



**COMMITTEE ON AGRICULTURE
(2009-2010)**

FIFTEENTH LOK SABHA

**MINISTRY OF AGRICULTURE
(DEPARTMENT OF AGRICULTURE & CO-OPERATION)**

**THE CONSTITUTION (ONE HUNDRED AND ELEVENTH
AMENDMENT) BILL, 2009**

TWELFTH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

August, 2010/Bhadrapada, 1932 (Saka)

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Presented to Lok Sabha on 30.08.2010

Laid on the table of Rajya Sabha on 30.08.2010



LOK SABHA SECRETARIAT

NEW DELHI

August, 2010/ Bhadrapada, 1932 (Saka)

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COMPOSITION OF THE COMMITTEE ON AGRICULTURE (2009-2010)

Shri Basudeb Acharia - Chairman

MEMBERS

LOK SABHA

2. Shri Narayan Singh Amlabe
3. Shri K.C. Singh 'Baba'
4. Shri Thangso Baite
5. Shri Jayant Chaudhary
6. Smt. Shruti Choudhry
7. Smt. Ashwamedh Devi
8. Shri Biren Singh Engti
9. Smt. Paramjit Kaur Gulshan
10. Shri Anant Kumar Hegde
11. Shri Sk. Nurul Islam
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13. Shri Surendra Singh Nagar
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15. Shri Premdas
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18. Shri Bhoopendra Singh
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20. Shri Jagdish Thakor
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RAJYA SABHA

- ^22. Vacant
23. Shri Satyavrat Chaturvedi
24. Shri A. Elavarasan
- §25. Vacant
26. Shri Vinay Katiyar
27. Shri Mohd. Ali Khan
28. Shri M. Rajasekara Murthy
29. Shri Bharatsinh Prabhatsinh Parmar
30. Prof. M.S. Swaminathan
- *31. Smt. B. Jayashree

[^] Vice Shri Narendra Budania who ceased to be the Member of the Committee on his retirement from Rajya Sabha on 4 July, 2010.

[§] Vice Shri Sharad Anantrao Joshi who ceased to be the Member of the Committee on his retirement from Rajya Sabha on 4 July, 2010.

^{*} Nominated on 2 July, 2010.

SECRETARIAT

- | | | | |
|----|----------------------|---|----------------------|
| 1. | Shri S. Bal Shekar | - | Additional Secretary |
| 2. | Shri P.V.L.N. Murthy | - | Director |
| 3. | Shri C. Vanlalruata | - | Under Secretary |

INTRODUCTION

I, the Chairman, Committee on Agriculture having been authorized by the Committee to present the report on their behalf, present this Twelfth Report (Fifteenth Lok Sabha) on 'The Constitution (One Hundred and Eleventh Amendment) Bill 2009'.

2. The Constitution (One Hundred Eleventh Amendment) Bill, 2009 was introduced in Lok Sabha on 30 November, 2009. The Speaker under Rule 331E(1)(b) of the Rules of Procedure and Conduct of Business in Lok Sabha referred the Bill to the Committee.

3. The Committee were briefed by the representatives of the Ministry of Agriculture (Department of Agriculture and Co-operation) on the Bill on 12 January, 2010 and they also decided to invite suggestions/views of various stakeholders on the Bill through an advertisement in the media.

4. In response to publicity in the media written suggestions/memoranda were received from 37 individuals/Organisations. The Committee at their sittings held on 17 May, 1 and 18 June, 2010 took evidence of the following individuals/organisations:-

- (i) National Co-operative Union of India;
- (ii) National Agricultural Co-operative Marketing Federation of India Limited;
- (iii) National Co-operative Consumer's Federation of India Limited and Krishak Bharati Co-operative;
- (iv) National Federation of Urban Co-operative Banks and Credit Societies Limited;
- (v) Indian Farmers Fertilizer Co-operative Limited and National Co-operative Development Corporation;
- (vi) National Co-operative Agriculture and Rural Development Banks Federation Limited; and
- (vii) National Federation of State Co-operative Banks Limited and National Bank for Agriculture and Rural Development.

5. The Committee also sought the views of State Governments/Union Territory Administrations on various clauses of the Bill. The six States of Andhra Pradesh, Assam, Meghalaya, Nagaland, Tripura, West Bengal and four Union Territory Administrations of Andaman and Nicobar, Daman and Diu, Delhi and Lakshadweep have forwarded their views to the Committee.

6. The Committee at their sitting held on 28 July, 2010 discussed in detail the suggestions/proposals received from experts/organisations/stakeholders/ State Governments/Union Territory Administration on various clauses of the Bill. The Committee took oral evidence of the representatives of Ministry of Agriculture (Department of Agriculture and Co-operation) and Ministry of Law and Justice (Legislative Department) on 5 August, 2010.

7. The Committee at their sitting held on 26 August 2010 considered and adopted the Report.

8. The Committee also benefitted from the views/suggestions of Individuals/Experts/Organisations and expressed their thanks to all of them who furnished Memoranda and tendered evidence before the Committee as referred to in Para 4.

9. The Committee wish to express their thanks to the officers of the Ministry of Agriculture (Department of Agriculture and Co-operation) and Ministry of Law and Justice (Legislative Department) for placing before them the material and information in connection with examination of the Bill. They also express their thanks to the State Governments/Union Territory Administrations who gave their suggestions/views on various clauses of the Bill.

10. The Committee also place on record their appreciation for the invaluable assistance rendered to them by the officials of the Lok Sabha Secretariat attached to the Committee.

NEW DELHI;
27 August, 2010
5 Bhadrapada, 1932 (Saka)

BASUDEB ACHARIA
Chairman,
Committee on Agriculture.

REPORT

PART-I

BACKGROUND OF THE CONSTITUTION (ONE HUNDRED AND ELEVENTH AMENDMENT) BILL, 2009

The Constitution (106th Amendment) Bill, 2006 was introduced in Lok Sabha on 22 May, 2006. The Standing Committee on Agriculture (Fourteenth Lok Sabha) considered the Bill and submitted their Report to Lok Sabha on 20 August, 2007. This Report was considered by the Cabinet in its meeting held on 8th August, 2008 and the requisite notices for consideration of the Bill as per requirements of Rules of Procedures and Conduct of Business of Lok Sabha were given by the Agriculture Minister. However, the Bill could not be discussed in the Lok Sabha for passing. The Bill lapsed upon dissolution of the Fourteenth Lok Sabha on 18 May, 2009.

1.2 A comparative statement showing the recommendations of the Committee on Agriculture (14th Lok Sabha) on the Constitution (106th Amendment) Bill, 2006 as contained in their 32nd Report vis-à-vis the view of the Department of Agriculture and Co-operation thereon and the provision made after amendments i.e., as reflected in The Constitution (One Hundred and Eleventh Amendment) Bill, 2009 are at **Appendix-I**.

1.3 The Constitution (One Hundred and Eleventh Amendment) Bill, 2009 has been introduced in the Lok Sabha on 30 November, 2009 and was referred by Hon'ble Speaker, Lok Sabha to the Committee on Agriculture on 24 December, 2009 for detailed examination and Report. The text of the Bill is at **Appendix-II**.

The major additions in the said Bill relate to:-

- (i) To insert Article 43B in Part IV of the Constitution as Directive Principle of State Policy for voluntary formation of co-operative societies.
- (ii) To make provision for giving representation to women and Scheduled Castes/Scheduled Tribes, by provision for the reservation of two seats for women and one seat for the Scheduled Caste/Scheduled Tribes on the board of every co-operative society, which have individuals as members from such categories (Article 243 ZJ(1) second proviso).

1.4 The Bill aims to address the following issues through the proposed amendment:

- (a) Inclusion of co-operative principles;
- (b) Insertion of Article 43B in Part-IV of the Constitution as Directive Principle of State Policy for voluntary formation of co-operative societies;
- (c) Timely conduct of elections;
- (d) Maximum time limit for supersession or suspension of a managing committee;
- (e) Independent and professional audit;
- (f) Uniform tenure of managing committee;
- (g) Regular and timely conduct of general body meetings;
- (h) Right of a member for access to information;
- (i) Compulsory system of filing returns;
- (j) providing for the reservation of one seat for the Scheduled Castes or the Scheduled Tribes and two seats for women on the board of every co-operative society, which have individuals as members from such categories; and
- (k) Provisions for offences and penalties.

The proposed amendment to the Constitution, for the purpose, would ensure the democratic, autonomous and professional functioning of the co-operatives ensuring timely conduct of elections and proper audit of their accounts. The co-operatives, however, would still continue to remain as a State Subject under entry 32 of the State List of the Seventh Schedule of the Constitution.

1.5 The statement of Objects and Reasons appended to the Bill states that considering the need for reforms in the Co-operative Societies Acts of States, consultations with State Governments were held on several occasions and that a strong need was felt for amending the Constitution in the Conference of State Co-operative Ministers held in December, 2004. The issue of amendments to Constitution was discussed in the above stated conference and a resolution to this effect that the Constitution be amended was adopted. Thereupon, the Constitution (106th Amendment) Bill, 2006 was introduced in the 14th Lok Sabha in May, 2006.

1.6 In the interregnum between the adoption of the Resolution in the State Co-operative Ministers Conference held in December, 2004 and introduction of The Constitution (106th Amendment) Bill in May, 2006, the Government by a resolution published in the Gazette on 10 May, 2005 constituted a High Powered Committee to review the achievements made in the co-operative sector during last 100 years, identify challenges faced by the sector and suggest appropriate policy and legislative framework and changes required in co-operative legislation in the country. The High Powered Committee was required to submit its Report within a period of six months.

1.7 In view of the reference of The Constitution (106th Amendment) Bill, 2006 to Committee on Agriculture in May, 2006, the High Powered Committee presented an Interim Report to Ministry of Agriculture in June, 2007. The High Powered Committee submitted their final Report in May, 2009. The Committee on Agriculture also examined the High Powered Committee in June, 2007 to elicit their view on the Bill then. An Executive Summary of the Report of the High Powered Committee on co-operatives is at **Appendix-III**. After receipt of the final

Report of the High Powered Committee in May, 2009, the Government introduced The Constitution (One Hundred and Eleventh Amendment) Bill, 2009 in the Fifteenth Lok Sabha in November, 2009.

1.8 In spite of need felt for amendments in the State Acts, the pace of reforms in Co-operative Legislation by the States is not encouraging. Some of the States such as Andhra Pradesh, Madhya Pradesh, Bihar, Orissa, Jammu & Kashmir, Karnataka, Chattisgarh, Jharkhand and Uttarakhand, have enacted parallel self-reliant co-operatives Acts which are exclusively for the co-operatives without any share holding or financial assistance from the Government. Other States are also considering enacting similar legislations. However, most of the co-operatives, particularly those bearing significance on agriculture and allied sectors and implementation of public policies in the areas of agricultural credit, agricultural marketing and supply of inputs, agro-processing, handloom and handicrafts, labour, consumers etc. are still governed under the provisions of Co-operative Societies Acts which do not facilitate growth of these co-operatives by providing a conducive environment and autonomous and professional functioning. Therefore, it has become necessary to bring in amendment in the Constitution to provide a conducive environment, strong legal framework and protection to co-operatives, for their growth and to insulate them from unnecessary political and bureaucratic interference.

Existing Constitutional Provisions

1.9 “Co-operative Societies” is a State subject under Entry 32 of the State List of the Seventh Schedule of the Constitution of India. Under this entry, the State Governments have enacted their respective State Co-operative Societies Acts. However, the functioning of Co-operative Societies with objectives not confined to one State, and serving the interests of members in more than one State, comes under the purview of entry 44 of the Union List of the Seventh Schedule of the Constitution of India. The Parliament has, therefore, enacted Multi-State Co-operative Societies Act, 2002 (No. 39 of 2002).

1.10 Though institutions of local self-governance viz municipalities and Panchayat Raj Institutions are State subjects (under Entry 5 of the State List), provisions for these institutions in respect of their composition, audit, election, etc. have been made in the Constitution through the Seventy Third and Seventy Fourth amendments. Similarly, such provisions are proposed to be made in respect of co-operative societies through the proposed amendments.

1.11 To address the issues enumerated in para 1.4 *ibid*, provisions have been incorporated in the proposed Constitution Amendment Bill. It is proposed to insert Article 43B in Part-IV of the Constitution as a Directive Principle of State Policy whereby the State shall endeavour to promote for voluntary formation of co-operative societies. It is also proposed that the elections should be entirely the responsibility of an independent authority as may be provided by law by the State. This has been proposed in order to protect the autonomy of co-operatives and to ensure member control of co-operatives by ensuring free and fair elections. Similarly, in order to protect the autonomy and member control of co-operatives, the power of State to supersede the elected management have been defined. In order to give representation to women and Scheduled Castes/Scheduled Tribes, a provision has been proposed for reservation of two seats for women and one seat for the Scheduled Caste/Scheduled Tribes on the board of every co-operative society, which have individuals as members from such categories. The State is to provide broad parameters for conduct of audit. The co-operative societies should be free to get their accounts to be audited by the auditors, appointed by the general body, who fulfil the requirements laid down by the State Legislature. It is also proposed to include provisions for convening annual general meeting in time, right of member to get information, returns to be filed by every co-operative society in respect of annual reports, statement of audited accounts etc and provisions for offences and penalties. These provisions are proposed to make the management of a co-operative society accountable to members, to prevent misuse of powers by the management and transparency in the functioning of co-operative societies.

1.12 An expert on the subject suggested that co-operative societies be incorporated in the Chapter-III of the Constitution under Fundamental Rights in the following way as it would ensure enforceability:

(i) The word 'co-operative societies' should be inserted after the word 'associations' in sub-clause (c) of Clause (1) of Article 19.

(ii) A new sub-clause (h) should be added after sub-clause (g) of clause (1) of Article 19.

(h) to form and run co-operatives based on principles of voluntary, democratic member control, member economic participation and autonomous functioning.”

1.13 On the above suggestion, the Department of Agriculture and Co-operation responded by saying that the objective of the Constitutional Amendment Bill is to ensure that the cooperative societies in the country function in a democratic, professional, autonomous and economically sound manner. The Department is of the view that these objectives can be achieved by inserting a new article in Part IV of the Constitution (Directive Principles of State Policy) and other amendments as suggested in Part IXB of the Constitution.

1.14 Ministry of Law & Justice is of the view that the word 'associations and unions' as occurring in Art 19(1) (c) also includes the word 'Cooperatives Societies' and there appears to be no need for specifically incorporating the words 'cooperative societies' after the words 'associations and unions'. Hence, right to form associations includes right to form cooperative societies.

1.15 The Government of West Bengal have given their final views on the issue of insertion of the word 'co-operatives' in Article 19(1)(c) as under:-

“The State Government has carefully gone through the proposed Amendment Bill and would like to suggest that the word ‘co-operatives’ may be inserted after the word associations or unions in article 19(1)(c) of the Constitution. This would enable the people to form co-operatives as a matter of fundamental right. This amendment itself would provide constitutional recognition to co-operatives in the country.”

1.16 The Committee in their 32nd Report (14th Lok Sabha) on the Constitution (106th Amendment) Bill, 2006 desired the Government to examine, if the words 'co-operative societies' could be inserted after the word 'associations' in Article 19(1)(c), as the Law Ministry then opined that the word 'associations' includes the words 'co-operative societies' also, as a contrary view was expressed in the Committee then. The Department of Agriculture and Co-operation, however, stated that the matter was examined in consultation with Ministry of Law & Justice and that the amendment to Article 19(1)(c) is not required.

1.17 When asked the reasons for change of opinion of the Ministry of Law subsequent to the opinion tendered by them before the Committee then i.e. at the time of examination of The Constitution (106th Amendment) Bill, 2006, the Department of Agriculture and Co-operation now in a written reply stated that Ministry of Law & Justice was of the opinion that Article 19 (1) (c) confers a fundamental right on all citizens to form association or union. An association may take diverse forms according to the purpose for which it is formed. Freedom of association includes the rights to form an association for any lawful purpose e.g., companies, partnership society, trade union etc. Referring to this constitutional provision, the legal definition of association and Supreme Court Judgments, Ministry of Law & Justice was of the view that the word 'associations' as occurring in Art 19(1) (c) includes the word 'Cooperatives Societies' and there appears to be no need for specifically incorporating the words 'cooperative societies' after the words 'associations and unions'.

1.18 During evidence, when enquired if the word 'association' includes the word 'co-operation', then why the same cannot be added in Article 19(1)(c), the Secretary responded as under:

"When we obtained that advice from the Law Department, we again went in 2008. I will read out what they have said. We can share this with the Committee. They have discussed certain judgment of the court and finally they have said: "In view of the above observations of the apex Court and the High Court, we are of the view that the word 'association' and 'unions' as occurring in Article 19(1)(c) includes words 'co-operative societies' and there appears to be no need for specifically incorporating

the words 'co-operative societies' after the words 'association' and 'union'. We reiterate our earlier views which they have given." This is what the judgment is from where they have quoted. I can give a copy of that to the Committee. We have in the Department gone by this advice of the Ministry".

1.19 The representative of Ministry of Law and Justice (Legislative Department) further stated as under:

"I am from the Legislative Department; I am here to translate policies of the Government into legal provisions. That is the job that I do. The Department of Legal Affairs gives legal advice on these matters. As a person involved in this, there are two basic principles which I would do – if, according to the Department of Legal Affairs, the word association is capable of encompassing co-operatives, then there is no need of telling it separately. But taking the word as incapable of taking the co-operatives within its four walls of associations, as a matter of elucidation or clarification, if we provide additional word co-operatives, I will not find any justification to say no to it. I do not find any difficulty in doing it because it will make the decision more clear only. When somebody says that the word association includes co-operatives, then we are only making it more crystal clear. I do not find the logic in saying that it cannot be provided there; I do not find any difficulty; it is a matter of policy that the Government will have to consider; I do not find any difficulty in incorporating that word co-operatives in addition to the words associations or unions or co-operatives. The word co-operative is distinct from corporations..... If adding that word would give some boost to the co-operative movement, and it will go into the minds of the people that it is our right, I do not think, we should have any disinclination to acceding to that.....".

1.20 Considering the fact that at present co-operative societies is a State subject under Entry 32 of the State List of Seventh Schedule of the Constitution, the Committee on Agriculture (14th Lok Sabha) in their 32nd Report had recommended that a comprehensive amendment to the Constitution on co-operatives was not necessary and had, therefore, recommended that 'The Constitution (One Hundred and Sixth Amendment) Bill, 2006 should be converted into a Comprehensive Central Model Law for voluntary formation, autonomous functioning, democratic control and professional management of the co-operatives with certain incentives and disincentives to the States that implement or not implement the model law. The States can enact their own laws

on the subject, however, State Laws should be compatible with the Central Model Law:

1.21 Asked why the Government have not accepted the above recommendation of the Committee and would not this step create an apprehension amongst the States that the Central Government is trying to encroach on their territory, the Department in a detailed reply stated as under:

“In 1990, the Government appointed an Expert Committee under the chairmanship of Choudhary Brahm Perakash to review the status of the cooperative movement, suggest future directions and finalise a Model Cooperative Act. This Committee submitted its report in 1991. Since cooperation is a State subject and each State has its own cooperative legislation covering cooperatives whose membership is confined to the State, the report of the Committee, along with a draft Model Cooperative Law, was circulated to all State Governments for their consideration and adoption at State level. However, there was lukewarm response from the State Government. So far only 9 States have enacted parallel Cooperative Acts reflecting the essence of Model Cooperative Law. This department is of the view that since such model laws are in the nature of advisory to the States, they are not bound to incorporate the provisions of such model law in their legislations. The intent of this Bill is to incorporate certain minimum fundamental provisions in the Constitution which will be binding on the States and will ensure that every State enacts such cooperative legislation conforming to the provisions as laid down in the Constitutional Amendment Bill to facilitate the democratic and autonomous functioning of the cooperatives in a uniform manner. Such a provision would facilitate orderly growth of cooperative institutions based on cooperative principles. The High Powered Committee on Cooperatives appointed by Government has recommended Constitution Amendment after consulting the States and other stakeholders on this issue.”

1.22 Asked further, if there was no other way of ensuring that the States act upon the recommendations of the ‘Model Co-operatives Act’ as recommended by Chaudhary Brahm Prakash Committee, the Department stated that as the cooperative societies are a state subject the Central Government has no legislative jurisdiction to ensure that the state enacts their legislation conforming to the recommendations made by the Chaudhary Brahm Perakash Committee. Hence, the Government has decided to bring the proposed Constitutional Amendment Bill. The High Powered Committee constituted by the Government

which held wide ranging consultation with various stakeholders including the State Governments, has also recommended Constitution Amendment.

1.23 When asked as to how many States have acted upon the recommendations of the Chaudhary Brahm Prakash Committee so far, the Department stated that the so far nine States namely Andhra Pradesh, Madhya Pradesh, Bihar, Jammu & Kashmir, Orissa, Karnataka, Jharkhand, Chhatisgarh and Uttaranchal have enacted parallel Cooperative Acts which are largely based on the recommendations of Choudhary Brahm Prakash Committee.

1.24 When enquired if the proposed Amendment to the Constitution would lead to encroachment of the rights of the State Governments by the Centre as currently co-operative societies is a State subject under Entry 32 of the State List of Seventh Schedule of the Constitution, the Secretary, Department of Agriculture and Co-operation clarified as under:

“.....I would like to state that the intention is not at all to control the State by some Central Legislation. What I have understood is, the Constitution is being amended.

It is not a Central law but it is the Constitution of the country. We also have a lot of experience of the co-operative bodies in the States. In the Centre, everyday we see this. All that is being attempted through this amendment in the Constitution is that there should be certain basic factors. Very basic points have been raised. The law will be made by the State. When they make the law, they have to take care of a few things that is there in the Constitution. Centre will not at all interfere in making the law. State will be guided by the principles as set out in the Constitution through this amendment. To my mind, the principles that have been laid down in Part IXB are of a very basic nature to ensure that the co-operatives function in a proper manner and that it helps the co-operative movement. It is our experience in many of the State Governments because of weak laws, sometimes the co-operative movement is hampered because of the Government interference or certain other factors. This will ensure that they function more democratically and in a better manner. Again, I would humbly submit that this will not give the Centre any handle to interfere with the States. It will be in the Constitution of India”.

1.25 The Ministry also informed the Committee that the Union Government does not intend to encroach on the powers of the State Governments. No provision under the proposed Bill gives any power to the Central Government to

encroach upon the powers of the State Government. The intention of the Bill is to ensure a conducive and facilitating legal environment for growth of vibrant, professionally efficient and democratically managed institutions in the country.

1.26 The Committee note that Constitution (One Hundred Sixth Amendment) Bill, 2006 was examined and reported upon by the Committee on Agriculture (14th Lok Sabha – 32nd Report of Committee on Agriculture). They further note that some of the recommendations/observations have been accepted by the Government and incorporated in the Constitution (One Hundred Eleventh Amendment) Bill, 2009 which was introduced in Lok Sabha in December, 2009. They, however, are constrained to observe that some of their most important recommendations have not been accepted by the Government on which their observations and further recommendations are enumerated in the succeeding paragraphs.

1.27 The examination of the proposed Amendment Bill reveals that the Department of Agriculture and Co-operation have not accepted their recommendation on amendment to Article 19(1)(c) on the plea that the word ‘association’ and ‘unions’ as occurring in Article 19(1)(c) includes ‘co-operative societies’ and there appears to be no need for specifically incorporating the same after the word ‘association’ in Article 19(1)(c) of the Constitution. The Committee are rather flummoxed with this stand of the Ministry. On the one hand, they say that co-operative societies are already included under ‘association’ and ‘unions’, while on the other hand they have proposed to bring co-operatives under the ambit of Directive

Principles of State Policy which are not enforceable. The logic for the Government to bring a Fundamental Right under the ambit of the Directive Principles of State Policy is incomprehensible viewed in the context of their admission that it is implicit and all encompassing under the meaning of the words 'associations' and 'union' as existing under Article 19(1)(c) of the Constitution. Not only are the Directive Principles of State Policy not enforceable, the proposed amendment seems to take away the autonomy of co-operative societies and tries to bring them under the control of the Government in an indirect manner. According primacy to the concept of autonomy for co-operative societies, the Committee recommend that the right to form co-operative societies be made a Fundamental Right and be inserted after the word 'associations' in sub-clause (c) of Clause (1) of Article 19 which in their considered view should be made explicit so that it could give some boost to the cooperative movement and when done, it would enthuse the people to actively participate in the cooperatives as a matter of right. They are of the firm belief that after it becomes a part of their fundamental rights, the responsiveness of members would increase manifold and the cooperative movement would be cured of the ills plaguing it to a great extent. They further recommend that a new sub--clause (h) be added after sub-clause (g) of Clause (1) of Article 19. This should read as follows: '(h) to form and run co-operatives based on the principles of voluntary formation, democratic member control, member economic participation and autonomous functioning. The Committee are of the unanimous opinion

that by doing so, the co-operative movement in the country would be truly strengthened.

1.28 The Committee observe that the Government appointed an Expert Committee under the chairmanship of Choudhary Brahm Prakash in 1990 to review the status of the cooperative movement, suggest future directions and finalize a Model Cooperative Act. The Committee submitted its Report in 1991 and a Draft Model Cooperative Law was circulated to all State Governments for their consideration and adoption at the state level. So far, only nine States have enacted parallel cooperative acts reflecting the essence of Model Cooperative Law. The Committee in their Thirty Second Report (14th Lok Sabha) on the Constitution (One Hundred and Sixth Amendment) Bill 2006 recommended that based on the provisions of the aforesaid Bill, a Model Law for voluntary formation, autonomous functioning, democratic control and professional management of cooperatives with certain incentives and disincentives be framed for States to implement the model law. They, however, are constrained to find that this recommendation was not accepted on the ground that model laws are in the nature of advisory to the States and they are not bound to incorporate the provisions of such Model Law in their legislations as also the fact that the Union Government has no legislative jurisdiction to ensure that States conform to the Model Law. The Committee find it interesting to note that finding no other way to persuade the States to act upon the Model Cooperative Law as recommended by Choudhary Brahm Prakash Committee, the Government decided to bring the proposed

Constitutional Amendment Bill after the High Powered Committee constituted by the Government submitted its Report after wide ranging consultations with various stake holders including the State Governments.

1.29 All said and done, the Committee still are of the unanimous view that to promote and strengthen the cooperative movement in the country all that is required to be done is to amend the Constitution by inserting the word 'Cooperatives Societies' after the word 'associations' in Article 19(1)(c) of the Constitution and all the proposed provisions included as Article 43 B and Part IX B of the amendment Bill need to be inserted as a separate Schedule under Article 19(1)(c) of the Constitution since they feel that the Constitution of India is a sacred document and no analogy on the lines of Part IX and Part IX A can be drawn as Panchayats and Municipalities are institutions of local self governance whereas cooperatives do not involve participation of all citizens. They, therefore, desire the Government to reconsider and have a re-look at the whole issue of galvanizing the cooperative movement with a fresh approach including their above recommendation before the amendment Bill continues its further legislative journey and the Constitution stands amended and ratified by States as required under relevant Constitutional provisions.

1.30 Notwithstanding the Comments/Observations on certain vital clauses of the proposed amendment Bill as enumerated in Part II of this Report, the Committee desire the Government to reconsider the proposed

amendment Bill in its entirety as they feel the Constitution is a sacrosanct document.

PART-II

ANALYSIS OF THE CONSTITUTION (ONE HUNDRED AND ELEVENTH AMENDMENT) BILL, 2009

Clause 2

In Part IV of the Constitution, after article 43A, the following article shall be inserted, namely:-

“43B. The State shall endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of co-operative societies”.

2.2 The Department have informed the Committee that the objective of the Constitutional Amendment Bill is to ensure that the cooperative societies in the country function in a democratic, professional, autonomous and economically sound manner. The Department is of the view that these objectives can be achieved by inserting a new article in Part IV of the Constitution (Directive Principles of State Policy) and other amendments as suggested in Part IXB of the Constitution.

2.3 When enquired as to why the provision of co-operative societies was included in Directive Principles of State Policy, though they are not enforceable, the Ministry in their written reply responded that though the Directive Principles are not enforceable, but the same are fundamental in governance of directives to the States to apply these principles in making laws. These principles reflect the hopes and aspirations of the people. Although the provisions of this part are not enforceable by any court, the principles laid down therein are nevertheless fundamental in the governance of the country and the State is under an obligation to apply them in making laws. The principles laid down therein, therefore, define the objectives and goals, which the State must endeavour to achieve over a period of time. Therefore, whenever the State is required to make

laws it must do so in conformity with these principles with a view to securing social and economic goals considered essential for the establishment of an egalitarian society.

2.4 Asked if the Constitution is the right place for inclusion of the provision relating to co-operatives as in the globalised scenario of economic activities, new forms of organisations might come up in future calling for similar steps, the Secretary of the Department responded by saying that this is a matter on which we would request the Committee to give us the benefit of their wisdom. As co-operative societies entrenched themselves in the Indian society & economy they have become organizations working for the benefit particularly of weaker sections, it was felt that constitutional protection in the form of an enabling provision would give greater strength, enable their professional management and provide certain level of autonomy.

2.5 On the proposed inclusion of provisions for co-operatives under the Directive Principles of State Policy, the Government of West Bengal in a written communication stated as under:

“Currently cooperative is included under entry 32 in the State List. By including highly prescriptive clauses under the Directive Principles of State Policy, the proposed constitutional amendment takes away the authority of the State Government to legislate in matters of cooperatives. Nevertheless, the State Government has recently made comprehensive amendments to its Cooperative Laws. The West Bengal Cooperative Societies Act, 2006 that was assented to by the President of India on 25 May, 2010 and published in the official gazette on the same day lays down the structure and pattern of governance of cooperative societies in the State of West Bengal. This is broadly in line with the recommendation of the Chowdhury Brahma Prakash Committee. Thus, there is no need for amendment of the Constitution as far as insertion of specific clause under the Article 43 under Directive Principles of State Policy.”

2.6 When asked to give their considered view on the suggestion that the proposed Part IXB be inserted as a separate schedule under Article 43 B rather

than as Part IXB, the Secretary, Department of Agriculture and Co-operation stated as under:

“I am not a legal expert. But I will express my intention as the Secretary of the Department. My intention is that there should be a provision in the Constitution such that the State Governments are guided by it. While making their law, they should be within certain boundaries. If that does not get disturbed by the suggestion of the Chairman, then I as a Secretary will not have any issue. We will go by the advice of the Law Ministry’s suggestion as to which will serve better. The intention is very clear. So, we will go by your advice and take the Law Ministry’s advice on that specific issue.”

2.7 The representative of the Ministry of Law further supplemented as under:

“I will be guided by my superiors and the Government. My first reaction would be like this. Regarding organization, for Village Panchayats there is an article 40 of the Constitution and on that basis we have created two parts for municipalities and Panchayats. Similarly, we are going to have a Directive Principle in respect of co-operative societies as a new article, the proposed Article 43B vide Clause 2 of the Bill under consideration of the hon. Committee. So, the suggestion is to have parts A and B to co-operative societies. In my personal view, this is in accordance with the scheme of things in the Constitution. There would be no problem in that. But the schedules are carved out to elaborate the things. The main thing which is provided in the Constitution for want of elaboration and not losing the continuance of the provisions of the Constitution, if we want to put it in the elaboration, we use the schedule as the method. But I think, what we have done as putting parts A and B is in consonance with the provisions of the Constitution. Now we will be guided by the Committee.”

2.8 The Committee in their examination of the Bill had the benefit of views and suggestions expressed by various individuals/experts /organizations who have opined that the matter of including the provision relating to cooperatives in the Constitution of India is a matter on which they need to deliberate as to its rightful place as in the globalised scenario of economic activities new forms of organizations might crop up in future calling for similar action on part of the Government. The Government on

their part felt that Constitutional protection in the form of an enabling provision would give greater strength to the cooperatives, enable their professional management and provide certain level of autonomy. The Committee also observe that a view was expressed that Article 43 B and the provisions in the proposed Part IX B could be inserted as a separate schedule in the Constitution. The Committee therefore, desire the Government to consider their recommendation on this aspect and reconsider inclusion of Article 43B as commented in para 1.29 of Part I of this Report.

Clause 243ZH(C) - Definitions

2.9 The Clause read as under

In this Part, unless the context otherwise requires, -

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“Co-operative society” means a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State.”

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2.10 The Committee received suggestions from various non-official experts regarding inclusion of some important terms like ‘autonomous association of persons’, having ‘common needs’, ‘jointly owned’ and democratically controlled’ enterprise and adhering to the ‘co-operative principles’ and ‘values’, which have not been included in the above-mentioned clause.

2.11 When asked to be apprised of the reasons for non-inclusion of the above terms, the Department stated that the terms like ‘autonomous association of persons’, having ‘common needs’, ‘jointly owned’ and ‘democratically controlled’ enterprise and adhering to the ‘co-operative principles’ and ‘values’ form the fundamental building block on which the edifice of cooperative institutions rests. These values are the essence which distinguishes a co-operative society from other forms of associations. However, definition clause will not be an appropriate place for elaborating these vital elements of functioning of cooperative societies. A new Article 43B is proposed to be inserted after Article 43A providing for these important elements forming the very essence of the functioning of cooperative societies. These have also been included in Article 243ZI.

2.12 The Committee also noted that under Clause 243ZH the definition of an ‘active member’ has been left out. Written memoranda received from non-official

experts stressed that it was important that the definition of active member is incorporated under the definition clause to ensure that members participate in the affairs of the co-operative and use its services.

2.13 In response to the Committee's query regarding non-inclusion of the term 'active member' in Clause 243ZH and the definition of the said term, the Department stated that active member means any member who attends a minimum number of meetings and avails such minimum level services or products of the society as may be specified in the bye-laws of the society. This has been included in Article 243 ZO(2). If required, the definition may be included in the State Laws.

2.14 Clause 243ZH(c) lays down the definition of a co-operative society as “co-operative society” means a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State. The Committee note that this definition has left out important terms like ‘autonomous association of persons’, having ‘common needs’, ‘jointly owned’ and ‘democratically controlled’ enterprise and adhering to the ‘co-operative principles’ and ‘values’. These terms are the core essentials of co-operatives. Even the Ministry have stated that these terms form the fundamental building block on which the edifice of co-operative institutions rest and these values are the essence which distinguish a co-operative society from other forms of associations. The Committee are not able to comprehend this dichotomous stand of the Government. On the one hand, they say that these are fundamental core terms of the co-operatives, while on the other hand they have left out these in the definition of co-operative society in the Bill. They strongly feel that it

is very essential to clearly define that the co-operative societies are promoted, owned, controlled and managed only by their user members. The Committee, therefore, recommend that Clause 243ZH(C) should read as: 'A co-operative society is an autonomous association of persons united voluntarily to meet their common needs and aspirations through a jointly-owned and democratically controlled enterprise and adhering to the co-operative principles and values, as recognized by the Indian Cooperative Law registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State.

2.15 Further taking note of the fact that co-operative societies are Member driven societies, the Committee desire that the definition of 'an active member' be suitably inserted under Clause 243ZH in the following way: 'Active Member is one who participates in the affairs of the co-operative society using its services as prescribed in the bye-laws of the co-operative society.' The Committee are of the opinion that this would ensure that members participate in the affairs of their co-operative society and avail its services.

Clause 243ZK(2) – Elections to Board

2.16 The Clause read as under:

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The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to a co-operative society shall vest in such an authority or body, as may be provided by the Legislature of a State, by law:

Provided that the Legislature of a State may, by law, provide for the procedure and guidelines for the conduct of such elections.

2.17 The power to conduct elections Clause 243ZK(2) for co-operative societies is proposed to be vested in an authority or body as may be provided by the Legislature of a State by Law and not with the Board of a co-operative society.

2.18 One of the experts who deposed before the Committee opined that the power to conduct elections to the co-operative societies should vest with the Board of the Society as vesting their authority with others authorities would undermine the autonomy of the Board. This gave the impression the Government wants to curtail their autonomy and gain some sort of control over them which is against the spirit of functioning of co-operatives.

2.19 When asked to comment, the Department stated in a written reply that timely conduct of election in a free and fair manner is vital for ensuring democratic governance character of a cooperative society. The objective of this provision is not to curtail the autonomy of the society but to ensure prevalence of democratic character of the society by conducting timely election in a free and fair manner by an independent and professionally competent authority as would be legislated by the State Governments. Such a provision would instill a greater degree of confidence among the members and other stake holders and would

facilitate better growth of the cooperative institutions in the country. There have been instances where doubts have been raised on the independence of Returning Officer appointed by Board to conduct elections in a free and fair manner.

2.20 During evidence, the representative of the Ministry of Law and Justice stated on the subject as under:

“In addition to what the Department has stated, this provision of the superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to a co-operative society shall vest – it is mandatory ‘shall vest’ – in such an authority or body, as may be provided by the Legislature of a State, by law. So, whether a body or a particular officer or authority, that we have left to the wisdom and the financial capability of the State Government. This is totally in consonance with Article 243K relating to elections to panchayats. You can make a parallel study of Article 324 relating to the Election Commission of India, Article 243 K is in consonance with the provisions in respect of those bodies. Of course, we have given the flexibility, but mandatory. Flexibility in relation to whether a body or an authority because the financial position, the area covered, the requirement, all these things are within the wisdom of the concerned State Governments”.

2.21 The Committee are in agreement with the Government on the aspect of entrusting the task of superintendence, direction and control of the election process of a co-operative society in such an authority or body as may be provided by the Legislature of a State by Law. Although, the Committee are aware that co-operative societies are not agencies of the Government, due to the fact that the election process is the achilles heel of the co-operative societies they concur with the provisions of the Bill with regard to the election process of co-operatives. The Committee, therefore, recommend that a specialised agency on the lines of the Election Commission be set-up and entrusted the task of conducting elections in

co-operatives in a timely, free and impartial manner. In their considered view this step would go a long way in ensuring full democratization of the co-operative sector.

Clause 243ZL(1) – Suspension & Supercession of Board

2.22 The Clause reads as under

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Provided further that the board of any such co-operative society shall not be superseded or kept under suspension where there is no Government shareholding or loan or financial assistance or any guarantee by the Government:

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2.23 The Committee observe the provision of this clause empowers the Government to supersede or suspend the Board of co-operative societies even when there is no Government shareholding or loan or financial assistance or any guarantee by the Government.

2.24 This provision, it apparently appears that Government is trying to wrest control over co-operatives. Asked to explain for such a clause in the Bill, the Department in their written reply submitted that under the existing State Laws, the State Governments have unlimited power to supersede any cooperative society irrespective of Government's share holding. The present provision is a progressive step in the sense that the Government proposes to have provision of supersession and suspension of the board of only such societies where there is any Government shareholding or loan or financial assistance or any guarantee by the Government. This provision has been made not with the objective to wrest control over co-operatives but to safeguard the economic interest of the government and public exchequer and to ensure necessary financial discipline in such cooperative societies. However, the State would be free to put further restrictions on this, if they consider it necessary in the context of States.

2.25 When asked why the recommendation of the Committee (14th Lok Sabha) was not accepted, the Secretary during evidence stated as under:

“The reason is that there were several cases. From my own personal experience, in Bihar and also all over the country, I have seen the co-operatives, the apex bodies. The co-operatives are not only given shareholding but also they are given loan by the Government. They are given guarantee by the Government. For instance, I will give you one example. In NAFED, we do not have a shareholding but we have given a huge guarantee running into more than a thousand crores of rupees. Suppose the NAFED starts functioning in a manner which is totally detrimental to the co-operative spirit or even the basic public spirit. The Government has no control to stop that. There is no instrument to stop that. So, these are extreme cases where the Government will use its power. That is why, the whole section is there. There are a lot of limitations on Government. They cannot supersede for more than six months. Then, in that, the very same clause says when and for what reason exactly you can keep it superseded. We have tried to put control on the Government as well. If you leave the co-operatives completely out of control, I have seen for myself what it can lead to. I had been in my State. Now, I am working here as Secretary”.

2.26 Asked why no provision for giving a reasonable opportunity to the Board or Governing Council of the co-operative society to explain its conduct has been kept in the amendment before the supersession or suspension of the Board is done by Government or its agencies, the Department in reply stated that these details would be provided in the respective State Laws. However, there may be a situation of emergent nature, where Board may have to be suspended with immediate effect. However, in normal course, the society will be given an opportunity to explain their conduct before invoking the provision for supersession or suspension of the board.

2.27 Clause 243ZL(1) stipulates that the board of any co-operative society shall not be superseded or kept under suspension where there is no Government shareholding or loan or financial assistance or any guarantee by the Government. The Committee do not buy the argument put forth by the Government that the present provision is a progressive step made with

the objective to safeguard the economic interest of the Government and the public exchequer and to ensure necessary financial discipline and it has not been incorporated with the objective to wrest control over co-operatives. The Committee are of the opinion that as co-operatives are not Government agencies and are only autonomous bodies that are promoted, owned, controlled and managed only by their user members, the Government should not have such unfettered power over the co-operatives. They also want that the Government funding/share in co-operatives should be minimal and ultimately nil. The Committee, therefore, recommend that the Government should supersede or place under suspension the Board of a co-operative society where it possesses more than 51% shares or loan or financial assistance or given guarantees amounting to more than 51% of net worth of the cooperative. Further, they desire that the Government should resort to this draconian measure only in cases of extreme and gross financial irregularities for which also they feel that there are enough provisions in the Indian Penal Code to take care of misdemeanors of such nature on the part of the cooperatives. The Committee further desire that the period of supersession/ suspension should be restricted to only 3 months.

NEW DELHI;
27 August, 2010
5 Bhadrapada, 1932 (Saka)

BASUDEB ACHARIA
Chairman,
Committee on Agriculture.

APPENDIX-I

The Constitution (106th Amendment) Bill, 2006

Recommendations of the Standing Committee and the views of the Department of Agriculture and Co-operation.

S. No	Provisions of the Bill	Recommendations of the Committee	Views of the DAC	Provision after amendments
(1)	(2)	(3)	(4)	(5)
1.	Be it enacted by Parliament in the Fifth-seventh Year of the Republic of India as follows:	No recommendation	This amendment is of drafting nature.	For "Fifty-seventh", substitute "Sixtieth".
2.	1(1) This Act may be called the Constitution (One Hundred and Sixth Amendment) Act, 2006.	No recommendation	This amendment is of drafting nature.	For "2006" substitute "2009".
3.	No Provision.	Article 19(1)(c) of the Constitution says that 'all citizens shall have the right to form associations or unions'. The Committee have been informed that the Department of Legal Affairs of the Ministry of Law and Justice, Government of India is of the opinion that the word 'associations' in	The issue has been examined in consultation with Ministry of Law and Justice. The Department is of the view that amendment to Article 19(1)(c) is not required as the word 'association' includes cooperative societies. Further, a new clause 43B is proposed to include the provision of cooperative societies in Directive Principles of State Policy. Therefore, this	No Provision.

		<p>Article 19(1)(c) of the Constitution includes the words 'cooperative societies' also. A view has been expressed in the Committee that the word 'associations' does not include 'cooperatives'. The Committee, therefore, recommends that the Government should examine whether the words 'cooperative societies' can be inserted after the word 'associations' in the aforesaid Article.</p>	<p>recommendation of the Committee could not be accepted.</p>	
4.	No Provision.	<p>The Committee further recommended that a new Article 43B on Empowerment of Cooperatives may be added in Part – IV of the Constitution that contains Directive Principles of State Policy, which may read as under:</p> <p style="text-align: center;">“43B <u>Empowerment of</u></p>	<p>Accepting the recommendation of the Committee, it is proposed to add the following provision:</p> <p style="text-align: center;">“43B <u>Promotion of Cooperative Societies:</u> The state shall endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of cooperative</p>	<p>New article proposed to be added as follows:</p> <p style="text-align: center;">“43B <u>Promotion of Cooperative Societies:</u> The state shall endeavour to promote voluntary formation, autonomous functioning, democratic control and professional</p>

		<p><u>Cooperatives:</u> The state shall endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of the cooperatives”.</p>	societies”.	management of cooperative societies”.
5.	No Provision.	<p>Cooperative Societies is a State subject under Entry 32 of the State List of Seventh Schedule of the Constitution. The Committee is of the firm view that the Central Government should not interfere in the day-to-day affairs of the cooperative societies.</p>	<p>Regarding the recommendation that the Central Government should not interfere in the day-to-day affairs of the cooperatives, it is the policy of the Central Government not to interfere in the day-to-day affairs of the cooperative societies. Nor there is any provision in the Constitution (106th Amendment) Bill, 2006 providing any power to the Central Government even for any action or directive for the governance of cooperative societies, leaving aside the interference in day-to-day working of the cooperatives. This recommendation is accepted.</p>	No provision.

6.	No Provision.	<p>The Committee is of the unanimous opinion that a comprehensive amendment to the Constitution on cooperatives is not necessary. They, therefore, recommend that 'The Constitution (One Hundred and Sixth Amendment) Bill 2006' should be converted into a comprehensive central model law for voluntary formation, autonomous functioning, democratic control and professional management of the cooperatives with certain incentives and disincentives to the State that implement or not implement the model law. The States can enact their own laws on the subject, however, State Laws should be compatible with the Central Model Law.</p>	<p>The Committee's view is that a comprehensive amendment to the Constitution is not necessary and has recommended to convert the Bill into a comprehensive Central model law. During the discussion in the meetings of the Committee as well while replying to the Points for Discussion, the Department has made it clear that the said model law will not serve the purpose. This is mainly on following grounds:-</p> <p>(a) Any such model law would be only advisory in nature and it is for the State Governments to follow the suit or not. In fact, it can not be termed as 'Central model law'. The recommendations of the 'Model Cooperatives Act' as recommended by Choudhury Brahm Perkash Committee are already there but the states are not adopting them in their State Acts.</p>	No Provision.
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			<p>(b) The basic aim to bring this Constitution Amendment Bill is to provide for certain provisions in the Constitution regarding the conduct of elections, audit, tenure and size of the board etc. which are considered basic to the democratic and professional management of cooperatives and being the constitutional provision, these will be mandatory to be conformed in the State Legislations.</p> <p>(c) As the Cooperative Societies is a State Subject, Central Government has no legislative jurisdiction to enact such a model law. If such a model law is prepared by the Central Government as advisory to the States, the recommendation of the Committee that the state law should be compatible with the Central model</p>	
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			<p>law will not be implementable.</p> <p>Due to aforementioned reasons, this recommendation of the Committee could not be accepted.</p>	
7.	No Provision.	<p>The Committee recommended that no person should be allowed to become the office bearer of the cooperative society for more than two consecutive terms. However, he will again be eligible to contest the elections after a gap of full one term.</p>	<p>Regarding restriction on holding office for more than two consecutive terms the Multi-State Co-operative Societies Act has a similar provision prohibiting Chairman or President of Multi-State Cooperative Society to hold such office for more than two consecutive terms. However, the High Power Committee while giving its interim report on amendments to MSCS Act has recommended that this restriction should be removed. There are both pros and cons on this issue. While viewing the concept of democratic member control over the cooperatives, it can be said that it is for the members to decide that for how long a member holds a certain</p>	No provision.

			<p>office. On the other, when this provision was introduced, it was with the basic intention to prevent the vested interests from holding an office of cooperative society for a longer period. However, it would be advisable that this issue may be left to the State Legislature and need not to provide in the Bill. Otherwise also no provision has been provided in the Bill regarding disqualifications or any prohibitory provision for being chosen as a member of the board or its office bearer. Therefore, this recommendation of the Committee could not be accepted.</p>	
8.	<p>243ZI. Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the incorporation, regulation and winding up of co-operative societies based on the principles of voluntary, democratic</p>	<p>No recommendation .</p>	<p>The word “formation” may be added after the word “voluntary” in this clause.</p> <p>This amendment is of drafting nature.</p>	<p>243 ZI Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the incorporation, regulation and winding up of cooperative societies based on the principles of</p>

	member-control, member-economic participation and autonomous functioning.			voluntary formation , democratic member – control, member – economic participation and autonomous functioning.
9.	<p>243ZJ. (1) The board shall consist of such number of directors as may be provided by the Legislature of a State, by law:</p> <p>Provided that the maximum number of directors of a co-operative society shall not exceed twenty-one, except in the case of a State level co-operative society”.</p>	<p>The Committee noted that this Clause specifies that the maximum number of Directors shall not exceed twenty-one except in the case of a State level cooperative society. It has been observed that in many cases there are very large boards and it is very difficult to arrive at reasonable decision. The Committee, therefore, recommended that the maximum number of directors including functional directors should be restricted to twenty-one for all cooperatives</p>	<p>This recommendation of the Committee has been accepted to keep the maximum number of directors as twenty-one for all the cooperative societies. However, the functional Directors would be in addition to this limit, to ensure that adequate number of elected Directors are there on the Board.</p>	<p>243 ZJ(1) The board shall consist of such number of directors as may be provided by the Legislature of a State, by law:</p> <p>Provided that the maximum number of directors of a cooperative society shall not exceed twenty-one ”.</p>

		irrespective of their sizes. Hence, the words 'except in case of a State Level cooperative society' should be deleted from the proviso to Clause 243ZJ(1).		
10.	<p>243ZJ (3) The Legislature of a State shall, by law, make provisions for co-option of persons to be members of the board having experience in the field of banking, management, finance or specialization in any other field relating to the objects and activities undertaken by the co-operative society as members of the board of such society:</p> <p>Provided that the number of such co-opted members shall not exceed two in addition to twenty-one directors specified in the proviso to</p>	<p>The Committee recommend that in the second proviso to the Clause 243ZJ(3) for the words 'Vice-Chairman or Vice-President, Chairman or President of the board', the words 'office bearer of the board' may be substituted.</p>	<p>Clause 243ZJ(3) provide that the co-opted members shall not cast vote in the election of the Chairman or President, Vice-Chairman or Vice-President. Clause 243 ZH(e) defines the words 'office bearers' means a President, Vice-President, Chairperson, Vice-Chairperson, Secretary or Treasurer of a cooperative society and includes any other person to be elected by the cooperative society.</p> <p>This recommendation of the Committee is accepted.</p>	<p>243 ZJ(3) The Legislature of a State shall, by law, make provisions for co-option of persons to be members of the board having experience in the field of banking, management, finance or specialization in any other field relating to the objects and activities undertaken by the cooperative society as members of the board of such society:</p> <p>Provided that the number of such co-opted members shall not exceed two in addition to twenty-one directors</p>

	<p>clause (1):</p> <p>Provided that such co-opted members shall not have the right to vote in any election of the cooperative society in their capacity as such member or to be eligible to be elected as Vice-Chairman or Vice-President, Chairman and President of the board”.</p>			<p>specified in the proviso to clause (1).</p> <p>Provided that such co-opted members shall not have the right to vote in any election of the cooperative society in their capacity as such member or to be eligible to be elected as office bearers of the board:</p> <p>Provided also that the functional directors of a co-operative society shall also be the members of the board and such members shall be excluded for the purpose of counting the total number of directors specified in first proviso of clause (1) of this article.”</p>
11.	<p>243ZK (1)</p> <p>Notwithstanding anything contained in any law made by the Legislature of a</p>	<p>The Committee feel that though the cooperative societies are not part of local governance like</p>	<p>Under the Multi-State Co-operative Societies Act, the responsibility to conduct the election</p>	<p>243 ZK (1)</p> <p>Notwithstanding anything contained in any law made by the</p>

	<p>State, the election of a board shall be conducted before the expiry of the term of the board so as to ensure that the newly elected board assumes office immediately on the expiry of the term of the outgoing board:</p> <p>Provided that in case the co-operative society has failed to conduct such elections in time the Registrar or an authority or officer authorized by the Registrar shall cause the elections to be conducted within a period of six months after the expiry of the term of the outgoing board at the cost of the co-operative society.</p> <p>(2) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to a co-operative</p>	<p>panchayati raj institutions and municipalities and should be allowed to conduct their own elections, however, they are of the opinion that major ill of cooperative sector is their election process. They, therefore, recommend that the matter should be further examined so as to have free, fair, impartial and timely elections of the cooperative societies conducted by the State Election Commission or any other appropriate independent body.</p>	<p>is that of the board of directors. To make the cooperatives member driven organizations the concept of conduct of election by a cooperative itself conforming to principle of democratic management. However, in practice, as observed by the Committee the election process is a major ill of the cooperative sector. The elections are not held regularly or the election process is vitiated for one reason or another. Moreover, the magnitude of the problem has to be examined in view of the large spread of primary cooperative societies in the states. Most of these societies are financially weak and many of them even may not bear the expenses if the elections are held by the State Election Commission on pattern of the panchayat raj institution. It is, therefore, proposed that accepting the recommendation</p>	<p>Legislature of a State, the election of a board shall be conducted before the expiry of the term of the board so as to ensure that the newly elected board assumes office immediately on the expiry of the term of the outgoing board:</p> <p>(2) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to a cooperative society shall vest in such an authority or body as may be provided by the Legislature of a State, by law.</p>
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	society shall vest in the general body of the co-operative society:		of the Committee elections may be held by an authority as may be provided by the State Legislature in law.	
12.	243ZL(1) Notwithstanding anything contained in any law for the time being in force, no board shall be superseded or kept under suspension for a period exceeding six months:	The Committee note that in the Bill it is stated that 'the board of cooperative societies shall not be superseded where there is no government shareholding or loan or financial assistance or any guarantee by the Government'. The Committee note that the shareholding by the Government has not been qualified and even if the Government have one rupee as shareholding, it will have the right to supersede the board of the cooperative society. These unfettered powers to Government as proposed in the Bill will affect the autonomy of the Cooperatives adversely. The	The Multi-State Co-operative Societies Act, 2002 provide for supersession of a multi state society only in the case where Government equity is not less than 51%. The existing provision in clause 243 ZL was proposed keeping in view the overall spread of cooperative societies in the country, the stake of the State Governments by way of share holding, loans, government guarantee, etc. In case of Multi-State Cooperative Societies Act, there are very few multi-state cooperative societies where the Government equity is there. Otherwise also safeguards have been provided in this clause to prevent misuse of the provision by the Government such as; maximum period of supersession not exceeding six	243 ZL(1) Notwithstanding anything contained in any law for the time being in force, no board shall be superseded for a period exceeding six months:

		<p>Committee are of the opinion that the board of cooperative society should not be superseded where government shareholding is less than 51 per cent.</p>	<p>months (one year in case of cooperative banks), responsibility of the administrator to arrange for the elections of the board within this period and supersession of board only on tangible grounds.</p> <p>Therefore, this recommendation of the Committee could not be accepted.</p>	
13.	No Provision.	<p>The Committee are of the opinion that there is a need to set up 'Cooperative Members Grievances Redressal Forum' to decide all types of disputes arising in respect of constitution, business, management, or any other activity of the cooperative society. This may deliver cheap and quick justice to the members of the cooperatives.</p>	<p>After careful examination of the recommendation of the Committee, this Department is of the view that there are already provisions in the State Cooperative Laws providing for mechanism for settlement of disputes etc. Further, it will also add to the multi-layer mechanism already provided in the State Acts for the settlement of disputes, inspection/inquiry etc. Moreover, if these provisions are added in the Bill, it would be touching the governance of cooperatives, which is not the intention of the Bill and</p>	No provision.

			<p>therefore, should be left to the wisdom of the State Legislature.</p> <p>Therefore, this recommendation of the Committee could not be accepted.</p>	
14.	No Provision.	<p>The Committee are of the opinion that there is a need to set up a 'Cooperative Regulatory Commission' to reduce the interference of the Government as well as the Registrar and to inspect / enquire about the conduct of the Management Committee / Board of Directors of the cooperatives in each State to ensure transparency, neutrality in quick disposal of the cases which will also regulate the statutory aspect of functioning of cooperatives.</p>		No provision.
15.	243ZM. (1) The Legislature of a State may, by law, make	The Committee observed that the spirit of an independent	The Committee has recommended that in order to ensure independent	243 ZM (1) The Legislature of a State may,

	<p>provisions with respect to the maintenance of accounts by the co-operative societies and the auditing of such accounts at least once in each financial year.</p> <p>(2) The Legislature of a State shall, by law, lay down the minimum qualifications and experience of auditors and auditing firms that shall be eligible for auditing the co-operative societies.</p> <p>(3) Every co-operative society shall cause to be audited by an auditor referred to in clause (2) appointed by the general body of the co-operative society.</p> <p>(4) The accounts of every cooperative society shall be audited before the expiry of a period of six months of the financial year to which such</p>	<p>audit may be diluted if the cooperative society being audited has a hand in the choice and appointment of its auditors. There may be chances that although officially the general body will appoint the auditors, it is the Board of Directors of the concerned cooperative society, whose choice will actually prevail to the detriment of auditing ethics, given the reality that most of the members of the cooperative society are neither deeply involved nor have the time and information required to make the best choice. The independent audit can be ensured only if audit is carried out by the auditor from the government approved panel of auditors / audit firms or</p>	<p>and impartial audit, the auditor should be appointed from the Government approved panel or through a separate Government organization say Directorate of Audit.</p> <p>Accepting the recommendation of the Committee, it is proposed to provide a provision in clause 243 ZM to the effect that the auditor shall be appointed out of a panel approved by the Government/Registrar.</p>	<p>by law, make provisions with respect to the maintenance of accounts by the cooperative societies and the auditing of such accounts at least once in each financial year.</p> <p>(2) The Legislature of a State shall, by law, lay down the minimum qualifications and experience of auditors and auditing firms that shall be eligible for auditing accounts of the cooperative societies.</p> <p>(3) Every cooperative society shall cause to be audited by an auditor or auditing firms referred to in clause (2) appointed by the general body of the cooperative society.</p>
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	accounts relate.	through a separate government organization say for example Directorate of Audit. The Committee are of the opinion that the Director of Cooperative Audit should be made answerable to the State Legislature.	<p>Provided that such auditors or auditing firms shall be appointed from a panel approved by a State Government or an authority authorized by the State Government in this behalf.</p> <p>(4) The accounts of every cooperative society shall be audited within six months of the close of the financial year to which such accounts relate.</p> <p>(5) Audit report of the accounts of an apex cooperative society, as may be defined by law, shall be laid before the state legislature in the manner as may be provided by the State legislature, by law.</p>
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16.	243ZP. Every co-operative society shall file returns, within six months of the close of every financial year, to the authority designated by the State Government amongst others, the following, namely:-	No recommendation.	This amendment is of drafting nature.	243 ZP Every cooperative society shall file returns, within six months of the close of every financial year, to the authority designated by the State Government including , the following, namely:-
17.	243 ZQ(1) The Legislature of a State may, by law, make provisions for defining the offences relating to cooperative societies and penalties for such offences.	No recommendation.	This amendment is of drafting nature.	243 ZQ(1) The Legislature of a State may, by law, make provisions for the offences relating to cooperative societies and penalties for such offences.
18.	243ZQ(2)(a) a co-operative society or an officer or member thereof willfully making a false return or furnishing false information, or willfully not furnishing any information required from him by a person authorized in this behalf;	No recommendation.	This amendment is of drafting nature.	243 ZQ (2)(a) a cooperative society or an officer or member thereof willfully making a false return or furnishing false information, or any person willfully not furnishing any information required from him by a person authorized in this behalf

				under the provisions of the State Act;
19.	No Provision.	The Committee have considered each clause of the Bill thoroughly and are of the opinion that the clauses, other than those discussed in Part – II of the Report, should be made consistent with the provisions on which amendments / suggestions have been made in the Report.	The provisions of the Bill have been made consistent with the recommendations of the Committee otherwise where the recommendations are not accepted.	No provision.

APPENDIX-II

As INTRODUCED IN LOK SABHA

Date: 30 Nov 2009

Bill No. 107 of 2009

THE CONSTITUTION (ONE HUNDRED AND ELEVENTH AMENDMENT) BILL, 2009

A

BILL

further to amend the Constitution of India.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Short title and
Constitution (One Hundred and Eleventh commencement
Amendment) Act, 2009.

(2) It shall come into force on such
date as the Central Government may, by
notification in the Official Gazette,
appoint.

2. In Part IV of the Constitution, after Insertion of new
article 43A, the following article shall be article 43 B
inserted, namely:-

“43B. The State shall endeavour to Promotion of co-
promote voluntary formation, operative
autonomous functioning, democratic societies.
control and professional management
of co-operative societies”.

Insertion of 3. After Part IXA of the Constitution, the
new Part IXB following Part shall inserted, namely:-

**‘PART IXB’
THE CO-OPERATIVE SOCIETIES**

Definitions. 243ZH. In this Part, unless the context otherwise requires,-

(a) “authorized person” means a person referred to as such in article 243ZQ;

(b) “board” means the board of directors or the governing body of a co-operative society, by whatever name called, to which the direction and control of the management of the affairs of a society is entrusted to;

(c) “co-operative society” means a society registered or deemed to be registered under any law relating to co-operative societies for the time being in force in any State;

(d) “multi-State co-operative society” means a society with objects not confined to one State and registered or deemed to be registered under any law for the time being in force relating to such co-operatives:

(e) “office bearer” means a President, Vice-President, Chairperson, Vice-Chairperson, Secretary or Treasurer of a co-operative society and includes any other person to be elected by the board of any co-operative society;

(f) “Registrar” means the Central Registrar appointed by the Central Government in relation to the multi-State co-operative societies and the Registrar for co-operative societies appointed by the State Government under the law made by the Legislature of a State in relation to co-operative societies;

(g) “State Act” means any law made by the Legislature of a State;

(h) “State level co-operative society” means a co-operative society having its area of operation extending to the whole of a State and defined as such in any law made by the Legislature of a State.

Incorporation of co-operative societies.

243ZI. Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the incorporation, regulation and winding up of co-operative societies based on the principles of voluntary formation, democratic member-control, member-economic participation and autonomous functioning.

Number and term of members of board and its office bearers.

243ZJ. (1) The board shall consist of such number of directors as may be provided by the Legislature of a State, by law:

Provided that the maximum number of directors of a co-operative society shall not exceed twenty-one:

Provided further that the Legislature of a State shall, by law, provide for the reservation of one seat for the Scheduled Castes or the Scheduled Tribes and two seats for women on board of every co-operative society consisting of individuals as members and having members from such class or category of persons.

(2) The term of office of elected members of the board and its office bearers shall be five years from the date of election and the term of office bearers shall be co-terminus with the term of the board:

Provided that the board may fill a casual vacancy on the board by nomination out of the same class of members in respect of which the casual vacancy has arisen, if the term of office of the board is less than half of its original term.

(3) The Legislature of a State shall, by law, make provisions for co-option of persons to be members of the board having experience in the field of banking,

management, finance or specialization in any other field relating to the objects and activities undertaken by the co-operative society as members of the board of such society:

Provided that the number of such co-opted members shall not exceed two in addition to twenty-one directors specified in the proviso to clause (1):

Provided further that such co-opted members shall not have the right to vote in any election of the co-operative society in their capacity as such member or to be eligible to be elected as office bearers of the board:

Provided also that the functional directors of a co-operative society shall also be the members of the board and such members shall be excluded for the purpose of counting the total number of directors specified in first proviso of clause (1) of this article.

Provided further that such co-opted members shall not have the right to vote in any election of the co-operative society in their capacity as such member or to be eligible to be elected as office bearers of the board:

Provided also that the functional directors of a co-operative society shall also be the members of the board and such members shall be excluded for the purpose of counting the total number of directors specified in first proviso of clause (1) of this article.

243ZK. (1) Notwithstanding anything contained in any law made by the Legislature of a State, the election of a board shall be conducted before the expiry of the term of the board so as to ensure that the newly elected members of the board assumes office immediately on the expiry of the term of the office of members of the outgoing board.

Election
members
board. of
of

(2) The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to a co-operative society shall vest in such an authority or body, as may be provided by the Legislature of a State, by law:

Provided that the Legislature of a State may, by law, provide for the procedure and guidelines for the conduct of such elections.

243ZL. (1) Notwithstanding anything contained in any law for the time being in

Supersession
and suspension
of board and
interim

force, no board shall be superseded or management. kept under suspension for a period exceeding six months.

Provided that the board may be superseded or kept under suspension in case-

- (i) of its persistent default; or
- (ii) of negligence in the performance of its duties; or
- (iii) the board has committed any act prejudicial to the interests of the co-operative society or its members; or
- (iv) there is a stalemate in the Constitution or functions of the board; or
- (v) the authority or body as provided by the Legislature of the State, by law, under clause (2) of article 243ZK, has failed to conduct elections in accordance with the provisions of the State Act:

Provided further that the board of any such co-operative society shall not be superseded or kept under suspension where there is no Government shareholding or loan or financial assistance or any guarantee by the Government:

Provided also that in case of a co-operative society carrying on the business of banking, the provisions of the Banking Regulation Act, 1949 shall also apply:

Provided also that in case of a co-operative society, other than a multi-State co-operative society, carrying on the business of banking, the provisions of this clause shall have the effect as if for the words “six months”, the words “one year” had been substituted.

(2) In case of supersession of a board, the administrator appointed to manage the affairs of such co-operative society shall arrange for conduct of elections within the period specified in clause (1) and handover the management to the elected board.

(3) The Legislature of a State may, by law, make provisions for the conditions of service of the administrator.

Audit of accounts of co-operative societies.

243ZM. (1) The Legislature of a State may, by law, make provisions with respect to the maintenance of accounts by the co-operative societies and the auditing of such accounts at least once in each financial year.

(2) The Legislature of a State shall, by law, lay down the minimum qualifications and experience of auditors and auditing firms that shall be eligible for auditing accounts the co-operative societies.

(3) Every co-operative society shall cause to be audited by an auditor or auditing firms referred to in clause (2) appointed by the general body of the co-operative society.

Provided that such auditors or auditing firms shall be appointed from a panel approved by a State Government or an authority authorized by the State Government in this behalf.

(4) The accounts of every co-operative society shall be audited within six months of the close of the financial year to which such accounts relate.

(5) The audit report of the accounts of an apex co-operative society, as may be defined by the State Act, shall be laid before the State Legislature in the manner, as may be provided by the State Legislature, by law.

Convening of
general body
meetings.

243ZN. The Legislature of a State may, by law, make provisions that the annual general body meeting of every co-operative society shall be convened within a period of six months of close of the financial year to transact the business as may be provided in such law.

Right of a member to get information

243ZO. (1) The Legislature of a State may, by law, provide for access to every member of a co-operative society to the books, information and accounts of the co-operative society kept in regular transaction of its business with such member.

(2) The Legislature of a State may, by law, make provisions to ensure the participation of members in the management of the co-operative society providing minimum requirement of attending meetings by the members and utilizing the minimum level of services as may be provided in such law.

(3) The Legislature of a State may, by law, provide for co-operative education and training for its members.

Returns

243ZP. Every co-operative society shall file returns, within six months of the close of every financial year, to the authority designated by the State Government including the following, namely:-

- (a) annual report of its activities;
- (b) its audited statement of accounts;
- (c) plan for surplus disposal as approved by the general body of the co-operative society;
- (d) list of amendments to the bye-laws of the co-operative society; if any;
- (e) declaration regarding date of holding of its general body

meeting and conduct of elections when due; and

- (f) any other information required by the Registrar in pursuance of any of the provisions of the State Act.

Offences and penalties.

243ZQ. (1) The Legislature of a State may, by law, make provisions for the offences relating to co-operative societies and penalties for such offences.

(2) A law made by the Legislature of a State under clause (1) shall include the commission of the following act or omission as offences, namely:-

- (a) a co-operative society or an officer or member thereof willfully makes a false return or furnishes false information, or any person willfully not furnishes any information required from him by a person authorized in this behalf under the provisions of the State Act;
- (b) any person willfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of the State Act;
- (c) any employer who, without sufficient cause, fails to pay to a co-operative society amount deducted by him from its employee within a period of fourteen days from the date on which such deduction is made;
- (d) any officer or custodian who willfully fails to hand over custody of books, accounts, documents records, cash, security and other property belonging to a co-operative society of which he is an officer or custodian, to an authorized person; and

- (e) whoever, before, during or after the election of members of the board or office bearers, adopts any corrupt practice.

243ZR. The provisions of this Part shall apply to the multi-State co-operative societies subject to the modification that any reference to "Legislature of a State", "State Act" or "State Government" shall be construed as a reference to "Parliament", "Central Act" or "the Central Government" respectively.

Application to multi-State co-operative societies.

243ZS. The provisions of this Part shall apply to the Union Territories and shall, in their application to a Union territory, having no Legislative Assembly as if the references to the Legislature of a State were a reference to the administrator thereof appointed under article 239 and, in relation to a Union territory having a Legislative Assembly, to that Legislative Assembly:

Application to Union Territories.

Provided that the President may, by notification in the Official Gazette, direct that the provisions of this Part shall not apply to any Union territory or part thereof as he may specify in the notification.

243ZT. Notwithstanding anything in this Part, any provision of any law relating to co-operative societies in force in a State immediately before the commencement of the Constitution (One Hundred and Eleventh Amendment) Act, 2009, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is less. Continuance of existing laws.

STATEMENT OF OBJECTS AND REASONS

The co-operative sector, over the years, has made significant contribution to various sectors of national economy and has achieved voluminous growth. However, it has shown weaknesses in safeguarding the interests of the members and fulfilment of objects for which these institutions were organised. There have been instances where elections have been postponed indefinitely and nominated office bearers or administrators remaining in-charge of these institutions for a long time. This reduces the accountability of the management of co-operative societies to their members. Inadequate professionalism in management in many of the co-operative institutions has led to poor services and low productivity. Co-operatives need to run on well established democratic principles and elections held on time and in a free and fair manner. Therefore, there is a need to initiate fundamental reforms to revitalize these institutions in order to ensure their contribution in the economic development of the country and to serve the interests of members and public at large and also to ensure their autonomy, democratic functioning and professional management.

2. The "co-operative societies" is a subject enumerated in Entry 32 of the State List of the Seventh Schedule of the Constitution and the State Legislatures have accordingly enacted legislations on co-operative societies. Within the framework of State Acts, growth of co-operatives on large scale was envisaged as part of the efforts for securing social and economic justice and equitable distribution of the fruits of development. It has, however, been experienced that in spite of considerable expansion of co-operatives, their performance in qualitative terms has not been up to the desired level. Considering the need for reforms in the Co-operative Societies Acts of the States, consultations with the State Governments have been held at several occasions and in the conferences of State Co-operative Ministers. A strong need has been felt for amending the Constitution so as to keep the co-operatives free from unnecessary outside interferences and also to ensure their autonomous organisational set up and their democratic functioning.

3. The Central Government is committed to ensure that the co-operative societies in the country function in a democratic, professional, autonomous and economically sound manner. With a view to bring the necessary reforms, it is proposed to incorporate a new Part in the Constitution so as to provide for certain provisions covering the vital aspects of working of co-operative societies like democratic, autonomous and professional functioning. A new article is also proposed to be inserted in Part IV of the Constitution (Directive Principles of State Policy) for the States to endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of cooperative societies. The proposed new Part in the Constitution, *inter alia*, seeks to empower the Parliament in respect of multi-State co-operative societies and the State Legislatures in case of other co-operative societies to make appropriate law, laying down the following matters, namely:—

(a) provisions for incorporation, regulation and winding up of co-operative societies based on the principles of democratic member-control, member-economic participation and autonomous functioning;

(b) specifying the maximum number of directors of a co-operative society to be not exceeding twenty-one members;

(c) providing for a fixed term of five years from the date of election in respect of the elected members of the board and its office bearers;

(d) providing for a maximum time limit of six months during which a board of directors of co-operative society could be kept under supersession or suspension;

(e) providing for independent professional audit;

(f) providing for right of information to the members of the co-operative societies;

(g) empowering the State Governments to obtain periodic reports of activities and accounts of co-operative societies;

(h) providing for the reservation of one seat for the Scheduled Castes or the Scheduled Tribes and two seats for women on the board of every co-operative society, which have individuals as members from such categories;

(i) providing for offences relating to co-operative societies and penalties in respect of such offences.

4. It is expected that these provisions will not only ensure the autonomous and democratic functioning of co-operatives, but also ensure the accountability of management to the members and other stakeholders and shall provide for deterrence for violation of the provisions of the law.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;

SHARAD PAWAR

The 11th November, 2009.

APPENDIX-III

EXECUTIVE SUMMARY OF THE HIGH POWERED COMMITTEE REPORT ON CO-OPERATIVES

Two centuries ago when the Co-operative movement emerged, markets were dominant and unmindful of the well being of consumers. The Rochdale Pioneers demonstrated the co-operative ability not only to help survival of the people but also of indirectly forcing the market to behave. Today, although our knowledge, technology, global governance systems, availability of alternatives and a globalized production system are very different, the basic issues remain the same – markets that serve only sectarian interest, large masses remaining impoverished, capital gaining advantage over labour and a State which, seems to be increasingly supportive of a free market. In the Indian context, it is pertinent to mention that a large segment of the population (65%) continues to depend on agriculture and agriculture related sectors of the economy. As such co-operatives are today all the more relevant in the current contexts.

Co-operatives in India came into being as a result of the Government taking cognizance of the agricultural conditions that prevailed during the latter part of the nineteenth century and the absence of institutional arrangements for finance to agriculturists, which had resulted in mounting distress and discontent. Small, local, locally worked institutions, co-operative in form, which would satisfy the postulates to proximity, security and facility for providing credit, were seen as the answer to this situation. However, subsequent events during both pre and post Independence period have led to a vast growth of co-operatives covering various sectors of the Indian economy.

The preoccupation of the Government with the co-operative sector and its potential for bringing about development, right up to the nineties, resulted in an increase in the number of co-operatives and their contribution, making the Indian co-operative movement one of the largest movements of its kind in the world. Though we can claim to have the World's largest and most diverse co-operative

movement, barring some exceptions our co-operatives in general are fraught with a number of problems and challenges. Apart from certain inherent weaknesses, they are constrained by the overwhelming role of the Government as well as prescriptive and restrictive legislation and have been unable to retain an autonomous and democratic character.

Some of the problems and challenges that co-operatives face today are:

- Inability to ensure active membership, speedy exit of non-user members, lack of member communication and awareness building measures.
- Serious inadequacies in governance including that related to Board's roles and responsibilities.
- A general lack of recognition of co-operatives as economic institutions both amongst the policy makers and public at large.
- Inability to attract and retain competent professionals.
- Lack of efforts for capital formation particularly that concerning enhancing member equity and thus member stake.
- Lack of cost competitiveness arising out of issues such as overstaffing, a general top-down approach in forming co-operatives including the tiered structures.
- Politicization and excessive role of the Government chiefly arising out of the loop holes and restrictive provisions in the Co-operative Acts.

In addition to the above, there is also a serious problem of a large number of co-operatives that are sick/non viable. As regards the problems specific to the credit co-operatives, the same have been dealt with in detail in the Vaidyanathan Committee Report.

Summary Recommendations

The Committee has envisioned co-operatives as primarily, autonomous, economic institutions of user members. It sees them as self-reliant and self-

sustaining institutions functioning in a free, fair and transparent manner in keeping with the principles and values of the co-operative movement. Summary Recommendations of the Committee are given below:

- Considering the importance of a progressive and enabling legislation, which provides a level playing field for co-operatives with other corporate entities, the law enacted in each State should be amended to truly reflect the letter and spirit of the Model Co-operatives Act proposed by the Choudhary Brahm Perkash Committee Report. Even in States where a Parallel law has been enacted, considering its poor utility and problems faced, a single enabling law be enacted, which is member centric and based on co-operative principles, replacing the existing State Acts.

The laws enacted with the Model Co-operatives Act as the basis should also consider the following:

- With a view to enhance member participation in co-operatives and enable them to do away with non-user members the Acts must provide for a definition of 'active member', right to vote and contest only to active members and an enabling provision for speedy exit of non-user members.
- In order to improve the effectiveness of Boards particularly their trusteeship role and fiduciary responsibilities, ensure accountability and professionalization of the organization, the laws should provide for clearly defined roles and responsibilities of the co-operative's board vis-à-vis that of paid executives/managers and a fair, but enforceable provision for fiduciary responsibility as provided in the Companies Act.
- With a view to build in professionalism, the Acts should provide for cooption of experts/subject matter specialists, mandate that any person elected as a Director on the Board should undergo a set of prescribed training programmes within six months of being elected.
- Considering the need to remove all such loopholes in the law, which have contributed to the politicization of co-operatives, it is necessary

that the laws also provide for rotational retirement of Board members and restriction on contribution to political and religious organization.*

- Keeping in view the need to enable co-operatives, which have already received equity contribution from the Government, the laws should also provide for repatriation of Government equity and where co-operatives are unable to return the Government equity, they may enter into an MoU with the co-operative agreeing to such conditions that the Government may stipulate.
- In order to enhance competitiveness, the laws should enable co-operatives to decide their Organizational structure and staffing including recruitment policies, service conditions and remuneration, undertake measures such as formation of joint ventures, partnerships, subsidiaries and strategic alliances with co-operatives and other corporate and operate without any imposed area restrictions and have flexibility in business decisions, mobilizing funds and allocation of surplus.
- State Governments should put in place a policy framework for facilitation the functioning of co-operatives with free and fair means, in no less equal terms with any other organization engaged in economic activities.
- States should refrain from deputing officers to occupy key positions in co-operative except on an explicit request from a co-operative and ensure that the officers if deputed to hold key positions are given a minimum tenure of three years.
- The utility of various tiers of the co-operative structure be examined in each case and actions be taken for de-layering wherever the structures are not found to be cost effective.

**Dr. Amrita Patel has suggested inclusion of restriction on MLAs/MPs to be office bearers*

- Co-operatives should undertake member awareness and education programmes on a continuing basis in order to sensitize members regarding their rights, responsibilities/obligations in respect of the organization to which they belong and make special efforts to facilitate women and youth participation in co-operatives.
- A scheme of Central Government and State Government budgetary provision for soft loans to farmers for share capital participation should be considering seriously.
- Retained earnings in co-operatives are the most important form of collective capital. However if a substantial portion of retained earnings is taken away in the form of income tax, the rate of accretion to the reserve becomes that much slower affecting the health of the co-operative societies. Full income tax exemption is therefore recommend for all co-operative societies. This will be a major incentive for the co-operatives to strengthen their capital base.
- The share of Co-operative Banks in rural credit has been steadily declining and is around 18%. Co-operative Banks presently depend for their activities on their own funds which are very limited and refinance from NABARD. Since adequate refinance through NABARD cannot be relief upon and many of the Co-operative Banks are weak and unable to raise funds from the markets, there is a strong need for an alternative organizational set up to mobilize funds and to bridge the systematic gap in the co-operative credit and banking structure.
- Co-operatives in various countries have adopted different strategies to augment their equity. The system of tapping share capital from non-members through different classes of shares or special purpose vehicles is also found. Depending upon the business of the co-operative, financial instruments need to be developed for raising capital.

Amendment to the Constitution

The Committee endorses the view that only through certain amendments in the Constitution it will be possible to ensure that the State co-operative laws provide for enabling the autonomous functioning of the co-operatives. The Committee reviewed the Constitution Amendment Bill (106th Amendment Bill, 2006) and recommends that some more changes as given below be effected in order to be responsive to the needs of the co-operatives.

1. Apprehending that introducing new Part IXB after Part IXA of the Constitution as the Bill proposes, along with Panchayati Raj Institution (PRI) and Municipalities, would imply that co-operatives are a part of governance, the insertion of this part may be considered at any other appropriate place in the Constitution to ensure that this construal is dispelled.
2. Insertion of “the word “co-operative societies” after the word “associations” in sub-clause (c) of clause (1) of Article 19 and a definition of co-operatives {new sub-clause(h)} “to form and run Co-operatives based on principles of voluntary, democratic member control, member economic participation and autonomous functioning.”
3. **243. ZJ. Number and term of members of Board of Directors and its office bearers (*Following additions are recommended under this Head*)**

Only elected members of the Board of Directors shall be eligible to vote in election and to be elected as Chairman or Vice Chairman or President or Vice President of the Board.

Candidates who have lost in elections to the Board shall not be co-opted on the Board either on casual vacancy or otherwise.

4. **243. ZK. Election of members of Board**

The Bill recommends that functions relating to, and the conduct of all elections to the co-operative societies, shall vest in the General Body of a co-operative society. As it may not be possible to hold meetings of General Body frequently, the Committee recommends that these functions shall vest in the Board of a co-operative society.

5. **243.ZL. Supersession of Board of Directors**

The Bill provides that no Board of a co-operative society shall be superseded, where there is no Government shareholding of loan or financial assistance or any guarantee by the Government.

Since this would imply that the Boards of co-operatives even where there is a minor Government shareholding of financial assistance or any guarantee by the Government can be superseded, the Committee has suggested that no supercession of the Board of Directors should be allowed in any case where Government share holding is less than 51%.

Amendment to the Multi-State Co-operative Societies Act, 2002

The Committee took note of the fact that while the MSCS Act, 2002 has been in operation for the last six years there is a need to make the Act more comprehensive to mitigate practical problems being faced by the Multi-State Co-operatives Societies due to certain provisions of the Act. Some important recommendations of the Committee are:

1. The internationally accepted definition of Co-operative Society reflecting its voluntary, autonomous and democratic nature may be introduced in the Act.

2. To ensure that the co-operatives are user owned and user controlled, a concept of “active member” may be introduced in the Act and accordingly, a definition of active member be included. The Act should provide that only active members shall have the right to vote/contest elections.
3. A fair, but enforceable provision for fiduciary responsibility as provided in the Companies Act should be introduced. It should be mandatory for the directors on co-operative boards also to disclose certain information in order to avoid conflict of interests. A provision be also made for cooption of experts on the Board.
4. Provisions may be introduced putting restriction on contribution to political and religious organizations.*
5. Provisions for raising of capital through issue of non voting shares and IPO may be included.
6. Deletion of Rule making powers.

**Dr. Amrita Patel has suggested the retention of a clause at this juncture restricting Ministers/MLAs/MPs to be office bearers, which was dropped by the Committee.*

APPENDIX-IV

COMMITTEE ON AGRICULTURE (2009-10)

MINUTES OF THE FIFTEENTH SITTING OF THE COMMITTEE

The Committee sat on Monday, the 12 January, 2010 from 1500 hours to 1630 hours in Room No. 53, Parliament House, New Delhi.

PRESENT

Shri Basudeb Acharia - *Chairman*

MEMBERS

Lok Sabha

2. Shri Narayan Singh Amlabe
3. Shri Jayant Chaudhary
4. Smt. Ashwamedh Devi
5. Shri Anant Kumar Hegde
6. Shri Prabodh Panda
7. Shri Premdas
8. Shri Nripendra Nath Roy
9. Shri Uday Singh
10. Shri Jagdish Thakor
11. Shri Hukmdeo Narayan Yadav

Rajya Sabha

12. Shri Narendra Budania
13. Shri A. Elavarasan
14. Shri Sharad Anantrao Joshi
15. Shri Mohd. Ali Khan
16. Shri M. Rajasekara Murthy

SECRETARIAT

- | | | | |
|----|----------------------|---|---------------------|
| 1. | Shri S. Bal Shekar | - | Joint Secretary |
| 2. | Shri P.V.L.N. Murthy | - | Director |
| 3. | Shri P.C. Koul | - | Additional Director |

WITNESSES

MINISTRY OF AGRICULTURE (DEPARTMENT OF AGRICULTURE AND CO-OPERATION)

- | | | |
|----|-------------------|----------------------------------|
| 1. | Shri N.K. Das | Special Secretary |
| 2. | Shri A.S. Lamba | Additional Secretary & FA |
| 3. | Shri G.C. Pati | Additional Secretary |
| 4. | Shri R.K. Tiwari | Joint Secretary |
| 5. | Shri S.D. Indoria | Chief Director
(Co-operation) |

2. At the outset the Hon'ble Chairman welcomed the members to the Sitting of the Committee. Thereafter, the Committee had a brief discussion on procedural matters including the format of Reports of the Committee.

(Around 1520 hours)

3. The Chairman asked the representatives of the Department of Agriculture & Co-operation to be ushered in. The Chairman then welcomed them to the Sitting of the Committee. After introducing themselves to the Committee, the representatives of the Department briefed the Committee on the salient features of the 'The Constitution (One Hundred and Eleventh Amendment) Bill, 2009'. This was followed by an audio-visual presentation on the various aspects of the Bill. The members sought several clarifications on various aspects of the subject. The representatives of the Department responded to the same.

4. The Chairman then thanked the witnesses for appearing before the Committee as well as for furnishing valuable information desired by the Committee on the subject. He also directed them to send at the earliest information on points which had remained unclarified during the Sitting or on which information was not readily available, to the Secretariat of the Committee.

(The witnesses then withdrew).

5. Before the Committee adjourned, it was also decided to seek suggestions/views of the various stakeholders on the Bill through an advertisement in the media.

A verbatim record of the proceedings has been kept separately.

The Committee then adjourned.

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APPENDIX-V

COMMITTEE ON AGRICULTURE (2009-10)

MINUTES OF THE THIRTY FIRST SITTING OF THE COMMITTEE

The Committee sat on Monday, the 17 May, 2010 from 1500 hours to 1655 hours in Committee Room 'C', Parliament House Annexe, New Delhi.

PRESENT

Shri Basudeb Acharia - *Chairman*

MEMBERS

Lok Sabha

2. Shri Narayan Singh Amlabe
3. Shri Thangso Baite
4. Shri Jayant Chaudhary
5. Smt. Ashwamedh Devi
6. Shri Anant Kumar Hegde
7. Shri Prabodh Panda
8. Shri Premdas
9. Shri Nripendra Nath Roy
10. Shri Bhoopendra Singh
11. Shri Hukmdeo Narayan Yadav

Rajya Sabha

12. Shri Narendra Budania
13. Shri Satyavrat Chaturvedi
14. Shri A. Elavarasan
15. Shri Sharad Anantrao Joshi
16. Shri Mohd. Ali Khan
17. Shri M. Rajasekara Murthy

SECRETARIAT

- | | | | |
|----|--------------------|---|---------------------|
| 1. | Shri S. Bal Shekar | - | Joint Secretary |
| 2. | Shri P.C. Koul | - | Additional Director |

WITNESSES

- | | | | |
|----|--|---|--|
| 1. | Dr. Chandra Pal Singh Yadav
(Ex-M.P.) | - | President,
National
Cooperative Union
of India and
Chairman, Krishak
Bharati Cooperative
(KRIBHCO) |
| 2. | Dr. Bijender Singh, MLA | - | Chairman,
National Agricultural
Cooperative
Marketing
Federation of India
Limited (NAFED) |
| 3. | Shri Virendra Singh | - | Chairman,
National
Cooperative
Consumers'
Federation of India
Limited (NCCF) |
| 4. | Mrs. Anita Manchanda | - | Chief Executive,
National
Cooperative Union
of India (NCUI) |
| 5. | Shri C.T. Adhikari | - | Principal Advisor,
National
Cooperative
Consumers'
Federation of India
Limited (NCCF) |
| 6. | Shri D.K. Gulati | - | General Manager,
National Agricultural
Cooperative
Marketing
Federation of India
Limited (NAFED) |

*2. xxxx xxxx xxxx xxxx

3. The Chairman, thereafter directed that the representatives of NCUI, KRIBHCO, NAFED & NCCF be ushered in.

(At about 1520 Hours representatives of NCUI, KRIBHCO, NAFED & NCCF took their seats in the Committee Room).

4. After introducing themselves the witnesses briefed the Committee on clauses of “The Constitution (One Hundred and Eleventh Amendment) Bill, 2009” as well as the functioning of cooperative societies system in the country.

5. The members sought several clarifications on various aspects of the Bill. The witnesses responded to the same.

6. Before the sitting concluded, the Chairman thanked the witnesses for appearing before the Committee as well as for furnishing valuable information desired by the Committee on the Bill.

A verbatim record of the proceedings has been kept separately.

The Committee then adjourned.

APPENDIX-VI

COMMITTEE ON AGRICULTURE (2009-10)

MINUTES OF THE THIRTY SECOND SITTING OF THE COMMITTEE

The Committee sat on Tuesday, the 1 June, 2010 from 1100 hours to 1300 hours in Committee Room 'C', Parliament House Annexe, New Delhi.

PRESENT

Shri Sharad Anantrao Joshi - *Acting Chairman*

MEMBERS

Lok Sabha

2. Shri Narayan Singh Amlabe
3. Shri Thangso Baite
4. Shri Jayant Chaudhary
5. Smt. Shruti Choudhry
6. Smt. Ashwamedh Devi
7. Shri Biren Singh Engti
8. Smt. Paramjit Kaur Gulshan
9. Shri Anant Kumar Hegde
10. Shri Sk. Nurul Islam
11. Shri Naranbhai Kachhadia
12. Shri Surendra Singh Nagar
13. Shri Prabodh Panda
14. Shri Premdas
15. Shri Nripendra Nath Roy
16. Shri Bhoopendra Singh
17. Shri Uday Singh
18. Shri Jagdish Thakor
19. Shri Hukmdeo Narayan Yadav

Rajya Sabha

20. Shri Narendra Budania
21. Shri A. Elavarasan
22. Shri Mohd. Ali Khan
23. Shri M. Rajasekara Murthy
24. Shri Bharatsinh Prabhatsinh Parmar

SECRETARIAT

- | | | | |
|----|--------------------|---|---------------------|
| 1. | Shri S. Bal Shekar | - | Joint Secretary |
| 2. | Shri P.C. Koul | - | Additional Director |

NATIONAL FEDERATION OF URBAN COOPERATIVE BANKS AND CREDIT SOCIETIES LIMITED (NAFCUB)

- | | | |
|----|--------------------|--------------------|
| 1. | Shri H.K. Patil | President |
| 2. | Shri Subhash Gupta | Executive Director |
| 3. | Smt. Veena Nabar | Consultant |

INDIAN FARMERS FERTILISER COOPERATIVE LTD. (IFFCO)

- | | | |
|----|----------------------------|----------|
| 1. | Shri Surinder Kumar Jakhar | Chairman |
| 2. | Dr. G.N. Saxena | Director |

National Cooperative Development Corporation (NCDC)

- | | | |
|----|---------------------|--------------------------|
| 1. | Shri G. Panmei | Deputy Managing Director |
| 2. | Shri Prabhat Saxena | Executive Director |
| 3. | Shri P.K. Chaudhuri | Chief Director |
| 4. | Shri W.M. Rizvi | Chief Director |

At the outset the Joint Secretary, Lok Sabha Secretariat informed the Members that due to indisposition the Chairman would not be able to attend the Sitting. The Committee, therefore, chose Shri Sharad Anantrao Joshi M.P. (Rajya Sabha) to act as Chairman for the Sitting under Rule 258(3) of the Rules of Procedure and Conduct of Business in Lok Sabha.

2. The Acting Chairman, thereafter directed that the representatives of National Federation of Urban Cooperative Banks and Credit Societies Limited (NAFCUB) be ushered in.

(At about 1120 hours representatives of NAFCUB
took their seats in the Committee Room)

3. After introducing themselves the witnesses briefed the Committee on the various clauses of “The Constitution (One Hundred and Eleventh Amendment) Bill, 2009” as well as the functioning of cooperative societies system in the country.

4. The members sought several clarifications on various aspects of the Bill. They also sought clarifications on the Memorandum of National Federation of Urban Cooperative Bank and Credit Societies Ltd. circulated during the Sitting. The witnesses responded to the same.

(At about 1220 hours representatives of NAFCUB
withdrew and the representatives of IFFCO and NCDC were ushered in)

5. Once the introductions were over, the representative of NCDC briefed the Committee about the various changes/modifications suggested by NCDC in their Memorandum submitted to the Committee. The members sought several clarifications from the witnesses, which were duly responded to.

6. The Acting Chairman then thanked the witnesses for appearing before the Committee and furnishing their valuable views on the subject. The witnesses then withdrew.

7. Before the Sitting concluded, the Committee also decided to undertake a Study Tour to the North Eastern Region of the country in the last week of June, 2010.

A verbatim record of the proceedings has been kept separately.

The Committee then adjourned.

APPENDIX-VII

COMMITTEE ON AGRICULTURE (2009-10)

MINUTES OF THE THIRY FOURTH SITTING OF THE COMMITTEE

The Committee sat on Friday, the Eighteenth June, 2010 from 1505 hours to 1740 hours in Committee Room 'B', Parliament House Annexe, New Delhi.

PRESENT

Shri Basudeb Acharia – Chairman

MEMBERS

LOK SABHA

2. Shri Narayan Singh Amlabe
3. Shri Thangso Baite
4. Smt. Ashwamedh Devi
5. Smt. Paramjit Kaur Gulshan
6. Shri Sk. Nurul Islam
7. Shri Surendra Singh Nagar
8. Shri Premdas
9. Shri Nripendra Nath Roy
10. Shri Hukmdeo Narayan Yadav

RAJYA SABHA

11. Shri A. Elavarasan
12. Shri Sharad Anantrao Joshi
13. Shri Mohd. Ali Khan
14. Shri M. Rajasekara Murthy
15. Shri Bharatsinh Prabhatsinh Parmar

SECRETARIAT

1. Shri S. Bal Shekar - Additional Secretary
2. Shri P.C. Koul - Additional Director

WITNESSES

**NATIONAL COOPERATIVE AGRICULTURE & RURAL DEVELOPMENT
BANKS FEDERATION LTD. (NAFCARD)**

1. Shri K. Sivadasan Nair - Chairman

**NATIONAL FEDERATION OF STATE COOPERATIVE BANKS LTD.
(NAFSCOB)**

1. Shri B. Subrahmanyam - Managing Director

**NATIONAL BANK FOR AGRICULTURE AND RURAL DEVELOPMENT
(NABARD)**

1. Shri U.C. Sarangi - Chairman

*2. xxxx xxxx xxxx xxxx

3. The Chairman thereafter directed that the representative of National Cooperative Agriculture & Rural Development Banks' Federation Ltd. be ushered in.

(At around 1520 hours the representative of NAFCARD was ushered in)

4. The Committee, thereafter, took the Oral Evidence of the representative of National Cooperative Agriculture & Rural Development Banks Federation Ltd. in connection with the examination of "The Constitution (One Hundred and Eleventh Amendment) Bill, 2009. The members sought several clarifications on the various clauses of the Bill. The witness responded to them.

***(At around 1615 hours the representative of NAFCARD withdrew and the
representative of NAFSCOB was ushered in)***

5. The Committee took the Oral Evidence of representative of National Federation of State Cooperative Banks Ltd. on “The Constitution (One Hundred and Eleventh Amendment) Bill, 2009”. The members sought clarifications on the various suggestions contained in the Memorandum submitted by the Organisation. The witness responded to them.

(At around 1645 hours the representative of NAFSCOB withdrew and the representatives of NABARD were ushered in)

6. On the direction of the Chairman, the representative of National Bank for Agriculture and Rural Development made a presentation on Cooperative Sector in general and on the various clauses of “The Constitution (One Hundred and Eleventh Amendment) Bill, 2009”. He also responded to the queries of the members in the matter.

7. The Chairman thanked the witnesses individually for appearing before the Committee as well as for furnishing valuable information desired by the Committee on the subject. He also directed them to send at the earliest information on points on which information could not be provided by them during the Sitting to the Committee Secretariat.

A verbatim record of the proceedings has been kept separately.

The Committee then adjourned

**Matter not related to this Report.*

APPENDIX-VIII

COMMITTEE ON AGRICULTURE (2009-10)

MINUTES OF THE THIRTY SEVENTH SITTING OF THE COMMITTEE

The Committee sat on Wednesday, the 28th July, 2010 from 1500 hours to 1535 hours in Committee Room 'B', Parliament House Annexe, New Delhi.

PRESENT

Shri Basudeb Acharia - *Chairman*

MEMBERS

Lok Sabha

2. Shri Narayan Singh Amlabe
3. Shri Thangso Baite
4. Smt. Paramjit Kaur Gulshan
5. Shri Naranbhai Kachhadia
6. Shri Prabodha Panda
7. Shri Premdas
8. Shri Hukmdeo Narayan Yadav

Rajya Sabha

9. Shri Mohd. Ali Khan
10. Shri Bharatsinh Prabhatsinh Parmar
11. Smt. B. Jayashree

SECRETARIAT

1. Shri P.V.L.N. Murthy - Director
2. Shri C. Vanlalruata - Under Secretary

2. At the outset, the Chairman welcomed the Members of the Committee. Thereafter, the Committee deliberated on the various suggestions/comments received from State Governments/Union Territory Administrations/Experts/Stakeholders on “The Constitution (One Hundred and Eleventh Amendment) Bill, 2009.”

3. The Committee then decided to take Oral Evidence of the representatives of Ministry of Agriculture (Department of Agriculture and Cooperation) and Law and Justice (Legislative Department) on “The Constitution (One Hundred and Eleventh Amendment) Bill, 2009” at their next Sitting.

The Committee then adjourned.

APPENDIX-IX

COMMITTEE ON AGRICULTURE (2009-10)

MINUTES OF THE THIRTY-EIGHTH SITTING OF THE COMMITTEE

The Committee sat on Thursday, the 5th August, 2010 from 1500 hours to 1615 hours in Committee Room 'B', Parliament House Annexe, New Delhi.

PRESENT

Shri Basudeb Acharia - *Chairman*

MEMBERS

Lok Sabha

2. Shri Narayan Singh Amlabe
3. Shri K.C. Singh 'Baba'
4. Shri Jayant Chaudhary
5. Smt. Shruti Choudhary
6. Shri Sk. Nurul Islam
7. Shri Naranbhai Kachhadia
8. Shri Prabodh Panda
9. Shri Premdas
10. Shri Nripendra Nath Roy
11. Shri Hukmdeo Narayan Yadav

Rajya Sabha

12. Shri Mohd. Ali Khan

SECRETARIAT

1. Shri P.V.L.N. Murthy - Director
2. Shri C. Vanlalruata - Under Secretary

WITNESSES

MINISTRY OF AGRICULTURE (DEPARTMENT OF AGRICULTURE AND CO-OPERATION)

- | | | |
|----|------------------|---------------------------|
| 1. | Shri P.K. Basu | Secretary |
| 2. | Shri G.C. Pati | Additional Secretary |
| 3. | Shri A.S. Lamba | Additional Secretary & FA |
| 4. | Shri R.K. Tiwari | Joint Secretary |
| 5. | Shri P. Sampath | Director |

MINISTRY OF LAW AND JUSTICE (LEGISLATIVE DEPARTMENT)

- | | | |
|----|-----------------------|---------------------------------------|
| 1. | Shri N.K. Nampoothiry | Additional Secretary |
| 2. | Dr. S.D. Singh | Joint Secretary & Legislative Counsel |
| 3. | Dr. Reeta Vasishta | Additional Legislative Counsel |
| 4. | Dr. Battu Narayan Rao | Additional Legislative Counsel |

2. At the outset, the Chairman welcomed the Members and the representatives of the Ministry of Agriculture (Department of Agriculture and Cooperation) and Ministry of Law and Justice (Legislative Department) to the Sitting. After introduction of the witnesses, the Committee took evidence of the representatives of Ministry of Agriculture (Department of Agriculture and Cooperation) and Ministry of Law and Justice (Legislative Department) on "The Constitution (One Hundred and Eleventh Amendment) Bill, 2009".

3. The Chairman and Members of the Committee raised queries on various clauses of the Bill and sought clarifications from the witnesses, which were duly responded to.

A verbatim record of the proceedings has been kept separately.

The Committee then adjourned.

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APPENDIX-X

COMMITTEE ON AGRICULTURE (2009-10)

MINUTES OF THE THIRTY NINTH SITTING OF THE COMMITTEE

The Committee sat on Thursday, the 26 August, 2010 from 1500 hrs. to 1710 hrs. in Committee Room 'C', Parliament House Annexe, New Delhi.

PRESENT

Shri Basudeb Acharia - *Chairman*

MEMBERS

Lok Sabha

2. Shri Narayan Singh Amlabe
3. Shri Thangso Baite
4. Smt. Ashwamedh Devi
5. Shri Naranbhai Kachhadia
6. Shri Premdas
7. Shri Nripendra Nath Roy
8. Shri Uday Singh
9. Shri Hukmdeo Narayan Yadav

Rajya Sabha

10. Shri M. Rajasekara Murthy
11. Prof. M.S. Swaminathan

SECRETARIAT

1. Shri S. Bal Shekar - Additional Secretary
2. Shri P.V.L.N. Murthy - Director

2. At the outset the Hon'ble Chairman welcomed the members to the Sitting. The Committee, thereafter took up the draft Report on **“The Constitution (One Hundred and Eleventh Amendment) Bill, 2009”** for consideration and after a brief discussion adopted the same without any modification. The Committee then authorized the Chairman to finalise the Report and present the same to both Houses of Parliament.

*3. **** **** **** ****

*4. **** **** **** ****

*5. **** **** **** ****

*6. **** **** **** ****

The Committee then adjourned.

