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India: New government must implement effective policies to ensure protection of human rights in Jammu and Kashmir

Amnesty International India welcomes the pledge of the new central government to ensure the security of all citizens in Jammu and Kashmir (J&K) in the wake of Defence Minister Arun Jaitley's visit to the state. In particular, the organization welcomes the recent overtures made to rehabilitate families of an estimated 150,000 to 200,000 Kashmiri Pandits who were forced to leave the state between 1990 and 1994 due to threats and intimidation from armed groups. At the outbreak of insurgency in the early 1990s, several prominent Kashmiri Pandit community leaders were killed and others intimidated by armed groups.

Amnesty International India welcomes the positive steps taken by the National Democratic Alliance Government, and urges the new government to take a comprehensive approach in implementing proposed policies, including consultations with all communities living in Jammu and Kashmir, and those looking to return there. The organization is also concerned that proposed steps do not adequately address India's obligations under international and domestic law to provide effective remedy and reparation to victims of human rights abuses, a necessary measure according community leaders to build confidence in the state and promote long-term stability.

Amnesty International India recognizes the government's duty to protect its citizens in situations of conflict from threats to their lives and security. Recent statements made by armed groups, including a video released by Al-Qaeda, have raised concerns within the government and civil society of heightened conflict in the region. The government should ensure that any response to these threats respects the human rights of those living in J&K, and the rule of law. These principles must be held in the highest regard even in the most challenging of times.

Despite the authorities' stated commitment to "zero tolerance for human rights violations," Amnesty International India has continued to receive consistent reports of human rights violations including allegations of extrajudicial killings, torture, and arbitrary detention by state security forces. The government must uphold its obligations under international law and the Constitution of India to provide effective remedy and reparation to all victims of human rights abuses, which includes prosecution of those suspected, irrespective of their position.

Rehabilitation scheme for return of Kashmiri Pandits

Press reports indicate that the central government will approve an enhanced rehabilitation and relocation financial package for Kashmiri Pandit families seeking to return to Jammu

and Kashmir. The previous Congress-led coalition government had also announced a return and rehabilitation scheme to Kashmiri Pandit migrants in 2008 which promised up to Rs 7.5 lakh [12,500 USD] to families for re-constructing homes. The new scheme promises up to Rs. 20 lakh [33,315 USD] per family.

Previously, the financial assistance was only available to families of Kashmiri Pandits who had sold their homes between 1989 and 1997, but the revised plan makes assistance available to all families, regardless of when they lost or sold their homes in the state.

The state government has promised a dignified return for the estimated 200,000 Kashmiri Pandits who were internally displaced to camps in the Hindu-majority Jammu region, or relocated to Delhi at the outbreak of the insurgency in the early 1990s. However, Amnesty International is concerned that there have been insufficient measures to build confidence and ensure the safety and smooth integration of families returning to the Kashmir valley. The state and central governments have made several attempts since 2003 to persuade Pandit families to return to their homes. According to the head of the Kashmiri Pandit Sangharsh Samiti (KPSS), Sanjay Tickoo, not a single family has returned to the valley. The KPSS estimates that there are currently 651 families living in the Kashmir valley, and up to 75,000 families who are eligible to return from outside the state.

“If the government wants them to come back, then they have to take into confidence the local politicians, all the civil society actors, both separatist and mainstream. That is the only way [violence between the communities] will not happen again,” Tickoo said.

Rashneek Kher, the founding member of Roots in Kashmir, an organization comprised mostly of young Kashmiri Pandits born outside the Kashmir valley, said that security and justice are the main concerns of Kashmiri Pandits looking to relocate to Kashmir. “No one left because of money in the first place. And no one will go back because of money. Not a single family went back to Kashmir when the scheme was first announced in 2008, and no one will go back now.”

Kher said that if the government is serious about taking steps to rehabilitate Kashmiri Pandits they must seek justice for Kashmiri Pandits killed during the conflict, and address issues like land scarcity.

A J&K police report in 2011 stated that 209 Kashmiri Pandits had been killed in J&K since 1989, but that charges had been established in just 24 cases. One notorious incident involved the deaths of 24 Kashmiri Pandits in 2003 by unidentified gunmen in Nadimarg. Eleven years later, investigations into this incident have yet to be completed. Ensuring accountability and remedy to victims of human rights abuses, such as unlawful killings, is a crucial confidence-building measure according to Pandit groups to restore faith in the government's ability to protect their community in Kashmir, and uphold India's obligation under international law to investigate and hold accountable those responsible for abuses.

Amnesty International urges the state government to ensure that religious minorities in the state are able to exercise all their constitutionally guaranteed rights, and that impartial and independent investigations are conducted into the killings at Nadimarg, and all other allegations of unlawful killings, with a view to bringing to justice those responsible.

Amnesty International also urges the Indian authorities to establish a rehabilitation programme to provide full and effective reparation including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition to all victims of human rights abuses in Jammu and Kashmir. The programme should be devised in consultation with victims and should take into account the different experiences and needs of people who experience conflict differently, as well as minority religious groups.

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For media queries please contact:

Durga Nandini, Senior Media Officer, durga.nandini@amnesty.org.in , +91 9711994035,
Twitter @nandinidurga

Himanshi Matta, Media Officer, himanshi.matta@amnesty.org.in , +91 8860182310
Twitter@himanshimatta