

MINISTRY OF EXTERNAL AFFAIRS  
CONSULAR, PASSPORT AND VISA  
DIVISION

185

ESTIMATES COMMITTEE  
1993-94

TENTH LOK SABHA

N 4 32

LOK SABHA SECRETARIAT  
NEW DELHI

# THIRTY-EIGHTH REPORT

## ESTIMATES COMMITTEE (1993-94)

(TENTH LOK SABHA)

MINISTRY OF EXTERNAL AFFAIRS  
CONSULAR, PASSPORT AND VISA DIVISION

[Action Taken by Government on the recommendations  
contained in the Fifth Report of Estimates Committee  
(Tenth Lok Sabha)]



*Presented to Lok Sabha on 22 April, 1994*

LOK SABHA SECRETARIAT  
NEW DELHI

*April, 1994/Chaitra, 1916 (S)*

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Corrigenda to 38th Report of Estimates  
 Committee (1993-94) on Ministry of External  
 Affairs - Consular, Passport and Visa  
 Division.

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COMPOSITION OF THE ESTIMATES COMMITTEE  
(1993-94)

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5. Sh. N.C. Gupta	— <i>Committee Officer</i>

## INTRODUCTION

I, the Chairman of the Estimates Committee having been authorised by the Committee to submit the Report on their behalf, present this Thirty-Eighth Report on action taken by Government on the recommendations contained in the Fifth Report of the Estimates Committee (10th Lok Sabha) on the Ministry of External Affairs—Consular, Passport and Visa Division.

2. The Fifth Report was presented to Lok Sabha on 27th February, 1992 and the Government furnished their replies indicating action taken on the recommendations contained in that Report on 21st May, 1993. The Draft Report was considered and adopted by the Estimates Committee (1993-94) at their sitting held on 28th March, 1994.

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

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

4. An analysis of action taken by Government on the recommendations contained in the Thirty-Eighth Report of Estimates Committee (10th Lok Sabha) is given in Appendix-I. It would be observed therefrom that out of 19 recommendations made in the Report, 5 recommendations i.e., 26.31% have been accepted by the Government and the Committee do not desire to pursue 3 recommendations i.e. 15.80% in view of Government's replies. Replies have not been accepted in respect of 4 recommendations i.e. 21.05%. Final replies of the Government in respect of 7 recommendations i.e. 36.84% are still awaited.

NEW DELHI;  
April 6, 1994  
\_\_\_\_\_  
Chaitra 16, 1916 (S)

DR. KRUPASINDHU BHOI,  
Chairman,  
Estimates Committee.

## CHAPTER I

1.1 This report of Estimates Committee deals with action taken by Government on the recommendations contained in their 5th Report (10th Lok Sabha) on the Ministry of External Affairs—Consular, Passport and Visa Division, which was presented to Lok Sabha on 27th February, 1992.

1.2 Action Taken Notes, which were due on 5th September, 1992 were received on 21st May, 1993 i.e., after a delay of more than 8 months and that too only when the Committee had sent several reminders.

1.3 The Committee express their displeasure over the inordinate delay on the part of the Ministry of External Affairs in furnishing the action taken replies some of which are still of interim nature. They desire that Ministry of External Affairs should take concerted steps to avoid such delays in future. The Ministry should also expeditiously furnish the final replies in respect of notes included in Chapter V, which are of interim nature.

1.4 Action Taken Notes on the recommendations of the Committee have been categorised as follows:—

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

Sl. Nos. 2,5,14,15,18.

(Chapter II, Total 5)

(ii) Recommendations/Observations which the Committee do not desire to pursue in view of Government's replies:

Sl. Nos. 8,11,12.

(Chapter III, Total 3)

(iii) Recommendations/Observations in respect of which Government's replies have not been accepted by the Committee:

Sl. Nos. 1,9,17,19.

(Chapter IV, Total 4)

(iv) Recommendations/Observations in respect of which final replies are still awaited:

Sl. Nos. 3,4,6,7,10,13,16.

(Chapter V, Total 7)

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

*Bringing of all provisions under one statute*

(Sl. No. 1, Para 1.14)

1.6 In their original Report the Committee had urged the Ministries of External Affairs and Labour to bring all provisions relating to the subject of Passports under one single statute.

1.7 In its action taken reply, Ministry of External Affairs stated that work on the necessary draft provisions had begun. It had been opined by its Legal and Treaties Division that the Acts which could be so merged were the Passports (Entry into India) Act of 1920 and the Indian Passports Act of 1967. The Act of 1920 and 1967 are being administered by the Ministry of Home Affairs and the Ministry of External Affairs respectively and mutual consultation and agreement is essential in order to move for any amendment in either statute.

1.8 Observing that the Passports (Entry into India) Act, 1920 was an unnecessary imperial legacy, the Committee in their original Report had urged upon the Ministry of External Affairs that the provisions contained in this Act be incorporated in the Indian Passport Act, 1967 so that there is one statute on the subject.

In its Action Taken Reply, Ministry of External Affairs stated that work on the necessary draft provisions had begun. It had been opined by its Legal and Treaties Division that the Acts which could be so merged were the Passports (Entry into India) Act of 1920 and the Indian Passports Act of 1967. The 1920 and 1967 Acts were being administered by the Ministry of Home Affairs and the Ministry of External Affairs respectively and mutual consultation and agreement is essential in order to move for any amendment in either statute.

The Committee are extremely unhappy to note that though a period of more than two years had elapsed since the Report was presented to the Parliament, no concrete effort seems to have been made by the Ministry of External Affairs in this regard. They have not even approached the Ministry of Home Affairs in order to seek their views. This itself speaks not only of inert attitude on the part of the Ministry but is also indicative of lack of sense of urgency on their part in taking such reformatory steps which would go a long way towards improving the operational efficiency of their Divisions. Viewing seriously the indifferent attitude of the Ministry, they desire that the Ministry of External Affairs should in consultation with the Ministry of Home Affairs take urgent steps for the merger of Passport (Entry into India) Act, 1920 with the Indian Passport Act, 1967 and for the consolidation of law on the subject. The Committee would like to be apprised of the action taken in this regard within a period of three months.

*Publicity to Rules & Regulations  
(S. No. 2, Para No. 2.34)*

1.9 The Committee had in paragraph 2.34 of their original Report recommended for much wider and more effective publicity to rules and regulations governing the issue of passport and all related formalities.

1.10 In its reply, Ministry of External Affairs stated:—

“The press is kept informed of all changes in the rules and regulations by CPV Division and by the RPOs. In addition, a public awareness exercise is being drawn up in consultation with DAVP.

This would take the form of a country-wide media campaign, covering TV, Radio and the press (both national and local), which would be aimed at educating the public on various procedures relating to passports—when to apply, how to apply, what documents to submit, the grounds on which out-of-turn Passports are issued, what are the fees and so on.

The timing of the campaign is yet to be decided as the material is being developed. Meetings have been held with DAVP and comprehensive brief given to them. DAVP has been asked to prepare suitable material for priority areas regarding rules, regulations formalities, including documents to accompany the Passport applications and procedures and fees for applications.

On-site publicity at the Passport Office is also being enhanced, not only in the form of notices, posters, etc., but also in the planning of the premises to ensure that there is less overcrowding and minimum confusion for example as to which line to stand in or where to go for a specific service. The new office for the Delhi RPO is currently being designed keeping these aspects in mind.”

1.11 The Committee note with satisfaction that the Ministry of External Affairs has drawn up an exercise for public awareness in consultation with DAVP. They would, however, again impress upon the Ministry of External Affairs that this exercise should be finalised and launched expeditiously so as to keep the citizens abreast with the latest rules and regulations governing the issue of passports and to obviate several hardships being presently undergone by them in getting the passport in time.

*Grievance Redressal Machinery  
(S. No. 4, Para No. 2.35)*

1.12 The Committee had recommended that the grievance redressal machinery, particularly at the level of Regional Passport Officer be strengthened and monitored.

1.13 In its action taken reply, Ministry of External Affairs stated:—

“One of the RPO's most important duties is redressing grievances brought up by any member of the public. In the CPV Division, an officer has been designated to deal with public grievances. Letters of complaint are sorted and followed up with the RPOs concerned. Computerised monitoring of all complaints is done by the CPV Division and cases have been settled through the CPV Division's intervention. It

is also expected that computerisation of the Passport Offices and a review of procedures would lead to faster and more efficient service, thus reducing delays in responding to queries and in the issue of Passport itself. This would do away with a major cause of public dissatisfaction. In the long term, steps have been initiated for a comprehensive review of every aspect of the functioning of the Central Passport Organisation in order to streamline services and reduce public grievances. These measures include computerisation (para 2.36), staffing pattern review and cadre review [para 5.22(b)], streamlining of procedures, making the layout of the Passport Offices more efficient, producing simple and easy-to-use reference manuals, publicising the various aspects of applying for a passport (para 2.34) etc.

Every Passport Office has been requested to identify suitable property which can then be acquired and developed as an ideal office. Premises have already been allotted by the Ministry of Urban Development for the Delhi RPO and the layout planning, keeping in view current needs and future demand, is almost completed. Suitable property has also been identified in Trichy and Lucknow.

Regarding streamlining of procedures, all areas relating both to the physical aspects of passport issue (type of booklet, the kind of entries required, the steps in making a passport etc.) and the policy aspects, the kind of documentation required for various services, the kind of references required (whether to the CID or police or MHA) and the time limits for responses, maintenance of suspects indexes etc. are being reviewed with a view to developing a comprehensive system which can operate smoothly and efficiently.”

**1.14** From the above reply of the Ministry, the Committee note that the Ministry of External Affairs has done nothing concrete except to have designated an officer to deal with public grievances. It is regrettable that even after a lapse of two years since the recommendation of the Committee, the Ministry has hardly made any worthwhile effort to strengthen the grievances and redressal machinery with a view to minimise the hardships and inconvenience being faced by the public and towards expeditious disposal of their applications. They apprehend that if such a trend continues the hardships being faced presently by the citizens will remain unmitigated. Moreover, in the wake of changing global scenario, which has transcended all the barriers in trade and industry by opening new visas for businessmen and professionals who are not only to communicate with their counterparts all over the world, but also have to travel at a very short notice, the need for such streamlining has not only assumed greater importance but has also become imperative. They, therefore, desire that Ministry of External Affairs must attach top-most priority to this and all procedures relating to issue of passports should be streamlined and simplified in such a manner that the citizens are no longer put to any hardships.

*Violation of Indian Passport Act, 1967 and Foreigners' Act 1946  
(Sl. No. 6, Para 3.23)*

1.15 The Committee had recommended that violation of Indian Passport Act, 1967 and the Foreigners' Act 1946 be made much more deterrent, penalties under both these Acts be made non-bailable; include imprisonment and fine of higher deterrence and deportation on completion of sentence be made mandatory.

1.16 In its Action Taken reply, Ministry of External Affairs stated:—

“A bill to amend the Passports Act, 1967, in order to make various violations of the Act punishable and the penalties more stringent had already been introduced. The question of making the penalties similar to those in the Foreigner's Entry Act, and declaring all offences under those related Acts non-bailable had been taken up with Ministry of Home Affairs. MHA had also been asked to take independent action on matters relating to the Foreigners Entry Act, as that matter was within their purview.

Our L&T Division has also opined that the two Acts relate to different subject and offence under these Acts are also not of the same nature, and therefore, it would be difficult to make penalties similar.....

1.17 The Ministry of Home Affairs in its reply to above recommendation stated as under:—

“MHA is already considering the question of enhancing the punishment not only in the Foreigners Act, 1946 but also in the Passport (Entry into India) Act, 1920 and Registration of Foreigners Act, 1939. It is proposed to enhance the maximum period of imprisonment from 5 years to 10 years. Offences under the Foreigners Act, by virtue of being included in Schedule I of Cr. P.C. 1973 are both cognizable and non-bailable. However, since the maximum punishment provided is 5 years, with or without fine, they are triable by First Class Magistrate only, It is felt that though the offences under the Foreigners Act are non-bailable, the accused foreigners are able to get bail from First Class Magistrates easily. In addition, several foreigners go underground or become untraceable once they are released on bail. It is therefore, proposed to make the offences under the Foreigners Act triable by the Sessions Court, by enhancing the maximum imprisonment from 5 years to 10 years. Existing Section 14 of the Foreigners Act, 1946 is proposed to be replaced by the following:—

“Rules or orders made under this section may provide that any contravention thereof or of any order issued under the authority of any such rules shall be liable for punishment upto a period of 10 years and/ or with fine or with both. In any case, the minimum period of imprisonment shall not be less than one year with a fine of Rs. 10,000.”

it is also proposed to bring Indian nationals who abet the foreigners in the commitment of various offences under the Foreigners Act, under

the ambit of the Foreigners Act, 1946 for awarding punishment to them. It is therefore, proposed to add following new sub-clause after sub-section (ii) to Section 13 of the Foreigners Act, 1946:—

“Any person who gives shelter to an unauthorised foreign national or conceals the identity of such person shall be deemed to have abetted the provisions of this Act.”

1.18 Asked to elaborate further, Ministry of Home Affairs stated as under:—

“It has already been mentioned that amendments to Foreigners Act as well as other Acts relating to Foreigners are under consideration for making the penalties more deterrent. As regards the date by which this Ministry proposes to amend the existing Acts (as asked for by Lok Sabha Secretariat), it is practically not possible to give an exact date.”

1.19 The Committee are extremely unhappy to note that amendments to Foreigners Act, 1946, as well as other Acts relating to the foreigners are still under consideration by the Ministry of Home Affairs and nothing tangible has been done so far. Even the approximate date by which the Ministry of Home Affairs proposes to amend the existing legislation, has not been indicated. The Committee take a serious note of the complacent attitude of the Ministry and desire that the necessary steps must be taken with due promptitude in this regard.

*Harmonising of Indian Passport Act, 1967 and Foreigners Act 1946*

(Sl. No. 7, Para 3.24)

1.20 The Committee had recommended that the harmonising of the provisions of Indian Passport Act, 1967 and the Foreigners Act, 1946 might be carried out urgently by the Government.

1.21 In its Action taken reply Ministry of External Affairs stated:—

“This is being considered in consultation with Ministry of Home Affairs and Ministry of Law. Our Legal and Treaties Division's comments in this regard have already been received and they have stated that as the subject of the Acts and nature of offences under these Acts are different, what is possible is that the two statutes relating to Indian passports (and the use/misuse thereof) are harmonised (work on this has begun as detailed in para 1.14 (i) and the various statutes relating to foreigners are harmonized. This would have to be done by the Ministry of Home Affairs, who administer these statutes and they have been asked to take action under intimation to us”.

1.22 Ministry of Home Affairs in its action taken reply stated:—

“Harmonizing of the provisions of Indian Passport Act, 1967 and the Foreigners Act, 1946 is not practically feasible as the scope of nature of the offences listed under these two Acts seem to be different. The Passport Act, 1967 is an Act to provide for the issue of passports and

travel documents, to regulate the departure from India of citizens of India and other persons and for matters incidental or ancillary thereto. On the other hand, Foreigners Act, 1946 is an Act to confer upon the Central Government certain powers in respect of foreigners. Foreigner's Act gives wide powers to the Central Government to issue orders *inter-alia* regulating, restricting and prohibiting entry of foreigners into India. The provisions also cover matters like continued stay of foreigners in India, their conduct during the stay period and the mode of departure and deportation etc. Hence, there does not seem to be any scope for harmonization of the two Acts."

1.23 Asked to clarify further Ministry of Home Affairs in a subsequent note furnished to the Committee stated:—

"The scope and nature of the offences listed under these two Acts seemed to be quite different. The Passport Act, 1967 is an Act to provide for the issue of Passport and travel documents to regulate the departure from India to citizens of India and other persons and for matters incidental or ancillary thereto. On the other hand. Foreigners Act, 1946 is an Act to confer upon the Central Government wide powers to regulate entry, stay. Conduct and departure from India in respect of foreigners. The only area where there is possibility of harmonising the provisions of the two Acts is provisions of imposing penalties. Under the Passport Act, 1967 (as amended during 1992) there is a provision of imprisonment for a term of upto five years or with a fine of upto Rs 50,000/- or with both and in any case the minimum period of imprisonment should not be less than one year with a fine of Rs. 10,000/. We are also proposing to amend the Foreigners Act, 1946 on similar lines. Action is being taken to complete necessary formalities so as to introduce the amending Bill as early as possible.

1.24 The Committee desire that necessary formalities to introduce the Bill for amendment of Foreigners Act, 1946 may be completed and the Act amended expeditiously to harmonise it as far as possible with the provisions of Indian Passport Act, 1967.

The Committee also desire that the views of Ministry of Law who have also been consulted in this regard may also be obtained and considered before making the proposed changes.

*Guidelines in regard to issue of Passports to persons residing in North Eastern States*

*(Recommendation Sl. No. 9, Para 3.26)*

1.25 The Committee had recommended to Government to have urgent consultations with the States of the Union, that had responsibility in the administration of relevant provisions of Indian Passport Act, 1967 and the Foreigners Act, 1946, so that across the country the application of those laws was uniform.

1.26 In its Action Taken Reply, Ministry of External Affairs stated that, that was basically with reference to the Foreigners' Act and was an MHA matter. It had requested MHA to pursue the matter and to take further necessary action.

1.27 The Ministry of Home Affairs in the reply to the above recommendation of the Committee stated that the provisions of all three Acts namely, Foreigners Act, 1946, Passport (Entry into India) Act, 1920 and Registration of Foreigners Act, 1939 were uniform throughout the country. In so far as those Acts were concerned, no specific provisions existed for any particular state or States. On the other hand, the provisions of Passport Act, 1967 were not uniform across the country. For example, different guidelines had been framed to issue passport to the persons residing in the North-East States. As such the contention of MEA that the recommendation was basically with reference to the Foreigners Act was not correct.

1.28 At the time of factual verification, the Ministry of External Affairs stated as under:

“....., the statement that the provisions of the Passport Act, 1967 are not uniform across the country is factually incorrect. There is no provision of the Passports Act under which there are separate guidelines for the issue of Passports to persons in the North-East States. This is an administrative guideline of the Ministry of Home Affairs which in the opinion of the MEA, should be done away with.”

1.29 From the action taken replies furnished by the Ministry of Home Affairs, the Committee noted that the provisions of Indian Passport Act, 1967 were not uniform across the country and the responsibility to streamline the same rested with the Ministry of External Affairs. However, at the time of factual verification of their Action Taken Report, the Ministry of External Affairs informed the Committee that the statement made by the Ministry of Home Affairs earlier to the effect that the provisions of the Passport Act, 1967 were not uniform across the country was factually incorrect and that there was no provision in the Passport Act under which there were separate guidelines for the issue of Passport to persons in the North-East States. This was an administrative guideline of the Ministry of Home Affairs which in the opinion of Ministry of External Affairs should be done away with.

The Committee are surprised to note that Ministry of External Affairs failed to take note of the existence of separate guidelines issued by the Ministry of Home Affairs and allowed this fallacy to continue for a number of years without taking any corrective action. The Committee are rather astonished that even while forwarding Action Taken Replies received from the Ministry of Home Affairs, they did not apply their mind and point out this discrepancy. This is indicative of a very sorry state of affairs in so far as the functioning of Ministry of External Affairs is concerned. The

Committee desire that the Ministry of External Affairs in consultation with Ministry of Home Affairs should take urgent steps to do away with the administrative guidelines beyond the scope of the Passport Act so that the provisions of Indian Passport Act, 1967 become uniform across the length and breadth of the country.

*Cadre Review (Sl. No. 13, Para No. 5.22)*

1.30. The Committee had recommended that a cadre review might be got done in the CPO, and its staff requirements worked out afresh taking into account all aspect of work done in the RPOs and the CPV Division.

1.31 In its action taken reply, Ministry of External Affairs stated:—

“It was felt that the cadre review could only be finalised when we had a clear idea of the number of posts we require to meet our present demand, and at the same time taking into account future expansion. Therefore, papers needed for a fresh SIU study have been collected and sent to the Ministry of Finance (SIU Unit). Ministry of Finance have been completely briefed and they have been asked to begin the process of inspecting all 22 Passport Offices at the earliest possible. The SIU study is scheduled to commence in the first week of January, 1993.

As soon as the SIU study is finalised and the exact number of posts required is known, the cadre review will be processed on the basis of the SIU recommendations.

• In the meanwhile, all pending DPCs including the Sr. DPC have been cleared and panels prepared with the exception of the DPC for promotion from Sudt. to PRO for which papers have been sent to the UPSC for fixing a date.

Out of the 400 new posts which were sanctioned recently, an indent has been placed with the SSC for 250 posts which should be fulfilled in early 1993. Some appointment letters have already been issued. For the remaining UDC/Asst. Posts, DPC have been held and for remaining LDC posts, departmental exams. will shortly be held for promotion from Group D.

A transfer policy, which will take into account the staffing needs of each Passport Office has also been drafted to ensure that each post will be filed in the allocated Passport Office and that no passport office will be overstaffed because of unwillingness of staff to move on transfer.”

1.32 The Committee hope that SIU study which was to commence in the first week of January, 1993, must have been completed by now. They would like to be apprised of the outcome of SIU study and the subsequent cadre review done in the CPO.

The Committee also hope that by now promotion in all the categories

wherever due would have been made and the exercise for filling up the 400 posts completed. They would also like to be apprised of the latest position in this regard.

They further wish to be informed as to whether the transfer policy drafted to ensure the filling up of each post in the allocated Passport Office has been implemented and if so, what has been its impact in overcoming the staffing problem of Passport Offices.

*Time Limit for Redressal of Complaints  
(Sl. No. 17, Para No. 6.18)*

1.33 The Committee had recommended that to restore public confidence, a time-limit for redressal of complaints received and settled might be fixed.

1.34 In its action taken reply, Ministry of External Affairs stated that all Passport Offices had been asked to take immediate action to redress complaints as and when they were received. CPV Division set deadlines for reports from RPOs on redressal of specific complaints. A specific officer had been designated in CPV Division to monitor the progress in that regard. It was felt that the basic problem was delay in passport issue which arose primarily due to a spurt in passport applications received since 1991, to handle which the existing facilities (in terms of staff, supply of booklets, public space of Passport Office premises etc.) were entirely inadequate. Steps had already been taken to eliminate those problems so that delays were reduced and the public was provided with smooth and efficient service.

1.35 The Committee feel that the above reply of the Ministry is vague and inadequate in as much as it merely states the steps taken or proposed to be taken for redressal of complaints without fixing a time limit for their disposal, which the Committee had primarily stressed upon in their original Report.

The Committee feel that inordinate delay in redressal of grievances of passport-seeking applicants could be obviated only by fixing a time limit for their disposal, non-compliance of which should make the dealing officers of passport division answerable.

The Committee, therefore, reiterate their earlier recommendation and would like the Ministry to fix the time limit for redressal of all the complaints received from the applicants.

*Recommendation (Sl. No. 19, Para No. 7.12)*

1.36 The Committee had recommended that concrete measures to improve the consular services in Indian Missions abroad might be undertaken immediately.

1.37 In its action taken reply, Ministry of External Affairs stated that matter was under active consideration to identify specific and effective measures to improve consular services. All Missions had been directed to

ensure that they provided polite and efficient service. Quarterly Consular reports were being obtained which helped them to monitor the kind of workload on the Mission and the time taken to render various services. Computerisation of the Consular Sections was also being introduced in a phased manner. The various procedures and policies were being reviewed to reduce, as far as possible, time lags due to references to Headquarters and to the Passport Offices so that the Missions were able to provide prompt Consular services based on delegated powers.

1.38 The Committee are not satisfied with the above reply of the Ministry of External Affairs, which does not indicate any concrete measures taken for improving the consular services in Indian Mission abroad. Even after a lapse of one year, the Ministry is still engaged in preliminary task of identifying specific and effective measures to improve Consular services, which by no means indicates even a semblance of urgency on their part.

The Committee, therefore, deprecate the slow progress made in this regard and would like the Ministry to take concrete steps with due promptitude for improving the consular services in Indian Missions abroad.

#### *Implementation of Recommendations*

1.39 The Committee would like to emphasise that the greatest importance has to be attached to the implementation of the recommendations by the Government. They, therefore, expect the Government to implement such recommendations expeditiously. In case it is not possible to implement any recommendations in letter and spirit for any reasons, the matter should be reported to the Committee in time with reasons for non-implementation.

1.40 The Committee also desire that final replies in respect of the recommendations contained in Chapter V of this Report may be furnished to the Committee expeditiously.

## CHAPTER II

### RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY GOVERNMENT

#### Recommendation (Sl. No. 2, Para 1.14)

(ii) Consider dropping the appendage "Chief Controller of Emigration" from the designation of Chief Passport Officer.

#### Reply of Government

This was done at the time of transferring the subject of emigration to Ministry of Labour after the promulgation of the Emigration Act, 1983. The Chief Passport Officer is no longer titled "Chief Controller of Emigration". It is further understood that the concerned officer in the Ministry of Labour is now termed "Protector General of Emigrants" so that the term "Chief Controller of Emigrants" is currently neither valid nor in use.

File No. VI/401/10/92

February 3, 1993

#### Recommendation (Sl. No. 5, Para 2.36)

The Committee would recommend an earlier time schedule than 1995 for completion of computerisation, MSP, MRP, as well as passport sections in foreign sections in foreign missions ought to be covered under this programme with adequate staffing pattern.

#### Reply of Government

Work in this area has started.

CPV Division has worked out a phased programme of computerisation of all the offices of the CPO. The computerisation of the Delhi RPO is extensive and Bombay and CPV Division have been taken up in this financial year. Computers are also being used to good effect in Bangalore. The implementation of Computerisation programme would be tailored based on the experience gained in Delhi, Bombay and Bangalore. Efforts will be made to ensure that computerisation is completed at the earliest. computerisation of passport sections in our missions abroad has been taken up with development of data structures for passports, visas and consular work and start of work on software development since missions requirements are to some extent different from those of Passport Offices.

MSPs\* have been introduced at all Passport Offices and most missions abroad since 1990. The introduction of MRP\*\* is also being given high

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\* More Secure passports.

\*\* Machine Readable Passports.

priority and a Technical Sub-Committee is examining the format specified by the ICAO to determine changes to improve the Indian Passport booklet and bring it at par with international standards. Every effort is being made to do this earlier than 1995.

File No. VI/401/10/92

February 3, 1993

**Recommendation (Sl. No. 14, Para 5.23)**

(c) The desirability of reviewing the frequency and format of the MIS may be considered.

**Reply of Government**

A detailed system of reporting exists where weekly, fortnightly and monthly progress reports covering various aspects of work are prepared by the various Passport Offices and monitored by CPV Division. The Ministry's inspection teams ensure that the Consular Wings of our Missions abroad are inspected and CPV Division also receives regular reports from the Missions. The frequency and format of these reports is being reviewed with precise and brief, relating to output during the week in terms of passports issued and the stock position of booklets, both of which are aspects which need constant monitoring. Monthly and quarterly reports are more comprehensive and cover the entire spectrum of work in a Passport Office.

File No. VI/401/10/92

February 3, 1993

**Recommendation (Sl. No. 15, Para 5.24)**

(d) All necessary steps may be taken to conduct regular inspections of Foreign Missions and necessary revision of staff considered early. Special attention may be given to smaller missions. At the same time annual reporting of consular activities by Missions may be reviewed in favour of more frequent reporting, perhaps on a quarterly basis.

**Reply of Government**

The Foreign Service Inspectors have been regularly visiting many missions and they have been requested to ensure that special attention is given to smaller missions and to consular services. Quarterly monitoring reports on consular services are now being received from our missions abroad, which are scrutinised in CPV Division and emphasis is laid on maintenance of the required level of efficiency by each Mission.

File No. VI/401/10/92

February 3, 1993

**Recommendation (Sl. No. 18, Para 7.11)**

The scheme for relaxation of visa restrictions ought to be extended over time to as many countries as is found diplomatically possible.

**Action Taken**

Visa policy is generally determined by political considerations and reciprocity. Action to unilaterally remove many visa restrictions has already been taken. A uniform visa fee scale has been introduced and Missions have been authorised to issue long term multiple entry visas in a wide variety of cases. The question of reciprocal grant of gratis visas is examined as and when such a request is received from the concerned country and this is generally acceded to, even though it implies some loss of revenue. The list of countries with whom we have reciprocal agreements for grant of gratis visas is attached at Annexure III.

File No. VI/401/10/92

February 3, 1993

**Comments of the Ministry of Home Affairs**

Visa policy is received from time to time and modified suitably according to the changing circumstances. As a result of a recent review, major liberalisation have been made in our visa regime. Indian Missions abroad are not authorised to grant 5 years multiple entry visa to the following categories of foreign nationals subject to usual security checks:

- (i) Foreign technicians/experts.
- (ii) Foreign businessmen.
- (iii) Foreign students.
- (iv) First degree relatives and family members of foreigners including diplomatic personnel staying in India on long term basis.
- (v) Foreigners of Indian origin.
- (vi) Persons connected with the Tourism Industry.
- (vii) Foreign tourists visiting India frequently.

It may be mentioned that Pakistani, Bangladeshi and Srilankan national have been excluded from the operation of these liberalisations in view of extra ordinary situations there like political upheavels, ethnic violence, etc.

Chinese nationals have been brought at par with other foreign nationals for the purpose of grant of visa etc. A number of relaxations have also been made in respect of grant of visa to Taiwanese, South African and Israeli nationals also.

***List of Countries with whom India has reciprocal arrangements for grant of gratis visas.***

1. Argentina
2. Afghanistan
3. Bangladesh
4. Czechoslovakia
5. Denmark
6. Finland
7. Greece
8. Hungary
9. Iran
10. Mongolia
11. Namibia
12. Poland
13. Romania

## CHAPTER III

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

#### Recommendation (Sl. No. 8, Para 3.24)

Special passport arrangements with Bangladesh and Srilanka need a review. Such a review must be a periodic exercise, with each review characterised by an assessment whether the existing arrangements need revision.

#### Reply of Government

These passport arrangements (i.e. the provision of special passports) are reviewed periodically in consultation with the Territorial Division who at the moment feel that to do away with such special arrangements would send the wrong signals both to the concerned Governments and to the communities in both Bangladesh and Sri Lanka.

The basic problem here is not that of special passports per se but of the control and monitoring of the entry of foreign nationals using such passports. This is a matter which is entirely within the purview of the MHA and they have been requested to take necessary action with reference to the specific recommendations of the Committee in paras 3.26 and 3.27 of their report.

File No.VL/401/10/92

February 3, 1993

#### Recommendation (Sl. No. 11, Para 4.9)

The Committee recommend that the Indian Emigration Act, 1983 be reviewed with a view to dispensing with prior emigration clearance as an essential pre-requisite for travel abroad for employment by Indian citizens. For this purpose they recommend the deletion of Chapter V from the Indian Emigration Act, 1983.

#### Reply of Government

This matter is under the jurisdiction of the Ministry of Labour which has been informed of the Committee's recommendations and requested to keep us informed of the action being taken by them to implement the recommendation. (With the enactment of the Emigration Act, 1983, the subject has been transferred to the Ministry of Labour). MEA fully supports the deletion of Chapter V of the Indian Emigration Act, 1983 and has conveyed its views formally to the Ministry of Labour, for

Further action under intimation to us. The views of the Ministry of Labour are at Annexure I.

File No.VI/401/10/92

February 3, 1993

### Views of The Ministry of Labour

Emigration check on Indian passports has been in vogue since 1922. Prior to August, 1981 when the work pertaining to overseas employment was transferred by the Ministry of External Affairs to the Ministry of Labour, the Emigration Act 1922 was administered by the Ministry of External Affairs. Under the Emigration Act, 1922, there were separate provisions for emigration for the purpose of unskilled work and for the skilled work. Emigration of unskilled workers was subject to the issue of specific notification in respect of specific countries and terms and conditions. This was done to regulate the emigration of unskilled workers who because of their ignorance & helplessness could be exploited by others. For emigration of skilled workers, the Emigration Act provided for grant of permission by the Central Government to emigrate and for registration of such intending emigrants with the Protector of Emigrants before departure. The Registration formalities also included payment of prescribed security deposit to ensure due observance of contractual terms and conditions of emigrants by foreign employers. The Emigration Act, 1922 favoured emigration of skilled workers and had put restrictions of the emigration of unskilled workers.

With the increase in the quantum of emigration, various shortcomings of Emigration Act, 1922 came into force. The Government received many representations from the members of general public and the matter was frequently raised in Parliament that the Emigration Act, 1922 was outdated and out-moded and served as a constraint for quick deployment of Indian workers in foreign countries. The Inter-Ministerial Committee consisting of the representatives of the Ministry of External Affairs, Commerce, Industry and Home Affairs appointed by the Ministry of Labour in February 1978 recommended replacement of the Act by a fresh legislation.

The Committee of Secretaries in the meeting held on 22.7.79 endorsed the above recommendation made by the Inter Ministerial Committee.

In addition to the representations received from the general public and the concern expressed in the Parliament regarding replacement of Emigration Act, 1922 by a fresh legislation, a number of writ petitions were filed in the Supreme Court pointing to the antiquated nature of the Emigration Act, 1922 besides challenging the Act as being violative of Articles 14 and 19 of the Constitution of India. Certain guidelines were laid down by the Supreme Court in the judgement for processing

applications for emigration and declared that the arrangements provided by these guidelines shall remain in force till July, 31, 1979 and thereafter it will be open to the Union of India to vary the terms thereof by legislation or by rules. This however, could not be accomplished and on August 21, 1979, the Supreme Court reiterated that emigration applications will be processed in accordance with the conditions laid down earlier and that no new conditions should be imposed by the Government except by new legislation or rules. Following the Supreme Court order of August 1979 which in effect took away from the Government the power to scrutinise terms and conditions of Indian workers emigrating abroad for employment, action was taken to bring a legislation for the purpose.

The Emigration Act 1922 was repealed and the Emigration Act, 1983 came into force w.e.f. September 1983. The Emigration Act, 1983 regulates the emigration of Indian workers for overseas employment on contractual basis and matters connected with their welfare. The Act also protects the interests of the workers abroad. So far, 15 categories of persons have been exempted from emigration clearance. Emigration clearance is given to workers where the documents submitted by the Recruiting Agents are in order. Delay only occurs where the documents submitted by the RA are not in order. It is, therefore, not correct that inconvenience and harassment is caused to all the passport holders on account of requirement of emigration clearance.

The system devised by the Ministry of Labour for giving emigration clearance is as follows:

Emigration clearance on group basis is obtained either through Recruiting Agents or Indian Project Exporters or Foreign Employers. Before giving emigration clearance, Protector of Emigrant ensures that power of Attorney, Demand Letter and Specimen Agreement / original Employment Agreement have been attested by the concerned Indian Mission. He also ensures that the Employment-Agreement provides for all matters as mentioned in Rule 15(2) of the Emigration Rules 1983. Certain checks for giving emigration clearance on individual basis such as ensuring that the employment contract has been attested by the Indian Mission in the country of employment; wages and conditions of employment are in order; permit has been issued to the foreign employer; emigration fee has been paid; employer is not in the 'Prior Approval Category'; applicant has employment visa etc., have been devised. The Project Exporters have to obtain permission from Protector General of Emigrants for deployment of workers abroad before emigration clearance is granted by POEs and the compliance to the above stipulations is checked by the office of PGE.

Doing away with the system of emigration check endorsement on the passports is likely to give rise to the following:—

- i) There would be no check on agricultural labourers, housemaids

etc. because they do not generally, have adequate protection under local labour laws. At present the Protector of Emigrants have been debarred from giving emigration clearance in such cases. Emigration clearance is given to such workers only on the approval of the Protector General of Emigrants. The unscrupulous agents may exploit these workers, if Chapter V of the Act is deleted.

ii) The Missions would be deprived of whatever limited leverage they enjoy in solving workers problems through mediations as the employers would be in a position to get workers from India without any intervention from the Indian authorities and without amicably solving problems of existing workers in their companies.

iii) This will further encourage unhealthy competition as the Indian Recruiting Agents would be vying with one another to supply Indian labour at ridiculously low wages. Even now, there are some complaints regarding substitution of employment agreements by the unscrupulous Recruiting Agents in connivance with the foreign employers. The proposed measure would give unfettered powers to the unscrupulous employers and recruiting agents to further exploit the helpless workers.

iv) The Indian Missions would also suffer loss of revenue in foreign exchange if it is decided to do away the system of attestation of various documents consequent upon repeal of Chapter V of Emigration Act 1983.

The position regarding the rationale of having the Emigration Act on the statute and the problems that would arise if it is decided to delete Chapter V of the Emigration Act, 1983, has been given in point 1 (i) above (Page 1 of the note). As regards the other observations made by the Hon'ble Chairman, Estimates Committee, it may be stated that all Indian passports carry the endorsement 'Emigration Check Required' or 'Emigration Check Not Required'. The persons having passports with endorsement 'Emigration Check Required' have to get emigration clearance from the Protector of Emigrants, while in the case of persons with ECNR endorsement, no such emigration clearance is required. So far thirteen categories of persons have been exempted from 'ECR' endorsement. All persons with ECR endorsement who wish to travel abroad for non-employment purposes are required to obtain suspension of emigration check requirement prior to departure. Suspension can be granted by all the seven offices of the POEs and 4 Regional Passport Offices. The Ministry of Labour does not deal with cases bearing ECNR endorsement. Every effort is made in the offices of the POEs to ensure that the workers seeking suspension of 'Emigration Check Requirement' are not put to any inconvenience.

In so far as the present crisis in the Gulf and its impact on India are concerned, it would, perhaps, be more appropriate for the Ministry of External Affairs to make an assessment. The Ministry of Labour,

Labour, however, feels that on the basis of available information, which reflects that requirement of manpower from India in Gulf countries still exists, though at a somewhat reduced scale, for the present, there is not enough justification for repeal of Chapter V of the Emigration Act, 1983.

**Recommendation (Sl. No. 12, Para 5.21)**

While setting up of new Passport Offices weightage should be given to the geographical distance of States like Sikkim and the North Eastern States, irrespective of the quantum of demand for passports, but without sacrificing organisational efficiency.

**Reply of Government**

The Government is committed to expending and improving the network of passport services.

A number of proposals for setting up new POs have been received but in view of resource constraints, the present focus is on reducing delays and clearing the backlog of pending applications.

We accept the Committee's recommendation that weightage should be given to geographical distance as well as to quantum of demand for passports in setting up new Passport Offices. Recent policy decisions allowing all travel agents to deal with Passport Offices; permitting applications to be deposited by any person and not only the applicant; receipt of applications and despatch of passports by post and sale of applications through post offices should provide relief to the people living in remote areas.

File No.VI/401/10/92

February 3, 1993

## CHAPTER IV

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

#### Recommendation (Sl. No. 1, Para 1.14)

The Committee expect the Ministry of External Affairs and Labour to:

- (i) Bring all provisions relating to the subject of Passports under one single statute.

#### Reply of Government

Work on the necessary draft provisions has begun. It has been opined by our Legal and Treaties Division that the Acts which can be so merged are the passports (Entry into India) Act of 1920 and the Indian passports Act of 1967. The 1920 and 1967 Acts are administered by the Ministry of Home Affairs and the Ministry of External Affairs respectively and mutual consultation and agreement is essential in order to move for any amendment in either statute.

File No. VI/401/10/92

February 3, 1993

#### Recommendation (Sl. No. 9, Para 3.26)

The Government of India must urgently engage in consultation with the States of the Union that have a responsibility in the administration of relevant provisions of those Acts, so that across the country the application of these laws is uniform.

#### Reply of Government

This is basically with reference to the Foreigners Act and is an MHA matter. We have requested MHA to pursue the matter and to take further necessary action.

File No. VI/401/10/92

Dated 3/2/93

#### Comments of the Ministry of Home Affairs

The provisions of all three Acts namely Foreigners Act, 1946, Passport (Entry into India) Act, 1920 and Registration of Foreigners Act, 1939 are uniform throughout the country. In so far as these Acts are concerned, no specific provisions exist for any particular State or

States. On the other hand the provisions of Passport Act, 1967 are not uniform across the country. For example, different guidelines have been framed to issue passports to the persons residing in the North-East States. As such the contention of MEA that the recommendation is basically with reference to the Foreigners Act is not correct.

**Recommendation (Sl. No. 17, Para 6.18)**

To restore public confidence, a time-limit for redressal of complaints received and settled must be fixed.

**Reply of Government**

All Passport Offices have been asked to take immediate action to redress complaints as and when they are received. CPV Division sets deadlines for reports from RPOs on redressal of specific complaints. A specific officer has been designated in CPV Division to monitor the progress in this regard. It is felt that the basic problem is delay in passport issue which has arisen primarily due to a spurt in passport applications received since 1991, to handle which the existing facilities (in terms of staff, supply of booklets, public space of Passport Office premises etc.) have been entirely inadequate. Steps have already been taken to eliminate these problems so that delays are reduced and the public is provided with smooth and efficient service.

File No. VI/401/10/92

February 3, 1993

**Recommendation (Sl. No. 19, Para 7.12)**

Concrete measures to improve the consular services in Indian Missions abroad must be undertaken immediately.

**Reply of Government**

This matter is under active consideration to identify specific and effective measures to improve consular services. All Missions have been directed to ensure that they provide polite and efficient service. Quarterly consular reports are being obtained which help us to monitor the kind of workload on the Mission and the time taken to render various services. Computerisation of the Consular Sections is also being introduced in a phased manner. The various procedures and policies are being reviewed to reduce, as far as possible, time-lags due to references to Headquarters and to the Passport Offices so that the Missions are able to provide prompt Consular services based on delegated powers.

File No. VI/401/10/92

February 3, 1993

## CHAPTER V

### RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH FINAL REPLIES OF GOVERNMENT ARE STILL AWAITED

#### Recommendation (Sl. No. 3, Para 2.34)

The Committee would recommend much wider and more effective publicity of rules and regulations governing the issue of passports and all related formalities.

#### Reply of Government

The press is kept informed of all changes in the rules and regulations by CPV Division and by the RPOs. In addition, a public awareness exercise is being drawn up in consultation with DAVP.

This would take the form of a country-wide media campaign, covering TV, Radio and the press (both national and local), which would be aimed at educating the public on various procedures relating to passports—when to apply, how to apply, what documents to submit, the grounds on which out-of-turn passports are issued, what are the fees and so on.

The timing of the campaign is yet to be decided as the material is being developed. Meetings have been held with DAVP and a comprehensive brief given to them. DAVP has been asked to prepare suitable material for priority areas regarding rules, regulations, formalities, including documents to accompany the passport applications and procedures and fees for applications.

On-site publicity at the passport office is also being enhanced, not only in the form of notices, posters, etc., but also in the planning of the premises to ensure that there is less overcrowding and minimum confusion for example as to which line to stand in or where to go for a specific service. The new office for the Delhi RPO is currently being designed keeping these aspects in mind.

File No. VI/401/10/92

February 3, 1993

#### Recommendation (Sl. No. 4, Para 2.35)

The Committee recommends that the grievance redressal machinery, particularly at the level of Regional Passport Officer, be strengthened and monitored.

#### Reply of Government

One of the RPO's most important duties is redressing grievances brought up by any member of the public. In the CPV Division, an officer has been

designated to deal with public grievances. Letters of complaint are sorted and followed up with the RPOs concerned. Computerised monitoring of all complaints is done by the CPV Division and cases have been settled through the CPV Division's intervention. It is also expected that computerisation of the Passport Offices and a review of procedures would lead to faster and more efficient service, thus reducing delays in responding to queries and in the issue of passport itself. This would do away with a major cause of public dissatisfaction. In the long term, steps have been initiated for a comprehensive review of every aspect of the functioning of the Central Passport Organisation in order to streamline services and reduce public grievances. These measures include computerisation (para 2.36), staffing pattern review and cadre review [para 5.22 (b)], streamlining of procedures, making the layout of the Passport Offices more efficient, producing simple and easy-to-use reference manuals, publicising the various aspects of applying for a passport (para 2.34) etc.

Every Passport Office has been requested to identify suitable property which can then be acquired and developed as an ideal office. Premises have already been allotted by the Ministry of Urban Development for the Delhi RPO and the layout planning, keeping in view current needs and future demand, is almost completed. Suitable property has also been identified in Trichy and Lucknow.

Regarding streamlining of procedures, all areas relating both to the physical aspects of passport issue (type of booklet, the kind of entries required, the steps in making a passport etc.) and the policy aspects (the kind of documentation required for various services, the kind of references required (whether to the CID or police or MHA) and the time limits for responses, maintenance of suspect indexes etc. are being reviewed with a view to developing a comprehensive system which can operate smoothly and efficiently.

File No. VI/401/10/92

February 3, 1993

#### **Recommendation (Sl. No. 6, Para 3.23)**

Violation of both Indian Passport Act, 1967 and the Foreigners Act 1966 must be made much more deterrent, penalties under both these Acts must be similar; must be made non-bailable; must include imprisonment and fine of higher deterrence and deportation of completion of sentence must be mandatory.

#### **Reply of Government**

A Bill to amend the Passport Act, 1967 in order to make various violations of the Act punishable and the penalties more stringent has already been introduced. The question of making the penalties similar to those in the Foreigners Entry Act, and declaring all offences under these

related Acts non-bailable has been taken up with Ministry of Home Affairs. MHA has also been asked to take independent action on matters relating to the Foreigners' Entry Act, as this matter is within their purview.

Our L&T Division has also opined that the two Acts relate to different subjects and offences under these Acts are also not of the same nature, and therefore, it would be difficult to make penalties similar.

A copy of the amended version of the Passports Act, 1967 is attached at Annexure IV for information. Attention is drawn to section 6 of the Act dealing with penalties.

File No. VI/401/10/92

May 5, 1993

**Comments of the Ministry of Home Affairs**

MHA is already considering the question of enhancing the punishment not only in the Foreigners Act, 1946 but also in the Passport (Entry into India) Act, 1920 and Registration of Foreigners Act, 1939. It is proposed to enhance the maximum period of imprisonment from 5 years to 10 years. Offences under the Foreigners Act, by virtue of being included in Schedule I of Cr. P.C. 1973 are both cognizable and non-bailable. However, since the maximum punishment provided is 5 years, with or without fine, they are triable by First Class Magistrate only. It is felt that though the offences under the Foreigners Act are non-bailable, the accused foreigners are able to get bail from First Class Magistrates easily. In addition, several foreigners go underground or become untraceable once they are released on bail. It is, therefore, proposed to make the offences under the Foreigners Act triable by the Sessions Court, by enhancing the maximum imprisonment from 5 years to 10 years. Existing Section 14 of the Foreigners Act, 1946 is proposed to be replaced by the following:—

“Rules or orders made under this section may provide that any contravention there-of or of any order issued under the authority of any such rules shall be liable for punishment upto a period of 10 years and/or with fine or with both. In any case, the minimum period of imprisonment shall not be less than one year with a fine of Rs. 10,000.”

It is also proposed to bring Indian nationals who abet the foreigners in the commitment of various offences under the Foreigners Act, under the ambit of the Foreigners Act, 1946 for awarding punishment to them. It is therefore, proposed to add following new sub-clause after sub-section (ii) to Section 13 of the Foreigners Act, 1946:—

“Any person who gives shelter to an unauthorised foreign national or conceals the identity of such person shall be deemed to have abetted the provisions of this Act.”

As INTRODUCED IN LOK SABHA ON

Bill No. 138 of 1992

THE PASSPORTS (AMENDMENT) BILL,  
1992

A

BILL

*further to amend the Passports Act, 1967*

BE it enacted by Parliament in the Forty-third year of the Republic of India as follows:—

1. (1) This Act may be called the Passports (Amendment) Act, 1992.

Short title and commencement.

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

15 of 1967.

2. In section 5 of the Passports Act, 1967 (hereinafter referred to as the principal Act), in sub-section (1), for the words “a fee of rupees fifty”, the following words shall be substituted namely:—

Amendment of section 5.

“such fee as may be prescribed to meet the expenses incurred on special security paper, printing, lamination and other connected miscellaneous services in issuing passports and other travel documents.”

3. For section 8 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 8.

8. Where a passport is issued for a shorter period than the prescribed period under section 7, such shorter period shall, unless the passport authority for reasons to be recorded in writing

Extension of period of passports.

otherwise determines, be extendable for a further period (which together with the shorter period shall not exceed the prescribed period) and the provisions of this Act shall apply to such extension as they apply to the issue thereof".

4. In section 10 of the principal Act, in sub-section (3), after clause (b), the following proviso shall be inserted, namely:—

Amendment of Section 10.

"Provided that if the holder of such passport obtains another passport, the passport authority shall also impound or cause to be impounded or revoke such other passport".

5. In section 11 of the principal Act, in sub-section (4), for the words and brackets "by such fee (if any) not exceeding rupees twenty-five as may be prescribed", the words "by such fee as may be prescribed for meeting the expenses that may be incurred in calling for relevant records and for connected services" shall be substituted.

Amendment of section 11.

6. In section 12 of the principal Act,—

Amendment of section 12.

(a) in sub-section (1), for the words "six months or with fine which may extend to two thousand rupees", the words "two years or with fine which may extend to five thousand rupees" shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Whoever, not being a citizen of India,—

(a) makes an application for a passport or obtains a passport by suppressing information about his nationality, or

(b) holds a forged passport or any travel document,

shall be punishment with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees.";

(c) in sub-section (2), for the word, brackets and figure "sub-section (1)", the words, brackets, figures and letter "sub-section (1) or sub-section (1A)" shall be substituted.

7. In section 13, in sub-section (1) and in section 14, in sub-section (1) of the principal Act, for the words "officer of police", the words "officer of police or immigration officer" shall be substituted.

Amendment of sections 13 and 14.

8. Sections 18 and 26 of the principal Act shall be omitted.

Omission of sections 18 and 26.

7 of 1992.  
31 of 1983.

9. In section 23 of the principal Act, for the words and figures "the Emigration Act, 1922", the words and figures 31 of 1983 "the Emigration Act, 1983" shall be substituted.

Amendment of section 23.

10. In section 24 of the principal Act, in sub-section (2), in clause (f), for the words "any application for the issue of renewal of a passport", the words, figures and brackets "any application for the issue of a passport under sub-section (1) of section 5 or issue of a passport" shall be substituted.

(a) Amendment of section 24.

## STATEMENT OF OBJECTS AND REASONS

On the basis of the experience gained in the administration of the Passports Act, 1967, it is found necessary to amend the said Act for its better administration.

2. The Bill proposes, *inter alia*,—

(a) to empower the Central Government to prescribe the fee by rules taking into consideration the actual expenditure to be incurred in designing and preparation of the passport booklet;

(b) provides for extension of validity period of passport issued for a shorter period;

(c) for impounding other passports of the holder of a passport if he obtains a passport by suppression of material information, etc.;

(d) to enhance the punishment from six months imprisonment to two years imprisonment and from two thousand rupees to five thousand rupees fine for the offences under section 12;

(e) to make a new provision providing for stringent punishment for a person who is not a citizen of India if he makes or obtains a passport by suppression of information about his nationality, etc.

3. The Bill seeks to achieve the above objects.

NEW DELHI;

*The 11th August, 1992.*

R.L. BHATIA.

## **MEMORANDUM REGARDING DELEGATED LEGISLATION**

Clause 10 seeks to amend clause (f) of sub-section (2) of section 24 of the Passports Act, 1967 so as to empower the Central Government to provide fees payable in respect of any application for issue of a passport under sub-section (1) of section 5.

2. The matter in respect of which rules may be made are matters of procedure and detail. The delegation of legislative power is thus of a normal character.

## ANNEXURE

### EXTRACTS FROM THE PASSPORTS ACT, 1967

(15 OF 1967)

\* \* \* \* \*

5. (1) An application for the issue of a passport under this Act for visiting such foreign country or countries (not being a named foreign country) as may be specified in the application may be made to the passport authority and shall be accompanied by a fee of rupees fifty.

Applications  
for passports,  
travel  
documents,  
etc., and  
orders  
thereon.

*Explanation.*— In this section, “named foreign country” means such foreign country as the Central Government may, by rules made under this Act, specify in this behalf.

\* \* \* \* \*

8. Every passport shall, unless the passport authority for reasons to be recorded in writing otherwise determines in any case, be renewable for the same period for which the passport was originally issued and the provisions of this Act (including the provisions as to fees) shall apply to the renewal of a passport as they apply to the issue thereof.

Renewal of  
passports.

10. (1) \* \* \* \* \*

(3) The passport authority may impound or cause to be impounded or revoke a passport or travel document,—

Variation,  
impounding  
and  
revocation of  
passports and  
travel  
documents.

11. (1) \* \* \* \* \*

(4) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a copy of the statement of the reasons for the order appealed against where such copy has been furnished to the appellant and by such

Appeals

fee (if any) not exceeding rupees twenty-five as may be prescribed.

\* \* \* \* \*

12. (1) Whoever—

Offences and  
penalties

- (a) contravenes the provisions of section 3; or
- (b) knowingly furnishes any false information or suppresses any material information with a view to obtaining a passport or travel document under this Act or without lawful authority alters or attempts to alter or causes to alter the entries made in a passport or travel document; or
- (c) fails to produce for inspection his passport or travel document (whether issued under this Act or not) when called upon to do so by the prescribed authority; or
- (d) knowingly uses a passport or travel document issued to another person; or
- (e) knowingly allows another person to use a passport or travel document issued to him;  
shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees or with both.

(2) Whoever abets any offence punishable under sub-section (1) shall, if the act abetted is committed in consequences of the abetment, be punishable with punishment provided in that sub-section for that offence.

\* \* \* \* \*

13. (1) Any officer of customs empowered by a general or special order of the Central Government in this behalf and any officer of police not below the rank of a sub-inspector may arrest without warrant any person against whom a reasonable suspicion exists that he has committed any offence punishable under section 12 and shall, as soon as may be inform him of the grounds for such arrest.

\* \* \* \* \*

Power to  
arrest.

14. (1) Any officer of customs empowered by a general or special order of the Central Government in this behalf and any officer of police not below the rank of a sub-inspector may search any place and seize any passport or travel document from any person against whom a reasonable suspicion exists that he has committed any offence punishable under section 12.

Power of search and seizure.

\* \* \* \* \*

18. Notwithstanding anything contained in this Act, where a person has applied for a passport, or an endorsement on his passport, for visiting a foreign country for the purpose of emigrating to such country the passport shall not be issued to such person or, as the case may be, the endorsement shall not be made on his passport, for visiting such country if he is not permitted to emigrate, or is prohibited from emigrating, to such country by or under the provisions of the Emigration Act, 1922.

Passports, etc., not to be issued to persons who cannot emigrate under Act 7 of 1922.

*Explanation.*— For the purposes of this section, “emigrate” and “emigration” shall have the meanings assigned to those expressions under clause (c) of sub-section (1) of section 2 of the Emigration Act, 1922.

\* \* \* \* \*

Act of 1922

23. The provisions of this Act shall be in addition to and not in derogation of the provisions of the Passport (Entry into India) Act, 1920, the Emigration Act, 1922, the Registration of Foreigners Act, 1939, the Foreigners Act, 1946, the Trading with the Enemy (Continuance of Emergency Provisions) Act, 1947 the Foreigners Law (Application and Amendment) Act, 1962, the Foreign Exchange Regulation Act, 1973 and other enactments relating to foreigners and foreign exchange.

Act to be in addition to certain enactments.

Act of 1920.  
Act of 1922.  
Act of 1939.  
Act of 1946.  
Act of 1947.  
Act of 1962.  
Act of 1973.

24. (1) \* \* \* \* \*

Power to make rules.

(2) In particular, and without prejudice to the generality of the

**Recommendation (Sl. No. 7, Para 3.24)**

The harmonizing of the provisions of Indian Passports Act, 1967 and the Foreigners Act, 1946 must be carried out urgently by the Government.

**Reply of Government**

This is being considered in consultation with Ministry of Home Affairs and Ministry of Law. Our legal and Treaties Division's comments in this regard have already been received and they have stated that as the subject of the Acts and nature of offences under these Acts are different, what is possible is that the two statutes relating to Indian passports (and the use/misuse thereof) are harmonised (work on this has begun as detailed in para 1.14(i) and the various statutes relating to foreigners are harmonized. This would have to be done by the Ministry of Home Affairs, who administer these statutes and they have been asked to take action under intimation to us.

File No. VI/401/1092

February 3, 1993

**Comments of the Ministry of Home Affairs**

Harmonizing of the provisions of Indian Passport Act, 1967 and the Foreigners Act, 1946 is not practically feasible as the scope of nature of the offences listed under these two Acts seem to be different. The Passport Act, 1967 is an Act to provide for the issue of passports and travel documents, to regulate the departure from India of citizens of India and other persons and for matters incidental or ancillary thereto. On the other hand, Foreigners' Act 1946 is an Act to confer upon the Central Government certain powers in respect of foreigners. Foreigners Act gives wide powers to the Central Government to issue orders *inter-alia* regulating, restricting and prohibiting entry of foreigners into India. The provisions also cover matters like continued stay of foreigners in India, their conduct during the stay period and the mode of departure and deportation etc. Hence there does not seem to be any scope for harmonization of the two Acts.

**Recommendation (Sl. No. 10, Para 3.27)**

For visitors from Bangladesh, Sri Lanka and Pakistan, it is vital that the maintenance of records about entry points, place of residence and departure dates be made more systematic and efficient. Computerisation by itself, without adequate subsequent surveillance will not serve the purpose. Such Indian citizens as are the hosts or recipients of visitors from these two countries must also be made accountable for defaults relating to overstay etc. The Committee recommend the immediate stoppage of separate system of passports for Bangladesh, Sri Lanka and Pakistan.

**Reply of Government**

This is again an immigration matter within the purview of MHA who have been asked to look into the matter and take necessary action under

intimation to us. With reference to the last sentence of para 3.27, the question whether or not separate passports should be issued for Bangladeshis, Sri Lankans and Pakistanis has been examined in the MEA with reference to the Committee's recommendations in para 3.25 ante; the separate system of passports for Pakistan was done away with several years ago. With regard to Bangladesh and Sri Lanka, it is felt that in the context of our current external policy consideration such passports could continue for the present, while being regularly reviewed. The system is essentially a part of the overall scheme of issuing passports, with the country specific facility being a sub-operation for the benefit of our nationals.

File No. VI/401/10/92

February 3, 1993

#### Comments of the Ministry of Home Affairs

Entry into and stay in India of Pakistani nationals is regulated in accordance with the provisions of Indo-Pak Visa Agreement. The entry and exit is restricted from the designated check-posts only. The following check-posts have been designated for entry/exit of Pakistani nationals visiting India:

- (i) By Air : Amritsar/Bombay/Delhi
- (ii) By Sea : Bombay
- (iii) By Land : Attar (Punjab) and Munabao (Rajasthan)

Pakistani nationals are required to submit their visa applications in triplicate. The Missions concerned forward one copy of the completed visa application together with the photograph of the holder and full details of the visa granted to the Superintendent of Police in whose jurisdiction, the first place of visit in India of the Pakistani national lies, the second copy is being retained by the Mission for record and the third is given to the applicant of entry who hands it over at the check-post of entry.

Pakistani nationals are required to register or report to the police within 24 hours of their arrival in India. Visa is granted to Pak nationals for specific places.

As such the records about entry points place of residence and departure is being maintained systematically and the system is working smoothly. As regards the recommendation of making responsible the Indian citizens who are the hosts or recipients of the foreigners from Pakistan, Bangladesh and Sri Lanka for defaults relating to overstaying, etc., it may be mentioned that a proposal to bring such Indian nationals under the ambit of the Foreigners Act, Passport (India) Act, 1920 and Registration of Foreigners Act, 1939 for awarding them punishment who provides shelter to illegal and unauthorised foreigners in India or who abet the foreigners in commitment of various offences is already under consideration in this Ministry.

The main problem is regarding Bangladeshi nationals. Ever since the creation of Bangladesh, influx of Bangladeshi nationals into India, for various religious and economic reasons has continued to grow. The Government of India is already seized of the problem and has taken

a number of measures. Instructions have been issued to our Mission in Dhaka to consider the following points for proper scrutiny of visa applications:—

- (i) The addresses mentioned in the applications be scrutinized and if found vague, the application should be rejected.
- (ii) The sponsorship certificate may be examined carefully to find out whether it is genuine and has been countersigned by a 1st Class Magistrate of the district of visit. In case of doubt, visa may be refused.
- (iii) Check-post of entry and exit for the Bangladeshi national should be the same. This should be indicated in the visa.
- (iv) A copy each of the sponsorship certificate and visa application form should be attached with the visa which the holder may hand over to the check-post of entry. This will help verify the place and purpose of visit of the holder of the visa and take necessary action in the event of his over stay.

BSF is being strengthened and modernised. In order to check infiltration, the distance between various BOPs would be reduced and BSF would also be provided additional vehicles and sophisticated equipments for more effective role. Further a special project for computerisation of visa control system has also been approved to strengthen the visa regime in the case of Bangladeshi nationals.

Various other schemes are also under implementation like setting up of Prevention of Infiltration of Foreigners/Mobile Task Force Schemes for the States. These Schemes are in operation in the States of Assam, West Bengal, Tripura and Meghalaya with a view to assist the State Governments in detection and deportation of illegal migrants and issue of identity cards to the Indian Nationals in the border areas.

The problem of Srilankan nationals is limited to specified areas especially in Tamil Nadu.

#### **Recommendation (Sl. No. 13, Para 5.22)**

(b) A cadre review may be get done in the CPO, and its staff requirements worked out afresh taking into account all aspects of work done in the RPOs and the CPV Division.

#### **Reply of Government**

It was felt that the cadre review could only be finalised when we had a clear idea of the number of posts we require to meet our present demand, and at the same time taking into account future expansion. Therefore, papers needed for a fresh SIU study have been collected and sent to the Ministry of Finance (SIU unit). Ministry of Finance have been completely briefed and they have been asked to begin the process of inspecting all

22 Passport Offices at the earliest possible. The SIU study is scheduled to commence in the first week of January 1993.

As soon as the SIU study is finalised and the exact number of posts required is known, the cadre review papers will be processed on the basis of the SIU recommendations.

In the meanwhile, all pending DPCs including the Sr. DPC have been cleared and panels prepared with the exception of the DPC for promotion from Supdt. to PRO for which papers have been sent to the UPSC for fixing a date.

Out of the 400 new posts which were sanctioned recently, an indent has been placed with the SSC for 250 posts which should be fulfilled in early 1993. Some appointment letters have already been issued. For the remaining UDC/Asstt. posts, DPCs have been held and for remaining LDC posts, departmental exams will shortly be held for promotion from Group D.

A transfer policy, which will take into account the staffing needs of each Passport Office has also been drafted to ensure that each post will be filled in the allocated Passport Office and that no passport office will be overstaffed because of unwillingness of staff to move on transfer.

File No. VI/401/10/92

February 3, 1993

**Recommendation (Sl. No. 16, Para 6.17)**

6.17 Non-official Passport Advisory Committee (PAC) must be set up immediately for every RPO.

**Reply of Government**

The membership of the PACs is currently being drawn up and will be finalised in consultation with all concerned, including the Ministry of Parliamentary Affairs. The modalities under which these Committee will function are also being finalised and it is hoped that these Committees will be operational shortly.

File No. VI/401/10/92

February 3, 1993

NEW DELHI;  
April 6, 1994

Chaitra 16, 1916, (S)

DR. KRUPASINDHU BHOI,  
Chairman,  
Estimates Committee.

## APPENDIX I

(*Vide* Introduction of the Report)

### *Analysis of Action Taken by Government on the 5th Report of Estimates Committee (Tenth Lok Sabha)*

I.	Total number of recommendations	19
II.	Recommendations/Observations which have been accepted by Government (Nos. 2, 5, 14, 15, 18)	Total 5
	Percentage	26.31%
III.	Recommendations/Observations which the Committee do not desire to pursue in view of Government replies (Nos. 8, 11, 12)	Total 3
	Percentage	15.80%
IV.	Recommendations/Observations in respect of which Government's replies have not been accepted by the Committee (Nos. 1, 9, 17, 19)	Total 4
	Percentage	21.05%
V.	Recommendations/Observations in respect of which final replies of Government are still awaited (Nos. 3, 4, 6, 7, 10, 13, 16)	Total 7
	Percentage	36.84%

## APPENDIX II

### MINUTES

EIGHTEENTH SITTING 28.03.1994

The Committee sat from 1500 to 1700 hours.

#### PRESENT

Dr. Krupasindhu Bhoi —*Chairman*

#### MEMBERS

2. Shri Pawan Kumar Bansal
3. Shri B.S. Hooda
4. Shri Imchalemba
5. Shri Dau Dayal Joshi
6. Smt. Sumitra Mahajan
7. Shri B. Akbar Pasha
8. Shri Kabindra Purkayastha
9. Shri Manku Ram Sodi
10. Shri Braja Kishore Tripathy
11. Shri Laeta Umbrey

#### SECRETARIAT

1. Shri Murari Lal —*Joint Secretary*
2. Smt. P.K. Sandhu —*Deputy Secretary*
3. Shri R.C. Gupta —*Under Secretary*
4. Shri N.C. Gupta —*Committee Officer*

The Committee considered and adopted the following Action Taken Reports subject to the amendments/modifications as reflected in the Annexures.

**	**	**	**
**	**	**	**

(ii) Draft Report on the Ministry of External Affairs—Consular, Passport and Visa Division (Annexure II).

The Committee also authorised the Chairman to make other consequential changes arising out of factual verification by the respective Ministries and present the same to the House.

*The Committee then adjourned*

## ANNEXURE II

Amendments/Modifications made by the Estimates Committee of the Draft Report on Action Taken by Government on the recommendations contained in the 5th Report of EC (10th Lok Sabha on the Ministry of External Affairs Consular, Passport and Visa Division.

Page No.	Para No.	Line No.	Amendments/Modifications
3	1.8	18	<i>For 'earnest' Read 'concrete'</i>
3	1.8	20	Delete "Cared to"
3	1.8	21	<i>For 'approach' Read 'approached'</i>
3	1.8	Last line	<i>For 'while deplored' Read 'viewing seriously'</i>
4	1.8	5	<i>For "the Indian Passport Act, 1967" Read "The Indian Passport Act, 1967 and for the consolidation of law on the subject."</i>
6	1.11	1	<i>For "are happy to find" Read "note with satisfaction"</i>
6	1.11	6	Delete the word 'common'
9	1.14	4	<i>For "They highly" Read "It is regrettable"</i>
9	1.14	5	Delete the word 'common'
9	1.14	13-18	Delete "They, therefore, desire.....hardships."
9	1.14	Last line	<i>After "imperative" add "They therefore desire that Ministry of External Affairs must attach top most priority to this and all procedures relating to issues of passports should be streamlined and simplified in such a manner that the citizens are no longer put to any hardships."</i>
17	1.28		Recommendation redrafted. (Annexure III)
22	1.34	11-12	<i>For "liable for punitive action" Read "answerable"</i>
24	1.38	1-4	<i>For "they attach the greatest importance to the implementations of..... such" Read "the greatest importance has to be attached to the implementation of the recommendations by the Government. They would, therefore, expect that Government would implement such."</i>

**From the action taken replies furnished by the Ministry of Home Affairs, the Committee noted that the provisions of Indian Passport Act, 1967 were not uniform across the country and the responsibility to streamline the same rested with the Ministry of External Affairs. However, at the time of factual verification of their Action Taken Report, the Ministry of External Affairs informed the Committee that the statement made by the Ministry of Home Affairs earlier to the effect that the provisions of the Passport Act, 1967 were not uniform across the country was factually incorrect and that there was no provision in the Passport Act under which there were separate guidelines for the issue of Passport to persons in the North-East States. This was an administrative guideline of the Ministry of Home Affairs which in the opinion of Ministry of External Affairs should be done away with.**

**The Committee are surprised to note that Ministry of External Affairs failed to take note of the existence of separate guidelines issued by the Ministry of Home Affairs and allowed this fallacy to continue for a number of years without taking any corrective action. The Committee are rather astonished that even while forwarding Action Taken Replies received from the Ministry of Home Affairs, they did not apply their mind and point out this discrepancy. This is indicative of a very sorry state of affairs in so far as the functioning of Ministry of External Affairs is concerned. The Committee desire that the Ministry of External Affairs in consultation with Ministry of Home Affairs should take urgent steps to do away with the administrative guidelines beyond the scope of the Passport Act so that the provisions of Indian Passport Act, 1967 become uniform across the length and breadth of the country.**

**LIST OF AUTHORISED AGENTS FOR THE SALE OF LOK SABHA  
SECRETARIAT PUBLICATION**

Sl. No.	Name of Agent	Sl. No.	Name of Agent
<b>ANDHRA PRADESH</b>			
1.	M/s. Vijay Book Agency, 11-1-477, Mvlargadda, Secunderabad-500 306.	12.	Law Publishers, Sardar Patel Marg, P.B. No. 77, Allahabad, U.P.
<b>BIHAR</b>			
2.	M/s. Crown Book Depot, Upper Bazar, Ranchi (Bihar).	13.	M/s. Madimala, Buys & Sells, 123, Bow Bazar Street, Calcutta-1.
<b>GUJARAT</b>			
3.	The New Order Book Company, Ellis Bridge, Ahmedabad-380 006. (T.No. 79065)	14.	M/s. Jain Book Agency, C-9, Connaught Place, New Delhi, (T.No. 351663 & 350806).
<b>MADHYA PRADESH</b>			
4.	Modern Book House, Shiv Vilas Place, Indore City. (T.No. 35289)	15.	M/s. J.M. Jaina & Brothers, P. Box 1020, Mori Gate, Delhi-110006. (T.No. 2915064 & 230936).
<b>MAHARASHTRA</b>			
5.	M/s. Sunderdas Gian Chand, 601, Girgaum Road, Near Princes Street, Bombay-400 002.	16.	M/s. Oxford Book & Stationery Co., Scindia House, Connaught Place, New Delhi-110 001. (T.No. 3315308 & 45896).
6.	The International Book Service, Deccan Gymkhana, Poona-4.	17.	M/s. Bookwell, 2/72, Sant Nirankari Colony, Kingsway Camp, Delhi-110 009. (T.No. 7112309).
7.	The Current Book House, Maruti Lane, Raghunath Dadaji Street, Bombay-400 001.	18.	M/s. Rajendra Book Agency, IV-DR59, Lajpat Nagar, Old Dobule Storey, New Delhi-110 024. (T.No. 6412362 & 6412131).
8.	M/s. Usha Book Depot, 'Law Book Seller and Publishers' Agents Govt. Publications, 585, Chira Bazar, Khan House, Bombay-400 002.	19.	M/s. Ashok Book Agency, BH-82, Poorvi Shalimar Bagh, Delhi-110 033.
9.	M & J Services, Publishers, Representative Accounts & Law Book Sellers, Mohan Kunj, Ground Floor, 68, Jyotiba Fuele road Nalgaum, Dadar, Bombay-400 014.	20.	M/s. Venus Enterprises, B-2/85, Phase-II, Ashok Vihar, Delhi.
10.	Subscribers Subscription Service India, 21, Raghunath Dadaji Street, 2nd Floor, Bombay-400 001.	21.	M/s. Central News Agency Pvt. Ltd., 23/90, Connaught Circus, New Delhi-110 001. (T.No. 344448, 322705, 344478 & 344508).
<b>TAMIL NADU</b>			
11.	M/s. M.M. Subscription Agencies, 14th Murali Street, (1st Floor), Mahalingapuram, Nungambakkam, Madras-600 034. (T.No. 476558)	22.	M/s. Amrit Book Co., N-21, Connaught Circus, New Delhi.
		23.	M/s. Books India Corporation Publishers, Importers & Exporters, L-27, Shastri Nagar, Delhi-110 052. (T.No. 269631 & 714465).
		24.	M/s. Sangam Book Depot, 4378/4B, Murari Lal Street, Ansari Road, Darya Ganj, New Delhi-110 002.