

# Consular and Other Issues





The High Level Committee has noted during its tours to various countries, which have a sizeable Indian Diaspora, that the Diaspora had substantially similar problems and grievances about their experiences in India. The nature of such problems varies. By and large, the grievances are widespread and common enough to warrant a determined redressal.

- 27.2. It seems that the Diaspora's passage to India is strewn with a variety of thorns. The commonest grievance of the Diaspora is the ill treatment, harassment and the demands for illegal gratification it encounters at the hands of our customs and immigration officials at the points of entry. The lack of cleanliness and the inadequacy of basic amenities at the airports is another major irritant. The tragic case of a child's death by getting enmeshed into the mechanism of an escalator at the Indira Gandhi International Airport shocked everyone. Visitors face a number of problems even after their customs and immigration clearance. The arrangements for transport and accommodation in terms of accredited facilities leave much to be desired.
- 27.3. Another problem, which members of the Indian Diaspora frequently face, centres round the fraudulent encashment of fixed deposits in Indian banks, sometimes in connivance with the bank officials. Forged Powers of Attorney are used as a common mode for encashing fixed deposits and usurping land and house properties.
- 27.4. The Committee notes with deep concern the manifold problems, which arise as a result of failed and fraudulent marriages. It is common for persons of Indian origin and their parents to look for an Indian spouse. Lack of sufficient information and the absence of honest and candid disclosure have, in many cases, led to the breakdown of marriages. There are cases of fraudulent misrepresentation. There are also cases in which the previous and subsisting marriage has not been disclosed. In some cases, mutual incompatibility accounts for the breakdown of the marriage. The result is that an Indian woman who has been married to a person of Indian origin or a non-resident Indian is left to fend for herself and requires sympathetic counselling, humanitarian help and, in some cases, consular assistance.

- 27.5. Consular assistance has its limitations and has to function within the framework of diplomatic norms, but guidance and humanitarian assistance, particularly in the form of a reference to appropriate NGO could be quite efficacious. There are situations in which the parents tend to over-react, but they, nevertheless, deserve compassionate consideration and help which should be extended. The requirements of such assistance are bound to vary from case to case. But there has to be the recognition that such problems need a sensitive response.
- 27.6. The Committee believes that the reforms proposals outlined by it in this chapter would help solve the problems of the visiting members of the Diaspora and the consular and other problems which arise from time to time.

### **Reforms at the Airports**

- a) There should be separate immigration and customs counters for NRIs and PIOs.
- b) The officials manning the immigration and customs counters at the international airports should be trained and instructed to be pleasant, polite, helpful and courteous. Special in-service orientation courses should be conducted for officials proposed to be deployed at all points of entry and exit for handling Diaspora visitors and obviously for all incoming and departing passengers.
- c) Closed circuit televisions should be installed at all important points at the airports to video-tape and maintain a surveillance on the conduct of officials whose duty involves dealing with the public. Surveillance cameras and recording equipment, preferably monitored by an independent agency could be positioned in immigration, customs and security areas. If the officials and passengers are aware that their interactions are being taped and monitored by an independent surveillance agency, the results would be salutary, in terms of deterring discourteous, obstructive or corrupt officials. Exemplary action should be taken against erring officials.
- d) There have been many incidents of rough handling of Indians coming from African countries or the Gulf region. Many of them are not as well-heeled and sophisticated in appearance as their western counterparts. They usually take much longer to clear landing formalities. Many of these NRIs are illiterate, nervous and often unable to respond adequately to the queries of the immigration/customs officials. Our officials should be trained to deal with such NRIs with understanding and courtesy
- e) Customs officials should be trained to work only based on specific suspicions when opening the baggage of a passenger. They should be courteous and polite in their speech. They should allow the passenger to handle the opening and closing of his baggage. They should also be prepared to offer packing tape, metal banding, twine and cartons/plastic bags etc. for the baggage, which was opened for checking. The officials should be trained to maintain impartiality and decorum in the entire process.

- f) Payment rates for baggage handlers within the customs areas should be prominently displayed. A counter should be set up where the passengers could obtain information about rates and modes of payment, put in complaints of overcharging or obtain payment coupons to pay the coolies. This would eliminate a large part of the harassment by these people.
- g) 24-hour baggage storage facilities at the airports should be set up on priority.
- h) Availability of more personal conveniences such as clean toilets, working escalators and light fittings at the airports is extremely essential. There is a need to keep the airports generally clean and fresh. Non- payment of tips to the attendants at airport washrooms should be enforced by surveillance and by making available toiletries in vending machines inside the restrooms. Facilities for mothers travelling with infants should also be added inside the restrooms.
- i) Automated self-service systems/vending machines should replace the vendor model of small tea and coffee booths at the airports so that passengers can get more hygienic supplies. For this to succeed, money-changing machines, which provide the correct denomination of loose currency, should also be installed
- j) There should be an easily accessible office within the airport premises for registering complaints of rude behaviour, delays, and demands for illegal gratification. These problems are, by their very nature, often not verifiable at a later stage, since the concerned customs/immigration officials are not identifiable. This could be remedied by requiring all immigration officials to affix a rubber stamp with their name and allotted number in the passport of the passenger before beginning interactions. While it is understood that this is being done at IGIA, New Delhi already, this requirement can be made uniformly applicable at all international airports in India. Immigration officials could also be required to wear name badges to facilitate identification.
- k) Representatives of only well-known taxi services should be allowed to open booths inside the airport building. Predetermined rates of payment for transport to respective areas of the city should be prominently displayed. Facilities for prepayment by credit card or travellers' cheques should be made available. Canvassing by the taxi operators should be firmly dealt with.
- l) The number and frequency of shuttle buses from the airports to domestic airports/railway stations and Inter State Bus Terminals should be increased. Alternative rail travel facilities from airports to major points in the city should be urgently created.
- m) Setting up of hotels and motels with reasonable rates by well known chains, within a respectable distance of the international airports specially those at Bombay, Delhi, Chennai and Bangalore should be encouraged. The accreditation of these hotels/motels should be properly verified. Many visiting NRIs/PIOs spend extended periods in hotels during their sojourn to India and cannot afford stay in exorbitant five-star hotels.

## **Charging of Differential Fees/Tariffs**

- 27.7. A differentially higher registration fee at international conferences, higher room tariffs at hotels for foreigners of Indian origin and higher fees charged for their entry into historical monuments in India should be done away with. This creates a sense of alienation in the minds of the Diaspora members, while not adding substantially to the Government's coffers.

## **Publicising Income Tax Requirements**

- 27.8. Many NRIs are not aware of the requirement of furnishing of Tax Clearance Certificate required at the time of departure from India, in case the period of stay in India exceeds 120 days. Missions should be asked to publicise this requirement in the waiting rooms and on their web sites. Printed slips with this information could be handed to them along with the visas as well as on board the aircraft.

## **Publicising Requirement of Registration with FRROs**

- 27.9. The requirement of registration with the police authorities if the duration of the visit exceeds 180 days should be properly publicised to the PIOs by the Missions at the time of issue of visa. Failure to comply with this requirement often puts innocent individuals into harrowing situations at the time of departure. It is suggested that a simple registration form prescribed by MHA could be made available to all long-term visa holders at the Indian Mission. On arrival in India, the passenger could hand over the completed form together with the disembarkation card to the immigration officer who could forward it to the concerned FRRO. A small FRRO cell should be created at the airport to deal with cases of genuine mistakes.

## **Property Frauds**

- 27.10. There have been innumerable cases where, in their absence, the properties in India of NRIs/PIOs have fraudulently been taken over by some unscrupulous persons, often with the connivance of local officials. Complaints of this nature, when brought to the notice of the dedicated organisation being recommended in Chapter 37 should be taken up by it with the concerned officials for immediate redressal. Wherever necessary, appropriate legal advice/assistance should also be tendered to the complainant by the organisation.

## **Bank Frauds**

- 27.11. Several instances have come to notice where frauds have been committed by middlemen/agents who, with the help of forged powers of attorney on behalf of the NRIs/PIOs, lure the banks with deposits and even take loans against such deposits on the basis of such powers of attorney. When the fraud is brought to the notice of the bank, the matter leads to disputes between the bank and the NRI/PIO. It is suggested that all branches of commercial banks should strictly adhere to the instructions issued by the RBI in this regard. Banks while granting loans against NRI deposits etc,

should enforce strict vigilance. Special papers for issuing powers of attorney by NRIs/PIOs in such cases should make it mandatory that photographs and signatures of both the issuer and the attorney accepting the power should be attached and attested by the concerned attesting authority. In case fraud is brought to the notice of the banks, they should be instructed that monetary reparations to them would only be considered once they have initiated efforts to fix the responsibility instead of trying to pass the buck to the NRIs. Legal procedures also need to be revamped so that fraud cases, especially those involving investments/deposits by NRIs/PIOs are tried speedily. It is suggested that the branch of the bank accepting the deposit should take all precautions necessary to verify that the power of attorney is genuine by cross checking with the NRI as well as with the concerned Indian Missions abroad/Ministry of External Affairs. Similar care should be taken to ensure the authenticity of the power of attorney when executed in India. This responsibility should vest with the Manager and should not be delegated by him to any other officer.

### **Removing Customs Duty on Re-exports**

27.12. Customs duty should not be levied on technical equipment, computers etc. being brought to India for professional purposes and meant to be re-exported. Suitable entries could be made to that effect in the passport at the time of entry and duties could be charged at the time of departure from India if the item is not re-exported.

### **PIO Card to Verify Identity**

27.13. The PIO card should be treated as sufficient proof of identity for the purpose of issue of driving licenses, opening of bank accounts.

### **Counselling as a Pre-requisite for Marriage with NRIs/PIOs**

27.14. A cell should be created to ensure free legal and other counselling for a lady, for getting married to an NRI or a PIO, as well as for her parents. This counselling should be prior to marriage and should focus on the possible areas of problems. The individuals and families concerned should be advised to check the NRIs/PIOs voter registration card, or alien registration card, social security number, employment record, tax returns and other relevant information pertaining to the three preceding years. This information would enable them to find out the financial and marital status of the proposed bridegroom. The bridegroom may also be asked by the Marriage Registration office and the visa authorities to attach an affidavit stating his current marital status. The information so obtained should be attached with the request for marriage registration and should be mandatorily a pre-requisite to the issuance of a marriage registration certificate. This would considerably bring down cases of misinformation and fraudulent marriages. As also recommended by the Supreme Court (SC489 – Smt. Neeraja Saraph v Shri Jayant v. Saraph & Another) the Government may examine the feasibility of enacting a legislation, incorporating, inter alia, the following provisions for safeguarding the interests of women who marry NRIs/PIOs:

- a) No marriage between an NRI/PIO and an Indian woman which has taken place in India may be annulled by a foreign court;
- b) Provision may be made for adequate alimony to the wife in the property of the husband both in India and abroad;
- c) The decree granted by the Indian courts may be made executable in foreign courts, both on principle of comity and by entering into reciprocal agreements like Section 44A of the Civil Procedure Code which makes a foreign decree executable as it would have been a decree passed by that court.

### **Grievances of Pensioners Settled Abroad**

27.15. Many pensioners including retired defence personnel complained of the difficulties faced by them in getting their pensions. This is on account of complex procedural requirements, which cause inordinate delays sometimes running into months and years. A suitable mechanism should be worked out whereby branches of banks abroad should be able to disburse these payments abroad. Given our comfortable foreign exchange position, and the fact that these pension amounts do not ordinarily exceed \$100, we should allow these payments in foreign currency. This would bring relief to most of the less well-off pensioners settled abroad.

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