

**PARLIAMENT OF INDIA**  
**RAJYA SABHA**

---

**DEPARTMENT RELATED PARLIAMENTARY STANDING COMMITTEE ON PERSONNEL,  
PUBLIC GRIEVANCES, LAW AND JUSTICE  
TWENTY SECOND REPORT  
ON  
THE GRAM NYAYALAYAS BILL, 2007**

---

(PRESENTED TO THE RAJYA SABHA ON 6<sup>TH</sup> SEPTEMBER, 2007)  
(LAID ON THE TABLE OF THE LOK SABHA ON 6<sup>TH</sup> SEPTEMBER, 2007)  
RAJYA SABHA SECRETARIAT  
NEW DELHI  
SEPTEMBER, 2007/ BHADRAPADA (SAKA 1929)

---

**C O N T E N T S**

1. [Composition of the Committee](#)

2. [INTRODUCTION](#)

3. [Report](#)

4<sup>\*</sup>. OBSERVATIONS/RECOMMENDATIONS AT A GLANCE

5<sup>\*</sup>. RELEVANT MINUTES OF THE MEETINGS OF THE  
COMMITTEE

6<sup>\*</sup>. Annexure –

A. The Gram Nyayalayas Bill, 2007.

B. List of persons who submitted memoranda on the bill.

C. Comments of the Ministry of Law and Justice (Legislative Department) on the views/  
suggestions contained in memoranda submitted by individuals/organisations/experts on the

provisions of the Bill.

---

## COMPOSITION OF THE COMMITTEE (2006-07)

(Constituted on 5<sup>th</sup> August, 2006)

1. Dr. E.M. Sudarsana Natchiappan — *Chairman*

### RAJYA SABHA

2. Dr. Radhakant Nayak
3. Dr. Abhishek Manu Singhvi
4. Shri Balavant *alias* Bal Apte
5. Shri Virendra Bhatia
6. Shri Tariq Anwar
7. Shri Ram Jethmalani
8. Dr. P.C. Alexander
9. Shri Tarlochan Singh
10. Shri Suresh Bhardwaj

### LOK SABHA

11. Dr. Shafiqur Rahman Barq
12. Shri Chhattar Singh Darbar
13. Shri N.Y. Hanumanthappa
14. Shri Shailendra Kumar
15. Dr. C. Krishnan
16. Shri Harin Pathak
17. Shri Dahyabhai Vallabhbhai Patel
18. Shri Varkala Radhakrishnan
19. Prof. M. Ramadass
20. Shri Vishvendra Singh
21. Shri Bhupendrasinh Solanki
22. Shri Raj Babbar
23. Shri S.K. Kharventhan
24. Shri A. Krishnaswamy
25. Shri Anirudh Prasad *alias* Sadhu Yadav
26. Shri N.S.V. Chitthan
27. Vacant
28. Vacant
29. Vacant
30. Vacant
31. Vacant

**COMPOSITION OF THE COMMITTEE (2007-08)**  
(Constituted on 5<sup>th</sup> August, 2007)

1. Dr. E.M. Sudarsana Natchiappan — *Chairman*

**RAJYA SABHA**

2. Dr. Radhakant Nayak
3. Dr. Abhishek Manu Singhvi
4. Shri Balavant *alias* Bal Apte
5. Shri Suresh Bhardwaj
6. Shri Virendra Bhatia
7. Shri Tariq Anwar
8. Shri Ram Jethmalani
9. Dr. P.C. Alexander
10. Shri Tarlochan Singh

**LOK SABHA**

11. Shri Raj Babbar
12. Dr. Shafiqur Rahman Barq
13. Shri N.S.V. Chitthan
14. Shri Chhattar Singh Darbar
15. Shri N.Y. Hanumanthappa
16. Shri S.K. Kharventhan
17. Shri A. Krishnaswamy
18. Dr. C. Krishnan
19. Shri Shailendra Kumar
20. Shri Harin Pathak
21. Shri Dahyabhai Vallabhbai Patel
22. Shri Varkala Radhakrishnan
23. Prof. M. Ramadass
24. Shri Bhupendrasinh Solanki
25. Shri Vishvendra Singh
26. Shri Anirudh Prasad *alias* Sadhu Yadav
27. Vacant
28. Vacant
29. Vacant
30. Vacant
31. Vacant

**SECRETARIAT**

Shri Sham Sher Singh, Joint Secretary

Shri K.P. Singh, Joint Director  
 Smt. Sasilekha Nair, Deputy Director  
 Shri Vinoy Kumar Pathak, Assistant Director


(ii)

---

## INTRODUCTION

I, the Chairman of the Committee on Personnel, Public Grievances, Law and Justice, having been authorised by the Committee to submit this Report on its behalf, do hereby present its Twenty Second Report on the Gram Nyayalayas Bill, 2007. The Bill seeks to establish Gram Nyayalayas for the purpose of providing access to justice, both civil and criminal, to the citizens at the grass-roots level and to ensure that opportunities for securing justice are not denied to any citizen by reason of social, economic or other disabilities.

2. In pursuance of the rules relating to the Department Related Parliamentary Standing Committee, the

Hon'ble Chairman, Rajya Sabha referred  the Bill, as introduced in the Rajya Sabha on the 15<sup>th</sup> May, 2007 and pending therein, to this Committee on the 17<sup>th</sup> May, 2007 for examination and report.

3. Keeping in view the importance of the Bill, the Committee decided to issue a press communiqué to solicit views/suggestions from desirous individuals/organisations on the provisions of the Bill. Accordingly, a press communiqué was issued in response to which memoranda containing suggestions were received by the Committee.

4. The Committee considered the Bill in six sittings and heard the oral evidence of the Secretary, Legislative Department, Ministry of Law and Justice in its meetings held on 7<sup>th</sup> and 14<sup>th</sup> June, 2007.

5. While considering the Bill, the Committee took note of the following documents/information placed before it: —

- (i) Background note on the Bill; and
- (ii) The comments of the Legislative Department on the views/suggestions contained in the memoranda received from various organisations/institutions/individuals/experts on the provisions of the Bill.
- (iii) Suggestions given by some State Governments with whom the Committee held discussion on the Bill.
- (iv) Suggestions of the Secretary, Ministry of Panchayati Raj.

6. The Committee held clause- by- clause consideration of the Bill on the 16<sup>th</sup> August, 2007.

7. The Committee adopted the Report in its meeting held on the 29<sup>th</sup> August, 2007.

8. For the facility of reference and convenience, the observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

New Delhi;

29<sup>th</sup> August, 2007

E. M. SUDARSANA NATCHIAPPAN

Chairman Committee on Personnel,  
Public Grievances, Law and Justice

---

## REPORT

1. The Gram Nyayalayas Bill, 2007 (Annexure-A) seeks to establish Gram Nyayalayas for the purpose of providing access to justice, both civil and criminal, to the citizens at the grass-roots level and to ensure that opportunities for securing justice are not denied to any citizen by reason of social, economic or other disabilities and for matters connected therewith or incidental thereto.
2. The Gram Nyayalayas Bill, 2007 was introduced<sup>\*</sup> in the Rajya Sabha on 15<sup>th</sup> May, 2007. It was referred<sup>♣</sup> by the Chairman, Rajya Sabha to the Department Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice on 17<sup>th</sup> May, 2007 for examination and report.
3. The background note, furnished by the Ministry of Law and Justice, on the Bill, stated as follows:
 

“Article 39 A of the Constitution of India directs the State to secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. The government has taken various measures to strengthen judicial system, *inter alia*, by simplifying the procedural laws; incorporating various alternative dispute resolution mechanisms such as arbitration, conciliation and mediation, conducting of Lok Adalats, etc. The Law Commission of India in its 114<sup>th</sup> Report on Gram Nyayalaya suggested establishment of Gram Nyayalayas so that speedy, inexpensive and substantial justice could be provided to the common man. The Gram Nyayalayas Bill, 2007 is broadly based on the recommendations of the Law Commission. The Gram Nyayalayas Bill, 2007 after its enactment as an Act of Parliament would ensure justice to the poor at their doorstep. Setting up of Gram Nyayalayas with mobility in the rural areas would bring to the people of rural areas speedy, affordable and substantial justice.”
4. The Committee decided to invite views/suggestions from desirous individuals/organisations on the Bill. It, accordingly, authorised the Secretariat to issue a press release inviting views/suggestions. In response to the press release published in major English and Hindi dailies and vernacular newspapers all over India on 3<sup>rd</sup> June, 2007, a number of representations/memoranda were received. The list of individuals and organisations from whom memoranda were received is at Annexure B.

4.1. The Committee forwarded the memoranda so received from the individuals and organisations to the Ministry of Law and Justice (Legislative Department) for their comments thereon. The comments of the Ministry were received on 14<sup>th</sup> August, 2007(Annexure-C).

4.2. The major points raised in the memoranda are summarized as follows:

- i. Clause 3(1) of the Bill envisages Gram Nyayalayas at intermediate level. This might reduce accessibility to justice through these Nyayalayas as the litigant would have to travel from the village to the block at the expense of time and money.
- ii. Reservation should be made mandatory. The benefit of reservation may be extended to Backward Class of citizens also.
- iii. If the Magistrate transfers the case to his own court as per Clause 25 at the last stage, the trial will get delayed resulting in pendency of cases.
- iv. Since lawyers are not barred, the same procedures will creep in as in the case of formal judicial set up.
- v. One of the conciliators provided in Clause 30(3) should be a woman.
- vi. Clause 32 would bring in the same rigidity and procedural aspects which exist in the formal judicial set up.
- vii. Practical difficulties as to availability of legally qualified persons, their dependability as to being stationed in a rural location, the heavy burden to be borne by the exchequer will be faced. Expenditure will have to be incurred to hold mobile courts and court proceedings in villages and for providing accommodation to Nyayadhikaris and other staff.
- viii. Gram Nyayadhikari may be treated a part of the cadre of State Subordinate Judicial Service and it may be the first point of entry in that service. This would ensure their career progression and would attract good talent.
- ix. Provision should be made insisting that there should be at least one sitting of Gram Nyayadhikari at each head quarters of Gram Nyayalayas in every month.
- x. The recruitment of Nyayadhikaris of Gram Nyayalaya may be made through Union Public Service Commission. After recruitment, the qualified candidate may be provided extensive training at the National Judicial Academy at Bhopal.
- xi. Instead of setting up Gram Nyayalayas at the intermediate panchayat level, the need of the hour is to strengthen the existing system of subordinate judiciary, which forms the major chunk of our judicial system, by creating additional courts at the Distt./Tehsil/Taluka level depending upon the extent of pendency of cases to ensure that the litigants get quick justice at reasonable cost. This can be done over a period of, say, five years. Simultaneously, the High Court need to effectively review and monitor the progress of disposal of cases by subordinate judiciary on regular basis. This will entail much less expenditure on the creation of additional infrastructure at the Distt./Tehsil/Taluka level than on the creation of Gram Nyayalayas. In addition, the strength of Judges in the High Courts and the

Supreme Court must also be increased to ensure that the disposal of cases gets speeded up to a reasonable extent. Also, we must lay much greater emphasis on the creation of alternative redressal mechanism.

xii. In addition to the provision for appeal included in the Bill a provision for Revision may also be included. It may be noted that in spite of the fact that there is no provision of appeal from the Senior Civil Judge or Additional/Assistant Sessions Judge, High Court may exercise its jurisdiction under Article 226 and 227 of the Constitution.

4.3. The highlights of the response of the Legislative Department on the comments/ suggestions contained in the memoranda are as under:

(i) Nyaya Panchayats established by various State Governments under the provisions of respective State Panchayati Raj Legislations are already functioning. The concept of establishment of Gram Nyayalayas are different from Nyaya Panchayats.

(ii) Gram Nyayalayas, like other subordinate judiciary will be under direct control of the respective High Courts.

(iii) The approach through this legislation is that simple and non-complicated disputes which could be resolved in a short time will be entrusted to the Gram Nyayalayas. Endeavor is made to make the Gram Nyayalayas to be effective forum for resolution of disputes emanating from rural areas and to dealing with such disputes, the Gram Nyayalayas will follow the summary procedure as laid down under the procedural codes.

(iv) Establishing Gram Nyayalayas at every Gram Panchayat level would involve a huge expenditure, which is very difficult for the Central Government as well as the State Government to meet. To manage the Gram Nyayalayas financially, it was felt not feasible to consider establishing Gram Nyayalayas at every Gram Panchayat level but only at intermediate Panchayat level. However, anticipating such difficulties, the concept of mobile courts has been incorporated in clause 11 of the Bill.

(v) Wide publicity about the objects and scope of the Gram Nyayalaya Bill, 2007 has already been given. The same course would be adopted by the Central Government/State Government after its enactment.

5. The Committee heard the views of the State Governments of Uttarakhand, Madhya Pradesh, Maharashtra, Rajasthan and Gujarat on the Gram Nyayalayas Bill, 2007 during its study visits. The Committee held discussions with the representatives of an NGO-Rural Litigation and Entitlement Kendra on the Bill at Dehradun. The Committee also sought the views of all the State Governments on the provisions of the Bill. The Governments of Gujarat, Uttarakhand, Madhya Pradesh, Maharashtra and NCT of Delhi responded and the gist of their views are as follows:-

#### I. Gujarat

(i) Taking into consideration the provisions of the said Bill, it appears that the State Government will be

required to constitute as many as 225 Gram Nyayalayas since there are 225 Talukas in the State. Accordingly, 225 Nyayadhikaris will be required to be appointed and if the strength of each of these courts is temporarily placed as 21, then in all 4725 new posts will be required to be created and in view of the provisions of the said Bill, a new separate cadre will come into existence. Clause-11 of the Bill inter alia provides that the Nyayadhikari will be required to hold mobile courts and conduct proceedings in villages. To ensure this, the Nyayadhikaries will have to be provided with mobile vans, drivers etc. further, the State Government will have to see that the Nyayadhikaries and other staff are provided with accommodation and as such the State Government will have to undertake the construction of government quarters for them. Other infrastructure facilities will also be required to be provided to the said Gram Nyayalaya. The State Government is therefore, of the view that for providing such infrastructure facilities, a huge amount running into crores of rupees which may exceed Rs. 300/- crores will have to be spent by the State Government. The State Government is of the view that it would a huge burden on the State Exchequer.

(ii) They have submitted that they are enforcing the scheme of evening Courts, the system of Alternative Dispute Resolution and the concept of Lok Adalats. It has also submitted that a scheme called “Tirth Gram Yojna” has been implemented for rural Gujarat to encourage communal harmony and brotherhood at village level. As regards the financial burden on the State exchequer, it had stated that there is a foreseen additional financial burden which is amounting to approximately Rs. 300 crores and that at present, budgetary provisions for the Legal Department is Rs. 257 crores.

## II. Uttarakhand

(i) There are 95 Panchayats of medium-level in the State. Therefore, 25 Gram Nyayalayas are required to be established as per the proposed Bill. Approximately, an amount of Rs. 1 crore is likely to be spent for the construction of one building for Gram Nyayalaya and a residential house for Nyayadhikari. A recurring expenditure of about Rs. 10 lacs per annum would be incurred on one Gram Nyayalaya. Government of India have already provided recurring and non-recurring amount for Fast Track Courts.

(ii) As there are less number of criminal and civil disputes in the villages of Uttarakhand, it would be appropriate for every regional Panchayat Head Quarters, not to establish a Gram Nyayalaya compulsorily. Rather, it would be appropriate if the Himalayan States are given the option to establish a Gram Nyayalaya at every Tehsil level, if required.

(iii) The system of mobile courts seems suitable for the geographical conditions of Uttarakhand and this would create possibilities for timely justice to the villagers of inaccessible areas of the State. All appropriate facilities would be provided by the State Govt. to Gram Nyayalayas during mobile-courts.

(iv) This should also be provided in the proposed Bill as to how Gram-Nyayalayas will execute their verdict. Further this should be mentioned that whether the verdict given by Gram Nyayalayas would be made into decree or not.

(v) It has been provided in the proposed Bill that advocates can appear in Gram Nyayalayas with the permission of Nyayadhikari. This should also be mentioned clearly that such permission would be granted

in exceptional cases, only. The purpose of Gram Nyayalayas should be to ensure that common people can state directly to Courts. The words “or through their advocates or authorised agents” given in Section 33(3), be deleted.

(vi) In order to attract talented persons to the post of Nyayadhikari, it is necessary that the service conditions of the post are good. As per the present Bill, person appointed to the post of Nyayadhikari would remain on the same post till his retirement. Therefore, it is necessary to give them the opportunity of promotion on 25% posts of “Civil Judge (Junior Division)” in Judicial Services of the State, so that deserving persons may progress in future according to his merit.

(vii) A sufficient budget for Gram Nyayalayas is needed in such circumstances, so that Nyayalayas should not lack resources. Therefore, a provision for cent per cent budgeting by the Central Government should be made. Otherwise, the State Governments would not be enthusiastic about the Gram Nyayalaya scheme with their limited resources.

### III. NCT of Delhi

(i) In this context it is submitted that in the National Capital Territory of Delhi, the Panchayati Raj is not operational since 1990. Since the Panchayat Raj system is not in existence in Delhi, appointment of any Nyayadhikari is not possible. Therefore, the establishment of Gram Nyayalayas without appointment of Nyayadhikari may not be feasible. It is further submitted that most of the villages in Delhi have been urbanized and the rural villages left, are in the process of the urbanization. In fact, under the present scenario, the rural areas in Delhi can be construed as urban agglomeration.

(ii) Beside the above, it is also submitted that under the Delhi Panchayat Raj Act, 1954, Act No. 3 of 1955 passed by the erstwhile Delhi State Legislative Assembly to establish and develop Local Self Government in the rural areas of the then Delhi State and to make better provision for village administration and development, which has not been repealed, provision is already made in chapters VI, VII and VIII thereof to establish Circle Panchayats and Panchayati Adalats to deal with certain offences (including offences under the IPC and to impose penalties). Even these bodies are, at present, defunct and have not been revived.

### IV. Madhya Pradesh

(i) The Gram Nyayalaya Adhiniyam, 1996 came into force on 26<sup>th</sup> January, 2001 and extends to all of the State of Madhya Pradesh except the local limits and such scheduled areas of the jurisdiction of Municipal Corporation, Municipal Council, Nagar Panchayat or Cantonment Board. Under this Act, The Government of M.P. had constituted multi member Gram Nyayalayas.

(ii) The Central Government has agreed to bear the total non-recurring expenditure and has expressed its desire to share the recurring expenditure with the State Government for three years. Looking to the financial conditions of the State, the Central Government is requested to bear the recurring expenditure also along with the non-recurring expenditure.

### V. Maharashtra

(i) With regard to giving powers to the State Government to add to or omit any item from the schedules to the Gram Nyayalayas Bill, 2007 on par with the Central Government, it was submitted that any such addition or omission shall be subject to the concurrence of the Central Government.

(ii) So far as the suggestion regarding the power of the Gram Nyayalayas (in clause 28 of the Bill) to take cognizance of any offence punishable with a imprisonment for more than one year i.e. upto three years is concerned, it is pointed out that, it is regarding the power of the Gram Nyayalayas to take cognizance of any such offence, and not the power which authorizes the Gram Nyayalaya to punish the person for such period.

6. The Committee also heard the presentation of the Secretary, Legislative Department on 7<sup>th</sup> June, 2007 and 14<sup>th</sup> June, 2007. The Secretary, Ministry of Panchayati Raj deposed before the Committee on the Bill on 1<sup>st</sup> August, 2007. The Committee held in house discussion on the Bill on 8<sup>th</sup> August, 2007 and took up clause-by-clause consideration of the Bill on 16<sup>th</sup> August, 2007. The draft Report on the Bill was adopted on 29<sup>th</sup> August, 2007.

## CHAPTER II

### Deliberations/ Recommendations of the Committee on various provisions of the Bill

7. The Committee took into consideration the recommendations in the Report of Justice Sohani Committee constituted by the Government of Madhya Pradesh on Gram Nyayalayas and that of the Law Commission of India on 'Alternative forum for resolution of disputes at grass-roots level' contained in its 114<sup>th</sup> Report (1986), while examining this Bill.

8. While examining the Bill, the Committee took note of Article 39A of the Constitution of India providing for Equal justice and free legal aid.- The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

9. The Secretary, Legislative Department (Ministry of Law and Justice), while making a presentation on the Gram Nyayalayas Bill, 2007 informed the Committee that the Government has identified the States in which these Gram Nyayalayas would be established at the intermediate Panchayat levels. Approximately 5,064 places where the Gram Nyayalayas at intermediate Panchayat levels were proposed to be set up. So far as financial implications are concerned, there are two types of expenditures i.e., recurring expenditure and non-recurring expenditure. The recurring expenditure would be on the appointment of the Nyayadhikaris and of the pleaders, court clerks, stenographers, etc. and their salaries. The issue of recurring expenditure was also discussed in the Law Ministers' Conference at Hyderabad and the State Governments welcomed this proposal only if the entire funding comes from

the Centre. Now the Finance Ministry has also agreed that so far as the recurring expenditure is concerned for the first three years, the Central Government will bear it in the proportion of 50:50 with the State Governments. So far as the non-recurring expenditure is concerned, that will be incurred by the Central Government. Expenditure for court building and mobile van will be provided by the Central Government. For one Gram Nyayalaya, roughly, the non-recurring expenditure is about eight to nine lakhs of rupees. It has been estimated that the recurring expenditure based on the information received from the State Governments.

10. The Committee notes that the aim of this legislation is to reduce the number of pending cases. It also notes that the system of Lok Adalats, fast track courts and other methods were adopted and even the Criminal Procedure Code was amended to reduce backlog of cases. The Committee also took note of plea-bargaining as adopted in United States of America, in order to speed up delivery of justice and consequently. The Committee was told that 90 per cent of the cases are disposed of through plea-bargaining. **The Committee strongly feels for bringing in plea-bargaining in this legislation.**

11.1. The Committee feels that in the present scenario, rural poor are reluctant to approach the Courts because the process of litigation is expensive, formal, and highly technical. The Committee, during its discussions, could gather that setting up of Gram Nyayalayas at the level of Panchayat at intermediate level throughout the country will require huge funds both from the Central and the State exchequers in respect of buildings- for residential purposes and for the Headquarters of Gram Nyayalayas, salaries and allowances to the Nyayadhikaris and staff and other infrastructural expenses.

11.2. The Committee is also aware of the huge backlog of cases and inordinate delays in disposal of cases in courts at all levels. The Committee is of the opinion that people belonging to the underprivileged classes are the majority victims of this state of affairs of the judicial system and that it is high time that due consideration/attention is given to the reforms in judicial administration pertaining to such classes.

11.3. The Committee applauds the intention of the Government in bringing forward this Bill i.e., ensuring access to justice to citizens at grass root level. It appreciates the earnestness of the Government to clear the backlog of cases. But, the Committee, during its deliberations, expressed doubts as to whether setting up of Gram Nyayalayas as proposed in this Bill alone will reduce pendency of cases. **It is of the considered opinion that there are certain incongruencies in the Bill which would defeat the noble objective of the Bill, which is to render inexpensive, easily available, non-formal and substantial justice.** In the view of the Committee, the following are the incongruencies:

### **Jurisdiction of Gram Nyayalayas**

12.0. Clause 3(3) of the Bill provides that a Gram Nyayalaya shall be the lowest court of subordinate judiciary in the State. However, the Committee takes cognizance of the fact that as per Section 29 of the Code of Criminal Procedure, 1973 the Court of a Magistrate of the Second Class is the lowest court.

12.1. Further, as per clause 14(2)(i) of the Bill, Gram Nyayalayas will exercise jurisdiction over all offences under the Central Acts where the maximum punishment provided for is imprisonment not exceeding one year, whether with or without fine. At the same time, the Committee notes that a Second

Class Magistrate has jurisdiction over cases wherein imprisonment is less than one year or fine is less than 5000 rupees.

12.2. This would mean that as per the Bill, Gram Nyayalayas will have jurisdiction over cases wherein maximum punishment is imprisonment for less than one year. As per Section 29(3) of CrPC, a Court of Magistrate of the second class may pass a sentence of imprisonment for a term not exceeding one year.

**Therefore, the Committee feels that there is overlapping of jurisdiction of Second Class Judicial Magistrate Courts and the proposed Gram Nyayalayas.**

12.3. Clause 14(1) of the Bill provides that Gram Nyayalayas may take cognizance of all offences specified in Part I of the first Schedule. Further, clause 28 of the Bill provides that the Gram Nyayalayas shall not take cognizance of any offence which is punishable with imprisonment for more than one year. However, the Committee notes that many offences in Part I entail maximum punishment of imprisonment of more than one year. Therefore, it is of the opinion that these clauses are not in conformity with each other.

12.4. The Committee notes that a first class magistrate court can grant sentence of maximum imprisonment of three years according to Section 29(2) of CrPC. Hence it feels that if the Gram Nyayalayas are First Class Magistrate Courts, this anomaly will in effect be rectified.

12.5. Moreover, clause 6(1) (a) of the Bill provides that a Nyayadhikari should be eligible to be appointed as a Judicial Magistrate of the first class.

12.6. The Committee finds no coherent reason as to why a person who is eligible to be appointed as a Magistrate of the first class would opt to be appointed as Nyayadhikari in the Gram Nyayalayas which, as proposed in the Bill, is subordinate to the Court of Magistrate of the first class.

12.7. Clause 25 of the Bill provides that if at any stage of the proceedings it appears to the Gram Nyayalaya that the case is one which ought to be tried by a Judicial Magistrate of the first class or any other superior court, or if at the close of a trial, the Gram Nyayalayas is of the opinion that the accused is guilty and that he ought to receive a punishment more severe than that which the Gram Nyayalayas is empowered to impose, it shall submit the case to the appropriate Magistrate having jurisdiction who shall transfer the case to his own court and proceed according to law.

12.8. Since the main objective of the Bill is speedy and inexpensive justice, the Committee feels that this clause, if accepted, would result in a situation wherein cases will be transferred from Gram Nyayalayas to the courts for adjudication, and that too, even at the fag end of the trial. The Committee is of the opinion that the true yardstick to measure the effectiveness of a change proposed to be introduced is the benefits that will be accrued to an average citizen who is the consumer of such change. It is of the view that such uncertainty would create confusion in the minds of litigants regarding the jurisdiction of Gram Nyayalayas in criminal/civil cases. They will ultimately be pushed from pillar to post to get relief and this will defeat the very noble objective of access to justice at the grass root level.

12.9. Moreover, the Committee fears that such transfer of cases will eventually result in greater pendency of cases. Thus, the ultimate cause of alleviating the backlog of cases in Courts will not be fulfilled. The

Committee is apprehensive that inspite of incurring huge expenditure for the setting up and functioning of Gram Nyayalayas, the objective will not be achieved.

12.10. Clause 32(2) provides that the Gram Nyayalaya shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 or the rules of evidence as laid down in the Indian Evidence Act, 1872, but shall be guided by the principles of natural justice and subject to the other provisions of this Act and any rule made by the High Court, the Gram Nyayalaya shall have the power to regulate its own procedure including the fixing of places and times of its proceedings.

12.11. The Committee is of the view that the Gram Nyayalayas should not be exempted from the Code of Civil Procedure and the Indian Evidence Act. Further, the issue of exemption from CPC and Evidence Act will not arise if the recommendation of this Committee that Judicial First Class Magistrate/ Munsiff Courts should be Gram Nyayalayas is accepted.

### **Exclusion of jurisdiction**

12.12. The Committee notes that clause 18 of the Bill excludes disputes against the Government and revenue claims from the jurisdiction of Gram Nyayalayas.

12.13. The Committee is of the view that disputes against Government and revenue disputes arise frequently at the grass root level. They might even constitute the bulk of disputes. The Committee feels that such exclusion would result in many disputes not coming under the jurisdiction of Gram Nyayalayas. In such an event, the Committee is of the opinion that this would defeat the purpose of the Bill, which is access to justice at the grass root level. Therefore, it recommends that there is no necessity for such exclusion.

### **Extension of jurisdiction**

12.14. The Government of NCT of Delhi, while tendering its views on the Gram Nyayalayas Bill, 2007 stated *inter alia*, as follows:

.....Since the Panchayat Raj system is not in existence in Delhi, appointment of any Nyayadhikari is not possible. Therefore, the establishment of Gram Nyayalayas without appointment of Nyayadhikari may not be feasible. It is further submitted that most of the villages in Delhi have been urbanized and the rural villages left, are in the process of the urbanization. In fact, under the present scenario, the rural areas in Delhi can be construed as urban agglomeration.....

12.15. The Committee, during its deliberations on the Bill, felt that the benefits of Gram Nyayalayas should be made available to the people living in towns and cities more so in the urbanised villages also, so that participatory justice is made available to the public, irrespective of their place of residence. Since huge expenditure is anticipated to be incurred for Gram Nyayalayas, the Committee is of the view that its fruits should be enjoyed by the maximum citizens. Therefore, it recommends that such Nyayalayas which would be mobile courts should be envisaged for urban areas also.

### **Career prospects of Nyayadhikari**

12.16. Furthermore, the Committee notes that as per the provisions of the Bill, there are no further career prospects for Nyayadhikaris. The Committee feels that this is a disincentive and that it would be a hindrance

to attracting best talent to the arena of administration of justice. Moreover, the Committee notes that the maximum age limit for Nyayadhikaris is prescribed as 45 years. This would imply that a person below this age, who will be at the hey days of his career, will have to opt to be appointed as Nyayadhikari, when better avenues will be available to him at this age.

12.17. The Committee is constrained to note that as per the provisions of this Bill, a person appointed in the post of Nyayadhikari would remain in the same post till retirement. It is of the view that this provision is a major dissuading factor in attracting best talent to the subordinate judiciary.

12.18. Therefore, the Committee is of the opinion that the Nyayadhikari should be entitled to the salaries and all the service conditions as a Judicial first Class Magistrate. This will ensure their career progression and thereby, better talent would be attracted into this cadre.

### **Execution of decrees/ orders**

12.19. The Committee, while deliberating upon the Bill, observed that the strength of police personnel in most of the States in the country is far from satisfactory. Though the Bill provides that every police officer functioning within the local limits of jurisdiction of a Gram Nyayalaya shall be bound to assist the Gram Nyayalaya in the exercise of its lawful authority in clause 43(1), the Committee has a reasonable apprehension that due to severe strain on human resources of the State police, this provision may not be rendered fruitful. The Committee feels that this would hamper the functioning of Gram Nyayalayas in general and execution of its orders in particular. More so because the Gram Nyayalayas are not armed with contempt jurisdiction. This can be resolved only if the Gram Nyayalayas are first class magistrate courts.

### **Mobile Courts**

12.20. The Secretary, Legislative Department while deposing on the Bill, stated that the concept of mobile court is being experienced in Brazil, Venezuela, Mexico and Philippines to bring justice closer to the people, especially marginalized section of our society, the poor and the under-privileged. In Philippines, it is known as 'justice on wheel'. They hold the court in a big van which accommodates the judicial officer along with the staff. But, we have not followed that concept here and have put it at headquarters at Panchayat Samiti level though a beginning has been made in Haryana very recently.

12.21. The Committee is of the opinion that in order to ensure participatory system of justice, expeditious disposal of disputes and access to justice at grass root level, mobile courts is a good mechanism. It is of the view that mobile courts would be the best method to ensure delivery of justice at the doorstep. Therefore, the Committee recommends that the Gram Nyayalayas shall be Mobile Courts.

12.22. The Committee could gather that the Government had extended the term of Fast Track Courts at the District level upto 31<sup>st</sup> March, 2010 and that a sum of Rs. 509 crore had been provided for this programme. It notes that its success rate has been commendable. Therefore, it recommends that the Government should take a cue from this and establish Gram Nyayalayas in the same line as Fast Track Courts.

### **Reservation**

12.23. Clause 6(2) of the Bill provides that while appointing a Nyayadhikari, representation shall be given, as far as practicable, to the members of the Scheduled Castes and Scheduled Tribes, women and any other classes or communities as may be specified by the State Government from time to time.

12.24. The Committee apprehends that the phrase 'as far as practicable' will dilute the enforceability of reservation and therefore, recommends that reservation should be made mandatory as per policy of the Government.

### **Financial Statement**

12.25. The Committee, during its deliberations raised an apprehension regarding the financial implications as it would not be possible to work out the exact expenditure that would be required and how the Budgetary support would reach the State Governments. The Committee was worried as a District Munsif or a District Judge is not having sufficient funds for his day-to-day affairs.

12.26. The Committee also voiced its concern over the mode of sharing of expenditure to be incurred for the setting up and functioning of Gram Nyayalayas.

12.27. The Committee gathers from various State Governments that they are already reeling under severe resource crunch and that they would not be able to bear the expenditure of Gram Nyayalayas despite the fact that Central Government would bear the entire non recurring cost for three years. Most of the State Governments have submitted that they require cent percent funding from the Central Government to meet both recurring and non-recurring expenditure.

12.28. In this regard, the Committee however feels that at least for five year period, these courts should be fully supported by the Government of India rather than allowing the State Governments to have a stake on it. Many States are saying that they cannot run even the present court system due to financial disabilities. Therefore, the Committee recommends that the Government of India should come forward and bear, for five years, both the recurring and no-recurring expenses.

12.29. Meanwhile, an objective study should be conducted to gauge the success rate of Gram Nyayalayas and if they are found to have achieved the objective of speedy and inexpensive justice, the Gram Nyayalayas should continue. The Committee opines that the expenses incurred thereafter, should be met by the State Government and Central Government on sharing basis. It feels that when the litigants are satisfied with the functioning of Gram Nyayalayas and pendency of cases is reduced, it would be rightful to expect that the State Governments which are benefited by the same, should share the financial burden.

### **Plan expenditure**

12.30. The Committee is of the view that a society which is peaceful and rife free is sine qua non for better human resources and enhanced productivity. If individuals/groups could solve disputes quickly and the acceptance of the dispute resolution is also ensured, then productivity of the individual/groups will be more.

12.31. The Committee is aware of the reality that in villages, people sell agricultural property and dwelling houses to conduct cases through the court system. If Gram Nyayalayas could deliver justice at their doorstep, they will be free of such shackles and their capacity to produce goods and assets will be enhanced.

Moreover, it will make them dynamic and vibrant citizens. Thus the human productivity index of our nation will also increase.

12.32. If we apply this basic economic principle, the Committee feels that the expenditure in the Department of Justice on Gram Nyayalayas should be made as plan expenditure just as the Government is spending for roads, education, health, infrastructure etc. which are necessary for increasing the productivity of the nation. This thought may not have been considered by the international funding agencies or the Government of India.

12.33. Taking into account all the socio- political issues, the Committee strongly feels that the expenditure incurred on Gram Nyayalayas should also be treated as an investment on human resources and hence be made as plan expenditure and that the Ministry of Finance should allot specific amount under this head.

12.34. The Committee is of the view that whenever a legislation is introduced in Parliament, the financial statement accompanying the Bill should be religiously looked into and scientific empirical calculation should be made anticipating the expenses which are likely to be incurred. There should also be specific budget allocation for enforcement of each enactment. Further, certain percentage of budget allocation made to the respective Departments should also be diverted for utilization for the implementation of the enactment through that particular Department. Notionally, it can be said that at least 5 to 10 % of budgetary allocation of the nodal Department should automatically be allotted to the Department of Justice so that they can have well equipped judicial system, right from the Gram Nyayalayas to the highest forum. The Committee has a reasonable apprehension that unless a specific dedicated allotment is made from the budget for Gram Nyayalayas, it will become yet another programme which is colorful in paper and not in action. Such state of affairs will ultimately make the people lose faith in the democratic process.

### **Conclusions and recommendations of the Committee**

12.35. Some Members of the Committee were of the opinion that this Bill should not be proceeded further. They felt that instead of having a parallel system of judiciary dealing with these categories of cases, the funds available should be made available for strengthening the existing infrastructure, to have more subordinate courts, have more number of magistrates, to create better infrastructure and other facilities and that the subordinate judiciary should be strengthened.

12.36. The Committee noted that bringing in the proposed legislation for the creation of Gram Nyayalayas would only add another tier in the judicial hierarchy, besides creating confusion in the minds of the common man, who might be forced to run from pillar to post to seek justice, with no clear guidelines laid down to guide him as to whom he should approach for a particular offence/injustice committed against him. This aspect should thoroughly be examined by the Government before proceeding further with the Bill.

12.37. The Committee takes note of the fact that before the amendment of the Code of Criminal Procedure in 1973, the last tier in the hierarchy of criminal courts was the Magistrates of the Third Class. The Third Class Magistrate Courts could pass a sentence of imprisonment for a term not exceeding one month or of fine not

exceeding fifty rupees. Since it was felt that this resulted in pendency of cases, the Magistrates of the Third Class were abolished. Here it is pertinent to note that the Gram Nyayalayas are envisaged in the Bill as the lowest court of subordinate judiciary, thereby adding another tier. The Committee is of the strong view that adding another tier in the subordinate judiciary would eventually lead to the pre-amendment situation. Also, it will not have significant positive impact on the backlog of cases. This aspect also needs to be thoroughly examined.

12.38. The Committee also feels that the Gram Nyayalayas would face difficulties in executing their orders/ decrees because the local police personnel might not co-operate fully since Gram Nyayalayas are not granted same powers as regular Courts and also because of shortage of staff in the State police. Moreover, only if the orders/decrees of Gram Nyayalayas are executed quickly, speedy and inexpensive justice can be delivered. In order to ensure quick execution of powers the Committee is of the strong view that Gram Nyayalayas should be armed with all the powers enjoyed by a Judicial First Class Magistrate/Munsiff Court under CPC and CrPC.

12.39. Further more, the litigants who approach Gram Nyayalayas should not have the feeling that the forum which they are approaching is in any way inferior to the regular Courts. A sense of confidence should be instilled in their minds that they will get the same justice in Gram Nyayalayas as they would get in regular courts, but with less wastage of time, money and efforts. The Committee was of the unanimous view that if the recommendations made in the foregoing paragraphs are implemented, Gram Nyayalayas just as Judicial first class Magistrate/Munsiff Courts are functioning at present, with the only distinction that they will be “ Mobile People’s Courts” in the true sense.

12.40. The Committee is of the opinion that rule of law cannot be achieved unless courts are created commensurate with the workload of courts. It feels that creation of more Courts, rather than creation of an additional tier would ease out the burden presently experienced by Courts. Therefore, it recommends that additional Courts of the Magistrate of the first class/ Munsiff should be created as Gram Nyayalayas which would function as mobile Courts.

12.41. The Committee wishes to place on record reservations regarding the setting up of Gram Nyayalayas as per the provisions of this Bill. Having said so, in the event of the Government being very keen to go ahead with this Bill in its present form, it should take into consideration the observations/recommendations of the Committee.

## **CLAUSE BY CLAUSE CONSIDERATION OF THE BILL**

### **Clause 2**

13.0. The Committee considered the definitions provided in this clause.

13.1. During the deliberations of the Committee, it was felt that since huge expenditure is envisaged by the Government to set up and for the functioning of Gram Nyayalayas and since underprivileged classes exist in urban areas also, the benefits of this noble venture should not be restricted to the rural populace only.

13.2. This view was expressed by the Chairman of the Committee as follows:

.....You are very much clear that it is only for rural areas, but there is a suggestion that you can take up the urban areas also. There are many slums and other places, remote areas, inside the urban area itself....

13.3. Therefore, the Committee recommends that urban areas where people handicapped by social, economic or other disabilities also reside should be included in the definition clause itself of the Gram Nyayalayas Bill, 2007.

13.4. Subject to the above observations/recommendations, the clause was adopted.

### Clause 3

#### Clause 3(1)

14.0. Clause 3(1) of the Bill provides for establishment of one or more Gram Nyayalayas for every Panchayat at intermediate level or group of contiguous Panchayats at intermediate level in a district or where there is no Panchayat at intermediate level in any State, for a group of contiguous Gram Panchayats.

14.1. The Committee felt that since the intermediate level Panchayats differ from State to State, practical difficulties would arise at the implementation stage of Gram Nyayalayas. Therefore, the Committee recommends that the role of Gram Nyayalayas should be complementary to the regular First Class Magistrate Courts. This would also allay any confusion which might arise regarding the territorial jurisdiction of Gram Nyayalayas. This needs to be clarified in this clause of the Bill.

14.2. Further more, since Gram Nyayalayas are envisaged as Mobile Courts, the Committee was of the considered opinion that they could have a complementary role alongwith the regular subordinate Courts in reducing pendency of cases and enabling better access to justice to the common man.

#### Clause 3(3)

15.0. Clause 3(3) of the Bill provides that a Gram Nyayalaya shall be the lowest court of subordinate judiciary in the State.

15.1. Taking into account various practical realities, the Committee opines that creating one more tier in the subordinate judiciary is not called for at this juncture. This opinion was voiced by the Committee as under:

.....If you want to make additions and if you want that there should not be any pending cases, and speedy justice should be given, there was a suggestion that you have to contemplate that it should be equal to the present existing system. But it should be an additional court, just like a Fast Track Court. Now, you are managing at the district level. In addition, it should also be a Magistrate Court. But it can be called Gram Nyayalayas. It can have the mobility, it can have the powers, but it should be a defined area as a complementary one for the existing one. Take the example of revenue taluk. There is one court which is in existence now. Now, after this Act has come into force, if the Government wants to have another court, they can have another court within that taluk itself, that is, additional court is available. That means, more cases can be disposed of. The distance covered by the client to come over to that place, that will also be reduced.....

15.2. Moreover, since the main objective of creating an additional tier is clearing the backlog of cases and ensuring that justice is accessible to all irrespective of disabilities, the Committee recommends that envisaging Judicial First Class Magistrate/Munsiff Courts as Gram Nyayalayas which would be Mobile Courts, would achieve this objective.

15.3. Subject to the above observations/recommendations, the clause was adopted.

#### Clause 4

16.0. Clause 4 of the Bill was adopted without suggesting any change.

#### Clause 5

##### Clause 5(2)

17.0. Clause 5(2) of the Bill provides that the Nyayadhikari shall be appointed by the Governor of the State in consultation with the High Court in accordance with the rules made in this behalf.

17.1. The Committee, while deliberating upon the appointment of Nyayadhikari, observed as follows:

.....A sitting Magistrate or Munsiff may be appointed as the Nyayadhikari of the Gram Nyayalaya, instead of having a separate recruitment system without setting the service conditions, promotions, future aspects and all other things. You put a sitting District Munsiff or First Class district Magistrate as the Nyayadhikari.....

17.2. The Committee recommends that the Gram Nyayalayas should be Judicial First Class Magistrate/Munsiff Courts and that there should be no separate recruitment rules for Nyayadhikari. It recommends that the recruitment process of Nyayadhikari should be the same as that of the Judicial First Class Magistrate/Munsiff. Since the eligibility to be appointed as Nyayadhikari is same as that of Judicial Magistrate of the first class, they should be appointed in the regular judicial stream.

17.3. Subject to the above observations/recommendations, the clause was adopted.

#### Clause 6

##### Clause 6(1)

18.0. Clause 6(1) of the Bill lays down the qualifications for appointment as Nyayadhikari.

18.1. In this regard, the Committee recommends that in order to attract talented persons to the post of Nyayadhikari, it is essential that the service conditions of the post are good. As per this Bill, a person appointed in the post of Nyayadhikari would remain in the same post till retirement. The Committee feels that this will be a dissuading factor. Therefore, the Committee recommends that the Nyayadhikaris should be made part of the State Judicial Services. It was of the view that this would ensure that deserving persons will progress in future based upon his merit.

##### Clause 6(2)

18.2. Clause 6(2) of the Bill provides for reservation in the appointment of Nyayadhikari.

18.3. This clause was widely discussed. The Committee was of the strong view that reservation should be made mandatory. Therefore the term 'as far as practicable' may be deleted.

**18.4. Subject to the above observations/recommendations, the clause was adopted.**

Clause 7

19.0. Clause 7 of the Bill provides for the constitution of the cadre of Nyayadhikari of Gram Nyayalayas.

19.1. Since the Committee's recommendation is that the Gram Nyayalayas should be Judicial First Class Magistrate Courts, it was of the considered view that this clause is not necessary.

**19.2. The clause may accordingly be deleted.**

Clause 8

20.0. Clause 8 of the Bill lays down the grounds for removal of Gram Nyayalayas.

20.1. Since the Committee's recommendation is that the Gram Nyayalayas should be Judicial First Class Magistrate Courts, the conditions of removal of Nyayadhikari from his office should be the same as that of the Judicial First Class Magistrate. Therefore, the Committee was of the opinion that there is no need to spell out the grounds for removal in the Gram Nyayalayas Bill, 2007.

**20.2. The clause may accordingly be deleted.**

Clause 9

21.0. Clause 9 of the Bill lays down the terms and conditions of service of Nyayadhikaris.

21.1. Since the recommendation of this Committee is that the Gram Nyayalayas should be Judicial First Class Magistrate Courts, the Committee is of the view that this clause is not needed.

**21.2. Subject to the above observations/recommendations, the clause was adopted.**

Clause 10

22.0. Clause 10 of the Bill was adopted without suggesting any change.

Clause 11

23.0. Clause 11 of the Bill was adopted without suggesting any change.

Clause 12

24.0. Clause 12 of the Bill was adopted without suggesting any change.

Clause 13

25.0. Clause 13 of the Bill defines the limits of the territorial jurisdiction of Gram Nyayalayas.

25.1. The Committee was of the opinion that this would unnecessarily bifurcate the present jurisdiction of Judicial First Class Magistrate/Munsiff Courts. Therefore, it was felt that the Gram Nyayalayas should be Judicial First Class

Magistrate/Munsiff Courts.**25.2. Subject to the above observations/recommendations, the clause was adopted.**Clause 14

26.0. Clause 14 of the Bill prescribes the criminal jurisdiction of Gram Nyayalayas.

26.1. While deliberating upon this clause, the Committee noted that Section 29 of the Code of Criminal Procedure, 1973 lays down the hierarchy in the subordinate judiciary. It felt that there is no need at present which warrants change in this hierarchy. If Gram Nyayalayas are made the lowest Court in the subordinate judiciary, it will necessitate redefinition of penal/pecuniary jurisdiction of the Judicial first Class Magistrate/Munsiff Courts. The Committee felt that this would give rise to practical difficulties. Moreover, this would arouse confusion/ ambiguity in the minds of litigants as regards the powers/jurisdiction of Gram Nyayalayas.

26.2. This view of the Committee was summarized by the Chairman as under:

.....The Committee had already suggested that there should not be any ambiguity for a person who is a complainant, who comes forward with a complaint before a Nyayadhikari; he cannot be expected to know that this Magistrate is going to give only one year's punishment and during the course of the evidence if he finds that it is punishable for one year more, then he will transfer the case to the District Judge or District Sessions Judge or the appropriate authority. If that is so, the basic purpose of creating this system itself fails. Therefore, if you give the First-Class Magistrate power for this Nyayadhikari, then automatically, he gets the power to punish for a limit of three years and he has got the power to punish for Rs. 10,000 fine also according to the definition given in Section 29 of the Criminal Procedure Code. Therefore, here we want to suggest those thing. Instead of creating doubts in the mind of the complainant to search for the forum, we should be very clear in telling him that this is the first level, the magisterial level or the civil court level, and you can have that limit of powers; you can seek that remedy with that.....

26.3. Therefore, the Committee recommends that the Gram Nyayalayas should be the Judicial First Class Magistrate/Munsiff Courts, which would ensure that the offences to be tried by the Gram Nyayalayas will automatically be the same as that of Judicial First Class Magistrate/Munsiff Courts.

Clause 14 (2)

27.0. The Committee, while discussing this clause, noted that plea bargaining is provided in Section 265 (A-L) of the Code of Criminal Procedure, 1973. It is of the opinion that plea bargaining should be made applicable for litigants approaching the Gram Nyayalayas also. Therefore, it recommends that plea bargaining should also be included in 14 (2) as 14(2) (iv).

**27.1. Subject to the above observations/recommendations, the clause was adopted.**Clause 15

28.0. Clause 15 of the Bill was adopted without suggesting any change.

Clause 16

29.0. Clause 16 of the Bill lays down the powers of the Central Government to amend Schedules of the Bill.

29.1. The Committee opined that when Gram Nyayalayas are granted the same powers and status as Judicial First Class Magistrate Courts, there is no need for clause 16.

**29.2. The clause may accordingly be deleted.**

**Clause 17**

30.0. Clause 17 of the Bill provides that Gram Nyayalayas shall have exclusive jurisdiction in respect of certain disputes.

30.1. The Committee opined that when Gram Nyayalayas are Judicial First Class Magistrate Courts, there is no need for clause 17.

**30.2. The clause may accordingly be deleted.**

Clause 18

31.0. Clause 18 of the Bill lays down certain disputes which are not to be tried by Gram Nyayalayas.

31.1. The Committee opined that when Gram Nyayalayas are Judicial First Class Magistrate Courts, there is no need for clause 18.

**31.2. The clause may accordingly be deleted.**

Clause 19

32.0. Clause 19 of the Bill prescribes the circumstances under which a case can be closed by the Nyayadhikari.

32.1. The Committee opined that when Gram Nyayalayas are Judicial First Class Magistrate Courts, there is no need for clause 19.

**32.2. The clause may accordingly be deleted.**

Clause 20

33.0. Clause 20 of the Bill was adopted without suggesting any change.

Clause 21

34.0. Clause 21 of the Bill was adopted without suggesting any change.

Clause 22

35.0. Clause 22 of the Bill was adopted without suggesting any change.

Clause 23

Clause 23 (1) and (2)

36.0. The Committee was of the opinion that since summary procedure is provided in the Code of Criminal Procedure, 1973 there is no need for specific reference to the same in the Bill.

**36.1. The clause may accordingly be deleted.**Clause 24

37.0. Clause 24 of the Bill deals with pronouncement of Judgment by Gram Nyayalayas.

37.1. The Committee recommends that since this is a procedural matter, the High Court can direct accordingly.

**37.2. Subject to the above observations/recommendations, the clause was adopted.**Clause 25

38.0. Clause 25 of the Bill prescribes the power of Gram Nyayalayas to transfer cases.

38.1. The Committee is constrained to note that if the cases are referred in the manner provided in this clause, it would lead to adding to the backlog of cases which exists already. Furthermore, the litigants will be forced to run from one forum to the other in search of justice. The Committee feels that such a situation is against the very concept of speedy justice. Taking this into account, the Committee feels that there is need for clarity as regards jurisdiction of Gram Nyayalayas. It also observed that if Gram Nyayalayas are Judicial first Class Magistrate, such anomalies can be rectified.

**38.2. Subject to the above observations/recommendations, the clause was adopted.**Clause 26

39.0. Clause 26 of the Bill was adopted without suggesting any change.

Clause 27

40.0. Clause 27 of the Bill lays down the power of Gram Nyayalayas to compound cases.

40.1. The Committee takes note of the fact that clause 14(2) (iii) of this Bill provides for trial of compoundable offences by Gram Nyayalayas as well and therefore, opines that it is repetitive.

**40.2. The clause may accordingly be deleted.**Clause 28

41.0. Clause 28 of the Bill specifies the classes of offences, the cognizance of which cannot be taken by Gram Nyayalayas.

41.1. The Committee, while deliberating upon this Clause, observed that in the event of Gram Nyayalayas being Judicial First Class Magistrate Courts, as per its recommendation, its jurisdiction will also be the same. Therefore, the need for this clause does not arise.

41.2. The Committee is constrained to note that this clause is in contradiction to clause 14(1)(a) of the Bill. The reason for this contradiction is that certain offences classified in Part I of the Schedule entail maximum punishment of imprisonment for three years and as per clause 28, Gram Nyayalayas shall not take up offences which is punishable with imprisonment for more than one year.

41.4. The Committee recommends that this clause may be deleted.

Clause 29

42.0. Clause 29 of the Bill was adopted without suggesting any change.

Clause 30

43.0. Clause 30 of the Bill was adopted without suggesting any change.

Clause 31

44.0. Clause 31 of the Bill was adopted without suggesting any change.

Clause 32

Clause 32(2)

45.0. The Committee notes that on the one hand, clause 32(1) provides that Gram Nyayalayas shall be deemed to be a civil court and on the other, clause 32(2) provides that Gram Nyayalayas shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908. It is of the opinion that contradictory procedures are given in the same clause.

45.1. Moreover, the Committee is of the view that since Gram Nyayalayas are envisaged as the lowest court of subordinate judiciary, the substantive and procedural laws should be made applicable to them in the same manner as to regular courts. It is of the opinion that granting exemption from such laws might result in miscarriage of justice, which is antithesis to rule of law.

45.2. Therefore, it recommends that this contradiction should be thoroughly analysed by the Government and that this clause may be suitably amended.

**45.3. Subject to the above observations/recommendations, the clause was adopted.**

Clause 33

Clause 33 (1)-(9) and (11)

46.0. The Committee while deliberating upon this clause, takes note of the fact that the provisions (1)-(11) of the Bill are already provided in the Code of Civil Procedure, 1908. Since clause 32(1) of the Bill provides that the Gram Nyayalayas shall be deemed to be a civil court, the Committee feels that this clause is not needed. In view of the above, the Committee recommends that this fact should be looked into by the Government.

Clause 33 (10)

46.1. An apprehension was raised in the memoranda received by the Committee that though the Consumer Protection Act, 1986 stipulates the disposal of cases within a period of ninety days, rarely cases are disposed within this time limit.

46.2. Taking this into account, the Committee recommends that the time limit for disposal of cases may be extended to six month.

Clause 33 (12)

46.3. This clause provides that a copy of the order shall be delivered to both the parties within three days on payment of such fees as may be prescribed by the State Government.

46.4. The Committee notes that clause 24(2) of the Bill provides that the Gram Nyayalayas shall deliver a copy of its judgment immediately to both the parties free of cost in criminal cases. Keeping in view the fact that the Bill is proposed for the benefit of citizens suffering from social, economic or other disabilities, the Committee is of the opinion that exemption from payment of fees to procure a copy of the order should be given in civil cases also.

**46.5. Subject to the above observations/recommendations, the clause was adopted.**

Clause 34

47.0. Clause 34 of the Bill was adopted without suggesting any change.

Clause 35

48.0. Clause 35 of the Bill was adopted without suggesting any change.

Clause 36

49.0. Clause 36 of the Bill was adopted without suggesting any change.

Clause 37

50.0. Clause 37 of the Bill was adopted without suggesting any change.

Clause 38

51.0. Clause 38 of the Bill was adopted without suggesting any change.

Clause 39

52.0. Clause 39 of the Bill was adopted without suggesting any change.

Clause 40

Clause 40(1)

53.0. Clause 40(1) of the Bill provides that an appeal against any order or sentence passed by a Gram Nyayalaya in a criminal matter shall lie to the Court of Sessions exercising jurisdiction over the area within which the Gram Nyayalaya is situated, within thirty days or the passing of such order or sentence.

53.1. The Committee, while discussing this clause, found no valid reason as to why the period of limitation provided in the CrPC in this regard should not be made applicable to Gram Nyayalayas also. Moreover, it goes against the statutory right granted to litigants in this regard.

53.2. Therefore, the Committee recommends that the time limit for filing an appeal against any order or sentence passed by a Gram Nyayalayas in a criminal matter should be the same as that in CrPC.

**53.3. Subject to the above observations/recommendations, the clause was adopted.**

Clause 41

Clause 41(1)

54.0. Clause 41(1) provides that an appeal against any final order or judgment passed by a Gram Nyayalaya in a civil matter shall lie to the District Court exercising jurisdiction over the area within which the Gram Nyayalaya is situated within thirty days of the passing of such order or judgment.

54.1. The Committee recommends that period of limitation for appeal in civil cases should be the same as that provided in the Code of Civil Procedure, 1908.

54.2. Subject to the above observations/recommendations, the clause was adopted.

Clause 42

55.0. Clause 42 of the Bill was adopted without suggesting any change.

Clause 43

56.0. Clause 43 of the Bill deals with the assistance to be given to Gram Nyayalayas by the police.

56.1. The Committee, while deliberating upon this clause, took note of the apprehensions raised by majority of Members of the Committee that in the present scenario, the strength of the State police personnel is not satisfactory and that their co-operation in issuing summons, warrants etc. as part of the adjudicatory process by courts is far from satisfactory. Taking serious note of such constraints, the Committee has reasonable apprehensions as to how far a police officer functioning within the local limits of jurisdiction of a Gram Nyayalayas will assist be in a position to assist it. Such apprehensions are reinforced by the fact that the Gram Nyayalayas do not have powers to punish for contempt.

56.2. In view of the above, the Committee recommends that if Gram Nyayalayas are Judicial First Class Magistrate/ Munsiff Courts, it will give them more teeth.

**56.3. Subject to the above observations/recommendations, the clause was adopted.**

Clause 44

57.0. Clause 44 of the Bill was adopted without suggesting any change.

Clause 45

58.0. Clause 45 of the Bill was adopted without suggesting any change.

Clause 46

59.0. Clause 46 of the Bill was adopted without suggesting any change.

Clause 47

60.0. Clause 47 of the Bill was adopted without suggesting any change.

Clause 48

61.0. Clause 48 of the Bill was adopted without suggesting any change.

Clause 1Clause 1(2)

62.0. While deliberating upon this clause, the Committee was of the opinion that instead of exempting tribal areas, the entire North Eastern States, Himachal Pradesh and Uttarakhand should be excluded.

**62.1. Subject to the above observations/recommendations, the clause was adopted.**

**63.0. The enacting formula of the Bill was adopted without suggesting any change.**

Long Title

64.0. During the discussions of the Committee, it was felt that since huge expenditure is envisaged by the Government to set up and for the functioning of Gram Nyayalayas, the benefits of this venture should not be restricted to the rural population only. Therefore, it recommends that urban areas/slums in urban areas where people handicapped by social, economic or other disabilities also reside should be included under the purview of the Gram Nyayalayas Bill, 2007.

64.1. Keeping in view this recommendation, the long title of the Bill should be suitably modified.

Short Title

65.1. During the deliberations of the Committee, it could gather that a Bill on the Nyaya Panchayats is also under active consideration of the Government. It felt that confusion could arise in the minds of the public because the nomenclature of that Bill and the Gram Nyayalayas Bill, 2007 are similar, especially since the beneficiaries of both the Bills are as envisaged at present, the rural population.

65.2. Since the recommendation of this Committee is that Gram Nyayalayas may be the Courts of Magistrate of the First Class/ Munsiff Courts, a suggestion was put forwarded that the title may be the “Fast Track Gram/Nagar Nyayalayas Bill, 2007”. Some other appropriate short title may also be thought of.

65.3. Therefore, the Committee recommends that the title of this Bill may suitably be amended so as to remove confusion.

-----

---

\* To be appended at printing stage

✿ Rajya Sabha Parliamentary Bulletin Part-II (No.44111) dated the 17<sup>th</sup> May, 2007.

(iii)

\* Published in Gazette of India (Extraordinary) Part-II Section 2 dated the 15<sup>th</sup> May, 2007.

✿ Rajya Sabha Parliamentary Bulletin Part-II (No.44111) dated the 17<sup>th</sup> May, 2007.