

**ACTION TAKEN MEMORANDUM ON THE RECOMMENDATION CONTAINED IN THE 6th
ANNUAL REPORT OF THE NATIONAL COMMISSION FOR MINORITIES FOR THE PERIOD
FROM 1998 TO 1999.**

Chapter-VIII Para No. 1(1) & 1(2) Page No.37

1 & 2. RECOMMENDATION

Recommendation No.1

Recommendation that the National Commission for Minorities Act, 1992 be amended in accordance with the suggestions contained in the document titled "Proposals for Amendment in the NCM Act, 1992" sent by the Commission to the Government this year.

Recommendation No.2

Recommended that the Commission's budget be suitably enhanced in accordance with the proposals made in that regard by the Varadarajan Committee appointed by the Planning Commission in 1996 for the 9th Five Year Plan; and the Commission be actually given full and unfettered freedom to operate its budget "as it may deem fit." as provided for by Section 14 of the NCM Act, 1992.

ACTION TAKEN

It has been decided to give constitutional status to the National Commission for Minorities, which would infuse greater confidence among the minorities. Accordingly, the Constitution (One Hundred and Third Amendment) Bill, 2004 have been introduced in Lok Sabha on 23.12.2004.

With effect from year 1996, the National Commission for Minorities (NCM) has financial autonomy similar to Ministries of the Central Government.

Further, the Commission does not have any Plan budget. Under Non-Plan, funds are provided according to requirement. It has been observed that, in the last ten years the actual expenditure of NCM has never exceeded the provisions made for it in the Budget.

Chapter-VIII Para No. 1(3)

3. RECOMMENDATION

Recommended that outdated Annual Reports of the first statutory Commission (1993-96) be shelved, and that the three Annual Reports of the present Commission (1996-99) be tabled in Parliament together in its next session with a single consolidated ATR.

ACTION TAKEN

The first three Annual Reports of the first statutory Commission, i.e. from years 1993 – 1996 have already been tabled in both Houses of the Parliament as required under Section 13 of the National Commission for Minorities (NCM) Act, 1992. The fourth & fifth Annual Reports for the period 1996-97 and 1997-98 have also been laid. It is expected that other reports, along with Action Taken Memoranda, will also be tabled in Parliament soon.

Chapter-VIII Para No. 1(4)

4. RECOMMENDATION

Recommended that after the expiry of the present Commission's tenure in November-December, 1999, the Commission be re-constituted without delay in accordance with the provisions of Section 3 of the NCM Act, 1992.

ACTION TAKEN

In accordance with Section 3 of the NCM Act, 1992, the third Statutory Commission was set up on 21st January, 2000 after the expiry of the term of second Statutory Commission on 11th December, 1999.

Chapter-VIII Para No. 2(1) Page No.37-38

5. RECOMMENDATION

Recommended that a Central Law titled “Minorities Education Act” be enacted containing the following:

- (i) Principles and measures for a meticulous enforcement of the provision of Article 30 of the Constitution- to be spelt out in the light of the leading Supreme Court decisions on the subject;
- (ii) Provisions for the implementation of the Constitutional provisions relating to language and script found in Articles 29, 350-A and 350-B, etc.
- (iii) Directive principles for the recognition of and aid to, Minority educational institutions in terms of the relevant Constitutional Provisions; and
- (iv) General guidelines for the management of Minority educational institutions.

ACTION TAKEN

Government has set up the National Commission for Minority Educational Institutions (NCMEI) under the National Commission for Minority Educational Act, 2004. It has been given powers to enforce the various provisions in the constitution for protecting the rights of minorities regarding education.

Further, Article 15(5) of the Constitution, as amended by the 93rd amendment, protects the special status of minority educational institutions.

In view of these there does not appear to be need for further legislation on the subject.

Chapter-VIII Para No. 2(2) Page No.38

6. RECOMMENDATION

Recommended that in exercise of the powers conferred by Article 256, appropriate policy directions be issued by the Central Government to all State Governments for revising their Education Codes/Laws/Rules/Regulations, to fully implement the provisions of Article 30 of the constitution and the proposed Parliamentary legislation referred to in para 1 above. (Recommendation No.5)

ACTION TAKEN

The Government of India has set up the National Commission for Minority Educational Institutions (NCMEI) in 2004 to look into cases of violation of constitutional provisions and provide relief to the affected.

Chapter-VIII Para No. 2(3), (4), (10) & 7 (c) Page No.38,39 & 43

7. RECOMMENDATION

Recommendation No.7

Recommended that all Parliamentary legislation relating to UGC,NCERT, AICTE and Medical Council of India, as also the laws of all Central Universities, be suitably amended to introduce appropriate

provision for the enforcement of Article 30 of the Constitution and the related Norms and guidelines issued by the MHRD and NCM, during 1986-89.

Recommendation No.8

Recommended that all the specific suggestions and recommendations contained in the NCM study on “Right of the Minorities to Establish and Administer Educational Institutions” (1998) be accepted and duly implemented.

Recommendation No.14

Recommended that the 50% reservations for non-Minority students in Minority Educational Institutions provided for by the Supreme Court decision in St. Stephen’s College case be curtailed to 25% by specific legislation- which should also correspondingly provide that in all non-Minority institutions 25% admission-seats must go to the Minorities.

Recommendation No.47

Recommended that all Christian educational institutions affiliated to central Universities be allowed to freely enjoy all the Fundamental Rights under Article 30 of the Constitution of India as interpreted by the recent Supreme Court decisions, and necessary directions be issued for this purpose to the UGC and all the central Universities.

ACTION TAKEN

The National Commission for Minority Educational Institutions has been set up under the National Commission for Minority Educational Institutions Act, 2004. The Act gives adequate powers to the Commission to protect educational rights of minorities and to ensure enforcement of the constitutional safeguards provided to minority communities.

Chapter-VIII Para No. 2(5) Page No.38

9. RECOMMENDATION

Recommended that all educational institutions established and administered by the Minorities be specifically exempted from compulsory reservations for Scheduled Castes and Scheduled Tribes in admission and faculty appointments, as is required by the law explained in the Commission’s Explanatory Ruling on the subject issued in September, 1998.

ACTION TAKEN

Article 15 of the Constitution has since been amended and minority educational institutions are exempted under the provisions of the newly introduced clause (5).

Chapter-VIII Para No. 2(6) Page No.38

10. RECOMMENDATION

Recommended that the Rules and Regulations of the Maulana Azad Education Foundation be modified to the effect that:

- (i) all educational institutions established and run by the Minorities under whatever law [including the Central and State Wakf laws] they may be registered will be eligible for grants/financial assistance;
- (ii) all such institutions shall be eligible for grants/financial assistance irrespective of the length of their existence ;and
- (iii) an organization planning to establish such an institution shall also be eligible to apply for grants/financial assistance/loans, etc.

ACTION TAKEN

The Maulana Azad Education Foundation (MAEF) provides financial assistance by way of grants-in-aid out of the interest earned on the Corpus Fund provided by the Government. In order to ensure accountability and the best use of the available funds, the bonafides of the grantee organization need to be established. To ensure this, MAFE has laid down certain eligibility criteria, which *inter alia* provide that Societies/Trust should be registered under the Central or State Government Acts for the last three years and have proper Constitution, Memorandum & Article of Association/ Trust Deed etc. However, the recommendation of the Commission has been sent to MAFE for consideration.

Chapter-VIII Para No. 2(7) Page No.38-39

11& 12. RECOMMENDATION

Recommendation No.11

Recommended that education in the general institutions established, run, maintained or managed by the Central, State or Local Self Governments be kept strictly secular and no attempt be made to “spiritualize” it in any degree by adopting or compulsorily introducing observance/singing of any select religious practice, ritual, invocation or song

Recommendation No.12

Recommended that school and college textbooks in Hindi, English and all regional languages be examined once again by a high powered committee to ensure removal there from of all such materials that may adversely affect communal harmony and inter-community relations.

ACTION TAKEN

The National Curriculum Framework, 2005 has since been formulated and published by the National Council for Educational Research & Training (NCERT) taking into account all aspects.

The National Council for Educational Research & Training has already revised the relevant history text books in schools and the new books have since been published.

Chapter-VIII Para No. 2(9) Page No.39

13. RECOMMENDATION

Recommended that Human Rights and Minority Rights as recognized by the UN Declarations of 1948 and 1992 respectively, as also all Fundamental Rights and Duties enshrined in the Constitution of India, be compulsorily taught at appropriate levels in all schools and colleges.

ACTION TAKEN

The National Curriculum Framework (NCF) 2005 has been finalized and published by the National Council for Educational Research and Training covering, among others, the points contained in the recommendations of the Commission. The NCF 2005 forms the basis for framing syllabus and textbooks for secondary and higher secondary education in the country. The State Governments have been addressed so that they may bring this to the notice of the State Boards of Secondary/Higher Secondary Education for further action.

Chapter-VIII Para No. 2(11) Page No.39

15. RECOMMENDATION

Recommended that a “National Minorities Education Council” be set up with statutory powers to work for an overall educational advancement of the Minorities in interaction with UGC, NCERT and other similar bodies and having jurisdiction to regulate the working of Minority educational institutions all over India.

ACTION TAKEN

The National Commission for Minority Educational Institutions, established in 2004, is a quasi-judicial body and has powers to decide on the conferment or denial of minority status to educational institutions. It is competent to issue directions to Central and State Governments on minority educational issues.

Chapter-VIII Para No. 3(1) Page No.39

16. RECOMMENDATION

Recommended that the share of the Union Government in the funds of the NMDFC be raised forthwith to 75% the NMDFC and NCM be inter-linked through an appropriate inter-institution mechanism, NMDFC loan and financial assistance be made available to individuals and organizations of the Minority communities through simplified procedures and without irrational administrative hassles; and a high-powered committee be set up to review the performance of NMDFC and suggest improvement measures.

ACTION TAKEN

The equity (share holding pattern) has already been changed and the share of the Central Government has been enhanced from 60% to 65%. The authorized share capital of the corporation has also been enhanced from Rs.500 crores to Rs. 650 crores.

Recently, the National Minorities Development Finance Corporation (NMDFC) has rationalized its procedures in order to reach out to the ultimate beneficiaries. An expert committee, consisting of professional bankers, has been constituted to review the functioning of NMDFC and suggests measures for improvement. Their report has been presented on 13th April, 2007.

The functions of NMDFC and the National Commission for Minorities (NCM) being quite distinct, the former being a public sector undertaking and the latter a statutory body, there appears to be no need to link the two.

Chapter-VIII Para No. 3(2) Page No.39

17. RECOMMENDATION

Recommended that the Prime Minister’s 15 Point Programme for Minorities Welfare, as revised by the MSJE in consultation with NCM, with due stress on its economic content, be immediately notified for implementation and eventually enacted into binding Parliamentary legislation.

ACTION TAKEN

The Prime Minister’s 15-Point Programme for the Welfare of Minorities has since been recast. The revised programme has significant economic content, as it focuses on enhancing opportunities for education, an equitable share in economic activities and employment and improving the condition of living of minorities and provides for earmarking of 15% of targets and funds for minorities in the schemes included in the programme, wherever possible.

Chapter-VIII Para No. 3(3) Page No.39

18. RECOMMENDATION

Recommended that the new list of Minority Concentration Districts, prepared by the NCM on the basis of the 1991 Census Report, be immediately notified for the purpose of preferential implementation of the Prime Minister's 15 Point Programmes for Minority Welfare (as revised) and of all welfare schemes for the weaker sections of the society.

ACTION TAKEN

The list of Minority Concentration Districts (MCDs) is being revised on the basis of Census, 2001.

Chapter-VIII Para No. 3(4) Page No.40

19. RECOMMENDATION

Recommended that the Reserve Bank of India should under an appropriate Central Government directive, issue necessary instructions to all nationalized Banks for duly framing and meticulously implementing preferential loaning schemes for the Minority through simplified procedures.

ACTION TAKEN

All commercial banks, both in public and private sector have already been instructed by the Reserve Bank of India to ensure smooth flow of credit to minority communities so that these communities could secure benefits flowing from various Government sponsored schemes.

Chapter-VIII Para No. 3(5) Page No.40

20. RECOMMENDATION

Recommended that the Proviso in the Constitution (Scheduled Castes) Order 1950 [amended version of 1956-90] restricting its scope of particular religious communities be deleted so as not to deny to the Christian and Muslim members of the castes specified in the said Order the socioeconomic benefits extended to the scheduled Castes.

ACTION TAKEN

The Writ Petition (Civil) No. 180 of 2004 and W. P. No. 94 of 2005 had been filed in the Supreme Court. The main contentions raised in the petitions are that the social and economic disabilities of Scheduled Caste converts to Christianity continue to persist in most of cases even after their conversion. Like-wise seven Writ Petitions have been filed in different High Courts in regard to inclusion of Scheduled Castes converts to Islam in the list of Scheduled Castes.

The Government of India, vide Notification No. 14/6/2005-MC dated 28th September, 2005, resolved to expand the terms of the National Commission for Religious and Linguistic Minorities constituted vide Resolution No. 1-11/2004-MC(D) dated 29th October, 2004 to add the following clause to its terms of reference:-

“(d) – to give its recommendations on the issues raised in W. P. NO. 180/04 and 94/05 filed in the Supreme Court and in certain High Courts relating to Para 3 of the Constitution (Scheduled Castes) Order, 1950 in the context of ceiling of 50% on reservation as also the modalities of inclusion in the list of Scheduled Castes”.

The Commission is presently examining the issue of inclusion of Scheduled Castes converts to Christianity/Islam in the list of Scheduled Castes, to which it has been referred, in view of aforesaid Writ Petitions.

Chapter-VIII Para No. 4(1)

21. RECOMMENDATION

Recommended that as even fifty years after Independence there are serious imbalances and inequities in respect of the representation of Minorities in all public employments, top priority should be given to the adoption of measure to rectify this situation and ensure the Minorities their due share in the National resources and their management.

ACTION TAKEN

All public sector undertakings have been advised that wherever a Selection Committee/Board is constituted for making recruitment to 10 or more vacancies in Group 'C' and Group 'D' posts/services, it shall be mandatory to have one member belonging to a minority community in such committees/boards. Administrative Ministries have been requested to direct the official directors in all public sector undertakings to ensure that interests of the minorities are taken care of.

In so far as recruitment in the para-Military forces are concerned, central para-Military forces have been asked to ensure sufficient representation to minorities through making the minorities community candidates aware of the employment opportunities and the incentives/prospects available in the forces. The Government have also issued instructions to CPMFs from time to time to make the composition of Selection Committee representing of all communities so as to inspire confidence among all concerned.

The Prime Minister's New 15- Point Programme for the Welfare of Minorities focuses, among others on an equitable share in economic activities and employment and recruitment to state and Central services.

Chapter-VIII Para No. 4(2) (3)& Para No. 7(b) (2) Page No. 40 & 42

22. Recommendation No.22

Recommended that in all public employment under the Central Government there must be at least 15% representation of the Minorities with a break-up of 10% for the Muslims and 5% for the other Minorities taken together; and that this should be ensured by adopting suitable measures and issuing mandatory guidelines to all Government Departments, public sector undertakings and the concerned recruiting authorities.

23. Recommendation No.23

Recommended that the wholly vague provision for "Special consideration" to be given to Minorities in recruitment to public services, found in the Prime Minister's 15 Point Programme for Minorities, be clarified to specify that it means weightage and relaxation of prescribed requirements as are available to the Scheduled Castes and Tribes.

39. Recommendation No.39

Recommended that binding policy guidelines be issued to UPSC, Staff Selection Commission, all Central Government Offices, Public Sector Undertakings and the State Governments to the effect that as far as possible Muslims should be recruited to public posts of all cadres and groups so as to ensure the community at least a 10% representation in Government and public jobs.

ACTION TAKEN

In accordance with the provisions of Articles 14 and 16 of the Constitution, equality of opportunities should be provided to all citizens in matters relating to employment under the State and no discrimination shall be made on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them. The policy of the Government in regard to recruitment of minorities, including Muslims, in Central Government Services, conforms to the provision of the Constitution.

However, in accordance with the Prime-Minister's New 15-Point Programme for the Welfare of Minorities which provides, *inter alia*, that special consideration will be given to minorities in the recruitment of police personnel by the State and Central Governments and also in employment by the Railways, nationalized banks and PSEs, suitable guidelines have been issued on 08.01.2007.

Chapter-VIII Para No. 5(1) Page No. 40

24. RECOMMENDATION

Recommended that all the suggestions made in the NCM Study on "Communal Riots; Prevention and Cure" be accepted for implementation through a time-bound programme of action.

ACTION TAKEN

The Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill, 2005, was introduced in Parliament and the Parliamentary related Standing Committee has since submitted its Report to Parliament on 13.12.2006. This Bill provides for necessary measures to prevent and control communal riots. Official amendments to the Bill have been approved and notice has been given for moving the amendments.

Chapter-VIII Para No. 5(2)

25. RECOMMENDATION

Recommended that all the suggestions made by the NCM for the implementation of the Srikrishna Commission Report on Mumbai Communal Riots of 1992-93, be accepted for speedy translation into action.

ACTION TAKEN

The Srikrishna Commission Report on Mumbai Communal Riot of 1992-93 had, inter-alia, recommended that "Action to be taken finally should not be left exclusively to the decision of the State Government. Instead it should be determined by an independent and impartial high powered body set up by the Union Government in consultation with the leaders of the Opposition in the two Houses of Parliament. This body should consist of representatives from National Bodies like NHRC and NCM, senior retired judges and select scholars of high academic integrity. The suggestions made by this body should be treated as final and binding on all concerned."

The issue including the role of the Union Government in this regard is pending before the Supreme Court of India in two Writ Petitions Nos. 527/98 & 542/98 and is therefore sub-judice.

Chapter-VIII Para No. 5(3) Page No. 41

26. RECOMMENDATION

Recommended that an appropriate Policy Document indicating effective measures for the prevention, control and handling of communal riots be addressed by the Central Government to all the States and the Union Territories in the form of directives issued under Article 256 of the Constitution.

ACTION TAKEN

The Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill 2005, was introduced in Parliament and the Parliamentary related Standing Committee has since submitted its Report to Parliament on 13.12.2006. This Bill provides for necessary measures to prevent and control communal riots. Official amendments to the Bill have been approved and notice has been given for moving the amendments.

Chapter-VIII Para No. 5(4)

27. RECOMMENDATION

Recommended that the percentage of Minorities especially of the largest Minority, i.e, the Muslims in the police services all over the country be suitably increased and that appropriate legislative and administrative measures to secure this goal be adopted at the National level including that suggested in Section 4, para-3 above. (Recommendation No.25)

ACTION TAKEN

State Governments/UT Administrations have been advised that the state police forces should represent the social structure in their respective States so that the force retain their secular character. Since recruitment of police personnel is within the purview of State Governments/ UTs, instructions have also been issued to include representatives belonging to minorities in the selection committees.

In so far as recruitment in the para-military forces are concerned, Central Para-Military Forces have been asked to ensure sufficient representation to minorities through making the minority community candidates aware of the employment opportunities and the incentives/ prospects available in the Forces. Instructions have also been issued to CPMFs from time to time to make the composition of Selection Committees representative of all communities so as to inspire confidence among all concerned.

Chapter-VIII Para No. 6(1)

28. RECOMMENDATION

Recommended that the Places of Worship (Special Provisions), Act, 1991 be amended to provide strict penalties for damaging religious places and premises and for the establishment of Special Courts for speedy trial of all such offences.

ACTION TAKEN

A punishment of imprisonment up to three years and fine has been provided under the Places of Worship (Special Provisions) Act 1991. There does not seem to be adequate justification to enhance it. All State Governments /Union Territory Administrations have been requested, in terms of communal harmony guidelines to consider establishment of Special Courts for speedy trial.

Chapter-VIII Para No. 6(2)

29. RECOMMENDATION

Recommended that irrespective of religion no member of the police and the country's Defence Forces, etc. including the Army, Navy, Air Forces, CISF, BSF and the like be denied the freedom to grow beard as a religious practice which is a Fundamental Right protected by the provision of Article 25 of the Constitution.

ACTION TAKEN

All personnel in the Army, Air Force and Navy are permitted to grow a beard on religious grounds, subject to certain service requirements and conditions.

Similarly, members of the Central para-Military forces are permitted to keep a beard on religious grounds. As regards State police forces, the recommendation has been forwarded to the State Governments for taking appropriate action.

Chapter-VIII Para No. 6(3)

30. RECOMMENDATION

Recommended that the use of amplifiers in all places of worship of all religious communities be regulated by a unified central law.

ACTION TAKEN

The Noise Pollution (Regulation and Control) Rules, 2000 and as amended in the year 2002, framed under the Environment (Protection) Act, 1986) regulates the use of loudspeakers and amplifiers in all places which includes places of worship. These rules have also been upheld by Hon'ble Supreme Court of India and the State Governments are required to take requisite steps to implement the law and the directions of the Hon'ble Supreme Court.

Chapter-VIII Para No. 6(4)

31. RECOMMENDATION

Recommended that no select invocation, song, ritual or other practice belonging to any particular religion be introduced for compulsory observance in any public place or any public occasion.

ACTION TAKEN

All States/ UT Governments have been advised not to inscribe any religious slogans on the walls of government buildings and not to open any places of worship inside government buildings.

Chapter-VIII Para No. 6(5)

32. RECOMMENDATION

Recommended that all the measures suggested in the NCM study titled "Rights of Minorities to Religious Freedom" (1999) be accepted and legislated upon wherever necessary or otherwise implemented.

ACTION TAKEN

The rights of minorities to religious freedom have been enumerated and protected under the provisions of Article 25 to 30 of the Constitution of India. In case these are violated, any aggrieved citizen can seek redress from an appropriate court of law.

Chapter-VIII Para No. 6(6)

33. RECOMMENDATION:-

Recommended that as a core group of the National Integration Council, a National Religious Harmony Council be set up to regularly monitor the communal situation in all parts of the country and promote harmonious relations between all the religious communities.

ACTION TAKEN

Maintenance of peace and communal harmony and upholding the principle of secularism are the primary duties of State Governments. The Union Government has taken a variety of administrative measures and promotional efforts in this regard. These include constant review of the communal situation in the country, maintaining a continuous watch over the activities of individuals and organization having a

bearing on peace and communal harmony, sending alert messages, sharing of information, sending central para-military forces to the States on the specific request of the concerned State Government (s), assistance in the modernization of the State Police forces etc.

In addition, the Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill, 2005 provides measure to be taken to prevent and control communal riots.

Further, National Integration Council, which was reconstituted and held its meeting in August, 2005, is performing the required function adequately.”

Besides, a new Ministry of Minority Affairs has been set up and it is responsible for formulating policy initiatives for protection of minorities and their security in consultation with other Central Government Ministries and State Governments.

Chapter-VIII Para No. 7(a) (1)(3) and 8(7) Page Nos. 41-42,43 & 45

34. RECOMMENDATION

Recommended that the Hindus in the States of Jammu & Kashmir, Mizoram, Meghalaya, Nagaland and Punjab and the Union Territory of Lakshadweep be recognized as State level Minorities and given all necessary protection for their religious rights and adequate safeguards for their educational and socio-economic development.

36. RECOMMENDATION

Recommended that all the measures suggested in the Special Report on “NCM Actions & Recommendations for the Hindu Community” submitted this year, be accepted and duly implemented.

63. RECOMMENDATION

Recommended that steps to implement all the measures in the NCM Special Reports and Studies which relate to States but fall in the Central Government’s jurisdiction be initiated without delay.

ACTION TAKEN

The Constitution (One hundred and third Amendment) Bill 2004, to confer constitutional status on the National Commission for Minorities was introduced in Lok Sabha in December 2004. Section 9 of this Bill reads: “For the purpose of this Article, ‘Minority means a community which the president may, by public notification specify to be minority.”

The above mentioned Bill was referred to the Standing Committee on Social Justice and Empowerment which presented its Report to the Lok Sabha on 21 February 2006.

Recommendation V of the Standing Committee states that the observations made by the Hon’ble Supreme Court in this judgment dated 08 August 2005 in the case of Shri Bal Patel & another *versus* Union of India should be kept in view in its entirety while finalizing the Bill.

Accordingly, keeping in view the recommendations of the Standing Committee and the judgments of the Hon’ble Supreme Court in the T.M.A. Pai Foundation Vs State of Karnataka and Bal Patel & another Vs. Union of India official amendments to the Bill are being formulated and are expected to be moved soon.

In view of this, the question regarding declaration of Hindus as minority as contained in recommendations No.34, Special Report for Hindu community as contained in recommendation No. 36 and Special Report & Studies contained in recommendation No. 63 will have to await the outcome of the Constitution amendment Bill mentioned above.

35. RECOMMENDATION

Recommended that the Central Government should adopt and implement time-bound scheme for the displaced Kashmiri Pundits for their return to the Valley and proper rehabilitation.

ACTION TAKEN

There are 55,519 Kashmiri Migrant families of which 34,131 families are in Jammu; 19,338 families in Delhi and 2050 families in other States/UTs. Government of J&K is giving cash relief of Rs. 1000/- per head subject to a maximum of Rs.4000/- per family per month to 14,658 needy families w.e.f. 1.7.2006 and Government of NCT of Delhi is giving cash relief of Rs.800/- per head subject to a maximum of Rs.3200/- per family per month for 4100 needy families. Government of NCT of Delhi has also been advised to enhance the cash relief to Rs.1000/- per head per month subject to a maximum of Rs.4000/- per family per month. Other States have been providing relief to Migrants in accordance with the rules in vogue in their States.

An expenditure of about Rs. 70.00 crores is incurred annually towards providing cash assistance and rations to the migrants at Jammu. The total expenditure incurred for providing relief/assistance since 1990 is Rs. 640.11 crores. The expenditure is reimbursed to the State Government of Jammu and Kashmir by the Central Government under Security Related Expenditure. The expenditure for providing relief to the migrants at Delhi is borne by the Government of NCT of Delhi, and is about Rs. 20.00 crores annually.

In order to enable the safe and honorable return of migrants to the valley the shrines in Mattan and Kheer Bhavani have been developed into two model clusters containing temporary shelters, where Kashmiri Migrants displaced from these places can be settled temporarily till such time they can repair their existing residential houses. Government of India has provided a grant to Rs. 10.00 crores to the State Government in December 2002 for the reconstruction/ renovation of houses and shrines at Kheer Bhavani and Mattan. The State Government has constructed 18 flats at Mattan and 100 one room tenements at Kheer Bhavani, besides carrying out repairs/renovation to the shrines.

In order to facilitate the return of Kashmiri Migrants, the Central Government have approved construction of 200 flats at Sheikhpura in Budgam District on an experimental basis at an estimated expenditure of Rs.20 crores and a sum of Rs.18.00 crore has been released till now. The construction of the flats is nearing completion.

As announced by the Prime-Minister during his visit to J&K in November, 2004, an inter-ministerial team was constituted to prepare a plan to rehabilitate Kashmiri migrants. The team recommended various confidence building measures like construction of two-room tenements, creation of job opportunities, health-care and other facilities to improve the living conditions of the migrants in the camps. The recommendations of the inter-ministerial team have been accepted and the State Government and the concerned Ministries/Departments have initiated necessary action. In accordance with the announcement of the Prime Minister and the recommendations of inter ministerial team and subsequent deliberations, the State Government purpose to construct 5,242 Two-Room Tenements (TRTs) at an expenditure of Rs. 185.00 crore (approx.) to accommodate migrant families presently living in one-room construction work will be carried out in a period of three years. Funds shall be provided under Special Plan Assistance by the Planning Commission in the Annual Plans of the State Government.

Construction work of 1024 sets has started at three sites viz. Muthi phase-II, Purkhoo and Nagrota. In a meeting chaired by Chief Minister on 16.11.2006, a decision has been taken to make available 500 kanals (62.5 acres) of State land for construction of the remaining 4218 two-room sets.

37. RECOMMENDATION

Recommended that four Hindu law enactments of 1955-56 be amended so as to delete from them all provisions relating to loss of property and family rights resulting from change of religion.

ACTION TAKEN

The subject matter of Hindu law enactments in pith and substance falls under Entry 5 of the Concurrent List in the seventh Schedule to the Constitution of India. Hence, the State Governments are being consulted before any policy decision in the matter could be taken.

Chapter-VIII Para No. 7(b) (1)

38. RECOMMENDATION

Recommended that the Central Wakf Act, 1995 be immediately enforced in all the States and Union Territories and the following steps be taken forthwith under its provisions:

- (i) replacement of the Delhi, U.P. and Punjab Wakf Boards with a common "North India Wakf Board" duly constituted under law, to have jurisdiction on all wakfs situated in Delhi, UP, Haryana, Himachal Pradesh and Punjab;
- (ii) establishment of five more Regional Wakf Boards for Central, East, North East, South and West India, having jurisdiction in all the States and Union Territories in the respective regions and replacing their existing Wakf Boards;
- (iii) strengthening and extension of functions and powers of the Central Wakf Council enabling it to work as the powerful National Authority and to supervise the work of all the Regional Wakf Boards.
- (iv) Creation of Educational Fund with compulsory donations at fixed rates from all wakfs of the country to be used for financing schemes for educational advancement of the Muslims.

ACTION TAKEN ON MEMORANDUM:-

The Wakf Act 1995 is applicable with effect from 01.01.1996 in all the States/UTs except the state of Jammu & Kashmir and Dargah Khawaja Saheb, Ajmer.

- (i & ii) the Wakf Act 1995 provides for separate Wakf Boards for each State. Most of the States/UTs have already constituted their own Wakf Boards and there is no provision under the Act for common Regional Wakf Boards. Only under special circumstances and after consultation with State Governments a common Wakf Board can be established under Section 106 of the Wakf Act.
- (iii) Central Wakf Council (CWC) is established as per Section 9 of the Wakf Act 1995. The Wakf Act, 1995 has provisions with respect to finances of the Council. The Central Wakf Council has also been given an advisory role on matters concerning the working of Wakf Boards and administration of Wakfs. However, Government is considering ways and means to strengthen the CWC and to enable it to monitor effectively the functioning of Wakf Boards.
- (iv) As per existing scheme of Central Wakf Council an educational fund is already created with the help of 6% donation on the loans given for the Wakf projects under the Scheme of Development of Urban Properties. This educational fund is utilised for educational welfare schemes of Muslim community. Also, the loanee Wakf institutions are required to spend 40% of the enhanced income on the education of Muslims particularly on technical education.

40. RECOMMENDATION

Recommended that the Union HRD Ministry and the UGC should devise and implement, in consultation with NCM, NMDFC and NCERT special schemes for the eradication of educational and economic backwardness of the Muslims of India.

ACTION TAKEN

Education is a powerful instrument for removing economic backwardness. Schemes like the Sarva Shiksha Abhiyan, introduction of modern subjects in Madarsa volunteering to introduce such subjects and UGC's schemes of remedial coaching in higher education are some of the educational programmes aimed at attaining this objective. The protection of rights through the National Commission for Minority Educational Institutions and monitoring of programmes through the National Monitoring Committee for Minorities Education further buttress the efforts in fulfilling the broad objectives on minorities' education.

Chapter-VIII Para No. 7(b) (4) Page No.43

41. RECOMMENDATION

Recommended that Aligrah Muslim University Act, 1920, the Jamia Millia Islamia Act, 1989 and the Maulana Azad Central Urdu University Act, 1995 be amended, so as to empower these Universities to affiliate Muslim institutions of higher learning all over the country, subject of prescribed guidelines.

ACTION TAKEN

Under the National Commission for Minority Educational Institution Act, 2004 minority educational institutions have been empowered to seek affiliation from any university and any denial of affiliation can also be challenged. It is not proposed to amend the Acts relating to the three universities as it is for these universities' competent bodies such as the Universities Court, to take the initiative in terms of academic autonomy granted to them.

Chapter-VIII Para No. 7(b) (5)

42. RECOMMENDATION

Recommended that a statutory Central Madarsa Education Board be established to properly streamline, uniformly organize and scientifically develop madarsa education all over India.

ACTION TAKEN

The National Council for promotion of Urdu Language and the State Madarsa Education Boards are working towards developing and streamlining madarsa education all over India. Establishment of Central Madarsa Education Board is being examined in consultation with State Madarsa Boards.

Chapter-VIII Para No. 7(b) (6)

43. RECOMMENDATION

Recommended that the Union HRD and SJE Ministries should launch special schemes and programmes for social, educational and economic upliftment of Muslim women in the country.

ACTION TAKEN

Educational upliftment of women including Muslim women is accorded priority in the National Policy on Education. The Prime-Minister's New 15 Point Programme for the Welfare of Minorities focuses on enhancing opportunities for education and equitable share in economic activities and education among other things. These schemes are meant for minorities including Muslim women and are as under:-

- i) Kasturba Gandhi Balika Vidyalayas (KGBV) are being set up for girls at upper primary level in educationally backward blocks of the country where a minimum 75% seats are for SC/ST/OBC/Minorities; 210 KGBVs have been sanctioned in minority dominated blocks;
- ii) Maulana Azad Education Foundation (MAEF) has launched a scholarship scheme for meritorious girl students belonging to minorities in 2003-04.
- iii) A new programme of 20,000 merit-cum-means based scholarship scheme to encourage students belonging to minorities to pursue higher studies is being launched.
- iv) The Sarva Siksha Abhiyan (SSA) and Community Polytechnics also give special emphasis on educational upliftment of women.
- v) The National Minorities Development and Finance Corporation (NMDFC) also runs vocational training schemes which aims at providing economic upliftment of women belonging to minority communities.
- vi) The Area Intensive and Madarsa Modernization Programme for Educationally Weaker Section of minority also emphasizes on women education. Besides the appointment of Urdu Teachers and incentive for teaching/Study of urdu exclusively for educationally backward minority lay special emphasis on educational upliftment of women.

Chapter-VIII Para No. 7(b) (7)

44. RECOMMENDATION

Recommended that a process for a proper codification of the Muslim personal law-especially its provisions on the status and rights of women be initiated in consultation with the Islamic Fiqh Academy (India) and the All India Muslim Personal Law Board.

ACTION TAKEN

It is consistent policy of the Central Government not to interfere in the Personal Laws of the minority communities unless the necessary initiative therefore comes from a sizeable cross-section of the community concerned itself. So far no suggestion in this regard has been received from the all Muslim Personal Law Board or from any other Muslim organization.

Chapter-VIII Para No. 7(b) (8)

45. RECOMMENDATION

Recommended that the Special Marriage Act, 1954 be amended to provide that Muslim couples married under that Act will continue to be governed by the Islamic law of succession on the lines of a similar amendment made for the Hindus in that Act in 1976.

ACTION TAKEN

It is felt that the time is not ripe for codification of Muslim Laws. Further, it has been the consistent policy of the Central Government no to interfere in the personal laws of minorities unless necessary initiative comes from a sizeable cross-section of the community concerned itself.

Chapter-VIII Para No. 7(b) (9)

46. RECOMMENDATION

Recommended that Christians be enabled to freely enjoy all the Fundamental Rights to Religious Freedom as enshrined in Article 25 to 28 of the Constitution of India and to ensure this necessary Policy Documents be issued by the Central Government to the States in the form of directions under Article 256 of the Constitution.

ACTION TAKEN

The rights of minorities, including Christians, to religious freedom have been protected under the provisions of Articles 25 to 30 of the Constitution of India. In case such right is violated any aggrieved citizen can seek redress from an appropriate court of law.

Chapter-VIII Para No. 7(c) (3)

48. RECOMMENDATION

Recommended that a central law be enacted to protect and regulate the Christian places of worship and religious endowments in consultation with representative organizations of the community to be arranged by the NCM.

ACTION TAKEN

The Places of Worship (Special Provisions) Act 1991, enacted by Parliament already prohibit conversion of any place of worship and further provides for the maintenance of the religious character of any place of worship as it existed on 15th August, 1947. Section 2(c) of the Act defines places of worship, which means a temple, mosque, gurudwara, church, monastery or any other place of public religious worship of any religious denomination. Section 3 of the Act provides a bar on conversion of places of worship and Section 6(1) of this Act provides for punishment for contravention of Section 3, which is punishable for a term which may extend to 3 years and shall also be liable to fine. In view of these there does not appear to be need for a fresh legislation in the subject.

Chapter-VIII Para No. 7(c) (4)

49. RECOMMENDATION

Recommended that the Christian personal law be codified on the basis of the Bills finalized by the NCM in consultation with the representative bodies of the community sent to the Government last year.

ACTION TAKEN

The Central Government consulted the leading Christian Organizations and Members of Parliament and therefore the Indian Divorce Act, 1869, was comprehensively amended vide the Indian Divorce (Amendment) Act 2001 (51 of 2001). Further, the Indian Succession Act, 1925 was also amended vide the Indian Succession (Amendment) Act, 2002 (26 of 2002).

Chapter-VIII Para No. 7(c) (5) Page No.44

50. RECOMMENDATION

Recommended that special packages be adopted for an overall development of the Christian dominated tribal States of Meghalaya, Mizoram and Nagaland.

ACTION TAKEN

Special packages for development of North Eastern States including Meghalaya, Mizoram and Nagaland have been announced by the Union Government from time to time. These States are already declared as Special Category States and are eligible for Central Assistance on very concessional terms as compared to other States. It is not desirable to have special packages on a religious basis, in the interest of the unity and integrity of the country.

Chapter-VIII Para No. 7(d) (1)

51. RECOMMENDATION

Recommended that the Minority status of Buddhists should be duly recognized everywhere for all purpose including operation of the Minorities educational rights.

ACTION TAKEN

As per Government of India's Notification No. 816 (E) dated 23/10/1993, Buddhists have been declared as a minority community. Further, Buddhists have also been notified as a minority community for the purpose of the National Commission for Minority Educational Institutions (NCMEI) Act 2004.

Chapter-VIII Para No. 7(d) (2)

52. RECOMMENDATION

Recommended that for the removal of the educational backwardness (as officially recognized) of the Buddhists special educational schemes be framed by the Union HRD and SJ&E Ministries and the UGC.

ACTION TAKEN

Certain castes belonging to several communities who have subsequently converted themselves into Buddhists have been declared as Scheduled Castes and they are accordingly already availing the benefits available to Scheduled Castes.

Chapter-VIII Para No. 7(d) (3)

53. RECOMMENDATION

Recommended that the issue of Minority status for the Jains be settled once and for all as directed by the Bombay High Court and that till the decision of the writ petition on the subject now pending in the Supreme Court, status quo in respect of Jain schools and colleges be maintained everywhere.

ACTION TAKEN

Noted: The Petition of Shri Bal Patil Vrs UOI was disposed off on 08th August 2005. Shri Bal Patil has filed review petition in the Hon'ble Supreme Court, which came up for hearing on 01st September, 2006. The case has been referred to a bench of three Judges.

Chapter-VIII Para No. 7(d) (4)

54. RECOMMENDATION

Recommended that the educational and socio-economic problems of the Sikhs in Haryana, UP, Jammu & Kashmir and elsewhere be duly attended to as suggested by NCM from time to time.

ACTION TAKEN

In 2004, Government have revived the National Monitoring Committee for Minorities Education (NMCME). The Committee consists of prominent persons in education from minority communities, eminent educationists, central and state government officials and ministers concerned with education. The Committee interacts with minority community representatives, minority educational institutions, the general public and central and state government officials and advises the Government on matters pertaining to the education of minorities'. Its recommendations after examining their feasibility are accepted and implemented by the Central/State Governments. With the help of this Committee the educational problems of minorities are identified from time to time and attended to.

In addition the National Minorities Development & Finance Corporation promotes the economic development of "backward sections" amongst the minorities including Sikhs.

The recommendation has also been forwarded to the concerned state governments for taking necessary action in accordance with section 9(3) of the NCM Act, 1992.

Chapter-VIII Para No. 7(d) (5)

55. RECOMMENDATION

Recommended that while deciding the boundaries of the proposed Uttaranchal State, the Sikh viewpoint about inclusion of the Udham Singh Nagar district in that newly created State be given due consideration and weight.

ACTION TAKEN

The views of the Sikh community in Udham Singh Nagar were considered carefully while deciding on the issue of the inclusion of this district in Uttaranchal and appropriate provisions made in the law as considered necessary.

Chapter-VIII Para No. 7(d) (6)

56. RECOMMENDATION

Recommended that the fact compared with all other Minorities, the Parsis are a small community (total population: 76000) confined only to two States (Maharashtra & Gujarat) be kept in mind in framing all policies and programmes for the Minorities in general.

ACTION TAKEN

The policies / programmes formulated and implemented by the Central Government, and in particular the Prime Minister's New 15-Point Programme for the Welfare of Minorities, aim at the welfare of minorities including Parsis.

Chapter-VIII Para No. 8(1)

57. RECOMMENDATION

Recommended that appropriate policy directions for the protection of lives, properties and civil rights of all the local minorities be issued under Article 256 of the Constitution, by the Union Government to all State Governments especially Assam, Bihar, Gujarat, Jammu & Kashmir , Manipur and Tripura.

ACTION TAKEN ON MEMORANDUM:-

Keeping in view of the provision of Article 256 of the Constitution of India, the Central Government has been issuing advisories to the State Government from time to time for protection of lives and properties of the minorities.

Chapter-VIII Para No. 8(2)

58. RECOMMENDATION

Recommended that the illegal Migrants (Determination by Tribunals) Act, 1983 be retained in force in Assam, extended to other States of the Eastern and North-Eastern Region and subjected to a proper review by a non-governmental and non political Committee of Experts.

ACTION TAKEN

The Supreme Court vide its order on 12.7.2005 in the Writ Petition (C) No. 131/2000, has struck down the Illegal Migrants (Determination by Tribunals) Act, 1983 and the Rules made there under as ultravires of the Constitution. In pursuance of the orders of the Court, the Ministry of Home Affairs has notified that the Tribunals Migrants (Determinations by Tribunals) Act, 1983, has ceased to function w.e.f. 12th July 2005.

In view of the aforesaid developments, the detection and deportation of illegal migrants in the State of Assam is dealt with under the Foreigners Tribunals set up under Foreigners Tribunals Order, 1964.

Chapter-VIII Para No. 8(3) Page No.45

59. RECOMMENDATION

Recommended that the Enemy Property Act, 1968 be repealed forthwith and all cases pending under it, in Delhi and elsewhere, be wound up without taking any further action under its provisions.

ACTION TAKEN

Repeal of the Enemy Property Act, 1968 is not possible till the Government of India and the Governments of Pakistan and Bangladesh (erstwhile East Pakistan) come to an agreement to return the properties of migrants of each country bilaterally. All enemy properties, wherever located have already vested in Custodian of "Enemy Property (CEP). Detection of these properties is continual process and it would be contrary to the object of the Act if identification and take over process is stopped from a fixed date. Such an action can be considered as discriminatory by treating two enemy properties differently. All properties belonging to enemy nationals are vested in Custodian through the Notifications issued in 1965, 1966 & 1971 by Central Government under Defence of India Rules 1962/1971 and Section 5 & 24 of the Enemy Property Act, 1968 which provide for continued vesting of said enemy properties.

Chapter-VIII Para No. 8(4)

60. RECOMMENDATION

Recommended that the report of the Wadhwa Commission on the Manoharpur Tragedy of Orissa, when ready be immediately made public to elicit expert views and implemented without delay in the light of those views.

ACTION TAKEN

The Report of Justice D.P. Wadhwa Commission along with Action Taken Report on the subject under reference has been laid in both Houses of Parliament, i.e. Lok Sabha on 29.11.99 and in Rajya Sabha on 1.12.09.

Chapter-VIII Para No. 8(5)

61. RECOMMENDATION

Recommended that a time-bound scheme be framed and duly implemented for a suitable increase of Minority representation in the Delhi Police and for its extensive training in general Human Rights, Minorities Rights and Women's Rights.

ACTION TAKEN

There is no reservation in government service including Delhi police, on grounds of religion. However, efforts have been made to give due representation to the minorities in government service. This is also part of the Prime Minister's 15-Point Programme for the Welfare of minorities (Point No.10).

In order to sensitize Delhi police personnel with regard to the rights of minorities appropriate training is being imparted to them.