



January 30, 2013

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To

Shri Salman Khurshid,
Hon'ble Minister for External Affairs,
Ministry of External Affairs,
Government of India,
South Block,
NEW DELHI.

Sub: Representation for 'Indo-Gulf Reparation Mechanisms' – [Strategy Formulation and Implementation of a Mutual Human Rights Law and Reparation Mechanisms Between the Government of India and the GCC (Gulf Cooperation Council) countries, mandating our elected representatives and officials to eliminate discrimination and imbalances of Non-resident Indians (NRIs) working in different countries. This also involves the recognition and protection of the dignity and respect of individuals].

Dear Sir,

The petitioner is a citizen of India, and now resident in the State of Kerala. The petitioner was subjected to a most inhuman treatment by the authorities of U.A.E. They are detailed separately.

There have been momentous developments in relation to relations between people working in areas outside their own motherland. These include important international developments like UN General Assembly Resolution.

Here again, there had been dismal failure of the Government machinery to rise to the expectations of the toiling masses outside India. In particular, the experiences of those who work in the Gulf countries have been extremely agonizing.

The situation cannot be allowed to pass unnoticed by a responsible and civilized Government.



Many of the member states work in collaboration with the UN Human Rights Mechanisms and treaties detailed by the United Nations. A brief resume of such measures adopted in different countries are contained in Annexure 1.

The Charter of the Organization of American State signed in 1948, the Charter of Council of Europe adopted in 1950, and the similar Charter in Africa adopted in 1987, are prominent illustrations of the expanding vistas of Human Rights.

In this background, a clear-cut inter-Governmental working arrangement was an absolute necessity between India and the Gulf Cooperation Council (GCC) countries.

It is sad but true that such an arrangement is not even conceived of even at this late hour. Consequently, no regional inter-Governmental Human Rights Mechanisms or any procedure incorporating those precious liberties of citizens had been framed.

It has to be remembered in this connection that the remittances of these poorer sections buildup \$70 billion of US Dollars of the precious foreign exchange to India.

These wage earners, and hardworking citizens of India, should be insulated against any violations of Human Rights. The absence of an effective Reparation Mechanism assumes greatest importance in that background.

It has to be remembered that stories of torture and deprivation continue to flow steadily in the working conditions of the Gulf migrants. A most naked and cruel violation of Human Rights (torture included) is illustrated with reference to the personal experiences of the petitioner.

When the facts and files establish such wanton violations of Human Rights, a clear duty is implied on the part of the country wherein the Indian citizens had worked and added to the assets of that country, to give him effective reparation.

The following is the tragic story of the petitioner:

The petitioner was a businessman and investor engaged in the business of 'Trading and General Contracting' in Abu Dhabi, UAE for over 18 years. He was attacked by a posse



of policemen at his office; robbed of cash and valuables to force him to withdraw a lawsuit against a property owner. He sought intervention from the police. The police did come, but instead of helping him, he was shackled and literally dragged out of the office and on through the street in the presence of known friends and other members of the community. He was confined to a detention center and brutally tortured and later taken to central prison. It took six months thereafter, for the petitioner to have his first appearance in Court

He was implicated in a false case by the Police. The charge was about "Using force against Government employee and assault".

The Judges of both the Trial Court and the final Appellate Court of Abu Dhabi found that the petitioner innocent; 'a martyr'.

The Hon'ble Judges instructed the authorities to release the victim immediately.

The Judges declared that the case was wholly false, baseless and that it was fabricated by the police for personal gain.

The Court, therefore, while pronouncing its judgment ordered to restoration of the victim's dignity, and to compensate him for all his losses.

Any civilized Government, more so a Member of United Nations, should have hastened to implement the judicial directive.

Sad to state, the offending officials of the state ignored the judicial verdict and deported the victim, totally deprived of all his assets, papers and records.

This superstition of a judicial decision by executive fiat is rank subversion of the rule of law.

It is in this context that the convention becomes absolutely relevant. The Government should not delay any longer the follow up steps to ensure that the Indian citizens justice long overdue. (Annexure 2)

When in so many other countries the Charters have been established in pursuance to



Articles 55 and 56 of the UN Charter, India SHOULD NOT HAVE lagged behind.

When this grievance was placed before Justice V.R. Krishna Iyer, he was, despite his many critical disabilities, generous enough to give useful directions. This representation is prepared in the light of the guidelines suggested by him.

The grievances of the petitioner are intimately known to K. Sukumaran, Senior Advocate of the Supreme Court of India, who pleaded for the petitioner in the Hon'ble Supreme Court and in the High Court of Delhi. He was a former Judge, High Court of Kerala and Bombay.

The petitioner earnestly appeals to the Government of India to evolve an Indo-Gulf Reparation Mechanism, to wipe off the tears from the eyes of many thousand overseas Indians toiling in the desert land, and their family members.

The petitioner submits hereunder the major recommendations that could be considered by the Government expeditiously and meaningfully:

- a) Establishment of an 'Indian Migrant Cell'. It should have the required high status and power. Technical experts and involvement of a UN Special Rapporteur on Human Rights of Migrants, the UNHCR, the International Labour Organization (ILO) and the International Organization for Migration (IOM) included.
- b) Establishment of the MOA (Memorandum of Agreement) and MOU (Memorandum of Understanding) with regards to the Strategy Formulation and Implementation of a Mutual Reparation Mechanism Between India and the GCC countries for safeguarding the rights and dignity of NRIs and ensuring quick relief to the suffering migrants, as regards working condition, assurance for continued contacts with family and safe return to the home, without any tension, suspense or torment.
- c) Ensuring periodic visits by representatives of the Indian Government and of the Kerala and other State Governments about the living conditions of persons confined to prisons. That too is an incident of Human Right.



Reparation Mechanisms

Reparation Mechanisms Between India and Gulf Countries



- d) Educational arrangements to inform officials and non-officials concerned of the rights and interests of the migrants including the scope of UN Human Rights Special Procedures Mechanisms.
- e) To ensure effective and meaningful participation of the representatives of the Government of India in the meetings of Inter-American Charter Session, European Union Charter Session and the African Union Charter Session.
- f) Creation of a Reparation Fund on lines similar to the UN Trust Fund for Victims, for affording quickest relief as regards reparation to the victims of Human Rights Violation.

The petitioner prays that he may be afforded the facility to call on the Secretary and the Hon'ble Minister to explain the various aspects of the sufferings of the Indian migrants, with a view to make available to them the full protection of Human Rights in letter and spirit.

(Panikkaveetil K. Jabir)

Petitioner.