

**Guidelines For**  
**Streamlining The Institutional Mechanism For Implementing The Directive**  
**Of The Honourable Supreme Court On Securing Release And Repatriation**  
**Of Pakistanis Detained/Imprisoned Abroad**

The following guidelines are formulated with the objective of streamlining the institutional mechanism for ensuring the effective and continuous implementation of the directive of the Honourable Supreme Court on securing the release and repatriation of the Pakistani nationals arrested/serving sentences abroad.

**A) THE DIRECTIVE**

2. The Honourable Supreme Court, in its hearing on 20<sup>th</sup> May 2010, directed that the Government make vigorous efforts and arrangements to provide all necessary assistance (including legal aid and payment of fines) for securing the release and repatriation of the Pakistani nationals detained/imprisoned abroad.

3. The Honourable Court also directed that a Special Cell be established in the Ministry of Foreign Affairs and a Special Inter-Ministerial Committee, at Joint Secretary-level, comprising Ministries of Interior, Finance, Law and Justice, Human Rights and Foreign Affairs be constituted to deal with these issues on a most expeditious basis.

4. With regard to the financial implications of implementing the directive, the Finance Secretary assured the Honourable Court that Ministry of Finance will, if required, provide necessary funds to Ministry of Foreign Affairs and the Missions abroad for provision of legal assistance and payment of fines etc.

5. Secretaries Interior, Finance and Foreign Affairs, who appeared in person, assured the Honourable Court that the directive will be implemented in letter and spirit.

**B) CRITERIA FOR DETERMINING DESERVING CASES**

6. It is clear that the intent of the directive of the Honourable Supreme Court is to ensure provisions of timely relief to the deserving and needy Pakistani nationals abroad, who get into situations of distress/detention/imprisonment for mistakes due to ignorance of local laws and/or minor offences, but do not have the capacity to pay for the legal aid, fines and other expenses required for their release and/or repatriation.

7. Accordingly, due priority will be accorded to extending necessary relief to the following categories of Pakistani nationals abroad:

- i) Destitutes who deserve financial assistance either to ensure their continued lawful stay in the country for earning livelihood or require repatriation.
- ii) Detained/imprisoned for mistakes/minor offences due to ignorance of local laws and/or stresses and strains associated with laboring in harsh work environment.
- iii) Detained/imprisoned for violation of immigration laws because of fake visas/work-permits etc as a result of swindling by agents.
- iv) Cases of legal aid for Pakistanis abroad in distress and for redressal/review of their sentences, where required.
- v) Detainees/prisoners whose release can be secured by payment of fines, provided they have not committed major/heinous crimes.
- vi) Prisoners to be transferred to Pakistan with approval of the Governments of Pakistan and the transferring State and in accordance with bilateral agreements.
- vii) Cases of provision of financial assistance for procuring legal aid, payment of fines and payment of expenses relating to repatriation.
- viii) Miscellaneous cases deemed deserving of financial and legal assistance.

### **C) PROCEDURE FOR DETERMINING DESERVING CASES**

8. As Ministry of Foreign Affairs is the Focal point for coordinating the Government's actions to implement the directive of the Honourable Supreme Court, this Ministry will be responsible for processing all cases relating to provision of relief to Pakistani nationals in distress/detention/prisons abroad. Accordingly, the final decisions on such matters will be taken by the Foreign Secretary.

9. With a view to ensuring provision of timely and adequate relief to the deserving individuals, the Foreign Secretary will, inter alia, consider inputs from the following sources:

- i) Heads of Pakistan Missions abroad who will submit all relevant details and recommendations;
- ii) Ministry of Interior and/or Ministry of Law and Justice, whenever required; and
- iii) Any other credible source(s).

### **D) ACCOUNTING PROCEDURE**

10. The Ministry's Head of Account for the purpose is: "A03924-REFUGEES, SECURITY, PRISONERS AND DETAINEES" UNDER DEMAND NO. 52.

11. The Foreign Secretary, as the Principal Accounting Officer, will be the Competent Authority for approving expenditure under the above Head of Account.

12. After approval of the Competent Authority, necessary sanction will be issued by the Overseas Pakistanis (OP) Division to authorize the concerned Pakistan Mission abroad for incurring expenditure under the above Head of Account. The OP Division will also arrange special remittance of the expenditure by issuing sanction of special remittance, if required by the Mission..

13. Since the expenditure pertains to Demand No. 52-Headquarters (other than Missions' regular budget under Demand No. 53-Missions Abroad), the Missions

will show the same in separate voucher, expenditure schedule and the main statement by mentioning the exact Demand Number and relevant Head of Account.

14. Expenditure incurred by the Mission, based on the Ministry's sanction, will be debited to Demand No. 52-Headquarters in the relevant Head of Account. Missions will send monthly expenditure statement on this account to Ministry's Cash-II Section, OP Division and CAO for reconciliation.

15. OP Division will maintain the account under the relevant Head of Account and will also carry out reconciliation of the same with the CAO.

#### **E) MISSIONS' RESPONSIBILITIES WITH REGARD TO THE PAKISTANI NATIONALS IN DISTRESS ABROAD**

16. With regard to the cases of Pakistani nationals in distress/detention/prisons abroad, the Missions will follow the following course of action:

- i) Maintain close contacts with local authorities with a view to collecting all relevant information about cases of arrest/detention/imprisonment of Pakistani nationals in the country/countries of accreditation and keep the Ministry informed.
- ii) Remain in contact with the Pakistani nationals arrested/detained/imprisoned by seeking consular access and ensuring consular visits at least once per month with a view to addressing their genuine problems and keep the Ministry informed.
- iii) Maintain and regularly update a database, including a separate file for each case, containing information regarding charges, date of arrest/trial/conviction, sentence, period served and remaining and ine imposed, if any.
- iv) In cases of convicted individuals:

- a) Find out if there are avenues for redressal /review by launching appeals in the higher courts and, if so, the cost involved and chances of success;
  - b) Ascertain the full address/contact details of family/relatives in Pakistan with a view to determining whether family members are willing/capable to bear the cost of legal assistance etc on their own; and
  - c) Determine whether legal assistance could be provided in accordance with the above mentioned “Criteria for Deserving Cases” and submit recommendations, along with all relevant details, to the Ministry.
- v) Keep submitting to the Ministry the cases, along with recommendations, of those prisoners who have served their sentences, but cannot be released as neither they nor their relatives can pay the fines etc.
- vi) In cases of prisoners who have completed their jail terms and await repatriation, convey to the Ministry the cost of repatriation, along with recommendations.
- vii) With regard to fresh cases of arrest/detention:
- a) Contact the local authorities immediately and seek consular access to ascertain the nature of charges and all relevant details;
  - b) Ascertain the full address/contact details of the family/relatives in Pakistan with a view to determining whether family members are willing/capable to bear the cost of legal assistance etc. on their own; and
  - c) Determine whether legal assistance could be provided in accordance with above mentioned “Criteria for Deserving Cases” and submit recommendations, along with all relevant details, to the Ministry.
- viii) Proactively follow up each case.
- ix) Follow up the draft bilateral agreements on transfer of offenders between Pakistan and the country/countries of accreditation; in other cases,

ascertain whether the country/countries of accreditation have such agreements with other countries and, if so, whether a bilateral agreement on this issue could be signed with Pakistan.

- x) Facilitate the expeditious finalization of death compensation cases of Pakistani nationals and keep the Ministry informed.
- xi) Assign an officer of the Foreign Office posted in the Mission to deal with/closely supervise matters relating to Pakistani nationals in distress/detention/prisons in the country/countries of accreditation.
- xii) Send all communication on the subject to Ministry's Special Cell for Overseas Pakistanis (SCOP)/OP Division with copies to the respective Territorial Division.
- xiii) With regard to relevant financial issues, follow the guidelines enumerated above under "Accounting Procedure."

#### **F) MANDATE OF THE OP DIVISION/SCOP**

17. The Overseas Pakistanis (OP) Division/Special Cell for Overseas Pakistanis (SCOP) at the Headquarters will have the following mandate:

- i) Maintain contacts with the concerned families with a view to facilitating redressal of their genuine problems; also maintain contacts with related NGOS.
- ii) Process petitions from concerned families for ensuring prompt and effective actions for resolving the issues.
- iii) Maintain and regularly update a database on Pakistani nationals in distress/detention/prisons abroad, including a separate file for each case, containing information regarding charges, date of arrest/trial/conviction, sentence, period served and remaining and fine imposed, if any.
- iv) Maintain a database on those released/repatriated by Pakistan Missions.
- v) Coordinate with respective Territorial Divisions on related issues.

- vi) Follow up / initiate actions relating to bilateral agreements on transfer of offenders.
- vii) Coordinate with the Missions for facilitating expeditious finalization of death compensation cases of Pakistani nationals.
- viii) For ensuring observance of the guidelines enumerated above under “Accounting Procedure”, coordinate with Ministry’s Finance Directorate and CAO.
- ix) With regard to the working of the Inter-Ministerial committee (IMC) constituted in accordance with the directive of the Honourable Supreme Court:
  - a) Convene and service the meetings of the IMC;
  - b) Coordinate functions between the IMC, Missions abroad and respective Territorial Divisions at the headquarters; and
  - c) Subject to approval of the Foreign Secretary, submit policy recommendations and individual cases to the IMC for decisions.
- x) Any other related matters.

#### **G) MANDATE OF THE INTER-MINISTERIAL COMMITTEE (IMC)**

18. In compliance with the directive of the Honourable Supreme Court, the Inter-Ministerial Committee (IMC) comprising Joint Secretary level officers of Ministries of Interior, Finance, Law and Justice, Human Rights and Foreign Affairs has been constituted to deal with cases of Pakistani nationals in distress/detention/prisons abroad on a most expeditious basis. As and when required, representatives of other Ministries/agencies will also be included in the IMC.

The IMC will be responsible for implementation of the directive of the Honourable Supreme Court.

The meetings of the IMC will be convened by Ministry of Foreign Affairs, as and when required, and serviced/coordinated by the OP Division/SCOP.

The IMC may take up any relevant issue in the interest of effective and expeditious implementation of the directive of the Honourable Supreme Court.

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