

# COMMITTEE ON REORGANISATION OF DELHI SET-UP

REPORT PART - I

**DECEMBER 1989** 



## COMMITTEE

ON

## **REORGANISATION OF DELHI SET - UP**



PART - II

DECEMBER 1989

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#### S. BALAKRISHNAN



## COMMITTEE ON THE REORGANISATION OF THE DELHI SET-UP MINISTRY OF HOME AFFAIRS 2nd Floor, Vigyan Bhavan Annexe New Delhi-110011

the 14th December, 1989

#### CHAIRMAN

My dear Home Minister,

I have great pleasure in presenting to you the Report of the Committee on Re-organisation of Delhi Set-up.

It is for the first time that a systematic and comprehensive 2. study of the various issues connected with the administration of Delhi, the Capital of this great country, has been undertaken and the report bears testimony to the magnitude and the complexities of the issues involved. The task of designing a proper structure of Government for the national capital particularly for a country with a federal set up like ours, has always proved difficult because of two conflicting requirements. On the one hand, effective administration of the national capital is of vital importance to the national Government not only for ensuring a high degree of security and a high level of administrative efficiency but also for enabling the Central Government to discharge its national and international responsibilities; to ensure this, it must necessarily have a complete and comprehensive control over the affairs of the capital. On the other hand, the legitimate demand of the large population of the capital city for the democratic right of participation in the government at the city level is too important to be ignored. We have endeavoured to design a governmental structure for Delhi which we hope, would reconcile these two requirements. We have also gone deeply into the functional aspects of administration and recommended a series of measures to secure improvement, such as by decentralisation of functions, provision of institutional arrangements for dealing with the grievances of the public, etc. As regards municipal and other authorities concerned with the provision of civic or other services, our prime concern was how best to secure the convenience and satisfaction of the public; we have not hesitated to recommend far-reaching changes in their structure and functioning wherever called for, particularly with a view to eliminate the present problems arising from multiplicity of authorities, overlapping of functions and confusion of jurisdiction between them.

3. We were fortunate in having received very valuable suggestions from a wide section of the public, including representatives of political parties, eminent citizens, administrators, academics and other knowledgeable persons. We take this opportunity to express our sincere gratitude to each one of these public spirited persons. We are also grateful to Shri V. K. Kapoor, Chief Secretary, Delhi Administration for his unstinting cooperation and invaluable help.

4. We wish to place on record our appreciation of the valuable assistance given by Shri G. K. Bhattacharya, Senior Officer of the Delhi Administration and of the officers in the Committee S/Shri R. K. Dhir, H. R. Goyal and I. J. Talwar; in particular, the assistance given by Shri Goyal was of an exceptionally high order. We also place on record our appreciation of the solid work done by the other members of the staff of the Committee and, in particular, Shri Ashok Kumar Prasad for his excellent work in the Computer operations. We acknowledge with thanks the valuable assistance received from Professor Romila Thapar of the Jawahar Lal Nehru University and Shri M. C. Joshi, Joint Director General, Archealogical Survey of India.

> Yours sincerely, Sd/-

(S. BALAKRISHNAN)



Shri Mufti Mohammed Sayeed Union Minister for Home Affairs Government of India New Delhi Councillors are elected by direct election on the basis of adult tranchise. The Aldermen are elected by the Councillors at a meeting after each general election from persons, qualited to be, but not Councillors. The normal term of Councillors and Aldermen is four years.

11.2.2. The deliberative wing is neaded by the Mayor who is elected annually from amongst its members. The Mayor's main function is to preside over the deliberations of the Corporation and conduct its proceedings. The Deputy Mayor who is also elected similarly assists the Mayor and deputies for him during his absence. The Mayor has full access to all the records of the Corporation and he may obtain reports from the Commissioner on any matter connected with the municipal government of Delni and from the General Manager (Electricity) on any matter connected with the administration of the Delhi Electric Supply Undertaking.

11.2.3. The Act makes provision for a number of statutory Committees. 1 ne Standing Committee deals with certain important matters like the coordination of budget estimates, revision of municipal taxes and rates, creation of certain posts, entering into contracts upto certain limits etc. It acts as an Appellate Authority in certain disciplinary cases. Delhi Electric Supply Committee and the Delhi Water Supply and Sewage Disposal Committee perform specified functions in relation to their respective undertakings. Besides these three important Committees, there are other Committees to deal with specific matters like education, rural areas etc. In addition, there are special committees, one of these, namely, the Works Committee has been delegated the power to accord financial sanction of estimates for works of the General Wing alone upto Rs. 8.5 lakhs in each case. The Special Zonal Committees have power upto Rs. 1 lakin in each case. None of the other Special Committees has been delegated any financial powers and their decisions and resolutions are taken as being only recommendatory or advisory in nature, the final decision being taken by the concerned statutory Committee or the Corporation.

11.2.4. The Commissioner is at the apex of the executive wing of the Corporation. He is appointed by the Central Government normally for a term of five years and derives his powers directly under the Act. He has general responsibility to assist the Corporation and implement its decisions. He is required to reply to Questions, Short Notice Inquiries etc. in the Corporation meetings. He has certain special powers in emergencies. The corresponding functionary for the Delhi Electric Supply Committee is the General Manager (Electricity). His terms and conditions of service and procedure for removal are governed by the provisions of section 60 of the Act, which are similar to that of the Commissioner except that the authority for his appointment and removal is the Corporation and not the Central Government. The Commissioner may be removed from office by the Central Government at any time if it appears to the Government that he is incapable of performing

the duties of his office or has been guilty of neglect or misconduct in the discharge of such duties which renders his removal expedient. The Act provides that the Central Government shall also remove, the Commissioner from office if, at a special meeting of the Corporation called for the purpose, a resoluion for such removal has been passed by a majority of not less than three-hiths of the total number of hembers.

11.2.5. From 1962, the **functions** of the MCD were decentralised enabling regional offices situated in a number of zones in Demi to perform certain delegated functions of the Corporation. In each such zone, a Special Zonal Committee, consisting of the Councillors from the Wards which fall in such zone, perform functions like sanctioning estimates and plans for civil works to be carried out in the zones within the authorised budget provisions and dealing with other specific matters pertaining to the zone. Adequate executive powers have been delegated to the Zonal Officers, who have been provided with the requisite staff.

11.2.6. The functions of the Corporation fall under two categories, namely obligatory and discretionary. Supply of water and electricity, sanitation, drainage, maternity and child welfare, construction and maintenance of public roads, streets, bridges, lighting of public streets and other public places, primary education and fire services constitute some of the obligatory functions, while cultural and physical education, libraries, art galleries, museums, stadia, veterinary hospitals, rest houses, poor houses, etc. form part of the discretionary functions. Apart from its functions in its own area, the Corporation provides, in bulk, water and electricity to the New Delhi Municipal Committee and the Delhi Cantonment Board. It also receives sewage from the New Delhi Municipal Committee for disposal.

11.2.7. The general revenues of the Corporation, other than revenues received for the provision of electricity and water supply and disposal of sewage, are derived from taxation, shares of certain taxes collected by the Centre, government grants and loans. The Corporation is empowered to levy taxes such as property tax, water tax, scavenging tax, fire tax and general tax on the rateable value of lands and bulidings, tax on vehicles and animals, theatre tax, tax on advertisements other than advertisements in the newspapers, duty on the transfer of property and a levy on buildings payable alongwith the applica-tion for sanction of the building plan. It has also the discretion to levy tax on professions, trades, callings, and employments, tax on the consumption, sale and supply of electricity, tax on boats, a local rate on land revenues, education cess, tolls, and a betterment tax on the increase in urban land values caused by the execution of any development or improvement work. In addition, the Central Government gives a share of the proceeds of the terminal tax, entertainment tax and betting tax collected in Delhi under central laws. With the permission of the Government of India, the Corporation may borrow for certain specified purposes from the open

narket on the strength of its revenues and make provision for maintenance of sinking funds for the repayment of loans.

#### **11.3 DEFICIENCIES**

11.3.1. The present set-up, which has been briefly outlined in the preceding paragraphs, has been operating for a long enough period to disclose its merits and demerits. Our study of the functioning of the Corporation has revealed that the deficiencies far outweigh the merits, particularly after the introduction of the Metropolitan Council system from 1966. As we stated in paragraph 11.1.3, the majority of the views expressed before us was to the effect that the functioning of the Municipal Corporation in Delhi has not come up to expectations and that it has failed to maintain even the minimum standards. In the opinion of many, the Corporation has become unwieldy and almost unmanageable in its and present form 'and structure the suggestion was that it should be abolished. Before we take up consideration of this suggestion it will be necessary to refer, to another major defect brought our notice in the functioning of the existing set up, namely, the difficulties caused to the common man by reason of conflict of jurisdiction or overlap of functions between the Municipal Corporation and other authorities concerned with the provision of various services functioning in Delhi.

11.3.2. The first important field of conflict relates to the two elected bodies functioning at the local level in Delhi. As stated elsewhere in this report the existence of a Municipal Corporation with elected members and with substantial powers and functions relating not only to civic but also to non-civic matters on the one hand and a Metropolitan Council, also with elected members, bu with only a recommendatory role, has created a great deal of confusion and conflict. According to some, this arrangement has also led to needless wrangling between the members elected to the two bodies as to their respective importance. powers and responsiblities.

11.3.3. Another difficulty is the overlap of functions between the Municipal Corporation and other authorities concerned with the provision of infrastructure facilities and basic civic services in the 'development area'. .Under the Delhi Development Act, 1957 the Central Government, after consultation with the Corporation may declare any area in Delhi to be a 'developmen' area'. After an area is declared a 'develonment area' the Delhi Development Authority performs all the functions and exercises the authority normally vested in a local body in respect of an area so long as that area continues to be a 'development area'. After the development of the area is complete, the Delhi Developmen. Authority hands over the area along with the basic infrastructure and services such as sewerage, drainage, roads, water supply systems, parks and green spaces etc. to the Municipal Corporation which thereafter assumes the responsibility for their maintenance. While the provisions of the law are clear, the difficulties have been felt in regard to actual functioning of the authorities concerned. The

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main difficulty has been in regard to the specifications or adherence thereto for the provision of basic services in these areas. It has been represened to us that in many cases, at the time of handing over of the areas to the Municipal Corporation, the Corporation authorities discover a number of deficiencies in regard to the provision of such facilities. We understand that one of the main reasons for such deficiencies is the lack of proper coordination and periodic consultations between the authorities of the Municipal Corporation and those of the DDA. Sometimes, difficulties arise due to the DDA retaining certain 'residual functions' even after handing over the area to the Municipal Corporation. The process of handing over involving mutal consultations and negotiations, are sometimes sprcad over years, and during the interim period the MCD and the DDA are inclined to neglect the maintenance of civic and other services in the area resulting in serious inconvenience to the residents of the area.

11.3.4. The difficulties outlined above are operational in nature and their solution would lie in greater coordination between the authorities concerned in the execution and completion of such schemes. With the proposed setting up of a Legislative Assembly and Council of Ministers for Delhi, we expect that the governmental set up will become a focal point for effecting the necessary coordination in this regard.

11.3.5. The present arrangement in regard to the roads and bridges are, we understand, not satisfactory. MCD is maintaining around 17.000 kms of road length in Delhi: A number of other authorities including CPWD. Lethi Administration and the DDA, apart from the NDMC and Cantonment Board are also concerned with the construction and maintenance of roads in Delhi. We are also told that all this leads to blurring of responsibilities. 키괴

11.3.6. As regards the provision of public health and medical relief, it is part of the obligatory functions of the Corporation under the Act for which it has established a number of dispensaries and four major hospitals in Delhi. Our study has revealed that the outlove available for this purpose are quite inadequate to meet even the present requirements of these four hospitals. The resources likely to be available to the Cornoration in the foreseeable future may also not he adequate to permit modernisation of these hospitals and their upgradation to meet the growing needs of the population in the national cavital. As the Municipal Corporation is not in a position to coordina'e with other agencies minning hospitals. the present arrangement has contributed to the deficiencies with regard to the health services felt in Delhi.

#### **11.4. EARLIER STUDIES**

11.4.1. The working of the MCD has been the subiect of many studies in the past. The following may be mentioned :---

> (i) The Administrative Reforms Commission (1969) on the basis of the findings of the Study Team inter alia, recommended the abolition of the MCD.

- (ii) A Commission of Enquiry, known as R.R. Morarka Commission, set up to enquire into the finances of the Municipal Corporation of Delhi and the NDMC, in its comprehensive report (1971) covered nearly all financial aspects of the working of the MCD (including its committees on Water Supply, Sewage Disposal and Transport) as well as the NDMC.
- (iii) A Task Force known as the Prabhu Committee (1976) recommended measures necessary for the rationalisation of the functioning and jurisdiction of the MCD and the NDMC and the coordination of the activities of various organisations functioning in Delhi.
- (iv) A Committee known as P. N. Jain Committee, after a comprehensive examination of the financial position of the MCD and the NDMC, submitted its report in July, 1979.

11.4.2. We understand that many of the recommendations of these bedies were either not accepted or not pursued.

#### 11.5. CONSIDERATION OF ISSUES.

11.5.1. The first and one of the most important issues for consideration is whether the Municipal Corporation, as it exists, should be abolished.

11.5.2. As we have stated earlier in the report, the remedy for removing the defects in the present set-up suggested by a sizeable section of public opinion is the abolition of the Delhi Municipal Corporation. It may be recalled that the Corporation was established in the wake of the abolition of the Part C State of Delhi which had a Legislative Assembly and a Council of Ministers responsible to such Assembly. It is apparent from the report of the States Reorganisation Commission (on whose recommendation the Part C State of Delhi was abolished) that the Delhi Municipal Corporation was intended to meet the need for a democratic forum and set-up for dealing with matters relating to the basic needs of the population. The Corporation was accordingly vested with a number of functions not normally associated with municipal bodies and not performed by any municipal body in Delhi at any time before the establishment of the Conportaion. These included certain governmental functions relating to the generation and supply of electricity the procurement and treatment of water, the running of hospitals, etc.

11.5.3 It became clear before long that this arrangement did not satisfy the needs of the public. In any case, it started creating problems after 1966, when the Metropolitan Council and the Executive Council were set up and given certain powers and functions in relation to matters in the State List and the Concurrent List of the Constitution. This led to confusion and anomalies because the Metropolitan Council and the Executive Council which were supposed to function as a responsible government for the people of Delhi, exercised mainly recommendatory or delegated powers, while the Municipal Corporation as an autonomous body had more freedom of action and powers in many matters. The competing claims for importance between the elected members of these two bodies created dissatisfaction and disharmony. Th population of Delhi also increased rapidly and spread itself in far flung areas. As a consequence of all these factors, the stupendous problems connected with the provision of a reasonable level of essential services and amenities to the population did not receive the attention they deserved. Further, the burdening of the Municipal Corporation with onerous nonmunicipal functions has also contributed to its inability to devote adequate attention to the performance of its main tasks, leading to marked inefficiency in the provision of municipal services to the public.

11.5.4. That the existing level of efficiency in the municipal services is far from satisfactory was made abundantly clear to us in the responses we received to our Questionnaire and the views expressed by a wide section of the public during interviews. As we have stated in paragraph 11.5.2. above, a sizeable section of opinion wanted the Municipal Corporation to be abolished. Some of them suggested that its functions should be taken over by the Delhi Administration while some others suggested that instead of the Corporation a number of municipalities should be set up in Delhi at various localities, to give better service. In this connection it may be mentioned that the Administrative Reforms Commission (1969), after noticing the anomalous position of the Metropolitan Council vis-a-vis the Municipal Corporation, recommended the abolition of the Municipal Corporation and the transfer of all its functions to the Metropolitan Council.

11.5.5. The view that the Municipal Corporation may be abolished need not necessarily be taken as a counsel of despair from those who consider that it is incapable of being improved. The reason may well be that a Corporation may become unnecessary after the establishment of a Legislative Assembly and Council of Ministers in Delhi or that the public may get better civic services with a compac municipality in their own locality.

11.5.6. We will take up and discuss the first of the two suggestions referred to in paragraph 11.5.4. above, namely that the functions of the Corporation should be taken over by the Delhi Administration. This does not commend itself to us. If the Delhi Administration is made directly responsible for the municipal affairs, it has necessarily to arrange for the performance of all the functions by a special officer in the place of an elected body. Such an arrangement cannot work as a permanent measure and, in fact, has never proved effective or efficient. We are aware of the fact that there are votaries for this arrangement who hold the view that municipal affairs can be administered efficiently by competent officers because that will eliminate the posssibility of decisions being taken on extraneous considerations which is the bone of municipal administration We do not agree with this view. It has been recognised all over the world that civic affairs, which concern the daily life of citizens, can best be taken care of only by their representatives. During our visit to one of the metropolitan cities we had an occasion to assess the effect of administration of municipal affairs by officials because the Corporation in that city had remained superceded for a very long time and its affairs are being managed by a special officer and other officials. We gathered that no one seriously put forth the view that the administration by officials was more efficient than when under an elected body. The officials themselves admitted that the healthy participation of elected representatives in the municipal administration was necessary if the needs of the people are to be met to their satisfaction. We do not, therefore, recommend the acceptance of the first of suggestions referred to in paragraph 11.5.4.

11.5.7. We will now take up for consideration the second sugges ion, namely that the monolithic Municipal Corporation of Delhi should be abolished and the municipal services entrusted to separate munipalities set up at various centres in Delhi. There are several arguments to support this and these are briefly set out below :--

- (i) As stated earlier, the Municipal Corporation was set up in 1958 as a consequence of the abolition of the Legislative Assembly and Council of Ministers in Delhi as recommended in the Report of the States Reorganisation Commission. The main reason given in that Report was that, as there would be no democratically elected body for Delhi after the abolition of the Legislative Assembly, the Corporation with elected members for almost the whole of Delhi will fill the void. We have recommended in Part-I of the report that Delhi should have a Legislative Assembly and a Council of Ministers, Logically, therefore, there should be no need for another elected body for Delhi as a whole in the shape of a single Corporation, if Delhi is provided with a Legislative Assembly.
- (ii) The existence of two elected bodies, each having jurisdiction almost over the same area, may lead to friction, ill-feeling and controversies. As stated earlier, even now there are continuing tensions between the members of the elected Metropolitan Council and those in the Corporation, particularly because the later exercise greater decision making powers than the former relating to dav-to-day problems affecting the common man. Such a situation may have adverse effect on the provision of services to the common man.
- (iii) The materials before us show that the functioning of the Corporation has become almost unmanageable by the sheer size and volume of the work to be handled. The large population as well as its spread over far flung areas have brought civic services

almost to the breaking point. The common man living in far flung areas of Delhi faces great difficulty in approaching the office of the Corporation situated at one place for many of his daily needs and grievances. No doubt, attempts have been made to decentralise powers and functions by creating zonal offices but we find on the materials before us that this system has not been functioning to the satisfaction of the public. More often than not, the common man is not able to resolve his problems with that zonal offices. The natural tendency of an institution like the powerful Corporation will be to tetain most of the powers with itself and this is what is happening in the Corporation. Similarly, the natural tendency of a subordinate authority with delegated powers, will be to pass the buck on to the higher authority. Further, the delegation of powers has been halting and conditional.

- (iv) We understand that the discussions and proceedings in the meetings of the Corporation are, by and large, devoted to the problems of the Corporation as a whole and specific local needs tend to be lost sight of. Our attention was specifically drawn to the problems faced by the public in East Delhi, or what is called trans-Yamuna This area has been facing numerous area. problems particularly in regard to the infrastructure and extension or upgradation of civic amenities and services. Several individual citizens as well as associations of citizens from these areas have represented before us that there should be a separate municipal body to look after the problems and needs of that area. The retention of one single corporation in Delhi has, therefore, created problems for certain sectors of the population of Delhi like East Delhi.
- (v) Delhi as the national capital has its own special problems and cannot be placed on the same footing as other metropolitan cities like Bombay, Calcutta and Madras. Apart from the far flung areas in the Corporation, which include even the villages in the Union territory, the population of Delhi is highly educated, sophisticated and vocal. The people of the capital demand a high level of efficiency and are highly conscious of their civic rights. There is a vigilant Press. All these necessitate intensive attention for each of the civic problems in each of the areas of the corporation which the Municipal Corporation, as at present organised, has proved itself incapable of This has led to the prevailing ensuring. widespread dissatisfaction among the citizens.
- (vi) We have reasons to believe that, even for the most dynamic Commissioner, the administration of the Corporation has become

of hostile postures reported to have been conted by the Councillors towards the Commissioner and the executive wing and also because of the problems posed by the staff in the Corporation who cannot, under the present conditions, be easily transferred to other places. As a result, we have been told, vested interests have developed among some of the members of the staff dealing with important segments of work who manage to maintain close contacts or influence with powerful Councillors. Enforcement of discipline has become difficult as a consequence, and this breeds corruption and inefficiency. If, instead of one monolithic Corporation, there are a number of smaller municipalities in Delhi at various centres, it could be possible for transfers of personnel from one place to another, thereby restricting the scope for vested interests to develop at least to some extent.

- (vii) If a Council of Ministers is set up for Delhi as proposed, the Chief Minister will be an important personality in Delhi and must have the requisite stature in the public mind. If there is also the Municipal Corporation for the same area with a Mayor as its head, the competing claims for importance as beween the Mayor and the Chief Minister may lead to unpleasant situations This problem will be peculiar to the National Capital because in other Metropolitan cities the Chief Minister is for the whole State, while the Mayor is only for the city, and there is a recognisable difference between them in the public mind. प्रमव
- (viii) If the municipal administration of Delhi is decentralised by setting up a number of compact municipalities it may conduce to greater efficiency and better satisfaction to the public. Apart from the obvious advantages of vicinity, the Councillors concerned will be taking direct and undivided interest in respect of their own areas. It might also be possible to infuse a sense of competitiveness between the various municipalities and such healthy competition among them may go a long way to ensure efficient municipal administration.

11.5.8 We see force in each of the foregoing arguments for replacement of the existing corporation with a number of municipal bodies. However, two main points that may be raised against the suggestion have to be considered. These are dealt with below.

11.5.9. The first point is about the institution of Mayor. At present, the Mayor of Delhi as a Presiding Officer of the Corporation' conducts proceedings of the Corporation and exercises general control over the deliberative wing. This part of his functions will be taken care of by the presiding officers of the various municipalities in the new set-up proposed. But the other important role of the Mayor is a ceremonial one such as receiving dignitaries, according civic receptions etc. This part of the work cannot obviously be distributed among the presiding officers of various municipal bodies. It must be conceded that for the capital of India there should be provision for a Mayor as the first citizen to perform cere-monial functions traditionally associated with such office, but we feel that it is not necessary that this functionary should be part of the municipal body. Provision can be made otherwise for the institution of a Mayor of Delhi to perform these functions. He may be a person elected by an electoral college consisting of all the members of the various municipalities or he may be a person appointed by the Government. However, it is necessary that the person to be so elected or appointed should be an eminent citizen of Delhi commanding respect from the population and one who, as far as possible, is not connected with any particular political party. The office may be an honorary one but the Mayor may be given certain perquisites like an official telephone, facilities for transport, and a small personal staff. This point can thus be met.

11.5.10. The second point is that there may be difficulties in bringing about coordination between the various municipal bodies in Delhi and there may also be lack of uniformity in matters like taxation etc. If Delhi is to have a number of municipal bodies, it is, of course, necessary to provide for a. suitable mechanism for coordinating their functions and for ensuring, that they interface between themselves smoothly. This aspect should not present difficulty as the necessary mechanism of coordination can be made part of the structure of the new municipal set-up. We will deal with it in a subsequent paragraph.

11.5.11. On a careful consideration of all aspects we have come to the conclusion that the best way to meet the vexed problems of municipal administration of the Capital will be to abolish the present Municipal Corporation and to set up separate compact municipalities at various areas in Delhi. This will be in consonance with the views expressed by a large number of persons before us. We are convinced on the materials before us that this will give satisfaction to the public and enable delivery of more efficient civic services. Many of the ills of the present scheme may disappear. We also consider that Delhi should have a Mayor but he should be elected in accordance with the system of proportional representation by means of a single transferable vote, by an electoral college consisting of all the elected members of the municipalities and that he should have the qualifications broadly set out in para 11-5-9 not in favour of the Mayor being monimated by the We are government because he is to represent the citizens of Delhi and should, therefore, be democratically elec'ed by an electoral college as specified above.

11.5.12. We recommend as above,

11.5.13. In the succeeding paragraphs we will deal with the structure, functions and responsibilities of the new municipal bodies to take the place of the Municipal Corporation and all inciden'al matters like coordination of activities, control over these bodies, etc.

#### 11.6 PROPOSED STRUCTURE OF THE MUNI-CIPAL ADMINISTRATION

11.6.1. The setting up of a number of municipalities in Delhi should not obscure the fact that Fjelhi is one city and should be administered as such. The municipal bodies should, therefore, be so structured as to form part of an integrated municipal administration operating smoothly throughout the city. This will require not only a unified legal framework for all the municipal bodies but also an effective mechanism for securing coordination between them and their harmonious working.

11.6.2. It is obvious that the structure and functions of all these municipal bodies should be regulated by one law, and that this law should be a law of Parliament. Such law should also apply to the New Delhi Municipal Committee which should be called the New Delhi Municipal Corporation after the implementation of our recommendations, with appropriate modifications to provide in its case for direct central control and a separate structure. Having regard to the population to be served by each of these municipal bodies, it would be appropriate to term, each of these bodies as corporations. In our opinion it may not be necessary to enact an altogether new law of Parliament for the purpose. In paragraph number 11.11 we have set out our legislative proposals.

11.6.3 As regards the number of municipal corporations o be set up in Delhi, it should be fixed with reference to all relevant factors including the density and distribution of population. We have already recommended in Chapter VIII in Part—I that for administrative purposes, Delhi should have a decentralised set-up with compact units at various centres and that as far as possible the power of the various departments dealing with public needs should be delegated to these centres. Obviously, the arrangements in regard to municipal affairs should also fit with this scheme of decentralisation. We, therefore, recommend that the law should constitute as many corporations as there are units in the set-up to be re-organised in accordance with our recommendation aforesaid.

11.6.4. The number of Councillors for each Corporation should be fixed having regard to all relevant factors. At present, the Municipal Corporation has one hundred Councillors and six Aldermen. This was fixed at a time when the population of Delhi was much less 'han at present. An appropriate number should therefore, be fixed by the law of Parliament for each of the Corporations.

11.6.5. The Act makes provision for the election of six Aldermen by the elected members of the Corperation. The only qualification for an Alderman prescribed by the Act is that every such person should be qualified to be elected as a Councillor and should not already be a Councillor. This means that the Aldermen are no different from Councillors except for their mode of election. There is obviously no apparent purpose in providing for the institution of Aldermen if they are also to belong to the same category of persons as the Counciliors. It only stands to reason that Aldermen should be elderly men with a measure of maturity, experience and standing in the public so as to enable them to provide a valuable input to the deliberations of the Corporations by reason of their expertise or experience in public attairs. The present provisions in the Act do not ensure this. We consider that an Alderman, if he is to play any useful role, should be a person elected iron members of the public, residing within the limits of the Corporation concerned, with adequate knowledge, reputation and experience of public affairs and with a background of public service. They can be chosen from persons who have retired after rendering service as teachers, doc'ors, engineers or government servants. Delhi is full of such men of experience and it will be in the public interest that the talents of such experienced men should be utilised usefully in the civic administration. We recommend that the Act should prescribe these qualifications. The Aldermen should be elected by the Councillors from among persons so qualified by the method of proportional representation by means of a single transferable vote. We recommed accordingly. We also recommend that the actual number of Aldermen may be fixed for each Corporation at a figure not less than two but not more than four,

11.6.6. Each Corporation should have a deliberative wing and an executive wing on the usual pattern. The deliberative wing should be headed by a Chairman. This will apply to NDMC also. Each Corporation may have a Secretary and the usual staff. As regards the executive wing it should be headed by an officer designated as Municipal Commissioner of the rank of a Deputy Commissioner, with appropriate staff, including those for finance and accounts. The Municipa. Commissioner should, of course, be made responsible for implementing the decisions of the deliberative wing and the general conduct of the municipal allairs, but disciplinary and administrative control over him and the staff should be with the Government of Delhi.

11.6.7 An important provision which, in our view, will be to the benefit of persons elected to the Corporation as members, is regarding the declaration of assets by a member elected to the Corporation, filed with the Corporation at the commencement of his term of office, and at periodic intervals thereafter. As is well known, charges of corruption and amassing of wealth are easily made against members elected to local bodies and although, in many cases, these charges are baseless the unfortunate fact is that people readily believe and give credence to such charges in the absence of any concrete evidence to the contrary. Any amount of denial does not carry conviction. The result is that there is a general impression, if not a beller, about corruption among members of the Corpolation, whether it is justified or not. With a view to remedy this unsatistatory situation we would recommend that the Act should contain a provision for a declaration by a member of all the asses owned by him and any member of his family. Such declaration shall form part of the Corporation records. Omission by a member to file the declaration should be a ground for his disqualification for continuing as a member. We would suggest a provision on the following lines:

- "Declaration of assets etc.—Every councillor shall, not later than one month after the commencement of his term of office, and in the same month of each succeeding year, file with the Chairman a declaration of all assets owned by him and any member of his family. Such declaration shall form part of the corporation records.
- (2) If any councillor fails to file the declaration referred to in sub-section (1) or files the same knowing it to be false or incorrect he shall cease to be a councillor.
- (3) Any question whether disqualification under sub-section (2) has occurred shall be decided on reference made by the corporation. by Government and the decision of Government thereon shall be final.
- Explanation.—For purposes of this section family means the spouse and dependent children of the councillor."

We recommend accordingly.

#### 11.7 FUNCTIONS OF THE CORPORATION

11.7.1 We have already recommended in Chapter VI, that after the establishment of the Legislative Assembly and a Council of Ministers for Delhi, the powers and functions of the Municipal Corporation of Delhi should be restricted to municipal functions, the other functions being transferred to other authorities. This was also the view expressed by many in their responses to the questionnaire and during interviews. We will now proceed to consider the modifications required in respect of the existing functions vested in the Municipal Corporation under the Act in the context of our recommendation in Chapter VI for the establishment of a Legislative Assembly and an Executive Council for Delhi.

#### 11.7.2 ELECTRICITY

One of the obligatory functions of the Corporation under the Act is the generation and distribution of electricity. Obviously this subject is not strictly a municipal function as is commonly understood. It would not perhaps have been assigned to the Municipal Corporation of Delhi had it not been for the fact that when the Act was enacted it was the only body with elected representatives, at the local level. The

Act provides for a committee of the members of the corporation, to be responsible for the efficient supply of electricity to Deini. We gather from the available material that the present arrangements have led to many management and other dimculties and are responsible for the public discontent in a large measure. Delni as a national capital has a vast and ever increasing population and the demand for electricity is very high. The scope for generation of electricity in the Union territory of Delni is extremely limited as the main option of generation by thermal process has to be ruled out because of its potential for pollution in the thickly populated city. The demand for electricity which stood at 26 MW in 1950 has risen to more than 1200 MW at present. Electricity in such huge quantities for Delhi has necessarily to be obtained from neighbouring States and the national grids. There is a view that the Municipal Corporation is hardly the agency which can command sufficient stature to be able to deal with States and national grids. Further, the heavy investments and the expertise required for the generation and supply of electricity cannot be managed by the Corporation. Even the distribution of electricity to such a vast population requires a level of expertise and efficiency which may be beyond the reach of a municipal body. The views expressed before us were generally to the effect that much of the difficulties faced in regard to electric supply are due to the present arrangements. For these and other reasons we are clearly of the view that the Municipal Corporation should not be burdened with this responsibility but should have only the responsibility of street lighting. It may be mentioned that the Cor-porations at Madras and Calcutta do not have this function. We have in Chapter XV dealt with the arrangements to be made in this behalf.

#### 11.7.3. WATER SUPPLY AND SEWAGE DIS-POSAL

Under the present arrangements the supply of water to the vast population of Delhi and sewage disposal is the responsibility of a statutory committee of the Corporation. Supply of water involves not only substantial financial investments and expertise but also dependence on other States because the quantum of water internally available to Delhi is limited. We are, therefore, of the view that this subject should also be taken away from the Corporation. Our recommendations in regard to the arrangements in this behalf are contained in Chapter XVI.

#### 11.7.4 FIRE PREVENTION

The maintenance of fire brigades requires, apart from heavy investments, a good deal of organisational efficiency of the highest order. In the fitness of things the subject can best be handled only at the governmen'al level and not by the Corporation. We recommend accordingly. We also recommend that the organisation should be decentralised to the extent necessary in view of the spread of population, congestion in traffic, and the need of far fiung colonies. This subject should be deleted from the list of functions assigned to the Corporation in Section 42 of the Act.

Ine establishment and maintenance of hospitals is one of the obligatory functions of the Corporation under the Act. With the establishment of a Legislauve Assembly and Council of Ministers for Delhi this subject, which is in the State List will be the concern or the Government of Delni. Obviously, it would be incongluous if the Municipal Corporation continues to be vested with this obligatory function. At the same time this arrangement will not be conducive to enciency in this important sector of welfare service. At present there are four hospitals run by the Corporation with a bed strength of about 2600. Delhi has a number of other hospitals, some run by the Central Government and some by the Delhi Administration. There is widespread complaint that the provision of hospital facilities in Delhi is woefully inadequate and that the existing hospitals are chockful. Needless to say, the provision of good hospitals in the national capital is of utmost concern to the people and to the Government and the existing unsatisfactory state of affairs should not be allowed to continue. Further, there should be a uniform pattern of services and facilities in all the hospitals and a unified authority to control them. This is a matter of serious concern which should be examined in depth by experts in the field of hospital administration and, as such, we are not in a position to make specific recommendations in regard to the organisation of the hospital services in Delhi. We recommend that this matter should receive urgent attention and examination by the government at an appropriate level. All that we recommend is that this subject should not be included in the function of the Corporation.

#### 11.7.6 ROADS AND BRIDGES

One of the obligatory functions of the Municipal Corporation is "construction, maintenance, alteration" and improvements of public streets, bridges" etc. It is true that construction and maintenance of roads has been almost a traditional function of municipal corporations in most cities and the arrangements in Delhi follow what obtains in Bombay, Calcutta and Madras However, in the national capital, the existing arrangements have caused difficulties because of the multiplicity of authorities. There are as many as five authorities in Delhi dealing with the subject namely the Central Government, the Delhi Administration, the Municipal Corporation, the N.D.M.C. and the D.D.A. This has created difficulties not only in maintaining standards but in fixing responsibilities because of the confusion of jurisdiction. In particular, the confusion of jurisdiction between the D.D.A. and the Municipal Corporation has caused serious hardship to the public. After a careful examination of the position with a view to remove the existing confusion and difficulties, we have come to the conclusion that the following arrangements would best subserve the public interest :---

> (i) All national highways in Delhi and the roads in the New Delhi area should be the concern of the Central Government.

- (ii) Certain important arterial roads in the capital could be notified by the Central Government for being made the concern of the Delhi Administration.
- (iii) All other roads should be the responsibility of the Municipal Corporation.
- (iv) The D.D.A. or other housing agency should be divested of the functions regarding laying and maintenance of roads even in the colonies set up by it. This is because of the existing bottlenecks and confusion in the handing over and taking charge of roads as between the D.D.A. and the Corporation. In our view, there should be no difficully in the housing agency getting assistance of the Municipal Corporation concerned for laying roads in its own colonies, in the same way as it obtains such assistance in regard to electricity and water supply. In other words, the housing agency should be in the same position as a private builder in this regard.

#### 11.7.7 OTHER FUNCTIONS

All other functions mentioned in sections 42 and 43 may be retained with the Municipal Corporation. However, in regard to discretionary functions listed in section 43, they could be performed only in accordance with any general or special orders of the Government of Delhi and not in the discretion of the Corporation itself.

#### 11.7.8 BUILDING BYE-LAWS

The enforcement of building bye-laws and the exercise of architectural and connected controls are of crucial importance for preserving the aesthetics and ensuring orderly urban growth as also for preventing environmental degradation. These are normally the functions of the municipal bodies i.e. the MCD, NDMC and the Cantonment Board. In Delhi there are at present other authorities also concerned with the responsibility in this regard.

11.7.9 Under the Delhi Urban Art Commission Act, 1973, it is the 'general duty' of the Commission "to advise the Central Government in the matter of preserving, developing and maintaining the aesthetic quality of urban and environmental design within Delhi". It is also the function of the Commission to provide advice and guidance to any local body in respect of any project of building operations or en-gineering operations or any development proposal which affects or is likely to affect the sky-line or the aesthetic quality of surroundings or any public ame-nity provided therein. Under the Delhi Development Act, 1957 the DDA has been given the responsibility to prepare the master plan for Delhi as well zonal development plans for each of the as zones into which Delhi may be . divided. The master plan defines the various zones into which Delhi may be divided for the purpose of development and indicates the manner in which the land is to be used in each zone and stages by which

the development is to be carried out. It is to provide the basic pattern or framework within which the development should take place. The master plan and zonal plans are finalised with the approval of the Central Government and after such approval they become the plan for the development of Delhi.

11.7.10 In regard to lay-out plans of specific areas, they should conform to the approved master plan and zonal plans. In respect of 'development areas' the power for giving such approval in these areas vests in the DDA under the Act. In an area other than the 'development area' approval of or sanction for layout plans has to be obtained from the local authority but such permission or approval has to conform to the master plan and zonal plans for the area.

.11.7.11 The sanctioning of individual building plans and issue of completion certificates for the constructed buildings is the responsibility of either the DDA or the local bodies depending upon whether the area is a development area or not. It is this activity which affects the common citizen; the most. Such sanction is necessary not only at the time of original construction of a building but for subsequent additions and alterations also. There is widespread discontent regarding the unsatisfactory manner in which these powers are being exercised. Several persons with knowledge and experience have told us that there is arbitrariness and laxity in the performance of these functions apart from widespread corruption and delays. It is alleged that irregular constructions are being surreptitiously permitted with the connivance of officers of DDA or those of the Municipal Corporation.

11.7.12 With the professed object of achieving uniformity and to meet the difficulties felt by the common man in obtaining the sanction for building plans and obtaining completion certificates etc. the Building Bye-Laws for the Union territory of Delh., 1983 were formulated by the Central Government, presumably as a model, to apply to all areas of Delhi except urban villages, rural areas and special areas such as JJ Resettlement Colonies etc. The DDA, the MCD and the NDMC have adopted these bye-laws for the areas under their respective jurisdiction by means of appropriate notifications under the respective Acts. The Delhi Development Act, 1957 provides that no local authority can make rules, regulations or bye-laws in respect of matters specified in the Act unless the DDA certifies that it does not contravene any of the provisions of the master plan or the zonal development plan. By this the DDA is enabled to monitor the rules etc. made by other local authorities to ensure compliance with the provisions of the relevant plans.

11.7.13 We had included in our Questionnaire specific questions relating to the formulation of urban and town planning standards and implementation of regulations regarding architectural and building control etc. In several memoranda received by us it has been brought out that the multiplicity of authorities has made it difficult for the common man to get expeditious clearance of building plans and projects.

There has been an almost unanimous view that the multiplicity of regulating agencies should be done away with or reduced to the extent possible. One view was that the Delhi Municipal Corporation should be given the final authority to approve all building plans and projects in Delhi. There was another view that even the existing powers of the Municipal Corporation of Delhi in this regard should be curtailed. Another suggestion was that these functions should be performed by the Delhi Administration, with the Central Government laying down only basic policies and broad outlines for maintaining proper planning standards. There should, according to this view, be a Central Urban Town Planning Agency under Delhi Administration for laying down uniform building standards and their implementation or a Building Plans Sanctioning Board to sanction projects and for giving completion certificates.

11.7.14 We will first examine the suggestion that the functions relating to sanction of building plans and issue of completion certificates should be exercised solely by the Municipal Corporation. The main argument put forth in support of this view is that this practice is being followed in the cities all over the country. Moreover, the local bodies being the insti-tutions of self-governance at the field level, are best suited to attend to these functions which are of a local nature. As against this, it has been argued that Delhi being the national capital stands on a different footing. The need to preserve its character as the national capital necessitates greater control over land use and stricter enforcement of the building norms and architectural standards. The Municipal Corporation of Delhi has been exercising these powers in its area for more than three decades and the results achieved in regard to proper enforcement of the building regulations have been disappointing and have not given satisfaction to the common man. There are complaints of large scale illegal constructions and harassment of citizens applying for permission for construction or seeking completion certificates. According to this view, the suggestion to vest these powers solely in the Corporation for the whole of Delhi would only/result in extending the areas where this unsatisfactory state of affairs exists.

11.7.15 Another aspect of the matter has to be considered. We have at para 11.5.11 recommended that a number of municipal bodies should be set up in Delhi in the interests of improving the delivery of municipal services to the citizens. The implementation of the suggestion for vesting the building and architectural controls in the local bodies would result in the exercise of these functions by a number of would further complicate agencies in Delhi which matters for the common man and result in lack of uniformity in implementation. After a careful consideration of all the aspects of the matter, we are not inclined to accept the suggestion that the power to sanction building plans and issue of completion certificates should vest in the municipal bodies.

11.7.16 Most of those who met us were of the view that the present difficulties are primarily due to a number of agencies exercising building and

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architectural controls. Even the unified building byelaws referred to in para 11-7-12. have made no perceptible improvement. The interpretation and actual application of building bye-laws is a matter relating to details and a modicum of uniformity of approach is needed for their proper enforcement which is presently lacking. A look into the present situation leads to the conclusion that it would be in the interest of proper enforcement and implementation of the building norms and architectural controls if this work is performed as far as possible, by a single authority which could, among other things, bring to bear upon a unified common approach in regard to the implementation of the building bye-laws.

11.7.17. We now proceed to examine the important question as to the authority which could most appropriately be invested with these powers and functions. We are aware of the fact that these functions are almost traditionally assigned to municipal authorities but the issue before us is whether, having regard to the special needs of the national capital, and to the experience gained in regard to the discharge of these functions by the Delhi Municipal Corporation all these years, these functions could be continued to be entrusted to the Municipal authorities. We have already explained why these functions should not be entrusted to the Municipal bodies in Delhi. The other authorities to be considered in this connection are the Central Government, the DDA and the Government of According to our recommendation at para Delhi. 6.7.12 all matters relating to land and its use will be under the jurisdiction of the Centre. As a consequence the overall power of approving the master plan and zonal plans and laying down norms and standards to be followed in regard to land use as also according of approval to the building bye-laws will have to vest in the Central Government. This might justify the view that the Central Government should have these powers. However, a Central Ministry cannot deal with such matters of detail like the issue of building permission and completion certificates as it is not equipped for the purpose. This requires discharge of the functions at the field level which could best be done by a governmental machinery or agency functioning at the local level. We consider that it would neither be appronriste nor feasible for the Central Government to exercise such functions directly.

11.7.18. The next possible agency would be the DDA. As has been pointed out earlier in this report the DDA is at present exercising these functions in relation to 'development areas'. However, the position in these areas is no better than in the areas where these functions are being exercised by the Municipal Corporation. The complaints of illegal constructions, corruption and harassment of persons are also many in respect of areas where such controls are being exercised by the DDA. We will be dealing with the restructuring of the DDA in a subsequent chapter. However, we feel that in any scheme of re-organisation DDA will continue

to be responsible for formulation of the master plan and zonal plans and generally for development and ensuring their implementation. After a careful consideration of all aspects of the matter we feel that the DDA should not be burdened with functions of sanctioning building plans and issue of completion certificates.

11.7.19. The only other possibility is to entrust such function; to the Government of Delhi. One of the arguments in support of this is that in view of large scales violation of building bye-laws and considering the need for preserving the aesthetic environment in Delhi by putting a curb on unregulated use of land, it is necessary that the exercise of these controls should be under the direct Governmental control of the Government of Delhi. The exercise of these functions directly by that government will secure uniformity of approach and procedure and will obviate the difficulties at present arising due to variation in the actual application of the bye-laws. This will also be in consonance with the object of providing an effective nodal authority in such matters vitally affecting the common man. Moreover, control and supervision over functionaries at lower level by a hierarchy of responsible government officials, would result in proper implementation of the bye-laws and would also give greater satisfaction to the citizens. This is because the arrangement might provide an inbuilt and organised machanism for supervision and control thereby reducing the scope for large scale corruption and harassment. On a consideration of all aspects we are of the view that the appropriate agency to enforce building bye-laws and to exercise architectu-ral and building controls would be the Government of Delhi. It is hardly necessary to point out that this function relates to the subject of land and buildings, which we have recommended, should be a reserved subject for the Union. Accordingly this function should be performed on the basis of a delegation of functions by the President to the Lieutenant Governor, who has to exercise the functions in his discretion with the assistance of officers under him.

We recommend as above.

11.7.20. The exercise by the Lieutenant Governor of the functions relating to enforcement of building bye-laws and sanction of building plans etc. restructuring of the administrative would require machinery particularly to secure coordination. In. para 11.8.1 we have recommended the appointment of a Secretary-cum-Commissioner level officer suitably assisted by field officers with appropriate seniority and status to achieve coordination among the different corporations to be set up for Delhi, This officer may be charged with ensuring coordination in regard to these matters and made answerable to However, the powers the Lieutenant Governor. and functions referred to above will have to be delegated to an appropriate extent to the municipal commissioners incharge of the various corporations. This arrangement will ensure proper enforcement

at the field level combined with **adtquate** supervision, coordination and control at the higher level of Government. We recommend accordingly.

11.7.21. A number of persons who were interviewed by us have referred to the cumbersome nature of the existing bye-laws. It has been suggested that the issue of sanction for building plans should be a simple matter. A suggestion was also made that the procedure in this regard should be simplified. The suggestion is that the person undertaking construction should make an application attaching thereto building plans with a certificate by a registered architect that the plans conform to the master plan, zonal plan and building bye-laws to the sanctioning authority and it should automatically be deemed to have been sanctioned if no objection is received from the approving authority within a specifid period, say 30 days. Similarly, in regard to the completion certificate a suggestion has been made that a certificate from a qualified registered architect that construction has been completed in accordance with the plans and in conformity with the bye-laws etc. should be sufficient and no separate completion certificate by any other authority need be required, provided that no objection is raised by the appropriate authority within a specified period. These suggestions, in our view, are quite sound and deserve to be accepted.

We recommend accordingly.

11.7.22. We received other suggestion relating to the details involving the question of simplification of procedures and revision of building bye-laws. These are matters for detailed study by experts. All we would like to say here is that there is considerable scope for the formulation of simpler bye-laws and for eliminating cumbersome and time consuming procedures.

#### 11.8 COORDINATION

11.8.1. It needs to be stressed that the setting up of a number of corporations for Delhi in place of a single corporation is only for the purpose of securing better civic services and convenience to the people by establishing a local authority on the spot. Delhi being one city and the capital of the country, it is of utmost importance that the functioning of the various municipal bodies should be harmonious and that there should be integrated and efficient administration. Accordingly, while each municipal body will have a degree of autonomy for enabling it to attend to the needs of the people on the spot, there should be an inbuilt mechanism for overall supervision and control as well as for securing coordination between the bodies. This most important aspect came in for careful consideration by us and in our view the best way to ensure this will be to have at the level of the Delhi Administration a senior officer designated as Commissioner for Local Bodies who could be ex-officio Secretary to the Government of Delhi. It will be his responsibility to ensure that the municipal administration of the city as a whole is up to the standard befitting the national capital and that the functions of all municipalities are coordinated. Whenever there is any difficulty as between corporations as to which of them should deal with a particular matter, such as maintaining a particular stretch of road, it would be finally decided by the Commissioner. It should also be his duty to keep a close supervision over the staff in all corporations and to attend promptly to complaints of harassment, corruption or inefficiency. The officers and staff in all the corporations other than safai karamcharis, peons, messengers and the like should be constituted into one or more services or one service with appropriate grades under the control of the Commissioner so that the transfer of such staff from one corporation to another can be done easily, thereby preventing the growth of vested interests.

11.8.2. As a consequence of our recommendation in the preceding paragraph to constitute a common service for the officials and employees of the various corporations in Delhi, there should be specific provisions in regard to the mode of recruitment to the posts in the service and to the other conditions of service. In our view it is quite necessary that the recruitment to the posts should be made by an outside authority which will guarantee impartiality. For this purpose we would suggest that direct recruitment to the posts in the service should be entrusted to the existing Staff Selection Commission for the Central Services. This Selection Commission for the Central Services. will ensure objective selection of competent men for the service. Rules in this regard should be made by the Government of Delhi and they should provide for the other conditions of service including those for promotion.

We recommend accordingly.

#### 11.9 CONTROL AND SUPERVISION

11.9.1. We have already stated a number of times that the Centre is vitally concerned in maintaining a high level of efficiency in civic services in the capital. We have also stressed at the same time that with the establishment of a democratic government for Delhi the people's representatives in the administration should have a say in the proper delivery of civic services. These two considerations can, in our view, best be reconciled by making the following arrangements :

- (i) The Central Government should have full control over NDMC, the area in which most of the important offices of the Union and embassies are located.
- (ii) The general control and supervision over the other municipal bodies as provided for under the law can be with the Delhi Administration as the subject of local self government is a matter within the purview of the representative government of Delhi, but the power to issue directives and to supersede a Corporation should be only with the Central Government.

It would be appropriate to provide that the powers of the Central Government under items (i) and (ii) above should be exercised in consultation with the Government of Delhi and that such powers can be exercised either on the initiative of the Government of Delhi or on its own.

We recommend as above.

#### 11.10 FINANCIAL ASPECTS

11.10.1 We have recommended certain radical changes in the present structure of the municipal administration including splitting up the existing Delhi Municipal Corporation into a number of smaller corporations. Following this recommendation, the staff working in the present Corporation will need to be allocated among the various smaller corporations keeping in view their respective areas and the population to be served by them. The assets and liabilities of the present corporation should be apportioned on a rational basis among the new corporations. Similarly, the revenue collected centrally and the grants given by Government, will also need to be allocated equitably between these corporations. This will require a detailed study into the revenues available and financial requirements of each of the new corporations. We do not find it possible to go into these matters of detail. We recommend, however, that a suitable piovision should be made in the Parliamentary law enabling a mechanism to be established for the distribution of assets and liabilities of the present Municipal Corporation among the various corporations that are to be created. Similarly, a provision may also be made regarding the allocation of staff between the new corporations.

#### 11.11 LEGISLATIVE CHANGES

11.11.1 The proposals for restructuring the Delhi Municipal Corporation contained in our recommendations in the preceding paragraphs, including the one relating to the constitution of a number of municipal corporations in Delhi, would require legislation for implementation. We will proceed to indicate broadly the scope of such legislation.

11.11.2 One suggestion which we considered in this connection is the enactment of a comprehensive new law to govern these municipal bodies. The advantage of this course is that such a law can incorporate the provisions of the latest available legislation on the matter. The other alternative course considered by us was to adopt the pattern and scheme of the existing Act of 1957, which itself is based on the Bombay Act. On a consideration of the relative advantages and disadvantages of these two courses, we have come to the conclusion that it would be better to retain the present model mainly because of the advantage that the people of Delhi as well as the administrators have become familiar with the details of this legal framework during its three decades of operation.

11.11.3 The further question is whether a new law of Parliament should be as a reenactment to replace the existing Act of 1957 or whether it would be sufficient to make amendments to the existing Act to incorporate the changes necessary for implementing such recommendations as are accepted. Here again we consider that there is a definite advantage in retaining the existing framework including the precedural and other provisions because no changes are recommended or contemplated by us in these. We would, therefore, suggest that the changes recommended by us which are accepted should be implomented by means of an Act amending the D.M.C. Act, 1957.

11.11.4 To facilitate the drafting of the amending Bill we give below a brief summary of the main points which should be incorporated as amendments to the existing Act.

## POINTS TO BE COVERED BY LEGISLATION

I. The name of the Act may continue to be the Delhi Municipal Corporation Act but a clarification should be made that the word Corporation means any of the Corporations established under the Act.

II. Power should be conferred on the Central Government—

- (a) to divide the whole or part of the Union Territory of Delhi into local areas on the basis of population and other relevant factors;
- (b) to establish a Corporation for each of such local areas and to give a name to each such Corporation; and
- (c) to alter the limits of the local areas or the jurisdiction of any Corporation, from time to time, after due publication of the proposals in this behalf and following a prescribed procedure.

III. A provision should be made that the limits of the said local areas shall as far as may be conform to the limits of the territorial units into which the Union Territory of Delhi is divided for the purpose of general administration.

- IV. (a) The area under the New Delhi Municipal Committee at the commencement of the amending Act shall be deemed to be a local area and the said Committee shall be called the New Delhi Municipal Corporation and shall be deemed to be a Municipal Corporation for that area subject to the special provisions made in the amended Act governing its structure.
  - (b) The structure of the New Delhi Municipal Corporation shall be as set out in Chapter XII of the Report.
- V. (a) Each of the Corporations shall be a body corporate and shall consist of such number of Councillors as may be fixed by the Act.
  - (b) The Councillors shall be elected on the basis of adult suffrage and in the manner provided in the Act for a term of four vears. Seats shall be reserved for Scheduled Castes in accordance with the principles contained in the Constitution. Seats shall also be reserved for women to the extent provided in the Act.

(c) Provision should be made for a specified number (not less than two but not more than four) of Aldermen in each Corporation to be elected by the Councillors at the first meeting after each general election to the Corporation. The election should be on the basis of proportional representation by means of a single transferable vote. No person shall be eligible to be elected as an Alderman unless he possesses the prescribed qualifications.

VI. There should be a provision for the declaration of assets by each member of the Corporation on the lines indicated in paragraph 11.6.7.

VII. Under the Corporation, the other statutory authorities should be (1) the Standing. Committee and (2) the Municipal Commissioner.

VIII. A separate provision should be made for the institution of Mayor of Delhi to perform such functions in relation to the whole of Delhi as may be specified by the Central Government by rules under the Act. The Mayor shall be elected by an electoral college consisting of all the elected Councillors and Aldermen of all the Corporations. The election shall be by proportional representation by means of a single transferable vote. He shall be chosen from among eminent citizens of Delhi having qualifications set out in para 11.5.9. He shall not be entitled to any salary but may be given perquisites indicated in the said paragraph.

IX. Each Corporation shall have the functions now assigned to the MCD as listed in Section 42 of the Act subject to the following modifications :-

- (a) the power of the Corporation under items
   (a), (b) and (c) of the Section relating to water supply and sewage disposal should be subject to the powers of the concerned statutory body;
- (b) Items (d) and (u) of that Section shall be omitted; and
- (c) in item (i) of that section the word "hospitals" shall be omitted.

X The discretionary functions of the Corporation listed in Section 43 of the Act may be retained but such functions should be made exercisable not "in the discretion of the Corporation" but "subject to any general or special orders of the Government of Delhi from time to time." XI. As regards roads it should be clarified that the Corporation should have the power and responsibility for the construction and maintenance of all roads in the Union territory, except---

- (a) All national highways in Delhi and roads within the limits of the New Delhi Municipal Corporation which should be the concern of the Central Government.
- (b) Such important arterial roads in Delhi as may be notified by the Central Government from time to time for being made the responsibility of the Government of Delhi.

XII. As regards electricity, the Corporation should be responsible only for street lighting.

XIII. Provision should be made for the appointment of a Commissioner for Local Bodies who will be made statutorily responsible for ensuring that the provisions of the Act are complied with, for securing coordination between the various Municipal Corporations, and for performing such other actions as may be specified in the Act.

XIV. Provision should be made for one common Municipal Service with appropriate\_grades for the officers and staff of all the Corporations except Safai Karamcharis, Peons, Messengers and the like. The members of the staff should be liable to be transferred from one Corporation to other. The Commissioner of, Local Bodies should have the overall control over the entire staff in all matters including disciplinary matters. He may delegate powers to the Municipal Commissioner in such matters and to such extent as may be prescribed by rules.

XV. (a) Provision should be made for the making of rules for the recruitment and conditions of service (including for promotion and disciplinary control) for the officers and staff of the Corporation.

(b) It should be provided in such Rules that the recruitment to posts for which direct recruitment is provided should be made by the Staff Selection Commission for the Central Services.

XVI. Provision should be made for the allocation of staff and of the assets and liabilities of the MCD among the new corporations and for the allocation of revenues collected by the Centre and payable to the Corporation as well as of loans and grants.

XVII. The Chapters relating to Electricity, Water Supply and Sewage Disposal should be repealed.

XVIII. New provisions should be inserted regarding building control to give effect to our recommendations in paragraph 1.7.19.

#### CHAPTER XII

#### NEW DELHI MUNICIPAL COMMITTEE

#### 12.1 INTRODUCTORY

12.1.1 On the shifting of the capital from Calcutta to Delhi in 1912, a Committee known as the Imperial Delhi Committee was constituted on 25th March, 1913 for the construction and management of the civic affairs of the new capital. In 1916, it was notified as the Raisina Municipal Committee under the Punjab Municipal Act, 1911 for meeting primarily the sanitary needs of the workers engaged on the construction of the capital city. On 16th March, 1927, the Committee was re-designated as the New Delhi Municipal Committee (NDMC). It was upgraded in 1932 to a first grade municipality entrusted with the responsibility of providing civic services.

12.1.2 These arrangements continued till the establishment of the Delhi Municipal Corporation in 1258. The area under the jurisdiction of NDMC was reduced from about 84 sq. kms. to about 43 sq. kms. It has a permanent population of around three lakhs (1981 Census). Its population, however, swells to over eight lakhs during the day on account ٥f the influx of floating population due to the location of Central Government offices, Diplomatic Missions and commercial establishments in the area. The permanent population primarily comprises employees of the Central Government, foreign diplomatic · personnel and commercial establishments. The residential area under NDMC consists mainly of Government colonies, although there are also some private colonies. म्यमव

12.1.3 It will be useful to refer briefly to the provisions of the Punjab Municipal Act, 1911 under which the NDMC functions. Under section 11 of that Act a Municipal Committee is to consist of not less than five members either appointed by the State Goverment or elected from among the inhabitants or partly of the one and partly of the other. However, the appointed members shall not ordinarily be more than one fourth of the total members. One of its members is to be elected as President of the Committee, and one or two of its members as Vice-President or Vice-Presidents. A President or Vice-President may tender his resignation to the Committee he may also be removd from his office by the State Government on the grounds of abuse of his powers or habitual failure to perform his duties or in pursuance of a resolution passed by two- thirds of the members of the Committee. The Committee is to meet for the transaction of its business at least once in every month. The Committee may, with the approval of the State Government, delegate certain powers to the President, or Vice-President, or the Secretary, or a Sub-committee, or the Medical Officer

of Health, or the Municipal Engineer, etc. It may concur with any other local authority in appointing a joint committee for any purpose in which they are jointly interested. It is to appoint, subject to the approval of the State Government, one of its members, or any other person, to be its Secretary.

#### 12.2 PRESENT SET-UP

12.2.1 The NDMC is a body corporate. There is a municipal fund in which all sums received by, or on behalf of, the Committee are credited. All fines realised under any statutory provision are also credited to this fund. Its functions are more or less the same as those of any other local authority. It receives bulk water supply and bulk electricity from the Municipal Corporation of Delhi and delivers its sewage to the Corporation for disposal.

12.2.2 The NDMC has powers to impose property tax on buildings and lands, the maximum being 12} per cent of the annual value **UNTEOL**, 1434 on periods practising any profession or art or carrying on any trade or calling in the municipal area; a tax on any vehicle animal or dog; a tax on menial domestic services; a tax where the Committee has undertaken house scavenging; a tax on applications for construction of buildings; octroi; toll or terminal tax. Unlike the Delhi Municipal Corporation Act, 1957, this Act does not enable the NDMC to levy fire tax, education cess, street lighting tax, scavenging tax, etc. The diplomatic missions have been exempted from the purview of taxation.

12.2.3 The control over the NDMC has to be spelt out from the provisions in the Punjab Municipal Act, 1911 as applicable to Delhi. Under these provisions the Deputy Commissioner has the power to :--

- (a) Enter on, inspect and survey any immovable property or any work in progress.
- (b) Call for and inspect any book or document in the possession or under the control of the Committee.
- (c) Require the Committee to furnish any statement, account, report etc. relating to the proceedings of the Committee.
- (d) Enquire generally into the atlairs of the Committee to ascertain whether it is being satisfactorily administered.
- (e) Suspend the execution of any resolution or order of the Committee, if in his opinion,

the resolution or order is in excess of the powers of the Committee or contrary to the interests of the public.

Should the NDMC be found incompetent to perform or persistently make default in the performance of the duties imposed on it, or exceed or abuse its powers, the Lt. Governor may suspersede the Committee alter following the prescribed procedure. In such a case all powers and duties of the Committee are to be exercised and performed by such person as the Lt. Governor may appoint in that behalf.

#### 12.3 CONCLUSIONS AND RECOMMENDA-TIONS

12.3.1 We understand that there is some lack of clarity regarding the provisions of the Punjab Municipal Act, 1911 as applicable to the NDMC area at any point of time, since the parent Act has been amended a number of times in Punjab. We are clearly of the view that it is high time that the archaic Punjab Municipal Act, 1911 as applied to NDMC is replaced by appropriate provisions in a law of Purliament for the organisation and functioning of the NDMC. The NDMC may be charged with the Municipal Government in NDMC area, and it will be one of the Municipal Corporations in Delhi to be set up in pursuance of our recommendations in Chapter XI. After the implementation of the said recommendations, it will be called the New Delhi Municipal Corporation (NDMC).

12.3.2 As recommended in Chapter VI (Paragraph 6.7.10) of Part I of our report the NDMC should continue to receive special dispensation. The area covered by the NDMC consists not only of government offices and employees but also a sizeable population of others. It is, therefore, quite necessary that the NDMC should be run on democratic lines.

12.3.3 We have carefully considered the question as to how the structure of the NDMC should be provided for, having regard to the special needs of the national capital. We consider that the NDMC should consist of a certain number of members appointed by the Lt. Governor either by name or by office and an equal number of members elected from among the inhabitants of NDMC area. One of the appointed members may be designated by the Lt. Governor as the Chairman of the NDMC. The Vice-Chairman of the NDMC may be elected by the elected members from among the members. The elected members may be chosen by direct election on the basis of adult franchise from various wards into which New Delhi may be divided. The term of office of elected members may be fixed as four years while the term of office of appointed members may be such as may be fixed by the Lt. Governor. A specific provision should be inserted conferring on the Central Government the power to give directons to the NDMC regarding the cilicient delivery of services to the public and generally in regard to municipal administration. Failure to comply with such direction may be a ground for supersession of the Committee.

12.3.4 To eliminate the present uncertainties and lack of uniformity as between the NDMC and the MCD we consider that in all matters other than the structure of the organisation as outlined in the preceding paragraph, the provisions of the Parliamentary law governing corporations in Delhi to be set up in pursuance of our recommendations should apply to NDMC. The NDMC may continue to receive water and electricity from the authorities concerned in bulk and it should be made responsible for the efficient distribution and maintenance of the works connected with water supply and electricity. As regards construction and maintenance of roads in N.D.M.C. area, they should be the responsibility of the Central Government as recommended in Chapter XI.

12.3.5 Suggestions were made before vs for redefining the boundaries of the NDMC area Prior to the establishment of the MCD, the area under the NDMC was larger than at present. The boundaries of New Delhi are iaid down in the First Schedule to the Delhi Municipal Corporation Act, 1957. Some pronument citizens of Sunder Nagar, Defence Colony, South Extension, Hauz Khas, Green Park, Safdarjung Enclave, R. K. Puram, Nanak Pura, etc., suggested the inclusion of these areas in the NDMC area. The NDMC has made its own suggestions in this regard. We do not feel called upon to go into this question. It is for the Central Government to take a decision as to which part of Delhi should require inclusion within or exclusion from the NDMC area

#### DELHI CANTONMENT BOARD

#### 13.1 INTRODUCTORY

13.1.1 Our Terms of Reference require us to study the drawbacks, if any, in the efficient functioning of various authorities in Delhi, including the Delhi Cantonment Board, to examine the nature and extent of the; overlapping of functions between these authorities, and the difficulties experienced by the common man in his day-to-day dealings with them with a view to make recommendations regarding rationalisation or reorganisation or streamlining of their set-up to ensure efficiency and effectiveness. Although the terms are wide enough to enable us to go deep into the problems connected with the working of the Cantenment Board including its internal structure, it is clear from the context that so fai as the Cantonment Board is concerned our study and recommendations should be limited to the aspect of overlapping of functions as between the various authorities. In any case, we do not teel called upon to look into the internal structure or problems of the Board with a view to suggest remedics because the subject matter is in the Union List and there is no question of the Government of any State or Union Territory (including the one proposed by us for Dclhi) being concerned with anv matter relating to, or given control or supervision over, Cantonments. Further, any change which may be required in the organisation or functioning of the Board may have to be considered in the context of their implications on the other Cantonments of the country. It is understood that the Ministry of De-fence has entrusted to the National Institute of Management and Administration (NIMA), Meerut a मेव जयस comprehensive study about the working of all the Cantonment Board, including that of Dellai.

13.1.2 We have, therefore, confined our study only to the problems arising from conflicts or confusion of jurisdiction, if any, as between the Cantonment Beard and the other authorities, such as the Delhi Electric Supply Undertaking, the Delhi Water Supply and Sewage Disposal Undertaking, the Delhi Administration and the Delhi Development Authority.

13.1.3 Refore taking up the issues in this field it would be useful to give a brief account of the organisation and functioning of the Delhi Cantonment Board.

#### 13.2 PRESENT SET-UP

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13.2.1 Delhi Cautonment Board is one of the 02 Cantonment Boards in the country set up under the Cantonments Act, 1924 to look after the administration in its area. The Board set up in 1938, has an area of about 43 sq. km. Its population according to 1981 cersus is about ninety one thousand. There are fourteen members in the Board—seven are elected on adult franchise and seven are nominated or ex-officio members. The Central Government may for reasons of military operations, or for the administration of the Cantonment, vary the constitution of the Board. In such a contingency the Board is to consist of three members only, namely, (i) the Officer Commanding the station; (ii) One military officer nominated by the Officer Commanding the station: (iii) One non-official nominee of the Central Government

13.2.2 The Deputy General Officer Contanding troops in Delhi Cantonment, who is also the Station Commander, is the ex-officio President of the Board. The President of the Board convenes and presides over all meetings of the Board and regulates the conduct of business. He also controls, directs and supervises the financial and executive administration of the Board. A Vice-President is elected by the elected members only from among themselves, who discharges the functions of the President of the Board in his absence. There is an Executive Officer appointed by the Central Government.

13.2.3 The Board exercises the powers and functions as laid down under the Act including municipal functions. Its main municipal functions are :--

- (a) Sanitation and public health including cleansing of streets, removal of rubbish and filth, construction of latrines, urinals, etc.
- (b) Establishing and maintaining hospitals and dispensaries and providing public medical relief.
- (c) Regulating offensive, dangerous or obnoxious tredes, callings and practices.
- (d)' Removing dangerous buildings and places.
- (c) Constructing and maintaining markets, slaughter houses, streets, culverts, etc.
- (f) Planting and maintaining trees on roadsides and other public places.
- (g) Providing or arranging for a sufficient supply of pure and wholesome water.
- (h) Registering births and deaths.
- (i) Establishing and maintaining primary schools.
- j) Rendering assistance in extinguishing fires, and protecting life and property when fires occur.

- (k) Preparing and implementing town planning schemes.
- (1) Lighting streets and other public places.

There is a small hospital for civil population run by the Board in addition to military hospitals under the Ministry of Defence catering to the needs of the troops and their families. The Board has its own fire brigade, but it can also take help from the Delhi Fire Service of the Municipal Corporation of Delhi, whenever necessary.

13.2.4. For the administration of civil areas there is a Committee consisting of elected members of the Board, the Health Officer and the Executive Engineer. The Vice-President of the Board is the Chairman of this Committee. The Committee has been delegated certain powers and duties of the Board in respect of the civil area relating to tealth, satistion, use of land for building and other purposes, subdivision and extension of sites, regularisation or removal of encroachments, issue of licences for temporary occupation of land, erection of buildings, etc.

13.2.5. The Board may, with the previous sanction of the Central Government, impose in its area, any tax which the Municipal Corporation of Delhi or the NDMC can impose. The Central Government may issue directions to the Board to impose any tax which the Board is empowered to impose and which the Board has not already imposed, or to enhance any existing tax for securing adequate financial provisions for the efficient discharge of the duties and functions of the Board. The Board is deemed to be a Municipal Committee for the purposes of the Municipal Taxation Act, 1881. We have been informed that the Board has imposed in its area various municipal taxes, such as tax on buildings and lands, conservancy tax, water tax, etc. It gets a share of the revenue on account of terminal tax, Entertainment tax and Road tax from the Government. There is a Cantonment Fund in which all sums received by or on behalf ot 3 the Board are credited.

13.2.6 The Act contains inbuilt provisions for control over the Board. The Board has to submit a report on its administration every year to the Central Government; which has general powers of supervision and control. The Central Government or the Officer Commanding-in-Chief of the Command can issue directions to the Board requiring it to execute works which the Board is bound to execute. The Central Government can modify any decision or order of the Board, after giving a reasonable opportunity to show cause against it. If the President of the Board dissents from any decision of the Board, which he considers prejudicial to the health, welfare, discipline or security of the Forces in the Cantonment, he may, for reasons to be recorded, direct the suspension of action thereon for any priod not exceeding one month. If the District Magistrate of Delhi considers any decision of the Board to be prejudicial to the public health, safety or convenience, he may, after the giving notice of his intention to the Board, refer the matter to the Central Government, and pending

its disposal no action shall be taken on such decision. In such a case, the Central Government may issue such directions as it deems fit. If any Magistrate who is a member of the Board, dissents from any decision which he considers prejudicial to the pubhe health, satety or convenience, he may, for reasons to be recorded and after giving notice of his intention to the President of the Board, report the matter to the District Magistrate. The President of the Board shall, on receipt of such notice, direct the suspension of action on the decision for a period sufficient to allow ot a communication being made to the District Magistrate and of his taking proceedings as above. If, in the opinion of the Central Government, the Board is not competent to perform its duties it may by an order published, with the statement of the reasons therefor, in the Gazette, declare the Board to be incompetent and, after giving a reasonable opportunity to the Board to show cause against the supersession, supersede it for a specific period. During the period of supersession, the powers and duties of the Board shall be exercised and performed by the Officer Commanding the Station, subject to such reservations as the Central Government may prescribe.

13.2.7. The Board may join with any other local authority in appointing a Joint Committee for any purpose in which they are jointly interested. It may, with the previous sanction of the Officer Commandingin-Chief of the Command, and the Govenrment concerned, enter into an agreement with any other local authority regarding the levy and collection of any tax such as octroi, termial tax or toll etc. It is understood from the Board that they have not entered ino any such agreement with any other local authority.

#### **13.3. DEFICIENCIES**

13.3.1. We have been informed that there is no overlapping as such between the functions of the Board and of the two other civic bodies in Delhi, though there are many areas of interaction between them, by reason of the boundaries of the Cantonment being contiguous to the other civic bodies. The areas of interface with the main authorities and bodies are indicated briefly below.

(i) The Board is responsible for making provision for lighting streets and other public places and is not responsible for generation and distribution of electricity to the civil population. However, under the Delhi Municipal Corporation Act, 1957, the Corporation is bound to provide bulk supplies of electricity for the Military Engineer Services, which is required to pay the actual cost for the electricity supplied to it. If any dispute arises as to the rate, it has to be referred to the Central Government whose decision thereon shall be final. It is understood that while bulk electricity is supplied by the DESU to the Military Engineer Services which in turn makes arrangements for its distribution within the military area only, the work of disribution in non-military area in the Cantonment is done by Delhi Electric Supply Undertaking (DESU) itself directly to the consumers. We are informed that the existing arrangement is working reasonably well.

(ii) An arrangement more or less similar to supply of electricity exists in regard to water supply except that the distribution of water in the civil area is done by the Board. Here also we have been informed that the existing arrangements have been working satisfactorily.

(iii) The Board has to depend on Delhi Administration for the normal functions of maintenance of public order, including traffic management. We understand that no difficulty has arisen in the existing arrangements.

(iv) The Delhi Development Act, 1957 provides for the development of Delhi according to plan and for matters ancillary thereto. The Act extends to the whole of the Union territory of Delhi. The main object of the Delhi Development Authority, which has been constituted under the Act, is to promote and secure the development of Delhi according to plan, but its functions, if any, in relation to the Cantonment area are subject to the provisions of the Cantonment Act, 1924. It is one of the duties of the Cantonment Board to prepare and implement its town planning schemes.

#### **13.4 CONCLUSIONS AND RECOMMENDATIONS**

13.4.1 It was urged before us that in the interests of the national capital some uniformity in the maintenance of aesthetic standards and urban structures, apart from preserving the natural environment, is necessary. In fact, the Administrative Reforms Commission in its Report (January 1969) took the view that, to ensure an integrated administration responsive to the developmental needs of the territory, there has to be some link between the Cantonment Board and the arrangements made for the rest of the territory. We feel that it is but proper that the total urban planning and infrastructural requirements of the national capital are kept in view and some arrangements for coordination in this regard are desirable. We recommed that this matter should be considered by the Central Government.

13.4.2 One of the problems which Delhi Cantonment has in common with other local authorities in Delhi pertains to encroachment on defence lands and the coming up of slums as a consequence. It has been reported that the Cantonment authorities find it difficult to remove these encroachments for a variety of reasons. The growth of slums in Cantonment area is as undesirable as in any other locality in the national capital. In addition to the familiar problems arising from the growth of slums, there is also an all important aspect of national security. It is, therefore, quite necessary in our view that some effective and purposeful measures are taken to prevent encroachment of lands in the Cantonment area and growth of slums. We are sure that the resources at the disposal of the defence authorities are adequate to provide for an effective institutional mechanism to take appropriate measures in this regard. We recommend accordingly.



#### DELHI DEVELOPMENT AUTHORITY (DDA)

#### 14.1 INTRODUCTORY

14.1.1 Among the various authorities and agencies whose functioning we have been called upon to study under our terms of reference, one of the most important is the Delhi Development Authority (DDA). On the basis of the material before us, it would appear that most of the problems relating to urbanisation and land management now being faced in the capital are attribu able to the shortcomings in the functioning of the DDA. As at present the funcions assigned to this body, or those for which it has taken responsibility, are so many, so multifarious, and so complex that the general public is mys ified about its spheres of activities and feels frustrated at the way this gigantic organisation, with more than 30,000 employees, is functioning without any commensurate benefit to the people. The original objects for which it was established seem to have long since lost their primacy. The connected with its administration and problems management have become extremely complicated. We noticed that expert groups were appointed from time to time to go into the functioning of this organisation for suggesting remedies. Recently, the matter was examined in depth by the well-known Tata Consultancy Services. The report of this agency is said to be under consideration.

14.1.2 In the light of the foregoing and the inherent limitation in our terms of reference we have focused our attention only on certain specific problems of a general nature regarding the structure and functioning of the DDA affecting the common man. With this object we inserted some specific questions in the Questionnaire for eliciting public opinion on these problems. We, therefore, propose to confine our recommendations broadly to the issues raised in the Questionnaire and the reactions thereon by the public as well as to the materials we were able to gather thereon.

14.1.3 As we have done in other parts of this Report, before entering into a discussion on these issues, we will set out briefly the necessary background material, such as the objects for which the Authority was set up and how it came to the acquire diverse additional functions, as also to the complex problems now being faced by the organisation.

14.1.4 The problems of urban growth and town expansion in Delhi appear to have been realised even in 1937 and to meet them, the United Provinces Town Improvement Act, 1919 was extended to Delhi. The Delhi Improvement Trust was constituted under that Act in 1937 to control building operations and regulate land usage. As a consequence of the influx of refugees after the partition of the country in 1947, and also due to other reasons, there was a sudden growth of population in Delhi resulting in scarcity of accommodation, haphazard construction of colonies, speculation in land prices and growth of slums. An attempt was made to regulate the growth of Delhi in a planned manner by promulgation of the Control of Building Operations Ordinance, 1955, under which the Delhi Development (Provisional) Authority was constituted. This was replaced by the Delhi Development Act, 1957, to provide for the development of Delhi in a planned manner. The DDA was established under that Act. The intention of the Act was to give concrete shape to the policy of avoiding chaos and bringing order into building activity in Delhi, and enable it to take a place of pride among the international capitals in the world.

#### 14.2 STRUCTURE AND FUNCTIONS

14.2.1 The DDA is a body corporate. Its Chairman is the Lt. Governor of Delhi and the Vice-Chairman is appointed by the Central Government. The Finance & Accounts Member and the Engineer Member are also appointed by the Central Government, which also nominates three persons to be members of the Authori y of whom one should have experience of town planning or architecture. Two members are elected from the Municipal Corporation and three from the Metropolitan Council. The Commissioner of the Corpora ion is an ex-officio member. There is no representative from NDMC or the Cantonment Board on the Authority. They could however be nominated as members. (At present, the Administrator, NDMC is nominated member). Meetings are required to be ordinarily held once in a month. The Secretary and the Chief Accounts Officer of the DDA are to be appointed by the Central Government. Subject to certain restrictions, the other staff is to be appointed by the DDA. There is an Advisory Council for advising the DDA on the preparation of the master plan and other matters relat-ing to the "planning of development". The Council consists of the Chairman of the Authority who presides over its meetings, three members of Parliament and representatives of various interests as well as of the Central Government and Delhi Administration, including the authorities concerned with electricity, water supply and sewage disposal and transport.

14.2.2 Section 6 of the Act spells out the objectives of the DDA which include promotion and development of Delhi according to plan, and the carrying out of operations connected with such development. The Act envisages the preparation of a master plan for Delhi. Under this document finalised in 1962, the DDA had been given responsibilities such as securing the balanced development of various par's of Delhi, development of urban Delhi as the core of a larger metropolitan area, and maintaining harmonious growth and orderly functioning of the city.

14.2.3 In 1961, the Government of India framed the urban land policy for Delhi laying down the guiding principles for large scale acquisition, development and disposal of land. For planned development of land and also for checking speculation in land prices, notices under section 4 of the Land Acquisition Act, 1894, covering an area of about 53,000 acres of land, were issued in 1959 and 1961. The land to be developed by the DDA could be allotted to individuals or Cooperative Societies c<sup>+</sup>c., subject to certain conditions including eligibility and size of residential plots. The transfer of land by 'he DDA chould be subject to certain conditions and on lease-hold basis. Upto 1986 about 73,000 acres of land was notified under the said section 4.

14.2.4 Under the Act any area in Delhi can be declared to be a "development area" by the Central Government after obtaining the views of the DDA and the Municipal Corporation. Normally, the DDA can under ake development of such areas only. If any person or body (including a department of the government) wants to undertake or carry out any development of land in a "development areas", it has to obtain permission from the DDA. All development has to be in accordance with the master plan and zonal development plan.

14.2.5 The Delhi Development Act, 1957 confers on the Central Governmen a measure of control over the DDA. Under section 41 of the Act the Central Government has power to issue directions from time to time for the efficient administration of the Act, which the Authority is bound to carry out. If there is any dispute the decision of the Central Government shall be final. The Central Government is also empowered to call for the records of any case disposed of, or order passed by the Authority, for the purposes of satisfying itself as to the legality or proprie'y of any order passed or direction issued and may pass such order or issue such direction in relation thereto as it may think fit. The Authority is also required to furnish to the Central Government such reports, returns and other information as that Government may require. The Authority submits an Annual Report on its activities to the Central Government.

#### 14.3 ADDITIONAL FUNCTIONS ACQUIRED

14.3.1 (i) Housing : Under section 6 of the Act, housing is not a compulsory activity of the DDA but it can be undertaken as part of its main functions of developmen<sup>\*</sup>. This was begun after more than a decade of its existence presumably because there was no other State agency to cater to the housing needs of the increasing population. The housing activity in  $3590 \text{ H}\Lambda/89-4$ . the DDA started on a low key in 1966 and only about 5,000 houses were constructed till 1970. Thereafter, construction activity increased rapidly. The present position is that, except for a limited number of houses built by individuals and those constructed by government agencies like the CPWD, the DDA has a virtual monopoly over housing in Delhi.

(ii) J.J.R. Scheme : According to the decision of the Government taken in sixties, the squatters on land acquired for public purposes known as Jhuggi-Jhonpri dwellers, were to be provided alternative developed and serviced plots and, in some cases, even tenements. The implementation of this scheme, which came to be known as J.J.R. Scheme, was originally entrusted to the Municipal Corporation in 1960, but was transferred to the DDA in January 1968. This function is not included in the objects of the DDA. Thereafter, the responsibility for this work has been alternating between the DDA and MCD. This scheme now stands discontinued and at present the stress is on improvement of squatters' settlements. With effect from 1-6-1988 the responsibility for maintenance of services and for provision of additional facilities under the J.J.R. Schemes is that of the MCD. However the DDA takes up the task of resettlement of J.J. dwellers in certain cases. Thus whatever new settlements are to be planned and developed for squatters on public land the responsibility still continues to be of the DDA.

(iii) Slums : Under the Slums Areas Clearance and Improvement) Act. 1956 the areas lacking basic facilities were declared slum areas. Wherever develooment of such area was not possible they were cleared and occupiers provided slum re-housing tenements. So far, about 20.000 such tenements, have been allotted to slum dwellers in different parts of the city. This scheme which was entrusted to the DDA has since been discontinued. However dangerous Katras located within the slum areas are demolished and occupants provided with alternative accommodation. Now, under the Slum Clearance and Improvement Scheme, environmental improvement is carried out to improve the living conditions of the slum dwellers. This work is at present being done by the slum wing of the DDA. Once the improvements are carried out by the DDA. their management or maintenance is the responsibility of MCD.

(iv) Provision of civic amenities in regularised unauthorised colonies and urban villages : Till recently another function entrusted to the DDA was to provide basic civic facilities in unauthorised colonies which are subsequently regularised and urban villages under the various schemes of the Delhi Administration. But this activity involved heavy loss to the DDA as the funds which were made available by the Delhi Administration to the DDA were not sufficient to meet the actual expenditure incurred by the latter on the development of basic infrastructure facilities in these colonies or villages. These colonies, alongwith development work relating to urban villages, have since been transferred to the MCD on 1-4-1987.

(v) Inter-State Bus Terminal : A function which is wholly unconnected with the development of land in Delhi is the maintenance of the Inter-State Bus Terminal, a task which was assigned by the Government to the DDA at the time of its construction.

(v) Delhi Lotteries : For reasons which are not clear the running of the Delhi Lottery Scheme has been entrusted by the Government to the DDA, although it has nothing to do with its charter.

14.3.2 It will be seen from the foregoing that the DDA has been burdened with many functions not contemplated at the time it was established.

#### 14.4 DEFICIENCIES

14.4.1 Our attention has been drown to several deficiencies in the functioning of the Delhi Development Authority. Some of these are listed below :

- (i) Its statu ory objectives, as well as the additional functions taken over by it from time to time, cast a multitude of responsibilities upon the DDA. This has seriously impaired its operational efficiency. The DDA came to be utilised to perform a variety of extraneous functions, not contemplated in its charter, especially in times of emergency and crisis, such as during epidemics, floods, etc., or during international events like Asiad 1982.
- (ii) The DDA being the first urban development organisation to regulate the growth of Delhi in a planned way, did not have any precedent or model to follow. Being one of India's first experiments in this regard DDA was modelled on concepts taken from U. K. and U.S.A. However, the extraneous functions assigned to DDA cast financial strains upon it. For instance, the DDA was called upon to support and assist the IXth Asian Games Committee by the construction and maintenance of various facilities for the Asiad Games held in India in 1982. This not only involved very heavy responsibility and financial loss but also led to the neglect of its main functions because the DDA devoted more attention to such prestigious projects than to its normal objectives and functions like the planned development of Delhi.
- (iii) We understand that coordination with the local bodies and other agencies in regard to the development plans and housing projects has been presenting difficulties for the DDA. Problems have arisen in regard to expeditious acquisition of land required by the DDA for development because of procedural delays resulting in tardy progress of acquisition and delivery of land. The desired level of coordination between the DDA and the service agencies such 88 those connected with water supply, sewage disposal. electricity, etc. has not been achieved in regard to the development of land. Further, all large projects are required to be cleared by the Delhi Urban Art Commission and this also involves delays and difficulties in submitting modified plans

in conformity with the requirements of the Commission.

- (iv) We have been told that the management structure in the DDA is not such as to ensure efficiency. The preponderant view is that there is considerable overstaffing in the DDA leading to inefficiency and diffusion of responsibility. That the supervision over the staff has not been adequate is clear from the prevalance of large scale corruption. various forms of maloractices and harassment to the citizens. We noticed that public disillusionment is more intense in the case of the DDA than any other single body or authority in Delhi. A very common complaint is regarding the poor quality of con-struction of houses. We were told that the accepted specifications and standards for construction of dwelling units were not adhered to in several housing projects and, as a consequence, the quality of construc-tion has been poor. The implementation and enforcement of the terms of leases in leasehold lands is another area of the DDA's activities in regard to which serious complaints have been made. We understand, however, that of late some noticeable improvements have been made in respect of the foregoing.
- (Vr Difficulties have also arisen in the timely completion of housing projects by reason of delays in providing facilities in respect of supply of water, electricity and provision of drainage. The DDA, as part of its housing activity, has to lay down water and sewage pipes in the colonies and public areas developed by it. At the time of handing over these services to the Municipal Corporation there are often complaints that the pipe lines laid by it are not upto the desired standard. This leads to disputes. delays, and inconvenience to the public. In the matter of sewage disposal, the Corporation often takes the stand that it is only responsible for providing trunk sewer lines which are more than 5 feet in diameter. All other lines are required to be laid by the DDA, or other development agencies and to be connected to the main sewers. There are occasions when the MCD trunk sewer lines are far away from the area developed by the DDA, making their connection difficult. These disputes between the development agency and the civic authority have caused serious inconvenience to the public, apart from problems of sew-age disposal. Similarly, in regard to electric supply, there have been some cases of lack of coordination between the DDA and the Delhi Electric Supply Undertaking (DESU) resulting in delay and inconvenience in providing electric supply to the colonies developed by the DDA in time,

- (vi) The DDA is solely responsible for implementation of master and zonal plans. It has, therefore, a duty to ensure that its own building and other activities are carried out properly and to monitor the implementation of the master plan and the zonal development Plans by other organisations and Departments. The distorted growth of urban Delhi is, according to some, attributable to the slackness on the part of the DDA to strictly enforce the requirements of the master plan and the zonal development plans.
- (vii) There has also been slackness in regard to development of land. The pace of such development has not been adequate or sufficient to have any impact on the availability of developed land at reasonable prices in Delhi, or on containing speculation in land or abnormal rise in prices. On the other hand, the complaint is that the DDA has contributed to these.
- (viii) The number of dwelling units constructed by the DDA has fallen far short of requirements leading to all the present problems like escalating land prices and rents, com-ing up of unauthorised colonies, etc. The DDA has so far constructed about 1.66 lakh houses and the present backlog is reported to be more than 1.20 lakh houses. It is estimated that in order to meet the requirement of increasing population of Delhi and to clear the backlog, the DDA should construct at least one lakh houses every year for the next five years. Against this requirement the average construction of houses by the DDA is about 10,000 per annum only. DDA has thus failed to meet the minimum housing demands of Delhi.

14.4.2 The foregoing are some of the main deficiencies brought to our notice. However, these were brought to light in earlier studies and we will briefly indicate the findings of those studies.

#### 14.5 PREVIOUS STUDIES

14.5.1 The Estimates Committee of the Lok Sabha in its 85th report (May, 1984) on the then Ministry of Works and Housing had, after examining the working of the DDA, made the following observations and recommendations :---

"The Committee are of the firm view that Delhi Development Authority has been burdened with a variety of functions, so much so that it has lost its direction and sense of priorities. It has also become unwieldy in size posing problems of management and administration. The Committee, therefore, feel that a fresh look is necessary on the role and functions at present being discharged by the DDA. They are of the opinion that some of the functions such as housing and slum improvement|clearance could conveniently and beneficially be taken away from the DDA and entrusted to separate bodies. In this context, the Committee would suggest the setting up of a Housing Board and a Slum Improvement Clearance Board for Delhi on the pattern of those existing in Bombay, to take over from the DDA the respective functions. This Committee would like the Ministry of Works and Housing to seriously consider this matter and inform the Committee of the decision taken."

14.5.2 The DDA had entrusted the study of its organisational pattern to M|s Tata Consultancy Services in 1986. Their report, submitted in September, 1986, contains the following pertinent observations:—

"The DDA has drifted away from its main objectives of planning and development of Delhi,.....the basic role of planning and ensuring the planned development of being relegated, Delhi was increasingly having been overwhelmed by the enormity of engineering operations and allied activities. This resulted in a lack of focus of purpose and a significant retardation of the development process.....such has been the growth in the volume and nature of DDA's activities that the organisation's structure has become unwieldy and its effectiveness and control have been unrealistic and a work overload situation has arisen..... There is no focus on the mission goal and the basic purpose of the organisation itself seems to have been diffused..... DDA should perform the functions of effective planning, monitoring and coordinating the activities performed by various organi-sations and units in implementing the Master Plan generated by DDA. All authority, power and budget required for this purpose should be endowed and provided to DDA."

14.5.3. It would appear that Government have taken decisions on some of the issues covered by the above recommendations and that other matters are still under consideration.

#### 14.6 ACHIEVEMENTS OF DDA

14.6.1. We noticed that although a majority of the views received by us in the memorandum, in the answers to the Questionnaire, and during the personal interviews, is highly critical of the functioning of the DDA, some of them made reference to the positive aspect of the achievements of the DDA. We consider that it will only be fair to refer also to the achievements of the DDA before we take up the issues arising from the complaints. It may be recalled that the DDA was established to develop Delhi in a regulated and planned manner so as to enable it to take a place of pride among international capital cities. On the basis of information made available to us, we indicate below how far this objective has been achieved.

(i) It is to the credit of the DDA that a master plan for Delhi was prepared by it and this plan has been acclaimed as a unique document in its concept, contents and comprehensiveness.

- (ii) In accordance with the pattern of land use prescribed in the master plan, the DDA undertook large scale development of land and it developed as much as about 57,000 acres of land to meet the demands of residential, industrial, commercial, institutional and recreational areas.
- (iii) About 6 lakhs plots and flats have been allotted to the members of the public and institutions by the DDA so far, which have helped in providing housing facility to about 30 lakhs of people. About 1,70,000 flats have been allotted under various schemes. About 5,000 acres of land has been allotted to Co-operative House Building Societies for development of plots and housing on which about 72,000 flats were constructed and about 35,000 plots deve-loped for housing. In addition, about 40,000 residential plots have been allotted or auctioned to individuals in various residential schemes developed by the DDA. About 2,50,000 plots have been developed in 47 re-settlement colonies. About 2500 acres of land has been developed for industrial use. It will be clear from the above that the DDA has played an important role in satisfying the needs of housing particularly those of weaker sections and middle class people.
- (iv) The DDA has made a unique contribution to the development of green areas in the city and maintaining the coological balance. It has developed about 16,000 acres of land to be maintained as green areas, such as forest and wood lands, green belt, buffer on major roads, district and zonal parks. play grounds and play fields, lakes and picnic spots.
- (v) In order to meet the growing demand for commercial space and to disperse trade and commerce to different parts of the city, the DDA has undertaken on a major scale development and construction of commercial areas such as work in respect of District Centres, Community Centres, and Local and Convenient Shopping Centres.
- (vi) The DDA has done some commendable work for decongestion of the city by Shifting certain congested trade centres like Sabzi Mandi, Motia Khan, Cycle Market from Chandni Chowk, etc.
- (vii) The DDA has been responsible for the creation of infrastructure for holding international sports events such as Asiad 1982.

14.6.2 The foregoing achievements will have to be weighed against the complaints and criticisms voiced about the functioning of the DDA. This will be discussed in the succeeding paragraphs.

14.6.3 As stated earlier the main role of the DDA, envisaged at the time of its creation, was to undertake perspective planning, determine land use and develop land required for the future development of Delhi. This role, according to many, has receded to the background. It was not envisaged that the DDA would engage in commercial activities, such as construction of shopping centres, auctioning of land, and so on. It has also been represented to us that this has contributed substantially to the escalation in the prices of land, and has led to scarcity of land and housing, as also growth of unauthorised colonies. Another charge is that it has failed to prevent encroachment on acquired land. It has not been able to finalise most of the zonal development plans, detailed development plans, and layout plans for rural villages. It has also been alleged that the DDA does not have a total inventory of lands belonging to it. This has helped encroachers to remain in occupation by adopting various means. Very often, the encroachers, with the alleged connivance of local functionaries, encroach upon ad-joining lands and soon a "Colony" comes up. One of the memoranda received by the Committee, goes to the extent of asserting that "the only progress it (DDA) has made is in becoming a giant organisation, entirely uncontrollable and directionless." it has also been alleged that there has sometimes been a mismatch between the pace of acquisition of land by the Delhi Administration and that of utilisation of land acquired by the DDA for development. Although there is a master plan for land use, there is none for essential services. There is no time frame laid down for providing social and physical infrastructure like hospitals or schools, etc. There are also charges of corrupinefficiency, tion, etc. in the organisation. this We may in connection refer to what was stated before us by an eminent ex-adminis-tractor, namely the "problem in the DDA is that nobody can be punished for committing faults because of the strong patronage, political or official, enjoyed by most delinquents in the oganisation". From the above and other material before us it would appear that there is widespread public dissatisfaction regarding the functioning of the DDA.

14.6.4. We may now refer to some of the suggestions received by us for securing an improvement in the situation. As regards housing a major section of opinion is to the effect that this work should be taken away from the DDA and that there should be separate Housing Board. Some have suggested that this function might be given to an independent body under the Delhi Administration, while some others should be have suggested that this entrusted to HUDCO or a similar organisation or a Housing Corporation. A few have suggested that an autonomous Housing Authority under Delhi Administration be created to play the role of a facilitator rather than builders of houses, which should ensure that affordable dwelling units are made available to citizens. Another suggestion is that the DDA should restrict its activities only to such functions as are central to its main objectives as a planning and development body. This means that it should only be responsible for preparing the master plan, monitoring the land use and implementation of the plan and carrying out borticultural and other development within the Union territory. As regards slums the suggestion has been made that a separate Slum Board may be constituted to deal with slums on the same pattern as existing in other States as an autonomous organisation under the Delhi Administration.

#### 14.7 CONCLUSIONS AND RECOMMENDA-TIONS

14.7.1. We have considered the valuable suggestions referred to in the preceding paragraph. We have also made a careful assessment of the performance of the DDA as well as the major defects and deficiencies in its functioning brought to our notice. We also took note of the suggestions made in the earlier studies referred to in paragraph 14.5. We have come to the conclusion that certain radical measures need to be taken to remedy these defects and deficiencies.

14.7.2. It may be recalled that the Estimates Committee of Parliament expressed the view in 1984 that the Delhi Development Authority has been burdened with a large number of functions unrelated to its primary responsibilities with the result that it had lost its direction and sense of priorities. It was of the opinion that some of the functions like housing and slum improvement clearance could be conveniently and beneficially taken away from the DDA and en-trusted to separate bodies. The Committee suggested, inter alia, the setting up of a Housing Board and Slum Improvement Clearance Board on the pattern obtaining in Bombay to take over these functions from the DDA. Thereafter, M/s Tata Consultancy Services in their report (1986) has concluded that the DDA had drifted away from its main objectives of planning and development and they have suggested measures for its improvement.

14.7.3. After careful examination of all the materials before us, including the foregoing reports, we broadly concur with the above views and make the following recommendations :---

(i) The DDA should concentrate on, and effectively perform, its main functions of planning, monitoring and coordinating acti-vities connected with the implementation of the master plan approved by the Central Government, subject to the recommendations contained in item (viii) below. It should continue to be an autonomous body under the statutory control of the Central Government. In the matter of development of land, it should act in accordance with the policies and guidelines issued from time to time by the Central Government. The DDA should be responsible for the preparation and revision of the master plan, zonal development plans, etc. for approval by the Central Government. It should be responsible for monitoring land use and carrying out horticultural development, especially the development and maintenance of important green areas in the Union territory other than the work relating to laying out and maintenance of public parks, gardens or recreation grounds in residential colonies, come mercial complexes, institutional aroast Etc.

which have been developed or may hereafter be developed by other bodies. The hatter category of green areas should be the responsibility of the concerned Municipal Corporation.

- (ii) As regards land made over to the DDA for various purposes like housing, commercial complexes, etc. its development should be the responsibility of the DDA which should follow the general requirements of the master plan and specific directions, if any, of the Central Government. The allotment of such lands should be in accordance with the principles or guidelines in force from time to time. The above dispensation will apply only to land made over to the DDA for development. Other lands which are under the control of the Government in accordance with the principles of the government may be dealt with directly by the Government in accordance with the policy governing the matter from time to time.
- There should be a Housing Board set up (iii) under a separate law of Parliament to undertake construction of houses and such other work incidental thereto as is allocated to it. Land should be made available to the Housing Board either by the DDA or by the Government for the purpose of such construction. It shall be the duty of the Housing Board to ensure that affordable dwelling units are made available to the people and especially those belonging to the weaker sections of society. The law may authorise the Housing Board to undertake activities otherwise designed to generally encourage and facilitate development of the housing sector. The Housing Board should be an antonomous body with respect to its day-to-day functioning. The general powers to give directions should be vested in and exercised by the Central Government.
- (iv) The arrangements to be made for the performance of functions relating to improvement of slums will be dealt with separately.
- (v) The functions now being performed by the DDA relating to administration of lotteries and the Inter-State Bus Terminus, should be the concern of the Delhi Administration which may assign them to such agencies as it considers proper.
- (vi) In particular, that part of the work of administering lease deeds relating to land vested in the Government which is now being looked after by the DDA and the Land and Development Office of the Ministry of Urban Development, should be made the concern of Delhi Administration in the interests of better coordination to the extent functions in this regard are entrusted to the Lt. Governor. Since the subject of "land" is the responsibility of the Central Government, the administration of these lease deeds yould, of course, be subject to the overall duection and control of the Centre.

- (vii) Consequent on the transfer of functions from the DDA as detailed above, the staff in the DDA now dealing with the functions transferred such as "housing". "slums", lease deeds", "lotteries", and "ISBT", should be assignd to the respective organisations concerned.
- (viii) To ensure that development conforms to the master plan and zonal development plan and generally to facilitate enforcement, the Act provides for penalties including power to demolish unauthorised constructions. The DDA has been conferred certain powers in this regard. However, it is evident that the DDA has not been able to enforce these provisions effectively. One of the suggestions we received was that enforcement of the penal provisions of the statute is best left to the established administrative hierarchy of the Government. We see force in this suggestion and recommend that while the general responsibility regarding the formulation, implementation and monitoring of master and zonal plans should, as required by the Act, be the responsibility of the DDA, the Government of Delhi should be directly and effectively involved in the enforcement of penal provisions and taking measures to prevent encroachments or other contraventions of law. As land in Delhi is jurisdiction of the under the a subject Union, this arrangement may have to be secured either by amending the Delhi Development Act, 1957, or by taking recourse to article 239 of the Constitution.

14.7.4. We have considered the questions whether the foregoing recommendations regarding the DDA would require any legislative measures. Our recomshould mendations in substance are that the DDA concentrate on its main functions of planning, monitoring and coordinating all related activiities bearing on the implementation of the master plan approved by the Central Government, that it should be responsible for the development of land made over to it and that it should continue as an autonomous body under the statutory control of the Central Government. These very objects were sought to be achieved under sec-tion 6 of the Delhi Development Act, 1957, when the DDA was established under that Act. No change in the Act is therefore necessary to implement the above recommendations, apart from what is indicated in item (viii) of the preceding paragraph.

#### 14.8 HOUSING BOARD

14.8.1. As pointed out in paragraph 14.3.1 the DDA was not obliged to undertake the activity of housing. It has undertaken it as a part of its main function of development. We have recommended in paragraph 14.7.3. (iii) that there should be a Housing Board set up under a separate law of Parliament to undertake construction of houses and such other work incidental thereto as is allocated to it and that land should be made available to the Board either by the DDA or by the Government for the purpose of such construction. It has also been recommended that

the Board should be an autonomous body subject to the overall control of the Central Government.

14.8.2. To give effect to the above, it would be necessary to go into the details of the structure of such a Board, its function and other matters incidental thereto. We do not propose to go into these details as well as the nature and contents of the legal provisions which should be incorporated in the law of Parliament because all such details are readily available in many laws made in this regard. Almost all the States have established State Housing Boards under their own laws and we consider that it would be sufficient to adopt the details as well as the legal frame work for the setting up of the Delhi Housing Board on the lines of the provisions contained in any such law. We recommend accordingly.

#### 14.9 SLUM AREAS

14.9.1. One of the most pernicious of the evils of, urbanisation is the growth of slum areas in and around the city making life miserable, not only for those living therein, but also for others. Pollution of the environment by slums is but one of the many evils. The twin tasks of dealing with existing slums, and preventing further growth of slums, have been a frustrating experience for the administrators and planners in almost all metropolitan cities. Even some large cities in other countries like New York in USA are not free from this phenomenon. Experience has shown that measures taken to deal with the problem, such as the provision of alternative accommodation to slum dwellers or making improvements in their living conditions have only tended to create more slums. Delhi is no exception to this and, indeed, the problem is more acute in Delhi for various reasons.

14.9.2. Several studies by experts have been made in the past as to the reasons for the growth of slums. Some of the reasons are attributable to social and economic conditions while, sadly, political influences have also tended to encourage the growth of slums. However, we do not propose to go into the reasons for the growth of slums as we feel that we are not called upon to do so. Having regard to our-terms of reference we would concern ourselves only with the issue as to which authority in Delhi should appro-priately deal with slums, and which is the best way to ensure that the problem is dealt with effectively and how overlapping of functions or multiplicity of authorities is avoided. In order to elicit public opinion on these issues, a question had been included in OUL Questionnaire seeking information regarding the mea-sures which should be taken to regulate, improve or relocate the existing slums and to prevent the growth of slums in future. In response thereto, some suggestions have been received, such as for the setting up of an autonomous Board to deal exclusively with this problem, upgradation of slums, check on influx of population in Delhi by developing counter-magnet cities in the National Capital Region.

14.9.3. The work relating to improvement and clearance of slum areas is now regulated under the Slum Areas (Improvement and Clearance) Act, 1956 which came into force in Delhi on 8th February, 1957. The areas which are declared as "slum areas" under

the Act are required to be either improved or cleared by the "competent authority" which, at present, is the Commissioner (Slums & JJR), Slum Wing, DDA. In the areas which are not so declared but are in the nature of slum areas, the responsibility for carrying out improvements or to rehouse or to rehabilitate the slum dwellers rests with the Delhi Municipal Corporation (sections 425 to 429 of the Act). Apart from this, the general responsibility to maintain civic services in the city including those areas which are declared as "slum areas" is that of the Municipal Cor-poration. In actual practice, however, the work relating to "slums" has been shifting between the Municipal Corporation and the DDA from time . to time. The arrangement has been the subject matter of criticism by the Estimates Committee of Parliament, as well as the Tata Consultancy Services. Both these bodies have recommended that this work should be separated from the DDA and entrusted to a Slum Improvement Clearance Board for Delhi with clearly demarcated functions. It has been suggested by some that the Board should be an autonomous body, consisting of members and trained personnel, whose undivided attention should be focussed upon dealing with this problem, freed from the shackles of governmental interference. One advantage of this arrange-ment would be that the Board may be able to raise funds from different financing institutions in the field, including the World Bank, International agencies, Housing and Urban Development Corporation, National Housing Bank, etc., or by raising debentures.

14.9.4. As pointed out above, the work of improvement in slum areas and areas in the nature of slums is, at present, being looked after both by the DDA and the Municipal Corporation. We have given careful consideration to all the suggestions received and the materials made available to us. Among the various alternatives we find that the best solution would be to adopt the recommendations made by the Estimates Committee of Parliament, as well as Tata Consultancy Services, that a separate autonomous Board should be set up to deal with the problem of slums in Delhi. Among other advantages accruing from having an autonomous authority, this will avoid overlapping of functions which is now obtaining between the DDA and the Municipal Corporation or other agencies. This will also resolve the problem arising from multiplicity of authorities. Such a Board is likely to prove more effective in performing the functions assigned to it. The Board may be chaired by the Lt. Governor of Delhi, and may have three members nominated by the Central Government and three members nominated by the Government of Delhi. It may also have representation from the DDA and the DESU. The Board should primarily be responsible for the implementation of the provisions of the Slum Areas (Improvement and Clearance) Act 1956, for the formulation cf a total plan for upgradation of slums (including Jhuggi Jhonpri clusters), and for the preparation of lay-out plans of each of the slum areas. It should also be responsible for monitoring the implementation of such plans. It will have to arrange for funds to execute the schemes included in such plans. The actual execution of the schemes formulated by the Board should be the concern of the Municipal Corporation. We have recommended in Chapter XI that the present Municipal Corporation of Delhi should be split up into a number of smaller corporations, one each in the various regions of Delhi. We recommend that the work relating to slums should be executed by the concerned municipal corporation. Such a decentralisation of this important function would be conducive to greater efficiency and effectiveness and may also help in reducing the complexities which are being faced by it at present. It should be open to the Board to entrust specific schemes to other agencies for execution having regard to the nature of the scheme, the complexities involved or on other relevant grounds. It shall be bound to comply with the directions of the Government issued from time to time either generally or with regard to anv particular scheme.

14.9.5. We recommend accordingly.

#### CHAPTER XV

#### DELHI ELECTRIC SUPPLY UNDERTAKING

#### **15.1 INTRODUCTORY**

15.1.1. Under our terms of reference, we have to study inter alia the working of the Delhi Electric Supply Undertaking (DESU) and make recommendations for ensuring efficiency and effectiveness in its functioning, for avoiding overlapping with other authorities, for securing all round improvement in providing services to the public and for quicker redressal of public grievances. These terms appear to be wide enough to enable us to also study the internal problems relateable to the structure and functioning of DESU. However, having tegard to the scope of the overall objectives, we do not feel called upon to examine the internal organisation or working procedures of the Undertaking but shall deal with the main issues that concern the public.

15.1.2. The first licence for sale of electricity in Delhi was granted to M/s. John Fleming Company in 1905 under the Indian Electricity Act, 1903. They were followed by the Delhi Tramways and Lighting Company, and the Delhi Electricity Supply & Traction Company (DEST). These companies supplied the small quantity of power required for urban Delhi by generation through diesel generating sets. The increase in demand over the years led to setting up of the Delhi Central Electric Power Authority Ltd. (DCEPA) in 1939. The distribution of electricity, however, continued to be with the New Delhi Municipal Committee for New Delhi and with DEST for Old Delhi areas. The licence granted to DEST expired in 1947, whereupon distribution of electricity in Old Delhi was also entrusted to DCEPA. The Delhi State Electricity Board was constituted in 1951 under the Electricity (Supply) Act, 1948 which replaced the DCEPA. The Board functioned till the Delni Municipal Corporation was established in 1958 and was entrusted with all the powers and duties of a licencee under the Indian Electricity Act, 1910 in respect of the entire Union territory of Delhi. The distribution of electricity in the New Delhi and the Delhi Cantonment areas remained the responsibility of the NDMC and the MES respectively.

#### 15.2 PRESENT SET-UP

15.2.1. Section 42 of the Delhi Municipal Corporation Act, 1957, lays down the obligatory functions of the Corporation, which include the construction or purchase, maintenance, extension, management and conduct of any undertaking for the generation or supply and distribution of electricity

to the public, and lighting of public streets and other public places. To discharge these obligations the Act provides for a statutory authority, namely, the Delhi Electric Supply Committee. The General Manager (Electricity) is also a separate statutory authority. The Committee consists of seven members, of whom four are elected from among the councillors and aldermen, and the remaining three are nominated by the Central Government from among persons having knowledge and experience of administration and industrial, commercial, financial or labour matters and also having knowledge and experience of electrical engineering or management of an electric supply undertaking. The Delhi Electric Supply Undertaking (DESU) performs certain functions relating to generation, supply and distribution of electricity in Delhi under the general control of the Delhi Electric Supply Committee which is statutorily responsible for the efficient discharge of functions in this regard.

15.2.2. The General Manager (Electricity) is appointed by the Corporation with the approval of the Government. The Corporation has the Central power to remove the General Manager from office if, at a special meeting of the Corporation called for the purpose, a resolution for such removal is passed by a majority of not less than three-fifths of the total number of members, on the grounds of neglect or misconduct or incapacity for the duties of his office. The salary and allowances of the General Manager are fixed by the Corporation with the approval of the Central Government. The regulations relating to the conditions of service of the General Manager are made by the Corporation. Section 64 of the Act vests the entire executive power, for the purposes of earrying out the provisions of the Act pertaining to DESU in the General Manager. He has also to perform such other functions in connection with DESU as may be required of him by the Delhi Electric Supply Committee and the Corporation. He has also been empowered to take such immediate action as may appear necessary to him on the occurrence of any sudden accident or un-foreseen event or natural calamity. However, he has to render a report forthwith to the Delhi Electric Supply Committee and the Corporation. The General Manager is subject to the overall control and supervision of the Corporation. He has some The budget estilimited powers to sanction posts. mates of the DESU are adopted by the Municipal Any increase or reduction in the Corporation. budget allocation requires sanction by the Corporation on the recommendations of the DESC

15.2.3. The main functions of the DESC are to develop and maintain an efficient, co-ordinated and economical system of electricity supply for the Union territory of Delhi and for that purpose to take steps from time to time (a) for generation or acquiring supplies of electricity; (b) for providing supplies of electricity for licencees and to persons other than licencees for whom the erstwhile Delhi State Electricity Board was providing or was compe-tent to provide supply of electricity ; and (c) for preparing and carrying out schemes for the generation and supply of electricity direct to all consumers within the MCD area while the NDMC and MES are supplied electricity in bulk for distribution in their respective areas. It can also take steps to construct or acquire undertakings in any part of the Union territory of Delhi for the generation or supply of electricity, and for electric traction, and enter into any agreement with any person for supply of electricity to or by the Corporation.

15.2.4. The Central Government's funds for development of the power sector for Delhi are channelled through the Delhi Administration. The projects to be undertaken for execution under the Plan in a financial year are submitted to the Central Government through the Delhi Administration. Only such capital projects as are accepted by the Central Government in consultation with the Central Electricity Authority of the Government of India and the Planning Commission, are included in the Annual Plans of DESU for the purposes of releasing capital loans to the Undertaking. The Municipal Corporation of Delhi exercises, as the apex authority, a measure of control over DESU and approves the budget estimates and power tariff of the Undertaking. The Municipal Chief Auditor inspects and audits the accounts of income and expenditure, general balance sheet and annual ac-counts compiled by DESU.

15.2.5. The main sources of revenue for the DESU are from the sale of electricity, meter rentals, charges for maintenance of street lighting, etc. The major items of expenditure are on purchase of power. costs of generation, establishment and administrative charges, operating and maintenance expenses, distribution costs, public lighting etc. There has been a widening gap between the total income and expenditure of the Undertaking as would be evident from the following figures for the last five years taken from the budget and other papers of the DESU :—

			(In crores)
	 	 Revenue Income	Revenue Expendi- ture
1985-86 (Actuals)		288.18	350.43
1986-87 (Pcovisional)		325.63	444.90
1987-88 (Provisional)		360.34	569.07
1988-89 (RE) .		419.65	621.45
1989-90 (BE) .		458.62	697.61
3590 HA/89-5	 	 	

Upto the year 1973-74, DESU's financial operations showed a small operating surplus. But from 1973-74 onwards, it started incurring losses for several reasons, including increase in the cost of inputs and general increase in administrative expenses and overheads. Though the tariff was marginally revised in 1985-86 to yield an estimated additional revenue of Rs. 88 crores, yet, in subsequent years, increases in the cost of inputs and power purchased from various agencies more than off-set the additional revenue.

15.2.6. Delhi's share of generation capacity from the Indraprastha Power Station, Raighat Power House and the Gas Turbine Station is not adequate to meet the load demands, which was 1130MW in 1988-89. To bridge the gap, to an extent, DESU has the first charge on power generated by the Badarpur Thermal Power Station (BTPS), but it it has no control over its management and operation. The other outside sources are the Super Thermal Power Station at Singrauli, Hydro-electric Power station of Baira Siul, Salal Project etc. through the Northern Grid comprising Jammu & Kashmir, Uttar Pradesh, Haryana, Punjab, Himachal Pradesh Rajasthan and Delhi. The respective share of the various sources of power supply during the last three years has been as under :---

4	1 <b>98</b> 6-87	1987-88	1988-89 (In MW)
1. DESU (including gas turbin	{	326 (34.6%)	326 (34.5%)
2. BTPS	490 (44.6%)	400 (42.5%)	400 (42.5%)
3. Baira, Siul	20 (2.2%)	20 (2.1%)	20 (2.1%)
4. Singrauli	150 (16.8%)	150 (16%)	150 (16%)
5. Salal		45 (4.8%)	45 (4.8%)
Total	896	941	941

15.2.7. The demand for electricity in Delhi has been growing rapidly as may be seen from the following data<sup>+</sup>:—

Year						Peak Demand						
1949-50	•			•		26 MW						
1959-60	••					83 MW						
1969-70			•.			236 MW						
1979-80						479 MW						
1 <b>989-9</b> 0						1373 MW (anticipated)						
1999-2000						3409 MW ( -do- )						

\*A. N. Singh Committee Report.

15.2.8. This steep growth in demand for power has forced DESU to depend increasingly on external sources of supply over which the Delhi Administration and MCD have no control. This has given rise to the need for linking Delhi's electricity supply system with the neighbouring systems and the consequent need for coordinated operation with them and for changes in transmission technology. High level coordination with the Central Government organisations and authorities in States is required for planning additional generation capacities outside Delhi and for transmission of power to Delhi through its neighbouring States.

15.2.9. Certain measures are under way to increase the local generation of power but the rising demand will outstrip the generating capacity. Further, paucity of land and need to prevent air and water pollution in Delhi rules out any large scale augmentation of power generating facilities within the Union territory.

# **15.3 DEFICIENCIES**

15.3.1. From the information gathered by us, the following would appear to be the main deficiencies in the existing arrangements ----

- (i) The growth in demand for power in Delhi has been phenomenal and a higher growth rate is projected for the future. The generation capacity of DESU is about one third of the present demand. As a result, the DESU is and is likely to remain, heavily dependent on several outside sources for supply of power over which it neither has, nor can have, any administrative control. Procurement of power from several Central power generation projects through neighbouring States requires coordination with various agencies controlling the generation projects as well as the concerned authorities in the States. This involves interaction at the Government The present management structure level. of DESU i.e. management by a Committee of the Municipal Corporation has proved to be inadequate for the purpose.
- (ii) A major deficiency is the lack of professional management by reason of the fact that the Delhi Electricity Supply Comthe Municipal Corporation, mittee of which is the managing body for the DESU, is dominated by members of the Corporation who are not professionals or experts in the area of management of an electricity undertaking. The Chief Executive of the DESU namely, the General Manager (Electricity) is not a member of the Committee and cannot, therefore, effectively influence decisions in important This management system is not matters. capable of providing the necessary gui-dance and adoption of a professional approach to management problems.

(iii) The entire responsibility for efficient functioning of the DESU vests in the General Manager under the Act, but the administrative and financial powers delegated to him are limited. Similarly, there are restrictions on his power of appointment and in disciplinary matters. Many matters, even of routine nature, have to go before the **DE**SC thereby hampering expeditious decision-making.

The above and other deficiencies of the existing arrangements appear 'o have been noticed from time to time and have been the subject matter of earlier studies.

# **15.4 EARLIER STUDIES**

15.4.1. A number of expert committees were set up since 1962 to study the working of the Delhi Electric Supply Undertaking and to make recommendations on various administrative, financial and technical issues related to its functioning. However, we are confining our attention to those aspects of the studies as relate to the broader issues before us and not those related to the internal working of the DESU.

15.4.2. In 1976, the Government of India constituted a committee (Bhatt Committee) to examine the staff requirements, transmission and distribution losses, changes in financial and administrative powers delegated to the General Manager, tariff structure etc. This Committee made several recommeda-tions and also observed that examination of the various areas of activity of the DESU revealed that for it to succeed in providing the requisite level of services to the consumer or look after its own technical and financial working, or manage its internal affairs, an adequate degree of direction and control were essential. It added that the recommendations made by it in regard to various matters would lead to optimum results only if an appropriate pattern for top management was established. The Committee felt that, in order to ensure smooth functioning, and to meet the rapidly growing needs in an efficient manner, it was desirable that the management of DESU should be under the jurisdiction of an autonomous authority like an Electricity Board, with experts in the relevant fields as its members.

15.4.3. The Task Force (Prabhu Committee) appointed by the Government of India in 1975 to recommend improvements in the administrative setup of Delhi examined the restructuring of the electricity supply and distribution system in Delhi and suggested that an autonomous Board should be constituted under the Electricity (Supply) Act, 1948 to manage the distribution functions. It took note of the fact that the question of entrustment of the functions of generation and transmission to the National Thermal Power Corporation was under consideration by the Government at that time.

15.4.4. In 1980, the Lt. Governor of Delhi suggested to the Government of India the creation of a

'Delhi Power Authority" as a corporate body with both official and non-official members represented on the Board of Directors, for areas covered by DESU and NDMC. This Authority was also to take control of the Badarpur Thermal Power Station.

15.4.5. Subsequently, there was a proposal in 1983 that a more viable arrangement would be the establishment of a statutory authority under the Delhi Adminis ration, analogous to a State Electricity Board. This authority, to be designated as the Delhi Electricity Board, would be responsible for distribution of power in the entire 'erritory of Itelhi, ex-cluding Delhi Cantonment area. The Indraprastha Power Station was proposed to be placed under this Authority. In other words, under this proposal, DESU was to be delinked from the Municipal Corporation of Delhi and, together with the Electricity Department of the New Delhi Municipal Committee, was to be brought under the aegis of the proposed Delhi Electricity Board under the Lt. Governor.

15.4.6. In 4986, the Government of India conslituted another Committee under the Chairmanship of Shri A. N. Singh, former Chairman of the Central Electricity Authority, to suggest a suitable organisational set-up for generation and supply of electricity to Delhi. The Committee made an indepth study of the working of the present arrangements and also carefully examined the alternatives available viz. setting up of a commercial corporation or a statutory Board for generation, supply and distribution of electricity in the Union territory of Delhi. The Committee submitted its report in January, 1987 and recommended the setting up of a professionally managed organisation similar to that of an Electricity Board, as provided in the Electricity (Supply) Act, 1948. The Chairman and members of the Board were to be appointed by the Delhi Administration. This Commit ee also recommended the setting up of [ (iv) Control on distribution of power under I.F. a Consultative Council under Section 16 of the Act to ensure interaction with the representatives of the public. It suggested transfer of the management of Badarpur Thermal Power Station to this Electricity Board as also the distribution of electricity in the NDMC area. The MES was suggested to continue as a licencee in accordance with the general practice regarding power supply to Cantonnienis.

15.4.7. It would appear that none of these importent recommendations made by these Committees have been implemented or acted upon.

15.4.8. We would, however, refer in some detail to the most recent of the above studies, namely the A. N. Singh Committee Report. The Committee noted that though Delhi Electric Supply Committee was the agency responsible for providing electricity in the Union territory of Delhi, in actual practice all essential functions like arranging new sources of power supply, funds, tariffs etc. were being performed by the Delhi Electric Supply Undertaking without the active involvement of the Delhi Electric Supply Committee. Consequently, the Delhi Electric Supply Committee, in practice, only examined cases relating

to purchase, disciplinary action and other administrative matters placed before it. It observed that the efficiency of power supply in Delhi depends on the performance of the Delhi Electric Supply Undertaking and coordination with the Delhi Administration and various Central organisations. In such matters, the Undertaking had been dealing directly with the Delhi Administration and other organisations. An important conclusion drawn was that there were a tew significant problems connected with the supply of electricity to Delhi which the present set-up provided under the Delhi Municipal Corporation Act could not resolve. Some of these are\*

- "(i) Generating facilities for meeting an increasingly larger proportion of the growth of power requirements in UT of Delhi have to be put up and operated by other organisations and outside Delhi. Positive coordination is needed to see that such additional facilities are being planned well in time, that they are adequate in magnitude and in other respects and that actions are being taken for the facilities to be ready in a matching time-frame.
- (ii) Power system development for supplies from generating stations located outside is an integrated activity in the planning and implementation of which (by any party) the needs of Delhi as well as other neighbouring states and areas have to be covered for which the position as in item (i) above applies.
- Arrangements in regard to the planning of (iii) funds for power to be made by the Delhi Administration on the basis of details worked out by the Electricity Organisation.
- Act, vests with the Government only. Control over power supply at present and in future has an important bearing on matching of power supply to demand and also for action in case of contingencies."

The foregoing would be taken no'e of when we consider the issues before us.

# 15.5 DISCUSSION OF ISSUES

15.5.1. We had invited views and suggestions for remedying the shortcomings in the present arrangements for supply and distribution of electricity by inserting a specific question in this regard in our Questionnaire. We also discussed this issue during the interviews held by us with various eminent and knowledgeable persons. Almost all of them felt that there was a need for a change in the present arrangements.

15.5.2. We have been informed that the present generation of power by the DESU is about one-fifth of the total requirements for Delhi. The remaining is procured from the Centrally sponsored projects through

<sup>\*</sup>A. N. Singh Committee Report.

the Northern power grid. Delhi would continue to remain dependent on power supply to be obtained from Centrally Sponsored power projects located in various States around Delhi. Needless to say, it will be beyond the capacity of the Delhi Electric Supply Committee of the Delhi Municipal Corporation to undertake such a complex task which requires a high degree of expertise, technical and management skills, and the capacity to undertake effective coordination. The Municipal Councillors on the DESC may find it difficult to play an effective role in coordinating the activities of DESU with neighbouring State Governments or the Central Government. The presence of the nominated members in the Committee does not help because although the Delhi Municipal Corporation Act stipulates that they should have "knowledge and experience of clectrical engineering or management of any 'electric supply undertaking", we are informed that this does not obtain in practice. Thus, while the efficient generation, supply and distribution of electric power in Deihi demands a professional management of DESU, its existing organisational setup does not meet this requirement with the result that the efficiency of the organisation is jeopardised.

15.5.3 Another lacuna in the present organisational set-up which has been brought to our notice concerns the somewhat anamolous position of the General Manager. Although he is the Chief Executive of the undertaking, he does not have adequate powers in many matters including enforcement of discipline among the officers. These powers vest in DESC of which the General Manager is not a member. Such an arrangement erodes the effectiveness of the General Manager as a supervisory officer, which in turn has an adverse effect on the efficiency and morale of the staff.

15.5.4. We are of the view that the problems of DESU are of such nature that mere improvements in the functioning of the existing system, such as by greater delegation of powers will not bring about any substantial or permanent improvement so long as the Municipal Corporation of Delhi remains the sole licencee under the Indian Electricity Act, 1910, and is entrusted with the onerous task of generation of electricity and its distribution in Delhi. Another important aspect is that any organisation for generation and distribution of electricity in Delhi must necessarily depend on the expertise resources, interventions, and funds of the Central Government to a large extent. Having regard to all the aspects and to the views expressed before us, we consider that a new arrange-ment is called for. We now proceed to consider the various options in this regard.

# 15.6 DESIRABILITY OF ESTABLISHING A PUB-LIC SECTOR CORPORATION

15.6.1. The objective is to qualitatively improve the system for supply and distribution of electricity in Delhi and to meet the growing power demand in the absence of any further scope for augmenting the generation capacity in Delhi. We proceed to examine whether a public sector corporation to be run on commercial lines to manage the generation, transmission, acquisition and distribution of electricity would meet

this objective. The main advantages claimed for a commercial corporation managing a public utility service are flexibility and professionalism in management, speedy decision making and financial autonomy. The rationale behind establishing a corporation is to run an enterprise in a manner that serves the public good and also ensures a reasonable return on the capital employed. But, taking into account socio-political imperatives of a welfare State, which may involve the subsidizing of power supply to certain sections of consumers, and the keeping of the general tariff at a reasonably low level, it appears that corporation as envisaged may not be able to serve the purpose as it is not likely to have full control over the pricing of its product. It will have to necessarily depend on the Government for such subsidies which is inconsistent with its commercial character. As a natural consequence of this limitation and the highly capital intensive nature of this industry, the Corporation will not be able to enjoy the desired financial autonemy as it will remain dependent on Government for funds not only for capital investments but also for bridging the gap between revenue and expenditure in its budget from year to year. It is true that a public sector corporation may be able to raise funds through issue of debentures or other loan subscriptions, but even these instruments would require government backing and, as the cost of such private loans is quite high, the burden of repayment of loan and interest charges would be high and beyond the capacity of the corporation to meet. Further, as there is no scope for setting up any more thermal power projects in Delhi, such a corporation would be obliged to approach the Centrally sponsored power projects and neighbouring States for procuring supply of power because it cannot do it on its own. Thus, its own contribution to augmenting power supply in the capital would not be substantial. In these circumstances, the corporate system of management will hardly be a useful innovation.

15.6.2. It may be mentioned that this question was gone into carefully by the A. N. Singh Committee. We reproduce below the relevant observation of that Committee in this regard :--

"System of public sector organisation on the lines of a commercial corporation is discussed frequently for various bodies. The principal requisite for a commercial corporation, it is felt, will be basic financial independence-an ability to take up works (or not to) as determined by profitability, to attract finances for works on its own and to fix tariffs on the basis of commercial viability. It needs no elaboration that none of these can be practicable in case of a body for supplying electricity in Delhi. Nothing is therefore achieved by merely giving the body the outer trappings of "Commercial Organisation" and show unprofitability from year to year. The basic ingredient viz. funding of new projects would necessarily remain budgetary, determining the speed and procedure.

It will be pertinent to note that so far no pattern for a commercial corporation for distribution of power has been evolved in the country, perhaps due to the difficulties mentioned above. The amended Electricity (Supply) Act only provides for a corporation for generation where it would be evident that the criteria noted above can be met."

We see full force in the above arguments and agree that it would not be feasible to set up a statutory corporation for generation and distribution of p wer in Delhi.

#### **15.7 PRIVATE MANAGEMENT**

15.7.1. A suggestion received by us was that power generation and supply in Delhi should be entrusted to the private sector on the main ground that private management would be more professional and efficient than management by a public sector undertaking.

15.7.2. Assuming this argument is generally valid, we feel that it is not fully valid in regard to the vital sector of supplying electricity to the capital. Having regard to the inherent difficulties and problems involved in the task of generation and in securing a dependable and uninterrupted supply of electricity to the public and to the various national and international institutions in the national capital, it is extremely doubtful whether private sector management will be able to secure better results than what has been or can be achieved by the government or public sector management.

15.7.3. As we have stated earlier, the possibility of any augmentation of generating capacity from units in Delhi is extremely limited because of land scarcity and problems of pollution. Delhi will have to depend on power supply from outside sources and because of increasing demands the position is likely to deteriorate. It is doubtful whether a private company, entrusted with the task of generation and supply of electricity to Delhi, will be able to arrange for power supply from outside sources which requires coordination with the Central and State Governments. The task of acquiring an adequate share of power from generating stations set up in other States is none too easy unless the private sector company in Delhi sets up its own generating facilities outside Delhi. It follows that if a private sector organisation is to manage supply of electricity in Delhi it must necessarily confine of activities only to supply and distribution because of the difficulties in acquiring electricity from outside. As such, the undertaking of this activity by the private sector is not likely to be financially attractive.

15.7.4. Power generation being in the core sector of the country's economy, it has been developed in the public sector as a matter of policy. If there are two agencies, one for generation and the other for distribution of power, and one in the public sector and the other in the private sector, there will be many problems of coordination which could affect the efficient delivery of services.

15.7.5. It is fairly clear that the private sector will be in no better position than the public sector in making these operations financially viable. The inherent problems now being faced by the public sector, to which we made a reference earlier, will also have to be faced by the private sector company. The diffculties in regard to prescribing the traiff now being encountered will be accentuated in the case of a private sector undertaking because private management will naturally operate with an emphasis on profits. This means that the tariffs will necessarily have to be higher if the enterprise has to operate on commercial lines. Similarly, in regard to capital requirements of finance, the private management may not be always able to make the heavy investments required and they would have to go in for loans from the public or from Government institutions which would entail heavy interest and loan repayment liabilities. All these would necessarily be passed on to the consumer.

15.7.6 From the foregoing it is fairly clear that, even assuming that private sector managament may be more efficient, it is unlikely to be beneficial to the consumer. This is because the traiff to be charged by the private management will be very much higher than what would be the case in management by the public sector by reason of the additional factor of the profit motive. The common man would, therefore, have to pay more for his electricity which, naturally, he would not welcome.

15.7.7. On a consideration of all aspects of the matter and, particularly, having regard to the well settled national policy incorporated in the Industrial Policy Resolution, 1956, in this regard, we do not recommend the handing over of the electricity services to the private sector.

# 15.8 ESTABLISHING AN ELECTRICITY BOARD UNDER THE ELECTRICITY (SUPPLY) ACT, 1948

15.8.1. As noted earlier by us, a number of expert committees set up by the Government of India have suggested a reorganisation of the arrangements for power supply in Delhi by establishing such an Electricity Board as a corporate body. We have studied all these reports and also all the material having a bearing on the matter procured by us. We also had the benefit of the views expressed before us during the interviews. After a careful consideration of all these materials, we feel that having regard particularly to the special needs of the national capital, the most appropriate arrangement would be the setting up of an autonomous Board under the provisions of the Electricity (Supply) Act, 1948. This Board as provided in the Act would be responsible for generation, procurement, supply and distribution of power in the Union Territory of Delhi.

15.8.2: One of the suggestions received by us was for separating the function of generation from the distribution of electricity, but it appears to us that this dichotomy would not be feasible in Delhi for various reasons. There is no likelihood of Delhi ever becoming self-reliant in the generation of electricity in view of the steeply rising demand for power in Delhi and the fact that there is not much scope for setting up any more thermal power stations in Delhi due to land scarcity and the considerations of pollution control. If generation capacity in future has to be created in the neighbouring States by the Central Government, and Delhi is to receive a share in the power generated by hydel power stations and other stations feeding the National or the Regional power grids, there would be no advantage in having a separate agency in Delhi for the management of a rew local power stations. Such a dichotomy would create functional difficulties. It may not also be economically viable. There is no likelihood of any tangible benefit to the consumers by this arrangement.

15.8.3. It will be useful to briefly recapitulate the arrangements envisaged by the Electricity (Supply) Act, 1948. Section 5 of the Act enables the Government to constitute a State Electricity Board by a gazette notification and under such name as may be specified in the notification. Such a Board shall consist of not less than three, and not more than seven members, appointed by the Government. Of the members, the Act requires that one shall be a person who has experience and has shown capacity in commercial matters and administration; one shall be an electrical engineer with wide experience; and one shall be a person who has experience of accounting and financial matters in a public utility undertaking, preterably an electricity supply undertaking. One of these members may be appointed by the Government as the Chairman of the Board. The Board shall be a body corporate having perpetual succession and a common seal with power to acquire and hold property. Under Section 18 of the Act, the Board shall be charged with the general duty of promoting coordinated development of generation, supply and distribution of electricity in the most efficient and economical manner, with particular reference to such development in unserved or inadequately served areas. The Board is authorised under Section 19 of the Act to supply electricity to any licensee or person requiring such supply in any area in which a scheme sanctioned under the Act is in force. It has all the powers and obligation of a licensee under the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948. Section 28 of the Act lays down the procedure for works and trading. It enables the Board to prepare schemes from time to time, not inconsistent with the provisions of the Act, for the purpose of rationalising the production and supply of electricity. The scheme may contain provisions inter alia for the establishment of the Board's own generating stations; the inter-connection, by means of main transmission lines to be constructed or acquired by the Board, of any generating stations with any others and with any systems of licensees; the construction or acquisition of such other main transmission lines as the scheme may require. Section 46 authorises the Board to fix grid tariff in accordance with the regulations made in this behalf. Section 59 provides specifically that the Board shall not, as far as practicable, after taking credit for any subvention from the Government, carry on its operations "at a loss and shall adjust its charges accordingly from time to time?. The Act provides for subventions as also loans to the Board by the Governibe raised by the Board in such manner as it thinks fit.

15.8.4. It would follow from the above that if a Board under the Act is set up tor Delhi, its functions may cover not only supply but also generation, distribution and procurement of electricity for Delhi. Any power stations in Delhi now under the DESU as well as any new power stations that may be set up in future will come under its purview. It can coordinate with other bodies like the National Thermal Power Corporation, Northern Regional Electricity Board and the Northern Regional Power Grid for procurement and transmission of power to Delhi. The Board will be responsible for distribution of power in the Union Territory of Delhi. It will have power to fix tariff as regulated by the Act.

15.8.5. If, as recommended above, an Electricity Board is set up for Delhi under the Electricity (Supply) Act, 1948, the important question that arises is whether the control over the Board should be exercised by the Central Government or the Government of the Union Territory of Delhi. Under the Act the power to constitute the Board, to suspend or remove nembers of the Board, to issue directions to the Board and all other governmental powers are conferred on the "State Government". By virtue of the definition in the General Clauses Act, 1897, the cxpression "State Government" means the Central Government in relation to a Union Territory. Accordingly, all the aforesaid powers conferred on the State Government under the Act will be exercised by the Central Government and the provisions of the Act should-be construed accordingly. It follows from this that the notification under section 1(4), the constitution of the Board under section 5 and all other functions of the State Government under the Act will be performed only by the Central Government.

15.8.6. Indeed, this will have to be the arrangement in the case of a national capital. We have already explained the special responsibility of the Union Government for maintaining essential services in the national capital. Obviously, generation and supply of electricity to the national capital is of vital importance to the Central Government. Apart from this, as we have already explained in the earlier paragraphs, the power supply to the capital cannet, be managed by the generation capacity available in Delhi and the bulk of the requirements has, and in the forseeable future will have to be met, from power stations outside Delhi. This as well as the arrange-ments for transmission of such power to Delhi from outside can be managed effectively only by the Con-Government. The procurement, generation, tral transmission and distribution of electricity to the capital also involve resources and experise which may be beyond the capacity of the Government of Delhi. As such, it is the Central Government that must have the s'atutory control and supervision over the Electricity Board to be set up under the Act

aforesaid. As explained above, this position is secured by virtue of the provisions of the Act read with the General Clauses Act.

15.8.7. However, with the setting up of a representative and elected government for Delhi, it will be incongruous to exclude altogether the participation of the peoples' representatives in the Legislative Assembly from any say in the management of the important public utility service of electric supply. As stated in Part I of the Report it would be appropriate if the Legislative Assembly and the Council of Ministers for Delhi are given some role in regard to certain aspects of this service affecting the common man consistent with the overall control by the Central Government. We have carefully considered this aspect and come to the conclusion that the following arrangements should be adequate :

- (i) There should be a convention that when appointing members of the Board under section 5, the Central Government should consult the Government of Deihi;
- (ii) The right of the members of the Legislative Assembly to put questions and raise discussions on the functioning of the Electricity Board in the Legislative Assembly should be recognised and accepted;
- (iii) In the Consultative Council set up under section 16 of the Act there should be provision for appointment of a specified number of members of the Legislative Assembly and officials of the Delhi Administration. The functions of the Consultative Council include those of advising the Board on major questions of policy, and on major schemes, and of review of the progress and the working of the Board from time to time. Hence, the inclusion of the aforesaid members and officials in the Consultative Council will be a meaningful step in the direction of associating the representatives of the people of Delhi on policy issues [This is further elaborated in paragraph 15.8.10 below];
- (iv) The Central Government may consider the advisability of entrusting to the Lt. Governor some of its powers under the Act. In exercising such powers the Lt. Governor will have to act on the aid and advice of his Council of Ministers.

15.8.8. We consider that the above arrangements should be sufficient to enable the participation of the representatives of the people of Delhi in regard to the supply of electricity to the capital.

15.8.9. We recommend as above.

15.8.10. The Act provides for setting up of a Consultative Council and Local Advisory Committee(s) by the State Government. The constitution of these bodies makes it clear that they are intended to provide for representation of various interests. The Board is required to place its annual financial statements before the Council and has to consider any comments thereon made by it. Thus, it is a very effective mechanism not only for bringing about coordination between the generation and distribution of power but, what is more important, in associating the representatives of the concerned interests in the policies, implementation and performance of the Board. The Act bars nomination of members of the legislatures and local bodies to the State Electricity Board, but they could be members of these bodies and, as such, the provision for a Council satisfies the need to associate such representatives. This also provides a feed back mechanism. We have already recommended in para 15.8.7-(iii) that the representatives from the members of the Legislative Assembly and officials from the Government of Delhi should be made members of this Consultative Council. Such representatives can be found place in the Council under the provisions of 'the Act and no amendment thereof is required. Needless to say, this will add to the representative character of the Council.

# 15.9 THE SUPPLY OF ELECTRICITY TO THE NDMC AND CANTONMENT AREAS

15.9.1 As stated earlier, the distribution of electricity in the New Delhi area has always been the responsibility of the New Delhi Municipal Committee, This position continued even after the establishment of the Municipal Corporation. The main reason for this arrangement was that as the New Delhi area has a concentration of Central Government offices, most of the foreign embassies, international organisations etc., the Central Government bears a special responsibility to ensure proper maintenance of essential services in this part of Delhi. This is also in conformity with the views expressed in the memoranda received by us and during the interviews held with eminent persons representing different shades of opinion. We find that unlike the areas served by the DESU, the services rendered by the NDMC in the matter of electricity supply and distribution in its area have, by and large, given satisfaction to the people concerned. We, therefore, seen no justification for disturbing the existing arrangements.

15.9.2. The major issue brought to our notice relates to the frequent disputes between DESU and NDMC regarding payment of dues for bulk supply of electricity by the former to the latter. The Government of India had laid down the guiding principles for working out the actual cost of electricity supply which are binding on the two bodies. But, in practice, disputes arise about the interpretation of the guidelines which often remain unresolved for long periods. The differences between DESU and NDMC extend also to the arrangements for metering of bulk supply.

15.9.3. There is, in fact, a provision in the MCD Act to meet such contingencies. Under section 285 of the Delhi Municipal Corporation Act, 1957, the Central Government has the power to intervene in such disputes. If any dispute arises between these authorities as to the rate it shall be referred to the Central Government whose decision thereon shall be final. We consider that this provision is sufficiently comprehensive to meet all the requirements. However,

this provision will cease to exist when a new Electricity Board is set up as recommended by us in paragraph 15.8.1. We consider that the best way to provide for resolving disputes between the Electricity Board and the NDMC in regard to any matter relating to the bulk supply of electricity will be by means of a contract of supply between the two bodies. The contract should contain a stipulation that disputes of this kind shall be referred to and decided by the Central Government. If the Central Government is empowered in this way under the contract, its decision should be conveyed by means of a directive to the NDMC or to the Board, as the case may be, in this regard. We are clearly of the view that such disputes should not be referred to arbitration, which invariably involves delays and litigation.

15.9.4 No such problem was brought to our notice with regard to the Cantonment area. Moreover, the general practice all over the country is to treat Canonment areas on a separate footing. Cantonments purchase power in bulk from generating authorities in their vicinity and distribute it through their own arrangements. In view of this general position no change in the existing system of electricity distribution in the Delhi Cantonment areas appears to be called for. Here again, on the establishment of the Electricity Board, the supply and its terms should be governed by a contract.

15.9.5. On a consideration of the foregoing, we recommend that the present arrangement for supply and distribution of electricity in the NDMC and Cantonment area should continue with the changes suggested in paragraph 15.9.3. and 15.9.4.

# 15.10 FINANCIAL ARRANGEMENTS

15.10.1. As indicated by us in paragraph 15.2.5; since the revenues earned by the DESU are not adequate to meet even its revenue expenditure, it depends on Government funds for its finances for capital projects. We have taken note of a Financial Recovery Plan for DESU recen'ly approved by the Government of India under which the outstanding dues payable DECI

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by DESU to the Badarpur Thermal Power Station as on 31-3-89, alongwith interest payable thereon less the dues recoverable by DESU from various organisations, have been waived. The net amount thus waived is as much as Rs. 1109.73 crores. Similarly, with regard to outstanding loans of the Government of India and accumulated interest thereon it has been decided that the accumulated interest as on 31-3-89 (Rs. 297.42 crores) may be waived; the principal amount of loans due on 31-3-89 (Rs. 1004.10 crores) has been converted into ់ន perpetual loan not bearing any interest upto 31-3-89 and, thereafter, 50 per cent of the amount would be interest-free and the remaining will bear interest at the rates applicable to Departmental Undertakings of the Government of India; and loan taken after 31.3.89 would be treated as loan in perpetuity with interest liability from 1-4-89 accruing on 50 per cent amount of the loans at the rate of interest applicable to Departmental Undertakings of the Central Government and the remaining 50 per cent being interestfree. The Government of India have also directed that DESU would capitalise interest during construction from the financial year 1988-89 in accordance with the current accounting policy and that it would review its operations and functions to reduce its transmission and distribution losses by about 2 per cent every year and bring them down to abou- 12 per cent at the most. The DESU has also been asked to put into operation an effective machinery for prompt recovery of all its dues and discharge its obligations. This generous plan appears to be intended to enable the organisation to start on a clean slate so far as its past liabilities are concerned.

15.10.2. In our view, a package of financial relief of this kind is not desirable viewed from any angle. Among other things this may not result in infusing the necessary sense of financial discipline or economy or efficiency in the working of the organisation. However, if a Board is set up as recommended by us situations of this kind should not be allowed to arise. The remedy to meet such situations should be in the direction of adopting positive measures to achieve financial viability through increase of efficiency, economy in operation or rationalisation of the tariff structure. We tecommend accordingly.

# DELHI WATER SUPPLY AND SEWAGE DIS POSAL UNDERTAKING

### 16.1 INTRODUCTORY

16.1.1 For a metropolitan city with a high density of population and, more particularly, for the national capital, which has its own importance, the arrangements for supply of water as well as disposal of sewage should be such as to ensure efficiency of the highest order. We examined this matter with care to see whether the existing arrangements in this regard are satisfactory and, if not. what changes should be brought about therein.

16.1.2 It will be interesting to note that, even as early as 1926, the importance of an efficient supply of water and sewage disposal was recognised, and this led to the enactment of the Delhi Joint Water and Sewage Board Act, 1926. The Act provided for constitution of the Delhi Joint Water and Sewage Board for maintenance, improvement and extension of works established to supply drinking water and dispose of sewage in bulk for the town and suburbs of Delhi. It consisted of nine members of whom one was the Chief Commissioner; four members of the Delhi Municipal Committee; one member of the Delhi Civil, Lines Notified Area Committee, one person nominated by the Officer Commanding the Delhi Independent Brigade; and two persons nominated by the Central Government. The Chief Commissioner was the ex-officio President of the Board. Upon the constitution of this Board, the water and sewage treatment plants and connected works were vested in the Board. The Board was bound to supply water in bulk to each constituent body, namely, the Delhi Municipal Committee, the Delhi Civil Lines Notified Area Committee, the Military Engineer Service, the New Delhi Municipal Committee, and such other local authority as the Central Government declared to be a constituent body. However, the Board could, with the previous sanction of the Central Government in writing, enter into an agreement with any person to supply water in bulk for consumption in the area outside the jurisdiction of any constituent body. These bodies were required by law to pay the actual cost of the water supplied to them at a rate calculated in the manner set forth in the Act. Similarly, the Board was bound to receive in bulk from each constituent body, except the Delhi Cantonment Board, all sewage delivered by such body and dispose of the same. These bodies were required to pay the total net cost for the disposal of all sewage delivered by them in such proportion as the Central Government determined from time to time. The Act provided that no constituent body by which sewage was delivered could execute any major work calculated to increase the normal

discharge of sewage without the concurrence of the Board. Any dispute arising between the Board and a constituent body in this regard was required to be referred to the Central Government whose decision thereon was final. Stringent provisions were made in the Act for recovery of sums due from the constituent bodies in default, viz. by reducing their credit balance in the Government Treasury by the amount due or by deducting the amount due from any contribution payable on behalf of the Government to the defaulting constituent body. Any dispute about the hability to pay the sum demanded by the Board was also to be referred, at the instance of the constituent body, to the Central Government whose decision thereon was final. The distribution of water, as well as the maintenance of internal drains and sewers, was the responsibility of the constituent bodies in their respective areas of jurisdiction. The budget estimates of the Board were subject to the approval of the Central Government which retained the power to reduce any item of expenditure or restore any provision which it considered essential for the safe and efficient conduct of the business of the Board.

16.1.3 With the coming into force of the Delhi Municipal Corporation Act, 1957, the Board ceased to exist, and its functions were taken over by the Municipal Corporation and this continues to the present day.

#### 16.2 PRESENT SET-UP

16.2.1. According to the Delhi Municipal Corporation Act, 1957, one of the obligatory functions of the Municipal Corporation relates to water supply and sewage disposal. Similarly, the Corporation is entrusted with the responsibility for the construction, maintenance and cleaning of drains and drainage works in Delhi. The Act provides for assignment of these functions to a Committee of the Corporation, i.e. the Delhi Water Supply and Sewage Dis-posal Committee. This Committee consists of seven members, of whom four are elected by the councillors and aldefillen from among themselves, and three are nominated by the Central Government from among persons having knowledge and experience of administration and industrial, commercial, finencial or labour matters and also having knowledge and experience of management of any water supply and sewage disposal undertaking. It also provides for an Undertaking, namely, the Delhi Water Supply and Sewage Disposal Undertaking which is under the aforesaid Committee. The Commissioner of the Corporation is the chief executive authority of the Undertaking.

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16.2.2. It is the duty of the Delhi Water Supply and Sewage Disposal Committee to take steps for ascertaining the sufficiency and wholesomeness of water supplied within Delhi, for providing supply of wholesome water in pipes to every part of Delhi in which there are houses, for domestic purposes and for providing, as far as possible, a supply of wholesome water, otherwise than in pipes, to every part of Delhi in which there are houses, for domestic purposes and to which it is not practicable to provide a supply in pipes at a reasonable cost.

16.2.3. Under Section 259 of the Act, the Corporation is bound to supply water in bulk to the N.D.M.C. and the Cantonment authorities, and also has to receive in bulk all sewage delivered by the N.D.M.C. The NDMC and the MES are to pay to the Corporation the actual cost of supply of water. The N.D.M.C. is also required to pay the cost of disposal of sewage to the Corporation in such proportion as the Central Government may from time to time determine. In case of any dispute between the Corporation and the NDMC or the Cantonment authorities regarding their liability to pay any sum demanded by the Corporation, the NDMC or, as the case may be, the Cantonment authorities may require the Corporation to refer the matter to the Central Government whose decision thereon is final. The Act also makes provision for summary recovery of the sums due from the NDMC and the Cantonment authorities on the same lines as provided for in the Act of 1926.

16.2.4. There has been a continuous growth in the demand for water supply and sewage disposal on the Undertaking. The water supply which was only 66 MGD (million gallons per day) at the end of 1955-56 rose to 344 MGD at the end of 1984-85, though the target set under the Sixth Plan was 472 MGD. The water requirement at the end of the Seventh Five Year Plan (1989-90) has been estimated at 592 MGD, while the present capacity is only 417 MGD. The sources of supply of raw water are, however, very limited, and consist mainly of the supply from the river Yamuna that passes through many States. The use of water of such inter-state rivers is subject to agreements between the riparian States concerned. The Undertaking has made efforts to augment water supply by tapping underground water resources through ranney wells etc., but a substantial gap exists between the demand and supply at present, which is likely to widen with the fast pace of growth in population and urbanisation.

16.2.5. The tasks of sewage collection, treatment and its disposal are also the responsibility of the Undertaking for which it has made arrangements for collection of sewage through branch and trunk sewers, and its treatment in the sewer treatment plants of the Undertaking for its ultimate disposal. We were informed that there are about 14 trunk sewers measuring 59.65 Kms. in length and the length of the branch sewers is about 2076 Kms. The sewage generated is about 320 MGD, but the sewage treatment capacity at present is only 184 MGD. We are informed that it is proposed to increase the capacity to 305 MGD by 1990. The rest of the sewage is evidently being discharged untreated.

16.2.6. The Delhi Water Supply and Sewage Disposal Undertaking has the following major sources of revenue :---

- (a) Water Tax Water Charges.
- (b) Scavenging Tax.
- (c) Payment for the water supplied to NDMC and MES.
- (d) Payment for sewage disposal received from NDMC.

The revenue income of the Undertaking has not been able to keep pace with its expenditure and it has, therefore, been incurring substantial deficits which is being met to an extent by contributions from the MCD. As a consequence, all capital expenditure is being financed by loans from government. At present, the loan repayment liability constitutes approximately 40% of the total revenue expenditure.

16.2.7. The Undertaking has decentralised its functioning on a zonal pattern like the MCD, and its zonal offices are located in the same premises as the municipal zonal offices in various localities for the convenience of the public. Getting new connections and payment of bills for water supply are the two major problems faced by the public in their day-toare day dealings with the Undertaking and these being attended to by officers at the zonal level. We were informed that, for new water connections, the Assistant Engineer (Water) located in the Zone meets the public for the redressal of their grievances. For redressing the grievances relating to bills, there is an Assistant Revenue Officer in each Zone. At Headquarters, there is a Director of Revenue who is expected to resolve such problems as are not redressed in the Zones. At Headquarters, the Chairman and the Deputy Chairman of the Water Supply and Sewage Disposal Committee also meet the public on specified days of the week.

# **16.3. EARLIER STUDIES**

16.3.1. The desirability of constituting a statutory Board for water supply and sewage disposal in the Union territory of Delhi was considered by the Government in 1972. The Task Force appointed by the Central Government in 1975 to recommend improvements in the administrative set-up of Delhi had made a similar recommendation. We understand that no further action was taken.

16.3.2. A Committee known as P. N. Jain Committee was appointed by the Central Government in 1976 to undertake a comprehensive examination of the financial position of the Delhi Water Supply and Sewage Disposal Undertaking. It submitted its report on 31-7-1979 stressing the need for improving the

management of the Undertaking and recommending that Government may consider whether the Undertaking should be converted into an autonomous Board. It could be entrusted with responsibility for only supply of water in bulk and providing sewage disposal services, as was the case with the former Delhi Joint Water and Sewage Board. In that case, the distribution of water as well as maintenance of internal drains and sewerage, could be the responsibility of the concerned local bodies in the areas under their respective jurisdiction. The Committee also suggested another alternative, namely, that the autonomous Board may be entrusted with the distribution of water and maintenance of internal drains and sewerage, with its jurisdiction extending over the entire Union territory of Delhi, including the areas under the control of the NDMC and the MES. A unified set-up, it felt, may result in better functioning of this essential service and the avoidance of unnecessary disputes between the local bodies. These recommendations have reportedly not oven implemented.

# **16.4 CONSIDERATION OF ISSUES**

16.4.1. To elicit the views of the public on the need for reorganisation of the water supply and sewage disposal arrangements we had inserted a question in our Questionnaire on the desirability of setting up a separate statutory authority for water supply and drainage in Delhi, as in certain other cities, to be run on professional lines. This matter was also discussed during the interviews held by us with eminent and knowledgeable persons. A large majority of the replies received were to the effect that the present arrangement of the Undertaking functioning under a Committee of the Corporation has not worked satisfactorily. They supported a suggestion for the setting up of an autonomous board to be run on professional lines independent of the Corporation. There was also a view that the agencies for supply of water and sewage treatment should be separated from the distribution of water, which may continue to be the responsibility of the local bodies. A substantial section of opinion was to the effect that this utility service should be under the control of the Delhi Administration in the interests of more proximate control.

16.4.2. At the outset, we may refer to the suggestion that the responsibility for procurement and treatment of water and disposal of sewage should be separated from that of the distribution of water and collection of sewage, and that the latter services remain the responsibility of the local bodies concerned. At present, the Delhi Water Supply and Sewage Disposal Undertaking is charged with the responsibility for providing both these services, namely, water supply and sewage disposal to the whole of Delhi, except for distribution of water in the NDMC and Delhi Cantonment areas, and collection of sewage from the Delhi Cantonment area. We have given careful thought to this suggestion, but we are not in favour of accepting it because such separation of functions is not likely to benefit the public in any 16.4.3. In our view, there should be only a single organisation responsible for procurement of raw water, its treatment, as well as supply to individual consumers in Delhi, including rural areas. This organisation should also be responsible for the collection and treatment of sewage and its disposal throughout Delhi. The construction, operation and maintenance of treatment **plants** and the main sewer systems should also be its responsibility. The special arrangements obtaining in the case of NDMC and Delhi Cantonment areas should, however, continue.

# 16.5 CONCLUSIONS AND RECOMMENDA-TIONS

16.5.1. After careful consideration of the material before us and the suggestions received during interviews with eminent and knowledgeable people, we are of the view that the present system of management entrusting these services to a Committee of Corporation has not worked satisfactorily, and it should be given up. We, therefore, consider that the management of the water supply and sewage disposal arrangements should be entrusted to an autonomous Board to be constituted by a law of Parliament. This statute should provide for the constitution, structure, functions and powers of the Board and incidental matters relating thereto. It should be invested with sufficient administrative and financial powers to enable it to exercise full autonomy in its day-to-day functioning. The overall control of the Central Government should be ensured by vesting in it the power to appoint the members and Chairman of the Board, and to issuedirections on important matters of policy. Its members should be experts in the relevant fields and may work on full-time or part-time basis on such terms and conditions as may be prescribed. It should have a wholetime Chairman and a Chief Executive to be appointed by the Central Government in consultation with the Delhi Government. Apart from the members appointed by the Central Government the Board should also include an adequate number of members appointed by the Government of Delhi.

16.5.2. In order to associate the representatives of the public with the policies and programmes of the Board, there should be a consultative council consisting of the members of the Board, and such number of members of the Legislative Assembly of Delhi, as may be prescribed in the law. Representation can also be given in the Council to various interests.

16.5.3. The Board should be empowered by law to fix tariffs for the various services. The charges for the supply of water in bulk to the NDMC and the MES, and the collection and disposal of sewage of the NDMC area, shall be determined by agreement entered into by the Board with these bodies. In case of any dispute about payments to be made to the Board by these bodies, the matter shall be referred to the Central Government whos decision thereon would be final and binding on both parties. The law should also provide for coercive action being taken for recovery of the Board's dues from the defaulting local body or authority or individual.

16.5.4. We recommend as above. 16.6. FINANCIAL ARRANGEMENTS

16.6.1. The financial position of the Delhi Water Supply and Sewage Disposal Undertaking (which is atpresent under the Municipal Corporation was examined in detail in the reports of the Morarka Commission (1970) and the P. N. Jain Committee (1979). The P. N. Jain Committee had observed that the undertaking had been persistently running in deficit and that its revenues were not adequate to meet its day-to-day operational expenses, which had led to the diversion of its loan-funds to cover revenue deficits each year. Several reasons have been cited by the Committee for the mounting deficits, such as the loss due to "uhaccounted water", non-revision of tariff for water supply, increasing costs of sewage disposal, nonsharing of capital and maintenance costs of these services by other local bodies, rising production and establishment costs etc. The Committee had also suggested certain remedial measures.

16.6.2. As we have already recommended that this function should be taken away from the Corporation and a separate statutory body should be set up for the purpose it is unnecessary for us to go into the details of the recommendations made by these bodies. In the light of this recommendations, all that we would recommend is that this new body should function in such a manner as to secure greater efficiency and prudence in the management of available resources, economy in administration, greater financial discipline and vigilance. The new Board to be set up should have a clear mandate in this regard.



# CHAPTER XVII

# DELHI TRANSPORT CORPORATION

#### **17.1 INTRODUCTORY**

17.1.1 A matter of concern to members of the public in Delhi is the operation of the transport services. Delhi has progressively grown into a huge city, both spatially and in population, but the efficiency of the transport system has progressively deteriorated. There have been many bitter complaints, not only about the inadequacy of the services, but also about the efficiency, conduct and behaviour of the staff operating them. Part of the problems can be related to the fact that in Delhi the bus services constitute the main means of transportation, whereas in the other metropolitan cities the suburban railway system shares this burden along with the city bus service. Apart from the dissatisfaction and inconvenience caused to the public, the Delhi Transport Corporation (DTC) has been a matter of concern to the Government due to its being perpetually in the red.

17.1.2 Having regard to our Terms of Reference, our study of the transport system in Delhi will be confined to cetain aspects touching the public and our recommendations would also focus on such aspects. It will not be possible for us to go deeper into the entire functioning of the transport system in Delhi with a view to suggest detailed measures for securing improvement in its operational efficiency or financial viability. These are matters for in-depth study by experts.

17.1.3 Before examining the issues, we shall give a brief background of the arrangements made for transport services from time to time in Delhi, the present structure of the D.T.C., and the problems faced by the common man as well as those faced by the D.T.C.

17.1.4. A public transport service in Delhi was started in 1935 by a private company, which continued to function till 14-5-1948, when it was nationalised and run by the Central Government in the name of Delhi Transport Service. This continued till 1-4-1950 when the services were taken over by a statutory authority created under the Delhi Road Transport Authority Act, 1980. Thereafter, by virtue of the provisions of the Delhi Municipal Corporation Act, 1957 the transport services became the responsibility of the Municipal Corporation, and there was a statutory committee of the Corporation to manage the Transport Undertaking. This arrangement was found to be unsatisfactory and a new statutory corporation outside the DMC Act was created in 1971 under the Road Transport Corporation Act, 1950 (RTC Act), which was applied to Delhi with some changes by means of an amendment to that Act, and a statutory body called DTC was set up thereunder.

The reasons for this change, as elucidated in the Statement of Objects and Reasons appended to the Delhi Road Transport Laws (Amendment) Bill, 1971, were :---

(i) Continuous deterioration in the working of the D.T.C.;

(ii) Financial and operational difficulties.

It is interesting to note in passing that these deficiencies are still continuing. We will revert to this later.

17.1.5. Under the structure provided by the RTC Act, as applied to Delhi, the general superintendence, direction and management of the affairs and business of the Road Transport Corporation vest in a Board of Directors consisting of a Chairman and a specified number of Directors appointed by the Central Government. Among the Directors are the Managing Director, three officials of the Central Government, two officials of the Delhi Administration and one each representing the Metropolitan Council, Municipal Corporation and the NDMC, and two other nominees of the Central Government.

17.1.6. For purposes of operations the DTC has been divided into five regions, each headed by an officer of the rank of General Manager, with supporting staff. Presently, there is an arrangement with private operators to ply buses on certain routes many of which are also served by D.T.C.

17.1.7. As a public sector undertaking under the Road Transport Corporation Act, 1950, DTC is required to function on business lines and to be financially self-sufficient. Its financial position, however, has been most unsatisfactory and it has, in fact, been in the red since its inception. It has no equity capital base and is financed wholly through interest-bearing repayable loans, both for its developmental schemes as well as for meeting its annual revenue deficits. The yearly losses\* of the D.T.C. for the period 1980-81 to 1987-88 are given below :--

Year						_	Losses (Rs. in lakhs)	
1980-81							·	4465.78
1981-82				÷	•	•	•	4892.29
1982-83	_	·	•	•	•	•	•	7348.83
1983-84	•	•	•	•	•	•	•	
1984-85	•	•	•	•	•	•		10111.60
	•	•	•	•	•	. •	•	14079.08
1985-86	•	•	•	•	٠	•	•	17692.02
1986-87	•				•			6225.73
1987-88				· .				7888.49

•Information furnised by the HQ DTC vide their letter No. Adm. I-(Misc)/88, dated 12-10-1988. 17.1.8. To examine and recommend measures to put D.T.C.'s working on a sound financial base, a Committee was set up by the Government of India on 19-9-1985. One of the recommendations of this Committee was for restructuring the capital base of the Corporation. The Central Government's decisions in this regard were broadly the following:—

- (i) The outstanding Ways & Means loan of Rs. 277.27 crores as on 31-3-1986 to be converted into subsudy.
- (ii) Outstanding interest amounting to Rs. 334.19
   crores as on 31-3-1986 on both ways and
   Means loans and Capital loans to be written off.
- (iii) Outstanding capital loans of Rs. 156.57 crores as on 31-3-1986 to be converted into non-refundable loans bearing concessional rate of interest @ 6.25 per annum.
- (iv) 50 per cent of the capital loan released on and after 1-4-1986 to be treated as non-refundable loan with a concessional rate of interest @ 6.25 per cent per annum, and the balance 50 per cent as repayable loan at normal rate of interest.

17.1.9. The result of the above decisions was that the net accumulated losses, which stood at Rs. 700 crores on 31-3-1986, were brought down to Rs. 88 crores as on 1-4-1986. This exercise, in our view, was only to write off accumulated losses, and the impact of these measures would obviously be short-lived. In any case, these measures would be futile unless they are supplemented by other measures to ensure profitability and avoidance of losses.

#### **17.2 DEFICIENCIES**

17.2.1. Certain deficiencies in the working of the D.T.C. were brought to our notice. These are listed below:---

- (i) The operation of the transport services partly by the DTC and partly by the private operators has given rise to many difficulties and has not given any satisfaction to the public.
- (ii) It is understood that, in practice, the Central Government in the Ministry of Surface Transport exercises direct control over the DTC even in regard to day-to-day functioning. This has resulted in operational difficulties because a Ministry of the Government of India is not equipped to handle such problems at the field level.
- (iii) The absence of any significant role for the Delhi Administration in the running of the services has not, according to many, worked satisfactorily because the local administration is more directly concerned with the people of Delhi, and should have more than its present peripheral role in the affairs of the D.T.C.
- (iv) With the rise in population and its wide dispersal in Delhi the size of the fleet and

the strength of the stail have become ununanageably large for a single corporation.

(v) According to the management it would appear that a major problem on the financial side is that the fare structure has not been revised adequately from time to time, resulting in the fares being kept low.

#### 17.3 CONSILIERATION OF ISSUES

17.3.1. We now proceed to consider the issues before us and the remedies suggested therefor in the various memoranda and during our personal interviews with a large section of the public.

#### 17.3.2. PRIVATISATION IN WHOLE OR IN PART

The question whether the transport services in the metropolitan cities should be operated by private agencies or by governmental agencies is one on which there has been a lively debate for quite some time. Everyone is familiar with the arguments advanced in support of these differing points of view. However, for very valid reasons, our government has long since adopted the policy of a nationalised transport system on the ground that it is the best course in the interests of the people at large. There are, however, still some persons who are strong advocates of a privately operated transport system. But it is in Delhi that we see the phenomenon of the public transport system being simultaneously operated by both a governmental undertaking and private operators. We are not clear as to how and why this system has come into vogue, but what is quite clear to every one by now is that the system has been a failure from the point of view of the public of Delhi. In the view of quite a few this arrangement has been responsible for many of the present problems faced in regard to urban transport, as well as for the heavy loss of revenue to the exchequer. It is also common knowledge that the private buses are, more often than not, responsible for the complaints like wrong parking, overspeeding, rash criving etc. as also for most of the traffic accidents, In any case, the public of Delhi find no difference between the operation of the buses by the two agencies, either in regard to efficiency or to the behaviour of the staff. A

17.3.3. We are clearly of the view that the present arrangement of entering into agreements with private operators on terms which are allegedly weighed in their favour has not been working satisfactorily. If the reason for entering into such agreements with private operators is the inadequancy of the fleet with the D.T.C., the situation can, we think, be met by the Central Government advancing funds to the DTC to buy more buses, or by the DTC buying buses on airepurchase basis like private operators.

17.3.4. As illustrated by the latest agreement with

the private operators the operation of the agreement has resulted in the D.T.C. being the loser. We understand that what happens in practice is that the private operators, by overtaking or running ahead of the D.T.C. buses, pick up as many of the passengers as possible, sometimes with the connivance of the DTC staff. On a careful consideration of the matter, we have come to the conclusion that this system of mixing up the governmental and private agencies in running transport services in Delhi should be abandoned as being against the interests of the public. If at all the hiring of private buses is considered pecessary as a temporary measure private buses may he allowed to ply only to the extent absolutely necessary and consistent with the convenience of the public. It is also necessary to mitigate the evil to some extent by restricting the operation of these buses to specific sectors or segments not operated by the They should not operate on the same D.T.C. routes as those covered by the D.T.C. We recommend as above.

#### 17.3.5 CONTROL OVER D.T.C.

The D.T.C. is a statutory corporation set up under a Central law and, as such, it is autonomous m its operation, subject only to the control as provided for under the Act. The Act confers on the "State Government" cr: tain powers of control like approval of Budget (section 32), issuing directions (section 34), submission of reports etc. (section 35), inquiry into the working (section 36) and taking over part or whole of the Corporation (section 37 and 38). There is, therefore, no question of the Government exercising any other control over the functions of the Corporation. We have been informed that the Ministry of Surface Transport of the Central Government has in practice been exercising "complete" control over the operation of the D.T.C., and it is alleged that such control often extends to day-to-day functions of the D.T.C. Without going into the question whether this information is correct or not, we can say that if there is any such practice, it has no legal sanction 17.3.8 SPLITTING THE D.T.C. behind it. Possibly the control is being exercised in practice by reason of the fact that the Central Government is providing sustantial financial assistance to the DIT.C. Obviously, this is not a satisfactory state of affairs. The control, if any, is not conducive to efficiency. It is true that the Central Government has been providing very substantial financial assistance to the D.T.C. and, as we stated earlier, recently the Government virtually wrote off at one stroke hundreds of crores of rupces which were the accumulated liabilities of the D.T.C. In the view of many, the writing off of such large amounts of losses incurred by the D.T.C. without taking positive measures for improving the financial working and general efficiency of the organisation has only encouraged financial indiscipline on its part. We are clear in our mind that this dependence of D.T.C. on the resources of the Central Government is not healthy, looked at from any point of view.

17.3.6. The Delhi Administration is at present represented by two nominees on the Board, but we find that this has not helped the Delhi Administration in having any voice in the running of the D.T.C. With the establishment of a representative Government at the local level for Delhi, as proposed by us, it is not

only appropriate but necessary that the control now exercised by the Central Government over the D.T.C. should be with the Delhi dministration. This control should include financial control and the power to sanction budges, to give directions, and, in fact, to exercise all powers conferred by the Act on the State Government now being exercised by the Central Government. This may ensure not only a closer supervision but also better financial discipline. As the Central Government will have an overall control over the Delhi Administration itself, that should be sufficient to enable the Central Government to intervene in appropriate circumstances. We recommend accordingly. It is hardly necessary to mention that when the control is transferred to the Delhi Administration, as recommended above, appropriate changes will take place in regard to budgeting, fare revision, financing, etc.

#### 17.3.7 UNIFIED AUTHORITY

A suggestion has been made that to develop an integrated urban mass transport system consisting of a primary rail system supplemented by a road-based feeder system, it would be useful to have a unified transport authority. This suggestion would require a detailed inquiry into several wide-ranging issues such as the totality of the transport requirements in Delhi, the modes of transport, the resources available, besides other relevant technical aspects which is an enquiry beyond the purview of this Committee. All that we can say is that, if the intention is to have a unified authority for the purpose of securing overall coordinated and balanced development of various modes of transport in the city, there should be no objection to such an arrangement. We are informed that the matter is under consideration of the Government of India; hence we refrain from making any specific recommendations in this regard.

The D.T.C. is operating about 5,000 buses within the Union territory of Delhi and on Inter-State routes. According to its projections for the future the DTC may require about 10,500 buses by the end of the 8th Plan. About 14,000 buses are estimated to be required by the end of this century. With this massive requirement for increase in the number of buses, the number of DTC employees, which increased from 17,322 in 1976-77 to 40,067 in 1986-87, would correspondingly increase. The prospect of one single corporation managing such a large fleet and manpower is frightening. The obvious solution would be to split the DTC into two or more corporations depending upon the operational needs of the various areas and compactness of such areas. For instance, East Delhi could have a separate corporation. The existence of two or more corporation may not, in our view, create difficulty in ensuring smooth operation of services all over Delhi. On the other hand, this will result in manageable units being established for efficiently operating the services, better administrative and financial control and effective supervision. We are clearly of the view that these arrangemen's would definitely be beneficial to the public. We recommend accordingly.

# DELHI MILK SCHEME

# **18.1 INTRODUCTORY**

18.1.1 The city of Delhi gets its supply of milk from a number of sources. In the organised sector these are the Delhi Milk Scheme (DMS) and Mother Dairy, apart from organised agencies of the neighbourng States. In addition, private suppliers are also ngaged in production, supply and distribution of nilk. Under our terms of reference, we have to tudy the drawbacks, if any, in certain authorities in Delhi, and one of the authorities specifically mentioned the DMS.

18.1.2 For meeting the milk requirements of people of Delhi, various schemes were initiated from time to time since 1953 by the Central Government. The DMS was set up in 1959 and it works directly under the Government of India in the Ministry of Agriculture (Department of Agriculture & Cooperation). It is engaged in the processing and distribution of milk and manufacturing of milk products. DMS procures raw milk from other States through their State Cooperative Dairy Federations and Milk Cooperative Societies in the Union territory of Delhi. The DMS makes up any shortfall by reconstitution of milk with skimmed milk powder and Butter oil, which are supplied by the National Dairy Development Board.

18.1.3 The DMS is headed by a General Manager who is vested with the powers of a Head of Department. There is a Management Committee of officials which enjoys the powers of a Department of the Government of India, with certain limitations. There is also an Advisory Council with the Minister of Agriculture as its Chairman and the Minister of State for Agriculture as its Vice-Chairman. The other members include members of Parliament and Metropolitan Council, Vice-Chairman, Delhi Development Authority, and the Director General, Health Services. The Advisory Council advises the DMS management on the larger policy issues relating to the procure-ment distribution of milk and consumer interests. The DMS is required to run on a "no profit no loss" basis. This has not been achieved. The annual hous for 1987-88 is expected to be about Rs. 12 crores.

18.1.4 The Government of India has considered various proposals in the past for the reorganisation of DMS such as its transfer to the Delhi Administration or to the National Dairy Development Board or its conversion into a statutory corporation.

18.1.5 We were informed that a proposal regarding is transfer to the Delhi Administration was not pursued at the initial stage on the grounds that this would only tantamount to shifting the problems of the Central Government to the Delhi Administration. It would appear, however, that when a specific suggestion was made sometime ago in this regard the Delhi Administration did not agree to the proposals as it did not wish to bear the financial liabilities of the Scheme.

18.1.6 As regards the suggestion for the transfer of DMS to the National Dairy Development Board to bring the Mother Dairy and DMS under one umbrella management, it appears to have been felt that the balance of advantage lay in having two separate organisations.

18.1.7 Regarding the suggestion for conversion of the DMS into a statutory Corporation it is learnt that a team of experts headed by Dr. V. Kurien had examined the working of DMS in 1964 and recommended its reorganisation as a public limited company. However, this could not be implemented because of the strong opposition of the employees who felt that their interests would be adversely affected. The question of providing statutory protection to the employees was examined and it was decided to convert DMS into a statutory corporation. Accordingly, a Bill was introduced in the Lok Sabha in September, 1970. However, with the dissolution of the Lok Sabha, the Bill lapsed. A Bill was again introduced in the Lok Sabha in September, 1976 but that too lapsed. The question was again reconsidered in October, 1980, but the proposal was not pursued.

#### 18.2 CONCLUSIONS

18.2.1 We invited suggestions through our Questionnaire and interviews abuot possible improvements in the present arrangements. A large section of opinion was in favour of the Delhi Milk Scheme being placed under the Delhi Administration. A few were of the opinion that the existing arrangements did not need any change, while others felt that the DMS should be run as a statutory corporation or a Cooperative Society or a commercial undertaking.

18.2.2 The main argument in favour of control by the Delhi Administration is that, in a matter of supply of a daily requirement like milk, the Central Government is too remote an authority to undertake this responsibility which be best performed by the local administration. On the other hand, it has been argued that Delhi, being dependent on outside sources of milk supply to a very large extent, its procurement and transport from other States to Delhi has interstate implications; and, as such, the Central Government will be in a better position to coordinate these functions. Furthermore, milk supply in Delhi by the DMS is subsidised. The DMS has been incurring heavy financial losses over the years, which are absorbed by the Central Government through budgetary support to this Undertaking.

18.2.3 On a consideration of all aspects of this matter, we are of the view that the existing arrangements in regard to DMS are not conducive to the convenience and benefit of the consumer and that the most appropriate mechanism to ensure efficiency in

the supply of milk would be to organise it as a cooperative society under the Delhi Cooperative Societies Act, 1972 which should take ever the functions now being performed by DMS. The society should have as its members representatives of the producers as well as of the consumers. As at present, the other agencies like the Mother Dairy or the agencies from other States as well as private suppliers should continue to be the other sources of supply of milk as it will not be practicable for one agency alone to meet the entire demand in Delhi.



# **OTHER AGENCIES**

# **19.1 INTRODUCTORY**

19.1.1 In the preceding chapters we have examined the working of the various administrative and municipal authorities in Delhi which are specifically mentioned in our terms of reference and we have made recommendations as required therein. In the course of our study of the various issues involved, the functioning of certain other agencies, which are also directly or indirectly connected with the provision of services to the pulic of Delhi, came to our notice. These are (1) The National Capital Region Planning Board, (2) The Super Bazar; and (3) The Delhi Urban Art Commission.

19.1.2 We feel that it is necessary to discuss briefly the organisation and functioning of these agencies with a view to make recommendations, if any, which will contribute to improvement in providing services to the people of Delhi. We are aware that the terms of reference do not contemplate our undertaking any detailed examination of the structure and functioning of these agencies and so we propose to deal only with such aspects of the organisation and functioning of these agencies as are directly or indirectly connected with the main objectives set out in the terms of reference.

# 19.2 NATIONAL CAPITAL REGION PLANNING BOARD

19.2.1 As we have already stated elsewhere in this report, the municipal services in Delhi are under great strain for a variety of reasons including abnormal growth of population. There are obvious limitations, including financial considerations, to the future expansion of these services in Delhi. Opinion is unanimous that the services being provided at present are inadequate and do not give satisfaction to the common man, despite the fact that the national capital has preferential access to funds, technical services and so on, as compared to other metropolitan and urban centres. It is admitted on all hands that the development of the areas surrounding Delhi in the neighbouring States should be planned to ensure that the pressure on Delhi is reduced.

19.2.2 We took note of the fact that this question engaged the serious attention of the Central Government leading to the enactment of a Parliamentary Law in 1985 under article 252 of the Constitution after obtaining the consent of the State Governments concerned. This Act establishes a National Capital Region (NCR) Planning Board to formulate and implement regional and zonal master plans in coordination with the neighbouring State Governments. A specific question for eliciting opinion regarding the arrangements in this behalf was included in our Questionnaire, which disclosed a general consensus on the ineffectiveness of the measures taken to plan for the National Capital Region. Several useful suggestions were also received on how these objectives could be achieved.

19.2.3. The pattern of rapid population growth in the Union territory of Delhi could be said to have commenced after Independence, when a large influx of refugees came into the city following partition. Till 1951, however, Delhi remained essentially an administrative complex with a population of 14.5 lakhs. The expansion of industry, trade and commerce in the Union territory began to change its character and, by 1981, the population had increased to 57.3 lakhs. It is estimated that 1.50 to 2 lakhs migrants come annually to Delhi in search of employment leading to increasing problems of congestion, strain on housing, municipal and essential services, transportation, and power supply. Further, the Union territory is witnessing a rapid urbanisation of its area and deleterious effect on environment and ecology. It might be pointed out here that the Union territory of Delhi occupies about 1483 sq. kms. of land, and the designated Union National Capital Region, which includes the territory of Delhi and parts of Haryana, Rajasthan and Uttar Pradesh, covers an area of about 30,242 sq. kms. It has been noticed that the neighbouring States are the primary sources for migration into Delhi. The major reason for this in-migration has been the search for employment, followed by movement of the family into Delhi. More recently, the substantial growth of industries, especially small scale industries, and the expansion of trade and commerce in Delhi, have given a greater impetus to this migration.

19.2.4. The NCR plan has been darwn up with an **underlying** philosophy that development policies, programmes and plans should be drawn up in such a manner as to relieve the national capital from additional population pressures, to avoid new pressures being built up thereon and to remodel the pattern of settlements in the National Capital Region.

19.2.5. In reply to our Questionnaire, a number of suggestions with respect to the National Capital Region were received. Most of the respondents were of the view that the measures taken so far in this regard have not proved effective and that steps were imperative to arrest population inflow into Delhi by developing its surrounding areas in neighbouring States. For this purpose, it was suggested that over-riding powers and authority should be given to the NCR Planning

Board. It should be under the firm control of the Central Government which, in any case, has to deploy the large funds required. An extreme suggestion was that Delhi Administration be made responsible for the plan, and have under its direct charge the area within the UT and an inner belt of 25 Kms of the NCR, whilst the outer ring of satellite towns should be left to be developed by the States. It was also mentioned that there was need for substantial investments to develop the NCR and that such development would require the association of the private sector and non-government agencies for its implementation. A pattern of incentives and disincentives to industry, commerce and offices-government and private-to vacate the capital city was also suggested. We propose to deal with such of the foregoing suggestions as relate to matters within our purview.

19.2.6. Some of the measures suggested to implement the Regional Plan 2001 formulated by the Board that would have an important bearing on Delhi are the following :----

- (i) Control over new growth : It would be essential that, in the interests of dispersing commercial and industrial activities from Delhi into the National Capital Region, there would have to be rigid control over the development of industries in the Delhi Metropolitan Area. A conscious effort would also have to be made to suitably relocate industries, especially large-scale and smoke-stack industries, whole-sale trade and offices in other towns within the region.
- (ii) Control of Land use : For purposes of avoiding haphazard growth of urban centres in the National Capital Region it would be imperative that zoning regulations be formulated to enable strict discipline being maintained on the utilisation of land within the Region. Vacant land in the Region could be earmarked for such future activities as urbanisation, green belt, transport routes, and rural areas.
- (iii) Pollu ion control : To correct and prevent environmental degradation and the destruction of the eco-system within the region strict measures would be necessary to prevent air and wa'er pollution, taking up determined afforestation programmes, sewage disposal and similar measures. For this purpose, efforts should be pursued to coordinate the activities of the State Pollution Control Boards in the sub-regions and Environmental Committees at local level to devise a common policy and undertake effective implementation measures within the region.
- (iv) Counter-magnet towns : For the purpose of intercepting population flows into the NCR and to establish regional growth centres to balance the process of urbanisation in the country as a whole, it is necessary to develop counter-magnet towns like Hissar. Gwalior, Patiala, Kota and Bareilly, which are situated away from the NCR.

ganisations and agencies to ensure uniform

and effective implementation and monitor-

19.2.7 From the information gathered by us we understand that there are some major problems involved in the implementation of the NCR plan, some of which are briefly indicated below:—

- (i) A difference in perceptions among the authorities in the sub-regions, particularly with regard to location of industries, wholesale trade and commerce, and common fiscal measures may adversely influence the implementation of the NCR plan to some extent. A substantial degree of coordination between the various authorities involved is essential so that the plan could be implemented successfully.
- (ii) The absence of institutions and establishments like hospitals, schools, colleges etc. in all parts of the region with comparable standards will perpetuate pressures on Delhi. Unless such facilities are made available uniformly throughout the region, the achievement of the objects of the plan will be rendered difficult.
- (iii) The need for ensuring adequate supply of power, water and other infrastructural facilities is cardinal to any scheme for the development of selected urban areas within the region and at sub-regional levels. The State authorities concerned may find it difficult to reconcile such needs with the requirements for the other areas in 'heir respective states. This may also present a problem in successful implementation of the NCR Plan.

19.2.8 Having indicated in the preceding paragraphs in broad outline the main features of the NCR and the problems involved in the implementation of the NCR Plan we now proceed to set out our conclusions and recommendations.

19.2.9 After a careful examination of the provisions made in the National Capital Region Planning Board Act, 1985 and all the materials before us, we have come to the conclusion that the said provisions are adequate to secure the objects in view and that, if these provisions are implemented vigorously in letter and spirit, many of the problems now being faced in Delhi, including those mentioned in paragraph 19.2.7 and the other problems of Delhi arising from over-crowding, can at least be mitigated. This is clear from a perusal of the functions assigned to the Board set up under the Act. Among other functions the Board has to prepare the Regional Plan. that is the development plan for the whole National Canital Region. as well as the functional relans, to arrange preparation of sub-regional plans and project

ing.

plans by each of the participating States and the Union territory, to coordinate the enforcement and implementation of the plans, to ensure proper and systematic programming by the participating units in regard to project formulation, determination of priorities, phasing out of development of the region etc. The Board has the power to review the implementation of plans, to select and approve projects, to call for priority development etc. The Board has also to arrange for the financing of selected development projects in the Region. Provision has also been made for the creation of a separate fund under the control of the Central Government into which will be credited the contributions from the Centre as well as from the States. The amount will be spent only for the purposes specified in the Act. These and other related functions assigned to the Board are, in our opinion, comprehensive, adequate and purposeful.

19.2.10. We understand, however, that with all the very useful provisions made in the Act, there has been no visible impact of the functioning of the Board on the problems faced in Delhi which were expected to be met by the Board. In our view, this has not been due to any reluctance on the part of the State Governments to cooperate in this common endeavour. Indeed, the participating States have no reason not to cooperate. The Act of Parliament itself was passed with the consent of the State Governments concerned under Article 252 of the Constitution. The Board, as well as the Committees under the Board, have representatives from. the participating States. The actual sub-regional plans and project plans are prepared by each of the participating units. Even in regard to imple-States are fully involved. In the mentation, the light of all this, it is unlikely that any State Government would create obstacles in the implementation of the plans for the development of the NCR.

19.2.11. After going into the possible reasons for the scheme under the Act not taking off, we have come to the conclusion that the main reason is the inadequate financial provisions made by the Central Govennment for the Board. We are told that during the Seventh Plan period the participat-States had submitted project plans costing ing Rs. 3596 crores, which were scaled down by the Board to Rs. 867 crores. As against this only Rs. 65 crores were made available by the Government. Obviously without adequate finance it will be the Board to implement virtually impossible for the development plans on the desired scale to perform its onerous functions envisaged under the Act.

19.2.12. The development of the National Capital Region is vital for the national capital and, as such, is undoubtedly the responsibility of the Central Government. We have already explained how the Central Government is vitally interested in the development of the national capital. Indeed, such development should be a matter of prestige for the Central Government and at least for this reason the implementation of the plans for development of the NCR should be of special concern to the Central Government. We would, therefore, recommend that [the Centre should make adequate financial provisions for implementing the project under the National Capital Region Plan. The amounts allocated to the projects under the NCR Plan should be specifically earmarked for such purpose and no diversions should be allowed in any case. This should be a conditions precedent for the release of funds by the Centre for the purpose.]

19.2.13. Another important aspect is the energetic implementation of the schemes prepared by the Board. It will be unrealistic to expect the largesized Board or its Committees to devote their full attention to the details of Plan implementation or to spare time for close monitoring of such implementation. We recommend that a [special cell should be created in the Central Ministry of Urban Development with the task of overseeing the implementation of the plans and performing other watchdog functions.]

19.2.14. We recommend accordingly

# 19.3 SUPER BAZAR

19.3.1. The Cooperative Stores Limited, New Delhi, popularly known as the "Super Bazar", was registered in June, 1966 as a primary society under the Bombay Cooperative Societies Act, 1925 as extended to the Union territory of Delhi. The area of operation of the Society includes the entire Union territory of Delhi. The objectives of the Super Bazar are to undertake wholesale and retail distribution and sale of consumer goods and essential commodities, to establish other department stores, to reduce distribution costs and to ensure fair and better trade practices, etc. It has over 24.000 share-holders including individua's, institutions, asso-Government. Its share capital caties and the is Rs. 127.70 lakhs out of which the Central Government has contributed Rs. 116.85 lakhs. During the inital years, it had been incurring loses; but, after 1981-82, it has been showing profits. It runs several Department stores mobile vans etc. for vending consumer goods. Its Managing Committee consists of not more than 15 members of which at least one half should be elected out of the institutional members. In terms of the Memorandum of Understanding between the Super Bazar and the Government 9 members have been nominated to the Managing Committee by the Central Government. The Government of India has been providing financial assistance to the Super Bazar. The Central Government has financial and administrative control over the organisation. It also approves the appointment of key management functionaries such as the General Manager, Deputy General Manager, Sales manager etc.

19.3.2. Besides the Super Bazar there are other agencies providing similar services to the consumer in Delhi, such as the Kendriya Bhandar, the Delhi Cooperative Consumer Wholesale Store, Delhi State Civil Supplies Copropation, etc. The existence of several such institutions is expected to create healthy competition between them and lead to their growth on sound lines.

19.3.3. We have carefully considered the merits and demerits of the existing arrangements for the efficient functioning of the Super Bazar. With the establishment of a representative government for Delhi we recommend that the Super Bazar should be managed by it, as the subject matter falls within the field which will be the concern of the Government of Delhi. Apart from this, there is, in our opinion, no strong reason for the Central Government itself to perform such functions of a local nature. We would, therefore, recommend that the functions now being performed by the Central Government as a major share holder of the Super Bazar should be made available to the Government of Delhi by appropriate measures such as transfer of shares held by the Central Government or otherwise. We recommend accordingly.

# 19.4 DELHI URBAN ART COMMISSION

19.4.1. The Delhi Urban Art Commission (DUAC) was set up in 1974 by the Delhi Urban Art Commission Act, 1973 to advise the Central Government on matters relating to preserving, developing ond maintaining the aesthetic quality of urban and environmental Jesign in Delhi, and providing advice and guidance to any local body in respect of building or engineering projects or any development proposals which might affect the skyline or the aesthetic quality of surroundings or any public amenity provided therein. The Act requires every local body in Delhi to refer, before according approval to any building operations, engineering operations or development proposals of the nature or pertaining to the locality as specified in the Act, to the Commission for scrutiny and decision. The decision of the Commission is binding on such local body subject only to its right of appeal to the Central Government. The Commission can itself promote and secure the development, redevelopment and beautification of any area in Delhi.

19.4.2. The Act provides that the Commission shall consist of a Chairman and not less than two but not more than four memoers. It is authorised to associate any person, whose assistance or advice it may desire, to carry out the provisions of the Act. The Commission has only an advisory role. Violations of the provisions of the Act are reported by it to the Government through its annual reports which are laid before Parliament.

19.4.3. To elicit the views of the public on the role and functions of the Commission we inserted a question in our Questionnaire. The suggestions received by us have ranged from abolition of the Commission to its continuance in the present form and to its further strengthening. Some have suggested its merger with the DDA or a local body having power to sanction building plans, while others felt that it should be placed under the control of the Delhi Government. The Commission is perceived in many quarters to be contributing to prevailing delays in clearance of development and construction projects. It is also considered to be ineffective in enforcing its advice and decisions on local bodies as there are no penal provisions for non-compliance.

19.4.4. We have carefully considered the question firstly as to whether DUAC should be abolished on the ground that it has not been effective in securing the objectives in view, or that improvements can be made either in its structure or in its functioning to make it function effectively. We are not impressed with the arguments in support of the view that the body should be altogether abolished and its functions taken over by other agencies dealing with housing like the new Housing Board or by the DDA itself, which will deal with planning and development. This is because objectives for which this special body was established continue to be relevant today and cannot be dismissed as unnecessary merely on the ground that this institution has not been functioning properly. We are informed that local authorities, including the DDA, have been contravening the requirements of law or the Act itself as aparent from. the instances cited in the Report of the Commission for 1986-87. This shows that this function cannot be transferred to these bodies because what is required is an independent statutory authority to scrutinise urban construction and development work, including those undertaken by agencies concerned with housing.

19.4.5. After a careful consideration of all the aspects of the matter we are of the view that no changes are required in the enactment and what is required is a proper functional coordination between the various agencies and the Commission. This should be secured by the Central Government. We recommended accordingly.

# SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

### 20.1 MUNICIPAL CORPORATION OF DELHI

20.1.1 With the large increase in the population of Delhi and its distribution in far flung areas, the Municipal Corporation of Delhi has become unwieldly, unmanageable and unable to give satisfaction to the public. Convincing arguments have been advanced to support the view that the only way to bring about improvement in providing civic services to the people of Delhi is to abolish the Corporation.

(Para 11-5-7)

20.1.2. Efficient municipal administration of the Capital can best be provided for by abolishing the present monolithic body and by constituting separate compact municipal authorities at convenient locations, each of which should be autonomous in its area to enable it to attend to the needs of the people in that area.

(Para 11-5-11)

20-1-3. The establishment of a number of municipal corporations in Delhi should not obscure the need for a unified municipal administration for the city as a whole and should help in providing decentralised and integrated municipal administration operating smoothly throughout the city.

(Para 11.6.1)

20.1.4. The structure and functions of all the municipal corporations should be regulated by a single Parliamentary law, which should apply uniformly to all corporations, including the one for the area now under the New Delhi Municipal Committee.

#### (Para 11.6.2)

20.1.5. The number of municipal corporations to be established for the city should be fixed by the said law with reference to all relevant factors including the density and distribution of population. In the decentralised administrative set-up proposed for Delhi, with compact administrative units at various centres, the arrangement in regard to municipal affairs should contorm to the obtaining pattern, and so a municipal corporation should be provided for each of the units.

(Para 11.6.3)

20.1.6. The number of Councillors for each corporation should be fixed with due regard to all relevant factors. In addition to the Councillors, provision should be made for the election by the Councillors of not less than two and not more than four Aldermen for each corporation, Meaningful qualifications should be prescribed for a person to be eligible to be elected as Alderman. The election should be by the method of proportional representation.

(Para 11.6.5)

20.1.7. Each corporation should be organised on the pattern of the existing MCD. The deliberative wing should be headed by a Chairman elected by the members. The executive wing should be headed by an official designated as the Municipal Commissioner.

(Para 11 6.6)

20.1.8. There should be a Mayor for Delhi to perform ceremonial and other functions to be prescribed by rules. He should be elected by an electoral college consisting of the elected members of all the corporations on the basis of proportional representation. The person to be elected should be a distinguished citizen commanding respect.

(Para 11 5.12)

20.1.9. Each Councillor and Alderman should, soon after he takes his seat after the commencement of his term of office, and once a year thereafter, submit a declaration of his assets etc., and such a declaration should form part of the records. Omission to file the declaration should be ground for his disqualification.

(Para 11.6.7)

20.1.10. The functions of the corporation should be restricted to the traditional functions of a municipal body. Functions now being performed by the Delhi Municipal Corporation relating to generation and distribution of electricity, procurement, treatment and supply of water and disposal of sewage, should be transferred to the new bodies to be set up for those services and the functions relating to fire prevention and hospitals should be transferred to the Delhi Administration.

(Paras 11.7.2 to 11.7.5)

20.1.11. The functions in relation to construction, maintenance etc. of roads (including bridges) should be regulated as under:---

- (i) all national highways in Delhi and roads in the New Delhi area should be the concern of the Central Government.
- (ii) such important arterial roads in the Capital as may be notified by the Central Government should be made the concern of the Delhi Administraton.

(iii) all other roads should be the responsibility of the Municipal Corporation within the limits of which they are situated.

(Para 11.7.6)

20.1.12. All other functions now conferred on the Municipal Corporation of Delhi should be performed by the new corporations within their respective jurisdictions. As regards discretionary functions, they should be performed only in accordance with such general or special orders of the Government and not in the discretion of the corporation as now provided in Section 43.

(Para 11.7.7)

20.1.13. To ensure coordinated and smooth administration of the municipal affairs of the Capital an apex authority for overall supervision and control, as well as for securing coordination among the corporations should be provided for Such authority could be a senior officer at the level of the Delhi Administration, designated as Commissioner for Local Bodies and ex-officio Secretary to the Government of Delhi, who will be responsible for ensuring that the municipal administration of the city as a whole is upto the standard befitting the national capital and to coordinate the functioning of all the corporations. It should also be his duty to exercise general supervision over the staff in all the corporations and to attend promptly to complaints of harassment, corruption or inefficiency by the members of the public.

(Para 11.8.1)

20.1.14. The officers and staff in all the corporations other than safai karmacharis, peons, messengers and the like should be constituted into one or more services with grades, under the administrative control of the Commissioner.

20.1.15. Direct récruitment to posts in these services should be made through the Staff Selection Commission for Central Services.

(Para 11.8.2)

20.1.16. The Central Government should have full control over the NDMC. As regards the other corporations, the general control and supervision over them as provided under the law, should be with the Delhi Administration, but the power to issue directions to or to supercede the corporation should be with the Central Government acting in consultation with the Government of Delhi

(Para 11.9.1)

20.1.17. Statutory provision should be made for the allocation of resources, assets and liabilities as well as of the staff, between the corporations to be set up after abolition of the MCD.

(Para 11.10.1)

20.1.18. As regards building controls the power to enforce building bye-laws as well as to sanction building plans to deal with completion certificates, and generally to exercise architectural and building controls should be delegated by the Central Government to the Lt. Governor of Delhi, who may delegate to the Municipal Commisione: of each Corporation adequate powers in this regard for effective enforcement at the field level.

(Paras 11.7.19, 11.7.20)

20.1.19. The procedure for sanction of building plans, approval of completion certificates, etc., should be simplified, by accepting the certificate of a qualified architect, unless within a specified time, any objection is raised by the authority to the acceptance.

(Para 11.7.21)

20.2 New Delhi Municipal Committee

20.2.1. The archaic Punjab Municipal Act 1911, as applied to New Delhi Municipal Committee, should be replaced by the provisions of a Parliamentary law regulating all the Municipal Corporations in Delhi. The New Delhi Municipal Committee should become the New Delhi Municipal Corporation (NDMC). However the NDMC should continue to receive special dispensation but should be run on democratic lincs.

(Pares 6.7.10, 12.3.1 and 12.4.2)

20.2.2. The NDMC should consist of a certain number of members elected on the basis of adult franchise and an equal number of members appointed by the Lt. Governor. The Chairman should be appointed by the Lt. Governor while the Vice-Chairman should be elected by the elected members from among themselves.

(Para 12.4.1)

(Para 11.8.1) 20.2.3. The NDMC may continue to receive water and electricity in bulk and should be responsible for their distribution in its area, as well as for the maintenance of the works connected therewith.

(Para 12.4.2)

# 20.3 DELHI CANTONMENT BOARD

20.3.1 although no major problems have arisen in regard to the relationship between the Delhi Cantonment Board and other authorities, it will be desirable in the interests of the total urban and infrastructural planning of the national capital that measures should be taken to secure coordination between the Delhi Cantonment Board and the Delhi Development Authority in this regard.

(Para 13.4.1)

20.3.2. Effective and purposeful measures should be taken to prevent encroachment on lands and growth of slums in the Cantonment areas.

(Para 13.4.2)

# 20.4 DELHI DEVELOPMENT AUTHORITY

20.4.1. The Delhi Developmet Authority (DDA) should concentrate on its main statutory responsibility of monitoring and coordinating activities connected

with the preparation, implementation and revision of the master plan, and zonal development plans. It should carry out the development of land in accordance with the policy and guidelines of the Central Government and the provisions of the master plan.

[Para 14.7.3(i)]

20.4.2. An autonomous Housing Board should be set up for Delhi by a Parliamentary law and vested with the responsibility for construction of houses and for other matters incidental thereto. The Central Government should have power to give directions to the Board. The functions of the Board and the law governing it should be on the pattern of similar laws in force in other States.

[Paras 14.7.3(iii) and 14.8.2]

20.4.3. The functions relating to administration of lotteries and the main enance of Inter-State Bus Terminal now being performed by the DDA should be transferred to the Delhi Administration.

[Para 14.7.3(v)]

20.4.4. The work concerning the administration of lease deeds relating to lands vested in the Government should be performed by the Delhi Administration under the overall directions and control of the Central Government.

[Para 14.7.3(vi)]

20.4.5. The staff dealing with the functions transterred from the L (DA should be assigned to the respective organisations to which the work is transferred.

[Para 14.7.3(vii)]

20.4.6. The enforcement of the penal and other provisions of law as well as the taking of measures to prevent encroachment should be the concern of the Delhi Administration.

[Para 14.7.3(viii)]

20.4.7. A separate autonomus Board headed by the Lt. Governor of Delhi should be set up for dealwith slums, Such ing with all matters connected Board should be responsible for implementing the provisions of the Slum Areas (Improvement and Clearance) Act 1956, for the formulation of plans for upgradation of slums including Jhuggi Jhonpri clusters, for the pregaration of lay-out plans for slum areas, etc. It should also monitor the implementation of these plans and arrange funds for the execution of the schemes formulated by it. The execution of the schemes should be the responsibility of the concerned Municipal Corporation or, in special cases, by such other agencies as the Board may decide.

(Para 14.9.4)

## 20.5. DELHI ELECTRIC SUPPLY UNDER-TAKING

20.5.1. The present management of electricity supply by a Committee of the Corporation has not

proved to be effective or conductive to public satisfaction. Accordingly, a new arrangement is called tor.

(Para 15.3. and 5)

20.5.2. The suggestion for setting up a public sector corporation to manage generation, supply and distribution of electricity is not acceptable for valid reasons. Similarly, the suggestion for entrusting this function to private sector management, which will work on profit motive, is unlikely to be beneficial to the consumer and is also against the national policy.

(Paras 156 and 15.7)

20.5.3. The appropriate arrangement would be to set up an autonomous Board under the Electricity (Supply) Act, 1948 for the generation, procurement, supply and distribution of electricity for Delhi.

(Para 15.8.1)

20.5.4. While the Central Government should have statutory control over the Board, the Government of Delhi should also have a role in regard to certain aspects of management of this essential service. This may be secured by (i) adopting a convention to consult the Delhi Government while appointing members of the Board, (ii) recognising the right of the members of the Legislative Assembly to raise questions and discussions in the Assembly about the functioning of the Board, and (iii) nomination of a specified number of the members of Legislative Assembly and officials of the Delhi Government to the Consultative Council. It is also advisable to entrust some of the powers of the Central Government to the Lt. Governor who, while exercising such powers, will have to act on the aid and advice of his Council of Ministers.

#### (Para 15.8.6 & 7)

20.5.5 The present arrangements for supply and distribution of electricity in the NDMC and Cantonment areas should continue. The terms of such supply should be governed by contract, with the stipulation that any dispute about payments etc. should be referred to and decided finally by the Central Government.

#### (Para 15.9)

20.5.6. A package of financial relief such as the Financial Recovery Plan recently approved by the Central Government may not result in infusing the necessary sense of financial discipline or economy or efficiency in the working of the organisation. However, if a Board is set up, situations of this kind should not be allowed to arise. The remedy should be in the direction of adopting positive measures to achieve financial viability through increase of efficiency, economy in operation and rationalisation of the tariff structure.

(Para 15.10)

#### 20.6 DELHI WATER SUPPLY AND SEWAGE DISPOSAL UNDERTAKING

20.6.1. There should only be a single organisation for the procurement of raw water, its treatment, and supply to individual consumers in Delhi, including those in rural areas. The present structure of management of these services by a Committee of the Municipal Corporation has not given satisfaction to the public. The management should be entrusted to an autonomous Board constituted by a law of Parliament. The Board should consist of experts in the relevant fields with some members appointed by the Central Government and some by the Government of Deibi.

#### (Para 16.4.3 and 16.5.1)

20.6.2. A Consultative Council should be establisted in which representation could be given to members of the Legislative Assembly of Delhi and other interests.

#### (Para 16.5.2)

20.6.3. The present system of supply of water in bulk to the NDMC and the MES, and the collection and disposal of sewage from the NDMC area, should continue, and the charges therefor should be detrmined in terms of agreements entered into by the Board with these authorities.

(Paras 16.4.3 and 16.5.3)

20.6.4. The Board should ensure greater efficiency and prudence in the management of available resources and strive for economy in administration, greater financial discipline and vigilance. It should be given a clear mandate in this regard.

#### (Para 16.6.2)

# 20.7 DELHI TRANSPORT CORPORATION

20.7.1. The practice of simultaneously utilising governmental and private agencies for running the transport services on the same routes in Delhi has not worked satisfactorily, is against the interests of the public and should be discontinued. Private buses may be allowed to ply, as a temporary measure, to the extent absolutely necessary, consistent with the convenience of the public on specific sectors or segments not operated by the DTC.

#### (Para 17.3.4)

20.7.2. The control exercised by the Central Government, if any, on the day-to-day working of the DTC is not conducive to the efficiency of the system. The powers of control conferred by the Act on the State Government, now being exercised by the Central Government, should be exercised by the Delhi Administration. The Central Government will have the power to intervene whenever called for.

#### (Paras 17.3.5 and 17.3.6)

20.7.3. Keeping in view the increase in the operations and staff strength of the DTC, it may be split into two or more corporations depending on the operational needs of the various areas to be served and their compactness.

(Para 17.3.8)

#### 20.8 DELHI MILK SCHEME

20.8.1. A cooperative society should be established under the relevant law for supply of milk to Delhi to the extent now being handled by the D.M.S. The agencies like Mother Dairy or other such agencies from other States, as well as private suppliers, should continue to remain as the additional sources of supply of milk to Delhi.

(Para 18.2.3)

# 20.9 NATIONAL CAPITAL REGION PLAN-NING BOARD

20.9.1. The provisions of the existing law governing the development of the National Capital Region are adequate to meet the objectives, provided they are implemented vigorously in letter and spirit.

(Para 19.2.9)

20.9.2. The Central Government should make adequate financial provisions for implementing the projects included in the National Capital Region Plan. The amounts allocated to the projects under the Plan should be earmarked for specified purposes and no diversion of funds should be allowed. This should be a condition precedent for the release of funds by the Centre.

(Para 19.3.4)

20.9.3. A special cell should be created in the relevant Central Ministry, specifically charged with the task of oversecing the implementation of the NCR plan and for performing watchdog functions.

(Para 19.3.5)

# 20.10 SUPER BAZAR

20.10.1. The powers now available to the Central Government, as the major share holder of the Super Bazar, should be made available to the Government of Delhi by appropriate measures such as the transfer of shares held by the Central Government or otherwise.

(Para 19.3.3)

#### 20.11 DELHI URBAN ART COMMISSION

20.11.1. No changes are required in the Delhi Urban Art Commission Act, 1973. However, proper coordination of its functions with those of the various agencies concerned in this matter should be secured.

(Para 19.4.4)

Sd|-(S. Balakrishnan Chairman

منجعو بيعمدين الدح

Sd|-(Ramesh Chandra) Member

Sd|-(P. R. Chari) Member Secretary



सन्यमेव जयते

# **1 INTRODUCTION**

# 1.1 PRELIMINARY

1.1.1 The Committee was appointed by an Order of the Government of India No. U. 14011/ 164/87-Delhi dated December 24, 1987 to go into the various issues connected with the administration of the Union territory of Delhi with the Terms of Reference set out therein. The circumstances leading to the appointment of the Committee are reflected in the Preamble to the Order which states that there has been a phenomenal increase in the population in the Union territory of Delhi and that a multiplicity of authorities functioning in Delhi have, in course of time, tended to assume overlapping functions resulting in the common man finding it increasingly difficult to avail of the services. The Preamble also mentions that the need for reorganising the administrative set-up of Delhi which had been under consideration for some time has assumed urgency in recent times.

1.1.2 The Terms of Reference for the Committee as set forth in the aforesaid Order are :---

- (i) to study the drawbacks, if any, in the efficient functioning of the existing administrative and municipal authorities in Delhi more specifically the Metropolitan Council, the Municipal Corporation of Delhi, the New Delhi Municipal Committee, the Cantonment Board, the Delhi Development Authority, the Delhi Electric Supply Undertaking, the Delhi Water Supply and Sewage Disposal Undertaking, the Delhi Transport Corporation, and the Delhi Milk Supply;
- (ii) to examine the nature and extent of the overlapping of functions if any, and the difficulties experienced by the common man in his day to day dealings with such authorities;
- (iii) to make recommendations keeping in view (i) and (ii) above regarding rationalisation or re-organisation or streamlining of the administrative and municipal set-up with a view to (a) ensuring efficiency and effectiveness in the functioning of various authorities by such modifications in structures as may be necessary so as to have a cohesive and co-ordinated set-up with properly defined spheres of

authority for each of them, (b) avoiding overlapping of functions between various authorities by bringing about adequate decentralisation of powers and clear-cut demarcation of functions and responsibility, and (c) securing all round improvement in providing services to the public and for quicker redressal of public grievances;

- (iv) to make recommendation for amendments to existing laws or enactment of a new law wherever necessary.
- (v) to make such other suggestions or recommendations as the Committee may consider necessary to secure the objective.

1.1.3 The text of the Order is reproduced in Appendix I.

1.2 Scope of the Work

1.2.1 The study and examination to be made under items (i) and (ii) of the Terms of Reference are for the purpose of enabling the Committee to make recommendations referred to in items (iii), (iv) and (v). The field of study for the purpose of identifying the drawbacks in the functioning of the existing administrative authorities is extensive and covers all levels including that of the Central Government. It will include, among other things, the functional relationship (a) between the various Ministries of the Central Government on the one hand, and on the other, the Delhi Administration, including the Lt. Governor and the officials and agencies concerned with the administration of Delhi; (b) between the Lt. Governor and the agencies aforesaid; (c) between the Lt. Governor and the elected representatives of the people in the Metropolitan Council and the Executive Council; (d) between such elected representatives and the officials or agencies of government; and (e) between the various authorities and agencies inter se.

1.2.2 Having regard to the objectives in view, the aforesaid study and examination will be not only to see how far the existing arrangements are adequate to secure efficiency and effectiveness, but also to assess how far the administration is responsive and accountable to the members of the public and is able to give them satisfaction in meeting their requirements or responding to their grievances. Similarly, the study and examination of the existing structure and functioning of the municipal and other authorities will be to see how far the delivery of municipal and other services is efficient and effective from the point of view of the common man and is adequate to meet the needs of the growing population. In examining the problems created by multiplicity of authorities and overlapping of jurisdiction, the Committee will have to examine whether this is due to administrative reasons life lack of a proper arrangement for coordintion, or whether it is due to any structural deficiency like the absence of a responsible nodal authority at the local level with adequate legal and other powers for effective performance of its due role.

1.2.3 Items (iii), (iv) and (v) of the Terms of Reference indicate the range and scope of the recommendation the Committee can make on the basis of its study and examination. No express limitation is stipulated except that the recommendations should be so designed as to serve the purposes mentioned therein. It is clear that the recommendations may have to cover not only fuctnional aspects of administration. but also structural changes. On the functional side. the Committee will have to consider, among other measures, the need for adequate decentralisation of administrative and financial powers for meeting the needs of efficient administration and for dealing with the grievances of the public. On the structural side, as the emphasis is on redressal of the grievances of the common man and the delivery of better services to him, it is open to the Committee to consider whether the existing system under the Delhi Administration Act 1966, is adequate and effective or whether it shoud be replaced by an altogether new system which will secure not only efficiency and effectiveness but also accountability to the people. It is also open to the Committee to suggest other appropriate measures to ensure that the needs and grievances of the people are properly attended to and to secure that the functioning of the agencies of administration, including the police, meets the needs and interests of the people. The Committee has also to recommend such other changes as it considers necessary to reform, revitalise or rationalise the structure or functioning of the various agencies entrusted with the duty of providing civic and other services to the people.

1.2.4 It has been made clear in item (iv) of the Terms of Reference that the Committee is free to make suggestions for amendments to the existing laws or the enactment of a new law wherever needed. Obviously, amendments to the Constitution can also be suggested, if necessary. 1.2.5 The residuary clause in item (v) of the Terms of Reference enables the Committee to make such other recommendations as may be necessary for securing the objects in view. Such recommendations should, of course, be relevant to the main purposes.

# 1.3 PLAN OF THE WORK

1.3.1 The Committee circulated a comprehensive Questionnaire on March 21, 1988 to various individuals, bodies and sections of the public with the object of eliciting their veiw and suggestions on the issues relevant to the Terms of Reference of the Committee. Addressees were requested to send their responses by May 2 1988. This date was later extended to June 15, 1988. The text of the Questionnaire issued is reproduced at Appendix II.

1.3.2 Out of 1211 copies of the Questionnaire distributed, 976 were sent to Members of the Lok Sabha, the Rajya Sabha, the Metropolitan Council and Municipal Corporation. Eight National political parties were also addressed. 167 copies of the Questionnaire were sent to eminent citizens, members of the public, and citizens associations. Copies were also sent to 34 administrative departments and public utility undertakings. In addition 16 copies were sent to Secretaries to the Government of India, concerned with the Delhi Administration. In all, the Committee received 94 replies to the Questionnaire.

1.3.3 The Committee devoted considerable time to interviewing as many individuals as possible, either in their personal capacity or as representatives of institutions or bodies to obtain their views on various issues. In some cases clarifications were sought on points left unclear in their Memoranda to the Committee. Some eminent persons and knowledgeable individuals with long experience in administration and public . affairs, who had not found time to send written replies to the Questionnaire, were also invited and interviewed. In all, the Commttee interviewed 97 person belonging to various sections of society, and representing a wide spectrum of opinons and interests. Appendix III lists the individuals and representatives of bodies interviewed by the Committee.

1.3.4 An analysis of the written replies and oral testimonies received by the Committee reveals the following picture:-

# CLASSIFICATION OF RESPONSES

	Written Reply	Oral Testimony
Individual Citizens	18	16
<b>P</b> olitical Parties	5	18
Delhi Administration	4	4
Association of Citizens	21	11
Service Agencies Utilities	5	11
Central Ministries and Offices	6	4
Professional and Professional bodies	9	7
People's Representatives*	14	12
Trade & Commerce	9	12
Miscellaneous	3	2
Total	94	97

1.3.5 Among the National political parties, the Lok Dal (A), Lok Dal (B) and Congress (S) did not reply. People's representatives in the above table includes replies sent to behalf of politicals parties other than All-India political parties.

1.3.6 The Committee also perused important reports of Commissions and Committees set up from time to time by the Government of India, and having relevance to the task entrusted to the Committee.

1.3.7 Although the Committee was formally constituted on December 24, 1987, the Member Secretary was positioned in the third week of January, 1988. It was only towards the middle of June, 1988 that the work relating to securing of accommodation, organisation of the office, appointment of officers and staff of the Committee, etc., was completed. It became fully functional only thereafter.

1.3.8 The preliminary work of collecting materials and classifying them and of holding interviews with a large number of officials and nonofficials took the Committee to the end of October, 1988. During this period the Committee paid visits to Madras, Calcutta and Bombay to get first hand information about the problems faced in the administration of other metropolitan cities, specially relating to the working of local bodies, service agencies and police commissioner system. It also visited Pondicherry to ascertain information on the working of the Union territory administration with a legislature.

1.3.9 On January 17, 1989, the Chairman, Shri Justice R.S. Sarkaria, resigned from the Committee on being appointed as Chairman of the Press Council of India. Thereafter, the Committee's work was carried on with Shri S. Balakrishnan, one of the members, functioning as the Chairman.

# 1.4 SCHEME OF THE REPORT

1.4.1 The Report will be in two Parts. The First Part will analyse and deal with all issues connected with the determination of an appropriate structure of Government to suit the special requirements of the national capital and, at the same time, to provide for a responsible and administration to the people of responsive Delhi at the local level. It will contain the necessary background matrials and information relevant to the subject matter, and also deal with certain incidental and consequential matters pertaining to the main structure including decentralisation of powers and functions. This Part will cover the issues raised in Parts I and II of our Questionnaire.

1.4.2 The Second Part will analyse and deal with all other issues arising from the Terms of Reference, including the restructuring of the municipal authorities and other service agencies like the Delhi Development Authority (DDA), Delhi Electric Supply Undertaking (DESU), Delhi Water Supply and Sewage Disposal Undertaking (DWS&SDU), Delhi Transport Corporation (DTC), etc. This Part will cover issues raised in Parts III and IV of our Questionnaire.

\*This includes Members of Parliament, Members of Metropolitan Council and Municipal Corporation.

# HISTORICAL BACKGROUND

# 2.1 EARLY HISTORY

2.1.1\* Delhi can claim a hoary antiquity as a settlement. In archaeological terms its past can be associated with pre-historic times in view of the discoveries of paleolithic tools around the hilly areas in the vicinity of Delhi. The discovery of late Harappan pottery at Mandoli, a site on the eastern side of Yamuna on its old course near Nandnagari, suggests the existence of some rural habitation in this area about the middle of the second millennium B.C. The next stage of settlement in the area can be located in a few sites within the present territory of Delhi yielding plinted grey ware which may represent settlements of iron-using communities assignable to the early first millennium B.C.

2.1.2\* Traditionally, however, Delhi's past is linked with the Mahabharata legend of the foundation of Indraprastha, the site of which is believed to be the present Purana Qila. Extensive excavations carried out at this site have yielded evidence to indicate that the earliest habitation here belonged to the fifth or fourth century B.C. According to early Pali literature the territory of Delhi formed a part of Kuru-Mahajanapada (i.e. great country of Kurus) at the time of the Buddha. By about the third century B.C., Delhi was included in the empire of the Mauryas, and this is supported by discovery of a Minor Rock Edict of Ashoka on a rocky outcrop near Kalkaji in South Delhi.

2.1.3\* The excavations at Purana Qila have also shown that the main township of Delhi existed there throughout the ancient period from Mauryan times through Sunga, Saka-Kushana and Gupta periods. But it possibly ceased to be a township after 600 A.D. An inscription of the powerful Pratihara King Bhoja (circa 9th century) has been recovered from the ruins of Purana Qila, which records the construction of a temple facing west indicating the religious importance of the area.

2.1.4\*\* In the Rajput period, the Tomaras ruled the Haryana country from their capital Dhillika (present Delhi). The tradition runs that Taurs (a contraction of Tomaras), founded Delhi in 736 A.D. Of the important Tomara rulers of Delhi mention may be made of Ananga pala whose name is also inscribed in the old Iron pillar which formed originally, as early as the fourth century, the standard of an unidentified Vishnu temple. He is said to have constructed the Anangapur Dam. Another ruler, Surajpal, was the founder of Suraj-kund. Anangapala is said to have also built the Lal-Kot at Mehrauli which is the first known regular defence work in Delhi and may be regarded as the core of the so-called first city of Delhi. The Tomaras were defeated by Vigraharaja (1153-63) of Chahmana dynasty, and thereafter Delhi became a part of their dominion.

2.1.5\*\* An inscription on the Asokan pillar of the year 1163 or 1164 now in Kotla Firoz Shah, refers to Vigraharaja's conquest of the land between the Vindhyas and Himalayas. His capture of Delhi is mentioned in an inscription from Bijolia in Udaipur District, while other inscriptions refer to Delhi having been ruled successively by the Tomaras and Chauhans. Vigraharaja's grandson Prithviraja III, also known as Rai Pithora, the popular hero of stories of Hindu resistance against the Muslim invaders, was ruling over Delhi when Muhammad Ghauri led his incursions into India. The latter was repulsed at least once by a confederacy of the Rajputs under Prithviraja on the battle-field of Taraori in Karnal District. But the next year, in 1192, a crushing defeat on the same battle-field was inflicted on Prithviraja, and he was killed. After this Muhammad Ghauri retired to his native land, leaving Qutbu'd-Din Aibak, his slave and general, as his viceroy in India. In 1193 Qutbu'd-Din Aibak captured. Delhi, which was still in the hands of the Chauhans. Later, affter the death of Muhammad Ghauri in 1206, Aibak enthroned himself at Lahore as the first Sultan of Delhi. Delhi thus became the capital of the Slave or Mamluk dynasty, the first dynasty of the Muslim Sultans to rule over northern India.

2.1.6\*\* Five dynasties ruled with Delhi as their capital from the assumption of power by Qutbu'd-Din Aibak in 1206 till its conquest by the Mughals in 1526. In the final year of the twelfth century, Qutbu'd-Din is said to have laid

\*Information in paras 2.1.1, 2.1.2 and 2.1.3 is based on material furnished by Archaeological Survey of India. \*\*Information in paras 2.1.4 2.1.5 and 2.1.6 is opened on material token from Archaeological Survey of India and Binatiya Vidya Bhavan publications. the foundation of the Qutb-Minar, the tallest stonz-built tower in India, 72.5 m. in height, as a tower of victory; it was completed by Qutbu'd-Din's successor and son-in-law, Shamsu'd-Din Iltumish (1211-36).

2.1.7 The Slave dynasty retained the throne u til 1290 when it was usurped by Jalal-ud-din who founded the Khalji dynasty. This dynasty came to an end in 1321, and was followed by the Tughlak regime. The second ruler in this dynasty, Muhammed-bin-Tughlak, attempted in 1326-27 to shift the capital from Delhi to Deogiri (Daulatabad) in the Deccan, but this did not succeed. On his death in 1351, Firoz Shah Tughlak succeded to the throne. In 1398, Taimur from Central Asia swept through the Punjab and reached Delhi which was ravaged. Later, Muhammad Tughlak, a later ruler of this dynasty regained his former kingdom which included Delhi. The Tughlak dynasty was followed by the Sayyids who ruled in Delhi until 1444, and then gave way to the house of Lodis. Sikandar Lodi of the Lodi dynasty appears to have deserted Delhi for a while and made Agra his capital. In 1526, Babar, after having defeated and killed Ibrahim Lodhi, captured Delhi.

2.1.8 From Babar sprang the long line of Mughal Emperors. Humayun, son of Babar, made Delhi his residence, but was expelled in 1540 by Sher Shah Suri, who rebuilt the city. Sher Shah met his end in 1545, but the Sur dynasty continued to reign till 1555, when Humayun returned, overthrew the then ruler Sikandar Shah, and regained the throne. He was succeeded by Akbar. Both Akbar and Jahangir ruled from Agra or Lahore. In 1638, Shah Jehan transferred the capital from Agra to Delhi and laid the foundations of Shahjahanabad, the seventh city of Delhi, which was enclosed by a rubble wall, with bastions, gates and wickets at intervals. The construction of his femous citadel, the Lal Qila or Red Fort, at the town's eastern end on the banks of the Yamuna, was begun in 1639, and completed after nine years.

2.1.9 The decline of the Mughal Empire became visible in the latter part of Aurangzeb's reign; and its collapse was brought about by mutual dissensions, the growing entrenchment of foreign powers, and repeated blows dealt by Nadir Shah and his successor Ahmad Shah Durrani from Afghanistan on the one hand, and the Marathas on the other. In 1788 it was occupied by a Maratha garrison, and in 1803 the British entered the city after defeating the Marathas in the battle of Hindon. A large tract of territory west of the Yamuna, including Delhi, was seized by the British, but the Mughal Emperor was assigned a tract of land known as the Delhi Territory, to provide for the upkeep and maintenance of his family.

2.1.10 The Delhi Territory assigned to the Mughal emperor was exlcluded (through Regulation VIII from of 1805) the operations of the General Regulations made by the British, and was placed under the charge of an officer designated as the Resident ard Chief Commissioner of Delhi. The Mughal King retained exclusive civil and crimminal jurisdiction within the Palace, consulting the Resident in important matters; while throughout the assigned territory justice was administered according to Muslim law by British officers, but in the name of the Mughal King. The fiscal arrangements were under the entire control of the Resident and his subordinates. This arrangement, with some modifications, continued till 1832, when the office of Resident and Chief Commissioner was abolished and the Delhi territory was administered by a Commissioner 'in correspondence' with the Government of the North-West Province. The financial and judicial powers exercised by the Resident as Chief Commissioner were vested respectively in the Board of Revenue and the High (Sadr) Court at Agra. By virtue of Regulation V of 1832 the administration of the Delhi territory passed into the hands of the East India Company.

2.1.11 The city of Delhi was in the vortex during the events of the 1857 uprising. In its aftermath the Mughal King was tried by a commission and convicted of rebellion against the British Government. In 1858, a general disarming of the people took place and penal fines were levied from certain villages. By Act XXXVIII of 1858 Delhi became a Provincial town of the Frontier Province. Latter, it was transferred to the newly-formed Punjab under a Lieutenant-Governor.

2.2 POSITION DURING THE BRITISH PERIOD—1857-1947

2.2.1 When the British reoccupied Delhi in 1857, they constituted its territory as a district of the Province of Punjab. This arrangement continued for the succeeding 55 years. Imperial Durbars were held in Delhi in 1877 and 1903 to proclaim the glory of the British Empire. Calcutta was the seat of both the provincial Government of Bengal and the Central Government. It is interesting to note that conflicts of authority and jurisdiction arose between the Governor of Bengal and the Governor-General, which led lord Hardinge to bring these differences to the notice of the Secretary of State in London. In his famous despatch of August 25, 1911, Lord Hardinge stressed. "that the capital of a great Central Government should be separate and independent, and effect

has been given to this principle in the United States, Canada and Australia". The Governor-General also visualised a quasi-federal polity for India by gradually giving "the province a larger measure of self-government in all provincial matters with the Government of India above them and possessing power to interfere in case of mis-Government, ordinarily restricting their functions to matters of Imperial concern". He emphasized the need to keep the scat of the Central Government apart from that of the Provincial Government.

2.2.2. The shift from calcutta was also partly dictated by the need to insulate the capital from the revolutionary fervour in Bengal following political developments consequent on the partition of the province in 1905. Geographically, Calcutta was considered ill-suited to remain as the capital since it was not centrally located in British India. The choice of Delhi, in these circumstances, was decided as much by strategic as by political and historical considerations, apart from the expressed need voiced to avoid conflicts of authority and jurisdiction between the Provincial and Central Governments. This is clearly brought out in the observations of the Marquis of Crewe, the Secretary of Sate for India, who noted in the proceedings of the Home Department of December 1911, in this regard:

"Not only do the ancient walls of Delhi enshrine an Imperial tradition comparable with that of Constantinopole, or with that of Rome itself, but the near neighbourhood of the existing city formed the theatre for some most notable scenes in the old-time drama of Hindu history, celebrated in the vast treasure house of national epic verse. To the races of India for whom the legends and the records of the past are charged with so intense a meaning, this resumption by the Paramount Power of the seat of venerable Empire should at once enforce the continuity and promise the permanency of British sovereign rule over the length and breadth of the country. Historical reasons will thus prove to be political reasons of deep importance and of real value in favour of the proposed change."

2.2.3 An announcement of the decision to transfer the capital from Calcutta to Delhi was made at the Coronation Durbar held in Delhi on December 12, 1911. This announcement was followed by Government Notification No. 911 dated 17th September, 1912 under which the Governor-General-in-Council took under his authority the territories comprising the Tehsil of Delhi and the Police Station of Mehrauli, which were formerly included in the province of Punjab. The notification provided for the administration of these

areas as a separate province, under a Chief Commissioner, who exercised the functions of the Commissioner of a Division, financial Commissioner, Registrar of Births and Deaths, Inspector General of Registration and Police. Residual functions were carried out by officials of the Punjab Government. The Delhi Laws Act, 1912 (XIII of 1912) and the Delhi Laws Act, 1915 (Act No. 7 of 1915) made provisions for the continuance of laws in force in the territories comprising the Chief Commissioner's province of Delhi and for the extension of other enactments in force in any part of British India to Delhi by the Governnor-General-in-Council. In 1915, trans-Yamuna areas comprising 65 \*villages was separated from the former United Provinces of Agra and Oudh and added to the Chief Commissioner's Province of Delhi. With an area of some 673 sq. mile Delhi formed a separate administrative unit.

2.2.4 Under the Government of India Act of 1919, the Indian Legislature had the power to enact laws for the province of Delhi. However legislation for Delhi was made by extension of laws in force in Punjab and other States by not fications issued under the Delhi Laws Act, 1912 and 1915. This enabled the Governor-Generalin-Council to ensure, so far as possible, uniformity of laws with Punjab, since a substantial part of Delhi had originally formed an administrative district of that Province.

2.2.5 The Government of India Act, 1935 did not effect any material changes in the administrative set-up for Delhi and it continued as before to be a Chief Commissioner's Province directly administered by the Governor-General "acting to such extent as he thinks fit through a Chief Commissioner to be appointed by him in his discretion".

# 2.3 POSITION DURING 1947 TO 1950

2.3.1 When India attained Independence in 1947, Delhi continued to be administered directly by the Government of India and the different Departments of that Government began to deal directly with corresponding Departments in the Chief Commssioner's office. This arrangement continued till shortly after the commencement of the Constitution.

2.3.2 On July 31, 1947, in response to suggestions made in this behalf in the Constituent Assembly, a Committee under the Chairmanship of Dr. B. Pattabhi Sitaramayya was established to study and report on the constitutional changes required in the administrative structure obtaining in the Chief Commissioner's Provinces, including Delhi, to give to the people of these provinces a due place in the democratic government of free

\*Described in Schedule 1 to the Delhi Laws Act, 1915.

India. For considering an appropriate set-up for Delhi the Committee had before it notes and memoranda describing the administrative arrangements obtaining in some federal capitals like Washington D.C., and Canberra. Shri N. Gopalaswamy Ayyangar had also furnished a memorandum to the Committee on the future constitution of the Chief Commissioner's Provinces. One of the suggestions considered by the Committee was whether the cities of old and new Delhi should be separated from the area comprising the Chief Commissioner's Province of Delhi and placed directly under the Central Government with the remaining part of the area being added to East Punjab or divided between East Punjab and the United Provinces. This was not accepted and the Committee recommended that, while the Chief Commissioner's Province of Delhi might be kept intact, it might be provided with responsible government, subject to certain limitations. The Committee appreciated the circumstances leading to the formation of Delhi Province in 1912, and recognised "the special importance of Delhi as the Capital of the Federation". It was "of the opinion that the people of the province which contains the Metropolis of India should not be deprived of the right of self-government enjoyed by the rest of their country-men living in the smallest of villages".

2.3.3 The salient recommendations of the Committee were as follows :--

- (a) The Province should function under a Lt. Governor to be appointed by the President.
- (b) There should be a Council of Ministers with a Chief Minister at the head to aid and advise the Lt. Governor in the exercise of his functions. The Council of Ministers should be responsible to the Provincial Legislature. Any difference on any important matter arising between the Lt. Governor and the Ministry should be referred to the President for a final decision.
- (c) The number of Ministers should not exceed three, except with the approval of the President.
- (d) The Province of Delhi should also have an elected Legislature consisting of not more than fifty members, which might function like other Provincial Legislatures, except that :--
  - (i) the Union Legislature should have concurrent powers of legislation even in respect of matters included in the Provincial List;

- (ii) all laws passed by the Provincial Legislature would require the assent of the President.
- (iii) the Budget, after being voted by the Provincial Legislature, would require the approval of the President before it becomes operative.
- (c) The Centre must have special responsibility for the good Government and financial solver cy of the Province.
- (f) In view of the small area and limited resources of Delhi the need for Central assistance would continue for maintaining the standard of administration at the same level as in the major Provinces.

2.3.4 The Drafting Committee did not agree with these recommendations of the Pattabhi Sitaramayya Committee. It felt that Delhi, being the capital of India, could not be placed under a local administration, and pointed out that, in U.S.A. and Australia, their respective federal legislatures exercised exclusive powers in respect of the seat of federal government. It suggested, however, that, while Delhi should be directly administered by the President through a Lt. Governor, powers should be available to the President to create by an order a local legislature with such duties and functions as may be specified therein.

2.3.5 The Constituent Assembly went into the matter in all its aspects with a view to providing an appropriate administration for what was known as Part C States, which included the three former Chief Commissioners' Provinces of Delhi, Aimer and Coorg, and also some erstwhile Indian States which, after their merger with India, were centrally adminitered areas such as Himachal Pradesh, Bopal, Bilaspur, Cooch Behar, Kutch, Tripura, Manipur and Vindhya Pradesh. The decision finally taken was that the provision of Legislatures and Councils of Ministers to these territories should be left for the decision of Parliament for which an enabling provision should be made in the Constitution. A specific provision was made that these Part C States shall be administered by the President acting to such extent as he thinks fit through a Chief Commissioner or a Licutenant Governor to be appointed by him or through the Governor of a neighbouring State subject to certain procedural requirements. Articles 239 and 240 (as it then was) were accordingly inserted.

# 2.4 POSITION AFTER THE COMMENCE-MENT OF THE CONSTITUTION

2.4.1 Under the provision in article 240 (as it stood at the commencement of the Constitu-

tion) Parliament was authorised to create or continue, for any Part C State, a body, whether nominated, elected, or partly nominated, or partly elected, to function as a legislature for the State, or a Council of Advisers or Ministers, or both, with such constitution, powers and functions, as may be specified in the law. The then Prime Minister gave an assurance in the Constituent Assembly that an enactment in this behalf would be undertaken very soon.

2.4.2 Consequent upon this assurance and in pursuance of the power under article 240 (as it stood then), Parliament enacted the Government of Part C States Act, 1951, under which provision was made for a Council of Ministers in Delhi to aid and advise the Chief Commissioner and also for a legislature composed of elected representatives. It was made clear in the law that the legislative powers will be without prejudice to the plenary powers of Parliament to legislate on any subject. A specific provision was also made in the proviso to section 21 of that Act to the effect that the legislature for Delhi State shall not have the power to make laws with respect to :--

- (a) public order;
- (b) police, including railway police;
- (c) constitution and powers of municipal corporations, and other local authorities, of improvement trusts, and of water supply, drainage, electricity, transport and other public utility authorities in Delhi or New Delhi;
- (d) lands and buildings vested in or in the possession of the Union in Delhi or New Delhi, including all ancillary rights transfer of land and alienation threreof, etc.;
- (e) incidental matters like offences, fees and jurisdiction in respect of the bove.

2.4.3 Another specific provision was made to the effect that the Chief Commissioner and his Council of Ministers would be under the general control of and comply with such particular directions, if any, as may from time to time be given by the President. In pursuance of this Act, Delhi was provided with a Legislative Assembly and Council of Ministers from 1952 and this continued till 1956.

2.4.4 The States Reorganisation Commission which was set up in December, 1953, while studying the working of the units of the Union, took up the functioning of part C States for separate examination. In its Report (1955) the Commission expressed its opinion that Part C States were neither financially viable, nor functionally efficient and recommended that each of them should either be amalgamated with a neighbouring State or made a Centrally administered territory.

2.4.5 The Commission devoted special attention to the needs of the National Capital\*. It observed that the position in Delhi was more anomalous than other Part C States because of the special restrictions placed on its power by Section 21 of the Government of Part C States Act, 1951 and concluded that there was no justification for making it a constituent State of the Union. In reaching this conclusion, the Commission was primarily influenced by two factors: (i) Delhi was the seat of the Union Government; and (ii) it was basically a City Unit, with 82% of its total population in urban areas.

2.4.6 In the view of the Commission the attempt to reconcile Central control over the federal capital with autonomy at the State level had not worked smoothly and that according to the view expressed before it, the dual control arising from the division of responsibility between the Centre and the State Government of Delhi, had not only hampered the development of the Capital but had also resulted in a "marked deterioration of administrative standards in Delhi". With reference to the suggestion that New Delhi could be regarded as the national capital under the full control of the Union Government which the rest of Delhi could have a separate administration, the Commission felt that it was wholly unrealistic to draw a line between these two parts of the territory of Delhi due to their close interdependence on each other in the spheres of law and order, social life of the people, commerce and trade, and public utility services. The Commission came to the conclusion that the national capital must remain under the effective control of the National Government.

2.4.7 With reference to the plea for a popular Government, it observed: "We are definitely of the view that municipal autonomy in the form of a Corporation which will provide greater local autonomy than is the case in some of the important federal capitals, is the right and, in fact, the only solution of the problem of Delhi State". Such an arrangement, the Commission observed, appeared to be the most appropriate method to reconcile the broader requirements of the National Government as well as the local needs and wishes of the people.

2.4.8 This recommendation of the States Reorganisation Commission was one of those accepted by the Government and implemented

<sup>\*</sup>The Commission's Report in so far at it deals with the problem of reorganiztion of the set-up of Delhi State, has been reprodueed in full, in Appendix IV.

by the enactment of the Constitution (Seventh) Amendment Act, 1956. Among the far-reaching changes in the boundaries and names of various States, it also renamed Part C States as Union territories and omitted article 240, as it then stood, which enabled Parliament to create Legislatures and Council of Ministers. Consequent on this, Delhi ceased to be a Part C State and it became a Union territory under the direct administration of the President. The Legislative Assembly and Council of Ministers for Delhi also ceased to exist with effect from 1-11-56. In accordance with another recommendation of the Commission, the Delhi Municipal Corporation Act, 1957 was enacted constituting a Municipal Corporation for the whole of Delhi with members elected on the basis of adult franchise. The jurisdiction of the Delhi Municipal Corporation covered almost the entire Union territory of Delhi, including both urban and rural areas. The areas within the limits of New Delhi Municipal Committee and Delhi Cantonment Board were kept outside the jurisdiction of the Delhi Municipal Corporation, but the territorial jurisdiction of the New Delhi Municipal Committee was reduced to 42.73 kms. The Corporation took over the functions previously entrusted to ten local bodies and three statutory boards. In addition, the Corporate was also vested with certain functions which are not normally those of civic bodies.

# 2.5 POSITION AFTER 1966

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2.5.1 After the arrangements made in 1958 came into effect, there was considerable pressure of public opinion for providing a responsible ৰ সমন administration for Delhi. In partial response to this demand, the Delhi Administration Act, 1966 was enacted, to provide for a type of representative government for Delhi, by the creation of a Metropolitan Council, comprising 56 elected members and and five nominated members. An Executive Council was also constituted with four Councillors appointed by the President of the Union. The Metropolitan Council will have no legislative powers but it is empowered to discuss and make recommendations in respect of legislative and tudget proposals, development schemes and other matters referred to it by the Administrator. The Executive Council is meant to deliberate and thus assist the Administrator in the exercise of his functions in all matters, except in respect of certain reserved subjects such as law and order, services, police and land & buildings. It is not directly responsible to the Metropolitan Council. The system introduced by this Act is dealt with in greater detail in Chapter III.

2.5.2 The working of the administrative set-up in Delhi was examined and reviewed by the Administrative Reforms Commission. The main recommendation of the Commission, in its report of January 1969 in respect of Delhi are reproduced below:

1. "The administration of the Cantonment area may continue to be governed by the provision of the Cantonments Act, 1924, subject to such changes we may suggest in our report on 'Defen: c Matters'.

- 2. (i) For the purposes of municipal administration, New Delhi may continue as a separate unit.
  - (ii) The New Delhi Municipal Committee may consist of a President, five members to be elected from suitable territorial constituencies and five members to be nominated by the Central Government.
  - (iii) The President of the Committee should be nominated by the Central Government but he need not invariably be an official.
- 3. (i) Autonomous statutory bodies may be created for Transport, Supply of Electricity, and Water Supply and Sewage Disposal.
  - (ii) In addition to experts, the Cantorment Board, New Delhi Municipal Committee and the Delhi Metropolitar Council should have representation on these bodies. As a general rule, experts may constitute two-thrids and the others one-third of the members of the Boards.
  - (iii) Overall supervision of these bodies may vest in the Central Government functioning through the Administrator. The powers we recommend for the Central Government are indicated in paragraph 19.
  - (iv) The annual reports of these bodies may be discussed in the Metropolitan Council.

4 (i) The Metropolitan Council may be reconsituted so as to consist of :--

- (a) 56 members directly elected from territorial constituencies from areas outside the jurisdiction of the New Delhi Municipal Committee and the Cantonment Board.
- (b) Three representatives from the New Delhi Municipal Committee to be elected by its members from amongst themselves.
- (c) One member to be clected by the Cantonment Board from amongst its members.
- (d) One member each from the three statutory bodies to be set-up for Electricity Supply, Transport and Water Supply and Sewage disposal.

- (ii) The Delhi Municipal Corporation may be abolished and its functions entrusted to the Metropolitan Council.
- (iii) (a) The Metropolitan Council shall have the right to discuss and make recommendations with respect to the matters enumerated in para 25. Parliament will continue to legislate for this Territory.
  - (b) The recommendations of the Metropolitan Council on legislative matters must, as a general rule, be accepted by the Central Government and acted upon accordingly.
  - (c) The prohibitions which exist in the Rules of Business regarding initiation of legislation by the Territorial Administration without prior appreval of the Central Government may be removed.
- (iv) The Administrator may be empowered to function in his discretion in relation to the subjects enumerated in para 24.
- (v) In the exercise of his functions in the "transferred" field, the Administrator will be advised by the Executive Council consisting of a Chief Executive Councillor and two Executive Councillors. The Chief Executive Councillor should be appointed by the Administrator (who will select the person commanding a majority in the Metropolitan Council). The two Executive Councillors should be appointed by the Administrator on the advice of the Chief Excutive Councillor. The Executive Council will be collectively responsible to the Metropolitan Council.
- (vi) If any issue arises in the "transferred" field, which in the opinion of the Administrator impinged on any matter included in the Union List or the Concurrent List, he may refer it to the Central Government for their decision.
- (vii) The Administrator may be of the status of a Secretary in the Central Government. There may only be one or two Secretaries to assist him particularly in the 'reserved' subjects. Executive functions may be carried out through specialised departments.
- (viii) There should be a presiding officer of the Metropolitan Council elected by the Council. He will have no executive functions. He should be designated as

"Mayor" and will discharge the ceremonial function associated with the civic head of a city administration.

- (ix) (a) The Metropolitan Council may constitute a number of Standing Committees. Each of them may be presided over by the Chief Executive Councillor or an Executive Councillor in accordance with their portfolios. There may be a separate committee or committees for municipal functions.
  - (b) In respect of its municipal functions, the Metropolitan Council may be empowered to frame regulations and bye-laws.
  - (c) The executive functions of government may be carried out through specialised departments.
- (x) The Territorial Administration will be responsible for the administration of such tax laws as are normally levied by the States. It should also be empowered to levy the municipal taxes enumerated in paragraph 33.
- (xi) The Territory's budget may be broadly divided into three parts:
  The first, dealing with the purely municipal functions, which will be framed by the Territorial Administration and presented to the Metropolitan Council for vote;
  The second, dealing with the "reserved"

The second, dealing with the "reserved" subjects which may be framed by the Administration and submitted to the Central Government who will present it to Parliament for vote;

And the third, relating to "transferred" subjects, which may be framed by the Territorial Administration after ascertaining the quantum of Central assistance. When the budget has been discussed by the Metropolitan Council, its recommendations may then be forwarded to the Central Government who must, as a general rule, accept such recommendations.

(xii) As the Metropolitan Council will function in a manner similar to a legislature, Parliament and the Union Government may agree to forgo their right to intervene in matters falling in the "transferred" field".

2.5.3 These recommendations were discussed in the Municipal Corporation, Metropolitan Council and in Parliament. The recommendation for abolition of the Municipal Corporation was not accepted by Government. The Delhi Transport Undertaking was constituted into a Corporation in 1971, under the Road Transport Corporation Act, 1950. The recommendation for conferring a similar status on the Undertakings for Delhi Electric Supply, Delhi Water Supply and Sewage Disposal was considered but without reaching any final conclusion. No final decision was taken on any other recommendation.

2.5.4 In 1977, the then Government took a decision that Delhi should be given the same status as other Union territories with legislatures subject to special provisions to safeguard the interests of the Central Government in the national capital and with certain other modifications. Accordingly, the Constitution (Forty-Seventh) Amendment Bill, 1978 and Government of Union Territories (Amendment) Bill, 1978 were introduced in Parliament for this purpose. These Bills, however, lapsed, consequent on the dissolution of the Sixth Lok Sabha.



# **CHAPTER III**

# A BRIEF SURVEY OF PRESENT STRUCTURE

# 3.1 CONSTITUTIONAL ASPECTS

3.1.1 The Constitutional status of Delhi at present is that of Union territory governed by article 239 (1) of the Constitution which provides 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 with such designation as he may specify". In pursuance of this an Administrator, designated as Lt. Governor, has been appointed for administering the Union territory of Delhi. The implication of this provision is that, unless o herwise provided by Parliament, the President functions as the executive head of the Union territory with the administrator as his agent. The opening clause : "Save as otherwise provided by Parliament by law" means that Parliament may by law modify, abridge or regulate the extent or mode of exercise of the executive power of the President under article 239(1). The article does not enable Parliament to delegate its own powers of legislation, or to confer such legislative powers on any other authority. In line with this, the present law for the administration of Delhi, namely, the Delhi Administration Act 1966, (hereinafter referred to as the 1966 Act) provides only for the mode of exercise of certain categories of executive powers in relation to Delhi and does not confer any legislative power on the authority created by it under that law.

3.1.2 By virtue of article 246(4) of the Constitution, Parliament has power to make laws with respect to any matter for any part of a Union territory even though such matter is one enumerated in the State List. This comprehensive legislative function of Parliament to make laws for a Union territory has to be read with other specific provisions in that behalf in the Constitution itself. As at present the two specific provisions in this behalf are article 239 A and article 240, neither of which applies to Delhi.

3.1.3 Article 239-A, as inserted by the Constitution (Fourteenth Amendment) Act, 1962, reintroduced the provisions of article 240 as it stood at the commencement of the Constitution and enables Parliament to create by law bodies to function as legislatures or Councils of Ministers, or both, in the Union territories specified therein. In exercise of this power and the power under article 239, Parliament passed the Government of Union Territories Act, 1963 (hereinafter referred to as the 1963 Act) creating Legislative Assemblies and Councils of Ministers for certain Union territories. Delhi was not one of them. At present, article 239A is applicable only to the Union territory of Pondicherry, the other Union territories having become States. Article 240, which empowers the President to make regulations for the peace, progress and good government of certain Union territories specified therein does not cover the Union territory of Delhi.

3.1.4 As a consequence of the ambit of legislative power of Parliament under article 246 (4), the executive power of the Union in relation to Delhi extends to all matters including those in the State List. Among other things this will enable the issue of executive directions to the Administrator of Delhi, provided they are not inconsistent with any law made by Parliament regulating its exercise.

3.1.5 The present position in respect of Delhi therefore, is that Parliament is the sole authority to make law on all matters and the Union Excutive is the ultimate authority for exercising executive power in all matters subject to the provisions of any Parliamentary law regulating such exercise. As stated above, the Delhi Administration Act, 1966 is a law of this nature.

## 3.2 THE DELHI ADMINISTRATION ACT, 1966

3.2.1 The 1966 Act provides for the establishment of a Metropolitan Council and an Executive Council which together with the Administrator have been given certain specific functions in relation to Delhi. These are briefly set out in the succeeding paragraphs.

3.2.2 The Metropolitan Council for Delhi has 56 members chosen by direct election and not more than five non-official persons nominated by the Central Government. Seats are reserved for Scheduled Castes as in the case of a Legislative Assembly of a State. The qualifications for membership to fill a seat in the Metropolitan Council are the same as for a member of a State Legislative Assembly. All elections to the Metropolitan Council are held in accordance with the provisions of the Representation of the People Act, 1951 as in the case of a State Legislative Assembly.

3.2.3 The term of the Metropolitan Council, unless sooner dissolved, is five years from the date appointed for its first meeting. Under the Delhi Administration (Amendment) Act, 1988 the Central Government has taken powers to extend the term by such period, not exceeding one year at a time, as it thinks fit, upto a maximum of three years. The Administrator has the power to summon the Metropolitan Council to meet at such time and place as he thinks fit, but six months should not intervene between its last sitting in one session and the date appointed for its first meeting in the next session. The Administrator has the power to prorogue the Metropolitan Council. He can also, with the approval of the President, dissolve it. Provision has been made for a Chairman and Deputy Chairman for the Metropolitan Council. In all these matters, the provisions of the 1966 Act are analogous to those applicable to a State legislature.

3.2.4 The Administrator has a right to attend and address any meeting of the Council. Every member of the Executive Council has a right to speak in and otherwise to take part in the proceedings of the Metropolitan Council, and any Committee of the Council of which he may be named a member, but on occasions when he is not a member of the Metropolitan Council, he shall not by virtue of this provision, be entitled to vote. All questions at any sitting of the Metropolitan Council are to be determined by a majority of votes of the members present and voting other than the Chairman or the person acting as such.

3.2.5. Subject to the provisions of the Act. the Metropolitan Council can discuss and make recommendations with respect to proposals for undertaking legislation or for extension to Delhi under the relevant law of any enactment in force in a State, or any proposal for legislation, referred to it by the Administrator with respect to any of the matters enumerated in the State List or the Concurrent List in the Seventh Schedule to the Constitution in so far as any such matter is applicable in relation to Union territories. The Metropolitan Council can also discuss and make recommendations on the budget proposals relating to Delhi Administration as well as the Delhi Development Authority. Similarly it can discuss and make recommendations on matters of administration involving general policy and schemes

of development in so far as they relate to matters referred to above. It can also discuss any matter referred to it by the Administrator.

3.2.6. Proposals for undertaking legislation (including those for extension to Delhi of any enactment in force in a State) can be initiated by any member of the Metropolitan Council (including an Executive Councillor). Every such proposal shall be approved by the Executive Council, and thereafter the Administrative Department shall refer it to the Central Government for approval. After the proposal has been approved by the Central Government, it shall be placed before the Metropolitan Council. After consideration and adoption of the proposal by the Metropolitan Council with or without amendments, it shall be submitted to the Administrator through the Executive Council, who shall forward it again to the Central Government with the views, if any, expressed thereon by the Executive Council for approval.

3.2.7. The recommendations of the Metropolitan Council on matters other than legislative proposals, if any, after having been duly considered by the Executive Council, are to be forwarded, wherever necessary, by the Administrator to the Central Government with the views, if any, expressed thereon by the Executive Co-uncil. The Metropolitan Council has powers to make rules for regulating its procedure and conduct of business. A member has a right to ask questions on any matter within the purview of the Metropolitan Council. The Council cannot, however, discuss the conduct of any Judge of the Supreme Court or of a High Court in the discharge of his duties. In respect of any matter within the field of discretion of the Administrator, he has the power to make rules after consultations with the Chairman of the Metropolitan Council, and with the approval of the President, for prohibiting the discussion of, or regulating the asking of questions on, that matter. It would appear that no such rules have so far been made.

3.2.8. The Act provides for an Executive Council consisting of four members, one of whom is designated as the Chief Executive Councillor and others as Executive Councillors. The function of the Executive Council is "to assist and advise" the Administrator in the exercise of his functions in relation to matters enumerated in the State List or the Concurrent List of the Seventh Schedule to the Constitution, in so far as any such matter is applicable in relation to Union territories, except in so far as he is required by or under the Act to exercise his functions or any of them in his discretion, or by or under any law to exercise any judicial or quasi-judicial functions. The members of the Executive Council are appointed by the President, and they hold office during his pleasure. Any such member of the Executive Council, who for any period of six consecutive months is not a member of the Metropolitan Council, shall at the expiration of that period cease to be a member of the Executive Council. The Executive Council or its members are not made responsible to the Metropolitan Council collectively or otherwise. Each Executive Councillor has been assigned a group of Departments by virtue of the rules made by the President. The Executive Councillor in charge of a Department is primarily responsible for the disposal of the business pertaining to that Department. He may, by means of standing orders issued with the previous approval of the Administrator, give such directions as he thinks fit for the disposal of cases in the Department. The standing orders could also specify the matters or class of matters which should be brought to his personal notice.

3.2.9. The expression "to assist and advise" for spelling out the relationship between the Administrator and the Executive Council is significant. Under the scheme of the Cabinet form of government adopted by the Constitution for the Union and the States, the terminology used to denote the relationship between the Head of the State and his Council of Ministers is that the former should act on the 'aid and advise" of the latter. If this expression is used it means that all decisions of the government are taken by the popularly elected Ministers and the Head of the State must act on the advice of his Ministry. The Head of the State will thus only be a 'constitutional' Head. In the case of Delhi, main the expression "aid and advise" has been replaced by the expression "assist and advise" presumably to avoid the implications of the former terminology and to signify that the advice of the Executive Council to the Administrator is not binding on him.

3.2.10 The expression "in so far as any such matter is applicable to Union territories" is another important restriction on the powers of the Executive Council. The same expression occurs in the corresponding provision in the 1963 Act. Under the scheme of the Constitution, Union territories are not States but are administrative units administered by the President. This position holds even if a Parliamentary law provides a Legislative Assembly and a Council of Ministers for them Further, Union territories do not have the essential attributes of legal personality, such as the right to enter into contract, to acquire and hold property, or to sue or to be sued. In the subjects mentioned in the State List there are some Entries which can be applied only to States and not to Union territories. For instance, a Union territory cannot have any public debt nor can it have property vested in it. Accordingly, Entry 35 in the State List relating to property vested in the State or Entry 43 of that List relating to Public debt of the State cannot apply to a Union territory. Similarly, Entry 41 of that List relating to State public services cannot apply to it because under the Constitution there are only two categories of services namely, Services under the Union and Services under the State. There is no third category of services under Union territories.

3.2.11 In the case of difference of opinion between the Administrator and the members of the Executive Council on any matter the Administrator is required to refer it to the President for decision and to act according to the decision given thereon by the President. Pending such decision, the Administrator is competent, in any case where the matter is in his opinion so urgent that it is necessary for him to take immediate action, to take such action or to give such direction in the matter as he deems necessary.

3.2.12. The Administrator is required to preside over every meeting of the Executive Council. If, however, he is not present the Chief Executive Councillor may preside over such meeting of the Council.

3.2.13. The Act excludes certain subject from the purview of the Metropolitan Council as well as the Executive Council. These are referred to as 'reserved subjects' in which the administrator acts in his discretion. In this field are included his functions of judicial or quasijudicial nature and matters with respect to law and order in Delhi including the organisation and discipline of the police force and such other matters as the President may from time to time specify in this behalf. Under the last-mentioned category the President has specified matters dealt with by the Home Department, Services Department and Land and Buildings Department of Delhi Administration, as well as matters concerning New Delhi. Every decision taken by the Executive Council or a member thereof in relation to any matter concerning New Delhi will be subject to the concurrence of the Administrator, and in such matters in the case of difference of opinion the Administrator may take such action as he considers necessary. The authority for deciding whether any matter is or is not a reserved subject, or whether the matter is such where he is required by or under any law to exercise any judicial or quasi-judicial function or whether the matter concerns New Delhi, is the Administrator.

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3.2.14. The conduct of business in Delhi Administration is governed by rules made by the President and these may provide :---

- (a) for the allocation of business to the members of the Executive Council in so far as it is not business with respect to a reserved subject; and
- (b) for the more convenient transaction of business with the members of the Executive Council, including the procedure to be adopted in the case of a difference of opinion between the Administrator and the members of the Executive Council or a member of that Council.

These Rules prescribe the procedure for the functioning of the Executive Council, and enumerate classes of cases which require to be submitted to the Administrator through the concerned Executive Councillor before the issue of orde rs. As regards matters relating to transferred Subjects, papers generally emanate from Depart ments or Directorates and are routed through the Secretary concerned and go to the Executive Councillor. The more important of them may also be routed through the Chief Secretary and may go up to the Lt. Governor. Wherever necessary cases are put up to the Executive Council. In regard to reserved subjects, cases are not routed through the Executive Councillors; nor are such matters put up to the Executive Council.

3.2.15 The Act confers on the Central Government general powers of superintendents and control over the Administrator and the members of the Executive Council. Section 30 makes a specific provision in this behalf under which the Administrator and the members of the Executive Council are under the general control of, and comply with such particular directions, if any, as may from time to time, be given by the President.

3.2.16 Section 31 of the Act makes provision for dealing with a situation when there is a breakdown of administration and provides that if the President, on receipt of a report from the Administrator, or otherwise, is satisfied—

- (a) that a situation has arisen in which the administration of Delhi cannot be carried on in accordance with the provisions of the Act; or
- (b) that for the proper administration of Delhi, it is necessary or expedient so to do,

the President may, by order, suspend the operation of all or any of the provisions of the Act for such period as he thinks fit and make such incidental and consequential provisions as may appear to him necessary or expedient for administering Delhi in accordance with the provisions of article 239.

## 3.3 ROLE OF THE ADMINISTRATOR

The Administrator is appointed by the President, i.e. Central Government under article 239(1) of the Constitution. He has in the first place to perform such functions as are entrusted to him by the President under article 239 and these may include functions relating to matters in the Union List. He has also to perform such other functions as he is required to perform by or under any law of Parliament including the 1966 Act.

#### 3.4 ROLE OF THE UNION MINISTRIES

3.4.1 Several Ministries of the Central Government deal directly with certain subjects relating to the administration of Delhi. For instance, the Union Ministry of Agriculture deals directly with the Delhi Milk Scheme; the Union Ministry of Surface Transport deals directly with the Delhi Transport Corporation; the Union Ministry of Urban Development deals directly with the Delhi Development Authority.

3.4.2 The intention when the 1966 Act was enacted appears to have been that the Delhi Administration, under the structure provided by that Act, should function autonomously. This is made clear in Ministry of Home Affairs letter No. 40/7/68-Delhi dated 2-9-1968 to all Ministries, that, as a matter of policy, and irrespective of the legal position, the Delhi Administration should not be treated as a body subordinate to the Central Government, but as an autonomous body, particularly with regard to 'transferred' subjects. These instructions do not appear to have been followed in practice, presumably because the Union Ministries concerned have to deal with issues or questions raised in Parliament in regard to the affairs of Delhi and have consequently to assure themselves that the general policies laid down by the Union Government govern the major actions of the Delhi Administration.

## 3.5 RELATIONS OF ADMINISTRATOR WITH CENTRAL GOVERNMENT

The Rules of Business made by the President supplement the Act by requiring the Administrator to make a prior reference to the Central Government before passing orders in respect of the following matters, namely:—

(a) All important cases raising questions of policy or of administrative importance;

- (b) Important cases which affect or are likely to affect the peace and tranquility of the Union territory;
- (c) Cases which affect or are likely to affect the interests of any minority community, Scheduled Castes, Scheduled Tribes and Backward Classes;
- (d) Cases which affect the relations of the Central Government with any State Government, the Supreme Court or the High Court exercising jurisdiction in relation to the Union territory;
- (c) Proposals for appointment of Chief Secretary, Finance Secretary, Development Commissioner and Inspector General of Police and appointment to posts which carry a specified maximum salary; and
- (f) Certain proposals in so far as they relate to incurring of expenditure from the Consolidated Fund of India.

# 3.6 PUBLIC SERVICES

Persons serving in the Delhi Administration being persons serving in connection with the affairs of the Union, are governed by rules and orders issued from time to time by the Central in this regard Government. Certain powers have been delegated to the Administrator. All appointments to Central Civil Services and posts in Class I under the Delhi Administration are made by the Administrator. Appointment to the post of Chief Secretary or Finance Secretary or Commissioner of Police has, however, to be made with the previous approval of the Central Government. In respect of appointments to posts carrying a salary more than a specified maximum, the Administrator is required to make a prior reference to the Central Government. The Administrator does not have powers to make appointments to the All India Services and DANI (Delhi, Andaman & Nicobar Islands) Civil and Police Services, which are made by the Central Government. He has been delegated the power to make rules in consultation with the Union Public Service Commission, wherever necessary, in regard to recruitment and conditions of service . of personnel serving the Administration except officers belonging to a common cadre.

# 3.7 FINANCIAL ARRANGEMENTS

3.7.1 The budget of the Delhi Administration forms part of the Central Budget, and is reflected in the Area Demand (Delhi) of the Ministry of Home Affairs. Delhi has to Consolidated Fund or Contingency Fund of its own. All receipts of the Delhi Administration are credited to the Consolidated Fund of India and expenditure is appropriated from the Fund. However, the financial provisions for Central Government schemes including Centrally Sponsored Plan schemes implemented in Delhi are shown in the Central Demands of the respective Ministries.

3.7.2 Certain financial powers have been delegated by the Central Government to the Delhi Administration. However, in respect of certain proposals a prior reference needs to be made to the Central Government even before exercising any such delegated powers. These are listed in the Delhi Administration (Business) Rules, 1966 as amended from time to time.

3.7.3 The Annual Development Plan is formulated by the Delhi Administration. After consideration by the Executive Ccuncil and the Administrator this Plan is required to be referred to the Central Government for approval.

3.7.4 The budget for Delhi is the concern of the Centre. All budget proposals relating to non-plan expenditure are submitted by the Delhi Administration to the Ministry of Home Affairs who finalises these proposals after consultation with the concerned administrative ministries wherever necessary. In so far as the budget proposais relating to the plan schemes are concerned, the Delhi Administration is required to inter-act with the subject matter ministries and the proposals are discussed in the meetings with the representatives of the Ministries and Planning Commission. After the sectoral plan outlays are finalised by the Planning Commission in the light of these discussions, the Delhi Administration formulates the proposals relating to the plan schemes in accordance with these outlays and sends the proposals to the Ministry of Home Affairs. All the budget proposals relating to plan as well as non-plan expenditure are then consolidated in one demand known as Delhi Area Demand of the Ministry of Home Affairs which forms part of the Central budget and is passed by Parliament. Thus several ministries of the Central government are involved in the finalisation of budget proposals and the Delhi Administration is required to inter-act with them at various stages.

# 3.8 DEPARTMENTS DEALING WITH THE PUBLIC

3.8.1 We will now proceed to describe briefly the functional and organisational set-up of some of the Departments having substantial interface with the public.

# (1) DEPUTY COMMISSIONER, DELHI

(a) The history of the office of Deputy Commissioner, Delhi goes back to 1803. Delhi was first organised into a regular district of the then "Delhi Territory" in the year 1819 under the charge of a Principal Assistant and subsequently of a District Collector under the Chief Commissioner. The Delhi District was first divided into three regular tehsils i.e. Delhi, Sonepat and Ballabgarh in the year 1861 when Delhi was one of the districts as well as the headquarters of a division under the Lieutenant Governor of Punjab. While reconstituting Delhi as a Chief Commissioner's Province in 1912, the areas of Sonepat and Ballabgarh tensils, except the area under the Mehrauli police station, were merged into Rohtak and Gurgaon districts respectively. In the year Shahadara Pargana of Ghaziabad tehsil, 1915. alongwith certain villages, was merged into Delhi. In 1925-26, three more villages were transferred to Delhi and these boundaries have continued till date, except for some minor changes on account of alterations in the course of the Yamuna river.

(b) At the time of Independence, the Deputy Commissioner's office was like any other district office in the country, and the field officers of a large number of departments functioned under his overall supervision. However, over the years, various departments have been separated" from the control and overall supervision of the Deputy Commissioner. With the separation of judiciary from the executive in 1974 under the new Code of Criminal Procedure and introduction of the Police Commissioner system in 1978, the Deputy the Deputy Commissioner ceased to perform functions of magistrates. The Police Commissioner system entailed the transfer of functions relating to law and order, crime control, and administration of certain laws to the Police.

(c) At present the Union territory of Delhi comprises a single revenue district divided into subrdivisions and tehsils. The sub-divisions broadly correspond to the territorial limits of police stations. The Deputy Commissioner, as District Magistrate, is assisted by Additional District Magistrates, and Sub-Divisional Magistrates. They look after the executive magisterial work under the Criminal Procedure Code left with them. The work is distributed among them both functionally and territorially. The tehsildars look after the revenue, land records and miscellaneous work pertaining to their tehsils. For dev lopment purposes, Delhi is divided into five blocks, each under a Block Development Officer.

(d) All the offices pertaining to the Deputy Commissioner's establishment are located at one place in the Tees Hazari Courts building, except for the Sub-Divisional Magistrates of New Delhi, South Delhi and Shahadara. The tehsil offices are located at Tees Hazari, Mehrauli and Najafgarh. The Block offices are located at Shahadara, Mchrauli, Najafgath, Alipur and Nangloi.

(e) The Deputy Commissioner, Delhi, has been appointed as the Chief Controller of Revenue Authority under the Indian Stamp Act, 1899 and Inspector General of Registration under the Registration Act, 1908. An officer of the level of an Additional District Magistrate has been appointed as the Registrar under this Act. Under him there are four sub-registrars located at Kashmere Gate, Krishna Nagar, Asaf Ali Road and I.N.A. Colony,

(f) The position in regard to the maintenance and custody of land records in Delhi appears to be unclear. The Deputy Commissioner is charged with the responsibility of maintaining the land records of the revenue district of Delhi. The basic land records are "Shijrah" (Field map), "Khasra-Girdavari" (record of cultivation), Khatauni (record of ownership and the area of the holdings) and the Record of Rights (record of owners of land). These records are main-tained for each village. The "Khasra-Girdavari" is required to be done twice a year by the Halqa Patwari in the rural areas supervised by the kanungo, naib tehsildars and tahsildars. When land is acquired for and transferred to the DDA or other concerned agency no further updating of records is done by the Revenue Office. We were given to understand that changes in land use status after it has been constructed upon, have not been carried out in the records and filed maps kept in the Revenue Office.

And other offices in possession of the acquired and other offices in possession of the acquired land maintain their own separate records. Thus, at present, updated records pertaining to land under various uses and ownership cannot be had at any one place.

> (2) COMMISSIONER, FOOD, SUPPLIES AND CONSUMER AFFAIRS

The Department of Food, Supplies and Consumer Affairs is located in old Delhi under a Commissioner who is assisted by three Deputy Commissioners, one each for the South, Rural and Central zones and three Assistant Commissioners for East, West and North zones. These offices are also located at the headquarters. The field organisation consists of forty-four circle offices, each headed by a Food and Supplies officer. The circle offices are located in various local areas, and deal with issue of food cards, and supervision over distribution of essential commodities through retail outlets. The public have access to these local officers and higher officers herever necessary.

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## (3) COMMISSIONER, SALES TAX

The Commissioner of Sales Tax is assisted by an Additional Commissioner, two Deputy Commissioners and several Assistant Commissioners. The territorial jurisdiction is divided into fifty sales tax wards, each headed by a Sales Tax Officer, assisted by subordinate officers. The Department has seven appellate zones each under the charge of an Assistant Commissioner. However, all these officers in charge of wards as well as other officers of the Department are located at the Headquarters in the Indraprastha Estate. The assessees from all over Delhi have to come to that place for all their needs and grievances. The Sales Tax Tribunal functions in the Tees Hazari Courts building.

#### 3.9 THE POLICE ORGANISATION

3.9.1 The organisation of the police force in Delhi is more or less on the lines of other metropolitan cities with a Commissioner of Police at the helm and with a hierarchical structure similar to what is obtaining in the major cities. But, unlike other State capitals the elected representatives of Delhi, that is, those in the Executive Council and Metropolitan Council of Delhi, are not empowered to take decisions on matters relating to the subjects of public order and the police. These subjects, referred to as reserved subjects, are the concern of the Administrator who acts in his discretion when dealing with these matters. The Administrator is of course subject to the control of the Central Government and so it can be said that, in Delhi, police and public order are matters in which the Central Govt. is directly involved. It would appear that some kind of working arrangement exists between the Administrator and the Central Government with regard to the day-to-day functioning of the police in Delhi, but the exact division of functional responsibility between the two is not well defined.

3.9.2 The Commissioner of Police heads the police organisation in Delhi. He is assisted by ten Additional Commissioners of Police. There are three police ranges in Delhi i.e. North, South and New Delhi each under the charge of an Additional Commissioner. The remaining seven Additional Commissioners of Police look after the Administration, CID and Special Branches, Operations, Training, Security, Traffic, Armed Police and Rashtrapati Bhawan (Security).

3.9.3 There are nine police districts i.e. North, North-west, Central, South, South-west, west, New Delhi, North-east and East, each headed by an officer of the rank of Deputy Commissioner of Police, equivalent to either a Senior Superintendent of Police or a Superintendent of Police. In the larger police districts, the DCP is assister by an Additional DCP of the rank of SP. The police districts are sub-divided into thirty-three police sub-divisions, each under the charge of an Assistant Commissioner of Police (Deputy Superintendent of Police). The nine police districts comprise one hundred police stations each headed by an SHO of the rank of an Inspector of Police, who is assisted by other subordinate ranks.

3.9.4 At police headquarters, in addition to two Deputy Commissioners of Police for administration, there are twelve more Deputy Commissioners of Police, looking after various functional duties such as Traffic, Special Branch, Crime and Railways, Licensing, Security, Vigilance, Communications and so on. The total strength of the police force, including Delhi Armed Police (DAP), as on 1-3-89 was 48,697, excluding the ministerial establishment. Delhi Police has ten batallions of Armed Police, each headed by an officer of. the rank of a Deputy Commissioner of Police.

3.9.5. In addition to the police, other armed forces of the Union like the C.R.P.F. are also deployed in Delhi for a variety of duties. The personnel of these forces are not concerned with the prevention, detection, investigation and prosecution of crimes. The common man is mostly concerned with these functions. However, the Government can use these forces and the armed forces for maintaining peace.

3.9.6. In Delhi what is known as the "Police Commissioner" system has been adopted consequent on the enactment of a law of Parliament in 1978. The system, in essence, provides for the exercise by police officers of certain powers normally exercisable by Executive Magistrates, in addition to their normal police functions under the Code of Criminal Procedure, 1973. The system itself is not new as it has been functioning for nearly a century in Bombay, Calcutta and Madras. But what is novel in the system adopted in Delhi is that the powers conferred on the police cover an extensive field. We will deal with this system in detail in Chapter VII.

3.9.7. The foregoing is a broad outline of the organisation of the police system in the capital mainly for the normal functions of the police-However, in the national capital there are other special forces for security. particularly of VIPs, which play an important role. Such forces have necessarily to depend on, cooperate with and coordinate with, the regular police forces. This adds an important dimension to the organisation and functioning of the police in the national capital.

# 3.10 ADMINISTRATION IN RURAL AREAS

3.10.1 The Union territory of Delhi includes dural areas, at present covering about 253 villages.

The provisions of the Delhi Municipal Corporation Act, 1957 apply to the whole of the Union territory including rural areas, with the exception of areas falling within the jurisdictional limits of the New Delhi Municipal Committee and the Delhi Cantonment Board.

3.10.2 The expression 'rural areas' as defined in the Act, means the areas of Delhi which, immediately before the establishment of the Corporation, were situated within the local limits of the erstwhile District Board of Delhi established under the Punjab District Board Act, 1883. Under section 507 of the D.M.C. Act 1957, the rural areas can be exempted by notification from the application of certain provisions of that Act. The Corporation, with the previous approval of the Central Government may, by notification. declare that any portion of the rural areas shall cease to be included therein, and upon the issue of such notification, that portion shall be included in and form part of ruban areas. Notifications have been issued from time to time whereby parts of rural areas have been thus urbanised. After such urbanisation, all the provisions of the Act will apply to those areas. In this manner out of a total of 359 villages in Delhi at the commencement of the Act, 106 have been so far urbanised, cleaning balance of 253 rural villages.

3.10.3 Sub-section (b) of section 507 of the Act provides that the Corporation, with the previous approval of the Central Government may, by notification in the official Gazette, exempt the rural areas or any portion thereof from such of the provisions of the Act, as it, deems fit. In pursuance of this provision the Municipal Corporation issued a notification on 24-8-1963 exempting the rural areas from some of the sections of the Act relating to building regulations, registration and control of dogs, licensing of markets, butchers, fishmongers and poulterers, hawking of articles and of eating houses, etc. In the matter of levy of taxes, rates, fees and other charges in the rural areas, or any portion thereof, the Corporation, with the previous approval of the Central Government, by notification in the official gazette, can fix rates lower than those levied in the urban areas, or exempt the rural areas or any portion thereof from the levy of any tax, rate, fee or other charges.-We are given to understand that taxes in rural areas are levied at lower rates or they are totally exempted in some cases.

3.10.4 For developmental activities the rural areas of Delhi have been divided into five Blocks. The Block Development Officer Incharge of the Block, co-ordinates the activities in the Block and reports to the Development Commissioner, who co-ordinates activities connected with agriculture, irrigation, fisheries, animal hsubandry, and horti-3589 HA/89-4 culture. He also handles all matters relating to Panchayat Raj System.

3.10.5 The provision of civic amenities in rural areas (including the provision of drinking water) comes within the purview of the Municipal Corporation. The Delhi Electric Supply Undertaking (DESU) is providing electricity and the Delhi Transport Corporation (DTC) is managing the transport system.

3.10.6 The Panchayat Raj System has been organised under the Delhi Panchayat Raj Act, 1954. The Study Team of the Administrative Reforms Commission on Administration of Union Territories and North East Frontier Agency (NEFA) in its report submitted in September 1968 stated as under with regard to the Panchayat Raj System in the Union territory of Delhi :--

"In this Territory, Panchayti Raj is still in the initial stages. Evidently, the intention is to organise it at two levels, viz., the village and block levels. At the lower level, the 259 villages of the Territory have been constituted into 194 Gaon Sabhas. Each Gaon Sabha has a Gram Panchayat as its executive wing. At the Block level, through executive orders of the Lt. Governor, five Panchayat Samities (one in each of the C.D. Blocks of the Territory) have been constituted. There is no district level body and there is no likelihood of any provision being made for such a bcdy because of the fear of conflict between a district level panchayat body on the one hand, and the Corporation and the Territorial Administration on the other. There are in addition 23 Circle Panchayats in the Territory. These are statutory bodies somewhat in the nature of Nyaya Panchayats, but along with their judicial fuctions, they also undertake a number of executive duties. In 1966 a Bill was introduced in Parliament to constitute Panchayat Samitis and Nyaya Panchayats in the Union Territory of Delhi. However, with the dissolution of the House prior the Fourth General Election, the Bill lapsed. The Delhi Administration is now reconsidering the whole matter."

3.10.7 The position regarding the Panchayat Raj System in Delhi virtually remains the same as brought out in the preceding paragraph. The members and pradhans of the Gaon Panchayats and members of the Circle Panchayats are directly elected by the people. Reservation of scats has been provided for Scheduled Castes and Women. The Gaon Panchayats have been entrusted with the general superintendence, management, and control of gaon sabha lands, trees, public wells, fisheries, tanks, ponds, water-channle,s abadi sites, forest etc. vested in the Gaon Sabha. The Gaon Panchayts are also implementing plan schemes at the village level such as distribution of housesites to the economically weaker sections of society, cleaning and deepening of village ponds, maintenance of village chaupals, street pavements etc. depending on the availability of funds.

3.10.8 The Panchayat Samities Bill, 1966, which lapsed on account of dissolution of the Lok Sabha, appears to have been shelved.

## 3.11. THE MUNICIPAL CORPORATION

3.11.1 The discharge of municipal functions in Delhi is the responsibility of three agencies, viz. (i) Municipal Corporation of Delhi (MCD); (ii) New Delhi Municipal Committee (NDMC); and (iii) Delhi Cantonment Board. The Municipal Corporation of Delhi covers an area of about 1400 sq. kms. out of a total area of 1485 sq. kms. comprising the Union territory of Delhi. This includes 891 sq. kms. of rural area. The remaining area is shared by the NDMC and Delhi Cantonment Board which have 42.73 sq. kms. and 43 sq. kms. under their respective jurisdictions.

3.11.2 The Municipal Corporation of Delhi was constituted as a body corporate under the Delhi Municipal Corporation Act, 1957 the object of which was to set up a Corporation "charged with the municipal Government of Delhi". It is composed of one hundred councillors chosen by direct election on the basis of adult suffrage and six aldermen who are elected by the councillors from out of those who are qualified to be councillors but are not councillors themselves. Elections to the MCD are held in accordance with the prescribed procedure. The Act contains detailed provisions to ensure the holding of free and fair elections and for incidental matters.

3.11.3 The functions of the Corporation fall into two categories, viz. obligatory and discretionary. The important obligatory functions include the construction, maintenance and cleansing of drains and drainage works and public latrines, supply of water, generation, supply and distribution of electricity, compulsory primary education, fire services, public works, etc. The discretionary functions of the Corporation ininclude furtherance of education (other than primary education) including cultural and physical education, establishment and maintenance of libraries, museums, art galleries, reception of persons of distinction, etc. It is clear from the above that these functions include some which are normally performed by the Government or its agencies. The list of discretionary functions includes a residual clause : "Any measure not hereinbefore specifically mentioned, likely to promote public safety, health, convenience or general welfare".

3.11.4 These functions are discharged by the Municipal Corporation in that part of Delhi which excludes the area covered under the jurisdiction of the NDMC and Cantonment Board. The Corporation has been charged with the responsibility of discharging these functions in respect of rural areas also but some of these functions can be excluded by a notification. The discharge of these functions of the Municipal Corporation also gets circumscribed in the areas declared development areas under the Delhi Development Act, 1957.

3.11.5 The Municipal Corporation has а deliberative wing and an executive wing. The Mayor or in his absence the Deputy Mayor presides over the meetings of the Corporation. The Corporation expresses its decisions in the form of resolutions passed by it. One of the main functions of the Corporation is to pass the budget estimates including those for the undertakings relating to electric supply, water supply and sewage disposal. The Corporation has the power to impose certain taxes, cesses, rates, fees and other charges specified in the Act. It has the power to borrow and raise loans subject to the previous sanction of the Central Government.

3.11.6 The Standing Committee is an important authority of the Municipal Corporation created for the efficient performance of its functions as listed in the Act. Among its important functions, may be mentioned those relating to budget, sanction of expenditure, creation of posts, appellate functions, sanction of contracts etc.

3.11.7 In addition to the Standing Committee, the Corporation has other important Committees dealing with certain matters concerning the common man. These are briefly indicated below. A fuller account of these Committees will be found at the appropriate places in the report.

- 1. Delhi Water Supply and Sewage Disposal Committee-a Committee to deal with water supply and sewage disposal for the whole of Delhi.
- 2. Delhi Electric Supply Committee—a Committee with the responsibility for the generation and supply of electricity for the whole of Delhi.
- 3. Rural Area Committee—a Committee to deal with all matters relating to rural areas forming part of the area under the Corporation.

The first two Committees consist of elected representatives of the Corporation besides

experts nominated by the Centre. The other Committees of the Corporation consist of elected representatives only. It is understood that the respective Committees discharge all the functions including those of acceptance of contracts, appointment to posts in the Undertaking etc.

3.11.8 With a view to decentralise the municipal administration, the area under the Delhi Municipal Corporation has been divided into ten zones. Special Zonal Committees have been set up for each of these zones and these Committees consist of the councillors from the concerned Wards falling in each zone. The Zonal Comttees enjoy all the powers to sanction estimates and plans for civil works to be carried out within their zones subject to the authorised budget provision. They are authorised to consider the budget proposals and review the monthly and quarterly progress of the working of various departments in their zone. Zonal officers are expected to coordinate the working of 'the various branches of the Corporation and to attend to complaints from the public in their respective zones.

3.11.9 The Commissioner is the principal executive head of the Corporation and the entire executive power for the purpose of carrying out the provisions of the Act other than those pertaining to the Delhi Electric Supply Undertaking vests in him. The Commissioner is appointed by the Central Government and holds office for 5 years unless transferred earlier. He is removable from office by the Central Government if at a special meeting the Corporation adopts a resolution for such removal by a majority and a of not less than three-fifths of the total number of members. The Central Government may also remove the Commissioner from office at any time if it appears to the Government that he is incapable of performing the duties of his office or has been guilty of negletct or misconduct in the discharge of such duties which renders his removal expedient. He is also the head of the Delhi Water Supply and Sewage Disposal Undertaking. As regards DESU the General Manager (Electricity) is the executive head for carrying out the provisions of the Act. The audit functions relating to the Corporation are performed by the Chif Auditor who is appointed by the Central Government and submits his reports to the Standing Committee of the Corporation. The main officer for the deliberative wing of the Corporation is the municipal Secretary. He is responsible for preparing agenda and proceedings of the meetings of the Corporation and of Committees.

3.11.10 The laws relating to municipal authorties usually provide for a measure of control over their functioning by the State Governments. In

the case of Delhi such control is exercised by the Central Government. The main powers of the Central Government include approval of bye-laws and regulations, calling for records, reports and accounts; inspection of works, accounts and property, etc. The most important of these powers is the power to issue direc-tions to the Corporation for the proper performance of its duties. Similarly in the case of water supply and elctricity, the Central Government can issue directions to the Committees concerned on policy matters. An important power of the Central Government is that of the supersession of the Corporation. If the Central Government is of the opinion that the Corporation is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under the Act or any other law or exceeds or abuses its powers, the Central Government may by an order published, together with a statement of the reasons therefor, in the official Gazette, declare the Corporation to be incompetent or in default or to have exceeded or abused its powers, as the case may be, and supersede it for such period as may be specified in the order. Before making such order, reasonable opportunity will have to be given to the Corporation to show cause why such order of supersession should not be made. The order of supersession together with a statement of the reasons therefor shall be laid bfore both Houses of Parliament as soon as it is made.

3.11.11 It is obligatory for the Corporation to supply to the New Delhi Municipal Committee and to the Military Engineering Services (for the Delhi Cantonment Board) water and electricity in bulk. The Municipal Corporation has also to receive in bulk from the New Delhi Municipal Committee sewage delivered by them and to dispose of such sewage. These bodies are liable for payment of charges to the Corporation. In case of disagreement between the Delhi Municipal Corporation and the New Delhi Municipal Committee or the Cantonment Board as the case may be, the matter shall be referred to the Central Government whose decision shall be final. The act does not provide for any direct relationship of the Corporation with the Delhi Administration, except that the Delhi Administration disburses the grants-in-aid and assistance from plan funds for execution of Plans and schemes of the Corporation.

# 3.12 THE NEW DELHI MUNICIPAL COMMITTEE

3.12.1 On the shifting of the capital from Calcutta to Delhi in 1912, a Committee known as Imperial Delhi Committee was constituted on 25th March, 1913 for the construction and management of the proposed new capital. In 1916, it was notified as Raisina Municipal Committee under the Punjab Municipal Act, 1911. In 1925 it was authorised to impose taxes on buildings. On 16th March, 1927, the Committee was redesignated as New Delhi Municipal Committee. It was ugpraded in 1932 to a first grade municipality entrusted with the responsibility of providing civic services including construction of buildings, roads, sewerage, medical and public health, distribution of water and electricity.

3.12.2 The N.D.M.C. functions under the Punjab Municipal Act, 1911. Under Section 11 of that Act the Municipal Committee will consist of not less than five members. These members shall be appointed by the Government either by name or by office or they may be "members elected from among the inhabitants in accordance with the rules made under the Act or partly of one and partly of the other as the State Government may, by notification, direct." Till 1980 the NDMC had fifteen members, all nominated, including officials and non-officials. The Committee can elect one of its members as President and one or two of its members to be Vice-President or Vice-Presidents. The NDMC has been under supersession since 27-2-1980 and an Administrator appointed by the Central Government is the Chief Executive of the Committee.

3.12.3. The Committee has been entrusted with the normal civic functions i.e. provision and maintenance of roads, parks, street lighting, public health, sanitation, supply of water and electricity, etc. In its area the Committee also exercises architectural control and passes the building plans.

3.12.4. Subject to any general or special order which Government may make in this behalf, the Committee has been vested with the powers of taxation on the same lines as available to other municipal bodies and it has imposed taxes on buildings, lands etc. The Punjab Municipal Act as in force in Delhi lays down 12-1/2 per cent as the maximum rate of house tax. The Act does not permit the Committee to levy other taxes such as fire tax, education cess, scavenging tax, street lighting tax etc. The Committee purchases electricity and water from the Delhi Electric Supply Undertaking and Delhi Water Supply & Sewage Disposal Undertaking respectively in bulk and arranges maintenance of the works. It also arranges distribution to the residents in its area. The

Committee arranges for the delivery of sewage to the Municipal Corporation which is responsible for its disposal.

3.12.5 The Act contains several provisions in reagard to the control exercised by government. These extend to inspection of properties, becks of accounts and documents and calling for statements, accounts, and reports from the Conmittee, as well as to inquire generally into the effeirs of the Committee with a view to ascertaining whether it is being satisfactorily ecministered. It has the power to annual or mcdify any proceedings which the Government may consider not in conformity with law or rules. The most important power of the Government is of supersession of the Committee, should the Committee be incompetent to perform, or persistently make default in the performance of the duties imposed on it by or under this or any other Act, or exceed or abuse its powers. In case of supersession the powers and duties of the Committee may be exercised and performed by such persons as the Government may appoint in that behalf. The Government may, at any time, constitute another committee in its place. The statutory powers conferred under the Act on Deputy Commissioner Commissioner are exercisable by Lt. or Governor in the case of NDMC.

3.12.6. The NDMC has been consistently given a special dispensation. Under the Government of Part C States Act, 1951 a decision on any matter concerning New Delhi required the concurrence of the Chief Commissioner, and in the case of difference of opinion between him and his Ministers he could take such action in respect of the administration of New Delhi as he in his discretion considered necessary. Similarly, under section 27(1) of the Delhi Administration Act, 1966, every decision taken by a Member of the Executive Council or by the Executive Council in relation to any matter concerning New Delhi is subject to the concurrence of the Administrator. In case of difference of opinion he can take any action as he, in his discretion, considers nccessary.

## 3.13 THE DELHI CANTONMENT BOARD

3.13.1 The Delhi Cantonment Board was set up in 1938 under the Cantonments Act 1924. It consists of seven official and seven elected members. The Station Commander, Delhi Cantonment is the ex-officio President of the Cantonment Board. One of the official members is a Magistrate nominated by the District Magistrate, Delhi. Out of the seven elected members one is elected by them as Vice-President of the Board.

3.13.2 The Cantonment Board performs all the municipal fuctions such as provision of water supply, electricity, educational facilities at the primary school level, medical and health facilities, etc. It is responsible for sanitation and cleaning of the area. The Board approves building plans and grants permission for buildings its construction of within limits. The responsiblility for construction of roads, drains, sewerage, public latrines and provision of gardens, maintenance of street lights etc. in its area is with the Cantonment Board. The Board has the power to levy house tax, conservancy tax, water tax and similar other taxes and levies for raising resources for the efficient discharge of its functions. It also receives grants-in-aid from the Ministry of Defence and gets a share of the terminal tax collected in Delhi.

3.13.3 The Cantonment Board depends for its supply of electricity and water on the Delhi Electric Supply Undertaking and Delhi Water Supply and Sewage Disposal Undertaking respectively. The necessary charges are paid by the Board to the Corporation.

## 3.14 THE DELHI TRANSPORT CORPORA-TION

3.14.1 On the establishment of the Delhi Municipal Corporation, the transport services were brought under its control. Subsequently, a new statutory corporation known as the Delhi Transport Corporation was set up under the Road Transport Corporation Act, 1950. The transport services in Delhi are run by this Corporation which is also responsible for providing ancilliary services.

3.14.2 According to the Delhi Transport Corporation (Board of Directors) Rules, 1984, as amended in 1988, the Board shall consist of the Managing Director of the Corporation; five officials, of whom three shall be from the Central Government, and two from the Delhi Administration; and five other persons of whom one shall be a representative of the New Delhi Municipal Committe nominated by that Committee from among its members, one shall be a representative of the Metropolian Council of Delhi elected from among its members by the members of the Council one shall be a representative of the Municipal Corporation of Delhi elected from amongits members by the members of the Corporation and two persons nominated by the Central Government.

3.14.3 The Act confers certain powers of control by the Central Government. The re-

gulatory control and licensing functions in regard to passenger transport is exercised by the Delhi Administration under the relevant laws. The Corporation's passenger buses operate on the strength of stage carriage permits issued by the State Transport Authority, Delhi. For inter-State operation, the permits are required to be counter-signed by the Transport Authorities of the reciprocating States. The countersigning of the permits is done under the arragement between the transport authorities of the Delhi Administration and the neighbouring States in which the Delhi Administration plays a crucial role.

## 3.15 THE DELHI DEVELOPMENT AUTHORITY

3.15.1 The need for creating a machinery to deal with the problem of urban growth in Delhi in the context of the spurt in urbanisation led to enactment of the Delhi (Contro of Building Operations) Act, 1955 under which the Delhi Development (Provisional) Authority was co-This was following by the Delhi stituted. Development Act, 1957. The objective of the Delhi Development Act, 1957 is to "provide for the development of Delhi according to plan and for matters ancillary thereto". The Administrator of the Union territory of Delhi is the exofficio Chairman of the Authority. The vicechairman is appoined by the Central Government add holds office during the "pleasure of the Central Government". Apart Apart Vice-Chairman, the Chairman and from Authority has an Engineer the Member and a Finance and Addounts Member who are also appointed by the Central Government. The Central Government also nominates three other persons of whom one shall be a person with experience of town planning or architecture. The Commissioner of the Municipal Corporation of Delhi is an ex-officio member of the Authority. along with two members elected by the Corporation from among ts councillors and aldermen, and three members elected by the Metropolitan Council from among its members. The association of the representatives of the Municipal Corporation and Metropolitan Council and the Commissioner of the Municipal Corporation of Delhi is intended to provide for coordinating the programmes of the authority with the overall requirements of development of Delhi. For the purpose of "advising the Authority on the preparation of the master plan and on such other matters relating to the planning of development, or arising out of, or in connection with, the administration of this Act as may be referred to it by the Authority" there is an Advisory Council consisting, of, among others, representatives from

public utility services and other interests. The Central government has the power to issue directions for the efficient administration of the Act.

3.15.2 The Authority has the power to acquire, hold, manage and dispose of lend and other porperty, to carry out building, engineering mining and other operations, to execute works in connection with supply of water and electricity, disposal of sewage, and other services and amenities, and generally to do anything necessary or expedient for the purposes of such development. From the objects of the Authority it also follows that an important function of the Authority is to prepare and monitor the implementation of the master plan for Delhi and zonal development plans for each of the zones into which Delhi may be divided. With a view to securing the implementation of the master plan and zonal plans, the Central Government may declare an area as a development area and, on such declaration, the area comes under the overall control of the DDA for the regulation of town planning and building activities, to the exclusion of other local bodies such as the Municipal Corporation.

3.15.3 The DDA performs functions which fall under three broad categories, namely:-

- (a) acquisition and development of land;
- (b) activities connected with housing; and
- (c) slum improvement.

It has also certain other functions unconne-रमेव जयत cted with the above. The Government of India has, it is understood, taken a decision in principle in January, 1988 to create a separate Housing Board to cater to the increased housing needs of the people of Delhi. We understand that the modalities for creation of a Housing Board are being worked out by the Govern-ment in consultation with D.D.A. The work of maintenance of resettlement colonies has been transferred from D.D.A to M.C.D. during the middle of 1988. We understand that the Government of India have also accepted in principle the concept of a separate Slum Board which can also cater to the needs of development in Jhuggi-Jhonpri clusters. Further details in regard to the organisation, functioning, and deficiencies of the Authority will be set out in Part II.

3.15.4 Delhi Development Authority has not decentralised its administration except to the limited extent that its site offices in new colonies deal with handing over possession of constructed houses or plots, sanction of temporary water and sewage connections. But for all other purposes like execution of lease deeds, obtaining extension for completion of construction, settlement of ground rent etc., allottees have to approach its main office at Vikas Sadan in South Delhi.

# 3.16 THE DELHI URBAN ART COMMISSION

3.16.1 The Delhi Urban Art Commission Act, 1973 which is a Central Act provides for setting up a Commission known as Delhi Urban Art Commission with a Chairman and not less than two but not more than four members. It is intended to be an apex body to advise the government and the local bodies and authorities in matters of preserving, developing and maintaining the aesthetic quality of urban and environmental design in Delhi, and to provide advice and guidance to any local body in respect of building or engineering projects, or any development proposal which might affect the skyline or the aesthetic quality of surroundings.

3.16.2 The Commission has been assigned the following functions : --

- (i) To scrutinise, approve, reject or modify proposals in respect of development of district centres, civic centres, areas earmarked for Government administrative buildings and for residential complexes, public parks and public gardens. It is also charged with the responsibility of advising on the re-development of area falling within the jurisdiction the New Delhi Municipal Committee.
- (ii) To advise on the re-development of the area in the walled city as also for conservation, preservation and beautification of monuments and advise the government on any other project or layout which is calculated to beautify Delhi or add to its cultural vitality or to enhance the quality of the surroundings.

3.16.3 It has been provided in the Act that every local body shall, before according approval in respect of any building operation, engineering operation or development plans in respect of the specified areas or localities, refer the same to the Commission for scrutiny and the decision of the Commission in respect thereof shall be binding on such local bodies.

# 3.17 ESSENTIAL SUPPLIES

3.17.1 The provision of essential supplies of commodities to Delhi is arranged under the overall management of the relevant department of the Delhi Administration. The Commissioner of Food, Supply and Consumer Affairs has the overall responsibility for the maintenance of supply of commodities declared "essential" from time to time. There is a public distribution system for certain specified food articles and other commodities. There is an Apex Advisory Committee under the Executive Councillor concerned. Circle Advisory Committees under the Chairmanship of the local metropolitan councillor have been set up in the circles to oversee the smooth functioning of the public distribution system. The storage and issue of foodgrains are undertaken by the Food Corporation of India and the supplies to the fair price shops are handled by the Delhi State Civil Supplies Corporation.

3.17.2 The Super Bazar is an organisation established as a registered cooperative society under the Delhi Cooperative Societies Act in 1966. The Central Government has provided the major part of its funds for capital and operation. It runs three main departmental stores with more than 100 branches, several outlets and a number of mobile vans to facilitate distribution of essential commodities. It has a Managing Committee consisting of fifteen members of which nine are Central Government nominees and six are elected by the shareholders. At present, the management of the Super Bazar consists only of Government nominees.

3.17.3 Delhi Milk Scheme (DMS) is a subordinate office of the Ministry of Agriculture (Department of Agriculture and Cooperation) of the Central Government. It was commissioned on 1st November, 1959. It is engaged distribution of milk and in processing and milk products in Delhi. It is headed by a General Manager. There is an Advisory Council with the Minister of Agriculture as its Chairman and Minister of State for Agriculture Vice-Chairman. The Council has three as Members of Parliament, two members of Metropolitan Council, Vice-Chairman, DDA, Development Commissioner, Delhi Administration and Director-General Health Services as its members. The Advisory Council advises the DMS management on the larger policy issues relating to procurement and distribution of milk and consumers' interest in Delhi. Delhi Milk Scheme procures milk from the Dairy Federations and Milk Cooperative Societies in the territory of Delhi and from the adjoining States. Milk is also being supplied to Delhi by another organisation called Mother Dairy which was set up as an integral part of the 'Operation Flood' programme by the Central Government.

## 3.18 NATIONAL CAPITAL REGION PLANNING BOARD

3.18.1. A Planning Board for the development of the National Capital Region has been set up under the National Capital Region Planning Board Act 1985 which was passed by Parliament, under article 252 of the Constitution, with the consent of the legislatures of the participating States of the region vis. Haryana, Rajasthan and U.P. and the Union territory of Delhi. The Board was constituted on 28th March, 1985.

3.18.2 The Board is primarily responsible for the preparation of the regional plan for the development of the National Capital Region and to coordinate and monitor its implementation and evolve harmonised policies for the control of land uses and development of infra-structure in the Region so as to avoid any haphazard development. The Board, under the Chairmanship of the Union Minister of Urban Development, has twenty-one members, besides five coopted members and consists of representatives of various concerned Ministries of the Government of India. Chief Ministers and Ministers Incharge of Urban Development of the participating States and the Lt. Governor and Chief Executive Councillor of Delhi. The Board has approved a Draft Regional Plan (2001) which was prepared after consultation with the representatives of the participating States and on the basis of expert studies. The main objective of the Draft Regional Plan is reported to be to achieve "manageable Delhi by 2001 AD with a population of 112 lakhs" and to evolve harmoized policies for control of land use and development of infra-structure is the National Capital Region. In order to achieve these objectives a package of policies taking into consideration the various development aspects viz. settlement pattern, economic base, transport, telecommunications, power, water supply, sanitation, education and health, land use and environment and ecology has been proposed in the Draft Regional Plan. Pending the allocation of adequate finances, a number of schemes urban development are being financed by the Central Government and the Board in selected towns of the region.

# Drawbacks and Deficiencies in the Existing Set-up

## 4.1 GENERAL DEFECTS

4.1.1 From the materials and information gathered by us from various sources including views expressed during our interviews with prsons in public life such as academics, administrators, reresentatives of political parties and other eminent citizens, we are able to discern the drawbacks and deficiencies set out in the succeeding paragraphs, both structural and functional, in the working of the administrative and municipal authorities and the agencies and undertakings entrusted with the task of the delivery of various services to the public.

4.1.2 The Metropolitan Council consisting of elected representatives of the people of Delhi does not have any powers of legislation normally available to such elected bodies. Elections to the Metropolitan Council are held in the same manner as elections to the Legislative Assembly of a State, and the qualifications for its membership are the same. However, the Metropolitan Council does not have the power to legislate with regard to any matter, even if such matter is purely of local concern with no particular significance for the nation as a whole. The main function of the Metropolitan Council is to discuss and make recommendations on legislative proposals pertaining to matters enumerated in the State List or the Concurrent List in the Seventh Schedule to the Constitution. Even this is circumscribed by the further condition that the matters in the State List or Concurrent List should be applicable to Union territories. The scope of this restriction has been explained in para 3.2. The Council has been described by some as nothing more than a debating society. There is a legitimate grievance that the citizens of Delhi do not have the elementary democratic what laws should be made right of deciding for them to meet their particular social and economic aspirations through their elected representatives.

4.1.3 Legislation for Delhi is enacted by Parliament. The involvement of the Metropolitan Council under the present scheme, though it may be useful, actually results in prolonging the process of legislation. Every proposal for legislation has to be seen and approved by the Executive Council thrice, and at least twice by the Central Government. We understand that out of eightyfive Bills introduced in the Metropolitan Council since its inception in 1966, twenty-five Bills are still pending finalisation. Out of these twenty-five Bills, as many as nine are pending for ten years. Out of thirty-seven Bills which became law, some took more than five years for enactment. This delay in finalisation of legislative business is an important cause for discontent and frustration among the people.

4.1.4 The Metropolitan Council has no effective voice in regard to budget proposals for Delhi. The proposals are formulated by the Administrator and forwarded for approval to the Central Government. After the proposals are approved, they are laid before the Metropolitan Council for making recommendations thereon. This arrangement highlights the reality that the Metropolitan Council has no deciding voice on the budget for Delhi.

4.1.5 The same position holds in respect of other matters, particularly those relating to planning and development. The Administrator has to make a prior reference to the Central Government on all cases involving questions of policy of administrative importance. The Annual Development Plan has to be approved by the Central Government. The result is that practically no decision-making power vests in the Metropolitan Council or the Administration regarding matters of concern to the public of Delhi.

4.1.6 The Executive Council, which consists of elected representatives, has the appearance of a Council of Ministers in respect of matters assigned to it, but its role and functions are not those usually associated with a Ministry in a responsible Government. The President appoints members of the Executive Council and they hold office during his pleasure. With all this, it has not been made responsible to the Metropolitan Council, and, as a consequence, it cannot be voted out of office by the Council.

4.1.7 The Metropolitan Council consist also of members elected from the NDMC area but any decision concerning New Delhi taken by the Executive Council or the Metropolitan Council, even if it relates to a matter which is not "reserved", is subject to the concurrence of the Administrator. In this respect, the residents of New Delhi appear to be at a greater disadvantage than those in the rest of Delhi.

4.1.8 Even with regard to subjects within the purview of the Executive Council, the Administrator can differ from a decision of the Executive Council and refer the matter to the Central Government. There is a view that this provision devalues the functioning of the Executive Counci even in the field allotted to it.

4.1.9 At variance with the principle of democratic Government, a sizeable segment of the functions of the Delhi Administration has been kept outside the purview of the elected representatives in the Executive Council. Apart from the subjects of law and order, lands and the organisation and discipline of the police force, for which there could be justification, there are certain other subjects which are assigned to the field of discretionary powers of the Administrator. There is a view that some of these matters are of a nature in which participation of public representatives would be useful and necessary. In this connection reference has been made to subjects like civil defence-acquisition, development and disposal of land; and so on. Moreover, the maintanence of law and order is, in the opinion of many, difficult without the active cooperation of the people. The present arrangement does not provide for such cooperation or for a mechanism of feedback from the public.

4.1.10 Under the present arrangement the Administrator presides over meetings of the Executive Council, which is at variance with the normal arrangements in respect of Councils of Ministers. It has been represented before us that this tantamounts to a lack of confidence in the popular representatives, and inhibits free and frank discussion.

4.1.11 All matters pertaining to the recruitment, conditions of service and disciplinary control over the persons serving in Delhi Administration are outside the purview of the Executive Council. There is a view that with virtually no control over the services the Executive Councillors find thems lves unable to exercise effective control over the Departments which are in their charge. The general public associates the elected representatives with the defaults of the official machinery. This places them in an embarrassing situation. 3589 HA/89-5

# 4.2 ABSENCE OF NODAL AUTHORITY

4.2.1 Although the Delhi Administration Act, 1966 is intended provide "for the administration of the Union territory of Delhi", the Delhi Administration set-up under the Act does not, as such, serve as a nodal authority to handle or deal with the various problems relating to Delhi. The administration of Delhi functions through the Administrator in some matters and through the various Union Ministries in some others. The various authorities, officers and agencies discharging executive or administrative functions relating to Delhi are controlled either by the Administrator or directly by the Union Ministries. The Administrator acts in his discretion in some matters and with the assistance and advice of the Executive Council in some other matters. As a consequence of all this, the authority of Government in Delhi is dispersed and there is no single nodal authority to deal with all affairs relating to the administration of Delhi. The Administrator is presumably intended to serve as a nodal authority for the purposes of coordination between the various departments but in actual working of the system this is not visible.

4.2.2 Even in the Central Government there is no single Ministry or Department to serve as an effective nodal authority for the affairs of Delhi. Thus the general administration and municipal authorities are controlled by the Ministry of Home Affairs, the Transport C orporation by the Ministry of Surface Transport, the authorities concerned with housing and land use by the Ministry of Urban Development, the agency for civil supplies by the Department of Civil Supplies, the supply of milk by the Ministry of Agriculture and so on. What is more, we are informed that even among the Ministries of the Central Government there is no uniformity of approach in regard to the degree and manner of control tobe exercised over the agencies concerned.

4.2.3 The absence of an identifiable nodal authority empowered to give political and administrative leadership to the administration in Delhi and serve as a focal point for command, control and coordination of the agencies of administration has contributed substantially to the difficulties of the common man in Delhi.

# 4.3. LACK OF ACCOUNTABILITY

4.3.1. Members of the Executive Council are expected to be associated with the decisions of the Administrator on matters which affect the people of Delhi but as they are not answerable to the elected representatives in the Metropolitan Council, their accountability to the people does not exist even on paper. Several important agencies of administration dealing with the public like those concerned with housing, transport, and essential supplies, consider themselves answerable only to the Central Ministries and not to the Delhi Administration as such. In any case, they are not accountable to the elected representatives of the people in the Metropolitan Council or Executive Council.

4.3.2 The lack of accountability for acts of commission or omission by those functioning in the Delhi Administration also arises in a different The multiplicity of agercies and bodies way. involved in the affairs of Delhi and the overlapping of their functions inevitably leads to a dilution of their individual accountability to that extent. There is also a feeling that this in turn encourages a tendency for officials and nonofficials to interfere in the working of these agencies without being held responsible for such interference. From the views expressed before us we are convinced that many of the problems faced by the common man in Delhi can be attributed to the lack of accountability of the administration and its agencies to the representatives of the people.

# 4.4. CONFUSION AS TO JURISDICTION

4.4.1 The organisation and functioning of various agencies and bodies for the provision of services in Delhi is such as to lead to confusion in the minds of the public as regards the agency or body they should approach for their needs and grievances.

4.4.2 Urban Planning and Development is primarily the function of Delhi Development Authority. The Municipal Corporation of Delhi or the relevant local body is empowered to sanction lay out plans, as well as building plans, but in "development areas" this function is discharged by DDA. This arrangement causes confusion and inconvenience to the common man. A person intending to build a house or to make additions or alterations is confused by the array of agencies which have to be approached for his work. In this regard he may have to approach the Land and Development Office in the Ministry of Urban Development, the Delhi Development Authority (if the area happens to be in a 'development area'), Delhi Municipal Corporation or relevant local body for building controls. If this includes electrical works he has to approach DESU. For water supply cr sanitary works, he may be required to approach the Water Supply and Sewage Disposal Wing of the Corporation. Naturally, such a person feels harassed.

4.4.3 Another source of confusion and harassment is in regard to taxation (f properties. At present there are different laws and different rates of property taxes in different parts of the city. Similar diversity exists in regard to terms of and lease and so on.

4.4.4 The construction and maintenance of roads in Delhi is a shared responsibility among the Central Government, Delhi Administration, local bodies and the Delhi Development Authority. While the National Highways are maintained by Central Public Works Department, the Delhi Administration is responsible for maintaining 'other roads' with a carriage way of more than 100 feet. It also constructs roads under the Minimum Needs Programme. The Delhi Development Authority constructs zonal roads and other internal roads in 'development areas' controlled by it, but hands them over to the Municipal Corporation of Delhi for subsequent maintenance on their completion. All other roads are the responsibility of Municipal Corporation of Delhi, New Delhi Municipal Committee and Cantonment Board, as the case may be. Because of such over-lapping of jurisdiction and functions, there is confusion as to which authority is to be approached in the matter. This also entails different standards of construction and maintenance being followed by different organisations.

4.4.5 There is some confusion regarding the delivery of services by concerned agencies to the public. For example, there is no satisfactory arrangement to secure functional coordination dealed for land management. It has been represented before us that one of the main areas where lack of coordination seriously affects the urban development of Delhi and causes hardship to the people relates to the work of various agencies concerned with the improvement of land, development of infrastructure and peripheral facilities in the newly built residential hoolonies and in the areas allotted to housing cooperatives. The effective linkage of these areas with public transport and communications network is also essential. The responsibility in this regard is being shared between D.D.A., D.M.C., D.E.S.U., and D.W.S. & S.D.U. is also C.P.W.D., and Delhi Public Works Department. All this leads to inordinate delay and default in the provision of services by the concerned agencies, thereby causing not only mis-match and time-lag in the availability of services, but also harassment to the public.

> 4.4.6 Another source of confusion is with regard to revenue laws. There are different sets of revenue laws prevailing in different parts of Delhi. The area which was formerly in U.P. and

the area taken over from Punjab have different sets of and revenue laws and procedure. This has added to confusion in the revenue administratration of Delhi.

4.4.7 A member of the public is also confused as to the role of the Delhi Administration in regard to his needs and grievances. The Delhi Municipal Corporation was conceived as the only representative body in Delhi but with the establishment of the Metropolitan Council with elected members with no control over the Corporation the common man is confused as to where his needs could be attended to. With a Metropolitan Council composed of elected representatives of the people of Delhi and a Chief Executive Councillor whose position in the eyes of the public is analogous to that of a Chief Minister on the one hand and a large Municipal Corporation with its powerful committee on the other, Delhi Administration headed by a Chief Secretary and other Secretaries is not in a position to play any effective role in matters concerning the common man. There is also the problem of multiple control which is evident in many fields of activity particularly in matters like electricity, water supply, housing, transport, etc. which are important for the daily needs of the citizens of Delhi. Many of the organisations concerned with these matters function directly under the Union Ministries. The tendency of people at times of crisis of difficulty is to look to the Delhi Administration, the Chief Secretary or other concerned Heads of Departments for satisfying their needs or redressal of their grievances. The existing system is deficient in not meeting this सत्यमव expectation.

## 4.5. SPECIAL DIFFICULTIES

4.5.1 Although many metropolitan cities face problems arising from the existence of multiplicity of authorities and duplication of functions and responsibility as also the confusion of jurisdiction between them, these become particularly accentuated in a capital city like Delhi because as national capital its administrative structure should be such as to be capable of acting with maximum despatch and flexibility to meet all situations including crisis situations. The present administrative structure obtaining in Delhi has proved to be incapable of meeting this special need of a national capital city.

4.5.2 Due to phenomenal growth of population in Delhi the demands on the services have increased manifold leading to an overgrowth of departments and service agencies. There is hardly any mechanism for coordination among them or with the related services. This coupled with the lack of a satisfactory institutional arrnagement for redressal of grievances has contributed substantially to the difficulties of the public.

## 4.6 OVER-CENTRALISATION

4.6.1 It will be seen from Chapter III that the present field organisation of the important departments of Delhi Administration is not conducive to an effective and convenient delivery of services to the common man. There is no uniformity in the division of the Union territory of Delhi into zones, divisions or administrative units by the various departments. Further, there is no adequate decentralisation of powers to such units.

4.6.2 A number of departments have no concept of territorial decentralisation. For instance, the Sales Tax Department deals with commercial and trading firms, shops etc. all over the Union territory of Delhi. Though it is divided into fifty wards, all the ward officers are located in one place in New Delhi. However, some of the departments and local bodies or agencies such as Police, Food and Supplies, Deputy Commissioner, Education, MCD, DESU and so on have established field units to decentralise their functions, but these field units are not uniform in size or area and more often than not their limits of jurisdiction are overlapping and confounding. For example, the police has nine districts, the MCD has ten zones, Food and Supplies Department has six zones, Education Department has five districts. Furthermore, these units of different departments are often located far apart from one another or, as in most cases, located in the headquarters itself. This system is neither in the interests of administration, nor of convenience to the common man.

# 4.7 LACK OF ADEQUATE FINANCIAL POWERS

The financial powers of the Delhi Administration are restricted only to such as are delegated to it by the Centre. It has no powers of its own. As a consequence the administration is inhibited from taking any initiative, particularly in regard to developmental programmes. Their powers of reappropriation of funds from one head to another are also limited, and thus there is no flexibilility of action to meet contingent and urgent requirements.

## 4.8 THE MUNICIPAL CORPORATION

The Delhi Municipal Corporation was set up in the context of the abolition of the erstwhile Part C State of Delhi in 1956. It sought to create a democratic structure which would deal with not only municipal but also Metropolitan problems of the city efficiently and bring public

satisfaction and as such has been entrusted with responsibilities much wider than normal civic municipal functions. Its functions include those relating to generation, supply and distribution of electricity as well as production, purchase and supply of water in bulk for the whole of the Union territory of Delhi. In 1966, when the elected representatives were made responsible to some extent for the administration of Delhi the Act did not confer powers of control or supervision over the Corporation by the Delhi Administration, despite the fact that local selfgovernment is a transferred subject. In the view of some, this has resulted, to some extent, in the un-coordinated functioning of various services under the Corporation. It also appears that this shortcoming in the Corporation set-up coupled with the present scheme of relationship between the Commissioner of Municipal Corporation and the officials under him on the one hand and the Mayor on the other as incorporated in the Act has contributed to lack of control and coordination which are so necessary for the efficient functioning of a local body of the nature of the Municipal Corporation of Delhi. Further details of the deficiencies in its working will be found in Part II of the Report.

## 4.9 THE DELHI DEVELOPMENT AUTHORITY

The DDA is at present discharging functions relating to housing, slum clearance etc. in addition to its function of preparation, monitoring and implementation of the master plan of Delhi. All these are matters which vitally affect the life of the common man in Delhi. It appears that during the course of three decades of its existence, it has taken on additional functions which have resulted in its devoting less attention and energy to its core function of monitoring and evaluation of the implementation of the master plan of Delhi. It has been represented to us that in this important matter of development the present scheme of the Delhi Development Act providing for association of representatives of various elected bodies with the Authority and its Advisory Council has not been successful in ensuring the desired command and control of the elected representatives over the Authority or in ensuring coordination with the other agencies or authorities discharging connected or supplementary functions. There is much scope for improvement in this respect. Part II of the Report contains further details of the deficiencies in the working of this Authority.

## 4.10 OTHER AGENCIES

The deficiencies in regard to the working of other services and utilities will be dealt with in detail in Part II of the Report.

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## CHAPTER V

# NATIONAL CAPITAL ADMINISTRATION IN SOME COUNTRIES

# 5.1 GENERAL ASPECTS

5.1.1 The terms of reference require us to go into the various issues connected with the administration of the Union territory of Delhi and to make recommendations for restructuring the administration to secure the objects set out therein. We realised even at the outset that any scheme for restructuring the Delhi Administration should not only meet the needs of a large and densely populated metropolies but should also be appropriate for the capital of the Union of India. Accordingly, we considered it worthwhile and useful to make a study of the arrangements made in other countries for their national capitals. Through the good offices of our Embassies abroad we were able to procure information and material on such arrangements and have studied them with care.

5.1.2 We will now proceed to set out in broad outline the position in the national capitals of some of these countries.

# 5.2 UNITED STATES OF AMERICA (WASHINGTON D.C.)

5.2.1 The capital of the United States of America Washington D.C.—was founded as a Federal District in 1790 with land ceded by the States of Virginia and Maryland totalling an area of 100 sq. miles. In 1847, the Federal Government returned the Virginia portion reducing its area to 69 sq. miles but, subsequently, more areas were taken from these two States and added to Washington D.C. With a population of over 7,50,000 in 1970, which had shrunk in 1986 to 6,26,000, the national capital ranks among the ten largest cities in the United States.

5.2.2. By virtue of Article 1, section 8, of the American Constitution, the District of Columbia does not form part of any constituent State of the Federal Union, but is placed under the ex-

clusive legislative jurisdiction of the Congress. The word "exclusive" appears to have been deliberately used by the constitution-makers to establish an area free of control by any individual State. The District enjoys some attributes of Statehood, but has no attributes of sovereignty. The District can participate as a State in interstate contracts, but is treated as an agency of the Federal Government for budgetary and auditing purposes. All federal laws apply to the District unless exempted by special dispensation. It has a municipal corporation with limited powers relating to health administration, welfare functions and highway development.

5.2.3 The administrative arrangements for the capital originated with the appointment by the Congress of a Governor to administer the District at its inception. In 1801, the Congress provided a municipal form of administration in the District to be administered by "officials elected by its residents" and this arrangement continued for the next 100 years. When it was abolished, the Congress exercised legislative powers over the District, except in respect of powers delegated to a Board. The President then appointed a three-member Board of Commissioners exercise administrative and quasi-legislative to powers. The residents of the District ceased to have any role to play in the selection of their officials. In 1967, the form of Government was changed from that of a three-man Board to that of a Commissioner (Mayor) and a council. As a result, the Council was given over 400 specific quasi-legislative functions formerly exercised by the Board of Commissioners. These included the power to adopt city ordinances, review and revise the budget, set the real estate tax rate, approve urban renewal plans and boundaries, establish rules governing the licensing of professions, approve major thoroughfare plans, establish the level of public assistance payments, set districts and precincts for the Metropolitan Police

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Department, and promulgate regulations for hospitals and asylums. Elected Advisory Neighbourhood Commissions which are groups elected by the residents advise this Council on matters of public policy, including planning, recreation, social services programmes, health, safety, sanitation and streets in the neighbourhood commission area concerned. Under the District of Columbia Delegate Act, 1970, provision was made for the election of a representative from the District to Congress to provide a link between the federal and District authority, but without any voting rights. The Congress continued to retain ultimate authority over the District.

5.2.4 Subsequently, in response to public pressure, a Commission was established to examine the organisation of Government in the District of Columbia and, on its recommendations, the District of Columbia Self-Government and Governmental Reorganisation Act, 1973 (popularly known as the Home Rule Act) was passed. The Act has undergone a series of amendments. The main object of the Congress in enacting the law was to delegate certain legislative powers to the Government of District of Columbia, to grant its inhabitants powers of self-government, to modernise, to reorganise and otherwise improve the governmental structure of the District and, to the greatest extent possible, consistent with the constitutional mandate, relieve Congress of the burden of legislating upon essentially local District matters. Under the Act a Council has been established for the District which consists. of fourteen members elected for a term of four years out of whom the Chairman and four members are elected from the entire district and the remaining members are elected from the delimited constituencies of the District. It has legisla-tive power extending to "all rightful subjects of legislation within the District consistent with the constitution of the United States". The legislative powers of the Council are subject to the reservation of the right by the Congress of the United States to exercise at any time, its constitutional authority as legislature for the District. The Act prescribes several limitations on the authority of the Council in regard to legislation and the more important of these relate to imposition of any tax on property of the United States or of any of the States, enactment of any Act, Resolution or Rule which permits the building of any structure in excess of the height limitations prescribed by the Federal Government and making of changes in regard to judicial courts. The executive power of the District is vested in the Mayor who is elected directly by the qualified electors of the District for a term of four years. He is responsible for the proper execution of laws relating to the District and for the proper administration of its affairs. He has also the

authority to propose to the legislative or executive branch of the Federal Government legislation or other action dealing with any subject whether or not falling within the authority of the District Government. He is the central planning agency for ihe District and is responsible for the coordination of planning activities of the District Government with the National Capital Plan. He has the power to approve the Acts passed by the Council or to return them to the Council with his reasons for disapproval. The Mayor also makes estimates of all funds availaable to the District for the fiscal year, including Federal payments and forwards to the President for submission to the Congress the Budget of the District as passed by the Council.

5.2.5 A National Capital Planning Commission has been created as the Federal Planning agency for the Federal Government tn the National Capital, and to preserve the important historical and natural features of the National Capital. A Redevelopment Land Agency for the District of Columbia as also a National Capital Housing Authority have been established, each being an instrumentality of the District of Columbia Government under the Act. The National Capital Service Area which includes principal Federal monuments, White House, the Capital building, US Supreme Court building and other important Federal offices is under the charge of the National Capital Service Director who is appointed by the president.

5.2.6 Th Dirstrict Council has the powers to impose taxes and to pass the Budget for the District. The Budget is forwarded by the Chairman to the Mayor who submits it to the President for laying it before the U.S. Congress. The District Government has the powers of borrowing-both long-term and short-term for capital projects and for other necessary expenditure by issuing 'general obligation bonds' and notes. The Government of the District is entitled to receive annual federal payment which is determined on the assessment made by the Mayor and is based on the criteria laid down in the Act, which include such considerations as the expcted potential revenues that could be rejalised if exemptions from district taxes were eliminated, recurring and non-recurring costs of un-reimbursed services to the Federal Government and other expenditure requirements placed on the District by the Federal Government which are unique to the District.

5.2.7 As regards arrangements for the administration of justice, the District of Columbia Court Reform and Criminal Procedure Act 1970. established the District of Columbia courts which are comparable with judicial courts in other States of the United States. All judges for the District are appointed by the President with the approval of the Senate. The lowest Court in the District is the new enlarged Superior Court. The second tier consists of the District Court of the Appeals which hears appeals from the Superior Court of the District and from appealable decisions of the Mayor and other agencies of the District Government. The Federal Courts, namely the U.S. District Court, U.S. Court of Appeals and the U.S. Supreme Court are also situated in the capital.

5.2.8 A proposal was made recently in 1985 to amend the Home Rule Act, 1973. The proposed amendments provide for:—

- (a) a formula for relieving Congress of the need to undertake an annual review of annual federal payments;
- (b) providing budget autonomy;
- (c) seeking relaxation or elimination of the requirement for a Congressional review of Council Acts; ard
- (d) changes in the Home Rule Act and other laws to ensure the responsibility, of the District for law enforcement and local courts.

The proposed amendments have not yet been enacted.

5.2.9 The District of Columbia has an economy mostly centering around the activities of the Federal Government. The Government remains the largest employer in the region and the population enjoys a high average income. Under the exsting set-up the District Council enjoys legislative powers on matters of immediate local concern and the District administration exercises executive powers in regard to the matters of the District Government. However, the Congress of the United States of America continues to have ultimate authority in respect of legislative matters. The control of the Federal Government is also retained by measures such as keeping the authority for approval of the District Budget by the Congress. and utilising the Mayor as a link between the Federal Executive and the District Administration. As an additional safeguard for preserving the Federal interests, the core area of the capital has been constituted into the National Capital Service Area under a Director who is appointed and directly controlled by the Federal Government. The recently proposed amendments are meant to further enlarge the scope of the autonomy of the District Government in respect of such matters as finances, budgeting, legislation and control over local courts.

#### 5.3 AUSTRALIA (CANBERRA)

5.3.1 Australia has a federal type of Government with its seat in Canberra. At the inception, the six federating States were independent and sovereign but "agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland" in 1901, as inscribed in the Constitution.

5.3.2 Canberra was established as the capital of Australia in 1901. As in the United States of America, the seat of the Government is located within a specially created federal territory for which 990 sq. miles of unoccupied land was acquired. Canberra is therefore, neither a State capital nor part of any State Population figures indicate a slower growth which is now accelerating. By 1968 the population crossed 1,00,000 and was around 2,59,000 in 1986.

5.3.3 The Federal Government in Canberra has traditionally been the sole governing authority for the capital. For a brief period between 1923 and 1930 it was administered by a specially appointed Federal Capital Commission. Except for this, the capital had been administered by department of the Federal Government. Varying arrangements were made from time to time regarding coordination, parliamentary supervision and local representation. As a consequence, no arrangements for territorial or self-government existed. A partly elected Advisory Council was established in 1930 with its functions only limited to advice. It ceased to exist in 1969. In 1974, Canberra was provided with a fully elected House of Assembly but its powers were limited to advising the Federal Minister responsible for the Australian Capital Territory (ACT) on local legislative proposals and issues. This Assembly was abolished in 1986. As regards representation of the national capital in the Federal House of Representatives, a member is being elected to that House since 1949 and since 1960 he has full voting rights. As regards planning, development and construction in the federal district of Canberra a national authorith viz., the National Capital Development Commission (NCDC) was made responsible in 1958. It was empowered to carry out building development, construction of roads and bridges, and service works. The NCDC enjoyed subtantial powers and influence over the functioning of Canberra's administration to that extent. However, other federal departments and agencies also shared this responsibility Coordination, was being effected by the Department of the Interior, under which NCDC also worked. All these arrangements have undergone a modification with the enactment of the 1988 Act.

5.3.4 All municipal and related functions in respect of Canberra were till recently the responsibility of the Federal Government. The Australian Capital Territory is part of the responsibilities of one of the Federal Ministers. The bus service, parks and gardens are managed departmentally, while housing, electricity and watar supply are managed by statutory authorities. There is a Housing Trust and an Electricity and Water Supply Authority.

5.3.5 A new set-up for Canberra has been provided in the Australian Capital Territory (Self-Government) Act, 1988 enacted by the Australian Parliament. The Act is based on the principle that there could be 'no taxation without representation' and that the people of Canberra have a responsibility to elect representatives to oversee the spending of the revenue raised in the capital territory. This is sought to be achieved by the establishment of a Legislative Assembly for the Australian Capital Territory with legislative powers covering a wide range of municipal and territorial functions. The Assembly will have revenue raising powers and, in respect of financial relations, the Territory is to be treated on the same basis a State while having regard to its special position as the national capital and the seat of government of the 'Commonwealth'. The Assembly will have an elected Chairperson, and will also elect one of its members to be the Chief Minister for the Territory. The Chief Minister shall appoint three Ministers from among the members of the Assembly, out of whom one shall be appointed as Deputy Chief Minister.

5.3.6 The Act provides that the Assembly will, however, not have powers to make laws with respect to such matters like the establishment of courts, the provision by the Australian Federal Police of police services in relation to the Territory, regulation of the "securities industry and future industry" etc. The Governor General will have powers to make Ordinances. In specified circumstances he may dissolve the Assembly. He will also have power to 'disallow' any Council law or bye-law within six months after the law is made.

5.3.7 The Australian Parliament has also passed the Australian Capital Territory (Planning and Land Management) Act, 1988 which repeals the National Capital Development Commission Act, 1957, thereby abolishing the National Capital Development Commission. Under the new Act, an Authority by the name of the National Capital Planning Authority will be established which will have the functions of preparing and administering the National Capital Plan, to keep the Plan under constant review and to propose amendments to it when necessary. The Act also provides for the establishment of a Territory Planning Authority which will prepare and administer a plan in respect of land, not inconsistent with the National Capital Plan. The Central Government may notify specified areas of land in the Territory to be 'National Land' and 'Designated Areas' which are of special concern to the Commonwealth (Central) Government.

5.3.8 From the foregoing brief survey of the Australian law, it would appear that the new set up is based on the clear acceptance of the need to associate the people living in the capital territory with its administration and to provide for a representative body which will be responsible for a major segment of administration affecting the people. At the same time the arrangement provides for maintenance of the interests of the federal government in the National Capital and is based on the expectation that the Commonwealth and the Australian Capital Territory Administration would work in partnership for the future development of Canberra".

## 5.4 CANADA (OTTAWA)

5.4.1 Canada was formed by merger of the Union of Upper Canada (Ontario) and Lower Canada (Quebec) in 1840. The country comprised of a string of colonies stretching upto British Columbia in the west. They were formed into a confederation in 1867 by the British North America Act, 1867. This Act repealed the provincial constitutions and established new consstitutions with specified powers being given to the provinces and residual powers left with the Dominion. The population consisted of the French, the English and American loyalists, apart from the original inhabitants.

5.4.2 The federal capital, Ottawa, and its twin city Hull are situated in two provinces. namely Ontario and Quebec respectively, and are mainly governed by the laws of these provinces. Ottawa and Hull together form the metropolitan area with their conjoint municipalities. The national capital region now has an area of 4662 sq. kms comprising the cities of Ottawa and Hull and including 27 municipal jurisdictions. The population in 1981 was around 7,40,000 of which about 1,00,000 were employed in the federal government. The capital city is divided by a river, and the major population speaks English in Ontario and French in Quebec, and follows different religious persuasions. There are different Civil Codes in the two cities. The national

capital region is controlled by the two provincial governments, and has a large number of urban municipalities and rural bodies with their own elected governments. The recent creation of regional government for the Ottawa-Hull areas is intended to provide a mechanism for coordination.

5.4.3 Since its inception, there have been problems regarding the relationship between the city of Ottawa and the federal government. The idea of a Capital Region evolved slowly, and was first suggested in the Holt Report (1915). In 1927, the Ottawa Improvement Commission became the Federal District Commission, and was permitted to extend its jurisdiction into Quebec. The Commission then became responsible for coordinating all federal and development activities. In 1945, an area of 2330 sq. kms. was defined as the National Capital District. Subsequently, more lands were added to enable better planning and development. In 1958, a new National Capital Act was passed and the National District was officially ren amed the Capital National Capital Region. The National Capital Commission continued to exist and the Act allows increased funding and powers for the development, conservation and improvement of the National Capital Region. The Region now includes the area of all or part of 66 municipalities in Ontario and Quebec.

5.4.4 In 1969, the legislature of Ontario created a second-tier regional municipality for Ottawa and Carleton (ROMC). In 1970 the legislature of Quebic created a similar second-tier regional municipality for the areas of the national capital situated in its province. The municipalities and regional authorities exercise powers defined or delegated by the legislature. Their responsibilities include preparation of final plans, zoning bye-laws and construction of infrastructure. The regional authorities have extensive powers in respect of planning and development of nonfederal lands in their respective areas in the national capital.

5.4.5 National Capital Commission (NCC) composed of nominated members is the agency which plays an important role in the Ottawy-Hull region within which all the important Central Government offices, including Parliament, are located. The National Capital Act, 1958, as amonded from time to time, governs the NCC. The National Capital Commission's charter was to prepare plans for development, conserve and improve the National Capital Region (NCR) so that the nature and character of the capital city of Canada was preserved consistent with its National Capital significance. The national Commission can acquire property, construct 3589 HA/89--6

works, cooperate with local municipalities, administer historic places and carry out planning for future development of the National Capital Region (NCR). It is also to coordinate the development of and control the appearance and location of federal buildings in the NCR.

5.4.6 In effect, there are three levels of administration in Ottawa namely the city munipalities with elected members having executive powers vested in a Mayor and four controllers; new regional municipalities for the Ottawa and Hull areas, which include the Mayor and sixteen members of the Council; and the Governments of Ontario and Quebec which regulate all municipalities in their respective provinces and whose laws govern their citizens. The Provincial Governments control planning and development in the capital city and its adjoining municipalities. Under Canada's Constitution, the federal overnment has no jurisdiction over local governments and has no direct control over regulating the use of land in the capital city or its surrounding territory. The Canadian Constitution assigns these subjects to the Provincial Government which can delegate some or all its functions to the regional or local authority. Federally owned land, however, is the primary resource and instrument available to Parliament and the Government of Canada for protecting its interests in the capital.

Capital Commission National 5.4.7 The (NCC) has strong financial links with the Dominion Government. It may expend any money appropriated by Parliament for the use of the Commission or received through the conduct of its operations, or by bequest, donation or otherwise for any purpose listed in the National Capital Act. In addition, loans are given by the Federal Government. Following the Federal Government's decision in 1958 to provide a massive increase in its financial support for the National Capital Plan, substantial progress has been made in implementing its main projects. The Federal Government is directly financirg development projects, jointly sharing in the development of the National Capital Region and providing grants. However, it has no direct control over or representation in any of the local councils to influence how these funds shall be spent. Negvertheless, the Federal Government has managed to overcome some of these difficulties inherent in divided jurisdiction by cooperation with the concerned State Governments.

5.4.8 The foregoing is a brief outline of the arrangements for the municipal and local administration. The capital city does not lend itself to simplistic solutions like coversion into a federal district or bringing it under firm federal control.

Federal Government has attempted to resolve the problem of divided jurisdiction using federal financing as its primary mechanism to ensure that the federal interests in the affairs of the capital city are given due weight through the instrumentality of the National Capital Commission. The creation of the National Capital Commission might have resolved to some extent the problem of land use and development in the capital region. However, it offers no solution to the other problems, and particularly the important matter of relationship between the federation and provinces and the capital city, the ethnic division and other such complex problems of administration. The arrangements for Ottawa-Hull National Capital Region are in many ways unique, and seek a solution to Canada's need to give due consideration to the interests of two ethnically separate populations, with different languages and religions that need to be balanced in an acceptable manner.

## 5.5 JAPAN (TOKYO)

5.5.1 Japan has a unitary type of Constitution and the problems associated with federal types of Constitutions do not arise there. However, the arrangements for the administration of its capital city have useful lessons for us. Local public bodies in Japan function at two levels viz. Municipality and Prefecture. The Prefecture is a local government unit covering a large region and including several municipalities. In a sense, it is the administrative tier between the National Government and the Municipality, with its own elected assembly, budget, and Prefect who is elected by popular vote and is also called the Governor, who serves a four-year term of office. The Governor's office is the coordinating point for the metropolitan administration. The executive organs perform administrative functions under the administrative control of the Governor. He is assisted by a number of Vice-Governors, a Chief Accountant and other staff. The authority to draft the budget, submit legislative measures, levy and collect metropolitan taxes is given to the Governor's office. The Municipality takes care of several functions directly relating to local residents, whilst the Prefecture is concerned with the broader regional administration, in close cooperation with the municipalities at one level, and the National Government on the other.

5.5.2 The Prefecture for Tokyo is the Tokyo Metropolitan Government which is a self-governing body. It enjoys powers and functions superior to other Prefectures. Such a dispensation had become essential since its population increased from 3.49 million in 1945 to the present population of over 12 million. The National Capital Region of Japan comprises the municipalities of Tokyo and seven surrounding Prefectures, which include 26 cities, 7 towns, 8 villages and 23 special wards extending over 2162 sq. kms. (The special wards only exist in the metropolis and are distinct municipalities in themselves). The personnel serving the Tokyo Metropolitan Government are selected by competitive examinations through an independent commission.

5.5.3 The Tokyo Metropolitan Government administers the arrangements for water supply, sewage treatment, refuse disposal and fire fighting services. It can enact laws for the municipal administration of wards, although this power would not seem to have been exercised thus far. It levies a corporate resident tax, fixed assets tax, and a special land-holding tax. It is also assigned a portion of the tax collected by the municipalities in its jurisidiction and provides financial assistance, when necessary, to the municipalities. In 1985, only 9% of its finances came from national Treasury disbursement, 73.7% came from its own metropolitan taxes (45.2% from Preferectures and 28.5% from municipal taxes). Metropolitan bonds are an important source of financial for meeting the expenditure on social overheads and capital projects of the Tokyo Metropolitan Government.

5.5.4 By all accounts the administration of the Tokyo Metropolitan Government appears to have been very well managed to the satisfaction of the people. One of the main reasons for this may be the availability of large funds, apart from efficiency in the management of the affairs of the city. But the important reason seems to be the coordinating role of te Governor (Prefect) who has adequate powers to satisfy particular needs of the citizens.

# 5.6 UNITED KINGDOM (LONDON)

5.6.1 United Kingdom has a untary form of Government, and a study of the arrangements in London is of relevance in rgard to management of a large metropolitan city. The area of Greater London covers about 1,580 sq. kms with resident population of about 7 million. The historic city of London covers 2.6 sq. kms in the heart of the capital, and has a resident population of about 5,200, although some 3,00.000 people travel into the area to work each weekday. The boundaries of the Metropolitan Board of Works, created in 1855, became those of the London County Council in 1888. They remained unchanged until the London Government Act, 1963, which established the Greater London Council and 32 London borough councils. The local authorities in greater London are the Councils of the boroughs, the Corporation of the City of London and the Greater London Council (GLC) (since abolished). The borough councils from the basic units of local government: the GLC was only responsible for those services which required unified administration and control over the whole area.

5.6.2 The principle embodied in the 1963 Act was to entrust civic functions largely to the boroughs and vest powers in respect of traffic regulations, highways, town planning, housing, sewage disposal and other regulatory and licensing functions that concern the whole area with the Greater London Council. The boroughs, within their areas of jurisdiction, have functions relating to highways, traffic and planning, and they are the primary authorities for providing housing, environmental health and social services. The Metropolitan Police and the Port of London Authority also perform certain functions in their respective fields. The Transport (London) Act, 1984 established a new public corporation, the London Regional Transport, which now has two subsidiary companies viz. London Buses Ltd., and London Underground Ltd.

5.6.3 There are three main sources of finance, namely, rates (local property taxes), government grants, and who charges received for services. Government grants are given for specific purposes (maintenance of law and order and the urban programme) supplementary grants (transport, and national parks) and rate support grant. Rate support gransts are block grants that are used to ensure that all local authorities can finance a comparable standard of service in their local areas. These local authorities can also borrow to finance their capital spending.

5.6.4 The affairs of the City of London are still largely regulated by its old charters. Local government functions relating to environmental health, police, housing, open spaces and parks, libraries and markets are performed by the City Corporation for its area of rofighly one swaure mile. Other services were being provided by the Greater London Council when it existed.

5.6.5 The Local Government Act, 1985 abolished the Greater London and Metropolitan Country Councils. This appears to have been intended to create a more effective and accountable system of governance by removing an intermediate tier between the government and the local authorities. The functions previously carried out by these Councils have been transferred to the London boroughs and metropolitan district councils. Services like the police, and fire services and public transport, which requre a statuttory authority over areas wider than the boroughs and district, are now administered by joint authorities composed of elected councillors nominated by ihe borough and district councils. There is a joint authority for the whole of London responsible for waste regulation, while the London Planning Advisory Committee considers matters of common interest relating to overall planning and development. The Metropolitan Police, unlike other police forces in Britain, is controlled, not by the local authority, but by the Home Secretary, although it is partly financed by the rates. The City of London has its own police force, controlled by the Court of Common Council, established by an ancient charter, which also works under the Home Secretary.

5.6.6 In London, the Metropolitan Police Force is responsible for an area within a radious of about 24 kms from the centre, but excluding the City of London, where there is a separate force. At present the main types of police authority in London are (a) Metropolitn Police created in 1829 and coming directly under the Home Secretary's control, who recommends to the Crown the appointment of a Commissioner and five Assistant Commissioners; (b) City of London Police-created in 1831 and organised independently by a Commissioner of the City police force who is responsible to the Court of Common Council and the Home Secretary. There are a number of other police forces, including the British Transport police, responsible for policing the transport system and property owned by the British Rail and London Regional Transport; the other police forces are maintained by the Ministry of Defence, the United Kingdom Atomic Energy Authority and a few other public bodies.

5.6.7 The Metropolitan Police District has twenty four districts which are grouped into four Metropolitan areas, each subject to supervision by a Deputy Assistant Commissioner, who is reponsible for the effecient functioning of the police system within his area. Each of the districts is in the charge of a Commander, and is divided into divisions, each under a Chief Superintendent. Within these divisions a unit system functions-that is, a single station are under the full operational control of a chief inspector or inspector. The chief officer in the Metropolitan Police Area, the Commissioner of police of the Metropolis, is assisted by a Deputy Commissioner and Assistant Commissioners. The City of London force is also headed by another Commissioner of Police.

5.6.8 The Metropolitan Police Force provides assistance in criminal investigation, on request, to any other police force in England and Wales. The Fraud Squad, run jointly by the Metropolitan Police and the City of London Police, is available to help other forces investigate company frauds; officers from the two forces are also located within the newly established Serious Frauds Office, a government department set up under the Criminal Justice Act, 1987 to investigate and prosecute serius fraud in England, Wales and Northern Ireland.

5.6.9 For London boroughs there are Councils consisting of about sixty elected councillors each and a mayor as the civic head who is elected annually by the councillors. The Councils, together with the Corporation of the City of Londn are responsible within their areas for planning control, housing, environmental health, refuse disposal, social services, and variety of other functions, including parks management, support for the arts and preservation of London's 26,000 historic monuments and buildings. The twenty 'outer London' boroughs are also responsible for education. In 'inner London' provision of education is the responsibility of an independent and directly elected body-the Inner London Authority Under the relevant law the country and county borough councils have been made responsible for education at all stages primary, secondary and further education.

5.6.10 The features of the system prevalent in London may not be applicable to the conditions in Delhi in their entirety. However, it is noticeable that the arrangements in this respect have resulted in balancing the interests of the national government with the functioning of the local self-governing institutions in London, which have traditio-मव जयत nally occupied a very important position in the life of the common man in that country. This has been achieved to a large extent through such measures as the retention of varying degrees of control by the Home Office over the Metropolitan Police Force and the city police and disburusement of grants, both block grants for 'rate support', as also 'sepcific purpose' grants for urban programmes, transport, national parks, etc. The recent abolition of Greater London Council appears to be intended to provide a closer linking of the government with the self governing local institutions by the elimination of an intermediate autority.

## 5.7 GENERAL OBSERVATIONS

5.7.1 A survey of the systems in different countries discloses that the basis for location of the national capital differs from country to country. In some countries (Washington D.C. in U.S.A, Canberra in Australia), a separate area is identified and recognised as the National Capital District and this is under he overall political and administrative control of the federal government. For the capitals in some other countries (Vienna in Austria, Lagos in Nigeria) there is no separate federal, district as such but the federal capital functions as a city state, while for those in yet other countries (Belgrade in Yugoslavia and Kuala Lumpur Malaysia) the capital lies within one of the Federal States.

5.7.2 We notice that most of these national capitals had to contend with the demand for local self-government by the local population but the manner in which this demand was sought to be met varies from country to country, presumably because this is a matter depending on historical traditions and relative progress in evolution of political institutions. Therefore, the structures devised in various countries differ from country to country. Apart from the structure of the governmental organisation, an important aspect of the administration of any national capital is in regard to the provision of municipal, public utility and other services related to plan-ning, development, etc. The general position in regard to this aspect of administration of national capitals has been neatly summarised at page 653 of the Encyclopaedia Britannica (15th Edition) in the following words: -

"The principal problems confronting city governments are broadly similar irrespective of the constitutional type. They concern the planning and development of large cities, particularly those classed as metropolitan areas; the continual erosion of local autonomy by the increase of central governmental control; the municipal dependence on grants and subsidies from the Central Government; and the immense difficulty of providing adequate traffic and transport facilties, housing, education and welfare services at an acceptable standard. Finally, the deterioriation of the environment as become a matter of serious concern that is likely to persist for many vears."

It is failry clear that there can be no easy solution to the problems relating to the governance of national capitals. A basic conflict of interests arises between the national government's need to develop the national capital for the nation as a whole and the local population's desire to have greater autonomy in the conduct of their own affairs. The national Government needs to maintain high standards with regard to municipal services and civic amenities as also exercise sufficient control over maintenance of peace, land use etc., in the national capital. 5.7.3 It will be clear from the above that it has been recognised in many countries of the world that the national government should have the ultimate control and authority over the affairs of the national capital. At the same time, there is a noticeable trend in those countries to accept the principle of associating the people in the capital with slotes of administration affecting them, by means of a representative body. Because of the difficulty in secruing a balance between these two considerations, the problem of evolving an appropriate governmental structure for the national capital has proved difficult in many countries particuarly those with a federal type of government.



## CHAPTER VI

# CONSIDERATION AND DETERMINATION OF APPROPRIATE STRUCTURE

## 6.1 GENERAL CONSIDERATIONS

6.1.1 In the preceding Chapters we have set out the result of our study and examination of the drawbacks in the functioning of the administrative authorities in Delhi. We have also indicated the historical and other factors relevant to our Terms of Reference. We now proceed to consider how the existing structure of administration in Delhi should be reorganised to secure the objects set out in the Terms of Reference.

The task of formulating an appropriate 6.1.2 structure for the administration of the national capital has never been easy, particularly in a federal set-up. This has been the experience not only in our country but all over the world as we have indicated in Chapter V. The main difficulty lies in reconciling the two conflicting requirements, namely, the requirement of satisfying the democratic aspirations over the citizens of the capital to govern themselves in consonance with the spirit of their national Constitution and the requirement that the national Government should have sufficient control over the capital city and its administration for discharging its national and international responsibilites and commitments. सन्यमंब ज

6.1.3 The national capital undoubtedly has some special features which have to be kept in the forefront in all discussions on the matter. It is the hub of a country with most of its important national institutions such as the Head of the State, the national legislature, the national executie, the apex judiciary and the national press located therein. It is also the place where the foreign diplomatic missions and international organistions are located. It is generally a cosmopolitan city with people from all over the country as well as from a broad residing therein temporarily or permanently for their respective avocations and mingling with one another freely. It reflects the ethnic, cultural and socio-political diversity of the country and serves as a window for the rest of the world to see the country in miniature. It is also a place to which high dignitaries from other nations pay official vistis in the context of the present day complexities in international relationships and diplomacy. It is obviously in the national interests that the highest possible standards should be maintained in the administration of the national capital and that its administrative structure should be designed to meet all these special features.

6.1.4 It is relevant to note in this connection that the national capital attracts people from all social and economic strata, from every corner of the country, for a variety of reasons, and particularly because of the greater opportunities for employment. The ever increasing population creates its own problems. The demand for the democratic right of participation in the governance of the city becomes louder as a consequence of this. Further, by reason of the influx of people from all over the country, there is a diversity of culture among the population leading to a healthy development of a composite Usually the population of the capital culture. is a mixture of the elite and the unsophisticated and the general level of education is comparatively high. The people of the capital city are generally more articulate and have greater expectations in regard to the level of administration and civic amenities as also their political rights. The issues involved when considering an appropriate structure for the Capital are complex and underline the need for avoiding simplistic or ad hoc solutions to the problems of the national capital.

6.1.5 As we have indicated in Chapter II, the question of evolving a suitable structure of Government for the national capital egaged the earnest attention of our Constitution makers. The debates in the Constituent Assembly disclose the keen interest taken by the distinguished members of the Assembly and their remarkable foresight in recognising the various problems to be resolved in provding a suitable structure of administration for Delhi. The Constituent Assembly took into account the views of experts and statesmen, and also the arragnements in certain other federal countries like the U.S.A, Canada and Australia. We have already set out in that Chapter the conclusions reached by the Constituent Assembly as a result of the detailed discussions and deliberations on the matter.

6.1.6 The issue of evolving a suitable governmental structure for Delhi is by far the most important issue before us, and the solutions to almost all the problems faced in Delhi depend on this. Naturally we had to examine this matter in great depth with reference to all its aspects on the basis of the large volumes of materials collected by us. We have carefully gone through the reports and studies, the memoranda received from various persons as well as the replies to the exhaustive questionnaire issued by us. We ascertained the views of wide section of the public specifically on the aspect of the relationship of the Union with the Delhi Administration and in response to this we received very valuable suggestions and views. Our study of the experience and developments in other countries in this regard provided an indication of the lines on which solutions were sought for meeting the needs of the national capital. We also took note of the trends in socio-economic and political spheres as well as stresses, strains and tendencies which are clearly discernible even in the present context.

# 6.2 ANALYSIS OF THE VEIWS AND SUG-GESTIONS RECEIVED

6.2.1 On a careful analysis of the views on, and suggestions for, the restructuring of the governmental set-up in Delhi contained in the various memoranda received by us, in the replies to our questionnaire, in the reports and other papers incorporating the results of previous studies undertaken on this matter and the points made during our very fruitful interviews with eminent public men, we find that there is a divergence of opinion with regard to the structure of government for Delhi which would be appropriate for securing the objectives set out in paragraph 3 (iii) of the Terms of Reference. These views and suggestions can conveniently be categorised under the following heads :

- (1) The existing structure under the Delhi Administration Act, 1966 may be retained with such modifications as may be found necessary.
- (2) The administration of Delhi may be the direct responsibility of the Central Government except for municipal functions to be left with the Municipal Corporation or other municipal bodies; there is no need for any Legislative Assembly or Council of Ministers.
- (3) Delhi may be made a full-fledged State of the Union.

- (4) Delhi may be made a Union territory with a Legislative Assembly and Council of Ministers.
- (5) Delhi may be given a special status and dispensation under the Constitution itself.

It is not possible to bring all the views and suggestions received by us under one or the other of the above five categories because many suggestions are characterised by varying qualifications, conditions and nuances. Still the above categories may provide a conveninent schemata for examining the issues.

6.2.2 Item (1) above was the approach of the Administrative Reforms Commission, 1969 which went into the working of the Delhi Administration Act, 1966 and made a series of recommendations for improvement. The Task Force set up in 1975 by the Ministry of Home Affairs also concerned itselfwith possible improvements of this nature. The States Reorganisation Commission of 1955 made recommendations which would broadly come under item (2) above. The views classified under items (3), (4) and (5) above are dispersed in the other materials before us including the points made during our interviews.

6.2.3 Going only by the responses received by us, a sizeable section was in favour of providing Delhi with a Legislative Assembly and Council of Ministers. Among these, one section favoured the idea of making Delhi a constituent State of the Union, while another section suggested that Delhi should be a Union territory with a Legislative Assembly and Council of Ministers with some restricted powers. Some others suggested that there could be a Legislative Assembly and Council of Ministers but certain special powers should be vested in the Lt. Governor in respect of certain subjects like public order, police, land, etc. Another section of opinion took the view that Delhi does not require a Legislative Assembly or Council of Ministers and that the administration may be directly under the Union. Thus, each one of the five categories of views listed in paragraph 6.2.1 above has the support of one or the other of the various sections of opinion whose views were available to us.

6.2.4 We also noticed that some of the suggestions and responses received by us were not complete or clear. Thus, it has not been made clear by the protagonists of full statehood how and in what manner the citizens' own problems in Delhi, such as those in respect of civic matters, health, education, and maladies like corruption will disappear simply with the attainment of statehood. Many of those pleading for special powers for the Lt. Governor could not specify what these special powers should be, and whether such powers need to be controlled by the Centre or be operative incrisis situations only. Some of those who opposed a Legislative Assembly and a Council of Ministers, did not give specific suggestions as to how public welfare and satisfaction can be ensured, particularly in a city with a large population, without a sufficiently proximate democraic control over the proliferating official machinery,. We might, however, add that with all this, we were fortunate in getting very valuable material and assistance from almost everyone and the diversity of opinion helped us to examine the matter from all points of view.

6.2.5 We proceed to examine in the succeeding paragraphs the appropriateness or othewise of each of the five courses listed in paragraph 6.2.1 above to secure the objects in view.

## 6.3 SUGGESTION FOR THE RETENTION OF THE EXISTING STRUCTURE WITH SUITABLE MODIFICATIONS

6.3.1 With regard to the first of the courses suggested, it is necessary for us to examine the possibility of resolving the problems now being faced by the people and the administration in Delhi, by making improvements in the existing structure as provided by the Delhi Administration Act, 1966, which has been functioning for nearly 22 years. For this purpose, it would be useful to recapitulate briefly the events which led to the enactment of that Act.

6.3.2 As we stated earlier, under the scheme adopted soon after the coming into force of the Constitution, provision was made by a law of Parliament (The Government of Part C States Act, 1951) for a democratic set-up for the administration of Delhi, with a Legislative Assembly and a Council of Ministers. However, this system did not have a chance to function for long because it was given up in 1956 as a result of the changes brought out by the reorganisation of States. Thereafter, the administration of Delhi was carried on directly by the Centre and certain powers were vested in the Muncipal Corporation by a separate law of Parliament. It soon became clear that this system did not satisfy the people of Delhi. There was a good deal of public pressure for reviving the democratic system of Govermment under which the people of Delhi could have an effective voice in itw administration, and this led to the enactment of the Parliamentary law of 1966, which provided for a Metropolitan Council and an Executive Council having the appearances, though not the substance, of a Legislative Assembly and a Council of Ministers respectively.

6.3.3 The initial thinking on the scope of the enactment of the 1966 Act is apparent from a letter dated 2nd September, 1966 addressed to Ministers in the Union Government by the then Home Minister stating:

"In actual practice, as a matter of policy, irrespective of the legal position, we have decided to treat Delhi Administration not as a body subordinate to the Central Government, but, more or less, as an autonomous body is so far as the subjects in the State and Concurrent Lists are concerned except the powers reserved for the Lt. Governor. In so far as these transferred subjects are concerned, it will be sufficient if specific problems are brought to the notice of the Delhi Administration and the Central Government does not act as a kind of an appellate forum.

The Idea is that in transferred subjects there should by very little interference in the matter of day-to-day administration of Delhi. Of course, in regard to reserved subjects, the responsibility of the Central Government is more direct and the Government will like to be in more close touch with these affairs. Such matters could be taken up with the Central Government. In this connection, we have drawn up a memorandum regarding the procedure to be followed by the Ministries of the Central Government in respect of matters concerning the Delhi Administration..... I shall be grateful if the procedure indicated in the Memorandum is adopted by your Ministry for day-to-day dealing with Delhi Administration."

It is clear from the above that the intention of the Central Government, at least at that stage, was that the representatives of the people of Delhi should have an effective voice in the running of the administration and that the Delhi Administration should have a good measure of autonomy.

6.3.4 This intention would appear to have got blurred in actual practice over the years. There is a general consensus of opinion that in the situation as of today the various Ministries of the Union have established and maintained a close and tight control in their respective fields over Delhi affairs, leaving little scope for initiative on the part of the local administration. [In the view of many of those interviewed by us, such control by the Centre has been the cause of most of the problems faced today by the administration and the public of Delhi].

6.3.5 It is a moot point whether the system introduced by the Delhi Administration Act, 1966 would have worked to the satisfaction of all concerned if these instructions had been followed in practice. All we can say is that the problems of Delhi as of today have assumed manifold dimensions and complexity during the last twenty-two years since the enactment of this Act, and it is doubtful whether the present situation and the situation that may develop in the coming years can be met by mere issue of executive instructions of this nature. In any case, the fact that such instructions have failed to achieve the desired object streng thens the case for providing a statutory framework for securing a democratic and decentralised form of Government for Delhi.

6.3.6 In considering the possibility of solving the present problems faced in Delhi by making improvements to the existing structure, it is necessary to refer to the specific recommendations in the Report of the Administrative Reforms Commission (1969) to which we made a brief reference in Chapter III. That Commission went into the working of the Delhi Administration Act, 1966, in some details with the help of a Study Team which examined the peculiar features of the administrative set-up which had been "conceived in the image of a State Government but without such plenary powers as a State possesses." The Study Team observed that the Metropolitan Council and the Executive Council were no substitutes for a Legislature and Council of Ministers. It also observed that the Central Government found it difficult to discharge its constitutional responsibilities to ensure the proper administration of the national capital because any attempt on the part of the Central Ministries to take account of the dayto-day working of the Delhi Administration in their respective spheres of activities is resisted on the score that it amounts to interference with its autonomy. The Study Team suggested that through conventions the Metropolitan Council and the Executive Council might be accorded the de facto status of a Legislative Assembly and Council of Minister respectively. The Commission, however, considered that this was not sufficient and it proceeded to make a series of recommendations for improvements to the system. To recapitulates these recommendations were:-

- (i) The Executive Council should be collectively responsible to the Metropolitan Council and thus enjoy a position similar to that of a Council of Ministers in some other Union territories.
- (ii) There should be a clearly demarcated field in which the Administrator should be allowed to function in his discretion and in which he will not be subject to the advice of the Executive Council.

- (iii) The recommendations of the Metropolitan Council on legislative matters must, as a general rule, be accepted by the Central Government and acted upon accordingly and the restrictions in regad to initiation of legislation by the Administration without the approval of the Central Government should be removed.
- (iv) In regard to matters covered by the "transferred" field. the Administrator must function as a constitutional head similar to a Governor in a State provided that if, in his opinion, the issue impinges on any matter in the Union List, he may refer it to the Central Government for its decision.
- (v) The Administrator should play the role of a coordinator bringing in harmony and understanding.
- (vi) The Metropolitan Council should have an elected presiding officer who will not have any executive powers but may be designated as a Mayor for ceremonial purposes.
- (vii) The Delhi Municipal Corporation may be abolished and the functions transferred to the Delhi Administration except in areas under the N.D.M.C. and the Delhi Cantonment Board, thereby avoiding duplication of several departments which is a feature of the existing set-up.
- (viii) The Metropolitan Council which will assume the functions of the Delhi Municilpal Corporation will be empowered to levy the taxes now being levied by the Corporation.
  - (ix) The budget of the Administration will be in three parts; the part dealing with purely municipal functions will be presented to and voted by the Metropolitan Council; the part dealing with "reserved" subjects will be framed by the Administrator and submitted to the Central Government for presentation to Parliament for vote, and the part relating to "transferred" subjects may be framed by the Delhi Administration after ascertaining the quantum of central assistance, discussed in the Metropolitan Council and forwarded to the Central Government with the recommendations: the Central Government must, as a general rule, accept such recommendattions.
  - (x) As the Metropolitan Council will function in a manner similar to a State Legislature, Pariament and Union Government may agree to forgo their right to intervene in matters falling in the transferred field.

From the information made available to us, we gather that the recommendations of the Administrative Reforms Commission were not wholly accepted or acted upon by the Government.

6.3.7 In 1975, the Government set up another Task Force, commonly known as Prabhu Committee (to which we made a reference in Chapter 111), to go into the question of improving the administration in Delhi. That Committee, after a thorough study, made a series of recommendaions which were generally in the direction of delegation of enhanced financial and administrative powers to the Delhi Administration, avoiding delays in securing sanctions and approvals from the Central Ministries, rationalising the functioning and jurisdiction of the Corporation and various other authorities and effective coordination at various levels among the various authorities and organisations. It also recommendated the settingup of a staturoy authority to be called the Delhi Metropolitan Development Authority (DMDA) for ensuring coordinated attention to the complex problems of Metropolitan Delhi. It did not recommend any changes in the 1966 Act.

6.3.8 Presumably it was not considered necessary to take any decision on those recommendations as there was a proposal for providing Delhi with a Legislative Assembly and Council of Ministers. Two Bills, namely, the Constitution (47th Amendment) Bill 1978 and the Government of Union Territories (Amendment) Bill, 1978 were sponsored in this behalf. But with the dissolution of the Lok Sabha in 1979, these two Bills lapsed. We were informed that subsequently in 1980 a decision was taken that there should be no change in the administrative set-up of Delhi. The matter was allowed to rest there.

6.3.9 In the light of the foregoing, it is doubtful whether any amendment to the existing law would be sufficient to meet the problems now being encountered. However, we, on our own, sought the views of the public on the possibility of retaining the existing structure with improvements, by means of a specific question in our questionnaire (Ouestion No. 1.6) asking for suggestions on improvements to the existing scheme of the Metropolitan Council to make the Delhi Administration more responsive to the public more efficient in performance and more effective in administration. We also raised this issue during our interviews with some of the experienced and knowledgeable persons who appeared before us. We found that practically no one evinced any interest or enthusiasm for this course. There is almost a general consensus that the existing structure cannot be improved upon and any tinkering with it will not result in any tangible benefit to the public or the administration.

6.3.10 After giving serious thought to this possibility we are of the view that it is not possible to remedy the present situation by mere changes in the 1966 Act. The present system under that Act has worked for nearly 22 years, has been found wanting, and in the opinion of many, is responsible for most of the problems that are being faced in Delhi today. In our view, a replacement of the existing system by a new one to secure for Delhi the substance of a democratic government is called for. This will among other things create a new sense of purpose and enthusiasm for working the system.

We recommend accordingly.

## 6.4 SUGGESTION FOR DIRECT ADMINIS-TRATION OF DELHI BY THE CENTRE

6.4.1 We proceed now to consider the merits and demerits of the course suggested in item (2) of para 6.2.1 viz. that the administration of Delhi might be made the diret responsibility of the Central Government except for municipal functons to be left with the Municipal Corporation or other municipal bodies and that there is no need for any Legislative Assembly or Council of Ministers.

6.4.2 As we have stated earlier, Delhi was administered directly by the Central Government during the British regime. The Constitutent Ass, mb ly, however, affirmed the principle that every citi zen of India, whether in a big city or in a remote village, has a right to and has to be provided a democratic institution and should have the feeling that he is taking part in the administration. In pursuance of this, Parliament enacted a law providing for a democractic government for Delhi (alongwith certain other Centrally Administered Areas) with certain provisions for safeguarding the Centre's interests. As we mentioned earlier, the States Reorganisation Commission (1955) took the view that the national capital should be directly administered by the Centre. After taking into account primarily the requirements and aspirations of a cosmopolitan urban population involving urban problems and the experience of other advanced countries. the Commission exrpressed the view that municipal autonomy for Delhi in the form of a corporation was the most appropriate method of meeting and reconciling the broader requirements of the national Government as well as the local needs and the wishes of the people. While ruling out a separate State Government for Delhi, they recommended that the question of creating a Municipal Corporation with substantial powers should be considered. As regards the argument that a denial to the people of Delhi of the benefits of popular government at state level would be a retrograde step, the Commission observed that people residing in national capitals enjoy an advantageous position and they must be prepared to pay some price for it.

6.4.3 The view that Delhi does not need any Legislative Assembly or Council of Ministers was also expressed by some of those interviewed by us. The main arguments in favour of this view can be summarised as follows :

- (i) The problems of Delhi are essentially metropolitan in nature and so a democratically elected legislature and Council of Ministers will hardly be of any use in dealing with such problems.
- (ii) The stakes of the Union Government and the nation as a whole in the good governance of Delhi are very high and it would be appropriate if the Union Government itself takes direct responsibility to run the Delhi Administration.
- (iii) If the Union Government administers Delhi dirctly the principle of responsible Government will be satisfied by reason of of the fact that the Union executive is controlled by Parliament which has an adequate number of elected respresentatives Delhi.
- (iv) The common man is mainly concerned with his civic problems and amenities. As such, a Municipal Corporation with democratically elected representatives should satisfy the needs of the common man since he can have his say in such matter through elected members.
- (v) If there are elected representatives for the Municipal Corporation as well as for the Legislative Assembly. there may be occasions for conflicts between them, particularly when different political parties run the respective bodies.
- (vi) The population of Delhi is composed of people from all corners of the country and, as such, the Delhi Administration has to cater to a diversity of interests and cultures. Such a city can best be managed only by the Union Government which has a national composition.

We have carefully considered each of these arguments, but are unable to accept the validity of any of them for the reasons given in the succeeding paragraphs.

6.4.4 The arguments in items (i) and (ii) above imply that the entire control over the affairs of

Delhi should be left with the officials without a sufficiently strong and closely placed elected authority to provide the necessary checks or to give the necessary political guidance. This view militates against the generally accepted view that officials left with extensive powers and authority without any political guidance or a close check by elected prepresentatives of the people may not prove successful in the administration for a large population like that of Delhi. Even assuming that a purely bureaucratic administration would provide good government the well known concept that good government is no substitute for self-government applies with equal force to the national capital. The principle which has been recognised all over the world and particularly in democratic countries like India is and has always been that the system of democratic government involving the people is better and more satisfying to the people than a government run exclusively by the bureaucracy.

6.4.5 As regards the argument in item (iii), the concept of control of the administration by the Union Parliament through its members elected from Delhi is illusory. It is true that Parliament is situated in Delhi itself, but in the common man's concept and perception, it is too far away and too high for dealing with the day-to-day affairs of Delhi. The common man possibly believes that it would be difficult for Members of Parliament from Delhi to acquire a sufficiently deep knowledge and to take an interest in the local administration. Further, most of the time of a Member of Parliament is spent on national affairs and he may not be left with any time to attend to Delhi affairs. It may be mentioned that, as we stated in Chapter V, the existence of representation in the national legislatures in the capitals of some other countries like the USA and Australia has not been found to be an effective mode of representation for local interests.

6.4.6. The argument in item (iv) that a Municipal Corporation would be sufficient to satisfy the democratic aspirations of the people does not appeal to us. The functions at the administrative level are in a totally different plane from those at the municipal level. Some of those interviewed by us mentioned that the level of politicians or persons contesting an election to a Legislative Assembly is higher than the level of politicians and persons seeking election to a municipal body. Whether or not one agrees with this there is substance in the argument that a legislature with appropriate powers in regard to all matters of administration, including developmental and financial administration, would certainly attract better types of persons for contesting elections than a body with limited and restricted powers and func-

tions. Further, there is a fallacy in the assumption that the people of Delhi are concerned with and attach importance only to their civic problems and amenities. Undoubtedly, a citizen is concerned with several other matters, including the policies of the government on various issues in the formulation or implementation of which he would like to have his voice heard or in which he would like to participate. Indeed, if the argument is valid it can be extended to every other place in India thereby doing away with Legislative Assemblies and managing only with Municipal bodies. However, the people of Delhi, where this experiment was tried for about eight years from 1958, found the system wholly inadequate and pressed for a change, leading to a partial recognition of the need for a representative government in 1966. We cannot recommend a repetition of this experiement.

6.4.7 The argument in item (v) that the presence of elected representatives in the legislature and in municipal bodies will lead to conflicts cannot hold. If this argument were to prevail. the existence side by side of elected bodies for the legislature and municipalities at other places cannot be justified. The question of such conflicts can hardly arise when the two elected bodies have different spheres of functions and responsibilities, as the essence of a democratic system of government is that representative bodies at different levels have to function harmoniously playing their due role in their respective spheres.

6.4.8 The argument in item (vi) does not also appeal to us. It is not correct to assume that the intersts of the diverse sections of population in Delhi cannot be properly safeguarded by elected representatives or that only one section of the community will get selected to the Legislature. On the other hand, elections in Delhi may well throw up candidates belonging to the various sections of the community reflecting the diversity of population. They will be able to safeguard the interests of the diverse elements of the public satisfactorily.

6.4.9 We are not, therefore, impressed with any of the arguments in support of a bureaucratic administration. There are also two other important aspects.

6.4.10 The first is that an administration run only by officials will militate against the principle of accountability of the administration to the people which is a cardinal feature of democracy. If the structure is composed of government officials only, accountability to the people will undoubtedly suffer because there will be no proximate forum where the actions of such officials can be questioned. In the view of several distinguished persons who were interviewed by us, one of the root causes of the problems faced in Delhi is the absence of such accountability.

6.4.11 The second important aspect is the need for providing an effective mechanism for feedback. A sizeable section of opinion expressed the view before us that in all important matters of administration and development, it is essential that the administration should have a proper feedback which can be obtained only in a democratic framework. It cannot be denied that a democratically elected Government provides the most effective and broad based feedback mechanism from the people on a day-today basis. It also provides an effective forum for ventilation of people's grievances and demands.

6.4.12 For all the foregoing reasons, we are convinced that there is no ground for us to support the view that the administration of Delhi can be run directly by the Centre without the participation of the people through the instrumentality of a Legislative Assembly and a Council of Ministers. We recommend the rejection of this view.

# 6.5 Suggestion that Delhi should be a State of the Union

6.5.1 As we have stated in para 6.2.3 of this Chapter, a section of opinion tendered before us took the stand that the only way to resolve the problems that have surfaced in Delhi, whether arising from the multiplicity of authorities or the overlapping of functions or from other causes, is to make Delhi a State of the Union. Another section of opinion was opposed to this view and there has been considerable public debate on this issue. To arrive at a proper decision it will be useful to summarise briefly the arguments for and against this course.

6.5.2 The arguments for statehood at we perceive them are in substance the following:-

(i) Delhi has a vast population of over 8 millions at present and it is growing rapidly. If the people of Delhi in such vast numbers are not given an effective voice in the running of their own adminisitation, democracy, which is the bedrock of the system of government adopted by the people of India after the attainment of our hard won freedom, will have no meaning and content. (ii) The debates in the Constituent Assembly make it clear that it was never the intention of the Constitution to exclude Delhi from the purview of responsible government. One of the grounds mentioned by some members for justifying the grant of responsible government was that the population of Delhi at that time was about two millions. The population today is more than four times that figure, which further strengthens this argument.

(iii) Experience in the working of the present system over the years has amply demonstrated that most of the problems faced by the common man in Delhi are due to the lack of accountability of the administration to the people which, in turn, is due to the fact that the representatives of the people of Delhi are not entrusted with the responsibility of government and do not have the necessary powers to attend to the needs of the people or to redress their grievances.

(iv) The difficulties arising from multiplicity of authorities with overlapping functions are mainly due to the absence of a focal point of coordination. control and command at the local level. Such absence has resulted in the present system of diversity of control by different Ministries of the Central Government, instead of unified control at the local level.

(v) If there is a State Government in Delhi as in other metropolitan cities. the Municipal Corporation will function under its close control and supervision at the local level in matters of policy and services. At present the control by the Central Government is distant and spasmodic with the result that the quality and scale of civic services do not measure up to the normal expectations of the people. The same is the position in regard to the other service agencies dealing with water supply, electricity, housing etc.

(vi) In the absence of a fully empowered Legislative Assembly, the citizens of Delhi are deprived of their basic right of enacting, through their elected representatives, necessary legislation to meet their social and economic needs. They are also deprived of an effective voice in vital matters like planning, development, control over services, finance etc. The present system does not evisage any decision-making on any of the important matters affecting the common man at the local level. To that extent the people of Delhi are deprived of an effective forum for attending to their needs or redressal of their grievances.

(vii) Nothing less than the status of a fullfledged constituent State of the Union will fully satisfy the democratic and political aspirations of the people of Delhi. There is no justification for denying this to them merely on the ground that they happen to reside in the national capital. There are in our country States with much smaller area, population and financial resources than those of Delhi. There were some Union territori s with population much less than that of Delhi which have become States in the recent past. When people in most parts of India enjoy the fruits of our hard-won freedom it is an irony that the people in Delhi who are in no way inferior to others and who also made sacrifices for the attainment of freedom should be deprived of such fruits.

(viii) In the perception of the common man statehood represents the highest and most desiraable form of political organisation available under the Constitution by which he can effectively participate in the Government through his elected representatives in an empowered legislature and executive, leading thereby to the realisation of his aspirations. The denial of such a form of political organisation leaves a sense of gnawing dissatisfaction and unfulfilled aspirations in the minds of the citizens of Delhi.

(ix) There is no substance in the arguments usually advanced against making Delhi a State of the Union that such a step will be detrimental to the functioning of the national capital because there could be conflicts and embarrassments between the Union Government and the Delhi State Government, particularly when the ruling political parties in the two Governments are different. This argument ignores the fact that our Constitution is designed to work smoothly even when different political parties are voted to power in different States of the Union with the Union itself being governed by a different political party. The Constitution vests in the Union adequate powers to deal with States acting contrary to the requirement of national interests. The political maturity gained by the people of India including those in Delhi during the last 40 years of independence is sufficient to guard against irresponsible behaviour on the part of any State Government set up in the national capital. No State Government can afford to act arbitrarily or unreasoably in relation to the Union Government without regard to the national interest or to the impact of its action and stance on the nation. There is also no basis for assuming that the democratic Government in Delhi will function less responsibly than that of any other constituent unit of the Union or that the interests of the cosmopolitan population of Delhi cannot be taken care of otherwise than by the Union.

(x) There is also no substance in the contention that the financial strength and viability of Delhi may not justify the grant of statehood. Delhi is a thriving commercial and business centre with a high per capita income and vast potential for collecting taxes and revenues. If Delhi becomes a State with a Legislature, it can evolve a taxition structure so as to considerably augment the revenues to the Delhi exchequer, Delhi, of course, has to depend on assistance from the Centre but every other state of the Union also does. In any case, the government of Delhi would be justified in asking for special dispensation and financial assistance in view of its special responsibilities for the administration of the national capital.

(i) If Delhi becomes a State of the Union, there will be a constitutional division of powers and functions between the Union and the State and, as a consequence, the Centre will have no jurisdiction or power to deal with or intervene in matters which are in the State List of the Constitution. This may create serious problems because the Centre has a special responsibility in regard to the national capital particularly in matters like maintenance of public order, the administration and development of the capital city and, in the national interests, must have unfettered powers in all matters' irrespective of whether the matter is in the Union field or State field. Occasions may arise when even in the dayto-day exercise of functions and powers relataable to matters in the State List like maintenance of public order, land use, etc., it might become necessary for the Centre to take certain action in the national interest and this will be impossible if Delhi becomes a State.

(ii) The Constitution, no doubt, confers certain powers on the Centre when a Proclamation of Emergency is in force or when the State is under President's rule to take any action or intervene in a matter relating to the administration of a State or to give directions to a State in respect of a matter outside the Union executive power, but this power is available only in times of emergency and cannot be exercised in normal times. The need to exercise such power in the national capital is likely to arise often and it will be unthinkable to resort to the emergency powers as a matter of routine.

(ii) The administration of the national capital has often to deal with sudden developments invoving security or peace and several special problems peculiar to the capital which are of far greater magnitude and complexity than those normally faced in any metropolitan city of a state. As such it would ne extremely difficult for a State Government with its limited resources to effectively handle situations of 'such nature, magnitude and complexity.

(iv) Delhi, as the national capital, is vulnertble to attempts to subvert or overthrow the lawful Government and also has the potentias to become the centre of anti-national or fissiparous tendencies or activities including those incited by foreign powers or organisations. All covert and overt action to contain such tendencies or activities and to ensure the safety and security of the country as a whole can best be handled only by the expertise and resources available to the Union Government.

(v) The situation of Delhi is such that it has necessarily to depend on other States in regard to several matters, such as electricity. water supply and other essential supplies including food. It will be unrealistic to expect a State Government in Delhi to manage such essential services and supplies on its own. The difficulties may be accentuated if Delhi and the different States on which it depends are ruled by different political parties. The Centre will be in the best position to meet the special requirements of Delhi.

(vi) The national capital particularly in a federal set-up has a unique status and certain distinguishing features and in view of its importance for the coutry as a whole, it should belong to all the States rather than be located in the territory of or be controlled primarily by a single State. Any such arrangement, besides putting such a State in a predominant and advantageous position may also give a cause for dissatisfaction to other States. The control of the national capital by one State may not be conducive to ensuring the preservation of the overall interests of the remaining States and the Central Government in the governance of the national capital. The arrangements made in regard to national capitals in other countries of the world particularly those with a federal set-up, justify the view that the capital should be under the control of the national government.

(vii) Normally the concern of a State Government or its Legislature is with local issues. At any rate, in its functioning, the emphasis is generally on local issues, and elections to the Legislative Assembly are fought on the issues primarily concerning local interests. Such institutions cannot be expected to deal adequately with national issues.

(viii) The national capital is regarded as a symbol of the nation not only for the people of the country but also for the international com49

munity. The standard of administration in matters like maintenance of law and order, security, maintenance of essential supplies and services, transport etc. has to be sufficiently high to befit its status and importance. This could best be achieved by the national Government which has the requisite resources.

(ix) As Delhi is the national capital all the prestigious national institutions like the Rashtrapati Bhavan, the Parliament, the Supreme Court. etc.. are located in Delhi which also houses all foreign diplomatic missions, international agencies and other such institutions. Numerous buildings and properties belonging to the Union are also located in Delhi. In view of the need for proper attention to and maintenance of these institutions and buildings and the preservation of proper environment, it would be necessary to keep Delhi under the Central Government.

(x) The national capital is regarded by many as the centre of a composite culture distinct from the diverse cultures in the country. This is an asset which can best be preserved and developed by the national government.

(xi) At present, Delhi being a Union territory, its expenditure is met by the Union Government. But for the substantial financial support from the Union Government, Delhi as a national capital may not be able to maintain an adequate status or standard of services and amenities so essential for a capital city. If Delhi becomes a State, the norms and restrictions regarding financial assistance from the Centre applicable to other States will automatically apply resulting in depletion of resources at its disposal thereby making it difficult to meet the needs of Delhi adequately.

(xii) If the national capital is under a State Government, occasions may arise when frictions and conflicts develop between the Union and the State particularly when they are ruled by different political parties. These conflicts may get accentuated if they relate to matters in the State's own field under the Constitution. If there is such confrontation between the Centre and the State in the capital, it will not be in the interests of the country as a whole.

6.5.4 We have carefully examined and considered all the foregoing arguments for and against making Delhi a State of the Union. On a closer examination of the arguments in favour of making Delhi a State, it is noticed that in most of them the stress is on the need for a democratic and representative administration in Delhi through the instrumentality of a Legislative Assembly and a Council of Ministers answerable to it. We also noticed that in most of the arguments against making Delhi a State, the stress is on retaining sufficient powers with the Union for the discharge of its responsibilities in the proper administration and development of the national capital. It will, therefore, be convenient to consider the matter under the following two issues, namely:

- (i) Whether the democratic and representative Government for Delhi should be in the form of a State as a unit of the Union; and
- (ii) Whether the need for a democratic and representative government in Delhi can be met by providing a Legislative Assembly and Council of Ministers without making it a State of the Union.

We will now consider issue No. (i) above in the succeeding sub-paragraphs, and issue No. (ii) in the paragraphs to follow thereafter.

6.5.5 In paragraphs 6.5.2 and 6.5.3 we have briefly summarised the arguments for and against making Delhi a constituent State of the Union. After the most careful consideration of all the arguments and on an objective appraisal, we are fully convinced that most of the arguments against making Delhi a State of the Union are very substantial, sound and valid and deserve acceptance. This was also the view expressed before us by some of the eminent and knowledgeable we interviewed. As persons whom these arguments are self-evident we find it unnecessary to go into them in detail except those relating to constitutional and financial aspects covered by them.

6.5.6 The important argument from the Constitutional angle is based on the federal type of our Constitution under which there is a constitutional division of powers and functions between the Union and the State. If Delhi becomes a full-fledged State, there will be a constitutional division of sovereign, legislative and executive powers between the Union and the State of Delhi. One of the consequences will be that in respect of matters in the State List, Parliament will have no power on jurisdiction to make any law except in the special and emergency situations provided for under the Constitution and to that extent the Union Executive cannot exercise executive powers or functions. This constitutional prohibition on the exercise of powers and funtions will make it virtually impossible for the Union to discharge its special responsibilities in relation to the national capital as well as to the nation itself. We have already indicated in an earlier chapter the special features of the national capital and the need for keeping it under the control of the Union Government. Such control is vital in the national

interests irrespective of whether the subject matter is in the State field or Union field. If the administration of the national capital is divided into rigid compartments of State of field and Union field, conflicts are likely to arise in several vital matters, particularly if the two Governments are run by different political parties. Such conflicts may, at times, prejudice the national interest. A suggestion was made before us that to meet such situations the emergency, powers of the Union under articles 356 and 365 can be availed of by the Union whe never the need arises. We are clear in our minds that the emergency powers conferred on the Union under these or other provisions are not meant to be used as a matter of routine. They are meant to be used only in emergencies arising from breakdown of Constitution. We have given careful thought to the matter and we are of the considered opinion that any arrangement for Delhilthat involves constitutional division of powers, functions and responsibilities between the Union and the government of the national capital will be against the national interest and should not be made.

6.5.7 In this connection, we may refer to the fact that in 1978 when the then Central Government considered the question of reorganising the administrative set-up in Delhi to provide for a responsible government, it did not opt the grant of full statehood to Delhi. The Bills introduced in Parliament to which we have made reference earlier provided for bringing Delhi within the scope of the law relating to the administration of other Union territories, namely, the Government of the Union Territories Act, 1963 with some additional provisions for safeguarding the interests of the Central Government in Delhi in respect of certain matters.

6.5.8 The second important argument against Delhi being made a full-fledged State is that it will not be financially viable. This view is shared by several knowledgeable persons. As against this it was argued before us that Delhi is a thriving commercial and business centre with a high per capita income and vast potential for raising taxes and revenues and that, there fore, as a State it can on its own considerably augment its revenues. We have carefully considered this argument and we find that it is rather an over-simplification. As is well known at present Delhi being a Union terriroty, the entire deficit in the expenditure for its administration is met by the Union Govern-No doubt substantial resources are raised ment. in the Union territory but the expenditure is way ahead of the revenue and the information in Appendix V confirms this. All the deficit is at present financed by the Union Government in one way or the other. The precise extent of subsidising the expenditure may not easily be

discernible. Norms and restrictions which apply to the constituent States of the Union in respect of financial flows from the Centre to the States, such as those under the Gadgil formula for plan resources and the Finance Commission formula for non-plan resources do not at present strictly apply to the Union territory of Delhi. It is due to this that Delhi as the national capital is able to maintain a reasonably good standard of services and amenities. Such norms and restrictions will have to apply if Delhi is made a constituent State of the Union. The direct and unavoidable result will be a substantial financial crunch which the State Government will be hard put to face and overcome. We notice that even the most optimistic protagonists for Statehood for Delhi do concede that a significant flow of central finances would need to be maintained even after Delhi is made a State. They, however, justify it on the ground that considerable expenditure is incurred by Delhi Administration for security and convenience of high dignitaries, political leaders, Parliament, the Council of Ministers, foreign embassies, international bodies, etc. We concede that some special financial dispensation may be necessary in respect of the national capital and the Union Government will be justified in giving special assistance to Delhi. We also concede that not all the constituent States of the Union are financially viable. But we have reasons to believe that the annual deficit between revenue and expenditure in Delhi will be incomparably large after it becomes a full-fledged State and major innovations would need to be adopted by the Union Government in the mode and volume of financing the Delhi budget, involving deviations from the accepted norms and financial treatment meted out to other constituent States of the Union. It would indeed appear incongruous and untenable for the people of Delhi to demand the privileges of a constituent State of the Union and also to expect extraordinary financial dispensation from the Union Government.

6.5.9 We are also impressed with the argument that Delhi as the national capital belongs to the nation as a whole and any constituent State of the Union of which Delhi will become a part would sooner or later acquire a predominant position in relation to other States. Sufficient constitutional authority for Union intervention in day-to-day matters, however vital some of, them may be, will not be available to the Union, thereby prejudicing the discharge of its national duties and responsibilities.

6.5.10 In the light of the foregoing discussion our conclusion is that it will not be in the national interests and in the interests of Delhi itself, to restructure the set-up in Delhi as a full-fledged constituent State of the Union. this will have to be ruled out. We recommend accordingly.

6.5.11 Before closing the discussion on this subject, we may refer to the suggestion made to us that Delhi may be made a State of a special category with inbuilt constitutional provisions incorporating certain safeguards as in article 371A or 371F. This will be discussed in Chapter VII.

#### 6.6 RECOMMENDATION FOR A LEGIS-LATIVE ASSEMBLY AND COUNCIL OF MINISTERS FOR DELHI

6.6.1. We have, in paragraph 6.4 of this chapter. explained that most of the problems faced by the common man in Delhi as well as by the administration itself may be due to the absence of a responsive and representative government at the local level with adequate powers to deal with matters of day-to-day concern to the people of Delhi, which is accountable to them. The same conclusion would also be reached if one goes root causes of the the deficiencies into the working of observed in the scheme under the Delhi Administration Act, 1966 which we have indicated in Chapter IV. We will now proceed to examine whether these problems can be satisfactorily met if there is a responsive and representative administration.

6.6.2 The first problem is in regard to making laws for Delhi. It is hardly necessary to mention that power to make law is an essential attribute of any democratic government. The general purpose of law is to provide for the social and economic needs of the people and obviously it is the people of Delhi who are the best judges to decide what is good for them. This cannot be secured under the present scheme. We have already explained that the Metropolitan Council does not have any legislative powers as such because all it can do is to recommend measures. Even in this limited field there is a dilatory procedure at every stage before the Council can even discuss any legislation. The present position is that if any law is required to be enacted for Delhi it should be done by Parliament (which has legislative power in all matters). There is provision for getting the views of te Metropolitan Council but its views are not binding and the final decision to undertake legislation rests with the concerned Union Ministries. What is more. the Union executive can itself extend to Delhi a law in force elsewhere in India by a mere notification under the Union Territory (Laws) Act, 1951. No doubt, the Metropolitan Council has the right to discuss such extension of a law but it cannot do anything more than conveying its recommendations. If a Legislative Assembly is created for Delhi with 3589 HA/89--8

legislative powers in respect of matters of relevance to Delhi in the State List and the Concurrent List, this anomaly will be removed and the people of Delhi through their own representatives will have the benefits of themselves deciding on the laws to be made for them.

6.6.3 Secondly, in respect of exercise of executive powers, the present scheme does not provide for any meaningful role or responsibility for the Delhi administration, except to the limited extent permitted by law. Executive powers are necessary for conducting the day-to-day affairs of administration which are of concern to the common man. Many of these are matters in the State List or in the Concurrent List. It has been represented to us that the affairs of Delhi are dealt with by various Central Ministries each of which has established and maintained a role for iteself in the Administration of Delhi. In the concept of the common man, there could be only one authority responsible for the efficient discharge of all governmental functions as well as for rethe Delhi dressing his grievances and that is Administration. The present system is frustrating to him because the knows that the elected representatives in the Metropolitan Council cannot get him any effective relief or redress. The Central Ministries are too distant for his comprehension. In vital matters of day-to-day concern to him, he must have what almost all other citizens in India have. namely, a proximate government to which he can look for attending to the needs and for redressing his grievances. If, therefore, an elected Legislative Assembly and a Council of Ministries answerable to it are set up for Delhi it will go a long way in resolving the present difficulties in this regard.

6.6.4 Thirdly, there is the important field of planning and developmet of Delhi which is of great interest and concern to the people of Delhi. It has been represented to us that under the present arrangement, with the marginal role assigned to the Delhi Administration, there is over-centralisation of powers with the Ministries of the Union and, as a result, important schemes and projects required for Delhi cannot be sponsored or implemented by a unified responsible authority at the local level. As a consequence, many important schemes, such as those for setting up hospitals or industrial estates, constructing major roads and bridges, opening of higher educational institutions etc. get postponed from plan to plan for want of expeditious clearance by the several Ministires of the Central Government. This acts as a damper on the initiative for sponsoring such schemes from the present administrative set-up for Delhi. If there is a Council of Ministers answerable to people's representatives in the local legislature, planning and development for Delhi will not be hampered and will have meaning and content, with the involvement of the people's representatives in the process.

6.6 5 Fourthly, in regard to financial powers the Delhi Administration at present exercises only such powers as are delegated to it by the Central Government. We understand that the devolution of financial powers has not been adequate. In any case, the exercise of merely delegated powers under the control by the Central Ministries deprives the administration of any initiative. Even the budget proposals are virtually finalised by the various Ministries of the Central Government leaving no final say in the matter to the representatives of the people of Delhi. All these problems will be automatically solved if there is a representative and responsible Govenment for the administration of Delhi.

66.6 Fifthly, Delhi has a major problem arising from the inadequate and unsatisfactory municipal services. There is widespread complaint about the lack of civic amenities, rampant corruption and generally about the unsatisfactory response by the Municipal Corporation to the difficulties faced by the common man. It has been represented to us that this is due mainly to the fact that the Municipal Corporation is not being controlled by the Delhi Administration as in other metropolitan cities like Bombay or Madras. The control by the Centre which is minimal is neither sufficient nor visible. If Delhi is provided with a Legislative Assembly and a Council of Ministers with appropriate powers, that is likely many to bring about substantial improvement by reason of the institutional supervision by the Delhi Administration over the municipal authorities. The Legislative Assembly will provide a forum for ventilating grievances and for discussion of the working of such authorities.

6.6.7 Finally, the problem of lack of coordination betwen the various authorities dealing with matters of concern to the public of Delhi is due to the absence of a nodal authority. If Delhi Administration is run by elected representatives through a Legislative Assembly and a Council of Ministers, a suitable coordinating mechanism would be available.

6.6.8 A very important consideration which we have taken into account is the intention of the Constitution as disclosed in the debates of the Constituent Assembly. As we have stated earlier, the structure of the Government for Delhi and certain other centrally administered areas came in for detailed examination by a special committee of the Constituent Assembly. It took note of the desire of the Government of India to have a separate area for the seat of the capital of the federation and recognised the special importance of Delhi as such. It was, however, opposed to the people being "deprived of the right of self-government enjoyed by the rest of their countrymen livin in the smallest of villages". Its unanimous decision to keep Delhi as a separate area with a responsible Government subject to certain powers to be given to the Centre was approved in principle by the Constituent Assembly. The point to note is that in the opinion of the Constituent Assembly there was no question of depriving Delhi of the right to a democratic and representative form of Government as available to the people in the rest of India. It is, therefore, logical to conclude that the intention of the Constitution is not to exclude Delhi from the basic scheme of democratic administration adopted by it for the whole of India.

6.6.9 It follows from the foregoing that if a Legislative Assembly and Council of Ministers answerable to it is provided for Delh, most, if not all, the difficulties faced by the common man and the administration are likely to be mitigated or obviated.

6.6.10 On a considerations of all the aspects dealt with in the foregoing paragraphs, our conclusion is that there is a strong case for establishing a Legislative Assembly and a Council of Ministers for Delhi to satisfy the need for a democratic and responsive government. We recommend accordingly.

## 6.7 SALIENT FEATURES OF PROPOSED STRUCTURE

6.7.1 As a consequence of our recommendation in the preceding paragraph that Delhi should be provided with a Legislative Assembly and a Council of Ministers the further issues to be considered are:

- (i) the extent of the powers and responsibilities to be conferred on or entrusted to these bodies, the special safeguards to ensure that the Union is not hampered in discharging its duties and responsibilities and the other salient features of the structure; and
- (ii) the manner in which the proposed changes in the structure should be brought about, that is, whether they should be by amendments to the Constitution, or by a Parliamentary law or by a combination of both.

We will now take up the issue in item (i) above in the succeeding paragraphs. Item (ii) will be discussed in Chapter VII.

6.7.2 As we have already stated, any governmental set-up for Delhi should ensure that the Union is not fettered or hampered in any way in the discharge of its own special responsibilities in relation to the administration of the national capital, by a constitutional division of powers, functions and responsibilities between the Union and the Delhi Administration. The only way of ensuring this arrangement is to keep Delhi as a Union territory for the purposes of the Constitution. Thereby, the provision in article 246(4) of the Constitution will automatically ensure that Parliament has concurrent and overriding powers to make laws for Delhi on all matters, including those relateable to the State List. Correspondingly, the Union Executive can exercise executive powers in respect of all such matters subject to the provisions of any Central law governing the matter. We, therefore, recommend that even after the creation of a Legislative Assembly and Council of Ministers for Delhi it should continue to be a Union territory for the purposes of the Constitution.

6.7.3 However, it would be appropriate to give it a distinct name with a view to indicate its importance as a national capital. We recommend that the name of the Union Territory of Delhi may be specified as the National Capital Territory and its administrator constitutionally recognised as the Lt. Governor.

6.7.4 As regards the Legislative Assembly to be created for Delhi, it should have full legislative power inrelation to matters assigned to it. Subject to the specific exclusion of certain subjects set out in paragraphs 6.7.8 and 6.7.12 below, such powers should cover matters in the State List and the Concurrent List of the Constitution in so far as such matters are applicable in relation to Union territories. This last limitation is necestary because of the difference between the constitutional status of a Union territory and that of a State. The exercise of such legislative powers should, of course. be subject to the provisions of the Constitution and the relevant laws of Parliament.

6.7.5 In view of the special responsibility of the Union in respect of Delhi certain specific exceptions should be made to the power of the Legislative Assembly to make laws. This principle was recognised during the debates in the constituent Assembly and in Parliament. In the law of Parliament enacted in 1951 relating to the administration of Part C States a special provision was made for Delhi in section 21 of the Government of the Part C States Act, 1951 where by certain subjects were excluded from the purview of the legislative powers of the Assembly for Delhi. The rationale of this exclusion is contained in the following passage from the debates in Parliament:

"The main reason for exclusion of certain subjects in respect of Delhi was that Delhi occupies a very peculiar position. It is the capital city of a large federation and it is, as in almost all federal countries. necessary that in the area over which the Federal Government has to function daily, practically in all details, that Government should have unfettered power, power which is not contested by another and subordinate Legislature. It is possible that Hon. Members may say, that so long as the Federal Centre has the power also to make laws in respect of the State subjects, these new provisions in the Bill are unnecessary and this exclusion need not have been contemplated. The answer to that is, that it is important that this competition between the State Legislature and the Federal Legislature should be avoided in order to avoid friction in exercise of legislative power in regard to subjects which from an all India point of view, have to be considered as most important. It is possible that we can control the State Legislature even without such exclusion but once the State Legislature has the power to legislate in regard to these matters, it would be a source of perpetual friction as to how much of the field the State Legislature should occupy and how much should be entered upon by the Central Legislature. Also I think the State will stand to gain by handing over these important subjects to Parliament exclusively because Delhi cannot live at all and much less can it live in accordance with the standards which we should maintain with respect to a metropolis of a large country like ours, if it is to depend upon the small mercies and the smaller resources of a State Legislature. It is advisable therefore that, if we are to maintain the capital as it should be, the responsibility for maintaining it according to proper standards must be in the hands of the Centre. That is the reason which has persuaded Government to take the step: not merley is it a question of the Constitutional powers and functions of municipal corporations being excluded in this way in regard to this city but the all important question of the maintenance of law and order has to be in the hands of the Central Government. Up to this day friction between the Centre and the State has not happened, because Delhi has been under the direct charge of the Centre all these years as a centrally administered area."

During the debates reference was made to the position in various other countries and it was stated that whenever a federation was established in any country, the need for retaining in the hands of the national government full powers regarding certain vital matters of administration in the area which was to be constituted into the capital city was felt. The following further passage from the debates is instructive:

"Delhi including New Delhi forms the capital of a big Federation. The division of sovereign power between the Federal Government and the Federal Unit has to be regulated in such a way that the Federal Central must have the dominant and exclusive jurisdiction in respect of matters which are vital to the proper development of this particular area as the capital of a big Federation. In the case of Delhi, it is absolutely necessary that the sovereign powers of the Centre should cover a larger area than in the case of other States. Hence Delhi Legislature has been excluded the jurisdiction to make laws in respect of matters which are considered vital to the federal capital. The State may execute the policy to the extent that is permitted to be done but the policy, the organisation and other things must be left to the Central Executive and Parliament to determine.

So far as the exclusion of the constitution and powers of Municipal Corporation in Delhi, and New Delhi and constitution and powers of other public utility authorities including water supply, drainage, improvement trusts, electricity and transport is concerned, it may be stated that in regard to the municipal administration of the federal capital every other country has reserved exclusive power in the Centre. Canberra has it; Washington has it. We should not break this principle at all, it is important from the all-India stand point, apart from the Delhi stand point, that the administration of Delhi should be of an order which is very much above the average in regard to municipal administration in the country."

6.7.6 Accordingly, the 1951 Act contained a specific provision excluding certain subjects from the purview of the Legislative Assembly for Delhi.

The subjects are:

- (i) Public order;
- (ii) Police including railway police;
- (iii) The constitution and powers of municipal corporations and other local authorities, of improvement trusts and of water supply, drainage, electricity, transport and other public utility authorities in Delhi or New Delhi;

(iv) Lands and buildings vested in or in the possession of the Union which are situated in Delhi or New Delhi including all rights in or over such lands and buildings, the collection of rents therefrom and the transfer and alienation thereof;

(Certain other incidental matters with which we are not here concerned were also excluded).

6.7.7 The reasons which weighed with Parliament for excluding certain subjects from the purview of the Legislative Assembly for Delhi are sound and unexceptionable. Thay appear to us to be as valid today as they were in 1951. Indeed, the situation today is even more omplex and the national capital not only in India but elsewhere in the world has come to occupay a position of very great importance to the nation. On a consideration of all the aspects of the matter, we are convinced that as was done in 1951, certain subjects should be excluded from the purvi w of the Legislative Assembly to be provided for Delhi and retained with the Centre. We proceed to consider the subjects to be so excluded.

### (i) CONSIDERATION OF SUBJECTS TO BE RETAINED WITH THE CENTRE

#### 6.7.8 (a) PUBLIC ORDER AND POLICE

It is hardly necessary to mention that the maintenance of law and order in the capital city is of the utmost importance not only to the city itself but to the nation as a whole. As is wellknown the national capital anywhere in the world is generally vulnerable to att mpts to subvert or overthrow the lawful government. In recent years the danger has escalated becaue of terrorist activities. Apart from this, even in the normal field of maintenance of law and order, any breach of public peace in the capital assumes special magnitude and importance by reason of its political or other overtones. It is also a matter of common knowledge that agitations or unrest taking place anywhere in the country have their repurcussions in the capital because the seat of the Central Government and the Parliament is situated therein. The over increasing population, the visible disparity in the economic levels among the public and the social tensions created there by have their impact on public peace. The problems are further complicated by the presence of a sizeable number of foreign nationals, by the frequent visits of foreign dignitories, by the holding of international conferences, etc. Experience has shown that Delhi is a place which should be prepared to meet sudden developments and upheavals. To meet all situations the police in the national capital must necessarily be organised and should function in such a manner that it is over alert and is in a

position to meet eventualities arising from sudden developments. As such, in Delhi, the organisation and functioning of police force as well as the maintenance of public order should be the responsibility of the Union which, as stated in Parliament in 1951, should have, in this respect, "unfettered power, power which is not contested by another subordinate legislature".

Reference may be made to another important aspect which has added a new dimension to the problem of control over the police in Delhi. In Delhi there are a number of specialised police forces (including the intelligence agencies) to deal with security of the country and of high dignitaries like the President and the Prime Minister and to combat terrorism. As the functioning of these specialised forces will necessarily have interface with the functioning of the normal police, these forces have to continuously interact and coordinate with the regular police force in the city. The specialised forces are under the control of the Centre. If the normal police is placed under the control of a separate agency like the Delhi Administration serious conflicts are likely to arise which may even have repurcussions on the security of the country. This will also result in attempts to shift the blame or the responsibility as between the two agencies.

For all the foregoing reasons, it is our considered view that the important subjects of public order and the police should be excluded from the purview of the Legislative Assembly for Delhi and retained with the Centre. We recommend accordingly.

However, the maintenance of public order cannot be achieved in vacuum as it were, without the cooperation of the people or without a mechanism. Both these needs can feed-back be achieved if the elected representatives in the Legislative Assembly are in some way associated at least with some of the aspects of the matter. This was the view expressed before us by many eminent persons including those from the police. To achieve this, we recommend that the Centre should delegate adequate powers in this regard to the Lt. Governor who, in discharging functions thereunder, should adopt a convention of consultation with the Chief Minister whenever possible. We recommend accordingly.

The foregoing discussions deal only with the important aspect of constitutional powers and jurisdiction in respect of these two subjects. The other equally important aspect is the operational one, of how to secure for the capital an efficient, well coordinated and well disciplined police organisation with a unified control not only to make them function smoothly but also to serve the people better. This aspect will be considered in Chapter VIII.

## 6.7.9 (b) LOCAL AUTHORITIES

The subject "constitution and powers of municipal corporations and other local authorities" was excluded from the purview of the Legislative Assembly of Delhi under the 1951 Act. We have carefully considered the need for continuing such exclusion and we feel that such exclusion is no longer necessary as this is a field in which it will be useful to confer on the proposed democratic administration at the local level, adequate powers of supervision over the local authorities. This will be in the interests of the public. In coming to this conclusion we have taken into account the views expressed by a large section of the public that the functioning of the municipal services would definitely improve if the authorities at the proximate level of the Delhi Administration had adequate powers of supervision and control. The exercise of such powers by the Centre has not proved to be effective and is not even visible to the members of the public. When the Delhi Municipal Corporation was set up in 1958 there was no local legislature and so there might have been some justification for placing it under the direct supervision of the Central Government but with the proposed establishment of a Legislative Assembly and a Council of Ministers for Delhi, this justification cannot be pleaded. We have, therefore, come to the conclusion that the subject of Entry 5 of the State List viz. "Local government, that is

arallel of to say, the constitution and powers of municipal corporations, improvement trusts, district boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration" should be assigned to the proposed Government of Delhi. This will also help in providing, a nodal authority to deal with inter-related problems arising between the municipal authorities and other authorities dealing with public utilities. As regards control by the Centre, we consider that it would be sufficient to rely on the powers of the pervasive control over the Delhi Administration which will be available in the proposed set up. This will include the power of the Centre to give directions to the Government of Delhi even on matters in the State List. The further question as to whether the Municipal Corporation should be retained as it is, with restricted powers, or whether it should be replaced by a number of smaller municipal bodies situated at convenient centres in Delhi and all other issues relating to the organisation of the Municipal services and redefining the functions of municipal authorities will be-dealt with in Part II.

The area under the new Delhi Mu-6.7.10 nicipal Committee which at present is not under the Delhi Municipal Corporation should, in our view, continue to receive special dispensation. As is well known, New Delhi is the area in which important offices and residences of the high dignitories of the Union, such as those of the President, the Parliament, the Supreme Court, the Prime Minister and other Ministers as also the officers and residences of high ranking officers of the Union Government, the foreign embassies and international agencies are located. There was general consensus of opinion expressed before us that the New Delhi area should continue to be directly under the care of the Central Government itself and that the present arrangement of a separate Municipal Committee for that area, which has been in existence and working reasonably well all along since the British days, should continue with appropriate modifications. We agree with this view. However, for securing this, there is no need to exclude the subject of N.D.M.C. from the purview of the Delhi Administration (as was done under the 1951 Act). All that is necessary is that in the law of Parliament relating to municipal services for Delhi certain special provisions should be incorporated for the organisation and functioning of the Municipal Committee for New Delhi. The archaic Punjab Municipal Act, 1911 now governing the body should be replaced by the said law of Parliament. We recommend accordingly. Our detailed recommendations in this regard will be found in Part II of the Report.

#### (c) PUBLIC UTILITIES

प्रत्यमंत्र ज 6.7.11 The other items mentioned in item (iii) para 6.7.6, namely, water supply, drainage, electricity, transport and other public utility authorities may be broadly classified as public utility services. It may be mentioned that the management of some of the services referred to above is now entrusted to Committees of the Delhi Municipal Corporation, although some of the services are not in the nature of municipal functions. This arrangement was a sequel to the recommendations of the States Reorganisation Commission (1955) which led to the abolition of the Part C State of Delhi, and consequently, many of these functions (including such important functions as generation of electricity) were vested in the Corporation. We have found on the materials before us that this arrangement has not worked satisfactorily. Two views have been expressed before us on the question whether these authorities should be under the control of the Centre or of Government of Delhi. The first is that all these autorities should be directly placed under the control of the Central Government and the reasons advanced in support of

this view are broadly those expressed in the speeches in Parliament quoted in paragraph 6.7.5 The other view is that these are subjects which should legitimately be dealt with by the representatives of the people directly involved in the government of Delhi, that is, those elected to the Legislative Assembly. The argument is that it is the people of Delhi that can properly assess and attend to their needs in regard to these public utility services.

We have carefully considered the two views referred to above and we have come to the conclusion that the subject itself need not be reserved exclusively for the Union (as in the 1951 Act). Nor should these subjects be left to be handled exclusively by the Delhi Administration. Such a step may amount to a virtual rejection of the very valid arguments advanced in Parliament referred to in paragraph 6.7.5 for which we can find no justification. We consider that for the efficient management of these public utility services the only satisfactory solution will be to set up statutory corporations functioning under Parliamentary laws with appropriate provisions for control over them. In our view it is essential that the services relating to electricity, water supply and sewage disposal, transport, housing, and slum improvement should be managed on professional lines by such statutory corporations. There are already some corporate bodies under Central laws governing the functioning of some of these services but they require to be reviewed in the light of our recommendations. These bodies should be made statutorily autonomous their day-to-day functioning. The Central in Government should have overall control in the national interest while the Government of Delhi could also be given an appropriate role. Further details in this regard will be considered by us in Part II of the Report.

# 6.7.12 (d) LAND, LAND USE AND LAND DEVELOPMENT

A very important subject in relation to any national capital not only in India but all over the world, is and always has been land, land use and land development. In India, right from 1912 when Delhi became the capital, the subject of land including the control over use of land had been with the Central Government. From 1912 to 1951, Delhi was centrally administered and hence no other authority could exercise sovereign control in regard to such matters. Even when Delhi became a Part C State in 1950, substantial reservations were made regarding the subject. Under the Delhi Administration Act, 1966, too, all matters relating to the subject were kept outside the purview of the Metropolitan Council. Thus the arrangement of keeping the subject matter directly under the Central Government has more or less continued without any break.

In 1912, when the British Government made New Delhi its capital, it acquired large tracts of land for the construction of the offices and the residential accommodation for the Government and its officers. Whenever the need arose for transferring any land so acquired to any other body or person, the policy was to transfer it on lease-hold basis so that the power of control and regulating its use continued to be with the Central Government. In 1947, when land was acquired for the settlement of the refugees from Pakistan, the same procedure was adopted. The position at the commencement of the Constitution was that a large area of land in Delhi, particularly in New Delhi and surrounding areas, was held by Government on this basis, i.e. the Central these lands were either vested or in the possession of the Central Government. Accordingly, when, the Government of Part C States Act, 1951 was enacted and the subject was sought to be excluded from the purview of the Part C State of Delhi the formulation adopted in the Act was to reserve "lands and buildings vested in or in the possession of the Union which are situated in Delhi or in New Delhi.....".

The question of control over land and its use was raised during the interviews we had with many knowledgeable persons. Many of them stressed that land in the capital is very precious and control over its use, disposal and planned development were essential to ensure proper growth and development of the capital city. A large section favoured the retention of the subject under the control of the Central Government.

In this connection, it is relevant to mention that in most countries of the world the sovereign Right in regard to control over the use of land in the capital is retained by the National Government or the Federal Government so as to ensure that land use is in accordance with accepted norms and conforms to the requirements of plans for maintaining the character of the national capital. This principle applies to Delhi with equal force in view of the supreme need for preventing haphazard growth and ensuring its planned urbanisation.

We have given our careful consideration to various aspects of the matter and the different views expressed thereon. We are of the view that Entry No. 18 of the State List, i.e. "Land, that is to say, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of aglicultural land; and improvement and agricultural loans; colonisation" should be kept outside the purview of the powers of the proposed Legislative Assembly. Another connected Entry in the State List is Entry No. 35 which is "Works, lands and buildings vested in or in the possession of the State". Considering that the powers of the Assembly proposed for Delhi will extend to matters in the State List and the Concurrent List of the Constitution "in so far as such matters are applicable in relation to Union territories" Entry 35 will ipso facto fall outside the purview of the Assembly proposed for Delhi because that Entry is applicable to States and not to Union territories. The further question is the formulation to be adopted for reserving the subject to the Centre and the ambit of such reservation. The formulation adopted in 1951 Act links the sovereign power over a land with the "vesting" and "possession" of land. In our view this will not work in the present context and it may not be sufficient either. We have come to the conclusion that the subject of land as such, covered by Entry 18 of the State List should be excluded from the purview of the Legislature for Delhi.

Although we have recommended the exclusion of the subject of 'Land' covered by Entry 18 aforesaid from the purview of the proposed Legislative Assembly, we have to recognise the importance of land and its use from the point of view of the people. The association of the peoples representatives in the local administration is desirable in respect of certain aspects of land management, which require the cooperation and active participation of the people. While the Central Government may be in the best position to lay down the board policies and norms for the land use and land development in accordance with special requirements of the national capital it may be useful to associate the elected representatives for su h matters as the relationship of landlord and tenant, collection of rent, land improvement, development of land, agricultural loans etc. Even in respect of requisition and acquisition of land and properties for public purposes such association would be helpful as these affect the local interests. Another sphere where the local administration is interested relates to the works, land and buildings in possession of their own offices and official residences. The lack of such control over premises and land in use and occupation of the local administration may not be conducive to the smooth functioning of the administration. We have given careful consideration to these points. We feel that the most appropriate course to secure a balance between the interests of the Centre and those of the

representative administration at the local levelwould be to provide that the executive powers of the Centre in relation to the subject of land may be delegated, to the extent considered appropriate, to the Administrator who, while exercising such powers in his discretion in this respect, may act in consultation with the Council of Ministers. We recommend accordingly. This may be provided for in the Rules of Business.

Another connected matter regarding management of land is the control over statutory or other bodies conterned with it like the Delhi Development Au hority. Other bodies relating to land development, housing, s'un improvement, etc. may also be created in future. At present some of these are governed by Paliamentary laws and the Central Government exercises all the control envisaged under such laws. Some changes may be necessary in the organisation and functioning of these bodies after the establisment of a responsible government in Delhi to secure improvement in their effectiveness and efficiency. Our recommendations in this regard will be found in Part II of this Report.

## OTHER MATTERS RELATING TO LEGISLATURE

6.7.13 We proceed to deal with certain other matters relating to Legislative Assembly. We consider that the composition of the Leislative Assembly should be broadly on the same lines as for the States. The number of seats to be filled by election should be fixed by law of Parliament on the basis of population as in the other States. The provisions of article 170 of the Constitution should apply as if the territory were a State. The population figures of 1971 census are the basis now being adopted for States generally. If this is done for Delhi whose population in 1971 was about 41 lakhs, the Legislative As-sembly may have only 41 seats. We consider that as Delhi has seven seats in the House of the People it would be appropriate to fix number of seats in the Legislative Assembly at a figure which is a multiple of seven. The number of seats could be fixed seventy. However, we do not wish to make any specific recommendation on this as this has to be decided as a matter of policy. Seats should be reserved for Scheduled Castes in accordance with the provisions of article 332. As there are no Scheduled Tribes in Delhi, no provision for them need be made. The further question is whether there provision for them necd should be a provision for nomination of The 1951 Act did not provide members. for any such nomination but the 1963 Act (which did not apply to Delhi) provided for nomination

of not more than three persons to the Legislative Assembly. We have considered the question whether there should be a provision for such nomination. The advantage in having nominated members is that it may serve the purpose of giving some representation to distinguished persons in Delhi who may not wish to contest elections and to persons having special knowledge or practical experience in literature, science, art, cooperative movement and social service. The argument against having nominated members could be that sometimes persons nominated are not selected from these categories and are chosen on extraneous considerations. They may be used for tilting the balance whenever there is some problem about the majority in the Assembly. On a careful consideration of all aspects we are of the opinion that for Delhi there need not be any provision for nominated members. This would place it on the same footing as a State in this respect. We recommend accordingly.

6.7.14. As the Parliament as well as the Legislative Assembly will have powers to make laws for Delhi, provision should be made for resolving inconsistencies between a law made by Parliament and a law made by the Legislative Assembly on the lines of article 254 (which deals with inconsistency between legislation by Parliament and State legislature on a matter in the Concurrent List). As Parliament has over-riding authority in relation to a Union territory under article 246(4) to legislate on all matters, the provision for enabling inconsistencies to be cured by President's assent should be more comprehensive than in the said article 254. Section 21 of the 1963 Act is a provision of this kind but we consider that for Delhi the appropriate provisions should, be that if any provision of a law made by the Legislative Assembly is repugnant to any provision of a law made by Parliament with respect to any matter, at any time, or of an earlier law other than a law made by the Legislative Assembly, then the law made by Parliament or, as the case may be, the earlier law, shall prevail and the law made by the Legislative Assembly shall, to the extent of repugnancy, be void. However, in such cases if the Bill passed by the Legislative Assembly had been reserved for the consideration of the President and had received his assent, it shall prevail in the National Capital Territory but Parliament may be at any modify or supersede such law. We recommend accordingly.

6.7.15 As regards assent to Bills passed by the Legislative Assembly, the 1951 Act required that every Bill passed by the Legislative Assembly shall require the assent of the President. However, the 1963 Act, as amended in 1971 (which applied to the other Union territories and which was sought to be extended to Delhi by the 1978 bill) provides that in certain cases specified therein such assent is necessary but in other cases such assent is needed only when the Administrator considers it necessary, to refer it for the consideration of the President. We consider this provision should be sufficient for Delhi and recommend accordingly.

6.7.16 Provisions should be made for certain incidental and consequential matters. These include provisions for elections, delimitation of constituencies, qualifications and disqualifications of members, duration of and procedure in the Assembly, its prorogation or dissolution, Speaker, Deputy Speaker and other officers, manner of voting, privileges, etc. In all these matters we consider that the provisions made in respect of the Legislature for States or for Union territories could be adopted with suitable modifications. Similar provisions should be made for other matters like procedure, budget, Consolidated Fund, Contingency Fund, Appropriation Act, etc. We recommend accordingly.

6.7.17 Under article 176 of the Constitution, the Governor of a State has to address the State Legislature at the commencement of the first session after each general election to the Assembly and at the commencement of its first session of each year. Such address is to inform the legislature of the causes of its summons; and it is the first authoritative pronouncement of the policy of the government, after each general election and also at the commencement of the first session of each year, which is usually the budget session. Information about important legislative proposals to be introduced is also given. We have considered the question whether a similar provision should be made in the case of Delhi. We notice that there is no provision of this kind in the 1963 Act. However, we feel that Delhi as a national capital and a city with a population larger than that of many States should be on a par with a State in this regard. We therefore recommed that a provision on the lines of article 176 of the Constitution may be incorporated.

6.7.18 Section 16(2)(b) of the Government of Part C States Act 1951, Section 13(2)(b) of the Government of Union Territories Act 1963 and Section 18(2)(b) of the Delhi Administration Act 1966, relate *inter alia* to "Vacation of seats" by a member on his resignation. These provisions are on the lines of the articles 101(3)(b) and 190(3)(b) of the Constitution as they stood before their amendment in 1974, under which the resignation by a member of his seat in the House was complete by the unilateral act of the member concerned and took effect as soon as his letter of 3589 HA/89-9 resignation reached the Speaker or the Chairman, as the case may be. No acceptance of the resignation by the Speaker or the Chairman was required to give it legal effect. However, the provisions of these two articles were amended in 1974 to make it explicit that the resignation would not take effect until the Speaker or Chairman accepted it. The Statement of Objects and Reasons attached to the Bill for the amendment of the Constitution provided, *inter alia*, as under :-

"In the recent past, there have been instances where coercive measures have been resorted to for compelling members of a Legislative Assembly to resign their membership. If this is not checked, it might become difficult for legislators to function in accordance with the provisions of the Constitution. It is, therefore, proposed to amend the above two Articles to impose a requirement as to acceptance of the resignation by the Speaker or the Chairman and to provide that the resignation shall not be accepted by the Speaker or the Chairman if he is satisfied after making such inquiry as he thinks fit that the resignation is not voluntary or genuine."

The reasoning set out in the Statement of Objects and Reasons applies with equal force to members of Legislative Assembly of Delhi. We accordingly recommend that a provision on the lines of the amended article 190(3)(b) should be made in the case of resignation of membership of Legislative Assembly for Delhi.

## LT. GOVERNOR AND COUNCIL OF MINISTERS

6.7.19 As a necessary corollary to the establishment of a responsible Government for Delhi the structure of the executive should be more or less on the pattern provided by the Constitution. Accordingly, there should be a Head of the Administration with a Council of Ministers answerable to the Legislative Assembly. As Delhi will continue to have the status of a Union territory, article 239 will apply to it and so it will have an Administrator with such designation as may be specified. The present designation of the Lt. Governor may be continued and recognised in the Constitution itself. Having regard to the special constitutional status recommended by us for Delhi and for the Lt. Governor and also to other factors like the composition of its population, it is our view that the Lt. Governor should be given an appropriately high official status in respect of his salary, perquisites and other matters such as his rank in the Warrant of Precedence, etc. In the perception of the people of Delhi his position should be comparable to that of a Governor of a State rather than that of a Lt. Governor of a small Union territory to give them a sense of importance as citizens of the national capital. We recommend that this aspect should receive due consideration consistent with the special position of the capital city.

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6.7.20 The provisions for the Council of Ministers and the Chief Minister should be broadly on the pattern of the States. The Chief Minister should be appointed by the President and the other Ministers should be appointed by the President after consultation with the Chief Minister. This is because of the special responsibility of the President for the good government of the national capital. The Ministers should hold office during the pleasure of the President. The Council of Ministers should be made collectively responsible to the Legislative Assembly. This is the basic requirement of a responsible Government. We recommend as above.

6.7.21 The Administrator should be expressly required to perform his functions on the aid and advice of the Council of Ministers. The expression "to aid and advise" is a well understood term of art to denote the implications of the Cabinet system of Government adopted by our Constitution. Under this system, the general rule is that the exercise of executive functions by the Administrator has to be on the aid and advice of his Council of Ministers which means that it is virtually the Ministers that should take decisions on such matters. However, for Delhi, the following modifications of this general rule will have to be adopted :

- (i) Firstly, the requirement of acting on the aid and advice of the Council of Ministers cannot apply to the exercise by the Administrator of any judicial or quasijudicial functions. The reason is obvious because in respect of such functions there is no question of acting on the advice of another person.
- (ii) Secondly, the requirement is only in relation to matters in respect of which the Legislative Assembly has the powers to make laws. This power will be subject to the restrictions already dealt with earlier in the Report. Accordingly, the Council of Ministers will not have jurisdiction to deal with matters excluded from the purview of the Legislative Assembly.
- (iii) Thirdly, there is need for a special provision to resolve differences between the

Administrator and his Council of Ministers on any matter concerning the administration of Delhi. Normally, the general principle applicable to the system of responsible Government under the Constitution is that the Head of the Administration should act as a mere Constitutional figurehead and will have to accept the advice of the Council of Ministers except when the matter is left to his discretion. However, by virtue of article 239 of the Constitution, the ultimate responsibility for good administration of Delhi is vested in the President acting through the Administrator. Because of this, the Administrator has to take a somewhat more active part in the administration than the Governor of a State. It is, therefore, necessary to reconcile between the need to retain the responsibility of the Administrator to the Centre in this regard and the need to enforce the collective responsibility of the Council of Ministers to the Legislature. The best way of doing this is to provide that in case of difference of opinion which cannot be resolved between the Administrator and his Council of Ministers, he should refer the question to the President and the decision of the President thereon will be final. In cases of urgency, if immediate action is necessary, the Administrator may direct action to be taken pending such decision of the President. A provision of this kind was made for this very reason not only in the 1951 Act, but also in the 1963 Act relating to the other Union territories as well as in the 1978 Bill.

- (iv) Fourthly, the Rules of Business governing the exercise of executive powers by the Council of Ministers will be made not by the Administrator on the aid and advice of his Council of Ministers, but by the President.
- (v) Fifthly, the Administrator has also to perform certain function as a representative of the Union, in relation to matters within the executive power of the Union and in which powers have been delegated or entrusted to him; in respect of these there is no question of his acting on the aid and advice of his Ministry and the Administrator has to act in his discretion but subject to the directions of the Central Government.
- (vi) Apart from the foregoing, the Administrator may be required by or under any

law to act in his discretion and in such cases he has to do so.

We recommend as above.

6.7.22 A suggestion was made to us that as in the 1951 Act it should be provided that the Administrator should preside over the meetings of the Council of Ministers. After a careful consideration of this suggestion, we are of the opinion that there is no strong case for making any such provision because the other safeguards to be provided for will be adequate to protect the interests of the Central Government. A requirement of this nature may inhibit free discussion in the Council of Ministers. There is also no need to depart from the pattern in other States in this regard. No such provision has been made in the 1963 Act relating to other Union territories.

6.7.23 We considered the desirability and appropriateness of adopting a suggestion made to us that the elected members of the Legislative Assembly for Delhi should be included in the electoral college for Presidential election under article 54 of the Constitution. The article provides that the President shall be elected by the members of an electoral college consisting of:-

- (a) the elected members of both Houses of Parliament; and
- (b) the elected members of the Legislative Assemblies of the States.

At the time of the commencement of the Constitution there were units called Part C States of which Delhi was one, and the members of the the incorporated in the relevant law. Legislative Assembly of Delhi established under the Government of Part C States Act 1951 were included in the electoral college. The intention of the framers of the Constitution as disclosed in the debates of the Constituent Assembly was that the members of the legislatures of all the units should take part in the election of the President. With the creation of a legislature for Delhi with a Council of Ministers, it is only appropriate that the elected members of the Legislative Assembly of Delhi should be included in the electoral college for elections to the office of the President. This is necessary because Delhi is the national capital, and has at present a population of more than eight million which is greater than that in many States of the Union. This may need an amendment of the Constitution which requires ratification by the requisite number of States. We recommend accordingly.

The further question may arise whether this dispensation should be made applicable to the only other Union territory having a Legislative Assembly viz. Pondicherry. It can be argued that the

case of Pondicherry can be distinguished from that of Delhi on grounds of national importance, population, etc. The question whether the elected members of the Legislative Assembly of Pondicherry should also be included in the electoral college is one on which we do not wish to express any opinion, as this has to be decided by the concerned authorities with reference to all relevant factors.

6.7.24 We considered the need for making a provision for Delhi on the lines of article 167 of the Constitution imposing a duty on the Chief Minister to furnish information to the Administrator. Under the proposed scheme, the Administrator does not take part in the deliberations of the meetings of the Council of Ministers. As the Administrator is to act on the aid and advice of his Council of Ministers, it is necessary that he should be informed of the general march of political events, and in particular of the deliberations of the Cabinet, which may not be disclosed to anyone else. It is obviously necessary that the Administrator should be in touch with the administration and for this purpose he must be provided with the fullest information on all important matters, and in time to enable him to initiate or take action, if any. He should be informed not only about all decisions of the Council of Ministers, but also of any other information that the Administrator may himself call for. When a decision has been taken by a Minister, the Administrator should be empowered to refer such questions for deliberation in the Council of Ministers. We, therefore, recommend that a provision on the lines of article 157 may

6.7.25 We have considered the question whether the size of the ministry for the proposed Council of Ministers in Delhi might be limited by law. It was noticed that the Pattabhi Sitaramiah Committee, which considered the establishment of an administrative setup for Delhi in 1947, had recommended that the people of Delhi should have an elected legislature consisting of not more than fifty members, and that the number of ministers' should not exceed three, except with the approval of the President. We also noticed that the number of Executive Councillors has been restricted to four in terms of the relevant provision of the Delhi Administration Act, 1966 out of whom one is to be designated as the Chief Executive Councillor. It is apparent that the recommendations made by the Pattabhi Sitaramiah Committee and the provision made in the 1966 Act envisage a ceiling on the number of members in the executive body concerned with the administration of Delhi, the intention being apparently to establish a cohesive executive body for providing administrative leadership in

Delhi. There could be two arguments against this provision. The first is that the number of Ministers should not be arbitrarily restricted in this manner and that this is best left to the Chief Minister, since the number of Ministers needed to form the Council of Ministers would depend on the administrative and political realities at a particular point in time. The second argument is that even if such a ceiling is prescribed there may be several ways of circumventing the provision in this behalf. We have considered these arguments and feel that with a view to maintain proper standards and to ensure that the Delhi Administration in particular sets high standards for the rest of the country, there would be an advantage in restricting the number of Ministers to be included in the Council of Ministers in Delhi. We recommend that this number be restricted to ten per cent of the number of members comprising the Legislative Assembly.

6.7.26 In the 1951 Act as well as in the 1963 Act there is a provision that the Administrator and his Council of Ministers shall be under the general control of and comply with such particular directions, if any, as may be given by the President. This overall control of the Union over the exercise of executive powers is necessary particularly in view of the special responsibility of the Union for the proper administration of the national capital and should be provided for. We recommend accordingly.

6.7.27 It is also necessary to provide for dealing with failure of constitutional machinery to enable the President to suspend the operation of all or any of the provisions of the law if he is satisfied that a situation has arisen in which the administration of the national capital cannot be carried on in accordance with the provisions of the Constitution, or the relevant Parliamentary law, or that for the proper administration of the national capital it is necessary or expedient so to do. We recommend accordingly.

6.7.28 We have given thought to the question of official language or languages for the administration of Delhi and the language or languages to be used in the Legislative Assembly thereof. One of the views advocated before us is that a specific provision should be made that the official language for Delhi should be the same as the official language of the Union. The main argument in favour of this view is that Delhi being the national capital of India with diversity of languages and being also a cosmopolitan city in which people from all parts of the country and outside reside, should have a language which is generally understood by a majority of all such people and that such a language could only be the language of the Union and this would be the most appropriate arrangement. There is, however, another view that this is a very sensitive matter which is best left to be decided by the appropriate forum. In this connection, we have examined the relevant provision in the 1951 Act and 1963 Act. The latter Act provides that the Legislative Assembly may by law adopt any one or more of the languages in use in the Union territory or Hindi as the official language or languages to be used for all or any of the official purposes of the Union territory, But the President may by order direct:—

- (i) that the official language of the Union shall be adopted for such of the official purposes of the Union territory as may be specified in the order;
- (ii) that any other language shall also be adopted throughout the Union territory or such part thereof for such of the official purposes of the Union territory as may be specified in the order, if the President is satisfied that a substantial proportion of the population of the Union territory desires the use of that other language for all or any of such purposes.

The 1963 Act further provides that the business in the Legislative Assembly of the Union territory shall be transacted in the official language or languages of the Union territory or in Hindi or in English. The Speaker may however permit any member who cannot adequately express himself in any of the languages aforesaid to address the Assembly in his mother tongue. As regards the language to be used for Acts, Bills etc., provisions in the Acts are that until Parliament by law otherwise provides, the authoritative text of all Bills, Acts, orders, rules, regulations and bye-laws issued under any law shall be in the English language. Where a language other than the English language has been prescribed by the Legislative Assembly for such purposes, a translation of the same in the English language published under the authority of the Administrator in the official gazette shall be deemed to be the authoritative text thereof in the English language.

After careful consideration of the matter in all the aspects, we consider that provisions on the lines of those contained in the 1963 Act should be adopted in the case of Delhi. In our view that will be sufficient to meet the special requirement of the national capital because there is a reserve power with the President to direct the use of the official language of the Union for specified purposes. We recommend accordingly. 6.7.29 In the context of special provisions to safeguard the interest of the Central Government in the administration of the national capital the question of preservation of the cosmopolitan character of the capital city was raised before us. The arguments advanced were to the effect that the people from all corners of India come to Delhi and many of them make Delhi their permanent home but they always adopt their own way of life and maintain their own individual customs and culture, although they mingle with each other freely in their daily life. It is in Delhi that we can see the diversity of languages and culture of India as a whole. The question is whether any legal provisions should be made to preserve and protect this common culture and way of life. We consider that this is not a matter that can appropriately be dealt with by legal provisions but one which must be left to the people themselves. Indeed, the present happy state of affairs is not due to any legal provisions but is the result of the healthy outlook that the people of Delhi have developed and nurtured. Further there is no basis or justification for assuming that popularly elected representatives in the Delhi Administration will do anything prejudicial to the cosmopolitan character of the capital city because it is the people of the city that elect these representatives.



## IMPLEMENTATION OF PROPOSALS FOR RESTRUCTURING

In the preceding chapter we have considered and reached conclusions on the nature of the structure to be provided for Delhi and its salient features. We now proceed to consider the manner in which our proposals for restructuring the administrative set-up of Delhi should be brought about, i.e. whether it should be by amendment of the Constitution or by Parliamentary law or by a combination of both.

### 7.1 IMPLEMENTATION BY AMENDMENTS TO THE CONSTITUTION

The suggestion made to us was that Delhi can be made a State of the Union under the Constitution but of a special type with certain built-in safeguards in the Constitution to protect the interests of the Centre in certain matters. Reference was in this connection invited to the provisions contained in articles 371A and 371F relating respectively to the States of Nagaland and Sikkim. In article 371A, the relevant provision is that the Governor of Nagaland shall have special responsibility with respect to law and order and that in the discharge of his functions in relation thereto the Governor shall, after consulting the Council of Ministers, exercise his individual judgement as to the action to be taken. In article 371F. the relevant provision is that the Governor of Sikkim shall have special responsibility for peace and for an equitable arrangement for ensuring the social and economic advancement of different sections of the population of Sikkim and in the discharge of this special responsibility, the Governor of Sikkim shall, subject to such directions as the President may from time to time deem lit to issue, act in his discretion. We have considered the possibility of having a provision on these lines in respect of Delhi but we find that this is neither adequate, nor practicable nor apppropriate. In the first place, the objections about the constitutional division of functions between the Union and the national capital already referred to, preclude the conferment of the status of a State to Delhi even with specified constitutional restrictions as suggested. Secondly, it is not possible to identify the subjects in relation to which the functions of the Council of Ministers should be excluded in this manner. This is because in the case of the national capital the interests of the Centre may relate to most of the

matters in the State List and not merely to public order or peace. We are not, therefore, in favour of this suggestion.

#### 7.2 IMPLEMENTATION BY PARLIAMEN-TARY LAW

7.2.1 It may be recalled that when the Constituent Assembly took a decision to provide for Delhi and other centrally administered areas a representative and responsible Government as in the rest of the country, the initial proposal was to incorporate the relevant provisions in this behalf in the Constitution, as was done in the case of erstwhile Part B States. However, the then Prime Minister. Shri Jawaharlal Nehru expressed the view in that Assembly tha the situation in centrally administered areas and particularly in Delhi was changing rapidly and that it would not be appropriate "to petrify that situation". He added that the situation was fluid because many other areas might have to be provided for and he suggested that it would not be advisable at that stage to put into the Constitution any precise form of administration. It was accordingly decided to leave the matter to be dealt with by a law of Parliament and so an enabling provision was made in article 240 (as it then was) conferring on Parliament the requisite power in this behalf. Delhi was included within the scope of article 240 and so in the law enacted by Parliament in 1951 providing for Legislatures and Councils of Ministers or Advisers for Union territories. Delhi was also included. However, as part of the reorganisation of States the whole scheme was scrapped. Article 240 as it stood then was repealed and with that the 1951 Act also ceased to exist. Delhi reverted to the system of direct central administration.

7.2.2 Subsequently, when a decision was taken to create a Legislature and a Council of Ministers for certain new Union territories like Goa, Pondicherry, Arunachal Pradesh, Mizoram, etc., another new article on the lines of the erstwhile article 240 was inserted as article 239A. Delhi was not included within the scope of that article presumably because a different arrangement for Delhi was then under contemplation.

7.2.3 Later on. that is in 1978 when the then Central Government wanted to provide for a representative form of Government for Delhi, it introduced a Bill in Parliament for amending the Constitution to include Delhi within the scope of article 239A and another Bill to amend the 1963 Act for including Delhi therein and make suitable modifications in that Act for safeguarding the interests of the Central Government in the national capital. These Bills lapsed because of the dissolution of the Lok Sabha. If the above precedents are to be followed Delhi can be provided with a representative form of Government if article 239A is amended to include Delhi within its scope and another law of Parliament is enacted for the administration of Delhi, either by amending the 1963 Act or otherwise.

7.2.4 If the above course is adopted, our proposals for restructuring the governmental set-up for Delhi can be given effect to either by going back to the scheme of 1951 Act or by adopting the scheme proposed under the 1978 Bill with suitable modifications. It appears to us that having regard to the importance of the national capital, it would not be appropriate to provide for its governmental structure by including it in the Government of Union Territories Act 1963, as was sought to be done in 1978. We consider that a self-contained legal framework for the national capital should be provided for and recommend accordingly.

7.2.5 We carefully considered the question whether it would be adequate and appropriate to provide for the administration of Delhi by a law of parliament as was done earlier. It is and and relevant to point out in this connection that any arrangement providing for the structure of government for the national capital is of great importance and significance to the nation and, as such, it is desirable that any such arrangement should ensure a measure of stability and permanence. The fluid situation which existed at the time when the Constitution came into force and which was the ground relied upon at that time for making a flexible arrangement no longer exists. We, therefore, consider that the time has come for making specific constitutional provisions for the structure of government for the national capital at least in regard to the core features thereof. If the provisions are incorporated in the Constitution an amendment can be made only by a two-thirds majority in parliament which may not always be available. To that extent a scheme incorporated in the Constitution would be more permanent than one in a law of parliament. We have no doubt that this will go a long way in assuring the people of Delhi that the governmental structure will be stable and will not suffer by the play of political forces.

7.2.6 We recommend that the core features of the governmental structure for Delhi should be incorporated by way of specific provisions in the Constitution. It is, in our opinion, sufficient to include in the Constitution provisions which should be relatively permanent and stable and not all the details. Other matters may be provided for by law of parliament for which an enabling provision can be inserted in the Constitution. The matters which should be provided in the Constitution itself and those which may be provided for in Parliamentary law are discussed in the succeeding paragraphs.

#### 7.3 IMPLEMENTATION PARTLY BY CONSTITUTIONAL AMENDMENT AND PARTLY BY PARLIAMENTARY LAW

7.3.1 In our opinion, the following matters should be relatively permanent and should be provided for in the Constitution:—

- (i) The new provisions regarding Delhi should be incorporated in Part VIII of the Constitution to make it clear that Delhi will continue to be a Union territory for the purposes of the Constitution. The name of the Union territory of Delhi should be specified as the National Capital Territory. The designation of the Administrator as Lt. Governor should be recognised by the Constitution.
- (ii) The establishment of a Legislative Assembly for Delhi should be provided for by the Constitution itself. The total number of seats in the Legislative Assembly to be filled by elected representatives, the division of the territorial constituencies and all other matters regarding the functioning of the Legislative Assembly shall be regulated by law of Parliament. The number of seats should be on the basis of population. Consequential adjustments with reference to Parliamentary constituencies in Delhi may have to be made, wherever called for. parliamentary law should also provide that seats shall be reserved in the Legislative Assembly for Scheduled Castes in accordance with Principles contained in article 332, that is, on the basis of their population.
- (iii) The Constitution itself should directly confer on the Legislative Assembly power to make laws for the whole or any part of the National Capital Territory with respect to any of the matters enumerated in the State List or the

Concurrent List in so far as they are applicable to Union territories. This power should be made exercisable by the Legislative Assembly subject to the provisions contained in the Constitution. It should be made clear that this will be without prejudice to the powers of Parliament under the Constitution to make law on any matter.

- (iv) The exclusion of certain matters from the powers conferred on the Legislative Assembly should be specifically provided for in the Constitution. These matters are public order, police and land.
- (v) A specific provision should be made in the Constitution to resolve repugnancy between a law made by the Legislative Assembly and one made by Parliament.
- (vi) Provision should be made in the Constitution itself for a council of Ministers with a Chief Minister at the head to aid and advise the Administrator in the exercise of his functions in relation to matters with respect to which the Legislative Assembly has power to make laws. except in so far as he is required by or under any law to act in his discretion. It should be specifically provided in the Constitution that in the case of difference of opinion between the Administrator and Minister on any matter the Administrator shall refer it to the President for decision and shall act in accordance with the decision given thereon by the President. The Administrator may take such interim action or give such interim direction as may be President's necessary pending the

decision if he is of the cpinion that immediate action is called for.

- (vii) The provision for the appointment of the Chief Minister and of other Ministers on his advice by the President should be made in the Constitution, which should also provide that the Ministers shall hold office during the pleasure of the President, and that the Council of Ministers shall be collectively responsible to the Legislative Assembly.
- (viii) Provisions of the Constitution relating to electoral college for Presidential election, the Election Commission and the power to promulgate Ordinances should be made applicable to the National Capital Territory of Delhi.
- (ix) The Constitution should empower the Parliament to make other provisions by law in respect of the administration of Delhi for giving effect to or for supplementing the provisions incorporated in the Constitution and for all matters incidental or consequential thereto. Any such law shall not be deemed to be an amendment of the Constitution for the purpose of article 368 notwithstanding that it contains any provision which amends or has the effect of amending the Constitution.

7.3.2. All other recommendations on the salient features of the structure of the government for Delhi may be provided for in a law of Parliament in pursuance of item (ix) of the preceding paragraph.

7. 3.3 We recommend as above.

### **OTHER CONNECTED ISSUES**

Having considered in chapters VI and VII the salient features of the governmental structure to be provided for the national capital and the mode of implementation of the proposals made by us in this behalf, we proceed to consider in the succeeding paragraphs certain important issues connected with the proposed structure and relevant to our Terms of Reference.

#### 8.1 PUBLIC SERVICES IN THE DELHI ADMINISTRATION

8.1.1 The question of control over the service personnel serving in the Delhi Administration was examined by us carefully in view of its obvious importance in the context of evolving a scheme for representative form of government for Delhi. When dealing with the legislative powers to be conferred on the proposed Legislative Assembly for Delhi, we recommended that such powers may extend to matters in the State List and Concurrent List. We have already explained in the preceding chapters the need for restricting such powers to matters in those Lists in so far as they are applicable in relation to Union territories. We have also explained the scope of important reservations in this behalf.

8.1-2 Entry 41 of the State List mentions "State public services: State Public Services Commission". Obviously, this Entry is not applicable to Union territories because it mentions only "State" and not "Union territories". This view is reinforced by the fact that the Constitution divides public services in India into two categories. namely, services in connection with the affairs of the Union and services in connection with the affairs of the State as is clear from the various provisions in Part XIV of the Constitution. There is no third category of services covering the services of the Union The obvious reason is cerritories. that the administration of the Union territory is the constitutional responsibility of the Union under article 239 and as such comes under "affairs of the Union". Consequently, the public services for the administration of any Union territory should form part of the public services in connection with the effairs of the Union.

8.1.3 It is not, therefore, constitutionally possible to bring the subject matter of the services in the Union territory within the scope of the Legislative Assembly or the Council of Ministers of the proposed Delhi Administration. On the same reasoning it is not possible to provide for a separate Public Service Commission for a Union territory like Delhi because State Public Service Commission in Entry 41 aforesaid means only the body set up for the States.

8.1.4. However, the total exclusion of Delhi Administration in matters relating to the public servants performing functions in that administration will be neither desirable nor conducive to efficiency. The local government must have some measure of control over the functioning of such public servants as otherwise it will be difficult to run the administration. In our view this can be achieved by an adequate measure of delegation of powers by the Centre to the administration in respect of specified categories of services.

8.1.5 All matters relating to "public services" in the Union territories are now regulated by law or rules under article 309 of the Constitution. This article does not preclude delegation of powers in this regard to the Administrator. According to the rules framed by the Central Government, it can delegate administrative powers to the Administrator and heads of departments in Delhi. It may be mentioned that, in the case of Pondicherry, rule 47 of the Rules of Business of the Government of Pondicherry, 1963, provides that with respect to persons serving in connection with the administrator shall exercise such powers in consultation with the Chief Minister.

8.1.6 The President, in the case of Delhi, has delegated the powers of appointments to Central Civil Services and posts, Class I, under the Delhi Administration to the Administrator. The Administrator has been conferred the power to make rules in regard to the method of recruitment, the qualifications and conditions of service of certain categories of persons under his administrative control in connection with the affairs of Delhi.

8.1.7 We have taken note of the view that after the establishment of responsible Government the question of control over service personnel serving in Delhi Administration is one of importance to 68

the elected representatives. There is also a view that as implementation of the policies and programmes depends to a large extent on the services, the requisite control over them should be in the hands of elected representatives, because any failure arising from the performance of services is regarded in the public mind as failure on the part of the elected representatives. However, as the control of the Centre over services is necessary because of the special position of the capital this point of view can, to some extent, be met by adoption of a convention of consultation with the Chief Minister by the Administrator whenever possible when he performs his delegated functions in regard to services. This will facilitate harmonious functioning of the system.

8.1.8 On a consideration of all the aspects, we recommend that—

- (i) the existing constitutional arrangement is unexceptionable and should not be disturbed;
- (ii) adequate delegation of powers to the Administrator should be made in respect of specified matters and categories of services; and
- (iii) the convention of consultation, whenever possible, by the Administrator with the Chief Minister in respect of service matters when he performs his delegated functions in this regard should be adopted.

#### 8.2 PUBLIC ORDER AND POLICE— OPERATIONAL ASPECTS

8.2.1. In Chapter VI we recommended that the subjects of public order and police should be excluded from the purview of the Legislative Assembly and should be under the exclusive control of the Union. We proceed to consider the arrangements to be made at the operational level for ensuring that the duties and responsibilities in regard to the maintenance of public order in the capital are performed smoothly, efficiently and effectively, and that there is no confusion or overlap of juris diction in regard to the focal point of control and coordination.

8.2.2 Obviously, the Central Government by itself cannot be the focal point of functional control or coordination nor can it undertake the responsibility for overseeing the day-to-day affairs of the police or the maintenance of public order in the capital. The Central Secretariat is not organised for performing such functions. These must be performed by a highly placed officer or authority under the Central Government who should be entrusted with the responsibility of maintaining public order in the capital and who

should be the single point of control, coordination and command. In accordance with the accepted principles and practices, this point of control cannot be inside the police organisation itself. In the districts all over India this function is performed by the District Magistrate of the district concerned. For some reasons, this arrangement has been given up in Delhi since 1978. We do not wish to go into the merits and demerits of this change. After a careful consideration of all aspects of this important matter we consider that having regard to the complex and sensitive nature of the problems involved, the control and the responsibility should be placed at the highest level and that the appropriate arrangement would be to make the Administrator himself the focal point of command, control and coordination for all matters relating to public order and the police. The Administrator should be expressly made responsible for the maintenance of public order in the capital and for the effective functioning of the police in Delhi. For this purpose he should be conferred or invested with adequate powers and jurisdiction under the relevant law, wherever necessary. He should be answerable to the Central Government and thereby to Parliament.

8.2.3 The Delhi Police Act. 1978 already provides that the superintendence of the Delhi Police throughout Delhi shall vest in, and be exercised by, the Administrator and that any control. direction or supervision exercisable by any police officer over any other member of the police force shall be exercised subject to such superintendence by the Administrator. This is sufficient to vest the Administrator with all the powers necessary for making him the focal point of control for all matters relating to the police in Delhi. In regard to public order, necessary orders should be issued under the relevant provisions of law, wherever necessary.

8.2.4 It appears that there is at present some uncertainty in regard to the Administrator's overall responsibility for maintaining public order. We were told that occasions had arisen when this created difficulty. For instance, when a question arose as to who should call in the army in times of crisis, it was not clear as to whether the power could be exercised by the Administrator because he was not specifically invested with the powers under the Cr.P.C. There is a Deputy Commissioner who is the District Magistrate for Delhi with powers under the relevant section of the Cr.P.C. but presumably he is not being kept informed of the matters relating to public order by the police because of the changes brought about under the 1978 Act. It is, therefore, necessary that the Administrator should be specifically empowered to exercise all the necessary powers in

regard to maintenance of public order with a provision for delegation of such powers under the law wherever necessary. If this is done, there will be no scope for uncertainty on the focal point of control in such situations.

8.2.5 As part of our examination of the functioning of the administrative structure for the purposes mentioned in the Terms of Reference, we felt it necessary to go into the working of the Police Commissioner system in Delhi that is, the system under which some powers of a District Magistrate or an Executive Magistrate are conferred on police officers. A specific question was included in our questionnaire seeking opinion on the difficulties in the effective functioning of this system from the point of view of the public. We also raised this issue pointedly with many who were interviewed—officials and non-officials. The result of our study and our recommendations are set out in the succeeding paragraphs.

8.2.6 When the Code of Criminal Procedure was being re-enacted in 1973, an enabling provision was inserted in Section 20(5) whereby it was left open to any State Government to confer on a Commissioner of Police the powers of an Executive Magistrate in relation to a metropolitan area. that is, an area with a population of more than one million declared as a metropolitan area. At the time when this Code was enacted it was not contemplated that Executive Magistrates could perform any judicial powers like holding inquiries or trials. What was contemplated was the system prevailing in the three erstwhile Presidency Towns which enabled police officers to take quick action mainly for the prevention of crime in such big cities without having the necessity to approach magistrates.

8.2.7 This system was introduced in Delhi on the 1st of July, 1978 along with the enactment of the new Delhi Police Act, 1978 (first by a Ordinance followed by an Act) replacing the century old Police Act of 1861. The new enactment is a comprehensive law for the organisation, maintenance and discipline of the police force in Delhi and for regulating their powers, functions, and responsibilities.

8.2.8 With respect to the primary police functions of prevention. detection. investigation and prosecution of offences, the police in Delhi have all the powers, functions, duties and responsibilities conferred on or available to the police anywhere else in the country under the Code of Criminal Procedure, 1973. In this respect there is no difference between the police officers in Delhi and those elsewhere. The Delhi Police Act. 1978 confers on them additional powers and functions which include powers normally exercised by the District Magistrate or Executive Magistrate under the Code of Criminal Procedure or othe laws.

8.2.9 It is hardly necessary to mention that the efficient and effective functioning of police force in any metropolitan city with a high density of population is of vital importance not only to the government but to the people also. There can be no two opinions on the need to confer on the police force in Delhi some special powers enabling them to meet the special needs of the national capital. Undoubtedly, the task of the police in Delhi is extremely difficult and in the volume of work and in its complexity bears no comparison with the work of the police force in other parts of the country including the other metropolitan cities. Apart from the large population. Delhi has also to face heavy influx of floating population as well as problems associated with processions, demonstrations. etc., which occasionally tend to assume serious proportions. A special feature of Delhi is that the international organisations and embassies are located here which necessitates greater vigilance on the part of police, particularly when events and tensions taking place outside India have their repercussions in Delhi. Experience has shown that the conditions in the capital offer scope and facilities for organised and sophisticated crimes on a scale much higher than at other places. The difficulty to be faced by the police in Delhi is further compounded by the fact that the composition of the population of Delhi is a complex mix of the most affluent, the most vocal and the most assertive on the one hand, and, on the other, of a large mass of the under priviledged living in the slums and elsewhere. There is also a vigilant and active press in the capital. All these factors put pressure on the police. In view of this, it is necessary that the police in the national capital should function with utmost efficiency and effectiveness and should be organised in such a manner that it is ever alert and in a position to meet the situations arising from sudden develop-Above all. the functioning of the police ments. should be not only efficient but also such as to inspire confidence and dispel any impression that it is partial, corrupt or prone to abuse of power.

8.2.10 Nevertheless, the additional powers which can legitimately be conferred on the police in the capital should not be excessive and should have a bearing on or relate to their primary duty and responsibility for maintaining law and order. Further the powers conferred on the police should conform to the general scheme of our criminal justice system which, under article 50 of the Constitution and the scheme of the Code of Criminal Procedure, requires that functions of a judicial nature involving a decision which exposes a person to the punishment of detention in prison etc. should be performed by a judicial forum. Another very important consideration is that if the police which is the prosecutors is also made the judge in a matter which culminates in sending a person to prison or depriving him of his personal liberty, the arrangement is likely to be challenged as contravening article 21 of the Constitution which confers on a person a fundamental right to a reasonable and just procedure before he can be deprived of his personal liberty.

8.2.11 From the information available to us, it would appear that neither the Commissioner of Police nor any of his subordinates, exercising powers of an Executive Magistrate, submits any returns to or is subject to any general control or I supervision by the Chief Metropolitan Magistrate or the Court of Session. An appeal against an order under Section 107, Section 108, Section 1 109 or Section 110 Cr. P.C., passed by any Executive Magistrate, including a police officer performing functions of such Magistrate, lies to the Court of Session under Section 373 of Cr. P.C. The High Court and the Court of Session also. have powers of revision under section 397 Cr. P.C. against orders passed by these Executive Magistrates and that section clarifies that all Magistrates whether Executive or Judicial shall be deemed to be "inferior" to the Sessions Judge for the purposes of revisionary powers. All these are, however, for supervision on the judicial side. Neither the High Court nor the Court of Session in Delhi exercises administrative supervision over police officers functioning as Magistrates.

8.2.12 We also understand that the Commissioner of Police does not submit any return or periodical report to the High Court on the performance of the magisterial duties by the police officers. In other words, the High Court does not, in practice, exercise any administrative supervision over police officers functioning as magistrates. It may be added that under section 70(3) of the Delhi Police Act, 1978 the police officers are not subject to the general control of the District Magistrate.

8.2.13 It would be clear from the foregoing that under the system now obtaining there is no in-built mechanism of supervision over the police officers in their discharge of magistrerial functions outside the police hierarchy. This is one of the factors which contribute substantially to the defects in the present system.

8.2.14 We took note of the fact that the Commissioner of Police System has been working for a long time in Bombay, Calcutta and Madras, but as Delhi has its own unique features as a

national capital, the suitability of the system for Delhi was examined by us with care. As stated in paragraph 8.2.5 a specific question was included in our questionnaire asking for views as to whether there has been any difficulty in the efficitive functioning of the Commissioner of Police system in Delhi from the point of view of the public and if so whether any changes in the functions and powes of the police are called for. Although the question did not seek any opinion on the retention or otherwise of the system, about 65 per cent of responses were to the effect that the system itself should be abandoned. This was also the view of many of those interviewed by us and the main ground relied on by these persons to support the case for abandoning the system was that it has led to corruption and abuse of powers particularly at the lower levels and that it has at times been used to harass the public. An additional ractor contributing to the objection against the system in Delhi was that there is no authority other than police heirarchy to whom complaints of abuse or corruption can be made as the normal arrangement of supervision by an Executive District Magistrate from the administrative side over the activities of the police, has been done away with under the Delhi Police Act. The result is that complaints and grievances against the police will have to be lodged with and disposed of by the same police organisation. This has croded public confidence and the feeling is that there is in fact no effective mechanism for preventing abuse of powers.

8.2.15 After a carefull consideration of and all the relevant aspects and in the light of the preponderant public opinion, we have come to the conclusion that there is a strong case for the abolition of the Police Commissioner system in Delhi i.e. the system of conferring on the Commissioner of Police the powers of District Magistrate or Executive Magistrate under the Code of Criminal Procedure or other laws. We are satisfied on the materials placed before us that the system has not been working to the satisfaction of the public and that, on the other hand, there is a widespread complaint of abuse of powers and harassment of the public uncer the system. We are led to believe that the system has not brought about any perceptible improvement in the control of crime which is its main objective. In our view, it will be in the interest of the police themselves to abolish the system as thereby the image of the police, which is of great importance, may improve. It may be added that the time spent by the police in holding enquiries etc. can be utilised more advantageously for their regular work of crime control. We, therefore, recommend that this system should be abolished in Delhi.

If, however, for some reason the above recommendation is not acceptable, we consider that the powers conferred on the police under the system should be restricted to those really needed for discharging their main responsibilities of maintaining public order in Delhi.

8.2.16 We proceed to examine broadly how much of such powers now being exercised by the police officers should be retained with them and how much should be transferred to other authorities, with due regard to the principles set out in paragraph 8.2.10 above, if the system is to be retained.

8.2.17 The powers conferred on the Delhi police under the Delhi Police Act, 1978 fall under three heads :

- (a) Powers of a District Magistrate or Executive Magistrate under the Code of Criminal Procedure, 1973 conferred by notifications under the Act.
- (b) Powers of a District Magistrate or Executive Magistrate under various special laws listed in the Schedule to the Delhi Police Act.
- (c) Other powers specifically conferred by that Act on the police such as the power to order externment.

8.2.18 As regards item (a) above, an important segment of the law for the control and prevention of crime is contained in Sections 107, 108, 109 and 110 of the Code of Criminal Procedure, 1973 dealing with provisions for demanding security bonds from certain categories of persons for keeping the peace or for good behaviour and for sending them to prison after holding an inquiry if they fail to furnish such security. Section 107 enables a Magistrate to demand security for keeping the peace from any person who is likely to commit breach of the peace or disturbance of public tranquility or to commit any wrongful act which may probably occasion such breach or disturbance. Section 108 enables a Magistrate to demand security for good behaviour from a person who disseminates seditious matters punishable under certain sections of the Indian Penal Code including matters likely to create disharmony among section of the citizens. Section 109 enables a Magistrate to demand security for good behavious from a person taking precautions to conceal his presence and there is reason to belive that he is doing so with a view to comit a cognisable offence. Section 110 provides for demand of security for good behaviour from habitual offenders of certain categories. The procedural and other incidental matters relating to such security proceedings are provided for

in Sections 111 to 124. They include a provision in section 116 that the inquiry by the Magistrate should be in accordance with the procedure prescribed for "conducting trial" and recording evidence in summons cases. If the person fails to furnish security, Section 122 provides for commiting the person concerned to prison.

8.2.19 It is obvious from the above and particularly from procedure prescribed that the proceedings are judicial in nature. In many States the powers under Section 108, 109 and 110 have been conferred only on judicial magistrates while those under Section 107 have been conferred on excutive magistrates from administrative services.

8.2.20 In Delhi powers under Section 107 and those under the connected procedural provisions have been conferred on the Commissioner of Police by means of a notification under the Delhi Police Act, 1978. Those under Sections 108, 109 and 110 have been left with the Deputy Commissioner-cum-District Magistrate. It is relevant to mention in this connection that under the normal practices in States the statistics of cases under Sections 108, 109 and 110 are usually used for assessing the effectiveness and efficiency of the police in keeping a check on potential offenders and persons who are likely to comit offences. This could, perhaps, have been the reason why in Delhi the powers under Section 108, 109 and 110 have been conferred on a different authority namely, the Deputy Commissioner, but in actual parctice these powers do not appear to have been used in Delhi.

8.2.21 It has been represented to us that a peculiar practice has come in vogue in Delhi whereby cases which would normally have to be dealt with under Sections 108, 109 and 110 are brought by the police under Section 107 in respect of which they have been empowered to demand security. In support of this allegation a sample of statistics has been given. In one fortnight ending on 30-9-1987, in one Police District only, out of a total number of 1156 cases under all these four sections, as many as 1148 cases were under Section 107 (which can be disposed of by the police themselves). No case was booked under Section 108 and only 4 cases each were booked under Sections 109 and 110. We are not in a position to say whether there is any such deliberate diversion of cases as is alleged. But if this is true, it will be a gross abuse of power by the persons concerned which should be properly gone into. Incidentally, this discloses that the Deputy Commissioner, though invested with the requisite powers has not been exercising them. These preventive provisions are very important for keeping a watch over potential offenders and we are of the view that these powers should be effectively exercised.

8.2.22 We have carefully considered the question as to who should exercise the powers under the security sections in Delhi in case the Commissioner of Police system is retained. We notice that in Madras and Calcutta where the Commissioner of Police system is in vogue, the powers under all these four sections are exerciseable only by the judiciary i.e. Metropolitan Magistrates. In Bombay where too the system prevails, we understand that a notification conferring these powers on the Comissioner of Police was quashed by the High Court and the matter is under review by the State Government. After carefully weighing the advantages and disadvantages of conferring powers of this nature on the police, we have come to the conclusion and we recommend that powers under all these four sections should be vested only in the judicial Magistrates as in Madras and Calcutta. If for any reason this is not considered feasible in Delhi the powers under all the security sections should be with the Deputy Commissioner-cum-District Magistrate. We are convinced that this is not likely to prejudice the effective functioning of the police in the capital. On the other hand this step is likely to serve the larger interest of securing a better image for the police. The general view of the public is that the powers under the security sections are apt to be and are often misused. It is of the utmost importance that the police should be regarded by the members of the public as their friends and there should be mutual trust, confidence and cooperation between them if the system is to work satisfactorily. If the system permits or leads to abuse of power by the police officers, particularly at the cutting edge although it is the common man that is the victim of such abuse, the casualty will be the image of the policeman in the eyes of the public. It follows from this that in the interest of the police themselves they should not be called upon to exercise, functions which expose them to such charges of abuse.

8.2.23 There can, however, be no objection to the conferment of powers under the Code of Criminal Procedure, 1973, which relate to prevention of crime or maintenance of public order. For instance, powers under sections 133 and 144 can be conferred on the police because these are basically preventive in nature. Under these provisions urgent action may be called for and the task of the police will be facilitated if they have these powers.

8.2.24 As regards the powers of a District Magistrate or Executive Magistrate under special laws the Delhi Police Act, 1978 confers on the Police the Powers of a District Magistrate under

fourteen Acts listed in Schedule I to the Act. On an examination of these Acts we notice that many of the powers are not strictly relateable to the function of maintaining peace and some of them affect the civil rights of the individual like the powers under the Indian Lunacy Act, 1912, the Cinematographic Act, 1952, the Press and Registration of Books Act, 1867, etc. After examining the matter carefully we consider that the powers available to the police in Delhi under the special laws should broadly correspond to and should not exceed those which are necessary for or connected with the discharge of the regular functions of the police in maintaining public order. We feel that it would be beyond the scope of our work to examine all these Acts and find out which of the powers under which of the Acts should be retained with the police in Delhi. It would be appropriate to have the examination done by a competent authority. All that we would say is that the matter should be reviewed in the light of the principles set out in paragraph 8.2.10 above.

8.2.25 The Delhi Police Act, 1978 itself confers on the police certain specific powers referred to in item (c) of paragraph 8.2.17 above, in regard to dispersal of gangs and bodies of persons, removal from Delhi of persons about to commit offences or of persons convicted of certain offences. Here again we recommend that this matter should be examined by the appropriate authorities in depth and the Delhi police left only with such powers as are absolutely necessary for the performance of their functions.

8.2.26 We will now deal with the aspect of supervision over the functioning of the police. An important matter to which our attention was drawn by several persons during our interviews was the feeling among the members of the public that there is at present no effective mechanism for redressal of grievances arising from the action, inaction or high-handedness on the part of the police. The complaints were mainly on three matters, namely, (i) omission to take action, (ii) abuse of power, and (iii) corruption. We noticed that the complaints related mostly to the functioning of the lower formations of the police at the field level.

8.2.27 We have already referred to the removal of the traditional control over the police exercised by the District Magistrate in Delhi. In the opinion of many, the restoration of the *status quo* will go a long way in reducing the difficulties of the public in regard to their grievances against the police because the District Magistrate will be easily accessible and the institution has the reputation of impartiality. However, any proposal to invest District Magistrate with powers of control or supervision over the police may not be practicable in Delhi, one of the reasons for this view being that the hierarchical structure of the police in the national capital is totally different from what obtains in a normal District.

8.2.28 Another possible way of providing for the redressal of grievances of the public against the Delhi Police is to ensure that such grievances are handled effectively by the superior officers in the hierarchy. It is taken for granted that the police is a disciplined force and the very foundation or basic feature of police organisation anywhere in the world is strict discipline and hierarchical control at all levels. We are told that in Delhi the senior officers are doing their very best to control abuse of power or corruption on the part of the subordinate police and we do not wish to question this. However, we cannot ignore the realities of the situation in Delhi. The unenviable position of the superior officers of the police in Delhi is that they have their hands more than full with a huge load of work of a very sensitive and complex nature like security of the VIPs, visits of foreign dignitaries, sudden developments in the social and political life, spurts in crimes of violence, etc., and this happens almost round the year. The strength of the police in Delhi is no doubt very large and continues to rise but the existence of such large numbers by itself does not always produce results. We, therefore, find it difficult to agree that the present problems faced by the public mentioned earlier can be resolved by leaving the task of redressal of grievances against the subordinate police only with the over-worked hierarchical superiors. This is apart from the fact that in the mind of the public the argument that complaints against abuse of power etc. by the police can be handled satisfactorily by the superior officers of the very same organisation will not carry conviction.

8.2.29 After a careful consideration of all the aspects of the matter we have come to the conclusion that a satisfactory way of meeting the difficulties faced by the common man in this regard will be to provide for a separate institution or authority, independent of the police or magistracy, to hear or deal with complaints from the public and after due examination to recommend appropriate action to the authorities concerned. This could be ensured by the appointment of an officer with appropriate status and adequate authority to oversee the functioning of the police machinery from the angle of ensuring appropriate action in cases of wilful default in the performance of duties, corruption and abuse of power and to initiate suitable action in such cases to ensure satisfaction to the public. The officer should be easily accessible to the common man who

should have no difficulty in presenting his grievances and seeking their redressal through him. He can be given an appropriate designation such as Commissioner-General for Vigilance and Public Grievances and should be empowered to hold enquiry and recommend suitable action directly to the Government whenever a prima facie case has been made out.

8.2.30 The above recommendation is in relation to the police. Such cases may also arise in regard to the functioning of the other departments and authorities in Delhi. However, the question whether the authority proposed here should also be entrusted with advisory or other role in the supervision or overseeing of the vigilance organisation of other segments of administration in Delhi would require a decision on consideration of all the factors involved including the expected volume of work which is likely to devolve upon such an authority. In our view this is a matter which is best left for decision of the Government, but we do, however, recommend that there should be such an authority for the police. We have considered the question of the type of persons who could man this office. Without fettering the discretion of the Government, we consider that the best person to function in this regard could be one with proven administrative ability who had a wide experience of the functioning of the various governmental and administrative agencies. Persons who have served as Secretaries to the Government of India, Chief Sccretaries to the State Governments or Directors General of Police or have held office of comparable status and responsibility may be eminently suitable for this purpose. The person need not necessarily be a serving officer. The officer should be given adequate facilities for work and it should become an accepted convention that the rec ommendation cf the officer should be given due consideration by the authorities concerned. In our view it may not be necessary to make any statutory provision in this regard. He can function as an administrative authority more or less on the same lines on which the Central Vigilance Commissioner functions. We recommend accordingly.

## 8.3. DECENTRALISATION OF ADMINIS-TRATION

8.3.1. One of the main tasks under our Terms of Reference is to study the drawbacks in the functioning of the existing administrative authorities in Delhi, to examine the difficulties experienced by the common man in his day-to-day dealings with such authorities and to make recommendations *inter alia* for the rationalisation or reorganisation or streamlining of the administrative set-up to secure all round improvement in providing services to the public and for quicker redressal of public grievances. The general view is that most of the difficulties faced by the common man in Delhi arise from over-centralisation of administration. We, therefore, felt it necessary to include specific questions in our questionnaire inviting suggestions for decentralisation of administration. The responses we received confirmed the above view and made it clear that there is considerable scope for decentralisation in almost all branches of the administration. We proceed to consider this issue.

8.3.2 Delhi Administration functions through several departments that have varying degrees of decentralisation in their functions. Though the Union territory constitutes a single district, the concept of district administration has been considerably eroded. Due to a variety of reasons, the District Administration and the Deputy Commissioner do not occupy the pivotal position as in the rest of the country and as it obtained in Delhi in earlier years. It no longer serves as an effective centre for control or coordination and is not in a position to satisfy the needs or redress the grievances of the people to the desired extent. We have set out in Chapters III and IV the existing set-up and the deficiencies therein. To recapitulate, these are-

- (i) All the five Additional District Magistrates and four out of seven Sub-Divisional Magistrates are located at the headquarters and not in the areas of their charge.
- (ii) The Police organisation for Delhi has a well, demarcated field set-up divided into three ranges, nine districts, thirty-three sub-divisions and one hundred police stations.
- (iii) Food, Supplies and Consumer Affairs Department has achieved a limited decentralisation by locating its forty-four circle offices in local areas of their jurisdiction. But the six Zonal Offices are located at the headquarters.
- (iv) The Sales Tax Department has fifty wards but all the ward offices are located at the headquarters. The Appellate Officers i.e., Additional Commissioner/Deputy Commissioners/Assistant Commissioners also function from headquarters.
- (v) The Municipal Corporation of Delhi has ten zones for its General Wing as well as for Water Supply and Sewage Disposal Undertaking.

- (vii) The NDMC does not have a Zonal office pattern, but has divided its area into thirteen circles.
- (viii) The Delhi Development Authority has not decentralised its working, and all important functions like execution of lease deeds, sanction of building plans and completion certificates, settlement of ground rent etc. are performed at its headquarters office, though site offices have been established in localities where house construction and development of any new colony is taken up.

8.3.3 It is apparent that the present organisation of most of the important departments of Delhi Administration suffers from the following deficiencies:---

- (i) There is no concept of a district administration as prevailing in other parts of the country. Further, there is no institutional or other co-ordinating agency available. In the sphere of executive responsibilities there appears to be no effective nodal authority.
- (ii) There is no uniformity in the pattern of decentralisation among the various departments. These include several major departments that deal with the common man such as the Sales Tax Department, the Industries Department, Labour Department, etc. Some of them have no doubt divided their work functionally, but the decentralised units are located at the headquarters.
- (iii) The Departments or local bodies that have decentralised their functioning have created administrative units which are neither co-terminus nor are they organised with an eye for the convenience of the public.

8.3.4 From the above analysis it is clear that the common man is faced with the problem of confusion of jurisdiction arising from the varying patterns of decentralisation adopted by the different authorities functioning in Delhi. Due to the centralised location of most of the Departments in one part of the city, the persons concerned have to travel long distances to reach thereby burdening the transport system also: A responsive administration requires that it is

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easily accessible and convenient to the common man. This calls for a territorial and functional decentralisation of the administration.

8.3.5 The territorial decentralisation of the departments or local bodies or service agencies, as the case may be, by Dolhi Administration would involve location of the various units in the areas of their jurisdiction to make available their services to the common man nearer home. Territorial units can be set up on the basis of population or other criteria. Functional decentralisation would involve adequate delegation of powers and functions to the officers located at the unit level. The line of command for administrative purposes may remain with the departmental hierarchy.

8.3.6 We are clearly of the view that the existing arrangements in regard to decentralisation of powers are far from satisfactory and that a new scheme of systematic decentralisation should be adopted. In the first place it is necessary that Delhi should be divided into an adequate number of units based as far as possible on the distribution of population. But what is most important is that the territorial limits of each unit or zone should be the same for all departments or authorities of the Government. It is also necessary that each department should have a representative of appropriate status located in the zone or unit. Adequate powers should be delegated by the respective department to such representative so as to enable him to attend to the needs and grievances of the public in relation to that department. The hierarchical arrnagements in respect of each department may continue to provide for necessary appellate or revisional powers.

8.3.7 There should be coordination between the various departments of Government at the unit level which is, of course, one of the main requirements so far as the public is concerned. A large measure of coordination is available in the rest of India at the district level. The Collector or the Deputy Commissioner of the district concerned normally exercises powers of coordination between the various departments functioning in the district. The adoption of this well-tried system of coordination will be of a great advantage to Delhi.

8.3.8 As a consequence of the establishment of a responsible government for Delhi, the machinery of administration should be adequately reinforced and reorganised so as to enable it to shoulder increased responsibilities and work load at all levels particularly at the field level to serve the people better. This will necessitate suitable arrangements for supervision over and 3589 HA/89-11

coordination of the functioning of the field units to a much greater degree than at present. The coordinating authority at the field level in other parts of the country is the Deputy Commissioner. We feel that the establishment of a number of units or zones in Delhi headed by Deputy Commissioners with adequate powers to perform both administrative and coordination roles at the unit level would go a long way to achieve the basic objectives and purposes of a decentralised administration, which would serve the best interests of the common man. Officers appointed to this post would naturally have to be adequately experienced to undertake this administrative and coordination role successfully and the Administration should confer on the officers the requisite powers in this behalf.

One of the requirements of an effective and responsive administration is adequate delegation of powers and functions to the local units. The proposed set-up envisages the possibility of meaningful delegation of powers by the Union to the Administrator in respect of certain matters reserved with the Centre. It may be necessary for these delegated powers to be further delegated down the hierarchy of administrative authorities to the unit level in Delhi. We feel that the coordinating authority at the field level should be delegated adequate powers to enable him to function by and large as a representative of the Delhi Administration particularly in the spheres of revenue administration, land management, general administration, developmental functions, welfare measures, including the welfare of scheduled castes, etc.

8.3.9 In accordance with the usual pattern of organisation of services in every State, there should be an intermediate apex authority between the administration at the highest level and the field level officers and offices. In many States there are Commissioners of Divisions who perform functions of supervision, guidance and control over heads of districts and other authorities at the unit level. In view of the increased role to be performed by the officers at the unit level as a consequence of the establishment of a responsible government the need for such a coordinating apex authority is particularly necessary. In addition, there is a special case for such an authority in Delhi by reason of the fact that the Administrator has to perform certain functions of the Union delegated to him, apart from his own duties as the head of the Delhi Administration. For instance, functions relating to the maintenance of law and order or land management may be delegated to the Administrator by the Union and in such cases it will be unrealistic to expect the Administrator himself to

perform such functions. He must have the assistance of suitably high ranking officers to assist him in this regard. This is an important consideration. Further, as we have stated elsewhere, Delhi has a high density of population which is vocal and conscious of its rights; apart from a vigilant press it also has certain special features as a national capital. For all these reasons we recommend that there should be an officer of an appropriate rank and status with the designation of Commissioner whose functions will cover the whole of Delhi and relate to such matters as may be delegated by the Administrator or under any law.

8.3.10 In the proposed set-up for Delhi the post of Chief Secretary to the Government will be one of great importance and the Chief Secretary will have to play a key role in the administration. Although for constitutional purposes, Delhi will continue to be a Union territory its population is much higher than many States and the problems are also much more complex. In view of this, the post of the Chief Secretary should be a rank and status commensurate with its importance and it should be of the same rank as in the other States with comparable population. This will ensure that the post is held by persons of adequate experience, maturity and proven efficiency. We, therefore, recommend accordingly.

8.3.11 The foregoing recommendations on decentralisation may prima facie necessitate the creation of more offices. However, it may not necessarily involve the creation of any large number of additional posts. In most cases, and functions presently performed in the Head Offices by officers located there will be de-centralised to the Zonal Offices. A number of departments already have such zonal offices. In some cases, where officers intended for the zones sit at the headquarters itself, such officers will be required to be moved to the Zonal Offices. As the workload in the headquarters will be reduced by the transfer of some of their functions to the Zonal Offices, some staff can also be transferred to the Zonal Offices from the head offices. It will be only in very few cases that some additional posts might have to be created. The entire scheme of decentralisation will have to be carefully worked out by utilising, as far as possible, the existing manpower.

## 8.4 THE JUDICIAL AND MAGISTERIAL SET-UP

8.4.1 The Union territory of Delhi constitutes a single judicial district. At present there is a District and Sessions Judge for Delhi, with forty-seven Additional District and Sessions Judges, Senior Sub-Judges, and Judge, Small Causes Court. On the magisterial side, there is

one Chief Metropolitan Magistrate, four Additional Chief Metropolitan Magistrates, and a large number of Metropolitan Magistrates. In addition there are judicial officers functioning as Rent Controllers. The courts are located at Tees Hazari, Patiala House and Shahadra. Ten Additional District and Sessions Judges are located at Tees Hazari, five at New Delhi and three at Shahadra to deal with criminal cases. The remaining Additional District and Sessions Judges work on the civil side. There is a mobile court for traffic cases having jurisdiction all over Delhi, New Delhi and Shahadra. The Chief Metropolitan Magistrate sits at Tees Hazari and is assisted by two Additional Chief Metropolitan Magistrates. One Additional Chief Metropolitan Magistrate sits at New Delhi and one is located at Shahadra. Twenty-nine Metropolitan Magistrates are at Tees Hazari, eighteen at New Delhi and four at Shahadra.

8.4.2 All civil cases are filed and tried at Tees Hazari courts, where all civil courts are located. The cases triable by Magistrates are filed police station-wise at different places, i.e. Tees Hazari, Patiala House, and Shahadra and tried at the same place. Sessions cases, appeals and revisions pertaining to the Shahadra and Patiala House courts are taken up before the Courts in those places. Urgent applications are also dealt with at these places. A list of cases is then sent to the office of the District and Sessions Judge and he assigns cases to different courts.

8.4.3 The need for decentralisation of the judicial set-up is particularly important in criminal cases. The concentration of the Courts of Magistrates mainly at Tees Hazari obviously affects the common man residing in far-off places in the southern and western areas of Delhi. The obvious solution will be to locate at least courts of Metropolitan Magistrates dealing with certain categories of offences at different places so as to decentralise the administration to that extent for the convenience of the public. Such magistrates can be assigned cases in terms of the police stations.

8.4.4 The organisation of criminal courts is governed by the provisions of the Cr.P.C. With the enactment of the new Code in 1974, Delhi has been declared as a Metropolitan Area and under section 16 of the Code, there are courts of the Chief Metropolitan Magistrate, Additional Chief Metropolitan Magistrates and other Magistrates. Under Metropolitan section 7, the whole of the Metropolitan Area is, for the purpose of the Code, one district and under section 16(3) the jurisdiction and powers of every Metropolitan Magistrate shall extend throughout the Metropolitan Area,

8.4.5 The system of Metropolitan Magistrates recently introduced in Delhi has been in existence for more than a century in the erstwhile Presidency towns of Bombay, Calcutta and Madras. It is a well tried system of administration of criminal justice, specially suitable for densely populated cities and commercial centres where crimes are sophisticated and criminals can command a high degree of mobility. One of the most important advantages of this system is that it avoids difficulties and confusion in regard to jurisdiction of courts within the area thereby facilitating smooth investigation and prosecution of offenders.

8.4.6 In criminal administration, both judicial and executive, the district is the unit. A magistrate functioning in one district cannot, as such, exercise jurisdiction in another district. The summons or warrant issued in one district can be executed outside that district only after appropriate endorsement by the authorities in the other district. There are similar procedural require-ments regarding cognisance of cases. Matters of jurisdiction always present considerable com-plexity and disputes. If, therefore, a Metropolitan Area like Delhi is divided into separate districts under the Code, the administration of criminal justice would be rendered extremely difficult for the courts, for the police and for the public. It is for this reason that the Metropolitan system provides for a single district with every metropolitan magistrate having jurisdiction over the whole of the metropolitan area thereby avoiding disputes and confusion about jurisdiction and facilitating investigation and trial of cases. This system also facilitates the administration of the other laws like those relating to smuggling, arms control, etc.

8.4.7 It would, therefore, be difficult to consider the division of Delhi into a number of districts for securing decentralisation in regard to criminal justice system. Any proposal to decentralise criminal justice system should be within the framework of the Metropolitan system. The arrangement in other cities like Madras and Bombay is that Courts of Additional Chief Metropolitan Magistrates or other Metropolitan Magistrates are located at convenient places with one Chief Metropolitan Magistrate supervising the other Metropolitan Magistrates as provided under the Code. Each of them could be assigned work by appropriate order of the Chief Metropolitan Magistrate under the Code.

8.4.8 Under the present arrangement in Delhi there are Courts of Metropolitan Magistrates in New Delhi and Shahadra apart from a number of courts at the headquarters in Tees Hazari. The question of locating a sufficient number of Courts of Metropolitan Magistrates in the southern and in the western areas of Delhi, to whom cases can be assigned appropriately in terms of police stations may have to be considered in consultation with the High Court as provided under the Code. We recommend accordingly, but we do not feel called upon to make any specific proposals in regard to the actual location, number or jurisdiction of these Courts. These are matters to be decided in consultation with the High Court.

#### **8.5 FINANCIAL ARRANGEMENTS**

8.5.1 An important issue arising from our proposals in regard to the future administrative set-up for Delhi is that of the financial arrangements to be made between the Union and the Delhi Administration. Finance is a major input in the administration and no system of administration can survive unless it is based on sound financial administration and management. The Centre and the Delhi Administration should both be interested in this. We will proceed to discuss certain aspects of such arrangements in the succeeding sub-paragraphs.

8.5.2 As we have already stated, the administration of Union territories is the constitutional responsibility of the Union. One consequence of this is that the Union is interested in and responsible for the sound financial administration of every Union territory. The existence of a Legislature and a Council of Ministers in a Union territory does not alter the position. In Union territories with a Legislative Assembly and a Council of Ministers, financial resources can be raised by the Government of the Union territory itself by levying taxes, fees, etc. to the extent permitted by the relevant law. The Union also has the power to levy taxes or raise resources from the Union territories under Parliamentary laws. If the resources made available in this manner are not sufficient to meet the needs of the Union territories concerned, the Central Government will have to make good the deficiency by grants from its own resources. Experience has shown that resources raised by local Legislatures of territories have not been substantial Union or sufficient to meet their needs. That is why the Union has been giving substantial financial assistance to the Union territories.

8.5.3 So far as the Union territory of Delhi is concerned, it stands on a special footing and has all along been treated as such. Obviously it will have to be so treated even if a Legislative Assembly and a Council of Ministers are established. The scale of expenses and the financial burden on the administration of the national capital will be beyond the maximum possible resources that could be raised by taxation or otherwise from Delhi itself under the powers available.

8.5.4 As it is in the interests of the Union that the national capital should have and maintain a reasonably high standard of administration and services, the Delhi Administration should continue to be given a special dispensation in regard to financial assistance by the Centre. This does not, however, mean that the Delhi Administration could spend what it likes leaving the Centre to provide the additional finance for meeting the deficits. Nor should this be a ground for absolving the Delhi Administration of its responsibility to make efforts to tap all the available Financial sources of revenue on its own. discipline is a cardinal principle and is of the utmost importance in any administration and Delhi cannot be an exception on the ground that it is the national capital. Similarly, the fact that the Centre is to make financial grants to the Delhi Administration does not mean that there should be no norms or principles governing the flow of funds.

8.5.5 It will be useful at this stage to refer to certain factual details in regard to financial position of the Delhi Administration. The most noticeable feature of the trends in expenditure of the Delhi Administration as revealed from a study of the data contained in the budget documents and materials made available to us is the widening gap between the available resources and the total expenditure. The gap between the receipts and expenditure, both on plan and nonplan account, was Rs. 183.92 crores during 1985-86 which rose to Rs. 430.52 crores during 1986-87. The relevant details in this regard are contained in the statement at Appendix V. It is true that being a Union territory Delhi does not get the benefit of the devolutions and grants-in-aid, etc. usually available to the States under the recommendation of the Finance Commission which reduces such gaps. Still the gaps will be too wide to be covered by such devolutions.

8.5.6 The plan expenditure in case of Delhi has also been showing a steep increase. During 1980-81, the plan outlay amounted to Rs. 120.38 crores only but rose to Rs. 341.80 crores during 1985-86 and to Rs. 558 crores during 1988-89. With the closer association of the people's representatives with the decision-making process under the proposed governmental set-up in Delhi, the expectations of the people for various developmental projects are bound to rise leading to further escalation of the demand for the funds for such programmes. The need for maintenance of reasonably high standards in regard to civic services and public utility services in Delhi is another important factor contributing to the increased requirements for funds. The running of the Delhi Transport Corporation (DTC) during past three years has resulted in losses varying between Rs 78.88 crores to Rs 176.92 crores and the Central Government had advanced to the Corporation since its inception capital loans amounting to Rs 156.57 crores. The amounts of ways and means advances to the D.T.C. so far had been to the tune of Rs 277.27 crores which had been converted into subsidy and it had an outstanding liability of Rs. 334.19 crores against interest payments which had to be written off. The Delhi Electric Supply Undertaking has received annual loans and grants varying from Rs. 166.33 crores to Rs 175 crores during the last three years. The Delhi Water Supply and Sewage Disposal Undertaking has received during 1987-88 and 1988-89 loans to the tune of Rs 55.65 crores and Rs. 63.51 crores respectively. The financial assistance to Delhi Development Authority amounted to Rs 38.93 crores and Rs 34.64 crores during 1986-87 and 1987-88 respectively.

8.5.7 The quantum of the financial requirements for the Delhi Administration as well as for the other agencies of the magnitude indicated above highlights the need for a constant review of and control over the expenditure with a view to ensuring proper utilisation of funds and strict adherence to the norms of sound financial management. Such a review is needed for the determination of the sums which should be made available to Delhi with due regard to its requirements and special needs as the national capital as also in respect of the resources which it would, by reasonable norms, be expected to raise on its own.

8.5.8 The further question is regarding the mechanism which could be adopted to achieve the purposes indicated above. In the case of States there is the constitutional mechanism of Finance Commission provided for in article 280 and this has been functioning smoothly. The Finance Commission has enjoyed the confidence of the States and the Centre in the impartial allocation of funds. However, the Finance Commission does not at present deal with the finances of or grants to individual Union territories as the grants to them are made in a lump sum to be distributed by the Central Government on some principles. We consider that this is not a satisfactory arrangement for the national capital.

8.5.9 After a careful consideration of the various possibilities in this regard we have come to the conclusion that the most appropriate arrangement will be to utilise the powers under sub-clause (c) of clause (3) of article 280 of the Constitution and to include in the terms of reference for the Finance Commission a specific

"The Commission should make recommendations to the Central Government as to the maintenance of financial discipline and the mobilisation of resources by the Delhi Administration and also as to the principles which should govern the making of grants or other assistance by the Centre out of the Consolidated Fund of India to augment the revenues of the Delhi Administration. In making its recommendations, the Commission shall—

- (i) adopt a normative approach in assessing the receipts and expenditures on the revenue account of the Delhi Administration and in doing so keep in view the special problems of the national capital;
- (ii) have due regard to the need for providing adequate incentives for better resource mobilisation and financial discipline as well as closer linking of expenditure and revenue raising decisions;
- (iii) take into account the need for speed, efficiency and effectiveness of Government functioning and of delivery systems for Government programmes;
- (iv) keep in view the objective of not only balancing the receipts and expenditures on revenue account of Delhi Administration but also generating surpluses for capital investment; and
- (v) take into account the requirements for financial assistance or budgetary support to public enterprises, local bodies and other Government and semi-Government authorities under the control of the Delhi Administration, keeping in view the need for maintenance of requisite standards in their performance in the national capital and their functioning on commercial lines.

8.5.10 At present the budget of Delhi Administration forms part of the Area Demand of the Union Budget and as we have explained in Chapter IV the procedure involves the approvals and decisions of the Ministries of the Central Government. With the establishment of a responsible Government as proposed, the budget of Delhi will be the concern of the Delhi Administration and the Legislative Assembly subject to the conditions and restrictions, if any, prescribed in that behalf by the Central Government.

8.5.11 With the establishment of a Legislative Assembly and Council of Ministers, provision will have to be made for a Consolidated Fund and Contingency Fund for Delhi on the pattern applicable to Union territories with legislatures. The Administrator may be authorised to make rules for regulating all matters connected with or ancillary to the custody of, the payment of monies into, and the withdrawal of monies from, these Funds.

## 8.6 ENVIRONMENTAL PROTECTION AND POLLUTION CONTROL

8.6.1 Pollution control has come to occupy a position of great importance and concern not only in India but all over the world. The problem of air pollution is assuming serious proportions in Delhi mainly by reason of its having the highest number of motor vehicles compared to other cities in the country. Apart from this, other contributing factors are smoke emmission from Indrapastha Power House, Rajghat Power House and Badarpur Thermal Power Station. The pollution of water in the river Yamuna as well as of underground water is the other dimension of the problem. Parliament enacted the Water Prevention and Control of Pollution) Act. 1974 Air (Prevention and Control of Pollution)Act, 1981 and the Environment (Protection) Act, 1986 for the prevention and control of pollution of water and air, protection of environmeut and for other related matters.

8.6.2 Under the Water (Prevention and Control of Pollution) Act, 1974 the Central Board for the Prevention and Control of Water Pollution, was constituted in September, 1974. This Board also acts as the State Board for the Union territories. The Development Commissioner. Delhi Administration, has been nominated as a member of this Board for Delhi. The main functions of the Central Board are to implement the provisions of these statutes. It advises the Governments of Union territories regarding location of any industry from the point of view of pollution; lays down standards for treatment of sewage, industrial effluents and emissions from automobiles, industrial plants etc.; evolves efficient methods for disposal of sewage and effluents on land and to develop reliable and economically viable methods of treatment of sewage, effluents and air pollution control equipment etc. The Central Board also assesses the quality of environmental water and ambient air and inspects waste water treatment installation, air pollution control equipment, industrial plants etc. to evaluate their performance and take steps for prevention, control and abatement of pollution of air and water.

8.6.3 The work done by the Central Board so far in Delhi includes the assessment of the pollution caused by thermal power plants, setting [up stations for monitoring ambient air quality, conducting of sample surveys to determine the extent of pollution generated by vehicular emissions and monitoring of quality of water in the river Yamuna. Monitoring is also done by the Board for control of water pollution by industrial waste.

8.6.4 In the light of the foregoing it would be clear that the Central Government is in a position to exercise full control over all aspects of pollution in Delhi. It is obviously necessary that the Centre should continue to have this control. The subject matter of pollution is of vital concern to the national capital and for effectively dealing with problems connected with pollution, it is apparent that adequate finances and expertise should be available. For this reason the present arrangements of Central control in the matter should continue. However, it cannot be denied that pollution is a matter of deep concern to the people of Delhi and it is only appropriate that People's representatives in the Delhi Administration are associated with the more important aspects of pollution control. From this point of view, it will be necessary for the Centre to evolve a mechanism for such association of people's representatives in this regard, by delegation of powers or by other means.



### SUMMARY OF CONCLUSIONS

#### GENERAL

9.1 A study of the working of the existing administrative municipal and other authorities in Delhi functioning under the present system has disclosed that most of the difficulties encountered by the common man, as well as by the administration, are due to certain functional and structural deficiencies and drawbacks in the system. The more important of these are :

- (a) absence of a responsive and accountable Government at the level of the Delhi Administration in which elected representatives of the people could have an effective voice in attending to the needs of the public or in redressing their grievances or in making laws for them;
- (b) absence of an identifiable proximate political authority to provide leadership to the administration and to serve as a nodal or focal point of command, control and coordination of the agencies of administration;
- (c) multiple control, multiplicity of authorities, and overlap or confusion of jurisdiction among them;
- (d) over-centralisation of administration and inadequate delegation of financial and other powers to the local administration, thereby inhibiting initiative on the part of such administration.
- (e) complexities inherent in the administration of the national capital, compounded by the phenomenal growth of population consisting of people who are educated, articulate and with high expectations, and the consequent manifold increase in the stresses and strains on the services.

#### [Chapter IV]

9.2 It has been recognised in many countries of the world that the national government should have an adequate control and authority over the affairs of the national capital. At the same time, there is a noticeable trend in those countries to accept the principle of associating the people in the capital with sectors of administration

### AND RECOMMENDATIONS

affecting them, by means of a representative body. Because of the difficulty in reconciling these two considerations, the problem of evolving an appropriate governmental structure for the national capital has proved difficult in many countries particularly those with a federal type of government

[Chapter V]

## DELHI AS A NATIONAL CAPITAL

9.3 Delhi as the capital of the Union occupies a unique position for the nation as a whole and it has also certain special features inherent in a national capital. It is in the national interest that the Central Government should have a comprehensive control over the affairs of the capital to secure a high degree of security and a high level of administrative efficiency and effectiveness. At the same time, the demand of the large and articulate population for the democratic right of participation in the government is too important to be ignored. The structure of administration to be devised for Delhi should. therefore, be such as to secure a balance between the need to retain with the Centre adequate control over the affairs of Delhi for discharging its national and international responsibilities and the need to satisfy the democratic aspirations of the people.

[Paras 6.1.1 to 6.1.4]

### ALTERNATIVES NOT SUITABLE

9.4 The present structure of administration for Delhi under the 1966 Act has not proved to be effective and is responsible for many of the difficulties faced by the common man and the administration. Accordingly, it is not possible, by merely amending that Act, to remedy the situation or to bring any tangible relief to the people. A restructuring of the system is called for.

#### [Para 6.3.10]

9.5 There is no force in any of the arguments to support the suggestion to place Delhi under the direct charge of the Central Government for being administered through officials. If the administration is run by officials only, it may

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aggravate the effects of the root causes of the problems faced in Delhi, such as the absence of a responsive administration, of a broadbased feedback mechanism from the people, and of an effective forum for redressing people's gricvances and satisfying people's needs.

[Para 6.4.12]

#### STATEHOOD FOR DELHI

9.6 The view that Delhi should be made a State of the Union has been supported by a number of arguments and in most of these. stress is on the need for a democratic and responsive government at the local level, in the form of a Legislative Assembly and a Council of Ministers answerable to it. The contrary view that Delhi should not be made a State of the Union is also supported by a number of arguments and in most of, these, the stress is on retaining sufficient powers with the Union to enable it to discharge its national and international responsibilities for the proper administration and development of the national capital. Both these points of view will have to be kept on mind.

#### [Paras 6.5.1 to 6.5 .4]

9.7 On an objective appraisal, most of the arguments against making Delhi a State of the Union are substantial, sound and valid and deserve acceptance. if Delhi becomes a State there will be a constitutional division of sovereign legislative and executive powers and functions between the Union and the Delhi State and this will make it virtually impossible for the Union to discharge its special national and international duties and responsibilities in relation to the national capital. It is in the national interest that the control of the Centre over the affairs of the national capital should be pervasive, irrespective of whether the subject matter of control is in the State field or Union field and this cannot be secured if Delhi becomes a State. Any arrangement that involves a constitutional division of functions and responsibilities between the Union and the Delhi Administration will be against the national interest and should be ruled out.

#### [Paras 6.5.5 to 6.5.6]

9.8 If Delhi becomes a State it will face perpetual financial problems because the difference between the resources it can raise and the expenditure it has to meet will always be high. Further, being the capital with special problems, there may be sudden demands for funds which may be beyond the capacity of any State Government to meet. The normal mode and 'volume of financing the deficits of even the special category of States may not be adequate to meet the deficits in the case of Delhi and the Centre will have to make major innovations and departures from the accepted norms and financial treatment applicable to other States. This cannot be made on a permanent basis.

[Para 6.5.8]

#### LEGISLATURE FOR DELHI

9.9 There is a good case on merits for providing Delhi with a Legislative Assembly and *e* Council of Ministers responsible to such Assembly with adequate powers to coul with matters of concern to the common man. If Delhi is provided with these institutions many of the problems faced by the public as well as by the administration, which arise from or are relatable to structural deficiencies dealt with in Chapter IV can be satisfactorily resolved. As is clear from the debates in the Constituent Assembly, the intention of the Constitution is not to exclude Delhi from the system of participative democracy adopted for the whole country.

#### [Paras 6.6.1 to 6.6.10]

9.10 The provision of a Legislative Assembly and a Council of Miristers for Delhi should not hamper in any way the discharge by the Unicn of its own special responsibilities in relation to the capital and to the country. The only way of the suring this is to keep Delhi as a Union territory for the purposes of the Constitution, even after the establishment of a Legislative Assembly and a Council of Ministers. The Union territory of Delhi may be called the National Capital Territory in recognition of its importance.

[Paras 6.7.2; 6.7.3]

# POWERS ETC. OF THE LEGISLATIVE ASSEMBLY

9.11 The Legislative Assembly should have full legislative powers in relation to matters in the State List and the Concurrent List of the Constitution in so far as such matters are applicable in relation to Union territories. However, certain specific exceptions should be made in this regard in view of the special responsibilities of the Union in relation to the capital. This principle has been accepted in all the earlier arrangements made or contemplated for Dolhi. The subjects to be excluded from the purview of the Legislative Assembly are public order, police and land.

## [Paras 6.7.4 and 6.7.8 to 6.7.12]

9.12 The subjects of local authorities, municipal corporations and public utility services need not be excluded from the purview of the Legislative Assembly. This is subject to the recommendations in Part II of this Report.

[Paras 6.7.9; 6.7.11]

9.13 Having regard to the importance of New Delhi area where most of important institutions of Union Government are located, the NDMC should continue to receive special treatment and the law of Parliament containing prcvisions for the organisation and functioning of municipal bodies for Delhi should make certain special provisions in this regard ard should confer on the Central Government adequate powers of supervision and control over the NDMC.

#### [Para 6.7.10]

9.14 Public utility agencies like those for water supply, electricity and transport should be managed on professional lines by statutory corporations, each regulated by or under a law of Parliament. Such law could confer on the Delhi Administration some measure of supervision over these bodies but this should not relate to their day-to-day functioning. The Central Government should have overall control over them in the national interest.

#### [Para 6.7.11]

9.15 Although the subject of land should be excluded from the purview of Delhi Administration, the association of the elected representative is desirable in certain matters relating thereto because they require the cooperation and participation of the people. To secure this the executive power of the President in relation to the subject of land may be delegated to the Lt. Governor to the extent considered necessary and the Rules of Business should provide that the Lt. Governor while exercising his powers and functions in this respect in his discretion, may act in consultation with the Council of Ministers.

[Para 6.7.12]

9.16 The composition of the Legislative Assembly should be broadly on the same lines as in the States. All the seats should be filled by election and there need not be any provision for the nomination of members. The total number of seats should be fixed by law of Parliament on the basis of population and there should be reservation for Scheduled Castes on the same basis.

[Para 6.7.13]

9.17 Parliament will continue to have under article 246(4) the overriding authority to make laws on any subject including those in the State 3589 HA/89-12 List; Parliamentary law on any matter will prevail over any law made by the Legislative Assemble on the same matter whenever there is inconsistency between them. However, a law made by the Assembly amending an earlier Central law can prevail if the Bill has been assented to by the President.

[Para 6.7.14]

9.18 A Bill passed by the Legislative Assembly will require the assent of the President in certain specified cases or whenever the Lt. Governoconsiders it necessary to refer it for his assent.

#### [Para 6.7.15]

9.19 All other matters relating to Legislative Assembly including those relating to the Speaker. Deputy Speaker, qualifications or disqualifications for membership, duration, summoning, procegation, or dissolution of the House, privileges legislative procedure, procedure in financh matters. Appropriation Act, address by the Lt. Governor to the Legislative Assembly, and for requirement of acceptance by the Speaker of resignation of a Member, shall be provided for on the lines of the provisions made in respect of the Legislative Assembly of a State with suitcher modifications.

#### [Paras 6.7.16 to 6.7.12]

# LT. GOVERNOR AND COUNCIL OF MINISTERS

9.20 Provision should be made for a Council of Ministers headed by the Chief Minister, broader on the pattern of the States. The Chief Ministers should be appointed by the President and other Ministers should be appointed by him affect consultation with Chief Minister. The Minister are to hold office during the pleasure of the President.

#### [Paras 6.7.19 to 6.7.20]

9.21 The Council of Ministers should be made collectively responsible to the Legislation Assembly.

[Para 6.7.11]

9.22.1 The Lt. Governor should be expression required to perform his functions on the man and advise" of the Council of Ministers as und stood in the system of Cabinet form of Gaven ment adopted in our Constitution. However, a requirement should not apply to any matter

(i) which is outside the purview of the Legislative Assembly, but in respective which powers or functions are entruly or delegated to Lt. Governor by President or,

law to act in his discretion or has to exercise any judicial or guasi-judicial functions.

[Para 6.7.21]

9.22.2 In the case of difference of opinion between the Lt. Governor and his Council of Ministers which cannot be resolved, the question should be referred to the President whose decision thereon will be final. The Lt. Governor may take interim action in cases of urgency. The rules of business governing the exercise of executive power by the Council of Ministers should be made by the President.

[Para 6.7.21]

9.22.3 There is no need to provide that the Lt. Governor should preside over the meetings of Council of Ministers.

[Para 6.7.22]

#### **OTHER MATTERS**

9.23 The elected members of the Legislative Assembly for Delhi should be included in the electoral college for the election of the President. This will need an amendment of the Constitution which requires ratification by the requisite number of State Legislatures.

[Para 6.7.23]

9.24 A provision on the lines of article 167 of the Constitution imposing a duty on the Chief Minister to furnish information to the Lt. Governor should be incorporated.

[Para 6.7.24]

9.25 The number of Ministers in the Council of Ministers should not exceed ten per cent of the number of members in the Legislative Assembly.

[Para 6.7.25]

9.26 As in the case of other Union territories, the Lt. Governor and his Council of Ministers shall be under the general control of and comply with such particular directions as may be given by the President.

[Para 6.7.26]

9.27 The provision to deal with failure of constitutional machinery for enabling the President to suspend the operation of the provisions of law relating to the Government of the National Capital Territory should be on the lines of the provisions made in respect of Union territories with legislatures.

[Para 6.7.27]

9.28 The provision regarding official language for Delhi should be on the lines of the provisions

made for other Union territories with legislature. The Legislature will have power to adopt any language in use in Delhi or Hindi as the official language but the President will have power to direct, among other things, the use of the official languages of the Union for specified purposes. [Para 6.7.28]

[Chapter VI]

MODE OF IMPLEMENTATION OF RECOMMENDATIONS

9.29 The suggestion to implement the recommendations by means of a special provision in the Constitution making Delhi a State of the Union with certain built-in safeguards (on the lines of article 371-A or 371-F) to protect the interests of the Centre in certain matters, is neither feasible nor adequate nor appropriate.

[Para 7.1]

9.30 The constitutional and legal framework for the proposed Delhi set-up should be separate, distinct and self-contained, having regard to the importance of the national capital; it will not be appropriate to include Delhi in the law relating to other Union territories.

[Para 7.2.4]

9.31 The structure of the government for a national capital is of great importance and significance for the nation and should have a measure of stability. At the same time, there should be some flexibility in certain matters. The appropriate course will be to incorporate the core features of the structure, i.e. features which should be relatively permanent, in the Constitution itself, leaving the other matters to be governed by law of Parliament. This will go a long way to assure the people of Delhi that the structure of their government will be stable and permanent as in the other States.

## [Para 7.2.6]

9.32 The special provisions in regard to Delhi should be inserted in part VIII of the Constitution; to highlight the importance of Delhi among the Union territories, it should be called the National Capital Territory, its Administrator being constitutionally designated as the Lt. Governor.

[Para 7.3.1]

9.33.1 The matters which should be provided for in the Constitution itself are—

- (i) the establishment of a Legislative Assembly for Delhi with seats filled by direct election;
- (ii) the conferment on the Legislative Assembly the power to make laws on matters in the State List or Concurrent List in

so far as they are applicable to the Union territories, subject to the other provisions of the Constitution and the overall powers of Parliament under article 246(4);

- (iii) the exclusion of matters with respect to public order, police and land from the purview of the powers conferred on the Legislative Assembly;
- (iv) the resolution of inconsistencies between any law made by the Legislative Assembly and a central law on the same matter.
- (v) the establishment of a Council of Ministers to aid and advise the Lt. G overnor in the exercise of his functions in relation to matters with respect to which the Legislative Assembly has power to make laws, except when the Lt. G overnor is required by or under any law to act in his discretion.
- (vi) the resolution of differences of opinion between the Lt. Governor and a Minister on any matter by means of a provision that such matter shall be referred to the President for final decision;
- (vii) conferment of power on the President to appoint the Chief Minister and on his advice, the other Ministers, and a provision that the Ministers shall hold office during the pleasure of the President;
- (viii) collective responsibility of the Council of Ministers to the Legislative Assembly;
- (ix) inclusion of the members of the Legislative Assembly of Delhi in the electoral college for the election of President and application of provision relating to Election Commission;
- (x) conferment of power on the Parliament to make other provisions by law for supplementing the provisions incorporated in the Constitution and for all matters incidental or consequential thereto; such law shall not be deemed to be an amendment of the Constitution.

[Para 7.3.1 & 2] [Chapter VII]

#### SERVICES

9.34 By virtue of the provisions in the Constitution, services in connection with the administration of the Union territory of Delhi will be part of the services of the Union even after the setting up of a Legislative Assembly with a Council of Ministers. This constitutional position is unexceptionable and should not be disturbed. There should, however, be adequate delegation of powers to the Lt. Governor in respect of specified categories of services or posts. In performing his functions under such delegated powers the Lt. Governor will have to act in his discretion but there should be a convention of consultation, whenever possible, with the Chief Minister.

[Para 8.1.8]

#### POLICE, PUBLIC ORDER

9.35 The Lt. Governor should be made the focal point of functional control and coordination for all matters concerning the maintenance of public order and for the effective functioning of the police forces in Delhi. For this purpose he should, wherever necessary, be invested with appropriate jurisdiction under the relevant laws with the authority to detegate. He should be answerable to the Central Government and thereby to Parliament. The Lt. Governor may adopt a convention of consulting the Chief Minister in important matters relating to public order.

[Paras 8.2.1 to 8.2.4]

9.36 Having regard to the special position of the capital, the conferment on the Delhi Police of certain powers in addition to the normal powers of the police under the Code of Criminal Procedure is justified but such additional powers should conform to the general scheme of our criminal justice system in which functions of a judicial nature involving a decision which exposes a person to the punishment of detention in prison etc. should be performed by a judicial forum or a forum other than the Police, regard being had to the well recognised constitutional principle whereby the same person or agency cannot be the prosecutor and the judge.

#### [Paras 8.2.10 to 8.2.14]

9.37.1 There is substance in the general view that the Police Commissioner system, that is, the system of conferring powers of the District Magistrate or the Executive Magistrate on the police, has led to widespread abuse of powers in Delhi and should be abolished. The system should be abolished in Delhi. However, if this is not acceptable, the faults in the system should be remedied by restricting the powers conferred on the police to what is connected strictly with the discharge of the main function of maintaining public order.

[Para 8.2.15]

9.37.2 Statutory powers under sections 108, 109 and 110 Cr. P.C. now vested in the Deputy Commissioner of Delhi as District Magistrate do not appear to have been exercised to the desired extent by the functionaries concerned, for some reason or the other. These powers should be effectively exercised.

[Para 8.2.21]

9.37.3 The powers under sections 107, 108, 109 and 110 of the Code of Criminal Procedure 1973 should be vested in the judiciary, that is, conferred on the Metropolitan Magistrates, because the proceedings are of a judicial nature. If for any reason this is not considered feasible these powers may be conferred on Executive Magistrates but not on police officers functioning as Magistrates. If the Commissioner of Policy system is to be retained, powers under sections 133 and 144 Cr. P.C. can be conferred on the Police officers who function as Executive Magistrates as they are basically preventive in nature.

[Para 8.2.22 and 8.2.23]

9.38 As regards powers conferred on the police by the Delhi Police Act 1978 including powers under enactments listed in the Schedule thereto, a review should be undertaken by a competent authority with a view to restricting such powers only to what is necessary for the discharge of the main function of maintaining public order.

[Paras 8.2.24 & 25]

9.39.1 One of the main complaints of the public about the police in Delhi is the absence of any authority independent of the police for redressal of grievances arising from any action, inaction or high handedness on matters like commission to take action, abuse of power and corruption, tration should pass appropriate orders. particularly on the part of the officials at the lower level of the police. The most satisfactory way of meeting the difficulties faced by the common man in this regard will be to provide for an easily accessible authority, independent of the police or magistracy, to receive and deal with complaints from the public in this regard and to recommend appropriate action to the authorities concerned whenever there is a prima facie case of wilful default in the performance of duties or abuse of power.

[Paras 8.2.26, 28 & 29]

5.39.2 It would be appropriate if the person chosen to perform this important function is selected from those with proven administrative ability and adequate experience of the functioning of governmental agencies such as those who had served as Secretaries to the Government of India, Chief Secretaries of State Governments or Directtors General of Police or others who had held an office of comparable status and responsibility.

[Para 8.2.29]

#### DECENTRALISATION OF ADMINISTRATION

9.40 Many of the problems of the common man are relateable to the fact that there is at present no systematic or adequate decentralisation of functions to local units and wherever decentralisation has been made it is not on a uniform pattern; the territorial limits of the units of decentralisation are neither co-terminus nor conducive to the convenience of the people. Delhi should, for administrative purposes, be divided into an adequate number of units or zones based on population and the territorial limits of each unit or zone should be the same for all departments or authorities of government. Each such unit or zone should have a representative of important departments of appropriate status located therein and adequate powers should be delegated to him. The appellate and revisional powers may continue to be in the departmental hierarchy.

[Para 8.3.6]

9.41 As a consequence of the establishment of the system of responsible government, the machinery of administration should be adequately reinforced and reorganised to enable it to shoulder increased responsibilities and to serve the people, particularly at the field level, better. This is necessary because of the sprawling metropolis. There should be an officer at the unit level of the rank of the Deputy Commissioner to perform functions as a representative of the government and to secure horizontal coordination. It should be his main concern to attend to the grievances of the people. For this purpose the Delhi Administration should pass appropriate orders.

[Para 8.3.8]

9.42 there should be an intermediate apex authority, like a Commissioner of a Division in some States, between the head of the administration and the field level officers to perform the functions of supervision, guidance and control over the Deputy Commissioners and other authorities at the unit level as well as to coordinate with the other bodies at the higher level, such as the municipal authorities, D.E.S.U. etc. This role cannot be effectively performed by the officers in the secretariat after the installation of a responsible government. This apex authority can also be helpful to the Lt. Governor in discharging his functions delegated by the Central Government requiring field level action.

[Para 8.3.9]

9.43 In view of the Key role to be played by the Chief Seceretary to the Delhi Administration after the establishment of a responsible government, the post should be upgraded and given the same status and emoluments as the Chief Secretary of a State with comparable population.

[Para 8.3.10]

9.44 The question of decentralisation of Criminal Justice Administration by locating a sufficient number of courts of Metropolitan Magistrates in other parts of Delhi to whom cases can be assigned in terms of police stations, should be taken up in consulation with the High Court.

[Para 8.4.8]

#### FINANCIAL ARRANGEMENTS

9.45 It is in the interest of the national and of the Union that the national capital should have and maintain a reasonably high standard of administration and of services and, as such, the Delhi Administration should continue to be given a special dispensation in regard to the financial assistance by the Centre. However, this should not absolve the Delhi Administrtion from its responsibility to tap all available sources of revenue and to observe strict financial discipline. To secure this the institutional arrangement of the Finance Commission can be utilised. In the Presidential orders containing the terms of reference of the Finance Commission appropriate provisions may be made to enable the Commission to make recommendations as to the maintenance of the financial discipline and the mobilisation of resources by the Delhi Administration and as to the principles which should govern the making of grants or other assistance by the Centre to augment the revenues of the Delhi Administration.

[Para 8.5.4-8.5.9]

ENVIRONMENTAL PROTECTION AND POLLUTION CONTROL

9.46 The subject matter of pollution control being of vital concern to the national capital and requiring adequate expertise and finance should continue to be under Central control. However, a mechanism should be evolved for associating the people in this regard by delegation of powers or otherwise.

> [Para 8.6.4] [Chapter VIII]



#### CHAPTER X

#### **OUTLINE OF LEGISLATION**

Most of the recommendations made in this Part of the Report, if accepted for implementation, will require amendments to the Constitution and the enactment of a Parliamentary law; some of them can be implemented by incorporation in the Rules of Business to be made by the President while some others may require only adoption of conventions or administrative action. In this chapter, we give an outline of the legislation for amending the Constitution and for enacting a Parliamentary law. It should be clearly understood that what is set out here does not purport to be Draft Bills but only as an indication of the lines on which legislation is to be drafted.

## 10.1 CONSTITUTIONAL AMENDMENTS

The following provisions will be added in Part VIII after article 239A, namely:---

# SPECIAL PROVISIONS WITH RESPECT TO DELHI

239AA. (1) The Union territory of Delhi shall be called the National Capital Territory and the administrator thereof appointed under article 239 shall be designated as the Lieutenant Governor.

(2) (a) There shall be a Legislative Assembly c for the National Capital Territory and the seats h in such Assembly shall be filled by members C chosen by direct election from territorial constituencies in the National Capital Territory.

(b) The total number of seats in the Legislative Assembly, the number of seats reserved for Scheduled Castes, the division of the National Capital Territory into territorial constituencies and all other matters regarding the functioning of the Legislative Assembly shall be regulated by law of Parliament.

(c) The provisions of articles 54, 55, 324 to 327 and 329 shall apply in relation to the National Capital Territory, the Legislative Assembly of the National Capital Territory and the members thereof as they apply, in relation to a State, the Legislative Assembly of a State and the members thereof, respectively. (3) (a) Subject to the provisions of this Constitution, the Legislative Assembly shall have power to make laws for the whole or any part of the National Capital Territory with respect to any of the matters enumerated in the State List or in the Concurrent List in so far as any such matter is applicable to Union territorics except matters with respect to entries 1, 2 and 18 of the State List and entries 64, 65 and 66 of that List in so far as they relate to said entries 1, 2 and 18.

(b) Nothing in sub-clause (a) shall derogate from the powers of Parliament under this Constitution to make laws with respect to any matter for a Union territory or any part thereof.

(c) If any provision of a law made by the Legislative Assembly with respect to any matter is repugnant to any provision of a law made by Parliament with respect to that matter, whether passed before or after the law made by the Legislative Assembly, or of an earlier law, other than a law made by the Legislative Assembly, then, in either case, the law made by Parliament. or, as the case may be, such earlier law, shall prevail and the law made by the Legislative Assembly shall, to the extent of repugnancy, be void:

Provided that if any such law made by the Legislative Assembly has been reserved for the consideration of the President and has received his assent, such law shall prevail in the National Capital Territory:

Provided further that nothing in this subclause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislative Assembly.

(4) There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Lieutenant Governor in the exercise of his functions in relation to matters with respect to which the Legislative Assembly has power to make laws, except in so far as he is, by or under any law, required to act in his discretion:

Provided that in the case of difference of opinion between the Lieutenant Governor and his Ministers on any matter, the Lieutenant Governor shall refer it to the President for decision and act according to the decision given thereon by the President and pending such decision it shall be competent for the Lieutenant Governor in any case where the matter, in his opinion, is so urgent that it is necessary for him to take immediate action, to take such action or to give such direction in the matter as he deems necessary.

(5) The Chief Minister shall be appointed by the President and the other Ministers shall be appointed by him on the advice of the Chief Minister and the Ministers shall hold office during the pleasure of the President.

(6) The Council of Ministers shall be collectively responsible to the Legislative Assembly.

(7) (a) Parliament may, by law, make provision for giving effect to, or supplementing the provisions contained in, the foregoing clause and for all matters incidental or consequential thereto.

(b) Any such law as is referred to in subclause (a) shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending, this Constitution.

(8) The provisions of article 239B shall apply to the National Capital Territory and its Legislature.

### 10.2 PARLIAMENTARY ENACTMENT THE GOVERNMENT OF NATIONAL CAPITAL TERRITORY BILL, 1989 Act No. of 1989

An Act to supplement the provisions of the Constitution relating to the Legislative Assembly and a Council of Ministers for the National Capital Territory and for certain other matters.

Be it enacted by Parliament in the Fourtieth Year of the Republic of India as follows:—

#### Part I

## PRELIMINARY

## SHORT TITLE AND COMMENCEMENT

1. (1) This Act may be called the Government of National Capital Territory Act, 1989.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

## DEFINITIONS AND INTERPRETATION

2. In this Act, unless the context otherwise requires,---

- (a) "article" means an article of the Constitution;
- (b) "assembly constituency" means a constituency provided under this Act for the purpose of elections to the Legislative Assembly;
- (c) "associate member" means a member associated with the Delimitation Commission under section 41;
- (d) "Capital" means the National Capital Territory;
- (e) "Delimitation Commission" means the Delimitation Commission constituted under section 3 of the Delimitation Commission Act, 1962;
- (f) "Election Commission" means the Election Commission appointed by the President under article 324;
- (g) "latest census figures" mean the census figures in the capital ascertained at the latest census of which the finally published figures are available;
- (h) "Legislative Assembly" means the Legislative Assembly for the National Capital Territory;
- (i) "Parliamentary constituency" means a constituency provided by law for the purpose of elections to the House of the people from the Capital;
- (j) "Scheduled Castes" in relation to the Capital mean such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed under article 341 to be Scheduled Castes in relation to that Capital.

#### Part II

#### LEGISLATIVE ASSEMBLY

## LEGISLATIVE - ASSEMBLY AND ITS COMPOSITION

3. (1) The total number of seats in the Legislative Assembly to be filled by persons chosen by direct election from territorial constituencies shall be seventy\*.

\*Provisional.

(2) For the purpose of elections to the Legislative Assembly, the Capital shall be divided into single-member assembly constituencies in accordance with the provisions of Part III of this Act in such manner that the population of each of the constituency shall, so far as practicable, be the same throughout the Capital.

(3) Seats shall be reserved for the Scheduled Castes in the Legislative Assembly, and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats in the Assembly as the population of the Scheduled Castes in the Capital bears to the total population of the Capital and the provisions of article 334 shall apply to such reservation.

EXPLANATION—In this sub-section, the expression "population" shall have the same meaning as in the Explanation to clause (2) of article 170.

# QUALIFICATION FOR MEMBERSHIP OF LEGISLATIVE ASSEMBLY

4. A person shall not be qualified to be chosen to fill a seat in the Legislative Assembly unless he-

- (a) is a citizen of India and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the Third Schedule to the Constitution;
- (b) is not less than twenty-five years of age; and
- (c) possesses such other qualifications as may be prescribed in that behalf by or under any law.

## DURATION OF LEGISLATIVE ASSEMBLIES

5. The Legislative Assembly, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer, and the expiration of the said period of five years shall operate as a dissolution of the Assembly:

Provided that the said period may, while a Proclamation of Emergency issued under clause (1) of article 352 is in operation, be extended by the President by order for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

## SESSIONS OF LEGISLATIVE ASSEMBLY, PROROGATION AND DISSOLUTION

6. (1) The Lt. Governor shall, from time to time, summon the Legislative Assembly to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session.

(2) The Lt. Governor may, from time to time,---

(a) prorogue the Assembly;

(b) dissolve the Assembly.

#### SPEAKER AND DEPUTY SPEAKER OF LEGISLATIVE ASSEMBLY

7. (1) The Legislative Assembly shall, as soon as may be, choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member to be Speaker or Deputy Speaker, as the case may be.

(2) A member holding office as Speaker or Deputy Speaker of an Assembly—

- (a) shall vacate his office if he ceases to be a member of the Assembly;
- (b) may at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker, resign his office; and
- (c) may be removed from his office by a resolution of the Assembly passed by a majority of all the then members of the Assembly:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that whenever the Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

(3) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker or, if the office of Deputy Speaker is also vacant, by such member of the Assembly as may be determined by the rules of procedure of the Assembly.

(4) During the absence of the Speaker from any sitting of the Assembly, the Deputy Speaker, or, if he is also absent, such person as may be determined by the rules of procedure of the Assembly, or, if no such person is present, such other person as may be determined by the Assembly, shall act as Speaker.

(5) There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly such salaries and allowances as may be respectively fixed by the Legislative Assembly by law and, until provision in that behalf is so made, such salaries and allowances as the Lt. Governor may, with the approval of the President, by order determine.

#### SPEAKER OR DEPUTAY SPEAKER NOT TO PRESIDE WHILE A RESOLUTION FOR HIS REMOVAL FROM OFFICE IS UNDER CONSIDERATION

8.(1) At any sitting of the Legislative Assembly, while any resolution for the removal of the Speaker from his office is under consideration, the Speaker. or while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker, shall not, though he is present, preside and the pro-visions of sub-section (4) of section 7 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker or, as the case may be, the Deputy Speaker is absent.

(2) The Speaker shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly while any resolution for his removal from office is under consideration in the Assembly and shall, notwithstanding anything in section 13, be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

## ANDSEND MESSAGES TO LEGISLATIVE ASSEMBLY

9.(1) The Lt. Governor may address the Legislative Assembly and may for that purpose require the attendance of members.

(2) The Lt. Governor may also send messages to the Assembly whether with respect to a Bill then pending in the Assembly or otherwise, and when a message is so sent, the Assembly shall with all convenient despatch consider any matter required by the message to be taken into consideration.

#### 10. SPECIAL ADDRESS BY THE LT. **GOVERNOR**

(1) At the commencement of the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year, the Lt. Governor shall address the Legislative Assembly and inform it of the causes of its summons.

(2) Provision shall be made by rules to be made by the Assembly regulating its procedure for the allotment of time for discussion of the matters referred to in such address.

#### **Rights of Ministers as respects Legislative Assembly**

11. Every Minister shall have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly and to speak, in, and otherwise to take part in the proceedings of, any committee of the Legislative Assembly of which he may be named a member, but shall not by virtue of this section be entitled to vote.

#### **Oath or affirmation by members**

12. Every member of the Legislative Assembly shall, before taking his seat, make and subscribe before the Lt. Governor, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the Third Schedule to the Constitution.

### Voting in Assembly, power of Assembly to act notwithstanding vacancies and quorum

13 (1) Save as otherwise provided in this Act, all questions at any sitting of the Legislative Assembly shall be determined by a majority of votes of the members present and voting other than the Speaker or person acting as such.

(2) The Speaker or person acting as such shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

RIGHT OF LT. GOVERNOR TO ADDRESS (3) The Legislative Assembly shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislative Assembly shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do. sat or voted or otherwise took part in the proceedings.

> (4) The quorum to constitute a meeting of the Legislative Assembly shall be one-third of the total number of members of the Assembly.

> (5) If at any time during a meeting of the Legislative Assembly there is no quorum, it shall be the duty of the Speaker, or person acting as such, either to adjourn the Assembly or to suspend the meeting until there is a quorum.

#### Vacation of seats

14. (1) No person shall be a member both of Parliament and of the Legislative Assembly and if a person is chosen a member both of Parliament and of such Assembly, then, at the expiration of such period as may be specified in the rules made by the Praisident, that person's seat

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in Parliament shall become vacant, unless he has previously resigned his seat in the Legislative Assembly.

- (2) If a member of the Legislative Assembly.
- (a) becomes subject to any disqualification mentioned in Section 15 or Section 16 for membership of the Assembly, or
- (b) resigns his seat by writing under his hand addressed to the Speaker and his resignation is accepted by the Speaker.

his seat shall thereupon become vacant:

Provided that in the case of any resignation referred to in sub-caluse (b), if from the information received or otherwise and after making such inquiry as he thinks fit, the Speaker is satisfied that such resignation is not voluntary or genuine, he shall not accept such resignation.

(3) If for a period of sixty days a member of the Legislative Assembly is without permission of the Assembly absent from all meetings thereof, the Assembly may declare his seat vacant:

Provided that in computing the said period of sixty days, no account shall be taken of any period during which the Assembly is prorogued or is adjourned for more than four consecutive days.

### DISQUALIFICATIONS FOR MEMBERSHIP

15. (1) A person shall be disqualified for being chosen as, and for being, a member of the Legislative Assembly:-

- (a) if the holds any office of profit under the Government of India or the Government of any State or the Government of any Union territory other than an office declared by law made by Parliament or by the Legislature of any State or by the Legislative Assembly of the Union territory not to disqualify its holder; or
- (b) if he is for the time being disqualified for being chosen as, and for being, a member of either House of Parliament under the provisions of sub-clause (b), sub-clause (c) or sub-clause (d) of clause (1) of article 102 or of any law made in pursuance of that article.

(3) If any question arises as to whether a member of the Legislative Assembly has become disqualified for being such a member under the provisions of sub-section (1), the question shall be referred for the decision of the President and his decision shall be final.

(4) Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion.

#### DISQUALIFICATION ON GROUND OF DE-FECTION FOR BEING A MEMBER

16. The provisions of the Tenth Schedule to the Constitution shall, subject to the necessary modifications (including modifications for construing references therein to the Legislative Assembly of a State, article 188, article 194 and article 212 as references, respectively, to the Legislative Assembly, section 12, section 18 and section 39 of this Act), apply to and in relation to the members of the Legislative Assembly as they apply to and in relation to the members of the Legislative Assembly of a State, and accordingly:-

- (a) the said Tenth Schedule as so modified shall be deemed to form part of this Act; and
- (b) a person shall be disqualified for being a member of the Legislative Assembly if he is so disqualified under the said Tenth Schedule as so modified.

PENALTY FOR SITTING AND VOTING BE-FORE MAKING OATH OR AFFIRMATION OR WHEN NOT QUALIFIED OR WHEN DISQUALIFIED.

17. If a person sits or votes as a member of the Legislative Assembly before he has complied with the requirements of section 12 or when he knows that he is not qualified or that he is disqualified for membership thereof, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Union.

POWERS, PRIVILEGES, ETC., OF MEMBERS

18. (1) Subject to the provisions of this Act and to the rules and standing orders regulating the procedure of the Legislative Assembly, there shall be freedom of speech in the Legislative Assembly.

(2) No member of the Legislative Assembly shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Assembly or any committee thereof and no person shall be so liable in respect of the publication by or under the authority of such Assembly of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of the Legislative Assembly and of the members and the committees thereof shall be such as are for the time being enjoyed by the House of the People and its members and committees.

(4) The provisions of sub-sections (1), (2) and (3) shall apply in relation to persons who by virtue of this Act have the right to speak in, and otherwise to take part in the proceedings of, the Legislative Assembly or any committee thereof as they apply in relation to members of that Assembly.

#### SALARIES AND ALLOWANCES OF MEMBERS

19. Members of the Legislative Assembly shall be entitled to receive such salar ies and allowances as may from time to time be determined by the Legislative Assembly by law and, until provision in that behalf is so made, such salaries and allowances as the Lt. Governor may, with the approval of the President, by order determine.

## EXEMPTION OF PROPERTY OF THE UNION FROM TAXATION

20. The property of the Union shall, save in so far as Parliament may by law otherwise provide, be exempted from all taxes imposed by or under any law made by the Legislative Assembly or by or under any other law in force in the Capital:

Provided that nothing in this section shall, until Parliament by law otherwise provides, prevent any authority within Capital from levying any tax on any property of the Union to which such property was immediately before the commencement of the Constitution liable or treated as liable, so long as that tax continues to be levied in the Capital.

#### RESTRICTIONS ON LAWS PASSED BY LEGIS-LATIVE ASSEMBLY WITH RESPECT TO CERTAIN MATTERS

21. (1) The provisions of article 286, article 287 and article 288 shall apply in relation to any claw passed by the Legislative Assembly with respect to any of the matters referred to in those articles as they apply in relation to any law passed by the Legislature of a State with respect to those matters.

(2) The provisions of article 304 shall, with the necessary modifications, apply in relation to any law passed by the Legislative Assembly with respect to any of the matters referred to in those article as they apply in relation to any law passed by the Legislature of a State with respect to those matters.

## SPECIAL PROVISIONS AS TO FINANCIAL BILLS.

22. (1) A Bill or amendment shall not be introduced into, or moved in, the Legislative Assemby except on the recommendation of the Lt. Governor, if such Bill or amendment makes provision for any of the following matters, mainly:-

- (a) the imposition, abolition, remission, alteration or regulation of any tax;
- (b) the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of the Capital;
- (c) the appropriation of moneys out of the Consolidated Fund of the Capital;
- (d) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of the Capital or the increasing of the amount of any such expenditure;
- (e) the receipt of money on account of the Consolidated Fund of the Capital or the custody or issue of such money:

Provided that no recommendation shall be required under this sub-section for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of the Capital shall not be passed by the Legislative Assembly unless the Lt. Governor has recommended to that Assembly the consideration of the Bill.

#### PROCEDURE AS TO LAPSING OF BILLS

23. (1) A Bill pending in the Legislative Assembly shall not lapse by reason of the prorogation of the Assembly. (2) A Bill which is pending in the Legislative Assembly shall lapse on a dissolution of the Assembly.

#### ASSENT TO BILLS

24. When a Bill has been passed by the Legislative Assembly, it shall be presented to the Lt. Governor and the Lt. Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President:

Provided that the Lt. Governor may, as soon as possible after the presentation of the Bill to him for assent return the Bill if it is not a Money Bill together with a message requesting that the Assembly will reconsider the Bill or any specified provisions thereof, and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and, when a Bill is so returned, the Assembly will reconsider the Bill accordingly, and if the Bill is passed again with or without amendment and presented to the Lt. Governor for assent, the Lt. Governor shall declare either that he assents to the Bill or that he reserves the Bill for the consideration of the President:

Provided further that the Lt. Governor shall not assent to, but shall reserve for the consideration of the President, any Bill which:-

- (a) in the opinion of the Lt. Governor would, if it became law, so derogate from the powers of the High Court as to endanger the position which that Court is, by the Constitution, designed to fill; or
- (b) the President may, by order, direct to be reserved for his consideration; or
- (c) relates to matters referred to in subsection (5) of section 7 or section 19 or section 34 or sub-section (3) of section 44.

Explanation:--For the purposes of this section and section 25, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the matters specified in subsection (1) of section 22 or any matter incidental to any of those matters and, in either case, there is endorsed thereon the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill.

## BILLS RESERVED FOR CONSIDERATION

25. When a Bill is reserved by the Lt. Governor for the consideration of the President, the President shall declare either that he assent to the Bill or that he withholds assent therefrom : Provided that where the Bill is not a Money Bill, the President may direct the L<sup>t</sup>. Governor to return the Bill to the Legislative Assembly together with such a message as is mentioned in the first proviso to section 24 and, when a Bill is so returned, the Assembly shall reconsider it accordingly within a period of six months from the date of receipt of such message and, if it is again passed by the Assembly with or without amend ment, it shall be presented again to the President for his consideration.

#### REQUIREMENTS AS TO SANCTION AND RECOMMENDATIONS TO BE REGARDED AS MATTERS OF PROCEDURE ONLY

26. No Act of the Legislative Assembly, and no provision in any such Act, shall be invalid by reason only that some previous sanction or recommendation required by this Act was not given, if assent to that Act was given by the Lt. Governor, or, on being reserved by the Lt. Governor for the consideration of the President, by the President.

#### ANNUAL FINANCIAL STATEMENT

27. (1) The Lt. Governor shall in respect of every financial year cause to be laid before the Legislative Assembly, with the previous approval of the President, a statement of the estimated receipts and expenditure of the Capital for that year, in this Part referred to as the "annual financial statement'.

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

- (a) the sums required to meet expenditure described by this Act as expenditure charged upon the Consolidated Fund of the Capital; and
- (b) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of the Capital,

and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged on the Consolidated Fund of the Capital:--

(a) the emoluments and allowances of the Lt. Governor and other expenditure relating to his office as determined by the President by general or special order;

- (b) the charges payable in respect of loans advanced to the Capital from the Consolidated Fund of India including interest, skinking fund charges and redemption charges, and other expenditure connected therewith;
- (c) the salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly;
- (d) expenditure in respect of the salaries and allowances of Judges of any High Court;
- (c) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal;
- (f) any other expenditure declared by the Constitution or by law made by Parliament or by the Legislative Assembly to be so charged.

# PROCEDURE IN LEGISLATIVE ASSEMBLY WITH RESPECT TO ESTIMATES.

28. (1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of the Capital shall not be submitted to the vote of the Legislative Assembly, but nothing in this sub-section shall be construed as preventing the discussion in the Legislative Assembly of any of those estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly, and the Legislative Assembly shall have power to assent, or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the Lt. Governor.

#### APPROPRIATION BILLS

29. (1) As soon as may be after the grants under section 28 have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the Capital of all moneys required to meet—

- (a) the grants so made by the Assembly, and
- (b) the expenditure charged on the consolidated Fund of the Capital but not exceeding in any case the amount shown in the statement previously laid before the Assembly.

(2) No amendment shall be proposed to any such Bill in the Legislative Assembly which will have the effect of varying the amount of altering the destination of any grant so made or of varying, the amount of any expenditure charged on the Consolidated Fund of the Capital and the decision of the person presiding as to whether an amendment is inadmissible under this sub-section shall be final.

(3) Subject to the other provisions of this Act, no money shall be withdrawn from the Consolidated Fund of the Capital except under appropriation made by law passed in accordance with the provisions of this section

#### Supplementary, additional or excess grants.

- 30. (1) The Lt. Governor shall --
  - (a) if the amount authorised by any law made in accordance with the provisions of secttion 29 to be expended for a particular se rvice for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or.
  - (b) if any money has been spent on any service during a financial year in excess of the amount granted for that service and for that year,

cause to be laid before the Legislative Assumbly, with the previous approval of the President, another statement showing the estimated amount of that expenditure or cause to be presented to the legislative Assembly with such previous approval a demand for such excess, as the case may be.

(2) The provisions of sections 27, 28 and 29 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of the Capital to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the Capital to meet such expenditure or grant.

#### VOTES ON ACCOUNT

31. (1) Notwithstanding anything in the foregoing provisions of this Part, the Legislative

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Assembly shall have power to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in section 28 for the voting of such grant and the passing of the law in accordance with the provisions of section 29 in relation to that expenditure and the Legislative Assembly shall have power to authorise by law the withrawal of moneys from the Consolidated Fund of the Capital for the purposes for which the said grant is made.

(2) The provisions of sections 28 and 29 shall have effect in relation to the making of any grant under sub-section (1) or to any law to be made under that sub-section as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of the Capial to meet such expenditure.

AUTHORISATION OF EXPENDITURE PENDING ITS SANCTION BY LEGISLATIVE ASSEMBLY

32. Notwithstanding anything in the foregoing provisions of this Part, the Lt. Governor may autho risesuch expenditure from the Consolidated Fund of the Capital as he deems necessary for a period of not more than six months beginning with the date of the constitution of the Consolidated Fund of the Capital, pending the sanction of such expenditure by the Legislative Assembly.

## RULES OF PROCEDURE

33. (1) The Legislative Assembly may make rules for regulating, subject to the provisions of this Act, its procedure and the conduct of its business :

Provided that the Lt. Governor shall, after consultation with the Speaker of the Legislative Assembly and with the approval of the President, make rules—

- (a) for securing the timely completion of financial business;
- (b) for regulating the procedure of, and the conduct of business in the Legislative Assembly in relation to any financial matter or to any Bill for the appropriation of moneys out of the Consolidated Fund of the Capital;
- (c) for prohibiting the discussion of, or the asking of questions on, any matter which affects the discharge of the functions of the Lt. Governor in so far as he is required

by or under any law to act in his discretion.

(2) Until rules are made under sub-section (1), the rules of procedure and standing orders with respect of the Legislative Assembly of the State of Uttar Pradesh in force immediatly before the commencement of this Act shall have effect in relation to the Legislative Assembly subject to such modifications and adaptations as may be made therein by the Lt. Governor.

### OFFICIAL LANGUAGE OR LANGUAGES OF THE CAPITAL AND LANGUAGE OR LANGUAGES TO BE USED IN LEGISLATIVE ASSEMBLY THEREOF.

34. (1) The Legislative Assembly may by law adopt any one or more of the languages in use in the Capital or Hindi as the official language or languages to be used for all or any of the official purposes of the Capital :

Provided that the President may by order direct-

- (i) that the official language of the Union shall be adopted for such of the official purposes of the Capital as may be specified in the order;
- (ii) that any other language shall also be adopted throughout the Capital or such part thereof for such of the official purposes of the Capital as may be specified in the order, if the President is satisfied that a substantial proportion of the population of the Capital desires the use of that other language for all or any of such purposes.

(2) The business in the Legislative Assembly shall be transacted in the official language or languages of the Capital or in Hindi or in English :

Provided that the Speaker of the Legislative Assembly or person acting as such, as the case may be, may permit any member who cannot adequately express himself in any of the languages aforesaid to address the Assembly in his mother-tongue.

# LANGUAGE TO BE USED FOR ACTS, BILLS, ETC.

35. Notwithstanding anything contained in section 34, until Parliament by law otherwise provides, the authoritative texts—

- (a) of all Bills to be introduced or amendments thereto to be moved in the Legislative Assembly;
- (b) of all Acts passed by the Legislative Assembly; and

(c) of all orders, rules, regulations and byelaws issued under any law made by the Legislative Assembly;

shall be in the English language :

Provided that where the Legislative Assembly has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by, the Legislative Assembly or in any order, rule, regulation or bye-law issued under any law made by the Legislative Assembly, a translation of the same in the English language published under the authority of the Lt. Governor in the Official Gazette shall be deemed to be the authoritative text thereof in the English language.

RESTRICTION ON DISCUSSION IN THE LEGISLATIVE ASSEMBLY

36. No discussion shall take place in the Legislative Assembly with respect to the conduct of any Judicial Commissioner or of any judge of the Supreme Court or of a High Court in the discharge of his duties.

COURTS NOT TO INQUIRE INTO PROCEEDINGS OF LEGISLATIVE ASSE-MBLY

37. (1) The validity of any proceedings in the Legislative Assembly shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or member of the Legislative Assembly in whom powers are vested by or under this Act for regulating procedure or the conduct of business, or for maintaining order in the Legislative Assembly shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

#### PART III

#### DELIMITATION OF CONSTITUENCIES

#### DUTIES OF DELIMITATION COMMISSION

38. (1) It shall be the duty of the Delimitation Commission—

- (a) to delimit the assembly constituencies in the Capital; and
- (b) to determine, on the basis of the latest census figures, the number of seats to be reserved for the Scheduled Castes in the Legislative Assembly, and the constituencies in which these seats shall be so reserved.

(2) It shall also be the duty of the Delimitation Commission—

(a) to readjust, on the basis of the latest census figures, the division of the Capital into parliamentary constituencies, the number being 7; and

(b) to determine the constituency in which the seat shall be reserved for the Scheduled Castes.

#### ASSOCIATE MEMBERS

39. (1) For the purpose of assisting the Delimitation Commission in its duties, the Delimitation Commission shall associate with itself,—

- (i) all the members of the House of the People representing the Capital; and
- (ii) three members of the Legislative Assembly to be nominated by the Speaker of the Assembly from among the members thereof :

Provided that sub-clause (ii) shall come into operation only after the elections to the first Legislative Assembly.

(2) The nomination of members of the Legislative Assembly under sub-section (1) shall be made by the Speaker thereof as soon as practicable and shall be communicated to the Delimitation Commission.

(3) If owing to death or resignation the office of an associate member falls vacant, it shall be filled, as soon as practicable, under and in accordance with the foregoing provisions of this section.

(4) None of the associate members shall have the right to vote or to sign any decision of the Delimitation Commission.

#### PROCEDURE AS TO DELIMITATION

40. The provisions of sections 7, 9, 10 and 11 of the Delimitation Commission Act, 1962, shall apply, as far as may be, in relation to the delimitation of parliamentary and assembly constituencies under this Part as they apply in relation to the delimitation of parliamentary and assembly constituencies under that Act.

#### SPECIAL PROVISION AS TO READJUST-MENT OF TERRITORIAL CONSTITUENCIES

41. Notwithstanding anything contained in sections 3, and 38 to 40, until the relevant figures for the first census taken after the year 2000 have been published, it shall not be necessary to readjust the division of the Capital into territorial constituencies and any reference to the "latest census figures" shall be construed as a reference to the 1971 census figures.

#### MATTERS IN WHICH LT. GOVERNOR TO ACT IN HIS DISCRETION.

42. (1) The Lt. Governor shall act in his discretion in a matter—

- (i) which falls outside the purview of the powers conferred on the Legislative Assembly but in respect of which powers or functions are entrusted are delegated to him by the President ; or
  - (ii) in which he is required by or under any law to act in his discretion or, to exercise any judicial or quasi-judicial function.

(2) If any question arises as to whether any matter is or is not a matter as respects which the Lt. Governor is by or under any law required to act in his discretion, the decision of the Lt. Governor thereon shall be final.

(3) If any question arises as to whether any matter is or is not a matter as respects which the Lt. Governor is required by any law to exercise any Judicial or quasi-judicial functions, the decision of the Lt. Governor thereon shall be final.

#### ADVICE BY MINISTER

43. The question whether any, and if so what, advice was tendered by Ministers to the Lt. Governor shall not be inquired into in any court.

## OTHER PROVISIONS AS TO MINISTERS

44. (1) Before a minister enters upon his office, the Lt. Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule to the Constitution.

(2) A Minister who for any period of six consecutive months is not a member of the Legislative Assembly shall at the expiration of that period cease to be a Minister.

(3) The salaries and allowances of Ministers shall be such as the Legislative Assembly may from time to time by law determine, and until the Legislative assembly so determines, shall be determined by the Lt. Governor with the approval of the President.

## CONDUCT OF BUSINESS

- 45. (1) The President shall make rules---
- (a) for the allocation of business to the Ministers in so far as it is business with respect to which the Lt. Governor is required to act on the aid and advice of his Council of Ministers; and
- (b) for the more convenient transaction of business with the Ministers, including

the procedure to be adopted in the case of a difference of opinion between the Lt. Governor and the Council of Ministers or a Minister.

(2) Save as otherwise provided in this Act, all executive action of the Lt. Governor whether taken on the advice of his Ministers or otherwise shall be expressed to be taken in the name of the Lt. Governor.

(3) Orders and other instruments made and executed in the name of the Lt. Governor shall be authenticated in such manner as may be specified in rules to be made by the Lt. Governor and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instument made or executed by the Lt. Governor.

#### DUTIES OF CHIEF MINISTER AS RESPECTS THE FURNISHING OF INFORMATION TO THE LT. GOVERNOR, ETC.

- 46. It shall be the duty of the Chief Minister -
- (a) to communicate to the Lt. Governor all decisions of the Council of Ministers relating to the administration of the affairs of the Capital and proposal for legislation ;
- (b) to furnish such information relating to the administration of the affairs of the Capital and proposal for legislation as Lt. Govenor may call for ; and
- (c) the Lt. Governor so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a minister but which has not been considered by the Council.

#### PART V

#### MISCELLANEOUS AND TRANSITIONAL PROVISIONS

#### CONSOLIDATED FUND OF THE NATIONAL CAPITAL TERRITORY

47 (1) As from such date as the Central Government may, by notification in the official Gazette, appoint in this behalf, all revenues received in the Capital by the Government of India or the Lt. Governor in relation to any matter with respect to which the legislative Assembly has power to make laws, and all grants made and all loans advanced to the Capital from the Consolidated Fund of India and all moneys received by the Capital in repayment of loans shall form one Consolidated Fund to be entitled Consolidated fund of "the the National Capital Territory".

(2) No moneys out of the Consolidated Fund of the Capital shall be appropriated except in accordance with and for the purposes and in the manner provided in this Act.

(3) The custody of the Consolidated Fund of the Capital, the payment of moneys into such Fund, the withdrawal of moneys therefrom and all other matters connected with or ancillary to those matters shall be regulated by rules made by the Lt. Governor with the approval of the President.

## CONTINGENCY FUND OF THE NATIONAL CAPITAL TERRITORY

48. (1) There shall be established a Contingency Fund in the nature of any imprest to be entitled "the Contingency Fund of the National Capital Territory" into which shall be paid from and out of the Consolidated Fund of the Capital such sums as may from time to time, be determined by law made by the Legislative Assembly ; and the said fund shall be held by the Lt. Governor to enable advances to be made by him out of such Fund.

(2) No advances shall be made out of the Contingency Fund of the Capital except for the the purposes of meetings unforeseen expenditure pending authorisation of such expenditure by Legislative Assembly under appropriations made by law.

(3) The Lt. Governor may make rules regulating all matters connected with or ancillary to the custody of, the payment of moneys into, and the withdrawal of moneys from the Contingency Fund of the Capital.

#### AUDIT REPORTS

49. The reports of the Comptroller and Auditor-General of India relating to the accounts of the Capital for any period subsequent to the date referred to in subsection (1) of section 47 shall be submitted to the Lt. Governor who shall cause them to be laid before the Legislative Assembly

#### RELATION OF LT. GOVERNOR AND HIS MINISTERS TO PRESIDENT

50. Notwithstanding anything in this Act, the Lt. Governor and his Council of Ministers shall be under the general control of and comply with such particular directions, if any; as may from time to time be given by the President. 3589 HA/89-14

#### PROVISION IN CASE OF FAILURE OF CONSTITUTIONAL MACHINERY

51. If the President, on receipt of a report from the Lt. Governor or otherwise, is satisfied—

- (a) that a situation has arisen in which the administration of the Capital cannot be carried on in accordance with the provisions of the Constitution or of this Act, or
- (b) that for the proper administration of the Capital it is necessary or expelient so to do,

the President may by order suspend the operation of all or any of the provisions of this Act for such period as he thinks fit and make such incidential and consequential provisions as may appear to him to be necessary or expedient for administering the Capital in accordance with the provisions of article 239 and article 239AA.

#### AUTHORISATION OF EXPENDITURE BY PRESIDENT

52. Where the Legislative Assembly is disselved or its functioning as such Assembly remains suspended, on account of an order under section 51, it shall be competent for the President to authorise when the house of the people is not in session expenditure from the Consolidated Fund of the Capital pending the sanction of such expenditure by Parlia ment.

#### CONTRACTS AND SUITS

53. For the removal of doubts it is hereby declared that-

- (a) all contracts in conection with the adminisstration of the Capital are contracts made in the exercise of the executive power of the Union; and
- (b) all suits and proceedings in connection with the administration of the Capital shall be instituted by or aganist the Government of India.

# POWER OF PRESIDENT TO REMOVE DIFFICULTIES

54. If any difficulty arises in relation to the transition from the provisions of any of the laws repealed by this Act or in giving effect to the provisions of this Act and in particular in relation to the constitution of the Legislative Assembly, the President may by order do any thing not inconsistent with the Provisions of the Constitution or of this Act which appear to him to be necessary or expedient for the purpose of removing the difficulty.

REPEAL, SAVINGS, ETC. (NOT DRAFTED)

#### MUNICIPAL CORPORATION OF DELHI

#### 11.1 INTRODUCTORY

11.1.1. The provision of efficient municipal adminisration is one of the most important segments of administration affecting the day-to-day life and affairs of the common man. It assumes special importance and significance in a national capital and has received special attention in almost all the countries of the world. In Delhi the complex problem of municipal administration is further compounded by reason of its very large population as well as by the peculiar arrangements introduced under the Metropolitan Council system. Our Terms of Reference accordingly include a specific clause requiring us to recommend measures for securing all round improvement in providing municipal services to the public.

11.1.2. Our study of the municipal administration has necessarily to be undertaken as part of our study of the entire structure for Delbi, including that of the Government of Delhi and of the various service agencies and organisations. Accordingly, our proposals for improvement to the municipal services or for restructuring the Municipal Corporation, should harmonise with our proposals in respect of governmental and other authorities. Any recommendations for changes in the structure and functioning of the Municipal Corporation which we make should, therefore, be in the context of and should fit in with our recommendations for a new governmental set-up with a Legislative Assembly and a Council of Ministers.

11.1.3. In our Questionnaire we included some specific questions on the structure, organisation and functioning of the Municipal Corporation and we also raised issues relating to these during our interviews with various persons, including eminent public men, officials, non-officials, political personalities and other knowledgeable persons. There was almost a unaminous view that the functioning of the Municipal corporation in Delhi has not come up to expectations. In the view of some, it has failed to maintain even the minimum standards in regard to the civic needs of the people. The general complaint was that the Corporation has become an unwieldy organisation with no adequate control or supervision over it and that it is unable to devote adequate attention to the public needs and grievances. There were many complaints of all-round inefficiency, inordinate delays and rampant corruption, as well as of harassment and inconvenience to the public. Many among those who responded to the Questionnaire recommended the abolition of the Municipal Corporation, while some have suggested that the Corporation should be vested only with the traditional municipal

functions. Practically none has suggested the retention of its present organisation and structure.

11.1.4. In the light of the information and materials gathered by us we proceed to examine the changes which in our view, are required in the present structure to ensure efficient functioning of the Corporation for providing better services to the common man. Matters relating to electric supply, water supply and sewage disposal which are now under the Municipal Corporation will be dealt within other chapters. Before taking up the various issues in this regard, it will be useful to set out briefly, the historical background, the existing structure and organisation and the deficiencies noticed therein.

11.1.5. A Municipal Committee for Delhi was first set up in 1863\*. During the course of the early decades of this century, with the growth of population and the need for expansion of civic facilities, separate Municipal Committees for Delhi, Shahdra, West Delhi and South Delhi were established. Apart from these, "Notified Area Committees" were set up for the areas known as 'Civic Station', 'Ked Fort', 'Mehrauli', 'Nazafgarh' and 'Narela". For the New Delhi area and the Cantonment area, separate municipal authorities were set up. A District Board was also constituted to look after non-urban areas of Delhi. There were separate statutory bodies to look after supply of electricity and water, disposal of sewage and transport.

11.1.6. The Municipal Corporation of Delhi (MCD) was established under the Delhi Municipal Corporation Act, 1957 and came into existence on 7-4-1958. All the earlier bodies ceased to exist except for the Delhi Cantonment Board and the New Delhi Municipal Committee which continued as independent entities. The scheme of the Municipal Corporation of Delhi, by and large, follows the pattern of The MCD the Bombay Municipal Corporation. covers an area of about 1399.37 sq. kms. out of a total area of about 1485 sq. kms. of the Union territory of Delhi. This includes about 891 sq. kms. of rural area comprising 235 villages. The remaining area in the Union territory is covered by the area under the NDMC and Delhi Cantonment Board.

#### 11.2 EXISTING STRUCTURE

11.2.1. Operationally, Delhi Municipal Corporation has two branches, namely the deliberative wing and the executive wing. The deliberative wing is composed of 100 Councillors and 6 Aldermen. The

Srource-Gazeteer of Delhi 1883-84, 1988 Edition, PL. 204. (Printed by Vintege Books, Gurgaon)

Appendix I (Para 1.1.3)

## COPY OF THE ORDER REGARDING APPOINTMENT OF THE COMMITTEE

### No. U.14011/164/87—Delhi GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS

New Delhi-110011 December 24, 1987

#### ORDER

WHEREAS there has been a phenomenal increase in the population in the Union Territory of Delhi and whereas there has been a multiplicity of authorities in Delhi which have in course of time tended to assume overlapping functions, and have resulted in the common man finding it increasingly difficult to avail of the services.

2. WHEREAS the need for reorganising the administrative set-up in the Union Territory of Delhi has been under consideration for some time and it has assumed urgency in recent times;

3. NOW, THEREFORE the Government of India appoints a Committee consisting of-

-Chairman -Member

- (2) Shri Ramesh Chandra former Secretary Ministry of Urban Development
- (3) Shri S. Balakrishnan Presently Adviser. Ministry of Home Affairs

(1) Justice R.S. Sarkaria\*

to go into the various issues connected with the administration of the Union Territory of Delhi with the following terms of reference :

- (i) to study the drawbacks, if any, in the efficient functioning of the existing administrative and municipal authorities in Delhi more specifically the Metropolitan Council, the Municipal Corporation of Delhi, the New Delhi Municipal Committee, the Cantonment Board, the Delhi Development Authority, the Delhi Electric Supply Undertaking, the Delhi Water Supply and Sewage Disposal Undertaking, the Delhi Transport Corporation, and the Delhi Milk Supply;
- (ii) to examine the nature and extent of the overlapping of functions, if any, and the difficulties experienced by the common man in his day to day dealings with such authorities;
- (iii) to make recommendations keeping in view (i) and (ii) above regarding rationalisation or reorganisation or streamlining of the administrative and municipal set-up with a view to (a) ensuring efficiency and effectiveness in the functioning of various authorities by such modifications in structures as may be necessary so as to have a cohesive and coordinated set-up with properly defined spheres of authority for each of them (b) avoiding overlapping of functions between various authorities by bringing about

-Member

<sup>\*</sup>Justice Sarkaria resigned from the Committee on 17-1-1989 on his appointment as the Chairman, Press Council of India. Thereafter Shri S. Balakrishnan, Member, functioned as the Chairman.

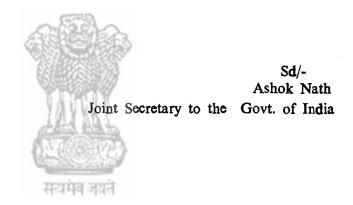
adequate decentralisation of powers and clear-cut demarcation of functions and responsibility and (c) securing all round improvement in providing services to the public and for quicker redressal of public grievances,

- (iv) to make recommendations for amendments to existing laws or enactment of a new law wherever necessary;
- (v) to make such other suggestions or recommendations as the Committee may consider necessary to secure the objective.

4. The Chief Secretary, Delhi Administration and any other person may be coopted by the Committee whenever it considers it necessary to do so.

5. The Committee is hereby authorised to receive representations or memoranda from the public and collect such information as it may consider necessary. The Committee is further authorised to obtain such information, papers or any other assistance from the Delhi Administration, Government of India or any of the authorities referred to in para 3(i) as may be required by it for the purpose of its study, and every such authority shall furnish such information, papers or other assistance as may be required by the Committee;

6. The Coommittee is required to submit its report to the Government of India within six months from the date of issue of this order.



### COPY OF THE QUESTIONNAIRE FOR OBTAINING VIEWS AND SUGGESTIONS ON VARIOUS ISSUES

#### COMMITTEE ON THE REORGANISATION OF THE DELHI SET-UP

#### QUESTIONNAIRE

#### PART I-UNION GOVERNMENT AND DELHI ADMINISTRATION

1.1 According to one view, the administration of Delhi, the national capital, has to be under the effective control of the national Government as obtains in the national capital regions of some other countries with a federal polity. Delhi is not only the capital of the Union but also a centre of foreign diplomatic missions and International Agencies thereby casting a special responsibility on the Union Government. As such any Constitutional division of powers between the Union and the territory of Delhi treating the latter as a constituent State of the Union, is bound to give rise to conflict, confusion and embarrassment. Delhi is also a place where people from all over the country with different languages and ways of life live in harmony and contribute to the development of a national out look, a composite culture and cosmoplitan ethos. For these, among other reasons, the administration of Delhi, according to this view, should be the special responsibility of the Union and any arrangement for local administration for the capital should be such as to ensure that this special responsibility of the Union is not diluted or prejudiced.

Keeping these in mind, what in your opinion are the matters which :

- (a) should be exclusively under the control of the Union, and
- (b) could be entrusted to the local administration subject to the overall control of the Union ?

1.2 Another view is that the problems encountered in the administration of Delhi including those resulting from the multiplicity of authorities will be resolved if a Legislative Assembly and a Council of Ministers are provided for Delhi.

- If you agree with this view, please
- (i) state what, in your opinion, should be the structure of the Delhi Administration, and
- (ii) give details with reference to each specific problem as to how the proposed arrangement will resolve the problem and in what manner the proposed arrangement can be reconciled with the special reponsibilities of the Centre in relation to the national capital.

1.3 Delhi is the seat of the Union Government and Parliament. As many as seven Members of Parliament are elected from Delhi and at present some of them are Ministers in the Union Government. There is a view that this is adequate to satisfy the democratic needs and aspirations of the people of Delhi and to take care of the principle of accountability of the Government to the people.

Do you agree with this view ? Please give reasons.

1.4 A view has been expressed that in actual practice, irrespective of the legal position under the Delhi Administration Act, 1966, the Delhi Administration was not to be treated functionally as a body subordiante to the Union Government, but more or less autonomous in regard to the subjects in the State and Concurrent Lists of the Constitution except with respect to powers reserved for the Lt. Governor under this Act.

Does the Actual practice conform to this view ? If not, in what respect and in what mønner does the practice not confer to this intendment.

1.5 There is a general view that the existing political and administrative set up has led to multiplicity of authorities and bodies with overlapping functions to deal with various civic or other problems.

If you agree with this view, please specify the nature and extent of the overlapping of functions, if any, and the difficulties experienced in the administration of the Union Territory and encountered by the common man in his dealings with such authorities.

1.6 What improvements in the present scheme of the Metropolitan Council under the Delhi Administration Act. 1966, would you suggest to make it more responsive to the public, more efficient in performance and more effective in administration.

It has been suggested in this connection that the law should be amended to provide that :

- (a) the number of elected members of the Metropolitan Council should be increased substantially;
- (b) the recommendations of the Metropolitan Council on legislative matters should, as a rule, be accepted by the Centre :
- (c) the Executive Council should be expressly made collectively reponsible to the Metropolitan Council ;
- (d) the Lt. Gorvenor in exercising his functions in the transferred field should function as a Constitutional Head like the Governor of a State except when in any matter he deems it necessary to refer it to the Union Government on the ground that it affects a matter in the Union List;
- (e) in exercising his functions in the reserved field where the Lt. Gvernor is to act in his discretion, he should act as an agent of the Union Government and should be answerable to Parliament through the Ministries concerned.

Please state whether all or any of the foregoing suggestions will bring about improvement in the services to the common man.

Have you any other suggestion to make for securing administrative accountability and legislative responsibility for the Metropolitan Council ?

1.7 There is a view that, on the ground that the Union Government has overall responsibility for the administration of Delhi and is answerable to Parliament, the various Ministries of the Union Government concerned with different subjects have to deal directly with the administration. The multiplicity of control leads to delays and lack of a coordinated approach to problems. It has, therefore, been suggested that the authority of the Union Governent may be located at a single point in one Union Ministry with or without a separate department for Delhi Affairs.

Do you consider that this suggestion is practical and, if implemented, would make for efficiency?

1.8 It has been suggested that while the Union Government should retain full and final authority to direct and control the administration, its powers should be exercised through monitoring and intervention and not through concurrent participation or routine sanction, etc.

Do you agree with this general approach? If so, please explain in detail how the special responsibilities of the Union in relation to the Union Capital can be discharged through monitoring and intervention only.

1.9 One of the suggestions made for resolving the difficulties arising from the multiplicity of authorities and the overlapping of functions, is that the Delhi Administration should be a single point of planning, coordination control and command subject to the overall authority of the Centre, and that all local bodies, undertakings and statutory authorities, in Delhi should be made subject to the direction and control of the Delhi Administration.

Do you agree with this If so, please explain how would the people of Delhi get better and more of efficient services or redressal of grievances by this arrangement.

1.10 There is a view that under the existing arrangements the Delhi Administration has limited administrative and financial powers thereby reducing the scope for initiative on the part of the Administration to meet the needs of the public.

If you agree with this view, what should be the nature and extent of administrative and financial delegation to the Administration ?

1.11 Under the present arrangement the budget and all financial proposals have to be processed by the Delhi Administration through the various Union Ministries. There is a view that this creates difficulties and delays. It has been suggested that the Union Ministry of Finance should be the focal authority for financial advice, budget formulation, financial sanctions, review and monitoring of expenditure and revenues, ways and means position of local bodies or other authorities etc.

Would this arrangement improve the working of the Administration and secure better service to the public?

1.12 As a consequence of the abolition of the erstwhile Part C State of Delhi and to reconcile the broaderer requirements of national Government and local needs and wishes of the people, the States Reorganisation Commission (1955) recommended the setting up of a Municipal Corporation for Delhi and this recommendation was accepted. This was at a time when the Metropolitan Council was not in existence. One view is that, when in 1966 the metropolitan Council was set up, an unintended result was the creation of parallel authorities and overlapping of functions. On this reasoning it has been suggested that the Municipal Corporation should be abolished and all its functions transferred to the Metropolitan Council, or, the Corporation should be left only with municipal functions and controlled by the Delhi Administration.

What are your views on this suggestion?

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## PART II-DECENTRALISATION OF ADMINISTRATION

2.1 There is a view that most of the difficulities faced by the common man in Delhi arise from overcentralisation of administration. For instance, there is just one Deputy Commissioner located in Tis Hazari whom people from all over Delhi have to approach or their various requirements or redressal of grievances. A similar situation prevails in regard to some other Departments This cause inconvenience and irritation to the vast population spread out in the far-flung areas of the Union Territory and results in heavy strain on officers, the transport system, etc.

To avoid this, it has been suggested that Delhi should be divided into about 5 or 6 regions or zones each with a District Officer designated as a Deputy Commissioner who will coordinate all activities of the Government and its agencies affecting, involving or dealing with the public (including civil supplies revenue, sales tax, registration, law and order, etc.) whom the public from the area can approach for all their requirements. There may be an apex authority in the rank of Commissioner to supervise the Deputy Commissioners who in turn may be assisted by a coordinating committee in which people's representatives can also be associated.

Do you consider that this arrangement would be beneficial to the public? If so, please give details as to what functions could be delegated to the Deputy Commissioner of the region/zone.

2.2 On a parity of reasoning it has been suggested that the administration of civil and criminal justice should also be decentralised by creating regions/zones corresponding to those of the administration or police and placing each such region/zone in-charge of a Judge and/or Magistrate of appropriate designation.

What are your views on this porposal? Have you any other suggestions in this regard?

2.3 At present each functional agency has its own scheme of decetralisation. For instance the Police has six police districts, the Municipal Corporation has ten zones, Delhi Development Authority has six Zonal Engineers, Food and Civil Supplies Department has six zones, etc. The territorial boundaries of these divisions are not co-terminus, with the result that there is confusion of jurisdiction resulling in hardship to the people. It has been suggested that to remove this difficulty the division of Delhi into regions/zones should, as far as possible, be the same for all the functional departments of the Government including the police, revenue, sales tax, registration, civil and criminal justice, food and civil supplies, transport services, electricity, housing, etc.

What are your views on the foregoing suggestions ?

2.4 In Delhi. the Commissioner of Police has under the relevant law, been invested with certain powers of an Excutive Magistrate mostly of a regulatory nature. This system has been working in Delhi for some years and in cities like Madras and Bombay for nearly a century.

Has there been any difficulty in the effective functioning on this system from the point of view of the public / If so, what in your opinion should be the changes in the functions and powers of the Police, from the stand point of the public.

## PART III-DELHI MUNICIPAL CORPORATION (DMC)/ NEW DELHI MUNICIPAL COMMITTEE (NDMC)

3.1 The Delhi Municipal Corporation was set up by law of Parliament in 1957 with the object of providing an "efficient Municipal Government of Delhi". The law vested in the Corporation not only functions which are strictly Municipal in nature but also those pertaining to generation and distribution of electricity, water supply and drainage, fire prevention, hospitals, school, etc.

- (a) Do you consider that the functioning of the Corporation has, by and large, been upto expectations ?
- (b) If not :--
  - (i) What in your opinion are the major defects in the Corporation's working and what are the remedies therefor?
  - (ii) Have you any specific suggestion for the reconstitution of the Corporation to make it more efficient and service-oriented?
  - (iii) Do you subscribe to the view expressed in some quarters that municipal affair can be administered more efficiently, if, instead of an elected body which is more often than not, politically oriented, the administration is left to competent officials under the supervision of the Union Government or the Union Territory Government, which in turn are answerable to elected bodies of the Government?
  - (iv) Which of the functions now assigned to the Corporation can be regarded as stricitly municipal and as such must necessarily remain with the civic body, and which are the functions which can conveniently be transferred to other authorities?
- (c) The framework of the Corporation provides for a delicate balance between somewhat independent executive authority, i.e. the Commissioner, appointed by the Central Government and the elected representatives having considerable powers. The Central Government has powers to give directions to the Corporation or to supercede it. Has this arrangement worked well in practice? If nct, please suggest measures to improve the working.

3.2 There is a view that most of the present difficulties faced by the public are due to the headquarters of the Corporation being located at one corner of the city and being too unwieldy to provide efficient service to the large population spread over a large area and that to ensure proper civic services to the public, it is necessary to have separate and compact Corporations one for each region/zone, all of which could operate under a common code of of rules and regulations on matters like taxation, building bye-laws, etc.

If you agree with this view, please give details as to what should be the constitution, organisation and powers of such regional Corporations.

3.3 An apprehension has been expressed that having regard to the disparities now obtaining between the areas complised in the D.M.C. and N.D.M.C. in regard to the principles and levels of taxation, assessing property tax, providing civic amenities and achieving standards of socio-economic development, the division of Delhi into several Municipal Corporations may lead to discriminatory and irrational standards as between various zones.

If you share this apprehension but do not consider it a sufficient ground to negate the proposal put in the preceding question, what remedy would you suggest for removing or reducing such disparities resulting from the setting up of several Municipal Corporations apart from adopting a common code as suggested ?

3.4 There are several agencies in Delhi concerned with formulation of urban and town planning standards and implementation of architectural and building controls etc. These are : Delhi Urban Art Commission, Delhi Municipal Corporation, New Delhi Municipal Committee, Delhi Development Authority, Land and Development Office in the Union Ministry of Urban Development etc. Since 1983, uniform building bye-laws as approved by the Union Ministry of Urban Development have been enforced in the jurisdiction of all the concerned agencies but it has been felt that their implementation has not been effective and satisfactory. There is a general view that the multiplicity of authorities has made it difficult for the common man to get expeditious clearance for his building plans and projects.

Do you agree with this view ? If so, give your suggestions for improvement.

3.5 There is also a view that there is laxity in the performance of regulatory functions like sanctioning building plans, enforcing buildings bye-laws etc. which has led to the growth of unauthorised commercial and industrial establishments and residential colonies on a large scale.

If you agree with this view what measures would you suggest to improve matters ?

#### New Delhi Municipal Committee

3.6 The New Delhi Municipal Committee functions under an Administrator with the overall control being exercised by the Union Ministry of Home Affairs. The arrangement is intended to meet the requirement of the Committee which has within its jurisdiction a large concentration of government offices, residences of high dignitaries, foreign embassies/mission etc. In view of the fact that this area has extended to other parts of Delhi also, a suggestion has been made that the limits of NDMC should be properly demarcated and it should function as New Delhi Municipal Corporation with a Commissioner and/or Mayor with partly elected and partly nominated members. On the other hand a view has also been held that there is no need for any change in the municipal set-up in view of the special status and nature of the problems of the area.

Please give your reaction. In case you feel that any changes are necessary, please specify them.

## PART IV-OTHER SERVICES AND AGENCIES

4.1 The main agencies/authorities concerned with providing services to the common man in Delhi besides the municipal bodies are Delhi Development Authority, Delhi Electric Supply Undertaking, Delhi Water Supply and Sewage Disposal Undertaking, Delhi Transport Corporation and Delhi Milk Scheme. They operate under various statutes, rules, regulations and orders. Do you consider any changes are necessary in their composition, the mode of their constitution (whether by election or nomination), their powers, duties and functions and their territorial and functional jurisdiction etc. with a view to improving their efficiency and effective functioning? If so, please give your suggestions with brief reasons.

4.2 A view has been held that the functioning of some of the agencies referred to in the preceding questions is adversely affected due to their tenuous link with the Delhi Administration or there being no link whatsoever with the latter.

Do you agree with this view ? if so, give your suggestions for improvement with specific reference to the relevant provisions of statutes, rules, regulations or orders.

4.3 There is a view that some of the problems felt in the administration of Delhi arise from lack of effective coordination among various agencies and organisations. Under the Delhi Administration Act, 1966 the Lt. Governor of Delhi in his capacity as Administrator is intended to be the coordinating link between the Delhi Administration and all other agencies and authorities. It has, however, been found in practice that problems and difficulties arise particularly in the matter of public utility services like water supply, sewerage disposal, electric supply, land administration, etc. Besides these, there are other spheres where duties and functions discharged by the Delhi Administration and various authorities overlap to some extent.

Which are the specific areas in your opinion where such difficulties or overlapping occur? Please give specific instances and suggestions for improvement in this regard.

4.4 A suggestion has been put forth that with a view to improving and creating a sense of responsibility and also to facilitate the desired level of coordination and smooth functioning of various agencies, it is desirable that powers of the Government of India in relation to various authorities and bodies, be delegated to the Lt. Governor and the financial allocation with regard to them in the budgets of different Union Ministries be included in the budget of the Delhi Administration.

What are your views in this regard? Please indicate with reasons how the suggestion if implemented would result in effective coordination and obviate the hardship caused to the common man due to multiplicity of authorities in Delhi.

4.5 A view has been put forth that in order to reduce overlapping and to ensure effective control and making the functioning of various agencies and authorities more service-oriented for the common man, an apex body should be set up, if necessary, under a statute which should have both the Lt. Governor and the Chief Executive Councillor on it and to which powers and functions of the Union Ministries could be delegated to the extent necessary and appropriate for the administration of Delhi. The Union Ministries could continue to monitor the activities relating to their respective administrative control but they should leave the day-to-day exercise of the powers to the apex body.

Do you agree with this view ? If so, please give your specific suggestions regarding the composition, powers and functions of this body.

4.6 It has also been suggested that, as most of the problems of Delhi are related to matters of urban and metropolitan planning, a Metropolitan Development Authority could be set up to coordinate the working of various agencies and to ensure expeditious planned development and implementation of programmes; it could also deal with allocation of resources to various agencies.

Do you agree or not with the view that setting up of such an authority would be an effective measure for meeting the requirements of the situation in Delhi? Please give reasons.

4.7 A view has been held that the multiplicity of agencies is a necessary concomitant of the complexities of modern urban life and is common to all metropolitan cities. Hence the solution of the problem would lie not so much in reducing the number of such agencies as in 3589 HA/89—15 having a 'one-window referral system' under which each locality should have a unified centre of all the agencies connected with civic services for redressal of grievances of people and this centre should be manned by helpful and responsive personnel with easy accessibility.

Do you agree with this view ? Please give your suggestions regrading the organisation of such a referral system at the cutting edge level.

#### 4.8 Delhi Development Authority

(i) The Delhi Development Authority was set up under Delhi Development Act, 1957.

Do you think that any changes in its objects, functions, powers or in its accounting procelures or organisation are necessary with a view to making its functioning more efficient and result-oriented ? If so, please give your suggestions.

(ii) A view has been held that DDA has failed in achieving its objectives. According to this view, although DDA has control over lands in Delhi, unauthorised colonies have come up on a large scale, backlog of housing has increased and a large number of obnoxious and hazardous industrial units have come up in non-conforming areas. There has been widespread encroachment over public lands and land prices have increased substantially.

If it is so in your opinion, what are the reasons due to which DDA has failed in achieving its objectives? Please give your suggestions for improvement.

(iii) Quite a few of the complaints one hears about the DDA relate to its housing wing. The main objective of providing affordable housing to all sections of population in Delhi, it is felt, has not been achieved.

What in your view are the main deficiencies of the working of this wing and what remedies do you suggest ?

#### Delhi Electric Supply Undertaking

4.9 Under the present arrangement general supervision over the electric supply in Delhi is exercised by a Committee of Delhi Municipal Corporation while the overall responsibility and control vest in the Union Ministry of Energy (Department of Power). A view has been held, that there should be a transition towards organising an Electricity Generation-cum-Supply Authority which could be run on professional lines.

Do you agree with this view? What are the shortcomings in the present arrangement? Please give your suggestions for improvement.

#### **Delhi Milk Scheme**

4.10 At present the Delhi Milk Scheme functions by virtue of executive orders and is controlled by the Ministry of Agriculture and Rural Development (Department of Agriculture). A suggestion has been made that milk supply being essential for the population, the Delhi Administration should have a more effective voice in organising and running the milk supply scheme. Another view is that as the scheme involves collection and transport of milk from other States it is appropriate that the present arrangement should continue.

What are your views? Have you any other suggestions for improvement in milk supply in Delhi?

#### Delhi Water Supply & Sewage Disposal Undertaking

4.11 Under the present arrangement water supply and sewage are looked after by an undertaking which is under the control of a Committee of Delhi Municipal Corporation. Overall control rests wich the Union Ministry of Urban Development and the Union Ministry of Home Affairs. A view has been held that implementation of water supply and sewerage schemes require close coordination with the Delhi Development Authority, New Delhi Municipal Committee, Slums Wing and even with the neighbouring State Governments. The Undertaking as at present constituted, is not able to cope with the problems of coordination and successful running of the wide network of water supply and sewage disposal. One of the suggestions is that there should be a separate statutory authority for water supply and crainage as in certain other cities, run on professional lines.

What are your views in this regard ? Please offer your specific suggestions for improvement.

#### 4.12 Delhi Transport Corporation

(i) The Delhi Transport Corporation was set up under Delhi Transport Laws (Amendment) Act, 1971. This Organisation is under the control of the Union Ministry of Surface Transport. A view has been held that transport service being essential to the common man, control by a Union Ministry is not conducive to effectiveness and that there should be greater control by the Delhi Administration in the running of transport services.

What is your view in this regard and what suggestions would you like to offer to make the functioning of the transport services in Delhi more efficient and well-coordinated ?

(ii) A suggestion has been made that there should be a Delhi Metropolian Transport Authority which should control and coordinate various modes of transport in Delhi such as buses, underground metro service (if and when set up) or an urban rapid transport service and circular railway etc.

Please give your reactions to the proposal.

#### **Delhi Cantonment Board**

4.13 Delhi Cantonment Board has been set up under the Cantonment Act which is applicable to all cantonments in the country.

In your view what are the problems of the Board's coordination with the other municipal authorities or bodies in the rest of Delhi? Please give your suggestions for improvement.

#### Slums

4.14 According to a section of public opinion, one of the important reasons for deterioration in conditions of living, increase in crime and dilution of quality of urban life in Delhi has been the uninhibited growth of slums.

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Do you agree with this view? If so, what are, in your opinion, the reasons for such growth of slums in Delhi and what measures should be taken to regulate, improve or relocate the existing slums and to prevent the growth of new slums in future.

#### **Rural Areas**

4.15 The urban villages are important from the point of view of regulated and planned urban growth of Delhi. A view has been held that the control on building activity and other aspects of development in these areas suffers from lack of clear cut formulation of policy, ineffective implementation of existing controls and imperfect coordination of agencies involved.

What are your views in this regard ? Give your suggestions for improvement.

4.16 Rural areas of Delhi have been placed under the territorial jurisdiction of Pelhi Municipal Corporation. These have also been divided into five Development Blocks with the Deputy Commissioner functioning as Deputy Development Commissioner under the Development Commissioner both of whom are responsible for the implementation of development schemes. Moreover, under the Delhi Panchayat Raj Act, 1957 there are Gaon Sabhas and Block Panchayats. A view has been held that considering the relatively small area and the limited population (about 4.5 lakhs), the present arrangements are too elaborate and complicated leading to duplication of efforts.

Do you agree ? If so please suggest such modifications in the structure and organisation of the authorities for the rural areas which you consider necessary. If you do not agree with the foregoing view, please give reasons.

#### Delhi Urban Art Commission

4.17 The Delhi Urban Art Commission which has been set up under an Act of Parliament is vested with the responsibility of maintenance of urban design and aesthetic standards and environment in Delhi. Other agencies such as the Delhi Development Authority, Delhi Municipal Corporation, New Delhi Municipal Committee and Cantonment Board are also expected to conform to standards of urban design while undertaking construction activity on their own or while sanctioning or approving plans for buildings, offices, parks, entertainment centres etc. A view has been held that the Delhi Urban Art Commission has not been effective in its functioning as it has no powers to enforce its decisions or to penalise defaulters. Moreover as the actual sanctions are issued by the other bodies and agencies, its control is inadequate. According to a recent government decision, the Delhi Development Authority will be divested of all its other functions and it will be expected to concentrate on formulation and implementation of Delhi master plan and zonal plans.

In view of these factors, do you consider the continuance of the Delhi Urban Ait Commission necessary ? If so, give reasons. If not, please indicate the specific manner of its reorganisation as envisaged by you and algo state as to which authorities/bodies could be entrusted with its powers and functions in case its continuance is not considered necessary by you.

#### National Capital Region

4.18 The National Capital Region Planning Board has been set up under an Act of Parliament with a view to ensuring coordination with the neighbouring State Governments in regard to the formulation and implementation of regional and zonal master plans. A view has been held that the arrangements in this regard do not measure up to the requirements and their impact has been minimal.

How fat do you hold this view to be correct and what are your suggestions for improvement?

#### General

4.19 Do you have any other suggestions not covered by the replies to the foregoing questions in regard to rationalisation or reorganisation or streamlining of administrative and municipal set-up in Delhi with a view to :

- (a) ensuring efficiency and effectiveness in the functioning of various authorities by such modifications in structures as may be necessary so as to have a cohesive and coordinated set-up with properly defined spheres of authority for each of them;
- (b) avoiding overlapping of function among various authorities by bringing about adequate decentralisation of powers and clear-cut demarcation of functions and responsibilities; and
- (c) securing all round improvement in providing services to the public and for quicker redressal of public grievances.

Please give your specific suggestions with brief reasons.

**Appendix III** (Para 1.3.3)

## LIST OF PERSONS

## INTERVIEWED BY THE COMMITTEE

S. No.	Name with designation, if any		Date of Interview
1	2		3
1.	Shri Krishan Pratap, IAS (Retd.) Director, Centre for Improving Construction Skills.	n an a sharan an a	26-7-88
2.	Shri Romi Dhall, Secretary, Delhi Committee, PHD Chamber of Commerce & Industry		26-7-88
3.	Shri K.M. Sharma, Chairman, People's Voice.		27-7-88
4.	Shri Satish Chandra Khandelwal, Former Deputy Mayor, Municipal Corporation of Delhi		28-7-88
5.	Shri Jagdish Chandra Tokas, Chairman, Education Committee, Municipal Corporation of Delhi.		28-7-88
6.	Shri R.M. Agrawal, IAS, Chairman & Managing Director, Delhi Financial Corporation.		<b>29-7-</b> 88
7.	Shri M.S. Saathi, Mayor, Municipal Corporation of Delhi.		29-7-88
8.	Shri C.S. Chandras ekhara, Chief Planner (Retd.), Town & Country Planning Organisation, Ministry of Urban Development.		2-8-88
9.	Shri V.P. Chaudhry, President, Delhi Pradesh Janata Party.		8-8-88
10.	<ul> <li>(i) Shri Madan Lal Khurana, Member, Metropolitan Council, President, Bhartiya Janata Party, Delhi Pradesh.</li> </ul>		9-8-88
-	<ul> <li>(ii) Shri Kedar Nath Sahni, General Secretary, BJP, Former Chief Executive Councillor, Delhi.</li> </ul>		
	<ul> <li>(iii) Shri V.K. Malhotra, General Secretary, All India BJP, Former Member of Parliament, and former Chief Executive Councillor, Delhi.</li> </ul>		

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1	2	3
	(iv) Shri Charti Lal Goel, Vice President, Delhi BJP.	
·	<ul> <li>(v) Shri Mewa Ram Arya,</li> <li>Vice President,</li> <li>Delhi BJP.</li> </ul>	
	(vi) Shri Ram Bhaj, General Secretary, Delhi BJP.	
• •	(vii) Shri Kalka Das, Leader of the Opposition, Metropolitan Council.	
	(viii) Shri Shanti Desai, Leader of the Opposition, Municipal Corporation of Delhi.	
11.	Shri M.N. Buch, Vice-Chairman, National Commission on Urbanisation Ministry of Urban Development, and Former Vice-Chairman, Delhi Development Authority.	9-8-88
12.	Shri E.F.N. Ribeiro, Chief Planner, Town & Country Planning Organisation, Ministry of Urban Development.	10-8-88
13.	Shri Baldev Sharma, Chairman, New Delhi Citizens' Association.	10-8-88
14.	(i) Shri Amar Nath Chawla,	11-8-88
	(ii) Shri Ram Lal, Vice President, Delhi Pradesh Congress Committee (I).	
15.	<ul><li>(i) Shri Krishan Kumar, President,</li><li>(ii) Shri R.N. Grover, Vice-President,</li></ul>	11-8-88
	(iii) Shri J.R. Jindal,	and the second
	(iv) Shri Manphool Chopra, and	
	(v) Shri Sunil Sehgal, Delhi Factory Owners' Federation.	
16.	Shri B.N. Chadha, President, Ring Road House Owners' Association.	11-8-88
17.	<ul> <li>(i) Shri M.M. Gope, Secretary, Delhi State Council, Communist Party of India (CPI).</li> </ul>	12-8-88
	(ii) Shri Radhakrishan 'Gum', Member, State Executive of Delhi State CPI	
	(iii) Shri B.D. Joshi, Member, State Executive of Delhi State CPI.	
	(iv) Shri Y.D. Sharma, Member, State Executive of Delhi State CPI.	

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1	2	3
18.	<ul> <li>(i) Shri G.C.L. Joneja, IAS (Retd.) Honorary Treasurer &amp; Director, Indian Institute of Public Administration.</li> </ul>	16-8-88
	(ii) Dr. S.S. Singh, Reader, Indian Institute of Public Administration.	
1 <b>9</b> .	<ul> <li>(i) Shri H.R. Suri, Chairman, Delhi Regional Chapter, Institute of Town Planners, India.</li> </ul>	16-8-88
	(ii) Dr. P.S. Rana.	
	(iii) Shri J.C. Gambhir.	
	(iv) Shri J.H. Ansari, School of Planning & Architecture.	
	Prof. Om Prakash Mathur, Director, National Institute of Urban Affairs.	16-8-88
21.	(i) Shri Ganga Lal Casewa, Senior Vice President, &	17-8-88
	(ii) Shri P.K. Kundu, General Secretary, East Delhi Citizens Welfare Council.	•
22.	Shri I.J. Anand, President, New Delhi Traders Association.	17-8-88
	i) Dr. P.S. Lamba, Director, Maharaja Surajmal Institute.	18-8-88
	i) Col. Attar Singh (Retd.)	
(i	ii) Shri S.S. Solanki, Maharaja Surajmal Institute.	
24.	Shri G.P. Bansal, Executive Member, United Chamber of Trade Organisations, and Secretary, Delhi Crockery Association.	18-8-88
]	Shri Prem Sagar Gupta, Delhi State Council, Communist Party of India (CPI)	19-8-88
26.	Shri Laxmi Narain, Member, Rajya Sabha.	1 <b>9-8-</b> 88
27.	Shri K. Narendra, Editor, Daily "Pratap"	19-8-88
28.	Shri Jag Pravesh Chandra, Chief Executive Councillor, Delhi.	22-8-88 & 25-10-88
29.	Shri L.P. Singh ICS (Retd.), Former Home Secretary to the Government of India and former Governor.	23-8-88
30.	Shri M.K. Bansal, Hony. Secretary, Delhi Hindustani Mercantile Association (Regd.) & others.	23-8-88

1	2	3
Le	i Shanti Desai, ader of the Opposition, unicipal Corporation of Delhi.	25-8-88
	) Shri Joginder Sharma, Secretary, Delhi State Committee, Communist Party of India (Marxist), &	25-8-88
	(ii) Shri Bharadwaj of Communist Party of India (Mar	
	i Mirza Siddiq Ali, .der, Janta Party in Metropolitan Council.	25-8-88
34. (i)	) Shri S.C. Vaish, Chairman & Managing Director, Delhi Transport Corporation (DTC),	26-8-88
(ii)	) Shri P. Dutta, General Manager, DTC.	
(iii	i) Shri A. Baree, Chief Accounts Officer, DTC.	
	K.C. Pandeya, Secretary, ptt. of Civil Supplies.	26-8-88
Ge	Ram Singh, eneral Manager, elhi Milk Scheme.	26-8-88
Ge	R.C. Illango, neral Manager, lhi Electric Supply Undertaking	5-9-88
Ch De	K.S. Gujral, airman, lhi Electric Supply Committee, inicipal Corporation of Delhi.	5-9-88
Co	Vijay Karan, mmissioner of Police, elhi.	6-9-88
Ch	A.K. Menon, ief Auditor, unicipal Corporation of Delhi.	8-9-88
	C.S. Sastri, Secretary, partment of Agriculture.	9-9-88
42. Shri De	Shiv Charan Gupta, Convenor, Ihi Citizens Forum for Statehood.	9-9-88
Fo	Gobind Narain, I.C.S. (Retd.), rmer Home Secretary, ovt. of India and Former Governor.	12-9-88
	U.C. Aggarwal, rmer Chief Vigilance Commissioner.	12-9-88
Adm	Dharam Dutt, ninistrator, Delhi Municipal Committee.	12-9-88
46. Shri	I.K. Gujral, ner Union Minister of State and former Ambassador	26-9-88

1	2	3
47.	Shri J.M. Benjamin, Former Chief Architect, Central Public Works Department.	28-9-88
48.	Shri H.N. Ray, ICS (Retd.) Former Finance Secretary, Govt. of India.	28-9-88
49.	Prof. A.N. Pandeya, Professor, Department of Humanities and Social Science, Indian Institute of Technology, New Delhi.	29-9-88
50.	Shri A.R. Wig, City Editor, Hindustan Times.	30-9-88
51.	Shri. A.S. Singhal, General Secretary, Joint Council of Co-operative House Building Societies.	10-10-88
52.	Shri Sachidanand Hassija, Honorary General Secretary, Federation of Indian Manufacturers.	10-10-88
53	Shri Tara Chand Khandelwal, General Secretary Citiziens' Council.	11-10-88
54	. Shri Dharam Vira ICS (Retd.), Former Cabinet Secretary & Former Governor,	11-10-88
55	. Brig. K.L. D'souza President, Cantonment Board, Delhi.	12-10-89
56	. Shri J.S. Bali, IAS (Retd.) स्टामेन नयने Former Secretary to Govt. of India.	13-10-88
57	. Shri V.P. Marwah, Director General, National Security Guard, (Former Commissioner of Police, Delhi)	24-10-88
58	3. AVM H.L. Kapur (Retd.) Former Lt. Governor, Delhi.	24-10-88
59	<ol> <li>Shri K.C. Bainiwal, Chairman, Delhi Water Supply &amp; Sewage Disposal Committee, Municipal Corporation of Delhi.</li> </ol>	26-10-88
60	). Shri Ganga Das, Commissioner, Municipal Corporation of Delhi.	26-10-88
61	<ul> <li>Shri P.P. Chauhan, Chairman &amp; Managing Director, Delhi Financial Corporation. (Former Commissioner,</li> </ul>	27-10-88
6	Municipal Corporation of Delhi). 2. Shri V.K. Kapoor, Chief Secretary, Delhi Administration.	27-10-88

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1 2		3
63. Shri Virendra Prakash, A Planning Commission (fo Delhi Administration).	dviser, rmer Chief Secretary,	27-10-88
64. Chaudhari Brahm Prakash Former Chief Minister, I		28-10-88
65. (i) Shri K.S. Bains, Vice-Chairman, Delhi Development A	Authority.	28-10-88
(ii) Shri V.S. Murti. (iii) Shri P.K. Tripathi		
(iv) Shri Raghuraman Delhi Development	Authority	
66. Shri K.C. Sivaramakrishna Ministry of Urban Develo		31-10-88
67. Shri Manjit Singh, Commissioner (Slums & DDA.	JJR),	25-11-89

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#### Appendix IV

(Para 2.4.5)

## EXTRACTS REGARDING DELHI FROM THE REPORT OF THE STATES REORGANISATION COMMISSION

#### CHAPTER XII

#### DELHI

580. The proposals which have been made in the two preceding Chapters involve a rejection of the demand for the creation of the Hariana Prant or a Greater Delhi State. Quite independently, however, of any decision affecting the areas adjoining it, the future of Delhi has to be determined primarily by the important consideration that it is the seat of the Union Government.

581. The present set-up of Delhi State, it may be stated, is even more anomalous than that of other Part C States in that, within the narrow ambit of powers delegated to these States, the legislative authority of Delhi is subject to certain special limitations. The subjects specifically excluded from the purview of the State Legislature include law and order, local self-governing institutions, the Improvement Trust and other statutory boards regulating certain public utility services in Delhi and New Delhi.\*

582. This peculiar diarchical structure represents an attempt to reconcile Central control over the federal capital with autonomy at State level. It is not surprising that these arrangements have not worked smoothly. On the one hand, it is contended that the development of the capital is hampered by the division of responsibility between the Centre and the State Government and that there has been a marked deterioration of administrative standards in Delhi since dual control was introduced in 1951. On the other hand, there is persistent complaint from the State Government about the inadequacy of the powers vested in it. How unrealistic the present situation is, will be clear from the strong opposition of the fact that there is every justification for setting up a corporation for a big urban area like Delhi, which is rapidly growing in importance and where health and sanitation are raising immense problems. It is interesting to note that the main ground on which opposition to a corporation is based is that, with the creation of a legislature and a popular government in this predominantly urban State, establishment of a corporation is not feasible. This, in a way, illustrates the problem of Delhi State.

583. That the present arrangements cannot endure is admitted even in the memorandum submitted on behalf of the Delhi Government which states that "Delhi is a Part C State and it is difficult to see any future for such States". According to the basic pattern of component units of the Indian Union which we envisage, an existing part C State must in future become either part of a State or a centrally-administered territory. In making a choice between the two alternatives we must take into account the following special factors :

- (i) Delhi is the seat of the Union Government; and
- (ii) it is basically a city unit, 82 per cent, of its total population being resident in urban areas.

<sup>\*</sup>It: Government of Part C States Act, 1951, Section 21.

584. It is hardly necessary to discuss in any detail the reasons why Delhi, if it is to continue as the Union capital, cannot be made part of a full-fledged constituent unit of the Indian Union. Even under a unitary system of government, the normal practice is to place national capitals under a special dispensation. In France, for example, there is a greater degree of central control over Paris than over other municipalities. In England, the police administration of the metropolitan areas is directly under the control of the Home Secretary, who does not exercise similar powers in respect of other municipal areas. Apart from reasons which are peculiar to each country or city, there are some general considerations necessitating special arrangements in respect of national capitals. Capital cities possess or come to possess, some degree of plolitical and social predominance. They are seats of national governments, with considerable property belonging to these governments. Foreign diplomatic missions and international agencies are located in these capitals. They also become centres of national culture and art. So far as federal capitals are concerned, there is also an additional consideration. Any constitutional division of powers, if it is applicable to units functioning in the seats of national governments, is bound to give rise to embarrassing situations. Practice in other countries, administrative necessity and the desirability of avoiding conflicting Jurisdictions, all point to the need for effective control by national governments over federal capitals.

585. It may be recalled that the desirability of excluding the seat of the Central Government from the jurisdiction of a provincial government was one of the main considerations which led to the transfer of the Imperial caital from Calcutta in 1912. It was then considered essential that the Supreme Government should not be associated with any particular Provincial Government and it was also felt that the removal of the Central Government from Calcutta would materially facilitate the growth of local self-government on sound and safe lines." It is generally recognised", observed the Government of India in their Despatch to the Secretary of State dated 25th August, 1911, "that the capital of a great central Government should be separate and independent, and effect has been given to this principle in the United States, Canada, and Australia". The Secretary of State for India, in his reply to this Despatch, put the case for undivided Central control over the capital more succinctly :

"The arrangement, as you frankly describe it, is a bad one for both Governments, and the Viceroy for the time being is inevitably faced by this dilemma, that either he must become Governor-in-Chief of Bengal in a unique sense, or he must consent to be saddled by public opinion both in India and at home with direct liability for acts of administration or policy over which he only exercises in fact the general control of a supreme Government. The local Government, on the other hand, necessarily suffers from losing some part of the sense of responsibility rightly attaching to it as to other similar administrations".

586. The weighty considerations urged in these Despatches should not be lightly brushed aside on the ground that they relate to a period when India was under a foreign Government. If anything, these arguments are more valid in the present circumstances, because there is a greater need for avoiding the blurring of responsibility under a democratic form of government based on the federal principle than under a bureaucratic system of government, which allowed each higher unit to exercise overriding authority over the lower units.

587. That the capital of the Union Government should be directly administered by it has not been disputed either in the memorandum submitted on behalf of the Delhi Government or by the official representatives of the State during the course of their discussions with us. It has, however, been suggested that New Delhi should be regarded as the national capital over which the Union Government might have full control. The real issue, therefore, so far as the future of Delhi is concerned is whether a line of demarcation should be drawn between New Delhi and Old Delhi and the two units be placed under two separate administrations.

588. It may be recalled that, when in 1912 the Imperial capital was transferred to Delhi, the question of the extent of territory to be included in the Delhi Province was discussed between the Central Government and the Punjab Government. "The was discussed between the Central Government and the Funjab Government. The extent of territory to be included in the new province" was determined, according to the Government of India, "by the impossibility of excluding Old Delhi, whose interests are interwined with those of the new city, and by the expediency of including a small margin over and above the actual limits of the Imperial capital". "The total population of the two areas, Old Delhi and New Delhi taken together, at that time was only 2,32,837.\*\* Since then the two parts of the city have rapidly developed and Delhi is now an integrated and vast metropolis with an urban population of nearly a million and a half.<sup>†</sup> From the point of view of law and order, the social life of the people, trade and commerce and common public utility services, Old Delhi and New Delhi now constitute one integrated unit and it will be wholly unrealistic to draw a line between the two. Both the areas are rapidly expanding and satellite townships are developing on the outer peripheries of both Old Delhi and New Delhi. The anomaly of treating the two areas separately is illustrated by the fact that even under the existing arrangements Delhi Fort had to be declared as an area outside the jurisdiction of Delhi Government for purposes of the Warrant of Precedence. It will also be of interest to note that, when in 1949, the Government of India decided to exclude New Delhi from the jurisdiction of the Corporation proposed for Old Delhi, the kind of Corporation envisaged was regarded as 'truncated', 'moth-eaten' and not 'sufficiently inspiring'. If there is objection to the two areas being treated as two distinct units in the civic field, there will be even less justification for the assumption that administratively they can be placed under two different governments.

589. If it is conceded that the national capital has to be under the effective control of the national government and both New Delhi and Old Delhi have to be treated as a single unit for administrative purposes, there will be little scope for difference of opinion on its future administrative pattern.

590. As we have observed earlier, Delhi is essentially urban in character. It has a rural belt which was acquired to meet its requirements as the seat of the Imperial Government. The rural areas, however, to the extent that they are not indispensable for the future urban expansion and development of Delhi, can be retroceded to the parent state or states.

591. In devising a system of government for Delhi, therefore, we must take into account primarily the requirements and aspirations of a cosmopolitan urban population. Urban problems such as slum clearance, reconstruction, city planning, recreation, transportation, and primary and secondary education, all fall within the domain of municipal finance and enterprise. If we are to be guided by these clear considerations as well as by the experience of other advanced countries, municipal autonomy for Delhi in the form of a Corporation would appear to be the most appropriate method of meeting and reconciling the broader requirements of the National Government as well as the local needs and the wishes of the people.

592. One of the main reason advanced by the Delhi Government against the establishmnt of a Municipal Corporation is that the financial resources of Delhi State cannot maintain a popular government as well as a Municipal Corporation. As under our recommendations, a separate state government for Delhi will no longer be required, this objection will cease to have any validity.

593. We have given careful consideration to the argument that a denial to the people of Delhi of the benefits of popular government at state level would be a retrograde step. It has to be realised that, if Delhi is to continue to be the seat of the Central Government, it must adopt a model which is sound in principle and administratively workable in practice. People residing in national capitals enjoy an advantageous posi-

<sup>\*</sup>Memocanda submitted by the Government of India to the Indian Statutory Commission, Vol. IV, p. 356. \*\*1911 Census.

<sup>†</sup>Exact figures -1,437,134 according to the 1951 Census.

tion and they must be prepared to pay some price for it. It may he pointed out that the legal residents of the District of Columbia in the U.S.A. are at present totally disfranchised and do not in any way participate in government at either the federal or State or even the municipal level. As we have stated elsewhere, the people of centrallyadministered areas in India are more advantaegeously placed than those of the centrallyadministered territories in other important federal countries in that they have full representation in the Union Parliament. There is, therefore, no question of disfranchising the people of Delhi or any other Centrally-administered area. Having taken all these factors into account, we are definitely of the view that municipal autonomy in the form of a corporation, which will provide greater local autonomy than is the case in some of the important federal capitals, is the right and in fact the only solution of the problem of Delhi State.

594. We do not feel called upon to go into the question whether, in the event of our recommendation being accepted, the Municipal set-up of Delhi should follow a two-tier model on the lines of the London Country Council or whether there should be one or two Corporations of the pattern already under the consideration of the Government of India. These are matters for the consideration of the Government.



### APPENDIX V

## TABLE SHOWING RECEIPTS & EXPENDITURE OF DELHI ADMINISTRATION

				(Rupees in crores)	
Year (1)	Receipts (2)		Expenditure (3)		Gap (4)
		Plan	Non-Plan	Total	
1984-85	519.51	289.00	354.70	643.70	124.19
1985-86	575.81	341.80	417.93	759.73	183.92
1986-87	679.48	495.00	615.00	1110.00	430.52
1987-88	844.28	541.34	633.00	1174.34	330.06
1988-89	885.88	558.00	669.11	1227.11	341.23

(Based on the Revised Estimates shown in the Budget (Vol. II) of Delhi Administration except the figures for 1988-89 which are based on Budget Estimates).



GAP BETWEEN REV. RECEIPTS & EXPENDITURE

