

**Panun Kashmir's
Genocide
and
Atrocities
Prevention Bill -2020**

PREAMBLE

Union of India Resolves and is

Conscious that India is an indivisible unity and all its citizens are united by common bonds and a shared heritage,

Concerned that there have been repeated attempts to shatter the unity of India,

Mindful that during last seven centuries the aborigines of Kashmir, the Hindus of Kashmir have been victims/survivor of unimaginable atrocities that deeply shock the conscience of humanity,

Recognizing that such grave crimes threaten the peace, security and well-being of India and its citizens,

Affirming that Genocide the most serious crime against humanity and is a prime concern to the Union of India and International community as a whole and must not go unpunished and effective prosecution of crime of genocide must be ensured by taking measures at the national level and by enhancing international cooperation,

Determined to put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes thereby rectifying the injustice to victim/survivor incurred by the denial of Genocide

Recalling that it is the duty of the State to exercise its criminal jurisdiction over those responsible for Genocide,

Reaffirming the Purposes and Principles of this act is to recognize, investigate, punish genocidaires and reversal of Genocide in accordance to principles of Non refoulement resolved to guarantee lasting respect for and the enforcement of justice to the victim/survivor of Genocide and permanent reversal of their Genocide.

PART I

OBJECTS, REASONS AND SCOPE

Consequent upon the recognition of Genocide while imposing ban on JKLF by Govt. of India and Government of India being committed to enact a law for the prevention and punishment of genocide under Article V of the Genocide Convention 1948 to which the country acceded to on August 27 1959. And in pursuance to Article 51(c) of the Indian Constitution, which directs the state, “to foster respect for international law and treaty obligations”. And the power conferred by Article 253 which empowers the Parliament “to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention” read with Article 20 of the International Covenant on Civil and Political Rights (ICCPR), which has been acceded to by India in 1979 binds the Indian state to prohibit by law “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence”.

To help prevent acts of genocide and other atrocity crimes, which threaten national and international security, by enhancing State of India and its Government capacities to prevent, mitigate, and respond to such Crises. Be it enacted by the Parliament of India

1. (1) This Act may be called the **PANUN KASHMIR'S Genocide and Atrocities Prevention Act of 2020.**
 - (a) Through an Executive Order all the departments, public sector undertakings, courts and all instruments of the Union Territory may be notified to recognize the Genocide of Hindus in Kashmir and the nomenclature used earlier be changed to genocide victim/survivor with immediate effect.
 - (2) It extends to the whole of India.
2. **DEFINITIONS:** In this Act, unless the context otherwise requires, —
 - (a) “Alienation” means sale, gift, mortgage with possession or exchange but shall not include gift in favour of an heir;
 - (b) “Competent Authority” means the District Magistrate of the area and includes such other officer of the area as the Government may appoint for an area;
 - (c) “Government” means the Government of the Union of India ;
 - (d) “Immovable Property” shall also include tenancy rights or interest created under any law for the time being in force;

- (e) “Victim/Survivor of genocide” means any person who was forcibly displaced from Kashmir Valley due to threat to life or of any such bodily injury which in all likelihood was life threatening, kidnapping, rape, intimidation or any similar offence, has migrated/ internally displaced from Kashmir Valley or any other part of the Union Territory and is registered as such with the Relief Commissioner and includes a person who has not been so registered on the ground of his being in service of the Government in any moving office, or having [left the Valley or any other part of the Union Territory], in pursuit of occupation or vocation or otherwise, and is possessed of immovable property [at the place from where he has migrated/ internally displaced] but is unable to ordinarily reside there due to the disturbed conditions;
- (f) “prescribed” means prescribed by the rules.
- (g) “Prescribed Authority” means the authority competent to grant permission.
- (h) “Relief Commissioner” means any author it appointed as such by the Government or any other Union Territory or Central Government for purposes of registration of the victim/survivor of genocides;
- (i) “Unauthorized Occupant” means any person who has encroached upon or taken possession of any immovable property of a victim of genocide without his written consent and authority of law.
- (j) “Hindus of Kashmir” is/ are individual(s) or a house -holder(s) who profess the Hindu religion as defined in the Hindu Marriage Act, 1955, and is/are property holders in the Kashmir Division of the UT and includes those living at present in Jammu, Delhi or at any other place within or outside the country and also those who continue to live in the Kashmir Division of the UT at their native places or elsewhere, irrespective of their being or not being registered as migrants under any law, rules or regulations for the time being in force and also those Hindus from other parts of the Union Territory who have Agricultural, Industrial, Economic domicile interests in the Kashmir region after 1846.
- (k) “Surveyor General” means an Officer appointed under provisions of this Act.
- (l) “Governing Board” is the apex authority for administration of this Act with such constitution, responsibilities, functions and powers as are given to it under the provisions of this Act.

- (m) “Prabandhak Committee” means the Committee set up to control, manage and develop Genocide Victim/survivor religious places owned by or entrusted to them under any law, deed or any legally valid instrument(s) or in which they have an interest as Genocide Victim/survivor in a Tehsil of Kashmir Division under provisions of this Act.
- (n) Genocide Victim/survivor Religious Places means religious places like temples, shrines, sacred springs, hillocks, places of worship Shivalas, Bhairavasthans, places of pilgrimage, roadside and riverside temples, smadhis, cremation grounds, Sacred caves and Trees etc. and also properties both movable and immovable including all assets like cash, jewellery, bank balances and deposits etc. owned or Attached thereto traditionally or under: any law, deed or any other legal instrument(s) for the time being in force, irrespective of whether these are or are not managed and controlled by the Genocide Victim/survivor at present.

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PART II

GENOCIDE, ATTEMPT AND PUNISHMENT

1. "Genocide" Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:
 - (a) Killing members of the group;
 - (b) Causing serious bodily or mental harm to members of the group;
 - (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
 - (d) Imposing measures intended to prevent births within the group;
 - (e) Forcibly transferring children of the group to another group.

2. The following acts shall be punishable:
 - (a) Genocide;
 - (b) Conspiracy to commit genocide;
 - (c) Direct and public incitement to commit genocide;
 - (d) Attempt to commit genocide;
 - (e) Complicity in genocide.

3. Offence of genocide
 - (1) A person who commits an act of genocide is guilty of an offence against this Act and is punishable on conviction by death or imprisonment for life and shall also be liable to fine.
 - (2) A person who conspires with another person to commit an act of genocide is guilty of an offence against this Act and is punishable on conviction by death or imprisonment for life and shall also be liable to fine.
 - (3) A person who publicly urges the commission of an act of genocide is guilty of an offence against this Act and is punishable on conviction by imprisonment for a period not exceeding 10 years and shall also be liable to fine.
 - (4) A person who attempts to commit an act of genocide is guilty of an offence against this Act and is punishable on conviction by imprisonment for life and shall also be liable to fine.
 - (5) A person who aids, abets, counsels or procures the commission of an act of genocide is guilty of an offence against this Act and is punishable on conviction by imprisonment for life and shall also be liable to fine.

PART III

CULTURAL GENOCIDE CRIMES AGAINST CULTURAL HERITAGE AND PROPERTY

CHAPTER I

1. Cultural Genocide means destroying, damaging, rendering unusable or removing which includes all the offences prescribed under the category of crimes against property in Indian penal code, in association with others, any property which belongs wholly or partly to a victim of Genocide, or to any group of victim/survivor of Genocide or their association and includes politics of change of nomenclature of places and distortion and falsification of history.
 - 6A. A person who commits an act of Cultural genocide is guilty of an offence against this Act and is punishable on conviction by imprisonment for life.
 - 6B. A person/s or group or any other legal entity shall commit an offence if he/she is occupying any immovable property usurped illegally, by encroachment or through distress sale which is restrained by J&K Migrant Immoveable Property (Preservation, protection and Restraint on distress Sales) Act \ 1997 and shall be punished with rigorous imprisonment which may extend to three years and shall be liable to fine.
 - 6C. Application :
 - (i) Save as otherwise expressly provided, this Act shall apply to all or any Genocide Victims/survivor religious places located wherever in the region of Jammu & Kashmir and to property, both movable and immovable, belonging to or appurtenant to such religious places irrespective of their ownership by charitable and other trusts, registered societies etc. for the time being under any law of the Union Territory, legally valid deed(s) or instruments(s).
 - (ii) It shall apply to all such Genocide Victims/survivor religious places as will be compiled and catalogued by the surveyor General and later appended to this Bill and to such other religious places as may be notified by the Union Government in the official Gazette from time to time.

CHAPTER-II SURVEY

- 1) The Lt. Governor of the Union Territory shall appoint a retired Kashmiri Hindu I.A.S. officer, Judge etc of the J&K cadre with requisite staff for the purpose of making a survey and create a catalogue of all the Kashmiri Hindu religious places spread over the length and breadth of the Valley and of their properties irrespective of the fact that these are, for the time being held by an individual(s), institution(s) or any other form of organisation under any law of the Union Territory, deed(s) or legal instrument(s). Such appointment shall be made within a maximum period of 90 days from the date of the enforcement of this Act and may be terminated by the Lt. Governor at any time for reasons to be recorded and made public.
- 2) The Surveyor General will elicit information Tehsil wise from general Kashmiri Hindu public and will have the authority to call for any information data and record from any government functionary or any other person(s) 'or any entity, legal or otherwise, as may be considered necessary for conducting the survey. Willful withholding of any information by anybody when asked for by the Surveyor General for the required purpose, shall be a cognizable offence. The Surveyor General shall have the same powers as are vested in a Civil Court under Code of Civil Procedure, in respect of the following matters, namely:-
 - (i) Summoning and examination of witnesses;
 - (ii) Requiring the discovery and production of any documents;
 - (iii) Requisitioning any public record from any Court or officer;
 - (iv) Issuing summons for examination of witnesses and accounts;
 - (v) Making any local inspection of local investigation; and
 - (vi) Any other matter, which may be prescribed.
- 3) The Surveyor shall, after making such inquiry as may be considered necessary, and basing himself on the entries in the Jamabandi and Misal Haqiyat for the year prior to 1946, submit a report to the Governing Board, containing the following particulars in respect of the Genocide Victims/survivor religious places brought under his survey: -
 - (i) Name of the Kashmir Hindu religious place;
 - (ii) Location with full address;
 - (iii) Description of the place whether a temple, shrine, shivalas, etc.
 - (iv) Present status of the place and its property and assets;
 - (v) Ownership details of the place and its property and assets;
 - (vi) Legal status of the organization holding the place and its property and assets;
 - (vii) Reference to the revenue records, if any, where under the property stands registered;
 - (viii) Gross income during three years immediately preceding the years in which survey is conducted.
 - (ix) Expenses incurred in realization of income and other account during the last three years immediately preceding the year in which the survey is conducted; and

- (x) Such other particulars as may be considered necessary to be included by the Surveyor.
- (4) It shall be incumbent on the Surveyor to elicit and invite public information (if necessary) to the management of the religious places for a detailed inquiry into their ownership, possession etc. and the exact extent of property belonging to or appurtenant to the religious place, as also nature and extent of encroachments by illegal occupants.
- (5) The decision of the Surveyor whether a particular place and its property is or not a religious place of Hindus of Kashmir shall, subject to any order made by the Governing Board/ Government cover on appeal, be final.
- (6) Any person aggrieved by an order of the Surveyor may prefer an appeal to the Governing Board within 60 days from the date of the publication of the list in the Gazette.
- (7) Notwithstanding anything contained in any law for the time being in force and save as otherwise provided in this Act, no Civil Court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act, required to be settled, decided or dealt with or determined by the Surveyor General.

Publication of list of Religious places and their properties:

- (i) On receipt of a report under sub-section (3) of section 6, the Governing Board shall publish the preliminary report of the Surveyor to invite public objections within a period of sixty days.
- (ii) The Governing Board shall give sufficient opportunity to the concerned parties to explain their objections in person.
- (iii) The decision of the Governing Board shall be applicable to the Union Territory Government.
- (iv) The report published under sub-section (1) of Section 7 shall be re-notified as modified in pursuance of a decision of the Governing Board or the Union Territory Government in appeal, and shall then be considered to be final and conclusive.
- (v) The Governing Board shall put in a detailed exercise to ascertain the pattern of damage done to Genocide victim habitats, burnt residential houses and commercial places therewith any other similar or such pattern of destruction including the detailed report on distress Sale of properties of Hindus of Kashmir which are restrained by J&K Migrant Immoveable Property (preservation, protection and restraint on Distress Sales) Act 1997 along with the detail of the properties encroached.

CHAPTER-3

CONSTITUTION AND COMPOSITION OF THE GOVERNING BOARD

- (8) Constitution of the Governing Board:
- (i) There shall be established a Governing Board, which shall consist of 15 members who shall be elected in accordance with the election process, prescribed under this Act:
Provided that in the case of the first Governing Board to be constituted after commencement of this Act, all the members shall be nominated by the Lt. Governor of J&K. He shall include in it at least one retired Genocide Victim Judge of the High Court/ Sessions Court of the Union Territory or any other such Court(s) of any part of the country. One retired Kashmiri Hindu I.A.S. officer, one Kashmiri Hindu social scientist or historian of repute, one social activist, one Kashmiri Hindu expert in religious affairs and the rest from among the existing Trusts/Managements/Prabandhak Committees of the Kashmiri Hindu religious places, ensuring due representation from all the Districts of Kashmir Division. This Board shall continue to operate for a period of one year or till election are conducted whichever is earlier.
- (ii) The Governing Board shall be a body corporate and have a perpetual succession and a common seal and shall sue or be sued.
- (9) Disqualification for being a member of the Governing Board : A person shall not be eligible for nomination or election as a member of the Governing Board, if such person:
- (i) is not a Hindu of Kashmir;
- (ii) is of unsound mind;
- (iii) is an un discharged insolvent;
- (iv) is a paid servant of the Governing Board;
- (vi) is in the employ of the Government of J&K or Government of India.
- (10) Term of Membership: A member of Governing Board shall hold office for three years.
- (11) Office bearers of the Governing Board: The members of the Governing Board shall, at their first General Meeting, elect from among themselves the following office bearers;
- (i) A President;
- (ii) Two Vice-Presidents;
- (iii) One Secretary;
- (iv) One Treasurer;
- (v) One Assistant Secretary; and
- (vi) One Assistant Treasurer.
- (12) General Meeting: A general meeting of the Governing Board shall be held at least once in a quarter.
- (13) Office of the Governing Board: The Governing Board shall have offices at Srinagar and Jammu for transaction of business in premises to be provided for the purpose by the Union Territory Government.
- (14) Powers and duties of the Governing Board generally :
- (i) General matters concerning all Hindu religious places in Kashmir Division shall be handled and attended to by the Governing Board in accordance

with the provisions of this Act and rules and regulations framed there under.

- (ii) It shall be the duty of the Governing Board to ensure that every Prabandhak Committee elected to deal with all or any of the matters specified in this Act, performs its duties and functions in accordance with the provision of this Act or the Rules, made there under. The general administration and superintendence over all such committees under the provisions of this Act shall in the Governing Board.

CHAPTER-IV PRABANDHAK COMMITTEES

- (15) Prabandhak Committee: There shall be established a Prabandhak Committee for every Tehsil of the Kashmir Division of the Union Territory, constituting of 9 members, who shall be elected in accordance with the election process prescribed under this Act:
Provided that in case of the first committee to be constituted in respect of any tehsil after commencement of this Act, all the members of the committee shall be nominated by the Governing Board from among the members of the Management, Trusts, Prabandhak Committee, Operating from their tehsils or form elsewhere after the displacement.
Provided further that the term of the office of the members so nominated for such committees shall not exceed one year or till elections are held whichever occurs earlier.
Every Kashmiri Hindu adult from a particular tehsil who has completed 18 years of age and is of sound mind shall have the right to vote in the elections to the Prabandhak Committee of that particular tehsil.
- (16) Office bearers of the Committee: The members of each Prabandhak Committee shall in its first meeting, elect a President, a Vice-President, a Secretary and a Treasurer.
- (17) Disqualification for appointment as member of a Prabandhak Committee: A person shall not be eligible for appointment or election as a member of Prabandhak Committee, if he;
- (i) Is not a Hindu of kashmir;
 - (ii) has not completed 35 years of age;
 - (iii) is of unsound mind;
 - (iv) is an un discharged insolvent;
 - (v) has been convicted of a criminal off ence involving moral turpitude;
 - (vi) is servant of any religious place, institution or other - body operating in a District;
 - (vii) does not belong to the Tehsil, it being immaterial whether he is currently resident within the tehsil or not.

- (18) Terms of membership: The members of the Prabandhak Committee shall hold for three years from the date of its constitution.
- (19) General powers of the Prabandhak Committee : Subject to superintendence and control of the Governing Board, a Prabandhak Committee shall have full powers of control over, all Kashmiri Hindu religious places of Hindus of Kashmir falling within their jurisdiction and their property, assets and income of whatever description accruing there from and of incurring of expenditures generally for taking all such measures as may be necessary to ensure their effective administration, maintenance and development.
- (20) Offerings made at religious places of Hindus of Kashmir, shrines and endowments etc: All the offerings made at or in connection with religious places of Hindus of Kashmir, endowments etc. shall be deemed to be the property of the "relevant Prabandhak Committee.

CHAPTER-V

FINANCES

- (21) The Governing Board shall receive grants -in-aid, subsidies, development aid etc. from the Central and Union Territory Government, individuals or other bodies whether established within or outside the country and for that purpose shall enter into requisite agreements. The Governing Board shall also receive such contributions from the Prabandhak Committees as maybe fixed by it in accordance with the rules and regulations that may be prescribed for the purpose and enter into requisite agreements for the purpose.
- (22) The Governing Board may borrow money for carrying out the objectives of this Act from the Union Territory and Central Government, Bank and other Bodies corporate, operating within or outside the country, with or without securities.
- (23) The Governing Board and every Prabandhak Committee may open accounts, both current and savings and deposit funds in the form of fixed deposits or in any other form with Scheduled Banks and Post Offices.
- (24) The Governing Board and every Prabandhak Committee may invest money not immediately required in such securities, bonds etc. and in any such other manner as may from time to time be determined.
- (25) The Governing Board and every Prabandhak Committee shall open Bank accounts with any Nationalized Bank or its branch operating within -their respective jurisdictions. Such accounts shall be opened on the basis of resolution passed for the purpose by the Governing Board, which shall also nominate at least two office bearers who shall be signatories for making any draw from such accounts.
- (26) Objects on which funds may be spent:
- (I) The funds available with the Governing Board and Prabandhak Committee shall be appropriated for meeting the expenses on the objectives of this Act in accordance with the annual budget that may be approved by the Governing Board for meeting its requirement and also that of Prabandhak Committee.
 - (a) Development and maintenance of the religious places irrespective of the fact whether or not these religious places have revenue generating assets or properties in accordance with approved development plans;
 - (b) Setting up facilities for devotees and pilgrims;

- (c) Setting up of Educational Institutions, Training and Skill Development centers etc. with minority status.
 - (d) Establishment of health institutions with minority control
 - (e) Establishment of Homes for disadvantaged section of the Kashmiri Hindu society. And their administrative control of these institutions will rest exclusively with the Governing Board .
- (27) Audit and Accounts:
- (i) The accounts of the Governing Board and the Prabandhak Committee shall be audited and examined once in a year such Auditor(s) as may from time to time, be appointed by the Governing Board.
 - (ii) The expenses incurred on the- audit and the examination of the. accounts shall be paid out of the funds of the Governing Board or the Prabandhak Committee, as the case may be.

CHAPTER-VI POWER TO MAKE RULES

- (28) Power to make rules: The Governing Board may after the approval by simple majority of the total strength of the Governing Board by notification make rules to carry out the purposes of this Act.
- (29) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters: -
- (i) The manner in which members of the Governing Board or Prabandhak Committee shall be elected without deviating from the principle of universal adult franchise.
 - (ii) The manner in which it will establish a tehsil wise voter list and update it from time to time.
 - (iii) The manner in which the voting will be conducted and supervised.
 - (iv) The form in which budgets of the Governing Board and Prabandhak Committee shall be prepared.
 - (v) The form in which registers of properties, etc. of the religious places of Hindus of Kashmir may be maintained and further particulars which it may contain;
 - (vi) The manner in which accounts of the Governing Board and Prabandhak Committee may be kept and audited and the contents of the Auditors Report;
 - (vii) The manner in which control over Genocide Victims/survivor religious places and their property shall be established;
 - (viii) Any other matter which has to be or maybe prescribed under this Act.
 - (ix) Restriction on alienation of immovable property is subject to the Jammu & Kashmir Migrant Immovable Property (Prevention, Protection and Restraint on Distress Sales) Act 1997.
 - (x) Punishments: Whoever destroys the property belonging to the Genocide Victim, shall be punished with imprisonment for term which may extend to 10 years and fine.

PART IV

GENOCIDE COMMISSION

8. (1) The Central Government shall, by notification in the Official Gazette, within Thirty days of the date of commencement of this Act, constitute a Commission to be known as the GENOCIDE COMMISSION to exercise the power conferred on, and to perform the functions and duties assigned to it under this Act.
- (2) The GENOCIDE COMMISSION shall consist of —
- (a) a Chief Commissioner, who has been a judge of the Supreme Court or the Chief Justice of a High Court,
 - (b) two Commissioners, who shall be a person of eminence, integrity and expertise in the area of Criminal investigations and to be appointed by Central Government in such manner as may be prescribed, including —
 - (i) one member belonging to the academic community, having a doctoral degree in Criminology or Social Sciences, holocaust/genocide studies and an academic position at a university:
Provided that the academic member shall be granted leave without prejudice by their employing universities for the duration of their term of appointment or until the date of their retirement from their academic appointment, whichever is earlier; and
 - (ii) one member from the Genocide victim community who has worked for organizations committed in advancing the purpose of this Act:
- (3) The decision of the Chief Commissioner and the two Commissioners by consensus or majority vote shall be deemed to be the decision of the Commission.
9. (1) The Chief Commissioner and Commissioners shall be appointed by the President by warrant under his hand and seal.
- (2) The Chief Commissioner and the Commissioners shall be appointed on the recommendation of a Selection Committee consisting of the following:
- (i) minister in -charge of Ministry of Law and Justice Government of India;
 - (ii) Leader of Opposition in the House of the People(Lok Sabha);
 - (iii) Chief Justice of India, and
 - (iv) two members of civil society to be nominated by the other three members of the Committee.
- (3) The general superintendence, direction and management of the affairs of the Commission shall vest in the Chief Commissioner, who, assisted by the Commissioners, may exercise all such powers, perform all such functions and duties and do all such acts and things which may be exercised, performed or done by the Commission autonomously, without being subjected to any control, supervision or directions by any other authority, including any department of the Government of India or a Union Territory Government.

- (4) The Chief Commissioner or Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union Territory, or be an officer of the Central Government or a State Government, or hold any office of profit except by way of employment in a public university, or be a member of any political party or of any organisation, union or institution formally or informally allied with a political party.
- (5) The Selection Committee shall, but not later than six months prior to any vacancy due to arise, issue an advertisement for inviting applications from persons, for appointment as Chief Commissioner and Commissioners: Provided that the advertisement shall contain the criteria on the basis of which the Selection Committee shall select the Chief Commissioner and the Commissioners.
10. (1) The term of office of the Chief Commissioner and the Commissioners shall be five years from the date on which he enters upon his office or when he attains the age of seventy years or whichever is earlier and shall not be eligible for re-appointment: Provided that in order to facilitate a staggered renewal of personnel, one of the first set of Commissioners shall be appointed for a term of four years and the other for a term of six years.
- (2) The salaries and allowances payable to and other terms and conditions of service of the Chief Commissioner and the Commissioners shall be such as may be prescribed and shall not be varied to their disadvantage after their appointment, and
- (i) for the Chief Commissioner shall be the same as that of the Chief Justice Judge of a High Court.
- (ii) for a Commissioner shall be the same as that of a High Court Judge.
11. (1) The Central Government shall, in consultation with the Chief Commissioner, provide the Chief Commissioner and the Commissioner with such, officers and employees as may be necessary for the efficient functioning under this Act: Provided that any reduction in, officers and employees of the Central Genocide Commission shall require a resolution to that effect passed by a majority of the total number of members present and voting in both Houses of Parliament Provided that at least five officers having expertise shall be made available at all times to the GENOCIDE COMMISSION, including at least one officer in the rank of a Secretary to the Government of India, who shall act as the Secretary to the GENOCIDE COMMISSION.
- (2) The salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed under sub-section (1) shall be such as may be prescribed.
- (3) In addition to the employees and officers appointed under sub - section (1), the COMMISSION may employ, through an open and publicly advertised selection process, ten university graduates preferably in the social sciences and law, for internships for a period of two years.
- (4) The Central Government shall make provision for reasonable official, living and maintenance costs for interns employed by the COMMISSION under sub-section (3).

12. The Central Government shall, after due appropriation made by Parliament by law in this behalf provide requisite funds to the COMMISSION for carrying out the purposes of this Act.
13. (1) Without prejudice to any other function assigned to under this Act, the COMMISSION shall—
- (i) Determine the causes which culminated in a genocide.
 - (ii) culminate discrimination, harassment, boycott, segregation, discriminatory violence and victimization;
 - (iii) promote awareness and understanding of the rights and duties under this Act;
 - (iv) assist aggrieved persons in seeking legal remedies provided under this Act;
 - (v) monitor the enforcement of this Act; and
 - (vi) review, from time to time, the functioning of this Act and make recommendations for its improvement.
- (2) The COMMISSION shall—
- (i) constitute an independent Inquiry Committee consisting of five - members to determine, or identify the perpetrators, connivance of investigating authority, complacency, if any ,of any or a government agency or authority.
 - (ii) conduct Nuremberg type trials to bring the perpetrators of Genocide to justice.
 - (iii) all sale of properties post the forced exodus whether religious, residential, agricultural, commercial, institutional, educational or any other immoveable property being a distress sale to be declared null and void.
 - (iv) The enquiry commission shall conduct a census of Hindus of Kashmir who have been victims/survivor/survivors of genocides present and past and putting up in various parts of India and elsewhere if need be, central government will provide all assistance whether human resources, scientific testing, laboratories or any other resource required for the census. And the enquiry commission will submit their final report from the time of enactment of this act.

PART V

14. (1) The Supreme Court shall have original jurisdiction with regard to any incompatibility between this Act and any other law in force.
- (2) Any person aggrieved by any order of the COMMISSION may file an appeal against the order in Supreme Court within forty-five days from the date on which the order was passed.
15. Complaint: A complaint under this Act may be made by:
 - (i) an aggrieved person, or
 - (ii) if the aggrieved person is deceased, his nearest relative
 - (iii) an organisation representing the aggrieved person/ s

PART VI

16. Rules of Evidence

General Provisions

- (A) The rules of evidence set forth in this Section shall govern the proceedings before the COMMISSION. The COMMISSION shall not be bound by national rules of evidence.
- (B) In cases not otherwise provided for in this Section, a COMMISSION shall apply rules of evidence which will best favour a fair determination of the matter before it and are consonant with the spirit of the Act and the general principles of law.
- (C) A COMMISSION may admit any relevant evidence which it deems to have probative value.
- (D) A COMMISSION may request verification of the authenticity of evidence obtained out of court.

Rule 1

Testimony of Witnesses

- (A) Witnesses shall, in principle, be heard directly by the COMMISSION unless a COMMISSION has ordered that the witness be heard by means of a deposition as provided for in the Indian Evidence Act.
- (B) Every Testimony made by the witness shall be presumed by the Commission to be true and the burden of proof will be upon the accused to prove it contrary to the facts,
- (C) A child who, in the opinion of the COMMISSION, does not understand the nature of a solemn declaration, may be permitted to testify without that formality, if the COMMISSION is of the opinion that he is sufficiently mature to be able to report the facts of which he had knowledge and that he understands the duty to tell the truth. A judgment, however, cannot be based on the testimony of one such witness alone.
- (D) A witness, other than an expert, who has not yet testified shall not be present when the testimony of another witness is given. However, a witness who has heard the testimony of another witness shall not for that reason alone be disqualified from testifying.

- (E) A witness may object to making any statement which might tend to incriminate him. The COMMISSION may, however, compel the witness to answer the question. Testimony compelled in this way shall not be used as evidence in a subsequent prosecution against the witness for any offence other than perjury.

Rule 2
Confessions

A confession by the accused given during questioning by the Prosecutor be presumed have been free and voluntary unless the contrary is proved.

Rule 3
Judicial Notice

The COMMISSION shall not require proof of facts of common knowledge but shall take judicial notice thereof.

Rule 4
Exclusion of Evidence on the Grounds of the Means by which it was Obtained

No evidence shall be admissible if obtained by methods which cast substantial doubt on its reliability or if its admission is antithetical to, and would seriously damage, the integrity of the proceedings.

Rule 5
Evidence in Cases of Sexual Assault

In cases of sexual assault:

- (i) No corroboration of the victim's testimony shall be required;
- (ii) consent shall not be allowed as a defense if the victim a) has been subjected to or threatened with or has had reason to fear violence, duress, detention or psychological oppression, or b) reasonably believed that if the victim did not submit, another might be so subjected, threatened or put in fear;
- (iii) before evidence of the victim's consent is admitted, the accused shall satisfy the Trial COMMISSION in camera that the evidence is relevant and credible;
- (iv) prior sexual conduct of the victim shall not be admitted in evidence. Other than the rules aforesaid the rules of evidence adapted by the Commissions of war conducting the trial of war crimes shall be adapted herewith.

PART VII

ECONOMIC GENOCIDE

17. This ACT shall govern the requirements, manner and procedure for realization of the right to compensation to victims/survivor of Genocide.
18. Victim of Genocide who has died or sustained serious bodily injury or serious impairment of physical or mental health as a result of the genocide.
Victim also means a natural person who has died or sustained serious bodily injury or serious impairment of physical or mental health as a result of the genocide which includes reptile or insect bite or sun stroke or a disease procure d due to abject conditions of the camps/non camps and its surroundings, disappeared/missing persons within three subsequent years to his displacement and was subjected to adverse climatic conditions which he was not habitual to.
19. For the purpose of elimination of harmful consequences of serious physical and mental state of the victim, the victim is entitled to compensation (hereinafter referred to as “compensation”), including:
 - compensation for lost earnings;
 - compensation for healthcare costs (costs of treatment and hospitalization);
 - Where the victim has died, the person who received support from the victim under the law governing family relations (hereinafter referred to as “the dependent”) is entitled to compensation and to compensation for the loss of statutory support.
 - The victim and the dependant may claim one or more types of compensation depending on the circumstances of the case.
20. The Commission shall decide on the right to compensation, lump sump amount and the mechanisms of evaluation of compensation.
 - (i) Compensation to orchardists and agriculturalists.
 - (ii) The commission shall evaluate the compensation to the victims/survivor/ survivors of genocide who were discriminated by the Union Territory by denying them the promotions, postings and other benefits enjoyed by others working as Govt. employees.
 - (iii) Extra ordinary measures for creating sustainable development of genocide victim/survivor.
21. The commission would supervise the special efforts which shall be initiated by the Government of India made to ensure the full victims/survivor of Genocide in the planning and management of their returns or resettlement and integration based on the fundamental Principle of non-refoulement.

**Panun Kashmir's Genocide and Atrocities
Prevention Bill -2020**