

COMMITTEE ON THE WELFARE OF
SCHEDULED CASTES AND
SCHEDULED TRIBES
(2010-2011)

(FIFTEENTH LOK SABHA)

ELEVENTH REPORT

ON

MINISTRY OF TRIBAL AFFAIRS

Action taken by the Government on the recommendations contained in the Thirty-third Report (Fourteenth Lok Sabha) of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes on the subject "National Commission for Scheduled Tribes – Its mandate and achievements – A review of its organisation and working".

Presented to Lok Sabha on 24.03.2011

Laid in Rajya Sabha on 24.03.2011



LOK SABHA SECRETARIAT
NEW DELHI

March, 2011 /Chaitra, 1933 (Saka)

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COMPOSITION OF THE COMMITTEE ON THE WELFARE OF SCHEDULED CASTES AND SCHEDULED TRIBES (2010-2011)

Shri Gobinda Chandra Naskar - Chairman

MEMBERS

Lok Sabha

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1. Dr. R.K.Chadha, Joint Secretary
2. Ms. J.C. Namchyo, Director
3. Shri Hoti Lal, Additional Director
4. Shri L. Singson, Sr. Committee Assistant

INTRODUCTION

I, the Chairman, Committee on the Welfare of Scheduled Castes and Scheduled Tribes having been authorised by the Committee to finalise and submit the Report on their behalf, present this Eleventh Report (Fifteenth Lok Sabha) on Action Taken by the Government on the recommendations contained in their Thirty-third Report (Fourteenth Lok Sabha) on the Ministry of Tribal Affairs regarding “National Commission for Scheduled Tribes – Its mandate and achievements – A review of its organisation and working”.

2. The Draft Report was considered and adopted by the Committee on 15th March, 2011 (Appendix – IV).

3. The Report has been divided into the following Chapters:-

- I. Report.
- II. Recommendations/Observations which have been accepted by the Government.
- III. Recommendations/Observations which the Committee do not desire to pursue in view of replies of the Government.
- IV. Recommendations/Observations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration.
- V. Recommendations/Observations in respect of which final replies of the Government have not been received.

4. An analysis of the Action Taken by the Government on the recommendations contained in the Thirty-third Report (Fourteenth Lok Sabha) of the Committee is given in Appendix – V. It would be observed therefrom that out of 23 recommendations/ observations made in the report, 8 recommendations i.e. 34.78 per cent have been accepted by the Government. The Committee do not desire to pursue 4 recommendations i.e. 17.39 per cent of the total recommendations in view of the replies of the Government. There are 7 recommendations i.e. 30.43 per cent in respect of which replies of the Government have not been accepted by the Committee and which require further reiteration and in respect of 4 recommendations i.e. 17.39 per cent, final replies of the Government have not been received.

New Delhi;
March, 2011
 Chaitra, 1933(Saka)

GOBINDA CHANDRA NASKAR
 Chairman,
 Committee on the Welfare of
 Scheduled Castes and
 Scheduled Tribes.

CHAPTER – I**REPORT**

This Report of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes deals with the action taken by the Government on the recommendations contained in their Thirty-third Report (Fourteenth Lok Sabha) on the Ministry of Tribal Affairs “National Commission for the Scheduled Tribes – It’s mandate and achievements – A review of its organization and working”.

1.2 The Thirty-third Report was presented to Lok Sabha on 23rd October, 2008. It contained 23 recommendations/observations. The Committee while deliberating upon the draft action taken report on the subject during their sitting held on 5th October, 2009 observed that some of the replies to these recommendations/observations were either non-affirmative or were left unreplied. The Committee, therefore, took fresh evidence of the representatives of the Ministry of Tribal Affairs and National Commission for Scheduled Tribes on 26th October, .2009. Subsequently, a list of points was forwarded to them for furnishing additional information as well as clarifications sought by the Committee during the evidence. The replies/clarifications given by the Ministry of Tribal Affairs have now been examined and the replies have been categorized as under:-

- (i) Recommendations/Observations which have been accepted by the Government (Sl. Nos. 3, 5, 13, 15, 16, 17, 18 & 23).
- (ii) Recommendations/Observations which the Committee do not desire to pursue in the light of the replies received from the Government (Sl. Nos. 1, 9, 10 & 21).
- (iii) Recommendations/Observations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration (Sl. Nos. 2, 4, 8, 11, 12, 19 & 22).

- (iv) Recommendations/Observations in respect of which final replies of the Government have not been received (Sl. Nos. 6, 7, 14 & 20).

1.3 The Committee desire that final reply in respect of the recommendations for which only interim reply has been given ought to be furnished within six months of the presentation of the Report.

1.4 The Committee will now deal with the Action Taken by the Government on those recommendations which need reiteration or comments.

**Functions, Duties and Powers
Recommendation (Sl. No. 2, Para No. 1.13)**

1.5 The Committee note that the Commission has been given the power to regulate its own procedure. According to the National Commission for Scheduled Tribes Chairperson, the Vice Chairperson and Members (Conditions of Service and Tenure) Rules, 2004, the Chairperson and the Vice Chairperson of the Commission have been conferred the rank of Union Cabinet Minister and Minister of State, respectively. The other Members of NCST have been given the rank of the Secretary to the Government of India. The Committee are of the view that functions and duties entrusted to the Commission under clauses (5), (8) and (9) of Article 338A are very vast and cover different problems and needs of tribal people. The Committee feel that the Commission would not be able to accomplish its objective fully and effectively unless the present strength of the Commission is increased. The specific subjects like the conferring ownership rights in respect of minor forest produce over mineral resources and water resources, rehabilitation of tribal groups displaced by development projects, alienation of tribal people from land, etc. are important issues pending for lackadaisical attitude of the Government over the years. The NCST has now been assigned the role to oversee the measures that would be required to be taken to solve those long standing but very important issues concerning the tribals. These issues require judicious handling as the above subjects

are very delicate affecting the very existence of tribals living in forest areas, mineral rich areas and those who have already been displaced and alienated from their lands and habitats. The Committee, therefore, strongly recommend that the present strength of the Commission should be increased with a view to assigning each member with a specific job so that he may give his undivided attention to find a favourable solution to the problems/difficulties being faced by the distressed tribal people.

Action Taken Reply of the Government

1.6 Recommendation has been noted and also intimated to the National Commission for Scheduled Tribes vide this Ministry's letter dated 17/11/2008.

1.7 Not satisfied with the above reply, the Committee asked the Ministry and the NCST to state the concrete steps taken to implement the recommendation of the Committee to increase the strength of the Commission.

1.8 During evidence, the Secretary, Ministry of Tribal Affairs stated:-

“...As we had mentioned in the last meeting also, we do believe that the Commission must be empowered to carry out its function”.

He also informed:

“...we do agree that in case these duties have to be carried out, the Commission has to be adequately strengthened. Last time the discussion tended to concentrate on only staff members”.

He further added:

“The Second issue is that we feel that this Commission is, though independent, but it is actually a Commission which flows out of the National Commission which was earlier for the Scheduled Castes and Scheduled Tribes. The functioning of that Commission actually is a guide to us as to how this Commission has to function. So, whatever recommendations you have been giving, we have also been always as a routine, been following it up with the Department of Social Justice and Empowerment so that the same kind of an approach is taken for both the Commissions together. So, we do agree that we need to strengthen. I would like to humbly suggest that there should be no doubt that we want the Commission to function effectively. Presently, it cannot function effectively because what they have done is that with the limited staff they have, they have

distributed certain functional powers and beyond that, they are unable to. Even to design a structure which is going to be non-conventional and which is going to be effective, they have taken and we have also taken quite a lot of time. In fact, since the last meeting, we have examined the option. The suggestion of the Committee was that we should do it. But we felt that if we do something on our own without involving them, it would be half-hearted or may be we will miss out the major points. So, they have been actually designing a fresh structure which differs in a large extent from the structure which is the National Commission of Scheduled Castes and Scheduled Tribes and may be now only for the Scheduled Tribe. This structure is not only about additional staff, it is also talking about the areas which the staff members are going to look into”.

Post Evidence Reply

1.9 The Ministry of Tribal Affairs in their post evidence reply have stated that though National Commission for Scheduled Tribes was requested to consider the recommendation, no proposal from the National Commission for Scheduled Tribes has been received for increasing the number of members of the Commission, which will require an amendment to Article 338A(2) of the Constitution.

Comments of the Committee

1.10 The Committee are surprised to note that NCST has not given any proposal to the Ministry of Tribal Affairs for increasing the number of members of the Commission which require an amendment of Article 338A(2) of the Constitution. The Committee had actually recommended to increase the strength of the Commission with a view to assigning each member with a specific job so that he may give his undivided attention to find a favourable solution to the problems/difficulties being faced by distressed tribal people. The Committee are pained to note that chaotic situation prevailing in tribal dominated areas speaks volume about their backwardness, lack of development, land alienation, displacement, lack of rehabilitation and encroachment on their rights to forests produce due to various policies of Government and this situation warrants that the Commission has to be strengthened by increasing the number of its members who can devote their time fully for the cause of the Scheduled Tribes, their welfare and

development. The Committee also feel that by and large problems faced by the Scheduled Castes and Scheduled Tribes are of different nature. Had it not been so, the erstwhile National Commission for Scheduled Castes and Scheduled Tribes (NCSC&ST) would not have been bifurcated into separate National Commission for Scheduled Castes (NCSC) and National Commission for Scheduled Tribes (NCST) in 2004 by amendment of Article 338. The Committee opine that the NCST should be accorded its due sanctity as envisaged in Article 338A of the Constitution to ensure that it always remains an independent body empowered to play a vital role in protecting the rights of Scheduled Tribes. The Committee also feel that one way to strengthen the Commission is to appoint Members of the Commission from different professional background such as politics, law, bureaucrats, academicians especially anthropologists and sociologists and also social worker of impeccable character. The Committee also urge the NCST to be more assertive in ensuring that it is consulted by the Governments on all policy matter affecting the Scheduled Tribes. The Committee, therefore, reiterate their earlier recommendation for increasing the strength of the Commission, so as to ensure that manifold problems faced by the Scheduled Tribes are addressed properly. The Committee urge the Ministry of Tribal Affairs should initiate action to amend Article 338A(2) so that the number of members of the Commission is increased.

Functions, Duties and Powers Recommendation (Sl. No. 4, Para No. 1.15)

1.11 The Committee also note that functions, duties and powers of the NCST *inter-alia* include investigating and monitoring of all matters relating to safeguards provided in Constitution, to enquire into specific complaints regarding deprivation of rights provided under the Constitution, to present to the President annual reports upon working of these safeguards,

to make recommendations as to the measures that should be taken by the Union or any State for protection, welfare and socio-economic development of the STs as well as other functions as the President may by rule specify. The Committee also note a very important function in clause (9) of Article 338A which provides that the Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Tribes. The Committee would, therefore, like to be apprised of the policy matters on which the Commission had been consulted by the Union and the State Governments and whether the same were actually concurred by them.

Action Taken Reply of the Government

1.12 The National Commission for Scheduled Tribes is invariably consulted on matters relating to the revision of the list of Scheduled Tribes in terms of the modalities laid down by the Government in June, 1999 and also generally on the other policy matters affecting the Scheduled Tribes by the Union and State Governments/UT Administrations. Accordingly, unless the NCST also concurs, no inclusion in the ST list of any State/UT is carried out. The NCST also takes up the other matters directly with the States/UTs through it's various meetings with these authorities.

1.13 During evidence, the Committee strongly objected to the use of the language "invariably consulted". In reply the Secretary, Ministry of Tribal Affairs clarified:-

".....this sentence which you have used is actually the sentence which is not dealt in the Ministry. The Reservation Bill has been moved by the DoPT and the DoPT, to the best of my knowledge, has not consulted NCST. But, I would like to mention that we are invariably consulting. This is one example which you have given. I have been here in this Ministry for a little more than two years. There has been no major policy decision taken including the CCD Plan for the PTGs, without consultation.

We have consulted them in the Shom Pen policy, which is new for the tribal areas. We have already mentioned the scheduling job. That is there. When the Draft Tribal Policy was being discussed, we had consulted them. Recently, there has been a proposal which the State Government of Orissa has sent for

amending the Regulation for transfer of land in the tribal areas. We have called a meeting on a particular day. So, let me assure you that to the best of my knowledge, even if we have missed out in minor matters, no major matter we are doing without consulting them for the last more than two years. That invariably is for our Ministry.

Coming back specifically to the Forest Rights Act, I would submit that they were consulted on that. The reservation policy is done by the DoPT. We do not look after that. We only do the scheduling work. Reservation is done by the DoPT. I am not sure whether they have consulted them or not. I cannot answer for them”.

Post Evidence Reply

1.14 In reply to queries on whether NCST was never consulted on important policy matters affecting the STs except on inclusion or deletion of a tribe from ST lists, since it came into existence in 2004 and whether NCST was consulted when Scheduled Tribes and other Traditional Forest Dwellers (Forest Rights Recognition) Act, 2006 and the Scheduled Castes and Scheduled Tribes (Reservations in Posts and Services) Bill, 2008 were being framed, the Ministry of Tribal Affairs in their post evidence replies have stated that the National Commission for Scheduled Tribes was asked to comments/consulted by Ministries besides the Ministry of Tribal Affairs on various issues including major policy issues which include the Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation in Posts and Services) Bill, 2004; Scheduled Tribes and other Traditional Forest Dwellers (Forests Rights Recognition) Bill, 2005.

Comments of the Committee

1.15 The Committee understand that the NCST was consulted by Ministries including the Ministry of Tribal Affairs on various issues including major policy issues which include the Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation in Posts and Services) Bill, 2004; Scheduled Tribes and other Traditional

Forest Dwellers (Forest Rights Recognition) Bill, 2005. The Committee wonder whether the NCST has information about the action taken by the concerned Ministry/Department on the advice given by it since the views of the Commission have not always been accepted by the Government. The Committee feel that on many issues involving framing of industrial or mining policy of the country, the Ministry of Tribal Affairs or even the NCST are not involved even though this largely affect the lives of many Scheduled Tribes population. The Committee are of the opinion that if the NCST is ignored and not consulted, then the Commission has no relevance and meaning. The Committee feel that the Commission is not to be 'invariably consulted' for the sake of formality as required under the provisions of the Constitution. The NCST has to be consulted in all seriousness by the Union Government/State Governments on every issue whether it is minor or major policies affecting the lives of the Scheduled Tribes. The recommendations of NCST should be taken seriously and the Government should not outrightly reject its views/recommendations as this will undermine or defeat the objective for which it has been set up. The Committee, therefore, recommend that the Union and all State Governments should consult NCST regularly on every issue minor or major affecting the lives of Scheduled Tribes and give due respect to its recommendations.

**Functions, Duties and Powers
Recommendation (Sl. No. 5, Para No. 1.16)**

1.16 The Committee also note that the NCST has all the powers and functions that were assigned to the National Commission for Scheduled Castes and Scheduled Tribes (NCSCST). Besides, NCST has been assigned with some additional functions as mentioned in para 1.10. The Committee also note that as per the decision of the Cabinet, DOP&T has entrusted a

study to review the performance of NCST and to suggest the remedies necessary for improvement in its performance and that the report is awaited. Keeping in view the enormous functions that have been assigned to the NCST, the Committee are of the opinion that there is a need for further strengthening the NCST and recommend that earnest and credible steps be taken by the Government to make NCST more strong and effective. The Committee also recommend that DOP&T should also be asked to submit its study report on performance of NCST immediately so that timely corrective action is taken.

Action Taken Reply of the Government

1.17 The Department of Personnel & Training has since sent the Study Report (copy placed below at Appendix-I).

1.18 Having noted that DOP&T had submitted the Study Report on performance of NCST, the Committee asked the Ministry of Tribal Affairs to state whether the recommendations contained in the Study Report were examined and fully accepted by the Ministry and the action that has been taken in this regard by the Ministry as also to mention as to what direction was given by DOP&T while finalising the Study Report since the study was undertaken as per the decision of the Cabinet.

Post Evidence Reply

1.19 In their post evidence replies, the Ministry of Tribal Affairs have stated that the Department of Personnel & Training while forwarding the study report on National Commission for Scheduled Tribes (which it got conducted at the behest of the Cabinet) only asked the Ministry of Tribal Affairs to furnish its comments to Department of Personnel & Training for being placed before the Cabinet. Accordingly, the contents of the study were examined and

comments of both the National Commission for Scheduled Tribes as well as this Ministry sent to the Department of Personnel & Training. The Department of Personnel & Training is yet to intimate this Ministry about further directions, if any, of the Cabinet on this Study.

Comments of the Committee

1.20 The Committee urge the Ministry of Tribal Affairs to pursue the matter with DoP&T to expedite the directions of the Cabinet on the Study Report. The Committee should be apprised of the action taken by the Ministry/NCST on the decision.

Organisational set-up Recommendation (Sl. No. 6, Para No. 1.21)

1.21 The Committee note that after bifurcation of National Commission for Scheduled Castes and Scheduled Tribes (NCSCST) into National Commission for Scheduled Castes and National Commission for Scheduled Tribes, staff at headquarters office of NCSCST and its 18 regional offices were distributed between the two Commissions in the ratio of 2:1. The NCST is now left with headquarters as well as six regional offices located at Bhopal, Bhubaneswar, Jaipur, Raipur, Ranchi and Shillong. The Committee also note that there are four wings at headquarters of NCST viz. Administration/Establishment Wing; Economic and Social Development Wing; Service Safeguards & Coordination Wing; and Atrocities Wing. The Committee further note that regional offices of the Commission keep a watch on the formulation of policy and issue of guidelines relating to the welfare of Scheduled Tribes in the respective States/UTs under their jurisdiction and inform the Headquarters about the developments periodically. They liaise with State/UT Administrations for evaluation and assessment of the working of various development programmes and their impact on ameliorating the socio-economic condition of STs and also bring to the notice of the

concerned State Government for taking remedial measures. The Committee also note that NCST in their First Report (2004-05 and 2005-06) had recommended for upgradation of four regional offices, augmentation of the existing strength of supporting staff in six regional offices and creation of four more regional offices. The Committee do not agree with the reply of the Ministry that a formal proposal in this regard has not been submitted to them by the NCST. The Committee feel that instead of waiting for a formal proposal from the NCST for so long, the Ministry of Tribal Affairs should have taken the initiative after receiving the recommendation of the NCST. The Committee view that NCST has made a legitimate and genuine demand for upgradation and augmentation of its regional offices since the existing regional offices would not be in a position to handle the needs and problems of ST population spread all over the country in almost all the States/UTs. It would be naïve to think that merely setting up of a separate Commission without sufficient number of regional offices and staff is good enough to achieve the objective for which it has been constituted. The Committee, therefore, recommend that the Government should set up more regional offices according to the present need, upgrade the four regional offices and augment the existing staff strength of NCST accordingly on a priority basis. However, the Committee feel that to some extent it was also a lapse on the part of the Secretarial staff of the Commission who were supposed to send a formal proposal to the Ministry on a priority basis as it was an urgent need of the Commission.

Action Taken Reply of the Government

1.22 The Ministry acted independent of any proposal from National Commission for Scheduled Tribes, the possibility of addressing inadequately the need of that organization would have arisen. Therefore, a proposal from NCST focusing all the basic requirements, ground reality and problems in the regional offices along-with further details to strengthen the Commission is necessary for examination and further action for implementation of the recommendation. Accordingly, the National Commission for Scheduled Tribes has been again

requested on 18th February, .2009 to submit a detailed proposal so that the recommendations of the Hon'ble Committee can be followed up for implementation.

1.23 Having noted that the NCST had not submitted the detailed proposal, the NCST were asked about the reasons as to why no formal proposal has been sent to the Ministry by them in regard to strengthening of the Commission. The Ministry of Tribal Affairs were also asked about the nature of action taken by them on recommendations contained in the First Report of NCST (2004-05 and 2005-06) with regard to upgradation of 4 regional offices, creation of more regional offices and augmentation of existing staff after the presentation of the Report to the President on 8th August, 2006.

Post Evidence Reply

1.24 The Ministry of Tribal Affairs in their post evidence replies have stated that the formal proposal of the National Commission for Scheduled Tribes regarding augmentation of staff, upgradation of four regional offices and creation of additional regional offices dated 21st October, .2009 has been received. This is under examination.

Comments of the Committee

1.25 The Committee note that nothing has been mentioned about the action taken on the recommendations made on the 1st Report of NCST. The Committee, however, note that the Ministry of Tribal Affairs have received a proposal from the NCST regarding augmentation of staff, upgradation of four regional offices and creation of additional regional offices. More than a year has passed since the proposal was submitted by the NCST. The Committee, therefore, recommend that the action taken on the proposal should be made available to the Committee within six months of the presentation of this report.

**Autonomy for Organisational and Financial Management
Recommendation (Sl. No. 7, Para No. 1.27)**

1.26 The Committee note that NCST functions under the administrative control of the Ministry of Tribal Affairs and the proposals involving financial implications are required to be referred to the Integrated Finance Division of the Ministry through the concerned Administrative Branch of the Ministry of Tribal Affairs. The Committee also note that the Commission has been conferred the powers of a Ministry/Department of the Central Ministry as provided under the Delegation of Financial Power Rules, 1978 even though it has no say in creation of posts, re-appropriation of funds, purchase of vehicles and grant of permission to officers of the Commission to participate in seminars, conferences, etc. It is sad that the Commission, which has been given statutory status has to depend upon the Ministry for its day to day functioning. It has also to route its proposals on financial, administrative and legal matters through the Ministry. The Committee are surprised by the fact that although, Planning Commission had suggested that budget provisions for NCST should be shown under a separate Demand for Grants instead of being a part of the Demand for Grants of the Ministry of Tribal Affairs, the suggestion has not been agreed to by the Ministry of Finance. The Committee are distressed that even the status of statutory entity does not entitle NCST to have a separate entity. The Committee are of the firm opinion that when it was decided to create NCST, it was never envisaged that it would function as a part of the Ministry of Tribal Affairs. If it was so, there was no need to constitute the Commission as a statutory body and it could have continued to function as a non-statutory body as earlier. The NCST would not be able to work fearlessly and independently unless it is given independence in its day to day working by allowing it to decide on its own administrative, financial and legal matters. The Committee also fail to understand the logic as to why the Ministry of Finance have objected to the proposal of the Planning Commission for showing separate Demand for Grants for NCST.

Action Taken Reply of the Government

1.27 The National Commission for Scheduled Tribes and National Commission for Scheduled Castes have been carved out of the erstwhile National Commission for Scheduled Castes & Scheduled Tribes. Therefore, rules and procedures applicable to the existing National Commission for Scheduled Castes may also have to be kept in view while taking a decision in respect of National Commission for Scheduled Tribes. However, the observations of the Committee have been communicated to the Ministry of Finance (Department of Expenditure) vide this Ministry's letter dated 17th November, 2008.

Comments of the Committee

1.28 The Committee should be apprised of the action taken by the Ministry of Finance (Department of Expenditure) in response to Ministry of Tribal Affairs letter dated 17th November, 2008.

Autonomy for Organisational and Financial Management Recommendation (Sl. No. 8, Para No. 1.28)

1.29 After having considered all the facts, the Committee are of the strong view that only limited administrative and financial powers have been given to the NCST by making it a part of Ministry of Tribal Affairs. The Committee, therefore, recommend that full administrative and financial powers should be given to NCST so that it is not dependent on the administrative Ministry for every piece of proposal having financial implications. The Committee are of the view that NCST is an independent statutory body and it has every right to have a separate Budget Head to advance its Demand for Grants in a realistic manner. The Committee would like to be apprised of the reasons adduced by the Ministry of Finance for rejecting the proposal of the Planning Commission for separate Demand for Grants for NCST. Keeping in view the magnitude of the functions and duties assigned to NCST, the Committee also recommend that

a fresh proposal should be sent to Ministry of Finance for creating a separate Demand for Grants for NCST on the lines of other constitutional bodies such as Election Commission, Union Public Service Commission, etc. as it is essential for the independent functioning of the Commission. The Committee may also be apprised of the outcome within three months.

Action Taken Reply of the Government

1.30 It may also be mentioned that the National Commission for Scheduled Tribes has been set up under Article 338A of the Constitution of India. Clause (4) of Article 338A empowers the NCST to regulate its own procedure. Accordingly the Commission has framed its own Rules of Procedure notified on 17.9.2004. Powers and functions entrusted to the National Commission for Scheduled Tribes in Article 338A are the same as were given to the erstwhile National Commission for Scheduled Castes & Scheduled Tribes and also to the existing National Commission for Scheduled Castes. It is mentioned that a sizeable amount is allocated in favour of NCST on the basis of their own proposal as modified by the Ministry and such allocation is considered adequate.

1.31 The National Commission for Scheduled Tribes and National Commission for Scheduled Castes have been carved out of the erstwhile National Commission for Scheduled Castes & Scheduled Tribes. Therefore, rules and procedures applicable to the existing National Commission for Scheduled Castes may also have to be kept in view while taking a decision in respect of National Commission for Scheduled Tribes. Even so, the observations of the Committee have been sent to the Ministry of Finance (Department of Expenditure) vide this Ministry's letter dated 17th November, 2008.

1.32 Having noted that their replies did not contain the reasons adduced by the Ministry of Finance for rejecting the proposal of the Planning Commission for separate Demands for Grants for NCST, the Committee asked the Ministry of Tribal Affairs to state as to why the same has not been furnished to the Committee and further asked whether the Ministry of Tribal

Affairs sent another fresh proposal for separate Demands for Grants for NCST to the Ministry of Finance.

Post Evidence Reply

1.33 In their post evidence replies, the Ministry of Tribal Affairs have stated that the recommendations of the Committee was considered and taken up with the Ministry of Finance by that Ministry. In this connection, the Ministry of Finance replied that the matter had already been examined by them on a reference from Secretary, National Commission for Scheduled Castes and a clarification was given to the Commission. The clarification from the Ministry of Finance vide their D.O. letter No. 8(10)-B (D)/2006 dated 15th January, .2007 from Shri Sanjiv Misra, Secretary, Department of Expenditure addressed to Shri S.K. Sood, Secretary, National Commission for Scheduled Caste is as under:-

- (i) "At present, separate budget heads of account exist in the Demand for Grants of the Ministry of Social Justice & Empowerment with the nomenclature "National Commission for Scheduled Castes" under which non-plan expenditure provisions of the commission are made. In view of Planning Commission's decision to provide plan funds for the national Commission for Scheduled Castes (NCSC), there would be no problem in operating the existing heads of account for reflecting such provisions in the budget without the need for having a separate Demand for Grant. In fact, in terms of rule 47 (2) of the General Financial Rules, 2005, one Demand for Grant is presented in respect of each Ministry/Department, except in the case of large Ministries or Departments where more than one demand is presented, which reflect provisions for a particular service of the Government as in the case of Transfers to State and Union Territory Governments, Police, Cabinet, Public Works, Pensions and Interest payments. The expenditure on National Commission for Scheduled Castes, being reflected in the Demand for Grants of the Ministry of Social Justice & Empowerment is on par with the expenditure

provision of Finance Commission which forms part of the Demand for Grants of the Ministry of Finance, or the expenditure provision of Human Rights Commission which forms part of the Demand for Grant of Ministry of Home Affairs.

- (ii) As regards the request for treating expenditure being incurred on the NCSC as “charged” expenditure, on par with UPSC, I would like to inform, that while the expenditure of UPSC is charged to the Consolidated Fund of India in terms of Article 322 of the Constitution of India, the terms of Article 338 of the Constitution, under which NCSC has been set up, does not provide for similar treatment of the expenditure on NCSC”.

In view of the clarification furnished by the Ministry of Finance no fresh proposal was sent to the Ministry of Finance.

Comments of the Committee

1.34 The Committee have noted that the Ministry of Tribal Affairs did not send fresh proposal for creating separate Demand for Grants for NCST on the line of other Constitutional bodies such as Election Commission, Union Public Service Commission etc. in view of the clarification given by the Ministry of Finance in a similar proposal earlier made by the NCSC. It has been stated that in the case of NCSC, separate budget head of accounts exist in the Demand for Grants of the Ministry of Social Justice & Empowerment with the nomenclature “National Commission for Scheduled Castes” under which non-plan expenditure provisions of the Commission are made. It further clarified that there would be no problem in operating the existing heads of accounts for reflecting such provisions in the budget without the need of having separate Demand for Grant. In regard to the request for treating expenditure being incurred on the NCSC as “charged” expenditure, on par with UPSC, the Ministry of Finance clarified that while the expenditure of UPSC is charged to the Consolidated Fund of India in terms of Article

322 of the Constitution of India, the terms of Article 338 of the Constitution, under which NCSC has been set up, does not provide for similar treatment of the expenditure on NCSC. The Committee opine that after this clarification made by the Ministry of Finance, it is amply clear that if the Ministry of Tribal Affairs so desire that expenditure incurred on NCST be treated as “charged” expenditure on par with UPSC whose expenditure is charged to Consolidated Fund of India in terms of Article 322 of the Constitution of India, then the only way to do it, is to move for amendment of Article 338 of the Constitution. The Committee, therefore, recommend that Ministry of Tribal Affairs being the nodal Ministry for NCST should in consultation with Ministry of Social Justice and Empowerment has to work out a proposal to amend Article 338 of the Constitution for complete financial and administrative autonomy for both the NCST and NCSC.

1.35 The Committee also note that in spite of important role and powers given to NCST by the Constitution, all proposals made by it relating to finance, administrative and legal matters have to be routed through the Ministry of Tribal Affairs. The NCST functions under the administrative control of the Ministry of Tribal Affairs and therefore, the proposals involving financial implications over and above the power given to the Head of the Department are required to be referred to the Integrated Finance Division of the Ministry of Tribal Affairs through the concerned administrative branch in the Ministry of Tribal Affairs. The Committee further note that one of the main contentions of the Commission regarding finance is that though there is separate availability of funds, lack of independent financial authority for usage is also a constraint and the Commission is obliged to follow rules, procedures and obligations prescribed for Government authorities flowing from other Articles of the Constitution. The Committee view these practical difficulties faced by the Commission are due to too much dependence on the Ministry of Tribal Affairs. As a result, it completely offsets the spirit of Article 338A,

which envisages the NCST as independent body capable of giving advice and directions to the Government and responsible only to the President. The Committee feel that though the NCST is a constitutional body drawing powers from the Constitution and meant to perform as an independent watchdog and to function for the overall interests and welfare of Scheduled Tribes, it however, cannot enjoy full autonomy so long as finance, infrastructure, logistics etc. which is pre-requisite for an independent role and functioning of the Commission are controlled by the Ministry of Tribal Affairs. The Committee strongly opine that if the proposal for separate Demand for Grant for NCST is not feasible, the Commission should be given autonomy on their financial and administrative matters so that it is able to work independently and effectively. The Committee, therefore, recommend that more autonomy should be given to the NCST to avoid further dependence on the nodal Ministry for day to day administrative and financial matters.

**Appointment of Staff
Recommendation (Sl. No. 9, Para No. 1.37)**

1.36 The Committee note with concern that the procedure for appointment and regulation of staff of the Secretariat of NCST is quite complicated. The Committee note that some secretarial staff at the headquarters of NCST belongs to CSS, CSSS and CSCS cadre and as such, staff of this cadre are provided by the DOP&T through the Ministry of Social Justice & Empowerment. In case of Group 'A' posts namely, Director, Deputy Director and Assistant Director, which are joint cadre posts, the Ministry of Social Justice & Empowerment being the cadre controlling authority, provide the staff for these posts, whereas the staff for the posts of Research Officer, Senior Investigator and Investigator are provided by the National Commission for Scheduled Castes being the cadre controlling authority for such posts. The Committee also note that the National Commission for Scheduled Castes is the cadre

controlling authority for appointment and provision for secretarial staff of regional offices of NCST. The Committee, however note that only Group 'D' staff and some of the Group 'C' posts are appointed by the National Commission for Scheduled Tribes itself. It has also been stated that a few isolated posts have been created by Ministry of Tribal Affairs which do not belong to any organised cadre. The Committee are distressed by the multiplicity of cadre controlling authorities and for delay in filling up of vacancies that have existed since 1.12.2004. Even for posts created by NCST, Recruitment Rules are being processed. The Committee wonder as to when all the sanctioned vacant posts will be filled up.

Action Taken Reply of the Government

1.37 The Cadres of National Commission for Scheduled Tribes are controlled by Department of Personnel and Training (DOP&T), Ministry of Social Justice & Empowerment and National Commission for Scheduled Castes. Since this Ministry does not control any cadre of the Commission, the vacancies cannot be filled up by this Ministry. However, to take up the matter with the various cadre controlling authorities for filling up vacancies expeditiously, this Ministry has requested the National Commission for Scheduled Tribes to provide details of earlier correspondence from them in this regard. It is submitted that this Ministry examines the proposals from National Commission for Scheduled Tribes, recommend to/consult with various agencies like Department of Personnel & Training, Union Public Service Commission, Ministry of Law and Justice and Ministry of Finance as applicable for finalizing the Recruitment Rules regularly for those posts where National Commission for Scheduled Tribes is the cadre controlling authority so that the latter may fill up the vacancies duly following the procedure. Accordingly Recruitment Rules (RRs) for 2 posts (Accountant-1, Assistant Director-1) have already been finalized and further action is to be taken by the National Commission for Scheduled Tribes. The Recruitment Rules (RR) of Law officer is at the final stage and RRs of

Librarian/Document Assistant is also under finalization, UPSC has asked for issue of fresh guidelines by Department of Personnel & Training for the subject post.

1.38 The observation of the Committee had been sent to the Department of Personnel & Training; and the Ministry of Social Justice & Empowerment for compliance vide this Ministry's letter dated 17/11/2008.

1.39 Having noted that the NCST was requested by the Ministry to provide the details of earlier correspondence in regard to filling up vacancies as also that the observation made by the Committee were sent to DOP&T and the Ministry of Social Justice, the Committee desired to know the latest position.

Post Evidence Reply

1.40 In their post evidence replies, the Ministry of Tribal Affairs have stated that the details of the correspondence exchanged by NCST with the Ministry of Social Justice & Empowerment; National Commission for Scheduled Castes; Department of Personnel & Training; and Ministry of Home Affairs for filling up of various vacant posts under NCST were furnished by the NCST on 19th November, 2009.

1.41 The Department of Personnel & Training, CS.I(P) Division asked the Ministry of Tribal Affairs on 7th December, 2009 to provide full context and background of recommendation contained in para 4 (I) on "Appointment of Staff" to them to enable proper examination of the same. They further informed that CS Division shall come into the picture only when there is requirement of deployment of staff from CSS/CSSS/CSCS is involved. As such it was requested to confirm whether the "Appointment of Staff" as referred to relates to filling up of vacancies from CSS/CSSS/CSCS or some other service."

1.42 It was further stated that a D.O. No. 11018/1/2009-Estt. Dated 27th October, 2009 had been written to DOP&T for having a separate cadre for all CSS/CSSS/CSCS posts for this Ministry including NCST. Another D.O. No. 11018/1/2009-Estt. Dated 7th December, 2009

requesting the Ministry of SJ&E to give No Objection to the proposal has also been issued. Further action will be initiated on receipt of reply.

Comments of the Committee

1.43 The Committee note that the Ministry of Tribal Affairs have written a d.o. letter dated 27th October, 2009 to the DoP&T for having a separate cadre for all CSS/CSSS/CSCS posts for the Ministry including NCST. The Committee also note that the Ministry have also written to the Ministry of Social Justice and Empowerment on 7th December, .2009 requesting them to give no objection to the proposal they had made to the DoP&T. The Committee should be apprised of the latest position in this regard.

Submission of Reports Recommendation (Sl. No. 11, Para No. 2.6)

1.44 The Committee note that the erstwhile National Commission for Scheduled Castes and Scheduled Tribes, which was set up on 12th March, 1992 and ceased to exist on 19th February, 2004, had submitted seven regular and three special reports to the President during the period of about 12 years. The Committee note that the NCST which came into existence on 19th February, 2004 has submitted its first report (2004-05 and 2005-06) to the President of India on 8th August, 2006. The Committee, further note that the report is required to be laid in Parliament as provided in clause 6 of Article 338A of the Constitution which states that the President shall cause all such reports to be laid before each House of the Parliament alongwith Memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for non-acceptance. The Committee note that the first report of NCST has not been laid before each House of the Parliament as yet as the Ministry of Tribal Affairs, after examining the report presented to the President, had to circulate the same to obtain comments/views on the recommendations contained in the report as well as ATR for

further necessary action in the matter from various States/UTs as well as the Central Ministries/Departments. As per provision of clause 7 of Article 338A of the Constitution, the reports relating to the State Governments are forwarded to the Governor of the States for similar action to be taken at State level. The Committee are dismayed to note that considerable time has been taken by the Ministry to circulate the report and the reason adduced by them for such a delay is that the report was bulky covering a period of two years and containing 9 chapters and so on. In this era of rapid information technology the reasoning is not at all convincing. The Committee are concerned that in the absence of a time limit fixed for the submission of reports by the Government to the Parliament after it has been presented to the President, the Ministry cannot act and persuade the other Ministries/ Departments to expedite views/opinion alongwith memoranda of action taken on the recommendations on the report or otherwise. The Committee are of the view that unless timely action is taken on the recommendations made in the report, the purpose for which the recommendations were made may lose their relevance. The Committee, therefore, strongly feel that the NCST not only submit its report annually but the Ministry should also take timely action to get the reports presented in the Parliament so that problems of the STs are taken care of assiduously. The Committee, therefore, concur with the views expressed by NCST in their first report for fixing a time limit for submission of report to Parliament by making necessary amendment in clause (6) and (7) of Article 338A of the Constitution. The Committee, therefore, strongly recommend that necessary amendment in the clause (6) and (7) of Article 338A of the Constitution may be made so that target to lay reports of NCST within a prescribed time limit in the Parliament is fixed and adhered to.

Action Taken Reply of the Government

1.45 The recommendation of the Committee regarding final action to get the reports of NCST presented in the Parliament has been noted for compliance. However, as per

Constitutional provision and mandate, the National Commission for Scheduled Tribes is parallel with the National Commission for Scheduled Castes. There is, therefore, no proposal of this Ministry to amend Clause (6) & (7) of the Article 338A in isolation for the National Commission for Scheduled Tribe only.

1.46 Not satisfied with the reply, the Ministry of Tribal Affairs were asked to further state the action taken to lay First Report of NCST (2004-05 and 2005-06) in the Parliament and the reasons for not consulting the Ministry of Social Justice and Empowerment to initiate action to amend the relevant clauses of Article 338A of the Constitution.

Post Evidence Reply

1.47 In their post evidence replies, the Ministry of Tribal Affairs have informed the Committee that the recommendations of the National Commission for Scheduled Tribes have been circulated among concerned Central Ministries/Departments. The last reply/comment awaited from the Department of Personnel & Training has now been received on 25th November, 2009. The action is being initiated to compile the inputs received from various Ministries/Departments and to prepare a consolidated Action Taken Report of this Ministry for it's laying before the Parliament.

1.48 So far as the amendment in Clause 6 of Article 338A of the Constitution concerns, it is mentioned that powers and functions entrusted to the National Commission for Scheduled Tribes in Article 338A are the same as were given to the erstwhile National Commission for Scheduled Castes & Scheduled Tribes and also to the existing National Commission for Scheduled Castes. As per Constitutional provision and mandate, the National Commission for Scheduled Tribes is parallel with the National Commission for Scheduled Castes. However, Ministry of Social Justice & Empowerment vide this Ministry's letter dated 23rd November, 2009 has been requested to furnish their specific comments on this point since it is only logical that the procedure relating to laying of Reports of National Commission for Scheduled Tribes

should be similar to the procedure followed in National Commission for Scheduled Castes. Their reply is awaited.

Comments of the Committee

1.49 The Committee note that after receipt of last reply/comment from the Department of Personnel & Training on 25th November, 2009, action has been initiated to prepare consolidated Action Taken Report by the Ministry of Tribal Affairs for laying it before the Parliament. The Committee are disturbed to note that the Ministry of Tribal Affairs have been taking a very long time in consolidating the inputs received from various Ministries/Departments. In laying of reports NCSC was also not regular. As such the Committee have no reservation in recommending amendment of clauses 6 & 7 of Article 338 and 338A of the Constitution for timely laying of reports of both NCST and NCSC. The Committee, therefore, reiterate their earlier recommendation as also stress for laying of all NCST reports which are long overdue for laying in the Parliament.

Nature and effect of Recommendations of NCST Recommendation (Sl. No. 12, Para No. 2.11)

1.50 The Committee note that the National Commission for Scheduled Tribes has been vested with the duty to *inter alia* investigate all matters relating to the safeguards provided to STs and to enquire into specific complaints with respect to the deprivation of rights and safeguards of the STs. The Committee further note that while investigating such matters, or making inquiry in specific complaints, powers of a civil court, trying a suit, have been given to NCST under clause (8) of the Article 338A of the Constitution. The Committee, however, note that the role of NCST as a civil court is limited to that of summoning and enforcing attendance of any person including examination of witnesses and documents and has no judicial power as other civil courts. The limited role of NCST as civil court has also been observed by the Apex

Court of India in the case of All India Overseas Bank SC and ST Employees Welfare Association and others Vs. Union of India & others that the powers of a civil court for granting injunctions temporary or permanent do not inhere in the Commission nor can such a power be inferred or derived from a reading of clause (8) of Article 338A of the Constitution. The Committee also note that the recommendations of NCST are of advisory in nature, which are sent to the Government for appropriate action. In such a situation, the Committee are of the view that the Commission has been placed in a peculiar position as on the one hand the Commission has been given powers to investigate matters as a civil court but on the other hand its recommendations are treated as advisory in nature. The Committee feel that if the recommendations are advisory and not mandatory and acceptance of the same depends on the sole discretion of the concerned organisation/the Central Government or the State Governments then the very purpose for the existence of a Constitutional body becomes meaningless. The Committee feel that NCST has not been treated as a separate entity but has been made to function as an appendage of the Ministry of Tribal Affairs. The Committee, therefore, recommend that the Constitution should be amended in such a manner that recommendations of the NCST may be taken by concerned authorities as mandatory and it functions with greater judicial powers on the lines of the powers of a civil court so that it is empowered to act as an effective and independent organisation.

Action Taken Reply of the Government

1.51 The Commission has been set up as an advisory body. However, the recommendations of the National Commission for Scheduled Tribes are earnestly considered by the Government of taking appropriate action. There is no proposal to amend the existing status of the National Commission for Scheduled Tribes.

1.52 Not satisfied with the above reply of the Government, the Committee asked the Ministry of Tribal Affairs to suggest in what manner the recommendations of the NCST can become effective if they do not want to amend the Constitution.

Post Evidence Reply

1.53 In the post evidence reply, the Ministry have stated that the Commission has been set up as an advisory body like other Statutory or non-Statutory Commissions and its recommendations are earnestly considered by the Government for taking appropriate action. Since recommendations of the Commission are advisory in nature and it is for the concerned organization/ the Central Govt. or the State Govt. to accept or not to accept the Commission's recommendations. It has, however, been noticed that as the recommendations of the Commission with respect to individual cases/ petitions are based on certain specific instructions of the Govt., they are generally accepted by the Central/ State organizations to whom they pertain. Even the, Hon'ble Supreme Court of India in their judgment dated 31.10.1996 in All India Overseas Banks SC & ST Employees Welfare Association and others V/s Union of India & Others have, *inter-alia*, observed that "all the procedural powers of a Civil Court given to the National Commission for Scheduled Castes and Scheduled Tribes by Article 338(8) of the Constitution of India are for the limited purpose of investigating any matter under Article 338(5)(a) or inquiring into any complaint under Article 338(5)(b). The powers of a Civil Court of granting injunctions temporary or permanent do not inhere in the Commission nor can such a power be inferred or derived from a reading of clause (8) of Article 338 of the Constitution. The Commission having not been specifically granted any power to issue interim injunctions lacks the authority to issue any order to stay any proceeding. Since the intension of Government has been as stated, beyond this, Ministry has no further comments.

Comments of the Committee

1.54 The Committee having been informed that there is no proposal of the Ministry of Tribal Affairs to amend the existing status of the NCST, asked them to suggest in what manner the recommendations of the NCST can be made effective if they do not want to amend the Constitution. However, the Government in their action taken reply have reiterated the observation made by the Supreme Court of India in their judgement dated 31st October, 1996 in All India Overseas Banks SC & ST Employees Welfare Association and others V/s Union of India & others. The Committee lament that this observation was noted by the Supreme Court way back on 31st October, 1996 whereas Constitution was amended for setting up separate NCSC and NCST vide Constitution (Eighty-ninth Amendment Act) 2003. The Committee wonder as to why this very aspect of mandatory recommendation was not considered essential in view of the observation made by the Supreme Court on its limited power as Civil Court. Now when the Committee are showing the lacuna, the Ministry instead of suggesting any workable solution show their helplessness by quoting the same observation of Supreme Court in their judgement delivered on 31st October, 1996 about the limited power inherent in the Commission. It appears from the reply of the Ministry that the Government have intentionally restrained the power of the Commission as an advisory body so that it remains the Constitutional body in name only, whose recommendations are subjected to consideration or rejection by the Government. The Committee are of the view that if the Government are really serious about the economic, socio development of Scheduled Tribes, they should show their political will by empowering the Commission with the mandatory power otherwise, its existence as a Constitutional body is meaningless and the need to have such a Commission is unfounded. The need to make the recommendations of the Commission mandatory and binding to all concerned

is therefore essential as it helps in strengthening the NCST. The present limitation imposed on its role as advisory body has deprived it of its watchdog role to safeguard the interests of Scheduled Tribes fully. The Committee feel that the Commission is financially and judicially empowered only through amendment of Article 338A of the Constitution of India. The Committee, therefore, reiterate their earlier recommendation and accordingly urge the Ministry to take necessary steps to initiate amendment of the Constitution.

**Monitoring and Evaluation system
Recommendation (Sl. No. 14, Para No. 3.7)**

1.55 The Committee also note that the Commission holds review meetings with various organisations of the Central Government and with State Governments to monitor and evaluate the working of safeguards provided to STs. Before holding such review meetings, the Commission collects detailed data relating to various aspects of tribal development through questionnaire. The Commission also obtains data on the representation of STs in services/posts in Central Ministries/Departments, Public Sectors, Banks, Insurance Companies, Financial Institutions and Central Universities and based on this data, the Commission advises these organisations to take corrective steps. The Committee has been informed that the Commission has generally observed a very encouraging response of the authorities/organisations for taking such necessary corrective steps. The Committee would like to know the facts on the basis of which the Commission has arrived at such a conclusion.

Action Taken Reply of the Government

1.56 The recommendation has been sent to the National Commission for Scheduled Tribes vide this Ministry's letter dated 17/11/2008 and 10/02/2009. Commission is yet to give its response.

Comments of the Committee

1.57 The Committee had desired to know the facts on the basis of which the Commission had observed encouraging response of the authorities/organizations for taking necessary corrective steps in regard to monitoring and evaluation of working of safeguards provided to STs. The Committee should be provided with the information as desired by them in their recommendation.

Study on Performance of NCST Recommendation (Sl. No. 15, Para No. 3.11)

1.58 The Committee note that the Ministry of Personnel, Public Grievances and Pensions (Department of Administrative Reforms and Public Grievances) has commissioned a study on NCST by Centre for Policy Research, New Delhi on 29.12.2005. The Committee also note that the terms of the reference of such study have many aspects for the Centre to examine. The Committee also observe that the study had been commissioned within 2 years of the constitution of the Commission and hope that while evaluating the performance of the Commission, the initial teething problems, particularly with regard to its basic need i.e. staff are taken into account. The Committee recommend that the Centre for Policy Research, New Delhi which has already taken more than 2 years for this study should be advised to complete its study expeditiously so that corrective measures can be taken to enhance the service and service delivery system. The Committee may be furnished with a copy of the study report alongwith action taken report of the Government in this regard.

Action Taken Reply of the Government

1.59 The Study Report has since been received and a copy of the Study Report is enclosed as Annexure-I. Comments of the National Commission for Scheduled Tribes and this Ministry on this Report are being sent to the Department of Personnel & Training for further action.

Comments of the Committee

1.60 The Committee note that the Centre for Policy Research has since submitted its report. In their study report, the Committee note that the Centre has given some concrete recommendations in regard to NCST, some of which had also been observed and recommended by this Committee. While recommending for early submission of study report by the Centre, the Committee had also desired that action taken report by the Government on the report should be furnished to them. The Committee, however, note that comments of NCST and the Ministry of Tribal Affairs are being sent to the Department of Personnel and Training. The Committee desire that time bound expeditious action should be taken in this regard by all concerned and action taken report submitted to this Committee within six months from the presentation of this Report to the Parliament.

Publicity about working of NCST Recommendation (Sl. No. 16, Para No. 4.4)

1.61 The Committee note that NCST through publication and free distribution of booklets, pamphlets etc. disseminates information on objectives, functions and procedure of its working for creating awareness among STs. The Committee further note that the information/material about Commission has been prepared in English as well as in Hindi and on the direction of the Headquarters, some Regional Offices have got the pamphlet translated into the regional language of the State in which they are located for distribution among the local tribal population of the State. The Committee also note that other regional offices have also been advised to get the pamphlets translated into regional languages of other States falling within their jurisdiction. The Committee are, however, aware that there are many tribal people living in remote areas who cannot read or write and are still in dark about their rights and the safeguards available to them. The Committee would, therefore, recommend that NCST should

send teams to remote tribal areas not only to monitor and evaluate the working of safeguard physically but also to create an increased level of awareness among STs. The Committee would also like all regional offices to make every effort to see that all tribals living in their regions are aware that NCST is the custodian of their rights and could be approached for safeguarding their rights and interests. The Committee also recommend that working of NCST should also be publicised through Doordarshan and All India Radio.

Action Taken Reply of the Government

1.62 The recommendation has been sent to the National Commission for Scheduled Tribes vide this Ministry's letter dated 17th November, 2008 for compliance. No further comments are required.

Comments of the Committee

1.63 The Committee note that their recommendations have been forwarded to NCST for compliance. The Committee should be apprised of the action taken by NCST to implement their recommendations.

Role of NGOs working in Tribal Areas Recommendation (Sl. No. 17, Para No. 4.9)

1.64 The Committee note that funds are being provided by the Ministry of Tribal Affairs to Non-Governmental Organisations (NGOs)/Voluntary Organisations working for the welfare of STs under different schemes including providing coaching, running educational complex in low literacy pockets for development of women literacy in tribal areas, vocational training centre and development of Primitive Tribal Groups. In this connection, details of funds released to various NGOs in different States during the years 2004-05, 2005-06 and 2006-07 have been provided. While going through the list of NGOs which have been granted aid, the Committee observe that there are certain NGOs having addresses in Delhi but which have been given grants for different purposes for working in different States. When asked whether the

credibility of NGOs is verified, before releasing fund, the Committee have been informed that the procedure for release of grants-in-aid to NGOs has been decentralized since the year 2005-06. There is a multi-disciplinary State Level Committee in each State which scrutinises and recommends the most essential projects in service deficient tribal areas in order of priority. The proposals are recommended by the State Committees of the State Government and that the Ministry then considers only such recommended proposals on merits and funds are released to the NGOs only on receipt of satisfactory inspection reports from District Collector/Deputy Commissioner and audited accounts. The Committee desire that utmost care should be taken to choose only those NGOs which are genuinely working for the welfare of tribal people. The Committee recommend that NCST should also examine whether the fund granted to NGOs during the last 3 years have actually been incurred for the purpose for which it had been granted and whether it has resulted in improvement in the lives of tribal people.

Action Taken Reply of the Government

1.65 The observations of the Committee regarding utmost care to be taken so as to choose only genuine Non-Government Organizatons have been noted. The National Commission for Scheduled Tribes has also been forwarded the observation of the Committee regarding examination as to whether the fund granted to the NGOs during last three years have actually been incurred for the purpose for which it had been granted and whether it has resulted in improvement in the lives of tribal people, for compliance vide this Ministry's letter dated 17th November, 2008.

1.66 During evidence, the Secretary, Ministry of Tribal Affairs explained about selection of NGOs:-

“...so when the State Governments recommend a project or an NGO, most often we take their recommendation to be correct. Their recommendation comes with the collector's report; their recommendation comes with the audit report. If the funds are available, then we say 'yes' and if we have been funding them earlier then we keep on funding. The point is that we have to also monitor. Earlier, we

have been monitoring by getting feedback from the State Governments. Then we started monitoring by having periodic evaluation by say Tata Institute of Social Sciences etc. Most often, that feedback on the random inspection is positive; that is why we are allowed to continue the scheme; otherwise the Finance Ministry will discontinue the project. There are cases where things are not happening well. The NCST is very conscious that out of many things which are happening, they will be able to identify a few items and investigate and give their report so that those items have a greater impact when implemented. Even today, as per their statistics, it is seen that a large portion of their time is taken away by service matters. So, we would like to change that so that they can go into something which is more substantial”.

Post Evidence Reply

1.67 Having noted that the observation of the Committee was forwarded to NCST, the Ministry were asked to state the action that has been taken by the NCST in this regard. In the post evidence replies, the Ministry have stated that the National Commission for Scheduled Tribes informed that the Headquarter Office as well as Regional Offices of National Commission for Scheduled Tribes are, at present, poorly equipped to examine whether the funds granted to NGOs have actually been incurred for the purpose for which it had been granted and whether it has resulted in improvement in the lives of tribal people. The job requires the services of Programme Monitors or Quality Supervisors.

In regard to action taken by the Ministry of Tribal Affairs it has been stated that they have already initiated the process for appointing the agencies for carrying out monitoring and evaluation of working of NGOs funded by this Ministry under its various schemes.

Comments of the Committee

1.68 The Committee note that the Ministry of Tribal Affairs have already initiated the process for appointing the agencies for carrying out monitoring and evaluation of working of NGOs funded by the Ministry under its various schemes. The Committee recommend that the Ministry should ensure that the agencies selected to carry out monitoring and evaluation of working of NGOs do it in a very transparent manner without any outside influence or interference by the Ministry. The Committee urge the

Ministry of Tribal Affairs that these reports, findings, assessment made by these agencies should be considered as a guide for furthering the interest and welfare of Scheduled Tribes. The Committee are dismayed by the fact that Headquarter Office as well as Regional Offices of NCST are poorly equipped to monitor funds granted to NGOs and resultant improvement in the lives of tribal people. The Committee urge the Ministry of Tribal Affairs to expedite upgradation of regional offices of NCST and to equip them with adequate staff both at Headquarters and regional offices so that they can carry out their jobs more effectively and also monitor the funds granted to NGOs have actually been incurred for the purpose of improvement of lives of STs. The list of agencies finalized for monitoring and evaluation by the Ministry of Tribal Affairs should also be made available to the Committee and also put on their website for information.

**Displacement and Rehabilitation of Tribals
Recommendation (Sl. No. 19, Para No. 4.17)**

1.69 The Committee are concerned that a number of tribals migrate from their villages in search of employment. The Committee recommend that the Ministry of Tribal Affairs should take up this matter with the concerned authorities to ensure that tribals who migrate to work elsewhere for a limited period of time in a year, should be covered under Rural Employment Guarantee Scheme, so that the migrant tribals do not have to leave their homes for seeking employment elsewhere. The Committee also recommend that the Ministry of Tribal Affairs should also take up the matter with the concerned authorities for provision of residential schools for children of migrant tribals who leave their villages for employment.

Action Taken Reply of the Government

1.70 The recommendation of the Committee has been forwarded to the Ministry of Rural Development for compliance vide this Ministry's letter dated 17th November, 2008.

Post Evidence Reply

1.71 In the post evidence reply, the Committee have been informed that the Ministry of Rural Development (Department of Land Resources) vide their letter dated 3rd June, 2009 has informed that adequate provisions have been made for rehabilitation of Scheduled Tribes in the National Rehabilitation & Resettlement Policy, 2007.

Comments of the Committee

1.72 The Committee are not satisfied with the lackadaisical reply of the Ministry of Rural Development (Deptt. of Land Resources) that adequate provisions have been made for rehabilitation of Scheduled Tribes in the National Rehabilitation & Resettlement Policy 2007. The Committee had specifically desired that ST people who usually migrate for a limited period of time in a year from their villages should be provided jobs under Rural Employment Guarantee Scheme. The Committee had also recommended that the Ministry should also take up the matter with the concerned authorities for provision of residential schools for children of migrant tribal workers. But nothing has been stated about it. The Committee, therefore, urge the Ministry of Tribal Affairs to specify the tangible action done by the Ministry of Rural Development for the proposed to be taken for migrant tribal workers in view of the provisions made in the National Rehabilitation and Resettlement Policy, 2007.

Displacement and Rehabilitation of Tribals Recommendation (Sl. No. 20, Para No. 4.18)

1.73 The Committee observe that a Working Group on "Migration of Tribal Girls" was constituted on 25.7.2006 under the Chairmanship of Secretary (TA) with the objective to assess the magnitude of migration of tribal girls, its possible causes and consequences and measures to check migration. The Committee would like to know whether the report by the working Group has been completed and presented to the Ministry. The Committee strongly

recommend that proactive action should be taken expeditiously so that young tribal girls who migrate to cities are not exploited for want of proper shelter and opportunity.

Action Taken Reply of the Government

1.74 Based on the recommendation of the Working Group in its Second Meeting, a study covering the States of Jharkhand, Chhattisgarh, Orissa and Delhi has been entrusted to the V.V.Giri National Labour Research Institute, Noida (U.P.). The study is required to be completed in a stipulated time period.

Post Evidence Reply

1.75 When subsequently asked whether the report entrusted to V.V. Giri, National Labour Research Institute, NOIDA (UP) has since been submitted and to highlight the main thrust of the report and the action proposed to be taken in the light of the above study, it has been stated in the post evidence replies that the draft report on Migration of Female Domestic Workers to Delhi was submitted by V.V.Giri National Labour Research Institute, Noida (U.P.) on 19/08/2009. The report was examined in this Ministry and since it did not objectively assess the extent of migration, the report has been sent back to the Institute for carrying out necessary revision. The revised report is awaited.

Comments of the Committee

1.76 The Committee should be apprised as to why the report on Migration of Tribal Girls has been named Migration of Female Domestic Workers to Delhi. The Committee should also be apprised of the action taken by the Ministry on the revised report on Migration of Female Domestic Workers to Delhi submitted by V.V. Giri National Labour Research Institute, NOIDA (UP).

Allocation of Plan Funds
Recommendation (Sl. No. 22, Para No. 4.24)

1.77 The Committee note that the Planning Commission has issued guidelines for adoption of Tribal Sub Plan (TSP) strategy which inter-alia includes allocation of funds for schemes/programmes meant for STs atleast in proportion to their population. The Committee, however, note that the Ministry do not have any power to enforce these guidelines. The Committee also note that to encourage States to adopt TSP strategy, the Ministry provide incentive grants under Special Central Assistance (SCA) to TSP and innovative grants under Article 275(1) of the Constitution as per guidelines. The Committee are distressed by the fact that despite the guidelines issued by the Planning Commission, the Ministries of the Central Government and State Governments are not adhering to the guidelines. The Committee would like to know the names of defaulting Ministries and States. The Committee are also disturbed by the submission made during evidence that the budget allocation, which is to be made for the development of tribals at 8.2 percent, is actually a notional projection and this fact has been brought to the notice of the Planning Commission by the NCST and that they are seized of the matter. The Committee sincerely hope that the Government would give top priority to the matter and give clearance to the proposal to park 8.2 percent of budget amount at the disposal of the Ministry of Tribal Affairs for funding project based on tribal oriented schemes. The Committee recommend to the Planning Commission to ensure that just as States plans are not approved unless TSP/SCP are not provided in their plans, this principle should be applied in respect of the Central Ministries as well. The Committee are also concerned that there is lack of mechanism as mentioned by the Secretary, Ministry of Tribal Affairs to see that the amount allocated goes in the effective programme or not. The Committee, therefore, recommend that the Ministry should evolve an effective and credible system of mechanism regarding utilisation of funds under TSP. The Committee also

recommend that apart from the Ministry, NCST should also regularly monitor utilisation of funds under TSP.

Action Taken Reply of the Government

1.78 From the feedback obtained from the Central Ministries/ Departments, no Ministry is having a TSP approach as is envisaged in the guidelines laid down by Planning Commission. In a meeting held with Planning Commission on 24.11.2008 the approach to monitoring/ implementation of TSP has been further discussed. It has been decided that for time being the monitoring of TSP should be limited to States and earmarking of such funds by the Central Ministries shall be considered only at a later stage. Accordingly, the need for Central Government Ministries to park 8.2 per cent of the budget amount at the disposal of Ministry of Tribal Affairs need to be addressed subsequently.

1.79 Following are the States who have not been found to earmark sufficient funds in proportion to the ST population of the State during 2008-09:

S. No.	States
1	Assam
2	Chhattisgarh
3	Goa
4	Gujarat
5	Jammu & Kashmir
6	Jharkhand
7	Karnataka
8	Madhya Pradesh
9	Rajasthan
10	Sikkim
11	Uttar Pradesh

In addition, the recommendation has been sent to the Planning Commission and to the National Commission for Scheduled Tribes for follow up action vide this Ministry's letter dated 17th November, 2008.

1.80 During evidence, the Secretary, Ministry of Tribal Affairs explained about working of TSP and Planning Commission as under:-

“May I mention about the Tribal Sub-Plan and the Planning Commission? This is very important. We are keen on three things. One, in the Tribal Sub-Plan areas, the powers of the Fifth Schedule under the Constitution must be implemented and carried out. It lays down certain powers including the powers of the Governor. We would like that to be operated. That power includes nullifying the Parliamentary legislation by the Governor. Maybe, I am going beyond my brief. But this is important enough to mention because I would be relating it to the Tribal Sub-Plan.

The second power is that we are expecting every Ministry of Government of India, though it is not provided under any law as such, to give at least 8.2 per cent of their funds to the tribal areas. As per the 2001 census, 8.2 per cent Scheduled Tribes are there in our country. By this time now, it will be 10 per cent. So, we want every Ministry to give at least 8.2 per cent of their funds to the tribal areas. From where do we get our strength? We get our strength from the fact that under the Transaction of Business Rules, there is a provision which, very interestingly, says that the actual working for the tribals is to be done by the line Ministry. We are supposed to provide and play a kind of coordinating role. It is not our primary role. The main role is for the line Ministry. For example, if the Health Ministry is going to take up a project relating to setting up of Anganwadi centres, the tribals cannot be given the same yardstick. It has to be different. So, they have to think differently. But we are supposed to give them that information or give that input so that they prioritise things. For example, the PMGSY is there. How many villages are to be covered? Of course, the Ministry of Rural Development is doing that. It is regularly touched upon by us so that they do this for the tribals. So, we want 8.2 per cent of each Ministry’s fund to go into the tribal areas.

We want every State Government to have a Tribal Sub-Plan which has that percentage which is tribal in the respective States. So, in the case of Orissa, it was 22 per cent or more and it will be doing it. How do we do it? Aside from the recommendation of this Committee – the recommendation of the Committee is important – we have taken up with the Planning Commission saying that this has to be done because it is the one which can, probably, have the way of enforcing this because it can just say that the Annual Plan will not be approved if they do not do it. It has not happened. We had a meeting with them once or twice. Maybe, about a month or less than that, our Minister has written to the Deputy Chairman of the Planning Commission about the need for enforcing that before the Annual Plans are approved. So, we are trying to do this”.

He further stated:-

“...you have asked why the Planning Commission is not doing it. I will not be able to answer on behalf of the Planning Commission. Perhaps, they are now putting it

in one of their Reports which is called the Munger Committee Report which has not yet been discussed. The Planning Commission has to ensure this allocation. So, we are trying to see that whatever is the money which is in the Budget of the Ministry is treated as non-lapsable fund”.

1.81 During evidence when the Committee sought to know whether the Minister of Tribal Affairs wrote to all the State Governments about Tribal Sub Plan, the Secretary, Ministry of Tribal Affairs clarified that the Minister had written to the Planning Commission. When further enquired whether the Ministry can direct the State Governments or instruct them in this regard. The Committee also advised that the issue in regard to claim of 24 Departments of the Central Government that the funds are indivisible and they cannot show what is earmarked for Tribal Affairs or Scheduled Castes should also need to be addressed.

1.82 In reply, the Secretary, Ministry of Tribal Affairs stated:-

“...we thought that address the Planning Commission would be the best method because they are controlling the purse strings. So, in addition to that, we have also written to all the State Governments about their responsibility to ensure this, and if we think that our plan for the future materializes, then even when they are designing their Tribal Sub Plan, it should be possible for us to attend. But presently, it cannot be done with the present staff strength of our Ministry. We have just four or five officers. So, for us to go to every State and participate when they are designing the Plan, it is not possible. But if we are able to do that, we will do that.

The next part is that our Minister has also written to all the Central Ministries about their responsibilities to ensure this 8.2 per cent reservation and also to form a small unit in their Ministry for Tribal Affairs.

Our Economic Advisor is the one who is to coordinate with these units so that what we want to do can be done. But again, she is the only one officer in that entire office with one staff member for this entire work, and she has many other works. So, we are working in a way with our hands tied behind just as NCST. So, we will do that when we can”.

1.83 Having noted that the recommendations of the Committee were sent to Planning Commission for follow up action, it was enquired from the Ministry about the views received from the Planning Commission on the recommendation of the Committee and the action that

has been taken against the States which have not earmarked sufficient funds in the TSP/SCSP during the year 2008-09. It was also enquired about action taken by NCST on the recommendation of the Committee.

Post Evidence Reply

1.84 In their written replies, the Ministry of Tribal Affairs have stated that they wrote to the Planning Commission on 8th October, 2009 and the Planning Commission has been requesting all Central Government Ministries to allocate, at least, 8.2 percent of their Annual Plans for the welfare and development of Scheduled Tribes in our Country as per the 2001 census. Similarly, all the concerned Central Ministries have also been addressed on 8th October, 2009 at the level of the Hon'ble Minister of Tribal Affairs for taking action for implementation of TSP.

1.85 In respect of the implementation of TSP by States, a letter was sent in October 2009 to the Deputy Chairman, Planning Commission to ensure earmarking of funds under TSP at least in proportion to the tribal population of the State and issue necessary instructions, so that TSP strategy is implemented in all concerned States.

1.86 In regard to action taken by the National Commission for Scheduled Tribes it has been stated vide its letter dated 19th October, 2009 that the Commission fully endorses the recommendation of the Committee. In order to implement these recommendations, a non-lapsable pool of funds may be created under the MTA out of the un-spent TSP outlays of various Ministries (as for the North-East development) for up-gradation of administration and infrastructure in the Fifth Schedule Areas. As regards monitoring the utilization of the funds under TSP by the National Commission for Scheduled Tribes, monitoring would be undertaken as soon as requisite personnel are made available to the Commission.

Comments of the Committee

1.87 The Committee note with dismay that despite the fact that all the Central Ministries have been asked to allocate 8.2 % of their budget amount at the disposal of

the Ministry of Tribal Affairs for funding projects based on tribal oriented scheme, not a single Ministry is stated to have done so far. Moreover, the Committee are surprised that at the meeting held with Planning Commission on 24th November, 2008, it was inter alia decided that earmarking of such funds by the Central Ministries would be considered at a later stage. The Committee deplore the flip flop attitude of the Government in such an important matter and lament the half-hearted effort of the Planning Commission in enforcing their guidelines even by one Central Ministry. The Committee, however, observe that the Ministry have once again taken up the matter as is evident from the letter dated 24th October 2009 written at the level of Minister of Tribal affairs to the Central Ministries. The Committee feel that writing a letter by the Minister will also not bring the desired results unless the matter is pursued more vigorously. The Committee, therefore, urge the Ministry and Planning Commission to pursue the matter earnestly so that the guidelines issued by the Planning Commission for allocating 8.2 % of the budget allocation by all the Central Ministries at the disposal of the Ministry of Tribal Affairs becomes a reality.

1.88 The Committee further note that during 2008-09, 11 States had not earmarked sufficient funds for TSP in proportion to the ST population of those States. The Committee note that the Ministry of Tribal Affairs do not have power to enforce the guidelines of the Planning Commission in case the State Governments default. The Committee, therefore, urge the Planning Commission to persuade all the State Governments to adhere to their guidelines on earmarking of funds in proportion to ST population of States. In case of failure, the Committee recommend that the Planning Commission should not pass the annual plans of such State Governments. The Committee further recommend that the Ministry should take necessary steps to have sufficient personnel/manpower at their disposal as also for NCST so that monitoring the

utilization of funds allocated for TSP can be undertaken efficiently. The Committee also urge the Ministry to create non-lapsable pool of funds out of unspent TSP outlays of various Ministries as in the case of Department of North East Area, as suggested by the NCST.

**Loans to tribal people
Recommendation (Sl. No. 23, Para No. 4.27)**

1.89 The Committee observe that Banks do not lend money to tribal people even if they are prepared to mortgage their land and hence, they are unable to raise money for business purposes. The Committee also note that under the land laws/land revenue codes, the land belonging to STs in the scheduled areas/tribal areas is not transferable or alienable to a non-tribal without the permission of the District Collector or any other authority specified in these laws. Consequently, the papers produced by the tribal applicants in respect of land owned by them are not accepted by the Bank authorities for the purpose of mortgage as they cannot attach the land, in the event of default in repayment of amount. The Committee are pained to observe that this is a peculiar situation for which no concrete solution has been explored by the Government so far. The suggestion of the Ministry of Tribal Affairs that state level ST Development and Finance Corporations and the National Scheduled Tribes Finance and Development Corporation should be asked to play more active role in extending loan to tribal entrepreneurs may serve to limited extent. The Committee are of the view that the role as well as the extant of loan amount sanctioned by the State level ST Development and Finance Corporation is often not sufficient to meet the requirement of a borrower because of increased need of funds for business in present times. The Committee, therefore, recommend that to cope up with this problem, a proposal may be sent to the Ministry of Finance for examination so that they may be able to issue necessary guidelines to Banks/Financial Institutions to lend money to ST people.

Reply of the Government

1.90 The recommendation has been sent to the Ministry of Finance on 17th November, 2008 and to the Department of Banking vide this Ministry's letter dated 16th February, 2009.

Comments of the Committee

1.91 The Committee should be apprised of the action taken by the Ministry of Finance (Banking Division) in regard to implementation of their recommendation.

CHAPTER – II**RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT****Recommendation (Sl. No. 3, Para No. 1.14)**

2.1 The Committee note that at the time of evidence tendered before the Committee by the Secretary, Ministry of Tribal Affairs, the post of Chairperson, Vice Chairperson and Members of the Commission were vacant which have since been filled up and notified on 31.7.2008. The Committee take serious note of this attitude of the Government and are of the opinion that by keeping these posts vacant for quite some time, the Commission was made handicapped and its functioning paralysed. The Committee urge the Government not to take the matter relating to welfare of STs lightly and in a casual manner and recommend to complete the process of filling up these important posts well in advance in future so as to maintain continuity in discharge of the functions of the Commission as directed by the Constitution.

Action Taken Reply of the Government

2.2 The recommendation has been noted for compliance.

[Ministry of Tribal Affairs O.M.No.18012/12/2008-C&LM-I, dated 03.03.2009]

Recommendation (Sl. No. 5, Para No. 1.16)

2.3 The Committee also note that the NCST has all the powers and functions that were assigned to the National Commission for Scheduled Castes and Scheduled Tribes (NCSCST). Besides, NCST has been assigned with some additional functions as mentioned in para 1.10. The Committee also note that as per the decision of the Cabinet, DOP&T has entrusted a study to review the performance of NCST and to suggest the remedies necessary for improvement in its performance and that the report is awaited. Keeping in view the enormous functions that have been assigned to the NCST, the Committee are of the opinion that there is

a need for further strengthening the NCST and recommend that earnest and credible steps be taken by the Government to make NCST more strong and effective. The Committee also recommend that DOP&T should also be asked to submit its study report on performance of NCST immediately so that timely corrective action is taken.

Action Taken Reply of the Government

2.4 The Department of Personnel & Training has since sent the Study Report (copy placed below as Annexure-I).

2.5 Having noted that DOP&T had submitted the Study Report on performance of NCST, the Committee asked the Ministry of Tribal Affairs to state whether the recommendations contained in the Study Report were examined and fully accepted by the Ministry and the action that has been taken in this regard by the Ministry as also to mention as to what direction was given by DOP&T while finalising the Study Report since the study was undertaken as per the decision of the Cabinet.

Post Evidence Reply

2.6 In their post evidence replies, the Ministry of Tribal Affairs have stated that the Department of Personnel & Training while forwarding the study report on National Commission for Scheduled Tribes (which it got conducted at the behest of the Cabinet) only asked the Ministry of Tribal Affairs to furnish its comments to Department of Personnel & Training for being placed before the Cabinet. Accordingly, the contents of the study were examined and comments of both the National Commission for Scheduled Tribes as well as this Ministry sent to the Department of Personnel & Training. The Department of Personnel & Training is yet to intimate this Ministry about further directions, if any, of the Cabinet on this Study.

[Ministry of Tribal Affairs O.M.No.18012/12/2008-C&LM-I, dated 24.12.2009]

Comments of the Committee

2.7 Please see Para No. 1.20 of Chapter-I.

Recommendation (Sl. No. 13, Para No. 3.6)

2.8 The Committee note that it is the duty of the NCST to investigate and monitor all matters relating to the safeguards provided for STs under the Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards. The Committee note that as per the Rules of Procedure of the National Commission for Scheduled Tribes, the Commission may investigate or inquire into matters falling within its authority either directly or through an Investigating Team constituted at the Headquarters or through its State Offices. The Committee are happy that NCST has a sound investigating methodology in place. The Committee strongly recommend that there should not be any laxity in investigation relating to safeguards provided to STs.

Action Taken Reply of the Government

2.9 The observations of the Committee have been communicated to the National Commission for Scheduled Tribes vide this Ministry's letter dated 17/11/2008. No further comment is required.

[Ministry of Tribal Affairs O.M.No.18012/12/2008-C&LM-I, dated 03.03.2009]

Recommendation (Sl. No. 15, Para No. 3.11)

2.10 The Committee note that the Ministry of Personnel, Public Grievances and Pensions (Department of Administrative Reforms and Public Grievances) has commissioned a study on NCST by Centre for Policy Research, New Delhi on 29.12.2005. The Committee also note that the terms of the reference of such study have many aspects for the Centre to examine. The Committee also observe that the study had been commissioned within 2 years of the constitution of the Commission and hope that while evaluating the performance of the Commission, the initial teething problems, particularly with regard to its basic need i.e. staff are

taken into account. The Committee recommend that the Centre for Policy Research, New Delhi which has already taken more than 2 years for this study should be advised to complete its study expeditiously so that corrective measures can be taken to enhance the service and service delivery system. The Committee may be furnished with a copy of the study report alongwith action taken report of the Government in this regard.

Action Taken Reply of the Government

2.11 The Study Report has since been received and a copy of the Study Report is enclosed as Annexure-I. Comments of the National Commission for Scheduled Tribes and this Ministry on this Report are being sent to the Department of Personnel & Training for further action.

[Ministry of Tribal Affairs O.M.No.18012/12/2008-C&LM-I, dated 03.03.2009]

Comments of the Committee

2.12 Please see Para No. 1.60 of Chapter I.

Recommendation (Sl. No. 16, Para No. 4.4)

2.13 The Committee note that NCST through publication and free distribution of booklets, pamphlets etc. disseminates information on objectives, functions and procedure of its working for creating awareness among STs. The Committee further note that the information/material about Commission has been prepared in English as well as in Hindi and on the direction of the Headquarters, some Regional Offices have got the pamphlet translated into the regional language of the State in which they are located for distribution among the local tribal population of the State. The Committee also note that other regional offices have also been advised to get the pamphlets translated into regional languages of other States falling within their jurisdiction. The Committee are, however, aware that there are many tribal people living in remote areas who cannot read or write and are still in dark about their rights and the safeguards available to them. The Committee would, therefore, recommend that NCST should send teams to remote tribal areas not only to monitor and evaluate the working of safeguard

physically but also to create an increased level of awareness among STs. The Committee would also like all regional offices to make every effort to see that all tribals living in their regions are aware that NCST is the custodian of their rights and could be approached for safeguarding their rights and interests. The Committee also recommend that working of NCST should also be publicised through Doordarshan and All India Radio.

Action Taken Reply of the Government

2.14 The recommendation has been sent to the National Commission for Scheduled Tribes vide this Ministry's letter dated 17/11/2008 for compliance. No further comments are required.

[Ministry of Tribal Affairs O.M.No.18012/12/2008-C&LM-I, dated 03.03.2009]

Comments of the Committee

2.15 Please see Para No. 1.63 of Chapter I.

Recommendation (Sl. No. 17, Para No. 4.9)

2.16 The Committee note that funds are being provided by the Ministry of Tribal Affairs to Non-Governmental Organisations (NGOs)/Voluntary Organisations working for the welfare of STs under different schemes including providing coaching, running educational complex in low literacy pockets for development of women literacy in tribal areas, vocational training centre and development of Primitive Tribal Groups. In this connection, details of funds released to various NGOs in different States during the years 2004-05, 2005-06 and 2006-07 have been provided. While going through the list of NGOs which have been granted aid, the Committee observe that there are certain NGOs having addresses in Delhi but which have been given grants for different purposes for working in different States. When asked whether the credibility of NGOs is verified, before releasing fund, the Committee have been informed that the procedure for release of grants-in-aid to NGOs has been decentralized since the year 2005-06. There is a multi-disciplinary State Level Committee in each State which scrutinises

and recommends the most essential projects in service deficient tribal areas in order of priority. The proposals are recommended by the State Committees of the State Government and that the Ministry then considers only such recommended proposals on merits and funds are released to the NGOs only on receipt of satisfactory inspection reports from District Collector/Deputy Commissioner and audited accounts. The Committee desire that utmost care should be taken to choose only those NGOs which are genuinely working for the welfare of tribal people. The Committee recommend that NCST should also examine whether the fund granted to NGOs during the last 3 years have actually been incurred for the purpose for which it had been granted and whether it has resulted in improvement in the lives of tribal people.

Action Taken Reply of the Government

2.17 The observations of the Committee regarding utmost care to be taken so as to choose only genuine Non-Government Organizations have been noted. The National Commission for Scheduled Tribes has also been forwarded the observation of the Committee regarding examination as to whether the fund granted to the NGOs during last three years have actually been incurred for the purpose for which it had been granted and whether it has resulted in improvement in the lives of tribal people, for compliance vide this Ministry's letter dated 17/11/2008.

2.18 During evidence, the Secretary, Ministry of Tribal Affairs explained about selection of NGOs:-

“...so when the State Governments recommend a project or an NGO, most often we take their recommendation to be correct. Their recommendation comes with the collector's report; their recommendation comes with the audit report. If the funds are available, then we say 'yes' and if we have been funding them earlier then we keep on funding. The point is that we have to also monitor. Earlier, we have been monitoring by getting feedback from the State Governments. Then we started monitoring by having periodic evaluation by say Tata Institute of Social Sciences etc. Most often, that feedback on the random inspection is positive; that is why we are allowed to continue the scheme; otherwise the Finance Ministry will discontinue the project. There are cases where things are not happening well. The NCST is very conscious that out of many things which are happening, they will be able to identify a

few items and investigate and give their report so that those items have a greater impact when implemented. Even today, as per their statistics, it is seen that a large portion of their time is taken away by service matters. So, we would like to change that so that they can go into something which is more substantial”.

Post Evidence Reply

2.19 Having noted that the observation of the Committee was forwarded to NCST, the Ministry were asked to state the action that has been taken by the NCST in this regard. In the post evidence replies, the Ministry have stated that the National Commission for Scheduled Tribes informed that the Headquarter Office as well as Regional Offices of National Commission for Scheduled Tribes are, at present, poorly equipped to examine whether the funds granted to NGOs have actually been incurred for the purpose for which it had been granted and whether it has resulted in improvement in the lives of tribal people. The job requires the services of Programme Monitors or Quality Supervisors.

In regard to action taken by the Ministry of Tribal Affairs it has been stated that they have already initiated the process for appointing the agencies for carrying out monitoring and evaluation of working of NGOs funded by this Ministry under its various schemes.

[Ministry of Tribal Affairs O.M.No.18012/12/2008-C&LM-I, dated 03.03.2009]

Comments of the Committee

2.20 Please see Para No. 1.68 of Chapter-I.

Recommendation (Sl. No. 18, Para No. 4.16)

2.21 The Committee note that NCST in their First Annual Report had suggested a number of measures to control the problem of alienation of tribal land and to ensure their proper rehabilitation in the event of acquisition of their land for development projects. According to the reply of the Ministry of Tribal Affairs, neither the Ministry of Tribal Affairs nor NCST has undertaken any study in regard to displacement and rehabilitation of tribals in different parts of the country. The Committee, however, note that the Ministry had commissioned an

“Evaluation Study on Resettlement and Rehabilitation” by National Institute of Rural Development, Hyderabad. It has also been informed that the Ministry of Rural Development had notified the “National Policy on Resettlement and Rehabilitation, 2003”. However, to ensure justice and better compensation package for the STs being displaced due to construction of development projects, the Ministry of Tribal Affairs have taken up the matter with the Ministry of Rural Development and also proposed suitable provisions and safeguards in the draft of the National Tribal Policy, 2007. The Committee may be apprised whether the measures suggested by the NCST in their report to control the problems of alienation of tribal land and proper rehabilitation of tribals on acquisition of their land as also the study undertaken by the National Institute of Rural Development, Hyderabad have been taken into consideration while preparing the National Tribal Policy 2007.

Action Taken Reply of the Government

2.22 The Ministry of Tribal Affairs has taken care of concerns of National Commission for Scheduled Tribes and the measures suggested by them in their 2nd report (1993-94) to control the problem of alienation of tribal land, while drafting National Tribal Policy. The Ministry of Tribal Affairs has emphasized in draft National Tribal Policy that illegal transfer of tribal land holdings would be eliminated and alienated land would be restored to the tribal. Among other provisions, the draft Policy also suggests the recording of land rights in scheduled areas, establishment of special fast track courts to deal with cases of tribal land alienation, review of State laws, prohibition on conversion of agricultural land to non-agricultural land etc.

[Ministry of Tribal Affairs O.M.No.18012/12/2008-C&LM-I, dated 03.03.2009]

Recommendation (Sl. No. 23, Para No. 4.27)

2.23 The Committee observe that Banks do not lend money to tribal people even if they are prepared to mortgage their land and hence, they are unable to raise money for business purposes. The Committee also note that under the land laws/land revenue codes, the land

belonging to STs in the scheduled areas/tribal areas is not transferable or alienable to a non-tribal without the permission of the District Collector or any other authority specified in these laws. Consequently, the papers produced by the tribal applicants in respect of land owned by them are not accepted by the Bank authorities for the purpose of mortgage as they cannot attach the land, in the event of default in repayment of amount. The Committee are pained to observe that this is a peculiar situation for which no concrete solution has been explored by the Government so far. The suggestion of the Ministry of Tribal Affairs that state level ST Development and Finance Corporations and the National Scheduled Tribes Finance and Development Corporation should be asked to play more active role in extending loan to tribal entrepreneurs may serve to limited extent. The Committee are of the view that the role as well as the extant of loan amount sanctioned by the State level ST Development and Finance Corporation is often not sufficient to meet the requirement of a borrower because of increased need of funds for business in present times. The Committee, therefore, recommend that to cope up with this problem, a proposal may be sent to the Ministry of Finance for examination so that they may be able to issue necessary guidelines to Banks/Financial Institutions to lend money to ST people.

Action Taken Reply of the Government

2.24 The recommendation has been sent to the Ministry of Finance on 17.11.08 and to the Department of Banking vide this Ministry's letter dated 16/02/2009.

[Ministry of Tribal Affairs O.M.No.18012/12/2008-C&LM-I, dated 03.03.2009]

Comments of the Committee

2.25 Please see Para No. 1.91 of Chapter-I.

CHAPTER – III**RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN VIEW OF THE REPLIES OF THE GOVERNMENT****Recommendation (Sl. No. 1, Para No. 1.12)**

3.1 The Committee note that as per the provision in the Constitution, a special officer known as Commissioner for SCs and STs had been appointed on 18th November, 1950 to investigate all matters relating to the safeguards provided for SCs/STs in various statutes. On persistent demand by MPs, the Government had also set up a multi-member Commission for SCs and STs in 1978. However, with the enactment of the Constitution (Sixty-fifth Amendment) Act, 1990, the first Constitutional Commission for Scheduled Castes and Scheduled Tribes was constituted in March, 1992 and the Office of the Commissioner for Scheduled Castes and Scheduled Tribes was abolished. The Committee further note that since the needs and problems of STs and solution thereto were different from those of SCs, it required special approach for development and independent machinery to safeguard their rights. Accordingly, a separate National Commission for Scheduled Tribes (NCST) has been set up by inserting a new Article 338A in the Constitution, through Constitution (Eighty-ninth Amendment) Act, 2003.

Action Taken Reply of the Government

3.2 The recommendation contains factual statement. Hence, no action required to be taken in this regard.

[Ministry of Tribal Affairs O.M.No.18012/12/2008-C&LM-I, dated 03.03.2009]

Recommendation (Sl. No. 9, Para No. 1.37)

3.3 The Committee note with concern that the procedure for appointment and regulation of staff of the Secretariat of NCST is quite complicated. The Committee note that some secretarial staff at the headquarters of NCST belongs to CSS, CSSS and CSCS cadre and as such, staff of this cadre are provided by the DOP&T through the Ministry of Social Justice &

Empowerment. In case of Group 'A' posts namely, Director, Deputy Director and Assistant Director, which are joint cadre posts, the Ministry of Social Justice & Empowerment being the cadre controlling authority, provide the staff for these posts, whereas the staff for the posts of Research Officer, Senior Investigator and Investigator are provided by the National Commission for Scheduled Castes being the cadre controlling authority for such posts. The Committee also note that the National Commission for Scheduled Castes is the cadre controlling authority for appointment and provision for secretarial staff of regional offices of NCST. The Committee, however note that only Group 'D' staff and some of the Group 'C' posts are appointed by the National Commission for Scheduled Tribes itself. It has also been stated that a few isolated posts have been created by Ministry of Tribal Affairs which do not belong to any organised cadre. The Committee are distressed by the multiplicity of cadre controlling authorities and for delay in filling up of vacancies that have existed since 1.12.2004. Even for posts created by NCST, Recruitment Rules are being processed. The Committee wonder as to when all the sanctioned vacant posts will be filled up.

Action Taken Reply of the Government

3.4 The Cadres of National Commission for Scheduled Tribes are controlled by Department of Personnel and Training (DOP&T), Ministry of Social Justice & Empowerment and National Commission for Scheduled Castes. Since this Ministry does not control any cadre of the Commission, the vacancies cannot be filled up by this Ministry. However, to take up the matter with the various cadre controlling authorities for filling up vacancies expeditiously, this Ministry has requested the National Commission for Scheduled Tribes to provide details of earlier correspondence from them in this regard. It is submitted that this Ministry examines the proposals from National Commission for Scheduled Tribes, recommend to/consult with various agencies like Department of Personnel & Training, Union Public Service Commission, Ministry of Law and Justice and Ministry of Finance as applicable for finalizing the Recruitment Rules

regularly for those posts where National Commission for Scheduled Tribes is the cadre controlling authority so that the latter may fill up the vacancies duly following the procedure. Accordingly Recruitment Rules (RRs) for 2 posts (Accountant-1, Assistant Director-1) have already been finalized and further action is to be taken by the National Commission for Scheduled Tribes. The Recruitment Rules (RR) of Law officer is at the final stage and RRs of Librarian/Document Assistant is also under finalization, UPSC has asked for issue of fresh guidelines by Department of Personnel & Training for the subject post.

3.5 The observation of the Committee had been sent to the Department of Personnel & Training; and the Ministry of Social Justice & Empowerment for compliance vide this Ministry's letter dated 17/11/2008.

3.6 Having noted that the NCST was requested by the Ministry to provide the details of earlier correspondence in regard to filling up vacancies as also that the observation made by the Committee were sent to DOP&T and the Ministry of Social Justice, the Committee desired to know the latest position.

Post Evidence Reply

3.7 In their post evidence replies, the Ministry of Tribal Affairs have stated that the details of the correspondence exchanged by NCST with the Ministry of Social Justice & Empowerment; National Commission for Scheduled Castes; Department of Personnel & Training; and Ministry of Home Affairs for filling up of various vacant posts under NCST were furnished by the NCST on 19.11.2009.

3.8 The Department of Personnel & Training, CS.I (P) Division asked the Ministry of Tribal Affairs on 07/12/2009 to provide full context and background of recommendation contained in para 4 (I) on "Appointment of Staff" to them to enable proper examination of the same. They further informed that CS Division shall come into the picture only when there is requirement of deployment of staff from CSS/CSSS/CSCS is involved. As such it was requested to confirm

whether the “Appointment of Staff” as referred to relates to filling up of vacancies from CSS/CSSS/CSCS or some other service.”

3.9 It was further stated that a D.O. No. 11018/1/2009-Estt. Dated 27.10.2009 had been written to DOP&T for having a separate cadre for all CSS/CSSS/CSCS posts for this Ministry including NCST. Another D.O. No. 11018/1/2009-Estt. Dated 7th December, 2009 requesting the Ministry of SJ&E to give No Objection to the proposal has also been issued. Further action will be initiated on receipt of reply.

Comments of the Committee

3.10 Please see Para No. 1.43 of Chapter-I.

Recommendation (Sl. No. 10, Para No. 1.38)

3.11 The Committee observe that out of the sanctioned strength of 125 in Group ‘A’, ‘B’, ‘C’ and ‘D’ posts, 43 vacancies in these groups had not been filled up till 1.1.2007 even though the Commission claims to have been in continuous correspondence with the Ministry of Social Justice and Empowerment and NCSC to fill up these posts. The Committee do not concur with the view of the representative of the Ministry of Tribal Affairs that if NCST will become cadre controlling authority then a peculiar situation will be created and there will be limited opportunities and no career movement for the staff. The Committee insist that since NCST has been constitutionally given an independent mandate to safeguard the interest of Scheduled Tribes, it should no longer be tagged along with the Ministry of Social Justice & Empowerment or to the National Commission for Scheduled Castes for provision of its staff. It does not seem logical to be attached with the Ministry of Social Justice and Empowerment any longer. Unless the people have a sense of belonging to a particular institution they will never give their best to work for it. While deposing before the Committee, the Secretary had also agreed with the members for NCST to have a separate structure saying that it was a very logical view and had promised to consult the DOP&T or to prepare a paper for the Cabinet.

The Committee, therefore, impress upon the Government to initiate action to create a separate cadre for NCST and its all Regional Offices at the earliest in consultation with DOP&T so that objective of NCST is achieved through the staff working therein. The Committee would like to be apprised of the action taken in this regard within three months of the presentation of this report to Parliament.

Action Taken Reply of the Government

3.12 The cadres of various posts in the National Commission for Scheduled Tribes and its regional offices are controlled by various authorities like Department of Personnel and Training (DOP&T), Ministry of Social Justice and Empowerment and National Commission for Scheduled Castes. Therefore, to create a separate cadre for National Commission for Scheduled Tribes including its regional offices, the comments of Department of Personnel & Training, Ministry of Social Justice and Empowerment and National Commission for Scheduled Castes are required. It is felt that had the Ministry acted independent of any proposal from National Commission for Scheduled Tribes, the possibility of addressing inadequately the need of that organization would have arisen. Therefore, a proposal from National Commission for Scheduled Tribes focusing all the basic requirements, ground reality and problems in the regional offices along-with further details to strengthen the National Commission for Scheduled Tribes is necessary for examination and further action for implementation of the recommendation. Accordingly, National Commission for Scheduled Tribes has been requested on 18.02.2009 to submit a detailed proposal so that the recommendations of the Hon'ble Committee can be examined in its true perspective for implementation.

3.13 The recommendation has also been sent to the Ministry of Social Justice & Empowerment; and the Department of Personnel & Training vide this Ministry's letter dated 17/11/2008.

[Ministry of Tribal Affairs O.M.No.18012/12/2008-C&LM-I, dated 03.03.2009]

Recommendation (Sl. No. 21, Para No. 4.19)

3.14 The Committee are distressed by the fact that tribals are agitating in Meghalaya as mining of uranium is being carried out. The Committee should also be apprised of the response of the State Government and the Department of Atomic Energy in regard to reported mining of uranium in Meghalaya. The Committee strongly feel that tribals should not suffer in the name of development by way of displacement or alienation. The Committee recommend that the Ministry of Tribal Affairs should take immediate su-moto action whenever it is reported that tribal people are agitating against displacement and endangerment to their lives. The Committee should also be apprised of provision/safeguards suggested by the Ministry of Tribal Affairs to be included in the draft of National Tribal Policy, 2007 and detailed role played by the Ministry of Tribal Affairs in framing this policy.

Action Taken Reply of the Government

3.15 The Ministry of Rural Development is nodal Ministry for resettlement and rehabilitation of project affected families, including tribals. Even then, Ministry of Tribal Affairs is very much concerned about the large scale displacements taking place in tribal areas due to construction of development projects and the trauma faced by the tribal project affected families. The Ministry of Tribal Affairs has emphasized safeguards in the draft National Tribal Policy.

3.16 On the insistence of Ministry of Tribal Affairs, the Ministry of Rural Development has included some points of the safeguards like consultations with Gram Panchayats in accordance with PESA Act 1996; consultations with Tribes Advisory Councils in accordance with Constitutional provisions; provisions related to social impact assessment; provisions for land in command area of irrigation projects in the National Rehabilitation and Resettlement Policy 2007 notified on 31.10.2007. However, the points related with inclusion of fixing threshold limit of displacement of tribals; Net Present Value of land in compensation package

etc. are yet to come in any Policy of the Government. Therefore, Ministry of Tribal Affairs is making all efforts to get included these points in National Tribal Policy.

3.17 The recommendation has been sent to the Ministry of Atomic Energy and other concerned authorities for compliance vide this Ministry's letter dated 17/11/2008.

3.18 State Govt. of Meghalaya has replied that the Ministry of Atomic Energy found large scale uranium deposits in certain belts in West Khasi Hills District in Meghalaya around the year 1984 and completed investigation in the year 1992. Since then the Uranium Corporation of India Ltd. alongwith the assistance of the State Government, commenced preliminary developmental activities in the said area with a view to setting up of a Uranium Mining Plant. Considering the all-round development that will result with the setting up of the Uranium Plant in the State, the public in general are not averse to the proposal. However, a minisule section of the people, have expressed their apprehensions/reservations to the proposal, specifically on the issue of health hazards that could occur due to the mining operations. The State Government alongwith the support of the Ministry of Atomic Energy have been making constant efforts to create awareness and removal of such misconceptions and have succeeded to a large extent. As of now, coordination and regular meetings are taking place between the authority in both the State Government as well as Ministry of Atomic Energy and enormous headway have been made in the process.

[Ministry of Tribal Affairs O.M.No.18012/12/2008-C&LM-I, dated 03.03.2009]

CHAPTER – IV**RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION****Recommendation (Sl. No. 2, Para No. 1.13)**

4.1 The Committee also note that the Commission has been given the power to regulate its own procedure. According to the National Commission for Scheduled Tribes Chairperson, the Vice Chairperson and Members (Conditions of Service and Tenure) Rules, 2004, the Chairperson and the Vice Chairperson of the Commission have been conferred the rank of Union Cabinet Minister and Minister of State, respectively. The other Members of NCST have been given the rank of the Secretary to the Government of India. The Committee are of the view that functions and duties entrusted to the Commission under clauses (5), (8) and (9) of Article 338A are very vast and cover different problems and needs of tribal people. The Committee feel the Commission would not be able to accomplish its objective fully and effectively unless the present strength of the Commission is increased. The specific subjects like the conferring ownership rights in respect of minor forest produce over mineral resources and water resources, rehabilitation of tribal groups displaced by development projects, alienation of tribal people from land, etc. are important issues pending for lackadaisical attitude of the Government over the years. The NCST has now been assigned the role to oversee the measures that would be required to be taken to solve those long standing but very important issues concerning the tribals. These issues require judicious handling as the above subjects are very delicate affecting the very existence of tribals living in forest areas, mineral rich areas and those who have already been displaced and alienated from their lands and habitats. The Committee, therefore, strongly recommend that the present strength of the Commission should be increased with a view to assigning each member with a specific job so that he may give his

undivided attention to find a favourable solution to the problems/difficulties being faced by the distressed tribal people.

Action Taken Reply of the Government

4.2 Recommendation has been noted and also intimated to the National Commission for Scheduled Tribes vide this Ministry's letter dated 17/11/2008.

4.3 Not satisfied with the above reply, the Committee asked the Ministry and the NCST to state the concrete steps taken to implement the recommendation of the Committee to increase the strength of the Commission.

4.4 During evidence, the Secretary, Ministry of Tribal Affairs stated:-

“...As we had mentioned in the last meeting also, we do believe that the Commission must be empowered to carry out its function”.

He also informed:

“...we do agree that in case these duties have to be carried out, the Commission has to be adequately strengthened. Last time the discussion tended to concentrate on only staff members”.

He further added:

“The Second issue is that we feel that this Commission is, though independent, but it is actually a Commission which flows out of the National Commission which was earlier for the Scheduled Castes and Scheduled Tribes. The functioning of that Commission actually is a guide to us as to how this Commission has to function. So, whatever recommendations you have been giving, we have also been always as a routine, been following it up with the Department of Social Justice and Empowerment so that the same kind of an approach is taken for both the Commissions together. So, we do agree that we need to strengthen. I would like to humbly suggest that there should be no doubt that we want the Commission to function effectively. Presently, it cannot function effectively because what they have done is that with the limited staff they have, they have distributed certain functional powers and beyond that, they are unable to. Even to design a structure which is going to be non-conventional and which is going to be effective, they have taken and we have also taken quite a lot of time. In fact, since the last meeting, we have examined the option. The suggestion of the Committee was that we should do it. But we felt that if we do something on our own without involving them, it would be half-hearted or may be we will miss out the major points. So, they have been actually designing a fresh structure which differs in a large extent from the structure which is the National Commission of Scheduled Castes and Scheduled Tribes and may be now only for the Scheduled

Tribe. This structure is not only about additional staff, it is also talking about the areas which the staff members are going to look into”.

[Ministry of Tribal Affairs O.M.No.18012/12/2008-C&LM-I, dated 03.03.2009]

Post Evidence Reply

4.5 The Ministry of Tribal Affairs in their post evidence reply have stated that though National Commission for Scheduled Tribes was requested to consider the recommendation, no proposal from the National Commission for Scheduled Tribes has been received for increasing the number of members of the Commission, which will require an amendment to Article 338A(2) of the Constitution.

Comments of the Committee

4.6 Please see Para No. 1.10 of Chapter-I.

Recommendation (Sl. No. 4, Para No. 1.15)

4.7 The Committee also note that functions, duties and powers of the NCST *inter-alia* include investigating and monitoring of all matters relating to safeguards provided in Constitution, to enquire into specific complaints regarding deprivation of rights provided under the Constitution, to present to the President annual reports upon working of these safeguards, to make recommendations as to the measures that should be taken by the Union or any State for protection, welfare and socio-economic development of the STs as well as other functions as the President may by rule specify. The Committee also note a very important function in clause (9) of Article 338A which provides that the Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Tribes. The Committee would, therefore, like to be apprised of the policy matters on which the Commission had been consulted by the Union and the State Governments and whether the same were actually concurred by them.

Action Taken Reply of the Government

4.8 The National Commission for Scheduled Tribes is invariably consulted on matters relating to the revision of the list of Scheduled Tribes in terms of the modalities laid down by the Government in June, 1999 and also generally on the other policy matters affecting the Scheduled Tribes by the Union and State Governments/UT Administrations. Accordingly, unless the NCST also concurs, no inclusion in the ST list of any State/UT is carried out. The NCST also takes up the other matters directly with the States/UTs through its various meetings with these authorities.

4.9 During evidence, the Committee strongly objected to the use of the language “invariably consulted”. In reply the Secretary, Ministry of Tribal Affairs stated:-

“.....this sentence which you have used is actually the sentence which is not dealt in the Ministry. The Reservation Bill has been moved by the DoPT and the DoPT, to the best of my knowledge, has not consulted NCST. But, I would like to mention that we are invariably consulting. This is one example which you have given. I have been here in this Ministry for a little more than two years. There has been no major policy decision taken including the CCD Plan for the PTGs, without consultation.

We have consulted them in the Shom Pen policy, which is new for the tribal areas. We have already mentioned the scheduling job. That is there. When the Draft Tribal Policy was being discussed, we had consulted them. Recently, there has been a proposal which the State Government of Orissa has sent for amending the Regulation for transfer of land in the tribal areas. We have called a meeting on a particular day. So, let me assure you that to the best of my knowledge, even if we have missed out in minor matters, no major matter we are doing without consulting them for the last more than two years. That invariably is for our Ministry.

Coming back specifically to the Forest Rights Act, I would submit that they were consulted on that. The reservation policy is done by the DoPT. We do not look after that. We only do the scheduling work. Reservation is done by the DoPT. I am not sure whether they have consulted them or not. I cannot answer for them”.

[Ministry of Tribal Affairs O.M.No.18012/12/2008-C&LM-I, dated 03.03.2009]

Post Evidence Reply

4.10 In reply to queries on whether NCST was never consulted on important policy matters affecting the STs except on inclusion or deletion of a tribe from ST lists, since it came into existence in 2004 and whether NCST was consulted when Scheduled Tribes and other Traditional Forest Dwellers (Forest Rights Recognition) Act, 2006 and the Scheduled Castes and Scheduled Tribes (Reservations in Posts and Services) Bill, 2008 were being framed, the Ministry of Tribal Affairs in their post evidence replies have stated that the National Commission for Scheduled Tribes was asked to comments/ consulted by Ministries besides the Ministry of Tribal Affairs on various issues including major policy issues which include the Scheduled Castes, Scheduled Tribes and Other Backward Classes (Reservation in Posts and Services) Bill, 2004; Scheduled Tribes and other Traditional Forest Dwellers (Forests Rights Recognition) Bill, 2005.

Comments of the Committee

4.11 Please see Para No. 1.15 of Chapter-I.

Recommendation (Sl. No. 8, Para No. 1.28)

4.12 After having considered all the facts, the Committee are of the strong view that only limited administrative and financial powers have been given to the NCST by making it a part of Ministry of Tribal Affairs. The Committee, therefore, recommend that full administrative and financial powers should be given to NCST so that it is not dependent on the administrative Ministry for every piece of proposal having financial implications. The Committee are of the view that NCST is an independent statutory body and it has every right to have a separate Budget Head to advance its Demand for Grants in a realistic manner. The Committee would like to be apprised of the reasons adduced by the Ministry of Finance for rejecting the proposal of the Planning Commission for separate Demand for Grants for NCST. Keeping in view the

magnitude of the functions and duties assigned to NCST, the Committee also recommend that a fresh proposal should be sent to Ministry of Finance for creating a separate Demand for Grants for NCST on the lines of other constitutional bodies such as Election Commission, Union Public Service Commission, etc. as it is essential for the independent functioning of the Commission. The Committee may also be apprised of the outcome within three months.

Action Taken Reply of the Government

4.13 It may also be mentioned that the National Commission for Scheduled Tribes has been set up under Article 338A of the Constitution of India. Clause (4) of Article 338A empowers the NCST to regulate its own procedure. Accordingly the Commission has framed its own Rules of Procedure notified on 17.9.2004. Powers and functions entrusted to the National Commission for Scheduled Tribes in Article 338A are the same as were given to the erstwhile National Commission for Scheduled Castes & Scheduled Tribes and also to the existing National Commission for Scheduled Castes. It is mentioned that a sizeable amount is allocated in favour of NCST on the basis of their own proposal as modified by the Ministry and such allocation is considered adequate.

4.14 The National Commission for Scheduled Tribes and National Commission for Scheduled Castes have been carved out of the erstwhile National Commission for Scheduled Castes & Scheduled Tribes. Therefore, rules and procedures applicable to the existing National Commission for Scheduled Castes may also have to be kept in view while taking a decision in respect of National Commission for Scheduled Tribes. Even so, the observations of the Committee have been sent to the Ministry of Finance (Department of Expenditure) vide this Ministry's letter dated 17/11/2008.

4.15 Having noted that their replies did not contain the reasons adduced by the Ministry of Finance for rejecting the proposal of the Planning Commission for separate Demands for

Grants for NCST, the Committee asked the Ministry of Tribal Affairs to state as to why the same has not been furnished the same to the Committee and further asked whether the Ministry of Tribal Affairs sent another fresh proposal for separate Demands for Grants for NCST to the Ministry of Finance.

[Ministry of Tribal Affairs O.M.No.18012/12/2008-C&LM-I, dated 03.03.2009]

Post Evidence Reply

4.16 In their post evidence replies, the Ministry of Tribal Affairs have stated that the recommendations of the Committee was considered and taken up with the Ministry of Finance by that Ministry. In this connection, the Ministry of Finance replied that the matter had already been examined by them on a reference from Secretary, National Commission for Scheduled Castes and a clarification was given to the Commission. The clarification from the Ministry of Finance vide their D.O. letter No. 8(10)-B (D)/2006 dated 15.01.2007 from Shri Sanjiv Misra, Secretary, Department of Expenditure addressed to Shri S.K. Sood, Secretary, National Commission for Scheduled Caste is as under:-

- (i) "At present, separate budget heads of account exist in the Demand for Grants of the Ministry of Social Justice & Empowerment with the nomenclature "National Commission for Scheduled Castes" under which non-plan expenditure provisions of the commission are made. In view of Planning Commission's decision to provide plan funds for the national Commission for Scheduled Castes (NCSC), there would be no problem in operating the existing heads of account for reflecting such provisions in the budget without the need for having a separate Demand for Grant. In fact, in terms of rule 47 (2) of the General Financial Rules, 2005, one Demand for Grant is presented in respect of each Ministry/Department, except in the case of large Ministries or Departments where more than one demand is presented, which reflect provisions for a particular service of the Government as in the case of Transfers to State and Union Territory Governments,

Police, Cabinet, Public Works, Pensions and Interest payments. The expenditure on National Commission for Scheduled Castes, being reflected in the Demand for Grants of the Ministry of Social Justice & Empowerment is on par with the expenditure provision of Finance Commission which forms part of the Demand for Grants of the Ministry of Finance, or the expenditure provision of Human Rights Commission which forms part of the Demand for Grant of Ministry of Home Affairs.

- (ii) As regards the request for treating expenditure being incurred on the NCSC as “charged” expenditure, on par with UPSC, I would like to inform, that while the expenditure of UPSC is charged to the Consolidated Fund of India in terms of Article 322 of the Constitution of India, the terms of Article 338 of the Constitution, under which NCSC has been set up, does not provide for similar treatment of the expenditure on NCSC”.

In view of the clarification furnished by the Ministry of Finance no fresh proposal was sent to the Ministry of Finance.

Comments of the Committee

4.17 Please see Para Nos. 1.34 of Chapter-I.

Recommendation (Sl. No. 11, Para No. 2.6)

4.18 The Committee note that the erstwhile National Commission for Scheduled Castes and Scheduled Tribes, which was set up on 12th March, 1992 and ceased to exist on 19th February, 2004, had submitted seven regular and three special reports to the President during the period of about 12 years. The Committee note that the NCST which came into existence on 19th February, 2004 has submitted its first report (2004-05 and 2005-06) to the President of India on 8th August, 2006. The Committee, further note that the report is required to be laid in Parliament as provided in clause 6 of Article 338A of the Constitution which states that the

President shall cause all such reports to be laid before each House of the Parliament alongwith Memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for non-acceptance. The Committee note that the first report of NCST has not been laid before each House of the Parliament as yet as the Ministry of Tribal Affairs, after examining the report presented to the President, had to circulate the same to obtain comments/views on the recommendations contained in the report as well as ATR for further necessary action in the matter from various States/UTs as well as the Central Ministries/Departments. As per provision of clause 7 of Article 338A of the Constitution, the reports relating to the State Governments are forwarded to the Governor of the States for similar action to be taken at State level. The Committee are dismayed to note that considerable time has been taken by the Ministry to circulate the report and the reason adduced by them for such a delay is that the report was bulky covering a period of two years and containing 9 chapters and so on. In this era of rapid information technology the reasoning is not at all convincing. The Committee are concerned that in the absence of a time limit fixed for the submission of reports by the Government to the Parliament after it has been presented to the President, the Ministry cannot act and persuade the other Ministries/ Departments to expedite views/opinion alongwith memoranda of action taken on the recommendations on the report or otherwise. The Committee are of the view that unless timely action is taken on the recommendations made in the report, the purpose for which the recommendations were made may lose their relevance. The Committee, therefore, strongly feel that the NCST not only submit its report annually but the Ministry should also take timely action to get the reports presented in the Parliament so that problems of the STs are taken care of assiduously. The Committee, therefore, concur with the views expressed by NCST in their first report for fixing a time limit for submission of report to Parliament by making necessary amendment in clause (6) and (7) of Article 338A of the Constitution. The Committee, therefore, strongly recommend

that necessary amendment in the clause (6) and (7) of Article 338A of the Constitution may be made so that target to lay reports of NCST within a prescribed time limit in the Parliament is fixed and adhered to.

Action Taken Reply of the Government

4.19 The recommendation of the Committee regarding final action to get the reports of NCST presented in the Parliament has been noted for compliance. However, as per Constitutional provision and mandate, the National Commission for Scheduled Tribes is parallel with the National Commission for Scheduled Castes. There is, therefore, no proposal of this Ministry to amend Clause (6) & (7) of the Article 338A in isolation for the National Commission for Scheduled Tribe only.

4.20 Not satisfied with the reply, the Ministry of Tribal Affairs were asked to further state the action taken to lay First Report of NCST (2004-05 and 2005-06) in the Parliament and the reasons for not consulting the Ministry of Social Justice and Empowerment to initiate action to amend the relevant clauses of Article 338A of the Constitution.

[Ministry of Tribal Affairs O.M.No.18012/12/2008-C&LM-I, dated 03.03.2009]

Post Evidence Reply

4.21 In their post evidence replies, the Ministry of Tribal Affairs have informed the Committee that the recommendations of the National Commission for Scheduled Tribes have been circulated among concerned Central Ministries/Departments. The last reply/comment awaited from the Department of Personnel & Training has now been received on 25/11/2009. The action is being initiated to compile the inputs received from various Ministries/Departments and to prepare a consolidated Action Taken Report of this Ministry for it's laying before the Parliament.

4.22 So far as the amendment in Clause 6 of Article 338A of the Constitution concerns, it is mentioned that powers and functions entrusted to the National Commission for Scheduled

Tribes in Article 338A are the same as were given to the erstwhile National Commission for Scheduled Castes & Scheduled Tribes and also to the existing National Commission for Scheduled Castes. As per Constitutional provision and mandate, the National Commission for Scheduled Tribes is parallel with the National Commission for Scheduled Castes. However, Ministry of Social Justice & Empowerment vide this Ministry's letter dated 23/11/2009 has been requested to furnish their specific comments on this point since it is only logical that the procedure relating to laying of Reports of National Commission for Scheduled Tribes should be similar to the procedure followed in National Commission for Scheduled Castes. Their reply is awaited.

Comments of the Committee

4.23 Please see Para No. 1.49 of Chapter-I

Recommendation (Sl. No. 12, Para No. 2.11)

4.24 The Committee note that the National Commission for Scheduled Tribes has been vested with the duty to *inter alia* investigate all matters relating to the safeguards provided to STs and to enquire into specific complaints with respect to the deprivation of rights and safeguards of the STs. The Committee further note that while investigating such matters, or making inquiry in specific complaints, powers of a civil court, trying a suit, have been given to NCST under clause (8) of the Article 338A of the Constitution. The Committee, however, note that the role of NCST as a civil court is limited to that of summoning and enforcing attendance of any person including examination of witnesses and documents and has no judicial power as other civil courts. The limited role of NCST as civil court has also been observed by the Apex Court of India in the case of All India Overseas Bank SC and ST Employees Welfare Association and others Vs. Union of India & others that the powers of a civil court for granting injunctions temporary or permanent do not inhere in the Commission nor can such a power be inferred or derived from a reading of clause (8) of Article 338A of the Constitution. The

Committee also note that the recommendations of NCST are of advisory in nature, which are sent to the Government for appropriate action. In such a situation, the Committee are of the view that the Commission has been placed in a peculiar position as on the one hand the Commission has been given powers to investigate matters as a civil court but on the other hand its recommendations are treated as advisory in nature. The Committee feel that if the recommendations are advisory and not mandatory and acceptance of the same depends on the sole discretion of the concerned organisation/the Central Government or the State Governments then the very purpose for the existence of a Constitutional body becomes meaningless. The Committee feel that NCST has not been treated as a separate entity but has been made to function as an appendage of the Ministry of Tribal Affairs. The Committee, therefore, recommend that the Constitution should be amended in such a manner that recommendations of the NCST may be taken by concerned authorities as mandatory and it functions with greater judicial powers on the lines of the powers of a civil court so that it is empowered to act as an effective and independent organisation.

Action Taken Reply of the Government

4.25 The Commission has been set up as an advisory body. However, the recommendations of the National Commission for Scheduled Tribes are earnestly considered by the Government of taking appropriate action. There is no proposal to amend the existing status of the National Commission for Scheduled Tribes.

4.26 Not satisfied with the above reply of the Government, the Committee asked the Ministry of Tribal Affairs to suggest in what manner the recommendations of the NCST can become effective if they do not want to amend the Constitution.

[Ministry of Tribal Affairs O.M.No.18012/12/2008-C&LM-I, dated 03.03.2009]

Post Evidence Reply

4.27 In the post evidence reply, the Ministry have stated that the Commission has been set up as an advisory body like other Statutory or non-Statutory Commissions and its recommendations are earnestly considered by the Government for taking appropriate action. Since recommendations of the Commission are advisory in nature and it is for the concerned organization/ the Central Govt. or the State Govt. to accept or not to accept the Commission's recommendations. It has, however, been noticed that as the recommendations of the Commission with respect to individual cases/ petitions are based on certain specific instructions of the Govt., they are generally accepted by the Central/ State organizations to whom they pertain. Even the, Hon'ble Supreme Court of India in their judgment dated 31.10.1996 in All India Overseas Banks SC & ST Employees Welfare Association and others V/s Union of India & Others have, *inter-alia*, observed that "all the procedural powers of a Civil Court given to the National Commission for Scheduled Castes and Scheduled Tribes by Article 338(8) of the Constitution of India are for the limited purpose of investigating any matter under Article 338(5)(a) or inquiring into any complaint under Article 338(5)(b). The powers of a Civil Court of granting injunctions temporary or permanent do not inhere in the Commission nor can such a power be inferred or derived from a reading of clause (8) of Article 338 of the Constitution. The Commission having not been specifically granted any power to issue interim injunctions lacks the authority to issue any order to stay any proceeding. Since the intension of Government has been as stated, beyond this, Ministry has no further comments.

Comments of the Committee

4.28 Please see Para No. 1.54 of Chapter-I.

Recommendation (Sl. No. 19, Para No. 4.17)

4.29 The Committee are concerned that a number of tribals migrate from their villages in search of employment. The Committee recommend that the Ministry of Tribal Affairs should

take up this matter with the concerned authorities to ensure that tribals who migrate to work elsewhere for a limited period of time in a year, should be covered under Rural Employment Guarantee Scheme, so that the migrant tribals do not have to leave their homes for seeking employment elsewhere. The Committee also recommend that the Ministry of Tribal Affairs should also take up the matter with the concerned authorities for provision of residential schools for children of migrant tribals who leave their villages for employment.

Action Taken Reply of the Government

4.30 The recommendation of the Committee has been forwarded to the Ministry of Rural Development for compliance vide this Ministry's letter dated 17/11/2008.

[Ministry of Tribal Affairs O.M.No.18012/12/2008-C&LM-I, dated 03.03.2009]

Post Evidence Reply

4.31 In the post evidence reply, the Committee have been informed that the Ministry of Rural Development (Department of Land Resources) vide their letter dated 03/06/2009 has informed that adequate provisions have been made for rehabilitation of Scheduled Tribes in the National Rehabilitation & Resettlement Policy, 2007.

Comments of the Committee

4.32 Please see Para No. 1.72 of Chapter-I.

Recommendation (Sl. No. 22, Para No. 4.24)

4.33 The Committee note that the Planning Commission has issued guidelines for adoption of Tribal Sub Plan (TSP) strategy which inter-alia includes allocation of funds for schemes/programmes meant for STs atleast in proportion to their population. The Committee, however, note that the Ministry do not have any power to enforce these guidelines. The Committee also note that to encourage States to adopt TSP strategy, the Ministry provide incentive grants under Special Central Assistance (SCA) to TSP and innovative grants under

Article 275(1) of the Constitution as per guidelines. The Committee are distressed by the fact that despite the guidelines issued by the Planning Commission, the Ministries of the Central Government and State Governments are not adhering to the guidelines. The Committee would like to know the names of defaulting Ministries and States. The Committee are also disturbed by the submission made during evidence that the budget allocation, which is to be made for the development of tribals at 8.2 percent, is actually a notional projection and this fact has been brought to the notice of the Planning Commission by the NCST and that they are seized of the matter. The Committee sincerely hope that the Government would give top priority to the matter and give clearance to the proposal to park 8.2 percent of budget amount at the disposal of the Ministry of Tribal Affairs for funding project based on tribal oriented schemes. The Committee recommend to the Planning Commission to ensure that just as States plans are not approved unless TSP/SCP are not provided in their plans, this principle should be applied in respect of the Central Ministries as well. The Committee are also concerned that there is lack of mechanism as mentioned by the Secretary, Ministry of Tribal Affairs to see that the amount allocated goes in the effective programme or not. The Committee, therefore, recommend that the Ministry should evolve an effective and credible system of mechanism regarding utilisation of funds under TSP. The Committee also recommend that apart from the Ministry, NCST should also regularly monitor utilisation of funds under TSP.

Action Taken Reply of the Government

4.34 From the feedback obtained from the Central Ministries/ Departments, no Ministry is having a TSP approach as is envisaged in the guidelines laid down by Planning Commission. In a meeting held with Planning Commission on 24.11.2008 the approach to monitoring/ implementation of TSP has been further discussed. It has been decided that for time being the monitoring of TSP should be limited to States and earmarking of such funds by the Central

Ministries shall be considered only at a later stage. Accordingly, the need for Central Government Ministries to park 8.2 percent of the budget amount at the disposal of Ministry of Tribal Affairs need to be addressed subsequently.

4.35 Following are the States who have not been found to earmark sufficient funds in proportion to the ST population of the State during 2008-09:

S. No.	States
1	Assam
2	Chhattisgarh
3	Goa
4	Gujarat
5	Jammu & Kashmir
6	Jharkhand
7	Karnataka
8	Madhya Pradesh
9	Rajasthan
10	Sikkim
11	Uttar Pradesh

In addition, the recommendation has been sent to the Planning Commission and to the National Commission for Scheduled Tribes for follow up action vide this Ministry's letter dated 17/11/2008.

4.36 During evidence, the Secretary, Ministry of Tribal Affairs explained about working of TSP and Planning Commission as under:-

“May I mention about the Tribal Sub-Plan and the Planning Commission? This is very important. We are keen on three things. One, in the Tribal Sub-Plan areas, the powers of the Fifth Schedule under the Constitution must be implemented and carried out. It lays down certain powers including the powers of the Governor. We would like that to be operated. That power includes nullifying the Parliamentary legislation by the Governor. Maybe, I am going beyond my brief. But this is important enough to mention because I would be relating it to the Tribal Sub-Plan.

The second power is that we are expecting every Ministry of Government of India, though it is not provided under any law as such, to give at least 8.2 per cent of their funds to the tribal areas. As per the 2001 census, 8.2 per cent Scheduled

Tribes are there in our country. By this time now, it will be 10 per cent. So, we want every Ministry to give at least 8.2 per cent of their funds to the tribal areas. From where do we get our strength? We get our strength from the fact that under the Transaction of Business Rules, there is a provision which, very interestingly, says that the actual working for the tribals is to be done by the line Ministry. We are supposed to provide and play a kind of coordinating role. It is not our primary role. The main role is for the line Ministry. For example, if the Health Ministry is going to take up a project relating to setting up of Anganwadi centres, the tribals cannot be given the same yardstick. It has to be different. So, they have to think differently. But we are supposed to give them that information or give that input so that they prioritise things. For example, the PMGSY is there. How many villages are to be covered? Of course, the Ministry of Rural Development is doing that. It is regularly touched upon by us so that they do this for the tribals. So, we want 8.2 per cent of each Ministry's fund to go into the tribal areas.

We want every State Government to have a Tribal Sub-Plan which has that percentage which is tribal in the respective States. So, in the case of Orissa, it was 22 per cent or more and it will be doing it. How do we do it? Aside from the recommendation of this Committee – the recommendation of the Committee is important – we have taken up with the Planning Commission saying that this has to be done because it is the one which can, probably, have the way of enforcing this because it can just say that the Annual Plan will not be approved if they do not do it. It has not happened. We had a meeting with them once or twice. Maybe, about a month or less than that, our Minister has written to the Deputy Chairman of the Planning Commission about the need for enforcing that before the Annual Plans are approved. So, we are trying to do this”.

He further stated:-

“...you have asked why the Planning Commission is not doing it. I will not be able to answer on behalf of the Planning Commission. Perhaps, they are now putting it in one of their Reports which is called the Munger Committee Report which has not yet been discussed. The Planning Commission has to ensure this allocation. So, we are trying to see that whatever is the money which is in the Budget of the Ministry is treated as non-lapsable fund”.

4.37 During evidence when the Committee sought to know whether the Minister of Tribal Affairs wrote to all the State Governments about Tribal Sub Plan, the Secretary, Ministry of Tribal Affairs clarified that the Minister had written to the Planning Commission. When further enquired whether the Ministry can direct the State Governments or instruct them in this regard. The Committee also advised that the issue in regard to claim of 24 Departments of the Central

Government that the funds are indivisible and they cannot show what is earmarked for Tribal Affairs or Scheduled Castes should also need to be addressed.

4.38 In reply, the Secretary, Ministry of Tribal Affairs stated:-

“...we thought that address the Planning Commission would be the best method because they are controlling the purse strings. So, in addition to that, we have also written to all the State Governments about their responsibility to ensure this, and if we think that our plan for the future materializes, then even when they are designing their Tribal Sub Plan, it should be possible for us to attend. But presently, it cannot be done with the present staff strength of our Ministry. We have just four or five officers. So, for us to go to every State and participate when they are designing the Plan, it is not possible. But if we are able to do that, we will do that.

The next part is that our Minister has also written to all the Central Ministries about their responsibilities to ensure this 8.2 per cent reservation and also to form a small unit in their Ministry for Tribal Affairs.

Our Economic Advisor is the one who is to coordinate with these units so that what we want to do can be done. But again, she is the only one officer in that entire office with one staff member for this entire work, and she has many other works. So, we are working in a way with our hands tied behind just as NCST. So, we will do that when we can”.

4.39 Having noted that the recommendations of the Committee were sent to Planning Commission for follow up action, it was enquired from the Ministry about the views received from the Planning Commission on the recommendation of the Committee and the action that has been taken against the States which have not earmarked sufficient funds in the TSP/SCSP during the year 2008-09. It was also enquired about action taken by NCST on the recommendation of the Committee.

[Ministry of Tribal Affairs O.M.No.18012/12/2008-C&LM-I, dated 03.03.2009]

Post Evidence Reply

4.40 In their written replies, the Ministry of Tribal Affairs have stated that they wrote to the Planning Commission on 08.10.2009 and the Planning Commission has been requesting all Central Government Ministries to allocate, at least, 8.2 percent of their Annual Plans for the

welfare and development of Scheduled Tribes in our Country as per the 2001 census. Similarly, all the concerned Central Ministries have also been addressed on 08.10.2009 at the level of the Hon'ble Minister of Tribal Affairs for taking action for implementation of TSP.

4.41 In respect of the implementation of TSP by States, a letter was sent in October 2009 to the Deputy Chairman, Planning Commission to ensure earmarking of funds under TSP at least in proportion to the tribal population of the State and issue necessary instructions, so that TSP strategy is implemented in all concerned States.

4.42 In regard to action taken by the National Commission for Scheduled Tribes it has been stated vide its letter dated 19.10.09 that the Commission fully endorses the recommendation of the Committee. In order to implement these recommendations, a non-lapsable pool of funds may be created under the MTA out of the un-spent TSP outlays of various Ministries (as for the North-East development) for up-gradation of administration and infrastructure in the Fifth Schedule Areas. As regards monitoring the utilization of the funds under TSP by the National Commission for Scheduled Tribes, monitoring would be undertaken as soon as requisite personnel are made available to the Commission.

Comments of the Committee

4.43 Please see Para No. 1.87&1.88 of Chapter-I.

CHAPTER – V**RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH FINAL REPLIES OF THE GOVERNMENT HAVE NOT BEEN RECEIVED****Recommendation (Sl. No. 6, Para No. 1.21)**

5.1 The Committee note that after bifurcation of National Commission for Scheduled Castes and Scheduled Tribes (NCSCST) into National Commission for Scheduled Castes and National Commission for Scheduled Tribes, staff at headquarters office of NCSCST and its 18 regional offices were distributed between the two Commissions in the ratio of 2:1. The NCST is now left with headquarters as well as six regional offices located at Bhopal, Bhubaneswar, Jaipur, Raipur, Ranchi and Shillong. The Committee also note that there are four wings at headquarters of NCST viz. Administration/Establishment Wing; Economic and Social Development Wing; Service Safeguards & Coordination Wing; and Atrocities Wing. The Committee further note that regional offices of the Commission keep a watch on the formulation of policy and issue of guidelines relating to the welfare of Scheduled Tribes in the respective States/UTs under their jurisdiction and inform the Headquarters about the developments periodically. They liaise with State/UT Administrations for evaluation and assessment of the working of various development programmes and their impact on ameliorating the socio-economic condition of STs and also bring to the notice of the concerned State Government for taking remedial measures. The Committee also note that NCST in their First Report (2004-05 and 2005-06) had recommended for upgradation of four regional offices, augmentation of the existing strength of supporting staff in six regional offices and creation of four more regional offices. The Committee do not agree with the reply of the Ministry that a formal proposal in this regard has not been submitted to them by the NCST.

The Committee feel that instead of waiting for a formal proposal from the NCST for so long, the Ministry of Tribal Affairs should have taken the initiative after receiving the recommendation of the NCST. The Committee view that NCST has made a legitimate and genuine demand for upgradation and augmentation of its regional offices since the existing regional offices would not be in a position to handle the needs and problems of ST population spread all over the country in almost all the States/UTs. It would be naïve to think that merely setting up of a separate Commission without sufficient number of regional offices and staff is good enough to achieve the objective for which it has been constituted. The Committee, therefore, recommend that the Government should set up more regional offices according to the present need, upgrade the four regional offices and augment the existing staff strength of NCST accordingly on a priority basis. However, the Committee feel that to some extent it was also a lapse on the part of the Secretarial staff of the Commission who were supposed to send a formal proposal to the Ministry on a priority basis as it was an urgent need of the Commission.

Action Taken Reply of the Government

5.2 Had the Ministry acted independent of any proposal from National Commission for Scheduled Tribes, the possibility of addressing inadequately the need of that organization would have arisen. Therefore, a proposal from NCST focusing all the basic requirements, ground reality and problems in the regional offices along-with further details to strengthen the Commission is necessary for examination and further action for implementation of the recommendation. Accordingly, the National Commission for Scheduled Tribes has been again requested on 18.02.2009 to submit a detailed proposal so that the recommendations of the Hon'ble Committee can be followed up for implementation.

5.3 Having noted that the NCST had not submitted the detailed proposal, the NCST were asked about the reasons as to why no formal proposal has been sent to the Ministry by them in regard to strengthening of the Commission. The Ministry of Tribal Affairs were also asked

about the nature of action taken by them on recommendations contained in the First Report of NCST (2004-05 and 2005-06) with regard to upgradation of 4 regional offices, creation of more regional offices and augmentation of existing staff after the presentation of the Report to the President on 8.8.2006.

[Ministry of Tribal Affairs O.M.No.18012/12/2008-C&LM-I, dated 03.03.2009]

Post Evidence Reply

5.4 The Ministry of Tribal Affairs in their post evidence replies have stated that the formal proposal of the National Commission for Scheduled Tribes regarding augmentation of staff, upgradation of four regional offices and creation of additional regional offices dated 21.10.2009 has been received. This is under examination.

Comments of the Committee

5.5 Please see Para No. 1.25 of Chapter-I.

Recommendation (Sl. No. 7, Para No. 1.27)

5.6 The Committee note that NCST functions under the administrative control of the Ministry of Tribal Affairs and the proposals involving financial implications are required to be referred to the Integrated Finance Division of the Ministry through the concerned Administrative Branch of the Ministry of Tribal Affairs. The Committee also note that the Commission has been conferred the powers of a Ministry/Department of the Central Ministry as provided under the Delegation of Financial Power Rules, 1978 even though it has no say in creation of posts, re-appropriation of funds, purchase of vehicles and grant of permission to officers of the Commission to participate in seminars, conferences, etc. It is sad that the Commission, which has been given statutory status has to depend upon the Ministry for its day to day functioning. It has also to route its proposals on financial, administrative and legal

matters through the Ministry. The Committee are surprised by the fact that although, Planning Commission had suggested that budget provisions for NCST should be shown under a separate Demand for Grants instead of being a part of the Demand for Grants of the Ministry of Tribal Affairs, the suggestion has not been agreed to by the Ministry of Finance. The Committee are distressed that even the status of statutory entity does not entitle NCST to have a separate entity. The Committee are of the firm opinion that when it was decided to create NCST, it was never envisaged that it would function as a part of the Ministry of Tribal Affairs. If it was so, there was no need to constitute the Commission as a statutory body and it could have continued to function as a non-statutory body as earlier. The NCST would not be able to work fearlessly and independently unless it is given independence in its day to day working by allowing it to decide on its own administrative, financial and legal matters. The Committee also fail to understand the logic as to why the Ministry of Finance have objected to the proposal of the Planning Commission for showing separate Demand for Grants for NCST.

Action Taken Reply of the Government

5.7 The National Commission for Scheduled Tribes and National Commission for Scheduled Castes have been carved out of the erstwhile National Commission for Scheduled Castes & Scheduled Tribes. Therefore, rules and procedures applicable to the existing National Commission for Scheduled Castes may also have to be kept in view while taking a decision in respect of National Commission for Scheduled Tribes. However, the observations of the Committee have been communicated to the Ministry of Finance (Department of Expenditure) vide this Ministry's letter dated 17/11/2008.

[Ministry of Tribal Affairs O.M.No.18012/12/2008-C&LM-I, dated 03.03.2009]

Comments of the Committee

5.8 Please see Para No. 1.28 of Chapter-I.

Recommendation (Sl. No. 14, Para No. 3.7)

5.9 The Committee also note that the Commission holds review meetings with various organisations of the Central Government and with State Governments to monitor and evaluate the working of safeguards provided to STs. Before holding such review meetings, the Commission collects detailed data relating to various aspects of tribal development through questionnaire. The Commission also obtains data on the representation of STs in services/posts in Central Ministries/Departments, Public Sectors, Banks, Insurance Companies, Financial Institutions and Central Universities and based on this data, the Commission advises these organisations to take corrective steps. The Committee has been informed that the Commission has generally observed a very encouraging response of the authorities/organisations for taking such necessary corrective steps. The Committee would like to know the facts on the basis of which the Commission has arrived at such a conclusion.

Action Taken Reply of the Government

5.10 The recommendation has been sent to the National Commission for Scheduled Tribes vide this Ministry's letter dated 17/11/2008 and 10/02/2009. Commission is yet to give its response.

[Ministry of Tribal Affairs O.M.No.18012/12/2008-C&LM-I, dated 03.03.2009]

Comments of the Committee

5.11 Please see Para No. 1.57 of Chapter-I.

Recommendation (Sl. No. 20, Para No. 4.18)

5.12 The Committee observe that a Working Group on “Migration of Tribal Girls” was constituted on 25.7.2006 under the Chairmanship of Secretary (TA) with the objective to assess the magnitude of migration of tribal girls, its possible causes and consequences and measures to check migration. The Committee would like to know whether the report by the working Group has been completed and presented to the Ministry. The Committee strongly recommend that proactive action should be taken expeditiously so that young tribal girls who migrate to cities are not exploited for want of proper shelter and opportunity.

Action Taken Reply of the Government

5.13 Based on the recommendation of the Working Group in it's Second Meeting, a study covering the States of Jharkhand, Chhattisagarh, Orissa and Delhi has been entrusted to the V.V.Giri National Labour Research Institute, Noida (U.P.). The study is required to be completed in a stipulated time period.

[Ministry of Tribal Affairs O.M.No.18012/12/2008-C&LM-I, dated 03.03.2009]

Post Evidence Reply

5.14 When subsequently asked whether the report entrusted to V.V. Giri, National Labour Research Institute, NOIDA (UP) has since been submitted and to highlight the main thrust of the report and the action proposed to be taken in the light of the above study, it has been stated in the post evidence replies that the draft report on Migration of Female Domestic Workers to Delhi was submitted by V.V.Giri National Labour Research Institute, Noida (U.P.) on 19/08/2009. The report was examined in this Ministry and since it did not objectively assess

the extent of migration, the report has been sent back to the Institute for carrying out necessary revision. The revised report is awaited.

Comments of the Committee

5.15 Please see Para No. 1.76 of Chapter-I.

New Delhi;
March, 2011
Chaitra, 1933 (Saka)

GOBINDA CHANDRA NASKAR
Chairman,
Committee on the Welfare
of Scheduled Castes and
Scheduled Tribes.

**APPENDIX-I
(VIDE Para 1.17)**

REPORT ON THE NATIONAL COMMISSION FOR SCHEDULED TRIBES

Centre for Policy Research

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REPORT ON THE NATIONAL COMMISSION FOR SCHEDULED TRIBES

The objectives of the National Commission for Scheduled Tribes are to act as an independent agency that will investigate, monitor and record any violation of the Constitutional rights of the Scheduled Tribes, suggest measures for their development and in general act on their behalf. This report focuses on the extent to which the Commission performs its role and how effectively it does so. It does not touch upon the wider issues pertaining to the Scheduled Tribes, except insofar as they are addressed or not addressed by the Commission fine study involved interviews with the Chairman and staff at all levels, a study of the various reports prepared by the Commission, a detailed perusal of several petitions filed in the Commission under different heads, as well as interviews with petitioners to assess their impression of the Commission.

A brief history of the National Commission for Scheduled Tribe

The National Commission for Scheduled Tribes was set up in February 2004, replacing the National Commission for Scheduled Castes and Scheduled Tribes.¹ This Commission, in turn, replaced a series of offices/Commissions, which had their origin in the Special Officer for the Scheduled Castes, and Scheduled Tribes as laid down in Article 338 of the Constitution. As such, the scope of this study is both too short and too long - since the current National Commission for Scheduled Tribes has been functioning only for two years, and the functions or powers as such have existed in one form or another since 1950.

¹ The information in this section is taken from the First Report of the National Commission for Scheduled Tribes, 2004-5 and 2005-6, Delhi, pp. 1-7. (henceforth. First Report)

Initially, in 1950, the Special Officer was designated the Commissioner for Scheduled Castes and Scheduled Tribes, and was responsible for investigating the 'safeguards' provided by the Constitution and other laws, and reporting to the President.

In 1978, a multi-member (non-statutory) Commission for SC & ST was set up, with a Chairperson and four members, of which one was to be the Special Officer. For a while, the statutory office of the Commissioner for SC & ST co-existed with the non-statutory Commission for SC and ST. From 1981-85, the statutory office of the Commissioner remained unfilled. In 1987, the functions of the two offices were separated - the Special Officer/Commissioner was to submit reports to Parliament, while the National Commission was to conduct studies on the socio-economic situation of SC & STs, and submit them in project mode to the Government.

In 1990, by a Constitutional Amendment, the Special Officer (Office of the Commissioner) for SC & ST was replaced by a National Commission for SC & ST (NCSC&ST). However, the first National Commission following this was set up only in 1992. Since then there have been four Commissions for SC & ST, (1992-Chairperson, Shri Ram Dhan; 1995 - Shri H. Hanumanthappa, 1998 - Shri Dilip Singh Bhuria, 2002 - Dr. Bijay Sonkar Sastri).

Increasingly, however, functions related to Scheduled Tribes began to be separated from the functions relating to Scheduled Castes. This was reflected in the creation of a separate Tribal Development Division in the Ministry of Home Affairs and in 1999, the creation of a new Ministry of Tribal Affairs. The National SC & ST Finance Development Corporation was also bifurcated to create a separate National ST Finance Development Corporation in 2001.

In 2004, by amendment of Article 338 and the insertion of Article 338 A, the NCSC&ST was divided into the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes. Since the bifurcation there have been two National Commissions for ST (2004-2007 - Shri Kunwar Singh, 2007 - Ms. Jamuna Devi).

The Commissioner for SC and ST initially had 17 regional offices, but in 1967 these were re-grouped into five zonal offices and placed under the control of a newly created Directorate General of Backward Classes Welfare in the Department of Social Welfare, which was then under the Home Ministry. In 1978, however, they were brought back under the control of the Commission. In the bifurcation of the SC & ST Commission, the NCST retained six regional offices. These are located in Bhopal, Bhubaneswar, Jaipur, Raipur, Ranchi and Shillong.

Apart from the annual reports prepared by the Commissioner for SC & ST, and later, the NCSC & ST, there have been two Commissions appointed under article 339 of the Constitution to look into the administration of scheduled areas and the welfare of scheduled tribes. The first was the 1960 UN Dhebar Commission, which yielded the tribal sub-plan strategy, and the second was the Dilip Singh Bhuria Commission (appointed 2002, report submitted 2004).

The history of the various shifts that the NCST has undergone reveals three striking issues:

1. Right from the beginning, the Office of the Commissioner was envisaged in paternalist mode, and the provisions of the Constitution relating to Scheduled Tribes seen as 'safeguards' (to be taken away when they were deemed to be no longer required) rather than rights (such as the right to non-alienation of land, or the right to an alternative form of governance and different laws from those that govern the rest of the country).

2. The long periods when the statutory office of the Commission remained unfilled, the initial creation of a non-statutory commission which would merely give reports to the government in project-mode, the way in which the office has been periodically reorganised suggests that it is seen merely as one more department of the government, rather than an independent body with Constitutional powers, intended to provide a corrective to the functioning of the government when required. There is a regrettable lack of seriousness with which the office has been treated. Its current uneasy co-existence with the Ministry of Tribal Affairs underlines the continuing nature of this problem.
3. The running down of the regional offices is another trend that has continued till the present, when there are only six regional offices to deal with Scheduled Tribes across the country. These are severely understaffed to deal with the areas they are meant to cover. In general, they are little recognized and complaints are generally made directly to the National Commission. The Commission has asked for four additional offices in AP, Maharashtra, HP and Gujarat, but failing that, there is a feeling among some officers that it would be better to consolidate all the offices in Delhi, rather than spreading itself thin. However, this would fundamentally defeat the purpose of the Commission. To expect adivasis to have the resources to come to Delhi or even the state capital to pursue their cases is clearly unrealistic.
4. While some of the Commissioners for SC & ST were people who were extremely knowledgeable and concerned about the Scheduled Tribes, such as the anthropologist NK Bose and the former administrator Dr. B.D. Sharma, subsequent appointments of Chairpersons and members have been political sinecures for those ST representatives of the ruling party whom it needs to satisfy. They have displayed little vision or imagination in addressing the issues of Scheduled Tribes, and been unwilling to take up issues that are -uncomfortable for their party.

II. Functions and Powers

The functions, duties and powers of the Commission include:

1. to investigate and monitor all constitutional and legal safeguards for Scheduled Tribes, and make recommendations on these
2. to enquire into specific complaints regarding the violation of these safeguards and rights
3. to participate and advise on the planning process regarding the socioeconomic development of Scheduled Tribes, and evaluate their progress
4. to discharge any other functions related to the protection, welfare and development of Scheduled Tribes which the President, subject to Parliament may specify (clause 5f).

In pursuance of these objectives, the Commission is both required and empowered to:

1. Report to the President annually on the working of safeguards, and make recommendations. The Government (Centre or State, depending on whether a particular report concerns a State Government) is required to table these in the concerned legislature along with an Action Taken Report.
2. Act as a civil court to investigate all complaints, including the power to summon attendance, requisition documents etc. However, it does not have the power to issue injunctions against anyone on the basis of its investigations.
3. The Union and State Governments are required to consult the Commission on all major policy matters affecting Scheduled Tribes.

In 2004, the Ministry of Tribal Affairs (MOTA) also assigned the NCST additional functions to carry out studies and hold workshops on specific subjects. While initially reluctant to accept the added burden, in the light of limited funds, the NCST eventually gave in and included the work in its Rules of Procedure (as part of clause 5 f of Article 338). It also requested MOTA to sanction additional hinds under the head of 'Other Administrative Expenses' to meet the cost of workshops and studies on these issues.

The issues that MOTA specified are:

1. Measures that need««to be taken to confer ownership rights over NTFPs to STs living in forest areas.
2. Measures to be taken to safeguard rights of tribal communities over mineral, water and other resources as per law

3. Measures to be taken for the development of tribals and to work for more viable livelihood strategies
4. Measures to be taken to improve the efficacy of relief and rehabilitation measures for tribal groups displaced by development projects
5. Measures to be taken to prevent alienation of tribal people from land and to effectively rehabilitate such people in whose case alienation has already taken place
6. Measures to be taken to elicit maximum cooperation and involvement of tribal communities for protecting forests and undertaking social afforestation
7. Measures to be taken to ensure full implementation of the provisions of Panchayat (Extension to Scheduled Areas) Act 1996 (40 of 1996)
8. Measures to be taken to reduce and ultimately eliminate the practice of shifting cultivation. by tribals that lead to their continuous disempowerment and degradation of land and the environment.

Relation between MOTA and NCST: This manner of handing over responsibility for such studies to the NCST and the list of issues themselves betray government's attitude towards the rights of Scheduled Tribes. First, MOTA seems to be assuming the right to give instructions to the NCST, thus establishing a relation of superiority over NCST. This is contrary to the spirit of Article 338, which envisages the NCST as an independent body capable of giving advice and directions to the government. The NCST has the powers to regulate its own procedures (clause 4). When asked the Chairperson of the NCST said that MOTA was the nodal ministry for NCST in terms of funding and the provision of infrastructure, but otherwise the two were independent. He also said that NCST reviews the work of MOTA and the Tribal Sub-Plan, but the NSCT is responsible only to the President:² While this is no doubt the official line, the reality of the relation between the two entities appears to be somewhat different. Control over funding and infrastructure effectively means control over an organisation.

Second, the list of issues is itself biased - it assumes displacement is inevitable, that it is shifting cultivation which is responsible for forest and land degradation rather than diversion of forest land for industrial and development projects or the forest department's own production forestry, that it is the government which needs to elicit people's co-operation in protecting forests and so on.

One of the points to be covered in this report is whether a citizens charter has been developed in consultation with the stakeholders. Adivasi communities and organisations have repeatedly made their views known, and have framed resolutions on their demands. These have included the right to land titles, the right not to be displaced, the right to protect their forests on their own without government interference and so on. These demands are mostly met with repression by agencies of the government, like the police and the district administrations.

However, for the Ministry of Tribal Affairs to come up with such a list of measures which already presuppose what should be.- studied, and which is at variance with what adivasi communities have repeatedly expressed and demanded, shows that it is far from developing a citizens charter. It also shows that the paternalist view of 'government knows best for the backward ST continues to dominate government thinking.

Finally, it is not clear how these are further responsibilities placed upon the Commission, since all these issues were previously taken up by the Commissioner SC and ST in the past. An assertive Commission should have been looking into these issues anyway, since they centrally concern the planning process regarding the development of tribes.

While Article 338 (9) clearly states that "the Union and every state government shall consult the Commission on all major policy matters affecting Scheduled Castes and Scheduled

Tribes”, this does not seem to be happening.-For instance, the Commission complained that it was not consulted by the Ministry of Tribal Affairs while framing the Scheduled Tribes (Recognition of Forest Rights) Act; it does not seem to have much of a role in suggesting rules for PESA and so on. Similarly, when it comes to framing the industrial or mining policy of the country, the Ministry of Tribal Affairs or even the NCST does not appear to be involved, even though this centrally concerns many ST populations.

Further evidence of the low status assigned by the government to the NCST is evident from the fact that the last seven reports submitted to the President by the National Commission for Scheduled Castes and Scheduled Tribes have not been tabled in Parliament. Not only does this deprive the public of valuable information, but it is a serious abdication of government responsibility. Commission Members and Officers attribute this failure to the delay in tabling the ATR alongside, and recommend that the two be delinked, and that the Report be tabled within 3 months and the ATR within six months of the report being given to the President. It is the Ministry of Tribal Affairs which is responsible for preparing the ATR (previously it was tasked to the Ministry of Social Justice), and its failure to do this is once' again a reflection of the fact that it appears to be MOTA which controls NCST because it controls funding, infrastructure and the ATR, rather than the other way around.

In short, while Article 338 of the Constitution envisages the Commission as an independent body empowered to give advice to the government, the Government and the Ministry of Tribal Affairs treat the NCST as an appendage of its normal activities.

The Commission, in turn, has not cared to exercise or be vocal about its independence. Thus it is unable to play the balancing, watchdog function it is meant foTOn the other hand, even in Article 338, the powers of the Commission are limited to reporting and investigating.

The fact that it has no independent powers to sanction officials who have committed atrocities against Scheduled Tribes makes it somewhat of a paper tiger.

Organisational Structure

The organisational structure of the Commission consists of the Chairperson at the top, followed by a Vice-Chairperson and three members. The senior administrative staff comprise of a Secretary to the Commission assisted by a Joint Secretary, two Directors and an Under Secretary. Finally there are the principle investigators of the different units as well as their dealing hands or assistants.

Work of the Members: In a section on the approach and methodology of the Commission,⁴ we are told of the number of meetings held by the Commission'. These are largely on the issue of reservations, inclusion of communities in the list of STs, delimitation of constituencies, the report of the Commission and its internal, functioning. In other words, issues of identity and reservation - which affect a small portion of the overall ST population of the country. However, a look at the field visits of the Chairman reveals quite an interesting range of issues covered: medical treatment of children in -Orissa, rehabilitation of Kadana dam oustees in Gujarat, conflicts between STs and the Army in J& K, visits to Sikkim and Jharkhand to talk to local people and state officials about their problems, visit to the Andaman and Nicobar islands to assess the schemes taken up by the administration and review post-Tsunami work, visit to Sardar Sarovar and Kalinganagar to investigate rehabilitation, meetings with SC/ST employees of nationalised banks and PSUs like NTPC and so on. Some members tend to tour their own areas, whereas others tour more widely. One Chairman is said to have spent the last few months of his tenure visiting all the *swamis* and *peeths* in the country.

Senior Staff of the Commission: While the members of the Commission change with every new Commission that is appointed the Commission has been fortunate to have some continuity in the form of some senior staff, who have been with the Commission in its various avatars from the 1970s. It is they who are largely responsible for the Report of the Commission, which is an extremely useful and comprehensive document, but which, as mentioned before, has not been tabled in Parliament.

Principle Investigators assigned to each research unit: It is this level which is most crucial for the bulk of cases handled by the Commission, and the impact felt by the public in everyday matters (which do not require major policy or political interventions). These units are severely understaffed, and fresh recruitment appears to be a serious problem, especially of the kind of graduates who are either from Scheduled Tribe communities themselves or knowledgeable and concerned about them. Turnover is said to be high - recently PhDs were hired as investigators but they were leaving for better jobs. The number of staff to officers is also skewed with 1 dealing hand and research officer to 7 officers above him/her. The gender and caste composition of the Commission also bears attention. The representation or lack thereof of STs within the Commission manifests itself in subterranean tensions.

At this level, the staff is divided into four wings:

1. Administration/Establishment and Co-ordination Wing
2. Economic and Social Development Wing
3. Service Safeguards
4. Atrocities wing

While the administrative wing looks after all internal establishment and administrative matters of the Commission, the Services Safeguards wing deals with service issues. The issues it takes up include the implementation of reservation policies within the government, cases relating

to false community certificates and the inclusion (and very rarely exclusion) of various communities in the list of Scheduled Tribes. The Atrocities wing deals with cases as defined by the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989, the Bonded Labour system (Abolition) Act, the Minimum Wages Act etc. The main complaint under this head is the non-registering of cases under the Atrocities act. The Economic and Social development Wing is intended to monitor government schemes. A list of policy matters dealt with under this theme include: matters relating to land and rehabilitation, education/scholarships, health, drinking water and nutrition, matters relating to financial institutions – banks/corporations, matters relating to scheduled areas and tribal areas, matters relating to forest and excise policy for tribals, tribal policy, matters relating to distributive agencies like petrol pumps, LPG etc., matters relating to central ministries, the Tribal Sub-Plan, and the Planning commission. While the index page of the register carried all these items, the register itself was rather empty.

From July 2006 onwards, this structure was replaced with a regional division of labour where each of the four research units deals with all issues, region wise. Research Unit I deals with the northern, and western states, Research Unit II covers the north-east, Research Unit III covers the central states as well as the Andamans, while Research Unit IV covers the southern states. In addition, since the bulk of the Commission's work is to do with the activities of different ministries and government departments, especially service matters, each research unit has been assigned specific ministries/departments.

The rationale given for this by the senior officers was that it prevented over specialisation and the problems that occurred when a specialist in one field was away. The staff handling the cases, however, felt that the issues required that kind of specialised knowledge across regions. Further, by clubbing all regional issues together, services

matters got more attention than the others by sheer weight of numbers. Having separate wings for atrocities and economic and social development ensured that they had their own space. This remains an issue of discussion within the Commission.

There are three or four ways in which the Commission takes up cases. The first is the routine way, whereby petitions are received and attended to by the principle investigators and their dealing hands. Sometimes the petitions are forwarded by MPs, which ensures that they get, attended to. The other route is for the Chairperson or members to take up issues/complaints they encounter on their field visits and pass them on to the staff for further action. Inevitably, they are more interested in their own states than elsewhere, and the number of petitions from a state is also higher if one of the members comes from there. For example, in 2006, the highest number of atrocities complaints came from MP, and although MP is the state with the highest number of atrocities against ST even according to the National Crime Records bureau,⁶ the representation of the other states in terms of complaints to the NCST was disproportionately low. The third route is for the Commission to take *suo moto* cognisance of an issue from newspaper reports. Earlier the librarian used to make clippings of cases relevant to STs, but now the system seems more haphazard.

There are two problems regarding the handling of cases by the Commission. The first is the low number of cases handled, compared to the large number of cases that occur in the country. For instance, in 2005-6, a mere 204 new cases were recorded by the , atrocities wing, 461 cases by the economic and social development wing, and 489 by the services wing. The number of atrocities cases in the country runs into thousands. According to the National Bureau of Crime Statistics, there were 6217 cases of atrocities against ST in 2001, 6774 in 2002 and 5889 in 2003.⁷ The Chairperson, however, claimed that since the

NCSC&ST was bifurcated, the number of cases has gone up as the NCST is able to devote, more attention to STs alone. The fact that there are now 5 members specifically focussing on issues related to STs as against the 2 on the joint Commission for SCs & STs has also helped. The problem of lack of cases in certain areas may also have to do with the inability of this particular section of society which is affected by atrocities - STs - to access institutions like the Commission.

Unfortunately, even all the petitions that the Commission gets are not recorded. I am personally aware of petitions submitted to the Commission following a meeting with the Chairperson, but which do not figure in the records of the relevant research unit. The mismatch between the atrocities that take place and the cases that the Commission deals with could be due to at least three reasons: 1.) not all cases which are registered require the intervention of the Commission, 2.) lack of staff to deal with the volume of cases that come in (each research unit gets about 4-500 letters on average per month) 3.) a tendency among staff to concentrate on the more easily manageable service cases where the petitioners are more organised and hence more vocal, and thus neglect the atrocities cases. The shortage of staff is quite severe, and appears to be half of the sanctioned strength.

The second issue is the pendency of cases. Here again, it is not clear whether the problem is primarily a.) shortage-of-staff, b.) the nature of the files where explanations are called for and letters go back and forth. The usual procedure is for the Commission to write letters to the concerned Secretary/ Chairperson of the organisation from which the complaint originated, or with which the complaint is concerned and ask for an explanation. In cases where they do not get an answer they can issue summons to the officer to appear in person before the Commission and explain. However, this is rare, and from March 2004-2007, summons have been issued in only two cases.

This procedure of asking for clarification and explanation from the concerned officials – assumes a situation where governments respond honestly. As one staff member said, in the course of interviews, “where rules are knowingly violated by the administration, the tendency is to cover up the matter”. In such cases, the Commission is helpless. This procedure is especially problematic for STs, since a large part of the atrocities committed on them are by agencies of the government like the police and the forest staff. Of course, in a few cases, especially service matters, where the law is complicated, organisations do respond and the problem is resolved. In rare cases, the organisation is actually grateful for the intervention by the Commission and the clarification on law it officers. The point, however, is that while not every case can be independently investigated by the Commission and letters asking for an explanation do constitute some form of pressure, this mode of functioning as the dominant norm needs to be seriously rethought. Apart from visits by the members, the existing independent investigating machinery in the Commission needs to be strengthened.

This mode of functioning also saps the interest of the staff. One person said that when he joined the Commission it was with the expectation of doing research and giving policy suggestions on development. Now, however, the Commission had become a ‘petition cell’ and the work had become routinised.

Issues Taken Up by the Commission

The Commission has divided the issues that come before it into the following categories:

1. Constitutional provisions for protection and development of STs.
2. Socio-economic development of STs (land alienation, rights over MFP, housing, education etc.)
3. Resettlement and Rehabilitation of displaced tribals.
4. Education

5. Service safeguards
6. The problem of authenticating ST certificates
7. Crimes and atrocities against ST

This listing of issues before the adivasis of the country is fairly exhaustive (although it does not deal with important issues such as the growing militarization of tribal areas). The report of the Commission also deals quite exhaustively with the statistics and overall situation under all these sections, and makes broad recommendations to the Ministry of Tribal Affairs and other departments of the Government, such as the need to 'expedite the passage of the Forest Rights Bill', the need to 'preserve the cultural heritage of the tribal people' with respect to their places of worship, arts and crafts, the need for states to implement PESA effectively etc.⁸ it also recommends that "the Dept. of Mines should introduce a bill to give effect to the recommendations of the Bhuria Committee 1995 to the effect that in all industrial enterprises set up in the Scheduled Areas (other than small ventures) the community should be deemed to be the owner with 50% shares in its favour by virtue of its allowing the industry to use local resources and get established." (p.95). Having made this recommendation, however, the Commission is unable to back it up with sufficient voice when actual cases of acquisition of adivasi land for industrial purposes takes place.. Even on Kalinganagar, when 12 adivasis were killed by the police for protesting against land acquisition, while the Commission visited the area, and called for a report from the state government, the Government set up its own enquiry commission, thus sidestepping the Commission. In cases like the Narmada dam or the Polavaram dam, where large number of adivasis are to be displaced, the Commission writes to the concerned engineers and government officials, but is unable to make much difference.

In terms of the everyday cases handled (as against policy recommendations), it is clear both from the volume of cases disposed of and conversations with the staff that the bulk of the cases before the Commission are individual service matters pertaining to employment by government, including the banking and insurance sector, and other nationalised bodies. Scheduled tribes are rarely employed in the organised private sector. The focus on service matters is in part because government staff are the people most able to make use of a grievance redressal mechanism, and to follow up with the Commission staff in person, a factor which the staff admitted was of help in pushing a case forward, in part it is, also because the other issues confronting adivasis are so vast and so difficult for a single Commission to address in the face of the overwhelming power of other "ministries keen on pushing a certain model of development that marginalizes adivasis, that Commission staff themselves feel that only these cases yield tangible results for them. In effect however, this means that, the Service Safeguards wing acts as an internal branch of the government, ensuring better service conditions for the scheduled tribe employees of the government.

This is by itself an important service considering that the vast majority of ST government staff belong to classes III and IV, and are relatively powerless within the system. For example, a petition by the All India General Insurance SC/ST employees federation states that there is a serious need for compassionate appointments for SC/ST staff, since their statistics showed that 80% of class IV staff had died while in service, particularly the safai karamcharis. Other charges against management are that they tend to promote only those SC/ST employees who were subservient, that more vigilance cases are filed against SCs/STs than against the general category employees (borne out by the figures), that SC/ST employees are posted to more difficult places, that reservations are being filled only at the lowest levels and not in managerial jobs, that the post-based reservation roster (instead of a vacancy based one) has destroyed whatever little reservation is available,

since over time at least 15% SCs and 8% STs have been appointed in the organisation: In some cases, these ST staff are also the sole members of their community and thus have a model effect. One example comes from a case concerning the recruitment of one Major Sugathan who belongs to the Ulladan ST community of Kottaypm district, a very small community and who is the first and lone commissioned officer from tin's community.

On the other hand, these cases are trivial in the light of the enormity of problems faced by the adivasis of this country, the majority of whom are in agriculture or unorganised sector work The Commission is unable to seriously address their concerns in any concrete sense.

Among the communities served by the commission, dominant communities like the Meenas from Rajasthan have the maximum number of cases, in part because they are Major Sugathan VK (Rtd), Chief Security Officer HMT I and II (MTB), P.O. Bangalore, . who had not been considered for the vacancy *in* the post of Security Officer reserved for ST in Kochi Refineries Limited, Kochi Kerala", complained to the Commission on 29.9.05. In advertisements dated 2001 and 2003, a reserved vacancy had been advertised, but was not filled, and subsequently in 2005, two vacancies were announced, concealing the fact that one was reserved. "The petitioner was of the view that the Company had deliberately suppressed the opportunity meant for a ST candidate." The Commission sent a letter to the Deputy General Manager (Personnel) Kochi Refineries Ltd. on 2.3.2006. A month and a half later, on 24.3.06, the DGM (Personnel) replied. The petitioner had also complained to the Bhopal office of the SCST who had already written to the company. Based on its advice, the Company had re-advertised the post for an ST security officer, and Mr. Sugathan VK had been selected. Mr. Sugathan then informed the Commission of his appointment. In this case, the entire process took six months, but was worth the Commission's time the best represented in the services.¹⁰ There are relatively few petitions from the North east. A look at the,

registers indicates that some organisations, especially PSU employees federations or unions are relatively frequent petitioners, and therefore more likely to get heard. In the following sections, I will take up some examples of cases which have come before the Commission, starting with those cases where the Commission has been successful.

Several of the complaints described as 'successful' in the first report, under the heading of Economic and Social Development, deal with complaints by students who were not given admission into courses in engineering, or were not given attendance and so on. In all these cases, the Commission intervened with the university authorities and succeeded in getting the students grievances redressed. There is also a listing under different heads, like the provision of drinking water, a health centre, electricity and land pattas to villages in West Bengal, following a visit by the Chairman to West Medinipur district, in WB. " There is little to distinguish these cases from the 'successful cases' handled under the service safeguards wing which also deal with individual service related grievances, such as denial of promotion, the refusal of an organisation to return original marksheets to the petitioner when he changed jobs, non-payment of pension and so on.

A look at the cases reported under the atrocities section of the report reveals far less success in handling these cases. To begin with, the reach of people who undergo atrocities of this nature is more limited, and they are unable to take their complaints directly to the Commission. Many of these cases have been taken up by the Commission following newspaper reports. To give one example:

"A case of abduction and gang rape of a Scheduled Tribe woman in Chindwada, Madhya Pradesh was reported in the newspaper 'Dainik Bhaskar' dated 21.8.04. The Commission *suo moto* took up the case with the District Superintendent of Police Chindwada. The SP reported that a case under Sections 366, 376 (2) and 506-B IPC

and Section 3 (1) (xii) of the SCs and STs (POA) Act 1989 had been registered and chargesheet submitted in the Court and that an interim relief of financial assistance of Rs. 25,000/- had been paid to the victim as per the SC and ST (POA) Rules, 1995. Since an offence under Sec 376 (2) of IPC is punishable with an imprisonment for a term of 10 years or more, the Dist. Superintendent of Police, Chindwada has been advised by the Commission to submit supplementary chargesheet taking cognizance of Section 3 (2) (v) of the SCs/STs (POA) Act 1989 in place of Section 3 (1) (xii).

Moreover, all these cases are of individual atrocities and the Commission seems unwilling to take up the widespread atrocities on adivasis that are going on in the name of militarization and internal security, both in the north-east and central India, including the gang rapes and widespread murders by the Salwa Judum in Chhattisgarh, or by the armed forces in the north-east despite these having been brought to its notice.

The Commission also gets a significant number of cases pertaining to false ST certificates or demands from particular communities to be included in the ST list, such as the Sarania Kachari or the ex tea-garden tribes in the list for Assam, the Gujjars for Rajasthan and so on. For a Community to be included in the scheduled list, its claims have to be agreed to by the concerned state government, the Registrar General and the National Commission for Scheduled Tribes. While the Commission does list some cases of this kind that it settles, such as the claim of the Maleru tribe in Karnataka to be recognised as Primitive Tribal Groups (PTG), in general it is doubtful whether it commands the kind of expertise on such subjects that is required. The petitions that are sent usually contain gazetteer style ethnographic information on the claims of their own communities over others. One petition signed by a number of Delhi University students from different ST communities of the North east asks the Commission to take action against the appointment of Baruas in

teaching posts reserved for STs since they were really Bengali Buddhists and not STs.¹² While the Commission has written to the Governments of West Bengal and Meghalaya asking for the facts, it is clear that such cases are really beyond the capacity of the Commission except to push paper back and forth.

Public Perceptions of the Commission

Several adivasi organisations fighting on land and forest issues do approach the Commission, but mainly in terms of routinely covering all bases, and not because they expect any serious help from the Commission. Many of them do not bother, since it is evidently more time-effective to approach the concerned authorities directly like the state government, or the various ministries, or file cases in court.

One would have thought that regular petitioners of the Commission in service matters would find greater uses, but a long interview with an SC/ST insurance employees federation revealed rather negative perceptions of the Commission. They called both the ST and SC Commission 'tigers without teeth' and the members of the Commission 'political people working for their own survival'. One chairman was • even accused of being purchased by the management. The personnel manager of the company, on the other hand, was more positive about the Commission. In the last two years his office had got 3-4 references per month from the Commission (for an overall SC staff! of 4549 and ST staff of 1062) but, he said, the exchange is 'positive and fruitful. Once they are convinced there is no case of-discrimination they stop the case.

Overall Impact of the Commission

The overall impact of the Commission will have to be judged by two criterion:

1. Factors within the Commission's Control, such as its political courage in defending the rights of the STs and acting as a watchdog body on other ministries and

government organisations, or its overall sensitivity to adivasi issues,' In the case of R&R issues, for example, despite a strong constitutional mandate the Commission has not been able to exercise much influence. Certain issues have not been taken up by the Commission at all despite petitions - e.g. militarisation.

2. Factors outside the Commission's Control, such as funding, staff, and the overall policy of the government regarding investment in tribal areas, and subsequent displacement. Increasingly, the Commission is at best a 'palliative, as market forces have increasingly come to usurp the space in tribal areas, and decisions about scheduled areas are made not in the Commission or even the Ministry of Tribal Affairs but by the various ministries dealing with forests, water, mining etc., as well as by the WTO and other international agencies. The NCST, like other institutions such as the NHRC is useful as an instrument to tell the international community that India is serious about its STs, and therefore does not require any outside intervention but such a stance is of little help to the adivasis of India.
3. The following recommendations are therefore rather limited, keeping in mind the overall political economy in which the Commission functions. None of the institution envisaged by the Constitution to protect the rights of the STs are working - whether it is the Tribes Advisory Councils or the office of the Governor. The standard and shocking response by the. MOTA or the Home Ministry whenever complaints are made to it of gross violations is that x or y is a state subject, despite the fact that the Schedule empowers the union to give directions to the states on the administration of scheduled areas. The issue for scheduled areas and scheduled tribes is not simply one of the failure of government to provide essential services like health and education, but a deliberate policy to disenfranchise people and deprive them of their resources.

Recommendations

The primary recommendation in this report is that the Government follow the Constitution in the spirit it was envisaged, among other things, by strengthening the role of the Commission as a truly independent watchdog body with punitive powers.

The composition of the Commission needs to be examined, in particular, the implications of a commission composed entirely of political appointments by the ruling party. The qualifications of the Chairperson and Members should be publicly available, and there should be an effort to involve people from different professions concerned with Scheduled Tribes.

The overlap with the Ministry of Tribal Affairs needs to be examined, and the independence of the Commission vis-a-vis MOTA asserted.

The Commission is short staffed, as well as underfunded and therefore unable to deal satisfactorily with the volume of cases. The Regional offices need to be strengthened along with an independent investigating mechanism. This should replace the standard procedure of asking for clarification as the dominant mode of functioning.

APPENDIX – II

MINUTES

COMMITTEE ON THE WELFARE OF SCHEDULED CASTES AND SCHEDULED TRIBES (2009-2010)

**(FIFTEENTH LOK SABHA)
FOURTH SITTING
(05.10.2009)**

The Committee sat from 1500 to 1600 hrs. in Room No. '139', Parliament House Annexe, New Delhi

PRESENT

Shri Gobinda Chandra Naskar - Chairman

Members

Lok Sabha

2. Shri M. Anandan
4. Shri Tara Chand Bhagora
4. Shri Bhudeo Choudhary
5. Smt. Paramjit Kaur Gulshan
6. Shri Kamal Kishor 'Commando'
7. Shri Virendra Kumar
8. Dr. Chinta Mohan
9. Shri Sohan Potai
10. Shri Gajendra Singh Rajukhedi
11. Shri Ashok Kumar Rawat
12. Shri Bajju Ban Riyan
13. Shri Tufani Saroj
14. Shri Sajjan Singh Verma

Rajya Sabha

15. Shri Krishan Lal Balmiki
16. Shri Lalhming Liana
17. Shri D. Raja
18. Shri Thomas Sangma
19. Ms. Sushila Tiriya
20. Shri Brij Bhushan Tiwari

SECRETARIAT

1. Dr. R.K. Chadha, Joint Secretary
2. Shri Gopal Singh, Director
3. Ms. J.C. Namchyo, Director
4. Smt. Maya Lingi, Deputy Secretary

At the outset, the Hon'ble Chairman welcomed the Hon'ble Members of the Committee. Thereafter, the Committee considered the draft Report on Action Taken by the Government on the recommendations/observations contained in the Thirty-third Report (14th Lok Sabha) of the Committee on the subject "National Commission for the Scheduled Tribes – its mandate and achievements – A review of its organisation and working". The Committee observed that most of the Government replies in respect of recommendations/observations contained in the report were either non-affirmative or were left unreplied. Taking serious note of the matter, the Committee decided to take oral evidence of the representatives of the Ministry of Tribal Affairs on the replies to the recommendations contained in the Report on 13th October, 2009.

The Committee then adjourned with a vote of thanks to the Chair.

APPENDIX – III

MINUTES

COMMITTEE ON THE WELFARE OF SCHEDULED CASTES AND SCHEDULED TRIBES (2009-2010)

(FIFTEENTH LOK SABHA)

**SIXTH SITTING
(26.10.2009)**

The Committee sat from 1500 to 1700 hrs. in Committee Room No.'62', Parliament House, New Delhi.

PRESENT

Shri Gobinda Chandra Naskar - Chairman

Members

Lok Sabha

2. Shri M. Anandan
3. Shri Harishchandra Chavan
4. Shri Bhudeo Choudhary
5. Shri Eknath Mahadeo Gaikwad
6. Shri Kamal Kishor 'Commando'
7. Shri Virendra Kumar
8. Shri Sohan Potai
9. Shri Ashok Kumar Rawat
10. Shri Bajju Ban Riyan
11. Shri Sajjan Singh Verma
12. Shri Bhausahab Rajaram Wakchaure

Rajya Sabha

13. Shri Krishan Lal Balmiki
14. Shri D. Raja
15. Shri Praveen Rashtrapal
16. Ms. Sushila Tiriya
17. Shri Brij Bhushan Tiwari
18. Miss Anusuiya Uikey

SECRETARIAT

1. Dr. R.K. Chadha, Joint Secretary
2. Ms. J.C. Namchy, Director
3. Smt. Maya Lingi, Deputy Secretary

WITNESSES

REPRESENTATIVES OF THE MINISTRY TRIBAL AFFAIRS

1. Shri G.B. Mukherji, Secretary
2. Shri Bachittar Singh, Joint Secretary
3. Smt. Ruchira Pant, Joint Secretary
4. Smt. Urvasi Sadhwani, Economic Advisor
5. Shri S.K. Gupta, D.D.G.

MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT

Shri P.P. Mitra, Joint Secretary

NATIONAL COMMISSION FOR THE SCHEDULED TRIBES (NCST)

1. Shri R.S. Sirohi, Secretary
 2. Shri Aditya Mishra, Joint Secretary
 3. Shri R.C. Durga, Director,
 4. Shri Vinod Agrawal, Director
2. At the outset the Chairman welcomed the representatives of the Ministry of Tribal Affairs, the Ministry of Social Justice and Empowerment and National Commission for the Scheduled Tribes.
 3. The Committee then took oral evidence of the representatives of the Ministry of Tribal Affairs on the Action Taken by the Ministry on the recommendations/observations contained in the Thirty-third Report of the Committee on the subject "National Commission for the Scheduled Tribes – Its mandate and achievements – A review of its organisation and working".
 4. The evidence was completed.
 5. A verbatim record of the proceedings was kept.

The Committee then adjourned with a vote of thanks to the Chair.

APPENDIX – IV

MINUTES

COMMITTEE ON THE WELFARE OF SCHEDULED CASTES AND SCHEDULED TRIBES (2010-2011)

(FIFTEENTH LOK SABHA)

**FIFTEENTH SITTING
(15.03.2011)**

The Committee sat from 0930 to 1030 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Gobinda Chandra Naskar – Chairman

Members

Lok Sabha

2. Shri M. Anandan
3. Shri Kamal Kishor 'Commando'
4. Shri Virendra Kumar
5. Shri Sohan Potai
6. Shri Bajju Ban Riyan
7. Shri Sajjan Singh Verma
8. Shri Bhausahab Rajaram Wakchaure

Rajya Sabha

9. Shri Lalhming Liana
10. Shri Mukut Mithi
11. Shri D. Raja
12. Shri Thomas Sangma
13. Miss Anusuiya Uikey

SECRETARIAT

1. Dr. R.K. Chadha, Joint Secretary
2. Ms. J.C. Namchoy, Director
3. Shri Hoti Lal, Addl. Director

At the outset, the Chairman welcomed the members of the Committee. The Committee then considered the draft report on Action Taken by the Government on the recommendations contained in their Thirty-third Report (14th Lok Sabha) on the Ministry of Tribal Affairs “National Commission for Scheduled Tribes – Its mandate and achievements – A review of its organisation and working” and adopted the same with minor modifications.

2. The Committee authorised the Chairman to finalise the report in the light of consequential changes and present the same to both the Houses of Parliament.

3. The Hon’ble Chairman informed the Committee that no decision has been conveyed by the Ministry of Home Affairs on “Termination of services of SC ex-teachers appointed during Special Recruitment Drives in 2005, 2006 and 2007 by the Navyug School Educational Society of NDMC” despite reminders sent to them. The Committee took serious view of the matter that inspite of assurance given by the Home Secretary during evidence on 7th January, 2011 the Committee were shown disrespect by not caring to send the response by the Ministry. The Committee, therefore, advised the Secretariat to send a strong reminder to the Ministry of Home Affairs in this regard asking them to expedite their reply alongwith the reasons for delay.

The Committee then adjourned.

APPENDIX - V
(Vide Para 4 of Introduction)

Analysis of action taken by the Government on the recommendations contained in the Thirty-third Report (14th Lok Sabha) of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes.

1.	Total number of recommendations	23
2.	Recommendations/observations which have been accepted by the Government (<u>vide</u> recommendations at Sl. Nos. 3, 5, 13, 15, 16, 17, 18 and 23)	
	Number	8
	Percentage to the total	34.78%
3.	Recommendations/observation which the Committee do not desire to pursue in view of the Government replies (<u>vide</u> recommendations at Sl. Nos. 1, 9, 10 & 21)	
	Number	4
	Percentage to the total	17.39%
4.	Recommendations/observations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration (<u>vide</u> recommendations at Sl. Nos. 2, 4, 8, 11, 12, 19 & 22)	
	Number	7
	Percentage to the total	30.43%
5.	Recommendations/observations in respect of which final replies of the Government have not been received (<u>vide</u> recommendations at Sl. Nos.6, 7, 14 & 20)	
	Number	4
	Percentage to the total	17.39%