

PREFACE

The Government of India constituted Justice Sachar Committee for preparation of a Report on the Social, Economic and Educational Status of Muslim Community of India, and Justice Ranganath Mishra Commission for identifying criteria for socially and economically backward classes among the religious and linguistic minorities, and to suggest various welfare measures for Minorities including Reservation. Both the Committee and the Commission have submitted their reports. While the Sachar Committee Report is under implementation, the Government has tabled the Justice Ranganath Mishra Report on the table of the Parliament and considering various aspects for implementation of the Report at present. It has been established by Sachar Committee and Ranganath Mishra Commission reports that Muslims in India are most backward community despite their rich cultural heritage and strong numerical presence. I am sure that the Minorities communities will certainly be benefitted at large, when these two reports are implemented in true word and spirit.

I have compiled various observations and recommendations made in these two reports for the facilitation of those, who have concerns for the safeguards and development of Minorities communities in India particularly Muslims. I hope the compilation will be useful to all in general and minorities communities in particular.

Mohamed Shafi Qureshi

July 2010.

Compilation of Observations & recommendations made by Sachar Committee & Ranganath Mishra Commission

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General Comments made by Sachar Committee:-

1. In any country, the faith and confidence of the Minorities in the functioning of the State in an impartial manner is an acid test of its being a just State.
2. While the perception of deprivation is widespread among Muslims, there has been no systematic effort since Independence to analyze the condition of religious Minorities in the country.
3. Sense of inequity may be perceptual or a result of discrimination that the Minority may face due to difference in “identity”.
4. Caste, religion and regional / linguistic differentials in economic, social and political spheres in India have a historical basis and are deeply influenced by the extant socio-economic relationships, some of which have persisted for centuries.

Findings of Sachar Committee (Public Perceptions and Perspectives of / about Muslims):-

5. The Committee is aware that not all perceptions among Muslim Minority are correct but they are also not built in a vacuum.
6. The “non-implementation” of recommendations of several earlier Commissions and Committees has made the Muslim community wary of any new initiative. “Tired of presenting Memorandums”, many wanted results. There was a sense of despair and suspension as well.
7. While not everybody has lost hope, many feel that any change in the ‘attitude’ of the State requires “commitment and a change in the mindset”. Muslim situation should be looked upon not as a problem of a minority, but as a national concern.
8. Muslims carry a double burden of being labeled as “anti-national” and as being “appeased” at the same time. While Muslims need to prove on a daily basis that they are not “anti-national” and “terrorist”, it is not recognized that the alleged “appeasement” has not resulted in the desired level of socio-economic development of the Community.
9. Markers of Muslim identity – the burqa, the purdah, the beard and the topi_ – while adding to the distinctiveness of Indian Muslims have been a cause of concern for them in the public realm. These markers have very often been a target for ridiculing the community as well as of looking upon them with suspicion.
10. While setting up of educational institutions under Article 30 of the Constitution is a right of Minorities, it was not meant to become their only option available for them.

11. For large number of Muslim women in India today, the only 'safe' space (both in terms of physical protection and in terms of protection of identity) is within the boundaries of 'home' and 'community'.
12. Concern was expressed over police highhandedness in dealing with Muslims. Muslims live with an inferiority complex as "every bearded man is considered an ISI agent"; "whenever any incident occurs Muslim boys are picked up by the police and fake encounters are common.
13. Social boycott of Muslims in certain parts of the country has forced Muslims to migrate from the places where they lived for centuries.
14. The perception of being discriminated against is overpowering amongst a wide cross section of Muslims resulting in collective alienation.
15. A community specific factor for low educational achievement is that Muslims do not see education as necessarily translating into formal employment. The low representation of Muslims in public or private sector employment and the perception of discrimination in securing salaries jobs make them attach less importance to formal 'secular' education in comparison to other SRCs.
16. Schools beyond the primary level are few in Muslim localities. Exclusive girls' schools are fewer, and are usually at a distance from Muslim localities.
17. The "communal" content of school textbooks, as well as, the school ethos has been a major cause for concern for Muslims in some States.
18. Many a time Madarsas are the only educational option available to Muslim children, especially in areas where no schools have reached to the Muslim masses. Very often children go to the Madarsas not out of choice but due to non-availability and inaccessibility of other schools, and a near absence of education in their mother tongue.
19. Modernizing Madarsas by the government has been a very contentious issue with many differing view-points amongst the Community. While there is a general acceptance of an urgent need for the modernization of Madarsas, the modernization scheme of the government have not really provided much relief to the community as far as quality education is concerned.
20. The identification of Urdu as a language of Muslims in independent India and its politicization has ensured that its development is relegated to the background. An important area where this neglect of Urdu is visible is in schooling and education. Urdu medium schools are in a dismal state.
21. Students of Urdu medium schools have to join regular school without going through a pre-school education experience because of the lack of anganwadis using Urdu language. This affects their preparedness for schooling.

22. The resistance to recognize Minority Education Institutions by State Governments has been a matter of serious concern with the Community in several States. This is also a clear violation of Article 30 of the Indian Constitution. Several people alleged that they face severe difficulties in setting up minority education institutions.
23. In the dismal scenario of girls education, there is one big ray of hope; while the education system appears to have given up on Muslim girls, the girls themselves have not given up on education.
24. Perceptions of public security – partly associated with increasing incidents of communal violence – prevent parents from sending daughters to schools located at a distance where they would have to use public transport.
25. The recommendations of the 15 point programme which made it mandatory for ‘Selection Committees’ to have representation from the Minority community have not been followed. Concerns about the poor representation of Muslims in the police force were repeatedly expressed.
26. Muslim presence in the private sector was found to be even more dismal. Private sector needs to be sensitized to include Muslims in their recruitment through positive discrimination and affirmative action.
27. Despite economic boom Muslims have been bearing the brunt of the so called “competitive” forces unleashed by liberalization. Internal and external liberalization has brought with it considerable costs in terms of unemployment and displacement of workers who have lost their jobs to competitive companies and import products.
28. Displacement from traditional occupations has resulted in Muslims being deprived of their means of livelihood and this has led to their economic backwardness.
29. Muslim women are unable to bargain for better work conditions because much of the work they do is sub-contracted. This restriction of mobility restricts their employment opportunities and wages.
30. Many banks have designated most of Muslim concentration areas as ‘negative or red zones’, where they do not give loans. Muslims also find it extremely difficult to get a guarantee from a government official as they do not have easy access to government officials either because there are not enough Muslims in the government or because the non-Muslim government officials are not willing to give them guarantees. This affects the poor Muslims the most.
31. Absence of proper civic amenities and infrastructure facilities in Muslim concentration areas is another cause of concern across all the States. Poor roads and lack of proper transport, sanitation, water, electricity and public health facilities pervade Muslim concentration localities.

32. The health of Muslims, especially women, is directly linked to poverty and the absence of basic services like clean drinking water and sanitation – led to malnutrition, anemia, and a variety of diseases resulting in poor life expectancy.
33. Population control programmes and knowledge of contraceptive practices do not reach Muslim women effectively. High rates of fertility among Muslims are partly due to lack of information and the non-availability of affordable health care facilities. Besides, women often do not go to health centres which lady doctors.
34. There is a very common problem of non-enrollment / missing of names of sizeable number of Muslims in the “Electoral Rolls” of various states in the country. This situation not only dis-powers them but also deprive them from various welfare schemes of the Government.
35. A number of Muslim concentration assembly constituencies have been declared as ‘reserved’ where ‘only SC candidates’ can contest elections. This situation systematically denies them political participation.
36. There has been a wide spread demand for affirmative action, especially in the form of reservations in employment (jobs), educational institutions.
37. Dalit (SC) Muslims are not allowed the benefits of the Scheduled Caste quota, while their counterparts in Sikh community (Mazhabi Sikhs) and Buddhist community (Neo Buddhist) are allowed the benefits of reservation quota for SC. This is a various matter of serious concern of discrimination.
38. There was near consensus among the Muslims about the need to generate data to evaluate and address issues of Muslim’s backwardness. The need for data was undisputed as that alone would indicate whether backwardness amongst Muslims was a result of discrimination or not.

Findings of Sachar Committee (Population Size, Distribution and Health Conditions of Muslims):-

39. 2001 Census enumerated India’s Muslim population at over 138 million (out of total population of 1029 millions), and by 2006 it have crossed 150 million. India’s Muslim population is amongst the largest in the world, exceeded only by Indonesia’s and close to the Muslim population of Pakistan and Bangladesh.
40. ‘Indian population policy’ does not adequately recognize the multi-dimensionality of the economic and social forces that prevail upon the house hold decisions regarding the size of families.
41. The increase in the share of Muslims population has been ‘less than three percentage points’ over the four decades, that is, less than one percentage

point per decade. The propaganda / canard that Muslim population in the country is on an increase by leaps and bounds is, therefore, unfounded and totally false.

42. The recent inter-censal decade (1991-2001) has shown a decline in the growth rate of Muslims in most of the states.
43. Out of the 593 districts of India in 2001, only 9 districts have a Muslim population of 75% or above. These included Lakshadweep and eight districts from Jammu and Kashmir.
44. The Muslim population shows an increasingly better sex ratio as compared with other Socio Religious Categories (SRCs) / general population. It can therefore be concluded that Muslims are by and large free from evils of gender bias and female feticide.
45. The Muslim population is also predominantly rural, but the level of urbanization is higher than the population as a whole.
46. Muslim children are at a slightly higher risk of child malnutrition than 'Hindu' children.
47. Muslim population share in the total population of the country is expected to be in the range of 18-19% by the end of 21st Century (2101).
48. Muslim population growth has slowed down, as fertility has declined substantially clearly showing that Muslims are well into demographic transition.

Findings of Sachar Committee (Educational Conditions of Muslims):-

49. The literacy rate among Muslims (59.1%) in 2001 was far below the National average (65.1%) and other SRCs (70.8%).
50. State level estimates suggest that the literacy gap between Muslims and the general average is greater in urban areas and for women.
51. Owing to their Socio-Economic backwardness, Muslims have not been able to respond to the challenge of improving their educational status, whereas other communities like SCs and STs have been able to reap the benefit in the field of education with active support of the Government. The increase in enrolment in Schools has been highest among SCs and STs (95%) followed by Muslims (65%).
52. As many as 25% of Muslim children in the 6-14 year age group have either never attended school or have dropped out. Muslims have the highest drop out rate in the country.
53. School Education attainment levels of Muslims are close to SCs / STs and it is much lower than those of other SRCs. The attainment levels of Muslims in Rural areas are lower than those of SC and ST.

54. 'Jawahar Navodaya Vidyalayas scheme' in rural areas was expected to reduce the supply side constraints on good quality education. Muslim participation in these schools too is unsatisfactory.
55. Since artisanship is a dominant activity among Muslims, therefore the technical training needs to be imparted to even those who may not have completed schooling.
56. The disparity in Graduation level education attainment rates is widening since 1970's between Muslims and all other categories in both urban and rural areas and for both genders.
57. Only 'one out of the 25 Under-Graduate student' and 'one out of the 50 Post-Graduate student' is a Muslim in premier colleges. The share of Muslims in all courses is low, particularly at the PG level and marginal in the science stream.
58. While some progress has been made over a period of time, disparities exist and the current generation of Muslims is lagging behind in the field of education.
59. The gap between Muslims and other SRCs increases as the level of education increases.
60. Un-employment rate among Muslim graduates is the highest as compared to the other communities in India both among the poor and the non-poor.
61. The probability of Muslims and SCs / STs completing graduation were lower than for all other SRCs, especially in urban areas and for males.
62. Muslims are at a much larger disadvantage at the higher secondary level education in both rural and urban areas and for both males and females.
63. Only 3% of Muslim children among the school going age go to Madarasas.
64. The State must fulfill its obligation to provide affordable high quality school education through the formal education system.
65. Despite the positive recommendations of various Committees, in many States, there is dearth of facilities for teaching Urdu.
66. Lower enrolment in Urdu medium schools is due to limited availability of such schools at the elementary level.
67. The provisioning of education through Urdu medium is precarious in Uttar Pradesh, Jharkhand, Andhra Pradesh and Bihar.
68. Karnataka and Maharashtra are examples of better provisioning of Urdu Medium schools at the elementary level. They also offer opportunities to study in the English stream concurrently.
69. In view of a large number of children with Urdu as their mother tongue Urdu should be taught, as an elective subject, up-till graduation.
70. The gaps across all levels of education between Muslims and other SRCs is higher in urban areas and for women.

71. Muslim parents are not averse to modern or mainstream education and sending their children to the affordable Government schools. Therefore, the notion that Muslims prefer only Madarsa education, is wrong.
72. The changes in educational patterns across SRCs suggest that SCs and STs have reaped advantages of targeted government and private efforts supporting their educational progress. This reflects the importance of affirmative action.

Findings of Sachar Committee (Economy and Employment : Situating Muslims):-

73. The low aggregate work participation ratios for Muslims are essentially due to much lower participation in economic activity by women in the community.
74. Worker Population Ratio for Muslim women are the least from among all SRCs, more so in urban areas.
75. Muslims have a relatively high share of workers engaged in self-employment activity. This is particularly true in urban areas and for women workers.
76. The participation of Muslim workers in salaried jobs, both in the public and the private sectors, is quite low.
77. The participation of Muslims in regular jobs in urban areas is quite limited compared to even the traditionally disadvantaged sections of SCs / STs.
78. A significantly larger proportion of Muslim workers is engaged in small proprietary enterprises and their participation in formal sector employment is considerably less than the national average.
79. The percentage of women Muslim workers doing work within their own homes is much larger (70%) than for all workers (51%).
80. While the share of Muslim workers engaged in agriculture is much lower than for other groups, their participation in traditional manufacturing and trade (especially for males) is much higher than other SRCs.
81. Among the non-manufacturing segments retail and wholesale trade has a large proportion of the Muslim workers.
82. At the macro level of the manufacturing sectors which are important for Muslims, wearing apparel, auto-repair and electrical machinery seem to be the segments where a focussed policy can bring in employment related dividends for the Muslim workers.
83. Participation of Muslims in security services *viz.* Police *etc.* is miserably low as compared to their ratio in population of the country.

84. Muslims engaged in the professions like Bidi making, tailoring and mechanical jobs need to be provided social safety and security.
85. The participation of Muslims in the professional and managerial cadre is miserably low.
86. In the absence of written contracts, Muslim workers are highly vulnerable and hardly enjoy social security and other benefits at work.
87. Muslim regular workers get lower daily earnings (salary) in both public and private jobs as compared to other SRCs.
88. Muslims tend to be relatively more vulnerable in terms of conditions of work as their concentration in informal sector employment is higher and their job conditions (contract length, social-security etc.) even in case of regular workers are inferior as compared to other SRCs.
89. Among urban male workers (other things being the same), the probability of Muslim workers taking up regular work is the lowest, while that of SC / ST workers is the highest.
90. Improvement efforts in employment conditions of Muslims must involve a sharper focus on 'skill development' and 'flow of credit' in sectors where Muslim workers are concentrated and which have remained more growth oriented in recent years
91. Since a large section of the Muslim workers are engaged in self-employment, skill development and credit related initiatives need to be tailored for them.

Findings of Sachar Committee (Access to Bank Credit):-

92. Share of Muslims in the 'unpaid /outstanding amount' is only 4.7% as compared to the share of 6.5% of other minorities. This is disproportionate to their respective population shares.
93. On an average the amount outstanding per account in case of Muslims is about half that of the other Minorities.
94. RBI's efforts to extend banking and credit facilities under the Prime Minister's 15-point programme have mainly benefited other minorities, and Muslims remained marginalised.
95. On the one hand the share of Muslims in population increases, on the other hand their share in the outstanding amount tends to decrease. The outstanding amount per account for Muslims is about half that of other minorities and one-third of 'others'.
96. Muslim community is not averse to banking and therefore more improvements can be brought about with specific measures.

97. The 'capacity building' and assistance programmes of NABARD have considerable potential to benefit Muslims and improve substantially their socio-economic status.
98. Inadequate targeting and geographical planning has resulted in a failure to address the economic problems of Muslims in rural areas.
99. Some banks have identified a number of Muslim concentration areas as 'negative zones' where banks credit and other facilities are not easily provided.
100. Steps should be taken to specifically direct credit to Muslims, create awareness among them regarding various credit schemes and bring transparency in reporting of information.

Findings of Sachar Committee (Access to Social and Physical Infrastructure):-

101. There is a clear and significant inverse association between the proportion of the Muslim population and the availability of educational infrastructure in small villages.
102. Muslim concentration villages are not well served with '*pucca*' approach roads and local bus-stops.
103. The concentration of Muslims in states lacking infrastructural facilities implies that a large proportion of the Community is without access to basic amenities.
104. In both urban and rural areas, the proportion of Muslim households living in *pucca* houses is lower than the total population.
105. Overall, the access of Muslims to toilet facilities is low.
106. As compared to the Muslim majority areas, the areas inhabiting fewer Muslims had better roads, sewage and drainage, and water supply facilities.

Findings of Sachar Committee (Poverty, Consumption and Standards of Living):-

107. A substantially larger proportion of the Muslim households in urban areas are in a very low (less than Rs.500/-) expenditure bracket.
108. Incidence of poverty among Muslims in urban areas is the highest with a Head Count Ratio of 38.4% followed closely at 36.4% for SCs / STs, whereas 22.7% of India's population was poor in 2004-05.
109. The economic conditions of Muslims in urban areas have not improved as much as of other SRCs (Socio-Religious Communities).

Findings of Sachar Committee (Government Employment and Programmes):-

110. In a pluralistic society, a reasonable representation of various communities in government sector employment is necessary to enhance participatory governance.
111. The presence of Muslims was found to be only 3% in the IAS, 1.8% in the IFS and 4% in the IPS.
112. Overall, Muslims constituted only 4.9% of candidates who appeared in the written examination of Civil Services in the years 2003 and 2004.
113. Share of Muslims in employment in various departments is abysmally low at all levels.
114. Muslim community has a representation of only 4.5% in Indian Railways. Almost all (98.7%) of them are positioned at lower levels.
115. About 11% of Group-A jobs are held by those belonging to minorities other than Muslims.
116. Share of Muslims in security agencies is around 4%.
117. In no state does the representation of Muslims in the government departments match their population share.
118. Representation of Muslims in the Education Department and the Home Department is 6.5% and 7.3%. Overall the share of Muslims in the police as constables is only about 6%.
119. The representation of Muslims in the Health Departments is just about 4.4%.
120. The representation of Muslims in the Transport Department is just 6.5%.
121. The negligible representation of Muslims in the Judiciary (7.8% approx.) is a matter of serious concern.
122. It is absolutely essential to ensure adequate representation of Muslims in Government services, especially in those Departments which involve public dealing on a day to day basis or are concerned with law and order and security matters (*e.g.* home department especially police force, health & education).
123. The share of Muslims in all recruitments by State Public Service Commissions is about 2.1% whereas their share in the population is about 12.4%. This leaves deficit of nearly 83% in recruitment.
124. The share of Muslims as beneficiaries of government programmes and schemes in U.P. ranges between 3% - 14% which is way behind their population share of 24% among the poor.
125. The overall coverage of Muslims in the Developmental programmes is unsatisfactory.

126. The participation of Muslims in Family Planning programmes has been encouraging. This fact is quite contrary to the general notion that Muslims are averse to the Family Planning Programmes.
127. In urban areas nearly 60% of deliveries in Muslims take place in institutions mainly in privately run facilities, which is lower than all SRCs except SCs / STs.
128. The Integrated Child Development Scheme (ICDS) programme has not benefitted the Muslim in a substantial way.
129. In order to make the Maulana Azad Education Foundation to be effective, its corpus fund needs to be augmented to 1000 crores.
130. Total allocation in the four years (April 2002 to March 2006) for Madarsa modernization and infrastructure development is a paltry Rs.106 crores of which Rs. 79 crores is for infrastructure development and Rs.27 crores for modernization of Madarsa.
131. Obtaining a guarantee from the State Government remains the biggest hurdle to getting a loan from the NMDFC.
132. The share of Muslims in the total funds disbursed by the NBCFDC is low; only 23 crores out of 247 crores have been disbursed to Muslims OBCs.
133. One of the reasons for the low efficacy of Developmental programmes is lack of Muslim participation in political processes and governance, especially at the local level.
134. Even if the share of Muslims in elected bodies is low (6.6% in the current Lok Sabha) they and other under- represented segments can be involved in the decision making process through innovative mechanisms like undertaken by Andhra Pradesh Government.

Findings of Sachar Committee (The Muslims OBCs and Affirmative Action):-

135. Kerala and Karnataka stand out for having extended the benefits of reservation to their entire Muslim population.
136. The Havanur Commission, 1972 recommended the creation of a distinct category of minority group with reservation not exceeding 6%.
137. In Kerala a separate Muslim share was fixed at 10% that later rose to 12%.
138. Tamil Nadu government has done away with reservation on ground of religion, yet nearly 95% the Muslims have been included within the fold of backward classes.
139. Order of 1950 is inconsistent with Article 14, 15, 16 and 25 of the Constitution that guarantees equality opportunity, freedom of conscience and

protects the citizens from discrimination by the State on grounds of religion, caste or creed.

140. Most of the variables indicate that Muslim-OBCs are significantly deprived in comparison to Hindu-OBCs.
141. The highest proportion of Muslims declared as STs is found in Lakshadweep where Muslims constitute the entire ST population (99.74%).
142. About half of the children aged 6-12 years are not currently attending school.
143. The work participation rate among the 15-64 year population shows that presence of a sharp difference between Hindu-OBCs (67%) and Muslim SRCs (about 55%).
144. Muslim-OBCs are lagging behind Muslim-General and Hindu-OBC categories in terms of participation in the formal sector and jobs that provide regularity of employment (both waged and salaried).
145. Within the formal sector, the share of Muslim-OBCs in government / PSU jobs was much lower than those of Hindu-OBCs and Muslim-Gen.
146. The bulk of women in all SRCs work in their own dwelling. However, the proportion of such workers among Muslims, especially Muslim OBCs is higher.
147. The Committee's estimates indicate that while out of every hundred workers about eleven are Hindu-OBCs, only three are Muslim-General and one is a Muslim-OBC.
148. Muslim OBCs have better share at the Group A level, but their presence is insignificant at all other levels.
149. Month per Capita Expenditure of Muslims (General and OBC) is much lower than the national average.
150. Overall the inequality levels are somewhat higher among Muslim-OBCs as compared to other SRCs.
151. The abysmally low representation of Muslim OBCs at all variables suggests that the benefits of entitlements meant for the backward classes are yet to reach them.
152. The conditions of Muslims-Gen are also lower than the Hindu-OBCs who have the benefit of reservations.

Findings of Sachar Committee (Leveraging Community Initiatives : The Case of Wakfs):-

153. There are more than 4.9 lakh registered Waqfs spread over the country but the current annual income from these properties is only about Rs.163 crores, which amounts to a meager rate of return of 2.7%.

154. The management of the Waqf Boards is unsatisfactory due to inadequate empowerment of the State Waqf Boards and Central Waqf Council.
155. Encroachments by the State who is the custodian of the Waqf interests is common.
156. The attitude of the state governments and their agencies has resulted in large scale abrogation of the cherished and charitable objectives of the Waqfs.
157. To attain the objective of putting the Waqf properties to optimum use, fresh institutional support is essential.
158. The importance of stricter monitoring of the Waqf management in general and the vacation of encroachments in particular cannot be over-emphasized.
159. Due to non-transfer, delay in transfer or confusion in administrative jurisdiction, Waqf properties often suffer from mismanagement.
160. Many states have huge amount that are outstanding but not paid to the Waqf Boards for various reasons.
161. There are a number of situations in which even the recommendations given by the Joint Parliamentary Committee have not been implemented.
162. A number of Waqf properties were also acquired although compensation was not received or accepted in case of many of these properties.
163. The Delhi Waqf Board has effectively been deprived of the use of its valuable properties.
164. High legislative, administrative and judicial priority should be accorded to Waqf in order to improve the management of about 5,00,000 Waqf properties spread across India.
165. It is of utmost importance to provide for at least two women each in the Central Waqf Council and each state Waqf Board.
166. The chairman and members of the state Waqf Board can be selected from a list of eminent persons in each state.
167. The government may consider creating a new cadre of officers with knowledge of Islamic law to deal with the specific affairs of the Waqfs efficiently.
168. A National Waqf Development Corporation may be constituted by the Central Government with a revolving corpus fund of Rs. 500 crores.
169. Increase the maximum period of lease of Waqf properties from 3 to 30 years where the property is used for education, health care and other purposes consistent with the objects of the Waqf and as permissible under Islamic law.
170. An amendment exempting the Waqf properties from the purview of the Rent Control Act within the Waqf Act is urgently needed.

171. Failure on the part of the State and statutory bodies entrusted with safeguarding / managing / developing / administering Waqf properties has caused disquiet in the Muslim community.
172. The law should not be used for acquiring Waqf properties and it is recommended that to ensure this on permanent basis the Government should take appropriate action.
173. Waqf Tribunal should be manned by full time presiding officer appointed exclusively for Waqf purposes.
174. The Public Premises (Eviction of Un-authorized Occupation) Act, 1971 should be applied to remove encroachment from Waqf properties and arrears of rent, at market rates, should be recovered as arrears of land revenue.
175. The exemption of Waqf properties from some enactments would serve the greater philanthropic purpose of Waqf properties.

Recommendations of Sachar Committee :-

1. While there is considerable variation in the conditions of Muslims across states, (and among the Muslims, those who identified themselves as OBCs and others), the Community exhibits deficits and deprivation in practically all dimensions of development.
2. Mechanisms to ensure equity and equality of opportunity to bring about inclusion should be such that diversity is achieved and at the same time the perception of discrimination is eliminated. This is only possible when the importance of Muslims as an intrinsic part of the diverse Indian social mosaic is squarely recognized.
3. Creation of a National Data Bank (NDB) where all relevant data for various SRCs are maintained is recommended. All the data should be eventually computerized and made available on the Internet.
4. An autonomous Assessment and Monitoring Authority (AMA) is needed / recommended to evaluate the extent of development benefits which accrue to different SRCs through various programmes. Academics, professionals, civil society organizations along with state authorities as the official members can be part of this Authority and perform a watch-dog function which closely monitors the participation of various SRCs in both and Central level programme implementation.
5. While equity in the implementation of programmes and better participation of the Community in the development process would gradually eliminate the perception of discrimination, there is a need to strengthen the legal provisions to eliminate such cases.

6. It is imperative that if the minorities have certain perceptions of being aggrieved, all efforts should be made by the State to find a mechanism by which these complaints could be attended to expeditiously. This mechanism should operate in a manner which gives full satisfaction to the minorities that any denial of equal opportunities or bias or discrimination in dealing with them, either by public functionary or any private individual, will immediately be attended to and redress given.
7. The Committee recommends that an Equal Opportunity Commission (EOC) should be constituted by the government to look into the grievances of the deprived groups. An example of such a policy tool is the UK Race Relation Act, 1976. While providing a redressal mechanism for different types of discrimination, this will give a further re-assurance to the minorities that any unfair action against them will invite the vigilance of law.
8. A carefully conceived 'nomination' procedure should be worked out to increase the participation of minorities at the grass roots. Mechanism should be put in place so that a larger number of minorities are indeed nominated so as to increase their participation in public bodies.
9. The Committee recommends the elimination of the anomalies with respect to reserved constituencies under the delimitation schemes. A more rational delimitation procedure that does not reserve constituencies with high minority population shares for SCs will improve the opportunity for the minorities, especially the Muslims, to contest and get elected to the Indian Parliament and the State Assemblies.
10. The idea of providing certain incentives to a 'diversity index' should be explored. This is a complex proposition but if a transparent and acceptable method to measure diversity can be developed, a wide variety of incentives can be linked to this index so as to ensure equal opportunity to all SRCs in the areas of education, government and private employment and housing.
11. In order to respect and sustain diversity in the development and implementation of innovative programmes or in the provision of service, relevant functionaries should be sensitive to the need to have diversity and the problems associate with social exclusion.
12. The Committee recommends that a process of evaluating the content of the school text books needs to be initiated to purge them of explicit and implicit content that may impart inappropriate social values, especially religious intolerance.
13. The University Grants Commission (UGC) should be encouraged to evolve a system where part of allocation to colleges and universities is linked to the diversity in the student population. Even private colleges, including those run by the minorities and which have affiliation with universities or are

recognized by state bodies can be provided additional funds if they have a diverse student population and charge reasonable fees.

14. To facilitate admissions to the 'most backward' amongst all the SRCs in the regular universities and autonomous colleges, alternate admission criteria need to be evolved.
15. Providing hostel facilities at reasonable cost for students from minorities must be taken up on priority basis. While this is required for all minority students, such facilities for girls in cities of all sizes are particularly desirable.
16. Teacher training should compulsorily include in its curriculum components which introduce the importance of diversity / plurality within the country and sensitize teachers towards the needs and aspiration of Muslims and other marginalized communities. The implementation of this should be monitored by the National Council of Teacher Education (NCTE).
17. Given the commitment to provide primary education in the child's mother tongue, the State is required to run Urdu medium schools. Given the constitutional responsibility of the State, it is imperative that Urdu language is supported to provide a regular stream of Urdu teachers.
18. Government should work out mechanisms whereby Madarasas can be linked with a higher secondary school board so that students wanting to shift to a regular / mainstream education can do so after having passed from a Madarsa.
19. Government should recognize degrees from Madarasas for eligibility in competitive examinations such as the Civil Services, Banks, Defense Services and other such examinations. The idea is to facilitate a process whereby Madarsa graduates too have a choice and an incentive to participate in these employment streams.
20. The Committee recommends promoting and enhancing access to Muslims in Priority Sector Advances. Any shortfall in achievement of targeted amount in minority specific programmes should be parked with NMDFC, NABARD and SIDBI and specific programmes should be funded with this amount.
21. The real need is of policy initiatives that improve the participation and share of the Minorities, particularly Muslims in the business of regular commercial banks. Since the size of the credit flows through regular banking channels is much higher than various community specific programmes, higher participation of minorities will result in larger gains to them.
22. The detailed analysis of Muslim participation in government employment and other programmes has shown vary limited participation in both. While no discrimination is being alleged, it may be desirable to have experts drawn

from the Community on relevant interview panels and Boards. This practice is already in vogue in the case of SCs / STs.

23. The country is going through a high growth phase. This is the time to help the underprivileged to utilize new opportunities through skill development and education.
24. Government should provide financial and other support to initiatives built around occupations where Muslims are concentrated and that have growth potential. These initiatives can take the form of interventions where existing skills of the workers are combined with knowledge of modern management practices, new technology, and emerging market needs.
25. The registration of trusts set up by the Community, such as Waqf institutions and mosque committees should be facilitated. These institutions, being closer to the community can indeed play an important role as intermediaries between policy programmes announced by the government and their beneficiaries within the Muslim community.
26. Lack of access to crucial infrastructural facilities is another matter of concern for the Muslims. Access to schools, health care, sanitation facilities, potable water and means of daily transportation are some of the basic facilities one can expect a state to provide for its citizens.
27. It is expected that the Report would invoke a positive response from the Civil Society, which will ensure that the policy measures introduced by the State in pursuance of these recommendations receive full support and active cooperation from all sections of the society, including the Muslim community. The issues relating to disparities across socio-religious communities are of utmost importance to our nation today. If this Report contributes in any way in constructively dealing with these issues and in facilitating a more informed discussion on them, the Committee's efforts would be well rewarded.

MAIN OBSERVATIONS MADE BY JUSTICE RANGANATH MISHRA COMMISSION:-

1. The Commission is of the view that a uniform approach towards socially and economically backward needs to be evolved which should not be based on caste, class or religion so that social justice and equity can be guaranteed to all. The criterion, therefore, should be uniform based on social, educational and economic indices equally applicable to all. Those educationally and economically backward are, by and large, also socially backward.
2. Ideally there should be no distinction on the basis of caste, religion or class. There should be single List of socially and economically backward including religious and linguistic minorities based on common criteria. The existing Lists prepared on the basis of backwardness of caste or class should cease to exist after the List of socially and economically backward is ready. The new list of socially and economically backward has necessarily to be family/household based. It should be all inclusive and based on socio-economic backwardness.
3. As education is crucial for development and enhancement of social and economic status, the focus has to be not only on extending the facilities for education to all equally, but also ensuring the quality of education. Education through acquisition of knowledge improves ability and capacity and instills confidence and competitive spirit. It nurtures and strengthens self reliance and enables individual to seek better employment opportunities. Educational programmes, therefore, have to equip the individuals for their social and economic development. Facilities through various measures must, therefore, be provided by both the public and private sectors, which should reflect the needs of the various sections of the society and its economy.
4. Education is the key to development. It is the most important requirement for improving the socio-economic status of the backward sections among religious minorities. The literacy and educational levels among religious minorities vary considerably from one community to the other and from one area to the other. While educational level of Jains, Christians and Parsis is higher, that of Muslims and Buddhists is low and is next to SC/ST. Census statistics on the status of religious minorities reveals that the educational status of Muslims is relatively low. However, disaggregated data presents a

picture of unevenness in the educational status of Muslims and Buddhists cutting across the States. The States of Bihar, Madhya Pradesh, Rajasthan and UP, which account for almost 65 percent of the total population of Muslims in the country, present a dismal picture in terms of social indicators of development for the general population also. In terms of educational, social and economic status, in the under-developed or backward States, the poor and socially and economically backward of each community, including the Muslims, are equal victims and suffer equally from disabilities or deprivation. There is, therefore, an urgent need for taking a comprehensive view of socially and economically backward of all communities in an integrated manner and not deal with the issue of educational backward in a segregated manner. The need for expanding coverage and providing quality education, focusing on girl's education and strengthening vocational education is vital for educational development of weaker sections among all backward classes, SCs and STs and Minorities.

5. National programmes like 'Sarva Siksha Abhiyan' are available to all sections of society throughout the country, there is a need to ensure participation in the programme by all children belonging to religious minorities, SCs/STs and other backward classes so that the facilities are equally shared and dropout rates can be contained. Area based approach needs to be adopted and socially and economically backwards targeted locally.
6. The enrolment of children of religious Minorities at the primary level is better than that of SC/ST. However, the dropout rate of Muslims is higher at the middle and secondary level. Social and economic prosperity is closely linked to the level of education and training of an individual. Acquisition of knowledge and competitive spirit is essential for accessing facilities and opportunities that the society and its economy offer. The socially and economically backward Minorities need to be enlightened about the importance of acquiring knowledge and creating competitive spirit with a view to ensuring that merit is properly rewarded and reservation is not used to kill initiative and competitive spirit. The intelligentsia among the religious Minorities should convince the community for active participation in educational programmes / schemes and nurture initiative and spirit of competition amongst them.
7. The economic status of religious Minorities varies from group to group and area to area. While level of education and status has direct linkage with the employability and economic well-being of an individual, economic

empowerment is also dependent on several other factors. The work participation both in the case of females and males, traditional and cultural influences especially with regard to female participation, the type and nature of work *etc.* also influence the economic status of individuals, households and often of communities. In the case of religious Minorities, the Work Participation Rate (WPR) of Buddhists, Hindus and Christians is approximately the same as for all religious populations which is 39.1 percent. The WPR of Sikhs is slightly less than the national average. However, in the case of both Jains and Muslims it is low though, perhaps, for different reasons. Muslims are the lowest at 31.3 percent. In terms of categories of workers more Hindus, Sikhs and Christians are cultivators than Muslims. Christians and Sikhs are lowest in terms of agriculture workers while Muslims have the highest percentage of workers in the household industry sector. In terms of 'other occupations' the number of Christians is proportionately the largest in this category at 52.8 percent. The number of Muslims in this category stands at 49.1 percent, Hindus at the lowest at 35.5 percent. The level of poverty determines the economic status of individuals. In terms of poverty figures while percentage of people living below the poverty line, Muslims approximate to that of Hindus in the rural areas, the percentage of Muslims living below poverty line in the urban areas is high. The largest number of people in the rural areas who live below poverty line belong to the category of other religions.

8. The religious Minorities are more urban-based than rural-based. While more Christians are engaged in wage employment, more Muslims are employed in household industries and are by and large self-employed. Despite these variations, it is apparent that the population of religious minorities is as dispersed as that of majority community. It is, therefore, necessary that to economically empower the poor in a holistic manner adequate infrastructure has to be created and access through State and community interventions ensured keeping in mind their varied needs and requirements both in the rural and urban areas. Jain and Parsi communities are economically better off and very few of them would, if at all, come into the category of people below poverty line or backward classes.
9. The status of women in the society largely determines the social and economic well-being of a society and country. Their participation in economic activities at home and outside on equal footing and the response of the community in providing support system to facilitate their continuous involvement at all levels indicates socio-economic health of the society. It is, therefore,

important that equal rights are not only guaranteed to them but are ensured in all spheres and a protective, secure environment conducive to women's involvement is provided.

10. In every organization – governmental or nongovernmental, planning and implementation are both equally important aspects of administration. Planning, formulating policies and programmes for the development of the country and its peoples for fulfilling the objectives that are laid down, is vital for sustainable development. Good governance not only depends on appropriate policies which are need-based, identify target areas and groups or households but is equally dependent on a suitable administrative framework and mechanism that ensures delivery of services and facilities in an equitable and just manner. For effective implementation of programmes, it is important that infrastructure – institutional and administrative - is in place. Systems need to be in place to regularly review policies, programmes and mechanisms to assess their appropriateness and feasibility as also to constantly monitor to ensure that the target groups and beneficiaries are availing the services and facilities being provided for them. Concurrent evaluation is necessary to identify the gaps and or causes for tardy implementation and corrective measures taken midstream for realization of aims and objectives.

11. Shortfalls and lacunae in the existing policies and programmes, and the anomalies that exist and have come to light in implementation. It has also been highlighted that these have resulted in marginalizing the socially and economically backward of all categories since the benefits have gone to the upper crust within the groups of backwards. Changes in the existing criterion for identifying the eligible out of the backwards is necessary. In a democracy, decentralization of administrative and financial powers and authority is important. This is specially vital in a vast country like ours which has variations in terrain, population distribution, culture, tradition, state of development and needs – area and people-wise. In order to ensure that the socially and economically backward amongst all categories including the Minorities are able to take benefits from the schemes and programmes, powers must be vested at a level from where the access to and for each individual / household of socially and economically backward is possible. In order to establish the efficacy of administration, it has to be ensured that the constitutional provision of equal treatment to socially and economically backwards irrespective of caste, creed is followed in word and spirit for ensuring the flow of benefits to the Socially and Economically Backward families.

12. Ideally the criteria for reservation should be socio-economic backwardness and not religion or caste. Further, Article 16(4) should be the basis for providing reservation benefits to Minority groups who are socially and economically backward. Reservation should be provided only as a short term, time-bound measure for enabling greater participation, both in education and employment. The lists of SC/ST and OBC have not been scientifically prepared either on the basis of a proper survey or reliable data on socio-economic status of a particular caste or class. Therefore, the entire system of reservation, including that for SCs/STs and OBCs needs to be overhauled. Reservation as available to SCs and STs is open-ended as it is available to all belonging to the category irrespective of income, educational and economic status. OBCs enjoy 27 percent reservation in employment, though creamy layer is excluded. The norms and methodology adopted, is full of anomalies and hence amenable to large-scale abuse. For this reason, the better off among the groups take advantage of reservation at the cost of the socially and economically backward and deprived. It is, therefore, necessary to limit benefits of reservation to the socially and economically backward only. Since BPL (Below Poverty Line) lists are prepared on the basis of social / educational and economic criteria, they are more scientific. They are also revised periodically. BPL lists should, therefore, be made eligible for grant of reservation without distinction on caste, class, group or religion basis.
13. Provision of educational facilities to all sections of population at all levels is most important. The quality of education at primary and secondary level is paramount to equip the weaker sections for competing on merit for admission in higher / professional educational institutions. The four main dimensions of group disadvantages are caste / community, gender, region and sector of resident (rural or urban). It is also essential to ensure that creamy layer among the backward classes is kept out failing which concessions granted by the Reservation Policy will be grabbed by the creamy layer and not reach the poorest of the poor.

RECOMMENDATIONS RELATING TO RELIGIOUS MINORITIES.

- 1) The ultimate goal should be the evolution of a uniform pattern of criteria for identifying the backward, which should be based only on the educational and economic status of people and not on their caste or religion, and its application equally to all sections of the citizens irrespective of their caste or religion.

And, the Commission suggests that overall efforts should be directed towards gradually leading the Nation to that goal.

- 2) The achievement of that ultimate goal will take a long time as it would obviously require building public opinion and procuring national consensus in its favour, as also a strong political will for translating it into concrete action. The Commission is, therefore, recommending some other measures to be adopted now, pending the possible achievement of what the Commission has called the ultimate goal.
- 3) The measures recommended above will pave the way for achieving the afore-stated ultimate goal in future on one hand, while ensuring on the other hand a faithful compliance at present with the constitutional directives of social, economic and political justice and equality of status and opportunity as proclaimed by the Preamble to the Constitution and detailed in its provisions on Fundamental Rights.
- 4) The recommendations are not only for the communities notified as “Minorities” by executive action under the National Commission for Minorities Act 1992 but for all religious Minorities – large or small – including the Hindus in the Union Territory of Lakshadweep and the States of Jammu & Kashmir, Meghalaya, Mizoram, Nagaland and Punjab.
- 5) The matter of criteria for identifying backward classes there should be absolutely no discrimination whatsoever between the majority community and the Minorities; and, therefore, the criteria now applied for this purpose to the majority community – whatever that criteria may be – must be unreservedly applied also to all the Minorities.
- 6) As a natural corollary to the aforesaid recommendation, all those classes, sections and groups among the Minorities should be treated as backward whose counterparts in the majority community are regarded as backward under the present scheme of things.
- 7) All those classes, sections and groups among the various Minorities as are generally regarded as ‘inferior’ within the social strata and societal system of those communities – whether called ‘*zat*’ or known by any other synonymous expression – should be treated as backward.

- 8) To be more specific, all those social and vocational groups among the Minorities who but for their religious identity would have been covered by the present net of Scheduled Castes should be unquestionably treated as socially backward, irrespective of whether the religion of those other communities recognizes the caste system or not.
- 9) Those groups among the Minorities whose counterparts in the majority community are at present covered by the net of Scheduled Tribes should also be included in that net; and also, more specifically, members of the Minority communities living in any Tribal Area from pre-independence days should be so included irrespective of their ethnic characteristics.
- 10) As democracy is a game of numbers, the numerically weaker sections of the citizenry in any society may and often do get marginalized by the majority. This is eminently true of the religious Minorities in India where the society remains intensively religious and religion conscious and the religious Minorities live with a predominant religious community accounting for over 80 percent of the national population. In such a situation legal protection from the hegemony and preponderance of the majority community becomes a pressing need of the religious Minorities as a whole, and not just that of the 'backward' sections among them. To provide such necessary protection by law we do have in the Constitution a Directive Principle of State Policy, Article 46, which speaks of "weaker sections of the people" – *notably without subjecting them to the condition of backwardness* – and mandates the State to "promote with special care" the educational and economic interests of such sections. It is keeping this in mind that the Commission is making certain recommendations for the religious communities as such – though the Commission is, of course, also recommending some special measures for the socially and educationally backward sections among the Minorities.
- 11) Backwardness – both social and economic – actually emanates from educational backwardness. The Commission is, therefore, making certain measures for the educational advancement of the religious minorities. – especially the Muslims and the Neo- Buddhists - who were identified under the National Education Policy of 1986 as educationally most backward among all the religious communities of the country. At the same time the Commission is also recommending some measures for the economic betterment of the backward sections among the religious Minorities.

- 12) By the word 'education' and its derivatives as used below, the Commission mean not only general education at the primary, secondary, graduate and postgraduate levels, but also instruction and training in engineering, technology, managerial and vocational courses and professional studies like medicine, law and accountancy. All these subjects and disciplines – as also the paraphernalia required for these like libraries, reading rooms, laboratories, hostels, dormitories *etc.*, - are included in our recommendations for the advancement of education among the Minorities.
- 13) As the meaning and scope of Article 30 of the Constitution has become quite uncertain, complicated and diluted due to their varied and sometimes conflicting judicial interpretations, a comprehensive law should be enacted without delay to detail all aspects of Minorities' educational rights under that provision with a view to reinforcing its original dictates in letter and spirit.
- 14) The statute of the National Minority Educational Institutions Commission should be amended to make it wide-based in its composition, powers, functions and responsibilities and to enable it to work as the watch-dog for a meticulous enforcement of all aspects of Minorities' educational rights under the Constitution.
- 15) As by the force of judicial decisions the Minority intake in Minority educational institutions has, in the interest of national integration, been restricted to about 50 percent, thus virtually earmarking the remaining 50 percent or so for the majority community – by the same analogy and for the same purpose, at least 15 percent seats in all nonminority educational institutions should be earmarked by law for the Minorities as follows:-
 - (a) The break up within the recommended 15 percent earmarked seats in institutions shall be 10 percent for the Muslims (commensurate with their 73 percent share of the former in the total Minority population at the national level) and the remaining 5 percent for the other minorities.
 - (b) Minor adjustments *inter se* can be made in the 15 percent earmarked seats. In the case of non-availability of Muslim candidates to fill 10 percent earmarked seats, the remaining vacancies may be given to the other Minorities if their members are available over and above their share of 5 percent; but in no case shall any seat within the recommended 15 percent go to the majority community.
 - (c) As is the case with the Scheduled Castes and Scheduled Tribes at present, those minority community candidates who can compete with others and

secure admission on their own merit shall not be included in these 15 percent earmarked seats.

- 16) As regards the backward sections among all the minorities, the concessions now available in terms of lower eligibility criteria for admission and lower rate of fee, now available to the Scheduled Castes and Scheduled Tribes, should be extended also to such sections among the minorities. Since women among some Minorities – especially the Muslims and Buddhists – are generally educationally backward, the same measure for them as well and suggest that other possible measures be also initiated for their educational advancement.
- 17) In respect of the Muslims – who are the largest Minority at the national level with a country-wide presence and yet educationally the most backward of the religious communities – certain exclusive measures are recommended as follows:-
 - (a) Select institutions in the country like the Aligarh Muslim University and the Jamia Millia Islamia should be legally given a special responsibility to promote education at all levels to Muslim students by taking all possible steps for this purpose. At least one such institution should be selected for this purpose in each of those States and Union Territories which has a substantial Muslim population.
 - (b) All schools and colleges run by the Muslims should be provided enhanced aid and other logistic facilities adequate enough to raise their standards by all possible means and maintain the same.
 - (c) The Madarsa Modernisation Scheme of the government should be suitably revised, strengthened and provided with more funds so that it can provide finances and necessary paraphernalia either (a) for the provision of modern education up to Standard X within those madarasas themselves which are at present imparting only religious education or, alternatively, (b) to enable the students of such madarasas to receive such education simultaneously in the general schools in their neighbourhood. The Madarsa Modernization Scheme may, for all these purposes, be operated through a central agency like the Central Wakf Council or the proposed Central Madarsa Education Board.
 - (d) The rules and processes of the Central Wakf Council should be revised in such a way that its main responsibility should be educational development of the Muslims. For this purpose the Council may be legally authorized (i) to collect a special 5 percent educational levy from all wakfs, and (ii) to sanction utilisation of wakf-lands for establishing educational institutions, polytechnics, libraries and hostels.

- (e) In the funds to be distributed by the Maulana Azad Educational Foundation a suitable portion should be earmarked for the Muslims proportionate to their share in the total minority population. Out of this portion funds should be provided not only to the existing Muslim institutions but also for setting up new institutions from nursery to the highest level and for technical and vocational education anywhere in India but especially in the Muslim concentration areas.
 - (f) Anganwaris, Navodaya Vidyalayas and other similar institutions should be opened under their respective schemes especially in each of the Muslim-concentration areas and Muslim families be given suitable incentives to send their children to such institutions.
- 18) As many Minority groups specialize in certain household and small scale industries, an effective mechanism should be adopted to work for the development and modernization of all such industries and for a proper training of artisans and workmen among the Minorities – especially among the Muslims among whom such industries, artisans and workmen are in urgent need of developmental assistance.
- 19) As the largest Minority of the country, the Muslims, as also some other Minorities have a scant or weak presence in the agrarian sector, special schemes should be formulated for the promotion and development of agriculture, agronomy and agricultural trade among them.
- 20) Effective ways should be adopted to popularize and promote all the self-employment and income-generating schemes among the Minorities and to encourage them to benefit from such schemes.
- 21) The rules, regulations and processes of the National Minorities Development and Finance Corporation be overhauled on a priority basis – in the light of the recent report recently submitted by the NMDFC Review Committee and in consultation with the National Commission for Minorities – with a view to making it more efficient, effective and far-reaching among the Minorities.
- 22) A 15 percent share be earmarked for the Minorities – with a break-up of 10 percent for the Muslims (commensurate with their 73 percent share of the former in the total minority population at the national level) – and 5 percent for the other minorities in all government schemes like Rural Employment Generation Programme, Prime Minister's Rozgar Yojna, Grameen Rozgar Yojna, *etc.*

- 23) Since the Minorities – especially the Muslims – are very much under-represented, and sometimes wholly unrepresented, in government employment, they should be regarded as backward in this respect within the meaning of that term as used in Article 16 (4) of the Constitution – *notably without qualifying the word ‘backward’ with the words “socially and educationally”* – and that 15 percent of posts in all cadres and grades under the Central and State Governments should be earmarked for them as follows:-
- (a) The break up within the recommended 15 percent shall be 10 percent for the Muslims (commensurate with their 73 percent share of the former in the total minority population at the national level) and the remaining 5 percent for the other minorities.
 - (b) Minor adjustment *inter se* can be made within the 15 percent earmarked seats. In the case of non-availability of Muslims to fill 10 percent earmarked seats, the remaining vacancies may be given to other Minorities if their members are available over and above their share of 5 percent; but in no case shall any seat within the recommended 15 percent go to the majority community.
- 24) The action recommended as above will have full sanction of Article 16 (4) of the Constitution. Yet, should there be some insurmountable difficulty in implementing this recommendation, as an alternative since according to the Mandal Commission Report, the Minorities constitute 8.4 percent of the total OBC population, in the 27 percent OBC quota, an 8.4 percent sub-quota should be earmarked for the Minorities with an internal break-up of 6 percent for the Muslims (commensurate with their 73 percent share in the total minority population at the national level) and 2.4 percent for the other minorities – with minor adjustments *inter se* in accordance with population of various Minorities in various States and UTs.
- 25) The reservation now extended to the Scheduled Tribes, which is a religion-neutral class, should be carefully examined to assess the extent of Minority presence in it and remedial measures should be initiated to correct the imbalance, if any. The situation in Meghalaya, Mizoram, Nagaland and Lakshadweep which are Minority dominated and predominantly tribal, as also such tribal areas / districts in Assam and all other States, is to be especially taken into account in this respect.
- 26) The judicial reservation recently expressed in several cases about the continued inclusion of the creamy layer in various classes enjoying

reservation, inclusive of the Scheduled Castes and Scheduled Tribes, should be seriously considered for acceptance as a State policy.

- 27) On a careful examination of prevalence of the caste system among various sections of the Indian citizenry, it is concluded that caste is in fact a social phenomenon shared by almost all Indian communities irrespective of their religious persuasions. Many of the particular castes are found simultaneously in various religious communities, equally facing problems of social degradation and mistreatment both by their co-religionists and the others.
- 28) The Constitution of India prohibits any discrimination between the citizens on the basis of caste, and yet it sanctions special affirmative measures for Scheduled Castes. At the same time it prohibits any discrimination on the ground of religion. Reading all these constitutional provisions together, it is convinced that any religion-based discrimination in selecting particular castes for affirmative action will conflict with the letter and spirit of the constitutional provisions. The Commission is making following recommendations:-
- 29) The caste system should be recognized as a general social characteristic of the Indian society as a whole, without questioning whether the philosophy and teachings of any particular religion recognize it or not – since the Indian brands of certain faith traditions like Christianity and Islam have never assimilated many puritan principles of those religions, posing this question in respect of the caste system only and singling out for a differential treatment is unreasonable and unrealistic.
- 30) This fact is duly recognized that among the Muslims of India the concepts of *zat* (caste) and *arzal* (lower castes) are very much in practice; and even the Muslim law of marriage recognizes the doctrine of *kufw* –parity in marriage between the parties in all vital respects including social status and descent – which in this country means nothing but caste.
- 31) In view of what has been said above, it is recommended that Para 3 of the Constitution (Scheduled Castes) Order 1950 – which originally restricted the Scheduled Caste net to the Hindus and later opened it to Sikhs and Buddhists, thus still excluding from its purview the Muslims, Christians, Jains and Parsis, etc. – should be wholly deleted by appropriate action so as to completely de-link the Scheduled Caste status from religion and make the Scheduled Castes net fully religion-neutral like that of the Scheduled Tribes.

- 32) All those groups and classes among the Muslims and Christians, *etc.* whose counterparts among the Hindus, Sikhs or Buddhists, are included in the Central or State Scheduled Castes lists should also be covered by the Scheduled Caste net. If any such group or class among the Muslims and Christians, *etc.* is now included in an OBC list, it should be deleted from there while transferring it to the Scheduled Castes – placing the same persons in the Scheduled Caste list if they are Hindu, Sikh or Buddhist but in the OBC list if they follow any other religion – which is the case in many States - in our opinion clearly amounts to religion-based discrimination.
- 33) As the Constitution of India guarantees freedom of conscience and religious freedom as a Fundamental Right, once a person has been included in a Scheduled Caste list a willful change of religion on his part should not affect adversely his or her Scheduled Caste status – as that would in Commission’s opinion conflict with the basic constitutional provisions relating to equality, justice and non-discrimination on religious grounds; as also with the spirit of the old and time-tested Caste Disabilities Removal Act of 1850.

MODALITIES SUGGESTED FOR IMPLEMENTING THE RECOMMENDATIONS.

- I. The Commission is not suggesting any amendment in the Constitution – as it is fully convinced that none of its recommendations requires for its implementation any amendment of the Constitution and that each of these can be fully implemented by legislative or / and administrative action.
- II. All Central and State Acts, Statutory Rules and Regulations be suitably amended to implement those of Commission’s recommendations which in the opinion of the Ministry of Law and Justice or any another concerned authority may require such amendments.
- III. More specifically, it is recommended that the following legislative actions which are required either for the implementation of some of the recommendations stated above or otherwise in the interest of the welfare of Minorities :-
- (a) Enactment of a detailed law to enforce the dictates of Article 30 of the Constitution;
 - (b) Amendment of the National Commission for Backward Classes Act 1993;

- (c) Amendment of the Constitution (Scheduled Castes) Order 1950 and the Constitution (Scheduled Tribes) Order 1951 as also of the Central and State lists of the Scheduled Castes and Scheduled Tribes;
- (d) Review of the laws and rules, processes and procedures, relating to selection and notification of OBCs at the Central and State levels;
- (e) Enactment of a law to clothe with statutory status and judicial enforceability the Prime Minister's 15-Point Programme for Minorities 1983 as modified in 2006;
- (f) Amendment of the National Commission for Minorities Act 1992 and the National Commission for Educational Institutions Act 2004 so as to make it necessary for the government to appoint as the chairpersons and members of these bodies – through a Search Committee as in the case of the National Human Rights Commission – only reputed experts in the constitutional, legal, educational and economic matters relating to the Minorities;
- (g) Necessary amendments in the Wakf Act 1993 and all the Rules framed under its provisions;
- (h) Review and necessary overhaul of the laws, rules, regulations, procedures and processes relating to the National Minorities Development and Finance Corporation and the Maulana Azad Education Foundation.

IV. The following administrative measures which are required either for the implementation of some of the recommendations or otherwise in the interest of the welfare of Minorities:-

- (a) Establishment of a Parliamentary Committee to consider and decide in the light of the Constitution policy matters relating to the minorities;
- (b) Establishment of a National Committee consisting of Chairpersons of NHRC, NCW, NCBC, NCST, NCSC, NCM, NCMEI, NMDFC, CLM, Central Wakf Council and Maulana Azad Foundation along with nominated experts for monitoring the educational and economic development of the Minorities;
- (c) Creation of similar bodies in all the States / UTs for the same purpose and consisting of local top-level officials dealing with Minority-related matters and independent experts;
- (d) Establishment of a National-level Coordination Committee consisting of representatives of all the nationalized banks and other financial institutions to work under the RBI for monitoring credit flow to the Minorities;
- (e) Establishment of State Minorities Commissions and Minority Welfare Departments in all those States and UTs where these do not exist as of now;
- (f) De-centralization of all Minority related schemes, programmes and plans so as to create suitable district-level mechanisms for their day-to-day implementation;

- (g) Revision of the list of Minority Concentration Districts as suggested by the NCM in 1990s and initiating special educational, economic and general welfare measures there through the local administration;
- (h) Appointment of Minority Welfare Committee consisting of officials and local experts in all districts of the country to act the nodal agencies of NCM, State Minorities Commissions and all other Central and State-level bodies working for the Minorities.
