

COMMITTEE ON PETITIONS

ELEVENTH REPORT

(Second Lok Sabha)

(Presented on the 22nd December, 1960)



LOK SABHA SECRETARIAT

NEW DELHI

December, 1960

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PERSONNEL OF THE COMMITTEE ON PETITIONS

Shri Upendranath Barman—*Chairman*
2. Shri M. K. M. Abdul Salam
3. Shri Arjun Singh Bhadauria
4. Shri Jaljibhai Koyabhai Dindod
5. Thakor Shri Fatesinhji Ghodasar
6. Pandit Jwala Prasad Jyotishi
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10. Shri P. K. Vasudevan Nair
11. Shrimati Uma Nehru
12. Shri Phani Gopal Sen
13. Shri M. K. Shivananjappa
14. Shri N. Siva Raj
15. Pandit Dwarka Nath Tiwary.

SECRETARIAT

Shri A. L. Rai—*Deputy Secretary.*

REPORT

I, the Chairman of the Committee on Petitions, having been authorised by the Committee to present the Report on their behalf, present this their Eleventh Report.

2. The Committee held three sittings during the Twelfth Session i.e. on the 21st November, and the 16th and 19th December, 1960.

3. The Committee considered and adopted this Report at their sitting held on the 19th December, 1960.

4. The Committee at their sittings held during the session considered the following petitions:—

- (i) Petition from Shri N. Y. Sastry and 13 others relating to the Indian Institute of Archaeology Bill, 1960 by Shri C. R. Narasimhan, M.P. (Petition No. 44—Appendix I).
- (ii) Petition from Shri N. Y. Sastry and 13 others relating to the National Monuments Commission Bill, 1960 by Shri C. R. Narasimhan, M.P. (Petition No. 45—Appendix II).
- (iii) Petition from Prof. Nirmal Bose *re: division of Berubari Union No. 12 between India and Pakistan* (Petition No. 46—Appendix III).

5. The Committee at their sitting held on the 21st November, 1960 considered Petitions Nos. 44-45 (Appendices I-II) from Shri N. Y. Sastry and 13 others which had been presented to the Lok Sabha by Shri C. R. Narasimhan, M.P., on the 17th November, 1960.

The petitioners had supported the Member's two Bills introduced in the Lok Sabha on the 12th August, 1960 *viz.* the Indian Institute of Archaeology Bill (41/60) and the National Monuments Commission Bill (13/60) and had suggested that the Bills be circulated for eliciting public opinion thereon. In support of their plea, they had put forth a number of arguments and also quoted from well known authorities.

The Committee noted that the Bills in question had secured 5th and 59th positions in the Ballot for Private Members' Bills held on the 10th November, 1960. The next motions proposed to be moved by the Member-in-charge were also for circulation of the Bills to elicit opinion.

After some discussion, the Committee directed that the petitions might be circulated *in extenso* to all the Members of Lok Sabha under Rule 307.

The petitions were accordingly circulated on the 21st November, 1960.

6. The Committee at their sitting held on the 16th December, 1960 considered Petition No. 46 from Prof. Nirmal Bose, (Appendix III)

which had been presented to the Lok Sabha on the 15th December, 1960 by Shri Tridib Kumar Chaudhuri, M.P.

The petitioner had prayed that no part of Berubari Union should be transferred to Pakistan as the territory always belonged to India and should, therefore, remain in India; otherwise people living there who are Indian citizens would be uprooted with consequential hardships to them.

The petitioner had also put forth numerous arguments in support of his prayer for retention of entire territory in India.

The Committee noted that the Constitution (Ninth Amendment) Bill, 1960 relating to the transfer of certain territories including part of Berubari Union No. 12 to Pakistan had been introduced in the Lok Sabha on the 16th December, 1960. The Bill was expected to be taken up for discussion on the 19th December and passed on the 20th December, 1960.

The Committee directed that the petition might be circulated *in extenso* under Rule 307 to all the Members of Lok Sabha.

The petition was accordingly circulated on the 16th December, 1960.

7. The Committee understand that in implementation of their recommendation, (*vide* paragraphs 16 and 17 of their Tenth Report), the Ministry of Railways have brought their observations regarding the Rationalisation Scheme on the North-Eastern Railway, to the notice of the Railway Administration and had directed exercise of strict supervision and observance of the rules and regulations and orders or directions issued by the Ministry.

8. The Committee also considered at their above-mentioned sittings 62 representations, and letters addressed by various individuals, associations, etc. to the House, the Speaker, or the Chairman of the Committee which were inadmissible as petitions.

9. The Committee note with satisfaction that through their intervention during the period under report 27 petitioners had been provided expeditious relief or complete or due redressal of their grievances or that the Ministries concerned had explained satisfactorily the grounds for not being able to remove the petitioner's grievances (Appendix IV).

NEW DELHI;

December 19, 1960.

Agrahayana 28, 1882 (Saka).

UPENDRANATH BARMAN,

Chairman,

Committee on Petitions

APPENDIX I

Petition No. 44

(Presented by Shri C. R. Narasimhan, M.P., on 17th November, 1960)
(See Para 5 of Report)

To,

Lok Sabha,
New Delhi.

The humble petition of Shri N. Y. Sastry, and of 13 others, SHEWETH

The Indian Institute of Archaeology Bill, 1960 introduced by Shri C. R. Narasimhan, M.P., is now pending before Lok Sabha.

In the words of the late Lord Curzon, our ancient remains of art and architecture constitute "the most glorious galaxy of monuments in the world". They are a source of our national pride and unity and of emotional integration.

2. Since our independence the Department of Archaeology has grown into a multi-purpose Department responsible for such widely different subjects as (i) Maintenance and Preservation of Ancient Monuments, (ii) Exploration and excavation, (iii) Local and site Museums, (iv) School of Archaeology, (v) Pre-history, (vi) Study of Monuments, (vii) Epigraphy, (viii) Numismatics and (ix) Archaeology in the western sense of the term.

3. There is no one department of the Government anywhere else in the world which handles so many subjects under the term "Archaeology".

4. In the western countries, there is the Monuments Department which looks after the Maintenance and Preservation of Monuments. The other subjects, which are grouped together under "Research", are looked after by universities and learned bodies.

5. Hence any governmental machinery in India, which looks after research, and especially exploration and excavation, must maintain high academic standards as in the west.

6. If this is not possible, the functions must be handed over to a University, which may work under the aegis of the Government.

7. In handling several subjects, the officials of the Department of Archaeology are called upon to do too much and to function as supernumeraries to use the words of the late Sir Leonard Woolley, the eminent British Archaeologist, who had been invited by the Government of

India to review the work of the Archaeological Survey, and who submitted his report in 1939.

8. Thus there is need for the differentiation of functions.

9. According to the Directive Principles of State Policy, enshrined in Article 49 of the Constitution of India, the Maintenance and Preservation of Monuments, Places and Objects of national importance is a duty cast on the State. Your petitioners are submitting a petition (No. 45) to the Lok Sabha on this particular issue.

10. Items (ii) to (ix) of the subjects specified in this petition (see para 2 above) are no doubt very important and deserve utmost encouragement from the Government in every possible way. But there is no Directive Principle of State Policy with regard to them as is the case with the maintenance and preservation of monuments.

11. With a view to avoiding any possible confusion in routine administration it is desirable that the subject for which the Government have assumed a constitutional responsibility must be separated from the subjects for which there is no constitutional responsibility, however important such subjects might be.

12. Of the different subjects enumerated above, exploration and excavation, museum and School of Archaeology are the principal ones. The other subjects are virtually included in one or the other of them.

13. Museum and housing of archaeological materials must go together.

14. The excavated materials must be properly housed in a museum and intelligently labelled. The museum must become a centre of public education. The educational facilities of the museum must be made available to the vast illiterate population of India, for whom they are almost the only means of visual education. It should be the policy to make museum centres of such public education.

15. Few museums in this country can at present boast collections which illustrate in any comprehensive manner even the known styles and periods of Indian art and culture.

16. Indian museums must acquire a great deal of such materials so as to enable them to fulfil their educational functions.

17. It is impossible for the Department itself to make these materials available through its own efforts.

18. It is important that the Department should share the work of excavation with Indian institutions or foreign bodies, the results of whose combined activities should enrich the national collections without direct cost to the Government of India.

19. The Department should select such of those key sites for excavation which are full of potentialities, and best calculated to throw light on the gaps which at present exist in history. The other sites must be left to the Universities or other learned bodies.

20. The Deccan Post Graduate Research Institute, Poona, the Baroda University, the Jayaswal Research Institute, Patna and the Allahabad University are doing excellent work in this direction. The Baroda University has published an excellent archaeological treatise entitled, "The Personality of Man", with a foreword by Sir Mortimer Wheeler, which should have been legitimately done by the Department, which enjoys better resources, both in men and money. The University Grants Commission have also selected other centres for specialisation in archaeology, which are bound to grow in importance ere long. These will undertake exploration and excavation.

21. In order that the Department might move on equal terms with such institutions and set an inspiring example through its activities, it must maintain high academic standards, which are analogous to those of Universities, which alone will enable it to have close collaboration with Universities and colleges in India and, as envisaged by Sir Leonard Woolley, with the Anthropological and Geological Surveys and Museums in India. This is all the more necessary because exploration and excavation demand knowledge of subjects like geology, botany, zoology, physics, chemistry etc. which can thrive only in a free academic atmosphere.

22. In the words again of Sir Leonard Woolley, "Senior Officers (of the department) should be officially attached to a University or a college, drawing a salary as part time lecturer, tutor or professor.... From enquiries which I have made in various places I am sure that some at least of the Universities should be ready to grant such part-time Fellowships to the officers of the Survey. But initiative must come from the Survey and not from the University."

23. At present, the Department is overburdened with such miscellaneous activities that many anomalies have crept into it:

(a) Bikaner was explored as far back as 1950, and no report has yet been published. The same is the case with Rupar and other sites. An exploration done at great cost to the Government is valueless, if not immediately followed by a full report.

(b) A qualified Pre-historian was appointed in 1946. In 1948, he was transferred to the general branch, with the result that pre-historic work had to be heavily curtailed, if not completely abandoned. A start was made only in 1958, that is, after a lapse of ten years, by the appointment of a qualified Pre-historian. This has happened in spite of the great emphasis made by Sir Leonard Woolley on the value and importance of pre-history, and in spite of his warnings.

(c) Very recently, some of the circles have remained without circle superintendents for several months, thereby affecting "Research", although the Department has been getting increasing grants.

24. Thus the Department has had several set-backs.

25. With a view to avoiding such defects in future, the officers of the department must have training under the best academic atmosphere and be in a position to compete with the best in Universities.

26. Exploration and excavation done by the department must be under the best academic traditions, with speedy reporting on them.

27. These are possible only if training is given by an academic body like the Indian Institute of Archaeology proposed in the Bill which must also take over exploration and excavation of key sites.

28. The Department maintains a number of local and site museums. Their functions are: (i) the housing and preservation of antiquities, (ii) the advancement of the science of archaeology through studies of their collections, and (iii) to serve as centres of education for instruction to the general public and be easily accessible to them.

29. The local and site museums have so far failed to perform any of the functions enumerated above.

30. Most of the museums in India have been adversely criticised by Markham and Hargreaves in their report on Indian museums of 1937 and by Witterbourg in an article which he published in the "Curator" early this year. Thus, the position of museums has not improved even after 22 years.

31. There is nothing in common between archaeology and museum. Each has its own technique. If the out-of-the-way museums are not to be closed down and their collections distributed to the National Museum and the nearby State museums, which are more readily accessible to the public, they must be placed under an experienced museum expert, who will function under the direction of the Director of National Museum in the same Ministry.

32. Your petitioners have closely followed the chequered career of the Department since 1930, which made it necessary to seek the help of Sir Leonard Woolley and then of Sir Mortimer Wheeler. Your petitioners are anxious that a Department which contributed towards our emotional integration should also profit posterity, without suffering any set-backs. This is possible only if the training, exploration and excavation are conducted under the best of scientific conditions and in a free academic atmosphere.

33. For the purpose adumbrated here, there must be a high powered scientific and academic body such as the one contemplated in Shri C. R. Narasimhan's "The Indian Institute of Archaeology Bill, 1960" (Bill No. 41/60).

and accordingly your petitioners pray (a) that exploration and excavation, including pre-history, be entrusted to an Indian Institute of Archaeology; and (b) that the Bill introduced by Shri C. R. Narasimhan be circulated to elicit public opinion,

and your petitioners as in duty bound will ever pray

Name of first Signatory	Full Address	Signature with date
Shri N. Y. Sastry, Custodian of Ancient Monuments, Central Circle (Retd.).	Theosophical Society, Adyar, Madras.	Sd/- N. Yagnesvara Sastry 3-11-60
Countersigned by		{ C.R. Narasimhan, M.P. 14-11-60

APPENDIX II

Petition No. 45

(Presented by Shri C. R. Narasimhan, M.P., on 17th November, 1960)
(See Para 5 of Report)

To

Lok Sabha,
New Delhi.

The humble petition of Shri N. Y. Sastry, and of 13 others,
SHEWETH

The National Monuments Commission Bill, 1960 introduced by
Shri C. R. Narasimhan, M.P., is now pending before Lok Sabha.

The ancient monuments in this country like Ajanta, Bagh, Ellora Elephanta, the Taj etc., with their architecture, sculpture and paintings, are the precious heritages of every Indian. In the words of the late Lord Curzon, they constitute, "The most glorious galaxy of monuments in the world". They are a source of our national pride and unity and of our emotional integration.

2. Their number can never be increased. But on the contrary, as time goes on, they suffer decay and destruction and necessarily become fewer. The decay and destruction of any one of them enhance the value of those which endure. Hence their preservation must become every year a matter of more and more urgent duty.

3. According to the Directive Principles of State Policy enshrined in Article 49 of the Constitution of India, the preservation of ancient monuments, places and objects of national importance is a duty cast on the State. But it cannot be said that this obligation has been fully and truly discharged.

4. Since India's independence, the Department of Archaeology has grown into a multi-purpose department responsible for the administration of such widely different subjects as a (i) Maintenance and Preservation of Ancient Monuments, (ii) Archaeology proper in the western sense of the term, (iii) Exploration and Excavation, (iv) Pre-history, (v) Epigraphy, (v) Numismatics, (vii) Study of Monuments, (viii) Site and other museums and (ix) School of Archaeology. These subjects may be divided into two broad groups, namely, Maintenance and Preservation of Monuments and Research, the latter constituting items (ii) to (ix).

5. There is no single department of any Government in the world which handles so many different subjects of this nature. In the western countries, there is invariably the Monuments Department, which

looks after Maintenance and Preservation. Research is looked after by Universities and learned bodies. Hence the officials of the Department of Archaeology are called upon to do too much and to function and act as "supermen"—to use the words of the late Sir Leonard Woolley, an eminent archaeologist of international reputation, who had been commissioned by the Government of India to review the work of the Department of Archaeology in 1938. Hence there must be differentiation of functions, so that administrative efficiency may be brought within the realms of practicability.

Addressing the Asiatic Society of Calcutta in 1900, Lord Curzon had stated that, "there has been during the last 40 years some sort of sustained effort on the part of the Government to recognise its responsibilities and to purge itself of a well merited reproach. This attempt has been accompanied, and sometimes delayed, by disputes as to the rival claims of Research and of Preservation". The position is not very different today.

7. A substantial portion of the budget allotment goes to Conservation. Conservation of monuments needs engineering or architectural qualification on the part of those who handle the subject. But the subject is entrusted to circle superintendents and assistant superintendents, who are invariably graduates in languages or history and not in engineering or architecture. The actual conservation work is done through non-gazetted subordinate officials like the conservation assistants, overseers, sub-overseers etc., who work under the direction of the circle superintendents. Thus the circle superintendents and assistant superintendents are entrusted with work for which they have no technical qualifications. They are busy with the passing of estimates, check measurements and other aspects of conservation work and they have little or no time for research for which they have better qualifications. The conservation assistants and the overseers etc. cannot initiate any conservation measures because of their subordinate position.

8. There is only one Archaeological Engineer for the whole Department, who is stationed at Delhi. It is impossible for one man to run about a vast sub-continent, examining monuments and suggesting conservation measures. Further, the circle officials—both officers and subordinate officials—are not under the administrative control of the engineer. Hence he has no direct responsibility for the conservation of monuments. The partial collapse of Asar Mahal in Bijapur is, therefore, understandable. The Department of Archaeology has probably realised the difficult position they are in. They have now appointed Assistant Archaeological Engineers to some of the circles to be in charge of conservation. But they hold a subordinate position and are under the administrative control of the circle superintendent and not of the engineer. Hence the defects still continue.

9. At the headquarters at Delhi, there is a Director General of Archaeology, one Joint Director General of Archaeology and three Deputy Director Generals. They are all graduates in languages of history. They have no technical qualification to handle conservation. Thus the Research Division is keeping the higher post as a close preserve, without conceding the legitimate claims of conservation.

Considering the importance of conservation, the large proportion of the budget allotment spent on it, and the technical nature of the conservation work, the Joint Director General or at least one of the Deputy Director Generals should have been a highly qualified Engineer or an Architect, who will work in close collaboration with the highest archaeological officers of the Department. Thus the conflict between conservation and research, which Lord Curzon deplored in 1900, exists even today.

10. Thus the organisational deficiencies hamper the work of the Department. It is time that the Government removed these defects and so enabled the Department to continue its devoted labours untrammelled by avoidable handicaps.

11. In the past, conservation was handled by the P.W.D. on behalf of the Department. During Sir Mortimer Wheeler's time it was taken over by the Department. One reason advanced for this change was that the P.W.D. tended to repair an ancient monument much as they would repair a modern railway bridge, and that they are unable to understand correctly ancient structural features and to preserve antique quality of ancient building. As against this view, other experts have expressed the opinion that (i) when conservation was in the hands of the P.W.D., there was lack of proper supervision of the conservation work from the circle superintendents, (ii) there was no up-to-date Conservation Manual describing the fundamental principles of conservation as opposed to new engineering works and (iii) the Government had not instituted a commission to enquire into the cause of the alleged defects. A properly trained architect or engineer with a conservation manual in his hands will be able to do better justice to conservation than a circle superintendent, without knowledge of engineering.

12. Many famous temples are to be found in many parts of India. They are, in the strict sense of the term, monuments. Since they are shrines in worship, they are not the responsibility of the Department of Archaeology. The Hindu Religious Endowments Board or similar bodies under whom they have been placed, do not receive any advice from the Department of Archaeology; nor is there any manual published for their benefit.

13. Under these circumstances, the whole administrative set-up must be examined. It is necessary to separate the Conservation Branch for which the State has assumed Constitutional Responsibility from Research—however important the latter might be—for which the State has no constitutional responsibility, though the State is bound to encourage, foster and advance all research. Shri C. R. Narasimhan's "National Monuments Commission Bill, 1960" (Bill No. 31 of 1960) seeks to effect some administrative change in the right direction. As a result of such changes (to quote the words used by Lord Curzon when he spoke on the passing of the Ancient Monuments Preservation Act of 1904), "the spirit of pious respect for the past would survive and that efforts would not slacken in the hands of our successors until India can boast that her memorials are as

tenderly prized as they are precious, and as carefully guarded as they are already, and will in future be even more widely known."

and accordingly your petitioners pray (a) that the conservation of ancient monuments be entrusted to a National Monuments Commission consisting of experts as suggested in the Bill and

(b) that the Bill be circulated to elicit public opinion.

and your petitioners as in duty bound will ever pray.

Name of first signatory	Full Address	Signature with date
Shri N. Y. Sastry	Theosophical Society, Adyar, Madras.	Sd/- N.Y. Sastry 3-11-60.
Countersigned by		C. R. Narasimhan, M.P. 14.11.60.

APPENDIX III

Petition No. 46

[Presented by Shri Tridib Kumar Chaudhury, M.P., on 15th December, 1960.]

(See Para 6 of Report)

To

Lok Sabha,
New Delhi.

The humble petition of Shri Nirmal Bose on behalf of the Berubari Delegation consisting of representatives of the people of Berubari Union No. 12 in West Bengal SHEWETH

Berubari Union is proposed to be divided into two halves, one of which is being transferred to the Government of Pakistan. Your petitioner understands that a Bill in this behalf is likely to be introduced on the 16th December, 1960. Your petitioner submits the following in this connection:—

1. On July 18, 1947, the British Parliament passed the Indian Independence Act of 1947, which came into force from August 15, 1947 which was the "appointed date". As from the appointed date, the two Indian Dominions, it was declared, would be set up in India, to be known respectively as India and Pakistan.
2. A Boundary Commission was appointed under the Chairmanship of Sir Cyril Radcliffe in accordance with Section 3(3) of the Indian Independence Act. That Commission made an Award known as the Radcliffe Award which *inter alia* determined the boundaries of the province of East Bengal and the province of West Bengal constituted by Sec. 3 (i) (b) of the Indian Independence Act.
3. Since August 15, 1947, that is the date of India's Independence, Berubari Union (No. 12 South Berubari Union) has been under the lawful occupation of the State of West Bengal and has been administered as an integral part of the territory of West Bengal and was all along legally and constitutionally an integral part of the territory of India.
4. After the Radcliffe Award was made, the two Dominions of India and Pakistan occupied the territories in pursuance of the said Award. Pakistan never made any claim to Berubari as part of its territory. On the other hand, the Government of the erstwhile Province of West Bengal and after the coming into operation of the

Indian Constitution, the Government of the State of West Bengal maintained law and order in that area. The residents of this area have all along functioned as citizens of India and exercised their rights as such.

5. Your petitioner on behalf of the chosen representatives of the residents of Berubari Union begs to submit this petition for the consideration of Lok Sabha.

6. Your petitioner believes that our cause is just and feels that we are in dire peril due to the unfortunate decision to transfer half of the Berubari Union to Pakistan under the Indo-Pakistan Agreement of the 10th September, 1958.

7. The implementation of that Agreement would mean deprivation of our cherished Fundamental Rights as Indian citizens and thousands of us, who are displaced persons from East Bengal, will be again rendered homeless and landless destitutes.

8. Your petitioner on behalf of the delegation appeals for a sympathetic consideration of our case and maintains that we are going to be unjustly deprived of our nationality and rights of citizenship.

9. The people of Berubari were not consulted before the said agreement was concluded and neither the West Bengal Legislature nor the Indian Parliament had any opportunity of expressing their views on the subject before the agreement was entered into.

10. The area of this Union is 8.75 sq. miles with a total population of about 12,000 people, of which 11,900 are Hindus. Before partition, the population was only 4,000 and since then about 8,000 refugees from East Bengal settled themselves in this area. They are all Indian citizens who enjoyed and exercised rights as such including the Fundamental Rights guaranteed by the Indian Constitution. The adult citizens have rights of franchise under the Constitution, and under the Representation of the People Act, 1951. They have taken part in two General Elections to Parliament and the State Legislatures and a number of bye elections. Summons were and are issued on them by the Courts of India and the Indian Police have all along maintained law and order in the area. Rates and taxes have been paid by the citizens to the public authorities in India. For the construction of a hospital in this area, the people of the area contributed Rs. 2,500 deposited with the Government on January 12, 1957. One post office and two police outposts have been functioning in this area. There is one junior high school and a number of primary schools in the Union. About Rs. 1,00,000 have been given to the people of Berubari in the shape of loans. The Government has arranged for the settlement of a large number of refugees in the area. The Anchal Panchayat and the Gram Sabhas for which elections took place last year, have been carrying on diverse development programmes.

11. After the division of the country on the basis of the Radcliffe Award, several boundary disputes arose between India and Pakistan

which led to the appointment of an International Tribunal, i.e., the Bagge Tribunal presided over by Lord Algol Bagge. Pakistan never claimed this territory and, as the Supreme Court has pointed out that in fact there was no reference regarding Berubari or to the district of Jalpaiguri at all in the proceedings before the Tribunal. The Bagge Tribunal's Award which was made on the 26th January, 1950, did not mention Berubari. Even after that there was no protest by Pakistan against this Tribunal's Award. Therefore, it is clear that Pakistan had implicitly accepted the position that it had no case with regard to this area.

12. It was a belated claim on the part of Pakistan that, under the Radcliffe Award or the Bagge Award, Berubari Union should really have formed part of East Bengal and it has been wrongly treated as part of West Bengal. On a faulty contention put forward by the Government of Pakistan, the case was sought to be made out that there was a wrong demarcation of boundary and Berubari should fall within the Province of East Bengal, if the boundary line was properly delineated.

Apparently on a misconception of the correct facts and taking advantage of the defective map annexed with the Radcliffe Award, the dispute was raised that the Berubari Union should fall within East Pakistan.

13. There appears to be some divergence between the description given in the Radcliffe Award and the map annexed thereto so far as Berubari was concerned. According to the description Berubari clearly falls within the territory of India. According to the map which is faulty, part of the area seems to be shown as part of Pakistan. But it was clearly stated by Sir Cyril Radcliffe in his Award that whenever there is a divergence between his description and his map, the description must prevail. The Supreme Court has also held that "no claim could reasonably or validly be made for the inclusion of almost the whole of Berubari Union on the strength of the line drawn by Sir Cyril Radcliffe in the map". There is, therefore, no reason to hold that if the dispute with regard to Berubari was ever referred to any new International Tribunal, India might have lost the whole of Berubari Union.

14. There is one significant point which should be mentioned. Under the Radcliffe Award the boundary line between East Bengal and West Bengal follows the Thana or Police Station boundary line. There was no reason for Sir Cyril Radcliffe to follow a different principle for Berubari and to cut off a slice out of the Jalpaiguri Police Station and give it to East Bengal.

15. The Prime Minister of India and the Prime Minister of Pakistan entered into an Agreement purporting to settle some of the disputes in the manner set out in a Note jointly recorded by the Commonwealth Secretary, Ministry of External Affairs, Government of India and the Foreign Secretary, Ministry of Foreign Affairs and

Commonwealth Relations, Government of Pakistan. This Agreement as embodied in the said Note is generally called the Indo-Pakistan Agreement. With regard to Berubari Union No. 12, it was stated in the said Note as follows:—

“Berubari Union 12 will be so divided as to give half the area to Pakistan. The division should be made in such a manner that the Cooch Behar enclaves between Pachagar thana of East Pakistan and Berubari Union No. 12 of Jalpaiguri thana of West Bengal will remain connected as at present with Indian territory and will remain with India. The Cooch Behar enclaves lower down between Boda thana of East Pakistan and Berubari Union No. 12 will be exchanged along with the general exchange of enclaves and will go to Pakistan.”

Your petitioner and the unfortunate people of Berubari were deeply perturbed when this Agreement was made public and felt that we were in dire peril and really our existence is at stake. The people of Berubari organised a Peoples' Convention which was held in March 1959. Unanimously those assembled at the Convention declared that they were Indian citizens and wanted to remain as such and have refused to be assigned or transferred to Pakistan. The members of the West Bengal State Legislative Assembly and West Bengal Legislative Council also expressed their unanimous opinion against the proposed transfer.

16. With regard to the imminence of the danger ahead your petitioner filed a petition in the Calcutta High Court. The Hon'ble Mr. Justice Sinha of that High Court observed in his judgment:

“It seems to me unthinkable that the Constitution contemplates that a citizen should wake up one morning and find that he and all that he possessed have been bodily handed over to a foreign power without his knowledge and consent.” (*Vide Nirmal Bose versus Union of India and others, A.I.R. 1959, Cal. 506*).

17. The question was raised by distinguished constitutional lawyers including the President of the Berubari Peoples' Convention that the proposed transfer was not only against all principles of democracy and natural justice, but it was *ultra vires* of the Constitution of India and it was beyond the competence of the Government of India. Acceding to the popular demand and the clear expression of the people of Berubari and of West Bengal, the President of India was pleased to make a reference to the Supreme Court of India under Article 143 of the Constitution as to the legality or constitutionality of the proposed transfer of half of the Berubari Union to Pakistan as indicated in the aforesaid Agreement. By a unanimous opinion delivered by Hon'ble Mr. Justice Gajendragadkar, the Supreme Court of India expressed its opinion on the issues raised by the President's reference.

Repelling the contention put forward by the Union of India, the Supreme Court has unequivocally declared that the proposed transfer

could not be effected by mere executive action and the same would be violative of the Constitution of India. In particular such transfer would mean the violation of Articles 3 and 368 of the Constitution as well as of the First Schedule to the Constitution.

On a consideration of the terms of the Indo-Pakistan Agreement and its background, the Supreme Court clearly held that the Agreement amounted to cession or alienation of a part of the Indian territory in favour of Pakistan. That Court declared that it was not a mere ascertainment or determination of the boundary in the light of the Radcliffe Award or by reference to the Bagge Award.

The Supreme Court also laid down that unless the Constitution was amended, such transfer or gift or alienation of Indian Territory was *ultra vires* of the Constitution and unless the necessary law was passed under Article 368 itself, it would not be legally permissible to implement the Nehru-Noon Agreement.

18. Your petitioner on behalf of the unfortunate people of Berubari now approaches the elected representatives of the citizens of India and beseeches Lok Sabha in all humility to consider and take a decision as to whether the people of Berubari should be consigned to the tender mercies of a foreign State, and face the possibility of discriminatory treatment or whether the territory should not remain in India intact.

19. Your petitioner pleads for justice at your hands, guaranteed basic human rights and the right as Indian citizens to live or reside in any part of the Indian territory. Berubari is a part of Indian territory. Our forefathers lived there and we earnestly desire to continue to live there as citizens owing allegiance to the Indian Republic as loyal, peace-loving and law-abiding citizens of this great Republic.

and accordingly your petitioner prays that Lok Sabha might consider favourably his request for retention of the whole of Berubari Union No. 12 territory intact in India,

and your petitioner as in duty bound will ever pray.

Name of Petitioner	Full Address	Signature with date
Prof. Nirmal Bose.	I. New Delhi (7 B Pusa Road). Permanent 2. Permanent Address: P. O. Manikganj, Distt. Jalpaiguri, Berubari, West Bengal.	Sd/- Nirmal Bose
Countersigned by		1. Tridib Kumar Chaudhury, M. P. (Div. No. 459). 2. Aurobindo Ghosal M. P., (Div. No. 488).

APPENDIX IV

(See para 9 of Report)

List of Representations on which the Committee's intervention had procured speedy or partial or complete relief or elicited replies from the Ministries concerned meeting adequately the petitioner's points.

Sl. No.	Name of Petitioner	Brief Subject	Remarks (Facts perused by the Committee)
1	2	3	4
1	Shri Nenumal Sunderdas.	Settlement of C.A.F.	(Ministry of Rehabilitation) Verified claim for Rs. 2137-8-0 and 0-1/4 unit had been processed, sent to P & A O and payment will be made shortly.
2	Shri Dwarka Dass Holaram.	Do.	(Ministry of Rehabilitation) Sale certificate for property purchased at public auction on 9-3-59 for Rs. 185,000 would be issued after adjustment against his verified claims assessed so far @ Rs. 3,74,703-8-0 and 5 std. acres, 8.11/16 as.
3	Shri Juriomal Muriyal, Miraj.	Adjustment of rent and convenience charges due on R. No. 12, Block 156, Gandhi Nagar colony Kolhapur from statement of account of his associate.	(Ministry of Rehabilitation) Rs. 2,806-88 were paid to petitioner as compensation against verified claims in full. His request could not be acceded to under the rules, as having received cash compensation he has to pay public dues as well in cash.
4	M/s. T.M. Sivam & Co. Bangalore and others.	Delay alleged in transhipment of perishable goods booked ex-Bangalore to Waltair due to cancellation of train No. 9, between Madras-Waltair from 1-4-60.	(Ministry of Railways) The Trains (9/10 Janta-Expresses were not cancelled but Nos. 71/72 Passenger trains between Madras-Bitragunta which had earlier been cancelled had been re-introduced from 1-10-60 to clear expeditiously the perishables.

1	2	3	4
5	Shri Shewaram Tir-	Compensation due on his thdas Amaravati.	(Ministry of Rehabilitation)
6	Shri Vishindas Kau-	Verification of his claim. romal, Amaravati.	Duplicate CAF, duly checked had been returned to RSC, Bombay on 27-7-60 and a Bill for No. 999/- cash and Rs. 920/- in National Plan Savings Certificates passed by Pay and Accounts Officer, for payment to claimant shortly.
7	Shri Hashmatmal	Delay in payment of com- Bhagatmal. pensation.	(Ministry of Rehabilitation)
8	Shri Gerimal Khan-	Appointment of legal heir chand. to deceased claimant Shri Khanchand Zonkimal.	(Ministry of Rehabilitation)
9	Shri Khemchand	Verification of land claim. Thanawdas.	(Ministry of Rehabilitation)
10	Smt., Sitalbai/Devi-	Appointment of legal heir bai, w/o late Shri Vishindas, Amra- vati.	(Ministry of Rehabilitation)
			No application was received earlier. Expedited action had now been taken by forwarding this application to RSC Indore on 2.7.60 for initiating legal proceedings.

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11 Shri Tekhumal Ranwalmal. Payment of balance of Rs. 208/- due against claim for Rs. 2100/-.

(Ministry of Rehabilitation)

Against verified claim for Rs. 3201/- Rs. 1892/- had been correctly paid to him according to Compensation Scale for Rs. 3300/-.

12 Shri Tillomal Manghamal, Amravati. Verification of claim for compensation of Rs. 4346/- and payment of balance of Rs. 2314/- due.

(Ministry of Rehabilitation)

Claim originally was assessed for half compensation as the order did not mention that he was the only heir, his brother having died intestate. Now claim order had been amended and balance of amount due will be paid after re-processing has been completed by R.S.C. Bombay.

13 Shri Narandas Manghersingh, Bombay. Issue of orders to Managing Directors of companies from West Pakistan to publish their balance sheets on eve of partition.

(Ministry of Rehabilitation, Finance Rehabilitation Division)

“As these companies were registered in West Pakistan and do not come within the purview of the Indian Company Law, the only remedy for the shareholders will be to proceed against the Managing Director under the Indian Penal Code. Under the Indo-Pakistan Movable Property Agreement, Ministry of Rehabilitation was responsible only for the processing of claims of Joint Stock Companies regarding their property left in West Pakistan. A Company with Headquarters in India/Pakistan before partition is treated as a non-evacuee/evacuee concern. The former is entitled to get back both its movable and immovable property; the latter only its movable property. On this basis claim filed by 176 Joint Stock Companies were forwarded for verification to Government of Pakistan but with the exception of the claim of a few evacuee concerns in Sind, there has been no progress in regard to the other claims.

Compensation due on their properties will be paid only if the Government of Pakistan verify the claims of those companies (which is very doubtful) and pay compensation for their property. The management should thereafter make an equitable distribution of the compensation amongst their shareholders in India. The Ministry was not concerned with the *inter-se-disputes* between them, which would have to be settled in accordance with the normal law of the land. The Ministry of Finance have concurred in with the above comments."

14 Smt. Bholibai w/o (i) Settlement of CAF regarding agricultural land. (ii) Adjustment of remaining part of cost of No. 50/2 Chatti Tank Colony Amravati against above.

15 Shri Chela Ram Payment of cash compensation. (Ministry of Rehabilitation)

Compensation due on their properties will be paid only if the Government of Pakistan verify the claims of those companies (which is very doubtful) and pay compensation for their property. The management should thereafter make an equitable distribution of the compensation amongst their shareholders in India. The Ministry was not concerned with the *inter-se-disputes* between them, which would have to be settled in accordance with the normal law of the land. The Ministry of Finance have concurred in with the above comments."

(i) The case has been processed and after adjustment, cash payment will be made for the claim.

(ii) Records show that she is in occupation of Br. No. 50/1 for which partial adjustment had been made against for compensation. Balance amount had now been deducted against her agricultural claim and case processed for cash payment after adjustment of public dues.

Due to an error of judgment of the then Chief Settlement Commissioner, Petitioner had been allotted cash compensation against his *net* entitlement of less than 18 acres after applying cut and deduction of public dues of Rs. 3,800 from his gross entitlement of 22 standard acres and 2 units. As cash compensation is payable only if gross compensation due is less than 18 acres he was not entitled to cash payment under rule 54, Government had therefore passed orders under section 33 of Act, directing allotment of 22 std. acres and 2 units land to him.

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16 Shri Tehilmal Na - Alleged delay in finalisation (Ministry of Rehabilitation)
numal, Amravati. in CAF.

He had half share in claim of Rs. 6993 and had already been paid compensation of Rs. 1601/- by adjustment towards public dues (Rs. 90/- rent arrears plus Rs. 1511/- towards S.U.L. & HBL). As he did not turn up on 27-3-57 when called for to settle his case, adjustment had been carried out by P & A O.

17 Smt. Methibai Lal Finalisation of compensation (Ministry of Rehabilitation)
Chand. against verified claim.

The lady had since furnished copy of the agricultura land claim order and her case had been processed for cash payment shortly.

18 Shri D.A. Vachani . (i) Alleged delay in disposal of his and his son's C.A.Fs; and (ii) Sanad for evacuee agricultural lands transferred to him. (Ministry of Rehabilitation)

(i) Against 106½ Standard acres agricultural land claim Shri Vachani was eligible for 69 acres due area after Punjab out and had been allotted 31-10 Standard acres in Surat. His C.A.F. had also since been finalised.

(ii) Standardisation of the allotted land had been made in accordance with instructions issued by the Government of Bombay.

(iii) Instructions had been issued to the Collector on 8-12-59 to refund the lease money (Rs. 206.19) deposited by Shri Vachani.

(iv) Against a rural compensation claim for Rs. 33,088/- Shri D.A. Vachani had been paid *interim* compensation on 7-1-56. An application filed by Shri Arjan Vachani, his son under section 9 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, had been finalised and a bill duly processed sent to Pay & Accounts Officer.

An appeal by Shri Arjan Vachani against the judicial order is *sub-judice* before the Chief Settlement Commissioner.

Delay in finalisation was due to numerous applications like this filed both by father and son, and an incorrect statement by Shri D. A. Vachani that he was in possession of evacuee property at Kalyan Camp, which was however, verified later to be in possession of Medical Department, Bombay.

The Committee decided to treat the matter as closed.

19-20	Shri Satya Sharma (2 representations)	Paul Chand	Issue of Sale certificate in respect of Quarter No. 5/6 Block No. 7, Ramesh Nagar, Delhi.	(Ministry of Rehabilitation) Sale Certificate had been issued to him on 12-11-1960.
21	Shri Tara Menghraj		Supply of registration number of his C.A.F. and condonation of delay in submission of his C.A.F.	(Ministry of Rehabilitation) The delay had been condoned on 2-9-60, R. S. C. asked to register the case, and petitioner was being advised by the latter.
22	Shri Arjandas Lila-ram		Delay in finalisation of his C.A.F.	(Ministry of Rehabilitation) Case had since been finalised for cash payment which will be made after Bill has been passed by P. & A. O., Bombay.
23	Smt. Jamnabi		Disposal of her claim compensation for agricultural land.	(Ministry of Rehabilitation) Claim had been finalised. Bill amount will be paid soon after it is passed by P. & A. O.
24	Shri Harpaldas Lakhmal		Delay in payment of compensation for 4 claims assessed for Rs. 19,000, 888/12, 187/12 and 39,625/-.	(Ministry of Rehabilitation) Delay was due to the fact that record of different Dehs in Sind was being received at different times from West Pakistan. <i>Suo Motu</i> revision proceedings of all his Dehs were completed by 11-10-60 and duplicate C.A.F. duly checked sent to R. S. C., Bombay for expeditious finalisation.

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25	Shri D. Hotchand .	Requesting for a copy of order passed by Settlement Commissioner re : his rehabilitation grant application No. SDD IRG/94/141.	(Ministry of Rehabilitation) The correct application (No. S/DD-2/RG/95/149) had been traced out and a copy supplied to him on 16-6-60.
26	Shri Jessaram Raiyat Singh	Request for cash payment against his C.A.F.	(Ministry of Rehabilitation) Case had been finalised for cash payment which will be made after Bill is passed by P. & A. O.
27	Shri Gulab Singh on behalf of Shri Tillumal Lakhmi-chand	Supply of copy of agricultural land claim order verified on 21-3-54 by A.S.C., New Delhi.	(Ministry of Rehabilitation) Claimant who was informed of the decision on 5-4-56, can obtain a copy on payment of fee of Rs. 2/-.

LIST OF AUTHORISED AGENTS FOR THE SALE OF PARLIAMENTARY PUBLICATIONS OF THE LOK SABHA SECRETARIAT, NEW DELHI-I.

Agency No.	Name and address of the Agent	Agency No.	Name and address of the Agent	Agency No.	Name and address of the Agent
1. Jain Book Agency, Connaught Place, New Delhi.	20. The English Book Store, 7-L, Connaught Circus, New Delhi.	37. Amar Kitab Ghar, Diagonal Road, Jamshedpur-I.			
2. Kitabistan, 17-A, Kamla Nehru Road, Allahabad.	21. Rama Krishna & Sons, 16-B, Connaught Place, New Delhi.	38. (Vacant)			
3. British Book Depot, 84, Hazratganj, Lucknow.	22. International Book House, Private Ltd., 9, Ash Lane, Mahatma Gandhi Road, Bombay-I.	39. E. M. Gopalkrishna Kone, (Shri Gopal Mahal) North Chitrai Street, Madura.			
4. Imperial Book Depot, 266, Mahatma Gandhi Road, Poona.	23. Lakshmi Book Store, 42, M. M. Queensway, New Delhi.	40. Friends Book House, M.U., Aligarh.			
5. The Popular Book Depot (Regd.), Lamington Road, Bombay-7.	24. The Kalpana Publishers, Booksellers, Trichinopoly-3.	41. Modern Book House, 286, Jawahar Ganj, Jabalpur-I (M.P.)			
6. H. Venkataramiah & Sons, Vidyanidhi Book Depot, New Statue Circle, Mysore.	25. (Vacant)	42. M. C. Sarkar & Sons (P) Ltd., 14, Bankim Chatterji Street, Calcutta-12.			
7. International Book House, Main Road, Trivandrum.	26. The International Book Service, Deccan Gymkhana, Poona-4.	43. People's Book House, B-2-829/1, Nizam Shahi Road, Hyderabad-I (A.P.)			
8. The Presidency Book Supplies, 8-C, Pycroft's Road, Triplicane, Madras-5.	27. Bahri Brothers, 188, Lajpat Rai Market, Delhi-6.	44. W. Newman & Co. Ltd., 3, Old Court House Street, Calcutta.			
9. Atma Ram & Sons, Kashmere Gate, Delhi-6.	28. City Booksellers, Sohan-ganj Street, Delhi.	45. Thacker Spink & Co. (1933) Private Ltd., 3, Esplanade East, Calcutta-I.			
10. Book Centre, Opp. Patna College, Patna.	29. The National Law House, Near Indore Library, Opp. Old High Court i 1933, 100	46. Hindustan Diary Publishers, Market Street, Secunderabad.			
11. J. M. Jaina & Brothers, Mori Gate, Delhi-6.	30. Charles Lambert & Co., 101, Mahatma Gandhi Road, Opp. Clock Tower, Fort, Bombay.	47. Laxami Narain Aggarwal, Hospital Road, Agra.			
12. The Cuttack Law Times Office, Cuttack-2.	31. A. H. Wheeler & Co. (P) Ltd., 15, Elgin Road, Allahabad.	48. Law Book Co., Sardar Patel Marg., Allahabad.			
13. The New Book Depot, P. O. Box No. 96, Connaught Place, New Delhi.	32. M. S. R. Murthy & Co., sakhapatnam.	49. D. B. Taraporevala & Sons Co. Private Ltd., 210, Dr. Naoroji Road, Bombay-I.			
14. The New Book Depot, 79, The Mall, Simla.	33. The Loya k Depot, Chhipi Tank, Meerut.	50. Chanderkant Chiman Lal Vora, Law Publishers and Law Booksellers P. B. No. 163, 57/2, Gandhi Road, Ahmedabad.			
15. The Central News Agency, 23/90, Connaught Circus, New Delhi.	34. The Good Companions, Raspara, Baroda.	51. S. Krishnaswamy & Co., P.O. Teppakulam, Tiruchirapalli-2.			
16. Lok Milap, District Court Road, Bhavnagar.	35. University Publishers, Railway Road, Jullundur City.	52. Hyderabad Book Depot, Abid Road (Gun Foundry), Hyderabad.			
17. (Vacant)	36. Students Stores, Raghu-nath Bazar, Jammu-Tawi.	53. M. Gulab Singh & Sons (P) Ltd., Press Area, Ma-thura Road, New Delhi.			
18. The New Book Depot, Modi No. 3, Nagpur.					
19. The Kashmir Book Shop, Residency Road, Srinagar, Kashmir.					

Agency No.	Name and address of the Agent	Agency No.	Name and address of the Agent	Agency No.	Name and address of the Agent
54.	C. V. Venkit Iyer, Near Railway Station, Chalakudi. (S.I.)	70.	Gandhi Smriti Trust, Bhavnagar.	86.	The Krishna Book Depot Publishers, Booksellers, Stationery & News Agents, Main Bazar, Pathankot, (E.P.)
55.	(Vacant)	71.	People's Book House, Opposite Jagannath Palace, Mysore-I.	87.	Dhanwantra Medical & Law Book House, 1522, Lajpat Rai Market, Delhi-6.
56.	K. M. Agarwal & Sons, Railway Book Stall, Udaipur (Rajasthan).	72.	'Jagriti' Bhagalpur-2 (Bihar).	88.	The United Book Agency, 48, Amritkaur Market, Paharganj, New Delhi.
57.	The Swadesamitran Ltd., Mount Road, Madras-2.	73.	The New Book Company (P) Ltd., Kitab Mahal, 188-90, Dr. Dadabhai Naoroji Road, Bombay.	89.	Pervaje's Book House, Koppikar Road, Hubli.
58.	The Imperial Publishing Co., 3, Faiz Bazar, Daryaganj, Delhi-6.	74.	The English Book Depot, 78, Jhake Road, Ferozepore Cantt.	90.	B. S. Jain & Co., 71, Abupura, Muzaffarnagar (U.P.).
59.	The Secretary, Establishment Department, The High Commission of India, India House, Aldwych, London.	75.	Minerva Book Shop, 9, Jor Bagh Market, New Delhi-3.	91.	Swadeshi Vastu Bhandar, Booksellers, etc., Jamnagar.
60.	Current Book House, Maruti Lane, Raghunath Dadaji Street, Bombay-I.	76.	People's Publishing House, Rani Jhansi Road, New Delhi-I.	92.	(Vacant.)
61.	International Consultants Corporation, 48C, Marredpally (E.A.t), Secunderabad-3 (A.P.)	77.	Shri N. Chaoba Singh, Newspaper Agent, Ramal Paul High School Annexe, Imphal, Manipur.	93.	Sikh Publishing House (P) Ltd., 7-C, Connaught Place, New Delhi.
62.	K.J. Aseervadam & Sons, Cloughpet, P.O. Ongole, Guntur Distt. (Andhra).	78.	Minerva Book Shop, The Mall, Simla-I.	94.	G. R. Lakshmpathy Chetty & Sons, General Merchants & News Agents, Newpet, Chandragiri, Chittoor Distt. (Andhra Pradesh.)
63.	The New Order Book Co., Ellis Bridge, Ahmedabad-6.	79.	Universal Book Company 20, Mahatma Gandhi Marg, Allahabad.	95.	Hind Book House, 82 Jan Path, New Delhi-I.
64.	The Triveni Publishers, Masulipatnam.	80.	(Vacant)	96.	Bookwell, 4-Sant Naran-kari Colony, Kingsway Camp, Delhi-9.
65.	Deccan Book Stall, Ferguson College Road, Poona-4.	81.	Mittal & Co., 85-C, New Mandi, Muzaffarnagar (U.P.).	97.	The S. S. Book Emporium, "Mount-Joy" Road, Basavangudi, Bangalore-4.
66.	Jayana Book Depot, Chapparwala Kuan, Karol Bagh, New Delhi-5.	82.	Firma K. L. Mukhopadhyay, 6/1A, Banchharam Akur Lane, Calcutta-12.	98.	Sahitya Sangam, Booksellers, 44, Lok Manya Vastu Bhandar, Dadar, Bombay-28.
67.	'Bookland' 663, Madar Gate Ajmer (Rajasthan).	83.	Freeland Publications (P) Ltd., II-A/16, Lajpat Nagar, New Delhi.	99.	Shalig Ram & Sons, Booksellers, Madar Gate, Aligarh (U.P.).
68.	Oxford Book & Stationery Co., Scindia House, Connaught Place, New Delhi.	84.	Goel Traders, 100-C, New Mandi, Muzaffarnagar (U.P.).		
69.	Makkalapustaka Press, Balamandira, Gandhi-nagar, Bangalore-9.	85.	Mehra Brothers, 50-G, Kalkaji, New Delhi-19.		