

**REPORT
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COMMISSION
TO
REVIEW THE WORKING
OF THE CONSTITUTION**

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**CHAPTER 10
PACE OF SOCIO-ECONOMIC
CHANGE AND DEVELOPMENT**

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CHAPTER 10

PACE OF SOCIO-ECONOMIC CHANGE AND DEVELOPMENT

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CHAPTER 10

PACE OF SOCIO-ECONOMIC CHANGE AND DEVELOPMENT

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Constitutional Aspirations

10.1.1 The Constitution aimed at a social revolution that would transform the Indian society. There were many dimensions to this historic endeavour. There was, first, the task of catching up with the agricultural and industrial revolutions that had characterised the developed world. This among other reforms involved vast technological changes for increasing productivity of both capital and labour. It was not easy to introduce new techniques of production based on modern science and technology. New structures and institutions had to be created to suit these, a difficult and disruptive exercise in the best of circumstances.

10.1.2 In the Indian context there were other serious obstacles to be overcome, obstacles that had not been confronted by the presently developed nations. Hierarchy and attendant inequality presented an entirely new aspect in India in the shape of the caste system which stifled the creative energies of vast numbers condemned to labour in conditions of degrading exploitation. The exploiter and the exploited were both stripped of human dignity and worth. Patriarchy added yet another element of subjection of women and children to this enormously tragic blockage of initiative and innovation. Religious differences of a plural tradition were turned into a pernicious divide by the deliberate policy of the master minds of the Raj which continues to cast its vicious shadows on Indian polity.

¹ See also the Consultation Paper released by the Commission on “Pace of Socio-Economic Change Under the Constitution” in Volume-II (Book 1) and the Background Paper on “Pace of Socio-Economic Change and Development” in Volume-II (Book 3).

10.1.3 The colonial version of modernity not only carefully preserved inherited inequalities and oppressions, but also overlaid them with more powerful subtexts of new inequalities of a parasitic feudalism and dominations deriving from arrested development.

10.1.4 Faced with the daunting task of modernising India against this setting, the constitution makers set to work with unflinching faith and unbounded hope - faith in the revolutionising principles of liberty, equality and fraternity and in the genius of the Indian people to build a better future for themselves, and hope that the promised transformation would be accomplished without violence and within the framework of democracy.

Progress towards social justice

10.2.1 The Preamble to the Constitution accords primacy to Justice, social, economic, and political, in the making of state policy and in state action. Accordingly, an impressive array of legislative enactments and executive orders have provided a firm legal framework for government action to abolish the most outrageous aspects of the caste system, viz., untouchability; to anchor in law the scheme of reservations for the Scheduled Castes and Scheduled Tribes in political institutions of governance, and to provide for reservation in government services and educational institutions; to reform land relations in order to enable the weaker sections, predominantly belonging to the scheduled castes and scheduled tribes, to access productive assets so that they may work with freedom and dignity; to protect the incomes of landless labour and marginal land holders through minimum wage legislation; to provide financial and organisational resources for the scheduled caste children to receive elementary, secondary and higher education; to prevent and penalise atrocities; to allocate plan resources under specially designed schemes for economic, educational and social development of the scheduled castes and scheduled tribes and to provide

the plan mechanism of Special Component Plan for SCs and Tribal Sub-plan to channelise more developmental resources to them and to integrate the scheduled castes and scheduled tribes with the mainstream of social and economic life in the country. There is a misconception that the problems of Scheduled Castes, Scheduled Tribes and Backward Classes are sectional and marginal. In reality these are part of the central and core problems of the country. These three categories of people constitute about 3/4th of the population of the country and almost the entire physical labour force of the country is drawn from them. It is the failure to tackle their problems so as to remove their disabilities and secure their full potential for national development that lies at the root of the many weaknesses faced by post-Independence India to this day. Therefore, these issues and the remedial measures should be approached as central and core concerns of India.

10.2.2 It is true that there is some progress in breaking the mould of social inequality and caste oppression and in the economic and educational spheres but there is a long way to go before social equality, educational equality, freedom from caste oppression, freedom from economic dependence are achieved. The traditional sanction for inequality has been decisively questioned and to some extent undermined. What is most important is the cultural and intellectual upsurge in the *dalit* communities across the country evidenced in their literary and intellectual productions. This is a development which fills us with hope for the future.

10.2.3 Yet, one still waits for a cultural revolution that would uproot inherited attitudes, values, institutions, practices, and postures, replacing them with values and attitudes relevant to a modern, egalitarian society. Education has still to perform the role of dissolving the encrusted debris of birth sanctioned superiority and birth-based discrimination, deprivation and exploitation. Vast numbers of landless and marginal farmers still hope for a change in institutional

arrangements that would end their abject dependency on the existing power structures in the rural areas.

10.2.4 However, even when faced with the reality of the gap between aspiration and achievement, we cannot but pay our humble tribute to the foresight and wisdom of the Constitution makers in frontally tackling an issue of immense significance to nation building. It remains for us to carry forward the task of bringing about social, economic and educational equality fortified by the mandates of our Constitution. Reservation, no doubt, helped the deprived sections to secure a share, though not to an adequate extent, in governance. Reservation was intended to be part of a comprehensive package of an entire gamut of economic, educational and social measures. This comprehensive package has not been provided in its fullness. Consequently, reservation alone by itself has not been able to bring about the total social transformation envisaged in the Constitution.

10.2.5 The outcome of the failure to provide the comprehensive package envisaged by the Constitution gives material for a sobering thought. More than half century after the Constitution, the bulk of the SC families remain agricultural wage labourers as in the past many centuries. The bulk of STs continue to remain in remote areas and are being progressively deprived of their lands converting many of them into agricultural labourers. The bulk of the backward classes pertaining to economic categories like traditional artisans, fisher-folks and the like are being deprived of their traditional occupations while being denied access to relevant technology and modern occupations, thereby pushing them into the unorganised labour force. All the three categories continue to be the victims, in varying forms and degrees, of all-round deprivations, discriminations and disabilities, in all spheres – economic, educational, social – in the case of SCs extending to the extreme of untouchability and in the case of STs to the extreme of isolation.

Issues of governance

10.3.1 In line with our earlier analysis of the Executive and Public Administration (Chapter 6), we emphasise the paramount need for a radical redefinition of governance to change the mind-set of the political executive and the permanent civil service. The movement must be from governance to self-governance. It should be recognised that constitutional rights of the citizenry, human dignity, Human Rights, human security are not rewards of development but are critical to development itself. Self-governance must necessarily include developmental autonomy for SCs and STs through empowered special institutions on their behalf and empowerment of SCs, STs, BCs and other deprived categories to shape relevant and appropriate policies and programmes for their development and empowerment and the implementation of those policies. Since civil society is an important element figuring conceptually in model of self-governance, it has to be emphasised that civil society must include Scheduled Caste, Scheduled Tribes, Backward Classes and other deprived categories outside Government and governmental institutions and they should be enabled to have a hand in the continuing process of development and programmes.

10.3.2. **The Commission recommends that Citizens' Charters be prepared by every service providing department/agency to enumerate the entitlements of the citizens. In case a citizen fails to receive the public goods and the services in the manner and to the extent set out in such charters, he/she should have recourse to an easy and effective system of grievance redressal through chartered Ombudsman. These citizen's charters should include specifically the entitlements of citizens belonging to SCs, STs and other deprived classes. In the case of these deprived classes the charters can with advantage provide for National and State Commission for SC, ST, BC. Minorities, women, safai karamcharis to function effectively as ombudsman-bodies. Concomitantly, the**

Commission recommends that the charter of these National and State Commissions and the way they are constituted should be such as to facilitate the role, *inter alia*, as ombudsman-bodies for different deprived classes.

10.3.3 Personnel policy should consciously aim at sensitizing public servants, especially officers in the Indian Administrative Service and the Indian Police Service to the special needs of women, the scheduled castes, the scheduled tribes, minorities, and other weaker sections. **The Commission recommends that the Civil Services Boards, recommended to be set up under Chapter 6 for considering promotions and placements, should be directed to specifically consider the performance of officers in promoting the welfare of scheduled castes, scheduled tribes and other deprived categories. When officers are being considered for promotion and placement economic agencies/ministries, weightage should be given to officers who have worked conscientiously and efficiently to implement constitutional values and norms under the law and rules and regulations for the welfare, development and empowerment of the above disadvantaged categories and those who have failed in this and those who have not worked at least for five years in the areas and sectors pertaining to these categories should be excluded from placements in economic ministries/agencies. For this purpose, the Commission recommends that provision be made for Social Justice Clearance before an officer of class I or class II is promoted along the lines detailed in para 3.2 at pages 1390-1391 of Book-3, Vol.II.**

10.3.4 **The Commission recommends that:**

(i) **reservation for SCs and STs should be brought under the purview of a statute covering all aspects of reservation , as detailed in para 8.10 at pages 1406-1408 of Book-3, Vol.II, including setting up *Arakshan Nyaya***

***Adalats* or Tribunal to adjudicate upon all cases and disputes pertaining to reservation in posts and vacancies in Government, Public Sector, Banks and other financial institutions, Universities and all other institutions and organisations to which reservations are and become applicable. These Tribunals should have the status of High Courts, appeals lying only to the Supreme Court. These Tribunals should have their main Bench at Delhi and other Benches in the States. The Chairperson, Vice-Chairperson and other Members of the Tribunal and its benches should be selected on the basis of their record in the implementation of Reservation in their earlier positions. The statute should, *inter alia*, have a penal provision including imprisonment for those convicted of wilfully or negligently failing to implement reservation; and**

(ii) the proposed statute and related provisions should be brought under the Ninth Schedule to the Constitution.

10.3.5 The Commission further recommends that the three constitution amendment enacted in the last two years to undo the harm done in 1997 to the long pre-existing rights of SCs and STs in reservations should be put into effect forthwith. The Central and State Governments should amend the executive orders issued in 1997 regarding the roster and restore the pre-1996 roster. This should also be brought into the purview of the statute mentioned above.

10.3.6 The Commission recommends that Reservation for backward classes should also be brought under a statute which, while containing the specificities of reservation for BCs should also contain provisions for *Arakshan Nyaya Adalats* or Tribunal for providing Justice in Reservation, penal provisions etc. as recommended in the case of the statute in respect of SCs and STs.

10.3.7 **The Commission recommends that It should be mandatorily stipulated in the Memoranda of Understanding (M.O.U.s.) of privatisation or dis-investment of public sector undertakings that the policy of reservation in favour of SCs, STs and BCs shall be continued even after privatisation or dis-investment in the same form as it exists in the Government and this should also be incorporated in the respective statutes of reservation. As a measure of social integration there should be a half per cent reservation for children of parents one of whom is SC/ST and the other parent is non-SC/non-ST and this reservation should be termed as reservation for the Casteless.**

10.3.8 In higher judiciary, the representation of judges from Scheduled Castes, Scheduled Tribes and other backward classes is inadequate. Out of 610 judges in the High Courts, there are hardly about 20 judges belonging to the Scheduled Castes and the Scheduled Tribes. In S.P. Gupta's² case and Supreme Court Advocates on Record³ case, popularly known as the First Judges' Case and Second Judges' Case respectively, the Supreme Court upheld the constitutionality of the circular letter addressed by the Union Law Minister requesting the State Governments and the High Courts to recommend the names of competent candidates belonging to the Scheduled Castes, the Scheduled Tribes, women and Other Backward Classes.

10.3.9 **In view of the above and also taking into account the weighty opinion against the formal introduction of reservation in the higher judiciary, and the fact that over fifty years, the progress of education, however tardy, has certainly produced adequate number of persons of the SC, ST and BC in every State who possess the required qualifications, having necessary integrity, character and acumen required for Judges of Supreme Court and High Courts for appointment as Judge of the superior judiciary, a way could and should, therefore, be found to bring a reasonable number of SCs, STs and BCs on to the Benches of the Supreme**

² AIR 1982 SC 149

³ AIR 1994 SC 268

Court and High Courts in the same way in which, in practice, it is found is followed in respect of advocates from different social segments/regions of the country/States or different religious communities so that on the one hand the overwhelming opinion against formal reservation in the Supreme Court and High Courts is respected and on the other hand, the feeling of alienation of the vast majority of Indians comprising SCs, STs and BCs that, in spite of having persons of requisite calibre and character among them, they are being ignored in the appointment of Judges, is resolved.

10.3.10 The Commission recommends that there should be reservation for SCs, STs and BCs (including BC minorities and especially More and Most Backward classes), with a due proportion of women from each of these categories in the matter of allotment of shops under the public distribution system, and other allotments like petrol stations, gas agencies, etc. for distribution of commodities by public authority. There is need for support mechanism to help entrepreneurs among these deprived sections to help them to come up in these business ventures. These measures should be taken along detailed lines as spelt out in para 4.6 at page 1393 of Book-3 Vol.II.

10.3.11 In the context of PDS, taking note of people who do not have purchasing power even to pay for subsidised food-grains available through PDS, the Commission recommends that massive programmes of employment be undertaken and expanded to cover all such people and provide them employment at statutory minimum wage fixed for agricultural labourers at least for 80 days in the year over and above the unsteady employment they normally have. The nature of the work to be undertaken, the mode of payment of wages etc. should be as detailed in para 4.5 at pages 1392 to 1393 of Book-3 of Volume-II. Inclusion of Right to Work as a fundamental right has been recommended in para 3.13.2 of this Report and this will provide the necessary constitutional base and support for this programme.

Education - Establishment of Residential Talent Schools and Protection of Educational Interest of Weaker Sections

10.4.1 Education was envisaged as one of the most powerful engines for the social and economic liberation of the SCs, STs, BCs and for bringing about social equality and empowerment of these categories. The mandate of Article 46 of the Constitution is very clear on these aspects. Yet the best education has not been brought within the reach of these sections. In the context of realities, it is imperative to set up residential schools of high quality for SC, ST and BC, each of which is not a single community but hundreds of communities, recognised and categorised together on the basis of criteria like untouchability, and social backwardness. Unless such schools are set up for them, the goal of educational equalisation and quality education will continue to elude them and the constitutional mandate envisaged by Article 46 will continue to be flouted. **This Commission, therefore, recommends the establishment of residential schools for SCs and STs in every district in the country – one each for SC boys and SC girls, and ST boys and ST girls, as one item of an important package of comprehensive measures required for the development and empowerment of SCs and STs. Similarly, the Commission recommends that residential schools should be set up for the BCs in every district, one each for BC boys and BC girls, including minorities who belong to BCs and with special attention to More Backward and Most Backward classes among BCs. The proportion of the students of the specific category of weaker sections (say 75 per cent) and of other social categories (say 25 per cent), the principles of location, methodology of covering the Minority B.C., phasing and funding, mode of selection of the candidates, management etc. should be as detailed in paras 5.4 and 6.2 at pages 1395 to 1398 of Book 3 of Volume II. This system has got the support of the precedent and experience for the last two decades in Andhra Pradesh state, providing ground for hope in this important and indispensable measure. In addition,**

the Commission recommends that it is also necessary to see that the SCs, STs and BCs especially the More and Most Backward classes of BCs from poor and middle-class families get due benefit of good and prestigious private educational institutions in the country as well as in foreign educational institutions at all levels and in all disciplines, at state cost. Funding for this can be found by measures outlined in sub para (V) of para 5.4 at page 1396 of Book 3 of Volume II. The measures detailed in sub para (ii) and (iv) of para 5.4 at pages 1395 and 1396 of Book 3 of Volume II should be followed in the matter.

10.4.2 The Commission feels that the time has come to build up the educational coverage of SC and ST in technical, vocational, scientific and professional disciplines, with appropriate incentive and support and with special budgetary outlays so that a reservoir of highly educated professional, scientific and technological manpower is built up among the SCs and STs and also the More and Most Backward Classes of BCs, commensurate with their population proportion. **Incentives should be offered to students to prepare for such courses of study. Only a massive transfer of resources to the educational programmes for the scheduled castes and scheduled tribes will enable us to achieve the kind of quantitative expansion needed to bring these communities on par with others in terms of skills and knowledge base to engage with the modern world. It is only then that they would be in a position to compete on the basis of their own strength and rise to the leadership role in different spheres of public life. The Commission recommends that this aspect of measures for building up a reservoir of highly educated professional, scientific and technological manpowers among these categories in population equivalent proportion should be borne in mind along with its earlier recommendations regarding residential schools of high quality and elementary education, and provisions and outlays should be made accordingly.**

10.4.3 **Social policy should aim at enabling the SC, ST and BC (including BC minorities and especially the More and Most Backward Classes among BCs) and with particular attention to the girls in each of these categories to compete on equal terms with the general category. This was always necessary but this becomes more important and increasingly urgent in the context of a knowledge society that is emerging. Reservation has helped the above deprived categories to enter state educational institutions from which they had been debarred and / or otherwise excluded in the past. Reservation continues to be necessary since these adverse factors have not ceased to exist. But with the growth of high quality educational institutions built up by the wealthier sections, almost entirely drawn from non-SC, non-ST, non-BC categories, as a high quality stream distinct and separate from the state educational system, it becomes important to ensure that other measures in addition to reservations are introduced. That is why the Commission has recommended establishment of high quality residential schools for boys and girls of these categories in every district, and ensuring a share for boys and girls of these categories from poor and middle-class families, at state cost, in private institutions of excellence created for themselves by the wealthier sections and also a share for these disadvantaged categories in foreign educational institutions again at state cost. Without these measures, along with the Commissions recommendations on elementary education, the gap between the SC, ST and BC on the one hand and the rest of society will inexorably continue and even be widened.**

Liberation and Rehabilitation of Safai Karamcharis (Scavengers)

10.5 **Manual scavenging is a degrading practice. The Commission recommends that the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, be strictly enforced to bring to an early end to this degrading practice so offensive to human dignity without**

abridgement of the employment and income of existing Safai Karamcharis. Automatic applicability of the Act to all states should be brought about by the amendment suggested in para 7.2 at page 1399 of Book 3 of Volume II. Further, the specifics and details of the abolition of the manual scavenging system and the liberation and rehabilitation of safai karamcharis and protection of safai karamcharis during the transition period should be as detailed in para 7.3 of pages 1399 to 1401 of book 3 of Volume II, including its incorporation in the System of Social Justice Clearance of officers at the time of their consideration for promotion. Limitations placed on the National Commission of Safai Karamcharis should be removed and it should be given the same powers and functional autonomy as is being enjoyed by the National Human Rights Commission; it should be adequately equipped to achieve its objective of total liberation and full rehabilitation of safai karamcharis. This should form an integral part of a National Sanitation Policy-cum-National Social Justice Policy.

Socio-economic Development and Empowerment of SCs, STs and Revitalisation of Special Component Plan for SCs and Tribal sub-Plan

10.6.1 For comprehensive development and empowerment of Scheduled Castes and Scheduled Tribes, the Government have followed, over the last 25 years, a policy of earmarking a proportion of total plan outlay, not less than the proportion of the population of SCs/STs in India as a whole (for the central plan) and in each State (for State Plans). It has also been formally decided many years back that population equivalent proportion of the total plan outlay of the Centre and of each State should be for the Special Component Plan for Scheduled Castes (SCP), and Tribal Sub-Plan (TSP). Further the concept has been that programmes and schemes in accordance with the developmental needs and priorities of the SCs and STs should be formulated under the SCP and TSP. This commendable policy has no doubt helped but has not been able to bring about the required qualitative change in the conditions of the SCs and

STs. Adequate Plan outlays and corresponding budgetary allocations as required for SCP and TSP are never made for want of seriousness of purpose in line with Article 46 of the Constitution, in the process of plan formulation and implementation. In recent years even the aggregate allocations for the development of SCs and STs have declined as a proportion of the total plan outlay. Another serious problem is that the allocated amounts are not fully utilised due to lack of coordination between various Departments and want of seriousness and sincerity. Further funds earmarked for SCP and TSP allocated for the development of SCs and STs often have been diverted in spite of specific policy decisions and guidelines from the Centre as well as States against such diversions.

10.6.2 The Commission strongly feels that this bleak situation will continue to bedevil the SCs and STs and the nation unless appropriate new institutions are created to take charge of the full quantum of outlay of SCP and TSP (i.e. outlay not less than the population equivalent proportion of the total plan outlay of the Centre/each State) and manned by competent experts of SCs and STs and others genuinely working for them, to formulate Plans in accordance with the developmental needs and priorities of the SCs and STs and ensure that these plans are implemented effectively. This will help to take planning and implementation of development of SCs and STs out of the hands of those who have no interest in them. **This new institutional system should consist of an integrated network of National Development Council for SCs and STs, and National SCs and STs Development Authority, State SCs and STs Development Authorities and District SCs and STs Development Authorities. Out of the total plan outlay of the Centre and of each State, before sectoral allocations are made, an outlay equivalent to the population proportion of SCs and STs should be placed at the disposal of the National and respective State Authorities, as the corpus of SCP and TSP for formulation of plans in accordance with the needs and priorities of SC & ST. For this, the system as detailed in para**

9.2 at pages 1409 to 1411 of Book-3, Volume-II should be established. The schemes as illustrated in sub-para (9) of para 9.2 at page 1410 to 1411 of Book-3, Volume-II should also be taken up on a massive scale. This will at one stroke remove the various limitations and difficulties faced by the SCP and TSP and create a powerful, integrated instrument of social transformation based on the vision of economic liberation, educational equality and social dignity of the SCs and STs.

Land Reforms

10.7.1 One of the basic issues continues to be access to and control over land. It is significant that land reform as a political and economic issue of major importance has ceased to occupy the central place it occupied in political discourse not too long ago. The statistical data compiled for the background paper clearly shows that the vast majority of the SC population remain landless agricultural labourers and marginal peasants and the STs have been steadily losing their land and adding to the landless agricultural labour force. Without access to productive assets and firm legal protection for their title, ownership, possession and peaceful enjoyment, it is difficult to see how there can be a real and significant change in the position of the scheduled castes and scheduled tribes in the village society. In addition, we need to inject new vitality in the operation of minimum wage legislations to benefit agricultural labour. **The Commission recommends that land reforms involving distribution and allotment of lands from different sources (i.e. Government lands not required for genuine public use, Bhoodan lands, ceiling surplus lands, etc.) to the SCs and STs along with supportive mechanism in the shape of supply of subsidised capital and credit and extension be made, and development of these lands through irrigation and other means be undertaken. In this context, the measures recommended at (b) of sub-para (9) of para 9.2 at pages 1410 to 1411 of Book-3, Volume-II and in para 14(i) to (vi) at pages 1416 to 1417 of Book-3, Volume-II should be implemented.**

Similarly, with regard to enforcement of the Minimum Wages Act for agricultural labour, the methodology recommended at (c) of sub-para (9) of para 9.2 at page 1410 of Book-3, Volume-II should be followed. Strong legal action is needed to prevent alienation of lands belonging to the tribal communities and effective prior rehabilitation of tribals before displacement due to developmental projects. For this purpose the measures listed in para 13.2 at page 1414 to 1416 of Book-3, Volume-II should be undertaken. Additionally the tribal communities have to be associated with the management of forest resources, for not only their livelihoods, but also for protecting their way of life and cultural identity which are indissolubly linked to forests. For this purpose, action as recommended in sub-para (10) and (11) of para 13.2 at pages 1415 to 1416 of Book-3, Volume-II should be taken.

10.7.2 In the matter of harmonising the preservation of the land ownership of STs, industrial and other development, the Commission recommends that action be taken as outlined in sub-para (6),(8) and (9) of para 13.2 of pages 1415 to 1416 of Book-3, Volume-II.

10.7.3 The tribal communities are repositories of myriad cultural traditions –tribal lore, the arts and crafts, music, dance, and design, textiles, metallurgy and eco-friendly technology. There is a tremendous range of attainment in all these different aspects of their heritage. Knowledge of flora and fauna, herbal medicine and therapies, time-reckoning, animal husbandry, veterinary practices etc. represent additional areas of specialized knowledge in tribal societies in different parts of the country. It is of crucial importance that these variegated elements of tribal cultural heritage are protected from being overrun or expropriated. **The Commission recommends that special safeguards should be provided to protect the wholesome traditions of the cultural heritage and of the intellectual property rights of the tribal people. This is no less important for**

the tribal identity than the effort to prevent alienation of land and land-related institutional rights of tribal people.

10.7.4 As a means of improving the administration of the areas inhabited by the Scheduled Tribes and promoting local autonomy, **the Commission recommends that all areas governed by the Fifth Schedule of the Constitution should be forthwith transferred to the Sixth Schedule extending the applicability of the Sixth Schedule to tribal areas other than the North Eastern States to which alone the Sixth Schedule now applies, and all tribal areas which are neither in the Fifth Schedule nor in the Sixth Schedule should also be brought forthwith under the Sixth Schedule. Special programmes of training and orientation for the elected representatives of the Sixth Schedule bodies and related officials should be undertaken and conducted regularly in order to secure the full potential of local developmental and administrative autonomy envisaged under the Sixth Schedule.**

10.7.5 The Commission took into account the changing parameters of State action in the context of the tectonic shift toward globalization and liberalization. At present SC and ST employees in the private sector are numerically insignificant except at the shop floor level. This is also true of More and Most Backward Classes to a considerable extent including BC Minorities and women, particularly women from these sections. It is obvious that in the context of the severe bias against the SCs and STs and also in varying degrees against BCs, women and minorities shared by the captains of the private sector with the rest of the advanced sections of the society, they will not, left to themselves, be able to provide adequate space for the SCs and STs and also to BCs, women and Minorities and meet their just aspirations. **It is necessary for the Government to step in firmly and clearly, if the gap is to be bridged between private prejudices, camouflaged in the name “efficiency” on the one hand and the just aspirations of the SC, ST, BC including BC**

minorities, and women. For this purpose the Commission recommends that the Government should take the initiative along the lines suggested in para 11.3 at pages 1412 to 1413 of Book-3, Volume-II.

10.7.6 Further the Government should examine other economic and activity sectors at every level of each such sector and see whether the SCs and STs are adequately represented in each of them. If they are not, remedial measures either through reservation or through other means should be undertaken to see that they are adequately represented at every level in every such sector. Similar action should also be taken with regard to backward classes including BC minorities, especially More and Most Backward Classes and women of all categories. This is possible, if non-economic prejudices are excluded, without watering down the genuine requirements of efficiency.

10.7.7 Agriculturists and other traditional producing classes face certain adverse effects of sudden and unprepared exposure to the regimes of WTO, IPR, etc. In order to protect them from these adverse effects while at the same time to secure the benefits of those regimes, a national convention should be convened involving Ministers in charge of Ministries connected with globalisation and Ministers in charge of Agriculture and other sectors of traditional produce and authentic representatives of the peasant organizations as well as organisations of other traditional producing classes, to identify remedial Steps arrive at a consensus about them and these should be implemented quickly. There should be a continuing mechanism involving all these to continuously monitor implementation and corrections and modifications required from time to time.

10.7.8 Further agriculturists and many other traditional producing classes suffer from the adverse effects of natural calamities like drought,

cyclone, floods, etc. A similar national convention should identify the measures required to protect them from such adverse effects of natural calamities including crop insurance, preparedness etc., arrive at a consensus about these measures and institute a continuing machinery of continuous monitoring and corrections and modifications.

Legal protection for security of life and human dignity

10.8.1 The Commission recognises that on the one hand there should be an effective legal structure to protect the SCs and STs against atrocities and discriminatory practices based on untouchability and along with such structure and its efficient functioning, there should also be attitudinal change of a profound nature in the general society.

10.8.2 **With regard to legal structure, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 needs to be strengthened and its effective enforcement ensured. This include the establishment of special courts exclusively to try offences under this Act, inclusion of certain crimes in the list of atrocities, certain penal provisions where they do not exist, appropriate plugging of certain loopholes and comprehensive rehabilitation of victims and so on. For this purpose, the Commission recommends the measures suggested in para 8.2.1, 8.2.2, 8.2.3, 8.3 and 8.4 (a) to (p) of Book-3, Vol.II at pages 1401 to 1404.**

10.8.3 **Regarding untouchability which continues to be widely prevalent in old classic forms as well as in new forms in line with modern developments, multi-pronged measures covering human rights education, moral education, building up of a strong democratic movement against untouchability and effective punitive action under the Protection of Civil Right Acts, 1955 (PCR Act) are required. In view of this, the Commission**

recommends the adoption of the entire gamut of measures suggested in paras 8.6 to 8.8 at pages 1404 to 1405, Book-3, Vol.II.

Science and Technology

10.9 **The National Science and Technology Commission referred to in Chapter 6 should also promote measures for extending the umbrella of modern science and technology and higher scientific and technological research to cover SCs, STs and BCs, women and other poor sections of the society, devise means by which they can also be introduced into this field and potential talent among them identified and nurtured so that they also are enabled to contribute to the advancement of higher scientific and technological research in the country and so that there is no feeling that they are shut out from this important area on account of non-scientific prejudices.**

Strengthening of constitutional provisions in favour of SCs and STs

10.10 **The Constitution of India** was shaped by the guiding hand and genius of Dr.Babasaheb Ambedkar with the goodwill of Pt. Nehru, Sardar Patel and Dr.Rajendra Prasad and other stalwarts of the Constituent Assembly under the inspiration of Mahatma Gandhi and **contains distinct provisions for the protection and promotion of the interests of Scheduled Castes and Scheduled Tribes, Backward classes, women, minorities and other weaker sections so that an egalitarian society could be built up. If these provisions had been implemented in the right spirit, the problems bedevilling the masses of the people and country as a whole should have disappeared by now. Taking the realities of the recent decades and the failure to implement these constitutional provisions, the Commission considers it necessary to strengthen these provisions by amendments, transfer of certain articles to Part III Fundamental Rights, and certain other**

similar steps. Accordingly, the Commission recommends amendments to the Constitution listed in para 15 at pages 1417 and 1418 of Book-3, Vol.II, covering articles 46, 335, 16, 15 and List III of the Seventh Schedule.

Minorities

10.11.1 The general argument for creating a better cultural, economic and educational environment for protection of rights and of development of disadvantaged sections applies mutatis mutandis to the religious and linguistic minorities. Constitutional safeguards already exist. What is needed is a major break through in educational and economic spheres. In this context, it is also to be noted that the bulk of the religious minorities consist of castes/communities which are included in the list of socially and educationally backward classes. They are mainly counterparts of Hindu Backward Classes and to some extent of Hindu Scheduled Castes.

10.11.2 **The Commission recommends that-**

(a) Steps should be taken for improvement of educational standards amongst the minority communities. Special programmes should be drawn up after the widest consultation with the leaders of minority communities including leaders of BCs, SCs and STs among Minorities from academic, professional, business, and socio-political spheres and from low-occupational spheres. Such programmes should be generously funded. Only educational and cultural advancement will help the cause of national integration as well as raise the capabilities of the communities. This is the high road to national cohesion.

(b) At present the political representation of minority communities in legislatures, especially Muslims, has fallen well below their proportion of population. The proportion of BCs among them is next to nil. This can

lead to a sense of alienation. It is recommended that in situations of this kind, it is incumbent for political parties to build up leadership potential in the minority communities, including BCs, SCs and STs among them, for participation in political life. The role of the state for strengthening the pluralism of Indian polity has to be emphasised.

(c) Backward classes belonging to religious minorities who have been identified and included in the list of backward classes and who, in fact, constitute the bulk of the population of religious minorities should be taken up with special care along with their Hindu counterparts in the developmental efforts for the backward classes. This should be on the pattern of the approach to the development of Backward Classes formulated by the Working Group for the Development and Empowerment of Backward Classes in the Tenth Plan referred to separately under Backward Classes. This will, on the one hand, help the development of the masses of religious minorities and on the other hand help bring about national cohesion.

(d) An effort needs to be made to carry out special recruitment of persons belonging to the underrepresented minority communities in the police forces of States, para military forces and armed forces. This will instil confidence among minority populations as well as help them to develop responsible attitudes toward security issues confronting the nation.

10.11.3 There exist in every State minority people speaking languages other than the State language in other words linguistic minorities, who suffer from the disadvantage of education being available only in the language of the State concerned. Keeping in view the psychology of learning, the Commission recommends that in every State the linguistic minorities should be provided the facility of having instruction for their children at elementary stage in their mother tongue. Numerous recommendations in this behalf and other matters have been

made by the Commissioner for Linguistic Minorities in his successive Annual Reports regarding the various problems faced by the linguistic minorities. **The Commission recommends that the Ministry of Social Justice and Empowerment and the Ministry of HRD should collate all these recommendations and see that substantive action is taken on each of them.**

10.11.4 The Secretary, Ministry of Social Justice & Empowerment requested the Commission to examine the relevance of the Office of the Commissioner for Linguistic Minorities under article 350B. After considering the matter, the Commission felt that no change in article 350B was desirable.

Denotified Tribes/Communities and Nomadic and Semi-nomadic Tribes/Communities

10.12.1 The denotified tribes/communities have been wrongly stigmatized as crime prone and subjected to high handed treatment as well as exploitation by the representatives of law and order as well as by the general society. Some of them are included in the list of Scheduled Tribes and others are in the list of Scheduled Castes and list of backward classes. The special approach to their development has been delineated and emphasized in the Reports of the Working Groups for the Development of Scheduled Tribes, Scheduled Castes and Backward Classes in successive Plans and also in the Annual Reports of the Commissioners for Scheduled Castes and Scheduled Tribes, National Commission for Scheduled Castes and Scheduled Tribes and the National Commission for Backward Classes. There are also special reports available on de-notified tribes. Their recommendations have not received attention. **The Commission recommends that the Ministry of Social Justice and Empowerment and the Ministry of Tribal Welfare should collate all these materials and recommendations contained in the reports of the working groups and the reports of the National Commissions and other reports**

referred to and strengthen the programmes for the economic development, educational development, generation of employment opportunities, social liberation and full rehabilitation of denotified tribes. Whatever has been said about vimuktajatis also holds good for nomadic and semi-nomadic tribes/communities. **The Commission recommends similar action in respect of nomadic and semi-nomadic tribes/communities as done in the case of de-notified tribes or vimuktajatis.** The continued plight of these groups of communities distributed in the list of Scheduled Castes, Scheduled Tribes and backward classes is an eloquent illustration of the failure of the machinery for planning, financial resources allocation and budgeting and administration in the country to seriously follow the mandate of the Constitution including Article 46. **The Commission also points out that the setting up of an integrated net work of National Scheduled Castes and Scheduled Tribes Development Authority, etc. recommended in para 10.5.2 to 10.5.3 above will provide a structural mechanism to deal in a practical way with the vimuktajatis as well as nomadic and semi-nomadic tribes/communities within the frame work of the SCP and TsP. Similarly the approach to the development of backward classes referred to at para 10.14 below contains the approach to deal in a practical way with the Vimuktajatis and nomadic and semi-nomadic tribes/communities who are in Backward Class list.**

10.12.2 **The Commission also considered the representations made on behalf of the De-notified and Nomadic Tribal Rights Action Group and decided to forward them to the Ministry of Social Justice & Empowerment with the suggestion that they may examine the same preferably through a Commission.**

Unorganized labour

10.13.1 In 1991, out of a total work force of 286 million, an overwhelming proportion was in the unorganized sector. Nothing illustrates better, the dualistic structure of our economy. Whereas legal protection for the rights of workers in

the organized sector has a long history and the trade union movement has made a major contribution to organized workers' welfare, unorganized labour is in an extremely vulnerable situation. Bereft of trade union support, ill supported by the enforcement agencies of State Governments in regard to the implementation of minimum wages legislations and let down by political formations of nearly all descriptions, unorganized workers have looked to the State in vain to come to their help.

10.13.2 **The Commission recommends that the Union legislation for agricultural workers, drafted as far back as 1978-80, should be introduced and passed immediately.** It is regrettable that a legal measure of great importance for the welfare of unorganized workers in the rural sector has not had the political salience it deserved. A realistic scheme of credible implementation of minimum wages Acts with particular attention to agricultural labours, relying to a suitable degree on the district Collectors/Dy. Commissioners and district superintendents of police, should be immediately put into action. **For this purpose the measures suggested in para 17.2 at page 1419 of Book 3 Vol.II should be followed.**

Bonded and Child Labour

10.14 **Despite prohibition of begar and other forms of forced labour by the Constitution, the practice of bonded labour has not ended as it is patronised by the most powerful sections in the rural areas. Child labour too is widespread. In order to deal effectively with this problem in keeping with the mandate of the Constitution, the Commission recommends that a fully empowered National Authority for the Liberation and Rehabilitation of bonded labour, as recommended by the Commission for Rural Labour in 1990-91, should be set up immediately along with similar authorities at the**

State level. In addition, the Commission recommends simultaneous rehabilitation of released Bonded Labourers and education for released bonded child labourers and other measures referred to in para 19.2 at page 1420 of Book 3,Vol.II.

Development of Backward Classes

10.15 Socially and educationally backward classes other than SC and ST were recognised at the national level and many States as a category needing focussed developmental attention, only in 1990 and this could be put into effect only after the Supreme court's Mandal judgment in November 1992. On account of this unfortunate delay, there has been a serious lacuna in respect of planned development of Backward Classes and there is no national policy and programmes consensus as in the case of SCs and STs. The Working Group on the Empowerment of Backward Classes in the Tenth Plan has given a clear and comprehensive approach to the development of backward classes. The best that can be said is that the Government should immediately implement every one of the recommendations of the Working Group. As mentioned in para 10.9.1 above, the backward classes include identified castes/communities of religious minorities who together constitute the bulk of the population of religious minorities of the country. **The Commission recommends that the Government should immediately implement every one of the recommendations of the Working Group on Employment of Backward Classes in the Tenth Plan which covers all aspects and fields of their development - Economic, Educational, social, employment, reservation, etc. - taking in with particular care those backward classes who belong to religious minorities along with their Hindu counterparts in a cohesive manner. For example, some of the residential talent schools earmarked for Backward Classes should be located in areas of concentration of Muslim B.Cs. Further there should be residential talent schools for backward classes as separately recommended for SCs and STs at the rate of one**

each for boys and girls in each district, 75% being taken from backward classes and 25% from other categories. The Government should without any delay introduce reservation for backward classes in seats in educational institutions since absence of promotion of their education through reservation and other means when there is reservation of employment is anomalous.

Empowerment of Women

10.16 Disabilities to which women of all categories are subject to and the deprivations are well documented in various books, reports and papers as well as the background paper on the Pace of Socio-Economic Change under our Constitution. In addition, the women of SC, ST and BC and other weaker sections have extra dimensions of disabilities along with their men folk. **In view of this, the Commission recommends to the Government action in accordance with the suggestions made in para 16.2 at page 1418 of Book 3 Vol.II, covering reservation, development, empowerment, health including malnutrition and maternal anaemia and protection against violence.**

Immoral traffic in women and girls children - rescue and rehabilitation

10.17 The problems relating to prostitution, child prostitutes and children of prostitutes have been the subject of a landmark judgment of the Supreme Court in Gaurav Jain's case of 9th July, 1997 and the Report of Committee of Secretaries on Prostitution, Child Prostitutes and children of Prostitutes set up in 1997 as explained in para 20.1 and 20.2 at pages 1414 to 1415 of Book 3 Vol.II. **In respect of this area of problem, the Commission recommends to the Government that action be taken according to the suggestion listed at para 20.3 at page 1415 of Book 3 of Vol.II, covering implementation of the judgement and the Secretaries' report, eliminating the Devadasi system, provision of development and education and prevention of HIV / AIDS.**

1 See also the Consultation Paper released by the Commission on “Pace of Socio-Economic Change Under the Constitution” in Volume-II (Book 1) and the Background Paper on “Pace of Socio-Economic Change and Development” in Volume-II (Book 3).

2 AIR 1982 SC 149

3 AIR 1994 SC 268

<http://lawmin.nic.in/ncrwc/finalreport/v1ch10.htm>
