisation during the last six years to look after these properties.

**The Collapse of the administrative organisation has manifested in various forms as under:-**

- i. Normal business activity is paralyzed by continued protest "hartals" and "bandhs".
- ii. Business of licenced cinema halls, video and beauty parlours and wine shops is banned.
- iii. Sign- Boards of business establishments have been painted green.
- iv. Wearing of "Pardha" by women is a MUST. Kashmiri women except those belonging to the families of "Pirzadas" never used purdha.
- v. Electricity fee, water tax are not paid.

- vi. Realisation of income–tax, land-revenue etc. is not made by Government agencies.
- vii. Contracts at block and district level are sanctioned as per dictates of the terrorists.
- viii. Appointments in Government offices especially those of teachers are made as per the dictates of the terrorists.
- ix. Government servants and business establishments are made to contribute funds monthly to terrorist organizations.
- x. Local press has to function as per the dictates of the terrorists.
- xi. No school or college is allowed to sing the National Anthem.
- xii. National Flag cannot be hoisted anywhere except under adequate security cover.
- xiii. Republic-Day and Independence-Day are observed as black day since 1984.
- xiv. Government schools, colleges, government buildings, private residential houses of Hindus, temples, libraries and ashrams are burnt in routine.
- xv. Kidnapping and killings of citizens is a continuous process. Average killings in violent incidents in the valley is around 100 per week now-a-days.
- xvi. Lands, orchards, houses, fruit-bearing and other trees, business establishments of the displaced Hindus have been usurped.

- xvii. Forest timber depots have been burnt. Forest wealth is looted.
- xviii. The world famous Dal Lake and other lakes of the valley are encroached upon. These lakes and water bodies are shrinking very fast day by day.
- xix. Private affairs of people such as marriage, divorce, inheritance etc. have to be settled as per dictates of the terrorists.
- xx. Illegal abortions of un-married women are rising up alarmingly.
- xxi. Resort to strikes by the Government servants for long spells on political issues is a common feature.
- xxii. Rupees 500 Crores annual income yielding tourist trade of the valley stands completely destroyed.
- xxiii. Lavish advertisements are sanctioned by the Government Departments to terrorist-secessionist controlled newspapers and magazines.
- xxiv. Terrorist groups in the valley have established parallel courts to effect their social control.

\* \* \* \* \*

**b) Statistical data.**

Population (Religion Wise) J&K 1981 (1991-Census not conducted till date)								
Region	Hindu	Muslim	Sikhs	Budhists	Jains	Christian	Others	Total
Jammu	1802832	804637	100164	1141	1514	7778	47	2718113
Kashmir	124078	2976932	33117	189	62	466	0	3134904
Ladakh	5338	61883	334	68376	0	237	5	134372
Total	1932248	3843451	133615	69706	1576	8481	52	5987389

☆ PERCENTAGE OF TOTAL MUSLIM POPULATION TO TOTAL POPULATION OF STATE <b>64.19243</b>	☆ PERCENTAGE OF TOTAL HINDU POPULATION TO TOTAL POPULATION OF STATE <b>32.27196</b>
☆ PERCENTAGE OF MUSLIM POPULATION OF KASHMIR DIVISION TO TOTAL POPULATION OF STATE <b>49.72003</b>	☆ PERCENTAGE OF HINDU POPULATION OF KASHMIR DIVISION TO TOTAL POPULATION OF STATE <b>2.072722</b>
☆ PERCENTAGE OF MUSLIM POPULATION OF KASHMIR DIVISION TO TOTAL MUSLIM POPULATION OF STATE. <b>77.45466</b>	☆ PERCENTAGE OF HINDU POPULATION OF KASHMIR DIVISION TO TOTAL HINDU POPULATION OF STATE. <b>6.421432</b>
☆ PERCENTAGE OF MUSLIM POPULATION OF JAMMU DIVISION TO TOTAL MUSLIM POPULATION OF STATE <b>13.43886</b>	☆ PERCENTAGE OF MUSLIM POPULATION OF JAMMU DIVISION TO TOTAL HINDU POPULATION OF STATE <b>93.3023</b>
☆ PERCENTAGE OF MUSLIM POPULATION OF JAMMU DIVISION TO TOTAL POPULATION OF JAMMU DIVISION <b>29.60277</b>	☆ PERCENTAGE OF HINDU POPULATION OF JAMMU DIVISION TO TOTAL POPULATION OF DIVISION <b>66.3266</b>

☆ Note:- Population figures of Kashmiri Hindus shown are 124078. Same were found to be incorrect after exodus. Exodus figures show about 250000 displaced Hindus from Kashmir division (at Jammu).

**DISTRICT WISE DETAILS OF DISPLACED FAMILIES REGISTERED-  
ENDING NOV.1990**

<b>DESCRIPTION</b>	<b>JAMMU</b>	<b>UDH.</b>	<b>KATHUA</b>	<b>RAJOURI</b>	<b>DODA</b>	<b>POONCH</b>	<b>TOTAL</b>
No. of families registered	46525	6358	478	28	360	1	53750
Total strength	211785	27402	2012	94	1460	5	242758
No. of families accommodated							
i) In tents	5039	355	0	0	0	0	5394
ii) In buildings	1043	2234	138	0	9	0	3424
<b>TOTAL</b>	<b>6082</b>	<b>2589</b>	<b>138</b>	<b>0</b>	<b>9</b>	<b>0</b>	<b>8818</b>
No. of camps established	19	6	1	0	4	0	30
No. of Govt. employees (Central & State)	11771	107	135	12	118	1	12144
No. of employees belonging to Bank, Corporations etc.	888	47	0	0	0	0	935
Total (Plus 35-registered after Nov. 1990)							13,114

**REGISTRATION AT DELHI**

Govt. employees  
840

Relief holders  
4018

Note:- (The total number of displaced Kashmiri Hindus in 1989-90 is approximately 3 Lakhs besides an equal number of the members of the community who were forced to migrate earlier from 1947 to 1989 due to various reasons plus earlier displaced making a total of 7 lakh members of the community scattered throughout the country and abroad).

**AN ESTIMATED DATA OF POPULATION**

I)	Jammu Province	300000
ii)	Kashmir Province	20000*
iii)	Delhi	100000
iv)	Other metropolitans	100000
v)	Other states of India	100000
vi)	Abroad	10000
vii)	Pre-1947 Displaced members	70000
	<b>Total:-</b>	<b>700000</b>

\*(As per figures of Prof. S.D. Soz vide-HT dated 27-04-1995)

**(C ) Extermination (Burning of Hindu Properties in Kashmir)**

The Kashmiri Muslim terrorists have burnt, destroyed and usurped thousands of Kashmiri Hindu properties to complete the process of extermination and cleansing of the Hindu minority from the valley. Since there are a number of nodal agencies created by the Government, to register such cases, a clear picture regarding the number of the displaced burnt houses is not available. However, we have made an attempt to consolidate the list of burnt properties to the extent it would have been possible and realistic. (For details refer, to Annexure B).

**Note :** This Annexure “B” has not been given here as the document would become too voluminous. The original Report (On Human Rights Violations in Kashmir) submitted to the NHRC, however, carries the relevant list.

A rough estimate suggests that over 25,000 houses of the Kashmiri Pandits have been burnt (excluding properties connected to Religious and Cultural places) by the Islamic terrorists to ethnically cleanse the Valley of Kashmir.

### **Sec.3 Apartheid**

- a) **Effects of exodus.**
- b) **Problems of students.**
- c) **Discrimination.**

#### **a) Effects of exodus.**

One facet of the multidimensional human rights violations against the Kashmiri Pandits is the health trauma -physical, mental and psychological, resulting from the forced exodus of their community.

While most of the ailments, the exiled community suffers from, are either an exacerbation and greater incidence of the existent health problems, a host of new diseases, entities and syndromes previously unknown or rare in the community have appeared for the first time. The undercurrent of terror, sense of total deprivation, loss and uprootedness have worked havoc with the psyche of the community. Working in tandem with these factors is the trauma of migration, the problems of acclimatization to an entirely different and hostile environment, over-crowding, poor housing, insanitary and unhygienic conditions, scarce medicare facilities and malnutrition.

#### **Heat strokes**

Heat trauma was almost unknown to the community in the salubrious ambience of Kashmir Valley. The first summer of exile took a heavy toll of nearly 400 precious lives. There was neither the awareness of the disease nor the implements to prevent or treat it. The lack of basic facilities like fans and coolers was a far cry in the camps where the refugees lived. Even enough water was not available to drink, not to speak of repeated baths to the body. During the second summer(1991) people had learnt the basic lessons of frequent cold baths or avoidance of direct heat of the sun, but other basic amenities to ward off the heat exhaustion and heat stroke were scarce to most with the result that another sixty people died.

### **Drowning**

More than two dozen members of the community were lost due to drowning. The victims ventured into the fast flowing water of the canal in Jammu where they were driven to cool their bodies in the terrible heat of the summer.

### **Dogbites, Snake and Scorpion Bites**

Many outlying areas in Jammu where the camps are located are over-run by bushes which harbour snakes and other reptiles and are rife with stray dogs some of whom are rabid. The members of the community are taken unawares during evenings or dark nights. Twenty people have lost lives, due to bites by poisonous snakes and two due to rabies(hydrophobia).

### **Accidents**

The accident rate in the community has increased manifold because the members have to travel a lot in search of shelter and livelihood and for social contacts, since their relations have been thrown far and wide in Jammu and its neighbouring districts and in other states of India. The old and infirm have no place to move about for a stroll except the lanes which are strewn with slippery stones and causing many a fall and fractures especially of the neck and subdural hematomas (clots in the brain). Many of these victims died because of lack of treatment.

Fall from the roof tops has become another common cause of accidents. The community has lost a minimum of 200 people due to accidents.

### **Tropical Diseases**

Malaria caused a great morbidity and suffering in the community. The community lacked immunity acquired by people living in endemic areas and the disease struck in large numbers and with great severity. Giardia and amoeba are new parasites that are taking roots in the gastrointestinal tracts of the community members causing a lot of diarrhoea and dysentery.

Infectious hepatitis, jaundice is not uncommon in the Kashmir Valley and not new to the displaced community but its incidence has grown in them because of contaminated water supply or lack of sanitation or disposal.

### **Pulmonary Diseases**

Over-crowding has resulted in greater numbers of pneumonia and tuberculosis patients in the community. There is no doubt that tuberculosis is on the rise in the displaced people. Whereas in the rest of the country it had shown a slight decreasing trend, the incidence in exiles has jumped nearly three times.

<b>Disease</b>	<b>year</b>	<b>Percentage affected.</b>
Tuberculosis	1990	1.00
Tuberculosis	1991	1.20
Tuberculosis	1993	2.00
Tuberculosis	1995	3.20

Malnutrition, diminished immunity, overcrowding, poor ventilation and poor sanitary conditions help in cross infection, propagation and perpetuation of this disease. But bronchial asthma and allergic arveolitusus is rampant as hundreds of new cases report every month during the summer and autumn season. The mushroom growth of pyretheium colloquially known in Jammu as “ Congress Grass” is one of the likely antigenic factors responsible for the allergic disorders to which the community is not immune.

### **Skin Disease**

It will not be an axaggeration to state that almost 100 percent of the displaced community is suffering from the skin diseases. More than half of these are fungal infections, some times so severe and disseminated that it calls for both oral and topical antifungal treatment for a prolonged period. Scabies is rampant and almost epidemic in the tents. A

significant proportion of them develop secondary bacterial infections with the dreaded complication of acute nephritis, a kidney disease. Furunculosis, boils, abscesses, solar and allergic dematoes etc. are also commonplace. An unknown but a dreaded disease dermatomysists has attacked children in camps.

### **Infectious Diseases**

Measles, mumps, chicken pox are rampant in children. Typhoid has become the scourge of the community. In 1991 summer, more than five thousand displaced Pandits contracted the infection. The most disturbing aspect of the infection is the resistance to conventional antibiotics and very costly drugs have to be administrated. Lots of patients developed serious complications.

### **Renal Colics and Stones**

The patients flock the clinics with renal colics, many of them due to crystal precipitations as a result of hot climatic condition in summer to which the community is not adapted. The incidence of renal stones and renal infections has risen precipitously.

### **Endocrine Diseases**

Stress diabetes is a new syndrome in the community. Hundreds of new cases have been detected. The most likely cause is the stress which leads to a hyperadrenagic state and release of steroid harmones. Diabetic complications have become common as a result of poor control of the diseases. Thyrotoxicosis which is relatively uncommon in Kashmir has become manifest in large numbers possibly due to stress.

### **Heart disease**

Angina pectoris was unmasked in a large percentage of the community, stress steep roads and difficult living conditions being some of the precipitating factors. Many sudden cardiac deaths occurred, provoked by horror stories, burning and looting of properties left behind by the people and the tragic news of death of close relatives. Hypertension, even in the young, has become common place.

## Sexual and Reproductive Disorders

Because of the overcrowding and want of privacy, there is a serious erosion in the sexual functioning of the community, a reduced birth rate being a natural consequence. With a higher death rate relative to a reduced birth rate, the population of the community is fast dwindling.

<b>i) A sample survey at a camp:-</b>						
Period	Families interviewed.	Inmates	New Births		Deaths	
(1990-95)	300	1,365	16		49	
<b>ii) Times of India Report:-</b>						
July 5, 1995	350	1,200	5		200	
<b>iii) Survey at non-camps report:-</b>						
Period	Families interviewed.	Total Deaths	Age Group in years			
(1990-95)	2000	115	0-20	20-35	35-50	50 above
			5	25	40	45
<b>iv) Survey at Camp &amp; Non-Camp Area</b>						
Period	Women interviewed.	Menopause Age in Years				
(1990-95)	100	50-55	40-45	35-40		
		57	30	13		

Kashmiri Pandit is essentially a conscious and sophisticated family planner. Marrying late by choice, only after settling down in a carrier and bringing forth children, one or at the most two, in a planned manner is his goal. Since population is a balance between the birth rate and the death rate over a period of time, the above sample survey reflects a rapidly shrinking Kashmir Hindu population and is portentous for the community.

### **Psychological and Mental Disorders**

These have become rampant and epidemic in proportion. Depression has seized the entire community and some times so severely that it has led to many a suicide. Acute psychosis and schizophrenia have become manifest in large numbers. Anxiety states, hysterical reactions, panic disorders, phobias, amnesia afflict more than a third of the community. Insomnia is common place with frightening dreams and nightmares.

Behavioural disorders are common in children of school going age leading to a high drop out rate mostly due to terrible conditions prevalent in the camp schools where apartheid of the worst order is perpetrated against little innocent children.

Sociopathy is common and many a youth has fallen on bad ways and taken to smoking, gambling and drunkenness out of idleness and frustration.

On the whole Kashmiri Pandits in exile have aged physically and mentally by 10 to 15 years. Premature aging and premature deaths are but a fraction of the wide spectrum of the havoc that has been brought to the community.

### **Psychological and Behavioural Problems**

The displacement of more than 300,000 Kashmiri Pandits from the valley has caused a number of psychological and behavioural problems. If these are not properly and effectively checked and dealt with, they can lead to serious mental illness. While the majority of them present transitory and situational maladjustment problems, there are a number of cases with more severe neurotic symptoms like acute anxiety, neurotic depression, hysterical reactions and so on. A few patients also presented the initial phase of psychotic reaction.

### **Women Suffered More**

It was clear that while men were able to give vent to their grievances in social meetings etc. the women folk suffered internally and were worried about their new settlement. They felt the loss of their home and hearth more severely than probably the male counterparts and became victims of psychological symptoms more easily. While the situational maladjustment cases were given a few sessions of psychotherapy and reassurance, the severe cases of neurosis and the functional psychosis were put on drug therapy.

### **Feelings of Depression**

Long queues of refugees waiting to be registered, being pushed in different directions, rude behavior of some officials, and feelings of loss and other related features created a feeling of guilt in their minds and they felt as if they had committed some sin or crime.

### **Insomnia**

While anxiety, tension and other worries including feelings of depression were the main causes of loss of sleep, lack of accommodation proved another factor responsible for insomnia, as all the members of the family had forcibly to sleep in the same room/tent where individual needs, habits and behavior patterns of sleep or work had to be modified, changed and adjusted to the needs and conveniences of the other members of the family. The situation was worse if several families were sharing the same room/hall. Insomnia resulted in brooding over the past events, property left, loss suffered and other related issues leading to further feelings of anxiety and depression and aggravation of symptoms.

### **Loss of Appetite**

A good number of patients complained of loss of appetite and did realise that it was all due to anxiety and worries and tensions and feelings of depression. However, proper understanding of their problems and few sessions of physiotherapy helped them in overcoming their basic symptoms to a large extent, which also helped in reducing the problems of reduced appetite. A number of persons reported that they have developed some physical symptoms and ailments like attacks of gastritis, palpitations of heart (tachycardia), feelings of exhaustion and skin diseases and some other psychosomatic disorders for which they had received treatment from various physicians.

### **State of Uncertainty**

A common feature seen among the patients was a state of uncertainty, confusion and lack of any plan of action. There was a general feeling that everything was gone (almost amounting to sort of nihilistic delusion) and there was no clear cut programme for rehabilitation and resettlement, which created doubts in their minds about their survival even.

**Feeling of Being Uprooted**

Majority of the people felt as if they had been thrown away by a strong volcano, a storm of immense magnitude into a state of wilderness and their roots almost cut off. There was a general feeling that something was amiss, something had been snatched from their hands and their lives were empty and incomplete; an inner feeling of emptiness prevailed among almost all of the patients. Loss of home was a very strong feeling.

**Self-talking and unproductive movements**

A few persons were seen to be engrossed in self-talking and making strange gestures and movement of hands and fingers, at times movement of lips as if in conversation with others. Majority of the displaced people who sought consultations for their mental health problems also complained of their inability to adjust to a different environment.

\*\*\*\*\*

## b) Problems of the Students

Perhaps the worst hit section of the displaced people has been the student community. The problems of students included not only lack of the facilities but absence of the very basic needs and requirements; all these problems created a lot of mental health problems for the displaced students.

Lack of laboratory and library facilities affected the students and even the brightest among them. The students also felt disheartened on account of delay and postponement of examinations.

The status report in this regard is given here for the information and necessary action of the Commission:-

### EDUCATIONAL SCENARIO

- A) Higher Secondary Level
- B) Under-graduate Level
- C) Post-graduate Level
- D) Research Scholar Level
- E) M.B.B.S
- F) B. Ed. etc.
- G) R.E.C

#### A) Higher Secondary education

No. of schools (camp institutions)	=	7
No. of schools in Jammu District	=	6 established in 1990
No. of schools in Udhampur District	=	1
Approx. Total No. of students	=	8000

### FACILITIES

An average of six tents, 50 desks, a few chairs and tables (Now shifted to Rooms in some areas)

No libraries, No laboratories.

No recreational facilities.

No facilities to display and promote talents.

The number of students on roll is decreasing constantly day by day. The present enrolment is only 40% of what it was in 1990.

Due to lack of classrooms, hot weather and rains, the class work is disrupted. No atmosphere wherein students can interact and learn is available. Now these schools serve only as places where students go casually to complete formalities. In 1992, sixteen girl students of a camp school fell ill due to allergic rash caused by wild grass near tent classes. In other schools intense heat caused illnesses. Consequently drop-outs are on the increase with incidents of young children taking to bad habits

The results are manipulated and pass percentage decreases year by year, systematic marking policy not adopted, and no means for redressal of complaint.

**B) Undergraduate Level: (B.A, B Sc, B. Com)**

Total No. of Camp Colleges	=	3
No. of Colleges in Jammu	=	2 (established in 1990)
No. of Colleges in Udhampur	=	1
Approx. No. of students	=	5000

**POSITION**

Afternoon classes conducted in local colleges. Very inadequate libraries generally. Lack of security and extra curricular activities. No. N.C.C. or other related projects.

The following chart shows the time lost by displaced under-graduate students during the past three & half years during which the Kashmir University has been able to hold two annual examinations:

S.No	Class	Total No. students appeared	Date of admission to the course	Date of commencement of Uty. Exam.	Date of termination of Uty. Exam.	Date of declaration of results	No. of students whose results withheld	Length of time lost
1.	B.A., B.Sc B.Com Ist year	917	Academic session (90) (90 Nov/ Dec session Aug.1990	March 1991 16.3.1991	June 1991 26.6.1991	5.10.1991	217	Appx. 9 months
2.	B.A., B.Sc B.Com IInd year	1074	--do--	16.3.1991	10.7.1991	1.9.1991	314	--do--
3.	B.A, BSc. B.Com. IIIrd Year	617	--do--	March 1991	July 1991	Oct. 1991	52%	--do--
4.	B.A, B.Sc. B.Com. Ist Year	577+ Udhampur displaced students	(12.8.1991) 1991-1992 Mar-April Sessions	12.10.1992	16.11.1992	Not Yet	-	Over one year
5.	B.A., B.Sc. B. Com, IInd Year	483+ Udhampur District students	19.10.1991 --do--	3.8.1992	2.11.1992	--do--	-	--do--
6.	B.A., B.Sc. B.Com, 3 <sup>rd</sup> Year	688+ Udhampur District students	15.9.1991 --do--	20.7.1992	10.10.1992	--do--	-	--do--

The statistics given clearly shows the negative trends that have crept in the system. Only four annual examinations have been held in last six years. No graduate was produced during the first three years. Examination dates juggled constantly with frequent post-ponements.

No practical examinations were conducted, thereby denying students valuable experience. Very unstable situation in which cancellation of examinations, has become order of the day.

Irresponsible, callous and communally-based behaviour by officials of Sub-office of Kashmir University at Jammu. Testimonials are not given in time, hundreds of disputed eligibility (DE) cases un-solved.

**Latest situation**

Results of Part 1 Declared after 9 months (as in 1994)

Total enrolled	817
Total appeared	792
Total passed	282
D.E Cases ( Result with-held)	217
Failures	293
Pass percentage	17% Approx.

We can thus infer that a deliberate attempt is being made to render ignorant the displaced Kashmiri Hindus. Such a low pass percentage is unprecedented and points towards critical flaws in the system. It may thus take 6 years to graduate from Kashmir University.

**C) Post Graduate level**

Before displacement

No. of Batches	Exams(Appeared)	General Promotion
2	None	2

**1987 to 1989 batch:-** Students in fourth semester granted general promotion. No testimonials issued.

**1989 Batch:-** Aug. Batch still languishing in 4<sup>th</sup> year.

<b>Students before Displacement.</b>	<b>Students registered for studies in Jammu.</b>	<b>At present.</b>
175	85	33

Year of admission	1989
Ist semester exams.	G.P
IInd semester exams	27 <sup>th</sup> May-4 <sup>th</sup> July. 1991
Practical Exams.	Jan.1992
3 <sup>rd</sup> Semester Exams	April-May, 1992
4 <sup>th</sup> Semester Exams	April-May, 1993

Twice the normal time(2years) taken, no end in sight. Poor standard of studies. Lack of teachers, teaching aids and library facilities.

Dropouts to the extent of 50% at the start of P.G. classes and later on another 60% discontinued studies. No admission to next P.G. classes in 1990-91. Next batch started in 1992.

Batch description	=	May 1992
Total No. of students admitted in various P.G. courses	=	118
Dropouts	=	4
On Rolls	=	114
Date of admission	=	May, 1992
Date of exams.	=	Not decided yet.

**Remarks:**

No admission in Bio-chemistry, MBA, Electronics, Mass Communication, Home Science, Sociology, Statistics and Sanskrit.

**M.Ed students**

Total No. admitted	=	6
Date of commencement of exams	=	April, 1991.
Date of declaration of results	=	Not decided yet.

**Fine Arts students**

Total No. admitted	=	4(All female)
Date of commencement of exams.	=	August, 1991
Date of declaration of results.	=	Not decided yet.

**D) Research Scholars (M.Phil. and Ph. D)**

No. of scholars

<b>Registered with Kashmir University before displacement</b>	<b>In intial stages of research</b>	<b>In final stage (who submitted thesis in Kashmir)</b>	<b>Who had to submit their thesis</b>
30	15	5	10
Leftouts after Displacement	Who are still in the struggle		who have fulfilled all the requirements but are waiting
15	15		4

**Remarks**

No Doctorate Degrees have been awarded and thereby research has suffered. Lowering of academic standards. Talent is getting wasted. Although students are willing to go for research programme but are discouraged by the authorities at all levels.

**(E) M.B.B.S Students**

Batch	No. of students in the batch	Course	Duration of Course as Stipulated by K.U.	Due Date of exams	Exam. Held on		Time lost
					Theory	Practical	
1985	12	1)Prefinal MBBS	12 Months	March 1990	March 1990	August 1990	9 months
		2)Final MBBS	6 Months	June 1991	June 1991	Dec. 1991	6 months
1986	10	1)IInd Prof.	18 Months	Feb. 1990	Aug. 1990	Dec. 1990	10 months
		2)Final MBBS	6 Months	July 1991	Aug. 1992	Aug. 1992	13 months
1987	3	1)IInd Prof.	18 months	Mar. 1991	July 1992	Still to be held	16 months
1988	28	1) Ist Prof.	18 Months	May 1990	Dec. 1990	Dec. 1990 (All subsequently migrated)	7 months
1989	21	1) Ist Prof.	18 Months	June 1992	Nov. 1992	Feb. 1993	7 months
1991	9	MD/MS	2 Years			a) Not allotted to any college	
1993	13	MD/MS	2 years			b) Pay withheld	

**F) B.Ed Students**

**Total No. of students :** Those who had joined B.Ed. in Kashmir in 1988-89 have still not appeared for their half term exams. Very large(65%) of dropouts who have returned to their native places have forsaken a lot. New admissions are very less.

**G) R.E.C Students :** R.E.C students allowed to migrate to other institutions, Camp R.E.C functional with low level facilities.

**Important:-** The demand for an autonomous educational structure for the displaced students is the only via-media to fulfill the aspirations of the community in this connection and to maintain the community's academic standards.

**C) Discrimination**

Some other major sections who suffered very heavily are Traders, Orchardists and Agriculturalists. Some statistics regarding these sections is also given (See Annexure-C).

There are glaring examples of apartheid to which the community has been subjected to for the last six years.

Besides large scale discrimination in the field of education, there are a variety and a number of such instances in every field of life. We give here three symbolic examples for an assessment of the bias and discrimination that the Kashmiri Pandit Community has been undergoing in its own country and State despite existence of a colossal secular and democratic India.

- i) The situation in which Kashmiri Pandits have been forced to live has given rise to unprecedented unemployment problem. The Community has one educated unemployed youth in every alternate family. There are thousands of Matriculates, hundreds of Graduates and Post-Graduates and scores of scholars besides trained professionals in the Community who are forced to embrace disgusting labour. On the other hand, various special recruitment drives for recruitment of Kashmiri Muslims were organised by the Central and State Governments. The total recruitment of Kashmiri Hindus in the Government Departments in the State does not exceed one hundred for the last six years. Same is the story of public sector undertakings and banks as well. A survey done in this regard is as follows regarding the two leading banks in the State (Period=1990-1995):-

<b>Name of the Bank</b>	<b>No. of Kashmiri Hindus Recruited</b>	<b>No. of Kashmiri Muslims Recruited</b>
State Bank of India	7	402
J&K Bank	35	713

- ii) The J&K State Government has issued several promotional orders in respect of its officials in various departments of the State for the last six years. In case of such promotions to the Kashmiri Hindu displaced employees, orders are issued to effect such promotions on the condition that the concerned employee joins his new posting. Since the displaced employees are not able to join their posting in the valley of Kashmir, they are deprived of their genuine promotions and the chance is usurped by the community of Kashmiri Muslims. Govt. order No.362 GAD of 1992 dated 29-04-92 is an evidence in this respect (Annexure-D).
- iii) Consequent upon the destruction of properties in the valley due to occurrence of fire, the Govt.has paid ex-gratia relief to the affected people. In order to arrive at the assessed loss to the property and the ex-gratia to be sanctioned, different yard-sticks have been/are applied by the administration in case of loss to the properties of Kashmiri Hindus and Kashmiri Muslims. One such example to quote is :-

Order No.	Kashmiri Muslims		Kashmiri Hindus	
	Loss Assessed (Rs.)	Ex-gratia Relief (Rs.)	Loss Assessed (Rs.)	Ex-gratia Relief (Rs.)
Govt.Order No. DCM/Relief/CHAR/09 31-07-1995	52,603	2,43, 463 + Plot	-	-
	55,746	1,81, 729 +Plot	-	-
	1,18,271	2,58,620 + Plot	-	-
Govt. Order No. OCK-R/MG-4 30-08-1995			4,00,000	1,00,000
			2,95,000	1,00,000
			1,70,000	85,000
<b>Note (For details refer Annexure- E)</b>				

There are other hundreds and thousands of examples to exhibit and prove the state of apartheid inflicted upon the community by the powers that be. For details, we shall have to have a close and clean look into the Govt. orders, circulars, notifications, precedence and practice of the state/central administration in the J&K State for the last 6 years.

**ANNEXURE-“A”**  
**LIST OF MARTYRS**  
**WHO LAID THEIR LIVES**  
**IN**  
**K A S H M I R**

<b>S.No</b>	<b>Name S/Shri.</b>	<b>Address</b>	<b>Profession</b>	<b>Assisnation Date</b>
1.	A.Kumar Ganjoo	Sathu Barbershah	N.A (Not available)	03-04-1987
2.	Pawan Kumar	Zaindar Mohalla	Shopkeeper	N.A
3.	Swami K.Nath	Vicharnag Srinagar	Pujari	09-12-1988
4.	Tika Lal Taploo	Chinkral Mohalla Srinagar	Advocate	13-09-1989
5.	Nila Kanth Ganjoo	Karan Nagar Srinagar	Ex-Session Judge	04-11-1989
6.	R.P.N. Singh	Anantnag	Central Govt. Employee	N.A
7.	Smt. Sheela Tickoo	Srinagar	House wife	01-11-1989
8.	Prem Nath Bhat	Anantnag	Advocate	27-12-1989
9.	Krishan Gopal Chohan	Berwa Budgam	Central Govt. Employee	01-02-1990
10.	Ramesh Kumar Thusoo	Trehgam Kupwara	Govt. servant	01-02-1990
11.	M.L. Bhan	Khonomoh Srinagar	-do-	15-01-1990
12.	Ajay Kapoor	Mahrajung, Sgr.	Wholesale Cloth Dealer	10-12-1990
13.	S.K. Tikoo	Karfali Mohalla Srinagar	Govt. Servant	02-02-1990
14.	Tej Krishan Razdan	Habbakadal-Sgr.	-do-	12-02-1990
15.	Naveen Saproo	Habbakadal	Govt. Service	27-02-1990

		Srinagar		
16.	Lassa Koul	Bimna Srinagar	D.D. Srinagar	13-02-1990
17.	P.L. Fotedar	Bijebhara, Antg.	Govt. servant	28-02-1990
18.	P.N. Handoo	Balgarden Srinagar	Inf.Officer	01-03-1990
19.	Anil Bhan	Kanikadal Srinagar	Govt. servant	17-02-1990
20.	Moti Singh	Kuthua	-do-	27-02-1990
21.	Kashi Nath	Kathi Darwaaza Sgr.	Retd. Employee	06-03-1990
22.	Tara Chand Ambardar	Zaindar Mohalla Srinagar	-do-	23-03-1990
23.	T.K. Razadan	Yachgam Budgam	Govt.Servant	- 03-1990
24.	Soom Nath Tickoo	Ganderbal Srinagar	-do-	-03-1990
25.	Sh. Paul	Amira Kadal Srinagar	-do-	-03-1990
26.	Rattan Lal	Lolab Kupwara	-do-	-03-1990
27.	B.K. Gangoo	Chotta Bazar Srinagar	Tel.com.Enggr.	23-03-1990
28.	Smt. Devi (Found Hanging)	Allachi Bagh Srinagar	N.A.	-03-1990
29.	A.K. Raina	Srinagar	Govt. Servant	19-03-1990
30.	Joginder Singh	N.A	N.A	03-03-1990
31.	Dinesh Lal	Karan Nagar Srinagar	Shopkeeper	19-03-1990
32.	Ramesh Sahni	Zaindar Mohalla Srinagar	Business	27-03-1990
33.	Punit Sahni	Zaindar Mohalla Srinagar	-do-	27-03-1990
34.	P.N. Koul	Bijebhara, Antg.	Agri-Deptt	22-03-1990
35.	A.K. Bazaz	Safa Kadal, Srinagar	Service	26-03-1990
36.	Jaggar Nath	Yer Khushipora Anantnag	Govt. Servant	03-03-1990

37.	Amrik Singh	Amira Kadal, Srinagar	Business	00-03-1990
38.	B.L. Misri	Peer Bagh Srinagar	-do-	23-03-1990
39.	Ramesh K. Peer	Vichar Nagh Srinagar	Service	06-04-1990
40.	Ashok Kumar	Wadipora Srinagar	-do-	26-03-1990
41.	Radha Krishen	Karan Nagar Srinagar	Business	05-04-1990
42.	H.L. Khera	Chandigarh/ Srinagar	Gen. Manager (H.M.T)	10-04-1990
43.	A.K. Qazi	Tankipora Srinagar	Handicraft Deptt.	24-02-1990
44.	Joginder Malhotra	Safakadal Srinagar	Business	22-04-1990
45.	Om. Prakesh	Shopian Pulwama	Govt. servant	19-03-1990
46.	K.K. Koul	Srinagar	Business	05-04-1990
47.	Bansi Lal	Chattergul Anantnag	Business	28-04-1990
48.	Dwarika Nath	Anantnag	Service	30-04-1990
49.	Narendar Nath	Rainawari Srinagar	-do-	24-04-1990
50.	Bharat Bushan Koul	Pampore Srinagar	-do-	28-04-1990
51.	Daleep Kumar	Killed at Nowhatta Srinagar	-do-	30-04-1990
52.	Brij Lal Shah	Sadhu Ganga Kupwara	Service	27-04-1990
53.	Prem Nath Koul	Kuil Pulwama	N.A	05-04-1990
54.	Daleep Singh	Shopian Pulwama	Service	30-04-1990
55.	Smt.Sarla Bhat	Qazi Mohalla Anantnag	-do-	25-04-1990
56.	Makhan Lal	Kanikadal Srinagar	-do-	21-04-1990
57.	Sunil Kotru	Rainawari Srinagar	-do-	22-04-1990
58.	Niranjan Nath	Akingam Anantnag	Business	24-04-1990
59.	Kashi Ram	Budgam	Service	25-04-1990
60.	Sarup Sampath	Zakura Budgam	-do-	25-04-1990

61.	Surender Khar	Mattan Anantnag	-do-	25-04-1990
62.	Bansi Lal Saproo	Gulab Bagh Srinagar	-do-	25-04-1990
63.	Dr. Raj Nath	New Khanda Srinagar	-do-	26-04-1990
64.	Unidentified body of K.P. in village	Khrew Pulwama	-do-	26-04-1990
65.	Bushen Lal	Budgam	-do-	26-04-1990
66.	M.L. Pandita	Agri Kupwara	-do-	30-04-1990
67.	Heera Lal Khar Wangoo (brutally killed)	Kak Mohalla Srinagar	Govt. Service	30-04-1990
68.	Makhan Lal Wangoo	Srinagar	-do-	30-04-1990
69.	Unidentified body of Kashmiri Hindu	Kupwara	-do-	01-05-1990
70.	Sarwanand Koul(Premi)	Soaf Anantnag	Poet	01-05-1990
71.	Virender Kumar	Soaf Anantnag	Service	01-05-1990
72.	Makhan Lal Thaploo	Anantnag	Business	02-05-1990
73.	Autar Krishan	Badgam	N.A	02-05-1990
74.	Chuni Lal Shalla	Kupwara	-do-	02-05-1990
75.	Vinod Kumar	Nawhatta	Service	06-05-1990
76.	Virender Kumar Chatta	Baramulla	Service	03-05-1990
77.	Surinder Dhar	HabbaKadal Srinagar	Service	05-05-1990
78.	Prof. Kundan Lal Ganjoo	Sopore	Service	07-05-1990
79.	Smt. Prana Ganjoo (Kidnapped/Raped & killed)	Sopore	Service	07-05-1990

80.	Dolly	Karan Nagar Srinagar	N.A	07-05-1990
81.	Prediman Krishen Bhat	Lolab Sogam	N.A	28-04-1990
82.	Dev Kant Roy	Srinagar	Pvt. Employee	08-05-1990
83.	Bihari Labroo	Anantnag	NA	09-05-1990
84.	Inderjeet	Chadura Badgam	Cloth Merchant	10-05-1990
85.	Gulshan Lal	Pulwama	NA	10-05-1990
86.	Moti Lal	---	NA	10-05-1990
87.	Rattan Lal	V. Khaler	NA	10-05-1990
88.	Unidentified body of Hindu	Pulwama	NA	10-05-1990
89.	Unidentified boy of a Hindu in Jhelum river	---	NA	10-05-1990
90.	Shrinder Kumar	Tulmulla Srinagar	Service	10-05-1990
91.	Mohan Lal	Anantnag	Service	13-05-1990
92.	Autar Krishan	Badgam	-do-	13-05-1990
93.	Chaman Lal	Badgam	-do-	13-05-1990
94.	Daya Krishan Duloo	Srinagar	-do-	12-05-1990
95.	Veerji	Badgam	-do-	13-05-1990
96.	Bushen Lal	Srinagar	-do-	13-05-1990
97.	Unidentified Body of Hindu	Srinagar	-do-	13-05-1990
98.	S. Gudoo Singh	Srinagar	Business	15-05-1990
99.	A.K. Wazir	Srinagar	Service	15-05-1990
100.	Saroop Nath	Beru Badgam	-do-	03-05-1990
101.	Vinod Kumar	Natipora Srinagar	-do-	-do-
102.	Daya Krishan	Sathoo Srinagar	-do-	-do-
103.	M.L. Pandita	Tikri Kupwara	-do-	27-04-1990

104.	Amar Nath Bagati	Srinagar	NA	11-05-1990
105.	Autar Krishan	Badgam	Service	14-05-1990
106.	Sham Lal Sharma	Vanpoh Anantnag	-do-	17-05-1990
107.	Bal Raj Suri	Srinagar	Shopkeeper	17-05-1990
108.	Bushan Lal	Anantnag	Service	17-05-1990
109.	Suresh Kumar Kisoo	Purshiyar Srinagar	-do-	17-05-1990
110.	Chuni Lal	Habakadal Srinagar	Business	17-05-1990
111.	Bullet ridden body of Hindu found	Old Airport- Sgr.	NA	18-05-1990
112.	Man Mohan Sharma	Baramulla	-do-	18-05-1990
113.	Pran Nath Bhat	Anantnag	-do-	21-05-1990
114.	Daleep Ji	-do-	-do-	21-05-1990
115.	Kular Sharma	-do-	-do-	16-05-1990
116.	Prithvi Nath Hakim	Nowgam Srinagar	Business	21-05-1990
117.	M.L. Raina	Anantnag	Service	20-05-1990
118.	Moti Lal Raina	Rainawari Srinagar	-do-	20-05-1990
119.	One Kashmiri Hindu (roasted alive)	Srinagar	-do-	24-05-1990
120.	One Kashmiri Hindu	Badgam	Chowkidar (Telecom.Deptt)	24-05-1990
121.	Shamboo Nath	Anantnag	-do-	22-05-1990
122.	Unidentified body of Hindu	Kawdara Srinagar	-do-	26-05-1990
123.	Niranjan Nath	Anantnag	-do-	26-05-1990
124.	Kaka Singh	Jammu	-do-	13-05-1990
125.	Harbans Singh	Jammu	-do-	28-05-1990
126.	Unidentified body of KP	Srinagar	-do-	28-05-1990
127.	Unidentified body of KP	Srinagar	-do-	28-05-1990

128.	Unidentified body of KP	Srinagar	-do-	28-05-1990
129.	Ramesh Kumar Raina	-do-	-do-	28-05-1990
130.	One Hindu unidentified	-do-	-do-	28-05-1990
131.	One Hindu body unidentified	Nawakadal Sgr.	Service	29-05-1990
132.	Chaman Lal Tickoo	Ganderbal Srinagar	Service	31-05-1990
133.	Krishen Lal Wagroo	Badgam	Service	31-05-1990
134.	Jawahar Lal Wanchoo	Rainawari Srinagar	Service	30-05-1990
135.	Hindu Women kidnapped and killed	Srinagar	Govt. Employee	30-05-1990
136.	Ramesh Kumar of Jammu	Anantnag	Service	01-06-1990
137.	Hindu Police constable (kidnapped and killed)	-do-	-do-	03-06-1990
138.	Shiban Krishen Kallu	Bagi Mahtab, Sgr.	Govt. Service	03-06-1990
139.	Badri Nath	Gosanigund Anantnag	Govt. Servant	02-06-1990
140.	Damodar Raina (kidnapped and killed)	Kulgam Anantnag	Retd. Employee	02-06-1990
141.	Ishwar Dass of Jammu	Khanabal Anantnag	JKAP	11-06-1990
142.	Bhadur Singh of Jammu	-do-	-do-	11-06-1990
143.	Triloki Nath (dead body found near Mahraj Gung)	Srinagar	Petition Writer	12-06-1990
144.	Kanya Lal (Hanged)	Badgam	Service	12-06-1990

145.	Unidentified body of Hindu found in Baramulla	N.A	N.A.	12-06-1990
146.	One Hindu body fished out in Jehlum.	Srinagar	-do-	12-06-1990
147.	One Hindu body fished out in Jehlum	-do-	-do-	12-06-1990
148.	One Hindu body fished out in Jehlum	-do-	-do-	12-06-1990
149.	One Hindu body fished out in Jehlum	-do-	-do-	12-06-1990
150.	One Hindu body fished out in Jehlum	-do-	-do-	12-06-1990
151.	Chaman Lal	Kawoosa	Teacher	NA
152.	AK Safaya	Habakadal Srinagar	Mgr. JK Bank	15-06-1990
153.	Dayaram Koul	Srinagar	-do-	15-06-1990
154.	Ashok Kumar (Dead body found)	Sopore	Service	15-06-1990
155.	P.N. Handoo	Srinagar	Govt. Servant	01-04-1990
156.	One body of Hindu found in Kulgam	Anantnag	-do-	15-06-1990
157.	One body of Hindu found in Kulgam.	Anantnag	-do-	15-06-1990
158.	One body of Hindu found in Kulgam.	Anantnag	-do-	15-06-1990
159.	Jawahar Lal Ganjoo	Bana Mohalla Srinagar	Service	18-06-1990
160.	Smt. Durga Kaul	-do-	H.H.Lady	18-06-1990
161.	Badri Koul	-do-	Service	18-06-1990

162.	Smt. Prana Ganjoo	-do-	Housewife	18-06-1990
163.	Rajinder Kumar Tickoo	Shopian Pulwama	Shopkeeper	-do-
164.	One Hindu strangulated	Badgam	N.A.	-do-
165.	One Hindu strangulated	Kupwara	N.A.	-do-
166.	Maharaj Krishan	Kupwara	Service	30-06-1990
167.	Jagar Nath	Bemina, Srinagar	-do-	31-05-1990
168.	Avtar Krishan	Bagi Mehtab, Sgr.	-do-	31-05-1990
169.	Shiban Krishan Koul	Baramulla	Business	04-06-1990
170.	Aftab Ram	Rainawari Srinagar	Retd. Employee	04-06-1990
171.	Gokal Nath	Bagi Mehtab, Sgr.	-do-	04-06-1990
172.	Raj Kumar Jaiikhani	Zero Bridge, Sgr.	-do-	07-06-1990
173.	Sham Lal	Lal Mandi Srinagar	Shopkeeper	07-06-1990
174.	Rajesh Kumar	Rehari Colony Jammu.	Service	08-06-1990
175.	Ajaib Singh	Poonch	Service	08-06-1990
176.	Triloki Nath	Bandipora	-do-	11-06-1990
177.	Pushker Nath	Danwachi	-do-	11-06-1990
178.	Omkar Nath Raina	Devi Angan, Sgr.	Service	11-06-1990
179.	Inder Kumar	Natipora Srinagar	-do-	11-06-1990
180.	Kanya Lal	Mahraj Gunj, Sgr.	Service	11-06-1990
181.	One unidentified Hindu (hanged)	Pulwama	-	11-06-1990
182.	Radha Krishan	Turoo, Anantnag	Patwari	06-06-1990
183.	Ramesh Kumar Raina	-do-	Service	07-06-1990
184.	Rugh Nath	Pulwama	Service	14-06-1990
185.	Saroop Nath	-do-	Service	16-06-1990
186.	Desh Raj	Hari Singh High Street, Srinagar	N.A.	16-06-1990

187.	Gopi Chand	Kupwara	N.A.	17-06-1990
188.	Unidentified body of a Hindu	Nowgam, Sgr.	N.A.	22-06-1990
189.	Bal Krishan Tadoo	Habba Kadal, Sgr.	N.A.	22-06-1990
190.	One unidentified body of Hindu (found strangulated to death)	Shopian	N.A.	22-06-1990
191.	Bal Krishan.	Srinagar	N.A.	22-06-1990
192.	One unidentified body of Hindu (found in river Jehlum)	Srinagar	N.A.	22-06-1990
193.	One bullet ridden body of Hindu found in Mansabal	Srinagar	N.A.	22-06-1990
194.	Ashwani Kumar	Srinagar	N.A.	23-06-1990
195.	Ashok Kumar	Khanka Sukhta Srinagar	-do-	23-06-1990
196.	T.N. Raina	Srinagar	Jt. Director Sericulture	26-06-1990
197.	Satish Kumar	Ganderbal Srinagar	Service	26-06-1990
198.	Brij Lal Raina	Dambi Dola	Rev. Service	26-06-1990
199.	One Hindu couple (brutally killed in Check Hanjan, Anantnag after tying to Running Vehicle)	N.A.	N.A.	26-06-90
200.	Jia Lal Kaw (kidnapped and killed)	Handwara	-do-	18-05-1990

201.	Minor Son of Jia Lal Kaw	Handwara	-do-	18-05-1990
202.	Shiban Lal Koul	Bongam (Tangmarg)	Service	11-07-1990
203.	Unidentified Hindu found killed	Budgam	N.A.	11-07-1990
204.	Yogesh Kumar	Rambagh	-do-	26-06-1990
205.	Babli	Drusu Pulwama	Student	01-07-1990
206.	Roopawati (Mother of Babli S.No. 205. above)	-do-	House Wife	01-07-1990
207.	Smt. Teja Dhar	Ali Kadal, Srinagar.	House wife	01-07-1990
208.	Raj Nath Dhar	-do-	Service	01-07-1990
209.	Ms. Girja Dhar	-do-	N.A.	01-07-1990
210.	Dina Nath	-do-	N.A.	01-07-1990
211.	Badri Nath Wattal	Rainawari Srinagar.	Service	26-06-1990
212.	Chaman Lal Koul (Kidnapped & killed)	-do-	N.A.	24-06-1990
213.	Rattan Lal Hali	-do-	N.A.	-do-
214.	Soom Nath	Chattabal, Sgr.	-do-	24-06-1990
215.	Ram Chand	Behama,	-do-	26-06-1990

		Ganderbal		
216.	Inder Kumar	Watipora	-do-	11-07-1990
217.	Sansar Chand	Baramulla	-do-	-do-
218.	Shamboo Nath	N.A.	-do-	30-06-1990
219.	Prof. N.K. Koul	Khanka Sokhta Srinagar	-do-	30-07-1990
220.	Shridar Joo	-do-	-do-	-do-
221.	Triloki Nath	Baramulla	-do-	01-07-1990
222.	Predhman Krishan	Kokernag Anantnag	N.A.	02-07-1990
223.	Smt. Arandatti	Batyar, Srinagar	-do-	02-07-1990
224.	Mohan Lal	Harwan Srinagar	-do-	03-07-1990
225.	Arjan Nath	Shopian	-do-	03-07-1990
226.	Makhan Lal	Srinagar	-do-	03-07-1990
227.	Suraj Prakash	Srinagar	-do-	03-07-1990
228.	Dharam Dass	-do-	-do-	03-07-1990
229.	Hari Krishan	Uri	-do-	06-07-1990

230.	Jawhar Lal	Harwan Srinagar	-do-	06-07-1990
231.	Satish Kumar	Baramulla	-do-	06-07-1990
232.	Dina Nath Muju	Rawalpora Srinagar	-do-	07-07-1990
233.	Gopi nath Kangan	Ganderbal	-do-	08-07-1990
234.	Autar Krishan Hawal	Srinagar	-do-	08-07-1990
235.	Suraj Prakash	Rainawari Srinagar	-do-	09-07-1990
236.	Gauri Shanker	Baramulla	-do-	09-07-1990
237.	Shiban Koul	Tangmarg	Govt. Service	09-07-1990
238.	P.K. Kotru	Srinagar	State employee	09-07-1990
239.	Inder Krishen	Mehjoor Nagar Srinagar	N.A.	10-07-1990
240.	Kuldeep Chand	Natipora, Srinagar	-do-	10-07-1990
241.	Nana Ji	Batmaloo, Srinagar	-do-	11-07-1990
242.	Nanak Chand	-do-	-do-	-do-
243.	Shankernath	Shopian	Business	11-07-1990
244.	Raghunath	Tral, Pulwama	Service	12-07-1990

245.	Kameshwar Lal	Anantnag	-do-	12-07-1990
246.	Sultan Singh	Khoja Bagh Srinagar	-do-	14-07-1990
247.	Jiwan Lal	Rainawari Srinagar	-do-	15-07-1990
248.	Radha Krishen Koul	Ashmji, Anantnag	-do-	16-07-1990
249.	Shiban Lal Koul	-do-	-do-	16-07-1990
250.	Inder Kumar	Natipora Srinagar	-do-	11-07-1990
251.	Anand Narayan	Anantnag	-do-	17-07-1990
252.	Mrs. Sahini	-do-	Lady Doctor	18-07-1990
253.	Durlabh Singh	Qazigund, Antg.	Driver	18-07-1990
254.	Chand Ram Kher	Damjan Anantnag	Service	18-07-1990
255.	Hansraj Suri	Naidyar Srinagar	N.A.	20-07-1990
256.	S.S. Abrol	Kokernag, Antg.	Service	20-07-1990
257.	Roop Raj	Badgam	-do-	22-07-1990
258.	Janki Nath	Sumbal	-do-	26-07-1990
259.	Nath Ji	Anantnag	-do-	26-07-1990

260.	Ved Lal	Sopore	Principal	26-07-1990
261.	Unidentified body of a Hindu	-do-	N.A.	01-08-1990
262.	A bullet riddled body of Hindu at Baramulla.	Baramulla	N.A.	29-07-1990
263.	Bharat Bhushan	Jammu	N.A.	29-07-1990
264.	Dead body of Hindu found.	Khanabal Anantnag.	-do-	-do-
265.	Mahesh Kumar	-do-	-do-	30-07-1990
266.	Dead body of Hindu found.	Kupwara	-do-	29-07-1990
267.	Autar Singh	-do-	-do-	29-07-1990
268.	Adarsh Jee	Baramulla	-do-	29-07-1990
269.	Gauri Shanker	Anantnag.	N.A.	29-07-1990
270.	Bharat Singh	Jammu	-do-	29-07-1990
271.	Omkar Nath Matoo	Dragbal Pampore.	do-	30-07-1990
272.	Sundri Lal	Kangan, Ganderbal	-do-	30-07-1990
273.	N.G. Sadhu	Manzgam Srinagar	-do-	31-07-1990
274.	Virander Kumar Suri.	Mandirbagh Srinagar.	-do-	-do-

275.	Jai Krishan Bhan	Dribyar Srinagar.	-do-	02-08-1990
276.	Jawahar Lal	Tral Pulwama	-do-	03-08-1990
277.	Gian Chand	Kishtwar	Govt. Servant	04-08-1990
278.	R.K. Handoo	Rainawari Srinagar.	MES	09-08-1990
279.	D.N. Chowdhary	Indra Nagar, Sgr.	Manager Cement Factory	11-08-1990
280.	Arjan Nath	Shalipora, Budgam	N.A.	09-08-1990
281.	Manoj Kumar	Kupwara	-do-	10-08-1990
282.	Saroop Naranyan	Pattan Baramulla	-do-	10-08-1990
283.	Tarlok Chand	Achabal Anantnag.	N.A.	11-08-1990
284.	Vasudev Pandit	Rohama Anantnag	-do-	11-08-1990
285.	Roshan Lal Chowdary	Rainawari Srinagar	-do-	11-08-1990
286.	Darshan Koul	Kokernag, Antg.	-do-	15-08-1990
287.	Masher Nath	Lolab Kupwara	-do-	16-08-1990
288.	Madan Mohan	Sopore.	-do-	17-08-1990
289.	Smt. Baljeet Kour	N.A.	-do-	17-08-1990

290.	Rattan Lal Raina	N.A.	J&K Bank	18-08-1990
291.	Shanker Nath Tiku	Wadwan Badgam	N.A.	21-08-1990
292.	Chand Ram	Badgam	-do-	21-08-1990
293.	R.K. Koul	Nai Sarak Srinagar	TEO	24-08-1990
294.	B.L. Kak	Natipora Srinagar	N.A.	26-08-1990
295.	Gopal Ram	Kokernag, Antg.	-do-	28-08-1990
296.	Bansi Lal	Srinagar	-do-	29-08-1990
297.	Hari Singh	Anantnag	Govt. Service	30-08-1990
298.	Mahesh Chander	Anantnag	N.A.	30-08-1990
299.	Omkar Nath	Baramulla	-do-	30-08-1990
300.	Shadi Lal Bhat (body found in Lidder Nalla of Anantnag)	Anantnag	-do-	07-09-1990
301.	Makhan Lal	Srinagar	-do-	08-09-1990
302.	Preduman Krishen	Anantnag	-do-	09-09-1990
303.	Hardey Nath	Wuyan Pulwama	-do-	09-09-1990
304.	Gauri Shanker	Ganderbal	-do-	10-09-1990

305.	Trikha Ji	Ganderbal	-do	11-09-1990
306.	Triloki Nath	Anantnag	-do-	11-09-1990
307.	Sham Singh	Batmaloo, Sgr.	-do-	12-09-1990
308.	Narender Singh	-do-	-do-	12-09-1990
309.	Ramesh Kumar	Khrew Pulwama	-do-	12-09-1990
310.	B.L. Kak	N.A.	Asstt. Exec Engr.	-do-
311.	Dr. Shuban Ji Khurdi	Rabab Sahib, Sgr.	Service	14-10-1990
312.	Smt. Usha Ji	Srinagar	-do-	14-10-1990
313.	Smt. Neeta Jee	Srinagar	-do-	14-10-1990
314.	Prem Nath (killed at Dangar Anantnag)	Anantnag	N.A.	17-10-1990
315.	Dwarika Nath	Moripora, Antg.	N.A.	13-09-1990
316.	Autar Krishen Raina	Chowalgam, Kulgam Anantnag.	-do-	14-09-1990
317.	Rattan Lal Pandita	Srinagar	-do-	16-09-1990
318.	Suresh Gupta	Maisuma Srinagar	-do-	17-09-1990
319.	Mubash Singh	Padgampora Anantnag	-do-	19-09-1990

**The List is consolidated upto Sep.-Oct. 1990\***

\*The list of the Pandits killed in organized massacres by the Islamic terrorists, after the event of 1989-90 exodus, is given at the end of this section on Human Rights Concerns.

**Annexure ----“C”**

**Statistics Regarding Traders (Hindu) in Kashmir  
(As on 1.4.1990)**

<b>S. No.</b>	<b>Distt.</b>	<b>Number</b>
1.	Kupwara	300
2.	Badgam	300
3.	Pulwama	250
4.	Anantnag	925
5.	Baramulla	625
6.	Srinagar	2,600
	<b>Total</b>	<b>5,000</b>
	<b>Contractors (Hindu)</b>	<b>200</b>

(The lists of Traders shall be forwarded in due course of time.)\*

\* This list was annexed to the Report submitted on 16<sup>th</sup> January, 1996.

**ANNEXURE - "D"**  
**GOVERNMENT OF JAMMU AND KASHMIR**  
**GENERAL ADMINISTRATION DEPARTMENT**

**Subject: Promotion of employees who have migrated from Valley-  
Policy decision for.**

Government order No: 362-GAD of 1992

Dated:29-4-1992

The matter of promotion of such of the Government employees who have migrated from Kashmir Division has been examined under the relevant rules and it is hereby ordered that:

- b) The employees who have migrated from the Valley in the wake of the present situation and are getting leave salary, shall be considered for promotion by the respective D.P.Cs on the basis of their merit and seniority under the rules if they are eligible for promotion and the posts are available and are to be filled up. The requirement of APRs for the period of migration shall be dispensed with in their cases. The APRs prior to migration would, however, be duly considered.
- c) Such of the migrant employees who are cleared by the D.P.C. for such promotion shall be entitled to the benefit of promotion only after joining their new places of posting against the posts on which they have been promoted.

By order of the Government of Jammu and Kashmir.

**Sd/-**  
**(AJIT KUMAR)**  
**Commr/Secretary to Government**  
**General Administration Deptt.**

**Commissioner/Secretary to Government,  
General Administration Department,**

**No: GAD (Adm.) 16/92-IV**

**Dated:29-4-1992.**

**Subject: Adjustment of Subject Matter Specialists (SDL) and Sub-Divisional  
Agriculture Officers against District Level Posts.**

Government Order No. 115/ Agri. Of 1994 dated: 18.2.1994

Pending clearance by the Department Promotion Committee/ Public Service Commission and without prejudice to the seniority of others, if any sanction is accorded to the adjustment of the following officers against available District Level Posts falling in Category-1 of Class-V of the J&K Agriculture (Gazetted) Services Recruitment Rules, 1980 in their own pay and grade with change allowance as admissible under Art. 86(b) of J&K CSR:-

S/ Shri

1. Balbir Singh, Subject Matter Specialist (SDL).
2. Abdul Samad Bhat, Sub-Divisional Agriculture Officer.
3. C.R. Salmooch (SC), Subject matter Specialist (SDL).
4. Abdul Majid Naiku, Sub-Divisional Agriculture Officer.
5. Mohan Lal Koul, Subject Matter Specialist (SDL) (Migrant).
6. Mohan Chander Tickoo, Sub-Divisional Agriculture Officer (Migrant).  
of present SDAO, Kargil.
7. Hari Krishan Handoo, Subject Matter Specialist (SDL) (Migrant).
8. Ram Krishan Koul, Sub-Divisional Agriculture Officer (Migrant).
9. Suresh Chander Sharma, Subject Matter Specialist (SDL)
10. K.L. Rajnek, Subject Matter Specialist (SDL) (Migrant).
11. Omkar Nath Choudhary, Subject Divisional Agriculture Officer.
12. Satish Dogra, Sub-Divisional Agriculture Officer.
13. Susheel Kumar, Subject Matter Specialist (SDL)

14. Jawhar Lal Sangra, Sub-Divisional Agriculture Officer.
15. K.C. Azad (SC) Subject Matter Specialist (SDL).

The Officer at Serial No. 1, 3, 9 and 11 to 15 report to Director of Agriculture, Jammu and those at Serial No. 2,4, to 8 and 10 to Director of Agriculture, Kashmir for further orders of posting.

Charge allowance shall be drawn by only those officers who physically join at the new place of posting.

Advance, T.A. as admissible under rules is also sanctioned in favour of officers in whose case change of station is involved.

Consequent upon the above, on joining of the adjusted officers in Kashmir division, the junior most officers adjusted on District Level Posts in stop-gap arrangement vide Government Order. No. 481-Agri. of 1992 dated 17.9. 1992 shall revert to the post they were holding prior to such adjustment and so on down the cadre.

By order of the Government of Jammu and Kashmir.

Sd/-  
**(Pradeep Gupta)**  
**Deputy Secretary to Govt.**  
**Agriculture Prod. & Rural Dev. Deptt.**

No: Agri/ E/9/93/ Genl/ Gazi.

Dated: 18.2.1994

**ANNEXURE “E”**

**Government of Jammu & Kashmir,  
Office of the Deputy Commissioner, Kupwara (Kashmir)**

**Subject : Grant of Ex-gratia relief.**

Ref : Government Order No. 388-GAD of 1995 dated: 03-06-1995.  
ORDER NO: DCK-R/MG-4 of 1995  
DATED: 30-08-95

In pursuance of Government Order No. 388-GAD of 1995 dated:03-08-95 Ex-gratia relief totaling to an amount of Rs. 63,51,600/- (Rupees sixty three lakhs, fifty one thousand and six hundred only is hereby sanctioned in favour of as many as 121 Kashmiri Hindu Migrants listed in Annexure to this order (page 1to 9) for the immovable property gutted in fire due to subversion to the extent 50% of the loss assessed subject to a maximum of Rs.1:00 Lakhs (Rupees one lakh only) upper limit fixed by the Government for the amounts shown against each case.

**Sd/-  
(B.R.Sharma.) IAS  
Deputy Commissioner,  
Kupwara,**

No: DCK (R)/

**ANNEXURE TO ORDER NO: DCK-R/MG-4 OF 1995 DATED 30.08.1995**

<b>Sno.</b>	<b>Name of the Sufferer(s) with particulars</b>	<b>Nature/ brief description of loss.</b>	<b>Date of incident with reference to F.I.R.</b>	<b>Loss Assessed</b>	<b>Amount of relief sanctioned</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>	<b>(5)</b>	<b>(6)</b>
1.	Ragu Nath S/o Tota Ram R/o Khanabal Handwara.	Resi, House	20-21.09.1995 138/91	1.63 lacs.	Rs. 81,500/- (Rupees Eighty One Thousand Five Hundred)
2.	Arjan Dev S/o Kasturi Lal R/o Handwara.	-do-	-do-	0.865 lacs.	Rs.44,250/-(Rupees Forty Four thousand Two hundred fifty) .
3.	Triloki Nath S/o Shuban Lal R/o Handwara	-do-	7-8.05.1991 53/91	1.44 lacs.	Rs. 72,000/- (Rupees Seventy Two Thousand)
4.	Moti Lal S/o Kashi Ram R/o Handwara	-do-	29.04.1990 65/90	0.884 lacs.	Rs. 44,200/- (Rupees Forty four Thousand two hundred )
5.	Gopinath & Nilkanth S/o Kashu Ram R/o Handwara	-do-	27.9.1990 119/90	0.665 lacs.	Rs.33,250/-(Rupees Thirty three Thousand two Hundred and fifty)
6.	Kashi Nath Kaw S/o Sarwanand, R/o Khanabal Handwara	-do-	18/1993 90/93	0.778 lacs.	Rs.38,900/- (Rupees Thirty Eight Thousand Nine hundred)
7.	Ashok Kumar & Nilkanth S/o Anand Ram R/o Khanabal	-do-	20-21.10.1991 160/91	1.384 lacs.	Rs.69,200/- (Rupees Sixty Nine thousand Two hundred) .

8	Bansilal S/o Radha Krishnan & Soom Nath S/o Parkash Ram R/o Handwara.	Resi. House	14.12.1990 137/190	1.916 lacs	Rs.95,800/- (Rupees Ninety Five thousand Eight Hundred).
9.	Ragu Nath & Prithvi Nath S/o Sarwanand R/o Gund Dolipora.	-do-	190/91	0.70 lacs	Rs. 35,000/- (Rupees Thirty Five Thousand)
10.	Nathji & Dina Nath Ss/o Tara Chand R/o Gund Dolipora	-do-	-do-	0.45 lacs	Rs.22,500/- (Rupees Twenty Two Thousand Five Hundred).
11.	Prem Nath S/o Parkash Ram R/o Gund Dolipora	-do-	-do-	0.50 lacs	Rs.25,000/- (Rupees Twenty Five Thousand)
12.	Prem Nath S/o Parkash Ram R/o Gund Dolipora	-do-	190/91	0.60 lacs	Rs.30,000/- (Rupees Thirty Thousand) Only.
13.	Poshkar Nath S/o Parkash Ram R/o Gund Dolipora	-do-	-do-	0.50 lacs	Rs.25,000/- (Rupees Twenty Five Thousand)
14.	Bansi Lal, Motilal & Bhushan Lal S/o Amar Nath R/o Gund Dolipora	-do-	-do-	0.60 lacs	Rs.30,000/- (Rupees Thirty Thousand) Only.
15.	Jaggar Nath S/o Govind Ram R/o Gund Dolipora	-do-	-do-	0.70 lacs	Rs.35,000/- (Rupees Thirty Five Thousand) Only.
16.	Janki Nath, Brij Nath & Chaman Lal Ss/o Tika Ram R/o Gund Dolipora	-do-	-do-	0.80 lacs	Rs.40,000/- (Rupees Forty Thousand) Only.
17.	Xashi Nath, Radha Krishan Prithvi Nath & Ragu Nath Ss/o Sarwanand R/o Gund Dolipora	-do-	-do-	0.60 lacs	Rs.30,000/- (Rupees Thirty Thousand) Only.

18.	Radha Krishan S/o Sarwanand R/o Gund Dolipora	Resi. House	-do-	0.60 lacs	Rs.25,000/- (Rupees Twenty Five Thousand)
19.	Kanshi Nath S/o Sarwanand R/o Gund Dolipora	-do-	-do-	0.50 lacs	Rs.25,000/- (Rupees Twenty Five Thousand)
20.	Soom Nath, Ratan Lal Ss/o Kant Ram R/o Vilgam.	-do-	-do-	0.50 lacs	Rs.30,000/- (Rupees Thirty Thousand) Only.
21.	Prem Nath S/o Amar Chand R/o Vilgam.	-do-	-do-	0.60 lacs	Rs.30,000/- (Rupees Thirty Thousand) Only.
22.	Master Mohan Lal S/o Ganesh Dass R/o Vilgam.	-do-	-do-	1.00 lacs	Rs.50,000/- (Rupees Fifty Thousand) Only.
23.	Roshan Lal S/o Parsad Ram R/o Vilgam.	-do-	-do-	0.70 lacs	Rs.35,000/- (Rupees Thirty Five Thousand)
24.	Sham Lal, Dina Nath and Kanshi Nath Ss/o Mahdev Ram R/o Gilgam.	-do-	-do-	1.00 lacs	Rs.50,000/- (Rupees Fifty Thousand) Only.
25.	Bansi Lal Dil S/o Kashu Ram R/o Vilgam.	-do-	-do-	1.50 lacs	Rs.75,000/- (Rupees Seventy Five Thousand) Only.
26.	Janki Nath, Roshan Lal S/o Veshamber Nath & Kamlesh Kumari R/o Vilgam.	Resi House	151/92	1.00 lacs	Rs.50,000/- (Rupees Fifty Thousand) Only.
27.	Jawahar Lal S/o Sarwanand R/o Vilgam.	-do-	-do-	0.50 lacs	Rs.25,000/- (Rupees Twenty Five Thousand)
28.	Master Brig Nath S/o Suraj Ram R/o Vilgam.	-do-	-do-	0.70 lacs	Rs.35,000/- (Rupees Thirty Five Thousand)

29.	Kanya Lal & Gori Shori D/o Masher Nath R/o Vilgam.	Resi. House	-do-	1.50 lacs	Rs.75,000/- (Rupees Seventy Five Thousand) Only.
30.	Girdari Lal, Vhaman Lal, Shambo Nath & Shuban Lal R/o Vilgam.	-do-	-do-	0.60 lacs	Rs.30,000/- (Rupees Thirty Thousand) Only.
31.	Janki Nath, Sat Lal Ss/o Nand Ram R/o Vilgam.	-do-	-do-	0.60 lacs	Rs.30,000/- (Rupees Thirty Thousand) Only.
32.	Managing Committee Ashram Mandir Vilgam	Shrine	-do-	1.80 lacs	Rs.90,000/- (Rupees Ninety Thousand) Only.
33.	Sarwanand S/o Dev Ram R/o Chogal.	Resi House	1992,195/93	0.70 lacs	Rs.35,000/- (Rupees Thirty Five Thousand).
34.	Lalji S/o Masher Bhat & Sunita D/o Lalji R/o Khirman Tilak Handwara.	Shali Machine	1990-91 1/1991	0.70 lacs	Rs.85,000/- (Rupees Eighty Five Thousand).
35.	Dwarka Nath S/o Sarwanand R/o Khirman Tilak	Resi House	1992 90/92	0.20 lacs	Rs.10,000/- (Rupees Ten Thousand) Only.
36.	Soom Nath S/o Masher Pandit R/o Gotango.	House, Kothar, Cow shed & Shop	1990-91 58/90	1.50 lacs	Rs.75,000/- (Rupees Seventy Five Thousand)
37.	Makhan Lal S/o Masher Koul, Motilal S/o Nilkant & Soom Nath S/o Veshan Koul R/o Gotangoo.	Resi House/ Cow Shed	-do-	2.50 lacs	Rs.100,000/- (Rupees One Lakh Only).
38.	Dwarika Nath S/o Tika Lal R/o Gotangoo.	Resi House	-do-	0.90 lacs	Rs.45,000/- (Rupees Forty Five Thousand).
39.	Janki Nath S/o Kashi Ram R/o Gotangoo.	Resi House	1990-91 58/90	1.00 lacs	Rs.50,000/- (Rupees Fifty Thousand) Only.

40.	Janki Nath S/o Kashmir Ram R/o Gotangoo.	Kothar.	-do-	0.20 lacs	Rs.10,000/- (Rupees Ten Thousand) Only.
41.	Lassa Kak S/o Radha Krishan R/o Gotangoo.	Resi House	-do-	1.50 lacs	Rs.75,000/- (Rupees Seventy Five Thousand).
42.	Sarwanand & Janki Nath Ss/o Kashi Ram R/o Gotangoo.	Resi House & Cow Shed	-do-	2.50 lacs	Rs.100,000/- (Rupees One Lakh Only).
43.	Prem Nath S/o Jia Lal and Avtar S/o Prem Nath R/o Gotangoo.	Resi House & Cow Shed	-do-	2.20 lacs	Rs.100,000/- (Rupees One Lakh Only).
44.	Brij Nath S/o Prem Nath R/o Gotangoo.	Resi House Kotar & Rice Husker	-do-	2.15 lacs	Rs.100,000/- (Rupees One Lakh Only).
45.	Poshkar Nath S/o Tara Chand R/o Gotangoo.	Resi House and Cow Shed	1990-91 46/90	1.75 lacs	Rs.87,500/- (Rupees Eighty Seven Thousand Five Hundred).
46.	Makhan Lal S/o Tara Chand R/o Gotangoo.	Resi House & Cow Shed	-do-	1.65 lacs	Rs.82,500/- (Rupees Eighty Two Thousand Five Hundred).
47.	Janki Nath S/o Tara Chand R/o Gotangoo.	Resi House & Cow Shed	-do-	1.75 lacs	Rs.87,500/- (Rupees Eighty Seven Thousand Five Hundred).
48.	Krishan Lal & Gashi Lal Ss/o Srikant R/o Gotangoo.	Resi House & Cow Shed	-do-	1.20 lacs	Rs.60,000/- (Rupees Sixty Thousand) Only
49.	Sham Lal S/o Sudershan R/o Gotangoo.	Resi House Kothar and Shop	47/90	1.90 lacs	Rs.95,000/- (Rupees Ninety Five Thousand).
50.	Ratan Lal S/o Sham Lal R/o Gotangoo.	Resi House & Cow Shed	-do-	1.50 lacs	Rs.75,000/- (Rupees Seventy Five Thousand).

51.	Badri Nath S/o Shamboo Nath R/o Gotangoo.	House	-do-	1.75 lacs	Rs.87,500/- (Rupees Eighty Seven Thousand Five Hundred).
52.	Jawahar Lal S/o Tara Chand R/o Gotangoo.	-do-	-do-	1.70 lacs	Rs.85,000/- (Rupees Eighty Five Thousand).
53.	Kashi Nath S/o Tara Chand R/o Gotangoo.	Resi House & Kothar	47/90	1.90 lacs	Rs.95,000/- (Rupees Ninety Five Thousand).
54.	Shambo Nath S/o Anand Ram R/o Gotangoo.	-do-	-do-	1.95 lacs	Rs.97,500/- (Rupees Ninety Seven Thousand Five Hundred).
55.	Janki S/o Parkash Ram R/o Gotangoo.	Resi House	-do-	2.00 lacs	Rs.100,000/- (Rupees One Lakh Only).
56.	Soom Nath S/o Jia Lal R/o Gotangoo.	-do-	1990-91 1/90	1.50 lacs	Rs.75,000/- (Rupees Seventy Five Thousand).
57.	Ashok Kumar S/o Dina Nath R/o Gund Gushi.	-do-& Cow Shed	-do-	1.80 lacs	Rs.90,000/- (Rupees Ninety Thousand) Only.
58.	Chaman Lal S/o Dina Nath R/o Gund Gushi.	Resi House	-do-	1.50 lacs	Rs.75,000/- (Rupees Seventy Five Thousand).
59.	Bansi Lal S/o Tulsi Das R/o Kupwara.	-do-	1991-92 154/92	3.00 lacs	Rs.100,000/- (Rupees One Lakh Only).
60.	Makhan Lal Thasoo Advocate	-do- Partly	-do-	0.50 lacs	Rs.25,000/- (Rupees Twenty Five Thousand).
61.	Smt. Omavati W/o Makhan Lal R/o Kupwara.	-do-	118/95 2.8.95	0.50 lacs	Rs.25,000/- (Rupees Twenty Five Thousand).

62.	Vijay Kumar S/o Radha Krishan R/o Kupwara.	Shop	-do-	0.50 lacs	Rs.25,000/- (Rupees Twenty Five Thousand).
63.	Trelok Nath S/o Ragu Ram R/o Bumhama.	Resi House	319/95	1.00 lacs	Rs.50,000/- (Rupees Fifty Thousand) Only.
64.	Chaman Lal S/o Ram Chand R/o Bumhama.	-do-	-do-	1.00 lacs	Rs.50,000/- (Rupees Fifty Thousand) Only.
65.	Gopal Chand S/o Parmanand Khitrey R/o Kupwara	-do-	124/91	0.50 lacs	Rs.25,000/- (Rupees Twenty Five Thousand).
66.	Tilkaraj S/o Charandass Khitrey R/o Kupwara	Shop	132/91	0.60 lacs	Rs.30,000/- (Rupees Thirty Thousand) Only.
67.	Prem Kumar S/o Charan Das R/o Kupwara.	-do-	-do-	0.60 lacs	Rs.30,000/- (Rupees Thirty Thousand) Only.
68.	Raj Kumar S/o Charan Das R/o Kupwara	Shop	132/91	0.60 lacs	Rs.30,000/- (Rupees Thirty Thousand) Only.
69.	Ram Lubhaya S/o Ram Singh R/o Kupwara	-do-	-do-	0.20 lacs	Rs 10,000/- (Rupees Ten Thousand) Only.
70.	Arjan S/o Lakhi Singh R/o Kupwara	Shed	2/94	0.60 lacs	Rs 30,000/- (Rupees Thirty Thousand) Only.
71.	Terth Singh S/o Lakhi Singh R/o Kupwara	-do-	-do-	0.60 lacs	Rs.30,000/- (Rupees Thirty Thousand) Only.
72.	Joginder Singh S/o Teerath Singh R/o Kupwara	-do-	-do-	0.60 lacs	Rs.30,000/- (Rupees Thirty Thousand) Only.
73.	Nanki Kaur W/o Kaiser Singh R/o Kupwara	Shop	-do-	0.60 lacs	Rs.30,000/- (Rupees Thirty Thousand) Only.

74.	Roshan Lal S/o Sham Lal Pandit R/o Tekipora.	Kothar	-do-	0.40 lacs	Rs.20,000/- (Rupees Twenty Thousand) Only.
75.	Kanya Lal S/o Parkash Ram R/o Tekipora.	-do-	-do-	0.40 lacs	Rs.20,000/- (Rupees Twenty Thousand) Only.
76.	Mohan Lal S/o Hari Chand R/o Tekipora.	-do-	-do-	0.40 lacs	Rs.20,000/- (Rupees Twenty Thousand) Only.
77.	Naranjan Nath S/o Nand Lal R/o Tekipora.	Resi House	-do-	1.50 lacs	Rs.75,000/- (Rupees Seventy Five Thousand).
78.	Badri Nath S/o Sham Lal R/o Tekipora.	-do-	-do-	1.50 lacs	Rs.75,000/- (Rupees Seventy Five Thousand).
79.	Ram Nath S/o Balak Ram Pandit. R/o Tekipora.	-do-	-do-	1.50 lacs	Rs.75,000/- (Rupees Seventy Five Thousand).
80.	Vinod Kumar S/o Kant Ram Pandit R/o Tekipora.	Shop	-do-	1.60 lacs	Rs.80,000/- (Rupees Eighty Thousand) Only.
81.	Badri Nath S/o Arjan Nath R/o Waterkhani	Resi House	327/93	4.00 lacs	Rs.100,000/- (Rupees One Lakh Only).
82.	Janki Nath S/o Shiv Ram R/o Waterkhani	-do-	-do-	2.30 lacs	Rs.100,000/- (Rupees One Lakh Only).
83.	Omkar Nath S/o Janki Nath R/o Waterkhani	-do-	-do-	1.30 lacs	Rs.65,000/- (Rupees Sixty Five Thousand).
84.	Nilkant, Dina Nath & Gopi Ss/o Mahadev Ram R/o Waterkhani	Resi House	327/93	2.95 lacs	Rs.100,000/- (Rupees One Lakh Only).
85.	Amar Nath S/o Mahadev Ram R/o Waterkhani	-do-	-do-	1.60 lacs	Rs.80,000/- (Rupees Eighty Thousand) Only.

86.	Ragu Nath S/o Mahadev Ram R/o Waterkhani	Resi. House	-do-	2.95 lacs	Rs.100,000/- (Rupees One Lakh Only).
87.	Sarwanand S/o Mahadev Ram R/o Waterkhani	-do-	-do-	2.90 lacs	Rs.100,000/- (Rupees One Lakh Only).
88.	Ragu Nath Sarwanand & Amar Nath Ss/o Mahadev Ram R/o Waterkhani	-do-	-do-	1.35 lacs	Rs.67,500/- (Rupees Sixty Seven Thousand Five Hundred).
89.	Roshan Lal S/o Amar Nath R/o Waterkhani	-do-	-do-	2.70 lacs	Rs.100,000/- (Rupees One Lakh Only).
90.	Prem Nath S/o Aftab Ram R/o Waterkhani	-do-	-do-	1.30 lacs	Rs.65,000/- (Rupees Sixty Five Thousand).
91.	Kanya Lal S/o Surinder Pandit R/o Sanzipora.	-do-	22/94	1.00 lacs	Rs.50,000/- (Rupees Fifty Thousand) Only.
92.	Parsad Koul & Prem Nath Ss/o Nan Kour R/o Batgund.	-do-	13/92	0.70 lacs	Rs.35,000/- (Rupees Thirty Five Thousand).
(ii)	-do-	Kothar	-do-	0.15 lacs	Rs.7,500/- (Rupees Seven Thousand Five Hundred).
(iii)	-do-	Cow Shed	-do-	0.10 lacs	Rs.5,000/- (Rupees Five Thousand).
93.	Kundan Lal S/o Lakh Koul R/o Batgund.	Cow Shed	-do-	0.15 lacs	Rs.7,500/- (Rupees Seventy Thousand Five Hundred).
94.	Makhan Lal, Kashi & Nilkant Ss/o Lal Koul R/o Batgund.	Kothar Cow Shed, & Kitchen	-do-	0.60 lacs	Rs.30,000/- (Rupees Thirty Thousand).
95.	Ragu Nath S/o Shiv Ram R/o Batgund.	House/Rice Husker	-do-	1.75 lacs	Rs.87,500/- (Rupees Eighty Seven Thousand Five Hundred).

96.	Kashi Nath & Soom Nath Ss/o Shanker Das R/o Badkote.	Resi House	-do-	1.30 lacs	Rs.65,000/- (Rupees Sixty Five Thousand).
97.	Badri Nath, Jia Lal Ss/o Surinder Pandit R/o Badkote Mochipora.	Resi House	13/92	0.80 lacs	Rs.40,000/- (Rupees Forty Thousand).
98.	Sarwanand S/o Vashnu Pandit & Jawahar Lal S/o Vashnu Pandit R/o Badkote Mochipora.	-do-	-do-	0.70 lacs	Rs.35,000/- (Rupees Thirty Five Thousand).
99.	Moti & Avatar Krishan R/o Badkote.	-do-	-do-	0.40 lacs	Rs.20,000/- (Rupees Twenty Thousand).
100.	Moti Lal S/o Nanaju R/o Badkote.	-do-	-do-	0.20 lacs	
101.	Dwarika Nath S/o Shivji R/o Badkote.	-do-	-do-	0.45 lacs	Rs.22,500/- (Rupees Twenty two Thousand Five Hundred).
102.	Ragu Nath S/o Aftab Ram R/o Badkote.	-do-	-do-	0.40 lacs	Rs.20,000/- (Rupees Twenty Thousand).
103.	Poshkar Nath S/o Amar Nath, Badri Nath S/o Gash Ram R/o Ujroo.	Cow Shed	-do-	0.10 lacs	Rs. 5,000/- (Rupees Five Thousand) only.
104.	Prem Nath S/o Nathu Ram R/o Khanu Babagund.	Resi House	-do-	0.75 lacs	Rs.37,500/- (Rupees Thirty Seven Thousand Five Hundred)
105.	Soom Nath S/o Hari Ram R/o Khanu Babagund.	-do-	13/91	0.35 lacs	Rs.17,500/- (Rupees Seventeen Thousand Five Hundred)
106.	Krishan S/o Chander Nath & Jawahar Lal S/o Nath Ram R/o Khanu Babagund.	-do-	-do-	0.70 lacs	Rs.35,000/- (Rupees Thirty Five Thousand).

107.	Girdari Lal S/o Sudershan R/o Khanu Babagund	Resi. House and Cow Shed	-do-	1.50 lacs	Rs.55,000/- (Rupees Fifty Five Thousand).
108.	Mohan Lal S/o Babu Ram R/o Kargam.	Resi House	-do-	0.70 lacs	Rs.35,000/- (Rupees Thirty Five Thousand).
109.	Lassa Ram S/o Jia Lal R/o Magam Batapora.	Resi. House and Cow Shed	-do-	1.30 lacs	Rs.65,000/- (Rupees Sixty Five Thousand).
110.	Ashok Kumar S/o Dina Nath Lassa Ram S/o Jia R/o Magam Batapora.	-do-	-do-	0.60 lacs	Rs.30,000/- (Rupees Thirty Thousand).
111.	Shambo Nath S/o Amar Chand R/o Magam Batapora.	Resi House	17/91	0.85 lacs	Rs.42,500/- (Rupees Forty Two Thousand Five Hundred)
112.	Ratan Nath S/o Gajan Nath R/o Langate.	Cow Shed and Resi House	-do-	1.10 lacs	Rs.55,000/- (Rupees Fifty Five Thousand).
113.	Balii S/o Jagar Nath R/o Langate.	-do-	-do-	1.00 lacs	
114.	Roshan Lal, Bushan Lal & Chuni Lal Ss/o Tika Ram R/o Nehama.	-do-	-do-	1.25 lacs	Rs.62,500/- (Rupees Sixty Two Thousand Five Hundred).
115.	Prithvi Nath, Kanya Lal, Babu Ram, Chunilal, Poshkar Nath Ss/o Tara Chand R/o Rawalpora.	-do-	-do-	0.70 lacs	Rs.35,000/- (Rupees Thirty Five Thousand).
116.	Makhan Lal S/o Nath Ram R/o Babagund Langate.	-do- Cow Shed	-do-	0.80 lacs	Rs.40,000/- (Rupees Forty Thousand). Only
117.	Swroop Nath Pandit S/o Dina Nath Pandit R/o Magam	-do-	-do-	0.30 lacs	Rs.15,000/- (Rupees Fifteen Thousand). Only

118.	Prithvi Nath S/o Jia Lal R/o Langate	Resi. House	43/92	0.80 lacs	Rs.40,000/- (Rupees Forty Thousand). Onl
119.	Madhu Lal S/o Sudershan & Hady Nath S/o Jia Lal R/o Langate	-do-	-do-	1.20 lacs	Rs.60,000/- (Rupees Sixty Thousand). Only
120.	Shambu Nath S/o Ragu Nath (Two shares) Nanji S/o Maharaj & Kakaji S/o Radha Krishan (1 share each) R/o Langate	-do-	135/91	1.20 lacs	Rs. 60,000/- (Rupees Sixty Thousand). Only
121.	Hady Krishan S/o Radha Krishan R/o Ujroo.	-do-	-do-	0.60 lacs	Rs.30,000/- (Rupees Thirty Thousand).

**OFFICE OF THE DISTRICT DEVELOPMENT COMMISSIONER, BUDGAM**

**Sub : Planned Development of Charara-I-Sharief – exgratia incentive package.**

**ORDER NO. DCB/Relief/CHAR/O9 of 1995 DATED : 31-07-1995.**

Whereas vide Govt. Order No. 42.GAD Dated 18-05-1995 an Empowered Committee has been formed to look into among other things measures for rehabilitation of the sufferers and planned development of Chara-I-Sharief.

Whereas the Empowered Committee had considered the proposal for beautification and decongestion of the area around the shrine and accordingly notified vide Planning and Development Departments No. PD.9/8SG(Ch. Sharief) Dated 21-07-1995 an incentive package for relocation of the families affected by the development plan :

Whereas the Incentive package has been evolved in addition to exgratia relief of Rs. 1 lakh per gutted structure and 50% of the assessed loss :

Whereas the Incentive package is to ensure proper rehabilitation of the affected families and the concept is approved by the Ministry of Home Affairs:

Whereas due procedure has been followed regarding the notification of the revised plan for development of Charar-I-Sharief including that for the satellite town:

Whereas the person/s mentioned of Column (2) of Annexure to this order are entitled to receive Incentive package amount and a plot as per norms in the model/satellite town mentioned at column (6) in addition to the ex-gratia relief for their structures already sanctioned by the Deputy Commissioner, Budgam mentioned at column (4) and (5) out of State Relief Fund and Prime Minister's Relief Fund respectively against the assessment done by the duly constituted body by the Government in the Revenue Department subject to the condition that the said person/s draw an agreement/deed to surrender their rights and claims to the vestiges of structure, the land under the structure and that appurtenant to it in favour of Government of Jammu and Kashmir Revenue Department duly registered by a competent authority and also authenticated by the Tehsildar, Chadoora and Collector, Land Acquisition, Budgam that no other person/s has any claim to the structure and/or land:

Whereas those of the structure owners who had received partial payment for the structures under the old town planning scheme shall be entitled to deduction of the equal amount that they have already received from the Incentive package:

Whereas the custodian and in the mode/satellite town is the Executive Engineer R&B Chadoora:

Whereas the actual distribution of Incentive amount through payee's A/C cheques and handing over of possession of a plot in the model/satellite town under incentive package as per the result of draw of lots conducted by a duly constituted Committee comprising of Director Rural Development Kashmir (Additional Commissioner Relief, Kashmir). Collector land Acquisition, Budgam and Executive Engineer, R&B, Chadoora and Tehsildar, Chadoora that the said person/s has actually handed over the possession of the structure and the land coming under the revised plan of old town Chari Sharief to the Executive Engineer, R&B Chadoora:

Whereas the person/s to whom a plot is allotted in the model/satellite town shall be bound to abide by the building construction norms/restrictions that may be imposed under due process of law by competent authority:

Now, therefore, the amount of Incentive as mentioned in column (6) of the Annexure to this order is hereby sanctioned in favour of the persons/s mentioned at column (2).

Tehsildar Chadoora shall undertake disbursement to the concerned through payee's A/C cheques after following instructions and codal provisions and shall maintain separate accounts including acquittance rolls for the Incentive Package.

This issues with the approval conveyed by the Planning and Development Department vide their No. PD-9/HSG-86(Ch. Sharief) Dated 27-07-1995.

**Sd/- (Sundeep K. Nayak) IAS**

**Distt. Dev. Commissioner, Budgam**

**WARD NO : (5)**

**ANNEXURE TO DISTRICT DEVELOPMENT COMMISSIONER, BUDGAM ORDER**

S.No	Name of owner of structure coming under revised Dev. Plan.	Assessed cost of Structure.	Exqratia relief already sanctioned out of State Fund.	Exgratia relief already sanctioned out of PMs Fund.	Incentive now sanctioned .	Reference to Sl.No. of structure in master list.	Plot No. earmarked for allotment as per draw of lots in Satellite Town.	Total Exgratia and incentive amount sanctioned (4+5+6)	Remarks
A	B	C	D	E	F	G	H	I	J
1.	Mst Zaina S/o Amir Uddin.	84,255.00	42,127.00	1,00,000.00	76,731.00	1	45- II	2,18,858.00	
2.	Mohd. Qasim Sefi S/o Ama.	2,25,705.00	1,00,000.00	1,00,000.00	1,40,280.00	2	27- II	3,40,280.00	
3.	Shafiq Ahmed S/o Haji Jalaluddin.	8,15,213.00	1,00,000.00	1,00,000.00	2,00,000.00	3	138- I	4,00,000.00	
4.	Ch. Rasool Moshq S/o Ch. Ahmed Moshq sons of Ahahd Baba Moshq.	1,52,292.00	76,146.00	1,00,000.00	1,17,481.00	4	48- II	2,93,627.00	
5.	Ch. Rasool Mohshq S/o Ahmed Baba Mohshq.	1,60,453.00	80,226.50	1,00,000.00	1,20,703.00	5	10- II	3,00,929.50	
6.	Ch. Ahmed Mashq S/o Ahad Baba Moshooq	1,72,552.00	86,276.00	1,00,000.00	1,26,158.00	6	43- II	3,12,434.00	
7.	Ch. Mohd. Mashq S/o	1,86,623.00	93,111.00	1,00,000.00	1,30,906.00	7	26- II	3,24,017.50	

KASHMIR DOCUMENTATION

	Ahad Baba Moshooq								
8.	Mustaq Ahmed Mashooq S/o Khalil Baba	2,74,213.00	1,00,000.00	1,00,000.00	1,57,106.00	8	17- II	3,57,196.00	
9.	Mohd. Ayub S/o Khazir Baba Aijaz Ahmed S/o Mohd. Ayub.	3,17,928.00	1,00,000.00	1,00,000.00	1,78,961.00	9	155- I	3,78,961.00	
10.	Ahad Baba Sonullah sons of Ab Karim Baba.	1,98,109.00	99,054.00	1,00,000.00	1,34,865.00	10	160- I	3,33,919.00	
11.	Ch. Ahmed Trish-o S/o Ch. Rasool Baba Bashir Ahmed S/o Ch. Ahmed Trichoo.	2,54,603.00	1,00,000.00	1,00,000.00	1,47,301.00	11	148- I	3,47,311.00	
12.	Ch. Mohd. Ghushi S/o Sona Baba Gashi.	3,48,204.00	1,00,000.00	1,00,000.00	1,94,102.00	12	143- I	3,94,132.00	
13.	Bashir Ahmed Dadi S/o Mohd. Sidiq Dadi.	2,81,839.00	1,00,000.00	1,00,000.00	1,60,919.00	13	146- I	3,60,919.00	
14.	Ab. Rehman Baba S/o Kabir Baba.	2,87,953.00	1,00,000.00	1,00,000.00	1,63,976.00	14	134- I	3,63,976.00	
15.	Ch. Mustafa Sheikh Ch. Mohi-ud-din sons of Khaliq	2,11,785.00	1,00,000.00	1,00,000.00	1,37,917.00	15	141- I	3,37,917.00	

16.	Assadullah S/o Gani Shah	1,83,516.00	94,258.00	1,00,000.00	1,32,079.00	16	130- I	3,26,337.00	
17.	Ab. Hamid Khirka S/o Khazir Mohd. Baba.	4,74,534.00	1,00,000.00	1,00,000.00	2,00,000.00	17	151- I	4,00,000.00	
18.	Ch. Ahmad Peer SIL Khazir Baba. Bashir Ahmed S/o Ch. Ahmed Pir.	3,67,595.00	1,00,000.00	1,00,000.00	2,00,000.00	18	150- I	4,00,000.00	
19.	Mohd. Yousuf Shah S/o Mohd. Akbar.	4,03,811.00	1,00,000.00	1,00,000.00	2,00,000.00	19	135- I	4,00,000.00	
20.	Muzamil Ahmed Shah S/o Mohd. Yousuf Shah.	69,681.00	34,840.00	1,00,000.00	65,925.00	20	128- I	2,00,365.50	
21.	Fayaz Ahmad Shah S/o Ch. Mohd. Shah. Maazoor Ahmad S/o Mohd. Yousuf.	3,56,784.00	1,00,000.00	1,00,000.00	1,98,392.00	21	154- I	3,98,392.00	
22.	Nazir Ahmad Shah S/o Ch. Mohd.	2,17,405.00 (-08,529.00)	1,00,000.00	1,00,000.00	1,37,947.00	22	142- I	3,37,947.00	
23.	Ch. Heider Ganai S/o Gh. Hassan Ganai.	2,49,061.00	1,00,000.00	1,00,000.00	1,44,530.00	23	137- I	3,44,530.00	
24.	Mst. Fatma S/o Ab. Kabir Ganai.	3,44,826.00	1,00,000.00	1,00,000.00	1,92,413.00	24	125- I	3,92,413.00	

KASHMIR DOCUMENTATION

25.	Ch. Mohd. Ganai S/o Ch. Assad Ganai.	1,83,524.00	91,762.00	1,00,000.00	1,30,420.00	25	149- I	3,22,182.00	
26.	Mohd. Abdulla S/o Lassi Dar. Abdul Salam S/o Lassi Dar. Mohd. Altaf S/o Khaliq Dar.	3,63,126.00	1,00,000.00	1,00,000.00	2,00,000.00	26	147- I	4,00,000.00	
27.	Nazir Ahmad Baba S/o Abdul Aziz Baba Javid Ahmad Baba S/o Abdul Aziz Baba.	3,36,777.00	1,00,000.00	1,00,000.00	1,88,388.00	27	62- I	3,88,388.00	
28.	Ch. Nabi S/o Habib Baba Mohd. Amin S/o Habib Baba Mushtaq Ahmad S/o Mohhhhd. Amin Wazir.	3,40,098.00	1,00,000.00	1,00,000.00	1,90,049.00	28	12- I	3,90,049.00	
29.	Ab. Gani Wzir S/o Mohd. Sidiq Wazir. Sonullah S/oMohd. Sidiq.	3,26,1999.00	1,00,000.00	1,00,000.00	1,83,099.00	29	1- 2nd	3,83,099.00	

30.	Ch. Mohd. S/o Ali Dar Hati Mohd. Yousuf S/o Ch. Mohd. Dar Mohd. Akbar Dar S/o Abdul Rehman Dar.	3,37,042.00	1,00,000.00	1,00,000.00	1,88,521.00	30	152- I	3,99,521.00	
31.	Naba Baba son in law of Mohd. Ganai Nazir Ahmad son of Naba Baba. Abdul Ahad Ganai S/o Mohd. Sidiq.	2,92,233.00	1,00,000.00	1,00,000.00	1,66,116.00	31	127- I	3,66,116.00	
32.	a) Ch. Nabi S/o Late Khalil Wani b) Ali Mohd. S/o Late Khalil Wani.	2,75,847.00	1,00,000.00	1,00,000.00	1,57,923.00	32	153- I	3,57,923.00	
33.	Mohd Haqbool Gh. Hassan Sons of Wazir Baba	5,25,793.00	1,00,000.00	1,00,000.00	2,00,000.00	33	135- I	4,00,000.00	
34.	a) Gh. Mohd. S/o Rehman Dar b) Rehman Dar S/o Gafar Dar c) Ama Dar S/o Gafar Dar.	2,42,450.00	1,00,000.00	1,00,000.00	1,43,249.00	34	155- I	2,43,249.00	

KASHMIR DOCUMENTATION

35.	Ab. Aziz S/o Lassi Dar.	2,53,322.00	1,00,000.00	1,00,000.00	1,46,661.00	35	140- I	2,46,661.00	
36.	Ch. Rasool Dar S/o Lassi	2,81,765.00	1,00,000.00	1,00,000.00	1,60,882.00	36	15- I	3,60,882.00	
37.	Ab. Khaliq S/o Samad Para	2,11,065.00	1,00,000.00	1,00,000.00	1,37,507.00	37	156- I	3,37,507.00	
38.	a) Akbair Parra S/o Ama Parra b) Ama Parra S/o Ch. Mohd. c) Samad Parra S/o Ch. Mohd.	3,19,488.00	1,00,000.00	1,00,000.00	1,75,744.00	38	162- I	2,75,744.00	

No.DCB/Relief/95/1535-54

Dated : 31-07-1995.

WARD NO : (3)

ANNEXURE TO DISTRICT DEVELOPMENT COMMISSIONER BUDGAM ORDER

S.No.	Name of owner of structure coming under revised Dev. Plan.	Assessed cost of Structure.	Exgratia relief already sanctioned out of State Fund.	Exgratia relief already sanctioned out of PMs Fund.	Incentive now sanctioned.	Reference to Sl.No. of structure in master list.	Plot No. earmarked for allotment as per draw of lots in Satellite Town.	Total Exgratia and incentive amount sanctioned (4+5+6)	Remarks
A	B	C	D	E	F	G	H	I	J
1.	Aziz son of Mohd. Ganai	1,43,908.00	71,954.00	1,00,000.00	1,13,773.00	3	134 - II	2,85,778.00	
2.	Gh.Qadir son of Ahmed Ganai.	1,63,671.00	81,835.50	1,00,000.00	1,22,859.00	4	123- II	3,04,694.50	
3.	Khalil s/o Ahmed (1/2) and Rasul son in law of Maqbool Dar (half)	2,44,127.00	1,00,000.00	1,00,000.00	1,44,104.00	5	121- II	3,44,104.00	
4.	Ghznabi Abdul Gani Abdul Ahad. Zahoor Ahmad sons of Rahim Para (equally)	2,61,870.00	1,00,000.00	1,00,000.00	1,50,935.00	102	104- II	3,50,935.00	

KASHMIR DOCUMENTATION

5.	Gh. Mohd. Ab. Rashid sons of Akram Para	1,65,892.00	82,946.00	1,00,000.00	1,23,088.00	103	142- II	3,06,034.00	
6.	Gh. Nabi Bashir Ahmed sons of Akram Parra equally.	88,252.00	44,126.00	1,00,000.00	79,566.00	104	107- II	2,23,692.00	
7.	Fateh w/o Ali Mohd. Punjabi one half Mohd. Ashraf S.I.L. of All Mohd. (equally)	1,18,271.00	59,135.00	1,00,000.00	99,485.00	105	127- II	2,58,620.50	
8.	Mohd. Akbar son of Ahad Mir.	1,05,206.00	52,603.00	1,00,000.00	90,860.00	106	118- II	2,43,463.00	
9.	Hat Fazi Mst Azizi D/o Mohd Dar Khuja.	2,55,293.00	1,00,000.00	1,00,000.00	1,47,646.00	110	135- II	3,47,646.00	
10.	Ama s/o Mohd. Dar	1,95,545.00	97,772.50	1,00,000.00	1,33,327.00	111	130- II	3,31,099.50	
11.	Rehman Gh. Nabi s/o Vhaliq Teli equally.	2,47,480.00	1,00,000.00	1,00,000.00	1,43,740.00	112	120- II	3,43,740.00	

12.	Jamal Fatah son of Cadir Teli.	2,17,553.00	1,00,000.00	1,00,000.00	1,39,429.00	113	132- II	3,39,429.00	
13.	Gh. Mohd. Son of Jamal Teli.	55,746.00	27,873.00	1,00,000.00	53,856.00	114	143- II	1,81,729.00	
14.	Mohd. Yousuf S/o Ahad ½ Gh. Ahmed Abdul Rahim S/o Qadir Parra equally 1/2	2,24,466.00	1,00,000.00	1,00,000.00	1,41,456.00	107	112- II	3,41,456.00	

**(SUNDEEP.K.NAYAK) IAS  
DISTT. DEV. COMMISSIONER  
BUDGAM**

**(ALTAF HUSSAIN ANDRABI)  
COLLECTOR  
BUDGAM**

**(M.Y. RATHER)  
EXECUTIVE ENGINEER,  
DIVN. CHADURA**

**(MIRAJUDDIN)  
DISTT. SUPERINTENDING  
ENGINEER,  
R&B CIRCLE  
SRINAGAR(BUDGAM)**

**REPORT**  
**(PART-III)**

**Fifth Memorandum for submission to Hon'ble Chairman and members of National Human Rights Commission At New Delhi On 16<sup>th</sup> Jan' 1996**

In continuation of our memorandum dated 20<sup>th</sup> Dec., 1995 we forward herewith Part-IV (Part I and II already submitted to the Commission on 20<sup>th</sup> Dec. 1995) along with the required enclosures)

Part IV Contains:-

- |             |   |
|-------------|---|
| Section (a) | Effecting Demographic change in Kashmir Valley. |
| Section (b) | Dispossession & Bias.                           |
|             | i) Fire sufferers,                              |
|             | ii) Loanees                                     |
|             | iii) Agriculturists and Orchardists.            |
| Section (c) | Annexures                                       |

With this, we conclude the process of collection of details for NHRC. However, the process of consolidation of figures and other data shall continue at our level for the purpose of record and use in future. Since the Commission, with wide powers at its command, is empowered to:

- i) enquire on its own,
- ii) recommend remedial measures and invoke attention of the Government and each House of Parliament through its annual/special report, we are of the belief that the Commission in our case shall act decisively.

We would, in the end, reiterate that the Commission may:-

- (a) in pursuance of the powers vested in the Commission vide proviso (a) of sub-section (i) of section 17 of the Protection of Human Rights Act 1993, initiate a suo-motto enquiry into the:-
- i) Genocide,
  - ii) Exodus and
  - iii) 'Apartheid'
- of the Kashmiri Hindu Community;
- (b) consider to fix a time-frame for finalisation of its findings/report;
- (c) fix up the responsibilities in regard to human rights violations committed against us and review the factors that inhibit to enjoy the human rights, and
- (d) recommend appropriate remedial measures to redress the wrongs and humiliations suffered by Kashmiri Hindu community.

Regards,

**For and on Behalf of Kashmiri Hindu Community,**

**(Ashwani Kumar Chrungoo)**  
**Convener**  
**Panun Kashmir Movement(PKM)**  
**16-01-1996**

**Part – IV**

**Sec-(a) Effecting demographic change in Valley.**

1. Various policies and programmes adopted by the government of Jammu and Kashmir since the State acceded to the Union of India in October 1947 have resulted in changing the demographic complexion of the valley. A brief account of the same is given below:-
  - i) A sizeable section of Hindus from those areas of the valley, which had been overrun by the raiders from Pakistan but were retrieved back, left the valley in 1947-48 due to insecurity. No one from the State administration cared to take steps to recall them after these areas were cleared of the raiders.
  - ii) The non-Muslim population of the areas occupied by the raiders in October 1947 who could escape from being killed left their ancestral homes for safety. Muzaffarabad district of the erstwhile State of Jammu and Kashmir which continued to remain under occupation of Pakistan formed part of Kashmir Province of the State. The Hindu (including Sikh) refugees of this district who were approximately over 22,000 were not allowed to settle in the valley despite their willingness to do so. They had many relations, trade and business links in the valley. As against this, thousands of Muslim refugees who came over to the valley in 1948 from Sinkiang province of China during civil war were welcomed and settled in the valley. The descendants of these Muslim refugees are now permanent state subjects of Jammu and Kashmir State.
  - iii) A large number of Dogra Rajputs had settled in Kulgam Tehsil and other parts of the valley during the second half of nineteenth century. Dr. D.C. Sharma records in his article “How Dogra Rajputs were ousted from the valley after 1947” – Daily Excelsior, Jammu (11.12.1994):

- a) “..... about 10,000 Dogra Rajputs were scattered in the 64 villages mostly Kulgam Tehsil”.
- b) “Under the false notion of Kashmiryat, these Dogra Rajputs were termed as aliens and they were sounded through local police to leave the valley..... According to reliable sources ten buses were actually made available to them at Kazigund”.

But due to intervention of Bhakshi Gulam Mohammad they did not migrate at that time.

- c) “After promulgation of Landed Property and Jagir Abolition Act the migration of Rajput community of Kashmir started in phases because the State could not provide alternative source of living to these Rajput families in spite of their request for equal justice”.
- iv) The Big Landed Abolition Act promulgated by the National Conference Government of Sheikh Mohammad Abdulla transferred the ownership of agricultural lands to the tillers of land without payment of compensation to the landholders. This caused much economic distress to the Hindus of the Valley as no alternate sources of livelihood were arranged for the dispossessed landowners. The existing sources of Government service were curtailed for them and there was no expansion of private sector in early fifties in the State that could have provided alternate source of income to them. Even the opportunities for getting higher education for Kashmiri Hindus were drastically curtailed. This caused economic squeeze for the community forcing them to leave their ancestral habitat. Once out of valley they never returned as there was no source of livelihood available for them in the State. The process of silent migration of Hindus of valley continued slowly uninterrupted. The surprising fact is that no one in authority thought it worthwhile to enquire as to why the sons of the soil were compelled to leave the valley. Leaving aside the taking of any remedial steps to reverse this

trend, the silent migration of Hindus was tauntingly termed by the elite Muslims of valley as “search for green pastures by Hindus”. The silent migration of Hindus presents a complete contrast to the establishment of business houses by Kashmiri Muslims in various cities of India and abroad. For expanding the business they receive all encouragement including financial help and other incentives including subsidies from the Government. Similar treatment was accorded to the seasonal Muslim migrant labourers who used to leave for plains in search of employment during lean winter months. They were provided facilities of “Sarais” at their centers of work. No one among the Muslim migrants has been forgotten and written-off as was the case with the ‘Kashmiri migrants’ between 1947-89.

v) In the wake of communal violence of 1967 and 1986 in the valley, a large section of Kashmiri Hindus left the valley due to insecurity. No one from the administration even bothered to bring them back to the valley or even cared to know whether they had been able to rehabilitate themselves after their migration.

2) Apart from the policies followed by the Government, the statements of the prominent Muslim leaders of the valley too had smoothened the way for exodus of the Kashmiri Hindus. The following examples are quite revealing:-

i) In his autobiography “Atish-I-Chinar”, Sheikh Mohammad Abdullah observed that Kashmiri Pandits were a community of “fifth columnists,”, and that they were working as agents of the secret organizations. But certainly these observations did exercise adverse influence on the dealings of the majority Muslim community with the minority Kashmiri Hindu community. These observations encouraged suspicion and hatred of the majority towards the minority. The result was insecurity for the minority in the midst of overwhelming Muslim majority that necessitated and encouraged migration.

The observations of Sheikh Mohammad Abdullah were utilized with ease and implemented to destroy the minority Hindu community by the terrorists in 1989-90. The terrorists after killing members of the minority Hindu community labelled them “Mukhabirs”, informers of the Government of India to justify the crime.

- ii) Prof. Saif-ud-Din Soz, Ex-Member Lok-Sabha and National Conference leader observed in his article “No Need To Pity Pandits” that appeared in the Hindustan Times of April 27, 1995 as under:-

“In the initial stage of violent strife, Muslim neighbours persuaded the Pandits not to leave the valley, but when the violence hotted up and the neighbourhood remained blissfully ignorant of the identity of young Mujahids whose visitations in particular localities had deepened suspicion and an uncertainty, they themselves advised their Pandit brethren to leave for safety. The Muslim neighbourhood had lost control over the situation.....

When threats appeared in local dailies, the entire Muslim community felt perturbed, but that had provided no solace to Pandits. The author had warned a local editor in Srinagar on phone around mid December 1989 of the disaster that threats through the print media could create. The editor only expressed his inability to resist the militant pressure”.

The Kashmiri Pandits were advised, if not compelled, to leave the valley by the neighbouring Muslims. The advice needs to be evaluated after taking into consideration that when the friendly Muslim neighbours advised Kashmiri Pandits to leave for safety, the atmosphere in the entire Kashmir valley was already surcharged with grim forebodings, with killings of Hindus on selective basis, pasting of hit lists of terrorists on lamp posts with the names of Hindus figuring in them, blaring out on loudspeakers from all mosques of the valley during nights “Yahan Kya Challega Nizami-Mustfa” (Nizam-I-Mustafa shall prevail here),

“Asi Gachhi Pakistan Batav Bagair Batnaev San” (We want Pakistan without Pandits but along with Pandit Women), burning of Hindu properties and shrines etc. Was not the advice thus offered at that critical stage meant to shatter the last remnants of confidence of the Hindus in their neighbours? The administrative and political structures in the valley, which could have built up confidence of minorities to resist the threats of terrorists, had already collapsed and generally co-operated with the forces of anarchy. The Kashmiri Hindus had no one to look for who could help them in that situation. It may also be noted that all the assassination cases of Hindus were justified by one and all including the “friendly Muslim neighbours” as a just punishment awarded to “Mukhabir” (Informer) by the Mujahids. This was a well-planned scheme worked out to ensure the exodus of the Hindu minority from the valley to change the demographic complexion.

The editor of a local daily was pressurized to publish threats through print media against Kashmiri Pandits by the “Mujahids”. The unfortunate question remains why the concerned editor could not stop publication of his paper after the warnings about the disastrous effects of the threats. Why did not Prof. Soz himself condemn the threats extended to the Kashmiri Pandits through the national press or the electronic media? In course of time these very local editors stopped the publication of their papers several times when their own lives were threatened or when they apprehended their material interests would be harmed by the terrorists. No Muslim leader of any standing got up to condemn the publication of threats and extend assurance of safety to the minority community of Kashmiri Pandits.

3. Now let us turn to the attitude of Muslim leaders towards the minority Hindu community in regard to its return and resettlement in the valley. Here is a quotation from the article of Sh. Sunil Sethi-“Kashmir’s Cautionary Tale”- Daily Excelsior Jammu, June 6, 1994:

“There was really one disagreeable movement when I tagged along last week with a ‘Citizens for Democracy’ team (Justice Tarkunde, Kuldeep Nayer, Madhu Kishwar, et al) to visit Prof. Abdul Gani, Spokesperson of Hurriyat Conference, the alliance of 38 political and

professional groups ..... Kuldeep Nayer asked him a simple question: Would the Hurriyat encourage the Kashmiri Pandits to return to valley?

“Prof. Gani began to hedge. First he said that there were not enough houses to rehabilitate the 1,50,000 Hindu refugees in the valley- many of their houses had been burnt or occupied. Then he said their return would be conditional to their going along with views of majority and that the Hurriyat could not assure them protection. Finally he said that the Kashmiri Pandits owed the people of the valley an explanation, if not an apology, as to why they left their homes in the first place. Prof. Gani was laying down the conditions for the return of Kashmiri Pandits to their homeland and it proved fairly useless to debate the issue with him”.

The quotation is self explanatory and needs no elucidation.

**Sec-(b) Dispossession & Bias**

- (i) Fire Sufferers,
- (ii) Loanees,
- (iii) Agriculturists & Orchardists.

**(i) Fire Sufferers**

Hindu property worth several thousand crores has been destroyed by burning and bomb blasts by the terrorists in the valley. The scorch-earth-policy has been adopted by the terrorists to ensure that the chances of return of Kashmiri Hindus to the valley are totally blocked with the destruction of their residential houses etc. Another purpose of this policy is to wipe out traces of Hindu culture from the valley.

The Government too by its indifferent attitude contributed its share in this vandalism by ignoring to make special arrangements for the upkeep and look-after of the vacant property of the Hindus. Data of the left over property of Hindus was collected by the Relief Commissioner's Department of the Government in September 1993. Unfortunately, till date it is not known what use the Government has made of that data.

The Government has sanctioned ex-gratia relief to the owners of the burnt properties at the rate of 50% of loss assessed subject to maximum of Rs. One lakh for each house. According to rules and procedures of Jammu and Kashmir Government, ex-gratia relief was sanctioned up to 1989 in such cases where loss was caused by natural calamities or due to accidents. The loot and arson of the displaced Kashmiri Hindu properties is caused due to the inability or failure of the Government to provide the desired and adequate protection against the terrorist action. It is the primary duty of any Government to provide security for the life and property of its law abiding citizens. The affected persons, therefore, clamour for payment of out-right compensation at the prevailing rates instead of ex-gratia relief.

The affected persons have voiced deep anguish against the procedure adopted for assessment of loss caused by arson to the properties. Kashmiri Hindu fire sufferers are not present at the site of occurrence of arson. Because of their absence, they have

not been able to retrieve anything nor are they aware about the standards adopted by the authorities for evaluating the loss. No opportunity has been afforded to the sufferers to file their objections against the evaluation made. The entire cost valuation of the loss suffered by the Hindu property owners needs review after taking into consideration the objections of the individual sufferers.

The ex-gratia cash relief has not been sanctioned impartially and uniformly among various sections of people. Apart from grant of cash, ex-gratia relief at higher rates, Muslim fire sufferers of Handwara, Charar etc. have been allotted free Government plots of land and supplied timber, tin and cement at concessional rates. No such benefits have been allowed to Hindu fire sufferers.

(List of fire sufferers -----Annexure-F)\*

**(ii) Loanees**

A section of the Kashmiri Hindu displaced persons had constructed residential houses in the valley from the loans drawn by them from the government departments and public sector undertakings where they mortgaged their properties with the respective government departments and public sector undertakings. Some of these residential houses have been burnt by the terrorists while others are still standing. The displaced persons who had built these houses are now living in the rented accommodation while in exile. They are not enjoying any benefits from the properties built by them, yet they are made to repay the loans drawn by them.

In the case of house-boat owners, hoteliers who had drawn loans from various financial institutions in the valley for commercial purposes, the repayment of loans and charging of interest has been kept in abeyance. But this benefit is not extended to the Hindus as in the case of Hoteliers and House-boat owners!

**(iii) Agriculturists and Orchardists**

Among the Hindu displaced persons, there is a section of agriculturists and orchardists. Landed properties left behind by this section are income yielding assets. The income from these properties has been misappropriated and usurped since 1990

by the secessionists and terrorists of the valley. The government has chosen to be a silent spectator, as they have abandoned their responsibilities towards the displaced Hindu agriculturalists and orchardists. No one in the government has bothered to know how the incomes derived from the lands of the displaced have been utilized. The displaced Hindu agriculturists and orchardists have on several occasions brought their plight to the notice of the government who have chosen to ignore their plight. Now the matter is brought to the notice of the Commission.

### **Traders and Shop-Keepers**

More than five years have elapsed but the Government of Jammu & Kashmir has not framed any policy to remove the distress of this section of the displaced Hindus. After having failed to get response of the Government, the traders and shop-keepers had undertaken 'dharna' and hunger-strike some two years back. The officers of the State administration promised to remove their difficulties but till date nothing has been done. How long will these people continue to suffer? A realistic policy for redressing their grievance has to be evolved.

(List of traders ----- Annexure-G)\*

### **Discrimination in property insurance**

The displaced Hindus whose properties in the valley have not been destroyed so far have been denied the right to insure their properties in case they had not already insured the same before 1990 and that there is no break in insurance coverage since then. Again the Insurance companies refuse to enhance the amount insured beyond 1990 level in respect of properties risk whereof is covered. No such restrictions are imposed on the properties of those persons who have not been displaced.

### **Biased Police Attitude**

Movable properties were left behind by the Hindus in their residential houses. These properties have been stolen or looted during the absence of their owners. The police have either refused to enquire into such complaints or are usually reporting-

“the migrant has taken all his property along with him”. It is unfortunate that the bias of the officers enquiring into such cases does not allow them to exercise their reason to ascertain the truth. It can be appreciated that a person forced to seek safety elsewhere can hardly take all his belongings along with. The Commission is requested to look into the biased reporting of the police stations of the valley.

\* \* \* \* \*

**\*Annexure ‘F’ & ‘G’ have not been included here and are contained in the original Report (On Human Rights Violations in Kashmir).**

**APPENDIX - I**

**MEMORANDUM SUBMITTED TO NATIONAL HUMAN RIGHTS COMMISSION,  
NEW DELHI ON 07-03-1994.**

We feel that there is an imperative necessity for an indepth investigation into Human Rights Violations of the Hindus in Kashmir. Human judgements which are presumed to be universal, as the Universal Declaration of Human Rights underlines norms and standards of human behaviour, which are generally accepted by the international community. The Universal Declaration of Human Rights does not admit arbitrary determination of parameters and judgements and therefore, location of responsibility for the protection of the human rights, must be visualized, in the basic principles of the Declaration. In the Charter of the United Nations, the peoples, constituting the United Nations, expressed their determination to reaffirm faith in the fundamental human rights, in the dignity and worth of the human person and human rights, and the equal rights of men and women and nations large and small.

The Universal Declaration of Human Rights adopted by the United Nations in 1948, and the subsequent International Covenants adopted in 1966, underline the universal recognition of human rights. The rights envisaged by the Declaration of Human Rights are universal in content and, therefore, the obligation of their protection is not limited to the authority of the State but extends to all social and political instruments as well as international organisations. The Declaration imposes obligations for the protection of Human Rights on 'all people' and all the 'Organs of the society' which include the State.

The Universal Declaration of Human Rights is not a partial guarantee and it does not envisage protection for a specific community or a section of the people of the 'community'. The safeguards envisaged by the Declaration of Human Rights are universal and are available to all the people of the world. The safeguards for the human rights are universal and are available to the people of the world irrespective of their nationality, the regime by which they

are governed and the religion and race to which they belong. The Declaration of Human Rights does not envisage protection of any single community in the world and insulate it against the infringements of the human rights. The Declaration extends protection to all the community/ State, more so, the Hindus and the other minorities, who are exposed to religious, political and economical dominance of a majority population committed to seek religious precedence, jihad, crusade for an Islamic State and the secession of the State from India with ulterior object to merge it with the State of Pakistan.

The Declaration of Human Rights is a guarantee against all ideological aggrandisement, including claims to religious precedence and envisages protection to all Hindus and other ethnic and religious minorities in Jammu and Kashmir against genocide, ethnic cleansing, religious persecution, as well as slavery and oppression, perpetrated upon them by the various instrumentalities of the State.

Muslim communalism, which is inherently fundamentalist, assumed dominance in the Government, society and the economic organisation of the Jammu and Kashmir State during the last forty-six years. After the partition of India, Pakistan invaded Jammu and Kashmir and Muslims inhabiting the Jammu province and the frontier districts of the Kashmir province, who had supported the Muslim movement in India for Pakistan, and who form nearly half of the Muslim population of the State, fraternised with the invaders. The Hindus and the other minorities in the State, joined by the Kashmiri speaking Muslims of the Kashmir Province, together constituting, approximately two thirds of the population of the State, supported the accession of the State to India. Around thirty eight thousand of Hindus, Sikhs and Buddhists were massacred by the invading armies of Pakistan. Due to the United Nations intervention, invoked by India to secure the withdrawal of Pakistan from the State, a truce-agreement was foisted upon India, and almost half the territories of the State, left under the occupation of the invading armies.

No sooner the accession of the State to India was brought about and the State Government reconstituted, to transfer power to the people in the State, in accordance with the practice followed by the Government of India in the other acceding Indian States, the Muslim majority, enforced its precedence in the government of the State. In a matter of a few years,

other government, society and the economic organisation of the whole State was reorganized, and the Hindus and other minorities were rapidly eliminated from all the political processes of the State, its economic organisation and property relationships and its society.

In order to perpetuate the communal majoritarianism of the Muslims in the State, the ruling Muslim elite ensured the exclusion of the Jammu and Kashmir State from the constitutional organisation of India, by virtue of Article 370, of the Indian Constitution. The Muslim ruling elite established a separate political organisation in the State, on the basis of the Muslim majority character of the population of the State, and the enforcement of the Muslim precedence in the State. The separate political organisation in the State, which was ruled by decree and ordinance for over a decade, right from 1947 to 1957 did not accept:

- i) Right to equality.
- ii) Right to equality of opportunity.
- iii) Right to protection against discrimination on the basis of religion, race, place of birth, sex or caste.
- iv) Right to legal remedies against any discrimination on grounds of religion, race, caste or place of birth and sex.
- v) Right to freedom of faith.
- vi) Right to own and manage religious endowments, religious places, religious property and religious institutions.
- vii) Right to protection against persecution, threat and inducement to conversion.
- viii) Right to the protection of minorities.

The legislature and Executive of the Government of the State exercised arbitrary powers of classification of population, affecting the rights of the minorities in almost all the spheres of the life, during the last four decades of the Indian freedom and still continue to exercise the arbitrary power.

**For the last forty three years, the Hindus have, thus, borne the violation of human rights, of equality, protection against discrimination, protection against religious persecution, protection against political oppression and economic deprivation and protection due to minority community.**

## **SECESSIONIST MOVEMENT**

The Hindus and the other minorities have suffered the long, almost forty year old, secessionist Muslim movements in the State, which, in one way or the other, received the surreptitious support of the State Government. The Hindus, who formed the vanguard of the resistance against Muslim secessionism were victimized by:

- i) The secessionist forces at the social level; and,
- ii) The State Government at the political level.

The end result of the discrimination meted out to the Hindus under the cover of Article 370, by the Muslim fundamentalist and communal forces and State Government was:

- i) Complete exclusion of the Hindus in Kashmir from economic organisation of the State;
- ii) Exclusion of the Hindus from the Government and the political processes of the State;
- iii) Exclusion of the Hindus from educational institutions on the basis of religious discrimination;
- iv) Organized suppression of Hindu religion and culture;
- v) Destruction and desecration of Hindu shrines,
- vi) Emigration of about four Lakh of Hindus from Kashmir, due to economic deprivation, religious persecution and political oppression.

## **MUSLIM TERRORISM**

Widespread violations of the human rights of the Hindu minorities have been committed with and after the onset of the terrorist violence in the State and these blatant human rights violations are going unabated. These violations are listed in two separate sets:

- i) Violation of human rights committed by the terrorist organizations and their abettors inside the State or outside the State.
- ii) Violations of human rights, for which the Government of the State and the Government of India and other instrumentalities of the Government of the State and the Government of India are responsible.

Terrorist violence in Jammu and Kashmir has several dimensions, which have direct bearing on human rights in the State.

In the first place, terrorism in Jammu and Kashmir is a process of political violence, which has specified political commitments aimed to separate the Jammu and Kashmir State from India and secure its annexation to Pakistan. It is the culmination of the Muslim struggle in pre-partition India for the homeland of Pakistan, which claimed Jammu and Kashmir on account of the Muslim majority character of its population. It is a religious crusade to complete the partition of India, which it claimed is 'incomplete' so long as Jammu and Kashmir is not merged with Pakistan. It must clearly be understood that this terrorist violence is not aimed at effecting any change in the existing political system, economic organisation or social relationships. It is neither an expression of political dissent, nor is it a political movement aimed to replace the existing political system, economic organisation or social relationships. It is neither an expression of political dissent, nor is it a political movement aimed to replace the existing sets of political instruments in the State. It has an international content as it is aimed at cutting off a part of the Indian nation and secure its annexation to the State of Pakistan.

The Muslims in Kashmir are the ruling elite of the State. They dominate its entire economic organisation and enjoy communal precedence in all social forums. Islam is virtually the official religion of the State. Whereas the Muslims constitute a little more than half the population of the State, they possess three-fourths share in legislative bodies, administrative organizations and all the local Government institutions. In the Kashmir Province, the Hindus have no elected representation in the State Legislature, nor do they have any elected representation in the local bodies. They constitute less than five percent of the administrative services of the State and have less than one percent share in the higher cadres of the State administration. Muslims monopolise 94 percent of the State services in Kashmir. The Hindus of Kashmir province have absolutely no share in the decision making clusters of the State Government, which have always been constituted by the Muslims of the Kashmir province. More than 90 percent of the admissions to professional, technical and other educational institutions are reserved for Muslims in one form or the other, purely on communal basis.

The Hindus, Sikhs and other minorities share a bare 8 per cent of the educational facilities that the State provides.

The Muslims own and control the entire economic and industrial structure of the Kashmir province. They own 96 per cent of the agricultural land, orchards and other urban landed estates. They enjoy a monopoly over the entire industrial organisation, trade, commerce, financial resources and exports of the province of Kashmir. They have complete monopoly in the trading in fruits, carpets, shawls, wood work, woollens, silk etc. The Hindus in Kashmir have never been allowed to have any share in the tourist industry, the transport organisation, concessionary contracts for the construction of the State property, roads and buildings and the license for imports and exports which the State Government has lavishly distributed among the Muslims.

The political content of the terrorist violence has a direct effect on human rights as it involves militants, strategies which cannot but infringe the principles which form the basis of human rights. These strategies include:

1. liquidation of the Indian support structure in the state, involving elimination of the people of all communities, including Muslims, who constitute such support structures;
2. suppression of all political dissent and opposition by fear;
3. oppression and mental torture of people who do not support terrorism;
4. liquidation of civil population which extends help to security forces in their operations against terrorists;
5. communalisation of the society aimed to suppress opinion opposed to the secession of the State;
6. conduct of military operations by the terrorists against the security forces of the state in violation of the law of war.

The second major dimension of terrorism in Jammu and Kashmir valley is to exterminate the Hindu population in the Kashmir Valley because Hindus do not accept the secession of the State from India and its annexation to Pakistan nor do they accept to be

governed by the authority which derives its sanction from the law and precedent of Islam. The Hindus have always supported accession of the State of India. They have, undeniably, formed the most powerful support base for India in Kashmir. Hindus in the valley rose unitedly against the invasion of the State in 1947, and fought shoulder to shoulder with the Indian soldiers against the infiltrators from Pakistan in 1965. They were always in the forefront of the struggle against secessionism, communalism, fundamentalism and the various movements for annexation of the State to Pakistan.

In the present turmoil, the strategies used in the terrorist operations against the Hindus in Kashmir include;

1. The extermination of the Hindus;
2. Subjection of the Hindus to brutal torture to instil fear among them in order to achieve their submission to the terrorists and their exodus from Kashmir;
3. Flushing out such Hindus as refuse to submit to the terrorist dictates, by force, fear of death, fear of conversion and criminal assault on their women;
4. Destruction of the residential houses of the Hindus who migrate and the appropriation of their business establishments to ensure that they do not return;
5. Attachment of their landed property;
6. Destruction of the social base of the Hindus by desecration and destruction of their places of worship, shrines and temples;
7. Appropriation of the property of the Hindu shrines and their attachment to the Muslim religious endowments;
8. Declaration of a religious crusade against the Hindus.

The third and most crucial aspect of terrorism in the State is the participation of Pakistan in the terrorist violence. Pakistan has a history of sponsoring terrorist violence in its neighbouring countries including India. It is openly committed to the export of Islamic revolution to non-Muslim states and militarisation of pan-Islamic fundamentalism in

South Asia. Pakistan has always used Islam as an ideological instrument for its territorial expansion. It has claimed Kashmir in the name of the Muslim nation and the unity of the Muslims Umah. Pakistan is at present a conventional, organized and international base for the militarisation of pan-Islamic fundamentalism and Muslim terrorism in Asia. There is enough proof of the complicity of Pakistan in the terrorist activity in Jammu and Kashmir, which cannot be disregarded.

The induction of terrorism in Jammu and Kashmir by Pakistan is its third attempt to cut off Jammu and Kashmir from India and annex it to its territories. In October 1947, Pakistan sent thousands of armed forces and irregular commandos into the State to annex it. Were it not for the heroic resistance of the State troops led by the Chief of the Army Staff of the State, Brigadier Rajender Singh, who resisted the advance of invading forces till the State acceded to India and the Indian troops joined the battle, the story of the State would have been different. About thirty thousand Hindus and Sikhs were slaughtered by the invading hordes in the territories of the State overrun by them. Hundreds of thousands of them were uprooted and displaced. The story is still untold. In 1965, Pakistan inducted thousands of trained commandos in the garb of local Muslims into the State to unleash a Muslim rebellion against India. The infiltrators spread all over the valley, penetrated into Srinagar, but due to the lack of support from local Muslim population and prompt military action taken by the Government of India, the infiltrators sneaked back to Pakistan after the war broke out between the two countries.

The present terrorist violence in Jammu and Kashmir is the third attempt by Pakistan to break up India and annex Jammu and Kashmir. This time the technique of military intervention is different; the flanks of terrorist organizations are recruited from the local Muslim population and after being trained and armed in Pakistan are reinducted into the State, to carry out the Islamic crusade, Jihad, against India. Large numbers of armed commands consisting of personnel of the army and intelligence services of Pakistan, and the various troop formations raised in the occupied territories of so-called Azad Kashmir have also been inducted into the State to help the terrorist elements.

The consolidation of pan-Islamic fundamentalism in South Asia has been effectively used by Pakistan to export 'Islamic revolution' to Jammu and Kashmir. Once the Jihad or the Islamic crusade for the liberation of the State triumphs, Jammu and Kashmir will, as a part of the fundamental unity of the Muslims, join the Muslim nation of Pakistan. That is the reason why Pakistan projected Jammu and Kashmir Liberation Front in the first phase of terrorism in Kashmir, ostensibly to create an impression that the Muslims have launched an armed struggle in the State to liberate it from India. The truth is that Jammu and Kashmir Liberation Front was sponsored by Pakistan to impart a more militant direction to the demand for plebiscite in the State. It received arms and funds from intelligence agencies of Pakistan and always acted under the instructions of the intelligence services of that country. Once the terrorist violence in the State spread, Pakistan inducted the more powerful terrorist fronts into the state, like the Hizbul Mujahidin, the militant outfit of Jamaat-I-Islami, Al Badar exclusively entrusted with the task of liquidating the Hindus, and the other terrorist organisations like Al Umar, Allah Tigers, Janbez Force, Hiizb Ullah and several other terrorist groups all committed to the secession of the State.

### **GENOCIDE OF HINDUS**

The terrorist violence in Kashmir has involved mass massacre of the minority people of the State, destruction of their property and their genocide and also their exodus from Kashmir. The death and destruction of innocent people, genocide of minorities and conduct of a war of attrition in violation of the laws of war are crimes against humanity and international law, besides being violation of human rights. The terrorist violence in Jammu and Kashmir, on a well-designated pattern, has led to several consequences which are inextricably interlinked with the violation of human rights. The pattern in which terrorism has manifested itself in Jammu and Kashmir has several aspects, some of which are characteristically original to the political violence unleashed by the various terrorist organizations and Pakistan in Jammu and Kashmir. These aspects are:

- i) mass massacre;
- ii) genocide of Hindus and

iii) atrocities committed by terrorists.

It is generally presumed that mass massacre involves a hundred or more political killings. Mass murder is not a precise term. It is arbitrarily defined here as something approaching “a hundred or more political deaths”. In Jammu and Kashmir, terrorism has involved the liquidation of thousands of people, including the Hindus, the Muslims, the security personnel and the strategic staff of the State Government and other administrative bodies. A computation of the data on the terrorist killings from the local newspapers published from Srinagar and other townships in Kashmir reveals that the number of the people, other than Hindus, killed by the terrorists, runs into several thousands.

The main targets of terrorist violence, in Kashmir, have been-

1. The Hindus;
2. The Muslims opposed to secession, the Muslims accused by terrorists of acting as “agents of India” and ‘informers’ and those alleged to have spied for security forces of the state;
3. The Hindu employees of the State Government, the Hindu employees of the Government of India posted in the State, Hindu Technical staff of Government of India installations of communications, police, radio and television, Hindu technical staff of the industrial corporation and the Hindu personnel of the security organizations of the State as well as the personnel of the Central paramilitary forces deployed in the State.

The Hindus of Kashmir, among them mainly the Kashmiri Pandits, have been killed in large numbers irrespective of their age, profession and political commitments. The killings of Muslims has been specifically selective and except for a few doubtful cases most of the Muslims killed have been those who have been opposed to secession and who did not support Pakistan’s claim to Jammu and Kashmir State. More notable of the Muslims who have been assassinated by terrorists include Maulana Masoodi, a veteran freedom fighter and a close associate of Sheikh Mohammad Abdullah; Maulvi Farooq, Mirwaiz of Kashmir, Mr. Mustafa,

a former member of State Legislature; Pir Hissam-ud-Din Bandey and Abdul Jabbar, former ministers of the State Government; Adbul Sattar Ranjoor, General Secretary of the Communist Party of India in the State; Mohd. Shaban, Editor, Al Saafa, an Urdu daily; Prof. Mushir-ul-Haq, Vice-Chancellor of Kashmir University; and Mohd. Din Banday, the Muslim Gujjar who reportedly gave the first information about the ingress of infiltrators from Pakistan in 1965. Among the many other Muslims killed by the terrorists are the former members of the State Legislature, National Conference and the Indian National Congress activist, and officers of the State Police.

Terrorism has taken a very heavy toll of the personnel of the security organizations of the State. Barring variations in official account of the security personnel killed and the account given by the local press as well as the figures made public by the terrorists themselves, a fairly large number of the personnel of the para-military forces and the Indian Army have been killed in the hit and run guerilla attacks mounted on them by terrorists. The attacks have involved sudden assaults on para-military pickets in civil areas, ambush of army and para-military convoys, mine blasts, rocket and bomb blasts on police stations and other security installations.

Genocide is the destruction in whole or in part of a national, ethnic, racial or religious group. The United Nations General Assembly approved a resolution on 11th December, 1946, declaring genocide a crime under International Law. A Convention on the Prevention and Punishment of Crime of Genocide adopted by the General Assembly came into effect on 12<sup>th</sup> January, 1951. The Convention proclaimed genocide as a crime against International Law. The Convention lists destruction of an ethnic, racial or a religious group as genocide. Specifically, genocide includes:

1. Killing of members of a community or a group because of their affiliations.
2. Causing bodily or mental harm to the members of a community or a group.
3. Deliberately inflicting conditions on the community or the group to bring about its physical destruction.
4. Increasing pressure to prevent births in the community or in a group.
5. Forcibly transferring children from one group to another.

The terrorist organizations in the State and those operating from Pakistan have unleashed an organized campaign to exterminate the Hindus in Kashmir. Besides the obligation to execute a religious war against them, terrorists have sought to achieve several tactical advantages in eliminating the Hindus. The Hindus used to form a vital and powerful base for India in Kashmir. They have fought the secessionist movements in the State with their bare teeth. They alone have resisted the onslaught of the pan-Islamic fundamentalism as well as the Islamisation of the Government and the society in the State. They have always been instrumental in keeping the feedback channels of the Government of India open and maintaining a regular and uninterrupted flow of information to its agencies.

The mass armed attack on the Hindus began in January, 1990, and by the onset of August, 1990 more than eight hundred of them had been murdered in cold blood. Most of the victims were innocent people who lived in poverty and persecution under the Muslim dominated constitutional organisation of the State. Among those killed were people from all sections of the society, lawyers, political activists, media men, intellectuals, shopkeepers, errand boys and men of small means.

The terrorist killings have been accompanied by torture unheard of in the annals of human history, which are tantamount to grave crimes against all ethics and against humanity. In sheer disregard of the norms of political behaviour, generally recognized by the civilized nations and now embodied in several International Covenants, the Charter of Human Rights, Declaration and Resolutions of the United Nations General Assembly, the terrorists have inflicted grievous hurt, injury and death/torture on hundreds of Hindus and other dissenters. Torture deaths have been brought about by inhuman practices described below:

1. Strangulation by using steel wires;
2. Hanging;
3. Impaling;
4. Branding with red hot irons;
5. Burning alive;
6. Lynching;

7. Draining of blood in contrived terrorist underground hospitals;
8. Gouging of eyes before assassination;
9. Slicing;
10. Dismemberment of body;
11. Breaking of limbs;
12. Drowning alive;
13. Dragging to death;
14. Slaughter.

Brij Nath Shah was kidnapped on 27<sup>th</sup> April, 1990 from his home at Sadhu Ganga, Kupwara in Kashmir. Two days later his body was found hanging by a tree. His lips had been stitched.

Sham Lal of Chiragam in Anantnag, Kashmir, was kidnapped in May 1990. The hands and the feet of the unfortunate man were chopped off and his skull battered. Sham Lal's dead body was stuffed in a sack and left on the threshold of his house, wherefrom it was recovered by his brother.

Pran Nath of Uttarsu in Anantnag District was kidnapped on 27<sup>th</sup> May, 1990. His body was founded impaled and his chest and feet nailed.

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 Migrant house. The house was set ablaze. Two of the officials were burnt alive while the third official escaped with more than 50 per cent burns.

One Bushan Lal of Ompura in Budgam, Kashmir was kidnapped on 27<sup>th</sup> April 1990. He was tortured and then strangled to death. His body was found the next day.

Girja, a school teacher in Bandipora, was kidnapped from the House of a Muslim colleague. The unfortunate woman, after being gang raped, was sliced on a mechanical saw.

Scores of the bodies of Hindus were recovered from River Jhelum. Most of them were drowned.

Brij Nath Koul of Hermani of Shopian, an employee of the Agricultural 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 Hindus were salvaged from various places in Kashmir. Their heads had been severed off.

Several dead bodies of Kashmiri Hindus were recovered which had been branded by hot iron before death. Several bodies were found with eyes gouged out.

The most dastardly and inhuman acts of terrorism were those committed in hospitals where the Hindus brought in for treatment 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 have been reported where the injured Hindus were allowed to bleed to death.

Scores of cases have been reported where the kidnapped Hindus were drained of their blood and their lives were terminated.

Among the dead in Kashmir, the State Government is yet to disclose the identity of about four hundred dead bodies, recovered by the police and disposed of at its will. The State Government is keen to cover the anti-Hindu character of the terrorist violence and has tried to play down the massacre of Hindus. But the fact remains that most of those killed and still unidentified are Hindus. A survey of the 'migrant' population reveals that there are several hundred Kashmiri Pandits, who are missing and are presumed dead.

The worst sacrilege to which the Hindus have been subjected, and the process continues still, is that the kith and kin of the Hindus killed in Kashmir were not allowed to carry the dead bodies to Jammu for cremation according to the Hindu rites. Evidently, the cremation of Hindus in Kashmir could not be carried out according to the Hindu rites because the terrorists forbade the Hindus to accompany the dead to perform their last rites. The dead bodies of the Hindus were actually disposed of by the State Police on their own and in total disregard of the injury and hurt the cremation of the dead bodies by the State police caused to the religious feelings of the bereaved Hindu families.

## **EXODUS**

The rising terror which consumed hundreds of innocent Hindus, the deliberate indifference of the state apparatus infested by pro-Pakistan agents and infiltrators and the failure of the Government of India to take effective and firm measures against the terrorists as well as their harbourers, particularly in the ranks of the administrative organization of the state, compelled the Hindus to flee for their lives to Jammu and beyond. By July- September, 1990 more than two lakh of Hindus had evacuated from their homes leaving their property, land, trade and business behind them. After the exodus, all the Hindu property has been looted and thousands of Hindu houses burnt down. Several Hindu shrines have also been burnt down or destroyed by explosives.

Terrorism is a negation of life, and violation of the norms of human behaviour recognized by all civilized people of the world. All value-based violence, which contravenes generally the accepted norms of social order, human behaviour and right of life and equality of all men, is retrogressive. Judgements which are based upon preferences, which violate life, equality of all men and freedom, do not have any revolutionary content. The political violence motivated by ideological commitment, whatever their value content, is necessarily retrogressive. There is no freedom which impinges upon freedom, no equality which upholds inequality. There is no life which portends death. Political terrorism, even if it is for a religious crusade, is as heinous a crime as any other crime against humanity. All political terrorism is organized crime.

Terrorist violence cannot be justified on the ground of its political and ideological motivations or value-basis. International conventions and treaties, even those pertaining to human rights, do not recognize terrorist violence as legitimate political action, arising out of any ideological or political commitments or any value basis. Commitment to separation of Jammu and Kashmir from India to further the cause of Islam and in the name of Muslim unity and brotherhood, to ensure the Muslims in the State the right to decide the future disposition of the state as envisaged by the United Nations Resolution; commitment to 'complete the partition of India' by the accession of the State to Pakistan or commitment to liberate the Muslim majority state of Jammu and Kashmir or commitment to establish a Muslim state of

Jammu and Kashmir based upon religious precept and precedence cannot legitimise and validate terrorism in Kashmir.

## **INTERNATIONAL LAW AND TERRORISM**

There is a growing corpus of Municipal as well International Law and precedence to deal with politically motivated terrorism. The civil jurisprudence and international law generally identify political terrorism as a crime, more serious than traditional civil and international crime. Murder of innocent people, torture deaths, kidnappings, abductions and rape of women are heinous crimes which do not come within the traditional definitions of crime. Many countries have extended their penal codes to most terrorist offences. Legislation has also been undertaken to provide for special police power and special judicial procedures to deal with terrorist crime. New special anti-terrorist organizations have been created within the police departments and other international security organizations. In many states military participation in police functions has increased. Special military units for possible use in anti-terrorist operations have been created in a number of countries. All these measures have been necessary to combat terrorism and safeguard the lives of law-abiding citizens and innocent people and save states from being broken up by sponsored terrorism. Nations with long democratic traditions including the United State of America, one of the foremost super-states supporting human rights, have always demanded the adoption of severely stringent measures against political terrorism.

It is relevant to note that the United States of America proposed a set of highly stringent rules to deal with terrorism in the draft of an International Convention submitted by the United States Government to the adhoc committee of the United Nations on international terrorism in 1973.

Understandably, most of the Muslim States disapproved of the Convention.

The United Nations lists killings, kidnappings, torture and abduction as a crime. According to resolutions of the General Assembly of the United Nations on measures to prevent terrorism, the United Nations General Assembly –

1. Unequivocally condemns as criminal all acts, methods and practices of terrorism wherever and by whoever committed including those who jeopardize the friendly relations between states.
2. Deeply deplores the loss of innocent human lives which results from such acts of terrorism.
3. Further deplores the pernicious impact of acts of international terrorism, on existing international Conventions relating to various aspects of international terrorism.
4. Appeals to all states that have not yet done so to consider becoming party to the existing International Conventions relating to various aspects of international terrorism.
5. Invites all states to take all appropriate measures at the National level with a view to the speedy and effective elimination of the problem of international terrorism such as the harmonization of domestic legislation with existing International Conventions, the fulfillment of assumed international obligations, and the prevention of the preparation and organisation in their respective territories of acts directed against the States.
6. Calls upon all states to fulfill their obligations under International Law to refrain from organizing, instigating, assisting or participating in terrorist acts in other states, or acquiescing in activities within their territory directed towards the commission of such acts.
7. Urges all states not to allow, in any circumstances, to obstruct the applications of appropriate law enforcement measures, provided for in the relevant conventions to which they are party, to persons who commit acts of international terrorism covered by those conventions.
8. Further urges all states to cooperate with one another more closely, especially through the exchange of relevant information concerning the prevention and combating of terrorism, apprehension and prevention or extradition of the perpetrators of such acts, or the incorporation into appropriate bilateral

treaties of special clause, in particular, regarding the extradition or prosecution of terrorists.

The Security Council adopted a Resolution on 18<sup>th</sup> December, 1985 urging upon all the States to undertake appropriate measures to bring to an end hostage taking, abduction and other forms of terrorism. In the operative part of the Resolution, the Security Council-

1. condemned unequivocally all acts of hostage-taking and abduction;
2. called for the immediate safe release of all hostages and abducted persons wherever and by whoever they are being held;
3. affirmed the obligation of all States in whose territory hostages of abducted persons were held, urgently to take all appropriate measure to secure their safe release and to prevent the commission of acts of hostage-taking and abduction in future;
4. urged the further development of international cooperation among States in devising and adopting effective measures which were in accordance with the rules of International Law to facilitate the prevention, prosecution and punishment of all acts of hostage-taking and abducting as manifestation of international terrorism.

A number of other resolutions and conventions of the United Nations General Assembly and the Security Council, the Adhoc Committee on International Terrorism, various reports of the Secretary General of the United Nations and the Covenants of various inter-state organizations on political and international terrorism, have urged the members of the international community to undertake stringent and effective legal and administrative measures to combat terrorism. The recommendations envisage the institution of fresh political instruments and modified penal procedures to check terrorism. The Council of Europe produced a Convention on terrorism in 1977, which stipulated that amnesty available to political offences should not apply to terrorist violence associated with all forms of terrorist

acts, assassinations bomb outrages, rocket attacks and killings by other explosive devices, kidnapping, taking of hostages, hijacking and such other offences.

The Muslim terrorist crusade in Jammu and Kashmir is aimed to:

- a) Merge the state into the Muslim nation of Pakistan on the basis of its Muslim majority;
- b) Convert it into Muslim State, governed in accordance with the religious precepts of Islam; and
- c) Restrict human rights of all ethnic and religious minorities within the injunctions of the Muslim State.

The crusade is a negation of human rights. All religious crusades which seek to establish religious precedence including the Muslim Jihad and the militarisation of the pan-Islamic fundamentalism violate the Declaration of Human Rights. The rights envisaged by Declaration of Human Rights are irreconcilable to all political regimes which are based upon religious precept and precedence. Fundamental Rights including human rights conflict with restricted citizenship and all forms of religious protectorate.

The Declaration of Human Rights does not underline the guarantees against civil jurisdiction alone. The human rights are fundamental rights; they are also civil rights. The protection envisaged by human rights imposes a limitation on the arbitrary exercise of State power; it also imposes a limitation on the exercise of authority by all regimes including instruments of social control, private citizens, foreign States and international organisations. The terrorist organizations of the State, the Muslim crusade for a second partition of India and the State of Pakistan cannot escape the liability for the violation of human rights in the Jammu and Kashmir State.

The responsibility of violation of human rights in the Jammu and Kashmir State rests upon:

1. all the terrorist organizations in the State;
2. the Muslim organizations and the paramilitary outfits which aid and support terrorism;
3. the political regime in the part of Jammu and Kashmir occupied by Pakistan; and

4. the State of Pakistan.

Political terrorism is condemned by the United Nations as a crime against the rights of man. Terrorist killings, kidnapping, torture, hostage-taking, abduction are listed as grave crimes against humanity. The General Assembly denounces all acts of terrorism, which endanger or take innocent lives, jeopardize fundamental freedoms and impair the dignity of human beings.

#### **FAILURE OF THE INDIAN STATE**

The Jammu and Kashmir Government and the Government of India have failed to take adequate and necessary measures to suppress terrorism in the State. In spite of the increasing terrorist violence during the fall of 1989, the State Government stubbornly refused to take any action against the growing terrorist menace. During 1989, sixteen hundred violent incidents including 351 bomb blasts took place in the Kashmir Province. During the first eighteen days of January 1990, 319 violent incidents, 21 armed attacks, 114 bomb blasts and 112 acts of arson and 12 outbreaks of mob violence took place in the State. The Government reaction to the terrorist violence is reflected by the fact that when Shabir Ahmed Shah, a militant leader was arrested in September 1989, the Deputy Commissioner refused to sign the warrant of detention; later on the Deputy Commissioner of the District Anantnag, to which Shah belonged, also refused to sign the warrant. The treachery against the Human Rights did not end there. The Advocate General did not appear before the Court to represent the case, shifting his responsibility to the Additional Advocate General and the Government Counsel. They refused to appear before the Court.

The terrorist violence spread death, and hundreds of innocent Hindus were mowed down by the terrorists' bullets but none of the high officials of the State Government was brought to book for having abetted the terrorist assault on human rights.

#### **STATE'S INACTION**

The State Government and the Government of India have an obligation, under the Universal Declaration of Human Rights, the various International Conventions and the United Nations Resolution, to deal firmly with terrorist violence. Neither the State Government which is vested with the powers to maintain law and order in the State in the Indian federal

division of powers, nor the Union Government which assumed all powers of the administration to itself in consequence of the promulgation of President's rule in the State, adopted any of the measures mentioned above to deal firmly with the terrorist violence. Terrorist crime is still dealt with as an ordinary crime. Trial procedures have not been changed to meet the threat of crimes committed by the terrorists; no special anti-terrorist organizations have been instituted within the police department or within the security structures of the State.

TADA is a farce. None of the existing penal laws and procedures have been amended to cover crime committed outside the State and reach the training nests in Pakistan and no special organisation has been established at the national level to coordinate national efforts against terrorists. Both the State Government and the Union Government have not opted for military participation in police functions nor have any special military units, for possible use in dealing with the terrorists, been constituted. No special powers except those provided to deal with the extraordinary situation of terrorist violence, have been vested with the security forces and no security organisation has been empowered to take any pre-emptive action against terrorist violence, so much so that the police force is empowered to fire only when they are attacked, leaving the initiative of surprise with the terrorists. All this is being done in spite of the internationally recognized obligation to change the existing penal law and procedures to meet the terrorist threat.

Thousands of innocent lives could have been saved, if the State and the Union Government had taken adequate measures which the world community and the civilized nations have adopted to deal with the political terrorism.

The local newspapers are a testimony to the death and destruction of Hindus and other innocent civilians who have been victimized by the various terrorist flanks and who could be saved if powers were given to the security forces to take pre-emptive action. Thousands of innocent lives have been taken by the terrorists and lakhs of Hindus have been uprooted from their homes. They are languishing in refugee camps in Jammu and other parts of India. Their right to life, their homes and their freedom is as sacrosanct as any other human right listed in the Universal Declaration of Human Rights.

The State Government and the Government of India are responsible for the violation of the human rights of the Hindus in Kashmir on the following counts:

- i) abetting in terrorist violence.
- ii) refusal to give the Hindus protection against the threat to life.
- iii) refusal to protect their property.
- iv) refusal to protect their religious shrines.
- v) exclusion of the Hindus in exile from all employment in the administrative organisation of the State;
- vi) exclusion of the Hindus in the exile from all economic opportunities;
- vii) exclusion of the Hindus in exile from all educational institutions;
- viii) refusal to provide the Hindus in exile social and cultural protection.

**-For and on behalf of Seven lakh Kashmiri Hindus:**

**(Ashwani Kumar Chrungoo)**  
**Convener**  
**Panun Kashmir Movement(PKM)**

**(Dr. Mohan Krishan Teng)**  
**Co-Chairman**  
**Human Rights Committee**  
**For Minorities in Kashmir**

**(Sh. D.N. Munshi)**  
**President**  
**All India Kashmiri Samaj**

**(Sh. H.N. Nehru)**  
**Ex. President**  
**Kashmiri Samiti, Delhi.**

**(Sh. C.L. Gadoo)**  
**President**  
**Kashmiri Samiti, Delhi**

\* \* \*

**APPENDIX - II**

**MEMORANDUM SUBMITTED TO**

**National Human Rights Commission  
on its Visit to Jammu on 7<sup>th</sup> of June, 1994.**

It is submitted for the consideration of the Honourable members of the National Human Rights Commission, that an elaborate memorandum was presented to the Commission at Delhi on 07 March, 1994, on behalf of the Hindus of Kashmir, inviting the attention of the Commission to the human rights violations suffered by them. The signatories to the memorandum represented the Joint Human Rights Committee on Minorities in Kashmir, All India Kashmiri Samaj, the Kashmir Samiti, Delhi and Panun Kashmir Movement(PKM), Jammu. The signatories prayed to the Commission for the registration of the Memorandum under section 12 of the Protection of Human Rights Act 1993.

The signatories to the Memorandum also prayed that the Commission do, within the broad framework of the issues raised in the memorandum, investigate into the violation of the human rights of Hindu minorities in Kashmir and negligence in the prevention of such violation and by public servants and the institutions of the government and the acts of terrorism that inhibit the enjoyment of human rights.

We would like to submit the following for the consideration of the Commission, on its visit to Kashmir and Jammu.

1. Terrorism in Jammu and Kashmir is a process of political violence, which has specific political commitments aimed to separate Jammu and Kashmir from India and annex it to Pakistan. Terrorist violence in Kashmir is a religious crusade, to force a second partition on India, which the terrorist organizations operating in the State and Pakistan, the principal base of all terrorist forces in Kashmir, believe is necessary for the merger of the State with Pakistan. The terrorist violence, therefore, does not portend any change in the existing political system or economic organization of the State. It is not an expression of political dissent, nor is

it aimed to substitute the political instruments in the State. It has a well-defined charter in so far as it seeks to :

- (i) Islamise the state and
- (ii) In order to achieve Islamisation, separate the state from the secular, political and social organization of India and integrate it with the Islamic State of Pakistan.

The terrorist organizations in Kashmir, their abettors and supporters in the state, the mercenary Mujahids, the crusaders from other Muslim countries, operating in the state and the state of Pakistan, have established a full fledged terrorist regime in the State. The regime exacts acceptance of its orders at the point of the gun, and exercises power, without any accountability to any rule and law. The terrorist regime in Kashmir is not accountable in any measure to any national or international judgment.

It is a pirate regime, which exercises power without any responsibility and any accountability. All international terrorism is an organized crime and the attention of the Commission is invoked to enquire into the death and devastation the Hindu minority of Kashmir has suffered, on account of the organized crimes committed by the terrorist regime in Jammu and Kashmir.

The terrorist violence unleashed in Kashmir by the terrorist organizations, their supporters and the foreign mercenaries and the State of Pakistan, is a violation of human rights. The Muslim crusade which seeks to exterminate the religious and ethnic minorities in Jammu and Kashmir and establish the primacy of Islam in the State and society of Jammu and Kashmir, contravenes the basic principles of equality, freedom and due process of law which underline the Universal Declaration of Human Rights, the United Nations Covenants of Human Rights and the Charter of the United Nations. Terrorism, whatever its ideology and objectives, is a crime against humanity, it is a crime against international law and a crime against the Universal Declaration of Human Rights.

**United Nations General Assembly in its resolution :**

- (i) Unequivocally condemns as criminal all acts, methods and practices of terrorism, wherever and by whoever committed, including those, which jeopardize the friendly relations between the States;
  - (ii) Deeply deplores the loss of innocent human lives which results from such acts of terrorism;
  - (iii) Further deplores the pernicious impact of acts of international terrorism on relations and cooperation among States including cooperation for development;
  - (iv) Appeals to all States, that have not yet done so, to consider becoming party to the existing international conventions, relating to various aspects of international terrorism;
  - (v) Invites all States to take all appropriate measures at the national level with a view to the speedy and final elimination of the problem of international terrorism such as the harmonization of domestic legislation with existing international conventions, the fulfilment of assured international obligation, and the prevention of the preparation and organization in their respective territories, of acts directed against the States;
  - (vi) Calls upon all states to fulfill their obligation under International Law to refrain from organizing, instigating, assisting or participating in terrorist acts in other states, or acquiescing in activities within their territory directed towards the commission of such acts.
2. The Hindus in Kashmir, an ethnic minority, have been subjected to grave human rights violations. The violations have been committed by the terrorists and individuals and organizations abetting in terrorism, and also committed by the State.

The human rights violations committed by the terrorists and the individuals and organizations abetting in terrorism are listed below:

**(a) GENOCIDE OF HINDUS**

Genocide is the destruction in whole or in part of a national, ethnic, racial or religious group. The United Nations General Assembly approved a resolution on 11<sup>th</sup> December, 1946, declaring genocide a crime under International Law. A Convention on the Prevention and Punishment of Crime of Genocide adopted by the General Assembly came into effect on 12<sup>th</sup> January, 1951. The Convention proclaims genocide as a crime against International Law. The Convention lists destruction of an ethnic, racial or religious group as genocide. Specifically, genocide includes:

1. Killing members of a community or a group because of their affiliations;
2. Causing bodily or mental harm to the members of a community or a group.
3. Deliberately inflicting conditions on the community or the group to bring about its physical destruction;
4. Imposing measures to prevent births in the community or the group.
5. Forcibly transferring children from one group to another.

The terrorist organizations in the State and those operating from Pakistan have unleashed an organized campaign to exterminate the Hindus in Kashmir.

The mass attack on the Hindus began in January, 1990, and by the onset of August 1990 more than eight hundred of them had been murdered in cold blood. Most of the victims were innocent people who lived in poverty and persecution under the Muslim dominated constitutional organization of the State. Among those killed were people from all sections of the society, lawyers, political activists, media men, intellectuals, shopkeepers and men of small means. The genocide of Hindus continues still and by now more than a thousand Hindus have been liquidated.

**(b) TORTURE DEATHS**

The terrorist killings have been accompanied by torture unheard of in the annals of human history, which are tantamount to grave crimes against all law and against humanity. In sheer disregard of the norms of political behaviour, generally recognized by civilized nations and now embodied in several International Conventions, the Charter of Human Rights, Declaration and Resolutions of the United Nations General Assembly, the terrorists have inflicted grievous hurt, injury and death/torture on hundreds of Hindus and other dissenters. Torture deaths have been brought about by inhuman practices described below:-

1. Strangulation by using steel wires;
2. Hanging;
3. Impaling;
4. Branding with red hot irons;
5. Burning alive;
6. Lynching;
7. Draining of blood in contrived terrorist underground hospitals;
8. Gouging of eyes before assassination;
9. Slicing;
10. Dismemberment of body;
11. Breaking of limbs;
12. Drowning alive;
13. Dragging to death;
14. Slaughter.

Brij Nath Shah was kidnapped on 27-04-1990 from his home at Sadhu Ganga, Kupwara, in Kashmir. Two days later his body was found hanging by a tree. His lips had been stitched.

Sham Lal of Charigam in Anantnag, Kashmir, was kidnapped in May, 1990. The hands and the feet of unfortunate man were chopped off and skull battered. Sham Lal's dead body was stuffed in a sack and left on the threshold of his house, wherefrom it was recovered by his brother.

Pran Nath of Uttarsu in Anantnag district was kidnapped on 27-05-1990. His body was found impaled, his chest and feet nailed.

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 'migrant' Hindu house. The house was set ablaze. Two of the officials were burnt alive while the third official escaped with more than 50% burns.

Bhushan Lal of Ompora in Budgam Kashmir was kidnapped on 27-04-1990. He was tortured and then strangled to death. His body was found next day.

Girija, a school teacher at Bandipora, was kidnapped from the house of Muslim colleague. The unfortunate woman, after being gang-raped was sliced on a mechanical saw.

Scores of bodies of Hindus were recovered from River Jehlum. Most of them were drowned. Many of them were never identified.

Brij Nath Kaul of Hermani of 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 Hindus were salvaged from various places in Kashmir. Their heads had been severed off.

Several dead bodies of Kashmiri Hindus 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 those committed in hospitals where Hindus brought in for treatment 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 have been reported where injured Hindus were allowed to bleed to death. Scores of such cases have been reported where kidnapped Hindus were drained off their blood and their lives were terminated.

**(c) ETHNIC CLEANSING OF HINDUS**

The ethnic cleansing of the Hindus from Kashmir has been carried out in accordance with a well-designed plan. The objectives of the mass-massacre of the Hindus in Kashmir, which began with the onset of Muslim Jihad for the liberation of the State from India as well as the organized plan, to flush out the Hindu minority from Kashmir have been to rid the valley and of the Muslim majority districts of the Jammu province, from the Hindus and other religious minorities. While ethnic extermination of the Hindus of Kashmir is in its final phase, the ethnic extermination of Hindus from the Muslim majority districts of Jammu province has started now. Several strategies were adopted to drive out the Hindus from Kashmir. Hundreds of hit-lists were circulated in major towns of Kashmir valley including Srinagar, which carried the names of Hindus marked for assassination by various terrorist organizations. The hit-lists were published in local news papers or displayed on wall posters or dispatched to the homes of the victims. Rumours were spread about the deep involvement of the Hindus in espionage work for the Government of India and hundreds of them were branded the “Mukhbirs” or informers and as a matter of course condemned to death for their ‘anti-Muslim’ activities.

The instinctive reaction of the Hindus, condemned to die, was to leave their homes, in most cases with their families, and take refuge in Jammu. Followed by shadows of death, most of the fugitives left for Jammu in the darkness of night or early hours of morning. A few

of them could collect and carry with them their belongings and household goods. Those, who ignored warnings, paid with their lives. As the random killings of Hindus increased, particularly towards the close of 1989, and many more Hindus were put on condemned lists, their exodus assumed wide-spread proportions. In January 1990, an organized campaign was launched to pressurize the Hindus to leave Kashmir. Notices were published in local daily Urdu news papers, warnings in local dailies were accompanied by broadcasts from public address systems, from Muslim mosques, urging Hindus to take heed and quit Kashmir or else face death as traitors to the cause of freedom of Muslims of the State. On 19-01-1990, masses of Muslims came out on the streets. In mad frenzy, they attacked everything on way, the police posts, public buildings, telephone and telegraph installations etc. Hordes of howling desperados entered the Hindu houses and ordered the men to fall out and join the demonstrations. In clashes with Central Reserve Police, two Kashmiri Pandits, who had been pushed to the front, were killed in return fire.

The total break-down of law and order machinery in the province had a devastating effect on the minorities. Finding them defenceless, the terrorist organizations re-doubled their pressure on Hindus to quit the valley. In rural areas, the terrorist organizations expected the sparsely scattered Hindu families to accept conversion to Islam and at numerous places Hindu families were overtly and covertly invited to join the Muslim fold. The whole security structure, which was dominantly Muslim, quietly withdrew. Quite a large number of Police Organisations were clandestinely working for the terrorists. Wherever the Hindus approached the Police posts, they were treated with scorn, in many cases abused and sent away. The break-down of the State machinery was a straight signal to Hindus to fend for their safety. Evidently, they were hardly equipped to face the automatic machine-guns the terrorists wielded in a situation where the Government of the State as well as the Government of India had abdicated from their rightful function of providing security of life. Many families, some of them because of their landed estates and other assets and some of them because of their sheer resourcelessness, waited to avoid migration but as the intensity of assault on them increased, they were swept away in most cases, unable to retrieve any of their belongings. The

exodus of Hindus is still in progress. In April 1994, four Hindu families belonging to village Salar in district Anantnag of Kashmir were forced to migrate to Jammu. One of the members of the families was shot dead and another abducted. The women folk were subjected to criminal assault.

**(d) DEMOLITION OF TEMPLES**

One hundred and two temples have been demolished, burnt down and subjected to acts of incendiarism during the last five years. The temple lands have been usurped and buildings and other structures on such lands burnt down. Quite a large number of temples have been desecrated. Mata Kheer Bhawani Temple, the famous temple of Bhawani at Tulamula, was twice subjected to rocket attacks. A highly derogatory tirade continues against Hindu religion, which is tantamount to hurt the religious feelings of Hindus in Kashmir.

**(e) LOOT AND DESTRUCTION OF PROPERTY**

For the last five years about 16000 houses, belonging to Hindus have been burnt down. The loot and destruction of Hindu houses is continuing even at this time. The properties, household goods left behind by Hindus have been looted. In many cases houses, business establishments, land, orchards etc. have been taken over by the Muslims.

**3. HUMAN RIGHTS VIOLATION BY THE STATE**

The State of India is a signatory to the Universal Declaration of Human Rights, United Nations Covenants of Human Rights and the Charter of United Nations. The State of India is also bound by the Convention of Prevention and Punishment of Crime of Genocide adopted by United Nations General Assembly in 1948, and the Resolution of United Nations General Assembly and the Security Council on the Protection of Human Rights against International Terrorism adopted in 1986 and 1987. The Universal Declaration, the Covenants on Human Rights, the Convention on Prevention of Genocide and the United Nations' resolutions impose an obligation on members of the International Community to protect

human rights of all people. These international instruments impose an obligation on the State of India also to safeguard and protect human rights from violation, including violation of human rights by international terrorism.

The State of India has not only failed to fulfil its international obligations in protecting the life, liberty, property and religious sanctity of Hindu minority in Kashmir, but it has, with willful intent acted in a manner, which has grossly violated their rights. The violations committed by Government of India, Government of Jammu and Kashmir and the administrative organization and instrumentalities of the Government of Jammu and Kashmir are listed below: -

**i) Wilful default to provide security**

The State of India, the Government of India and the Government of Jammu and Kashmir are responsible for: -

- a) The wilful default to provide protection against assault of terrorists on Hindu minorities in Kashmir and to carry members of the minority to places of safety;
- b) The wilful default to provide security to Hindus against assault, abduction and assault on women;
- c) The wilful default in protecting religious places of Hindus from demolition and desecration;
- d) The wilful default in protecting the houses and property of Hindus from loot and incendiarism.

**ii) Wilful default to provide help**

The State of India, Government. of India, Government of Jammu and Kashmir are responsible for: -

- e) The denial to provide adequate accommodation, sanitary facilities and drinking water to Hindu refugees in their exile;

- f) Denial to provide adequate relief to refugees in consonance with the international standards of relief for refugees;
- g) Denial to provide healthcare facilities to refugees housed in tents which have not been replaced for the last five years.

**iii) Discrimination**

The Government of Jammu and Kashmir has practised gross discrimination with regard to Hindu refugees:

- a) A large number of Hindu employees working on temporary and work charge basis in state Government and employees including Hindu teachers of Kashmir University have been pushed out of their service as a result of migration from Kashmir, on flimsy pretexts. The employees working on temporary basis in Government corporations funded by Government, and the University of Kashmir, were denied leave salary on flimsy pretexts that the temporary staff did not have any right to leave and their services could not but be terminated. Hindus who had worked for years in their respective organizations on temporary basis, were deprived of their employment and thrown on the charity of the world. Several teachers of postgraduate departments of Kashmir University, who had been in service of the University for as long as four years, were put on the road-side. As against them, their Muslim counterparts did not only retain their jobs, but most of them were confirmed on permanent basis.
- b) The student community of Hindu refugees, mainly accommodated in camps in Jammu, has been segregated into a separate class of “Apartheid” and while the students have been refused admission in Government schools and colleges in Jammu, a separate structure of camp schools, camp colleges and camp postgraduate departments has been established for their education. The camp schools are without any infrastructure and are run in tents and lack teaching facilities, library and laboratory facilities, and also class-room accommodation.
- c) A virtual moratorium has been placed on employment of the refugees to Government services of the state. Their applications are either not accepted and if any applications

are accepted, they are rejected on the ground that the refugees are not entitled to consideration for employment of services of the State because they do not reside in Kashmir province, where alone they can make any claim to employment. During the last four years, the recruitment of the refugees to government services has been negligible. Wherever any appointments have been made, they have been rendered infructuous by deliberately posting the Hindu refugees in regions of Kashmir valley, heavily infested with terrorist activities. The design has been to intentionally keep out Hindu refugees from the services of the State; and in this whole process, the bitterest enemies of India and the government servants of Jammu and Kashmir are involved.

- d) The Hindu refugee students are denied admissions to technical training institutions, medical colleges, engineering colleges and institutions of higher education and the universities in the State;
- e) The Hindu refugees are denied:
  - (i) Right to equality;
  - (ii) Right to protection against discrimination on the basis of religion;
  - (iii) Right to claim redress under due process of law for the discrimination to which the administration of Jammu & Kashmir State and its instrumentalities have subjected him;
  - (iv) Right to redress against wrongs suffered by Hindu refugees on account of terrorism; death and disability.
- (f) The Government of the State have left the temples and religious places of minorities in Kashmir unprotected;
- (g) The bodies of Hindus killed in terrorist violence during last four years, have not been allowed to be brought to Jammu by order of the Government of Jammu and Kashmir and in the absence of their kith and kin bodies of the Hindu victims have been cremated by the police personnel without performing religious rites and also without knowledge of their kith and kin.

4. We submit for consideration of National Human Rights Commission that the Commission may inquire and investigate into Human Rights violations to which Hindus in Kashmir have been subjected and fix responsibilities of State Government and Government of India for such human rights violations in accordance with Section 12 of the Protection of Human Rights Act of 1993.

We also submit for the consideration of National Human Rights Commission to issue mandatory instructions to Jammu and Kashmir Government in accordance with section 12 clauses (d) and (e) ;

- (v) To provide to Hindu refugees relief, accommodation, health-care, according to standard norms, recognized for relief of refugees as per International Convention, International Law, United Nations Resolutions for the relief of refugees and the law present in India;
- (vi) To reinstate and confirm all Hindu employees of State government, Corporate bodies funded by the State and the University of Kashmir, who were working on temporary/adhoc/work-charge basis, at the time of exodus of the Hindus, and who have been thrown out of employment, against all rules and justice;
- (vii) To put an end to “Apartheid”, segregation of Hindu refugee students;
- (viii) To reserve 30% of employment in services of State in general and in Kashmir in particular for Hindu refugees so long as they are in exile;
- (ix) To bring to an end discrimination to which Hindu refugees are being subjected to by the State government and provide Human Rights safe-guards for protection of Hindu refugees from any further discrimination on the basis of religion;
- (x) To establish human rights instrumentalities to ensure the implementation of due process of law to protect rights of Hindu refugees;

- (xi) Provide protection to temples, shrines, religious places and property belonging to the Hindu minorities in Kashmir, left behind by them.

Thanking you,

**(Ashwani Kumar Chrungoo)**  
**Convener**  
**PANUN KASHMIR MOVEMENT (PKM)**

**(Dr. M.K. Teng)**  
**Co-Chairman**  
**Joint Human Rights Committee for**  
**Minorities in Kashmir**

**APPENDIX - III**

Dated 05-10-95

**Memorandum For Submission To  
The National Human Rights Commission, New Delhi.**

**PANUN KASHMIR MOVEMENT(PKM)** submits its third memorandum in continuation of its previous submissions made on 7<sup>th</sup> March, 1994 at New Delhi and 7<sup>th</sup> June, 1994 at Jammu.

During the course of last one and a half years, several letters stand submitted to the National Human Rights Commission, New Delhi from this organisation to elicit the reply on the issue of human rights violations of Kashmiri Hindu Displaced Community. Subsequently, National Human Rights Commission vide its letter No. 9/58/94-BL/NHRC dated 22<sup>nd</sup> June, 1995 informed that the Jammu & Kashmir Government has been directed to send the report on specific points and Chairperson of the Commission has written to the Governor of J&K State to expedite the submission of these reports. Accordingly, a request was made to the Commission by us vide our letter no. PKM/95-36 dated 03-07-1995 pertaining to the specific point which we would have liked to know, keeping in view the urgency and importance of the matter. Till date the Commission has chosen to keep silent in this regard resulting in keeping us ignorant about the matter. As we are gravely aggrieved, we have high expectations from the Commission to keep us well informed about our case. We also hold that it is our right to know about the present status of the submission made by us.

The enquiry into several areas listed in our previous memoranda, in which Panun Kashmir Movement(PKM) has invoked intervention of the Commission and its active consideration, has become a slower process for reasons not known to us. Discrimination has become a fact of life for the minority community of Kashmiri Hindus in the J&K State creating a separate and specific set of human rights violations for this Community. It shall not be out of place to mention that the genocide and extermination of this Community from its habitat is a continuous process for the last six years of turmoil in this region. The forces of terrorism, Islamic fundamentalism and separatism are involved in the war of attrition resulting

in catastrophic dimensions having direct bearing on the fate and the future of our community. Lately, a member of Kashmiri Hindu Community has been killed at Wanpoh (Distt. Anantnag) and some families amongst the left-over and trapped members of Hindu minority community have also been forced to leave for Jammu for safety. Enclosed please find photocopy of the press report dated 29<sup>th</sup> Sept. 1995 for your information. Our shrines, places of worship and private properties are continuously being vandalised and destroyed in the valley, the reports of which do appear in the local and national media.

We want to remind the NHRC once again about the obligations of the State of India under the United Nations Charter, the Universal Declaration of Human Rights, the United Nations Covenants of Human Rights, Convention on the Prevention of Genocide and the Constitution and legal precedence of the law of the land. All the same going by the procedure adopted by NHRC, the stipulated time-frame to enquire into specified issues seem to have taken a back-seat in our case in view of the long drag since 7<sup>th</sup> March, 1994. Should the entire aggrieved community living in exile in sub-human conditions and uncertainty be kept hostage to the convenience and discretion of the Government and/or the authority. We fail to understand why shouldn't the NHRC proceed to enquire on its own, because of the inordinate delay, in pursuance of the powers vested in the Commission vide proviso (a) of sub-section (i) of Section 17 of the Protection of Human Rights Act 1993.

We request that the Commission may consider to fix a time-frame for finalisation of its findings/report and keep us informed about the latest developments of the case. We would also request the Commission to fix responsibilities in regard to human rights violations committed against us, review the factors that inhibit to enjoy human rights and recommend appropriate remedial measures to redress the wrongs and humiliations suffered by the Kashmiri Hindu Displaced Community.

**(Ashwani Kumar Chrungoo)**  
**Convener**  
**Panun Kashmir Movement(PKM)**

**Add. For Comm.**  
Sh. S. Raina, 232-C, Ram Vihar,  
Old Janipura, Jammu-180007.

**HT DIARY  
Rights & Wrongs**

The National Human Rights Commission has been finding itself called upon to play enlarging role in the current situation. More than five years after the start of the militant violence in Kashmir, the Commission has been receiving a number of cases and complaints involving the human rights violations there. This week, the Panun Kashmir Movement(PKM) presented a pile of documents to the NHRC listing the violations of human rights through acts of terrorism. The documents list the social and psychological trauma their community has been put through as a result of these happenings.

The PKM also took up with the Commission matters regarding instances of alleged bias and discrimination demonstrated by the State apparatus. This concerned cases of promotions, transfers and education of children. Describing the National Human Rights Commission as ‘a sacred product of an Act of Parliament’, it underlined the high expectations the affected people had from the NHRC.

**-The Hindustan Times, New Delhi, December 22, 1995**

**THE HINDUSTAN TIMES, NEW DELHI,  
SATURDAY, JANUARY 27, 1996**

**STATE’S VICTIMS TOO  
(EDITORIAL)**

The comprehensive report on human rights violations of the minority community in Kashmir during the past six years, which was formally released in the Capital last Tuesday, presents a serious indictment not just of the terrorist elements in the Valley but also the discriminations practised by the State. The report which is fourth in the series of memoranda presented by the Panun Kashmir Movement(PKM) to the National Human Rights

Commission between March 7, 1994 and December 20, 1995, lists hundreds of communally targeted cases of murder, arson, loot and rape. Though several of these cases had been reported in the media off and on, it is for the first time that they have been documented in such detail. The total picture emerging from the report indicates how a whole community's basic rights to life and livelihood had been threatened under what looks like a meticulously devised game plan. It is perhaps a sad reflection on the manner in which the human rights group functions in this country that a large number of these violations seem to have passed them by, or possibly, have been deliberately ignored.

The most damning part of the report, however, is not about the atrocities committed by the terrorist groups but some of the policies practised by the State administration. The administration having itself assessed loss to property incurred by the affected people, followed it up by making relief payments at rates that varied vastly from person to person, displaying blatant communal bias. The victims belonging to the community were paid relief at rates as low as fifty per cent of the assessed amount while the State's majority community assessees were compensated to the tune of 200 per cent and above. Much more than the money paid by way of relief was involved here. It exposes the State administration to the charge of discrimination on the basis of religion as well as violation of the constitutional guarantee of equality before law. It is amazing how such gross violations of the fundamentals of a secular and democratic State could have escaped the notice of the successive Governors, and even the Union Home Ministry. Urgent correction of such aberrant policies is called for in order to restore confidence of all sections of the population in the justness of the State administration. The very fact that there had been so little effort at self- correction by the State so far placed an additional burden on the National Human Rights Commission which had been approached for relief by the PKM on behalf of the affected population.

**URGENT FAX MESSAGE FOR HON'BLE CHAIRMAN,  
NATIONAL HUMAN RIGHTS COMMISSION (NHRC), NEW DELHI  
(CONFIDENTIAL)  
19.02.1996**

In consequence of discussions held by the representatives of Panun Kashmir Movement(PKM) with the Hon'ble Chairman and members of the National Human Rights Commission (NHRC) on February 13, 1996 at New Delhi, we submit hereunder an interim list of priority measures concerning relief, that is called for by the Commission:-

1. An amount of Rupees one Lakh as incentive in favour of all displaced Kashmiri Hindu traders, agriculturists, orchardists, contractors and self employed professionals besides interest free loan of Rs. 1.00 lakh repayable in 72 easy instalments be sanctioned forthwith for each establishment.
2. Cash relief assistance to the relief holders be doubled and linked with quarterly based cost of living index which should be affected from next financial year.
3. Sanction of house rent @ Rs.1000/ per month to each non-camp displaced Kashmiri Hindu family presently living on rental accommodation be effected.
4. The J&K Govt. Order No. 362-GAD, dated 29-04-1992 in regard to promotion of employees who have been displaced from Kashmir valley be withdrawn forthwith. Promotion be effected without prejudice to and insistence on experience, submission of research papers or conduct of research etc. Other allowances payable to the State Government employees withheld in case of displaced employees be released retrospectively including arrears.
5. A large chunk of Kashmiri Hindus of State/Central establishments stands retired during the last six years. All the same there is no visible employment of Kashmiri Pandits throughout this period. A special recruitment drive be launched in case of educated Kashmiri Hindu youth at least to reach the employment level of Hindus of the Valley in 1989.

6. Fifty percent amount with-held by way of ex-gratia relief already sanctioned in favour of the fire sufferers by the State government, be released forthwith pending review of all such cases. Meanwhile, a caretaker be appointed by the Government to look after the properties left over in the valley.
7. An autonomous educational structure be established forthwith for education of the displaced Kashmiri Hindu students. The displaced students be compensated by payment Rs.1.00 lakh for loss of each academic year or part thereof caused due to delayed announcements of results and failure to conduct examination/results in time.

This interim package is sought without any prejudice to para-4 of the fourth memorandum dated December 20, 1995 contained in part-I of the REPORT (Volume-I) submitted by PANUN KASHMIR MOVEMENT(PKM) to NATIONAL HUMAN RIGHTS COMMISSION (NHRC) at its office in New Delhi under the signatures of Ashwani Kumar Chrungoo (Convener) , B.L.Kaul, S.Raina, S.Krishan Kaul and Vijay Handoo.

Message from :

**(Ashwani Kumar Chrungoo)**  
**Convener**  
**PANUN KASHMIR MOVEMENT (PKM)**  
**Central Camp Office: Jammu.**

**NATIONAL HUMAN RIGHTS COMMISSION  
SARDAR PATEL BHAVAN, NEW DELHI**

---

Name of the complainant: Panun Kashmir Movement

**Cases No: 938, 1202, 254, 826/94-95/NHRC & 1052/95-96/NHRC**

With the passing of Indian Independence Act, 1947, hitherto Indian States had to decide about accession to one of the two nations and the Indian Independence Act became the law. The State of Kashmir acceded to India but during the short period that intervened, there was unauthorised occupation on a part of the State. When the dispute was taken to the Security Council of United Nations, a line of control was drawn. The portion of the unauthorised occupation, at the western side of the line of control, came to be known as Pakistan Occupied Kashmir (POK) and the areas to the east of the line of control continued to be known as the State of Jammu and Kashmir and came to be governed as a federating State of the Indian Union government in due course.

In the Valley, about 300 thousand Hindus were inhabiting, who were called the Kashmiri Pandits. Around 1989-90 terrorist activities escalated and the Hindu residents and their properties in the valley became the main target of attack. Soon, apprehensive of their lives and on account of insecurity to their property, they migrated out of the valley and took shelter in camps around Jammu, in and around Delhi and some other parts of India. It may be noted that a group of Muslims also simultaneously migrated from the valley feeling oppressed of the terrorist activities.

The complainant in this case before us is the Panun Kashmir Movement (PKM) which claims to be the mouthpiece of these Hindu migrants.

Quite a number of claims had been raised in their memorandum. When the matter was taken up on 13<sup>th</sup> of March, 1996, seven points came up for discussion. On behalf of the complainant, five persons appeared. The State was represented by the Chief Secretary and a group of officers. The points which arose for discussion are indicated below:

**Point No. 1**

An amount of Rs.1 lakh as incentive in favour of all displaced Kashmiri Hindu traders, agriculturalists, orchardists, contractors and self-employed professionals besides interest free loan of Rs. 1 lakh repayable in 72 easy instalments.

Chief Secretary was not prepared to make any provision of incentive loan, much less of Rs. one lakh which would be by way of gift. This part of claim was considered and we have not been able to persuade ourselves to entertain the same. Accordingly, there would not be any recommendation on that score.

Coming to the facility of a loan of Rs. one lakh, we are of the view that for the purpose of meeting the necessity of rehabilitation, it is necessary that a loan upto Rs. one lakh should be provided and this facility should be at a concessional rate of interest. We are inclined to accept the position that this amount should be allowed as a loan at 9% interest per annum and be repayable in instalments spread over a period of five years. We realise that this is something unusual but the situation that had arisen in the State and the sufferings which the claimants have undergone including uncertainties of life would justify a special treatment of this type. We may point out that the Chief Secretary exhibited sufficient understanding of the situation and agreed to the provision of the loan and some concession in the matter of payment of interest and spread over of the repayment.

**Point No.2**

The second head of claim is the relief assistance given to every migrant family to be escalated. It is not disputed that the State government had been paying cash assistance of Rs. 1000/- per month to the migrants which was raised to Rs.1,500/- in 1994. The claim is that the upper limit of the assistance should be raised to Rs. 2,000/- per month keeping in view the hike in the cost of living and the high prices. The Chief Secretary pointed out that the proposal of escalation is pending consideration of the Union Government and as long as the Government of India does not agree, there cannot be any escalation as the burden is borne by the Central Government. It has been pointed out that free electricity; rations, health care and

drinking water are being provided to the migrants. This part of the representation on behalf of the State was disputed.

We are aware of the position that the Government of India has taken upon itself a very heavy and onerous financial burden already in the matter of payment of Rs. 1, 500/- as cash assistance to every migrant family per month. At the same time, it cannot be over-looked that the cost of living index has gone up and the migrants are not in a position to make their ends meet unless there be escalation in the cash assistance. We would, therefore, recommend to the Central government that there be an escalation of Rs. 500/- from April, 1996 and the upper limit be made to Rs. 2,000/- per family as against the present rate of Rs.1, 500/-.

**Point No. 3**

The next claim that came up for discussion was that while no rental is charged for living in the camps, those who have been living outside on their own arrangements, have to engage rental accommodations and are obliged to make payment. It was, therefore, claimed that house rent facility at the rate of Rs. 1,000/- per month be paid to each non-camp migrant family. This claim was discussed at length and we found that considering a claim of this type would not be warranted from any angle. It appears that 3,361 ORTs have already been allotted to the migrants and the government is constructing new ORTs in a phased manner so that all the camp dwellings are provided accommodation. We are inclined to accept the stand of the Chief Secretary that sanction of house rent allowance as claimed would be difficult to sustain as also implement. We are not, however, satisfied that appropriate attention has been given for construction of adequate accommodation. The Commission visited the camps around Jammu last year and some of the camps in and around Delhi have also been visited by some of us. We have also seen the one-room accommodation built near the Jammu camps and are of the view that the said accommodation is very small and inadequate for a family to live in. There is some rationale in the stand of the State that the migrants are expected to go back to the

valley and the present camp stay is temporary. In view of the uncertainty of the length of time involved in the process, it is appropriate that more of living accommodation with some extra space should be built up quickly and with a liberal approach. We have suggested to the Chief Secretary that apart from the funding that the State government and the Union of India arrange, the Life Insurance Corporation should be contacted and prevailed upon to build and provide some accommodation for the purpose of the migrants. It is paramount that the minimum need of living accommodation is satisfied.

We would like to recommend to the governments of the State and the Centre to provide a little more liberal accommodation and suggest that the assistance of Life Insurance Corporation of India is availed to solve this problem. We have discussed the matter with the Secretary, Insurance.

**Point No. 4**

The next point related to resistance against a government order of 29<sup>th</sup> April, 1992, relating to promotion of employees who have been displaced from Kashmir valley and have been living outside it. The claimants want that this government order should be withdrawn.

We have discussed this matter at length. The present scheme seems to be for those of the government servants who have migrated from the valley and are being paid their salaries without reference to the rendition of work. The government servants who become entitled to promotion by seniority being requested to report at the promotional avenues in the valley and in case there is no reporting as required, the promotion does not avail. After a thorough discussion of the subject, it was agreed that the public servants who get their promotions against posts in the valley should report at the places of posting against the posts and the State government would take appropriate exercise to ensure that a benevolent approach is shown towards the promotee migrants.

**Point No. 5**

The next head of claim is regarding filling up of vacancies in public posting like State and Central Government establishment and public sector undertakings. It has been stated that several of the migrants have retired during the last 4-5 years but there is no attempt to recruit appropriate candidates out of this category to fill up such vacancies. The Chief Secretary has agreed to look into this aspect of the matter and attempt to ensure facilities for the purpose of appropriate recruitment within the limit set by law. We recommend to the Union of India to consider the feasibility of extending service opportunities to this without affecting existing rights. The State Government and the Central Government should also ensure provision of minimum facilities under the existing set up for facilitating recruitment out of this category of candidates.

**Point No. 6**

The sixth point related to 50 percent amount said to have been with-held out of the ex-gratia relief already sanctioned in regard to the loss of property and the Commission has been asked to recommend payment thereof.

The position has been explained both by the Chief Secretary and the Relief Commissioner, who was also present during the discussions. It appears that the method of payment of compensation has been on the basis that the total loss is estimated and 50 per cent thereof subject to an upper limit is borne by the State. This seems only to be a modality of assessment and does not involve with-holding of 50% of the eligible compensation. We are satisfied that the claim is advanced on account of total misconception. The complainants have understood that there is no basis or foundation for this claim of theirs.

It was pointed out with reference to the ex-gratia grant of the Charar-E-Sharief area of the valley that more than 50 per cent of the loss had been paid by way of assistance. Papers have been shown to us and the Chief Secretary has clearly indicated that one uniform policy has been evolved in the State and sustained in the

matter of the petitioner and the people living in the Charar-E-Sharief area. Only 50 per cent of the damage has been paid. Apart from this, additional payment in Charar-E-Sharief area was made out of the Prime Minister's Relief Fund and thus extra relief has been granted. We cannot recommend any payment out of the Prime Minister's Relief Fund as it is totally discretionary.

**Point No.7**

The community is considerably advanced in the field of education, and literacy appears to be almost cent-percent. There is no dispute that educational facilities provided to them in their present surrounding is not adequate but a claim of compensation to the tune of Rs. 1 lakh for interference in the process of education in the circumstances is not warranted. The Union Government did not require the migrants to shift. To that extent it is a voluntary act. At the same time, we cannot close our eyes to the factual situation which compelled the migrants out. It was not a matter of their choice but seemed to be one of compulsion. They ran away for life abandoning their home and hearth.

The Kashmir University has a Deputy Registrar level officer at Jammu to look after the facilities of its students living in the Jammu area. The said office is not functioning to the satisfaction of everyone. We had recommended earlier and would like to reiterate our recommendation that an Additional Registrar of the University be posted at Jammu to render necessary assistance to migrant students at Jammu.

We suggest that a small committee be formed to operate at Jammu to assist the Additional Registrar and in the said committee 50% of membership be extended to parents of the migrant students and for maintaining coordination and making the committee effective, the Jammu based Relief Commissioner and the District Magistrate of Jammu be taken as members.

The State of Jammu and Kashmir should take steps to ensure that some seats for MBBS and Engineering be reserved for migrant students on the basis of proved merit. If necessary the Supreme Court could be moved to approve this arrangement as

it may run contrary to the Supreme Court decision of 1984 relating to medical admissions.

The other part of the last question is left open and we do not propose to examine it at this stage.

We must say that the Chief Secretary demonstrated a sense of understanding of the problems which impressed us very much. We are sure that he would sensitize the administrative machinery effectively and make government accept our recommendations quickly so that before it is too late these facilities would be provided.

We understand that the election process in the State is likely to start. Compliance of our recommendations may not be treated a violation of the Code of Conduct as these recommendations have no political angle and implementing them in terms of our recommendation has no political perception.

**(RANGA NATH MISRA)**  
**Chairperson**

**(S. S. KANG)**  
**Member**

**(VIRENDRA DAYAL)**  
**Member**

**(V. S. MALIMATH)**  
**Member**

Dated: 13.3. 1996

**NHRC RECOMMENDS VARIOUS RELIEF MEASURES FOR KP MIGRANTS**

**NEW DELHI, MARCH,31:** Concerned over the hardships being faced by a large number of Kashmiri Pandits who migrated from the Valley in the wake of militancy, the National Human Rights Commission (NHRC) has recommended a number of measures to redress their grievances. Acting on a complaint of Panun Kashmir Movement (PKM) and after several rounds of consultations over nearly six months with the Government, the Commission has recommended enhancement of relief assistance given to every migrant family, “liberal accommodation” in the camps and educational opportunities to migrant students at Jammu.

The Commission held several rounds of consultations with the representatives of Panun Kashmir Movement & Jammu and Kashmir Sharanartha Action Committee which were also attended by the Chief Secretary and the Relief Commissioner of the State Government. The Commission headed by Mr. Justice Ranganathan Misra in its interim direction to the Union Government recommended that there should be an increase of Rs. 500 from April this Year in relief assistance given to every Migrant family and the upper limit should be hiked to Rs. 2,000/- per family as against Rs. 1,500/- at present.

Though the Central Government had taken upon itself a “very heavy and onerous” financial burden already in the matter of payment of Rs. 1500/- as cash assistance to every migrant family per month, it could not be overlooked that the cost of living index had gone up and the migrants were not in a position to make both ends meet unless there was an increase in the cash assistance, the Chairman felt.

On the issue of accommodation provided to the migrant families in various camps, the NHRC observed, “In view of the uncertainty of the length of time involved in the process, it is appropriate that more of living accommodation with some extra space should be built up quickly and with a liberal approach.”

Apart from the funding that the Centre and State Government arrange, the life Insurance Corporation should be contacted and prevailed upon to build and provide some accommodation for the migrants, the NHRC suggested. “ it is paramount that minimum need of living accommodation is satisfied,” it said.

The Commission also recommended that an Additional Registrar of the Kashmir University should be posted at Jammu to render necessary assistance to migrant students at Jammu and a small committee be set up at Jammu to assist the Additional Registrar

Other issues like promotion avenues to Government servants who have migrated from the Valley, filling up of vacancies in the State and Central Government establishments and public sector units also figured in the discussion.

Stating that the Chief Secretary had “demonstrated a sense of understanding of the problems which impressed us very much,” the Commission hoped that he would sensitize the administrative machinery effectively and make the Government accept the recommendations quickly so that “before it is too late these facilities would be provided”.

The Commission also observed that “compliance of our recommendations may not be treated as violation of the Code of conduct (for election) as these recommendations have no political angle (PTI).

## **SUBMISSIONS ON BEHALF OF PANUN KASHMIR MOVEMENT(PKM)**

### **Purpose for which State exists**

The purpose for which State exists is to promote the i) welfare, ii) peace, iii) happiness, iv) prosperity of its citizens.

It is the duty of the State to provide for their i) security, ii) to protect its citizens in the enjoyment of those comforts and conveniences which they are taxed to provide.

The duty rests with equal force on the executive, legislature and judicial departments. The Commission is part of the judicial department of the State.

These three departments of the State are meant to fulfill the purpose for which the State exists.

The State as sovereign is *parens patriae* that is, guardian and trustee of its citizens.

### **Genocide of Hindus and Sikhs in Kashmir valley**

During the hearing on 26<sup>th</sup> of May, 1997, reference was made to genocide of Kashmiri Pandits in particular, and non-Hindus i.e. Hindus and Sikhs in general in the Kashmir Valley. That is clear from the facts and circumstances set out in the Report submitted by Petitioner.

Was it not the duty or obligatory function of Government of India/Jammu and Kashmir to take, *prompt* and *effective* steps, to stop it happening?

The test of whether a particular activity may rightly be called a duty or obligatory function is whether the welfare of the State as a whole is substantially promoted by or involved in its exercise.

In the performance of its duty or in managing its integral affairs the State is answerable to none, except only to the requirements of the Constitution. The only injunction imposed on the state is not to violate the Constitution of India.

With this exception it is supreme within the territories of India.

**State of Jammu and Kashmir integral part of India**

The preamble of the Constitution of India read with the provisions of sections 3 and 147 of the constitution of Jammu and Kashmir in conjunction with part-I of the Constitution of India and the first Schedule of our Constitution, the State of Jammu and Kashmir is an integral part of India, that is Bharat, and the Union of the States enumerated in the first Schedule cannot be dissolved. ANNEXURE .

**PKM No.1 (pages 7 to 12)**

The constitution looks to a Union of the States, whose territorial boundaries, within the territory of India may be redrawn by Parliament for the Article 3 of the Constitution. Our Constitution does not provide for cessation.

Section 1, Indian Independence Act 1947, set up two independent Dominions in India, to be known as India and Pakistan. Reference to *referendum* is made in the Act of 1947 only in relation to North Western Frontier Province. ANNEXURE PKM No2 (pages 13 to 20).

Section 7, freed Indian rulers from the suzerainty of the British Monarch and all the treaties, agreements between the Rulers of Indian States and British Government stood lapsed from 15<sup>th</sup> August 1947. from that date the British Government ceased to exercise powers of any nature in the affairs of the Rulers of Indian States.

The State of Jammu and Kashmir promulgated its Constitution in 1957. Pakistan did not have even in that year a Constitution and was run according to provisions of Government of India Act, 1935, as adapted by Adaptation of Laws and orders issued from time to time. Pakistan had its Constitution in 1958.

According to our Constitution, Jammu and Kashmir is part of the territory of India, but in none of the more than one Constitutions, enacted from time to time, by the various Constituent Assemblies of Pakistan, it is provided, that the State of Jammu and Kashmir was part of the territory of Pakistan. Reference may be made to section 2 of the Constitution of the Islamic Republic of Pakistan. Please see ANNEXURE PKM No. 3 (Pages 21 to 23)

**Instrument of accession signed in 1947 does not provide for “determining opinion”:**

Reference is made to paragraph 6 of the Schedule of The India (Provisional Constitution) order 1947, read with the Instrument of Accession of Jammu and Kashmir State, signed on 26<sup>th</sup> October, 1947. Copy of the Instrument annexed as **ANNEXURE PKM No.4 (Pages 24 to 3) @ 1**

Any assurance or commitment, given by any person or authority, at any time or before any national or international fora, that wishes of the people of Jammu and Kashmir would be ascertained is unauthorized and an unconstitutional commitment and does not bind the people of India. @ 2

**Mujahideens and religious fanatics**

Some misled or misguided or mischief minded persons or agents of powers inimical to India cannot be permitted to conduct themselves in such a manner that the State or Union Government wilts under malicious propaganda, let loose internationally, and allow these persons the freedom to practice genocide on Hindus and Sikhs who had been from time immemorial living in that area.

It is an open secret that the so called *Mujahideens* or crusaders of Islam operating in the State of Jammu and Kashmir are not only civilians of Pakistan but also those who have come from Sudan, Libya, Saudi Arabia, Afghanistan, and other countries. The Pakistan Army is also sending its volunteers. It is not the first time that country has intruded into Jammu and Kashmir. The story begins in the year of our Independence. Please see ANNEXURE-PKM No.5 (pages 35 to 38);

ANNEXURE-PKM No.6 (pages 39 to 46);

ANNEXURE-PKM No.7 (pages 47 to 52);

It caused so much outrage in India that a person like Mahatma Gandhi, said:  
**“.....At one time I was feeling very miserable and oppressed when I heard this. But when Kashmir operations began, I began to feel proud of them, and every aeroplane that goes with material and arms and ammunition and requirements of the army. I**

**feel proud. Any injustice on our land, any encroachment on our land.... should be defended by violence, if not by non-violence....If you can defend by non-violence, by all means do it; that is the first thing I should like. If it is for me to do, I would not touch anything, either a pistol or revolver or anything. But I would not see India degrading itself to be feeling helpless.” ANNEXURE PKM No.6 (page 45).**

These intruders and their local accomplices deserve to be treated as international criminals. They do not deserve protection of the Commission because of the state of public emergency which threatens the life and existence of India. Imagine giving in to the plea of these gangsters. They operate under a religious cover – calling themselves as crusaders for establishment of *Nizam-e-Mustafa*. Imagine if the demand is acceded to. India would take no time to disintegrate. No section of persons within the territorial boundaries of India has the right to demand secession. It is neither part of its political nor fundamental right.

Annexed as ANNEXURE PKM No.8 (pages 53 to 66), is a well researched details of Pakistan’s complicity in spreading terrorism in Jammu and Kashmir.

The complaint before the Commission is that with lightening speed during the night intervening 19-20<sup>th</sup> January, 1990, a situation arose which made it clear to the small number of Hindus and Sikhs living in Srinagar town as well as in the valley that their lives and properties, their honour and religion, their families and women folk in particular, were all seriously endangered. They were forced to flee. Please see pages 36 to 43 of the printed Report submitted to the Commission by Petitioner.

These communities had already been systematically subjected to cruelties of barbaric dimensions.

Please see pages 11,60 to 76, 297 to 301 of the printed Report compiled by the Petitioner. These are not complete details dealing with the crime of genocide. Complete information would be available with the Union Government and the State Government of Jammu and Kashmir.

Vandalisation of cultural symbols and destruction of temples in the State of Jammu and Kashmir also find mention in the printed Report at pages 12 to 34.

### **Neglected and orphan minority**

Kashmiri Pandits are a neglected religious and ethnic group. This is for the first time in recent history that they have found a forum, where their miserable plight may find the long awaited redress and cure. The so called Human Rights activists of India have not said a word about the plight of this small community. The same may be said about Amnesty International (except for stray lip service sometimes done grudgingly). The manner in which the home grown Human Rights activists have looked at the problem is clear from the typical quotes of pages 246 and 249, in the book-Kashmir in the Cross Fire by Victoria Schoefield. ANNEXURE PKM No. 9 (pages 67 to 70).

Persons learned in law, unmindful of or ignorant about the Constitutional position, daring to express themselves in the manner they have done?

Not to single out the lawyers, Human Rights activists, the political leaders have also contributed to the sad plight of Kashmiri Pandits.

They are also victims of political jockeying exercise in which money bags flowed to buy support of anti-national elements ANNEXURE No.10 (pages 71 to79).

It would not be wrong to say that the inspiration for what had happened to Kashmiri Pandits was provided by Jawaharlal Nehru who contemptuously said in August, 1945 at the annual session of the National Conference held at Sopore, in Kashmir Valley, “if non-Muslims want to live in Kashmir, they should join the National Conference or bid good bye to the country.....If Pandits do not join it, no safeguards and weightages will protect them”. ANNEXTURE PKM No.6 ( page 44).

The unbriefed and unauthorized statement by Mountbatten was a conspiracy. ANNEXURE PKM No. 6 (page 46). This is another cause of the miserable plight of the Kashmiri Pandits.

### **Contentions**

1. Whether in view of the facts and circumstances set out in the Report as submitted by PKM to the Hon’ble Commission is it not *prima-facie* established that Kashmiri Hindus and Sikhs are victims of the practice of genocide?

2. Or, in the alternative, does it not constitute deprivation of their fundamental rights guaranteed by articles 19 and 21 of the Constitution?
3. Whether in view of the facts and circumstances set out in the Report, is it not established that the Union Government/State Government of Jammu and Kashmir have failed to effectively perform the fundamental duties and obligations cast upon the State to secure and protect the life, liberty and property of its citizens?
4. Whether the Union Government has failed in its duty by not taking up this matter before the International Court of Justice?
5. Whether in view of the fact Parliament has not enacted law making genocide a crime, what prevented the Government from taking cognizance under Section 121, Indian Penal Code?
6. Whether the Convention on the Prevention and Punishment of the Crime of Genocide and the provisions contained in our Constitution do not form an integral part of the general principles of law for safeguarding the liberties of the Kashmiri Pandits and others who have been uprooted from Kashmir Valley?

@1. The accession was in common form.

@2. The terms of the Constitution determine when an act of legislature is final. If the constitution is subject to referendum only then referendum will be held. If not there is no constitutional requirement for holding referendum. Here the meaning of referendum would be determining the wishes of the people.

*Note : The reference, herein to "PKM No." pertains to Annexures of Submissions submitted by PKM to NHRC (Not included here for want of space).*

**Submitted through:**

**P.N.LEKHI**  
Sr. Advocate,  
Supreme Court of India  
**18.06.1997**

**BEFORE THE NATIONAL HUMAN RIGHTS COMMISSION**

**IN THE MATTER OF :**

- |    |          |                 |                          |
|----|----------|-----------------|--------------------------|
| 1. | CASE NO. | 802/94-95/NHRC  | PANUN KASHMIR MOVEMENT   |
| 2. | CASE NO. | 938/94-95/NHRC  | PANUN KASHMIR MOVEMENT   |
| 3. | CASE NO. | 1081/94-95/NHRC | ALL INDIA KASHMIRI SAMAJ |

**REPLY ON BEHALF OF UNION OF INDIA**

The Respondent, Union of India/Central Government states and submits as under:-

- 1) A) There are in all five reports. Chronologically, they are as follows:
  - a) Memorandum dated 07/03/1994
  - b) Memorandum dated 07/07/1994
  - c) Memorandum dated 05/10/1995
  - d) Memorandum dated 28/12/1995
  - e) Memorandum dated 16/01/1996
  
- B) Sum and substance of these reports is as follows. There have been:-
  - a) Killings of Hindus in Kashmir from 1989.
  - b) Destruction of their property.
  - c) Destruction of their shrines.
  
- C) The above facts have been categorized as
  - a) Genocide
  - b) Exodus
  - c) Apartheid

**BEFORE THE NATIONAL HUMAN RIGHTS COMMISSION**

**IN THE MATTER OF :**

1. CASE NO. 802/94-95/NHRC PANUN KASHMIR MOVEMENT
2. CASE NO. 938/94-95/NHRC PANUN KASHMIR MOVEMENT
3. CASE NO. 1081/96-97/NHRC ALL INDIA KASHMIRI SAMAJ

**I N D E X**

<b>S.NO.</b>	<b>PARTICULARS OF DOCUMENTS</b>	<b>PAGE NO.</b>
1.	Reply on behalf of Union of India	1-30
2.	Annexure-I copy of the J&K Migrants Immovable Property (Preservation, Protection and Restraint on Distress Sales) Act. 1997.	31-35
3.	Annexure-II-J&K Migrants (Stay of proceedings) Act. 1997.	36-37
4.	Annexure-III-Copy of Interim Report prepared by State of J&K.	38-60
5.	Annexure-IV (collectively)-Copies of three charts regarding Statement of J&K families living in various states, quantum of relief given by various States and statement of expenditures etc.	61-68
6.	Annexure-V(collectively)- Containing, 4 charts regarding terrorist violence in J&K, killings of terrorist violence, destruction of property by militants, recovery of weapons from militants, No. of persons kidnapped; chart showing criminal acts, extortion and lootings, details of foreign mercenaries arrested, killed etc.	69-87
7.	Annexure-VI- Detail of persons kidnapped/killed (collectively containing 7 charts)	88

Filed by :

Through

(A.K.Vali)  
Central Govt. Standing Counsel,  
462, Lawyers Chambers,  
Delhi High Court,  
New Delhi.

2. It is a fact that due to targeted attacks by the militants against innocent civilians in the early years of the ongoing terrorist violence in J&K coupled with calls from fundamentalist terrorist groups to Kashmiri Pandits to leave the valley, the vast majority of Kashmiri Pandits and other minority communities were forced to migrate. It may be noted that the situation was aided and abetted from across the border, with a specific aim to create a wedge and destroy the secular fabric of the State. In fact, as the applicants have themselves stated, their Muslim neighbours were also helpless in the situation created by this proxy war. But, there are a many number of families of Hindus and Sikhs who have continued to live in the valley, both in towns and villages. This is also to be kept in mind.
3. A question has been raised what terminology is to be used to define the status of the applicants and their families on account of such dislocation.
4. The Government have been using the terminology of “migrant”. The applicants had insisted to term them as “Internally displaced persons”. The matter was raised earlier before the Commission which after taking various view points into consideration had then maintained the word “migrant”.
5. As a matter of fact it is undisputed that the applicants must get the relief for redressal of their grievances. Accordingly, they are being given various relief benefits. Nature of the relief does not depend on the terminology to be attributed to them. The terminology that is to be attributed to all those who were compelled to leave their native places i.e. whether they are to be called migrants, displaced persons or any other designation, is of secondary importance.
6. But, the word “displaced person” as well as “refugee” would have totally different implications. The matter is not of interpretation of any statute. The question is what designation is to be given to the applicants.
7. The word “displaced person” as well as “refugee” has been used with reference to a person who has migrated to India as result of disturbances or fear of disturbances on account of partition of the country.

“Refugee” is a word primarily used when somebody takes shelter in another country. This situation does not arise in the present case. Same thing applies towards “displaced person”. In other words refugee and displaced person has been used almost in the same connotation.

Normal dictionary meaning of “refuge” as given in Concise Oxford Dictionary is:-

“Refugee -a person taking refuge, especially in a foreign country from war or persecution or natural disaster”. “French refugee, past participle of she is refugier (as refugee)”.

The meaning of the word “displaced person” is given in the same dictionary as follows:

“Displaced person – a person who is forced to leave his or her home country because of war, persecution etc. a refugee”

The text of the law, namely that which is used in the case of Chief Settlement Commissioner confirms this position. “Chief Settlement Commissioner vs Om Parkash, AIR 1969 BC page-33 at page-36). Similarly, “Migration has been defined in connection with Article 6 & 7 of the constitution (see State of Assam vs. Ziladar Ali, 1972 (2) SCC 320 at 322\_. Considering this position, the Government is of the view that the word “migrant” is more appropriate.

8. Main question relates to the rehabilitation of all those who had “migrated” from Kashmir valley on account of disturbances which implies restoration back to their native places. Subsidiary question is granting of relief for damages sustained on account of damage to their property wherever restoration in kind is not possible. This restoration includes also of temples and shrines.

9. Since it is not possible to identify the wrongdoers, it will be impossible to get relief against them, either of restoration or compensation.
10. These are the problems which are to be tackled at the State level framing a policy and not merely to try to redress the civil wrong as normally a court would have done.
11. The problem requires sympathetic consideration in the matter of rehabilitation and all steps have been taken in the past and will be taken in future to ameliorate their situation.
12. When question of rehabilitation is taken up, it refers to all inhabitants of the State of Jammu & Kashmir regardless of their religion, sex and caste, i.e. may be Hindu, Muslim, Sikh or any other.
13.
  - a) At the moment, rehabilitation has been done, finding provisional accommodation at different places in the camps mainly in Jammu, Delhi etc.
  - b) About 49,000 Hindu and Sikh families registered themselves at various places as migrants.

There was also a substantial migration of Muslim families. 1468 Muslim families have registered themselves with authorities in Jammu, but, there is a sizable number of other Muslim families which have not registered themselves due to fear of militant reprisal against their relatives in the valley.

- c) It may be relevant to note that only around 4100 out of the total of 19338 families registered in Delhi are drawing cash relief and only 230 families are living in camps, while the remaining families are staying under their own arrangements. In Jammu also of the 28561 families, only about 4500 are living in camps.

- d) The fact is that even after large scale migration a number of families of Kashmiri Pandits and other minority communities have continued to live in the valley as stated above.
- 14.
- a) But this is not a permanent solution because the ultimate aim of the Government is to ensure them a safe and hon'ble return at the places from where the migrants had to leave their own land and homestead.
  - b) It will be necessary that those who want to occupy their former native places have to give that indication, so that immediate steps are taken to put them back in their houses.
  - c) And wherever such homestead is destroyed, additional grant is given for rebuilding the house apart from the ex-gratia relief already paid.
  - d) The relief of accommodation has been given in the past and will be continued to be given in future, without trying to find out whether the relief can be granted under Protection of Human Rights Act, 1993 or not.
15. The newly elected Government at Jammu & Kashmir in the year 1996 has enacted an Act known as the Jammu & Kashmir Migrant Immovable Property (Preservation, Protection and Restraint on Distress Sales) Act, 1997, to facilitate the process as mentioned hereinabove (Annexure-II). There were also liabilities of those migrants from different financial institutions.
- In order to prevent any recovery action against them, another Act has been passed by the newly elected legislature known as "The Jammu and Kashmir Migrants (Stay of Proceedings Act, 1997 (Annexure-II).
16. The sub-committee appointed by the Government of J&K for finalizing action plan for the return of migrants has submitted an interim report to Government of J&K

which is under their consideration. The same is at Annexure-III. There are many factors to be taken into consideration before giving final shape to the same. Much depends upon the response on part of migrants to reoccupy their homesteads.

17. In the past, as far as the preventive action, the Central Government as well as State Government has taken all measures for normalization of situation with their power to protect the citizens and prevent the commission of offences.

The measures are:

- i) Imposition of Governor/President Rule for better monitoring of the situation.
- ii) Action under TADA against the militants.
- iii) Preventive detentions under PSA.
- iv) Declaration of militancy affected areas of J&K State as disturbed areas.
- v) Banning of JKLF.
- vi) Deployment of Central Security Force (CSF) for helping the State Administration in dealing with militancy.
- vii) Close vigil and intensive patrolling was undertaken by BSF of border areas/LOC to check infiltration.
- viii) Clearing and combing operations like door to door search, patrolling and setting up pickets etc. in sensitive areas and other related measures were taken to curb militancy.
- ix) District level Coordination Committees were set up to bring about better coordination between the SFs and Civil Administration, increase the efforts, revive the normal activities of the administration and to provide a forum for redressal of people's grievances.
- x) Special cells were constituted at the State and District levels for redressal of grievances and public hearings were organized by the Chief Secretary and District Commissioners concerned on designated Grievances Redressal Days.

- xi) Deployment of special teams was made for verification of development works to ensure proper utilisation of funds.
  - xii) All legal and procedural requirements pertaining to holding of elections such as delimitation of constituencies, up-dating of electoral rolls, special arrangement for voting by migrants etc, were completely timely.
  - xiii) Intensive efforts were made to reactivate the political elements and forces in the State by continued consultation at the level of Government Advisors, Chief Secretary and also at national level by the Prime Minister and Home Minister.
  - xiv) A counter propaganda to discredit the falsified propaganda against the country was made at various levels/fairs.
  - xv) Announcement of a special package by the Prime Minister was made in Parliament in July/August last year for speedier development of the State.
18. It is wrong to say that the respondent Government has failed in its duties to secure the life liberty and properly of the citizens.
19. The Government have resorted to multifaceted activities to fight terrorism in the State which involved not only considerable amount of expenditure, but also resulted in loss of precious lives of the security forces and civilians.
20. The Government made its best efforts to retrieve the situation and took a number of measures for the normalization of the situation in J&K which led to the successful holding of elections. The steps taken to ensure safety of life and liberty are given in the following paragraph.
21. Since the start of militancy in J&K, the aim of the Government has been to ensure that conditions of peace and normalcy are created, and the political and democratic process restored in the State of Jammu and Kashmir at the earliest. Towards this end

concerned efforts were made and the situation was continuously and closely monitored and reviewed and a number of steps were taken. A list of major steps taken is as follows:

- a) Strengthening and augmentation of security forces from time to time including progressive increase of involvement of local police in anti-militancy operations.
- b) Steps were taken to strengthen and intensify vigilance and patrolling of vulnerable areas and installations, augmenting the presence of the security forces particularly in the sensitive, vulnerable and far-flung areas, undertaking various anti-terrorist operations such as targeted operations against them on the basis of the intelligence report and local informers, combating operations, establishments of special pickets in the most vulnerable areas which included public places for the protection of citizens, to flush out terrorists and contain their activities, and optimisation of the impact of the security operations.
- c) Due to the nature of the mountainous terrain, jungles on the border and extended distances, it was not possible to stop infiltration altogether. However, steps were taken to check and prevent infiltration of anti-national elements, foreign nationals/mercenaries as also of arms and weapons and other devices, along the LOC/Border by way of strengthening deployment of security forces, intensive patrolling and surveillance equipment which include night vision devices, streamlining of arrangements for information gathering and sharing between various agencies, initiating steps for construction of border fencing and flood lighting in vulnerable stretches of the border.

- d) Streamlining of the intelligence apparatus to ensure better availability and use of information and coordinating between various agencies.
- e) Establishment of Village Defense Committees in sensitive and vulnerable areas to bolster the confidence of the people and secure their cooperation in dealing with the militants.
- f) Steps were taken to educate the public, increase awareness and solicit public cooperation in containing and preventing such incidents.
- g) Complementary regulatory steps like checking of buses and other vehicles on various routes, raids and arrests of criminal elements and smugglers, setting up special investigation etc.
- h) The outlay under the employment oriented scheme of the Rural Development and other sectors were substantially stepped up to generate employment opportunities so that the separatist elements are not able to include and misguide the innocent youth for misusing their services for anti-national activities and efforts were made to motivate the misguided youth, who had taken to the gun to move away from this path and join the mainstream including announcement of a policy for surrender and rehabilitation through provision of jobs or various self-employed schemes.

22. The facilities provided to the migrants can be serialised as under:

- i) the migrant families in Jammu and Delhi are being given free ration and paid cash assistance, the maximum limit of which was enhanced by 20% in June 1996, i.e. from Rs.1,500/- to Rs.1,800/- per month per family of four or more. The needy families registered in other States/Union Territories are also

drawing relief from the respective States/UTs at scales fixed by them. As per available information, an amount of Rs.264.47 crores have been spent by various State Governments.

- ii) 14 camps have been established at various places in Delhi and 15 in the Jammu region of J&K. In the migrant camps, basic amenities like water supply, electricity, health care, sanitation etc. are being provided free of cost. The Prime Minister announced a special package of Rs. 6.0 crores for improvement of facilities in the camps in Jammu in the Parliament on 02/08/1996, the implementation of which is in progress.
- iii) Some of the migrant employees have been adjusted against posts in the Jammu and the Ladakh Regions and the services of a few are being utilised on an ad-hoc basis in migrant schools/colleges etc. The remaining bulk of migrant State Government employees are, however, not doing any official work though they are receiving normal leave salaries. The annual expenditure on this head is Rs. 50 crores approximately.
- iv) As in other cases, the Cashmere migrants are being paid ex-gratia relief equivalent to 50% of the assessed loss of immovable property damaged in Cashmere as a result of the ongoing violence, subject to a ceiling of Rs. One lakh in each case.
- v) The Government of J&K have made special arrangements for the migrant students. A sub-registry of the University of Cashmere has been opened in Jammu. Special camp schools and colleges have been opened for the migrants. Seats in the Engineering and medical courses have been increased for accommodating more migrant students. The other States/UTs are also providing facilities for the migrant students. Maharashtra, Madhya Pradesh

and Delhi have provided reservation in technical institutions for migrant students. Domicile requirements have been removed by most of the States. Various States also accept migration of medical students from J&K after approval of Medical Council of India.

- vi) Irrespective of the place of residence, the children of the migrants are eligible for selection to State Government jobs. A special age relaxation of 5 years has been provided in the maximum age-limit in respect of recruitment in Central as well as State services to the youth of J&K.
- vii) The State Government has made available the PRY and State Self-employment Scheme for the benefit of the Cashmere migrants in Jammu, Udhampur and Kathua, and loans are being granted under these schemes to the migrant traders/entrepreneurs.
- viii) Special procedural relaxations were provided for the early settlement of insurance cases in respect of damaged immovable properties of Kashmiri migrants which resulted in the settlement of about 95% claims, which is a very high percentage as compared to the rest of the country.
- ix) An ex-gratia relief of Rs. One lakh is provided for death in militant activities and an amount of Rs. 500 to Rs. 25,000/- is provided for injuries depending on the seriousness of the injury.

23. Annexure-IV- Annexure-IV (marked collectively), following three charts:

- a) Chart No.1 is the statement indicating J&K families living in various States.
- b) Chart No.2 under heading “Quantum of relief given by various States”

- c) Chart No.3 is the Statement of Expenditure incurred on the relief to Kashmiri migrants by various States.
24. As a result of measures against the militancy more than 33,000 persons were arrested/apprehended, of which 15,658 persons have been arrested under TADA or other substantive law and are being prosecuted under relevant laws and the remaining persons were released after preliminary questioning. The number of cases registered under TADA is 16,620. Besides this, preventive detentions were also made under J&K Public Safety Act (PSA). At present 1,016 persons are under detention under PSA.
25. It is, therefore, clear that the Government has taken steps to investigate whenever criminal offence is found to have been committed in order to prosecute the offenders.
26. From last year, the State of J&K is being administered by the elected representatives and it appears that the situation has improved considerably. This is evident not only from the legislative measures taken as evidenced by Annexure-I & II, but also interim report which marked Annexure-III.
27. a) From the interim report prepared by the State Govt. it is found that the security aspect has taken note of under Chapter I and it has been emphasized that much depends on goodwill and mobilization of opinion. Even if allotment is done in a pocket which otherwise is not feasible, the problem of security will not get solved because certainly the migrants will have to go to the offices, markets and other places for their jobs, travel and other needs, and it will be physically impossible to provide security to each of them.
- b) There are recommendations made under Chapter III for rehabilitation packages and

- c) Under Chapter IV for interim recommendation and transit settlement. Appropriate mention has been made with regard to poor vision of employment as well as educational aspects of the children.
  - d) Under Chapter II, there was a proposal to create authority for the management of the migrants' property and in order to take possession, and take charge of the properties of the migrants, a new Act has been passed which is marked as Annexure-I.
  - e) And also as a relief against recoveries of loans, another Act has been passed to stay the proceedings which is marked as Annexure-II.
  - f) It is, therefore, exceedingly clear that positive steps have been taken by the elected Government and others are in process.
28. As rightly pointed out by the State Government in the interim report, while providing rehabilitation by way of accommodation to the migrants, either putting them back in their old houses wherever they are standing, or making payment of money wherever they have been destroyed or require minor repairs and providing other facilities, the problem will be solved in part, but the security aspect can not be lost sight of. This security aspect cannot be solved by posting security personnel, but by creating goodwill and mobilization of opinion. On this last angle, much depends on the attitude of the migrants as well as of other inhabitants.
29. All the steps mentioned above were taken from time to time and independently of the enactment of Protection of Human Rights Act, 1993 (for short "1993 Act").
30. If on one hand the matter could be sorted out in the manner it was presented at the beginning, in view of the issues presented by the Council of the applicants in the

hearing on 6.6.1997 the problem has taken different shape and, therefore, the same is required to be dealt with strictly within the parameters of the law.

31. The expression 'human rights' has been defined in Section 2(1) (d) of the 1993 Act. The rights relate to life, liberty, equity and dignity of the individual guaranteed by the Constitution which are embodied in the international "Covenant" and enforceable by Courts in India.
32. As per clause 2(1)(f), "covenant" means the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on the 16<sup>th</sup> December, 1996.
33. The entire grievance as per new issues raised on 18<sup>th</sup> June, 1997 is based on 1948 convention known as the "Convention on Prevention and Punishment of Crime of Genocide 1948". Obviously, this convention is not mentioned in clause 2(1)(f) of 1993 Act and, therefore no application can be entertained on the basis of 1948 Convention by this Hon'ble Commission.
34. Besides reading the long title of the Convention, it is exceedingly clear that it deals with prevention and punishment of the crime of genocide. It further recites that the contracting parties undertake to enact in accordance with the respective Constitution the necessary legislation to give the effect of the provision of the present Convention and in particular to provide effective penalties for persons guilty of genocide or of any other acts enumerated in Article 3. In Article 2 of 1948 Convention, genocide is defined and in Article 3 also acts preparatory of abetment and of complicity to the genocide are also declared to be punishable. The purpose of 1948 Convention is punitive.

35. The Convention on International Covenants on Civil and Political Rights, in Article 6 recites that every human being has the inherent right to life. It does not deal at all with shelter to be provided.
36. On the contrary, our Supreme Court while interpreting Article 21 has given the much wider meaning to the word “life”. Therefore, and taking into considerations that as per definition in clause 2(1)(d) the human rights are relating to as guaranteed by the Constitution, it would be idle to take recourse to the International Convention on Civil and Political Rights.
37. In the case of *M/s Shantistar Builders vs Narayan Khimalal Teatime and ors...*(1990) ISCO 520, it has been held at page 527 of the Report as under:  
“Basic needs of man have traditionally been accepted to be three -food, clothing and shelter. The right to life is guaranteed in any civilized society. That would take within its sweep the right to food, the right to clothing, the right to decent environment and a reasonable accommodation to live in.”
- The same principle has been further reiterated in the case of *Unnikrishnan vs State of A.P. and others*, (1993) 1 SCC 645, at paragraph 30.
38. Our Supreme Court has even gone to the extent of holding that right to life includes right to have shelter. Therefore, the relief, though of recommendatory nature, can be confined only within the framework of our Constitution, without there being need to take recourse to the International Convention.
39. If that is the position in general, with greater force, accommodation is required to be provided to those who were forced to leave their home State. It is in that line the Government has made provision for reasonable accommodation for the time being. But the ultimate goal will be to provide them their old homestead.

40. Coming to the facts, the statistic reveals that the killings have taken place not only in respect of Hindus but also in respect of Muslims. The Chart of the killings is given in Annexure below. From that chart it is clear that majority of the persons who have been killed are the Muslims. There are killings of intellectuals, high officials. There was kidnapping of the citizens of different nationalities.

Following charts have been annexed, marked collectively as Annexure-VII. In the same Annexure-VII, there are following charts:

- a) Chart No.1- Containing two sub-charts, first regarding terrorist violence in J&K and the second containing killings of terrorist violence.
  - b) Chart No.2- Containing two sub-charts, first one is -destruction of property by militants and second of recovery of weapons from the militants.
  - c) Chart No.3- Containing two sub-charts, first of persons kidnapped by militants and the second one is of criminal acts, extortion and lootings by militants.
  - d) Chart No.4- Is about details of foreign mercenaries arrested/killed.
41. a) From the above charts, namely, from second sub-chart of chart No.1, it is clear that number of Muslims killed is much more than Hindus and Sikhs who have been killed.
- b) Similarly, also large number of security personnel have been killed. This is an indication that Government has taken steps to give security to the people but despite the same security forces have also been the target.

- c) There are Government officials killed as well as top political leaders, politicians, members of judiciary and pressmen.
  - d) Side by side, militants have also been killed. From the Chart No.3, it is clear that there are acts of kidnapping and abductions wherein security personnel were kidnapped as well politicians.
  - e) The nationality of the foreigners is given in chart No.3. The details of foreign mercenaries arrested/killed are given in chart No.4 which indicates that there are mercenaries from Pakistan/POK, Afghanistan and several other nationalities.
42. To be more precise, the particulars of persons kidnapped/killed are given in Annexure-VIII collectively, containing 7 charts, detail of which includes :-
- a) Chart No.1 - Prominent persons kidnapped/killed, below politicians
  - b) Chart No.2 - Press media
  - c) Chart No.3 - Judiciary
  - d) Chart No.4 - Intellectuals
  - e) Chart No.5 - Prominent religious leaders killed by terrorists.
  - f) Chart No.6 - Government officials
  - g) Chart No.7 - Police personnel
43. The additional contentions raised are six in number. The Government desires to give answer thereto in the manner shown below:

**Contention No.1**

“Whether in view of the facts and circumstances set out in the Report submitted by PKM to the Hon’ble Commission, is it not prima facie established, Kashmiri Hindus and Sikhs are victims of practice of genocide.”

**ANSWER**

There is no offence of genocide for the reasons set out above. The victims are not only Kashmiri Hindus and Sikhs but Muslims too and Muslims are in majority. There is even kidnapping of foreigners.

44. **Contention No.2**

“Or, in the alternative, does it not constitute deprivation of their fundamental rights granted by Article 19 and 21 of the Constitution?”

**ANSWER**

Reasonable accommodation has been provided to the needy and also criminal prosecution has been launched and security measures were taken to protect the life of citizens.

The relief is required to be granted not only to those who were forced to leave but also to those who were killed. Due to militant violence a considerable number of people of the valley have also been already affected in terms of loss of life, limb, property and further development.

46. **Contention No.3**

“Whether in view of the facts and circumstances set out in the Report, it is established the Union Government/State Government of Jammu & Kashmir have failed to effectively perform the fundamental duties and obligations cast upon the State to secure and protect the life, liberty and property of its citizens?”

**ANSWER**

The Central Government as well as the State Government have taken all the steps within their limit to secure and protect the life, liberty and property of citizens and wherever there was a criminal offence, prosecution was launched:

47. **Contention No.4**

“Whether the Union Government has failed in its duty by not taking up this matter before the International Court of Justice?”

ANSWER

The question of taking the matter before the International Court of Justice does not at all arise.

48. **Contention No.5**

“Whether in view of the facts, Parliament has not enacted law making genocide a crime, what prevented the Government from taking cognizance under section 121 of the Indian Penal Code?”

ANSWER

In the facts and circumstances, the question of enacting any law making genocide a crime does not arise. The Government has initiated criminal prosecution for the offences as set out above.

49. **Contention No.6**

“Whether the Convention on the Prevention and Punishment of the Crime of Genocide and the provisions contained in our Constitution do not form an integral part of the general principles of law for safeguarding the liberties of the Kashmiri Pandits and others who have been uprooted from the Kashmir valley?”

ANSWER

- a) There is no point in mixing up the Convention on the punishment (Punishment of Crime of Genocide) and the provisions contained in the Convention (2)(1)(f), the field of both is different.

- b) More so, even when our Constitution embodied Article 51 and particularly clause (c), the intention behind it was only to promote international peace and security only.
- c) Even when any Convention is ratified by India, that has no binding on the Municipal law.
- d) As per section 2, sub-clause (1), clause (d) Human Rights means rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by Courts in India. If they are already guaranteed by our Constitution, recourse of international covenant need not be there because recourse to such international covenants is alternative and that is made clear by the word “or”.
- e) Only when they are not guaranteed by the Constitution, question of taking recourse to International Covenants as mentioned in clause 2(i)(f) may arise but confined to International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights.
- f) As per section 12 dealing with functions of the Commission, power is given to the Commission under Clause (d) to review the safeguards provided by or under Constitution or any other law for the time being in force for the protection of human rights and recommend measures for their effective implementation.
- g) There is also power under clause (e) to review the factors including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures.
- h) There is power given under clause (f) to study treaties and other instruments on human rights and make recommendation for their effective implementation.
- i) On the facts and figures given, if on one hand there is no case of genocide within the meaning of 1948 Convention, on the other, in the light of section 2 (1) (d) & (f) and also because the purpose of the 1948 convention is

punishing the crimes, question of making any recommendation as set out in clause (f) in respect of convention of genocide of 1948 Convention does not arise.

50. **CONCLUSION**

**In conclusion, the solution is to be found at political level to make necessary provisions for protection of rights without compelling the victims to seek enforcement in the courts of law.**

**RESPONDENTS : UNION OF INDIA**

**Through**

**( A.K.Vali)  
Central Govt. Standing Council,  
462, Lawyers Chambers,  
Delhi High Court,  
New Delhi**

**19.12.1997**

## **PKM REJOINDER**

Before the National Human Rights Commission

Case No. 938/1994-95

### **In the matter of : -**

Ref : - Panun Kashmir Movement (PKM)

Rejoinder on behalf of complainants i.e. Panun Kashmir Movement (PKM) to the reply filed on behalf of Union of India.

The above-named Complainant  
most respectfully

Shewth : -

1. At the outset it is most respectfully submitted that the reply filed on behalf of Union of India is vague, evasive and/or does not deal with averments, submissions and/or facts presented both in the Report and/or the Submissions filed by the Complainant before this Hon'ble Commission.

The Union of India has not even taken the trouble of supporting its averments in the reply either by way of an Affidavit or had the same signed and verified by a responsible and/or authorized officer in the Government of India. The approach of the Union of India to the matter at hand is both lackadaisical and/or nebulous.

2. It is most respectfully submitted that the response of Union of India is based on a total misconception of the norms of International Law and misinterpretation of the provision of the Protection of Human Rights Act, 1993 (herein after referred to in short as 'the Act').

2.1 The Union of India in paragraphs 31 to 44 have dealt with the contention raised in issue no.1. Broadly the contention of the Union of India is that the complainant's grievance is based on the "Convention on Prevention and Punishment of the Crime of Genocide" which, according to the Union of India is not within the ambit of sections 2(1) (d) and 2(f), of the Act.

It is most respectfully submitted that before one deals with the above contentions of the Union of India it would be necessary to give a brief background of the Convention of Genocide.

The expression 'genocide' came to be recognized and used after the Second World War, when the concept was known as crime against humanity.

The term genocide was first used by Polish Scholar Raphael Lemkin in his book "Axis Rule in Occupied Europe" in which he defined it as "the destruction of nation or an ethnic group.

The Convention was formulated as a result of extensive negotiation at the United Nations. It was at the behest of some delegations at the UN, including India that on 2<sup>nd</sup> November, 1946, this was inscribed in the Agenda of the General Assembly. On 11<sup>th</sup> December, 1946 the General Assembly unanimously adopted resolution No. 96 which affirmed that genocide is a crime under International Law and requested the Economic and Social Council to undertake studies which would lead to drafting of the Convention on the Genocide. The UN Secretary General, basing on the Studies of Economic and Social Council, drafted the Convention which was considered by various bodies of the United Nations. Finally, after revising the draft submitted by the Economic and Social Council, it was adopted by UN General Assembly as Resolution No. 260(III) on 09<sup>th</sup> December, 1948.

The resolution adopting the Convention had three parts A, B and C. Part A of the resolution approved the text of the Convention and proposed that it be submitted to States for their signature and ratification or accession. Part B invited the International Law Commission to study the possibility of establishing an international judicial organ, possibly in the form of Criminal Chamber of the International Court of Justice for trial of persons charged with genocide. Lastly, Part C referred to extending the application of the Convention to administered territories.

In accordance with Part A of the resolution, the Convention was signed by India on 29<sup>th</sup> November, 1949 and ratified on 29<sup>th</sup> August, 1959. Similarly Pakistan put its signatures to the Convention on 11<sup>th</sup> December, 1948 and ratified the same on 12<sup>th</sup> October, 1957.

3. It is most respectfully submitted that a bare perusal of the Articles of the Convention would establish the following propositions: -
  - (i) That the prohibition of genocide is now well and truly considered part of the principles of Customary International Law.
  - (ii) The Convention clearly establishes that “genocide” whether committed in time of war or peace is a Crime under International Law.
  - (iii) That the term “homicide” relates to destruction of an individual human being while the term “genocide” relates exclusively to destruction of human groups and/or ethnic or racial groups.
  - (iv) That the definition of genocide as found in the Convention includes acts other than killing.
  - (v) That the Convention provides for punishment of not only the act of genocide but also acts such as conspiracy to commit genocide, incitement to commit genocide and/or other acts which amount to attempt or complicity in the said crime.

- (vi) That in order to constitute that crime of genocide, the acts prohibited under the Convention should be accompanied by an intent to partially or completely destroy a particular ethnic or racial group.
4. It is most respectfully submitted that a bare perusal of the data supplied by the Complainant would clearly demonstrate that the crime of genocide has been committed in the State of Jammu & Kashmir, in particular in the Kashmir Province. In this regard reference may be had to the following: -

**“RELEVANT REFERENCES”**

- (i) (a) Killings of Hindus in Kashmir  
Page 11 REPORT (Human Rights Violations)
- (b) List of Killings  
Page 63 to 76 REPORT (Human Rights Violations)
- (ii) Destructions of Cultural symbols and Temples.
  - (a) Destruction of Hindu Temples from the advent of Islam. Page 12 to 16 -REPORT (on Human Rights Violations).
  - (b) Temples vandalised in Febuary 1986. Page 20 to 22 -REPORT(on Human Rights Violations).
  - (c) Temples desecrated, damaged or destroyed from 1987 to 1990. Page 22 - REPORT (on Human Rights Violations).
  - (d) Temples desecrated, damaged or destroyed from 1990. Page 23 - REPORT (on Human Rights Violations).
  - (e) Temples destroyed in Jammu and Kashmir State after 6<sup>th</sup> December, 1992. Page 27 & 28 - REPORT (on Human Rights Violations).

(iii) Extermination (Burning of Hindu Properties in Kashmir).  
Page 79 to 193 - REPORT (on Human Rights Violations).

(iv) District wise details of Displaced families registered ending November, 1990.  
Page 42 - REPORT (on Human Rights Violations).

(v) Detail of registered displaced Traders  
Page 239 to 268 - REPORT (on Human Rights Violations).

5. It is most respectfully submitted that the perusal of the above data would quite clearly establish the crime of genocide as provided from the text of the Report filed by the complainant before this Hon'ble Commission. The facts mentioned in the Report are not denied by Union of India/State Government.

6. The other contention of the Union of India that the crime of genocide is not within the jurisdiction of this Hon'ble Commission is as submitted hereinabove based on misconception of applicability of precepts of International Law. The complainant is seeking directions that this Hon'ble Commission may be pleased, in view of the facts & circumstances before it to:

- (a) Fix up the responsibilities in regard to human rights violations committed against us and review the factors that inhibit to enjoy the human rights.
- (b) Recommend appropriate remedial measures to readdress the wrongs and humiliations suffered by the Kashmiri Hindu Community and
- (c) That the Union Government takes recourse to taking up this matter before the appropriate international judicial forum.

7. It is most respectfully submitted that apart from the data supplied by the Complainant in the Report filed with this Hon'ble Commission, the complainant seeks liberty to place on record additional material which has now become available to further support submissions already made in the Report. The additional material in the form of a document is annexed hereto in the form of a supplementary paper book containing documents from pages 10–144\*.
8. In the light of facts and circumstances stated and the submissions made in the Report and the Rejoinder, it is most humbly prayed that this Hon'ble Court may issue directions and/or make recommendations as prayed for by the Complainant.

For and on Behalf of the Complainant

**Settled by :**  
**P.N.Lekhi,**  
**Sr. Advocate.**  
**Supreme Court of India**

Filed Through

**Rajiv Shakdher**  
**ADVOCATE**  
**D-41, Pamposh Enclave, New Delhi.**

\* Supplementary Paper book containing wide details of the killed Kashmiri Pandits and other information is not attached in this book for want of space.

**Before the National Human Rights Commission**

Case No. 938/1994-95

**In the matter of : -**

Ref : - Panun Kashmir Movement (PKM)

**AFFIDAVIT**

**I, Ashwani Kumar S/o Late Shri Shyam Lal Chrungoo aged 40 years do hereby solemnly affirm and state as follows: -**

1. I say that I am holding the post of Convener in the Complainant Organisation. I say that I am aware of the facts and circumstances of the case and I am also authorized to swear this Affidavit.
2. I say that I have read the accompanying rejoinder which has been drafted on my instructions. I say that the facts stated and averments made in the Rejoinder are true to my own knowledge derived also in part from the Report as also the additional documents.
3. I say that the photocopies of the documents filed with the Rejoinder are true copies of the original information collected from various sources like police/revenue/official/other records available with the Union of India and/or the State Government of Jammu and Kashmir.

Deponent (Signed)

**VERIFICATION**

I, the deponent above named, do hereby verify that the facts stated in my Affidavit above are true to own knowledge.

**(Ashwani Kumar Chrungoo)  
Deponent**

Verified at New Delhi

This 27<sup>th</sup> day of January, 1998.

SEAL

**(Ashwani Kumar Chrungoo)  
Deponent**

**BEFORE THE NATIONAL HUMAN RIGHTS COMMISSION**  
NEW DELHI

In the Matter of : Case No. 938/94-95  
**Panun Kashmir Movement**  
**and others** Versus  
**State of Jammu & Kashmir**  
**: Respondent**

and

In the matter of : Reply on behalf of the  
Govt. of Jammu & Kashmir

I N D E X

<u>S.No.</u>	<u>Particulars</u>	<u>Page No.</u>
<u>1.</u>	<u>Objections</u>	<u>1 to 5</u>

Counsel for the  
Government of Jammu & Kashmir

**(S.A. Salaria)**  
Advocate General

27<sup>th</sup> Jan, 1998

**BEFORE THE NATIONAL HUMAN RIGHTS COMMISSION**

NEW DELHI

In the Matter of : Case No. 938/94-95

Panun Kashmir Movement

and others

Versus

State of Jammu & Kashmir

: Respondent

and

In the matter of : Reply on behalf of the

Govt. of Jammu & Kashmir

---

May it please your Lordships,

The submissions on behalf of the Respondent – Government of Jammu and Kashmir most respectfully submitted as under:

1. That the Respondent – State of Jammu and Kashmir adopts the reply to the complaint already submitted by the Union of India to the Commission. In addition, the Respondent – State of Jammu and Kashmir respectfully submitted as under:

That in view of the fact that the State of Jammu and Kashmir has enacted the Jammu and Kashmir Protection of Human Right Act, 1997, the above titled complaints in this Hon'ble Commission is not maintainable now.

2. That this Hon'ble Commission has been established under Protection of Human Right Act, 1993 which specifically provides in Clause (1) as under:  
“Short Title, Extent and commencement”

- (i) This Act may be called the Protection of Human Rights Act, 1993.

(ii) It extends to the whole of India. Provided that it shall apply to the State of Jammu and Kashmir only in so far as it pertains to the matters relatable to any of the entries enumerated in List (1) or List (iii) in the seventh schedule to the Constitution as applicable to that State.

That, therefore the Jurisdiction extends to the State of J&K only in so far as it pertains to the matters related to any of the entries enumerated in List (i) or List (III) in the seventh schedule to the Constitution as applicable to the State of Jammu and Kashmir, Taking the said entries in to consideration, it is clear that the complaints do not lie in this Commission.

3. That none of the complainants is a sole representative body of all Kashmiri Pandits. There are many other organisations of Kashmiri Pandits, claiming to represent them, therefore the complaint submitted by the complainant cannot be regarded to be on behalf of all the Kashmiri Pandits.
4. That the State has taken and is taking all steps within its powers also with the aid and assistance of the Govt. of India to provide security, financial assistance, jobs, educational opportunities and facilities, compensations, doles, rations etc. to the Kashmiri Pandits and is doing and shall continue to do all it can to facilitate their return to the Valley for which conducive conditions have come up.  
To recapitulate it is submitted that in 1947-49, 1965-66, 1971-72 & 1997 thousands of Paharies, Dogras, Gujars and Telis suffered from terrorism, turmoils and migrations in the State and therefore had to be provided succour, reliefs and refuge. They however nevertheless braved all odds and returned back to their homes where they are since living in their respective areas.
5. That the reliance placed by the Complainant on the recently enacted Jammu and Kashmir Migrants stay of Proceedings Act. 1997 is not tenable. It is respectfully submitted that similar ordinances followed by an Act had to be promulgated in the State of J&K called 'The Jammu and Kashmir Evacuees Administration of Property Act. 2006', whereby there has been imposed a ban on sale of properties

of others than the complainants affected by the acts of terrorism and migration. That Act is still in force. However, the affected people have in large numbers returned back and settled on their properties. That is being stated to emphasise that abnormal condition such as militancy may be engineered by some in the history of any people. But any demand opposed to the basic nature of the constitution of country and its secular character may do more harm than good to the country by being precursor to further division and

6. That nearly thirty thousand of Hindus, Sikhs and Christians and Bodhs are also living and working in the valley of Kashmir. There is no communal tension there. The prayer of the complainant is not tenable. It is respectfully submitted that while the Govt. of Jammu & Kashmir adopts the prayer made by the Government of India to the said complaint it would submit most humbly that the militancy in the State has lost its force in the cities and the major towns and is dying out in the rural areas. Recurrences of clashes between armed infiltrators from across and the security forces on the borders and elsewhere cannot be pressed into service. Moreover a representative Govt. has been in office for over 1½ years now and elections to the six Lok Sabha seats from the State are being conducted. The Petitioner complainants are being provided relief, doles, residences, education facilities and salaries also.

**State of J&K  
Through  
Counsel  
Advocate General  
J&K State**

**27<sup>th</sup> Jan 98**

F.No. 9/58/95 – LD

**NATIONAL HUMAN RIGHTS COMMISSION  
(Law Division)**

S.K. Srivastava.  
Asstt. Registrar (Law)  
Phone: 2261611  
Fax: 3340016

Sardar Patel Bhavan  
Sandad Marg  
New Delhi – 110001.

Case Numbers

1. 938/94-95
2. 802/94-95
3. 3217/95-96
4. 1181/94-95
5. 782/96-97
6. 1202/94-95

Dated 15 June, 1998.

To

**Shri Ashwani Kumar,  
Convenor, Panun Kashmir Movement,  
Ram Vihar,  
Jammu – 180007.**

Subject: - Memorandum submitted by the Panun Kashmir Movement/Panun Kashmir Organisation (Kashmiri Pandits) International Human Rights Protection Council, Jammu/All India Kashmiri Samaj, New Delhi/All India Kashmiri Displaced Employees Forum, New Delhi/All Displaced Employees Forum, Jammu.

Sir,

The above matter came up for hearing before the Court of the Commission on 27<sup>th</sup> May, 1998. When the Union of India through its Counsel filed a written Statement to clarify its stand on the issues of jurisdiction of the Commission, the Commission thereafter directed to list the matter for hearing before the Court on the 16<sup>th</sup> July, 1998 at 3 PM.

You are therefore requested to be represented before the Court of the Commission on the 16<sup>th</sup> July, 1998 at 3 P.M. at Commission's office at Sardar Patel Bhavan, New Delhi – 110001.

A copy of the Written Statement filed on behalf of the Union of India is enclosed herewith for your information and necessary action.

Yours faithfully,

**Sd/-  
Asstt. Registrar (Law)**

**BEFORE THE NATIONAL HUMAN RIGHTS COMMISSION**

**IN THE MATTER OF :-**

CASE NO. 938/94-95  
CASE NO. 802/94-95  
CASE NO.3217/95-96  
CASE NO. 1181/94-95

**AND IN THE MATTER OF:  
PANUN KASHMIR MOVEMENT & OTHERS:**

I N D E X  
=====

SL. NO.	PARTICULARS	PAGE NO.	COURT FEE
1.	Written submissions on behalf of Union of India with regard to the issue of jurisdiction of this Hon'ble Commission.	1-12	

Through

**(A.K. Vali)**  
Central Govt. Standing Counsel,  
462, Lawyers' Chambers,  
Delhi High Court,  
New Delhi.

**BEFORE THE NATIONAL HUMAN RIGHTS COMMISSION**

**CASE NO. 938/94-95**  
**CASE NO. 802/94-95**  
**CASE NO.3217/95-96**  
**CASE NO. 1181/94-95**

Written Statement  
On  
Behalf of Union of India

The Union of India states and submits as under: -

1. The Union of India has been directed to file the written statement in view of objection raised by the State of Jammu and Kashmir as to the jurisdiction of the Commission to enquire into the several complaints lodged by different organizations.
2. The Government of J&K in the reply dated 27.01.1998 in para 1 raised the objection on account of the fact of having enacted Jammu and Kashmir Protection of Human Rights Act 1997 and para 2, it is urged that in view of proviso to sub-section (2) of Section 1 that jurisdiction of the Commission pertains only to the matters relatable to entries enumerated in List I or III in the Seventh Schedule.  
In any event, the State of J&K has passed the Jammu and Kashmir Protection of Human Rights Act 1997 and, therefore, the jurisdiction vests exclusively in the J&K State Commission.
3. As the extended title of the Protection of Human Rights Act, 1993 Act says, it is “An Act to provide for the constitution of a National Human Rights Commission and State Human Rights Commission in States and Human Right Courts for better protection of human rights and for matters connected therewith or incidental thereto”.

4. As per the duties assigned to the National Commission by Section 12, the Commission shall enquire “suo moto” or petition to it by a victim or any person on his behalf into complaint of
  - (i) Violation of human rights or abetment thereof;
  - (ii) Negligence in the prevention of such violation by a public servant.

Thereupon, under the provisions of Section 18, the Commission may recommend initiation of proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons.

The Commission may recommend to the concerned Government or authority for grant of any immediate interim relief [sub-section (3) and recommendation to the concerned Government [Sub-Section (5)].

5. So, primary issue is the enquiry into the violation of the human rights, abetment thereof and negligence in the prevention of such violation. The prosecution is an incident and relief is connected thereto.
6. The Union of India has filed its comprehensive reply dated 19.12.1997.
7. At the cost of repetition, it may be said that the points on which the reply is submitted by the Union of India are: -
  - a) Designation;
  - b) Whether there is genocide;
  - c) Whether the matter is referable to International Court of Justice.
8. As to the designation, it was urged that the word ‘Migrant’ was the fit one.
9. As to whether there is genocide, it was answered in negative.
10. As to whether there is room, whether the matter is to be referred to International Court of Justice, the answer was in the negative.
11. On merits, answer was given as to what steps were taken in as much as the complaint was that the applicants were forced to leave the place on account of militancy and terrorist activities.

12. Application of the Protection of Human Rights Act 1993 in respect of State of Jammu and Kashmir is to be determined in the light of proviso to sub-section (2) of Section 1 and then second proviso to sub-section (5) of Section 21 of the Act.
13. As per proviso to sub-section (2) of Section 1, the Central Act will apply only in so far as it pertains to the matters relatable to any of the entries enumerated in List I or List III in the Seventh Schedule to the Constitution, as applicable to that State. The powers given to the State Commission as per sub-section (5) of Section 21 are in respect of enquiry into violation of human rights in respect of any matters relatable to entries enumerated in List III of the Seventh Schedule to the Constitution and in respect of matters in relation to which the legislature of the State of Jammu and Kashmir has power to make laws.
14. Section 5 of the Jammu and Kashmir Constitution reads:  
“The executive and legislative power of the State extends to all matters except those with respect to which Parliament has power to make laws for the State under the provisions of the Constitution of India.”
15. The provisions of the Constitution of India, in its application to the State of Jammu and Kashmir, are specified in Constitution (Application to J&K) Order, 1954. This Order, which is of 1954, has been amended from time to time. In the Constitution, there are two Articles which demarcate the field of legislation between the Parliament and the States. They are Articles 245 and 248, the last being residual. There is another List I of Schedule 7, namely Entry 97, according to which any other matter not enumerated in List II or List III falls within the purview of the Parliament. But these entries are not source of legislative powers. As per 1954 Order, Article 248 as well as Entry 97 of List I were deleted. However, in the subsequent amendment, there have been changes which are material.
16. As per Constitutional Order No. 93 of 1972, 06.05.1972 in Article 248, following amendment was made:  
Parliament has exclusive power to make any law with respect to:

- (a) prevention of activities directed towards disclaiming, questioning or disrupting the sovereignty and territorial integrity of India or bringing about cession of a part of the territory of India or secession of a part of the territory of India from the Union or causing insult to the .....
  - (b) Correspondingly, same wording was introduced for Entry 97, say, “for Entry 97, the following entry shall be substituted”: same as –(a).
17. Subsequently, in the year 1985, by a Constitutional Order No.122 (w.e.f. 04.06.1985), the following changes were made:

“Entry 97 – Prevention of activities

- (a) involving terrorist acts directed towards overawing the Government as by law established or striking terror in the people or any section of the people or alienating any section of the people or adversely affecting the harmony amongst different sections of the people;
- (b) directed towards disclaiming, questioning or disrupting the sovereignty and territorial integrity of India or bringing about cession of a part of the territory of India from the Union or .....

Explanation: In this Entry, ‘terrorist act’ has the same meaning as in the Explanation to Article 248.

In Article 248, the wording which was given by Constitutional Order No.93 of 1972 was changed as (aa) and a new entry was added as (a) which runs with the same wording as in Entry 97(a). At the beginning of the earlier entry introduced in 1972, the following words were introduced:

“Prevention of other activities.”

An explanation was added in the following terms:

“In this Article, ‘terrorist act’ means any act or thing by using bombs, dynamite or other explosive substances or firearms or other lethal weapons or poisons or noxious gases or other chemicals or any other substances (whether biological or otherwise of a hazardous nature.”

18. The Terrorist and Disruptive Activities (Prevention) Act 1987, Section 1(2) as initially framed was not applicable to Jammu and Kashmir but later on, that portion was excluded. Section 1(2) of the said Act says, “it applied to whole of India”. There is no reservation in respect of the State of Jammu and Kashmir. The “terrorist act” has the meaning as defined in Section 3. The phraseology is the same as contained in Article 248 as quoted above. Section 4 deals with punishment of disruptive activities. The working “disruptive activities”, as per sub-section (2) is just in the same lines as introduced by Constitutional Order of 1972.

The discussion is found in the decision of the Constitution Bench in the case of Kartar Singh vs. State of Punjab (1994) 3 SCC 569.

19. It may be pertinent to take note of judgement of the Supreme Court in the matter of Ramkrishna Dalmia vs. Justice Tendolker (AIR 1958 sc 538 = 1959 scr 897) in which the provisions of the Commission of Enquiry Act 1952 fell for consideration to the State of J&K, but later, the same was extended to the State of J&K.

The dispute was in respect of State of Karnataka where the Central Government had appointed a Commission to enquire into the acts of the Chief Minister of the State of Karnataka.

20. Without going into the details, the Supreme Court, based on the wording of Entry 45 of List II and gave the answer in affirmative, namely that the Central Government had power to appoint an enquiry commission, even though it related to the acts of the Chief Minister of a State.

Entry 45 of List III reads:

Inquiries and statistics for the purposes of any of the matters specified in List II or List III.

The Entry therefore was very wide compared to entry 94 of List I as it permitted enquiry for the purposes of any matters specified in List II or List III.

21. That Judgement is not of any assistance because as far as State of Jammu and Kashmir is concerned, the adaptation Order of 1954, Entry 94 of List I stands omitted and Entry 45 of List III stands modified and the Entry is confined to List III only.
22. It is apposite to take note of the amendments introduced in the Commission of Enquiry Act 1952:

Definitions – In this Act, unless the context otherwise requires,

(a) “appropriate Government” means

- (i) the Central Government, in relation to a Commission appointed by it to make an inquiry into any matter relatable to any of the entries enumerated in List I or List II or List III in the Seventh Schedule to the Constitution; and
- (ii) the State Government, in relation to a Commission appointed by it to make an inquiry into any matter relatable to any of the entries enumerated in List II or List III in the Seventh Schedule to the Constitution:

[Provided that in relation to the State of Jammu and Kashmir, this clause shall have effect subject to the modification that-

- (a) in sub-clause (i) thereof, for the words and figures “List I or List II or List III in the Seventh Schedule to the Constitution as applicable to the State of Jammu and Kashmir” shall be substituted;
- (b) in sub-clause (ii) thereof, for the words and figures “List II or List III in the Seventh Schedule to the Constitution”, the words and figures “List III in the Seventh Schedule to the State of Jammu and Kashmir” shall be substituted.]

There are some other cognate Acts, but, they are not relevant, firstly because Enquiry for Statistic Act 1957 (which is not applicable to the State of J&K) and other is Judges Enquiry Act of 1968 which is all India based.

23. In the Commission of Enquiry Act 1952, after the amendment, while dealing with powers of the Central Government, definition 2(a)(1) is more or less similar to that of proviso to sub-section (2) of Section 2 of 1994 Act, but the 2<sup>nd</sup> proviso to sub-section (5) of Section 21 stands a little different form in as much as it contains additional words which are as follows:

“and in respect of matters in relation to which the Legislature of that State has power to make laws”.

In other words, Parliament has validly enacted law empowering the State Commission to enquire into human rights violations not only in respect of matters relating to List III, but also in respect of matters in relation to which the Legislature of that State has power to make laws.

24. The purpose of Protection of Human Rights Act, 1993 as it was said before, is for better protection of human rights and for matters connected therewith or incidental thereto.

25. The Supreme Court in the case of Francis C. Mullin Vs. Administrator, Union Territory of Delhi (1981) 1 SCC 608:1981 SCC (Cri) 212 held that:

“It is the fundamental right of everyone in this Country, assured under the interpretation given to Article 21 by this Court in Francis Mullin case to live with human dignity, free from exploitation. This right to live with human dignity enshrined in Article 21 derives its life breath from the Directive principles of State Policy and particularly clauses (e) and (f) of Article 39...”

The same principle was then followed in the case of Bandhua Mukti Morcha vs. Union of India 1984(3) SCC. 161 at para 10 again in the case of Olga Tellis vs. Bombay Municipal Corporation 1985(3) SCC 545 at pages 571 to 573, paragraph 32 and 33, it was held that:

“Article 39(a) of the Constitution, which is a Directive Principle of State Policy, provides that the State shall, in particular, direct its policy towards securing that the citizens, men and women equally, have the right to an adequate means of livelihood. Article 41, which is another Directive Principle, provides, inter alia, that the State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work in cases of unemployment and of undeserved want. Article 37 provides that the Directive Principles, though not enforceable by any court, are nevertheless fundamental in the governance of the Country. The Principles contained in Articles 39(a) and 41 must be regarded as equally fundamental in the understanding and interpretation of the meaning and content of Fundamental Rights. If there is an obligation upon the State to there is an obligation upon the State to secure to the citizens an adequate means of livelihood and the right to work, it would be sheer pedantry to exclude the right to livelihood from the content of the right of life. The State may not, by affirmative action, be compellable to provide adequate means of livelihood or work to the citizens. But, any person, who is deprived of his right to livelihood except according to just and fair procedure established by law, can challenge the deprivation as offending the right to life conferred by Article 21”.

26. There is no prohibition for the State (Parliament as well as State Legislature) by way of affirmative action to take measures for better protection of human rights. This flows from Article 21 read with Article 39 of the Constitution. In its application of the Constitution to J&K Article 21 as well as Article 39 are attracted.
27. The power of Parliament to legislate is not confined to the subjects falling in Entry of List I and III only. There are number of provisions in the Constitution which empower the Parliament to enact the laws like Articles 2, 3, 11. There are other

provisions which permit Parliament as well as State to legislate on the subjects like 39 to 51, 51 to 265, besides List II or List III.

28. The legislation of Human Rights Commission under Section 21 read with 39(a) in general and List I, Entry 97 in particular.
29. But, for the State of J&K, the situation is little different. If there is violation of human rights relatable to entries not falling within List I or III, the power will vest in the State Commission to enquire about the same.
30. This is the only harmonious construction. To say that as for State of J&K, the Commission has right to enquire into violation of human rights relatable to entries of List II would have the effect of nullifying the proviso to sub-section (2) of Section (1) of 1994 Act. Similarly speaking, if there is violation of human rights in the matters relatable to entries on which the State can legislate, they will fall out side the purview of National Commission.
31. But in the instant case considering the acts complained of that question does not arise and, as stated at the beginning, the National Commission will have the jurisdiction to make enquiry into the complaint whether or not the applicants would succeed to establish their claim is a different point.
32. The preliminary objection, therefore, is not tenable.

**Union of India**  
through

**(A.K. Vali)**  
**Central Government Standing Counsel**  
**Chamber no.462**  
**Delhi High Court**  
**New Delhi**

**TERM VIOLENCE AGAINST KPs AS GENOCIDE,  
PALLONE URGES NHRC**

**Democratic Congressman Franke Pallone has urged India’s National Human Rights Commission (NHRC) to term the violence against the Pandits in Kashmir as “genocide” reconsidering its recent ruling rejecting such a request by the community leaders and their supporters.**

In a statement in the House of Representatives, Mr. Pallone said he along with fellow lawmakers and leaders of the community, had pleaded for describing the treatment meted out to the Pandits in the trouble-torn state as genocide.

He also wanted the NHRC to reconsider its other decision rejecting the demand to define the Pandits as an Internally Displaced People (IDP).

He, however, said the Commission did acknowledge that the Pandits had been “victims of killings and ethnic cleansing, as part of the militants’ campaign to get Kashmir to secede from India”.

Mr. Pallone said that the Commission had recently set up a committee comprising its nominee and representatives of the Jammu and Kashmir Government and the community – to address Pandits’ concerns which had yet not met.

Mr. Pallone said, “I am asking my colleagues to join me in signing a letter to the NHRC asking that the decisions of genocide and IDP be reconsidered, and that the new committee begin regular meetings.”

“While it is predominantly Hindus who are the victims of these attacks, we have also seen attacks against Muslim residents of Jammu and Kashmir who have dared to assist the legitimate State authorities in putting a halt to the violence. This is the true face of the insurgency in Kashmir”, he added.

He said the militants had transformed a peaceful, secular state in India, one which happened to have a predominantly Muslim population, into a “killing field, as part of the goal of turning the state into an area under strict Islamic rule.”

He said that Pakistan had now apparently agreed to withdraw its fighters who had crossed onto India's side of the Line of Control. "I hope that the world community will finally focus on the long-ignored plight of the Kashmiri Pandits." (UNI) March ,1999

\* \* \*

CASE No. 938/94-95/NHRC  
CASE No. 1181/94-95/NHRC  
NATIONAL HUMAN RIGHTS COMMISSION  
(LAW DIVISION)

**S.K.Srivastava**  
**Asstt. Registrar (Law)**  
**Phone No. 3361671**  
**Fax No. 3366537**

**Sardar Patel Bhavan**  
**Sansad Marg**  
**New Delhi – 110001**

Dated 14-06-1999

To

**Shri Ashwani Kumar Chrungoo,**  
**Convenor, Panun Kashmir Movement,**  
**232, Ram Vihar, Old Janipur,**  
**Jammu (J&K)**

Sub: - Memorandum submitted by Panun Kashmir Movement and All India  
Kashmiri Samaj, New Delhi.

Sir,

I am directed to forward herewith a copy of the order pronounced by the Commission on 11.06.1999 in the above said matter.

Encl, as above

Yours faithfully,

**Asstt. Registrar (Law)**

**NATIONAL HUMAN RIGHTS COMMISSION  
SARDAR PATEL BHAVAN  
NEW DELHI**

\*\*\*\*\*

**CASE No. 938/94-95/NHRC**

**CASE No. 1181/94-95/NHRC**

**Name of the Complainants**

**Panun Kashmir Movement  
&  
All India Kashmiri Samaj**

**QUORUM :**

**JUSTICE SHRI M.N. VENKATACHALIAH, CHAIRPERSON  
JUSTICE SHRI V.S. MALIMATH, MEMBER  
SHRI VIRENDRA DAYAL, MEMBER**

**Genocide: the Ultimate Crime**

1. Referring to the Holocaust in his concluding speech before the International Military Tribunal at Nuremberg, the French Prosecutor, Champetier de Ribes, stated: “this was a crime so monstrous, so undreamt of in history.....that the term ‘genocide’ had to be coined to define it”.
2. The term was devised by Professor Raphael Lemkin and first used in his work Axis Rule in Occupied Europe – (1944). It was constructed from the Greek word ‘genos’ meaning ‘race’ or ‘tribe’ and the Latin word ‘cide’ meaning killing.
3. So fearful are the connotations of the term that Benjamin Whitaker, who served as the Special Rapporteur of the United Nations Sub-commission on the Prevention of Discrimination and Protection of Minorities and who authored an authoritative report on this subject (UN document E/CN.4/Sub./2/1985/6) was compelled to observe:

“Genocide is the ultimate crime and greatest violation of human rights”. He added the somber warning:

“Genocide is a constant threat to peace, and it is essential to exercise the greatest responsibility when discussing a subject so emotive”.

4. The Commission has had to be deeply conscious of these and similar observations that underline the enormity of the crime of genocide – its “ultimate” character and its profoundly emotive quality – while considering the complaints brought before it by the Panun Kashmir Movement(PKM) and the All India Kashmiri Samaj, both of which organizations have asserted that the Hindu population of the Valley of Kashmir, namely the Kashmiri Pandits, have been the victims of genocide.

#### **Complaint of Panun Kashmir Movement**

5. The complaint of the Panun Kashmir Movement was first brought to the attention of the Commission in a Memorandum dated 7 March 1994. It was then elaborated in a detailed Memorandum which was presented to the Commission in Jammu on 7 June 1994. The latter Memorandum made the request that the Commission investigate the violations of the human rights of the Hindu minority of Kashmir, the negligence in the prevention of such violations by public servants and institutions of Government, and the acts of terrorism that inhibited the enjoyment of human rights by this community.
6. The Memorandum made the assertion that “terrorism in Jammu and Kashmir is a process of political violence, which has specific political commitments aimed to separate Jammu and Kashmir from India and annex it to Pakistan”(sic). It added that “terrorist violence in Kashmir is a religious crusade to force a second partition on

India” and to Islamize the State” “in order to separate the State from the secular political and social organisation of India and integrate it with the Islamic State of Pakistan”.

7. Proceeding, the Memorandum stated that “the terrorist organizations in the State and those operating in Pakistan have unleashed an organized campaign to exterminate the Hindus in Kashmir”. It argued that these acts amounted to genocide under the terms of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (hereinafter referred to as the Genocide Convention). The Memorandum then observed that “the mass attack on the Hindus began in January 1990, and by the onset of August 1990 more than eight hundred of them had been murdered in cold blood. Most of the victims were innocent people who lived in poverty.. Among those killed were people from all sections of society, lawyers, political activists, media men, intellectuals, shopkeepers and men of small means. The genocide of Hindus continues still and by now more than a thousand Hindus have been liquidated”.
8. Continuing, the Memorandum asserts that “the terrorist killings have been accompanied by torture” and that this was “tantamount to grave crimes against all laws and against humanity”. The methods of torture employed by the terrorists are listed and specific names and instances of those killed after severe torture are illustratively provided in respect of some dozen cases.
9. The Memorandum then turns to the “ethnic cleansing” of Hindus which, it states, “has been carried out in accordance with a well-designed plan”, including the preparation of “hit-lists” which were even published in newspapers or displayed as wall-posters. Rumours were also spread regarding the “deep involvement of Hindus in espionage for the Government of India”. In these circumstances, the “instinctive reaction of the Hindus condemned to die, was to leave their homes”.

The Memorandum states that the organized campaign to compel the Hindus to leave was launched in January 1990.

10. The Memorandum then refers to the demolition of 102 temples over the preceding five years and the usurpation of temple lands and buildings. The Memorandum thereafter speaks of the loss and destruction of property, stating that 16,000 houses belonging to Hindus had been burnt down and looted over the same period.
11. Invoking various Human Rights Covenants and Conventions to which India is a party, including the Genocide Convention, the Memorandum concludes that the Union of India and the State of Jammu and Kashmir have been guilty of “wilful default to provide security” to the Hindu community of the Valley and “wilful default to provide help” to them. The Memorandum further asserts that the community has been subjected to discrimination in matters relating to employment and education and asks for various forms of relief in matters relating to these issues, including an end to what it describes as the “apartheid” of students belonging to this community.
12. A third Memorandum from the Panun Kashmir Movement was handed to the Commission on 5 October 1995, which was followed, on 20 December 1995 by a further and, once again, detailed Memorandum on the experiences of the community. That Memorandum traverses the ground under three broad headings: Genocide, Exodus and Apartheid, recapitulating, reorganizing and elaborating upon the data provided in earlier memoranda. In particular, additional data was provided on temples and shrines desecrated or destroyed over the centuries and particularly, since 1986. Details were also given of the circumstances in which the “exodus” occurred. In particular, the Memorandum outlines incidents which in the perception of the Kashmiri Pandits, led to the terrorists gaining an ascendancy over the State. Statistical data was also provided in respect of properties destroyed or abandoned and the religion-wise breakdown of the various communities in Jammu and Kashmir since

1981. An annex to the Memorandum then stated that “the total number of displaced Kashmiri Hindus in 1989-90 was approximately 3 lakhs besides an equal number of the members of the community who were forced to leave earlier from 1947 to 1989 due to various reasons plus earlier displaced, making a total of 7 lakh members of the community scattered throughout the country and abroad” (sic).

13. The Memorandum provides data regarding the physical and psychological ailments affecting the community, including psychological and behavioural problems – especially those afflicting the family as a unit because of overcrowding and want of privacy in the camps. It is stated that these problems had resulted in a decline in the birth rate of the community.
  
14. As regards the All India Kashmiri Samaj, its original complaint was contained in a letter of 13 June 1994 from Shri Makhanlal Kaul to the Commission. That letter referred to “systematic discrimination” on sectarian and communal grounds against the Kashmiri Pandits, to “socio-cultural, religious and economic insecurities and inequalities” affecting them, to the failure and apathy of Government to protect them since 1989, to the need of some 300,000 Kashmiri Pandits to seek refuge elsewhere, “as well as thousands of us seeking refuge as Kashmiris who are also Muslims and Sikhs”. The letter refers to “tens of thousands” of homes looted and “9000 structures torched, hundreds killed brutally and scores of others missing, bodily dismembered, kidnapped, raped, critically injured”. Reference is also made to the desecration of temples; it is observed that the percentage of Hindus in the Valley declined from 15% in 1941 to 5% in 1981 and 0.1% in 1991. The letter then asserts that the community had been the victim of genocide and terrorism. It refers to the “assassination of Hindus and some patriotic Muslims too”, as also to torture, abduction and forced exodus from the Valley. The letter states that the Kashmiri Pandits had been “vilified” by a “campaign of disinformation’ to cover-up the “fundamentalistic character of the so-called freedom struggle” which was, in reality, a religious crusade “for a separate

independent State to complete the partition of India by annexing Kashmir for Pakistan”, the dimension of “Jihad” being added to justify the extermination of the Hindus.

15. The letter annexes the names of 17 prominent Kashmiri Pandits who had been killed, including advocates, judges, scientists, journalists, government officials, intellectuals and poets, teachers and social activists.
16. On 29 September 1994, the Commission issued notice to the Chief Secretary, Jammu and Kashmir calling for a report on the matters contained in the complaints. The complaint from the all India Kashmiri Samaj, No.1181/94-95/NHRC, was also clubbed together with Case No.938/94-95 viz., the complaint of the Panun Kashmir Movement.

#### **Response of the State Government of Jammu & Kashmir**

17. The response of the State Government dated 8 July 1995 underlined the close involvement of the militants with Pakistan, where they were being trained. The response took the view that the acts of large scale killing, arson, rape and kidnapping in which the militants were engaged was aimed at “liquidating the Indian support structure in the State, involving the elimination of people of all communities including Muslims who constitute such support structure”. The response added that the militants sought to suppress political dissent and create fear and terror, and that they sought the liquidation of the civilian population which extends help to the security forces in their operations against terrorists. The response asserted that the selective killing of Kashmiri Pandits added a “second dimension” to terrorism in the State, as did forcing the Kashmiri Pandits to leave the Valley.

18. The data provided by the State Government listed, inter alia, the damage and destruction caused by militants. In regard to places of worship destroyed between 1990 and 1994, it stated that 93 temples, 27 mosques and 2 gurudwaras had been destroyed. It added that the number of Hindus, Muslims and Sikhs killed by militants between 1990 and June 1995 were 508, 2849 and 42 respectively. The response expressed the view that the Hindu community had been targeted as part of a design to communalize the State, but that the militants had shown no regard for any community, all having suffered at their hands.
19. As regards movement from the Valley, the response of the State Government stated that 43,363 Hindu families went to Jammu until 1991 and 28,713 such families went to Delhi; 5000-7000 Muslim families had also migrated. Between 1992-94, a further 49 Kashmiri Pandit families had left the Valley.

#### **Treatment of Issues Concerning Relief Requested**

20. Upon receipt of the complaints from the Panun Kashmir Movement, the All India Kashmiri Samaj and other Kashmiri Pandit organizations and individuals, the Commission concentrated, in the first instance, on seeking to make progress in respect of the various relief that had been sought in respect of issues such as conditions in the camps, cash benefits, pensions and work-related issues, employment and education facilities, questions relating to accommodation and health care. These efforts, which continue, and the result achieved, will not be detailed in the present proceedings, as they are the subject of separate orders and proceedings spread over a period of four years.

**April – September Hearings in respect of Genocide**

21. The present Proceedings will, instead, concentrate on the subject of genocide, to which matter the Commission reverted in a series of hearings held in May, June, August and September 1997 and February 1998 when, as occasion required, Shri P.N.Lekhi, Sr. Advocate of the Supreme Court appeared before the Commission on behalf of the Panun Kashmir Movement and Shri R.Venkataramani. Sr. Advocate, appeared as Counsel for the Commission; Shri A.K. Vali, Central Government Standing Counsel appeared for the Union of India as did Shri M.S. Usgaoncar, Addl. Solicitor General.

**Response of the Union of India**

22. The Commission issued notice to the Union of India on 19 June 1997 to obtain its reaction to the complaints before it. A detailed response was filed on 20 October 1997. It acknowledged that, “due to targeted attacks by the militants against innocent civilians in the early years of the ongoing terrorist violence in Jammu and Kashmir, coupled with calls by fundamentalist terrorist groups to Kashmiri Pandits to leave the Valley, the vast majority of Kashmiri Pandits and other minority communities were forced to migrate”. It was added that “the situation was aided and abetted from across the border, with a specific aim to create a wedge and destroy the secular fabric of the State. In fact, as the applicants have themselves stated, their Muslim neighbours were also helpless in the situation created by this proxy war. But there are many number of families of Hindus and Sikhs who have continued to live in the Valley, both in towns and villages” (sic).
23. The response sought to explain the terminology used to describe the Kashmiri Pandits who had left the Valley as “migrants”, and gave details of the various reliefs being provided or contemplated for them. As those issues are not, however, relevant to the issue of genocide, they are not being dwelt upon in the present Proceedings.

24. Turning to the numbers of persons who had left the Valley, the response of the Union of India stated that 49,000 Hindu and Sikh families had been registered, as had 1,468 Muslim families been registered, with “a significant number of other Muslim families not having registered themselves due to fear of militant reprisals against their relatives in the Valley”.
  
25. The response stressed that the ultimate aim of the Government was to ensure the safe and honourable return of all those who had left their homes and lands and further, to ensure that wherever homes had been destroyed or misappropriated, that these properties would be restored and rebuilt. The response referred, in this connection, to the Jammu and Kashmir Migrant Immovable Property (Preservation, Protection and Restriction on Distress Sales) Act, 1997 and other measures adopted to protect the interests of those who had to leave, and stressed the importance of the constitution of a Sub-Committee of Government to finalize “an action plan for the return of the migrants”. It added that “much depended on the response of the migrants to reoccupy their homesteads.
  
26. The report then dwelt in detail on the steps being taken for the “normalization’ of the situation to protect all citizens and to prevent the commission of offences, both through action against militants and through the better performance and coordination of activities of the civilian authorities and of the security forces. It categorically denied that the Government had “failed in its duties to secure the life, liberty and property of the citizens” referring, inter-alia, to the “multifaceted” fight against terrorism and the sacrifices made by the security forces in addition to civilians. It referred, in addition, to the holding of elections and the progress made thereafter in regard to security matters and developmental and relief schemes. It forwarded certain details of the relief and other measures taken to help the Kashmiri Pandits in matters

relating to employment and education and the ex-gratia payments made for those who had been killed as a result of the activities of militants.

27. As regards the competence of the National Human Rights Commission to examine the issue of genocide, the response of the Union of India stated that the 1993 Protection of Human Rights defined human rights in Sec. 2(1)(d) of the Act. These rights related to “life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by the courts in India”. Section 2(1)(f) of the Act further stated that “International Covenants” meant the “International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights of 1966”. The response added that the Genocide Convention was not mentioned in Sec. 2(1)(d) or (f) of the Act “and therefore, no application can be entertained on the basis of the 1948 Convention by this Hon’ble Commission”. It was further argued that the Genocide Convention dealt with the prevention and punishment of the crime of genocide and that it specifically required under Article V, that “the Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and in particular, to provide effective penalties for persons guilty of genocide or of any of the other acts enumerated in article III”.
28. Turning to the question of killings in the Valley, the response of the Union of India referred to the charts appended to it. These indicated that between 1988-1997 a total of 16,850 persons had been killed. These, inter-alia, included 719 Hindus, 6219 Muslims, 45 Sikhs and 267 others, in addition to 7687 militants, and 1416 security force personnel. There had also been killings of 352 government officials, 15 senior political leaders, 110 politicians, 10 members of the judiciary and 10 pressmen. The large number of security personnel killed testified to the efforts of Government to redress the situation.

29. The charts also provided information on the “expenditures incurred on relief to the Kashmiri migrants in various States” between the years 1990-91 to 1996-97, which amounted to some Rs.26446 lakhs, the destruction of property by militants between 1988-1997, which included 1264 government buildings, 758 educational institutions, 9309 private houses, 243 bridges, 1659 shops and 9 hospitals; the vast number and types of weapons recovered from the militants over the years 1988-1997; the kidnappings by militants between 1988-1997 which totalled 2491 persons, of whom 1036 were killed, 20 foreigners were among the kidnapped. Further, criminal acts, extortions and lootings by militants were valued at Rs.10,61,29,466 between 1990-97. Other charts indicated the numbers of foreign mercenaries arrested/killed over this period; and the number of prominent Kashmiris kidnapped or killed, who belonged to a variety of professions and callings: politicians, the media, the judiciary, intellectuals, religious leaders, government officials and police personnel. Of the list of 157 such persons killed, kidnapped or injured over the period 1990-1997, 120 were Muslims and 37 were Hindus.

### **Rejoinders**

30. A rejoinder was filed on 27 January 1998 by the Panun Kashmir Movement to the submission of the Union of India, the All India Kashmiri Samaj having filed its rejoinder on 19 November 1997.
31. In its rejoinder, the Panun Kashmir Movement traced the history of the Genocide Convention observing, inter alia, that the Government of India, among others, had inscribed the question of genocide on the agenda of the General Assembly on 2 November 1946 and that on 11 December 1946 the General Assembly had unanimously adopted resolution 96 which affirmed that genocide is a crime under international law, and requested the Economic and Social Council to undertake studies that would lead to the drafting of a Convention on the subject of genocide.

After recalling that the Genocide Convention had been unanimously adopted as resolution 260 (III) on 9 December 1948. The rejoinder noted that India had signed the Convention on 29 November 1949 and ratified it on 29 August 1959. Pakistan had, for its part, signed it on 11 December 1948 and ratified the Convention on 12 October 1957. It was added that the prohibition of genocide was now “well and truly” considered part of the Principles of Customary International Law, that Convention had clearly stated that genocide was a crime “whether committed in time of peace or in time of war”. The rejoinder proceeded to refer to the definition of genocide in the Convention, as contained in article II of the Convention and the acts that would be punishable under article III of that Convention.

32. The rejoinder took the view that the Union of India had not refuted the views of the complainant in regard to the extent of death and damage caused to the Kashmiri Pandits. The rejoinder argued that the contention of the Union of India that the crime of genocide was not within the jurisdiction of this Commission was based on a misconception of the applicability of precepts of International Law. The rejoinder therefore reiterated its request to the Commission to “fix” the “responsibilities” in regard to human rights violations committed against the Kashmiri Pandits and to review the factors that inhibited that community from enjoying its human rights.
33. As regards the All India Kashmiri Samaj, its rejoinder stated that the submissions of the Union of India were self-contradictory and misconstrued in the ‘interpretation of Laws and International Covenants’. It challenged the submission of the Union of India on a number of matters, including the use of the term “migrants” to describe those who had been forced to leave the Valley, and it questioned the comments of the Union of India in respect of matters relating to a number of relief and rehabilitation issues as well. It then proceeded to recall, reiterate and summarize once again the acts of killing, looting, and arson, and the reasons for the exodus as referred to in its original complaint. It added that the systematic killings of Kashmiri Pandits, the

causing of mental and physical disorders to them, the imposing of conditions to prevent/restrict their birth rate, and the organized terrorism unleashed to exterminate them, threatened to destroy and render extinct the Kashmiri Pandits as an ethnic-religious group.

**Issue of NHRC's Jurisdiction in relation to Jammu & Kashmir**

34. The rejoinders and other related papers were considered by the Commission on 27 January 1998. At that stage, the State of Jammu and Kashmir filed an affidavit raising issues relating to the jurisdiction of the Commission in respect of matters pertaining to law and order in the State of Jammu & Kashmir.

35. -----

36. Representing the Union of India and Shri M.A. Goni, Advocate General J&K representing the State of Jammu and Kashmir. The Commission had earlier requested Shri R.Venkataramani, Senior Advocate, to assist in respect of this matter. The Commission is most appreciative of his continuing assistance during the hearings held in May 1999. The Commission also listened with deep attention to Shri Rajinder Premi, one of the Petitioners, who spoke on this issue and more specifically, on the tragic circumstances attending the death of his revered father Shri Sarwanand Kaul Premi.

**Comments of the Commission on the Crime of Genocide and its Opinion on the Complaints before it**

37. The Commission will now examine certain aspects of the Genocide Convention and express its opinion on the complaints brought before it. It is necessary, first, to start with the definition of genocide as set out in Article II of the Convention, and the acts punishable under the Convention, which are set out in Article III.

(A) **Definition and acts punishable under the Convention**

**Article II**

“In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- a) Killing members of the group;
- b) Causing serious bodily or mental harm to members of the group;
- c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- d) Imposing measures intended to prevent births within the group;
- e) Forcibly transferring children of the group to another group.

**Article III**

The following acts shall be punishable:

- a) Genocide;
- b) Conspiracy to commit genocide;
- c) Direct and public incitement to commit genocide;
- d) Attempt to commit genocide;
- e) Complicity in genocide.

(B) **Illustrations of genocide after adoption of the Convention and the Implications thereof**

- 38. The Holocaust was the archetypal genocide—6 million Jews being slain by Hitlerism. Tragically, even after the adoption of the Genocide Convention in 1948, this ancient scourge has continued to stain our century, the bloodiest in human history.
- 39. While varying lists have been made of genocides that have occurred after the Second World War, Benjamin Whitaker’s authoritative study, cited in paragraph 3 above, lists as examples, inter alia, the Tutsi massacres of Hutu in Burundi in 1965 and 1972, the Paraguayan massacre of Ache Indians prior to 1974 and the Khmer Rouge killings

in Kampuchea between 1975 and 1978, when reportedly upto some 1 million persons were killed.

40. More recently, on 24 May 1994, the Secretary-General of the United Nations transmitted to the Security Council the Final Report of the Commission of Experts established pursuant to Security Council resolution 780 (1992), which contains

“substantive findings on alleged crimes of “ethnic cleansing”, genocide and other massive violations of the elementary dictates of humanity, rape and sexual assault and destruction of cultural property committed in various parts of Bosnia and Herzegovina” (UN Doc. S/1994/674 of 27 May 1994).

41. Further, on 9 December 1994, the Secretary-General of the United Nations transmitted to the Security Council the Final Report of the Commission of Experts established pursuant to Security Council resolution 935 (1994) on the conflict in Rwanda. The report concluded, inter alia, that “overwhelming evidence” existed

“to prove that acts of genocide against the Tutsi ethnic group were committed by Hutu elements in a concerted, planned, systematic and methodical way, in violation of article II of the Convention on the Prevention and Punishment of the Crime of Genocide 1948”.

While a number of “massacres” had been perpetrated in Rwanda in the last 45 years, particularly in the years 1959, 1963, 1973, 1990, 1991, 1992 and 1993 (the killings from December 1992 – February 1993 resulting in some 2000 people murdered), the Report states.

“Since 6 April 1994, an estimated 500,000 unarmed civilians have been murdered in Rwanda. That estimate indeed may err on the conservative side for, as the Special Rapporteur of the Commission of Human Rights observed

in his report of 28 June 1994 (S/1994/1157 annex I, para 2), some reliable estimates put the number of dead at close to 1 million. It is unlikely the world would even know the exact number of men, women and children slaughtered in this holocaust". (UN Doc S/1994/1405 29 December 1994).

42. The purpose of recalling these details is to illustrate the "ultimate" nature of the crime of genocide and the monstrous scale and intent of the crime that it constitutes. It is also to distinguish the crime of genocide from other crimes of utmost gravity, notably "homicide", "massacre", "ethnic cleansing" and yet other "crimes against humanity" such as those, for instance, that are listed as prohibited acts in article 5 of the Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law committed in the territory of former Yugoslavia and which include: "murder, extermination, enslavement, deportation, imprisonment, torture, rape, persecutions on political, racial and religious grounds and other inhumane acts" (S/1994/674 para 81).
43. In the context of "crimes against humanity" it is also relevant here to observe that the same kind of prohibited acts are listed in common article 3 (relevant to conflicts not of an international character) in the four Geneva Conventions of 1949 and in Protocol II to the Geneva Conventions.
44. What distinguishes genocide from the crimes against humanity listed above, however, is the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such, which is a precondition for genocide.
45. To emphasize "intent" and the "ultimate" nature of the crime of genocide is not to diminish the gravity, the pain or the unacceptability of the other crimes mentioned above. But it is to recognize the difference of degree and purpose, which transforms the crime of genocide to a plane of evil that is unique, a scale of destroying that sets it apart from all other crimes.

(C) **The Implications of “intent to destroy, in whole or in part”**

46. The phrase “intent to destroy, in whole or in part” has been the subject of intense examination and commentary ever since the Genocide Convention was adopted. The reason, to some extent, lies in the construction of the phrase and, specifically, in how to interpret the relationship “intent to destroy” and “in whole or in part”.

47. Lawrence LeBlanc in his essay in the America Journal of International Law (Vol.78 page 370) quotes with approval the view of Nehemiah Robinson who, in his classic study on the Genocide Convention – Its Origins and Interpretation, reprinted in the 1950 Senate Hearings stated :

“genocide is not characterized by the intent to destroy a whole group but to eliminate portions of the population marked by their racial, religious, national or ethnical features..... the intent to destroy a multitude of persons of the same group must be classified as genocide even if these persons constitute only part of a group either within a country or within a region or within a single community, provided the number is substantial because the aim of the Convention is to deal with action against large numbers, not individuals even if they happen to possess the same characteristics. It will be up to the court to decide in every case whether such intent existed” (emphasis added)

48. As to what the term “substantial” should mean in such a context, it has increasingly come to imply a “substantial part of a group of such numerical significance that the destruction or loss of that part would cause the destruction of the group as a viable entity”. (see for instance, S. EXEC.REP No.23, 94<sup>th</sup> Cong, 2<sup>nd</sup> Session (1976))

49. The Commission of Experts on Rwanda, for its part, asked the question—

“Does a particular minimum number of persons have to be killed for an act of genocide to be established in the individual case?” (see UN Doc. S/1994/1405 para 162)

Examining this question, it referred to the travaux préparatoires of the Genocide Convention and concurred with the opinion of Bunyan Bryant in his Substantive Scope of the Convention 16 HARV. INT’L L. J.686, 692 (1995) that

“Unless the intent were express..... the number of victims may be of evidentiary value with respect to proving the necessary intent”. (emphasis added)

50. As to the word “intent”, the Commission of Experts on the former Yugoslavia stated:
- “It is the element of intent to destroy a designated group in whole or in part, which makes crimes of mass murder and crimes against humanity qualify as genocide. To be genocide within the meaning of the Convention, the crimes against a number of individuals must be directed at their collectivity or at them in their collective character or capacity. This can be deduced from the words “as such” stated in article II of the Convention. In most countries, penal codes do not regard motives, rather only intent, as the subjective or mental constituent element of a crime. Motive and intent may be closely linked, but motive is not mentioned in the Convention. The necessary element of intent may be inferred from sufficient facts. In certain cases, there will be evidence of actions or omissions of such a degree that the defendant may reasonably be assumed to have been aware of the consequences of his or her conduct, which goes to the establishment of intent, but not necessarily motive”. (see UN Doc. S/1994/674 para 97) (emphasis added)

51. A Convention must be interpreted in good faith, “in accordance with the ordinary meaning of its terms, in their context, and in the light of its object and purpose”. Moreover, the text of a Convention must be interpreted in such a way that a reason and a meaning can be attributed to every word. “No word or provision may be disregarded or treated as superfluous, unless this is absolutely necessary to give effect to the terms read as a whole” (see Vienna Convention on the Law of Treaties, UN Treaty Series, vol. 1155, No. I-18232). In the light of the above, it is essential, at this point, to ask the meaning of the word “intent” and to distinguish it from “motive”, the latter word not being used in the Genocide Convention.
52. The relevant entry in the Concise Oxford Dictionary for “intent” is “intention”, “a purpose”. For “motive” it is “factor or circumstance that induces a person to act in a particular way”. These meanings, too, will need to be kept in mind when examining the present complaints.

**(D) The Implications of the words “to destroy”**

53. The Genocide Convention qualifies the words “to destroy” with great precision. The destruction must involve, or be conducive to direct or indirect physical destruction of a group or a substantial part of it, by the acts described in Article II of the Convention.
54. James Crawford, in his The Rights of People, Clarendon Press, Oxford, p 59, thus observes:

The Convention is not concerned with “cultural genocide” or what has been described as “ethnocide”, in the sense of the destruction or disappearance of the distinctive values, tradition, or culture of a group, as distinct from the

survival of the members of the group as individuals, and its continued existence as a group assuming its members so wish”. (emphasis added)

55. This view is borne out by the travaux preparatoires of the Convention. The original draft extending protection to political groups was, in the interest of quicker unanimity, eliminated. Original drafts also made reference to “cultural” genocide i.e. acts aimed at the destruction of libraries, museums, schools, historical monuments and religious edifices, or the suppression of language or printing media of a particular group. Russia, Venezuela and Pakistan strongly favoured the inclusion of “cultural” genocide. However, the stricter view of the United States of America, favoured also by the United Kingdom of Great Britain and Northern Ireland, prevailed (see ECOSOC Doc. No. E/623, at 11-13 (30 January 1948) and A/PV/170, at 15-16. 23-36). This, too, has relevance to the complaints before the Commission, as the issue of the destruction of temples, homes and property has been extensively referred to in them and is, thus, excluded from the purview of the Convention.
56. Further, it is important to note that the reference in the Convention to “imposing measures intended to prevent births within the group”, specifically had in mind the savage eugenics practiced by the Nazis to sterilize or, through what has been called “delayed-genocide”, destroy the capacity of their victims to reproduce. It had little to do with inadequate housing, or a lack of privacy in the camps – factors which have been mentioned in the present complaints as preventing births within the group.

(E) **Further examination of the data relating to genocide in the complaints in the light of the above.**

57. Having analyzed the principal words and usages in the Convention and having recalled the distinguishing characteristics of instances of genocide since the adoption of the Convention, these Proceedings will now further examine the question of genocide on the basis of the data contained in the complaints before the Commission.
58. There can be no doubt as to the immense suffering caused to the Kashmiri Pandit community by the acts of terrorists and militants active in the Valley of Kashmir, particularly in the period starting in the latter part of 1989. Whether the Commission looks to the data provided by the complainants, or to that provided by the State Government or the Union of India, the facts are, beyond question, stark and tragic, though there are some differences in the figures provided by the complainants and by the State and Union Governments, there is a general view that some 300,000 Kashmiri Pandits have had to leave the Valley for reasons of the terror unleashed in their home State and the conditions of insecurity that they experienced as a result. The complainants state that some 1000 members of their community have been killed in the Valley, they have drawn particular attention to the deaths that occurred following torture and to the killing of members of their leadership, some 17 of whom are mentioned by name. The State and Central Governments do not in any serious manner dispute the number of those who have had to leave the Valley, though they add that those who have left include both Sikh families and some 1500 Muslim families who had registered, though many other Muslim families had feared to do so for fear of reprisals against their relatives. As to the number of Kashmiri Pandits killed, the Union Government mentions that 719 Hindus were killed between 1988-97, in a total of 16,850 killed during this period, which included 6,219 Muslims. The list of 157 "leaders" that it provided as having been killed in the Valley during this period included, by the same token, 37 Hindus as against 120 Muslims.

59. These figures are profoundly disturbing and tragic. Yet they do raise the question of the ‘intent’ of the killers responsible for the deaths and the large-scale and forced movement of population.
60. The complainants themselves have referred to terrorism in Jammu and Kashmir as “a process of political violence”, which has “a specific political commitment aimed to separate Jammu and Kashmir from India and annex it to Pakistan”. They have added that the purpose of the “terrorist violence’ was to “separate the State from the secular political and social organisation of India and integrate it with the Islamic State of Pakistan”. The complaint of the All India Kashmiri Samaj, for its part, notes “the assassination of Hindus and some patriotic Muslims too”. The figures provided by the Union Government show that both groups suffered grievous killings, with many more thousand killed by the militants of the latter group.
61. In these circumstances, it appears to this Commission, from the most careful reading of all of the submissions made to it, that the primary “intent” of the killers of both Hindus and Muslims in the Valley has been to try to achieve the secession of the State and its possible annexation by Pakistan. This has been the principal purpose and the objective of the insurgency, of the terrorism and of the war-by-proxy that has been plaguing Jammu & Kashmir over the past decade. It has been to achieve this purpose, that the killers have been motivated to murder those whom that they have so sadly and numerously killed, those whom they viewed as loyal to the Republic of India.
62. The Commission is therefore of the view that the killings and “ethnic cleansing” of the Kashmiri Pandits must be seen in the context of the deeper intent to secure the secession of the State of Jammu & Kashmir. The crimes committed against the Kashmiri Pandit are, by any yardstick, deserving of the strongest condemnation. And there can be no gainsaying the acute suffering and deprivation caused to the

community. But against the stern definition of the Genocide Convention, the Commission is constrained to observe that while acts akin to genocide have occurred in respect of the Kashmiri Pandits and that, indeed, in the minds and utterances of some of the militants a ‘genocide-type design’ may exist, (to quote a term used earlier by the Former Dutch Foreign Minister, Max van der Stoei in a different context and situation), the crimes against the Kashmiri Pandits, grave as they undoubtedly are, fall short of the “ultimate” crime: Genocide.

63. The community, though severely stricken with loss and grief, is to the immense relief of its well-wishers capable of recovery. Though it has lost some leading members of the community, it is not destroyed in “substantial” part. It is deep in resilience and talent and those who have caused it injury have not succeeded in the “destruction of the group as a viable entity”. In the view of this Commission the day will therefore undoubtedly come, hopefully in the not too distant future, when the members of the community will return in safety and honour to the Valley where they belong and to which they have contributed so greatly since the beginning of its recorded history.
64. That must certainly be the intent and the endeavour not only of the Kashmiri Pandits, but also of the State and Union Governments. Regrettably, there can be no doubt that the community has felt that it has not been given the understanding and relief that it deserved, and to which it is entitled. The Commission has empathy for this feeling, even while recognizing the efforts made by Government to assist and the supreme sacrifice made by personnel of the security forces to defend the integrity of the nation and all of its citizens. The Commission nevertheless urges both the State and Union Governments to enhance their efforts to provide the Pandits with the understanding and assistance that they require in these difficult days. The Commission has itself suggested a number of measures to this end, including the establishment of a High-Level Committee, which includes a nominee of the Commission, to go into the full range of practical problems facing the Pandits. It expects and trusts that the

Committee will function with a high sense of responsibility and expeditiousness in the tasks envisaged for it. The Commission looks forward to receiving periodic reports on the work of this Committee as it proposes to continue to monitor developments in regard to the Pandits on a regular basis, not least in relation to the proper listing and protection of the properties they left behind, the restoration of those properties and the statutory nullification of coerced alienations and dispossessions and illegal occupations. The Commission understands the reasons in the prayer of the complainants that an enquiry be held into the causes and circumstances leading to their present suffering. The Commission would like to observe, in this connection, that it is always ready and willing to examine and take action upon complaints relating to specific matters, as and when these are brought before the Commission.

65. The Commission also considers it important to note that it has not, in these Proceedings, entered into the killings and deep sufferings that have been borne by the Muslim community of the Valley in the course of the past years. The reason is that those matters were not the subject of the present complaints. However, the Commission believes the time will come when peace will be restored for all in the Valley, and that the essence of that peace will be reconciliation and the restoration of that trust and tolerance that characterized the Valley for centuries and that gave to the term 'Kashmiriyat' a meaning that was unique in the life of this nation.
66. There remains the question of the applicability of the Genocide Convention to India. Here, these Proceedings would like to record that the broad issue of the "Humanitarian Base of International Human Rights Norms and their Domestic Application" and the issue of "Indian Law and the Enforceability of International Covenants" have been definitively addressed on behalf of the Commission by a separate Order, also dated 11 June 1999. As far as the Genocide Convention itself is concerned, as is widely known, India acceded to it on 27 August 1959, having been among the first countries, together with Cuba and Panama, to have raised the need for

such a Convention in the General Assembly of the United Nations on 2 November 1946. India did not, however, enact, in accordance with its Constitution, “the necessary legislation” to give effect to the provisions of the Convention and, in particular, to provide effective penalties for persons guilty of genocide or of any of the other acts enumerated in Article III. This being said, over the years, the Convention has developed into a norm of customary international law and it is now universally recognized by the international community that the rule prohibiting genocide as expressed in Article II, has attained the status of jus cogens. It therefore has peremptory status. And for these reasons, the prohibition of genocide as expressed in the Geneva Convention applies to all members of the international community, not only to those who are parties to the Convention. Indeed, in the words of the advisory opinion of the International Court of Justice of 2 May 1951 on the Reservations to the Genocide Convention

“the principles underlying the Convention are principles which are recognized by civilized nations as binding on States even without any conventional obligation.....

The Genocide Convention was intended by the General Assembly and by the Contracting Parties to be definitely universal in scope”.  
[(1951)I.C.J.Rep.15,23]

The Convention was thus manifestly adopted for a humanizing and civilizing purpose. And it would be well for all to remember that, in our rapidly changing world, where “all peoples are confronted with the reality of their inextricable oneness” (see Payam Akhavan, Enforcement of the Genocide Convention: A Challenge to Civilization, Harvard Human Rights Journal/Vol.8,258) there is need for us jointly to build our defences against genocide and the other heinous acts that go under the painful title “crimes against humanity”.

67. The Commission would, finally, like to place on record its deep gratitude to the learned Counsels who appeared before it in the hearings relating to these complaints on matters of great gravity.

Pronounced this the 11<sup>th</sup> day of June, 1999.

**Sd/-**

**Sd/-**

**Sd/-**

**(Virendra Dayal)**  
**Member**

**(Justice V.S.Malimath)**  
**Member**

**(Justice M.N.Venkatachaliah)**  
**Chairperson**

**No. 9/58/94-LD**  
**NATIONAL HUMAN RIGHTS COMMISSION**  
**(LAW DIVISION)**

\*\*\*\*\*

S.K. Srivastava  
Asstt. Registrar (Law)  
Phone No. 3361671  
Fax No. 3366537

Sardar Patel Bhavan  
Sansad Marg,  
New Delhi – 110001.

Dated 14-06-1999

To

**Shri Ashwani Kumar Chrungoo,  
Convenor, Panun Kashmir Movement,  
232/C, Ram Vihar, Old Janipur,  
Jammu (J&K)**

**Sub: - Memorandum submitted by Panun Kashmir Movement and others.**

Sir,

I am directed to forward herewith a copy of the order pronounced by the Commission on 11.6.1999 in the above said matter.

Yours faithfully,  
**Asstt. Registrar (Law)**

Encl : As above.

**NATIONAL HUMAN RIGHTS COMMISSION  
SARDAR PATEL BHAWAN  
NEW DELHI**

**IN THE MATTER OF:**

PANUN KASHMIR MOVEMENT  
VS.  
STATE OF JAMMU AND KASHMIR AND OTHERS  
(Case no.: 938/94-95/NHRC)

**AND:**

PANUN KASHMIR  
VS.  
STATE OF JAMMU AND KASHMIR AND OTHERS  
(Case no.: 802/94-95/NHRC)

**AND:**

ALL INDIA KASHMIRI DISPLACED EMPLOYEES FORUM  
VS.  
STATE OF JAMMU AND KASHMIR AND OTHERS  
(Case no.: 782/96-97/NHRC)

**QUORUM:**

**JUSTICE SHRI M.N. VENKATACHALIAH, CHAIRPERSON  
JUSTICE SHRI V.S.MALIMATH, MEMBER  
SHRI VIRENDRA DAYAL, MEMBER**

## ORDER

### **(ON THE PRELIMINARY OBJECTION OF THE STATE OF JAMMU AND KASHMIR ON THE EXTENT OF APPLICABILITY OF THE PROTECTION OF HUMAN RIGHTS ACT, 1993)**

1. The preliminary objection raised by the State of Jammu and Kashmir in these matters pertains to the applicability, or rather the extent of the applicability, of a Central Law, i.e., Protection of Human Rights Act, 1993 to the State of Jammu and Kashmir. The range of arguments advanced requires a consideration of Union Parliament's legislative competence to make laws for the State of Jammu and Kashmir, of the extent of applicability of the Protection of Human Rights Act, 1993 ('Act' for short) to the State of Jammu and Kashmir and of the built-in limitations as to the extent of its operation. The questions relate to both the constitutional limitations on the legislative competence of the Union Parliament to make laws for the State of Jammu and Kashmir as well as the specific legislative restrictions in the Act in relation to that State.
2. The Commission has heard Shri M.A. Goni, learned Advocate-General for the State of Jammu and Kashmir, Shri M.S. Usgaoncar, learned Senior Advocate and former Additional Solicitor General and Shri A.K. Wali, learned Advocate for the Union of India, Shri Lekhi for the Panun Kashmir Movement, and Shri C.S. Vaidyanathan, learned Additional Solicitor General, who at the request of the Commission assisted it as Amicus-Curiae.
3. Organisations working for the welfare of displaced Kashmiri Pandits, viz., "Panun Kashmir Movement" in case no. 938/94-95/NHRC, "Panun Kashmir" in case no. 802/94-95/NHRC and "All India Kashmiri Displaced Employees Forum" in case no. 782/96-97/NHRC preferred complaints of and sought inquiries into the violations of the human rights of the Kashmiri Pandits. The facts and events allegedly constituting such violations, briefly stated, are these:

- (i) That the terrorist organizations have unleashed an organized campaign to exterminate the Hindus in Kashmir supported by foreign mercenaries contravening the basic principles of equality, freedom and due process of law which underline the Universal Declaration of Human Rights thus amounting to Genocide of Hindus.
- (ii) That there has been ethnic cleansing of Hindus from the State by way of threats from the mercenaries to quit or face mass-massacre. As a result, a large number of Hindus have had to leave their homes and take refuge in Jammu.
- (iii) That there have been attacks, molestation, kidnappings and gang-rapes of the women folk of Hindus in order to instill fear and humiliation in them.
- (iv) That a large number of temples have been demolished and burnt down.
- (v) That thousands of houses belonging to Hindus have been burnt down. The looting and destruction of property and household goods left behind by the Hindus are still continuing. In many cases, houses, establishments, land, orchards etc. of Hindus have been taken over by Muslims and terrorist groups to ensure that they do not return.
- (vi) That the State of Jammu and Kashmir has failed to fulfil its international obligation of protecting life, liberty, property and religious sanctity of the Hindu Minority. The Union Government and the Government of Jammu and Kashmir have defaulted in providing security against the assault of terrorists and have also failed to provide help regarding accommodation, sanitary

facilities, health care and other basic amenities to the Hindu refugees in consonance with the international standards of relief.

- (vii) That a large number of Hindu employees working on temporary and work-charge basis in the State Government and corporate bodies funded by the State Government and employees including the Hindu teachers of Kashmir University have been pushed out of services as a result of migration from Kashmir. On the other hand, Muslim employees were confirmed in their posts on a permanent basis.
- (viii) That the student community of Hindu refugees have been segregated from others and have been refused admission in Government schools and colleges in Jammu.
- (ix) That unemployed displaced Kashmiri youth have been deprived of gaining employment in the State Government.

4. The reliefs prayed for in the petitions can be summarized thus:

- (i) That the displaced Kashmiri Pandits should not be treated as mere 'Migrants' but as 'Internally Displaced Persons';
- (ii) That there be an assurance of their 'non-refoulment' in view of the alleged continuing threat to their lives;
- (iii) That appropriate and conducive conditions be created for their return to their homeland in security, dignity and peace;
- (iv) To fix the responsibility on the authorities involved for this grave violation of their human rights;

- (v) That all the Hindu refugees be provided relief, accommodation, health-care, according to standard norms recognized for relief of refugees as per International Convention, International Law, United Nations Resolutions for the relief of refugees and the laws in this behalf in India;
  - (vi) That all Hindu employees of State Government, corporate bodies funded by the State and the University of Kashmir, who were working on temporary/adhoc/work-charge basis at the time of exodus of Hindus be reinstated and confirmed;
  - (vii) That the discriminatory segregation of Hindu refugee students be ended; and that religious discrimination against the community of Kashmiri Pandits should end;
  - (viii) That 30% of employment in services of State in general and in Kashmir in particular be reserved for Hindu refugees so long as they are in exile;
  - (ix) That adequate protection be provided to temples, shrines, religious places and property belonging to Hindu minorities in Kashmir, left behind by them.
5. At an advanced stage of proceedings, the State of Jammu and Kashmir, in an affidavit filed on 27.01.1998, filed by way of rejoinder, has raised a preliminary objection as to the jurisdiction of the Commission to entertain the matters. It is urged:

“that in view of the fact that the State of Jammu and Kashmir has enacted the Jammu and Kashmir Protection of Human Rights Act, 1997, the above titled complaint in this Hon’ble Commission is not maintainable now”.

“..... The Jurisdiction extends to the State of Jammu and Kashmir only in so far as it pertains of the matters related to any of the entries enumerated in List I or List III in the seventh scheduled to the Constitution as applicable to the State of Jammu and Kashmir. Taking the said entries into consideration, it is clear that the complaints do not lie in this Commission”.

6. The points that need examination, therefore, are (a) the extent of the legislative competence of the Union Parliament to make laws for the State of Jammu and Kashmir; (b) the source of legislative competence of the Union Parliament to enact the Protection of Human Rights Act, 1993; (c) the entries in the legislative lists to which the ‘Act’ is relatable; and (d) the scope and effect of the proviso to sub section (2) of Section 1 of the Act which expressly stipulates that the “Act shall apply to the State of Jammu and Kashmir only in so far as it pertains to the matters relatable to any of the entries enumerated in List I or List III in the Seventh Schedule to the Constitution as applicable to that State”.

**Competence of the Union Parliament to make laws for the State of Jammu and Kashmir.**

7. The portions of Article 370 of the Constitution relevant to the present enquiry are:  
“(1) Notwithstanding anything in this Constitution –
  - (a) (omitted as unnecessary)
  - (b) The power of Parliament to make laws for the said State shall be limited to:
    - (i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State,

(ii) such other matters in the said Lists, as, with the concurrence of the Government of the State, the President may by order specify.

- (c)
- (d) (omitted as unnecessary)
- (2)
- (3)

The Instrument of Accession which delineates the matters with respect to which the Dominion Legislature may make laws for the State, contains, inter alia: -

“B

1. External affairs; the implementation of treaties and agreements with other countries.....

D.

2. Offences against the laws with respect to any of the aforesaid matters.

3. Inquiries and statistics for the purpose of the above matters.

4. Jurisdiction and powers of all courts with respect to any of the aforesaid matters but, except with the consent of the Ruler of the Acceding State, not so far as to confer any jurisdiction or powers upon any courts other than ordinarily exercising jurisdiction in or in relation to that State”.

At the time of the accession to India, the sovereign of Jammu and Kashmir had expressly given over to India the power to implement treaties and agreements with foreign countries.

8. The legislative competence of the Union Parliament to make laws for the State of Jammu and Kashmir extends to topics enumerated in the Union List with certain

exceptions. In relation to that State, Article 246 of the Constitution has to be read, subject to certain modification. For the words, brackets and figures “clause (2) and (3)” occurring in clause (1) Article 246, the word, brackets and figure “clause (2)” shall be substituted, and the words, brackets and figures “Notwithstanding anything in clause (3)” occurring in clause (2) and the whole of clauses (3) and (4) shall be omitted. Then again so far as the State of Jammu and Kashmir is concerned, the residuary power of legislation belongs not to Parliament but to the State legislature, which was competent to legislate on all matters not enumerated in the Union List. Entry 97 of List I, as such, is not applicable to Kashmir. Article 248 is applicable to the State in a modified form. Article 248 dealing with the residuary powers reads:

- “(1) Parliament has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List.
- (2) Such power shall include the power of making any law imposing a tax not mentioned in either of those Lists”.

But so far as the State of Jammu and Kashmir is concerned, it stands substantially modified and reads:

- (a) Prevention of activities involving terrorist acts directed towards overawing the Government as by law established or striking terror in the people or any section of the people or alienating any section of the people or adversely affecting the harmony amongst different section of the people.
  - (aa) Prevention of other activities directed towards disclaiming, questioning of disrupting the sovereignty and territorial integrity of India or bringing about cession of a part of the territory of India or secession of a part of the territory of India from the Union or causing insult to the Indian National Flag, the Indian National Anthem and this Constitution; and

- (b) Taxes on –
  - (i) foreign travel by sea or air,
  - (ii) inland air travel,
  - (iii) postal articles, including money orders,  
phonograms and telegrams.

[Explanation – In this Article, ‘terrorist act’ means any act or thing by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisons or noxious gases or other chemicals or any other substances whether biological or otherwise of a hazardous nature.]

The changes corresponding to those brought about in Article 248 in relation to the State of Jammu and Kashmir are reflected in entry 97 of List I.

9. Article 253 of the Constitution applicable to the rest of India reads:

“Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country

Or countries or any decision made at any international conference, association or other body”.

But so far as the State of Jammu and Kashmir is concerned, the Article be read subject to the following proviso:

“Provided that after the commencement of the Constitution (Application to Jammu and Kashmir) Order, 1954, no decision affecting the disposition of the State of Jammu and Kashmir shall be made by the Government of that State”.

10. The point to note and emphasize is that the power to make laws implementing treaties and decisions at international conferences is exclusively that of the Union. In that area the scheme of distribution of legislative powers under the various lists breaks down. The only limitation, so far as the State of Jammu and Kashmir is concerned, is that no decision affecting the disposition of the State shall be made without the State's consent. The word 'dispose' of which the 'disposition' is a noun, is defined in the Oxford English Dictionary as, "to bestow, make over, formally assign or hand over; to deal out, dispense, distribute" and also as "to make arrangements; to determine or control the course of affairs or events". Article 253, as will be indicated later, was intended to get over the jurisdictional problems between the Union and the States in a federal setup in matters pertaining to the implementation of treaty obligations. The purpose of Article 253, as Seervai points out, is to avoid the difficulties experienced by Canada in implementing International Agreements or Conventions. Section 132 of the British North American Act, 1867 conferred upon the Parliament and the Government of Canada "all powers necessary or proper for performing the obligations of Canada or any Province thereof as part of the British Empire towards foreign countries arising under treaties between the Empire and such a foreign country".
  
11. In *A.G. for Canada Vs. A.G. for Ontario* (1937) A.C. 326, the Privy Council struck down three Labour Acts passed by the Dominion Parliament which gave effect to the draft convention adopted by the International Labour Organisation in accordance with the treaty of Versailles and ratified by Canada. The Privy Council held that the Dominion could not merely by making promises to foreign countries clothe itself with legislative authority inconsistent with the Constitution which gave it birth and as the impugned law relates to "property and civil rights in the Province", a subject of exclusive provincial legislative power under Section 92 (13) of the British North American Act, they were void. The power to implement a treaty did not include the power to legislate on a subject of exclusive provincial legislation. The Privy Council said:

\*\* “..... It would be remarkable that while the dominion could not initiate legislation, however desirable, which affected civil rights in the Provinces, yet its Government not responsible to the Provinces nor controlled by Provincial Parliaments need only agree with a foreign country to enact such legislation, and its Parliament would be forthwith clothed with authority to affect Provincial rights to the full extent of such agreement. Such a result would appear to undermine the constitutional safeguards of Provincial constitutional autonomy”.

“..... In other words, the Dominion cannot, merely by making promises to foreign countries, clothe itself with legislative authority inconsistent with the constitution which gave it birth”.

12. In India, Article 253 enables Parliament to implement a treaty by law even if the subject-matter of the law is subject of exclusive State legislation. Referring to the scope of Article 253, Supreme Court of India in Maganbhai Ishwarbhai Patel Vs. Union of India (1969 3 SCR) stated:

“The Constitution of India does not contain any clear direction about treaties such as is to be found in the United States and French Constitutions. Therefore, in our country we can only go by inferences from our Constitution, the circumstances and precedents. The legislative entries which enable the Parliament to enact laws in respect of treaties are to be read with Article 253. The Article adds nothing to the legislative entries but confers exclusive power of law making upon Parliament”.

**Protection of Human Rights Act, 1993 : Rival contentions as to the sources of law making power of the Union Parliament in relation to the State of Jammu and Kashmir.**

13. The State of Jammu and Kashmir concedes that the 'Act' in so far as it is with respect to 'activities involving terrorist acts etc.' and 'to the prevention of activities directed towards striking terror in the people' relating to the residuary powers under entry 97 of List I as applicable to that State, is valid and operates in the State. It is conceded by both the State and Union Governments that even in relation to the State of Jammu and Kashmir, the scope of entry 97 of List I, even as applicable to that State, permits such legislation.

It is, however, urged that in respect of matters beyond what is permitted under the field covered by entry 97 of List I, as applicable to the State of Jammu and Kashmir, the Union has no such legislative competence. It is said that if the 'Act' trenches on 'public order', then the law would be ultra-vires of the powers of the Union Parliament. It is urged that the law in relation to the State of Jammu and Kashmir must be so construed as to promote its constitutionality. It is urged, for instance, if a complaint is made by a citizen of torture in police custody in the State of Jammu and Kashmir otherwise than as in relation to matters pertaining to or arising out of terrorist activities, it would be a matter falling within the subject of 'public order' within the exclusive power of the State. It is urged that the proviso to sub-section (2) of Section 1 of the Act really recognizes and reflects constitutional lack of competence on the part of the Union Parliament and is not merely a matter of legislative choice. Section 1 of the Act provides:

“(1) This Act may be called the Protection of Human Rights Act, 1993.

(2) It extends to the whole of India.

Provided that it shall apply to the State of Jammu and Kashmir only in so far as it pertains to the matters relatable to any of the entries enumerated in List I or List III in the Seventh Schedule to the Constitution as applicable to that State.

(3) (omitted as unnecessary)”

14. It is urged on behalf of State and Union Governments that even if the legislation is relatable to entries 94 of List I viz. “inquiries, surveys and statistics for the purposes of any of the matters in this list” or the corresponding entry 45 of List III, the law would not be applicable to the State of Jammu and Kashmir to matters in the State List. It is pointed out that entry 45 of List III in relation to that State, excludes reference to the State Government.
15. Shri C.V. Vaidyanathan, learned Additional Solicitor-General, who assisted the Commission as Amicus-Curiae at its request, sought to point out that the ‘Act is also referable to entries 13 and 14 of List I read with Article 253 of the Constitution and a law made pursuant thereto extends to the State of Jammu and Kashmir as well. Shri Vaidyanathan urged that if the law is applicable to all other states as one made under Article 253, as indeed it is, there is neither legal logic nor rational justification for an exclusionary construction so far its applicability to the State of Jammu and Kashmir is concerned. He, however, urged that the proviso to Section 1 (2) itself would be of doubtful constitutional validity if it claims to reflect a constitutional limitation on the powers of the Union. If, on the contrary, it reflects a mere legislative choice it would, he said, run into constructional difficulties.
16. The Commission should, however, make it clear that it is neither a court of judicial review nor a court of construction. It can only interpret the laws for the limited purpose of grasping the legislative intent to implement and enforce its provisions. It

cannot make any declaration on the validity or otherwise of any of the provisions of the 'Act'.

**Admitted position to the applicability of the 'Act' to the State of Jammu and Kashmir in the facts of the present cases.**

17. Consistent with the stand of the State and Union Governments that if acts complained of relate to terrorist acts, the Commission would have the jurisdiction and the 'Act' would be invocable in relation to the State of Jammu and Kashmir, both the Governments have conceded the Commission's jurisdiction to go into and examine the cases in accordance with the provisions of the 'Act' as, indeed, the violation of human rights arise in the context of and related to terrorist activities. In the written submission filed by the Government of India, referring to the preliminary objection as to the jurisdiction, it is stated:

“ ..... But in the instant case considering the acts complained of that question does not arise and, as stated at the beginning, the National Commission will have the jurisdiction to make enquiry into the complaint whether or not the applicants would succeed to establish their claim is a different point”.

Shri Usgaoncar, learned Senior Advocate for the Government of India in his note filed on 24<sup>th</sup> May, 1999 states:

“Taking into consideration the tenor of the complaints, all are arising from the acts of terrorism, and even when allowances towards State Civil services are demanded, they flow from the acts of terrorism.

Therefore, the same being traceable to the List I, entry 97 as amended in 1972 and then in 1985, the jurisdiction of the National Commission to enquire into the complaints cannot be questioned”.

It requires, therefore, to be held that the objection as to the jurisdiction and maintainability of complaints in the aforementioned cases do not really survive.

Indeed, in these cases the jurisdictional or collateral facts and merits of the inquiry merge in each other.

18. However, the larger question of jurisdiction of the Commission to enquire into allegations of violations of human rights otherwise than in the context of terrorist acts is a recurring theme. It is necessary, therefore, so far as the Commission is concerned, to express the Commission's views, though not necessary to dispose of the preliminary objection in the present cases. In the present cases it is conceded that the Commission has powers to inquire into them. The parties addressed arguments inviting the Commission to pronounce on the preliminary objection as to the jurisdiction.

**Protection of Human Rights Act, 1993 : Nature of the law in its pith and substance.**

19. The general principle of construction is that entries in the legislative lists are not sources of legislative power but are merely topics or fields of legislation and 'must receive a liberal construction inspired by a broad and generous spirit and not in narrow pedantic sense'. The expression "with respect to" in Article 246 brings in the doctrine of "Pith and Substance". Wherever the question of legislative competence is raised the test is that if the legislation, looked at as a whole, has a substantial and not merely a remote connection with the entry, the matter may well be taken to be a legislation on the topic.
20. If a legislation purporting to be under a particular legislative entry is assailed for lack of legislative competence, the law can be supported on the basis of any other entry or entries within the legislative competence of that legislature. It is not necessary to show that the legislature, while enacting the law, consciously applied its mind to the sources of its own competence. Competence to legislate flows from Articles 245, 246 and the other Articles following in part XI of the Constitution. In upholding the validity of a law questioned on ground of legislative incompetence, it can always be shown that the

law was supportable under any other entry within the competence of the legislature. Supreme Court observed that in supporting a legislation, sustenance could be drawn and had from many different entries. The legislation could be a composite legislation drawing upon several entries. In the context of such “ragbag” legislations particularly familiar in taxation, Supreme Court made these observations.

“Bannion in his statutory interpretation refers to such a composite legislation, though the observations must be understood in the context of the supremacy of the British Parliament and one of unlimited powers and which is under no inhibition, unlike a federal polity, of distribution of legislative powers. Learned author refers to:

‘Ragbag’ Acts: Some Acts are ‘ragbag’ Acts, covering many areas. The annual Finance Act is an extreme example. It is divided into Parts, dealing respectively with customs and excise duty, value added tax, income tax, capital gains tax, stamp duty, capital transfer tax and so on. Even within a Part of a Finance Act the various provisions have quite different aims.....”

(See: Ujagar Prints Vs. Union of India 1989 (3) SCC 488)

In Hari Krishana Bhargav vs. Union of India [1996(2) SCR 22], this Court said:

‘There is no prohibition against the Parliament enacting in a single statute, matter which call for the exercise of power under two or more entries in List I of the Seventh Schedule. Illustrations of such legislation are not wanting in our statute book, and the fact that one of such entries is the residuary entry does not also attract any disability’.

In the written submissions of the learned Advocate General for the State of Jammu and Kashmir, this position is conceded and it is stated:

“Protection of Human Rights Act, 1993 is a composite legislation drawing on several entries in list I”.

**Is the ‘Act’ a law made in implementation of international treaties pursuant to Article 253?**

21. In order to examine the present law in its pith and substance, it is necessary to refer to the statement of objects and reasons of the Bill, which reads:

“India is a party to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on the 16<sup>th</sup> December, 1966. the human rights embodied in the aforesaid Covenants stand substantially protected by the Constitution.

However, there has been growing concern in the country and abroad about issues relating to human rights. Having regard to this, changing social realities and the emerging trends in the nature of crime and violence, Government has been reviewing the existing laws, procedures and system of administration of justice, with a view to bringing about greater accountability and transparency in them, and devising efficient and effective methods of dealing with the situation.

Wide ranging discussions were held at various fora such as Chief Ministers’ Conference of Human Rights, seminars organized in various parts of the country and meetings with leaders of various political parties. Taking into account the view expressed in these discussions. The present Bill is brought before Parliament”.

Section 12 of the ‘Act’ refers to the functions and powers of the Commission. It states:

“The Commission shall perform all or any of the following functions, namely: -

- a) Inquire, suo motu or on a petition presented to it by a victim or any person on his behalf, into complaint of –
  - I. Violation of human rights or abetment thereof; or
  - II. Negligence in the prevention of such violation, by a public servant;

- b) Intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;
- c) Visit, under intimation to the State Government, any jail or any other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon;
- d) Review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;
- e) Review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
- f) Study treaties and other international instruments on human rights and make recommendation;
- g) Undertake and promote research in the field of human rights;
- h) Spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;
- i) Encourage the efforts of non-governmental organizations and institutions working in the field of human rights;
- j) Such other functions as it may consider necessary for the promotion of human rights”.

Section 2(1) (d) of the ‘Act’ defines Human Rights in the following terms:

“(d) ‘human rights’ means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Covenants and enforceable by courts in India”.

22. Having regard to its objects and reasons and its specific provision, it will be reasonable to hold that the legislation draws on and is relatable to several entries in the legislative list. In so far as provisions in Sections 12(a)(i) and 12(f) to (j) read with Section 2(1)(d) are concerned, the legislation may possibly be referable to entries 13 and 14 of List I read with Article 253 as urged by Shri Vaidyanathan, entries 13 and 14 of List I read:

“13. Participation in international conferences, associations and other bodies and implementing of decisions made thereat.

14. Entering into treaties and agreements with foreign countries and implementing of treaties, agreements and conventions with foreign countries”.

Shri Usgaoncar contended that the ‘Act’ is not a law to implement a treaty and is not referable to Article 253. He compared the preamble of Environment (Protection) Act, 1986 with the preamble of Protection of Human Rights Act, 1993 and urged that in the former case, the statement of objects and reasons contains a declaration expressly to say that the law was one to effectuate international obligations, while the latter does not contain any such legislative declaration. In answer, it requires to be pointed out that the mere form of legislation is not conclusive. The learned Advocate General for the State of Jammu and Kashmir urged this specific objection with a little more elaboration. He said that:

“The ‘Act’, truly, is not one for a legislative incorporation or domestic reincarnation of the two Covenants. The rights under the Covenants are not, per-se, made enforceable. They are cognizable and enforceable under the ‘Act’ only if they are already otherwise, ‘enforceable by courts in India”.

So far as Shri Usgaoncar's objection arising out of the absence of a legislative declaration is concerned, it is to be observed that it is the substance of the law, looked at as a whole, and not merely the form that is determinative. But objections of the learned Advocate General are two-fold. The first is one raised by Shri Usgaoncar that the 'Act' is not for legislative domestic rebirth of the Covenants. The second is that the statute does not make the Covenants enforceable, per-se, they are enforceable only if they are already otherwise enforceable by courts in India. To this contention, the answer is the trends in the progressive domestic use of the international human rights norms. After the pronouncement of the Supreme Court in *Visakha's* case, the question as formulated by the learned Advocate General of the State does not seem to retain any strength or vitality. The Covenant rights become a part of the common law unless statutorily interdicted.

Indeed, in understanding the position, the observations of the Supreme Court of India in the case of *Valsamma Paul Vs. Cochin University* (1996(3) SCC 645) made in its reference to the Protection of Human Rights Act, 1993, are helpful:

"Parliament has enacted the Protection of Human Rights Act, 1993, Section 2(d) defines 'human rights' to mean 'the rights relating to life, liberty, equality and dignity of the individual' guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India"..... "Section 12 of the Protection of Human Rights Act charges the Commission with duty for proper implementation as well as prevention of violation of the human rights and fundamental freedoms".

So far as the provision in Section 12 (f) is concerned, it may be reasonable construction to hold that it is referable to the residuary entry 97 of List I (as applicable to the State of Jammu and Kashmir). The 'Act' is, therefore, a composite legislation drawing sustenance from several fields of legislation within the Union power. It may be reasonable to construe that in relation to some parts of the legislation it is relatable to Article 253 read with entries 13 and 14 of List I.

**Humanitarian base of International Human Rights Norms and their domestic application:**

23. The idea of declaration and incorporation of a Bill of Rights with entrenched rights operating as limitations on State Power has evoked mixed reactions in the Anglo-Saxon tradition. It is only in 1998 that Human Rights Act, 1998 was enacted in UK. The proposal to introduce a clause on 'life, liberty, property and due process of law' in the Irish Home Rule Bill, 1912 provoked Mr. Asquith to object on the ground that those expressions 'abounded in ambiguity and pitfalls' and were 'provocative of every kind of frivolous litigation'. Even a provision for "Equal Protection of Laws" was considered a matter of opinion, bias or inclination or judgment which cannot be acted on under anything like settled rules of law! There was also the criticism of the American experiment with the Bill of Rights, that it did result in converting the Supreme Court of the United States into a 'Third House of Legislature'. But the Common Law insisted on the most anxious scrutiny of deprivation of life and liberty, the protection against self-incrimination, search and seizure procedures, of free-speech. Human race as a whole has set these as the quintessential values of civilization.
24. Terminologically expressions Civil-Liberties, Human Rights and Fundamental Rights overlap. This is because of their common pedigree and source. Humanitarian base of fundamental human rights assumed prominence fifty years ago when chastened by the capacity of the human species to destroy its own kind through acts of war and barbarous inhumanity, the peoples of the world gave themselves two instruments designed to prevent forever the recurrence of such unconscionable behaviour: the Charter of the United Nations and the Universal Declaration of Human Rights. They represented the hard-headed conclusions of a generation that twice in their lifetime had witnessed global war, and the horrors of the Holocaust in addition. The Human Rights and humanitarian norms have progressively emerged as new rules of the customary international law. It is now recognised the 'relatively extensive

participation in a treaty, coupled with a subject matter of general significance and stipulations which accord with the general sense of the international community, do establish for some treaties an influence far beyond the limits of formal participation in them. These factors give such a treaty something of the complexion of a legislative instrument, and assist the acceptance of the treaty's provisions as customary international law in addition to their contractual values for the parties'. 'The process whereby a treaty's provisions may come also to be rules of customary law is of considerable significance for the role of treaties in international law'. Universality of the human rights regime is one of the incidents of its underpinning in international institutions.

### **Indian Law: Enforceability of International Covenants**

25. In common law, mere ratification of an international covenant, by itself, does not make the rights enforceable in the municipal courts except to the extent they are reborn in the municipal laws. In the United Kingdom, the view is that International Covenants are not part of the law of the land. "Conventions" said Lord Fraser of Tullybelton, in *CCSU Vs. Minister for Civil Services*, "are not part of the law in this country". But customary rules of international law are considered a part of the laws of England by reason of comity of nations unless inconsistent with statutes made by Parliament. [See *Trindtex Corp. Vs. Central Bank* (1977) QB 529 (CA)]. But a treaty is not by itself a source of rights and obligations of individuals. This was restated in the *Laker Airways* case [(1983) 3 All Er. 375 (402) CA].

The learned Advocate General for the State in his written submissions has stated:

"The rights under the covenants are per-se not enforceable in the municipal courts unless they are made part of the domestic law. With respect to treaties, the Municipal courts have neither the means of deciding what is right nor the power of enforcing any decision which they make as the transactions of independent states between each other are governed by other laws than those which municipal courts administer".

This needs to be addressed though in the last analysis, as seen earlier, the international human rights norms have found their ways into the municipal laws.

26. Article 51(c) of the Constitution enjoins the ‘state to endeavour to foster respect for international law and treaty obligations’. But Indian Courts have endeavoured to interpret Indian Statutes in consonance with the international covenants ratified by India. Article 253 empowers the Union to legislate with respect to its treaty obligations without reference to the scheme of distribution of legislative powers under the Constitution. International Instruments and Covenants on Human Rights have influenced the interpretation of the constitutional provisions. [See *Varghese Vs. Bank of Cochin* (AIR 1980 SC 470); *Harbhajan Vs. Union of India* (1986) (4) SCC 678; *Minerva Mills vs. Union of India* (AIR 1973 SC 1461 at paras 111-112); *Maneka Gandhi vs. Union of India*, (AIR 1978 SC, at paras 53-70); *Keshavananda Bharathi vs. State of Kerala*, (AIR 1973 SC 1461 at para 153-154,303); *Nilabati Behra vs. State of Orissa* (AIR 1993 SC 1960); *People’s Union for Civil Liberties vs. Union of India & Anr.* (JT 1997 (2) S.C. 311)].

But the high point of respect for and enforcement of the treaty obligations in the area of human rights was reached when the Supreme Court in the case of *Visakha Vs. State of Rajasthan* (1997 (6) SCC 241) held:

“.....Any international convention not inconsistent with its spirit must be read into these provisions to enlarge the meaning and content thereof, to promote the object of the constitutional guarantee. This is implicit from Article 51(c) and the enabling power of Parliament to enact laws for implementing the international conventions and norms by virtue of Article 253 read with Entry 14 of the Union List in Seventh Schedule of the Constitution”.

The Court further held that:

“The international conventions and norms are to be read into them in the absence of enacted domestic law occupying the field when there is no inconsistency between them. It is now an accepted rule of judicial construction that regard must be had to

international conventions and norms for construing domestic law when there is no inconsistency between them and there is a void in the domestic laws”

**In Apparel Export Promotion Council Vs. A.K. Chopra (1999 (1) SCC 759), it was held that:**

“The international instruments cast an obligation on the Indian State to gender-sensitise its laws and the courts are under an obligation to see that the message of international instrument is not allowed to be drowned. This Court has in numerous cases emphasized that while discussing constitutional requirements Court and counsel must never forget the core principle embodied in the international conventions and instruments and as far as possible, give effect to the principles contained in those international instruments. **The courts are under an obligation to give due regard to international conventions and norms for construing domestic laws, more so, when there is no inconsistency between them and there is a void in domestic law**”.

“In cases involving violation of human rights, **the courts must forever remain alive to the international instruments and conventions and apply the same to a given case when there is no inconsistency between the international norms and the domestic law occupying the field**”.

(emphasis supplied)

27. Indeed treaties have been the principal means for development of the Human Rights Movement. Only treaties, not custom or general principles, can create international institutions in which state parties participate and to which they owe duties. Multilateral treaties are increasingly referred to as ‘inter-national legislation’ an expression which is acquiring increasing currency. Article 2(2) of the International Covenant on Civil and Political Rights (ICCPR) enjoins state-parties “to undertake necessary steps in accordance with its constitutional processes ..... to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant”. Article 50 of ICCPR requires that the provisions of the Covenant “shall extend to all parts of federal states without any limitation or

exceptions”. It is in the spirit of and consistent with Article 50 of ICCPR that the question of the extension of the provisions of the ‘Act’ to the State of Jammu and Kashmir needs to be promoted.

28. It is reasonable to construe that the proviso to sub-section 2 of Section 1 is not an expression of the recognition of the lack of legislative competence of the ‘Act’ on the part of the Union Parliament. But it is rather an expression of a legislative choice as to the scope of the particular legislation. It is also reasonable to say that the exclusionary rule contained in the proviso operates respecting the provisions of the Act which are not referable to entries 13 and 14 and Article 253. If the topic of legislation authorized by Article 253 is the implementation of treaty obligations, then the matter falls in List I and the individual provisions of the treaties are not amenable to the split-up as referable to matters separately under List I, II and III. All the operation of the proviso must, therefore, be confined to matters outside the two Covenants and those that fall within entry 97 of List I (as applicable to the State) or matters in List III. That is an exercise to be done case by case.

**The true scope and effect of the proviso to Section 1(2) of the ‘Act’.**

29. It is, indeed, conceded that the provision of the ‘Act’ with respect to matters relatable to entry 97 of List I (as applicable to the State of Jammu and Kashmir) extends to that State. To the extent the provisions relate to implementation of treaty obligations envisaged by Article 253, it extends to the State and even prevails over the State power. If any matter is covered by a treaty, then Union has exclusive power to make laws even though the matter might, otherwise, fall within the State list. This constitutional position remains unaltered even in relation to the State of Jammu and Kashmir. If a law made pursuant to Article 253 covers a field otherwise within the State power, the Union law has predominance. In *Maganbhai Vs. Union of India* [(1993) 3 SCR 254], the Supreme Court has made this clear:  
“The effect of Art. 253 is that if a treaty, agreement or convention with a foreign State deals with a subject within the competence of the State Legislature, the Parliament

alone has, notwithstanding Art. 246(3), the power to make laws to implement the treaty, agreement or convention or any decision made at any international conference, association or other body. In items, the Article deals with legislative power, thereby power is conferred upon the Parliament which it may not otherwise possess”.

Has the proviso to Section 1 (2) made any change in this position? The proviso reads:

(2) It extends to the whole of India.

Provided that it shall apply to the State of Jammu and Kashmir only in so far as it pertains to the matters relatable to any of the entries enumerated in List I or III in the Seventh Schedule to the Constitution as applicable to that State.

30. To the extent the proviso does not affect a law pertaining to matters relatable to Article 253 (and the law is indeed relatable to entries 13 and 14 of List I read with Article 253) the proviso has no effect. The proviso itself excludes such a law from its own operation. It is, therefore, reasonable to construe that the provisions of the ‘Act relatable to Article 253 and entries 13 and 14 of List I are untouched by the proviso.

31. **There is perhaps another possible view to support this construction. Article 253 is a federal power. On the principle of federal supremacy, it prevails over the state power even if they operate in the same field. The Commission might take the analogy of this accepted principle of constitutional construction in the present context also. The Supreme Court in the case of Kerala State Electricity Board Vs. Indian Aluminium Co. Ltd. (1976(1) SCC 466] has held:**

**“ ..... Furthermore, the word ‘notwithstanding’ in clause (1) also means that if it is not possible to reconcile the two entries, the entry in List I will prevail. But before that happens attempt should be made to decide in which list a particular legislation falls. For deciding under which entry a particular legislation falls the theory of ‘pith and substance’ has been evolved by the courts. If in pith and substance a legislation falls within one list or the other but some portion of the subject-matter of that legislation incidentally**

**trenches upon and might come to fall under another list, the Act as a whole would be valid notwithstanding such incidental trenching. These principles have been laid down in a number of decisions”.**

**The “Commission on Centre-State Relations” in its report states:**

“In every Constitutional system having two levels of government with demarcated jurisdiction, passed by a State Legislature on a matter assigned valid, may impinge upon the competence of the Union or vice-versa. Simultaneous operation side-by-side of two inconsistent laws, each of equal validity, will be an absurdity. The rule of Federal Supremacy is a technique to avoid such absurdity, resolve conflicts and ensure harmony between the Union and State laws. This principle, therefore, is indispensable for the successful functioning of any federal or quasi-federal Constitution. It is indeed the kingpin of the federal system. ‘Draw it out, the entire system falls to pieces’. [Part I, para 2.5.21]

Accordingly, if there are areas over-lapping between those covered by the two International Covenants referred to in Section 2 (1) (f) of the ‘Act’ on the one hand and any of the fields within the state power, the former must prevail.

32. The foregoing discussion will not operate to leave the proviso to Section 1(2) redundant or otiose or purposeless. It has to be given its due meaning and effect on the basis of a harmonious construction. Since the provisions of the ‘Act’ pertaining to the International Covenants are relatable to Article 253, they are enforceable in the State as in List I itself. The areas left for the operation of the proviso would be those other than covered by the provisions relatable to Article 253 and to entry 97 of List I (as applicable to that State). In respect of the rest of areas, the proviso would operate and in each case an exercise needs to be made whether the violation is in respect of matters in relation to entries in List I and List III of the Seventh Schedule. It is true that this exercise might become cumbersome. That perhaps cannot be helped. The

exclusionary operation of the proviso would be in areas other than the Covenant rights and the provisions of the 'Act' relating to entry 97 of List I as applicable to that State.

33. The preliminary objection is overruled subject to the observations made in paragraph 32 supra.
34. The Commission places on record its appreciation of and gratitude for the assistance afforded to it by all the learned counsel. The Commission is particularly grateful to Shri C.S. Vaidyanathan, learned Amicus-Curiae.

Pronounced this the 11<sup>th</sup> day of June, 1999 at New Delhi.

**Sd/-**  
**(Justice M.N. Venkatachaliah)**  
**Chairperson**

**Sd/-**  
**(Justice V.S. Malimath)**  
**Member**

**Sd/-**  
**(Virendra Dayal)**  
**Member**

**For the Asia and Pacific Regional Conference  
On  
Education for Human Rights  
At  
Pune (India)  
4<sup>th</sup> February 1999**

**PROTECTION OF HUMAN RIGHTS  
OF  
INTERNALLY DISPLACED PERSONS (THE KASHMIRI PANDITS)**

**Ashwani Kumar Chrungoo**

Director, Human Rights Affairs,  
Kashmiri Pandit Political Steering Committee (KPPSC) and  
President, Panun Kashmir Movement (PKM)

During the last half century, particularly after the adoption by the United Nations Assembly of the resolution on Universal Declaration of Human Rights on December 10, 1948, the 'protection of human rights' has received recognition throughout the world. In fact, the International Covenants adopted later in 1966 by the General Assembly underlined the Universal recognition of human rights. Though violations of human rights in various parts of the world continue even after the adoption of the declaration and the covenants, yet awareness about the necessity of effectively protecting these rights does exist. Respect of human dignity cuts across cultures. The values held by different peoples are at the roots of universality. Procedures and practices may vary, but at the fundamental level people desire some values to nourish. The belief that all human beings are free and equal is universal and gives birth to right to life, freedom and expression. It may not, however, be necessary to go into details and nature of these rights here. On the other hand, it would be more interesting to know and examine how far these rights are being protected by various States in the world and particularly in our own country—India.

Violation of human rights takes place at the individual level due to occasional excesses being committed against human beings by the operatives of the State and the lumpen elements of the society. But more distressing is the violation of human rights of various communities as a whole. Thus we hear about the violation of the rights of Kurds, Bosnians, Kigelies, Tibetans, Afghans etc, taking place. To save themselves from cruelty, mayhem and death, the victim communities are forced to leave their hearth and home to take shelter elsewhere where they feel secure. When the victims seek shelter outside the territories of their countries in foreign lands, they are designated as 'refugees'. However, when the victims seek shelter elsewhere where they feel secure after being uprooted from their ancestral and natural habitat in a different part of their own country, they are termed as 'internally displaced persons'. The legal protection is given to the rights of the refugees by nation-states but the internally displaced persons do not receive such protection. It will be recalled that the Commission on Human Rights at its forty eighth session in 1992 requested the Secretary General of UN to appoint a Representative to study the human rights issues related to internally displaced persons. The Representative Mr. Francis M. Deng submitted, pursuant to the Commission of Human Rights resolution, voluminous reports carrying recommendations in respect of 'Internally Displaced Persons'. However, in the absence of any specific reporting from the United Nations country mechanism in India, Mr. Deng could not recommend any specific measure for the 'Internally Displaced Persons' in India. The Government of India is also, to a large extent, responsible for keeping in the dark the world at large regarding this vital and grave issue. It probably felt shy of revealing the truth lest it should unleash a process that will bring forth the 'Whole Truth' which may not suit it due to its political compulsions.

But neither this august house nor I have any such political compulsion. Therefore I submit that the terrorist violence in Kashmir has involved a mass massacre of the members of the Kashmiri Pandit Community at the hands of the Kashmiri Muslim terrorist groups. The terrorist killings have been accompanied by torture unheard of in the annals of human history. Torture deaths have been brought about by inhuman practices such as strangulation, lynching, branding with red hot irons, draining of blood, slicing, gouging of eyes before assassination, raping before killing, breaking of limbs, dragging to death, drowning alive and

dismemberment of body. Although the sufferance of Kashmiri Hindus dates back to the fourteenth century, yet it reached new heights during the period 1989-90 when an armed struggle was unleashed against the Pandit community of Kashmir. One thousand of its members were killed; more than one hundred of its cultural symbols and places of worship were destroyed and more than 20000 of Pandit houses burnt. The whole community was forced to leave its homeland, Kashmir, and take refuge in Jammu, Delhi, Udhampur and some other cities in India.

The terrorist violence did not spring suddenly. In 1947, when the political power passed on to the 'democratic government' in J&K State, the community of Pandits was soon subjected to a process of exclusion and liquidation. They were reduced to a position wherefrom they could not assert politically. This process was further strengthened with the presence of Islamic fundamentalism and terrorism. A situation arose, with a lightening speed, during the night of intervening 19-20<sup>th</sup> January 1990, which made it clear to the community in Kashmir that their lives and properties, their honour and religion, their families and women-folks in particular were seriously endangered. Hell was let loose when the tape-recorded message, urging the Kashmiri Muslims to rise against India and the Pandits to save and protect Islam were beamed, throughout the night, from mosques. Simultaneously, targeting members of the Pandit community, molestation, and selective killings took place.

All this ultimately resulted in the mass exodus of 3,50,000 members of the community. It needs to be mentioned here that an equal number of Kashmiri Hindus had been already hounded out of Kashmir since 1947 due to various 'reasons'.

Misfortunes never come alone. One facet of the multidimensional human rights violation against the Kashmiri Pandits is the health trauma – physical, mental and psychological, resulting from the forced exodus of their community. They, after their exodus, became victims of heat-strokes, accidents, tropical diseases, pulmonary diseases, renal colics, skin diseases, sexual and reproductive problems, low birth-rate, insomnia, loss of appetite and feeling of depression. The prevalence of diabetes among the Kashmiri Pandit displaced people has suddenly assumed epidemic proportions. The displaced community, which has survived homelessness, terrorism and economic deprivation, now faces the threat of

biological extinction through the ravages of diabetes, with all the accompanying impediments including the impotence and low birth-rate.

The Kashmiri Pandit displaced community today faces the threat of survival, extinction and dismemberment. Thanks to the country's policy of neglect and apathy, the community is subjected to apartheid in its own country. In 1993, when the National Human Rights Commission (NHRC) was established in India, the Kashmiri Pandits, for the first time in recent history, found a forum where its miserable plight might find the long awaited redress and cure. It is now for the last five years, after submitting full-fledged reports, regarding the human rights violations to NHRC, that the Pandit Community of Kashmir awaits the Commission's decree regarding genocide, exodus and apartheid of the Kashmiri Pandit Community. But the other fact is that the Union of India and the Government of J&K have converted the battle of human rights into a war of vicious legal and technical formulations which has raised questions even on the jurisdiction of NHRC over the J&K State. The Government of India used 'Migrant' nomenclature for the displaced people to hide the real nature of their displacement. I fear that the Government of India continues to be in deep slumber. But before it is too late, I would request this august house to permit me to invite the intervention of UN bodies particularly UNESCO to take care of the Internally Displaced Community of the Kashmiri Pandits. My suggestion has no political angle to be otherwise misconstrued. It is the prime duty of the world conscience to save a dying ethnic group, its language, its cultural tradition, its religion, its education and its homogeneity. Does the UN body actually need any permission to initiate a process for saving the humanity or a part of it? I hope it is not so.

My community, even in this state of neglect, will not lag behind in asking the relevant authorities both in India and in the UN for creation of a process for investigating and prosecuting the forces responsible for genocide, exodus and apartheid of the Kashmiri Pandit community. I plead for such a situation due to my deep sense of duty towards history. Nuremberg trials took many years to take shape and I believe the truth has to prevail sooner or later. In order to bring the tangible results regarding the situation of internally displaced community of Kashmiri Pandits, I suggest that :

1. A full-fledged authority at the level of UNESCO be established to save the culture, language, education and religion of the Kashmiri Pandit displaced community.
2. The UNESCO with its instrumentalities in India be instructed to immediately take cognizance of the matter and initiate a process of relief to the needy.
3. A group consisting of UNESCO officials, the Government representatives and the community leaders be formed to discuss and decide upon important issues of concern regarding the community.
4. The community leaders be imparted training in human rights and their application.
5. A Summit be called at a higher level at UNESCO H/Q to consider the issues of internal displacement in general and Kashmiri Pandit displacement in particular, since this issue has not been given as much importance earlier as it needed.

We have assembled in the city of Pune. The city of Pune has thrown dazzling lights of knowledge throughout its history. I pray that this Conference at Pune, alongwith the knowledge, bestows wisdom upon all of us, enabling us to decide what is right and what is wrong. I have in my humble way, made a historically conscious effort to put on record the facts regarding an issue which many, for their own reasons, would try to hide. I enjoin upon all to pick up the thread and initiate a process that would save the community of Kashmiri Pandits, with a recorded and written history of 5000 years, from plunder and further disintegration, annihilation and extinction. If we fail as a society or as a nation or as humanity to address this key issue today, it will be anyone tomorrow in the same distress. It may be you or he or anyone. A step today is a stride tomorrow. Therefore let us arise and awake and prove ourselves to be an inspiration for the generations to come. Thank you.

## Report of Rapporteurs

---

Asia and Pacific Regional Conference on  
**'Education for Human Rights'**  
Pune, India 3-6 February 1999

Organized jointly by

- World Peace Centre, MAER's MIT, Pune
  - UNESCO, Paris; Office of the High Commissioner for Human Rights, Geneva.
  - National Human Rights Commission of India
  - Indian National Commission for Co-operation with UNESCO
- 

### 1. Recognition and thanks

Participants of the **Asia and Pacific Regional Conference on Education for Human Rights** wish to pay tribute in the first instance to the vision of the organizers and the team of people whose efforts made this conference possible. In particular, the participants wish to recognize and are grateful for the enormous contributions offered by the Chairman of the Conference Organizing Committee, Dr. Vishwanath D. Karad, members of the Advisory Council, and the Chief Patrons – in particular the Honourable Dr. Frederico Mayor, Director-General of UNSECO in Paris and his staff. Participants have also been exceptionally well served by the willing and helpful support of the team of volunteers assembled for this event and take this opportunity to extend warm thanks and appreciation for all their assistance. Gratitude is extended also to the wider community of MIT and the city of Pune for their warm and welcoming hospitality.

### 2. Thematic basis of conference deliberations

Readers are urged to refer to the published conference papers for further detail.

As Dr. Karad noted in his, welcome address that the timing of the conference at the sunset of the twentieth century and the unique nature of the event, being the first international gathering of its kind for the Asia Pacific region, provided a timely opportunity to canvass some of the great challenges and opportunities in human rights education for the new millennium.

One of the great advantages of an international gathering is the opportunity to share reflections, achievements, failures, challenges and ideas for future opportunities and to learn from the experiences of others. The conference provided a forum through which the commonality of regional concerns was highlighted as well as a platform through which peculiarly national issues of concern were also raised.

Discussions and deliberations of the conference were underpinned by six key points of recognition:

- That education is a fundamental human right and a precondition to the universal enjoyment of human rights.
- That education for human rights is a crucial tool for strengthening civil society, enhancing and enjoyment of human rights by all – especially the most disadvantaged in our communities – and protecting the vulnerable from abuses of power and excesses of those in authority.
- That rights are always balanced by responsibilities
- That the philosophical underpinnings and practical application of education imperatives cut across both the formal and non-formal sectors,
- That the non-government sector plays a crucial role in the advancement of rights education, and
- That the goal of human rights education is the creation of a culture of human rights that cuts across all sectors in society – across economic, political, social, religious and cultural divides and which works for the common good of all people.

**(a) Regional Challenges**

This report notes that the Pune Declaration adopted by the conference embraces a detailed summation of the very practical challenges confronting the Asia Pacific region as we move into the new century. Presentations at the conference canvassed these challenges comprehensively. They include the often adverse and detrimental social and economic circumstances facing the region which impact particularly hard on those suffering especially disadvantageous circumstances. The opening statements

enunciated this challenge for human rights education very clearly when it was said that the curse of poverty reduces human rights to meaninglessness. Poverty is the worst of human rights violations that has bound people in subjugation for centuries. This theme of poverty as a fundamental challenge in human rights education was revisited throughout the conference.

In times of political uncertainty and change, where globalization threatens cultural integrity as well as economic stability especially in smaller and more vulnerable communities, presenters stressed that the need for human rights education is ever more urgent.

Concrete examples were provided of human rights abuses that must be met by the education imperatives including the erosion of civil rights, abuses by the military and police and the destruction of communities as a result of communal violence.

The needs of societies recovering from the violence of war or the excesses of repressive regimes were noted. In his paper on *Education for Human Rights in Cambodia*, Mr. Thun Saray said that “violence, abuses of power and human rights abuses are the normality”. Mr. Thun Saray outlined the strategies and activities of the human rights education programme the primary goal of which is to strengthen civil society and progress peaceful development.

An example was also provided from Romania. In their paper, Dr. Lidsia Elena Kozma and Dr. Emil Micu outlined the priorities given by the government to the adoption of international human rights standards, the complementary human rights programme of the Ministry of Education that addresses reforms with regards to the rights of minorities, the preservation of culture and language and the expansion of educational parameters in general.

Concerns of Pacific peoples were highlighted by Mr. Chaitanya Lakshman of the University of the South Pacific in Fiji. The Pacific region comprises one third of the globe and includes 14 independent countries, but as yet a few of them have acceded or ratified the six major international human rights instruments. But even as human rights violations continue to occur, innovative non-formal human rights education

programmes are being developed. It was noted that a very specific challenge is the need for a Pacific regional human rights organization. The conference was delighted to note that a proposal for a UNESCO chair in Human Rights for the Pacific region to be based in the South Pacific Centre for Human Rights was readily accepted by UNESCO's representatives.

**(b) National challenges**

In introducing the host city of Pune, Dr. Karan Singh paid tribute to its historical role in the spiritual regeneration of India and as a centre of social reform and the home of great thinkers and leaders. Speakers from the host country India highlighted the interweaving educational principles and the practical application of education programmes at both the formal and non-formal sectors.

Vigorous debate about the myriad challenges in and priorities for human rights education within the host country was voiced in the conference. **From Kashmir in the north, from where internally displaced victims of communal and other violence raised pleas for help\***; from Tamil Nadu in the south where human rights and welfare educationists are working with the very poorest women and children; to educationists working with limited resources, the voice of Indian commitment to human rights education was heard strongly.

**(c) Challenges in the formal and non-formal education sectors**

Presentations and discussion at the conference also embraced a comprehensive discussion of the styles and focus of education initiatives and the broad canvass on which such initiatives must be refined and developed. The conference highlighted the very diverse nature of education priorities in the formal and non-formal sectors. The development of curriculum, specific training modules for use by teachers in the school context; the urgent need for human rights training programmes directed towards the military and police through the community based training and education models for women and children in particular were highlighted.

As an example for 'formal sector' education programs, Mr. Bruce Coleman provided an outline of the school based education programme of the New Zealand Human Rights Commission. This programme has focused on a review of the curriculum content of primary and secondary schools throughout the country and a complete re-write of such curricula to embrace broad human rights concepts including leadership, rights and responsibilities and social justice.

Many examples were provided of creative and situation-specific education initiatives undertaken to address particular needs. Papers by Mr. Jefferson Plantilla of Human Rights Osaka and Mr. Lakshman of Fiji provided comprehensive descriptions of non-formal education initiative across a broad range of community, institutional, regional and cultural sectors. The need to tackle human rights education of the military, the police, the civil service, health providers and the media was a recurring theme.

From a different perspective the crucial role played by media in shaping and influencing public opinion and in human rights education and awareness was also raised.

**The non-formal education sector in India is vigorous and sweeping in its breadth of activities and notable for its embrace, and guidance of spiritual and philosophical teachings. This approach is widely reflected in the presentations.**

### 3. Summary

Participants have heard from a broad range of speakers representing issues of national and international concern, and from diverse philosophical and practical perspectives. In his opening address Dr. Karan Singh highlighted the four pillars of education:

- Learning to know – putting new technologies to use for the benefit of the welfare of humanity and the eradication of poverty, not the eradication of the poor.
- Learning to do—in which he urged people not simply to be consumers of information but to continue to be grappled by conscience in the application of that information.
- Learning to be – in which he referred to one's aesthetic responsibilities.

- Learning to live together – we can reach to the moon, the planets and the stars but we have not yet learned to live together.

Participants were also reminded of the contexts in which the challenge of human rights education was being faced. It is now time that the philosophers, educationists, social scientists and other intellectuals join hands together to set things right.

Perhaps the most inspirational perspectives came from young people themselves in the youth session where a succession of dazzling young intellectuals presented perspectives on human rights education from the voice of youth.

#### **4. Recommendation for future action**

**The Pune Declaration outlines the formal outcomes and recommendations of the conference. However the reporters would like to draw attention to some suggestions contained both in papers and in informal discussion.**

Presenters reflected, to some extent, a commonality of concerns perhaps best summarized by Mr. Akram H. Chowdyury of Bangladesh including lack of government policy on education, lack of enthusiasm in organizations of authority such as the police and lack of adequate training materials and trainers, and called for the development of methodologies and policies to address these concerns.

In discussion, participants have indicated that a very constructive future action would be a collaboration on and sharing of specific educational initiatives in both the formal and non-formal sectors. Such a conference or gathering would be very practically oriented, taking as its focus an assessment and review of teaching and curriculum models and a frank accounting of achievements and failures in human rights education programmes.

This sharing of expertise and resources will go some way towards alleviating the unnecessary duplication of services and programmes; fast tracking successful/effective education models, sharing precious resources and expertise and preventing the implementation of models that has not achieved results of their expected outcomes.

Another specific outcome proposed in discussion is a meeting to enhance the skills of human rights advocates and educators in utilizing media and mass communication skills for the enhancements of their work, such a meeting to also provide a forum to engage with media organizations themselves about human rights education priorities.

It is hoped that UNESCO will give consideration to such opportunities at the earliest possible opportunity.

\*\*\*\*\*

**\* The Kashmiri Pandit displaced community was represented by Sh. Ashwani Kumar Chrungoo, President, Panun Kashmir Movement(PKM) at the Conference.**

Address delivered by :

**Ashwani Kumar Chrungoo,  
President, Panun Kashmir Movement(PKM)  
& Chairman, Human Rights Committee,  
India  
Ph.: 0191-2533252**

**Conference on Human Rights  
(The Hague, Netherlands; 4-6 July, 2003)**

**Hon'ble Chairman,  
Distinguished Ladies and Gentlemen,**

It is my privilege to be here amongst all of you in this historically important Conference on Human Rights at the historically important venue – Den Haag (The Hague).

I represent the minority Pandit community of Kashmir. The Hindus of Kashmir are generally known as Kashmiri Pandits. Consequent upon the genocide and ethnic cleansing in Kashmir, my community has been forced to live as refugees in its own country- India, that is Bharat. We have over five thousand years of written history testifying to our living in Kashmir. The Neelmata Purana and Rajtarangni establish that we are the aborigines and the indigenous people of Kashmir. Kashmir has been the cradle for the growth of our culture, religion, art, architecture and philosophy. The philosophical, religious and scholarly attainments of our ancestors in Kashmir Shaivism have been acknowledged since early times. It is, therefore, that we are usually referred to as Kashmiri Pandits. The Kashmiri Pandits have the distinction of being the messengers of Buddhism to Tibet, China, Ladakh and Central Asia. Besides being the pioneers of Vaishnava art and architecture, Advaita, Sarvastvadin school of Buddhist philosophy and Sanskrit literature, the Kashmiri Pandits have volumes of scientific and geographical research to their credit. The snow clad mountain peaks of Kashmir and its rivers, springs, lakes, meadows and forests have a place of pride and a role in our culture and religion. Our shrines, temples and archeological monuments are

found in every nook and corner of Kashmir. The world famous and unique “Ice Lingam” of Amarnath cave, colour-changing spring of Kheerbhawani at Tulamula, Srinagar, Sharika Bhagwati shrine at Hariparbat, Shankaracharya temple at Srinagar, Martand temple of Mattan and Sharda Mata temple on the banks of Krishenganga (now in Pakistan Occupied Kashmir- POK ) tell many things which the world needs to know.

Respect for human dignity cuts across cultures. The values held by different peoples are at the roots of universality. Procedures and practices may vary, but at the fundamental level people desire some values to nourish. The belief that human beings are free and equal is universal, and it gives birth to right to life, freedom and expression. The Universal Declaration of Human Rights and the International Covenants (International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights) adopted by the General Assembly of the United Nations underline the Universal recognition of Human Rights. The Declaration makes it obligatory for all people and all organs of the society including invariably the State to protect and promote Human Rights.

We are the law abiding and peace loving people, not seething with and consumed by inspired hate, deception and fanaticism covered under a false religious cloak. The core agenda of the Muslim majority in Kashmir is to establish an absolute and exclusive claim on the territory of Kashmir. This goal has almost been achieved through the Islamization of the territory, by aggrandizement & encouraging intolerant way of life in every field; political, social and economic. The total political, social and religious structures of all shades in the valley of Kashmir converge on this point, notwithstanding their mutual disagreements in approach.

It started with Muslim majoritarianism and Muslim precedence in all walks of life marked with fundamentalism, corresponding to the global ‘Pan-Islamic Movement’. The Kashmiri Pandits are the real and pure aborigines of the Valley and doing away with them continues to be an essential ingredient of their (fundamentalists’) agenda. The slow and silent but continuous exodus from 1947 to 1989 followed by genocide and forced mass exile of the Kashmiri Pandit community is the visible consequence of the ruthless execution of this common agenda. The massacres of the left-out Kashmiri Pandits in the valley are the

consequences of this nefarious design. The wave of Talibinisation of the sensitive and strategic territories in the South Indian Region has also found nursing grounds in the Kashmir Valley where the global Islamic forces and finances have taken routes. This has given a fillip to the grand design of Islamisation of Kashmir. The genocide and ethnic cleansing of the aborigines comprising Kashmiri Pandits, and Islamisation of the territory have almost been completed and accomplished.

**Due to the genocide and ethnic cleansing in Kashmir at the hands of the fundamentalists and terrorists, the Pandit community of Kashmir has suffered enormously. The tip of the iceberg is presented here :**

* Killings due to organized massacres	-More than 1000 members
* Vandalization, loot, arson and burning of cultural symbols and shrines	- 250 to 300
* Burning of residential and commercial properties	- 25,000
* Deaths due to snake bites, accidents and other diseases (after exodus from Kashmir)	- More than 3000 members
* Number of members of the Pandit community who were forced to live in exile	- 5,00,000
* Diseases that have overtaken the members of the community	- Renal failure, Heart disease, Cancer, Diabetes and hypertension

In spite of all this, Kashmiri Pandit community, over the last 14 years of exile, has continued its struggle for a dignified life. The struggle of the exiled Pandits over the last 14 years has made the international community aware about the territorial claim of Kashmiri Pandits (the aborigines of the land) on the valley. By raising the issue of genocide, exodus and ethnic cleansing in its true perspective mostly by the Pandits themselves, both at the national and the international level, at various forums and through the media, we have succeeded in educating the world opinion of the real facts. It is because of these efforts that Muslim political structures of Kashmir feel embarrassed and frustrated by the political implications of Kashmiri Pandit assertion and determination viz-a-viz their claim on Kashmir territory as aborigines of the valley. The displaced Pandits express themselves freely while in exile, being out of the clutches of Muslim fundamentalists and terrorists. For us this was not

possible while living in the valley under suppressing and suffocating conditions created by the established Muslim majoritarianism and Muslim precedence in all walks of life. Here I would like to quote excerpts from some important findings, orders and reports of the accredited Human Rights bodies and institutions:

**After undergoing a series of discussions with the Panun Kashmir Movement(PKM) and the Government representatives on the REPORT submitted by the PKM, the National Human Rights Commission of India referred the case to its court that made the following important findings in the order dated 11.6.1999:**

- i) The crimes committed against the Kashmiri Pandits are, by any yard stick, deserving of the strongest condemnation;
- ii) Whether the Commission looks to the data provided by the complainants, or to that provided by the State Government or the Union of India, the facts are, beyond question, stark and tragic;
- iii) There can be no gainsaying the acute suffering and deprivation of the community;
- iv) Commission is constrained to observe that acts akin to genocide have occurred in respect of the Kashmiri Pandits;
- v) In the minds of and utterances of some of the militants a “genocide type design” may exist;
- vi) The community of the Pandits has felt that it has not been given the understanding and the reliefs it deserved and to which it is entitled. The Commission has empathy for their feelings. There is no doubt as to the immense suffering caused to the Kashmiri Pandit community by the acts of terrorists and militants active in the Valley of Kashmir, particularly in the period starting in the later part of 1989;
- viii) There is a general view that some 3,00,000 Kashmiri Pandits have had to leave the Valley for reasons of terror unleashed in their home state and conditions of insecurity that they experienced as a result;

**Hiram Ruiz, a policy analyst at the US Committee for Refugees reports  
(PTI-Washington Aug. 12,1998)**

“ The fundamentalist terrorists had driven the Pandits out by systematic ethnic cleansing.....

There were 250,000 displaced Pandits in camps at the peak”

**The J&K High Court Verdict**

**(Jammu. Apr 6, 2000- report published in Daily Excelsior)**

“The conditions which forced Kashmiri Pandits to migrate from the Valley in 1990 cannot be equated with any other situation”. The court observed -“the entire valley had been declared as disturbed by an Act and nearly two and a half lakh people had to leave the permanent place of abode. The migration has no comparison.”

**Frank Pallone, Demoratic Congressman in US:**

**(UNI, Washington, July 15, 1999)**

“I along with fellow law makers plead for describing the treatment meted out to the Pandits in the trouble-torn State as genocide .... I hope that the attention of the United States and the world community will finally focus on the long-ignored plight of the Pandits.”

**Amnesty International report**

**(London-AI Report, Aug. 1997)**

“Among the civilian population, Hindus have been frequently targeted by the armed opposition groups (in Kashmir). Estimated 2,50,000 to 3,00,000 have fled the Kashmir valley since armed opposition groups’ activities manifested in late 1989 and taken refuge in Hindu majority area- Jammu or in camps in and around New Delhi.

**Those that have stayed behind in Kashmir have been subjected to frequent abuse by armed opposition groups (Islamic terrorists). Dozens of killings have been reported over the last few years.”**

Besides this, the agriculture, horticulture and other commercial properties of the Pandits in Kashmir are under the illegal and unauthorized occupation of the local Muslim population of the Kashmir Valley for the last thirteen years of exile of the Pandits. Passing of

an Act regarding immovable property of the displaced Pandits in Kashmir by the J&K State Legislature even could not give any relief to the Pandit community in this regard.

In addition to what has been stated above, the Pandits of Kashmir declare that they are the first and natural party to Kashmir and have a valid & legal territorial claim on Kashmir as the indigenous people and aborigines of Kashmir. In the event of the Muslims of Kashmir being made a party to the negotiations between India and Pakistan on Kashmir, the Kashmiri Pandits stake their claim for being a party to the negotiations at all levels and further declare that they shall achieve their goal even at the cost of their lives. It is for this august house to ponder, discuss and suggest the ways and means that shall help pull out the minority Pandit community of Kashmir from the morass it is wallowing in.

We are reminded by the great noble laureate Alexander Solzhenitsin that in keeping silent about evil, in burying it so deep within us that no sign of it appears on the surface, we are implanting it, and it will rise again a thousand fold in future. When we neither punish nor reproach the evil doers, we are ripping the foundations of justice of which no trace will be left for our future generations for protection against evil.

Thank you.

\* \* \*

**Kashmiri Pandit victims of organized massacres by Islamic Terrorists in  
J&K State**

**(After the event of exodus from Kashmir in 1990)**

14 <sup>th</sup> Aug., 1993 - Sarthal (Doda)	- Sh. Kanya Lal Dooda
7 <sup>th</sup> June, 1995 – Bhadarwah (Doda)	- Sh. Ruchir Kumar Koul
21 <sup>st</sup> March, 1997 – Sangrampora (Budgam)	- Sh. Avtar Krishen Pandita
	- Sh. Piyrey Lal Pandita
	- Sh. Trilokinath Bhat
	- Sh. Bhushan Lal Bhat
	- Sh. Dilip Kumar Bhat
	- Sh. Vijay Bhat
	- Sh. Sanjay Bhat
15 <sup>th</sup> June, 1997 – Gool (Udhampur)	- Sh. Satish Kumar Bhat
	- Sh. A.K.Raina
	- Sh. Ravinder Kaboo
26 <sup>th</sup> January, 1998 Wandhama, (Srinagar)	- Sh. Moti Lal
	- Smt. Choti
	- Sh. Sanjay Kumar
	- Ms. Seema Kumari
	- Ms. Sarika
	- Ms. Vijay Kumari
	- Sh. Venan Kumar
	- Ms. Neema
	- Sh. Kashinath (Contd....)

26 <sup>th</sup> January, 1998 Wandhama, (Srinagar)	- Sh. Vinod Kumar
	- Sh. Shadi Lal
	- Smt. Shadi Lal
	- Sh. Vikas
	- Sh. Akshay
	- Sh. Badrinath
	- Smt. Asha Ji
	- Sh. Vinod Kumar
	- Ms. Jyoti
	- Ms. Meenakshi
	- Sh. Rakesh
	- Sh. Vishnoo Bhat
	- Smt. Dulari
	- Sh. Trilokinath
5 <sup>th</sup> Feb., 2000- Telwani (Anantnag)	- Anshu
	- Sh. Ashok Kumar
	- Sh. Veer Ji Kumar
4 <sup>th</sup> March, 2000 – Brariangan (Anantnag)	- Sh. Brijnath Bhat
6 <sup>th</sup> March, 2000 – Pethibug (Anantnag)	- Smt. Nirmala Raina
23 <sup>rd</sup> March, 2003 – Nadimarg (Pulwama)	- Smt. Asha Jee
	- Ms. Rekha Jee
	- Ms. Girja Kumari
	- Princy
	- Ms. Sushma
	- Ms. Geeta Devi (Contd....)

23 <sup>rd</sup> March, 2003- Nadimarg (Pulwama)	- Smt. Sooma Wati
	- Ms. Rajni Kumari
	- Ms. Suman Ji
	- Smt. Chand Rani
	- Sh. Lassa Koul
	- Sh. Bansi Lal
	- Sh. Rakesh Kumar
	- Sh. Mohan Lal
	- Sh. Pradiman Krishen
	- Sh. Amit Kumar
	- Sh. Lok Nath
	- Ms. Preetma Kumari
	- Sh. Avtar Krishen
	- Sh. Bansi Lal
	- Sh. Triloki Nath
	- Sh. Radha Krishen
	- Sh. Manish
	- Sh. Suraj Kumar

\* \* \*

*The names of the Kashmiri Pandits killed in the bomb blasts, mine blasts, loot, Fidayeen attacks, combat operations, suicide bombings, arson, railway and bus explosions are not included here.*

Our salutes to those Kashmiri Pandit martyrs who sacrificed their lives for the last fifteen years while combating terror and terrorism in the State of Jammu & Kashmir.