

COMMITTEE ON PETITIONS

(SEVENTH LOK SABHA)

NINETEENTH REPORT

[Representation regarding grievances and demands of
Indians working abroad]



(Presented to Lok Sabha on 17.8.1984)

LOK SABHA SECRETARIAT
NEW DELHI

August, 1984/Sravana, 1906 (Saka)

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COMPOSITION OF THE COMMITTEE ON PETITIONS

(1984-85)

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Shri S. S. Chawla—*Senior Legislative Committee Officer.*

**NINETEENTH REPORT OF THE COMMITTEE ON PETITIONS
(SEVENTH LOK SABHA)**

I

INTRODUCTION

1.1 I, the Chairman of the Committee on Petitions, having been authorised by the Committee to present the Report on their behalf, present this Nineteenth Report of the Committee to the House on the representation regarding grievances and demands of Indians working abroad.

1.2 The Committee considered the representation at their sittings held on the 5th October, 1981, 3rd November, 1982 and 22nd May, 1984.

1.3 The Committee considered their draft Report at their sitting held on the 9th August, 1984 and adopted it.

1.4 The observations/recommendations of the Committee on the matter have been included in this Report.

NEW DELHI;

K. P. TEWARI,
Chairman,
Committee on Petitions.

Dated the 9th August, 1984
Sravana 18, 1906 (Saka)

II

REPORT

The President, Welfare Association of Indians Working Abroad, Trivandrum, submitted a representation dated the 28th February, 1981 regarding grievances and demands of Indians working abroad.

A. Petitioner's Grievances and Demands

2.2 In his representation, the petitioner stated as follows :—

“(1) Thousands of Indians are working abroad and sending about Rs. 2,500 crores annually. This is about 50% of the total Foreign Exchange earnings of our country. At a time when we need huge amount to buy high cost oil, cement etc. the Foreign Exchange earnings of the Indians working abroad is not a small thing. But nobody bothers to enquire into the untold sufferings of the Indians abroad in their attempt to make their remittances. Repeated requests to the Central Government and State Governments remain a far cry.

(2) Government give several incentives and facilities to exporters and industrialists in India to augment their export and Foreign Exchange. The exporters are even allowed among other benefits to import, without payment of duty, things worth and equal to 25% of the Foreign Exchange they earn. The Indians working abroad are not given any such concessions. Is it because they stay abroad and make only representations and the exporters and industrialists make their constant cry and exert influence on the spot?

(3) The Customs authorities treat the Indian passengers visiting their motherland to see their countrymen, relatives and friends as criminals. Those who work abroad will naturally bring some things for their people. The Customs officials charge heavy duty on these things, snatch things from their baggage, detain them unnecessarily, arrest them and send them to jail as criminals. Cannot they be treated as human beings? Why not they be given the concession granted to exporters? Are they not Indian citizens? Working abroad to earn Foreign Exchange for India when it needs most? Why this differential treatment? Is it

because they went abroad on their own risk and cost and did not burden Government of India as exporters and industrialists.

Worst of all, they are followed even outside custom offices on things passed out but not written in the inventory of things passed out. Customs officials deliberately do not write the names of things in the inventory only to follow them out and to harass them. Instances are many.

(4) Besides this the Indians abroad are put to severe harassment in different foreign countries. They are rendered jobless, arrested, put in jail punished without trial and even denied medical care.

(5) See, Indians entered different countries either on valid visa or N.O.C. issued by foreign countries on the application of their citizens (sponsors). The sponsors in most cases do not abide by the agreement, do not give them job or agreed salary and as such create problems for Indians abroad. The entry of Indians there is legal. The offenders are sponsors, In spite of this fact, the foreign countries accuse Indians, arrest them and harass them. The sponsors, actual offenders, are set free. While Indians are arrested and sent away on account of non-employment, the Foreign Governments are recruiting employees from other countries than India. Is it not a state of affair in which Government of India should intervene ? Is it not a matter in which Government of India alone can do something in our favour ? Is it not the normal and natural duty of the Government to help us, who earn a good amount as foreign exchange every year ? Does not natural justice and human rights, warrant the urgent intervention of the Government. Our repeated requests remain unheard.

(6) Therefore, this is to request the representatives of the biggest powerful body of the nation to intervene in this matter, make an enquiry into the poor state of affairs of the Indians abroad and be pleased to make the Government of India to take action or pass orders whatever is necessary and do the following :—

- (i) A Committee may be constituted by Government of India to go into the affairs of the Indians working abroad, and make recommendations for ameliorating their difficulties.
- (ii) Indians working abroad and visiting India bring things for their family may not be arrested as criminals, except those who bring prohibited items to India without import licence.

- (iii) Indians working abroad may be permitted to bring wearing apparel and things for their use worth and equal to 25% of the amount they have remitted to India as it is allowed for exporters. It will work as an incentive for Indians to remit more to India and to earn more foreign exchange.
- (iv) Step may be taken through Government of India, foreign Embassies and Consulate Generals to avoid arrest of Indians abroad and to save them from the cheating of the sponsors.
- (v) Steps may be taken to see the sponsors do not violate agreements and jeopardise Indians. Steps may be taken so that the foreign countries treat Indians according to Indian law, International law or Foreigners Act.
- (vi) Steps also may be taken to see that all things passed out of customs office may be entered in the list of things passed out."

B. Comments of the Ministries of External Affairs & Finance

2.3 The Ministries of External Affairs and Finance (Department of Revenue) who were asked to furnish their factual comments on the aforesaid grievances and demands stated as follows :—

Ministry of External Affairs :

"Suggestions on S. No. 6 (i), (iv) and (v) concern P.V. Division of Ministry of External Affairs. The position is as follows :—

Suggestion No. (6) (i) :

During the course of recent enquiry by Estimates Committee on Overseas Indians an assurance has been given that an in-depth study on the working conditions of Indian workers in the West Asian countries would be conducted to determine the nature and extent of exploitation and evolve ways and means to curb such exploitation. The matter is under active consideration.

Suggestion No. 6 (iv) :

As for the steps to avoid the arrest of Indians abroad and to save them from cheating by sponsors the position is that when abroad, Indian nationals are subject to local laws. If Indian nationals are arrested by the local authorities Consular facilities are available to them through

our missions in these countries. If Indian workers are cheated by sponsors they can take recourse to the local legal remedies available. They can also approach our Missions in these countries for appropriate intervention with the employer or the governmental agencies.

Suggestion No. (6) (v) :

Steps are being taken to ensure that the employment agreements signed between the employers and the Indian workers are legal documents in terms of local laws with a view to ensure compliance of terms and conditions through local legal courts. Our Missions provide all necessary guidance and assistance to Indian nationals whenever any cases of violation of terms and conditions of employment agreements are brought to their notice. Each country has its own laws for expatriate workers. In case any Indian national has a grievance against treatment meted out to him which may not be considered in conformity with these provisions our Missions can be approached for necessary assistance to obtain redressal through the local Government."

Ministry of Finance (Department of Revenue) communications dated 27th April and 6th July, 1981 :

"This Department is concerned with paras (3), (4) (6) (ii), (iii) and (vi) only of the representation. Factual position on the same is furnished below :—

- (1) In order to ensure that passengers arriving at the International airports are cleared through Customs expeditiously and with courtesy, several measures have been taken in the recent past. The number of supervisory staff at the airports have been increased to ensure speedy clearance of passengers to curtail the scope of harassment and corruption. Senior Officers of the rank of Additional Collectors of Customs have been posted at Bombay and New Delhi airports for speedy redress of the passengers' grievances and with a view to ensure that passengers are cleared with speed and courtesy. Complaint boxes have been fixed at conspicuous places in the Customs Hall and announcements are made that the passengers can put their complaints in those Complaint Boxes or see the Assistant Collector of Customs for redressal of their grievances. On the basis of complaints received from the passengers, appropriate action has been taken against a number of officials at International airports.

- (ii) As regards the proposal for enhancement of duty free allowance to the Indians working abroad in relation to the foreign exchange remitted by them, it may be worthwhile to give a background of the change in the Baggage Rules and the Scheme of duty on baggage.

During the past more than one decade, there has been an enormous increase in the air traffic and it continues to rise, Taking in view this phenomenal rise in air traffic and the difficulties in the clearance of baggage of the passengers, the Government of India had appointed an Expert Committee in 1976 which made a number of suggestions for liberalising the Baggage Rules.

Pursuant to the recommendations of the Committee, the Baggage Rules and the Import Trade Control Public Notice were thoroughly revised and liberalised. In fact, the baggage allowances were more than doubled with the main idea that the cases of unauthorised and excess imports would considerably be reduced, thus avoiding the need for time consuming adjudication proceedings. Despite this liberalisation, the objective could not be achieved because of the inherent desire amongst the passengers to bring more and more goods and the craze for foreign goods. The enormous rise in the air passenger's traffic on the one hand, the bunching of flights coupled with constraints of space on the other, necessitated speedy clearance baggage. The Government of India had therefore, appointed a Study Group to recommend measures for improvement in the Customs clearance of international passengers which submitted its Report in September, 1979. The chief recommendations of the Study Group were that proper incentives should be given to passengers to contain their baggage within the limits of free allowances and simultaneously the Baggage Rules/the structure of duty should be so constituted as to dispense with the requirement of appeals/ adjudications etc.

Under the existing Rules, a passenger can bring articles of personal wear (including a wrist watch up to a value of Rs. 500/-) without duty and in addition thereto, he is allowed to import free of duty articles upto a value of Rs. 1000/-. Besides, in the case of passenger who has been engaged in his profession abroad for over three months, articles actually used for running his household, namely, utensils, tableware, kitchen appliances etc., up to an aggregate value

of Rs. 1000/- may be imported free of duty. In the case of passengers coming on transfer of residence, all items of baggage except motor vehicles, airconditioners, refrigerators, deep freeze and alcoholic liquor are allowed duty free if they have been in one's use abroad for over one year. Even in the case of refrigerators, air conditioners and deep freeze brought under transfer of Residence Rules, a concessional rate of duty has been fixed by issue of appropriate notification.

Over and above the free allowances admissible to a passenger, he can also bring articles of baggage other than a few items listed up to the value of Rs. 2,000/- on a concessional rate of duty of 155% and it is only when a passenger chooses to bring goods in excess of these limits that he has to pay duty of 325%. This rate of duty of 325% not only includes customs duty but also takes care of the elements of fine and penalty which would have been otherwise leviable.

- (3) Lately, we have brought about a further improvement in the system of clearance of passengers by introducing a walk Through Channel with effect from 6. 2. 1981. Under this arrangement, passengers who have nothing to declare can walk through customs with their baggage, the check being confined to the baggage of only a small percentage of passengers selected at random.
- (4) The suggestion is that all things passed out of custom office may be entered in the list of things passed out. The acceptance of the suggestion would obviously mean delay in the clearance of the passengers. During the past more than one decade, there has been enormous increase in the air traffic and it continues to rise. There are constraints of space, manpower and bunching of flights at the airports. If the suggestion to inventorize all the articles cleared by a passenger is accepted, this would entail delay in the clearance of passengers which is bound to be resented by the passengers. At a time when there is a persistent demand for quick clearance, the preparation of lists will be a retrograde step."

C. Evidence before the Committee

2.4 The Committee on Petitions at their sitting held on 5 October, 1981 considered the representation and decided to examine the representatives of the Ministries of Finance (Department of Revenue) and External Affairs in the matter.

2.5 In his evidence, before the Committee on 3rd November, 1982, the Member, Central Board of Excise and Customs stated that they had off and on received representations from Indians working abroad. All such representations had been looked into and suitable remedial action taken in specific cases.

2.6 When asked to state the nature of complaints, the Member, Central Board of Excise and Customs stated:—

“The complaints, of course, broadly emanate from a misconception about our law. The passengers are allowed a fairly good duty free allowance. They can take advantage of it; but they seem to be under a misconception that they can bring any kind of goods. The rate of duty applicable has also been prescribed on a slab concession. Under the rules, passengers can bring articles upto the value of Rs. 1000/-without payment of duty, and up to the value of Rs. 2000/-(in of the free allowance of Rs. 1000/-) on payment of customs duty at the rate of 160%. There are only a few items which are not allowed under the concessional rate of duty of 160%. It is only on goods in excess of the above limits that a passenger has to pay duty @330%. But when one has to pay duty of 330%, he does not find it palatable to pay the duty at such a rate.

The second thing is that the people have a feeling that they can even bring contraband goods. Fortunately, the number of such people is not very large. Such people, when they pass through Customs and are questioned, feel that they are being harassed. In the case of bona-fide passengers, the customs examination is not very rigorous. We normally proceed on the assumption that the passengers declaration is correct and a passenger who has no dutiable goods can walk through the Green Channel. Certain selective checks are carried out on the basis of observation and methods like that. We have also issued instructions that the passengers who clear through the airports should not normally be checked in trains or buses etc., except with specific instructions or orders of the Senior Officers ”

2.7. The Committee asked the Member, Central Board of Excise and Customs to comment on the submission made in the representation that Government were giving incentives and facilities to exporters and industrialists to augment the foreign exchange. Exporters were even allowed among other benefits to import without payment of duty, goods worth and equal to

25% of the foreign exchange they earned. Whereas the Indians working abroad were not given such incentives and concessions.

In reply, he stated:

"Such a demand is not logical. This kind of incentive is not there. What should be done otherwise, to encourage such persons, what facilities should be provided to them, what incentives should be given, are matters under constant review of the concerned authorities. Various measures have been taken also. For example, non-resident persons can invest money here and interest on the deposits is free from income-tax.

I believe special duty concession on goods brought or sent by persons earning abroad, is not there even in our neighbouring countries who have a large number of labour force abroad. However, various facilitation measures have been taken with respect to their remittances. So far as exemption from Customs Duty is concerned on goods brought by such persons on the ground that they are earning foreign exchange abroad, my answer is that neither we have thought about it, nor it appears logical."

2.8 On enquiry as to whether Government were thinking of changing the Baggage Rules to give certain benefits to returning Indians working abroad, the Member, Central Board of Excise and Customs stated that it is logical to differentiate between tourist and non-tourist for the purpose of Baggage Rules. If they tried to relate to the earning of a person abroad, he was not sure whether that would not be discriminatory. In any case, it would not be a sound proposition.

2.9 In his evidence, the Secretary, Ministry of External Affairs stated that the External Affairs Ministry also received a number of representations from time to time. Specifically they related to the various problems that the workers had abroad. Sometimes it was the question of the way they were treated by the employers abroad; at times they were cheated by them. Sometimes they were detained and they required facilities at that time. Then there were facilities they needed at the time when they wanted to have their passports and visas and things of that kind. Government had already appointed a working Group on Overseas Employment earlier during the year under the Chairmanship of the Labour Secretary. It had the representatives of the Ministry of External Affairs on it. That Working Group had held three meetings. They were trying to see how best they could take care of the Indian nationals working abroad. Over a million Indians were employed in

the Gulf countries. It was a source of revenue and employment. Therefore, the Government wanted that the best facilities were made available to them. In the same context, they had also issued instructions to their Missions stressing upon them the need to give prompt service and the type of facilities that were required to be made available to Indian nationals abroad and the way in which they should be dealt with. He added that the Government was very much conscious of that problem and they were doing their best. He further added that the Ministry of External Affairs was now pushing through a proposal for increasing the staff abroad so that they had Welfare Attaches and Labour Attaches to look after the welfare and working conditions of Indians there whose number had increased rapidly in the last two years.

2.10 The Secretary of the Ministry of External Affairs further stated that various measures for the welfare of Indian employees working abroad were being considered. One was the creation of a Welfare Fund. Many people went abroad and got stranded. That was another aspect which required to be taken care of. They had also to look after their entertainment, something on the cultural side. Some people might require immediate repatriation, or some type of financial aid. This was being looked into. A similar type of fund had been created in Pakistan. So, the Working Group on Overseas Employment was already seized of it.

2.11 When enquired what steps were being taken to ensure that the employment agreements signed between the employers and the Indian workers were legal documents in terms of local laws with a view to ensure compliance of terms and conditions through local legal courts, the Secretary of the Ministry of External Affairs stated :

“Already there are four countries which have set up labour courts—Jordan, Saudi Arabia, UAE and Qatar. We have a problem in the sense that we cannot tell the other country what they should do. But to the extent that we can, we have come to our own bilateral arrangements where by in the absence of any type of legislation we do get informed whenever any person is harassed so that we can take up such cases with that Government. Many times we have not to go to their governments, we can talk to the employers themselves. Sometimes we have to resort to the step of blacklisting employers who continue to ill-treat the Indian workers.”

2.12 In regard to the Model Employment Agreements based on the laws of the countries to which the Indians were sent, the representative of the Ministry of External Affairs informed the Committee that they had not done that. In fact, that subject had been a matter of discussion in an international forum. Last week there was a meeting of various countries in Tunis and a Model Employment Agreement had been put forward by the Indian delegation. But there was resistance to that because most countries preferred to have their own legislation in terms of their own conditions and their own laws. But the Indian Government was trying best to see what could be done in that regard.

2.13 When asked whether the Government had issued any guidelines to the Government Undertakings/Corporations employing Indian workers for their contracts abroad to frame Model Employment Agreement based on the laws of that country to which the workers were sent in order to avoid disputes/complications subsequently, the Secretary of the Ministry of External Affairs stated that they had not got any Model Agreement as such. But broad guidelines were certainly there. When the people came to them for clearance for going abroad on jobs, they saw that minimum conditions that were necessary for them existed such as proper housing, medical facilities, repatriation etc. But due to a Supreme Court ruling, they could not enforce some standardised wages. That was flexible. But even there, while the employers effort was to pay the least, what the Government tried to do was to see that the worker got as much as possible and so the Government did, in practice, try and enforce a basic minimum.

2.14 In reply to a question, the Secretary of the Ministry of External Affairs informed the Committee that Gulf countries took an adverse view of any type of labour union. That was not even allowed to their own nationals. However, when Indian workers had grievances, they came to their Ambassadors who personally looked into their grievances/problems. Protection was given to them without any sort of interference. In some cases, the workers and the employers agreed to arbitration by the Ambassador.

2.15 In regard to protection to Indian Workers against exploitation/harassment from their employer, the representative of the Ministry of External Affairs stated that they had not got any way of giving them protection as such. The only way in which they could protect was to come down heavily on the employer, ban the activities of the employer, blacklist him. They had another complaint, i.e., the agencies fleeced these people. It had become a very difficult question.

The matter had been referred to the police. Many of the workers would not even come out openly when they were abroad to express their grievances for the fear if they did so, the employer would send them back. That was a situation because the jobs abroad were a few and the people who wanted employment were many. People got exploited. Their effort was to check exploitation. Many workers did get subjugated and threatened and did not come up openly as long as they were working outside.

2.16 As desired by the Committee on Petitions during their sitting held on 3 November, 1982, the Ministry of External Affairs *vide* their communication dated 9 November, 1982, have furnished a copy of their circular letter No. T. 415/4/82 dated 24 August, 1982 (*See Appendix I*), addressed to Heads of Missions/Posts regarding review of the working of the Consular Sections in Indian Missions abroad. The Ministry have also furnished detailed statistics of Indian workers region-wise registered with the Protectors of Emigrants (*See Appendix II*).

2.17 The Ministry of Finance (Department of Revenue), *vide* their communication dated 20 May, 1983, have also furnished the following written information on certain points :—

“(i) Problems of non-resident Indians and Liberalisation of Baggage Rules

A Special Cell has been set up in the Department of Economic Affairs, Ministry of Finance. This cell is headed by the ‘Commissioner for Non-resident Indians’ to act as a focal point for dealing with proposals and enquiries in respect of financial investment. A Press Note in this behalf has been issued on 9.3.1983 and a copy of the same is placed at Appendix III. Further the Commissioner will provide one window clearance facilities for non-industrial investment proposals and will be responsible for coordinating Government of India proposals in respect of financial investments and remittances by non-residents. Proposals involving approval for industrial licence, foreign collaboration and import of capital goods will continue to be handled by the Special Cell in the Secretariat for Industrial approvals of the Ministry of Industry.

The Baggage Rules have also been liberalised with effect from 1.3.1983. As per these liberalisations, Indian workers abroad holding Indian passport, who are generally engaged on contracts of over one year and who return to India on termination of such work after a period

of not less than 1 year, a duty free allowance of Rs. 5,000/- for household effects in use and possession for over 6 months except the following items. has been allowed :—

- (a) motor cycles, scooters or mopeds;
- (b) airconditioners;
- (c) refrigerators and deep freezers;
- (d) fire arms;
- (e) cigarettes exceeding 200 or cigars exceeding 50 or tobacco exceeding 250 gms; and
- (f) alcoholic liquor in excess of 0.95 litre.

(ii) *Foreign Exchange Earnings from Indians working abroad*

<i>Exports</i>	<i>Amount (Rs. cror.s)</i>
1980-81	6711
1981-82	7796
1982-83	5243.25
(April, 1982—October, 1982)	

Non-Exports

The figures of quick and provisional estimates of gross non-export receipt for the last three calendar years are as follows :—

<i>Year</i>	<i>Amount in (Rs. Crores)</i>
1980	4467.28
1981	4621.76
1982	5013.00

The above figures represent gross non-export receipt such as shipping, insurance, dividend and tourism receipts etc., besides four heads of receipts relevant to the term 'Inward Remittances' namely, (i) family maintenance (ii) savings of non-residents, (iii) migrant transfers, and (iv) money order receipts.

Data on 'Private Transfer Receipts' recorded under the balance of payments available for the latest 3 years are given below :—

Year	Amount in (Rs. crores)
1978-79	943.8
1979-80	1472.1
1980-81	2149.5

This amount excludes grant under PL 480 title II.

'Private Transfer Receipts' by and large represent remittances from non-resident Indians received for family maintenance, transfer on savings, donations etc.

(iii) Measures taken by Government to facilitate remittances

Government are already aware of the scope for mobilising the resources from non-resident Indians who are settled abroad. Since the early 1960, several steps have been taken to create favourable conditions to generate remittances from non-resident Indians. Among others, the facility of opening Non-Resident (External) Accounts was created as far back as 1969. Presently, the interest earned on these accounts is free from Income Tax. We have also created a facility of giving protection against fluctuations in the rate of exchange when the account is designated in Sterling or Dollars. These accounts carry full repatriation rights. The intention behind the creation of such accounts is that non-resident Indians could be induced to keep their deposits in India rather than in certain other foreign banks in Zurich, Bahamas etc. The accretion of these external accounts tended to decline during 1978-80 as a result of large increase in interest rates in the international market. Representations were received that the interest on such accounts should be made sufficiently attractive. Therefore, it was decided to allow interest on the Non-resident (External) Accounts % above the rate permissible on local accounts of comparable maturities.

The various other measures taken by the Government to facilitate the remittances to the country by Indian working abroad have been indicated in Appendix IV.

(iv) Incentives to Indians working abroad at par with exporters

The analogy drawn between the benefits extended to exporters

regarding grant of exemption from customs duty etc., for extending the same to non-resident Indians working abroad making remittances is not appropriate. The facilities for imports are provided with the intention of promoting exports where imported inputs are required. Customs duty adjustments/exemption is given with a view to make our price competitive. The rationale behind the cash compensatory allowance is mainly to relieve the incidence of Central or State Taxes which are not otherwise refunded. When dealing with remittances these considerations do not apply.

However, for non-residents, a number of facilities are available, which have been indicated in Appendix IV."

D. Observations/Recommendations of the Committee

2.18 The Committee note that in the representation, the following main demands have been made :—

- (i) A Committee might be constituted by Government to go into the problems of Indians working abroad;
- (ii) Steps might be taken by Government through Missions abroad to avoid arrests of Indians;
- (iii) Steps might be taken to ensure that sponsors did not violate Employment Agreement; and
- (iv) Indians working abroad might be permitted to bring things and wearing apparel equal to 25% of their remittances in foreign exchange.

2.19 In regard to the demand for constitution of a Committee to go into problems of Indians working abroad, the Committee note that the Government have already constituted a working Group on Overseas Employment and they are seized of the various problems of the Indians working abroad. Various measures including creation of a Welfare Fund for the welfare of the Indian employees working abroad are under consideration of the Government.

The Committee, however, recommend the Government to finalise their proposal for the creation of a Welfare Fund, at an early date.

2.20 The Committee note that the number of Indian nationals working in Gulf countries has increased rapidly during the last few years. At present

their number is stated to be over a million. The Committee recommend that the Government should create Special Cells in their Embassies in Gulf countries to look after the welfare and interests of the Indian workers there.

2.21. In regard to the demand of the petitioner for import of things without payment of custom duty at par with exemptions available to the exporters, the Committee note that the Baggage Rules have since been liberalised with effect from 1st March, 1983. As per these liberalisations, a number of certain household items in use and possession for over 6 months upto an aggregate value of Rs. 5,000/- have been allowed to be imported free of duty. The Committee do not agree with the demand of the petitioner for the import of items by Indians working abroad at par with the exporters, or of the value of 25% of their foreign exchange remittances. The Committee, however, desire that the Government may consider allowing Indians working abroad to import articles free of duty for an additional amount of aggregate value of Rs. 5,000/- besides the limit Rs. 5,000/- presently allowed if their foreign exchange remittances till the time of their return exceed Rs. 50,000/-.

2.22 The Committee appreciate that the Government are conscious of the problems of Indians working abroad whose number have increased rapidly during the last few years and that Government are trying their best to look after the welfare and their working conditions. The Committee note that in order to protect the Indians working abroad from exploitation by the recruiting agents and employers, the Government have recently passed the Emigration Act, 1983, to consolidate and amend the law in this regard. The Emigration Act, 1983, provides for the registration of recruiting agents and has laid down minimum terms and conditions of service on which emigration of workers would be allowed in foreign countries. The Act also provides for punishment for violation of these conditions. The Committee trust that with the enactment of Emigration Act, 1983, the interests of the Indian nationals working in various foreign countries would be safeguarded to a great extent who, while working in difficult conditions, are earning foreign exchange resources needed for the development of the country.

2.23 The Committee also recommend that the Government should issue guidelines to the Government Undertakings/Corporations employing Indian workers for their contracts abroad to frame Model Employment Agreement based on laws and conditions of the country to which the workers are sent in order to avoid any disputes/trouble later.

NEW DELHI;
9th August, 1984
Śravana 18, 1906 (Saka)

K. P. TEWARI,
Chairman,
Committee on Petitions.

APPENDIX I

(See para 2.16 of the Report)

[Ministry of External Affairs Circular letter No. T. 415/4/82, dated the 24th August, 1982 re. review of the working of the Consular Sections in Indian Missions abroad].

P. S. SAHAI
JOINT SECRETARY (CPV)

Ministry of External Affairs
New Delhi
August 24, 1982

No. T. 415/4/82

Sub : *Review of the working of the Consular Sections in our Missions abroad.*

My dear Head of Mission,

Against the backdrop of Parliamentary debate on the role of our Missions, I had written to you *vide* my letter of even number dated May 6, 1982, asking you to review the working of our Consular Sections.

2. I am pleased to inform you that reports received from you are rather encouraging, as most of the Missions have informed us that they are in a position to render prompt consular service within a period of 24 hours. It is only in some Missions where this schedule is not adhered to, which is largely due to inadequacy of staff. It was also heartening to note from most of the Missions that they are attaching due importance to the performance of consular functions and every possible effort was being made to improve upon the existing services.

3. I also appreciate useful comments/suggestions made by you to the various issues listed by us, which have a bearing on the consular services rendered by our Missions. In this letter, I am endeavouring to recapitulate important suggestions made by some of the Missions along with suggested guidelines for implementation, since these would have applicability for all

our Missions. These recommendations and our guidelines are analysed in the succeeding paragraphs.

4. *Urgent Service Counters :*

Most of the Missions barring a few in the Gulf and the West, do not feel the necessity of urgent service counters, since they are already rendering prompt consular service. The overwhelming feeling is that by providing for urgent service counters, we would be neglecting the general public and thus invite avoidable criticism for providing favourable treatment to the rich clientele. Furthermore, our agreement to provide urgent counter service may not also achieve the desired results, if everyone opts for this service, especially in those countries, where everyone is prepared to pay enhanced charges. In practical terms, it may become a mirage, as we would be introducing another element of uncertainty while determining staff requirements for a particular Mission. Earlier also, when question of changing additional fees for such services was examined, it was not considered appropriate, in keeping with the existing rationale of levying consular fees to services rendered.

5. In view of the above, it is not considered feasible to introduce urgent service counters or levy additional charges for urgent services. At present, provision already exists under the existing rules for levying additional fees for providing any consular service outside the office hours and this has adequately met requirement of an emergency nature. We could, however, still improve upon the existing practice of rendering consular service, by providing for the *same day Service*, in practically all the Missions and this could be easily achieved, if we render service the same day to those applicants, who deposit their complete documents within the first hour of any working day at a particular Mission. The suggestion has already been worked out in some of the Missions and could be easily adopted in other Missions too. This could be called 'The Same Day Service', but this would be without any additional charges. The Mission would, however, have flexibility, while implementing this suggestion, depending upon local requirements.

6. *Arrests/Detentions :*

According to information received from our Missions, there is no system of automatic stimulation to them by the local authorities. In many of the cases, the information is received either through the press or Indian nationals themselves. However, a majority of the Missions do not experience any difficulty in receiving necessary information about arrests/detentions, when

such a request is being made by them. The problem also arises when some Indians avoid intimating Missions. The problem of lack of information is grater in the ofcasee West Asian countries .

7. It is, however, important for our Missions to have the information about arrests/detentions readily available with them, even though there is no specific provision about automatic intimation by the local Government to the Mission under the Vienna Consular Convention. As far India is concerned, we are following the practice of informing respective foreign Missions though this Ministry, except in the case of UK, where the information is directly passed on by the State authorities to various consular offices, whenever any foreigner is arrested, except in the case of minor offences.

8. In view of the above, it would, therefore, be appropriate for our Missions to approach the respective Governments and if possible, work out a system of automatic intimation, regarding arrests and detentions of Indian nationals. Furthermore, it is proposed that Mission should keep such information in a separate register, as this would not only assist them in rendering necessary assistance to Indian nationals, but could be readily made available to the Ministry, whenever this is required in connection with Parliamentary or other work.

9. *Appointment of legal Attaches :*

There is no general system regarding provision of legal aid to persons arrested or under detention. In some countries, the local authorities provide free legal aid, but this is not the practice in many countries. Free legal assistance is more prevalent in the West European countries. We have already given standing instructions to our Consular Officers to assist Indian nationals whenever they approach them for assistance, regarding appointment of lawyers etc. Various suggestions have been received from the missions regarding the appointment of Legal Attaches or lawyers on a retainer basis, so that necessary Legal assistance could be provided to Indian nationals when in need. As the basic concept behind the provision of legal assistance is that the individual would be making payments for such services rendered, it is, therefore, recommended that as a first step, all our Missions should maintain a panel of lawyers, whose services could be hired by the concerned individuals.

10. *Repatriation ;*

A majority of our Missions have found the existing repatriation proce-

dures satisfactory. Similarly Missions have also found the limits of financial assistance of Rs. 2000/-adequate to meet the requirements of distressed Indians. Despite this, there seems to be a lack of full understanding in some of the Missions about the existing repatriation procedures, whereby Heads of Missions have been delegated powers to incur expenditure by air by the shortest route. We have separately circulated our existing instructions on this subject to all Missions.

11. Generally, there has been no request for increase in financial assistance, although some Missions have suggested that this could be linked to the cost of living in a particular country. Some have even suggested that the expenditure could be paid in cash instead of being paid in kind. There is also a suggestion that we may even consider providing financial assistance to illegal immigrants.

12. We have considered all these suggestions and feel that the present procedure regarding repatriation is quite simple and adequately meets our requirements. We do not propose any upward revision of the ceiling of Rs. 2,000/- for financial assistance, as this was revised only recently with great difficulty, with the approval of the Ministry of Finance. We are also not in favour of payment in cash and to illegal immigrants. Separately, we are revising the Undertaking, which the individual will be required to give at the time of repatriation. Similarly we will also be revising our instructions regarding the provocation of the Passport and issue of an Emergency Certificate, to be in line with the provisions of the Passports Act, 1967. We would also prefer to use the nomenclature of distressed or stranded rather than destitute Indians, in keeping with legal usage of the word.

13. *Deportation :*

Most of the Missions have pointed out that they are not being provided with information on a regular basis, regarding deportation of Indian nationals. In most cases the Missions come to know of deportation, when the local authorities approach them for revalidation or issue of travel documents. Similarly, our Missions experience difficulties about obtaining information on the exact number of deportations, as in many countries statistics about deportation are not kept in those cases, where they are deported on a account of irregular stay or admission. We fully agree with you that it would not be possible for you to get a full picture, regarding deportations, as foreign Governments are not obliged to provide us with this information, nor are complete statistics maintained by many countries in respect of all cases of

deportation. It should nonetheless, be our effort to keep track of deportation cases, as some Missions are in a position to get this information. You may, however, work out the possibility of getting essential information locally to the extent feasible.

14. *Settlement of Claims :*

The problem regarding settlement of claims arises in those cases where there is no will or a local Ward, who is the beneficiary in such cases. In such cases, the normal practice in most of the countries, has been to appoint the State as the Custodian. The procedures regarding settlement of claims vary from country to country. The problem is greater in West Asian countries, where a large number of Indian workers are stationed. Here again the problem is acute in Saudi Arabia, where the number of recorded deaths is the maximum. A suggestion regarding setting up of a Death Compensation Cell in Saudi Arabia is under active consideration by the Administration. Similarly, practice followed by Kuwait in getting assistance of local lawyer is working satisfactorily,

15. With a view to providing further assistance to the bereaved families, you are requested to initiate further follow up action on the following lines :

- (a) Instruct Consular Officer to fully familiarise himself with the local laws and practice.
- (b) Consular Officer should fully brief Indian nationals/workers at the time of registration with the Missions.

16. On our side, we propose to take up the matter with State Governments, regarding disbursement of amounts of compensation and other dues payable to the lawful beneficiaries on behalf of Missions, who are administering these assets. At present such arrangements exist with seven States and have been considered useful arrangements from the point of view of beneficiaries. We are also looking into the possibility of seeing how succession certificates could be obtained faster.

17. *Maintenance of Decrees:*

The general response from the Mission has been that it is possible for us to work on some sort of an arrangement with the respective countries on a bilateral basis. Individual proposals are being examined, although diffi-

culties are likely to arise in entering into agreement with those countries, which follow a federal system, with this being a State subject. Separately, we are looking into the possibility of India acceding to The Hague Convention on maintenance of decrees, as this would solve our problem to a considerable extent. This matter will be further pursued with L&T Division. We are keen that we provide some meaningful assistance whenever approached by the spouse of Indians settled abroad, regarding execution of maintenance decrees. The problem is largely faced by us in the developed countries and is likely to be faced by us in West-Asian countries, with an increase in the number of Indian workers in those countries.

18. *Registration of Marriages :*

With a large number of Indians going abroad, the question of registration of their marriages, has also assumed importance. In some countries, recognition is accorded to such marriage performed under respective customary laws. But the problem arises as under the Foreign Marriage Act of 1969, marriages performed under the customary laws cannot be registered with the Indian Missions. This, therefore, makes it essential for us to amend the Marriage Act to provide for such a contingency. This matter has been further taken up with the concerned authorities. Meanwhile, we could request such Indian nationals, who wish to get their marriages registered with us to do so after complying with the requirements under the Foreign Marriage Act or local Marriage laws. This is to provide some facility to our nationals, till necessary amendment to the Act has been carried out. It, may, however, be added that this problem of registration has been raised in a few countries only.

19. *Issue of various certificates :*

A perusal of the replies from various Missions reveals that many countries insist on different certificates to be issued by the respective Indian Missions or authorities in India. The various certificates required are: 'No Objection, Certificates for Marriage' 'Certificate of Education', 'Bachelorhood Certificate; and 'Birth Certificate', etc. The following paragraphs, however, convey the present position and would meet the requirements of our Missions, and also help in clarifying our position and difficulties involved in issuing such certificates.

20. The legal opinion tendered on the subject is that a Mission represents sovereign status in a foreign country and is not in any way obliged to issue any certificates or to accord attestation involving the personal matters.

of any Indian citizens, such as their marital status: Bachelor/Married/Widower/Divorcee. There is no law to authorise Consular Officers to issue 'No Objection Certificates' and 'Bachelorhood Certificates' in respect of any Indian national. The power to declare any legal rights is vested in the competent courts in India.

21. However, under Section 3 of the Diplomatic & Consular Officers (Oaths & Fees) Act, 1948, the Diplomatic & Consular Officer in any foreign country may administer any oath or take any affidavit and also do any notarial act which any Notary Public may do within a State. The Consular Officer can, at best, authenticate the signatures of the executant after satisfying himself about the identity of the executant. Similarly, the Consular Officer in an Indian mission abroad can authenticate the affidavits which will be the individual statement of the deponent, but the Consular Officer may not be legally in a position to certify the individual status of individual rights of any particular deponent or executant.

22. We are, however, willing to look into specific requirements in a particular country, with a view to assisting Indian nationals. It would be easier to undertake this exercise in consultation with the Ministry of Law, in case there are any statutory regulations in a particular country, regarding the necessity for an individual to produce such certificates. You are, therefore, most welcome to address specific problems in this regard.

23. *Attestation of documents required by Indian nationals abroad*

Our instructions regarding attestation of various documents are being briefly recapitulated, since there is no clear understanding in some Missions. The Consular Officer is normally required to authenticate the signatures of the Officer or the authority signing on any document. It is in view of this that it has been laid down in the Consular Manual that the Consular Officers in Missions abroad should be conversant with the signatures of such authorities, before they could authenticate their signatures. It may be clarified that the Consular Officer, who attests the signatures or documents without being conversant with its genuineness, is taking responsibility on himself.

24. Under normal circumstances, any individual requiring Birth Certificate, Certificate of Parentage, etc., may be advised to file an affidavit and sign it before the Consular Officer, who could then authenticate the signatures after verifying his particulars from his passport, wherever it is possible.

25. *Issue of Visas :*

I was happy to note that you do not experience any difficulty in issuing visas promptly, where the powers are delegated to Missions. Normally, you are in a position to issue visas in one day. Some of you have, however, pointed out to us that you are faced with embarrassment, in view of delayed responses from the Ministry of Home Affairs. This has been a constant refrain also in the past. We propose to take up this with the Ministry of Home Affairs to see how prompt replies could be sent to our Missions.

26. *Issue of Passports :*

We have noted that all efforts are being made to issue passports promptly, even though the time limit varies from one to seven days in different Missions. There is a further time lag in case of passports submitted through posts. You have pointed out that shortage of staff is the main constraint. You have also mentioned about difficulties faced by you in receiving prompt replies from our Passport Offices for issue of duplicate passports. Some of you have suggested our setting up a Central Clearing House, wherein all such cases could be cleared.

27. The question of staff linked to workload is being separately looked into by the Administration. We are also working towards the concept of a Central Clearing House, but this would become a reality only when we have moved towards computerisation. Regarding delays in replies from our Passport Offices, we have issued instructions asking them to send telex replies to our Missions. We hope that this would help in solving problems to some extent.

28. *Extradition Treaty :*

Replies from most of the Missions indicate that we have seldom taken recourse to extradition except in a few cases. Our experience has been that this is a long drawn and cumbersome process. Normally, we take recourse to such an action only in cases of national importance. At present, we have bilateral extradition treaties with some countries, while in respect of others, our Extradition Act has been made applicable. Some other countries, however, allow extradition even in the absence of either of the above two arrangements. Generally speaking, it is not the practice to go in for a bilateral extradition treaty and our practice is to make our own Extradition Act applicable in respect of a particular country. Specific proposals received from some of the countries are being further examined by the respective

Territorial Divisions in consultation with the L&T Division. We would be largely guided by political considerations and pragmatic requirements.

29. Consular Assistance Fund or Community Welfare Fund :

Some Missions have suggested the need to setting up Community Welfare Fund rather than their seeking assistance from the local community on an *ad hoc* basis, to assist an Indian national in distress. We have no objection to our Missions encouraging various Indian Associations in setting up such a fund, but this would have to be done on an informal basis and left entirely to the Community itself. Our Missions should not be formally associated with this Welfare Fund.

30. Separately, we are thinking in terms of setting up a Revolving Consular Assistance Fund. This is basically an enlargement of the concept of the Resolving Repatriation Fund, so as to cover other contingencies of consular nature, such as financial assistance, expenditure on funeral, hospitalisation, etc. This will, however, take some time, as it would involve either amendment of the Passports Act or a separate Act. Preliminary action has already been initiated.

31. Nature of Complaints ;

Most of the Missions have pointed out that they receive very limited complaints, since they are able to render services within a reasonable period. However, some problems are brought to their attention from time to time. These basically relate to rude behaviour on the part of some individuals and delay in rendering consular services. Immediate action, however, is taken by Missions to promptly redress the grievances.

32. It is recommended that our Missions should adopt following steps which would not help in creating a better environment but also help in simultaneously redressal of the complaints :

- (a) Maintain a suggestion/Complaint Book/Box in the Chancery.
- (b) Senior Officers should be available to the public, in case they are not satisfied with the response received from junior Officers.
- (c) To improve the telephone enquiry system, as in most of the developed countries, people like to receive prompt answers on telephones.

33. *Consular Staff :*

Missions face a two-fold problem relating to the staff. Firstly, inadequacy of staff, which has not kept pace with the increase in workload. Secondly, the quality of staff, which suffers on account of lack of proper training and our inability to attract good staff, because of low pay scales offered to local staff. The Administration is already examining these aspects. Separately we are considering posting persons experienced in consular work to important consular offices.

34. *Conference on Consular Matters :*

Some Missions have suggested the need to hold periodically conferences of consular officers on the lines of conferences held for Commercial Representatives. We agree that this proposal merits consideration, as we have already realised the utility of holding such a Conference for Passport Officers. We, therefore, are agreeable in principle to holding such Conferences which could be organised on a regional basis, whenever Additional Secretary/Joint Secretary in-charge of this Division is visiting any of these countries.

35. *Consular Sections :*

There is a general agreement on the need for providing a proper reception/waiting room in our Missions for persons seeking consular assistance. This room should be adequately furnished and have the necessary reading material on India, which the visitors could read, while waiting there. The Administration has been asked to look into specific requirements of individual Missions, who have approached us in this regard.

36. *Consular Manual*

Some of the Missions have brought to our attention the need to update Consular Manual, which was issued in 1971. We are ourselves aware of such a necessity and have already taken up with the concerned Ministry/Department regarding the revision of various chapters contained in the Consular Manual. We hope that it will be possible for us to bring out the first revised draft by the end of this year.

37. I did not propose to inflict this lengthy letter on you, but this could not be avoided, as I felt that it would be useful to share with you all not only your own views, but also our own thinking, as to how we could improve upon the existing consular services to the benefit of our nationals. I realise

that this is going to be a continuing process and I would be always happy to receive further suggestions from you, which have a common bearing. Regarding your specific suggestions which concern the countries of your accreditation, let me assure you that these are being attended to separately.

With best wishes.

Yours sincerely,

Sd/-

(P.S. SAHAI)

All Heads of Missions.

Copy to :

All Heads of Divisions, MEA, New Delhi.

APPENDIX II

(See para 2.16 of the Report)

**Statement showing number of workers registered with the
Protectors of Emigrants.**

P. O. E.	Year	Workers going to West Asian Countries	Workers going to South East Asia	Workers going to Rest of the World	Total
1	2	3	4	5	6
Bombay	1980	1,48,962	229	2972	1,52,163
	1981	1,71,579	564	3898	1,76,041
	1982	1,19,346	888	4571	1,24,805
	(up to Sept.)				
Ernakulam (Cochin)	1980	12,472	3	5	12,480
	1981	8,060	22	3	8,085
	1982	6,870	14	5	6,889
	(Sept.)				
Trivandrum	1980	5,418	10	8	5,436
	1981	7,447	105	21	7,573
	1982	22		10	32
	(Sept.)				
Madras	1980	2,769	1244	119	4,132
	1981	5,472	4630	89	10,191
	1982	2,479	2389	19	4,887
	(Sept.)				

1	2	3	4	5	6
Chandigarh	1980	1,839	4	520	2,363
	1981	3,127	18	755	3,900
	1982	3,397	10	450	3,857
	(Sept.)				
Delhi	1980				23,944
	1981				62,566
	1982				38,645
	(January to September)				

APPENDIX III

(See Para 2.17 of the Report)

[Press Note dated 9.3.1983 regarding Special Officer in the Ministry of Finance to look after problems of non-resident Indians].

PRESS NOTE

**Special Officer in the Ministry of Finance to look after the
problems of *non-resident* Indians**

With a view to promote investment and remittances by Non-Resident Indians, the Government have decided to create a Special Cell in the Ministry of Finance, Department of Economic Affairs. The Cell will be headed by a Senior Officer of the Department of Economic Affairs who has been designated as Commissioner for Non-Resident Indian Investments. Dr. Nitish Sengupta, Joint Secretary in the Department of Economic Affairs has been designated as Commissioner for Non-Resident Indian Investments.

APPENDIX IV

(See para 2.17 of the Report)

[Facilities for available for remittances to non-resident Indians).

Government have devised various schemes to encourage flow of funds from non-resident Indians. These are detailed below :

- (i) They can invest in the securities of the Central or State Governments (other than bearer securities), National plan/Savings Certificates and Units of the Unit Trust of India. When investment is made by remittances in foreign exchange, sale proceeds will be allowed to be repatriated. An additional interest of 1 per cent will be available on these 6-year National Savings Certificates if these are subscribed for in foreign exchange.
- (ii) They may invest in shares quoted in the stock exchange upto 1 per cent of the paid up capital of the company. Sale proceeds of shares will be allowed to be repatriated after payment of taxes due.
- (iii) They can subscribe upto 40% in the new issues of new/existing companies engaged in the industrial activity. This facility carries repatriation rights.
- (iv) They may also invest with repatriation rights up to 74 per cent of the equity rights for establishing industries listed in Appendix I of the Industrial Policy and export-oriented units.
- (v) They may invest without repatriation rights in any area of activity other than commercial construction and agricultural land without any limit and such investments will be on par with resident investment.
- (vi) The procedures connected with investment and acquisition of shares have been streamlined and simplified.
- (vii) Special provisions relating to income of non-residents have been proposed in the budget for 1983-84. These are detailed in para 36 (pages 25-27) of the Finance Bill, 1983.

- (viii) Interest rates on new deposits of maturities of one year and above held in non-resident (external) accounts will carry interest of 2 per cent above rates permissible on local deposits of comparable maturities.
- (ix) Gifts made in India out of deposits in these external accounts will be free from gift-tax.
- (x) Tests of 'residence' in India laid down for taxation purposes have been modified.
- (xi) With a view to promote investment and remittances by non-resident Indians the Government have decided to create a Special Cell in the Ministry of Finance, Department of Economic Affairs.
- (xii) Indian Investment Centre's offices abroad as also Missions and Branches of nationalised Banks abroad provide publicity etc., to non-resident Indians to facilitate remittances.

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		20.	Venus Enterprises, B-2/85, phase-II, Ashok Vihar, Delhi.

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