



**INDIAN INSTITUTE OF
ADVANCED STUDY
LIBRARY SHIMLA**

FORTIETH REPORT
ESTIMATES COMMITTEE
(1993-94)

(TENTH LOK SABHA)

MINISTRY OF HOME AFFAIRS
SYSTEM OF ADMINISTRATION IN
UNION TERRITORIES

[Action Taken by Government on the Recommendations contained in the
Thirty-First Report of Estimates Committee (Tenth Lok Sabha) on the
Ministry of Home Affairs — System of Administration in Union
Territories]


Presented to Lok Sabha on 27 April, 1994



LOK SABHA SECRETARIAT
NEW DELHI

April, 1994/Chaitra, 1916 (Saka)

E.C. No. 1318

 Library

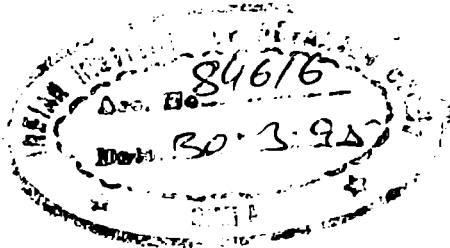
IAS, Shimla

Price: Rs. 14.00



00084616

PH
350
LOK 1993



© 1994 BY LOK SABHA SECRETARIAT

Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Seventh Edition) and Printed by the Manager, P.L. Unit, Government of India Press, Minto Road, New Delhi.

CONTENTS

	Page
COMPOSITION OF THE ESTIMATES COMMITTEE	(iii)
INTRODUCTION	(v)
CHAPTER I Report	1
CHAPTER II Recommendations/Observations which have been accepted by Government	10
CHAPTER III Recommendations/Observations which the Committee do not desire to pursue in view of Government replies	22
CHAPTER IV Recommendations/Observations in respect of which replies of Government have not been accepted by the Committee	35
CHAPTER V Recommendations/Observations in respect of which final replies of Government are awaited	38
APPENDICES	
APPENDIX I Minutes of the Nineteenth sitting of the Estimates Committee (1993-94) held on 7th April, 1992	39
APPENDIX II Analysis of Action Taken by Government on the recommendations contained in the 31st Report of Estimates Committee (10th Lok Sabha).....	41

COMPOSITION OF THE ESTIMATES COMMITTEE
(1993-94)

CHAIRMAN

Dr. Krupasindhu Bhoi

MEMBERS

2. Shri Pawan Kumar Bansal
3. Shri Chhitubhai Gamit
4. Shri Parshuram Gangwar
5. Shri S.K. Gangwar
6. Shri B.S. Hooda
7. Shri Imchalemba
8. Shri Barelal Jatav
9. Shri R. Jeevarathinam
10. Shri Dau Dayal Joshi
11. Smt. Sumitra Mahajan
12. Shri Hannan Moliah
13. Shri Rupchand Pal
14. Shri B. Akber Pasha
15. Shri Kabindra Purkayastha
16. Shri Mohan Rawale
17. Shri Satya Dco Singh
18. Shri Rajnath Sonkar Shastri
19. Shri Vishwanath Shastri
20. Shri Syed Shahabuddin
21. Shri Manku Ram Sodi
22. Shri K.D. Sultanpuri
23. Shri C. Sreenivaasan
24. Shri K. Suresh
25. Shri P.C. Thomas
26. Shri Braja Kishore Tripathy
27. Shri Arvind Trivedi
28. Shri Laeta Umbrey
29. Shri Devendra Prasad Yadav
30. Shri K.P. Reddaiah Yadav

SECRETARIAT

1. Shri G.L. Batra — *Additional Secretary*
2. Shri Murari Lal — *Joint Secretary*
3. Smt. P.K. Sandhu — *Deputy Secretary*
4. Shri K.L. Narang — *Under Secretary*
5. Smt. Abha Singh Yaduvanshi — *Committee Officer*

INTRODUCTION

I, the Chairman of the Estimates Committee having been authorised by the Committee to submit the Report on their behalf, present this Fortieth Report on action taken by Government on the recommendations contained in the Thirty-First Report of Estimates Committee (Tenth Lok Sabha) on the Ministry of Home Affairs—System of Administration in Union Territories.

2. The Thirty-First Report was presented to Lok Sabha on 30th April, 1993. Government furnished their replies indicating action taken on the recommendations contained in that Report on 1st February, 1994. The Draft Report was considered and adopted by the Estimates Committee (1993-94) at their sitting held on 7th April, 1994: The Committee authorised the Chairman to finalize the report.

3. The Report has been divided into the following chapters:—

- I. Report
- II. Recommendations/Observations which have been accepted by Government.
- III. Recommendations/Observations which the Committee do not desire to pursue in view of Government's reply.
- IV. Recommendations/Observations in respect of which replies of Government have not been accepted by the Committee.
- V. Recommendations/Observations in respect of which final replies of Government are still awaited.

4. An analysis of action taken by Government on the recommendations contained in the Thirty-First Report of Estimates Committee (Tenth Lok Sabha) is given in Appendix-I. It would be observed therefrom that out of 61 recommendations made in the Report, 33 recommendations i.e. 54.10% have been accepted by the Government and the Committee do not desire to pursue 25 recommendations i.e. 42.62% in view of Government's replies. Replies of Government have not been accepted in respect of 2 recommendations i.e. 8.28%.

NEW DELHI;
April 19, 1994

DR. KRUPASINDHU BHOI
Chairman,
Estimates Committee.

Chaitra 8, 1916 (Saka)

CHAPTER I

REPORT

1.1 This Report of the Estimates Committee deals with the action taken by Government contained in their Thirty-first Report (Tenth Lok Sabha) on the Ministry of Home Affairs—System of Administration in Union Territories.

1.2 The Report was presented to the Lok Sabha on 30th April, 1993. It contained 75 conclusions/observations/recommendations.

1.3 The conclusions are contained in fourteen paragraphs of the Thirty-first Report at Sl. No. 1, 3, 6, 13, 19, 21, 26, 36, 48, 53, 57, 68, 71 and 72.

1.4 Action Taken Notes in respect of the Sixty-one observations/recommendations contained in the Report have been received and have been categorised as follows:—

- (i) Recommendations/Observations which have been accepted by the Government.

Sl. Nos. 4, 5, 8, 9, 14, 15, 16, 17, 18, 28, 29, 34, 35, 37, 38, 39, 40, 41, 42, 43, 44, 47, 49, 50, 51, 60, 61, 62, 66, 70, 73, 74 and 75.

(Total 33, Chapter II)

- (ii) Recommendations/Observations which the Committee do not desire to pursue in view of the Government reply.

Sl. No. 10, 11, 12, 20, 22, 23, 24, 25, 27, 30, 31, 32, 33, 45, 46, 52, 54, 55, 56, 58, 59, 63, 64, 65, 67 and 69.

(Total 26, Chapter III)

- (iii) Recommendations/Observations in respect of which the Government replies have not been accepted by the Committee.

Sl. Nos. 2, 7.

(Total 2, Chapter IV)

- (iv) Recommendations/Observations in respect of which replies of the Government awaited.

Sl. No. NIL

(NIL, Chapter V)

1.5 The Committee will now deal with action taken by the Government on some of the recommendations.

Legislative Assemblies for Union Territories

Recommendations (Sl. Nos. 2 and 7, Paras 2.56 & 2.61)

1.6 While, emphasising the need for Legislative Assemblies for Union Territories, the Committee had observed as follows:—

“In the opinion of the Committee there can be no justification for denying representative administration to the people of the Union Territories. The Committee have come to a firm conclusion that the existing mechanisms are far too inadequate and do not fulfil the minimum aspirations of the people in the Union Territories. The Committee, therefore, desire that the Government should initiate necessary steps for empowerment of citizens living in Union Territories. In more specific terms they desire full-fledged assemblies to be given to the Island Territories on the pattern of Pondicherry. The Committee also wish to caution the Government against any procrastination in the matter as that would usher in an avoidable sense of alienation amongst the people which can only endanger national security.

The Committee, while welcoming the intention of the Government to strengthen and empower local bodies in Union Territories in whatever forms these are established, they advised against mixing it up the demand for fully representative administration. The Committee, therefore, desire that the question of providing a fully representative constitutional set up in the Union Territories particularly in the Island territories should be pursued independently.”

Action taken

1.7 The Ministry of Home Affairs in their reply has stated as follows:—

“The implications of these recommendations are that the Union Territories of Andaman & Nicobar Islands as well as Lakshadweep may be given a Legislative Assembly and a Council of Ministers. Earlier the diverse nature of each of the Union Territories, the stage of economic, educational, industrial and other kinds of developments were brought to the notice of the Estimates Committee both in writing as well as oral submissions to the Committee. The Committee was also made aware of the arguments in favour of maintaining this state of affairs for the reasons (i) the small size of population and (ii) the fact that no uniform system can be adopted for all the Union Territories. The Committee did not want to overlook the basic question as to why the citizens living in these territories are not to

have some definite constitutional mechanism to provide them an effective say in running the administration of these territories.

Any efforts for bringing into being Legislative Assemblies in remaining Union Territories would result in creation of unviable constituencies since in most cases the population of these territories is less than 3 lakhs.

Moreover, there is little that the Union Territories have in common with each other. Separated from each other by long distances, they have greater economic linguistic and cultural affinities with the neighbouring States than with each other. Politically, economically and educationally they are in varying phases of development. Since these territories differ so much from each other, it is hardly possible to make out a common case for them. However, wherever possible some measure of community of interests have been developed, like having Pradesh Councils etc. in political circles.

Over the years efforts have been made to associate the local people in the Administration of the Union Territories. With the passing of the Constitution 73rd and 74th Amendment Acts, 1992 the urban as well as rural Local Self Governing bodies are expected to be strengthened suitably and perform effectively as vibrant units of self Government. All efforts are being made to implement these Acts in Union Territories also. Subject to the provisions of the Constitution these institutions are to be endowed with adequate powers, authority and responsibilities, so that they may function as institutions of self government and perform the functions and implement the schemes with which the common man is intimately concerned. With the devolution of these powers and functions it is expected that the people of the Union Territories will have more representative administrations in the matter of their day-to-day life which will lead towards the fulfilment of their minimum aspirations. At this stage of development it will not be desirable or even necessary to create Legislative Assemblies for the Island Territories.

To advise the Home Minister on various matters of policy concerning development of UTs, there is a Home Minister's Advisory Committee for Daman and Diu, Dadra and Nagar Haveli, Andaman & Nicobar Islands and Lakshadweep. This HMAAC Acts as deliberate forum to elicit the opinion of the public representatives before the Central Government takes any policy decisions on matters of public importance, concerning that particular territory. As its name suggests, it is purely an advisory body. This Committee is required to be consulted in regard to:—

- (i) General question of policy relating to the Administration of the territory in the State field.

- (ii) All legislative proposals concerning the territory in regard to all matters in the State List.
- (iii) Such matters relating to the annual financial statement of the Union in so far as it concerns the territory and such other financial questions as may be referred to it by the President; and
- (iv) Any other matters on which it may be considered necessary or desirable by Ministry of Home Affairs that the Advisory Committee should be consulted."

1.8 While attaching utmost importance to the fact that aspirations of the people living in the Union Territories should get adequately voiced through representative bodies, the Committee had recommended that fullfledged Legislative Assemblies be given to Island territories on the pattern of Popdicherry and had desired that the Government should initiate necessary steps to this regard. Instead of accepting and implementing the recommendations, the Government in their Action Taken reply have simply repeated the same arguments as were advanced by them earlier. They have stated that by passing of the Constitution 73rd and 74th Amendment Acts, 1992, the urban as well as rural Local Self Governing Bodies are expected to perform effectively as vibrant units of self Government. They have informed that efforts are being made to implement these Acts in the Union Territories also and these institutions are to be vested with adequate powers, authority and responsibilities so that they may function as institutions of self Government and implement the schemes with which the common man is intimately concerned.

1.9 The Committee do not appreciate the above approach taken by the Government which has resulted in mixing up the demand for fully representative administration with providing adequate powers to Local Self Governing Bodies. It is rather unfortunate that the recommendation, related to rights to citizens in a Democratic Republic had not been given that serious a consideration which it deserved. Setting up of fully representative constitutional machinery particularly in the Island Territories needs to be appreciated. The Committee, therefore, reiterate the recommendation for giving fullfledged Legislative Assemblies to the Island Territories. They also desire that necessary action on the part of the Govt. in this regard should be expedited.

Representative Administration in Chandigarh
Recommendations (Sl. Nos. 8 & 9, Para 2.62 & 2.63)

1.10 For providing representative administration in Chandigarh, the Committee made the following observations/recommendations:—

"In regard to Union Territory of Chandigarh even as its future is linked with the settlement of inter-state disputes between Punjab and Haryana, the Committee find it highly regrettable that pending such a

settlement the citizens of this cosmopolitan and highly literate territory should have been denied even the barest minimum say in the running of Chandigarh Administration.

The Committee, therefore, call upon the Government to rectify the situation immediately in consultation with the popularly elected representative of this territory. They would even go further to suggest that even in the event of merger with a particular state enough statutory safeguard should be provided to ensure that Chandigarh retains its distinct character."

Action Taken

1.11 The Ministry in their reply has stated:

"Chandigarh Administration were asked for a blue print for setting up of a Chandigarh Municipal Corporation and Municipal Corporation for Manimajra in the light of Constitution (74th Amendment) Act, 1992. The Chief Minister, Punjab has however, suggested that no structural changes in the administration of Chandigarh should be made without the concurrence of the Government of Punjab and that the proposal to enact a Municipal Corporation Act for Chandigarh may be kept pending till such time as a final decision is taken regarding the transfer of Chandigarh to Punjab. The Chief Minister, Haryana has requested that the State Government should be fully associated in framing the law for the new administrative set-up for Chandigarh. The matter is being examined by the Ministry of Law, Justice and Company Affairs which has sought the opinion of the Attorney-General of India on the question whether among others, the setting up of Municipalities in the Union Territory of Chandigarh could be deferred as desired by Chief Minister, Punjab.

The question of providing representative administration in Chandigarh can thus be settled only after the controversy regarding its status is resolved, as otherwise avoidable complications may arise. The two State Governments also wish it to be so."

1.12 In pursuance of the implementation of the recommendations of the Committee for setting up of Chandigarh Municipal Corporation, and in the light of Constitution (74th Amendment) Act, 1992, the Committee have been informed that the matter is being examined by the Ministry of Law, Justice and Company Affairs which has sought the opinion of the Attorney General of India on the question whether, among other things, the setting up of municipality in the Union Territory of Chandigarh could be deferred as desired by the Chief Minister, Punjab. Pending merger of Chandigarh with the particular State, the Committee do not find any justification in deferring the setting up of Municipality in the Union Territory of Chandigarh, thus denying the citizens representative administration. The Committee, therefore, desire the Government to take prompt action meeting the aspirations of the local citizens.

Municipal Boards and Panchayats in Union Territories
Recommendations (Sl. Nos. 14 & 15, paras No. 3.23 & 3.25)

1.13 The Committee made the following recommendations:—

“The Committee urged upon the Government of India to suitably amend the existing Regulations created for the local bodies i.e. Municipal Boards and Panchayats in different Union Territories in conformity with the 73rd and 74th Constitutional Amendment Act which has come into force on 24th April, 1993. In case no such regulations are in force-suitable regulations need to be promulgated in accordance with the interests of the local population of such territory.

The Committee is of the strong view that for establishment of the Local bodies, there should be fundamentally no discrimination between the States and the Union Territories and the people should enjoy equal rights in regard to civic services and control over the related territory.”

Action Taken

1.14 The Ministry in their reply has stated:—

“The recommendation is accepted and action has already been initiated to bring the existing regulations governing Panchayats and Municipalities in UTs in conformity with the Constitution (73rd & 74th Amendment) Acts, 1992.”

1.15 The Committee are satisfied to note that the Government has accepted their recommendations for bringing the existing regulations governing Panchayats and Municipalities in UTs in conformity with the Constitution (73rd & 74th Amendment) Act, 1992 and that action has been initiated in this regard. The Government has not, however, specified the concrete action plan for implementing the aforesaid recommendations of the Committee. The Committee, therefore, desire the Government to state explicitly the measures proposed to be taken in this regard and to apprise them within a period of six months.

Restructuring of Administration

Recommendation (Sl. No. 37, Para 4.89)

1.16 The Committee in their recommendation has desired:

“Necessary changes in the district set up may be introduced expeditiously to make administration responsive to the public needs. The Committee recommend that the Administrator Andaman & Nicobar Islands should undertake a study of restructuring the entire Union Territory Administration on the basis of past experience to provide a clean efficient and responsive administration. They also desire that the changes should be effected in such a manner that public have to deal with the administration through a single window for seeking redressal of their problems. The Committee would like to be apprised

of the position at the earliest but not later than a period of six months."

Action Taken

1.17 The Ministry have accepted the recommendation. The Andaman and Nicobar Administration have been asked to take necessary steps and apprise them of the same.

1.18 The Committee would like to be apprised of the specific proposals finalised for restructuring of the administrative set up in the Andaman & Nicobar Islands in order to provide a clean, efficient and responsive administration in pursuance of implementation of the above recommendation.

Setting up of Tribal Councils

Recommendation (Sl. No. 41, Para 4.92)

1.19 For setting up of Tribal Councils, the Committee recommended as follows:—

"The Committee are informed that tribal population of Andaman and Nicobar Islands have demanded setting up of an Autonomous Tribal Council under the Sixth Schedule of the Constitution. The Committee fully support this demand and desire that Ministry of Home Affairs should promptly initiate steps to fulfil the same."

Action Taken

1.20 The Ministry in their reply has stated:

"The demand regarding setting up of the Tribal Councils in Andaman and Nicobar Islands is acceptable in principle and the same has been taken up with the Ministry of Welfare."

1.21 The Committee note that the question of setting up of the Tribal Councils in Andaman & Nicobar Islands under the Sixth Schedule to the Constitution has been taken up by the Ministry of Home Affairs with the Ministry of Welfare. The Committee trust that these Tribal Councils would be expeditiously set up in Andaman & Nicobar Islands. The Committee would also like to be apprised of the concrete action taken in this regard within a period of six months.

Reservation of Seats for Candidates from Island Territories

Recommendation (Sl. No. 61, Para 6.104)

1.22 The Committee desired that

"in fields where sufficient number of local candidates are not forthcoming, concerted efforts may be made to have suitable willing men and women specially trained or coached in those fields particularly the field of shipping and other professional areas at Government expenses and with a stipulation to serve in the native Island Territory for a certain number of years."

Action Taken

1.23 The Ministry in their action taken reply stated as follows:—

“The recommendation is accepted in principle. Seats in certain professional and technical courses are being reserved for candidates from the Island Territories in the Institutions on the mainland. Views of UT Administrations regarding the areas in which deficiency is being felt have been called for.”

Recommendation (Sl. No. 61, Para 6.104)

1.24 The Committee appreciate the measures initiated by the Government regarding reservation of seats for candidates from the Island Territories in certain professional and technical courses in the institutions on the mainland. The Committee would like to be informed, within a period of six months of the details of reservations alongwith terms and conditions and other facilities provided in the light of views received from UT Administrations.

Setting up of the Law Commission

Recommendation (Sl. No. 70, Para 7.14)

1.25 Regarding setting up of the Law Commission:

“The Committee urge the Government of India to appoint a Law Commission for examining the problems and requirements of all Union Territories to shower justice to the people of Union Territories. It was also necessary to consolidate all the regulations and rules prevalent in the respective UTs which were readily available at that moment.”

Action Taken

1.26 In their action taken replies the Government have stated:

“The recommendations of the Committee have been brought to the notice of all the Union Territory administrations for taking action on priority basis for consolidation of all the rules and regulations.”

1.27 The Committee find it difficult to understand why the Ministry has chosen to be silent about appointing Law Commission for examining the problems and requirements of all Union Territories in the interest of justice to the people of Union Territories. They would like the Ministry to take the matter with the Ministry of Law, Justice and Company Affairs for setting up of Law Commission with due promptitude and also inform them of the results achieved in this regard.

Implementation of Recommendations

1.28 The Committee would like to emphasise that they attach the greatest importance to the implementation of the recommendations accepted by the

Government. They would, therefore, urge the Government to implement such recommendations expeditiously. In case where it is not possible to implement the recommendations in letter and spirit for any reasons, the matter should be reported to the Committee in time with reasons for non-implementation.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

Recommendation (Sl. Nos. 4 and 5, Paras 2.58 and 2.59)

During the evidence, the Secretary, Ministry of Home Affairs has mooted the idea that the Committee should seriously reconsider the usefulness of maintaining the Union Territory status of some of the geographically isolated Territories which can be more conveniently merged with an adjoining State or with the State with which it enjoys cultural affinity.

The Committee, however, are of the opinion that since these Union Territories had come into existence due to some historical reasons, any changes in their present status need to be effected after a broad consensus emerges amongst the people residing in those areas. As such the Committee recommend to the Government of India to initiate a dialogue with the public representatives of the respective Union Territories on the Mainland and negotiate an acceptable package.

Reply of Government

The recommendations are acceptable in principle. Since any change in the present status of the Union Territories can be done only with the approval of the Cabinet, the views of the public representatives from the Union Territories which may be considered for merger will be ascertained before submission of the proposal to the Cabinet.

Recommendation (Sl. Nos. 8 and 9, Paras 2.62 and 2.63)

In regard to Union Territory of Chandigarh even as its future is linked with the settlement of inter-state disputes between Punjab and Haryana, the Committee find it highly regrettable that pending such a settlement the citizens of this cosmopolitan and highly literate territory should have been denied even the barest minimum say in the running of Chandigarh Administration.

The Committee, therefore, call upon the Government to rectify the situation immediately in consultation with the popularly elected representative of this territory. They would even go further to suggest that even in the event of merger with a particular State enough statutory safeguard should be provided to ensure that Chandigarh retains its distinct character.

Reply of Government

Chandigarh Administration were asked for a blue print for setting up of a Chandigarh Municipal Corporation and Municipal Corporation for Manimajra in the light of Constitution (74th Amendment) Act, 1992. The Chief Minister, Punjab has however suggested that no structural changes in the administration of Chandigarh should be made without the concurrence of the Government of Punjab and that the proposal to enact a Municipal Corporation Act for Chandigarh may be kept pending till such time as a final decision is taken regarding the transfer of Chandigarh to Punjab. The Chief Minister, Haryana has requested that the State Government should be fully associated in framing the law for the new administrative set-up for Chandigarh. The matter is being examined by the Ministry of Law, Justice and Company Affairs which has sought the opinion of the Attorney-General of India on the question whether among others, the setting up of Municipalities in the Union Territory of Chandigarh could be deferred as desired by Chief Minister, Punjab.

The question of providing representative administration in Chandigarh can thus be settled only after the controversy regarding its status is resolved, as otherwise avoidable complications may arise. The two State Governments also wish it to be so.

Recommendation (Sl. Nos. 14, 15 & 16, Paras 3.23, 3.24 and 3.25)

The Committee urge upon the Government of India to suitably amend the existing Regulations created for the Local bodies i.e. Municipal Boards and Panchayats in different Union Territories in conformity with the 72nd and 73rd Constitutional Amendment Act which has come into force on 24th April, 1993. In case no such regulations are in force suitable regulations need to be promulgated in accordance with the interests of the local population of such territory.

The Committee further desire that the Government should not take shelter under the exceptions and modifications mentioned in the Article 243 and 243 ZB of part IX of the Constitution.

The Committee is of the strong view that for establishment of the Local bodies, there should be fundamentally no discrimination between the States and the Union Territories and the people should enjoy equal rights in regard to civic services and control over the related territory.

Reply of Government

The recommendation is accepted and action has already been initiated to bring the existing regulations governing Panchayats and Municipalities in UTs in conformity with the Constitution (73rd & 74th Amendment) Acts.

Recommendation (Sl. Nos. 17 and 18, Paras 3.27 and 3.28)

The Committee observed that there is lack of adequate structural arrangements with adequate staff in the Union Territory of Andaman and

Nicobar Islands for proper and systematic functioning of Panchayati Raj Institutions. The Committee desire that a three-tier system of Panchayat Raj Institution should be created in the Union Territory of Andaman and Nicobar Islands i.e., District level, Block level and Gram Panchayat level supported by adequate infrastructure. The panchayat should be vested with more powers.

They also desire that adequate staff should be provided in the Union Territory Secretariat for giving necessary direction and institutional support to the local bodies from the Union Territory Administration.

Reply of Government

All the Union Territories including Andaman & Nicobar Islands have been advised to initiate steps to enforce Constitution 73rd and 74th Amendment acts, which provide for substantial devolution of powers and functions to local self-government institutions.

- Recommendation (Sl. Nos. 28 and 29, Paras 4.80 and 4.81)

“The Committee are dismayed to find that even though Executive Councilors/Councilors have been appointed in the various Union Territories in most cases either no files are routed through them or these are routed in a very lackadaisical manner. The Committee desire the Ministry of Home Affairs to issue clear instructions to Administration in all the Union Territories to ensure routing of all files to be submitted by the Lt. Governors through the respective Executive Councilors/Councilors except where such files relate to reserve subjects which are submitted direct. The Committee would like to be ensured that no deviation from this instruction is permitted. They also desire that violation of this provision should be seriously viewed by the Government.

The Committee, therefore, feel that comprehensive guidelines should be issued by the Ministry of Home Affairs to the Administrators of all the Union Territories without a Legislative Assembly for more close effective association of Executive Councilors with the administration of the Union Territory and for observance of proper protocol in regard to them.”

Reply of Government

The recommendations are accepted and Administrators of Union Territories of Lakshadweep, Daman & Diu and Dadra & Nagar Haveli have been requested to amend the rules so as to provide for routing all the files other than those relating to subjects to be dealt with by the Administrator in his discretion or relate to reserved subjects through the Councilors and to ensure that files are routed through the Councilor.

In Andaman & Nicobar Islands this practice is already in vogue. The Administrator has been requested to issue necessary instructions to follow the rules and that all the files other than those relating to subjects to be dealt with by the administrator in his discretion or relate to reserved subjects should be routed through the Councilor.

Recommendation (Sl. No. 34, Para 4.86)

“The Committee learn that at present there is no formal mechanism in the Union Territories for inter-action between the Union Territory administration and the field offices of Government of India operating independently in a Union Territory. The Committee feel that for better coordination and purposeful inter-action such a mechanism needs to be established without loosing further time. They may be apprised of the steps taken in this regard.”

Reply of Government

The Union Territory Administrations have been asked to take necessary steps in this regard and apprise the Ministry of Home Affairs of the same. The recommendation of the Estimates Committee has also been brought to the notice of various Ministries for directing their field offices in Union Territories for ensuring effective coordination with them.

Recommendation (Sl. No. 35, Para 4.87)

“The Committee understand that a final decision regarding conversion of lease hold land in Union Territory Chandigarh has been pending for a considerable time with the Government of India, Ministry of Urban Development. The Committee desire that Ministry of Home Affairs should actively pursue the matter with Ministry of Urban Development to ensure a speedy decision in this regard.

In the similar manner there should be proper land survey and settlement conducted for all the Union Territories where it has not been done earlier and free hold land patta for agricultural land and house sites should be issued without further loss of time. Government of India should amend the land tenure regulations of concerned Union Territory, if necessary.”

Reply of Government

This recommendation is accepted. The Ministry are actively pursuing the same for obtaining decision of the Cabinet in this regard.

Similarly the matter regarding land survey has been taken up with the Ministry of Rural development.

Recommendation (Sl. No. 37, Para 4.89)

“The Committee desire that necessary changes in the district set up may be introduced expeditiously to make administration responsive to the public needs. The Committee recommend that the Administrator Andaman & Nicobar Islands should undertake a study of restructuring the entire Union Territory Administration on the basis of past experience to provide a clean efficient and responsive administration. They also desire that the changes should be effected in such a manner that public have to deal with the administration through a single window for seeking redressal of their problems. The Committee would like to be apprised of the position at the earliest but not later than a period of six months.”

Reply of Government

The recommendation is accepted. The Andaman and Nicobar Administration have been asked to take necessary steps and apprise us of the same.

Recommendation (Sl. Nos. 38 & 39 Paras 4.90 & 4.90A)

The Committee are perturbed to note that in Andaman and Nicobar Islands a reverse delegation has been taking place as powers have been withdrawn from the Heads of Department and vested with the Secretaries with the result that instead of giving their full attention to policy inputs and effecting coordination the Secretaries of the UT Administration have burdened themselves with the task of effecting transfers etc. which is the function of the Heads of Department. In the opinion of the Committee this situation is not redeemed by the fact that in some cases the Secretaries are concurrently the Heads of Departments. The representative of the Ministry of Home Affairs has in his evidence before the Committee admitted that this is a somewhat anomalous position.

"The Committee are of the firm view that in any Administration secretariat cannot be strengthened at the expense of field offices. The Committee therefore, desire that Andaman and Nicobar Islands Administration should be asked to immediately review existing delegation of powers with a view to restoring the importance and effectiveness of Heads of Department."

Reply of Government

Andaman and Nicobar Administration have issued necessary notification re-delegating powers to Head of Department/Officers as appointing authority and disciplinary authority in respect of Group 'C' and Group 'D' posts on 5-7-1993.

Recommendation (Sl. No. 40, Para 4.91)

"The Committee note that the mechanism for reviewing the adequacy or suitability of administrative set up in Union Territories is provided by Internal Work Study Unit of Ministry of Home Affairs and the Staff Inspection Unit of Ministry of Finance. the Committee, however, find that most of the recommendations of Staff Inspection Unit in regard to restructuring of the Administration and abolition of some posts have generally not been implemented. The Committee cannot but take a serious view of this default and desire that the recommendations of the Staff Inspection Unit, once made should be faithfully implemented. Whatever observations the Administration may have to make on the preliminary conclusion of the Staff Inspection Unit should be placed before it well before the Unit gives report. It would not be out of place to expect each Head of the Department to discuss the draft SIU Report with the Head of SIU team visiting the Union Territory. The Committee would like the Ministry of Home Affairs to issue necessary instructions in this regard."

Reply of Government

This recommendation is accepted and necessary instructions in this regard have been issued to all the Union Territory Administrations.

Recommendation (Sl. No. 41, Para 4.98)

"The Committee are informed that tribal population of Andaman and Nicobar Islands have demanded setting up of an Autonomous Tribal Council under the Sixth Schedule of the Constitution. The Committee fully support this demand and desire that Ministry of Home Affairs should promptly initiate steps to fulfill same.

The Committee are apprised that in the Andaman and Nicobar Islands a number of developmental works are being implemented through agencies like NBCC and CPWD because of which local youth lose job opportunities.

The Committee desire that in all Union Territories developmental works would be implemented departmentally and non-departmental agencies should be involved only when this is completely unavoidable. They also desire that in departmentally as well as non-departmentally executed works local youth should be given preference in jobs."

Reply of Government

The demand regarding setting up of the Tribal Councils in Andaman and Nicobar Islands is acceptable in principle and the same has been taken up with the Ministry of Welfare.

The recommendation regarding giving preference to local youth is accepted and has been brought to the notice of all the Union Territories for keeping in mind whenever such job opportunities arise.

Recommendation (Sl. Nos. 42 & 43, Paras 5.67 & 5.68)

"The Committee find that formulation of budget in the Union Territories is closely linked to the process of finalising the Annual Plans in consultation with the Planning Commission because size of the budget in most Union Territories does entirely and in some cases substantially depend upon the quantum of grant-in-aid received from the Central Government. They are further apprised that budget making and particularly discussions thereupon by the Pradesh Councils wherever these take place lose their purposefulness if size of the annual plan allocation is later reduced by the Planning Commission."

"In this context the Committee welcome the revised procedure under which the Planning Commission gives advance indication of the resources likely to be made available for the annual plan. This step they hope will lend a certain degree of certainty to the budgetary exercise in UTs. The Committee desire that no effort should be spared to make this innovation a success."

Reply of Government

The recommendation of the Committee is accepted and has been brought to the notice of Union Territories.

Recommendation (Sl. No. 44, Para 5.69)

The Committee feel concerned at the fact that often financial sanctions for different schemes/projects are issued by Government of India at the fag end of the financial year because even after approval of a scheme by the Planning Commission various other Ministries that are to be consulted before according a financial sanction take their own time in clearing the projects. The Committee aver that this is an unhappy situation and desire that a multipronged approach should be adopted to minimize the impact of such delays. They further suggest that, (i) more powers may be delegated to UTs to bring down the number of proposals required to be referred to the Government of India, and (ii) that keeping in view the advance intimation of annual plan allocation it should be possible to make timely references to Ministry of Home Affairs or other Ministries of Government of India.

Reply of Government

The recommendation is accepted and a detailed proposal has been prepared and sent for consideration of Integrated Finance whereafter it will be sent to Ministry of Finance. UT Administrations have also been asked to take full advantage of the procedure whereby advance intimation of annual plan allocation is given by the Planning Commission and submit their proposals to the Central Ministries well in advance so as to avoid delays in approval.

Recommendation (Sl. No. 47, Para 5.72)

"The Committee are perturbed by the revelation that discussion of annual plan with members of Pradesh Council has not been accorded due importance by A&N Administration. They cannot also rule out similar attitude being taken by administration in other UTs. The Committee cannot but take a very serious view of the matter and would like to know what steps have been taken by the Ministry of Home Affairs to avoid recurrence of such instances."

Reply of Government

This recommendation is accepted and the Union Territory Administrations where the system of Pradesh Council exists have been asked to give due consideration to the members of the Pradesh Council in this regard.

Recommendation (Sl. No. 49, Para 5.74)

"While the Committee do not wish to discount the importance of macro-level direction of the planning process they do feel that enough room should be left for developmental needs at the grass roots to be dovetailed. They accordingly desire that plan allocation should set apart an appropriate portion which can be placed at the disposal of Districts, Block and

Panchayat level bodies. The hope with the application of 72nd and 73rd Constitution Amendment to Union Territories it should be possible to move fast in this direction. The Committee would like to be apprised of the progress made within a period of 6 months. The Committee recommends to create UTs level Planning Board for Planning process and monitoring the same in each Union Territory.”

Reply of Government

The Planning Commission have agreed to setting up of UT level Planning Board in principle. The UTs have been asked to send us their views in this regard. Moreover, under article 243ZD of the Constitution, every Union Territory is to constitute at the district level a District Planning Committee to prepare a draft development plan for the district as a whole, after consolidating the plans prepared by the Panchayats and the Municipalities in the district. This is expected as to meet the requirements at the District, Block and Panchayat level local bodies. The Union Territories have been asked to draft necessary legal provisions in this behalf.

Recommendations (Sl. Nos. 50 & 51, Paras 5.75 & 5.76)

“The Committee find that in all the Union Territories net annual expenditure exceeds the revenue. Thereas in other Union Territories the gap has been ranging from 7.5 percent (Lakshadweep 1992-93) to 177 percent (Pondicherry 1990-91), in regard to Andaman and Nicobar Islands where the expenditure has been exceeding the revenue 8 to 10 fold the position is very acute. Being conscious of the fact that without a fiscal balance Union Territories cannot become financially viable, the Committee are concerned at this state of affairs. They feel that the existing fiscal position of the Union Territories, particularly that Andaman and Nicobar Islands is not in congruity with the objective of greater democratistation of administration in these territories.

The Committee therefore desire that a serious thought should be given at rectifying the existing fiscal imbalance in the Union Territories.

This would, obviously call for economy in unproductive expenditure and as also indentification of new sources of revenue. The Committee also observe that the revenue base in some of the Union Territories which include Island territories is very narrow the Committee desire Government to take speedy measures for the economic development of these territories so that rise in general prosperity of the citizens also leads to better revenue mobilisation.”

Reply of Government

This recommendation is accepted. The Union Territories are constantly monitoring expenditure and cuts are imposed wherever necessary to achieve maximum economy. Potential areas are being explored in

Andaman and Nicobar Islands for additional revenue mobilisation and all steps are being taken to augment revenue receipt.

Efforts are already on for rapid economic development in the Union Territories and concessions have also been announced in the budget for setting up industries in the Union Territories. This will lead to better revenue mobilisation. There are various agencies which go into details of economic development in Union Territories viz. Island Development Authority, Home Minister's Advisory Committee and entire plan of the UTs is discussed in the Planning Commission.

Recommendation (Sl. No. 60, Para 60)

"The Committee are apprised that under the Constitution there is no provision for a Public Service Commission in the Union Territories. While the powers to make recruitment to Group C & D posts have been delegated to the Administrators of these Union Territories, Group A&B posts are filled through UPSC. The Committee are informed that unless Constitution is amended the status-quo would remain. However, in this respect the Committee have taken note of the fact that in the North-Eastern States a Selection Committee comprising representatives of the areas concerned, the UPSC and the Ministry of Home Affairs had been constituted to overcome difficulties in finding suitable local candidates for Group A&B posts willing to serve in those areas. The Committee find that both the UPSC and the Ministry of Home Affairs have taken a positive stand on the question of giving similar treatment to island territories. The Committee therefore desire that expeditious action may be taken to constitute similar Committees for recruitment of Group A&B posts in the Island Territory. For this purpose the required exemption from UPSC may be obtained by Ministry of Home Affairs."

Reply of Government

This recommendation is accepted. Department of Personnel and Training and Ministry of Law have agreed to the constitution of Selection Committee under the Chairmanship of a Member of UPSC for recruitment of Group A&B posts in Andaman and Nicobar Administration. UPSC's consent to this is being obtained.

Recommendation (Sl. No. 61, Para 6.104)

"The Committee also desire that in fields where sufficient number of local candidates are not forthcoming, concerted efforts may be made to have suitable willing men and women specially trained or coached in those fields particularly the field of shipping and other professional areas at Government expenses and with a stipulation to serve in the native Island Territory for a certain number of years."

Reply of Government

The recommendation is accepted in principle. Seats in certain professional and technical courses are being reserved for candidates from the

Island Territories in the Institutions on the mainland. Views of UT Administrations regarding the areas in which deficiency is being felt have been called for.

Recommendation (Sl. No. 62, Para 6.105)

“The Committee find that there is no uniform delegation of authority to the Administrator of Union Territories in regard to appointments. While the Lt. Governor of Delhi can appoint persons to a post carrying a maximum pay of Rs. 5000 the same cannot be said about the administrative head of other Union Territories. The Committee do not agree with the explanation put forward by the Ministry of Home Affairs in regard to the rationale behind this difference in delegated powers. The Committee desire the Government to review this position and to ensure that heads of Administration in Union Territories which are located far off from the seat of Union Government should in the ordinary course enjoy equal if not greater administrative powers.”

Reply of Government

This recommendation is accepted in principle and a detailed proposal in this regard has been prepared and this sent to Integrated Finance in the Ministry whereafter it will be sent to Ministry of Finance.

Recommendation (Sl. No. 66, Para 6.109)

“Although the Committee find that the transfer policies which exist in different Union Territories are more or less satisfactory. The implementation of the policy is faulty. However, they find that transfer policy of Lakshadweep Administration to be more comprehensive. The Committee desire that other Union Territories should adopt this as a model transfer policy with appropriate modifications in keeping with the local conditions.”

Reply of Government

The recommendation is accepted and the Union Territories have been asked to use the transfer policy of Lakshadweep as a model with appropriate modifications in keeping with the local conditions.

Recommendation (Sl. No. 70, Para 7.14)

The Committee urges to the Government of India to appoint one Law Commission for examining the problems and requirement of all Union Territories to shower justice to the people of Union Territories. It is also necessary to consolidate all the regulations and rules prevalent in the respective UTs which is readily available at the moment.

Reply of Government

The recommendation of the Committee have been brought to the notice of all the Union Territory administrations for taking action on priority basis for consolidation of all the rules and regulations.

Recommendation (Sl. No. 73, Para 8.28)

“The Committee, therefore, aver that much more needs to be done in Delhi in regard to redressal of public grievances not only by active involvement of senior officers of the Delhi Administration in this sphere of public administration but also in terms of updating and modifying different laws, regulations and procedures effecting the citizens in their day-to-day life. The Committee feel that there is a tremendous scope for simplification of procedures and decentralisation of authority so as to leave higher echelons of the administration free to ensure proper and corruption free enforcement of laws and effective implementation of developmental programmes. The Committee, would desire Delhi Administration to launch a comprehensive campaign to improve its public grievances redressal situation. They also suggest that greater emphasis should be laid on attitudinal changes amongst officers and staff dealing with the public.”

Reply of Government

The Delhi Administration has advised its departments to review their process and procedures and modify the laws, rules and regulations so as to simplify them. Efforts are being made to decentralise the authority and delegate more and more powers to field units. Training programmes are being organised for different categories to stress upon them the need for attitudinal changes. There is also a proposal under consideration for setting up of a Directorate of Public Grievances and Administrative Reforms in Delhi Administration.

Recommendations (Sl. Nos. 74 & 75, Para 8.29 & 8.30)

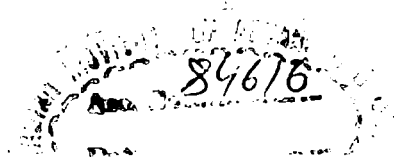
“In regard to other Union Territories, the Committee find that institutional mechanism available for redressal of grievances is somewhat rudimentary and that more reliance is placed on personal contact of public with the higher echelons of the administration which includes the Administrator. While the Committee appreciate that the grievance redressal machinery in these territories can better be dealt by the active interest on the part of administrators, as also by adoption of a helping attitude on the part of departmental officers, they are, however, left with a disconcerting feeling that in reality things do not work so well. They feel that there is scope for institutional improvement in other Union Territories as well, particularly in regard to lack of coordination between different limbs of administration which itself can give rise to large many grievances.

The Committee, therefore, desire that whole position about redressal of public grievances should be reviewed by the Ministry of Home Affairs, at the highest level in respect of each of the Union Territories and suitable administrative improvements effected in a time bound manner. They also desire that a through review of laws, regulations and procedures may be undertaken in each of Union Territories to eliminate all chances there being such provisions of law and procedure that may be causing inconveni-

ence to the public or that may not be in tune with the present times. The Committee desire that necessary directive be issued by the Ministry of Home Affairs to all the Administrators of UT's to designate a Senior officer who should be made responsible for attending public grievances."

Reply of Government

The Union Territories have been asked to review the position in respect of redressal of public grievances machinery, including their laws. They have also been asked to designate a senior officer for attending public grievances.



CHAPTER III

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE GOVERNMENT REPLY

Recommendations (Sl. Nos. 10, 11 & 12, Para Nos. 2.64, 2.65 & 2.66)

The Committee find that except Pondicherry, in all the other Union Territories, apparatus of the Pradesh Councils has been created to bridge the gulf between the people and the administration. Apart from these councils there are elected Members of Parliament from these Territories. Moreover an Island Development Authority with regard to island territories acts as a mechanism for giving expression to people's aspirations and grievances. At the same time, some of the members of Pradesh Councils are nominated as Executive Councillors.

In the case of Pondicherry where a State legislature and Council of Ministers exist, these bodies, however, are created in terms of Union Territories Act, 1963 and not under the Constitution itself. In this sense the legislature of Pondicherry is not at par with the State Assemblies in as much as it does not form part of the electoral college for election of the President. Similarly the councillors of other Union Territories though elected by the people, do not form part of the electoral college for the same purpose. The Committee find the situation most incongruous and amazing.

The Committee strongly recommend to the Government of India to remove this anomaly and to provide full opportunity to the people of the Union Territory to participate in the Presidential election in an appropriate manner.

Reply of Government

Article 54 of the Constitution provides that the President shall be elected by the Members of an Electoral College consisting:

- (a) Elected Members of both the Houses of Parliament,
- (b) Elected Members of the Legislative Assemblies of the States.

The Constitution (70th Amendment) Act, 1992 has been enacted and an explanation has been added to the said article. The States now include the National Capital Territory of Delhi and the Union Territory of Pondicherry. Therefore, the elected Members of Legislative Assemblies of Delhi and Pondicherry have already been included in the electoral college for the election of the President.

As regards other Union Territories, since they do not have Legislative Assemblies they cannot participate in the Presidential election unless the Constitution is amended. This may have to await till Legislative Assemblies in these Union Territories are established. For the reasons stated against para 2.56, these territories have obviously to be administered under flexible arrangement for the present and the special position and needs of each territory may have to be considered. It is considered neither necessary nor desirable at this stage to fetter the discretion which is vested in the President in respect of the administration of these territories.

Recommendation (Sl. No. 20, Para No. 4.72)

The Committee, therefore, desire that all efforts may be made in future to appoint only political figures as Administrators in Union Territories. They also desire that all Administrators of the Union Territories may be designated as Lt. Governors enjoying more or less similar powers over the Territories administered by them.

At present there is no constitutional position of Lt. Governors though he is appointed by the President under Art. 239 of the Constitution. As such necessary constitutional amendment be made to incorporate the Lt. Governors constitutional position.

Reply of Government

Under Article 239 of the Constitution, every Union Territory shall, save as otherwise provided by Parliament by law, be administered by the President acting, to such extent as he thinks fit, through an Administrator to be appointed by him with such designation as he may specify. Hence the appointment of an Administrator depends on the administrative requirements of a Union Territory at a given point of time. The President considers merits of both, political and others, and wherever it is found suitable political figures are appointed. It is however, not possible to appoint only political figures.

Designating all Administrators as Lt. Governors and giving them equal powers will not be administratively desirable, since these Union Territories came into existence due to different historical, vital strategic location, level of development and other considerations. The territories have obviously to be administered under flexible arrangements for the present.

Recommendation (Sl. No. 22, Para No. 4.74)

The Committee therefore, desire that an independent Administrator may be appointed in Chandigarh as was the practice in past and that he should be designated as Lt. Governor.

Reply of Government

The practice of giving concurrent charge of the post of Administrator, UT of Chandigarh to the Governors of Punjab has been continuing since 30.5.1985.

In February, 1992, the question of revival of Chief Commissioner system in Chandigarh was examined and it was decided in June 1992 with the approval of Prime Minister to maintain status-quo. The conditions which warranted the decision are relevant at present also. Moreover, the Chief Minister, Punjab has written to say that no structural changes in the administration of Chandigarh should be made for the present, without consulting the State Government. The Government of Haryana also want to be fully associated before any such change is effected. On account of this dispute between the two States, no change at present is contemplated.

Recommendations (Sl. Nos. 23, 24 & 25, Para Nos. 4.75, 4.76 & 4.77)

The Committee find that no specific term of office as such has been prescribed for the post of Administrator. However, as a matter of convention such appointments are normally made for a period of 3 years. The Committee also note that ultimately the tenure of the Administrator depends on the pleasure of the President.

The Committee feel that Administrator of a Union Territory by whatever designation he known must feel secure enough in his position as would not make him look over his shoulder every now and then. They, therefore, desire that a definite term of office for the Administrator in a Union Territory would be in the best interest of administrative efficiency in the Union Territories.

They further desire that where there is an Assembly and a Council of Ministers the term of office of Lt. Governor should run concurrent to the term of the Assembly.

Reply of Government

These recommendations are not accepted since Article 239(1) of the Constitution relating to administration of Union Territories, lays down that save as otherwise provided by Parliament by law, every Union Territory shall be administered by the President acting to such extent as he thinks fit, through an Administrator to be appointed by him such designation as he may specify. In the Constitution there has not been laid down any fixed tenure of the Administrator of the Union Territories.

As per Article 153 of the Constitution there shall be a Governor for each State. Article 154 provides that the executive power of the State shall be vested in Governor and shall be exercised by him either directly or through officers subordinate to him in accordance with the Constitution. In Article 156, though it has been laid down that the Governor shall hold office during the pleasure of the President, it has also been mentioned that a Governor shall hold office for a term of 5 years from the date on which he enters upon his office.

The provisions in the Constitution relating to Administrator of the UTs and Governors would indicate that the Union Territories are administered by the President through an Administrator to such extent as the President

thinks fit whereas in case of Governors, the executive power of the State is vested in them. In case, President wishes, he can change Governor also before completion of his term of 5 years as he holds office during the pleasure of the President. So the question of giving a fixed tenure to Administrators of the Union Territories does not arise, as he is more or less an agent of the President and is not clothed with the powers similar to those of the Governor.

Recommendation (Sl. No. 27, Para No. 4.79)

In order to make Legislature/Pradesh Councils effective, the Committee desire that the powers may be delegated in a far liberal manner than has been done hithertofore. They also recommend that in the case of a difference of opinion between the Lt. Governor and the Legislative/Pradesh Council, the views of the elected representatives should prevail except in matters concerning national security, law and order and such like important areas. For this purpose, necessary amendments in the Government of Union Territories Act should also be effected.

Reply of Government

This recommendation is not accepted since with its acceptance, the control of the Administrator and that of the Central Government over the Union Territory Administration will be undermined. Since there is a special responsibility of the President in running the affairs of the Union Territory, such a dilution is not desirable. The special problems arising out of the smallness of the area, geographical position, scantiness of resources, attended with what may be called administrative difficulties of many a complex nature call for effective control and direction by the President.

The recommendation of the Committee relating to delegation of powers to the Legislature/Pradesh Councils in a far liberal manner is accepted and the views of the Committee will be kept in view as and when such a proposal is received.

Recommendation (Sl. No. 30, Para No. 4.82)

They also find that appropriate facilities like transport, medical etc. have not been extended to these Executive Councilors. The Committee recommend that all the necessary facilities ordinarily available to the Minister in State should be extended to Executive Councilors of Union Territories. The Committee further desire that meetings of the Pradesh Councils should at least be called on a quarterly basis.

Reply of Government

The orders relating to salaries and allowances of Councilors in the Union Territories already contain suitable provisions for facilities etc. to be made available to them.

The Pradesh Council Regulations contain the provision that not more than six months time should lapse between two meetings. Hence it is upto the Administrator to call for the meetings of the Pradesh Council on a quarterly basis if he so desires.

Recommendation (Sl. No. 31, Para No. 4.83)

The Committee were informed during evidence that Home Minister's Advisory Council which used to meet once in six months are now required to meet only once a year. However, they find that in actual practice these councils have not met as even in accordance with revised norms for the last three years. The Committee, therefore, recommend that the Advisory Council should meet twice in a year.

Reply of Government

This recommendation cannot be accepted due to the following reasons:—

The Committee on the Welfare of Scheduled Castes and Scheduled Tribes (Eighth Lok Sabha) in its thirty-fifth report on the Ministry of Welfare inter-alia observed in regard to HMAc as under:—

“The Committee have been informed that the tenure of the Advisory Committee at present is one year which is too short for the Members of the Committee to grasp even the difficulties faced by the tribals in Lakshadweep. Although in actual practice the same members are nominated on the Committee for more than one year consecutively, the Committee feel that this should be put on regular footing by suitably enhancing the tenure of the Committee, if nothing more, to at least two years.”

With the approval of then Prime Minister (Home Minister), the suggestion of the Parliamentary Committee were accepted and it was also decided that the Advisory Committee may meet once a year instead of six months.

Recommendation (Sl. No. 32, Para No. 4.84)

The Committee find that for matters falling outside their powers the Administrators of Union Territories have to make references to various Ministries of the Government of India which operate the relevant Budget heads of the Union Territory. The Committee, however, feel that while the ministry of Home Affairs which is the Administrative Ministry Controlling the affairs of Union Territories itself is not fully geared to give the exclusive attention to the problems referred to it by the various Union Territories, it is rather far-fetched to expect other administrative Ministries to show even that much of involvement in the problems of the Union Territories. The situation gets compounded in the case of Island territories which owing to the perceptual gaps at the Government of India level and the remoteness of their geographical location can ill afford long delays in clearance of proposals without giving rise to a sense of grievance among the people. Although the Ministry of Home Affairs UT Division is supposed to chase up files in other Ministries on behalf of the Union Territories, this arrangement does not seem to operate effectively. The Committee feel that there is definite need for improving the situation in this regard. They desire that Home Ministry be given all the powers of Government of India to clear proposals of Union Territories subject to consultation with the Administrative Ministry concerned wherever it is felt necessary.

Reply of Government

It is true that there is need for proper monitoring in the Ministry of Home Affairs, which is the nodal Ministry for all Union Territories, of the proposals made by the Union Territories to other Ministries. But it may not be quite correct to say that other subject Ministries do not show any involvement in the problems of these Territories. The various schemes are included in the budget estimates on the recommendation of the subject Ministries and in those Ministries which are expected to closely monitor the implementation of their schemes. However, wherever need be, Ministry of Home Affairs takes initiative in getting the proposals cleared. Almost all the Union Territories have offices of their Resident Commissioners / Liaison officers in Delhi who keep liaison with the concerned Ministries and in case of serious difficulties approach Ministry of Home Affairs to follow up the matter.

Recommendation (Sl. No. 33, Para No. 4.85)

The Committee also desire that a senior officer of the rank of at least Special Secretary should be appointed in the Ministry of Home Affairs for exclusively looking after matters relating to Union Territories and effecting coordination with various Ministries and agencies of the Government of India.

Reply of Government

At present the work relating to Union Territories is being looked after by Union Territory Division of Ministry of Home Affairs, under the charge of Joint Secretary (UT). This arrangement is working quite satisfactorily. Keeping in view the level of the officer holding the post of Special Secretary, it will be difficult to appoint him exclusively for the work relating to Union Territories only since officers at this level handle wide ranging responsibilities. At the level of Special Secretary also, Union Territories are receiving due attention.

Recommendations (Sl. Nos. 45 & 46, Para Nos. 5.70 & 5.71)

The Committee note that even though a scheme is incorporated in the Annual Plan there is nothing sacrosanct about such schemes and in reality it can happen that the sanctioned scheme is not implemented in that particular year. However, under such circumstances the funds allocated can either remain unspent or be reappropriated to some other scheme or project. The Committee however, find that in reality while waiting for expected sanctions reappropriation of funds to a different scheme would be a difficult proposition due either to the paucity of time or the absence of an alternative scheme that has already received approval. Moreover, even

the proposals for reappropriation would have to be referred to the Government of India and can experience the usual delays.

The Committee therefore wish to emphasise the need for delegating powers to the Administrators of Union Territories to reappropriate funds from one plan scheme to another.

Reply of Government

According to the existing practice, Planning Commission initially indicates the quantum of resources available for each Union Territory. Based on this information sector-wise allocations are finalised by UT in consultation with the Planning Commission. Once Sector-wise allocation is done, any reallocation of funds from one sector to another requires prior approval of Planning Commission. However, for any reallocation within the sector the UTs have full powers. This procedure is identically followed in the case of States as well.

Recommendation (Sl. No. 52, Para No. 5.77)

The Committee are surprised to find that Planning Commission while determining the annual plan allocations to Union Territories the Planning Commission does not give any credit for mobilisation of additional revenue by way of savings in non-plan expenditure and better tax collection at existing rates. They are however, inclined to find considerable merit in arguments put forth in this regard by the Chief Secretary, Delhi Administration. The Committee therefore desire that Home Ministry should take up the matter with the objective of encouraging Union Territories to effect better tax recovery and greater economy in non-productive expenditure.

Reply of Government

Chief Secretary Delhi, in his submission before the Estimates Committee, had stated inter-alia that there is no real incentive for a Union Territory to raise more revenue or strengthen its revenue collection unlike the States. The Balance from the Current Revenue is not reckoned in determining the Plan size of the Union Territories. This year Delhi Administration has made an impassioned plea before the Planning Commission for giving credit of Balance of Current Revenue and ARM and share in small savings while determining the plan size. It has been explained to Planning Commission that they may estimate UTs Plan resources as ARM + Balance of Current Revenue (including share in Small Savings). If the Plan size is larger than UT's Plan Resources, the difference will determine the quantum of Plan Assistance in the form of loan and grant. The budget presented to Parliament for NCT of Delhi will have a one line entry detailing the amount of loan and grant. This, incidentally, will become the standard practice in respect of all UTs with Legislatures.

Recommendation (Sl. No. 54, Para 5.79)

The Committee desire that there should be separate Consolidated Fund of each Union Territory so that they have better fiscal management. They urge the Government to give sufficient powers to the Pradesh Council/Advisory Council to exert financial budgetary and expenditure control. The Committee emphasize that necessary amendments should be carried out in the legal provisions to give effect to the above recommendations.

Reply of Government

As recognised by the Committee also, it would not be possible to create a Consolidated Fund for the Union Territories without legislature. However, as regards the delegation of financial powers to the Pradesh Council/Advisory Council, which means financial and expenditure control in the hands of democratically elected bodies, it would be taken care of with the implementation of the Constitution (73rd & 74th Amendment) Acts, 1992 relating to Panchayats and Municipalities. Panchayats and Parishads etc. set up under the above Acts will have powers to levy taxes duties, tolls and fees and will have their own funds.

Recommendations (Sl. Nos. 55 & 56, Paras 6.98 & 6.99)

The Constitution of India recognises only two categories of public servants viz. the Central Government and the State Government employees. The employees of Union Territories should ordinarily have been categorised as Central Government Employees. However, this is not exactly the position. The Committee are apprised that Union Territory employees have been categorised as those working for the Union of India. The Committee are unable to understand this subtle distinction particularly when the pay structure in most of the Union Territories has been determined on the basis of the recommendations of the Fourth Pay Commission and all the service rules and regulations applicable to Central Government employees apply to UT employees *mutatis mutandis* or with minor modifications also determined by the Govt. of India. The Committee feel that the net effect of making this distinction is that it lends itself as a ground for denying or delaying some legitimate demands of the Union Territory employees.

The Committee, therefore desire that the desirability of maintaining this distinction should be reviewed by the Government and remedial measure taken immediately.

Reply of Government

1. All Services in Union Territories are essentially services of the Union, covered by entry 70 of the Union List. This is essentially so since under Article 239 UTs are administered directly by the President of India.

2. Rule making power in respect of all services of the Union is essentially inalienable and cannot be delegated and, therefore, must remain with the Union.

3. Rules can be structured severally in respect of each constituent unit giving their services appropriate terms and conditions and remuneration packages, which may vary from UT to UT. This is legally based on the concept that employees in each UT form a separate class or a group by themselves.

4. Other powers relating to personnel and financial management can be delegated to the UT Administrator by appropriately structuring the rules in this regard.

Recommendation (Sl. No. 58, Para 6.101)

The power to finalise recruitment rules for Gr. A & B employees should be delegated to the UT Administration in consultation with the administrative Ministry concerned subject to conformity with guidelines and principles laid down by the Department of Personnel and the UPSC. The burden of ensuring this should be left to UT administration and the Administrative Ministry. Reference to DOP or UPSC should be made only in exceptional cases where deviations are sought to be made from the general guidelines and principles governing recruitment of public servants.

Reply of Government

This recommendation is not accepted since the reason of delay given for not making the reference to DOP and UPSC is not justified in view of the following:—

Generally delay in finalisation of recruitment rules takes place due to the UT Admn. Not sending the proposals in accordance with the DOP's guidelines alongwith all the relevant documents and information resulting repeated back references and delay in finalisation.

The UT administration take great deal of time in sending the information.

Recruitment rules of feeder cadre posts are not finalised resulting in delay of finalisation of recruitment rules of higher posts.

Recommendation (Sl. No. 59, Para 6.102)

The Committee are further apprised that in respect of Group 'A' and 'B' posts recruitment is made by the UPSC on all India basis. Since the selected candidates mostly happen to come from mainland they either fail to join the posts offered to them or leave their jobs or seek transfer prematurely. On the other hand the local candidates who are either not even called for interview or fail in the selection process remain unemployed in spite of the fact that they may have been given professional training at Government expense in fields like medicine and engineering. The Committee therefore desire that where qualified local candidates are

available maximum consideration should be shown to them to ensure that locally available qualified candidates do not languish while the posts remain vacant. The Committee further desire that all the ad hoc appointees to Groups 'A', 'B' and 'C' posts whose services are yet to be regularised may now be regularised by the Administration/UPSC in relaxation of the normal criteria for selection for these posts as a one-time measure.

The Committee are also apprised that services of a number of doctors appointed at one stage in A & N Islands on ad hoc basis due to non-availability of regular candidates have since been regularised. The Committee desire that these doctors may be absorbed in CGHS which was the cadre available on the date of their regularisation.

Reply of Government

The recommendation has been accepted in principle for undertaking a one-time exercise to regularise such of the ad hoc appointments as are made against permanent vacancies and where the individuals concerned fulfill the requisite qualifications. Details of such ad hoc appointments are being ascertained from the Andaman and Nicobar Administration for taking up the matter with the DOP and UPSC.

The matter regarding absorption of doctors in CGHS stands referred to the Ministry of Health and Family Welfare.

Recommendations (Sl. Nos. 63, 64 & 65, Para Nos. 6.106, 6.107 & 6.108)

The Committee are apprised that there are no recognised Scheduled Castes in the Andaman & Nicobar Islands. However, as per the existing reservation policy of Govt. of India while recruitment of Groups C and D posts does not require reservation of posts for Scheduled Caste category. However, Groups A & B posts do come within the ambit of reservation quota for both Scheduled Castes and Scheduled Tribes in accordance with the proportion of their population on all India basis i.e. 15% and 7½% respectively. It has been pointed out that in Andaman & Nicobar Islands where society is virtually casteless, pursual of reservation policy for Scheduled Castes for higher posts which means recruitment of suitable candidates from the mainland, has resulted in avoidable resentment amongst the local youth. In this context, it has also been brought to the notice of the Committee that in these Islands the proportion of educated tribal youth is fairly high and that many of them fail to get employment within the 7½% of posts reserved for them.

The Committee are also apprised that the situation is more complex in the case of teachers because in Andaman and Nicobar Islands there are Schools catering to various linguistic groups viz. Hindi, Bengali, Tamil, Telegu etc. Often the Administration is not able to find locally Scheduled Tribe candidates from amongst these linguistic groups as a result of which a large number of posts of teachers required to be filled from different linguistic groups have remained vacant. In this regard the representative of

Ministry of Home Affairs have stated that the Ministry would consult Law Ministry to examine the possibility of relaxing the reservation policy in Andaman and Nicobar Islands to facilitate recruitment of local candidates against Groups A, B & C posts for which Scheduled Caste/Scheduled Tribe candidates are not locally available.

The Committee strongly urge the Government to study this problem on a priority basis with a view to finding ways and means of giving greater employment opportunities to local youth particularly the tribal youth.

The Committee find that in Andaman and Nicobar Islands there are several Groups A, B and C posts reserved for SC/ST candidates lying vacant for more than three years. They further understand that possibility of filling up of such posts in future is remote as a consequence of which the working of the Andaman and Nicobar Administration has been adversely affected.

The Committee therefore desire that these posts may be filled up without further loss of time by going through the normal process of de-reservation.

Reply of Government

Zone of recruitment for Groups A & B posts being the entire country, the all India percentage of reservation for SC/ST have to be maintained as SC candidates available elsewhere can take advantage of this reservation and go to the Islands and work there. It has been decided to permit shift of backlog SC quota vacancies to STs on a year-to-year basis so that the benefit of such vacancies goes to the local ST candidates.

Recommendation [Sl. No. 67, Para 6.110 (a), (b), (c)]

The DANI service may be bifurcated to create one unified service for Delhi and Union Territory of Chandigarh and another for Andaman and Nicobar Islands to be extended to all other Union Territories except Pondicherry.

The Committee envisage that the service catering to Island territories would attract either local candidates or candidates willing to serve the Administration in these territories on a long term basis. This they aver would also provide greater opportunities for the officers of these two administrations to get promoted to in IAS and IPS which in turn can relieve pressure of finding willing All India service officers for posting in these areas.

The Committee desire that this arrangement should hold equally true for both DANI Civil Service and DANI Police Service.

The Committee recommend that to have Union Territories cadre to IAS and IPS have lost relevance after Delhi having legislature. As Delhi can have a separate IAS and IPS Cadre.

The Committee also desire that for filling posts earmarked for All India Service Officers the Administration in different Union Territories should be encouraged to borrow the services of efficient officers from the State Cadre of IAS and IPS particularly those from the neighbouring States by circulating.

Reply of Government

A proposal for extension of DANI service to Lakshadweep, Dadra & Nagar Haveli and Daman and Diu is already under consideration of the Ministry. Once DANI Service is extended to the above UTs it would amount to a combined Service for all the UTs and Delhi Administration except Pondicherry and Chandigarh. It would not be desirable to extend this service to Chandigarh as ultimately this UT is likely to be merged either with Punjab or Haryana.

It would not be desirable to have only local promotee IAS officers for serving in the smaller UTs as that would be against the scheme of All India Service which provides for rotation of officers for better interaction.

The present AGMU Cadre serves not only the Union Territories but also three full-fledged states of Arunachal Pradesh, Mizoram and Goa. Pending a final decision on the reconstitution of the North East Cadres of IAS etc. the present arrangement may be allowed to continue.

It is not advisable to take officers from other cadres in Union Territories as the cadre posts are meant for cadre officers. The requests for transfer to AGMU cadre are either for Delhi or by Mizo officers for Mizoram.

Recommendation (Sl. No. 69, Para 7.13)

The Committee however are of the view that in view of the remoteness of A & N Islands from Calcutta, a permanent Bench of Calcutta High Court at Port Blair would not be out of place particularly when a Bench already sits there every fortnight. On the other hand, however, such a step would greatly facilitate dispensation of Justice in the Island territory. The Committee would desire the Government to take prompt action in this regard.

Reply of Government

The jurisdiction of Calcutta High Court was extended over the UT of A & N Islands by virtue of Calcutta High Court (Extension of Jurisdiction) Act, 1953. The question of establishing a permanent Bench of the Calcutta High Court at Port Blair has been considered from time to time and was last considered in 1991-92 by the Department of Justice in consultation with the UT Administration, Chief Justice of Calcutta High Court and the Chief Justice of India. Chief Justice of India did not favour setting up of the permanent Bench.

According to information furnished by Registry Calcutta High Court 135 cases were instituted in the High Court from A & N Islands during 1990 and a total of 215 cases relating to the UT were pending in the High Court as on 31.12.1990. A High Court Judge is expected to dispose of 650 main cases in a year. The present arrangement is therefore considered adequate.

CHAPTER IV

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH THE GOVERNMENT REPLIES HAVE NOT BEEN ACCEPTED BY THE COMMITTEE

Recommendation (Sl. No. 2, Para 2.56)

"In the opinion of the Committee there can be no justification for denying representative administration to the people of the Union Territories. The Committee have come to a firm conclusion that the existing mechanisms are far too inadequate and do not fulfill the minimum aspirations of the people in the Union Territories. The Committee, therefore, desire that the Government should initiate necessary steps for empowerment of citizens living in Union Territories. In more specific terms they desire full-fledged assemblies to be given to the Island Territories on the pattern of Pondicherry. The Committee also wish to caution the Government against any procrastination in the matter as that would usher in an avoidable sense of alienation amongst the people which can only endanger national security."

Reply of Government

The implications of these recommendations are that the Union Territories of Andaman & Nicobar Islands as well as Lakshadweep may given a Legislative Assembly and a Council of Ministers. Earlier the diverse nature of each of the Union Territories, the stage of economic, educational, industrial and other kinds of developments were brought to the notice of the Estimates Committee both in writing as well as oral submissions to the Committee. The Committee was also made aware of the arguments in favour of maintaining this state of affairs for the reason (i) the small size of population and (ii) the fact that no uniform system can be adopted for all the Union Territories. The Committee did not want to overlook the basic question as to why the citizens living in these territories are not to have some definite constitutional mechanism to provide them an effective say in running the administration of these territories.

Any efforts for bringing into being Legislative Assemblies in remaining Union Territories would result in creation of unviable constituencies since in most cases the population of these territories is less than 3 lakhs.

Moreover, there is little that the Union Territories have in common with each other. Separated from each other by long distances, they have greater economic linguistic and cultural affinities with the neighbouring States than with each other. Politically, economically and educationally

they are in varying phases of development. Since these territories differ so much from each other, it is hardly possible to make out a common case for them. However, wherever possible some measure of community of interests have been developed, like having Pradesh Councils etc., in political circles.

Over the years efforts have been made to associate the local people in the Administration of the Union Territories. With the passing of the Constitution 73rd and 74th Amendment Acts, 1992 the Urban as well as rural Local self Governing bodies are expected to be strengthened suitably and perform effectively as vibrant units of self Government. All efforts are being made to implement these Acts in Union Territories also. Subject to the provisions of the Constitution these institutions are to be endowed with adequate powers, authority and responsibilities, so that they may function as institutions of self Government and perform the functions and implement the schemes with which the common man is intimately concerned. With the devolution of these powers and functions it is expected that the people of the Union Territories will have more representative administrations in the matter of their day-to-day life which will lead towards the fulfilment of their minimum aspirations. At this stage of development it will not be desirable or even necessary to create Legislative Assemblies for the Island Territories.

To advise the Home Minister on various matters of policy concerning development of UTs there is a Home Minister's Advisory Committee for Daman and Diu, Dadra and Nagar Haveli, Andaman & Nicobar Islands and Lakshadweep. This HMAC acts as a deliberate forum to elicit the opinion of the public representatives before the Central Government takes any policy decisions on matters of public importance, concerning that particular territory. As its name suggests, it is purely an advisory body. This Committee is required to be consulted in regard to:—

- (i) General question of policy relating to the Administration of the territories in the State field.
- (ii) All Legislative proposals concerning the territory in regard to all matters in the State List.
- (iii) Such matters relating to the annual financial statement of the Union in so far as it concerns the territory and such other financial questions as may be referred to it by the President; and
- (iv) Any other matter on which it may be considered necessary or desirable by Ministry of Home Affairs that the Advisory Committee should be consulted.

Recommendation (Si. No. 7, Para 2.61)

“The Committee, while welcoming the intention of the Government to strengthen and empower local bodies in Union Territories in whatever forms these are established, they advise against mixing it up the demand

for fully representative administration. The Committee, therefore, desire that the question of providing a fully representative constitutional set up in the Union Territories particularly in the Island Territories should be pursued independently.

Reply of Government

This recommendation is not accepted in view of the reasons already stated on page 1.

CHAPTER V

**RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH
REPLIES OF THE GOVERNMENT AWAITED**

- N I L -

NEW DELHI;
April 19, 1994.

Chaitra 29, 1916 (*Saka*)

Dr. KRUPASINDHU BHOI,
Chairman,
Estimates Committee.

Ministries and present the same to the House.

4. The Committee then adjourned to meet again on 8th April, 1994.

APPENDIX II

(Vide Introduction of the Report)

Analysis of Action Taken by Government on the Thrity-First Report of Estimates Committee (Tenth Lok Sabha)

I.	Total number of Recommendations	61
II.	Recommendations/Observations which have been accepted by Government (Sl. Nos. 4, 5, 8, 9, 14, 15, 16, 17, 18, 28, 29, 34, 35, 37, 38, 39, 40, 41, 42, 43, 44, 47, 49, 50, 51, 60, 61, 62, 66, 70, 73, 74 and 75)	
	Total	33
	Percentage	54.10%
III.	Recommendations/Observations which the Committee do not desire to pursue in view of Government replies (Sl. Nos. 10, 11, 12, 20, 22, 23, 24, 25, 27, 30, 31, 32, 33, 45, 46, 52, 54, 55, 56, 58, 59, 63, 64, 65, 67 and 69)	
	Total	26
	Percentage	42.62%
IV.	Recommendations/Observations in respect of which Government's replies have not been accepted by the Committee. (Sl. Nos. 2 & 7)	
	Total	2
	Percentage	3.28%
V.	Recommendations/Observations in respect of which final replies of Government are still awaited.	

NIL

