

**PARLIAMENT OF INDIA
RAJYA SABHA**

NINTH REPORT

OF

**JOINT PARLIAMENTARY
COMMITTEE ON WAKF**

**(PRESENTED TO THE RAJYA SABHA ON THE 23RD OCTOBER, 2008)
(LAID ON THE TABLE OF THE LOK SABHA ON THE 23RD OCTOBER, 2008)**

**RAJYA SABHA SECRETARIAT
NEW DELHI**

OCTOBER, 2008/ KARTIKA, 1930 (SAKA)

E-mail: rsc_wakf@sansad.nic.in

Website: <http://rajyasabha.nic.in>

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**COMPOSITION OF THE JOINT PARLIAMENTARY
COMMITTEE ON WAKF**

(Constituted on the 2nd January, 2006)

*1. Shri K. Rahman Khan — *Chairman*

RAJYA SABHA

2. Shri Ahmed Patel
3. Shri Kamal Akhtar
4. Shri Satish Chandra Mishra
- @5. Shri Mukhtar Abbas Naqvi
- §6. Shri Tariq Anwar
- +7. Shri Mohammed Amin
- +8. Shri Shivanand Tiwari
- +9. Shri S. Anbalagan
- #10. Shri Sabir Ali

LOK SABHA

11. Shri Iqbal Ahmed Saradgi
12. Shri Anwar Hussain
13. Shri Abdul Mannan Hossain
14. Shri G. Nizamuddin
15. Shri Rashid J.M. Aaron
16. Shri Narayan Chandra Borkataky
17. Shri Pralhad Joshi
18. Shri Hansraj Gangaramji Ahir
19. Shri Avinash Rai Khanna
- %20. Shri Syed Shahnawaz Hussain
21. Shri Mohammad Salim
22. Shri T.K. Hamza
23. Shri Saleem Shervani
24. Shri Mukeem Mohammad

* Nominated on the 6th May, 2008.

@ Nominated w.e.f. 15th February, 2006.

§ Nominated w.e.f. 8th March, 2007.

+ Nominated w.e.f. 6th May, 2008.

Nominated w.e.f. 8th July, 2008.

% Nominated w.e.f. 3rd December, 2007.

25. Dr. Mohd. Shahabuddin
26. Prof. K.M. Kadermohinddin
27. Shri Chandrakant Bhaurao Khaire
28. Shri Arjuncharan Sethi
29. Shri Suravaram Sudhakar Reddy
30. Shri A.R. Shaheen

SECRETARIAT

Dr. V.K. Agnihotri, Secretary-General

Shri N.C. Joshi, Secretary

Shri N.K. Singh, Joint Secretary

Shri P.P.K. Ramacharyulu, Director

Shri P. Narayanan, Deputy Director

Shri R.S. Rawat, Assistant Director

INTRODUCTION

I, the Chairman of the Joint Parliamentary Committee on Wakf, having been authorized by the Committee, to submit the Report on its behalf, present this Ninth Report of the Committee.

2. The Joint Parliamentary Committee on Wakf was constituted on the 2nd January, 2006, by the Chairman, Rajya Sabha in consultation with the Speaker, Lok Sabha with the following terms of reference:—

- (i) to ascertain the status of implementation of the Wakf Act, 1995 by various State Governments;
- (ii) to suggest such amendments to the Wakf Act, 1995, as may be considered necessary, so as to achieve its objectives, including retrieval of the wakf properties encroached upon;
- (iii) to examine the functioning of the Central Wakf Council and suggest suitable measures for its effective functioning; and
- (iv) to look into the working of the State Wakf Boards and recommend suitable measures for their proper and smooth functioning.

3. The Committee was constituted for a term of one year. As the Committee could not complete the work assigned to it within that period, the Committee sought extension of one more year and the Chairman, Rajya Sabha accordingly granted extension up to the 31st December, 2007 and later up to the 31st March, 2008, 30th June, 2008 and again up to the 31st December, 2008.

4. The genesis of the Committee can be traced back to a Calling Attention on misuse, massive lease and sale of properties of various Wakf Boards in the country by the functionaries of Wakf Boards and certain individuals and the action taken by the Government in regard thereto which was taken up in the House on the 9th September, 1996. During the discussion on the Calling Attention, the Government had accepted the proposal of the Members for constitution of a House Committee to look into the working of the Wakf Boards in the country and had requested the Chairman to constitute a Committee of Rajya Sabha for the purpose. The Chairman, accordingly, constituted a Committee on the 29th October, 1996 to:—

- (i) assess, ascertain and identify the wakf properties in the country;
- (ii) identify the wakf properties which have been encroached upon in various States and Union Territories and to suggest ways to retrieve these properties;
- (iii) identify the wakf properties illegally gifted, transferred, mortgaged, leased or sold, etc., and suggest ways to fix responsibility and to retrieve the properties;
- (iv) suggest ways and measures for proper utilization of wakf properties;
- (v) suggest suitable legislative measures to realise all or any of the above objects;
- (vi) look into the functioning of the Wakf Boards; and
- (vii) look into all other allied matters.

5. In its first meeting held on the 13th November, 1996, the Committee desired that it should be made a Joint Parliamentary Committee. The Chairman, agreeing with the Committee, consulted the Speaker, Lok Sabha and made it a Joint Parliamentary Committee on the 8th January, 1997. With the dissolution of the Eleventh Lok Sabha on the 4th December, 1997, the Joint Parliamentary Committee ceased to exist. After the constitution of the Twelfth Lok Sabha, the Joint Parliamentary Committee on the functioning of Wakf Boards was reconstituted in January, 1999. The Twelfth Lok Sabha, however, was dissolved on the 26th April, 1999 and, consequently, the Committee once again ceased to exist. The Joint Parliamentary Committee on the functioning of the Wakf Boards was again reconstituted on the 27th May, 2000 after the constitution of the Thirteenth Lok Sabha.

6. The earlier Joint Parliamentary Committee on Wakf Boards presented ten reports. (A list containing the titles of reports is placed at Annexure I)

7. The present Joint Parliamentary Committee on Wakf presented eight reports so far, the list of which is placed at Annexure II.

8. The Committee, in its meeting held on the 24th July, 2008 decided to present one comprehensive report instead of separate reports on individual State Wakf Boards.

9. The Committee since its constitution on the 2nd January, 2006 has held 32 meetings. Minutes of the meetings are placed at Annexure III.

10. A list showing the witnesses heard by the Committee in Delhi is placed at Annexure IV.

11. In pursuance of the decision taken by the Committee on the 23rd July, 2008, the Chairman heard the views of representatives of the State Wakf Boards and the representatives of State Governments and other individual witnesses in Delhi. The details are given at Annexure V. The Chairman also visited Karnataka and Chandigarh and held discussions with concerned officials.

12. The Committee visited 15 States for on-the-spot study of the implementation of the Wakf Act, 1995 and the functioning of State Wakf Boards. The list of States visited and dates of such visits are placed at Annexure VI.

13. The Committee, in its meeting held on the 20th October, 2008, considered and adopted the draft Ninth Report.

NEW DELHI
October 20th, 2008

K. RAHMAN KHAN
Chairman,
Joint Parliamentary Committee on Wakf

REPORT

CHAPTER - I

The concept of Wakf: An overview

1.1 The concept of Wakf was unknown in pre-Islamic Arabia. The introduction and development of Wakf is contemporary to the Islamic faith. The Holy Quran contains several injunctions dealing with charity. The followers of Islam translated this concept of charity into the institution of Wakf which threads religious attitude of Muslims with their socio-economic progress.

1.2 The Islamic institution of Wakf came much earlier than the concept of English Trust Laws. The Trust Laws developed in England during the twelfth and thirteenth centuries, whereas the Wakf in Islamic Law had taken shape during the seventh to ninth centuries. Even the very inception of English Trust Laws has been traced by some authors to the successful functioning of Wakf institutions in the Middle East.

1.3 The word 'Wakf' has its origin in the Arabic Verb, 'Waqafa' meaning thereby 'to detain' or 'to hold or to tie up'. Wakf basically can be described as a religious endowment in Islam, which could either be a building or plot of land that can be devoted for the Muslim religious or charitable purposes or for the welfare of the poor and the needy belonging to the Muslim community.

1.4 The pious idea behind the *Mansha-e-Wakf* (creating Wakf), was not restricted to helping the weaker sections of the society alone, it also aimed at promoting Islamic tenets and generating more humane approach and consideration in the minds of the rich and wealthy towards the neglected sections of society. The ownership of Wakf lies with Allah. It is a permanent dedication and is irrevocable.

1.5 In the present day context, Wakfs are a national asset as a large number of Wakf properties are being used for running Madarsas, Schools, Colleges, higher professional institutions, technical and industrial training institutes, libraries, charitable dispensaries, hospitals, musafir khanas, etc.; in addition to the traditional use of the properties for building mosques, dargahs and using them as kabrastans, etc.

1.6 A person who bequeaths a property to Wakf is known as a Wakif. A Wakif can declare any property as Wakf, either verbally or in writing, though he may not use the word 'Wakf' in his declaration. It has been held in several judgements of the Courts that once a property is dedicated as Wakf, or any such expression is used which may imply Wakf, or if

there is any document indicating or signifying that a property has been dedicated for pious purpose or for charity, the right of the Wakif is extinguished and the ownership then gets transferred to God. Once a property is dedicated in the name of God and endowed to Wakf, it remains so perpetually, irrevocably and inalienably.

1.7 The management and administration of a Wakf is vested in Mutawalli. A Mutawalli has no right in the property belonging to the Wakf. He is not a trustee in the technical sense. His status is merely that of a supervisor or a Manager. Any person, who is a Muslim, with a sound mind and who is a major can be appointed as a Mutawalli. Muslim kings and rulers appointed Mutawallis, who were well versed in Islamic theology and could discharge the mandate of administering Wakf. They had huge funds at their disposal. Though Mutawallis were persons who dedicated their life to Islamic principles and had good family background, there are instances and recorded accounts available in books written by scholars that there were some Mutawallis, who misused their position as administrators of Wakf properties and in such cases actions were initiated against them which even included their removal from the position of Mutawalli.

1.8 The institution of Wakf is about eight hundred years old in India. Muslim kings and rulers created several prominent Wakfs. They dedicated a vast number of movable and immovable properties including fertile land. The income generated through these properties was used for the upkeep of mosques, tombs, imambaras, madarasas, musafir khanas, khankhas, mazars and orphanages. After the decline of Muslim rule, Mutawallis became almost free from the general supervision of the Muslim Kings and rulers which they exercised through Kazis. This led many of them to indulge in corruption and misuse their position as Mutawallis which continues even now.

1.9 After the decline of Muslim rule, the institution of Wakf suffered a major set back. There is, however, no accurate account of Muslim Wakf available during the British period and no systematic efforts were made to enumerate Wakf properties in India. In the absence of actual Wakfnamas which disappeared or got destroyed after the downfall of Muslim rule, a large number of Wakf properties fell under legal disputes. After 1920, though several State and Central laws were incorporated into the Statute Book providing for the proper registration of Wakf properties with the Government / Wakf agencies, in actual practice, no serious efforts were made in this direction. The British confiscated several Wakf properties citing anomalies in their administration as the reason. Several Wakf properties which were subsequently handed over to the Muslims were brought under the ambit of the Religious Endowment Act of 1863, which provided that to check corruption among Mutawallis, the

judiciary could intervene and thus exercise a supervisory power. Self seeking interests and communal politics remained deeply ingrained in the administration of Wakfs and even the Muslim press during the British rule talked of ‘the plundering hands of the non-God-fearing Mutawallis’. A large number of Wakf properties and the income generated by them occupied a centre stage in Muslim politics in India during the British rule. The pious purpose for which the institution of Wakf was created was lost sight of and the politics involved in it led to the emergence of vested interests. Bodies, which were constituted to see the affairs of Wakfs, were controlled by the trusted representatives of the vested interests and, as a result, the institution of Wakf suffered a heavy set back.

1.10 Scholars of Muslim history in India have pointed out about the evils like corruption and maladministration indulged in by Mutawallis and those responsible for running the affairs of the Wakf, including the judicial officers in the Courts of Muslim Kings. This legacy, unfortunately, continued even during the British time and, in fact, became much worse during the British period. The situation, however, has still not improved noticeably despite the three major enactments brought into the statute book by the Central Government to streamline the Wakf administration in the country.

1.11 Despite having a statutory provision in the Wakf Act of 1995 for the compulsory registration of Wakfs, the exact number of Wakfs in the country is still not available. On the basis of several surveys and registration of Wakfs, it is estimated that there are about 3,00,000 registered Wakfs spread all over the country. This number may go up after the completion of the ongoing survey under the Wakf Act, 1995 is completed. These Wakfs are either managed by the Wakifs themselves or their descendants who have been nominated in Wakfnama or by their appointees or those appointed by the Wakf Boards constituted under the Wakf Acts.

1.12 The Central Wakf Council is constituted by the Central Government under Section 9 of the Wakf Act, 1995, which has twenty members from a cross section of eminent persons. Despite such a wide representative structure in place, the properties of most of Wakfs in the country are mismanaged and misappropriated. The decisions of the State Wakf Boards are often challenged and several cases are pending either in Wakf Tribunals or in other Courts. As a result, *Mansha-e-Wakif* is getting totally ignored and encroachers, which include squatters, private businessmen and vested interests are holding the possession of the Wakf properties. Even State and Central Government organizations and institutions are holding possession of some of the Wakf properties. In this dismal scenario, a large number of registered Wakfs which were meant to uplift the poor and needy Muslims have not

achieved their purpose for which they were created. The remedy lies in sensitizing the Muslim community, and in this, educated and liberal Muslim leadership can play a pivotal role. It is with this intention and background that the Committee has come out with this Report containing recommendations, which, if implemented earnestly, would result in realizing the lofty ideals for which the institution of Wakf was created in Islam and would have greater impact on the socio-economic and educational status of the poor and the needy Muslims in India.

1.13 The Constitution of India has recognized the institution of 'Wakf' as a concept covering 'Trusts and Trustees' and 'Charities and charitable institutions, charitable and religious endowments and religious institutions' which is incorporated in entries no.7 and 28, respectively of List III (Concurrent List) of the Seventh Schedule to the Constitution. Thus, both the Central and State Governments may make laws relating to Wakf.

CHAPTER - II

Problems faced by the Wakf Institutions

2.1 The Parliament of India passed the Wakf Act, 1954, the Wakf (Amendment) Act, 1984 and finally the Wakf Act, 1995. The Wakf Act, 1995 repealed the earlier two Acts as well as other legislative measures enacted by various States earlier.

2.2 The Wakf Act, 1954 provided for establishment of State Wakf Boards with effect from such dates as may be notified by the relevant State Governments for the purpose of exercising supervision over the administration of Wakf properties in the State. The Act provided for the constitution of separate Shia Board in any State if the Shia Wakf in the State constituted more than 15 per cent of the total Wakf institutions or if the income of the Shia Wakf properties was more than 15 per cent of the total income of all the Wakf properties. The Wakf Board under the Act of 1954 was to be a body corporate having perpetual succession. As per the Act, the Boards were to consist of 11 members who were to be nominated by the State Governments from the following categories:

- (a) Member from State Legislature and Parliament;
- (b) Persons having knowledge of Muslim law and representing reputed association;
- (c) Persons having knowledge of administration, finances or law;
- (d) Mutawallis of Wakfs situated in the State.

2.3 The term of office of the members under the Act of 1954 was five years. The functions entrusted to the Board included general superintendence of all Wakf properties in the States. The Board was to ensure superintendence and proper maintenance of Wakf. The Board was also to see that the income of the Wakf was duly used for the objects and purposes for which such Wakfs were created or intended. The Wakf Board had to maintain a record, containing information relating to the origin, income, objects and beneficiaries of every Wakf. In addition to these functions, the functions of the Board included:

- (a) giving direction to administration of Wakfs;
- (b) Settle scheme of management for Wakf;
- (c) Scrutinise the Budget of Mutawallis;
- (d) Appoint or remove Mutawallis;
- (e) Recover the lost property of the Wakf;
- (f) Institute and defend lawsuits;
- (g) Approve sale or lease of properties;
- (h) Maintain Wakf register.

There was general feeling that the Wakf Act, 1954 suffered from a number of deficiencies and led to the gross interference by the State Governments in the day to day administration of the Wakf Boards. Being a nominated Board, the members were all handpicked by the Government and it was not a representative body. Many attempts were made to strengthen the Wakf Act, 1954 by bringing in amendments to the Wakf Act. A Wakf Enquiry Committee was constituted in 1974 to suggest changes in the Act. Based on the recommendation of the Wakf Enquiry Committee, the Wakf (Amendment) Act, 1984 was enacted. Due to criticism by the community that the Amendment Act would be ineffective, the Government did not notify the Act. After a series of discussions with the Muslim Members of Parliament, members of the Central Wakf Council, prominent Muslim organizations and personalities and on the basis of the recommendation of the Wakf Inquiry Committee, 1974, a broad consensus was arrived to repeal the Wakf Act, 1954 and the Wakf (Amendment) Act, 1984 and have a new legislation enacted. A new Wakf Act, 1995 was, therefore, enacted.

2.4 The major changes, which were brought in by the Wakf Act, 1995 are as under:

- (a) The Wakf Board of the State and the Union Territory shall have not less than seven and not more than thirteen members of which majority will comprise members elected from among Muslim Members of Parliament, Muslim Members of State Legislature, Muslim Members from the Bar Council and Mutawallis of Wakf having an annual income of Rs.1 lakhs or more. The nominated members will be from Muslim organizations of the State eminence, recognized scholars on Islamic theology and a representative of the State Government not below the rank of Deputy Secretary in the State. In a State where there are Shia Wakfs but no separate Shia Board, at least one of the members of the Board shall be a Shia Muslim.
- (b) Creation of the office of the Chief Executive Officer and distribution of power between the Wakf Board and the Chief Executive Officer.
- (c) The Chief Executive Officer is made subordinate to the Board.
- (d) Prohibition of lease of Wakf properties for more than three years.
- (e) Giving powers to the Chief Executive Officer for removal of encroachment from Wakf properties and enforcement of the order through the Sub-Divisional Magistrate as per Sections 54 and 55 of the Act.
- (f) Fresh survey of Wakf properties under section 4.

(g) Establishment of Wakf tribunals.

Unlike the Act of 1954, which allowed the option to States to have their own Act or to adopt the Central Act, the Act of 1995 was made mandatory on all States which were required to implement it except the State of Jammu and Kashmir.

Wakf matters and Union Government

2.5 The Central Government has, at present, a limited role to play in Wakf matters which, by and large, remains advisory in nature and is discharged through the Central Wakf Council (CWC) constituted by the Central Government under the Wakf Act, 1995. The Central Government has power only to regulate the secular activities of the Wakf under section 96 of the Act. It has the power to lay down general principles and policies of Wakf administration insofar as they relate to the secular activities of the Wakf. Under the Act, the Central Government can review the administration of secular activities of the Wakf and suggest improvement in them. The Central Government through the CWC has been giving grants for development of Wakf properties. The Council also provides scholarships to poor students. Apart from these two activities, the Central Government does not play any role in improving the administration of Wakfs in the country or promoting any major secular activity through the agency of Wakf such as social, educational, economic and other welfare activities. The Central Government has the power under Section 106 of the Act to constitute a common Board combining two or three States, and in such a situation, all the powers of such Board shall be vested in the Central Government.

Wakf matters and State Governments

2.6 The Wakf Act, 1995, although a Central Act, confers wide powers on the State Governments. It is primarily the States who have to implement the Act that empowers the State Governments to constitute the Wakf Boards and supervise their functioning. The power and responsibility of constituting the State Wakf Boards, under Section 13 of the Act, rests with the respective State Governments. A State Government has the power to nominate on the Board a member representing the Government not below the rank of a Deputy Secretary. The Chief Executive Officer, the most important officer of the Board, is appointed by the State Government in consultation with the Board. The State Government, by notification, has also to appoint a Survey Commissioner of the Wakfs. The Sub-Divisional Magistrate of the State is the competent authority to carry out eviction of Wakf properties under Section 54. The power to approve Budget and pass orders and audit reports rests with the State Government. The State Government has the power to constitute Wakf Tribunals and also issue Directions to the State Wakf Board, from time to time, and

give to the Board such general and specific Directions as the State Government may think fit, and the Board must comply with such Directions. The State Government has the power to supersede the Board under Section 99. The power to make rules under Section 109 of the Act also rests with the State Government. The regulations made by the Board have to be sanctioned by the State Government. The annual report of the Wakf Board is required to be laid on the table of the State Legislature. Thus, the State Governments have a major role to play in the administration of Wakf under the Wakf Act, 1995.

2.7 Despite wide powers and major responsibilities given to the State Governments in the matter of Wakf administration under the Wakf Act, 1995 the States have generally failed to monitor the activities of the Boards and have not taken any interest in Wakf administration and remained a silent spectator to the gross violations of the Act and encroachments of the valuable Wakf properties.

Problems of Wakf institutions.

2.8 Wakf administration in this country has been the victim of wilful neglect and general apathy of the State Governments. Some of the major weaknesses and problems in the administration of Wakf are:

- (a) Lack of proper infrastructure, inadequate and incompetent manpower and meagre funds. There appears to be lack of necessary will and interest in the implementation and monitoring of the Wakf Act, 1995 on the part of State Governments and the Boards.
- (b) There have been inordinate delays in the constitution of the Wakf Boards in several States. The Government machinery, particularly the bureaucracy have neglected the Wakf Board and not taken any interest in its monitoring.
- (c) The documentation of the properties of the Wakf institutions have not been properly classified by the Boards in the country and it has been observed that valuable property documents are being either destroyed or removed, as they are not properly preserved.
- (d) The legal set up of almost all the Wakf Boards is very weak and the Boards are not in a position to defend legal suits filed against them, because of their meagre resources.
- (e) Though the surveys were conducted after the implementation of the Wakf Act, 1954, steps were not taken to get the mutations / making entry in the revenue records of all the properties done.

- (f) People were kept in dark about the existence of Wakf properties in different States, and many persons in connivance with the Mutawallis or managers of the Wakfs have grabbed or illegally occupied or sold the Wakf properties.
- (g) The Wakf Boards remained silent spectators to the encroachments because they had neither the will to act nor adequate statutory powers to take action against the encroachers or illegal occupants. The Mutawallis, who were in actual possession of all the major Wakf properties, due to weak Wakf administration, treated the Wakf properties as their own and alienated them either by selling or mortgaging or leasing them out beyond permissible periods, without the permission of the Boards. The Boards have not been able to take any action against the Mutawalli.
- (h) In some cases, unscrupulous staff of the Boards have allowed encroachment and illegal occupation in connivance with the Mutawallis.
- (i) One of the major problems that the Boards are facing is the lack of financial resources. The Boards need appropriate infrastructure, professional manpower, proper legal set up, adequate power and support of the State Governments.
- (j) In majority of the States, it was found that no interest was shown in correcting the revenue records of the Wakf properties even after the properties were surveyed and notified in the Official Gazette. It has been found that in some cases the revenue authorities, in collusion with the Mutawallis and individuals, have changed the revenue records. There are absolutely no vigilance staff in most of the Boards to keep a watch on the Wakf properties.
- (k) There is a distinct apathy shown in providing proper and adequate number of officers and staff to the Boards. Invariably, persons have been posted to the Boards as punishment or the persons posted there are inefficient. In most of the Boards, the CEOs are holding additional charge and they hardly devote their time for the administration of the Wakf Boards.
- (l) The major activities of most of the Boards, in actual practice, are confined only to the appointment or removal of Mutawallis and constitution of Committees.
- (m) The Boards have been used for the purpose of political patronage by the powers that be. Accordingly, persons with no knowledge of Wakf matters, integrity or management capability have been accommodated as Chairmen and Members of the Boards. The criterion defined in the Act have been totally violated. Thus the

Boards have miserably failed to function as vehicle of protection and development of Wakf properties.

- (n) Every State has a nodal Ministry and some States have even separate Wakf Ministries. They are supposed to monitor the working of the Boards and their activities and assist them in protecting and developing the Wakf properties by issuing directions to the Boards under Section 97 of the Act. However, hardly any State Government has shown any interest in the management of Wakf Board and development of Wakf properties.

2.9 Major problem areas resulting from the weak and inefficient Wakf administration as mentioned above, relate to the constitution of Wakf Boards; surveys; encroachments; finance; litigation; lack of development; and weak Central Wakf Council. These major problem areas have been dealt with in detail separately in the succeeding chapters of this report by giving suitable examples from a few States/Union territories.

CHAPTER - III

Constitution of Wakf Boards

Wakf laws and Wakf Boards

3.1 The history of establishment of Wakf Boards for administration of Wakf institutions in India dates back to the history of Wakf legislation in India. The enactment of the Wakf Act, 1954 was a major legislative measure after the Independence of the country. Though the Wakf Act 1954 was a Central Act, but implementation by all the States was not made mandatory. States were free to adopt the central law or have their own laws.

3.2 Under Section 13 of the Wakf Act 1995, a State Government is empowered to establish the Board of Wakfs. The State Governments may also constitute separate Wakf Boards for Shia and Sunni Wakfs under certain conditions specified in the Act. The same Section provides that the Wakf Board would be a body corporate having perpetual succession and common seal. The Board has the powers to acquire and hold property and transfer any such property, subject to such conditions and restrictions as may be prescribed. Section 14 provides for the composition of the Wakf Board that would have both elected and nominated members. It also provides the manner in which elections and nominations have to be conducted by the State Governments for constituting the Board.

3.3 The Committee, in its Third Report on Amendments to the Wakf Act, 1995, proposed certain changes in the constitution of the Wakf Board. The composition of the Wakf Board as mentioned in Section 14 of the present Act and the proposed amendment to this Section by the Committee in the said Report is as under:

Present Status	Proposed Amendment
1	2
“14. (1) The Board for a State and the Union Territory of Delhi shall consist of — (a) a Chairperson; (b) one and not more than two members, as the State Government may think fit, to be elected from each of the electoral colleges consisting of — (i) Muslim Members of	“14. (1) The Board for a State and the Union Territory of Delhi shall consist of — — (a) a Chairperson; (b) Members, as the State Government may think fit, to be elected from each of the electoral colleges consisting of — (i) one Muslim Member of Parliament

<p>Parliament from the State or, as the case may be, the Union Territory of Delhi;</p> <p>(ii) Muslim Members of the State Legislature;</p> <p>(iii) Muslim Members of the Bar Council of the State;</p> <p>(iv) Mutawallis of the Wakfs having an annual income of rupees one lakhs and above;</p> <p>(c) one and not more than two members to be nominated by the State Government representing eminent Muslim organizations;</p> <p>(d) one and not more than two members to be nominated by the State Government each from recognized scholars in Islamic Theology;</p> <p>(e) An officer of the State Government not below the rank of Deputy Secretary.”</p>	<p>from the State or, as the case may be, the Union Territory;</p> <p>(ii) one Muslim Member of the State Legislature;</p> <p>(iii) one Muslim Member enrolled with the Bar Council of the concerned State/Union Territory; as an advocate for at least 15 years of the relevant State/Union Territory and having significant practice and reputation in the legal profession;</p> <p>(iv) one and not more than two Mutawallis of the Wakfs having an annual income of Rs.50,000 and above: provided that the Members from the categories (i) to (iv) above shall be elected from the electoral college constituted for each category.</p> <p>(c) one Muslim Member, who has professional background or experience in town planning or business management and/or social work, to be nominated by the State Government.</p> <p>(d) one Member to be nominated by the State Government from recognized scholars in Islamic Theology;</p> <p>(e) one Member to be nominated by the State Government from among the officers of the State Government not below the rank of Deputy Secretary.</p> <p>Provided that in case of Union Territories,</p>
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	the Board shall consist of not less than three and not more than five Members to be appointed by the Central Government from amongst the categories specified in Sub-Section (1).”
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3.4 Every Wakf Board has to have a full time Chief Executive Officer. The CEO is appointed by the State Government under Section 23 in consultation with the Wakf Board. The Act provides that the CEO of the Board should not be below the rank of a Deputy Secretary in the State and he should be a Muslim. In its Third Report, the Joint Parliamentary Committee (JPC) has proposed that the CEO should be appointed by the State Government from a panel of two names suggested by the Board and who should be not below the rank of the Director of Government Department in the State.

3.5 Section 32 of the Act defines the powers and functions of the Wakf Boards. Under this Section, the powers are conferred on the Wakf Boards to administer, control, and supervise the Wakfs and to regulate the powers of Mutawallis relating to managing the Wakf properties. It also empowers the Board to direct the Mutawallis to develop the feasible potential Wakf property into shopping centre, market, housing flats and the like. If the Mutawallis fail to comply with the direction within sixty days or the time given in the notice, the Board with the approval of the State Government, can take over the property and develop it as per the provisions contained in section 32 (4) (5) and (6).

3.6 Even though every State should have a Wakf Board and the State Government has to establish the Wakf Board under Section 13, several State Governments have not constituted the Wakf Board. In some States, the Boards do not have the full strength of members and, as a result, they have become non-functional. The following Table shows the status of constitution of Wakf Board in each State and the status as to whether they have framed rules and regulations for the functioning of the Boards.

Table I

Sl. No.	Name of the State/U.T.	Status of the Board	Rules	Regulations
1	2	3	4	5

1.	Andhra Pradesh	Does not exist	No	No
2.	Arunachal Pradesh	Does not exist	No	No
3.	Assam	Exists	Yes	Yes
4.	Bihar	Does not exist	Yes	No
5.	Chhattisgarh	Exists	No	No
6.	Goa	Exists	Yes	No
7.	Gujarat	Does not exist	+	+
8.	Haryana	Does not exist	No	No
9.	Himachal Pradesh	Does not exist	No	No
10.	Jammu & Kashmir	Not covered	No	No
11.	Jharkhand	Does not exist	No	No
12.	Karnataka	Exists	Yes	No
13.	Kerala	Exists	Yes	Yes
14.	Madhya Pradesh	Exists	Yes	No
15.	Maharashtra	Exists	Yes	No
16.	Manipur	Exists	Yes	No
17.	Meghalaya	Exists	No	No
18.	Mizoram	+	+	+
19.	Nagaland	Does not exist	*	*
20.	Orissa	Exists	Yes	No
21.	Punjab	Does not exist	Wakf	Wakf
			Rules,	Regulations
			1964 adopted.	1966

			Fresh rules	adopted.
			not framed	Fresh
			yet	regulations
				not framed
				yet
22.	Rajasthan	Exists	No	No
23.	Sikkim	Does not exist	No	No
24.	Tamil Nadu	Exists	Yes	No
25.	Tripura	Exists	Yes	Yes
26.	Uttar Pradesh	Exists	No	No
27.	Uttarakhand	Does not exist	No	No
28.	West Bengal	Exists	Yes	No
29.	Andaman and Nicobar	Exists	Yes	Yes
	Islands			
30.	Chandigarh	Exists	Yes	Yes
31.	Dadra & Nagar	Exists	No	No
	Haveli			
32.	Daman and Diu	Does not exist	*	*
33.	Delhi	Exists	Yes	No
34.	Lakshadweep	Exists	Yes	No
35.	Puducherry	Does not exist	Yes	No

+ Information not received.

* Nil information received.

3.7 From the above statement, it could be seen that in several States/Union Territories, the Wakf Boards have not been constituted, including States like Andhra Pradesh, Bihar where there is concentration of Wakf properties. Non-reconstitution of Wakf Boards can be mainly attributed to the following reasons:

- (i) Boards not reconstituted after their term had expired;
- (ii) supersession of the Boards by the State Government;
- (iii) non-appointment of Members on the Board under certain categories which makes the Board non-functional; and
- (iv) judicial intervention.

3.8 From the information available with the Committee, it would be seen that in most of the States, rules and the regulations have not been framed and approved by the State Governments.

3.9 The Boards suffer from the apathy of the State Governments in not appointing regular CEO who is the most important functionary of the Wakf Board and, for all practical purposes, he discharges the directions of the Board. However, from the material available with the Committee, it has been found that most of the States have hardly considered the CEOs as important functionaries of the Boards. Major States have not shown the willingness in appointing full time CEOs resulting in the breakdown of the entire machinery of the Wakf Boards.

3.10 Another problem faced by most of the Wakf Boards is scarcity of staff. In several States, the staff strength is not sufficient to run the essential activities of the Boards not to speak of the district level staff.

3.11 Problems faced by the Wakf Boards are discussed in the succeeding paragraphs taking some States as examples. Some typical cases showing the non-seriousness of States in implementing the provisions of the Wakf Act have also been provided. Several other States may be facing similar problems. Some of the details given in this report provide a synoptical account of the affairs of the Boards and the problems they are facing.

BIHAR

3.12 Bihar has created two Boards *i.e.* Sunni and Shia Wakf Boards. The Bihar Government has not constituted these two Boards, ever since their term had expired in 2006. The present status of the Wakf Boards, as informed by the State Government of Bihar at the time of the visit of the Committee in July, 2007, is explained as under:

SUNNI WAKF BOARD:— The Wakf Act, 1995 came into force with effect from 1.1.1996. The State Government adopted it and the Board was constituted under Section 14 (2) of the Act by notification No.844 dated 3.10.2001 *i.e.*, after nearly six years. Under Section 109 of the Act, the State Government framed the Bihar Wakf Rules, 2002 and the Board was working according to Wakf Act, 1995 and the Wakf Rules, 2002. The Patna High Court, by its Order dated 7.2.2006 in C.W.J.C.No. 1584/06 has restrained the members of the Board to function as members and in the judgement dated 12.02.2007, writ has been declared infructuous as the term of the Wakf Board has also expired on 2.10.2006. The process for the reconstitution of the Wakf Board was supposed to be started by the Administrative Department, namely, the Minority Welfare Department, Government of Bihar. Even after the lapse of two years, the process is not completed. The Chief Executive Officer is functioning, from 2.10.2006 and administrator is appointed on 19.06.2007. This is a clear case of non serious attitude of the State Government in constituting the Board.

SHIA WAKF BOARD:— The Shia Wakf Board first constituted on 03.10.2001, became non-functional by the Order of the Patna High Court dated 07.01.2003 in LPA No.1168/2002. Against this Order, an SLP was filed in the Supreme Court having Civil Appeal No. 8624-8625/2003. The Supreme Court recommended the case to the Patna High Court for hearing and its disposal on merit, which is still pending before the High Court, Patna. In the meantime, the term of the Board has already expired on 02.10.2006.”

3.13 The Secretary, Minority Welfare Development, Government of Bihar, informed the Committee during his oral evidence in March, 2008 that the State Government had decided to constitute both the Wakf Boards under the Wakf Act, 1995. The Secretary, Department of Personnel and Administrative Reforms of the State, was notified as the Electoral Registration Officer of both the Wakf Boards. It was also stated that while an Administrator had been appointed for Sunni Wakf Board, appointment of a separate Administrator for Shia Wakf Board was under consideration of the Government.

3.14 The Committee is constrained to note that Bihar, which is one of the biggest States in India, having a large number of Muslim population and a large number of Wakf properties, has not taken any steps to reconstitute the Board after the term of both the Boards had expired. It is about two years since the term of both the Boards had expired, and in spite of the assurances given by the Chief Secretary and the Secretary, the situation has not changed so far. The Bihar Wakf Board is currently

directionless and non-functional. This is, again, a case of lack of seriousness on the part of the State Government to constitute the Board.

3.15 The Committee was also informed that the Administrator was appointed only for the Sunni Wakf Board and that too more than six months after the term of the Board had expired, whereas the Shia Wakf Board does not have any Administrator since its term expired on 2.10.2006. It is surprising that Bihar has not bothered even to follow the provisions of the Act. If a Board is either superseded, or due to some reason not constituted within time, an Administrator had to be appointed. In this case, the State Government has failed to discharge its basic function under the Act.

3.16 The Committee was informed that the CEOs in both the Boards are holding additional charge. The Committee is surprised to note that in Bihar, which is one of the biggest States in the country, having two separate Wakf Boards, CEOs in both the Wakf Boards are holding additional charge. The real estate today has become very costly and the Wakf properties are worth crores of rupees. In such a situation, an officer having additional charge cannot do justice to the post of CEO and the Board is bound to suffer due to this lack of seriousness.

3.17 The Committee found that there was a severe shortage of staff in Bihar. The Sunni Wakf Board has 17 staff members as against the sanctioned strength of 50. Posts have been vacant for several years and the Board is functioning without inspectors and auditors. The Committee was given to understand that since July, 2007, request had been made to obtain the State Government's permission to fill the vacancies on contract basis but the permission has yet to be accorded by the Minority Welfare Department. The staff was also not being adequately paid. The Committee was also given to understand that five months' salary was due to them.

3.18 The Committee expresses its deep anguish over the lack of interest by the State Government of Bihar in providing the full staff strength to the Wakf Boards. The Sunni Wakf Board is not having even the 50 per cent of the sanctioned strength. Without adequate staff it would be difficult to manage the activities of the Wakf Board and to look after the Wakf properties.

3.19 Even though Bihar Wakf rules were framed and notified, regulations have yet not been prepared. The Committee was given to understand that regulations were being framed.

HIMACHAL PRADESH

3.20 The Himachal Wakf Board was created after the trifurcation of the erstwhile Punjab Wakf Board which was the common Wakf Board for the State of Punjab, Haryana, Himachal Pradesh and the Union territory of Chandigarh. The Himachal Pradesh Wakf Board was dissolved on 10.1.2008 and the Government of Himachal Pradesh had appointed Secretary (Revenue) to look after its affairs *vide* Notification No. Rev. C (A) 1-4/2008, dated 24.4.2008 as Administrator. As per section 99(1), the Board cannot be kept under supersession for more than six months without a valid reason. The State Government seems to have not taken any action to reconstitute the Board so far. Rules and regulations which are essential for the proper functioning of the Wakf Board, have not been framed and approved by the State Government so far.

3.21 The Committee was also informed that there was an acute shortage of staff as well as official accommodation in the Himachal Pradesh Wakf Board. At the time of the visit of the Committee to Himachal Pradesh during October, 2007, the consent of the Government for the recruitment of the staff was still awaited and the official accommodation which, in principle, had been agreed upon had yet not been provided to the Board.

3.22 The Committee urges the Himachal Pradesh Government for early reconstitution of the Wakf Board.

3.23 The Committee is constrained to note that sufficient staff is not being provided by the State Government to the Wakf Board. Since the Himachal Pradesh Wakf Board is a new Wakf Board, it requires sufficient staff to manage the affairs of the Board as well as to take care of the Wakf properties. The State Government should also take necessary steps to ensure framing of rules and regulations at the earliest and sanction adequate staff.

ANDHRA PRADESH

3.24 Andhra Pradesh is one of the first States to constitute the Wakf Board after the implementation of the Wakf Act 1995. After expiry of the tenure of the first Board, the Government reconstituted the Board in the year 2001, but this Board could not complete its five years' term as the State Government, superseded the Board and appointed a Special Officer, *vide* G.O. Ms. No.26 of Minority Welfare (Wakf.I) Department dated 13.12.2004 as Administrator till 21.09.2006. Subsequently, the Government did not appoint any Administrator and the CEO was also designated as In-charge Special Officer with effect from 21.09.2006.

3.25 Andhra Pradesh is one of the biggest States of India. A part of the State is the erstwhile Nizam State of Hyderabad. Andhra Pradesh has the largest number of Wakf properties in the country as Hyderabad was a Muslim ruled State prior to Independence. The approximate area of Wakf land in the State is about 1,45,000 acres with over 35,000 Wakf institutions. The number of the Wakf institutions is likely to increase further after the survey is completed. The Nizam of Hyderabad had promulgated the Regulation No.1349 (F) known as the Hyderabad Endowment Regulation under a Director of Endowment to supervise the Wakf administration on behalf of the Government. This Regulation provided registration and maintenance of Wakf. The unique feature of the Hyderabad Endowment Regulation was that it provided for regulation of both Hindu religious institutions and Muslim Wakfs. With the enactment of the Wakf Act, 1954, the Hyderabad Endowment Regulation ceased to exist and a Board was established after the formation of Andhra Pradesh. The Andhra Pradesh Wakf Board has been functioning since the implementation of the Wakf Act, 1954. Though the survey was conducted after the enactment of the 1954 Act, a large number of Wakf properties were left out in the survey. The Committee visited Andhra Pradesh and reviewed the functioning of the Andhra Pradesh Wakf Board, held discussions with the Board officials, important Muslim organizations, Government officials, including the Chief Secretary and other senior officers of the Government of Andhra Pradesh. A large number of people represented to the Committee about the non-functioning of the Board and many petitions were submitted to the Committee about the misuse of the Wakf properties, taking over of the Wakf properties by the Government and about the poor Wakf administration in the State.

3.26 The Committee was informed that Andhra Pradesh had not constituted the Wakf Board since 2004. The Committee was further informed that the reason for not constituting the Board was due to litigation about the claims of certain categories of Members to be on the Board. **The Committee feels that the explanation and the reasons given for not constituting Board were not valid because the Board can still be constituted even if vacancies exist in one or two categories. There is no sincerity on the part of the Government to constitute the Board. By not constituting the Board for over four years, the State Government has violated the provision of the Wakf Act.**

3.27 When the Committee visited Andhra Pradesh, the Committee was surprised to note that in the AP Wakf Board, which is one of the biggest Boards of the country, the CEO held additional charge. Further, the State Government has failed to post a regular CEO and an Administrator for the functioning of the Board in the absence of the duly constituted Board.

It is worth mentioning here that the properties of the Andhra Pradesh Wakf Board are worth several thousand crores. The Board has to pursue litigation in various courts right upto the Supreme Court to safeguard and protect the properties. The Government cannot expect the Board to function and to protect the Wakf properties with inadequate staff and without a full-time CEO and the Administrator.

3.28 It is pertinent to mention here that the Andhra Pradesh Legislative Assembly has constituted a House Committee on Minorities Welfare which has submitted two reports and made 20 recommendations in two volumes in 1998 on the state-of-affairs of the Andhra Pradesh Wakf Board. According to the reports, these recommendations deal with the alleged misuse of the Wakf properties and the encroachment of the valuable Wakf properties by the Government.

3.29 The Committee feels that the Andhra Pradesh Wakf Board is directionless and non-functional at present and expresses its displeasure at the state-of-affairs of the Board. The Committee strongly urges the Government of Andhra Pradesh to constitute the Board without any further delay and to post a full time CEO in the Board. Taking into consideration of the number of Wakf properties and the stake of the Board to protect and develop these huge properties, the Board's staff strength should be increased. The Committee is constrained to note that the Andhra Pradesh Wakf Board, which has been in existence for over 40 years, has not been able to remove illegal occupation or encroachment on Wakf properties, develop Wakf properties and enhance the Wakf income. In fact, several properties have been further encroached upon or illegally occupied during the existence of the Board.

3.30 There are other issues relating to certain prime Wakf properties of Andhra Pradesh, which are being dealt with in other chapters.

PUDUCHERRY

3.31 The earlier Joint Parliamentary Committee (JPC) on the Functioning of Wakf Boards noted in its Second Report that in the case of Puducherry, under Section 14 (7) of the Act, the Central Government was to nominate the Members of the Board. After the promulgation of the Act on 1.1.1996, a considerable time elapsed but the Central Government made no sincere efforts in this regard. The Wakf Board of Puducherry had still not been constituted despite the then Parliamentary Committee having taken up this matter with the Administrators of Puducherry in 1997 and 2000, during which assurances were given for the setting up of the Wakf Board expeditiously, but nothing had been done

in this regard. The then Committee, therefore, had in its Second Report expressed its anguish on the lackadaisical approach and had recommended that the Wakf Board of Puducherry be constituted immediately in line with the provisions of the Wakf Act, 1995. This would help the appointment of Chief Executive Officer on a regular basis. Thereafter, the Wakf Board was constituted, *vide* G.O.Ms.No.40/CHRI/Wakf/T8/2002 dated 25.07.2002 published in the Gazette of Puducherry No.33 dated 13.08.2002. The term of office of the Board expired on 21.7.2007 and the Committee now has been informed that the Government was in the process of constituting a new Board. The Committee has also been informed that though Wakf rules have been framed in Puducherry, the Wakf regulations have not been framed as yet.

MAHARASHTRA

3.32 After the enactment of the Wakf Act, 1954, Maharashtra did not adopt the Act for the entire State of Maharashtra. Only Marathwada Region of Maharashtra had Wakf Board and in the other region of Maharashtra, the Wakf properties were governed by the Bombay Public Trust Act. After the enactment of the Wakf Act, 1995, the State of Maharashtra adopted the Act and implemented the Act for the entire State and constituted the Wakf Board. The present position of the Board is that six of its members have retired and two have resigned in 2005. Currently, there are only two members in the Board. The Government with just two member on the Board cannot function and as such the Board practically does not exist.

3.33 The Principal Secretary, Minority Development, Government of Maharashtra, further submitted the position of the Maharashtra Wakf Board before the Committee on the 24th July, 2008, and stated that the two members who had resigned in 2005 and 2007 would continue to be members as per the provisions of the Act, till their successors were appointed. The Committee was assured that the State Government would be able to constitute the Board within three months. As regards the elected members, it would take a little more time. The Committee is unable to appreciate the explanation of the Principal Secretary. For all practical purposes there is no Board in Maharashtra. The Government has neither appointed Administrator to discharge the functions of the Board nor it has superseded the Board as per Section 99 of the Wakf Act.

3.34 In regard to the position of the Chief Executive Officer of the Maharashtra State Wakf Board, the Committee was informed that:

“Presently, there was no regular CEO of the Wakf Board; an officer was holding an additional charge. The earlier CEO appointed by the Government under Rule 7 was of the requisite rank. But subsequently, there was an administrative decision in regard to his original cadre in the Rural Development Department, his scale was lowered. Therefore, he became ineligible to continue. In the meanwhile, the Government was trying to search a suitable officer of the rank of Deputy Secretary, who should be a Muslim.”

Explaining about the problem being faced in appointing a regular CEO, the Principal Secretary stated that the problem in Maharashtra was that there were only five Muslim officers of the rank of Deputy Secretary in the Secretariat and in the Additional Collector category also, there were few officers. The General Administration Department had issued a circular calling for the preferences from officers who were willing to be posted. It was also stated that the Government had posted one person but he declined to join saying that this was a deputation post. The Government was seized of the matter and a regular CEO was yet to be found out, she added.

3.35 As regards the staff position, the Committee was informed that the Maharashtra Wakf Board was still working with the staff of the then Marathwada Wakf Board. After the enforcement of the Wakf Act, 1995 and after the establishment of the Maharashtra State Board of Wakfs, no additional staff had been appointed. The Government had not accorded approval for the additional staff for other Districts of the State of Maharashtra which had come under the Board after the enforcement of the Wakf Act, 1995. Detailed proposal for the entire State had been submitted to the Government, but no action had been taken by the Government to approve the additional staff.

3.36 The Committee was informed that the Maharashtra State Wakf Board, had some problems with the Charity Commissioner, Maharashtra. In a note submitted to the Committee, it was stated as under:

“Jurisdiction of Charity Commission has ceased to exist *w.e.f.* 01.01.1996. Still a large number of cases are being entertained by them in spite of instructions from the Government. Few big Wakf/trusts have approached High Court and got “*status quo*” against their transfer to Wakf Board. About 85 such petitions are pending in Bombay High Court, which are clubbed and need to be heard by the Chief Justice but the hearing has not taken place for the last two years. Therefore, other Wakfs are not coming to Board for registration. Thus, there is no additional income generation.”

3.37 The Wakf Act, 1995 came into force in Maharashtra *w.e.f.* 1.1.1996. All Muslim charitable and religious institutions whether they are trusts, Mosques, dargahs or other religious and charitable institutions should be governed under the provisions of the Wakf Act. The Government should have transferred all such institutions from the Charity Commissioner's jurisdiction to the Wakf Board from 1.1.96. The Government failed to transfer the Wakf institution to the Wakf Board and the Charity Commissioner continued to regulate the Wakf institution till 2003 when a nearly 700 and odd institutions were transferred to the Wakf Board.

3.38 This has created a legal issue, whether once Wakf Act is in force in the State, can properties in the nature of Wakf or institution in the nature of Wakf be regulated by some other Act. The Wakf Board of Maharashtra claims that all such properties which are Wakf in nature with the Charity Commissioner should be governed by the provision of the Wakf Act and not by the Bombay Public Trust Act. This being legal issue and has been challenged in the courts, the Committee did not propose to further comment on this matter.

3.39 The Committee has received several representations from the public that several valuable Wakf properties worth hundreds of crores have been illegally transferred or sold or occupied illegally by interested persons and they are interfering in the proper functioning of the Board. It is alleged that the former Chairman of the Board has ratified several transactions illegally. The Committee has received several representations that the CEO who was probing the illegal transaction was transferred on some pretext that he was not of the rank of the Deputy Secretary to the Government. The attention of the Committee was drawn to several press reports and press statements regarding alleged sale of a valuable Wakf property. The Committee did not wish to comment on the matter as some matters are in the courts. Nonetheless the Committee feels that all is not well and there is need for the Government to have a through impartial inquiry into the various allegations.

3.40 The Committee is not happy with the state of affairs of the Maharashtra Wakf Board. Maharashtra is one of the most progressive states in the country. Wakf properties are public properties and it is the duty of the state to protect them by implementing the law in letter and spirit. The Committee strongly feels that the Maharashtra Government has totally abdicated its constitutional obligation to implement the law passed by Parliament.

3.41 While the report was being finalized, the Committee was informed that the State Wakf Board has been constituted and a regular CEO has also been appointed. This

has been done due to the intervention of the Committee. The State Government should ever be vigilant.

PUNJAB

3.42 The Punjab Wakf Board was trifurcated from the erstwhile Punjab Wakf Board, which was a common board under section 106 of the Wakf Act, 1995 and administered by the Central Government. The present Punjab Wakf Board jurisdiction is confined to the State of Punjab. The Punjab Wakf Board along with the Wakf Boards of Haryana, Himachal Pradesh and Chandigarh are different from the other Wakf Boards in the country. Due to partition a large section of the Muslims migrated to Pakistan and hardly any Muslims remained. The persons who were looking after the Wakf properties as Mutawallis all migrated leaving the Wakf properties. This created a large scale encroachment and illegal occupation of Wakf properties. After the enactment of the Wakf Act, 1954, the Punjab Wakf Board came into being and after the division of Punjab, a common Board had been formed, for Punjab, Haryana, Himachal Pradesh and the Union territory of Chandigarh. In Punjab all the Wakf properties are managed/administered by the Wakf Board and there are no Mutawallis. After the trifurcation of the Punjab Wakf Board in 2003, the Government of Punjab constituted separate Board. Though the Board was constituted, but the functioning of the Board is not satisfactory. There is no regular CEO posted. The Deputy Excise and Taxation Commissioner held the additional charge as its CEO till recently. He has been transferred and in his place another police officer of the rank of SP has been posted, again, as additional charge. The Principal Secretary, Government of Punjab responding to the query of the Committee, stated that the Government was seized of the matter and assured that an early action would be taken to post a full time CEO.

3.43 The Punjab Wakf Board is one of the largest Wakf Boards with a large number of Wakf properties. **The Committee expresses its deep concern about the way the Punjab Board is functioning, and the way valuable Wakf properties are leased out for a negligible consideration.** The Committee is given to understand that land mafia is in hand in glove with the Wakf Board officials who are bartering away lot of Wakf properties because of the weak set up of the Board and absolute neglect of the Wakf Board by the State Government. It is pertinent to mention here that in the website of the Government of Punjab under the property registration information system module it has been mentioned that Registration Office has acquired a bad reputation in the eyes of the public due to various reasons one among them is the loot of Government land, evacuee property, Nazool land, Wakf property, village common lands. This admission in the Manual that among the

land looting, Wakf property is one among them is a serious matter to be pondered over. A separate chapter highlighting the leasing of properties by the Punjab, Haryana, Himachal Pradesh and Delhi Wakf Boards and its long term damage that would be caused to the Wakf properties is given.

3.44 The committee urges the Punjab Government to post full time CEO as early as possible. The Committee was also given to understand that the Punjab Wakf Board did not have building of its own inspite of having land in Mohali. The Board is paying a monthly rent of Rs. 60,000. The Board had sent a proposal of constructing a separate building in the said land, to the State Government which has not been cleared so far. The Committee takes a serious view of this and desires that the State Government may take early action to clear the proposal.

HARYANA

3.45 The Haryana Wakf Board was established after the trifurcation of the erstwhile Punjab Wakf Board. This is one of the important Wakf Boards in terms of the valuable properties situated in Gurgaon and Faridabad and surrounding the National Capital Region. After the trifurcation, a Board was constituted. But the Government failed to post a full time CEO and always posted a person to holding additional charge of the CEO. Recently, the Board has completed its term and the State Government posted Commissioner, Ambala Division, as Administrator. Here, again, it is in violation of the spirit of the Wakf Act, as the Act envisages that all the members of the board should be Muslims, then how can an Administrator be a non-Muslim who would not be having knowledge of Islamic Law and the Sharia. As in Punjab, in Haryana too, a large number of valuable Wakf properties have been leased out on paltry rents and alienated to land mafia. A weak Board cannot safeguard the properties particularly in Gurgaon and Faridabad, Panipat, Sonapat area where the land value is skyrocketing. The details regarding the leasing of the Wakf properties in Haryana is being dealt with in a separate chapter.

3.46 The Committee strongly urges upon the Government of Haryana to reconstitute the Board immediately and to post a senior officer of the State as full time Administrator and a CEO. The Committee further urges the State Government to direct the Board not to lease out the properties, instead the Board should be asked to develop properties as per the provisions of section 32(4), (5) and (6) of the Wakf Act, 1995.

ORISSA

3.47 The Committee was informed that the Orissa Wakf Board was constituted in the year 2005 *vide* the Law Department Notification No. 16555 dated 22.11.2005 which consisted of 11 members. Two members were wrongly nominated as members of Wakf Board though they were required to be elected from out of three Muslim members of Legislative Assembly. The nomination of those two members (MLAs), therefore, was cancelled *vide* the Law Department Notification No.8301/L dated 18.07.2007 and steps were being taken for election of two members out of three Muslim MLAs which would be completed very soon. The Survey Commissioner of Wakf who was an officer of Orissa Administrative Service (Group-‘B’) was also holding the additional charge of Chief Executive Officer of the Wakf Board. The Principal Secretary, during his oral evidence before the Chairman of the Committee on the 18th August, 2008, reiterated what was stated earlier about the appointment of two members on the Board.

3.48 The Principal Secretary, Government of Orissa, during his oral evidence before the Committee on the 27th September, 2007, stated that there was no regular CEO because of a litigation pending in the High Court regarding his appointment. One officer was holding additional charge as CEO. The High Court had sent a list of five officers to find out whether they were eligible for the appointment as CEO. He also stated that he was in touch with the Advocate-General and the case was being expedited. It was further stated that as per provisions of Rule 10 of the Orissa Wakf Rules, 1997, the Chief Executive Officer of the Wakf Board was to be appointed in consultation with the Board by deputation of a Muslim belonging to the State Administrative Service not below the rank of Group-B Officer. Steps had been taken to amend the said provision providing therein for deputation of any Group-B officer (not necessarily belonging to State Administrative Service) for being appointed as Chief Executive Officer of the Wakf Board. In the process, matter got delayed. Besides, Muslim officers belonging to State Administrative Service were less in number and sometimes they were not willing to come to this post.

3.49 In regard to the staff strength of the Wakf Board, it was stated that the Orissa Wakf Board had the total staff of 12 persons. The Principal Secretary in both the meetings agreed that there was a shortage of staff in the Board.

3.50 The Committee urges the Government of Orissa to post a full time CEO and to increase the staff strength.

MADHYA PRADESH

3.51 The Board has been constituted recently and the CEO had been posted. The Committee was given to understand that there are 97 sanctioned posts in the Wakf Board, out of which only 55 were in place.

3.52 In respect of Wakf rules and regulations, the Committee was informed that Wakf rules were prepared whereas Wakf regulations were not yet framed. It was stated that the regulation was being finalized.

3.53 The Committee urges the State Government to immediately permit the Board to fill the vacant posts and also finalise the rules and regulations on a priority basis.

UTTARAKHAND

3.54 The Principal Secretary, Department of Social Welfare, Uttarakhand, during her oral evidence on 01.02.2008, informed the Committee that the State of Uttarakhand was formed under the provisions of the Uttar Pradesh Reorganization Act, 2000 on 9.11.2000 and was carved out from the erstwhile State of Uttar Pradesh. There were two Wakf Boards known as, the UP Sunni Central Board of Wakfs and the Uttar Pradesh Shia Board of Wakf. However, the Central Government under Section 102 (2) of the Wakf Act, 1995 approved the scheme of the Uttarakhand Wakf Board and in compliance of the same on 06.09.2003, the Governor of Uttarakhand ordered reconstitution of the Uttarakhand Wakf Board under Section 13 (1) of the Wakf Act, 1995. After reconstitution of the Uttarakhand Wakf Board, the election was conducted and the Wakf Board was constituted. The Principal Secretary also stated that the Board Chairman did not comply with the provisions of the Wakf Act, 1995. Financial irregularities committed by the Chairman came to notice subsequent to the enquiry conducted by the Principal Secretary (Home), Uttarakhand in the year 2007. The State Government under Section 99 of the Wakf Act, 1995 superseded the Board on 26.12.2007. The District Magistrate, Dehradun was appointed as the Administrator of the Board.

3.55 As per the latest information submitted to the Committee in July, 2008, there was no change in the status of the Board. The Board has been superseded for over ten months and has not been reconstituted, though, as per section 99 of the Act the Board has to be reconstituted within six months from the date of supersession. There is no valid reason for the State Government to keep the Board under supersession beyond six months.

3.56 The Committee urges upon the State Government to reconstitute the Wakf Board immediately. Further the Committee advises the Government of Uttarakhand

to post a Muslim officer as Administrator in accordance with the provisions of the Wakf Act, 1995.

JHARKHAND

3.57 Ever since the State of Jharkhand was created, the Wakf Board has not been constituted. The Principal Secretary, Welfare, Government of Jharkhand, during his oral evidence before the Committee on the 16th May, 2007, informed the Committee that as far as the constitution of the Wakf Board was concerned, the matter was at the last stage of finalization. The list of names was submitted to the Government for consideration and the matter was pending at the highest level of the State Government. He further stated that further action would immediately start once the Wakf Board was constituted. The Principal Secretary again appeared before the Chairman, JPC on Wakf on 19.08.2008 and reiterated what was stated in 2007. The only change being that the file has moved from the Minister to the Chief Minister. The Committee was also given to understand that the CEO has not been appointed so far. Even in regard to CEO also, the Principal Secretary informed the Committee in 2007 that there was no CEO. The Secretary, during his further oral evidence on the 19 August, 2008, reiterated the same statement that the CEO was not appointed. He also informed the Chairman that there was no Office of Wakf Board nor were any staff members appointed to look after the working of the Wakf matters.

3.58 The Jharkhand Government *vide* its communication dated the 26th September, 2008, had informed the Committee that the State Government has constituted the Jharkhand State Sunni Wakf Board *vide* notification no. 1901 dated the 27th August, 2008 as per Section 14 (1) and 14 (3) of the Wakf Act, 1995. The State Government has also informed that the formalities for the election of the Chairman of the Board are being initiated.

3.59 The Committee is dismayed to note that the Jharkhand Sunni Wakf Board has been constituted by the State Government nearly eight years after the formation of the State, that too when the Committee had persistently taken up the matter with the State Government. The Committee desires to know the status of Shia Wakfs in the State as the State Government has not given any information regarding the constitution of the Shia Wakf Board.

3.60 It is very unfortunate that the State Government of Jharkhand has not paid the desired attention to the Wakf matters.

GUJARAT

3.61 The Gujarat Wakf Board and the Government have not co-operated with the Committee. Letters were sent to the Chief Secretary, Gujarat for obtaining information on the functioning of the Gujarat Wakf Board and related matters on 06.06.2008, 14.06.2008 and 02.07.2008. However, no information was received from Gujarat. Accordingly, the Committee decided to hear the views of the Chief Secretary, State Government of Gujarat and the officials of the Gujarat Wakf Board. However, till the day of the meeting, the required information was not received from the Gujarat Wakf Board or the State Government of Gujarat in the matter. The Committee directed the Chief Secretary, Government of Gujarat to appear before it on 22.08.2008. The Secretary, Legal Department, Government of Gujarat, appeared on behalf of the Chief Secretary. During the evidence tendered on 22.08.2008, before the Committee, he expressed his apologies for not sending the material, and stated that they were getting the information in piecemeal and it was in a poor language and that too it was difficult for the Board to get the information of all the Wakf properties. He also stated that getting information relating to all properties was not possible. In regard to constitution of the Wakf Board, the Secretary stated that the Board was constituted in 2000 for a period of five years. The term had expired in 2005. But, subsequently, the Board was not reconstituted and the Chairman was allowed to continue even after the term of the Board was over. What is surprising is that the Secretary informed the Committee that if the Board was not reconstituted after its term has expired, then the same Board could continue. He also stated that he was in-charge of the Wakf Board for one-and-a-half year and during the entire period, he had seen the Chief Executive Officer (CEO) just two months earlier and he had seen the Chairman of the Wakf Board only on the day of the meeting with the Committee. On being asked as to who was responsible for the state of affairs in the Board, he stated that since there was no complaint against the functioning of the Board, it was not at all required to deal with the matters so seriously. He further stated that he was not aware of many things which were brought to his notice and that he got the information now and he would try to do all the things.

3.62 The Chief Executive Officer of the Wakf Board, who was there in the Board for three years, on being asked whether he had written to the State Government to see that elections were conducted, stated that he did not do so because it was the State Government which was to form the Board. He agreed with the Committee that he did not even remind the Government.

3.63 The Committee expresses its displeasure at the state of affairs of the Gujarat Wakf Board and hold the Government of Gujarat responsible for neglecting its responsibilities under the Wakf Act, 1995. The ignorance of those who are in charge of Wakf affairs about the state of affairs of Gujarat Wakf Board reflects their attitude as also total lack of commitment to their duty. The Committee urges the Government of Gujarat to immediately constitute the Board and take proper administrative steps for effective functioning of the Wakf Board in the State.

UTTAR PRADESH

3.64 The Principal Secretary, Government of Uttar Pradesh, during the course of his oral evidence before the Chairman on 27.08.2008, stated that the Sunni Central Wakf Board and the UP Shia Wakf Board were constituted on 31.10.2004. However, the UP Shia Wakf Board Chairman had resigned and election of the Chairman was under process. He further stated that the Chairman of the Shia Wakf Board had resigned a long time back but his resignation was accepted only six months ago. On being queried as to how the meetings were being held in the absence of the Chairman, the Secretary, Minority Affairs, Government of Uttar Pradesh, stated that one of the Members was presiding over the meetings and there was no vacancy in the Board.

OBSERVATIONS AND RECOMMENDATIONS

3.65 From the review of the status of the Wakf Boards in the country, it has been noticed that the Wakf Boards have not been constituted in majority of the States. The Committee is constrained to note that even the bigger States such as Andhra Pradesh and Bihar, having large Wakf properties, are not taking initiative to constitute the Wakf Boards. In States like Andhra Pradesh and Himachal Pradesh, the Wakf Boards have been superseded whereas in States like Bihar, the State Government has not constituted the Wakf Board after the term of the existing Board had expired. Most of the State Governments do not appear to have the will and interest in the implementation of the Wakf Act, 1995. For the proper monitoring and management of the Wakf properties, it is very essential that Wakf Boards exist and function effectively in every State. The Committee expresses its deep concern over the unhelpful attitudes of the State Governments on Wakf matters. The Committee strongly recommends that the Central Government may direct every State to constitute Wakf Board immediately as per the provision of the Wakf Act, 1995 wherever it does not exist or not constituted. The Committee further urges the Central Government to convene a meeting of the Chief Ministers of the states to discuss the non-cooperative attitude of the State Governments relating to the Wakf matters. The Committee also fails to understand why the States of Punjab, Haryana, Himachal Pradesh and Union Territory of Chandigarh, despite opting for independent Boards, have not evinced any interest in the administration of their Wakf Boards.

3.66 The Committee strongly recommends that the Wakf Boards should not be used for providing political patronage by the State Governments. Politics should be kept away from the Wakf Boards. Wakf Boards deal with the religious and charitable institutions and discharge a very sacred duty. These institutions possess huge valuable assets belonging to the community. Unscrupulous and incompetent persons should not be put in charge of the Wakf Boards and damage the cause of the Wakf.

3.67 The State Governments should avoid superseding the Wakf Boards for extraneous political considerations. This should be resorted to only in the rarest of the rare case, when it is unavoidable. The State Governments should use its statutory power under the Act to deal with mismanagement of the Wakf affairs by the Boards.

3.68 The Committee regrets to note that certain States have continued the Wakf Boards with the same composition without reconstituting them even after the term of the previous Board had expired. The Committee found that in the case of Gujarat,

neither the State Government nor the Chief Executive Officer was aware of the provisions of the Wakf Act, 1995 for reconstitution of the Board after the term of the previous Board had expired. The Committee is constrained to observe that this reflects the attitude of certain officials dealing Wakf matters in the Government.

3.69 The Committee has also noted that certain State Governments do not appoint Administrator whenever Wakf Board is superseded or to be reconstituted or ceases to exist, by virtue of completion of the term or supersession. Appointment of Administrator in such cases is mandatory. In the absence of the Board, the Administrator will discharge the functions of the Board. The Committee has, however, noted that in States like Bihar, the Administrator has not been appointed even though the term of the Shia Wakf Board of Bihar had expired two years ago. In the absence of the Board and the Administrator, the Wakf Board becomes non-functional as there is nobody to exercise the powers of the Board or to monitor the functioning of the Wakfs in the State. Some of the States have designated the CEOs as Administrators, which is illegal. The Administrator and the CEO cannot be the same person. It is, therefore, necessary that whenever the Board ceases to exist, an Administrator should invariably be appointed at the earliest to exercise the powers of the Board till the new Board is constituted.

3.70 The Committee would, in this regard, like to draw the attention of the Government to the amendments proposed by it, in its Third Report, proposing changes in the composition in the Wakf Boards. This has been done with a view to making the Wakf Boards more effective. The Committee reiterates this recommendation and further desires that the Government should consider the recommendations contained in its Third Report and take action at the earliest.

3.71 In respect of the Chief Executive Officers, the Committee has noticed that in most of the States, the charge of the Chief Executive Officers is given as an additional charge to his existing duties. The Committee is of the view that this arrangement will not go well with the duties that are to be performed by a Chief Executive Officer, particularly in bigger States like Andhra Pradesh and Bihar, which have large number of Wakf properties. The Committee has also noticed that sometimes the Chief Executive Officers are removed or transferred on flimsy grounds, even though the officers are performing well. The experience of Maharashtra is a classic example in this regard. The Chief Executive Officer is an important functionary of the Wakf Board. If he has been given an additional charge, he would not be able to do justice to

his duties. The Committee, therefore, recommends that the Chief Executive Officers should always be given regular charge and not as additional charge.

3.72 The Committee has also noticed that in States like Jharkhand, the Chief Executive Officer has not been appointed at all. As a matter of fact, in Jharkhand, there is no Office of the Wakf Board, and there are no other staff members. The Committee takes a strong exception to such a callous attitude of the State Governments. The Committee, therefore, recommends that the State Government should appoint a senior Muslim officer as Chief Executive Officer of the Wakf Board.

3.73 The Committee has also noticed that in most of the Wakf Boards, the staff strength is insufficient. Besides the insufficient staff strength, the Committee has also noticed that there are a large number of vacancies in the State Wakf Boards and the positions have been allowed to remain vacant for several years. With such meagre staff, needless to say, Wakf Boards would hardly be able to work. For example, in Bihar in the Sunni Wakf Board, against the sanctioned strength of 50, there are only 17 persons in position, leaving 23 vacancies for a very long time. The Committee, therefore, recommends that the State Governments, in the first instance, should sanction sufficient staff for the Wakf Board as may be required by them. The State Governments should also keep in mind the requirement of the staff at the district level also for inspecting the Wakfs in the districts. Similarly, whenever there are vacancies in the staff positions, the State Governments should immediately get the vacancies filled up and for this purpose, there should be a regular coordination between the Wakf Boards and the State Governments. In cases of delays due to genuine and unavoidable reasons, *ad hoc* or part time staff be provided so that the working of the Boards is not adversely affected.

3.74 The Committee during its visits to various States was informed by the employees that there are hardly any promotional avenues for employees working in the Wakf Boards. It was also informed that due to lack of promotional avenues the employees stagnate in the same post for many years thus resulting in losing interest and incentive. The employees pleaded before the Committee, that similar promotional avenues as are available to the State Government employees may also be made available to them. The Committee therefore recommends that the Secretariat's of the Wakf Boards may be restructured in such a manner providing for timely promotions at every level. The State Governments may also give similar facilities to the employees of the Wakf Board as available to the State Government employees.

3.75 The Committee has also noted that in several States, rules and regulations under the Wakf Act have not been framed. Wakf rules and regulations are very essential for the proper functioning of the Board. They would bring in transparency to the extent possible in the functioning of the Board. Only very few States like Assam, Kerala, have both rules and regulations in place. The Committee, therefore, recommends that the Central Government should impress upon the State Governments to finalise the Wakf rules and regulations for the Wakf Boards at the earliest.

3.76 It would be seen from Table III that there are several States which have shown either very less number of Wakf properties or no properties such as Arunachal Pradesh, Meghalaya, Mizoram, Nagaland. In two other States in North-East, Manipur has 240 properties and Tripura has 625 properties. However, the Committee has noted that even though there is lot of expenditure to be incurred, the income of the Boards is very meager in smaller States. It would, therefore, be appropriate if small States are clubbed together and a common Wakf Board is formed under section 106 of the Wakf Act. The Committee, therefore, recommends that the Central Government may explore the possibility of having common Wakf Boards for smaller States and Union Territories for better management of the Wakfs.

3.77 The Committee has noted that the Jammu and Kashmir Wakfs Act, 1978 provides for constitution of Tehsil Wakf Committees. Section 7 (1) of the Act provides for establishment of one or more Wakf Committees in each Tehsil. The Committee desires that Tehsil or Taluka level Committee is a good proposition for better management of Wakfs at the local level. The Committee, therefore, recommends that there may be a District Committee at the District level and Taluka/Mandal Committees at the Taluka/Mandal level as the case may be in each District of every State. However, there may be some Talukas/Mandals where there are no sufficient Wakf properties/Muslim population for forming a Taluka/Mandal level Committee. In such cases, the adjoining two or three Talukas/Mandals may be joined together and one Committee may be formed. The Government may bring in necessary amendment in this regard in the Wakf Act, 1995.

CHAPTER - IV

Survey of Wakfs

4.1 Section 4 of the Wakf Act, 1995 deals with the preliminary survey of Wakfs that empowers the State Governments to appoint a Survey Commissioner for conducting survey of the Wakf institutions/properties that exist in the State. After the survey has been done, a list of Wakfs is to be published in the Gazette of the State concerned by the State Governments under Section 5.

4.2 In fact, the need for such survey of the Wakf properties has got its own history in the background of the partition of the country during 1946-47 that had resulted in the migration of millions of Muslims from India leaving behind a large number of properties which included Wakf properties also. Subsequently, these properties were occupied by unauthorized persons. In some cases, even the concerned Mutawallis, taking the benefit of the situation, converted the nature of such Wakf properties and claimed their personal title over such properties. Therefore, in view of this peculiar situation, it was considered necessary and was, accordingly, recommended to empower the Survey Commissioners to enquire not only into the Wakf properties which were existing at the time of commencement of the Act, but also to enquire into the question whether a particular property is a Wakf property or not, so that the lost Wakf properties could be reclaimed. Survey is also necessary to check whether existing Wakf properties have been registered or not, as required under Section 36 of the Act.

4.3 Section 4 providing for survey of Wakfs, in fact, is the heart and soul of the Wakf Act, 1995; it is the pre-requisite to managing/developing Wakf properties. Unless the Wakfs are identified, listed and registered, any other activity under the Act, cannot take place. Unfortunately, most of the State Governments/Union Territories have not taken it seriously. While some of them have not started, others have not completed the survey of Wakf properties. The previous Joint Parliamentary Committee on Wakf examined and presented Reports on eight States/Union Territories *viz.*, Puducherry, Dadra and Nagar Haveli, Meghalaya, Assam, Goa, Maharashtra, Manipur, and Tripura. The previous Committee had found that none of the States had completed the survey and it had, accordingly, recommended for early completion of the survey by the States.

4.4 The present Committee has, again, taken up the study of all the States/Union Territories, including those examined by the earlier Committee. The present status of survey in the States and Union Territories is given in the following Table.

Table II

Sl. No.	Name of the State/U.T.	Date/Year of Notification of Surveyor	Present Status
1	2	3	4
1.	Andhra Pradesh	03.03.2001	Still in progress
2.	Arunachal Pradesh	NIL information	
3.	Assam	1999	23 districts covered so far
4.	Bihar	01.02.2001	19 districts have been covered
5.	Chhattisgarh	30.10.2007	Survey started
6.	Goa	Proposal submitted to the State Government	
7.	Gujarat	19.02.1996	Still in progress
8.	Haryana	2005	Still in progress
9.	Himachal Pradesh	Re-survey to be conducted	
10.	Jammu and Kashmir	Not covered under the Act	
11.	Jharkhand	04.11.2003	Still in progress
12.	Karnataka	18.08.1997	Commenced in 2001.
			Surveyed 19,967 properties
			till date
13.	Kerala	30.08.1997	Survey completed.
			Not accepted by the
			Wakf Board
14.	Madhya Pradesh	25.12.2004	Survey in progress in
			13 districts
15.	Maharashtra	01.12.1997	Survey completed
16.	Manipur	Started in 2006	Survey report awaited

17.	Meghalaya	+	It is under process
18.	Mizoram	+	+
19.	Nagaland	NIL information	NIL information
20.	Orissa	21.12.1999	552 Wakf properties
			resurveyed upto
			March, 2008
21.	Punjab	17.01.2008	Survey not started
22.	Rajasthan	30.09.1999	Survey almost completed
23.	Sikkim	No	No
24.	Tamil Nadu	06.04.1998	Survey still in progress
25.	Tripura	No	No
26.	Uttar Pradesh	20.5.1996	Still in progress
27.	Uttarakhand	25.01.2006	Primary stage
28.	West Bengal	31.12.1998	*Physical survey started
			on 23.06.2008
29.	Andaman and	Not conducted	
	Nicobar Islands		
30.	Chandigarh	03.02.2008	Completed
31.	Dadra and Nagar Haveli	19.12.2003	Completed and Notified
32.	Daman and Diu	19.10.2001	Still in progress
33.	Delhi	+	Under process
34.	Lakshadweep	6.6.2008	Notified except Minicoy Island
35.	Puducherry	New properties acquired by various Wakfs	

		were surveyed under the Wakf Act, 1995
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+ Information not received

* Preliminary Survey was taken up earlier.

It may be seen from the above statement that in most of the States/UTs, the survey of Wakf properties under the Wakf Act, 1995 had been started very late and in most of the cases it has not been completed. The main problems facing the survey are that there are no sufficient staff to do the survey and that the Survey has been entrusted to the officers or Departments who have no experience and expertise for doing it. Given below is the status of Wakf survey in some of the States/UTs:

PUDUCHERRY

4.5 The earlier Joint Parliamentary Committee on Wakf, in its Second Report had examined the issue of survey in Puducherry. The Government of Puducherry and the Wakf Board had informed that the Survey Commissioner and Additional Survey Commissioners were appointed to carry out the work of survey and that they had submitted their report.

4.6 The Committee in its Second Report had recommended that procedure for the survey of Wakf properties should be such that it was transparent and open to the public, with a system to correct errors in survey.

4.7 However, it was alleged by the members of the public during the visit of the Committee that the survey work had not been properly carried out and a large number of Wakf properties had been left out. They informed that even those properties which physically existed and were Wakf by user were not included in the survey on flimsy grounds. It was also informed that in some cases Wakfnamas and Wakf deeds were not available but the Wakf properties were being used as such since time immemorial and even those properties were left out during the survey. As on date, the total number of Wakf properties in Puducherry are 607. The Wakf properties had been surveyed in terms of the repealed Wakf Act, 1954. The Committee was informed that 36 additional Wakf properties were newly identified from various Wakf institutions. It was also stated that these properties were identified and referred to the Survey Commissioner of Wakfs for causing Survey in terms of provisions under Chapter-II of the Wakf Act, 1995.

ASSAM

4.8 The first survey of Wakf properties in the State of Assam was conducted in 1957 as per the Wakf Act, 1954. The second survey of Wakf properties was commissioned in 1999

appointing the Director of Land Records and Surveys as the Survey Commissioner and all the Additional Deputy Commissioners (Revenue) of the Districts as Additional Survey Commissioners. The work relating to new survey of Wakf properties in Assam also has been found to be quite slow. Even the earlier Joint Parliamentary Committee on the Functioning of Wakf Boards, in its Fifth Report, presented on 4.12.2002 had noted in regard to survey as under:

“It was informed that the State Government has appointed Director of Land Records and Survey as Survey Commissioner of Wakfs and the Additional Deputy Commissioner (Revenue) of each district of Assam as the Additional Survey Commissioner of Wakfs by a Notification dated 7.10.1999. It was also stated that the Survey of Wakf properties was very slow due to shortage of staff and the Government was not in a position to increase the staff strength due to its financial position.”

4.9 The Committee had recommended that the services of the staff of other departments may be requisitioned for survey of Wakf properties and had directed to complete the survey within three months.

4.10 The present Committee also reviewed the survey work in Assam in June, 2006. The Committee was surprised to learn that the survey work was still going on in spite of the earlier recommendation of the Committee, not to speak of completing it. On being asked, the Committee was assured that the survey would be completed by the 15th August, 2006. However, when the Committee visited the State in November, 2006, it found out that the survey work was still in progress. When the issue was raised before the Chief Secretary, he too assured the Committee that the survey work would be completed within six months.

4.11 The Additional Chief Secretary, who appeared before the Committee on 31.01.2008 stated that in North Cachar Hills only one area was remaining and this area could not be surveyed because of law and order problem. He also stated that the work of tabulation would be taken up shortly and then abstracts would be created for each district. He reiterated that the delay was due to shortage of staff in the State Wakf Board. It means that the Government did not provide additional staff for this work.

4.12 The Committee was informed in July-August, 2008 that the total number of Wakf properties registered with the Board was 176. Till then, the Survey Commissioner had submitted the survey reports in respect of 23 Districts. The survey reports of two other Districts were yet to be received although steps were being taken for expediting the same.

Tabulation work of the survey report was going on with the limited staff of the Assam Board of Wakfs, which was not yet completed.

4.13 The Principal Secretary, Government of Assam, who appeared before the Chairman of the Committee on 14.8.2008, reiterated the same position that was stated earlier. He, however, said that tabulation was completed in 10 districts and in the remaining districts, it was yet to be completed.

4.14 It is a cause of concern to learn that the survey of Wakf properties in Assam could not be completed even after 9 years of its commissioning. Another major area of concern is that even though Assam has about 30 per cent Muslim population, the Assam Wakf Board maintained that it had only 176 Wakf properties. When the Chairman sought the final outcome of the survey in the eight districts for which tabulation was also completed, the Principal Secretary informed the Committee that the additional Wakf estates identified after the second survey would be about 1,000. If 1,000 additional properties have been identified in eight districts, after the completion of the survey in all the districts, the number of Wakf properties could be more than three thousand. **The Committee is of the opinion that Assam should be having more Wakf properties than it has identified and there is need for the Board and the State Government to speed up the survey and identify the Wakf properties. There seems to be lack of interest on the part of the State Government and the officials which is regrettable. The Committee strongly urges the State Government to evince more interest in the administration of the Assam Wakf Board.**

GOA

4.15 The case of Goa is peculiar. In the first instance, Goa was not prepared to accept the Wakf Act, 1995. After persuasion by the Union Government and on the earlier JPC's insistence, a Survey Commissioner was appointed as noted by the Committee in its Seventh Report. It is surprising to learn that, as per the latest information received, a proposal had recently been submitted to the Government for reappointment of Survey Commissioner, after amending the Wakf Rule. It would thus be seen that the Survey Commissioner has not yet been appointed and the survey of Wakf properties has not yet commenced. It shows utter negligence on the part of the State Government. The State Government has not bothered about the provisions of the Wakf Act, 1995 and has even ignored the recommendation of the Committee.

MAHARASHTRA

4.16 The earlier JPC on Wakf, in its Eighth Report, presented on 29.07.2003 noted that the survey was almost completed, except in Bombay suburban District. However, it was alleged by the members of the public during the visit of the Committee that the survey work had not been properly carried out and a large number of Wakf properties had been left out. It was also informed that even those properties which physically existed and were Wakf by user, were not included in the survey on flimsy grounds. It was revealed that in the revenue records, the Wakf properties were mentioned in the name of Mutawallis or in the name of lessees and were not shown as Wakf properties which made the sale of the properties easy. It was also informed that no physical survey was done and only proformas were sent to the Mutawallis for furnishing the details of the Wakf properties. The State Government had also admitted that there were errors in identifying the Wakf properties. Later on, the State Government informed that the survey in Bombay sub-urban areas had also been completed and they supplied a list of the Wakf properties surveyed to the then Committee. The lists so received *prima facie* showed the properties of Marathwada region; the Wakf properties in other regions were negligible which might not be true. Keeping the situation in view, the then Committee recommended that the provisions of the Wakf Act, 1995 should be followed scrupulously for the survey of Wakf properties and the procedure adopted be made transparent and open to the public, with a remedy to correct errors in the survey. The Survey Commissioner should undertake a physical survey of all the Wakf properties after giving wide publicity through the media. The Committee further recommended that after the survey was completed, the lists of Wakf properties should be published properly in the Official Gazette as required under the Act. The Committee further recommended that the entries of Wakfs should be properly made in the revenue records.

4.17 The Committee, now in view of the flaws in the survey undertaken earlier and the earlier Committee's recommendation to correct errors in the survey, sought to know the present status of survey during its visit undertaken in June, 2007. The Chief Executive Officer informed the Committee that the Government had initiated survey *vide* the Government Notification dated 01.12.1997 through the Settlement Commissioner. Despite complaints that the survey had not been done properly and also the last Joint Parliamentary Committee had asked the Government to undertake re-survey, it was yet to be undertaken.

4.18 Further explaining the position, the State Wakf Board, in its note giving the latest position of the survey submitted to the Committee in July, 2008, as under:

“The survey of Wakfs and its properties was taken up by the Government of Maharashtra *vide* Revenue and Forest Department Notification No. WKF-1097/L-3/CR95 dated 01.12.1997 and survey was completed and submitted to the Government. Thus, the survey was completed before receipt of proceedings of the Joint Parliamentary Committee’s VIIIth Report, which had suggested the survey to be carried out again in a transparent way. It has yet not been initiated.

. . . The decision to conduct fresh survey in a transparent manner lies with the State Government.”

4.19 The Committee is surprised to see that it got the same reply even after one year. On being asked, the Principal Secretary, Minority Development, Government of Maharashtra, during her oral evidence tendered on 24.07.2008, assured the Committee that the Survey Commissioner would be appointed within a month to take up the survey work.

TRIPURA

4.20 In Tripura, there were 625 Wakf properties as in June, 2008. As far as the latest position of survey is concerned, the Committee was informed that survey was almost over and 70 additional properties had been identified during the recent survey. In this connection, it would be pertinent to mention that the earlier Committee also had examined the issue. The Committee had been informed that the Director of Land Records and Settlement was appointed as Survey Commissioner. It had, therefore, recommended for completion of survey within three months. The Committee is at a loss to note that the survey was yet to be completed.

WEST BENGAL

4.21 The Committee was informed that Director, Land Records & Surveys and Joint Land Reforms Commissioner was appointed Survey Commissioner for Survey of Wakf properties by the State Govt. *vide* notification No. 868-MW dated 31.12.1998. As per the information supplied at the time of visit of the Committee in November, 2006, the number of Wakf properties in the State was 8,044 approximately.

4.22 The State Government later informed the Committee that the survey had been completed in respect of 5659 properties by 31.3.2007. It was also stated that in a meeting presided over by the Secretary, Minorities Development and Welfare & Madarsa Education Department, it was decided that (a) the survey would be time-bound, date to be notified later on; (b) wide publicity would be made prior to start of survey; and (c) the help of the

general public including the public representatives would be sought for survey of both registered as also those unregistered properties.

4.23 As regards the latest position of survey, it was stated that a physical survey of the Wakf properties had been started from 23.6.2008, and it was scheduled to be completed by 10.11.2008. This survey was being conducted at all the administrative levels — Gram Pranchayat, Block, Sub-Division and District levels under the supervision of the Director, Land Records and Survey who had been declared Survey Commissioner. In this exercise, the Revenue Inspector, Block Land and Land Reforms Officer, Sub-Divisional Land and Land Reforms Officer and the District Land and Land Reforms Officer were also involved.

4.24 It has been about ten years since the Survey Commissioner was appointed. It is not a satisfactory performance by a State like West Bengal. A period of ten years is a very long time for this work and it appears that the State machinery was not serious in completing the task. The Committee has also noted from the schedule sent by the West Bengal Government in July, 2008, that the survey was proposed to be completed by 21.10. 2008.

RAJASTHAN

4.25 The Committee was informed that survey of Wakf properties was initially conducted by the State Government in 1954-60. After the new Act came into force, the Survey Commissioner was appointed by the State Government on 30.09.1999. It was also stated that the survey work was almost complete and the Board was verifying and checking the survey sheets from records. The Chief Secretary, in his oral evidence tendered on 12.02.2007 before the Committee, assured that the process of verification and checking of the survey sheets would be completed soon.

4.26 However, it would be pertinent to mention that this Committee, in its Second Report presented on 4.3.2008, recommended for early completion of survey. It is hoped that the process would have been completed by now. The State Government of Rajasthan in a letter dated 17.9.08 informed the Committee that the survey was almost completed.

CHHATTISGARH

4.27 There are 1811 Wakf properties in the State of Chhattisgarh as per the Government Gazette dated 25.08.1989. The Survey Commissioner was appointed by the State Government on 13.12.2005. As per the Government Notification dated 30.10.2007, the survey of Wakf properties began in the month of December 2007, and it was supposed to be completed in about one year and half, *i.e.*, by August 2009. The State Government, in the information submitted in August 2008, stated that 62 additional Wakf properties had been

identified till date. It was also stated that the Government sanctioned a grant of Rs.26.85 lakhs (2007-08) for Wakf survey.

4.28 It was also stated that as per records received from the Madhya Pradesh Wakf Board, there were about 661 unregistered properties in the State. A regular advertisement in daily newspapers in Chhattisgarh was published by the Board with a caution to register Wakf property under Section 36 of the Wakf Act, 1995. The Principal Secretary, ST & SC Development Department, Chhattisgarh, during the course of his oral evidence before the Chairman of the Committee on 18.8.2008, stated that the survey was in progress and efforts were being made to complete it at the earliest. He also mentioned that most of the properties were limited to a few districts, and, therefore, the survey would not be delayed.

ORISSA

4.29 The Committee was informed that the first survey of the Wakf property in the State of Orissa under the Wakf Act, 1954 had been completed in October, 1986 after which 3729 Wakf institutions were registered. The second round of survey was started as late as November 2001, notification for which was issued by the Law Department *vide* Notification No. Wakf-15/98-18454 dated 21.12.1999.

4.30 The Principal Secretary, Government of Orissa informed the Committee on 20.09.2007 that the survey could not be expedited due to shortage of staff. Till then, survey work of only 433 Wakfs had been completed. The Principal Secretary, during his further oral evidence on 18.8.2008, stated that the re-survey work of 552 Wakf institutions was completed by the end of March, 2008. He also reiterated that lack of staff still remained the main reason for not completing the survey. It was also stated that approximately, 2000 Wakf institutions were created during the period from 1987 to 2001. **The Committee is constrained to note that even though survey was notified in 1999, not even 1/7th of the Wakfs could be covered so far. The Principal Secretary sought one year's time to complete the survey. Such a slow pace of survey work reflected the lackadaisical approach of the State Government. If there is sufficient will, the survey can be completed within six months.**

DELHI

4.31 As per the information received, there are 1977 Wakf properties in Delhi. It was stated that the Government of the NCT of Delhi appointed a Survey Commissioner (Wakf) as per the Wakf Act, 1995. The survey of the Wakf properties by the Survey Commissioner (Wakf) was under process. The Survey Commissioner, explaining about the present status

of survey in Delhi, informed the Committee on 19.6.2008 that the progress in the last few years was not upto the desired level. He stated that there were about 1933 Wakf properties already notified. Even though, as per the notification, the number of properties was 1977, but actually they were 1933, because a few properties had been notified twice. He also stated that the survey team had covered almost all the properties and some properties had been found untraceable. There were also some disputed properties which could not be surveyed and that the rest of the properties had been surveyed. For a proper notification of the properties, proper documented revenue records were also required. All the site plans were sent to the Sub-Divisional Magistrate for verification with revenue records. Accepting that the survey was not progressing at the desired pace, he informed that a taskforce was formed for this purpose. The team of the survey was now working in two Districts having major Wakf properties, *i.e.*, the South and Central Districts, and the team had completed 50 to 60 per cent of verification work. He also stated that once the properties were verified by SDM, these would be notified.

4.32 Delhi being the Capital of the country, survey work should have been taken up on a priority basis and it should have been completed much earlier. The procrastination by the officials is not acceptable to the Committee and the entire machinery should be activated so that the survey and verification process is completed at the earliest to ensure the notification of the survey report without much delay.

HIMACHAL PRADESH

4.33 During the visit of the Committee to Himachal Pradesh from the 6th to 9th October, 2007, it was informed by the Himachal Pradesh Wakf Board that the survey for the identification of the existing Wakf properties in the State was not carried out. According to the Wakf Board, there was a lot of variation between the existing Wakf properties as per the records of the Himachal Pradesh Wakf Board and the records available in the Revenue Department. It was stated that as per the revenue records, the number of Wakf properties was 810, whereas according to the records of the Himachal Pradesh Wakf Board, the number was 1099. Therefore, it was agreed that for the up-to-date record of the Wakf properties, a re-survey of Wakf properties was very essential. It was further stated that the State Government did not provide the revenue staff as agreed to the Himachal Pradesh Wakf Board for conducting the survey work in full swing.

TAMIL NADU

4.34 There are 6672 Wakf properties under the control of the State Wakf Board. As far as the latest position of survey is concerned, it was stated that work was in progress by the Survey Department. The State Government informed the Joint Parliamentary Committee on Wakf that under Section 4 of the Wakf Act, 1995, the State Government appointed the Commissioner of Survey & Survey Commissioner of Wakfs *vide* G.O.M.S.No.18 B.C., M.B.C. (W) Department dated 06.04.1998, for the purpose of survey of the Wakfs. District Revenue Officers were appointed as Additional Survey Commissioners of Wakfs and Tehsildars in the State were designated as Assistant Survey Commissioner of Wakfs.

4.35 The Committee was informed that the first meeting was conducted by the Survey Commissioner in connection with survey on 03.09.1998 and the second meeting on 16.9.1999. Thereafter, the work of survey started Taluka-wise. The State Government also appointed the Chief Executive Officer, Tamil Nadu Wakf Board as the Additional Survey Commissioner *vide* G.O.Ms.87, B.C., M.B.C. & M.W. Department dated 09.08.2000.

4.36 As per the direction and instructions given by the State Government, district-wise particulars of Wakf properties had been extracted from the original registers of the Tamil Nadu Wakf Board already prepared as per the provisions of the Wakf Act, 1954 and handed over to all the District Revenue Officers in the State and P.A. to Collector, Chennai.

4.37 The Committee was also informed that the District Revenue Officers, designated as Joint Commissioners of Survey, were taking steps to verify the Wakf properties with reference to the particulars furnished by the Board. It was also stated that the survey work was under progress and had not yet been completed.

ANDHRA PRADESH

4.38 According to the First Survey and subsequent institutions registered in Andhra Pradesh, there are 37,470 Wakf institutions. The property held by these institutions is about 1,45,411 acres.

The total area held by the Wakf institutions, the area under encroachment and free from encroachment is shown below:

		Acres. Cents
1.	Area under encroachment	81,591.40
2.	Area free from encroachment	63,920.54
	TOTAL:	1,45,511.94

4.39 The State Wakf Board informed the Committee that the first survey was conducted in the year 1961 as per the G.O. 2285, dated 16.11.1961 covering 35,424 institutions in 23 Districts. The second survey was commissioned on 03.03.2001, as per G.O.7 dated 03.03.2001 and the Commissioner was yet to submit his report, which was under process.

4.40 During the visit of the Committee to Andhra Pradesh in July 2008, the Principal Secretary, Revenue, Andhra Pradesh, on being asked to complete the survey, stated that in view of the extent of the land required to be surveyed, some officials would be provided so that they would be in a position to complete it in a time-bound manner. He, however, sought some time for completing the survey.

4.41 Even though the survey was started with the Government Notification in 2001, the Committee is disappointed to note that even after seven years, it has not been completed so far. The survey work is very important because after survey, several new Wakf properties which have been declared Wakf would come to light and also some Wakf properties which are under encroachment or illegal occupation would also come to light. **The Committee feels that the survey work in Andhra Pradesh is very slow and is not methodical. If the survey is not done on time, there will be further encroachments and the very purpose of re-survey will not be served. Encroachments of new Wakf properties would create more problems.**

KERALA

4.42 A total number of 7723 Wakf properties are registered in Kerala. The Committee was informed that as per the G.O (MS) No.691/97/RD dated 30.8.1997, survey was started on 7.10.1997 for which a Survey Commissioner was appointed. On completion of the survey, a report was submitted on 29.6.2002. It was revealed that the number of Wakfs listed after this survey was less than that of the registered Wakfs, i.e., 6114 and the same was not tallying with the actual number of Wakfs, i.e., 6795 registered with the Board. Therefore, the Board had not accepted the above report and sent back to the Government requesting the Government to appoint a new Survey Commissioner to conduct a fresh survey. It was, therefore, stated that the request was still pending before the Government.

4.43 The Committee is of the view that the properties that were missing in the survey may be surveyed again instead of surveying all the properties. An early decision may be taken in the matter.

KARNATAKA

4.44 The Committee was given to understand that the total number of Wakf properties to be surveyed in Karnataka was 32,224 and the number of Wakf properties surveyed so far was 18,506. The balance number of properties to be surveyed was 13,718.

4.45 The first survey in Karnataka State was done under the Wakf Act, 1954. The State Government issued Notification dated the 18th August, 1997 for the Second Survey appointing the Secretary, Revenue Department as the Survey Commissioner and the Deputy Commissioners of the respective districts as the Additional Survey Commissioners. But the Second Survey of the Wakf properties in the State actually could commence during the year 2001, after the deputation of Surveyors from the Department of Survey Settlement and Land Records to assist in this exercise.

4.46 A total of 32,224 Wakf properties had been identified for survey in 27 Districts, out of which 18,506 Wakf properties had been surveyed. The Survey reports had been received from many of the districts and the same were being scrutinized and tabulated. For the remaining 13,718 Wakf properties, the survey work was at the final stages in almost all the districts.

4.47 It was also stated that due to dearth of surveyors, no regular Surveyors could be posted for the survey work of Wakfs in Bangalore (Rural), Mandya, Hassan, Shimoga, Bellary, Chitradurga and Dharward Districts, which hampered the ongoing survey work. The Committee was informed that action was being taken to draw regular surveyors from the Survey Settlement and Land Records for the early completion of survey work. However, the Board had set up a Survey Cell and a retired Tehsildar was engaged with necessary supporting staff for the purpose of tabulation and other post-survey work so as to submit a final report to the Government for publication of the list of Wakfs in the Gazette as required under Section 5 (2) of the Wakf Act, 1995.

4.48 The Chairman, during his visit to Karnataka on 29.07.2008, held discussions with the Chief Secretary and other officers. The Chief Secretary assured the Chairman that the survey would be completed at the earliest. Similar assurances were made by the Additional Chief Secretary to the Committee during its visit to Karnataka in September, 2006 and the

Secretary, Minority Development, Government of Karnataka during his evidence before the Committee on 31.01.2008.

4.49 The Committee observes that the assurances given earlier have not been fulfilled. For the survey of 18,506 properties, it took about 7 years and for the remaining 13,718 properties, it is not known how long it would take. Therefore, it is necessary to appoint the required number of staff for this purpose so that the survey can be completed at the earliest. The process cannot prolong endlessly.

PUNJAB

4.50 A total 24,354 number of Wakf properties have been registered with the Punjab Wakf Board.

4.51 The Punjab Wakf Board informed the Committee that after partition, survey was started in Punjab in 1963 and this work was completed in 1966, and final survey Report was published in the Government of India Gazette in 1971. All the Wakf properties in existence at the time of original survey were notified as Wakf properties. It was also stated that there was no system of Mutawallis in the State of Punjab and all the Wakf properties were directly managed by the Wakf Boards through its officers appointed in the districts.

4.52 It was further stated that the Punjab Government had appointed Special Secretary, Revenue as Survey Commissioner of Wakfs on 17.01.2008.

MADHYA PRADESH

4.53 It was stated before the Committee during its visit to Madhya Pradesh in June, 2007 that the State Government had appointed a Survey Commissioner and issued notification on 25.12.2004 for re-survey. The survey work was in progress till then.

4.54 Under the Wakf Act, 1995, it was mandatory for all the States to conduct the survey. Even though the Act came into force in 1995, the survey in Madhya Pradesh was ordered in 2004 only. After four years of starting of the survey, only three districts have been completed so far and the survey has been ordered only in 13 districts. **At this rate, the Committee feels that the survey is not going to be completed in the near future, even though the Secretary had assured that the survey would be completed within one year.**

BIHAR

4.55 In regard to survey in Bihar, the Committee was informed, during its visit to Bihar in July 2007 that the State Government had notified on 01.02.2001 for the appointment of the Commissioner of the Revenue and Land Reforms Department as Survey Commissioner for Wakfs and the Collectors of the Districts as Additional Survey Commissioners and all the DCLR as Assistant Survey Commissioners to get the Wakf properties surveyed. The Chief Secretary, during his discussions with the Committee on 31.07.2007, informed that the survey work was in progress and it would be completed soon.

4.56 However, the State Government, in a note submitted in March, 2008 to the Committee, stated that the progress of survey work was on hold that was entrusted to the Minority Welfare Department. The Secretary, Minority Welfare Department, Bihar, informed the Committee on 19.03.2008, that there was shortage of revenue staff in Bihar. Posts had been advertised for appointment of five Commissioners at a time. Officers would soon be available and they would be assigned jobs. But, in the meantime, a high-level committee meeting was held in which it was decided to outsource the job for which a tender was floated. Preliminary survey would be done through outsourcing and it would be handed over to the Revenue Officers for quasi-judicial process, which would be adopted for finalization of the surveyed encroached property. He also stated that in two districts, outsourcing had been done and persons had been deployed to formulate a detailed plan to survey the Wakf property. In the remaining districts also, they were trying to get it done by outsourcing.

4.57 The Principal Secretary, during his oral evidence before the Chairman of the Committee on 13.08.2008 informed that there was not much progress in survey due to shortage of staff. **The Committee is at a loss to see that even though survey was commissioned in 2001, not much progress has been made till now. In the first instance, the survey should not have been transferred to the Minority Welfare Department as the Revenue Department was the right agency to do the survey. The survey work should, therefore, be assigned to that Department only. The Committee is disappointed to see that successive assurances given to the Committee had not been implemented. This reflected the callous attitude of the State as the State machinery was hardly taking any interest in the matter. Necessary staff also needs to be put in place immediately for completing the survey work in a time-bound manner. The**

Committee desires that all these impediments may be removed for early completion of survey.

HARYANA

4.58 The Haryana Wakf Board was established on 1.8.2003 and the Committee was informed that as on 31.3.2003, the total number of Wakf properties in the State was 11,929. It was further stated that efforts were on to survey the properties that had been left out. The Government had already appointed the Divisional Commissioners of Ambala, Rohtak, Gurgaon, Hisar as Survey Commissioners. The Wakf Board informed, in the background note, that the total number of Wakf properties in Haryana were 12,491 in 2007. Giving the latest position to the Committee in July 2008, it was stated that the survey was completed in the districts of Jhajar, Rohtak, Sonapat, Karnal, Krukshetra and Yamunanagar. The Chief Executive Officer (CEO), during his oral evidence tendered before the Committee on 6.6.2008, stated that the fresh survey was ordered where some properties were left out earlier. In the survey, in Ambala Division alone, more than 100 properties were recovered and they had come to light now. It was further stated that some Wakf properties had not been mutated in the name of Wakf Board in the records. The work in the Ambala Division was nearly over; and in Gurgaon Division, it should be over within a month. In Hisar, the work had just started and it should take about two months.

JHARKHAND

4.59 In regard to the present status of survey, the Government of Jharkhand informed the Committee that the Survey Commissioner had been notified *vide* Notification No. 6598/6599 dated 04.11.2003. The Secretary (Land Revenue) was Survey Commissioner and all the District Collectors were Assistant Survey Commissioners for the respective districts. The report of Survey Commissioner was awaited. **The Committee finds that Jharkhand is a classic case of inactive State machinery. Even though the Survey Commissioner was appointed, since there is no Wakf Board, there would be nobody to assist the Survey Commissioner to complete the survey at the earliest.**

UTTAR PRADESH

4.60 In regard to survey of Wakf properties in Uttar Pradesh, the Secretary, Minority Affairs, Government of Uttar Pradesh, during his oral evidence on 27.8.08 stated that the Survey Commissioner appointed earlier under the Wakf Act, 1954 continued after the completion of the survey in 1988. However, he agreed that a new Notification regarding

the Survey Commissioner under the new Act was not issued. Further, in a written communication dated 18.10.08 the State Government informed the Committee that Survey Commissioner was notified on 20.5.1996. A task force was constituted on 31.08.2007 for the survey at the State level and also at the district level as per the provisions of the Wakf Act, 1995.

OBSERVATIONS AND RECOMMENDATIONS

4.61 Survey of Wakf properties as mandated in section 4 of the Wakf Act, 1995 has not been carried out sincerely in any of the States, even after 12 years of the enactment of the Wakf Act. There is no State in the country which has completed the survey and notified the Wakf properties after the survey. This reflects the attitude of the State Governments and their sincerity in protecting and preserving the Wakf properties. The Central Government has a constitutional obligation to impress upon the States to implement the legislation. The Central Government cannot remain a silent spectator to the inaction of the State Governments.

4.62 The purpose of directing the State Governments to conduct survey under section 4 of the Wakf Act is to find out the left over Wakf properties in the earlier survey and also to ascertain the extent of encroachment of the Wakf properties. Any delay in carrying out the survey will only help land grabbers and land mafia in occupying valuable Wakf properties. The Committee has noted that some of the State Governments are conducting survey under the Wakf Act, 1995 only on the additional Wakf properties whereas earlier Wakf properties surveyed prior to the Wakf Act, 1995 are not being touched. This is not the right procedure and every State is required to conduct survey of all the Wakf properties situated in the State. The Committee, therefore, strongly recommends that every State should conduct survey of all the Wakf properties situated in the State, registered or unregistered.

4.63 The Committee has been given to understand that there is scarcity of staff in most of the States and sufficient staff strength is not being provided for conducting the survey. This has resulted in inordinate delay in completing the survey. Complaints have been received from almost all the States, including Karnataka, which is supposed to be a pioneering State in the Wakf administration. The Committee, therefore, recommends that the State Governments should augment the staff strength for conducting survey and completing it at the earliest.

4.64 The Committee has been given to understand that in some of the States the survey work is being handed over midway, to the Department of Minority Affairs. The Committee is of the view that the Department of Minority Affairs will not be able to do the survey on its own without the survey staff of the Revenue Department, which is actually qualified to conduct surveys. The Committee feels that this is another move to shirk the responsibility and to delay the survey or to do a poor quality survey. The Committee is of the view that the Revenue Department of the State cannot abdicate its

responsibility to conduct survey and recommends that the State Governments should associate the revenue survey staff in conducting the survey of the Wakf properties in the State.

4.65 The Committee has also learnt that in some States, a peculiar situation has arisen. In the States of Maharashtra and Kerala, though survey was completed under the Wakf Act, 1995, complaints have been received on the quality of survey because several Wakf properties which were already notified as Wakf properties have been left out in the survey conducted under the Wakf Act, 1995. In view of this, in both the States, the survey has been held up and resurvey has been proposed to be conducted. The resurvey is yet to commence. The Committee is of the view that the properties that have already been surveyed under the Wakf Act, 1995 may be notified immediately, and the additional properties that may come to light after the resurvey that may be conducted now may be included in the revised list which may be notified after completing the survey. The Committee strongly feels that wherever mistakes are found in the survey, the State Government should immediately order for resurvey.

4.66 The Committee is strongly of the view that if urgent steps are not taken by the Central Government to impress upon the State Governments to conduct proper survey and expedite the survey, it will cause irreparable damage to the Wakf properties spread all over in the country.

CHAPTER - V

Encroachment of Wakf properties

5.1 Encroachment on Wakf properties in the country has taken place on a massive scale. It is estimated that nearly 70 to 80 per cent of the valuable Wakf properties worth several thousand crore rupees spreading all over the country have been encroached upon or illegally occupied.

5.2 Though the Wakf legislation has been in force since 1954, unfortunately, it did not prove to be effective in retrieving the Wakf properties or removing the encroachments or illegal occupations of those properties. Similarly, the provisions contained in the Wakf Act, 1995 in respect of removing of an encroachment or protecting the Wakf properties from illegal occupiers have also proved to be ineffective. Sections 51 to 56 of the Wakf Act 1995 deal with the issues like prohibition of alienation of Wakf properties, recovery of Wakf properties, prohibition of transfer of Wakf properties in contravention of the Act, putting restrictions on purchase of Wakf properties, removal of encroachment on Wakf properties, enforcement of the order for the removal of encroachers and imposing restriction on leasing of Wakf properties.

5.3 Section 54 of the Wakf Act, 1995 empowers the Chief Executive Officer of the Wakf Board to initiate action *suo motu* or on application. If there is an encroachment of any registered Wakf property, the CEO has to follow the procedure laid down in that Section and he can order the encroacher to remove such encroachment and deliver the possession of land, building, space, etc. The order so passed, by the CEO has to be enforced through a Sub-Divisional Magistrate. The aggrieved person has a right to appeal before the Wakf Tribunal. Although Section 54 empowers the CEO of the Board to get encroachments removed from Wakf properties and initiate action for this, only in a few cases CEOs have been able to initiate action. Considering the difficulties being faced by the CEOs in getting the encroachments removed from Wakf properties, this Committee in its Third Report, recommended for adding a new sub-Section (5) in Section 54 giving powers of Collector/Assistant Collectors/SDMs to the CEOs of the Boards. This amendment is yet to be implemented by the Government.

5.4 The previous 'JPC on the Functioning of the Wakf Boards' had examined *inter alia* the problem of encroachments in respect of Wakf properties in Lakshadweep, Puducherry, Dadra and Nagar Haveli, Meghalaya, Assam, Goa, Maharashtra, Manipur and Tripura, and made its observations and recommendations for the removal of encroachments.

5.5 As far as the present status of the encroachments of Wakf properties is concerned, the following Table presents details of Wakf properties encroached in each State and Union territories by individuals, organisations/ institutions as also by the Government agencies:

Table III

Sl. No.	Name of the State/ UT	No. of Wakf Institutions- Properties and approx. area (with unit of area)	Area under encroachment (Number & Approx. area)	Approx. Market value of encroached area (Rs. Lakhs)	Area encroached by Govt. Agencies (Number & area Encroached)
1	2	3	4	5	6
1	Andhra Pradesh	35,703 Units 1,45,543.94 Acres	5,599 Units (81,591.40 Acres)	+	+
2	Arunachal Pradesh	*	*	*	*
3	Assam	176 Units. Likely to increase after survey	*	*	*
4	Bihar	2684 Units	94 Units	+	+
5	Chhattisgarh	1811 Units	871 Units 1,289.007 Acres	+	No
6	Goa	To be known after survey	To be known after survey	To be known after survey	To be known after survey
				survey	survey

7	Gujarat	22485 Units	+	+	+
8	Haryana	12,493 Units	891 Units	+	+
9	Himachal Pradesh	810 Units	236 Units	+	36
10	Jammu & Kashmir	Not covered under the Act	Not covered under the Act	Not covered under the Act	Not covered under the Act
11	Jharkhand	135 Units	+	+	+
12	Karnataka	27,338 Institutions 30,046 Units 18,239.83 Acres	135 Units	Rs.440 crores approxi mately	26
13	Kerala	6795 Institutions 7723 Units	39 Units	+	+
14	Madhya Pradesh	14,701 Units	1,292 Units	+	+
15	Maharashtra	23,564 Units 46,339.90 Hectares	About 70 per cent	+	+
16	Manipur	240 Units	+	+	+
17	Meghalaya	6 Units	5 Units	+	+
18	Mizoram	+	+	+	+
19	Nagaland	*	*	*	*

20	Orissa	3,729 Units	17 Units	+	7
		14,211.719 Acres			
21	Punjab	24,325 Units	582 Units	+	362 Units
22	Rajasthan	81 Institutions	301 Units	+	63
		22,000 Units			
23	Sikkim	+	+	+	+
24	Tamil	6,672	1,081 Units	Rs. 2.90	+
	Nadu	Institutions 7,057 Units	58 Acres	crores	
25	Tripura	28 Institutions	10 Units	Rs. 4.09	+
		625 Units		crores	
26	Uttar	1,30,352	75 Units		27 Units
	Pradesh	Units			
27	Uttarakhand	2,053 Units	+	+	+
28	West Bengal	8,070 Units	104 Units	+	+
29	Andaman	70 Units	3 Units	+	+
	& Nicobar Islands				
30	Chandigarh	32 Units	2 Units	+	+
			36.94 Sq. Yards		
31	Dadra &	10	*	*	+
	Nagar Haveli	Institutions			
32	Daman & Diu	*	*	*	*
33	Delhi	1,977 Units	685 Units	+	312

34	Lakshadweep	333 Units	*	*	*
		43.73 Hectares			
35	Puducherry	45 Institutions	79 Units	Rs. 4.5	*
		607 Units		crores	

+ Information not received.

* Nil information received.

5.6 The above Table reflects the extent of encroachment of Wakf properties in the State/Union territories. A large number of Wakf properties are claimed by the Government as Government properties, even after they were notified as Wakf properties after the first survey.

5.7 The Committee, during its visits to various States/Union Territories had the opportunity of seeing encroachments on some of the properties. The status obtaining in some States is given in the succeeding paragraphs with a view to showing the nature and extent of encroachment on Wakf properties in various parts of the country.

WEST BENGAL

5.8 The representatives of the State Government of West Bengal and the State Wakf Board had informed the Committee that out of 8070 Wakf properties registered so far, 104 Wakf properties had been under encroachment and that action was taken in six cases for recovering them under section 52 of the Act. Action was taken against encroachment in 20 cases under S. 55 and in 95 cases under Ss.54, 55 & 56(1) of the Act. In three cases encroachments were got vacated and possession was taken under Section 55 of the Act.

5.9 On a query about the special efforts made to check encroachments on Wakf properties, the representative of the State Government stated that for dealing with encroachment of Wakf properties in West Bengal, the provisions of the Wakf Act, 1995 were being strictly adhered to and that the Government had notified District Level Wakf Supervisory Committees. These Committees had District Level Officers and representatives of Muslim community for better supervision and protection of Wakf estates. The main work of these Committees was to check encroachments on Wakf properties. It was also stated that specially empowered Magistrate for the Kolkata Corporation area was appointed by the State Government for removal of encroachments under Section 55 of the Act.

5.10 During the visit of the Committee to West Bengal in November, 2006, members of the public informed the Committee about the following issues relating to encroachments:

- “(i) Four thousand illegal occupants are in possession of the Wakf property at premises No.51A, Satish Mukherjee Road, under EC No.8302, Mysore Family Fateha Fund Wakf Estate;
- (ii) the Wakf estate situated at Burdwan EC No.1214 comprising vast land has been disposed of making playground and distributing the land in question to the *pattadars* destroying the Wakf characters and its objects;
- (iii) property at 24/1, Munshipara Lane, Kolkata, EC No.11766 is under encroachment;
- (iv) sixty-four mosques have been illegally occupied;
- (v) a Party office is situated at Belilious Road, 24/1, Munshipara Lane and 17 *bighas* are under encroachment; and
- (vi) one-hundred mosques in Kolkata, Howrah and 19 and 20, Bagmari Road, Kolkata are under encroachment.”

5.11 While interacting with the Committee during its visit to West Bengal, the Chief Secretary stated that no large number of illegal transfers of Wakf property had taken place and wherever it had happened, the Government had been quite strict in dealing with such cases. He, however, accepted that the records were not maintained properly and, therefore, difficulties were being faced to trace out the Wakf properties. He also stated that till then, 50 cases had been disposed of and 137 cases were pending in the Courts. The Chief Secretary, West Bengal, during his oral evidence tendered on the 11th September, 2007, stated that in regard to recovery of the encroached Wakf properties, there were two cases filed under Section 54 of the Act and they were pending. With regard to Kolkata, there was no arrangement for Sub-Divisional Magistrates to proceed against the persons who had encroached the Wakf land. After the visit of the Committee, however, the State Government had appointed a specially empowered Executive Magistrate for the area coming within the Kolkata Municipal Corporation.

5.12 The Committee was informed that the West Bengal Government notified the Wakf Act, 1995 and incorporated penal provisions to deal with encroachers and also against misuse of Wakf properties by the Mutawallis. **The Committee appreciates the action of the West Bengal Government for enacting stringent penal provision for preventing**

encroachment and misuse of Wakf properties. The Committee hopes that the West Bengal Government would continue to take stringent action against the encroachers of the Wakf properties. The Committee recommends that the Government of West Bengal may bring all Wakf properties under the ambit of the Public Premises Act.

RAJASTHAN

5.13 The representatives of the State Government informed the Committee that the Government of Rajasthan was very much concerned about the problem of unauthorized occupations of Wakf properties. The State Government had issued circulars to the District Administrations and Police Authorities in this regard. It was also stated that the State of Rajasthan was the first State in the country to provide the cover of the Rajasthan Public Premises (Eviction of Unauthorized Occupation) Act, 1964 to Wakf properties, ensuring rapid action against the unauthorized occupants by initiating summary proceedings. In the Court of Estate Officer (Wakf), during the years 2004-06, 168 new cases were registered and 77 original applications were decided and possession in 87 cases, including old cases, was taken over. It was also stated that the Wakf Board appointed its local committees, which were responsible for the identification and taking action against encroachments. The cases under Sections 54 and 55 of the Act were also adjudicated by the CEO of the Wakf Board. In this process, 854 cases of unauthorized occupations were decided by the CEO and were sent to the concerned SDOs for execution. The State Government also informed the Committee that during 2005-06, 228 cases were decided, 485 cases were referred to SDOs under Section 55 of the Wakf Act, 1995 and 301 cases were pending before the CEO under Section 54.

On a query as to whether the Rajasthan Government exempted the Wakf properties from the Rent Control Act, it was stated that the Wakf properties in the State were exempted from the operation of the Rent Control Act from 20.08.1976.

5.14 The Committee, during its visit to Rajasthan in July 2006, was informed by the public about the following encroachments:

- (i) The SDM has to remove the encroachments of the graveyard of Mathania, but the same was not being done;
- (ii) there are 73 Wakf properties where encroachments have taken place in Jodhpur which are located at Peepad, Bilada, Looni, Osia and village Mathania;

- (iii) the graveyard of Rai Ka Bagh (Khasra No.559) is encroached by the Municipal Corporation, Falandi; and
- (iv) the encroachments on Wakf property Mai Ka Bagh Darwaja, Jodhpur need to be removed.

5.15 These are only some of the cases which were brought to the notice of the Committee and there could be several other Wakf properties which might have been encroached. The Committee is happy to note that while the Rajasthan Wakf Board has taken action under section 54 and 55 and covered a considerable number of properties, but dismayed at the fact that the SDOs have not taken action except in a few cases. Large number of cases have been referred to SDOs under section 55. The Committee strongly urges the State Government to direct the SDOs to take immediate action to execute the eviction orders and get the properties evicted, and if they fail to take action, within a reasonable time, it should be held against them as dereliction of duty.

KARNATAKA

5.16 During the visit of the Committee to Karnataka in September, 2006, a total of 188 cases of encroachment of Wakf properties had been brought to its notice and it was informed that action was being taken under Section 54 of the Wakf Act, 1995 to remove the encroachments and to recover the properties.

5.17 The representatives of the State Government informed the Committee on 31.01.2008 that, out of about 30,000 Wakf institutions registered with the Karnataka Wakf Board, till the end of 2007, 189 cases of unauthorized encroachments on Wakf properties had been detected. In five cases, encroachments had been removed and properties restored to Wakf institutions. In 13 cases, directions had been given to the Sub-Divisional Magistrates under Section 55 of the Wakf Act, 1995 to get the encroachments removed. In the remaining 71 cases, action was initiated to issue show cause notices under Section 54 of the Wakf Act, 1995. 36 cases were pending in various Courts. In 64 cases, enquiry under Section 54 was underway. The Secretary further explaining stated that most of encroachments were by the community leaders. According to him:

“The properties are in prime localities and these occupants are there for years together. They have become rich but the community has not become rich. We have found out these things. We have told them to carry this message and convene a meeting of the leaders and tell them to either vacate or enhance the rent. This is going on. As you know, in one of the cases, a hotel has occupied. They are paying a very nominal

amount. Actually, we have asked them to pay Rs.35 lakhs per month. But they have agreed to pay only Rs.6 lakhs. The case is pending before the Supreme Court. That is a very important locality. They are earning a lot. They can give us. The present market value of the hotel is around Rs.500 crores.”

5.18 Karnataka is one the first States to bring the Wakf properties under the Public Premises Act. All Wakf properties in Karnataka are Public properties and also they are exempted from the Rent Control Act. Despite this the action taken to evict the unauthorized and illegal occupants of the Wakf properties is negligible. The Committee is constrained to observe that the Wakf Board has not taken proactive action in removing the encroachment. **The Committee strongly recommends that the Wakf Board may terminate the leases where the rent is not commensurate with the market rent, as the Rent Control Act is not applicable and fix the current market rent. The Committee further recommends to take *suo motu* action in implementing the Public Premises Act instead of waiting for receiving complaints.**

5.19 **The Committee while interacting with the members of the Board learnt that they are not reviewing the progress of removal of encroachment, removal of illegal occupation and action taken under section 54 and 55 in their monthly meetings. The Committee advises the Board that it should make it mandatory in every Board meeting to review the progress of various statutory actions including the progress of survey.**

ASSAM

5.20 The Committee was informed by the State Wakf Board that it had submitted a proposal to the Government of Assam to bring all the Wakf properties under the purview of the Public Premises (Eviction of Unauthorized Occupants) Act, 1977, as recommended by the then JPC in its Fifth Report. When the matter was raised before the Chief Secretary, he promised to take action on it within a period of six months. The Additional Chief Secretary, during the course of his oral evidence stated that the proposal had been prepared by the Department and the same could not be placed before the Cabinet and Assembly for amendment because of Panchayat elections. He further stated that as far as the encroachment on the registered properties was concerned, they had no proposal for eviction. Once the survey was completed and the notification was issued after tabulation, the issue of encroachment would be taken up, he said.

5.21 Even though the Assam Wakf Board and the State Government of Assam informed the Committee that there was no encroachment on Wakf properties in Assam, the Committee came to know that there were encroachments in some Wakf properties. The status of the following properties will clearly signify the issue of encroachments in Assam:

- “(i) Ohidur Rahman Wakf Estate, Fancy Bazar, Guwahati Reg. No.142:- This Wakf had been created by one Ohidur Rahman in 1890 for an area of 14 Bigha 2 Kathas including two Assam type houses thereon as a public Wakf for pious, religious and charitable purposes. The Wakif (Donor) himself was the Mutawalli. After him, his son Khan Shaheb Khalilur Rahman became Mutawalli. He got the Wakf converted into private property, settled part of it with the members of his family and leased the rest after the intervention of the Assam Board of Wakfs and after litigation for about thirty years the Guwahati High Court declared the property as a Wakf and authorized the Board to exercise control over it within the relevant law. The Assam Board of Wakf appointed one of its Members as Mutawalli of Ohidur Rahman Wakf Estate and asked the occupants to take lease from the Mutawalli under the Wakf Act, 1995. So far only 5 persons took leases from the Mutawalli. There are commercial and residential buildings in the Wakf land including two Cinema Halls and several Super Markets. More than 100 other occupants still now recognize the wife and other descendants of the late Khalilur Rahman as landlords as per their earlier Deeds of Agreements on lease. Most of them contend that they are protected tenants u/s 5 of the Assam Non-Agricultural Urban Areas Tenancy Act, 1995, because of leases taken by them from the Late Khalilur Rahman and his descendants.

At the instance of the Assam Board of Wakf the Mutawalli filed an Eviction case in the Wakf Tribunal, Guwahati, against 23 occupants out of whom 2 occupants came to terms and took leases from the Mutawalli. One of the remaining defendants filed a Writ petition in the Guwahati High Court Challenging, *inter alia*, the very validity of the case. Besides this case, there are several other pending cases.

- (ii) Golam Rahman Wakf Estate, Pan Bazar, Guwahati, Registration No. 29:- This Wakf was registered with the Assam Board of Wakfs on 5.11.1959 for an area of 30 Bighas 9 Kathas 4 and half Lessas on the application of the then Mutawalli S.M. Mohain. In apprehension of getting lost, the Assam Board of Wakfs under its Resolution No.1 Dt. 10.09.1967 and Order dated 27.9.1967 had given

permission to the Mutawalli for sale of an area of 27 Bighas 2 Kathas 16 Lessas preceded by due publicity in the daily Newspaper, *The Assam Tribune*, on two consecutive days u/s 15(2)(J) read with Sec. 36(A) of the Wakf Act, 1954, since repealed. The successor Mutawalli Sk. Aminul Islam also subsequently reported that the area requiring sale was 27 Bighas 2 Kathas 16 Lessas. Most of the area permitted for sale had been sold by the Mutawalli and some area is under encroachment with dwelling houses and a temple. Some area has gone under roads. At present the Wakf continues in a small area (less than one bigha) with a multi-storied commercial building at Pan Bazar, Guwahati.”

5.22 The above cases are only illustrative and there could be many more Wakf properties encroached. The Committee is not satisfied with the functioning of the Assam Wakf Board. There are valuable Wakf properties in Assam and only a proper and effective survey alone will be able to identify which are the properties encroached and the extent of encroachment. The Committee is of the opinion that the number of Wakf properties registered with the Board is not correct. The Board should take active interest in identifying the Wakf properties and to register them. For example, Assam must be having hundreds of Mosques and Burial grounds which are definitely Wakf properties. The few properties shown above are very valuable properties and need to be protected. The Board has to initiate action under section 54 and 55 of the Wakf Act in the above cases.

5.23 The Committee regrets to note that the State Government has totally neglected the Wakf administration. The Committee strongly urges the Government of Assam that it is its constitutional responsibility to implement the Wakf Act in letter and spirit and to supervise the functioning of the activities of the Board. The attitude of the Assam Government is regrettable and the Committee hopes that the Government of Assam will discharge its obligation and set right the affairs of the Wakf Board.

CHHATTISGARH

5.24 As per the background note submitted to the Committee, the total number of encroachments in Chhattisgarh was 871. Out of which, number of encroachments on agriculture land was 422, and on plots, houses and shops was 449. Out of 449 encroachments, 54 encroachers claim title over the Wakf properties on the basis of unauthorized and illegal sale deeds executed by Mutawallis. Other 395 encroachers claim possession as tenants on the Wakf properties, granted by the Mutawallis. But there was no lease deed or permission of the State Wakf Board for these tenancies/leases. The total area

encroached was: (a) agriculture land 512.214 hectare (b) plots, houses and shops 11.337 hectare. The total market value of encroached properties was about Rs.37.63 crore.

5.25 Explaining about the steps taken to remove encroachments, the Secretary, Government of Chhattisgarh informed the Chairman, during his oral evidence on 18.08.2008, that the Board had taken action against all those responsible/involved.

TAMIL NADU

5.26 The Committee was informed that the total number of encroachments identified so far in Tamil Nadu were 1081 covering a total area of 25,31,384 sq. ft. Action was initiated under section 54(1) of the Wakf Act, 1995 for all the 1081 cases after due enquiry. Final orders were passed in 819 cases as per section 54 (3) of the Wakf Act 1995 at the Chief Executive Officer's level. It was further stated that 587 cases for removal were pending with the R.D.O./Sub-Divisional Magistrate concerned. So far 29 encroachments were removed and possession was taken covering an area of 2,71,590 sq. ft. The value of the properties recovered so far was Rs. 15,40,70,000/-.

5.27 The Committee is constrained to note that more than a thousand properties are under encroachment in the State with huge area. The Committee is also surprised to note that 587 eviction cases are pending with R.D.Os./S.D.Ms. and this does not present a good picture of the State machinery. The Committee appreciates the action of the Board for initiating action under section 54 in all the 1081 cases and issuing certificates in as many as 587 cases and have removed encroachment in 29 cases. The Committee expresses its unhappiness over the inaction of the RDO/Sub-Divisional Magistrate in executing the certificates. The Committee strongly urges the State Government to direct the RDOs and the Sub-Divisional Magistrate to expedite the execution of the certificates.

MAHARASHTRA

5.28 Maharashtra Wakf Board is not having a clear picture of the encroachment of the Wakf properties in the State of Maharashtra. This is because a part of the State Wakf properties were governed by the Wakf Act, 1954 and a part of the State Wakf properties were governed by the Bombay Public Trust Act. From the 1st January, 1996, all the State Wakf properties are governed by the Wakf Act, 1995. Explaining about the present status of encroachments of Wakf properties in Maharashtra, the State Government informed the Committee that the Wakf Act, 1995 was being implemented in the State with effect from

the 1st January, 1996 and no detailed survey had since been conducted to identify the properties under encroachment or to establish the extent of encroachment due to paucity of funds and shortage of staff. Due to lack of regular survey and inspection of the Wakf properties in the urban and rural areas of the State, the growing tendency of encroachment on Wakf lands could not be checked. It was also stated that as a rough estimate, it may be presumed that not less than 70 per cent landed properties were under unauthorized possession. The Board roughly estimated that over 50,000 cases needed to be initiated against the unauthorized possession or encroachers as per Section 54 of the Wakf Act, 1995.

5.29 Besides, a large number of Wakf properties are still administered by the Bombay Public Trust Act. Though the Wakf Act, 1995 came into force with effect from the 1st January, 1996, it was only in 2005 that the Government notified the transfer of Wakfs to the Wakf Board, from the Charity Commissioner. This delay in transferring the Wakf from the Charity Commissioner for almost 9 years resulted in several disputes of jurisdiction. Several Wakfs challenged that they were not Wakfs but only trusts registered under the Indian Trust Act, and hence they came under the administrative jurisdiction of the Charity Commissioner. One such dispute was that of the Currimbhoy Ebrahim Khoja Orphanage Trust. This Trust sold a valuable property with permission of the Charity Commissioner in 2002. This was one of the Trusts which had been transferred to Wakf Board by the notification of 2005. The Wakf Board claimed that it was Wakf property and as such they had the jurisdiction with effect from 1.1.1996 and the sale was illegal. The Wakf Board after receiving a Wakf contribution of Rs. 16 lakhs ratified the sale. This ratification was also questioned. The matter now lies before the Bombay High Court. The Committee received several representations from public expressing that it was an illegal transaction. The Charity Commissioner in his deposition before the Committee said that as on 2002, when the transaction took place, he had the jurisdiction as the trust was governed by the provisions of the Bombay Public Trust Act and he accorded permission to sell the properties after following the procedure laid down in the Bombay Public Trust Act. **In view of fact that the case is pending in the High Court and as such it is *sub judice* the Committee does not want to make any comment on the transaction. The Committee would leave it to the Wakf Board to establish its claim in the Court.**

5.30 **There are also several cases of alienation of Wakf properties in Maharashtra. The Committee was informed that the Chairman acted in a questionable manner by permitting the sale of several properties and issued NOC for lease or sale of the**

properties with his signature for which he was not authorised to do. The executive head of the Wakf Board is the CEO and all orders of the Board are issued under the signatures of the CEO and not the Chairman. The action of the then Chairman needs to be probed into by the Government, in view of the several complaints from the public.

5.31 The Committee strongly recommends that the transactions that had been approved by the earlier Chairman may be enquired. The Committee further urges the Maharashtra Wakf Board to identify the properties that were encroached and initiate action to get the properties vacated.

5.32 The Committee expresses its displeasure at the state of affairs of the Maharashtra Wakf Board. The Wakf administration has collapsed and the valuable Wakf properties worth several hundred crores are at the risk of being alienated by vested interests and land mafia. Maharashtra is one of the progressive States and it is regrettable that the Wakf Board is in shambles and Wakf properties are allowed to be encroached upon because of the negligence of the State Government and the Wakf Board. The Committee hopes that the State Government would understand the seriousness and discharge its obligation.

DELHI

5.33 The Delhi Wakf Board has furnished the Committee a list of Wakf properties which are encroached and also list of properties claimed by the DDA and ASI as their properties, though the properties are Wakf properties in nature.

(a) Wakf properties encroached by public	—	373
(b) Wakf properties held by DDA	—	114
(c) ¹ Wakf properties under the control of ASI	—	172
(d) Wakf properties held by miscellaneous Government agencies	—	<u>26</u>
Total	—	<u>685</u>

5.34 The Chief Executive Officer, Delhi Wakf Board stated, before the Committee on 19.06.2008, that the Wakf properties in Delhi were mostly Kabristans or the lands attached to the Dargahs or Mosques. The lands attached to the Dargahs or Mosques were already in use and mostly they were rented out to the people by the Wakf Board. Therefore, it was not an issue but they could not rent out the lands of unused Kabrastans. These were all

encroached upon. It happened because Kabrastans and other such places were scattered all around Delhi. In certain areas, there used to be large concentration of the Muslim population and now due to migration, their number has gone down. Therefore, those Kabrastans were not in use, and because of this, people encroached Kabrastans. The CEO informed the Committee that he was initiating action under section 54 and eviction orders had already been passed in the cases of 125 properties. 115 cases were referred to Sub-Divisional Commissioner for carrying out eviction under section 55 which were pending. He further stated that the SDMs were playing active role in it, but the process for eviction was taking time. He further stated that another 800 cases were before him under Section 54 for eviction proceedings and he was processing them.

5.35 He further stated that 123 properties were in prime locations like Connaught Place, NDMC and MCD areas. In the case of these 123 Wakf properties which were transferred by the Central Government to the Delhi Wakf Board it was contested in a civil writ No.1512/1984 between '*VHP vs. Union of India & Ors.*' which was pending before the High Court of Delhi. The Union of India was the main respondent in the Civil Writ Petition. The Delhi Wakf Board engaged a senior counsel in the case and vigorously pursued the matter. In spite of all efforts made in the matter, the stay order had not been vacated and the case has been pending for more than two decades.

5.36 It may be mentioned here that the earlier JPC had directed the DDA, the Wakf Board and the Urban Development Ministry to jointly conduct a survey of 123 Wakf properties. Because of writ petition, the Wakf Board, has not been allowed to take possession of these properties. The L&DO and DDA who have transferred these properties are also not in possession of the properties. Due to this long pending litigation, encroachers have taken advantage and have encroached a large extent of valuable lands from these 123 properties. On this the CEO stated that the Wakf Board had approached the State Government for providing grants to fence these properties and has also received some grants, which was not sufficient. **The Committee inspected some of the encroached Wakf properties. The Committee is not happy with the efforts of the Wakf Board in removing the encroachment. With the buoyancy in the prices of real estate in Delhi, the land has become valuable. Instead of removing the encroachments, the Wakf Board is regularising the encroachment by collecting paltry rents. The Wakf Board is not able to safeguard the Wakf properties as it has limited staff and they seems to be more interested in getting rents than developing these valuable properties. Misuse of**

leasing provisions of the Wakf Act is rampant in certain States like Delhi, Punjab, Haryana and Himachal Pradesh which has been discussed in a separate Chapter.

ANDHRA PRADESH

5.37 The Committee, during the discussions with the Chief Secretary and other senior officers of the Government of Andhra Pradesh, was informed that, the total Wakf land in Andhra Pradesh was 1,45,511.94 acres as per the first survey conducted by the Survey Commissioner of Wakfs which covered 35,703 institutions. An area of 81,591.40 acres was under encroachment and Government control. As regards action initiated for eviction, it was stated that as and when reports with full particulars of encroachment were received from the Inspector and Auditor of Wakfs, action was initiated under Sections 51 and 54 of the Wakf Act, 1995, for eviction.

5.38 The Andhra Pradesh Wakf Board, which has been in existence for over forty years, has not been able to remove illegal occupation or encroachment on Wakf properties, develop Wakf properties and enhance the Wakf income. In fact, several properties have been further encroached upon or illegally occupied during the existence of the Board.

5.39 The Andhra Pradesh Wakf Board has the largest number of Wakf properties in the country. The major dispute about the large extent of land is between the Government and the Wakf Board.

5.40 During the Nizam rule and other Muslim rulers, a large area of land was given to the Dargahs and Khankhas for their maintenance. The intention of the grant of land by the rulers was to make permanent arrangements for maintaining the Dargah and the Khankhas and to carry out the religious obligations attached to these institutions. The Mutawallis or the Sajjadas who used to manage the Dargah and Khankhas were allotted or granted land. Even if the land was granted in the name of an individual Sajjada or Mutawalli, the grant was for the maintenance of the institution and not for personal use of the individual Mutawalli or Sajjada. So, all the lands granted are of a permanent nature and dedicated for the Dargah and Khankhas in perpetuity, whereas the State Governments, wherever such grants were given for maintenance, have treated such lands as Inam Lands or Jagirs given to the Mutawallis. After the demise of the Mutawallis or after the introduction of the Inam or Jagir Abolition Act, the States have held that the property would be reverted back to the State.

5.41 On the basis of this assumption, several thousands acres of land in Andhra Pradesh has been taken over by the Government, which in the view of the Committee is not correct. The intention for which the land was granted to the Wakf is very important and it is very clear that the intention of the rulers granting the land was for the permanent and perpetual maintenance of the institution, i.e., Dargahs and Khankhas. The stand of the Government that the grant is not to the Dargah but to the Sajjada or to the Mutawalli is not correct. Because of this approach, the Wakf has lost thousands of acre of land in Andhra Pradesh. The Committee urges the State Government of Andhra Pradesh to reconsider its decision and restore the lands to the Wakf and if the State needs the land, it may acquire it for any public purpose.

5.42 For example, Dargah Hazrat Syed Ali Ishaq Madani Aulia situated at Visakhapatnam granted land for rendering services to the Dargah. The entire land granted measuring about 5,385.31 acres was declared as Inam land and the Government assumed the land treating that the Mukhasadars or the Mutawallis were not rendering service. The Government, after assuming the possession of this land, had allotted it to or sold a portion of the land to NTPC and M/s HNPCL-23.06 acres to NTPC and about 1,122.38 acres to HNPCL. The Government actually allocated an area of 836.90 acres of land to NTPC in 1999 but the NTPC had taken possession of 523.06 acres only. The claim of the Government that it was Government land was contested in Civil Appeal and ultimately the Supreme Court in Civil Appeal No. 4372 of 1985 dated the 28th January, 1998, held that a Wakf was a permanent dedication of property for purposes recognized by Muslim Law and the property having been found as Wakf would always retain its character as a Wakf. It was further held by the Supreme Court.

“After a Wakf has been created, it continues as such for all times to come and further continues to be governed by the provisions of the Wakf Act and a grant of *patta* in favour of Mokhasadar does not affect the original character, therefore, we do not find any substance in the last argument of learned counsel for the appellant.”

The case of Dargah Hazrat Syed Ali Ishaq Madani Aulia of Visakhapatnam is a classic case where the Government had to transfer back the land to the Wakf. The Committee urges the Government of Andhra Pradesh to decide other similar disputed land cases in the spirit of the judgement of the Supreme Court and not to prolong the litigations.

Later on, the Government accepted the stand of the Wakf Board after the High Court judgement and treated this land as a Wakf land.

5.43 There are similar Wakf properties throughout Andhra Pradesh. Prominent among them is the property belonging to Dargah Hazrat Baba Sarfuddin Pahari Sharief, which is 2,131 acres of land and a portion was allotted by the Government for the construction of the Shamshabad Airport. Other lands belong to Dargah Hussaini Shah Wali at Manikonda measuring about 1,654 acres and 1036.21 acres of land belonging to Dargah Hazrath Maqddom Biyabani at Alur. The Government has assumed possession of these properties and allotted or sold the land to various parties. There is however, a writ petition pending in the High Court of Andhra Pradesh in regard to notification of the land belonging to Dargah Hazrath Hussain Shah Wali, Manikonda. The approximate value of all these properties in Andhra Pradesh will exceed more than 35 to 45 thousand crores of rupees.

5.44 The fact is that all the above lands were granted for the maintenance of the Dargah. There is absolutely no doubt whatsoever that they belonged to the Dargahs. What is true in the case of Visakhapatnam is true in the above stated properties also.

5.45 The Committee is convinced that these valuable lands are, in fact, Wakf properties though the Andhra Pradesh Government on technical grounds treated them as non-Wakf properties. The Wakf Board being a part of the State Government may not find it easy to fight a prolonged legal battle with the Government. It takes several years for getting a legal decision. The Andhra Pradesh Legislative Committee on Minority Welfare has submitted a detailed report in 1999 in two volumes in which they have also held that the above mentioned properties were Wakf properties and the State Government should give up its claim.

5.46 During the discussions, when the Committee visited Andhra Pradesh in July 2008, it sought clarifications from the Chief Secretary about the steps being taken to settle the disputes between the State Wakf Board and the State Government, the Chief Secretary informed the Committee that in the previous month only, he had a meeting with the Revenue Secretary, Chief Commissioner (Land Administration) and the Secretary, Minority Welfare Department in which it was resolved that the Chief Commissioner would go into the details of each property, survey number-wise, and check physical position, encroachment, claims and counter-claims, etc. The Committee was later informed that subsequent to its visit, the Chief Commissioner held two meetings and the issues were yet to be finalized.

5.47 The Committee urges the Government of Andhra Pradesh not to deprive the Wakf of such large area of land. The Wakf Board being a statutory body under the supervision of the State Government will not be in a position to fight the might of the

State Government as a subordinate body. The Committee strongly recommends that the State Government should amicably settle the dispute instead of fighting a prolonged legal battle. The Committee further suggests that if the State Government for any reason, wants the land, it can acquire and pay adequate compensation to the Board so that it can develop other properties.

5.48 The Committee expresses its displeasure that the Andhra Pradesh Wakf Board is non-functional as there has been no Board or Administrator for over four years. The Committee strongly feels that with such a weak administration of the Board, it will not be able to protect the Wakf properties let alone removing the encroachment. The present Board with such large number of encroachment, has hardly initiated action under section 51 and 54 of the Act. Such a state of affairs will reflect the lack of interest of the State Government in Wakf affairs. The Committee strongly urges the State Government to immediately constitute the Board and provide a strong administrative set up to the Board.

HARYANA

5.49 The Committee was informed that 183 Wakf properties were under encroachment by the Government/Semi-Government agencies. The matter had been taken up with the State Governments to get such Wakf properties vacated. Besides, 716 Wakf properties were under encroachment/unauthorized possession of private individuals and the Board made sincere efforts to get the encroached properties vacated. During 2005-06, the Board had recovered 103 encroached properties by way of compromise. The Haryana Wakf Board's properties are very valuable, particularly in Gurgaon, Faridabad, Sonapat and Panipat districts. More than 800 properties have been encroached in these districts and the Board has initiated action under section 54 only in a few cases. The Board does not have full time CEO and the term of the Board has also expired recently. In addition to the encroachment, the Board has given away almost all the properties on 11 month lease with permission to build on the land. Such type of transaction will permanently deprive the Board of the properties and the Board will be getting a paltry rent which will not be commensurate with the market rent. The Board, by adopting this method has legalised encroachment. **The Committee regrets to observe that the trifurcation of the Punjab Wakf Board has not helped the Wakfs, but helped a few individuals and land mafia who, in connivance with the Government and the Board have grabbed valuable properties for a meagre consideration.**

BIHAR

5.50 The Committee was informed that there were 74 cases of illegal encroachment of Sunni properties and 20 cases of Shia properties in Bihar. The Committee, during its visit to Bihar in July 2007, made a suggestion to the Chief Secretary to get the encroachments removed. In the Compliance Report, the State Government informed the Committee in March, 2008 that the District Administration had been requested to remove encroachments in cases of about 200 encroachers notices had been issued to about 500 encroachers by the Board to remove encroachments. The Secretary, Minority Welfare Department, Government of Bihar, during the course of his oral evidence on 19.03.2008, also reiterated the same.

OBSERVATIONS AND RECOMMENDATIONS

5.51 From Table III it can be seen that the Wakf Boards have not been able to get the encroachments removed under Section 54 of the Wakf Act, 1995. This is mainly because most of the Boards are either non-functional or do not have the necessary funds, staff, etc. As discussed earlier, in most of the Boards, the CEOs are either holding additional charge or there is a vacancy of CEO. The Committee was shocked to know that the bigger States like Andhra Pradesh, Maharashtra, Bihar and Assam are not having full-time CEOs. Even in cases where the CEOs have initiated action under Section 54 for the removal of encroachment and issued necessary certificates, no action has been taken by the Sub-Divisional Magistrates to get the encroachment vacated.

5.52 Another important problem is that a large number of Wakf properties are in possession of the Government, both the State and the Centre. This is because the State Governments have assumed a large area of landed property, which was granted to the Wakf institutions, by the erstwhile rulers, for the maintenance of the Wakf institutions, by means of Inam or Jagirs, by invoking the provision of the Inam Abolition or the Jagir Abolition Act or the Land Reforms Act and not treating the land as permanent dedication. Some of the Wakf properties were fraudulently occupied by the Mutawallis as their individual property which later came under the Land Reforms Act. The stand taken by the State Governments in this regard is erroneous as the land is for the maintenance of the Wakf institutions, which remains with the Wakf in perpetuity. The Wakf land with the Government, though strictly, cannot be classified as encroached or illegally occupied, nonetheless by wrong interpretation of the provisions of the Inam Abolition Act or the Jagir Abolition Act, merely on technical grounds, the land is taken over by the Government. It is difficult for the Wakf Boards to fight the Government in litigation, as the Boards are under the administrative control of the State Governments. There are hundreds of cases between the Wakf Boards and the Government pending in the Courts in the country. The Committee urges the Central Government to intervene and find out an agreeable solution to this problem.

5.53 The Committee strongly feels that the Government of Andhra Pradesh should revisit the entire issue of the Jagir lands taken over by the Government after the introduction of the Inam or Jagir Abolition Act and come to an amicable solution so that with the development of these valuable properties, the socio-economic and

educational aspiration of the Muslims of Andhra Pradesh in particular and the Muslims in general could be fulfilled. The Wakf Board or the other statutory bodies were created for the supervision and protection of the Wakf properties. The Wakf properties are, in fact, public properties. The State Government should not treat these properties as private properties and on certain technical grounds defeat the very intention of grant of land. The Supreme Court Judgement in Civil appeal No. 4372 of 1985 in the Visakhapatnam property may serve as a guiding principle in the matter.

5.54 The Committee appreciates the fact that the Government of Andhra Pradesh has constituted a high-level Committee consisting of representatives of the Revenue Department, Minority Welfare Department and the Wakf Board for resolving the disputes. The Committee desires that fast-track process may be initiated so as to reach an early decision and come to an amicable understanding with regard to all the disputed properties between the Government and the Wakf Board. While appreciating the action of the Government, the Committee wish to caution that the Government should be genuinely concerned about protecting the Wakf properties and should not stifle the voice of the Wakf Board using the power of the State. Such a situation may be there in other States as well and the Committee desires that all other States and the Central Government may take similar course of action in respect of the disputed properties between the Wakf Board and the Government.

5.55 The Committee was also given to understand that some State Governments and the Government agencies, including local Government authorities, are resorting to compulsory acquisition of certain Wakf properties for purposes other than public interest. One such example is Wakf property situated in Chauma Village, Tehsil Gurgaon, District Gurgaon, Haryana measuring about 2.5 acres with Khasra Nos. 53 and 54. The Committee visited this land during an on-the-spot study and noticed that the Haryana Urban Development Authority (HUDA) acquired this property by offering a meagre compensation. In this connection, the Committee would like to emphasise that a Wakf property cannot be acquired by any agency, including Government, except in the public interest. The Committee, therefore, recommends that whenever any Government agency wants to acquire any Wakf land in the public interest, it can do so by paying adequate compensation at the market value so that the Wakf can acquire or develop other properties.

5.56 The Committee also took note of the fact that the then Prime Minister had in a letter addressed to some of the Chief Ministers in 1976, reiterated the suggestions

which were made in 1961 requesting for dealing with the Wakf properties in possession of Government Departments/local bodies, as per the following suggestions:—

- (i) Where feasible, the Wakf property should be vacated and handed over to the Wakf Board concerned;
- (ii) Where costly buildings have been put up on the land and their vacation is not feasible, the State Governments may enter into permanent leases with the Wakf Boards, after paying the Boards the bulk of the market value as premium, or
- (iii) In the alternative, the State Governments may arrange to make over the fair market value of the lands to the Boards, which will relinquish their rights over the land, if in their direct management, or obtain from the Mutawallis concerned, with their consent, necessary deeds of relinquishment.

5.57 The Committee recommends that these guidelines may be strictly adhered to by the Central Government as well all the State Governments and the Union Territories.

5.58 The Committee has also noted that some of the Wakf properties have been alienated by the Wakf Boards by legal and illegal means. The Committee has also been given to understand that NOCs are given even by a Wakf Inspector or a Wakf Officer despite the fact that only the Wakf Board is competent authority to do so. The Committee desires that the Wakf Boards should not resort to alienation of Wakf properties. Similarly, all the Wakf Boards should inform all the Wakf inspectors working in different parts of States about their jurisdiction and impress upon them not to issue NOCs.

5.59 Even though the Committee has recommended an amendment in Section 54 of the Wakf Act, 1995 giving the powers of Magistrates/SDMs to the Wakf Boards CEOs enabling them to evict the encroachments, it may take some time for this amendment to find a place in the Act. The Committee, however, impresses upon the State Governments to issue instructions to all District Magistrates/SDMs to proceed for eviction of encroachment of Wakf properties on receipt of a report from the CEO, Wakf Board. They should not delay the process.

5.60 The Committee also desires that the community and the District Wakf Committees should be vigilant and whenever any encroachment comes to their notice, it should be immediately brought to the notice of the Wakf Board. On receipt of such information, the CEO should take immediate action for eviction.

5.61 The Committee recommends that the Wakf Act, 1995 should be amended so as to make encroachment of Wakf properties a criminal offence, as has been done in West Bengal. The Committee strongly recommends that the Wakf Boards may initiate criminal proceedings under trespass, against the encroachers, as encroachment amounts to trespass which is an offence under the Cr.P.C., in addition to initiating action under the Wakf Act.

5.62 The Committee recommends that the Wakf Act, 1995 be further amended so as to bar the encroachers from approaching the civil court or the High Court, by-passing the Wakf tribunals. If these steps are not taken, then the establishment of Wakf Tribunals will become redundant.

5.63 The Committee in its Third Report recommended for addition of a new subsection to Section 54 providing that the Central or the State Government, as the case may be, by notification in the official Gazette shall declare all or any Wakf institutions registered with the Wakf Board, other than *Wakf-al-aulad* to be public premises. This, when incorporated into the Act and implemented, would remove many of the problems in the removal of encroachments. Further, this could prevent any new encroachment. The Committee reiterates this amendment.

5.64 The Committee also feels that there is no sufficient awareness about the Wakf properties, among the public due to which people sometimes resort to encroachments without knowing the implications of the illegal act committed by them. The Committee therefore, desires that public awareness campaign should be launched about the Wakf properties and for this purpose the media including electronic media and local language newspapers may be made use of.

CHAPTER - VI

Finances of Wakf Boards

6.1 For the purpose of administration, supervision and development of the Wakf properties, the Wakf Act, 1995 has made provisions for the setting up of the State Wakf Boards. These Boards need adequate financial back up for carrying out their activities. Lack of adequate financial resources renders any organization or body non-functional and hence ineffective, the State Wakf Boards are no exception to this.

Legal Position

6.2 Sections 72 to 82 of the Wakf Act, 1995 deal with the provisions relating to finances of the State Wakf Boards. Section 72 provides for annual contribution payable to the Board under which, Mutawalli of every Wakf, where net income exceeded Rs.5,000 per annum, is required to pay a maximum of seven per cent of it to the Board. In the earlier Act of 1954, this contribution used to be Six per cent. Under the new Act, one per cent of the contribution has to be paid by the Board to the Central Wakf Council. At present, the definition of net income includes *nazars* and offerings which do not amount to contribution to the corpus of the Wakf after certain deductions. Earlier, this was not the case. Section 72 (7) also empowers the Wakf Board to consider the assessment or revision of the contribution fixed by the Chief Executive Officer of a particular Wakf. However, some deductions have been allowed, particularly expenses relating to the cost of cultivation and collection, etc. subject to certain conditions as provided under clause (a) to (f) of Section 72.

6.3 Under Section 73 of the Act, Chief Executive Officer of a State Wakf Board has been empowered to direct Banks or other person with whom funds belonging to any Wakf are deposited, to pay the Wakf contribution. This crucial provision has been incorporated in the Act to strengthen the finances of the Wakf Board. Section 77 is another important provision in the Wakf Act, 1995 to strengthen the finances of the Boards which provides for the creation of a Wakf Fund where all monies received or realized by the Board and all other monies received as donation, benefaction or grants shall be kept. It would remain under the control of the Board subject to the rules made by the State Government. This Section also provides for constitution of a common Wakf Fund where there is a common Wakf Board for more than one State.

6.4 Section 78 deals with the Budget of the Boards and empowers the State Governments to examine the Budget and suggest alterations, corrections or modifications therein.

Section 79 deals with the maintenance of the accounts and section 80, 81 and 82 deal with the audit of the accounts of the Board, orders to be passed by the Government on audit reports and recovery of dues as arrears of land revenue.

Main sources of Wakf revenue

6.5 There are mainly three major sources from which the finances accrue to the Wakf Board. They are:—

- (a) Grant-in-aid by the Government;
 - (b) Wakf contributions; and
 - (c) income from other sources.
- (a) **Grant-in-aid by the Government:**—Grant-in-aid given to the State Wakf Boards by respective State Governments constitutes one of the major receipts for most of the Wakf Boards in the country.

The details regarding grant-in-aid provided by the State Government to their Wakf Boards during the last three years is presented in Table.

Table IV
Grant-in-aid provided by State Governments to
Wakf Boards: 2005-06 to 2007-08

(Rupees in lakhs)			
States	2005-06	2006-07	2007-08
1	2	3	4
Andaman & Nicobar	6.94	6.94	6.94
Andhra Pradesh	55.00	55.00	60.00
Assam	10.00	10.00	12.28
Bihar	27.50	27.58	27.50
Chandigarh	+	+	5.00
Chhattisgarh	11.00	44.00	50.00
Dadra & Nagar Haveli	+	+	+
Delhi	20.00	20.50	10.50

Gujarat	*	*	*
Haryana	*	*	*
Himachal Pradesh	*	*	*
Jharkhand (Token Provision)	4.00	2.00	4.00
Karnataka	120.00	145.00	160.00
Kerala	100.00	100.00	100.00
Lakshadweep	27.00	28.50	29.00
Madhya Pradesh	67.50	47.25	54.00
Maharashtra	*	*	*
Manipur	+	+	+
Meghalaya	0.20	0.20	0.50
Orissa	15.00	16.50	15.00
Puducherry	38.00	112.00	42.75
Punjab	*	*	*
Rajasthan	+	+	+
Tamil Nadu	105.00	55.00	107.00
Tripura	32.36	32.36	32.36
Uttar Pradesh	*	*	*
Uttarakhand	2.00	4.00	2.00
West Bengal	62.50	68.90	301.36

* Nil information received.

+ Information not received.

6.6 It would be seen from the Tables given above that except the State Governments of Tamil Nadu, Madhya Pradesh, Chhattisgarh, Kerala, Karnataka, Andhra Pradesh and West Bengal where contributions to the Wakf Fund *prima facie* appear to be comparatively better, all other States have neglected the Wakf Boards in respect of giving grants.

6.7 It would also be seen from the above Table IV that while smaller States/UTs like Tripura, Puducherry give substantial grant-in-aid to their respective Wakf Boards despite having lesser number of Wakf properties and lesser Muslim population, the same is not the case with some of the bigger States like Maharashtra, Gujarat, Uttar Pradesh and Punjab. These States, despite having a large number of registered Wakf Properties and large Muslim population, except in the case of Punjab, are not providing any grant-in-aid to their Wakf Boards. In U.P. with a large number of Wakf properties with separate Wakf Boards for the Shias and the Sunnis, none of the Boards, however, was being extended any grant-in-aid by the State Government. In the case of States like Assam and Bihar, where the Muslim population is considerable, the grant-in-aid given by the respective State Governments is meagre.

6.8 The Committee also noted that apart from the grant-in-aid, some of the State Governments, namely, Tamil Nadu, Karnataka, Rajasthan and Andhra Pradesh provide funds under different schemes to the Boards, which benefits the Muslim community in the long run. While the State Governments of Tamil Nadu and Karnataka, provide extra funds for repairs and maintenance of Wakf properties, Governments like Rajasthan and Tamil Nadu have provided one time grant to the Wakf Boards for constructing their office building. The State Government of Kerala provides funds to the Board to undertake social welfare schemes. The State Government of Andhra Pradesh extends funds for repairs, maintenance and protection of Wakf institutions, construction and maintenance of the Haj House, preparation of plan schemes and payments of printing charges of survey reports and for the construction of shopping complexes on the Wakf lands.

Wakf contribution

6.9 Wakf contribution is a major source of revenue for the Wakf Board. Seven per cent of the net annual income is collected by the Boards from those Wakfs, where the net annual income exceeds Rs. 5,000 a year. Before the Wakf Act of 1995 this used to be six per cent. Under the 1995 Act, out of seven per cent to be collected, one per cent of this collection has to be given to the Central Wakf Council. The contribution received by various Wakf Boards from the Wakfs situated in the respective States is given in the following Table.

Table V
Income from Wakf contribution in different
States/UTs: 2005-06 to 2007-08

(Rs. in lakhs)

States	2005-06	2006-07	2007-08
1	2	3	4
Andaman & Nicobar			
Andhra Pradesh	97.67	84.79	93.50
Assam	0.87	0.74	0.54
Bihar	+	+	+
Chandigarh	*	*	*
Chhattisgarh	11.02	13.72	0.63
Delhi	3.69	7.97	5.91
Gujarat	26.57	39.98	45.35
Himachal Pradesh	*		*
Karnataka	83.57	93.02	142.12
Kerala	125.55	121.21	148.41
Lakshadweep	2.32	1.22	00.60
Madhya Pradesh	35.75	33.58	30.38
Maharashtra	8.90	15.68	30.68
Meghalaya	+	+	0.129
Orissa	1.60	0.38	+
Puducherry	1.43	1.71	2.07
Punjab	+	+	+
Tamil Nadu	163.67	168.94	186.85

Tripura	+	+	+
Uttar Pradesh(Sunni Board)	80.80	71.23	95.61
Uttarakhand	7.32	4.07	3.96
West Bengal	25.39	39.67	36.69

+ Information not received.

* Nil information received.

6.10 Table V indicates that Andhra Pradesh, Gujarat, Karnataka, Madhya Pradesh, Tamil Nadu, Uttar Pradesh, West Bengal, Maharashtra could collect a sum of Rs. 30 lakhs and above during the year 2007-08, other States collected only a token amount. They largely depend upon the annual grant-in-aid from the State Governments. However, some of the States like Kerala and Tamil Nadu have done reasonably well, collecting over Rs. one crore or more.

6.11 The Committee noted that the Boards hardly make any efforts to collect the dues from the eligible Wakfs, and the reason cited for this by the Boards is the acute shortage of staff.

Position regarding outstanding arrears to Central Wakf Council by State Wakf Boards

6.12 As regards one per cent of collection to be sent to the Central Wakf Council, the details as provided to the Committee by the Central Wakf Council are as under :—

Table VI

*Outstanding arrears of one per cent contribution due on 31.3.2008
(Position as on 29.08.2008)*

Sl. No.	Name of the Wakf Board	Arrear as on 31.3.2008 (Rs. in lakhs)	Received during the current year upto 28/08/2008 (Rs. in lakhs)	Year from which it is Pending

1	2	3	4	5
1.	A and N Islands	0.10	-	2003-04
2.	Andhra	32.13	5.00	Part payment
	Pradesh			received for
				2006-07, 2007-08
3.	Assam	0.07	0.07	Cleared upto date
4.	Bihar (Sunni)	7.38	2.5	Pending for the years
				1992-93 to 1995-96
5.	Bihar (Shia)	2.71	-	Part payment
				received every year
6.	Chandigarh	-	-	-
7.	Chhattisgarh	0.77	-	2006-07 and 2007-08
8.	Dadra and Nagar			
	Haveli	-	-	-
9.	Delhi	0.96	0.96	Cleared upto date
10.	Gujarat	5.70	-	2007-08
11.	Haryana	2.89	2.89	Cleared upto date
12.	Himachal	0.17	0.02	Cleared upto date
13.	Karnataka	15.31	15.31	Cleared upto date
14.	Kerela	3.87	3.87	Cleared upto date
15.	Lakshadweep	0.01	NEG	Part payment received
16.	Madhya Pradesh	4.34	4.34	Cleared upto date
17.	Maharashtra	10.10	4.76	50% of past
				arrears (2002-07)
				part payment
				of 2007-08

18.	Manipur	0.02	-	Part payment for
				2007-08
19.	Meghalaya	0.37	-	2000-01
20.	Orissa	1.20	-	2004-05
21.	Puducherry	-	0.04	Cleared upto date
22.	Punjab	8.56	-	2004-05
23.	Rajasthan	25.58	-	2000-01
24.	Tamil Nadu	18.00	-	2007-08
25.	Tripura	0.07	-	Part payment for
				2007-08
26.	U.P. State (Sunni)	4.52	-	Since 01.01.1996
27.	U.P. State (Shia)	0.59	-	Since 01.01.1996
28.	Uttarakhand	Not known	-	Since 06.09.2003
29.	West Bengal	1.98	1.98	Cleared upto date
	Total	147.41	41.75	

6.13 It may be seen that arrears amount of Rs.32 lakhs and Rs.26 lakhs are outstanding against Andhra Pradesh and Rajasthan, respectively. The Committee is surprised to see that even a well administered Board like Tamil Nadu had not sent its contribution for the year 2007-08. Both the Sunni and Shia Wakf Boards of U.P. have not sent their contribution to the Central Wakf Council from the date of commencement of the Wakf Act, 1995. In the case of Orissa and Punjab their dues are pending from 2004-05. Rajasthan also has not contributed since 2000-01. It reflects yet another aspect of blatant disregard shown to the Wakf matters in the country.

Income from other sources

6.14 State Wakf Boards get revenues from certain other sources like rent, license fees and interest on FDRs, etc. The table below gives the position regarding total receipts from other sources in different States/UTs.:-

Table VII*Income from other sources: 2005-06 to 2007-08**(Rs. In lakhs)*

States	2005-06	2006-07	2007-08
Andaman and Nicobar	*	*	*
Assam	0.52	0.02	0.52
Bihar	*	*	*
Chhattisgarh	*	*	*
Chandigarh	5.63	6.22	7.92
Delhi	251.23	428.72	385.88
Gujarat	12.89	14.13	37.77
Himachal Pradesh	25.49	36.28	49.29
Karnataka	11.98	12.59	4.12
Kerala	24.50	36.05	24.70
Lakshadweep	1.08	2.75	1.80
Maharashtra	11.12	23.61	47.08
Meghalaya	*	*	*
Orissa	*	*	*
Puducherry	0.65	1.06	1.39
Tamil Nadu	2.88	2.67	3.34
Tripura	2.57	2.57	2.57
Uttarakhand	0.14	0.20	0.10
Uttar Pradesh	17.22	33.25	18.91
West Bengal	2.98	8.41	12.80

* Nil information received.

Note: Information regarding other States not received.

6.15 It may be seen from the above Table that many Wakf Boards did not get sufficient amount on this account as they were not able to tap this most potential source of revenue. While the Delhi Wakf Board was able to realize the highest amount of more than Rs. 3 crore, there are some State Wakf Boards which were not able to realize anything from this source. It has been noticed that a large number of Wakf properties have been given on rent for a long time only for a token amount. The Committee noted that there being no regular revision in the rent of Wakf properties, receipt under this head was almost negligible, which otherwise could be a source of huge revenue to the Board. Even, wherever revision took place, it was never upto the level of market rate prevailing in that area. The reason for low income is due to low rental income from the properties. No Wakf Board has been able to develop its enormous real estate for enhancing the income of the Wakf. Wakf Boards, for their survival, have given away valuable lands to developers, builders, and businessmen on very low rentals. None of the Wakf Boards has gone in for utilizing the present boom in the real estate by developing the properties as provided under section 32(4)(5) and (6) of the Wakf Act, 1995.

6.16 The State Government have also not bothered to help any of the Boards by providing assistance in the form of soft loans to the Boards except the Government of Karnataka which assists the Wakf by providing bridge loan in a limited way.

Expenditure

6.17 On the expenditure front, the following Table gives a clear picture of the total receipt alongwith the expenditure incurred during last three years by the various State Boards:-

Table VIII

*Finances of Wakf Boards-Receipts and Expenditure :
2005-06 to 2007-08*

(Rs. In lakhs)

States	2005-06	2006-07	2007-08			
	Receipts	Expen- diture	Receipts	Expen- diture	Receipts	Expen- diture
1	2	3	4	5	6	7
Andhra Pradesh			974.18	1023.88	1047.36	1121.30
Andaman and Nicobar	As per Grant received					
Assam	13.92	+	10.76	+	13.35	+

Bihar	44.12	38.69	131.55	69.89	142.80	106.63
Chandigarh	5.64	8.10	6.22	9.09	12.92	9.07
Chhattisgarh	21.02	10.38	57.72	47.72	50.63	55.50
Delhi	276.72	267.53	457.84	377.70	403.43	433.46
Gujarat	35.40	41.47	53.11	26.95	83.12	25.83
Himachal Pradesh	25.49	31.87	36.27	46.95	49.19	46.22
Karnataka	215.15	215.15	250.61	250.61	310.42	308.09
Kerala	250.05	200.87	257.26	230.74	273.21	265.50
Lakshadweep	30.40	25.74	32.47	30.31	31.40	28.76
Maharashtra	20.02	81.27	49.30	76.20	77.76	55.93
Meghalaya	0.20	0.26	0.20	0.26	0.62	0.26
Punjab	1037.8	522.44	1253.0	630.04	—	—
Puducherry	40.08	39.87	114.77	111.23	46.21	43.57
Tamil Nadu	166.56	199.07	171.62	233.13	190.20	239.27
Tripura	32.60	32.36	32.60	32.36	32.60	32.36
Uttarakhand	9.46	8.06	8.27	8.35	6.06	7.35
Uttar Pradesh	98.02	104.52	104.48	111.74	114.53	116.59
West Bengal	90.89	80.39	116.99	80.49	350.87	129.55
					(includes plan)	

+ Information not received.

Views of Chief Secretaries/Secretaries-in-charge of Wakf matters of some of the State Governments

6.18 The Committee interacted with the Chief Secretaries/Secretaries-in-charge of Wakf matters in several States and Union territories. During these interactions, the Committee emphasized the need for providing a one time grant to the Wakf Boards to make them financially viable, and also to provide a regular grant-in-aid, till the Board becomes self-sustaining. Some of the State Secretaries agreed, in principle, to consider the proposal of providing a one-time grant. However, some of them were very skeptical about providing one time grant to the Board. Hence, they wanted the Wakf Boards to draw some good schemes before any type of financial assistance is made available to them.

6.19 Expressing his views on providing one time grant to the Wakf Board, the West Bengal Chief Secretary during his oral evidence tendered on the 11th Sept., 2007 stated that though the financial assistance to the Wakf Board, which was currently one crore rupees, could be increased, but it did not have much absorption capacity. Proper schemes were required for spending more money and if some good schemes such as stipend for professional and technical courses, etc. were received, such expenditure could be taken care of and the Board also could be benefited, he stated.

6.20 Giving his view on finances of the Board, the Chief Secretary, Rajasthan while appearing before the Committee on the 12th February, 2007 stated that the Government had provided grants for two activities; namely, the Wakf Tribunal and the Survey Commissioner. A grant of rupees Fifty lakh was given for the construction of the Wakf Board building in the year 2004.

6.21 The Committee impressed upon the Chief Secretary of Assam to give a one-time grant of at least Rs. 10 crore and increase the annual grant substantially until the Board was able to sustain on its own.

6.22 The Administrator of Chandigarh Administration informed the Committee on the 5th October, 2007 that a grant of Rs. 5 lakhs had been provided for the first time in the year 2007-08 and assured that it would be raised substantially in the coming years.

6.23 The Secretary, Minorities Department of the State Government of Bihar stated that the Government was actively considering the suggestion of the JPC to enhance the grant of both the Sunni and the Shia Wakf Boards. A revolving fund of rupees 50 lakh had been allotted to Sunni Wakf Board in 2006-07 and Rs. 40.61 lakh during 2007-08 by the State Government, which was being utilized by the Wakf Board for construction of a shopping

complex. A sum of Rs. 50 lakhs in 2007-08 was earmarked for the computerization of the Wakf properties.

A comparative study of finances with other religious Institutions

6.24 The Committee attempted to make a comparative study of other parallel religious enactments where the State Governments play a vital and major role in the administration. The Committee studied the situation obtaining in the State of Tamil Nadu and noticed certain facts in this regard. The Committee found that under the administrative control of the Department of the Hindu Religious and Charitable Endowments there were 38,460 religious institutions:-

1.	Temples	36,420
2.	Mutts	56
3.	Temples attached to Mutts	57
4.	Specific Endowments	1,721
5.	Charitable Endowments	189
6.	Jain temples	17
	TOTAL	38,460

Based on income, the institutions, have been classified into:-

(a)	Notified non-listed Institutions with an annual income below Rs. 10,000/-	-	34,246
(b)	Notified listed institutions with an annual income of more than Rs. 10,000/- but less than Rs. 2 lakh.	-	3,535
(c)	Notified institutions having an annual income of more than Rs. 2 lakh but less than 10 lakh.	-	498
(d)	Institutions having an annual income of more than Rs. 10 lakh.	-	<u>181</u>
			<u>38,460</u>

6.25 The sanctioned Staff strength of the Department, was 2409, out of which 1450 were now in position. The Department is headed by an officer from the Indian Administrative Service. It is administratively divided into 11 Regions in the State, each headed by a Joint Commissioner and 27 Divisions, each headed by an Assistant Commissioner.

Position of Tamil Nadu Wakf Board

6.26 The Board is headed by a Chairman and 11 Members as per the provisions of the Wakf Act, 1995. The Administrative head is the Chief Executive Officer and the Staff strength of the Board is 140, out of which 70 are in position for administering around 6,000 Wakfs in the State. The State Government is extending Grant-in-aid of around Rs. 45 lakhs over the years to the Board. This is the situation prevailing in one of the well administered Wakf Boards of the country.

OBSERVATIONS AND RECOMMENDATIONS

6.27 The financial condition of the Wakf Boards is very pathetic. While a few States are giving some token grants, other states are not giving any grants and have left the Boards entirely to manage their affairs solely from the Wakf contribution which they are receiving from the Wakfs. The Wakf contributions from most of the Wakfs are negligible as most of these properties are not yielding any income. In this situation Wakf Boards are totally left as uncared institutions. Wherever grants are given, these grants are not adequate to meet even the day-to-day expenditure of the Boards including payment of salary to the staff, etc., not to speak of carrying out any development activity.

6.28 The Committee observes that the States which have large number of Wakfs like Maharashtra, Gujarat, Uttar Pradesh and Punjab are not extending any grant-in-aid to their respective Wakf Boards. The Wakf Boards are, in fact, surviving entirely on their own meagre income, due to which the welfare activities and development activities undertaken by these Boards are virtually non-existent. Since Wakf Boards are constituted under the Wakf Act, 1995, it shall be the duty of the State Government to meet the establishment charges of the Boards including salaries of the staff, etc. The Committee, therefore, recommends that the State Governments should give adequate grant-in-aid to the Wakf Boards.

6.29 The Committee observes that though some of the State Governments like Tamil Nadu, Karnataka, Rajasthan and Andhra Pradesh provide funds for other developmental activities, the assistance to these activities still falls short of the requirements of the Board in those areas. The Committee also observes that while, some State Governments do provide regular grants, though insufficient, extra funds to the Wakf Boards for carrying out development and welfare activities are, however, provided by only a few States. The Committee recommends that all the State Governments may provide adequate funds to the State Wakf Boards for carrying out welfare activities separately.

6.30 The financial position of the State Wakf Boards as observed from the information supplied to the Committee, looks very dismal. The setting up of the State Boards has been mandated by the Wakf Act, 1995 and no State has been serious enough to address the problem of finances being faced by the Wakf Boards. Needless to say that it is not possible for these Boards to function and carry out their

responsibilities in the absence of adequate resources and infrastructure. In this connection, it may be mentioned that the Committee, during its visit to various States, impressed upon the Chief Secretaries, during the discussions held with them, that each State should give a minimum grant of Rs.1 crore every year as grant-in-aid to the Board depending upon the establishment charges of the Wakf Boards. The Committee also asked them to give Capital grants also for developing infrastructure like office building, furniture, computers, etc. at least to the tune of Rs.10 crores as a one time grant. The Committee, however, has noticed that even though all the Chief Secretaries, including some Chief Ministers, had assured the Committee during the discussion held with them, none of the States, however, took it seriously to fulfil the assurance.

6.31 One per cent contribution to the CWC is a statutory provision under the Wakf Act, 1995. The Committee observes that while majority of the States have adhered to this provision, some of the States such as Uttar Pradesh, Uttarakhand, Rajasthan, Orissa, Bihar, Meghalaya and Punjab have huge outstanding arrears to be given to the Central Wakf Council. The Committee takes a serious view of the total disregard shown by the States to this provision of the Act and urges upon all the States to clear their dues at the earliest. The Central Government is also not providing any assistance to the Central Wakf Council for carrying on its activities except the grants given for creating a revolving fund. The only source of Central Wakf Council is income from the Wakf contribution.

6.32 The Committee found that the budget preparation process of the Wakf Boards is faulty and it needs to be more precise and focussed. There was no segregation of expenditure for plan and non-plan activities. In the Boards, the amount received as grant-in-aid from the State Governments is mainly utilised for meeting the day-to-day administrative expenses like paying of rent, salaries, etc. The Wakf Boards of States like Kerala, Tamil Nadu and Karnataka, where some spare funds are available for developmental activities, also have no separate provision for planned activities. The Committee recommends that the State Wakf Boards must adopt sound and acceptable financial and budgetary practices with adequate transparency.

6.33 The Committee is of the opinion that unless the Wakf Boards improve their infrastructure and equip themselves with qualified and professional staff and adequate number of field staff, their functioning cannot be improved. They need adequate resources to improve their functioning and at present none of the Wakf

Boards is having sufficient resources. The Committee strongly recommends that the Central Government and the State Governments should give the Boards sufficient grants so as to improve their functioning. The Committee further urges the Central Government to call a meeting of the Finance Ministers of the States to discuss about the finances of the Wakf Boards and assistance to be given to the Wakf Boards to develop the Wakf properties for income generation.

CHAPTER - VII

Wakf matters under adjudication and Wakf Tribunals

7.1 Section 6 of the Wakf Act, 1995 deals with the disputes regarding the Wakfs. Section 6 (1) of the Act has classified the disputes in the following two categories, namely,

- (i) Whether a particular property specified as Wakf property in the list of Wakf, is a Wakf property or not;
- (ii) Whether Wakf specified in the list is a Shia Wakf or a Sunni Wakf

7.2 According to Section 6 (1), the Board or the Mutawalli of the Wakf or any person interested therein may appeal in a Wakf Tribunal for the decision whether the said property is Wakf property or not or is a Shia Wakf or Sunni Wakf. Any dispute relating to Wakf can be entertained by the Wakf Tribunal and the decision of the Wakf Tribunal in respect of Wakf matter shall be final and conclusive. The cases relating to disputes of Wakf can be filed in the Wakf Tribunal before the expiry of one year from the date of the publication of the list of Wakfs.

7.3 As per Section 6 (2), no proceedings under the Act shall be stayed by reason only of the pendency of any such suit or any appeal or other proceedings arising out of such suit. The Act makes it very clear that the Survey Commissioner of Wakf cannot be made a party to any suit, no legal proceedings can be instituted against him as survey done by Survey Commissioner is in good faith and done under the authority given by the Act.

7.4 Under the provisions of Section 83 of the Wakf Act, 1995, State Governments are empowered to constitute as many Wakf Tribunals as required for the determination of any disputes relating to Wakf properties so as to ensure expeditious disposal of cases and to avoid usual delay caused by the cumbersome procedure of Civil Courts. The Wakf Tribunal shall consist of one person holding the rank of State Judicial Service and should not be below the rank of a District, Session or Civil Judge, Class I. The State Government may also define the local limits and jurisdictions of such Tribunals under the said Act. In case any Wakf property falls within the territorial jurisdiction of two or more Tribunals, such cases may come before the Tribunal in whose area the applicant actually resides or works. The other Tribunal which has similar jurisdiction shall not entertain such applications. However, in such cases the State Government has power to transfer cases to any other Tribunal having jurisdiction in the interest of the Wakf.

7.5 Tribunals constituted under the Wakf Act will have the same powers as those of the Civil Court under the Code of Civil Procedure, 1908 (5 of 1908). However, the High Court on its own or on an any application, can examine the case for the purpose of satisfying itself on to the correctness, legality or propriety and may confirm, reverse or modify the order of the Tribunal as it may think fit.

7.6 Apart from Section 83 of the Wakf Act, Section 69 of the Act provides for the concurrent jurisdiction of Wakf Tribunal. This Section empowers the Wakf Board to frame scheme for proper administration of Wakf. If any suit is filed in the Wakf Tribunal for declaration in connection with the scheme for management of proper administration of Wakf, the Tribunal shall entertain such suit as it falls in its jurisdiction under Section 83 of the Wakf Act, 1995.

7.7 Section 84 of the Wakf Act, 1995 clearly provides that the Wakf Tribunal shall hold proceeding of cases expeditiously whenever any application for determination of any dispute of Wakf/Wakf property is made to the Tribunal. Under Section 85 of the Act, Civil Courts have been barred to try any suit or legal proceeding in respect of any dispute relating to Wakf/Wakf property. All the matters relating to Wakf property required by or under the Act will be determined by a Wakf Tribunal. This section has been incorporated to avoid any conflict of jurisdiction between the Tribunals and the Civil Courts.

Pending cases related to Wakfs in various States

7.8 The Committee was given to understand that there are a numbers of cases pending in various courts in different States throughout the Country. For making an assessment of the situation obtaining in various states, all the State Governments/UTs except Jammu & Kashmir which does not come under the purview of the Wakf Act, 1995, were asked to furnish the number of cases relating to Wakfs pending in the Supreme Court and High Courts, Wakf Tribunals and other Civil Courts. Twenty-nine States/UTs have furnished the information regarding the pending cases relating to Wakfs in their respective States which is given in the table below.

Table IX

*Legal cases pending in Courts relating to
Wakf properties/land in various States*

Sl. No.	Name of the States/UTs	Supreme Court	High Court	Wakf Tribunal	Lower Courts	Total No. of Cases
1	2	3	4	5	6	7
1.	Andaman and Nicobar (UT)	-	-	-	-	1***
2.	Andhra Pradesh	16	930	510	-	1456
3.	Arunachal Pradesh	Nil	Nil	Nil	Nil	Nil
4.	Assam	Nil	Nil	7	4	11
5.	Bihar	-	67	57	300	424
6.	Chandigarh (UT)	-	-	2	-	2
7.	Chhattisgarh	Nil	20	31	116	167
8.	Dadra and Nagar Haveli (UT)	-	-	-	-	-
9.	Daman and Diu (UT)	Nil	Nil	Nil	Nil	Nil
10.	Delhi (UT)	-	29	40	143	212
11.	Goa	Nil	Nil	Nil	Nil	Nil
12.	Gujarat	-	-	-	-	-
13.	Haryana	17	202	912*	-	1131
14.	Himachal Pradesh	-	18	-	135	153
15.	Jammu & Kashmir**	-	-	-	-	-
16.	Jharkhand	-	-	-	-	-

17.	Karnataka	2	101	361	222	698
18.	Kerala	-	127	215	30	372
19.	Lakshadweep (UT)	2	1	1	-	4
20.	Madhya Pradesh	-	136	145	137	418
21.	Maharashtra	-	321	568	142	1031
22.	Manipur	-	-	-	-	-
23.	Meghalaya	-	-	-	-	6***
24.	Mizoram	-	-	-	-	-
25.	Nagaland	Nil	Nil	Nil	Nil	Nil
26.	Orissa	Nil	Nil	8	122	130
27.	Puducherry (UT)	-	5	3	-	8
28.	Punjab	24	435	458	364	1281
29.	Rajasthan	04	261	809	43	1117
30.	Sikkim	Nil	Nil	Nil	Nil	Nil
31.	Tamil Nadu	6	361	519	-	886
32.	Tripura	-	1	-	2	3
33.	Uttar Pradesh	7	145	-	38	190
34.	Uttarakhand	-	-	-	-	66***
35.	West Bengal	3	89	68	68	228

* Includes cases in Civil Courts also.

** Jammu & Kashmir has a separate Wakf Act and, therefore, the Wakf Act, 1995 is not applicable there.

‘-’ denotes not supplied/not available.

‘Nil’ indicates no cases.

***Details not given.

7.9 A comparative analysis of pending cases of Wakfs in various State shows that the highest numbers of Wakf cases pending in Courts is in Andhra Pradesh where the number of Wakf properties is also high. The State of Uttar Pradesh which has largest number of Wakf Properties (1,22,984 Sunni and 7,368 Shia properties) has surprisingly only 190 cases pending in the various Courts. Other States which have large number of pending cases are Punjab (1,281), Rajasthan (1,117), Tamil Nadu (886), Maharashtra (1,031) and Haryana (1,131). The situation of pending cases in some of the States has been discussed in the succeeding paragraphs.

ANDHRA PRADESH

7.10 Andhra Pradesh is the State where very large number of cases related to Wakf properties/land are pending in different Courts. Out of total 1456 cases, 16 cases are pending in the Supreme Court of India and 930 cases are in the High Court of the State. Andhra Pradesh established a Wakf Tribunal on the 20th June, 1997. As per the information furnished by the Government of Andhra Pradesh, out of 433 cases filed in the Wakf Tribunal, 373 cases were pending.

WEST BENGAL

7.11 The number of pending cases relating to Wakf properties/land is 228 in the State of West Bengal. The Committee was informed that the pendency of cases in the High Court and the Supreme Court was 89 and 3, respectively. The Committee was further informed that although the Wakf Tribunal was constituted on the 27th June, 2001, *vide* notification No.966-MW, it started functioning only after a year from the 7th April, 2002. At present there are 68 cases pending in the Wakf Tribunals of the State and 68 in other lower Courts. In regard to mechanism evolved to deal with legal cases, the Committee was informed that the Government had already approved the post of one Law Officer, one Law Inspector and two Law Assistants. In the meantime, the State Government had posted a part-time Law Officer. A panel of lawyers was also attached with the Board to contest the cases.

BIHAR

7.12 Bihar State has two Wakf Boards *i.e.*, Sunni and Shia Wakf Board. The Committee was informed that a total of 424 cases of Wakfs were pending in various Court of the States. 300 cases were in Civil Courts, and 67 cases in the High Court. The State Government constituted a Wakf Tribunal, where 57 cases were pending. It was stated that the Joint Secretary of the Law Department was the Presiding Officer of the Tribunal.

7.13 The Committee was informed that even though the Wakf Tribunal was established in 2002 but till date, neither the court room nor the peshkar has been provided for it. As such, hardly any case had been decided and, in actual practice, the Tribunal has been non-functional during this time. It was stated that despite numerous letter/reminders, the State Government had yet not been able to provide the Court room to Tribunal. At present Tribunal was functioning in the Office of Joint Secretary, Law in the main Secretariat. However, the State Government had taken a legislative measure by bringing an amendment to the Wakf (Bihar Amendment) Act, 2006, to bring all the cases relating to Wakf, pending before different Civil Courts, to the Wakf Tribunal for speedy disposal.

7.14 The Committee was further informed that the Wakf properties were not covered under the Public Premises Act in the States, and a proposal for this purpose was being examined. It was also stated that the Wakf properties were exempted from the Bihar Rent Control Act.

PUNJAB

7.15 In respect of the State of Punjab, there are 1281 cases pending in various courts. Out of these cases 364 cases are in various Courts at the district levels whereas 458 cases are pending in the Wakf Tribunal. There are 435 and 24 cases pending in the High Court and Supreme Court, respectively. The Committee was informed that as far as the rate of success of cases won and lost was concerned, the Board had 77% success rate in Tribunal, 52% in Revenue Court and 66% in High Court. The Committee was further informed that the Wakf Tribunals under Section 85 of the Wakf Act, 1995 had already been constituted on the 23rd October, 2001 and the cases were being heard/tried in the Courts of 1st Class District Judges as Tribunal of each district.

MAHARASHTRA

7.16 Maharashtra has 1031 cases of Wakfs pending in different Courts in the State. 321 cases were pending in Mumbai High Court including the High Court Benches at Aurangabad and Nagpur, while 568 cases were pending in two Wakf Tribunals at Aurangabad and Nagpur.

KARNATAKA

7.17 The Committee was informed that the Karnataka Wakf Board had set up an exclusive legal section headed by a Legal Advisor. The Legal Co-ordinators and Court Assistants working in the legal Section interact between the Board's Office and the Advocates. It was also stated that the data regarding legal cases had been computerized.

18. The Committee was informed that four Wakf Tribunals had been established in the four Divisional Headquarters of Belgaum, Bangaluru, Gulbarga and Mysore.

RAJASTHAN

7.18 Rajasthan is another State where fairly good number of Wakf cases are pending in various Courts. A total of 1117 cases are pending in various Courts. 809 cases were pending in the Wakf Tribunals, 261 cases in the High Court and 4 cases in the Supreme Court. In the lower courts only 43 cases were pending. The Committee was informed that a full time Senior Advocate had been appointed by the Board to follow up and expedite the cases in the Tribunal. Since its inception in 1997, the Tribunal had disposed of 849 cases.

UTTAR PRADESH

7.19 Uttar Pradesh is the State where largest number of Wakf properties are situated. As per the State Government, at present there are total 1,30,352 Wakfs in the State, out of which 1,22,984 Wakfs were Sunni Wakfs, and 7,368 Wakfs belonged to Shia Wakfs. The information supplied regarding the status of cases pending in various Courts of the State is as follows:-

Table X

Status of cases pending in various courts in Uttar Pradesh

Cases filed in High Court				Cases filed in Civil Court			
Cases filed	No. of decided cases	No. of Pending cases	Status of pending cases	No. of cases filed	No. of decided cases	No. of Pending cases	Status of pending cases
234	89	145	Counter	49	11	38	Written
			Applica-				Statement
			tion filed				filed in
			in 61				18 cases
			cases				

7.20 The total cases filed in the High Court were 234, out of which 89 cases have been decided. The Government has however, not given any information as to how many cases were in favour of the Board and how many were against. In regard to remaining 145 pending cases in the High Court, the Board has filed counter applications in 61 cases.

7.21 In comparison to the High Court, the number of cases filed in the Civil Courts was very small *i.e.* 49 cases. Out of this, 11 cases have been decided and in the remaining 38 pending cases, the Board has filed counter application in 18 cases.

Prime/major Wakf disputes in the country

7.22 The disputes related to prime Wakf properties can be put into the following four categories.

- (i) Disputes regarding the title of the Wakf land and includes cases where Wakf land under dispute has been claimed by State Governments as their land;
- (ii) disputes are regarding the lease-cum-rental issues, where property is under lease but the rent is not being paid or a nominal rent is being paid;
- (iii) disputes relating to encroachment of Wakf lands/properties; and
- (iv) case of illegal sale of Wakf land to any individual or company.

These issues are illustrated in the succeeding paragraphs with the help of a few case studies.

Disputes of Wakf land situated in Manikonda village pertaining to Dargah Hazarath Hussain Shah Vali

7.23 One of the prime properties of Wakf in Andhra Pradesh under litigation which is basically a title dispute is the land situated in Manikonda village pertaining to Dargah Hazarath Hussain Shah Vali which was allotted to some companies, including a Urdu University by the State Government. The total land area is 1654.23 acres, which is a Jagir given for the Dargah for its maintenance (Service Inam Land). The State Government has resumed this land under the Inam/Jagir abolition Act treating it as an individual inam given to the Mujawer for rendering service, whereas the Wakf Board contention is that the land is given for the permanent maintenance of the Dargah. The case is pending before the High Court. Out of this land the Government has allotted land to several IT Companies and organisation and also sold 100 acres of land to a private company for Development.

Dispute of Wakf land in Visakhapatnam

7.24 There is another Wakf land measuring around approx. 6,000 acres in Andhra Pradesh in Vizag, which was again disputed. This land was also resumed by the Government of Andhra Pradesh, after the Inam Abolition Act and treated as Government land. Out of this land, the State Government allotted about 900 acres to the NTPC and another 800 acres to the Hinduja's at the rate of Rs. 2.25 lakhs per acre. The Wakf Board contested that this is a Wakf land and the Government has wrongly taken over the land and allotted it. Finally, the Supreme Court has held that this land is a Wakf property. The Government of Andhra Pradesh has accepted the verdict of the Court and has transferred the land to the Wakf Board accordingly. Further, the consideration which the State Government had received from the sale of the Land to NTPC and the Hinduja's was also given to the Wakf Board. This property is at present, worth more than Rs 5000 crore.

7.25 There are a number of disputes in Andhra Pradesh pending in the courts. The Committee advises the Government of Andhra Pradesh and the Wakf Board to resolve the disputes amicably, instead of carrying on prolonged litigation. One method of resolving the disputes is to jointly develop such property and share the revenue in an agreed proportion, which will benefit the State and the Wakf Board which again is a public institution.

Dispute of Wakf land in Fatehpur Chandela, Faridabad

7.26 There is a Wakf land measuring 98 kanals and 19 marlas which is approximately 12 acres in Fatehpur Chandela, District Faridabad, Haryana. The Committee was informed that it was initially leased out in 1967 to a private individual for three years for agricultural purposes at the rate of Rs. 500 for 1967 - 68, Rs. 1,200/- for the year 1968 - 69 and Rs. 1,500/- for 1969 - 70. But that individual could not get the possession of the land from an illegal occupant and hence she did not renew the Patta. The said Wakf land remained without Patta from 1968 - 69 to 1971 - 72 as the illegal occupant did not agree to take the Wakf land on Patta. So, in 1969, the erstwhile Punjab Wakf Board filed a suit for possession of the land. Meanwhile, in 1972, this land was allotted to others on lease. They were given approval for using the land for agricultural purposes in 1972. But, they made a change of land use and started construction on the land without the approval of the Board. In 1991, suits were filed which were later decided against the Board. In the same year, a case was filed in the Civil Court and a stay was granted by the lower court against which they went to ADJ's court. In 1997, the Administrator of the Board filed suit in the Revenue

Court under Section 40 and 41 of the Punjab Tenancy Act. In 2004, the Assistant Collector, first Grade, decided the case in favour of private parties considering it as an agricultural land. The Board again appealed to the Collector against that decision. In April, 2006, the case was decided in favour of the Board and also it was ordered that the market rent should be paid. The present value of the property would be more than Rs.120 crore.

7.27 With the approval of the then Minister of State for Social Justice and Empowerment (Independent Charge), the erstwhile Punjab Wakf Board had set up the Saifullah Committee to conduct a thorough inquiry into all aspects of the transactions relating to the Wakf property situated at Fatehpur Chandela, Tehsil Ballabhgarh, District. Faridabad, Haryana. The Committee had recommended entrustment of the case to the CBI. At the same time, the Committee had recommended initiation of disciplinary action to resume the property after duly sorting out the issue in the Courts in which suits pertaining thereto are pending. Pursuant to the observations made in the enquiry, the Haryana Wakf Board had written to the Haryana Government on the 23rd July, 2008. The Government of Haryana had informed that the Government of India had been requested that the case of allotment of land be enquired by the CBI. This is a clear case of hoodwinking the Board by the tenant in connivance with the State Government and Wakf Board officials. The tenants concerned are managing to get stay from authorities which, in the opinion of the Committee, are not competent to grant the stay after the formation of the Tribunal. In this case there is no dispute about the property which is indeed the Wakf property. **The Committee strongly recommends that the State Government should cancel all permissions obtained illegally by the tenants including the conversion of the property from agriculture to non agriculture purposes. The Haryana Government had asked the Central Government to have the enquiry conducted by the CBI. This may be done expeditiously.**

Dispute of Hotel Windsor Manor at Bangalore

7.28 The Hotel Windsor Manor at Bangalore was developed on the Wakf land taken on lease for a period of 30 years. It is a property located in prime place in Bangaluru and the land is about 5 acres. The lease rental given was around Rs. 12000 per month for the present land with a value of around Rs. 200 crores. There is a dispute about the period of lease of this property and the matter is in the Court. Recently, the Court has ordered the lessee to deposit a rent of Rs. 6 lakh per month against a meagre rent of Rs. 12000 per month. The property is presently worth more than Rs 500 crores.

Lease dispute of Tollygunj Club and other properties

7.29 There are some prime properties situated in Kolkata which have been under litigation for quite some time. One such property is Tollygunj Club, Kolkata. The Chief Secretary, State Government of West Bengal during the oral evidence on the 11th September, 2007, informed the Committee that the Tollygunj Club, which was given on lease in the year 1934 had been declared by the High Court as lease in perpetuity, but the club authorities were not paying the lease rent. Now, as per the direction of the High Court, the management of the Tollyganj Club had to pay Rs. 30 lakh as compensation/arrear amount and also Rs. 1 lakh as monthly rent. The settlement has yet to take a final shape. Other prime properties in Kolkota are the Golf Club and Shaw Wallace buildings, which are also under litigation. Out of the total area of the Calcutta Golf Club, 26 acres of land is Wakf property, which accounts for 15% of the total land area of the Club. The Committee was informed that as per the direction of the High Court the dispute with the management of the Royal Calcutta Golf Club had been settled. The management has paid Rs. 38 lakh as compensation/arrear amount and agreed to pay Rs. one lakh as the monthly rent. This has naturally given a great boost to the financial position of the Wakf.

7.30 With regard to Shaw Wallace case, the Committee was informed that as per the earlier agreement between the Mutawallis and the Management of Shaw Wallace, the rent and one time payment was on lower side. But after the intervention of the State Government and further negotiations, amicable settlement had been reached which had been approved by the Board on the condition that the company should pay Rs. One Crore in three instalments and a monthly rent of Rs. 5 lakh. Agreement was signed on 14.7.2008.

Dispute regarding 123 Wakf properties in Delhi

7.31 The Committee was informed that a large number of Wakf properties were acquired by the British Government between 1911 and 1915, when the city of Delhi was extended. Great resentment was expressed by the Muslims to the acquisition of the Wakf properties and they refused to accept the compensation money. After the promulgation of the Central Wakf Act, 1954, these properties having religious character, were notified as Wakfs in the Delhi Gazette on 16.04.1970 and 31.12.1970. Against these notifications, the Union of India had filed declaratory suits claiming ownership of these Wakf lands.

7.32 The Government of India constituted the Burney Committee to look into the dispute between the Wakf Board and the Union of India. The Committee submitted its report on 23.03.1976. Based on this Report, a High Power Committee was constituted by the Lt. Governor, Delhi in 1976 under the Chairmanship of Shri H.K.L. Bhagat, Minister of State for Works and Housing to examine the recommendations of the Burney Committee. The

Committee recommended 126 properties for release to the Wakf Board. Again, in 1979 another Committee was constituted under the Chairmanship of the then Chief Architect to examine the issues. In June 1983, it was decided that a group of Ministers would go into the matter. The group of Ministers met on 22.08.1983 and the matter was examined by the Ministry and it set up an official level Committee under the Chairmanship of Shri Mir Nasrullah, Special Secretary (Minority Cell), Ministry of Home Affairs to make a survey of properties. The Committee recommended that 123 properties could be classified as Wakf properties and recommended that they might be transferred to the Delhi Wakf Board on perpetual lease on a nominal lease rent. Accordingly, the Government then notified the transfer of these 123 properties to the Delhi Wakf Board.

7.33 The notification was challenged in a writ petition filed by the Indraprastha Vishva Hindu Parishad along with 14 other organizations/individuals in the Delhi High Court who were against the transfer of these properties and prayed for staying the transfer. The Delhi High Court granted the stay on the 1st June, 1984. As per the orders, the *status quo* regarding the property should be maintained and possession should be retained by the Government. If lease deeds have not yet been executed then these should not be executed. There are four respondents in this writ *i.e.* (i) Union of India, (ii) L & DO, (iii) DDA and (iv) Wakf Board. The matter has been pending in the High Court for the past 24 years.

Sale of property of the Currimbhoy Ibrahim Khoja Orphanage Trust

7.34 The Currimbhoy Ibrahim Khoja Orphanage Trust is a charitable Trust established by Sir Currimbhoy Ibrahim Khoja in 1890 for running an orphanage for Muslim Boys. The Trust had property at Altamount Road. The Trustees decided to dispose of the property and utilise the proceeds for the development of the orphanage and other charitable activities. Accordingly, they advertised in the news paper calling for tenders to purchase the property. Several persons applied in response to the advertisement including Antilia Commercial Pvt. Ltd. There were two other bids for a higher value which were rejected on technical grounds. The Trust which was registered with the Charity Commissioner applied for permission to sell the property and the Charity Commissioner after satisfying that the bid amount is reasonable and the Trust has observed all formalities permitted the sale and the sale was concluded. The Government of Maharashtra in the year 2005 transferred about 700 Muslim institutions from the jurisdiction of the Charity Commissioner to the Maharashtra Wakf Board. The Maharashtra Wakf Board issued a notice to Currimbhoy Ibrahim Khoja Orphanage that the sale of the property to Antillia Commercial Pvt. Ltd., is illegal as the property is a Wakf Property and permission of the Board has not been obtained under

section 51 of the Wakf Act 1995. According to the former CEO of the Board, the Trust challenged the notice before the Wakf Tribunal. Before Tribunal could decide the case the parties to the dispute arrived at a compromise and the Wakf Board agreed to ratify the sale on payment of Rs 16 lakhs as contribution to the Board. The Board however, later challenged the ratification. After accepting Rs. 16 lakhs the Board issued another notice to the Trust asking them to submit returns. To that notice the Trust filed another writ petition in the High Court. According to the former CEO, when the High Court granted relief to the Trust, the Board approached the Supreme Court. The Supreme Court asked the Board to go to High Court and request it to take up the matter for final hearing. The matter is pending in the High Court. As the matter is *sub judice*, the Committee would not like to express any comment in the matter, except stating the fact of the case. Members of the public had represented before the Committee about sale of this property.

7.35 These are only a few cases under litigation, among hundreds of such cases, pending before the courts/Tribunals for a long time mainly due to weak legal administration of the Board that need to be strengthened.

OBSERVATIONS AND RECOMMENDATIONS

7.36 At present none of the Boards can afford to have strong professional legal set up because of their limited resources. The dispute of Vizag property which was contested properly and was won by the Board in its favour resulted in the gain of the Wakf Board which got Rs. 5000 crores worth of property. Similarly, properties in Kolkota and Bangalore, are now fetching enhanced rent, which are 1000 times more than what the Wakf was getting. The issue for the consideration of both the State as well as the Central Government is that enacting a law alone is not sufficient. Effective implementation of the law is also the responsibility of the Government. The Committee has come to the conclusion that both the State Governments and the Central Government have failed in the proper implementation of the provisions of the Wakf Act, 1995 and in protecting the valuable Wakf properties from their misuse. The Committee hopes that before it is too late, the Central and the State Governments will address these concerns seriously and come to the help of the Boards in protecting and developing the Wakf properties which are, in fact, a national asset by extending support to the Wakf Boards put in place a strong legal set up.

7.37 There are a large number of legal disputes relating to Wakfs pending in the courts in various States. The Wakf Boards are financially very weak and have no effective legal machinery to deal with the legal cases. The State Governments may provide necessary assistance to the Wakf Boards as is available to all other Government agencies/departments for establishment of a strong legal set up.

7.38 The Boards being a part of State administration may find it difficult to contest cases against their own Government. The Committee, therefore, desires that the State Governments and the Wakf Boards may resolve the disputes amicably, by having an out of court settlement instead of carrying on prolonged litigation. One method of resolving the disputes is to jointly develop such property and share the revenue in an agreed proportion, which will benefit both the State and the Wakf Board.

7.39 The Committee has observed that certain disputes, to determine whether a property is Wakf property or not, are taken to High Courts, even after the establishment of the Wakf Tribunals bypassing the Tribunals by invoking the writ jurisdiction of the High Courts. Whether a particular institution is a Wakf institution or not has to be decided first by the Tribunal but certain parties, in order to prolong the litigation, are directly going to the High Courts. The Committee desires that recourse to writ petition should not be taken by individuals/institutions without first approaching the Wakf Tribunals. The Committee urges the Central Government to

examine through the Ministry of Law and Justice whether any amendments can be brought in the Act to avoid such a situation.

CHAPTER - VIII

Wakf properties and Archaeological Survey of India

8.1 The Committee came to know from various quarters that the Wakf properties under the maintenance of Archaeological Survey of India (ASI) were not being properly looked after. It was also said that in several such properties, prayers were not being allowed and, at certain places, some encroachments had also taken place.

8.2 The Chairman, accordingly, heard the views of the Secretary (Culture), Government of India and the Director-General, Archaeological Survey of India (ASI) on the 12th September, 2008 and sought clarifications on issues relating to Wakf properties under the maintenance of ASI.

8.3 According to ASI, an 'ancient monument' means any structure, erection or monument, or any tumulus or place of interment, or any cave, rock sculpture, inscription or monolith, which is of historical, archaeological or artistic interest and which has been in existence for not less than one hundred years, and includes (i) the remains of an ancient monument; (ii) the site of an ancient monument; (iii) such portion of land adjoining the site of an ancient monument as may be required for fencing or covering it or otherwise preserving such monument; and (iv) the means of access to, and convenient inspection of, an ancient monument.

8.4 The Committee was informed that before declaring a structure as monument of national importance, a preliminary Gazette Notification in the Official Gazette of India was published, a copy of which was pasted within the premises of such monument and the objections/suggestions of the concerned individual/agency/public were called within a period of sixty days. If no objection/suggestion was received, the final Gazette Notification declaring such monument of national importance was published. The monuments/sites remained under the control of the Government of India in most of the cases. But, in some cases, the ownership of the monuments was with the Wakf Board, Trust and private individuals, etc. This also included both living (under religious use) and non-living mosques, temples, etc.

8.5 Explaining about the role of Archaeological Survey of India (ASI), the Secretary (Culture) stated that under the Ancient Monuments and Archaeological Sites and Remains Act, 1958, the ASI had a role to protect the monuments which were of national importance. When a site or a monument was declared to be a place of national importance, then the ASI

would take over the control and management for the protection of that place. According to the Secretary, the type of monuments which the ASI looked after, covered places, both of religious significance and non-religious or, in a sense, secular significance. Explaining further, he said that even religious places could overall be termed as secular, in case if they had historical importance or purely historical significance.

Agreement between ASI and the owner

8.6 Section 6 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958, provides for an agreement between the ASI and the owner. On being asked to comment on the agreements entered between the ASI and the Wakf Boards, the Secretary stated that as and when it was known that the Wakf Board or whichever relevant organisation was the property owner, there would be no difficulty in having an agreement in terms of ownership. The ASI itself might be the owner in some cases. The ASI was duty-bound to protect the heritage and this was their main mandate.

8.7 The Director-General (DG) ASI stated that out of all the ASI protected 3,675 monuments, 34 could be treated as Wakf properties. However, the CWC had sent them a list of 190 Wakf properties claiming that these were under encroachment by the ASI. She further stated that after a quick run through the list of protected monuments throughout the country, between 250 and 300, could potentially be the Wakf properties. She, however, added that it was to be examined whether they were Wakf properties or not. It was also stated that a document of 1927 was found which listed the properties being protected by the Government in undivided India, spread over in areas like Burma, Pakistan and Bangladesh. Though analysis of the list was yet to be done but this had very detailed information, including whether a monument was being used for religious worship on that date, *i.e.*, in 1927 or before; and whether it was under the Government ownership or private ownership and if it was under private ownership, then whether an agreement was entered into with the owner.

8.8 Director-General, ASI further stated that since many of the properties did not show Wakf Boards as owners, the question of entering into an agreement with the Wakf Boards would, therefore, not arise. She also stated that there was a discussion going on with the Central Wakf Council (CWC) and the process had also been started in all the States to have a dialogue to know the actual number of Wakf properties.

8.9 Director-General, ASI, informed that in the States, the ASI circles in Srinagar had two meetings with the State Wakf Board of Jammu and Kashmir and the Superintending Archaeologist in Gujarat also had a meeting. She also stated that though there was not that much difference in the listing in those two States, but discrepancy was coming in case of Delhi to a large extent. Though 172 Wakf properties were listed by the Delhi Wakf Board which were said to be under the unauthorized encroachment by the ASI, it was found that only 94 of them were actually Centrally-protected. In regard to the remaining 78, she stated that they would be either unprotected or protected by the State, and they were outside the purview of the ASI. She, however, assured that the dialogue would be continued in order to narrow the gap.

Prayers at the protected monuments

8.10 The Secretary, Department of Culture agreed that if a property had been used for religious purpose from time immemorial, then, it was Wakf, although there was no evidence of express dedication. He further stated that if worship was not going on in a property and the ASI took it over for protection, then the next issue was to restart worship. There were various decisions taken by the Government, from time to time, and one such decision was taken in 1992. The Cabinet Committee decided that the property, which was a protected monument and no worship was going on there at the time of its take over by the ASI, should not be reopened for worship. However, in regard to the religious sentiments, he stated that the ASI was always very respectful to the religious sentiments wherever prayers were taking place. The Chairman mentioned about complaints that some of the mosques were not being maintained, and as a result, these monuments were in the danger of crumbling down any time. DG, ASI responding to this, agreed that it was the case with many living places of worship and they had the same problem in temples also.

Maintenance and encroachments

8.11 In regard to maintenance of area within 100 metres from the monument and beyond, DG, ASI stated that under the notification issued in terms of the Ancient Monuments and Archaeological Sites and Remains Rules, every centrally protected monument would have a 100-metre area around it as prohibited area and then, another 200-metre area would be regulated area. Permission for construction and mining activity could be granted within this prohibited area by the ASI only. The Chairman mentioned that there was a Mosque in Srirangapatnam in front of which there was a vast land. The Mosque was a protected monument. It was under the control of the Wakf Board and the Board was taking care of

the religious activities. The land in front of it belonged to the Mosque. But, if the Wakf Board wanted to do something in that area, the ASI officials would not allow it. It was a very important area, and the ASI would not be able to stop people from encroaching this area. The Chairman further stated that when such problems came up, the local officers of the ASI did not cooperate. Responding to this, the DG, ASI stated that if somebody was encroaching on a private property or a Wakf property within the regulated area, then, the Wakf Board would have to look into it. In the prohibited area, the ASI would be duty-bound to take care of it with its own budget, whereas in the regulated area, it would have a regulatory role. If a private owner or Wakf Board or the owner of the Wakf wanted to do some development work, the ASI would only have the role of permitting. It was also stated that there was an Expert Advisory Committee in the ASI which would examine such applications and grant permission.

OBSERVATIONS AND RECOMMENDATIONS

8.12 The DG, ASI stated that out of all the ASI protected monuments, 34 could be treated as Wakf properties. Whereas in Delhi itself, out of 172 Wakf properties listed out by the Delhi Wakf Board, 94 were actually Centrally-protected. The Committee feels that there is some confusion in the ASI in identifying and recognising the protected monuments as Wakf properties. The Committee is, however, happy to note that ASI has got a document of 1927 which lists out the properties protected by the then Government in undivided India. This document would definitely throw some light in deciding the nature and character of the properties under the protection of ASI. The Committee, therefore, desires that ASI may scrutinize the list and come to a conclusion at the earliest.

8.13 The Committee is also happy to note that ASI has started the process of consultation with the Central Wakf Council and the State Wakf Boards for entering into an agreement with Wakf Boards in respect of Wakfs which are under the protection of ASI. The Committee desires that this process may be hastened in all the States and initially, the list of Wakfs under the maintenance of ASI may be finalised. Thereafter, agreements with owners of the Wakfs may also be signed under Section 6 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958.

8.14 The Committee takes serious view of the fact that some of the monuments are not being properly maintained. The monuments may crumble any time and therefore, it desires that ASI should take immediate maintenance of all those monuments under their protection which are Wakf properties. The Committee also takes serious view of the fact that in some of the areas where monuments are situated within the regulated area, encroachments are taking place. In all such areas, wherever ASI is protecting the monuments and wherever the Wakf Boards are owner and they approach the ASI for the development of the area, immediate permission may be accorded. Whenever ASI officers observe any encroachment beyond the prohibited area, they should immediately bring the matter to the notice of the officials of the Wakf Board/the Wakf concerned. Instructions in this regard may be given to all the Circle Offices of the ASI for strict compliance. There should be periodic dialogue between the ASI, its regional offices, Central Wakf Council, State Wakf Boards and the management of the Wakf concerned.

CHAPTER - IX

Computerisation of Wakf Boards and creation of a central data base

9.1 One of the basic problems that the Wakf Boards are facing is their poor infrastructure. They still have the same old system of record keeping, accounting, etc. As a result their records are missing and can be easily tampered. Only few Boards have fully computerized their operations. Most of the Wakf Boards are far behind in using modern Information and Communication Technologies (ICTs) fully in managing their Offices. In some of Boards computers are being used to attend to the routine correspondence. Very few Wakf Boards have their own websites. Only Karnataka, Andhra Pradesh, Tamil Nadu, Maharashtra, Kerala and West Bengal have attempted to have websites which they are still developing. When questioned about the status of computerisation, representative of many State Boards pleaded that they were not in a position to incur any expenditure for procuring both Hardware and Software.

9.2 The Committee was informed that both the Central and State Government have provided capital grants for acquiring computers and software to various Government Departments, Government undertaking and statutory bodies. As the Wakf Boards are also statutory bodies, it is incumbent on the State and Central Government to come to the assistance of the Wakf Boards and provide a one-time grants to computerise all the Wakf Boards in the country.

9.3 The Committee is of the opinion that the Central Wakf Council should be entrusted the responsibility of developing a uniform software which could be used by all the Wakf Boards in the country. They should also take up responsibility for training the staff of the Wakf Boards and computerization of their operations. The Committee is of the firm view that computerization will not only bring transparency and accountability in the operations of the Board, but will also make Boards easily accessible to the beneficiaries and the common man. This will enable the Boards to have continuous watch on the state of Wakf properties in their respective States and prevent any further encroachment as the information would be readily available. **The Committee is, therefore, of the view that the National Informatics Centre (NIC) should be asked to develop necessary software in consultation with the Central Wakf Council for being used by all the State Wakf Boards. The proposed software to be developed by the NIC on Wakf Management may broadly contain the following details:-**

- i. **Historical, religious and other aspects of the Wakfs in general.**

- ii. **Constitution and current status of Wakf Boards.**
- iii. **Status of Survey of Wakf properties.**
- iv. **Since the entire set of activities revolve around the Wakf properties, therefore, the software should contain a detailed status of such properties and should provide a transparent system based on entries of register maintained under section 37 of the Wakf Act, 1995.**
- v. **The entries under section 37 should be linked to various procedures, proceedings and information provided in the Act of 1995.**

For example, a survey of development potential, rental value, litigation status, statutory contribution from Wakfs and other aspects of the Wakf properties may be given. These crucial pieces of information when linked with the entries of the concerned Wakf, a transparent picture of every Wakf property will be available for its strategic development and socio-economic planning.

- vi. **The software should also cover finances of the Wakf Boards and should be able to generate annual balance sheets of the Wakf Boards automatically.**
- vii. **It should also include a module for file tracking and human resource management systems.**
- viii. **The software should be interactive with specific access to the users at relevant points.**

For example, at the district level, Assistant Survey Commissioner, Wakf should be able to update the basic information regarding the Wakf properties. Similarly, at the Wakf Board level the access should be with the administrator of the system.

- ix. **If an information generates income to the Wakf Boards, then there should be provision in the software to provide that information by charging a fee.**
- x. **Since the Wakf records are, in general, quite old and there exists a strong possibility of theft or damage to these documents, digitization of such record is also necessary.**
- xi. **The information should be maintained in standardised formats for all Boards so that inter-Board comparison or consolidation could be carried out.**

After the execution/implementation of above project, it may be integrated with the records of the Revenue Department.

9.4 The Central Wakf Council is not able to have this task accomplished because it does not have enough resources and needs technical expertise. The income of the Central Wakf Council is limited and it is not able to invest any funds for computerization of the State Boards.

OBSERVATIONS AND RECOMMENDATIONS

9.5 The Right to Information Act, 2005, directs that all public Offices/Organisation should digitize the information and to provide more information to the public through their websites. The Central Government also has a policy to assist all public entities to digitize their records and has a programme to assist Ministries/Departments financially for computerization and introducing e-governance in their administration. The Committee would like the Central Government to earnestly address this problem and pursuant to its policy, initiate a time bound programme for introducing ICTs in the operations of the State Wakf Boards. The Committee strongly recommends that the Central Government should immediately fund the computerisation programme of the Wakf Boards and provide a one-time grant of at least Rs. 25 crores to the Central Wakf Council for the purpose and the Central Wakf Council in consultation with the NIC should prepare the necessary software and provide the much needed hardware for the total computerization of all the Wakf Boards in the country.

9.6 The central data base with regard to the States of Wakf properties in all the States and Union Territories should be made available with the Central Wakf Council. The website of CWC should function as the repository of information relating to Wakf properties for which it has to play an active role in data archiving of Wakf properties. This may require setting up a linkage between the website of the Central Wakf Council and the State Wakf Board. Such a linkage would enable Central Wakf Council to undertake regular evaluation and assessment of Wakf properties in the States through collection and collation of information from all the State Wakf Boards.

CHAPTER - X

Leasing of Wakf properties : Need for new approach

10.1 The Committee notes with concern that while the administrative and other expenses of the Wakf Boards had gone up manifold, their income has remained stagnant and in some cases, it has even declined. Shortage of funds is the root cause of all the problems afflicting the functioning of Wakf Boards. Due to lack of sufficient funds and resources, the State Wakf Boards are not able to properly discharge their mandate as per the provisions of the Wakf Act. As discussed earlier, the State Governments are also not evincing much interest in the affairs of the Wakf Boards. The Committee, in fact, expresses its concern over the fact that even the Boards themselves have not shown much interest in enhancing their income. There is, therefore, an immediate need to find ways and means to enhance the income of the Wakf Boards.

10.2 The Committee notes that one of the resources of revenue for State Wakf Boards is the rent received from leased out Wakf properties. The Committee noticed that several Wakf Boards were resorting to leasing out Wakf properties for more than three years which is against the Wakf Act, 1995 under the garb of 11 months lease with a renewable clause. The Act provides that Wakf properties can be leased out for a maximum of three years only. Moreover, the rentals of the Wakf properties have either been deliberately kept very low or no efforts have been made to increase the rentals. The Committee has also found that the Boards have initiated a novel way to lease out the Wakf properties for eleven months and, thereafter, go on renewing the lease further, circumventing the provisions contained in Section 56 of the Act. Though the Committee has noticed this trend in almost all the Wakf Boards, however this practice, is rampant in Punjab, Delhi, Haryana and Himachal Pradesh. The reason for this is that in these States there are no Mutawallis and the Wakfs are under the direct control of the Boards. In the succeeding paragraphs, the practice obtaining in these four States is discussed.

DELHI

10.3 According to The Delhi Wakf Board, Delhi has about 1977 Wakf properties, out of which 685 are encroached. The Committee was informed that the number of Wakf properties that were let out were 257 and the number of tenants were 1833. Explaining the position about the rentals and income of the Wakfs, the CEO informed the Committee that the Wakf Board got about 65 lakhs rupees a year from the rented properties. It was also stated that some donations also came from the sources due to change in the name of the

tenant. For example, if a tenant wanted to change the property in another person's name, he would give some donation. Generally, the Wakf Board got Rs. 25 to 30 lakhs in this manner. All this income together comes to about Rs.1 crore per annum. He further stated that the Board had started an innovative idea of leasing a little space from the places like *kabrastans* and the areas adjacent to mosques which could not otherwise be rented out. Such places were rented out for the display of advertisement. From that source, the Board got a sum of Rs. 1.8 crore per annum. He also stated that the Wakf properties were covered under the Delhi Rent Control Act, 1995, and due to this Wakf Board was not able to increase the rentals. However, whatever was permissible was being increased. Though the actual market rents were rising very fast, but the Delhi Rent Control Act, 1995, would not allow such a steep increase. Whenever the property changed hands or whenever the tenant wanted to give it to another person, at that time, the Board tried to bring it on a *par* with or somewhere near the market rate. But if the same tenant was staying, it would become difficult to increase the rent.

10.4 Though the Board was getting around Rs. 65 lakhs as rent, it could have been much more if the leases are done in a fair manner. The Committee, therefore, recommends that all the leases may be done in a transparent manner through open tenders/advertisements as the case may be.

10.5 The Committee is of the opinion that if the same trend of leasing continues in Delhi, there will be no Wakf property left for either development or for leasing in another 10 years. All Wakfs and the Wakf Boards will have to be contended with limited income.

10.6 The Committee visited some of the prime Wakf properties in Delhi. The Committee recommends that the Delhi Government should give this direction to Delhi Wakf Board to stop leasing any of Wakf properties for eleven months in Delhi and also should not renew leases in case of properties which can be developed commercially in terms of Section 32(4)(5)(6) of the Wakf Act. The Committee further directs the Delhi Wakf Board that it has leased a large portion of land for the purposes of plotting to cancel such leases given for plotting which amounts to alienating the property illegally under Section 51 of the Wakf Act. The Committee urges the Delhi Government to inquire into all such cases of leases.

PUNJAB

10.7 The representative of the Punjab Wakf Board stated that the basic problem with the Punjab Wakf Board was the encroachments. Wakf properties had been encroached and very little amounts are being paid as lease money. Court cases had been taking a long time. The encroachers had been sitting there for a long time and paying only a paltry sum. It was further stated that the Wakf land was generally on lease to people and they would not get it renewed or they leave the possession and hand over the same to third party. It was, therefore, suggested that FIRs should be registered against them as trespassers.

10.8 The Punjab Wakf Board informed the Committee that during the last three years, permission for 2455 leases of Wakf properties (urban & rural) was accorded by the Board. On being asked by the Chairman about the leased properties and recommending authority, it was stated that the Lease Committee consisted of two members who examined the lease proposals and inspected the sites.

10.9 It was further stated that there were a number of leases which were for more than three years though legally it could not be done. The reasons for renewing the lease was that if the lease of the old parties was not renewed, new party might not come for lease. This was the practical reality in most of the cases, it was added. It was also stated that the lease was given to a party on year to year basis and in some cases, it was renewed after three years and it was, in most of the cases renewed in the name of the same party.

10.10 The representative of the Board also stated that in some cases, when a case was instituted, if the Lessee or the person who was in the possession of the land was likely to lose his case, he would compromise in favour of the Board and the Board would agree (for the lease) as per approved terms and conditions of the policy. When the Chairman sought to know about the policy of the Board on leasing, the CEO then informed that the policy of the Board was not transparent in regard to leasing. He also stated that he tried to change the policy and even made suggestions on the files that the Board should try to have a transparent policy so as to increase the revenue. When the Chairman asked him again whether he had mentioned this in writing to the Board, the CEO stated that on some of the files, he suggested that the Board may increase the revenue. He indicated to the Board that if the Board had gone in for open auction system, because the Punjab Wakf Board had lot of properties, the revenues of the Board would have increased two-fold or even three-fold.

10.11 When the Chairman of the JPC held discussions with the Principal Secretary, CEO, and other officers of the Punjab Wakf Board in Chandigarh on the 20th September, 2008 and

asked for the files in which the then CEO made remarks, the files could not be shown to the Chairman as they were not brought for the meeting.

HARYANA

10.12 There are total 491 Wakf properties situated in Haryana. The income from leasing increased from Rs. 1.06 crore 2003-04 to Rs. 1.70 crores. In a written note furnished to the Committee, it was stated that the income of the Board during 2007-08 was Rs. 11.80 crores which was all time high and this could be made possible due to some measures taken by the Board in leasing Wakf properties. Explaining about certain properties which were leased out and the way the properties were changed from urban to rural, the former CEO, who was also called before the Chairman of the JPC to tender oral evidence, stated that there was a land situated in Chauma Village of Gurgaon, measuring approximately 10,000 sq. yards. Till 1997, Wakf Board used to get revenue of Rs. 60,000/- from this land and at that time, it was shown as urban land. Later, it was converted from urban to rural, though it was unusual. When this property was given on lease to benefit certain people, the lease rate fixed was Rs. 2500/- per month with an yearly increase of Rs. 2000/-. He also stated that apart from this case, there were a number of cases in which lease had not been done properly. Most of the lease orders had been signed by the Chairman himself. The former CEO also stated that in about 30 cases which he had highlighted, the Chairman of the Board had used his powers in a blatant way. The present CEO of Haryana Wakf Board stated that the land at Chauma was given on lease to a Developer for plotting. It had already been plotted and he was not there in the Board at that time. He further stated that after he took over, there was no case of leasing land for plotting, but certain agricultural land and some land attached to other properties had been given on lease.

10.13 In the case of a Wakf property under encroachment at Fatehpur Chandel, District Faridabad, the tenant, in connivance with the State officials and the Wakf Board officials, has been able to occupy illegally the Wakf property. The encroachers in this case have managed to get staty from different authorities despite the formation of the Wakf Tribunal. **The Committee is of the view that all the lease contracts which had been signed by the Chairman of the Wakf Board in the State of Haryana should be cancelled forthwith.**

10.14 The CEO further stated that in Gurgaon and Faridabad, 145 rural properties and 656 urban properties were leased out.

HIMACHAL PRADESH

10.15 The Committee was informed that Himachal Pradesh Wakf Board constituted two Lease Committees for the purpose of leasing of Wakf properties in the State. The details of the Lease Committees given by the Himachal Pradesh Wakf Board are as under :

- (i) **State Lease Committee:** The Board had constituted a State Lease Committee which would send suggestions and recommendations to the Board and would also review the cases related to leasing of Wakf properties by the Punjab Wakf Board in Himachal Pradesh after the division of the erstwhile Punjab Wakf Board. In addition to this Committee, the Board had also constituted Circle Lease Committee *i.e.* the Shimla Circle Lease Committee, Una Circle Lease Committee and Kangra Circle Lease Committee. These Circle Lease Committees would examine the lease deeds and any violation of rules in it. The Committee would also bring out the cases of encroachments in mosques, Dargahs, etc. and would negotiate the agreement for increasing the rental of various lease cases.
- (ii) **Lease Rules Framing Committee:** This Committee would frame the lease rules under Section 18 of the Wakf Act, 1995 and present the report.

10.16 The representative of the Himachal Pradesh Wakf Board during the evidence tendered before the Committee on 24.8.2006 stated that earlier the State was under the Common Wakf Board *i.e.* the Punjab Wakf Board and that time the properties were leased out at very low rate and the income accrued through such leasing was very less. There were prime Wakf properties which had been leased on a very low rent. Many of the *kabrastans* were given on lease but due to the Rent Control Act, the rent could not be increased. The State Government was requested for exemption of Wakf properties from the Rent Control Act.

OBSERVATIONS AND RECOMMENDATIONS

10.17 The Committee expresses its grave concern over the way in which the provisions of the Act are being circumvented and Wakf properties are leased out, in many cases for eleven months and renewed thereafter. The Committee is also constrained to note that in some of the lease cases, the land so given is plotted and construction is undertaken though under the law, it is not permitted. The Committee understands that under three years lease generally nobody will come forward. The Boards in connivance with the Mutawallis and others, lease out the properties to the disadvantage of the Wakf and the Wakf Board. The Committee feels that not only in Punjab but in all the states particularly in States of Haryana and Himachal Pradesh and the NCT of Delhi, land mafia is thriving on leasing of Wakf properties. The Committee, therefore, recommends that all such leasing of Wakf properties may be stopped forthwith. In the case of all those properties which have already been given on lease, particularly on 11 months lease, no further renewal of the lease may be done. All such cases of lease may be reviewed and detailed plans may be made for their development or open advertisement may be issued for developing the properties, as the case may be.

10.18 The major prime Wakf properties which can be developed may be taken up for development with the assistance of State Government, Central Wakf Council or with private agencies jointly instead of leasing them on BOT basis.

10.19 The Committee expresses its grave concern over the fact that in several State Wakf Boards, the Chairman of the Board signs the lease orders. However, under the Act, the Chairman has no such authority. The Committee strongly recommends that all the lease contracts signed by the Chairmen of the Wakf Boards in any state and particularly in the states of Punjab, Haryana and Himachal Pradesh and NCT of Delhi may be cancelled forthwith treating them as illegal. The Committee desires that the Central Wakf Council in consultation with Ministry of Minority Affairs may prepare a Uniform Leasing Policy which should be made applicable in all the States.

10.20 The Committee feels that the Wakf properties need to be exempted from the Rent Control Acts of the respective States so that the rents of the Wakf properties could be fixed at the market rate. Once this is done, the revenue of the Wakf Boards would automatically increase manifold. Certain States such as Rajasthan and Karnataka had already done this. The Committee in its Third Report on amendments to the Wakf Act, 1995 recommended that all the State governments may exempt the

Wakf properties in the respective States from their Rent Control Acts. For this purpose, the State governments may make necessary amendments in the Rent Control Acts. The Committee again reiterates this recommendation and urges upon the Union Ministry of Minority Affairs to issue necessary instructions to all the states to take necessary action in the matter at the earliest.

10.21 In view of the present prevailing situation of leasing of Wakf properties indiscriminately, particularly in Punjab, Haryana, Himachal Pradesh and NCT of Delhi, the Committee is of the view that a waiver could be provided in the provisions of Section 56 of the Wakf Act, 1995. Whenever prime Wakf properties are proposed to be developed, such development projects may be undertaken, if necessary jointly with Government/private agencies and if in all such cases, leasing beyond three years is required, such proposals may be finalised through consultation between the State Government, the Wakf Board and the Central Wakf Council and such other agency as may be decided through a transparent procedure. The Government may, therefore, consider amending Section 56 of the Wakf Act, 1995 for the purpose.

CHAPTER - XI

Empowering Central Wakf Council

Origin and composition

11.1 The Central Wakf Council (CWC) owes its origin to the Muslim Wakf Bill, which was piloted by a private member Syed Mohammad Ahmed Kazmi in 1952 in Lok Sabha. The Bill became an Act of Parliament in 1954 (Act 29 of 1954). CWC was set up in the year 1964 for the purpose of advising the Central Government concerning the working of the State Wakf Boards and the administration of Wakfs.

11.2 In Chapter-III, Sections 9 to 12 of the Wakf Act, 1995 deal with the Central Wakf Council. Section 9 provides for the constitution of the Central Wakf Council. The Council consists of the following:-

- (a) the Union Minister in-charge of Wakfs - *ex-officio* Chairperson;
- (b) the following members to be appointed by the Central Government from amongst Muslims, namely:-
 - (i) three persons to represent Muslim organisations having all India character and national importance;
 - (ii) four persons of national eminence of whom two shall be from amongst persons having administrative and financial expertise;
 - (iii) three Members of Parliament of whom two shall be from the House of the People and one from the Council of States;
 - (iv) Chairpersons of these State Wakf Boards by rotation;
 - (v) two persons who have been Judges of the Supreme Court or a High Court;
 - (vi) one Advocate of national eminence;
 - (vii) one person to represent the Mutawallis of the Wakf having a gross annual income of rupees five lakhs and above; and
 - (viii) three persons who are eminent scholars in Muslim Law.

11.3 The establishment of the Central Wakf Council is run with one per cent contribution it receives from the State Wakf Boards from their net annual income from the Wakfs as per

sub-Sec. (1) of Section 72 of the Wakf Act, 1995. For the purpose of calculating this income, the whole of contribution remitted or condoned under sub-Sec. (2) of Section 72 should be excluded.

11.4 All other amounts received by the Council as donations, benefaction and grants including one per cent contribution form part of a fund which is called Central Wakf Fund. The Central Government is empowered to make rules for the purposes of prescribing the manner in which the accounts shall be audited, procedure for discharging of their functions and filling of vacancies among the members of the Council.

11.5 The Committee in its Third Report on the amendments to the Wakf Act, 1995 discussed the role of the Central Wakf Council in general and as an advisory body in particular and was of the considered view that the Council in its present form had not helped to improve the Wakf administration in the country. The Committee examined various options, including (i) making an apex regulatory body; and (ii) making a Commission, etc.

11.6 The Committee, after a detailed discussion, felt that the structure of the Council need not be changed. Instead, by suitably amending certain Sections of the Wakf Act, the Council can be strengthened which can have desired result without causing inroads into the powers of the State Wakf Boards/State Government. The recommendations made by JPC are discussed in detail later in this chapter.

11.7 The Committee heard the views of various individuals/organisations both before submitting its Third Report and also later and received written submissions. Some of the representative views are given in the succeeding paragraphs:

Views of All India Muslim Personal Law Board

11.8 In the written submission made to the Committee, the All India Muslim Personal Law Board submitted the following:-

“It is being heard and given to understand that there is a move to replace the Central Wakf Council with the Central Wakf Board with extensive and wide powers to exercise control over State Wakf Boards and to undertake direct management of important Wakfs in the country. This proposal is unfortunate and ill-conceived. In a vast continent-like country, our India, decentralization is the best approach for progress, development and efficiency of administration and centralisation or central control is fraught with many dangers and may lead to stagnation and unnecessary

disputes between the central and state bodies. The proposals to form a Central Wakf Board or to arm the Council with such powers should not be taken into consideration.”

11.9 It was further submitted that the present Act of 1995 provided controlling and regulating powers to the Central and State Governments. There were numerous instances of the Government interference in the affairs of Wakf resulting in loss of Wakf properties and inefficiency and lethargy of the administration. It was also stated that creating a third controlling and regulating authority would certainly make the matters worse. It was then suggested that the chapter of the Central Wakf Council be kept as provided in the Wakf Act, 1995.

Views of Central Wakf Council

11.10 The Committee heard the views of the Members of the Central Wakf Council (CWC) at its meeting held on 05.06.2008. One of the Members of the Council, in his written submission addressed to the Chairman of the Committee, gave the following suggestions:

“By amending the Wakf Act, 1995, the CWC should be defined as an autonomous body rather than an attached or subordinate office. The Minister of Minority Affairs should not be its Chairman, though the Council should function under the Ministry of Minority Affairs. The Ministry of Minority Affairs should not interfere with the day-to-day working of the CWC. The Secretary, Ministry of Minority Affairs may be designated as the appellate authority for the employees of the CWC.

The Members of the Committee should not all be nominees of the Government but of various professional bodies and eminent Muslim organizations of national importance.

The membership should include the Chairman of the State Wakf Boards or inter-state Wakf Boards which look after at least 500 Wakf estates or properties. The CWC should be represented reciprocally in every State or inter-State Wakf Board.

The Member should elect a Chairman and have the power of removing him through a Vote of No-Confidence.

The CWC should receive a grant-in-aid from the Central Government to cover its administration budget.

The CWC should exercise supervisory control and superintendence over the State Wakf Boards.”

11.11 During the oral evidence, one of the members of the Council suggested that the following new clause may be added in Sub-Section (1) of Section 9:

“besides performing other acts under this Act and the rules framed thereunder, the Council so established may, in its function, call for the information, reports from the State Governments and the Wakf Boards on the performance of Wakf Boards in the States, particularly their financial performance, survey, maintenance of Wakf deeds, revenue record, encroachment on Wakf properties, annual reports and audit reports, and may also issue necessary directions and advice as it may think fit with the concurrence of the Central Government and the State Government, and the Boards shall comply with such directions and advice.”

11.12 Another Member, while suggesting for changing the structure of the Central Wakf Council, stated as under:

“The word ‘advisory’, which is inherent part of the Wakf Act, has no teeth. We discuss and discuss and come to the same point. We have to think seriously that we have to change the basic structure from ‘advisory’ to ‘regulatory’ and the Wakf has to be pro-active. There has to be a body with some power over Wakfs so that we can have some kind of control over their activities and henceforth we can move in a direction, which yields some results.”

11.13 One Member felt that the directions of the Council should have a binding effect on the State Governments and they should have some control or some form of supervision on the State Wakf Boards. He further stated that the Wakf Boards were losing cases (in the courts) ‘because of slackness and collusion between the Wakf officials and the land grabbers or encroachers’. He, therefore, suggested that there should be a Committee in the Central Wakf Council, which should monitor the cases that were pending in different States where Wakf Boards were parties. He also suggested that the amendment regarding punitive action which was brought in the State of West Bengal should be incorporated in the Wakf Act, 1995 also. He felt that unless penal action was there, it would not have a deterrent effect. Agreeing with this, another Member felt that the CWC was toothless and some mechanism should be evolved to convert it from ‘advisory’ to ‘regulatory’ authority. He also suggested that the Central Wakf Council could be developed like an Insurance Regulatory and Development Authority or any other Authority which had reasonable teeth. He also felt that besides being a regulatory authority, it should also be made a coordinating body because, at present, CWC had no coordination relations with the State Wakf Boards or the Wakf Administrations.

Views of individuals

11.14 The Committee, before finalizing its Third Report on Amendments to the Wakf Act, 1995, heard the views of some individuals, *viz.*, former Cabinet Secretary and former Secretary, Ministry of Parliamentary Affairs on various aspects relating to implementation of the Wakf Act, 1995, functioning of the State Wakf Boards and the Central Wakf Council. Their views on the Central Wakf Council are mentioned as under:

(1) Former Cabinet Secretary to the Government of India, in his written submission, stated that the Central Wakf Council was a toothless tiger and it did not truly serve the purpose of strict administration of Auqafs for the benefit of the Muslim community. He also suggested that it should be redesignated as the Central Wakf Commission with the following powers:

- (i) The power of superintendence, control and direction of the State Wakf Boards;
- (ii) The power to supersede and/or dissolve a State Wakf Board which is found to be repeatedly remiss in performing its duties and/or fully carrying out the directives of the Central Wakf Commission;
- (iii) The power to inspect the offices and records of any State Wakf Board and any of the Wakf properties administered by it;
- (iv) The power to summon any document and/or records of any State Wakf Board as also any of its officers to appear before it or any of its Committees; and
- (v) To investigate, on a representation to it from any member of the public or *suo motu*, any instance of omission of a property from the list of Wakfs and, if satisfied about the same, to order its inclusion in such a list.

11.15 During his oral evidence on 05.6.2007 supporting his written views, the former Cabinet Secretary stated that the efforts that had been made by the Council to discharge its functions to the best of its abilities had not been, unfortunately, strengthened by the provisions of law that were available for discharging those functions.

11.16 Former Secretary, Ministry of Parliamentary Affairs who was called to tender evidence before the Committee, during the course of his oral evidence on 05.6.2007, suggested that the office of the Secretary of the Wakf Council should have a term, because once a person was there and he was for all time committed to doing a certain job, then he was bound to stagnate. This would affect the whole organisation. He, therefore, felt that

there should be a kind of tenure, and then he could be adjudged, say, independently. The Secretary has to be responsive to the challenges of the time, to the requirements of preservation, protection and growth of the properties and has to play a pivotal role. He also stated that in order to bring in freshness and efficiency in the implementation of the Wakf Act, 1995, it was essential to have a fix term for the Secretary. It could be for five years and the incumbent should change on the expiry of this term so that the administrative machinery of the Wakf Council was able to discharge its duties efficiently and meet the growing challenges. He quoted in this regard, the examples of the Director-General of Supplies and Disposal, the Director-General of Border Security Force and the Director-General of Industrial Security Force and so on. This Council could be headed by a person who could be suitably upgraded.

Views of Union Ministry of Minority Affairs

Oral evidence of Secretary, Ministry of Minority Affairs

11.17 The Secretary, Ministry of Minority Affairs, during his oral evidence before the Committee on 05.6.2008, stated that the Central Wakf Council was a toothless tiger. He further stated that it had an advisory role, but if anything went wrong in the administration of Wakfs, then neither the Central Government nor the CWC was in a position to act decisively and intervene firmly. He informed the Committee that the Ministry had started a process of consultation with different stakeholders and the Minister had called a meeting recently with the members of the Muslim Personal Law Board. While there was unanimity that the CWC should have more authority and should have a more effective role, there was no consensus that this should lead to the abridgement of the authority of State Governments or of the State Wakf Boards. He further stated that the real dilemma was to fashion an amendment which would reconcile the competing needs of greater authority to Wakf Boards and, might be, to the Central Government without, in any way, diminishing the role and authority of the State Governments. He also stated that one issue which was being pondered in the Ministry was that any teeth, any regulatory or supervisory or monitoring authority which was assumed by the Central Wakf Council or which was vested in that body by legislation was bound to detract from the authority of the State Governments or the Wakf Boards in some manner. He, therefore, stated that it was impossible for him to vest the CWC or the Central Government with greater authority without some infringement of the authority and jurisdiction of the State Governments.

Further Oral Evidence of Secretary, Ministry of Minority Affairs

11.18 The Secretary, Ministry of Minority Affairs, during his further oral evidence tendered before the Committee on 22.8.2008, informed the Committee that a National Conference was held on 30.7.2008, which was attended by the Chairmen, Chief Executive Officers of all the State Wakf Boards and the representatives of the State Governments. He informed the Committee that the audience was exposed to the recommendations of the Committee. Referring to the amendments suggested by the Committee, in its Third Report, the Secretary stated that the recommendations of the Committee were sent to the Central Wakf Council for their advice. He stated that the Central Wakf Council recommended the following amendment in Section 9 (i):

“besides performing other acts under this Act and the rules framed thereunder, the Council so established may, in its functioning, call for information report from the State Wakf Boards and may be continuously provided by the State Wakf Boards, State Governments information reports on the performance of Wakf Boards in the State, particularly on the financial performance, survey, maintenance of Wakf deeds, revenue records, encroachments of Wakf properties, annual and audit reports. The Council may issue necessary directions and advise in this regard which may be complied with by the State Wakf Board and the State Governments.”

11.19 He then felt that the first part of the recommendation of the Central Wakf Council seeking information from the Wakf Boards and the State Governments was more or less the same as that of the recommendations made by the JPC. But the second part was that the CWC was being authorized to issue directions which would be binding on the State Wakf Boards and the State Governments. He informed the Committee that the recommendation went through smoothly and they were able to reach a consensus and all the State Wakf Boards, Chief Executive Officers, Chairmen and the State Governments were agreeable to it. However, the issue was only the periodicity of the Report. Elaborating on the agreement that was arrived at in the Conference, he stated that there would be annual and six monthly reports and nothing more than six monthly reports. The annual reports would be on the accounts and audits of the State Wakf Boards and six monthly reports would be on the issues mentioned by the JPC. Further elaborating on this, the Secretary stated as under:

“The annual reports would be on the accounts and audits of the State Wakf Boards and the six months’ reports would be on the six issues, which have been mentioned by the JPC and the CWC. The reports on the survey status of Wakf properties,

reports on maintenance of Wakf deeds, reports on encroachment of Wakf properties and removal and the action taken to remove them, reports on their social and educational schemes, this would be six monthly and they were agreeable that one or two other issues have to be added provided they are not asked to give reports more than once in six months which we felt was a fair demand and would be a great improvement on the information because the present information with the CWC was next to nil and consequently the submissions which we make to Parliament in answers is also very scratchy and scrappy.”

11.20 The Secretary, Ministry of Minority Affairs further informed the Committee that the representatives in the Conference were agreeable to the power of the CWC or the Central Government to *suo motu* call for information or a Report on a subject when there were some major irregularities happening in a particular Wakf Board. Elaborating on the conditions agreed upon for giving such powers to the Central Wakf Council, the Secretary stated as under:

“They were agreeable to this also provided that these reports, which we have called, are within two boundaries and the boundaries we agreed, one was the *prima facie* there is evidence of irregularity. It is not that somebody sends a petition, there is some letter, there is some news item, and everyday the CWC is writing a letter to some Wakf Boards asking for some information. The idea was that the Wakf Boards must respect, I mean, the CWC must respect the autonomy and the authority of the Wakf Boards, the good faith of the Boards and presume what basically they are doing is all right but they should have *prima facie* evidence to ask for a report of a substantial irregularity. Secondly, they could always ask for a report if there was a *prima facie* evidence that the Wakf Boards were acting in a manner, which was violative of the Wakf Act. So, the two boundaries in which information could be asked for are these two boundaries.”

11.21 The Secretary further stated that it was agreed that the CWC would have the right to issue directives or advise on specific issues. For example, after seeking *suo motu* information, if any irregularity had happened or the Wakf Act had been violated, it would be possible for the CWC to send a directive or an advisory to the State Wakf Boards for setting right that irregularity. This was also acceptable to the most, except Assam, which had some reservation on the subject, he added. Elaborating about the general consensus, he stated that a question arose about the unbridled authority to the CWC with the rider that it would be binding on the States. He further stated that the issue that was raised was a

situation when the States had a genuine dispute with the advisory and what was conceived as violative of the Wakf Act by the CWC or the Central Government was not the view of the State Government. The Secretary stated that the feeling that emerged was that an unbridled authority would not be accepted in a federal structure with the States having the responsibility of running the Wakfs. It was, however, accepted with a rider that there should be one provision for a quasi-judicial body, headed by a Supreme Court Judge to which the State Government could refer the matter, if it felt that an advisory was bad in law. Thereafter, the advice of the body would be binding and this suggestion was agreeable to all.

11.22 The Ministry on the advice of the Committee, after the oral evidence of the Secretary, sent a written note in which the Ministry suggested the following proposals:

- “(i) Monitoring by CWC through six monthly/annual reports;
- (ii) Power to call for information *suo motu* when there was *prima facie* evidence of irregularity/violation of the Wakf Act;
- (iii) Issue of directive/advice on specific issues, when the CWC was satisfied that irregularities, violative of the Wakf Act were established; these would be binding on the State Government/State Wakf Board; and
- (iv) Provision for setting up a quasi-judicial body, to be presided over by a retired Judge of the Supreme Court, to resolve disputes in case the State Government/State Wakf Board felt that the directive/advice was arbitrary without justification or violative of the Act.”

OBSERVATIONS AND RECOMMENDATIONS

11.23 The Committee would like to recall that it had in its Third Report on amendments to the Wakf Act, 1995 also discussed the role of Central Wakf Council. The Committee felt that the Council in its present form had not helped to improve the Wakf administration. The Committee also considered various suggestions for the purpose and felt that the structure of the Council need not be changed. The Committee is, however, of the view that in order to make the CWC effective, it would be appropriate if its Chairman is elected from amongst the members of the Council. Since the Committee intends to strengthen the CWC, which would naturally require that a senior level officer should look after the affairs of the Council, for which at least a Joint Secretary level officer should hold the post of Secretary, CWC. The Committee, however, felt that by amending Section 9 of the Act, the Council can be strengthened which can have desired result without encroaching on the powers of State Wakf Boards/State Government.

11.24 The Committee therefore, recommended that in sub-Section 1 of Section 9, the words “for the purpose of advising it” may be substituted by the words “To advise Government of India, States and Wakf Boards”. According to this amendment, the role of the Central Wakf Council would not only remain confined to advising the Government of India but it would be able to advise the States and Wakf Boards as well. This enhances the jurisdiction of the Council. The Committee also recommended for adding the following at the end of the sub-Section (1):

“which may be continuously provided information/reports by the State Wakf Boards/State Governments on the performance of Wakfs/Wakf Boards in the State, particularly on their financial performance, annual reports and audit reports, etc”.

This amendment makes it mandatory on the part of the State Wakf Boards/State Governments to send the annual reports and audit reports, etc.

11.25 The Committee also recommended some more amendments to Section 81, Section 102, and Section 106. Under Section 81, the State Government shall examine the auditor’s report and may call for the explanation of any person in regard to any matter mentioned therein, and shall pass such orders on the report as it thinks fit. The Committee recommended that the following may be added:

“A copy of the auditors report along with the orders passed by the State Government on it shall be forwarded by the State Government to the Central Wakf Council within one month of the laying of the report”.

The above amendment enables the Central Wakf Council to know about the happenings of the Board and the State Government’s remarks/observations thereon. If there are any problems, the Council can intervene in the matter.

11.26 Section 102 deals with special provision for reorganisation of certain Boards. Under the Section, whenever the State Government sends any scheme for reorganisation of the Board to the Central Government, the Central Government may, under sub-Section (2) after consulting the State Government, approve the scheme with or without modifications. The Committee, in the said Report, recommended that in sub-Section (2) of Section 102, after the words, “after consulting the”, the words “Central Wakf Council and” may be inserted. With this amendment, now it becomes mandatory for the Central Government to consult the Council whenever any such reorganisation scheme is under the consideration of the Government.

11.27 Section 106 deals with the powers of the Central Government to constitute common Boards. The Committee in its Third Report, recommended that in sub-Section (1) of the Section, after the words, “after consultation with” the words “the Central Wakf Council and” may be inserted. Under this amendment, whenever the Central Government proposes to constitute a Common Wakf Board, it has to consult the Central Wakf Council besides the concerned State Governments.

11.28 The above amendments proposed by the Committee in its Third Report, if implemented would go a long way in strengthening the Central Wakf Council. The Committee, therefore, reiterates the amendments recommended by it in its Third Report.

11.29 As has been stated by the Secretary, Ministry of Minority Affairs, the State Wakf Boards and the State Governments have acceded to the proposals of the Committee. The proposals sent by the Ministry in the written note after his oral evidence are more or less in conformity with the recommendations of the Committee except the proposal no. iv which provides for constituting a quasi judicial authority for redressing grievances, if any, between the Council and States. It is, however, not against the recommendations of the Committee and it only provides a mechanism for

redressing the grievances. The Committee, therefore, agrees with the proposals of the Ministry and recommends that it may go ahead with implementing the proposals. However, if any further amendments are required in the Wakf Act, 1995, in addition to the amendments proposed by the Committee in its Third Report, as mentioned above, such amendments may also be brought forward along with the above mentioned amendments.

CHAPTER - XII

Development of Wakf properties

12.1 Development of Wakf is an important function of the Wakf Boards. The purpose of dedicating the immovable properties is to develop them and to enhance the income of the Wakf. Section 32(4)(5)(6) deals with the development of Wakf properties into residential flats, shopping complexes and shopping malls, etc. The Section empowers the Wakf Board to direct Mutawallis to develop the properties, and if the Mutawallis fail to develop, the Wakf Board can take over the property and develop it and retain it till it recovers the expenditure incurred on the development and the interest, if any. Unfortunately, none of the Wakf Boards in the country has seriously addressed this and remained unconcerned and demonstrated helplessness because of resource constraint. Neither the Government nor the Wakf Boards are very serious about the development. The only attempt made for the development of the Wakf properties is by the Central Wakf Council by creating a revolving Fund out of the annual grants it receives from the Government of India. Out of the revolving Fund the Central Wakf Council (CWC) is funding few commercially viable projects in the country. This scheme is in operation for over three decades and the revolving Fund is around Rs. 34 crores. This scheme of the CWC is laudable and has helped several projects to come up in different parts of the country, but the scope to take up large project under this scheme is limited, because of the size of the revolving Fund. The annual grant given by the Government is constant and the annual increase is marginal. The Central Government should consider increasing the grants to atleast Rs. 10 crore. **The Committee, therefore, strongly recommends that the Central Government may increase the grant to Central Wakf Council for Wakf development revolving Fund to Rs. 10 crore and to increase the size of fund to Rs. 100 crore in the next 5 years.**

12.2 The Committee during the course of its visits to several states and important cities in the country has come across very valuable properties which have the potential to be developed. The Mutawallis and the Wakf Boards, instead of identifying such properties for development, are giving away the land on rental for a nominal rent. Some of the Wakf Boards like Delhi, Punjab, Haryana and Himachal Pradesh have alienated thousands of valuable properties for paltry lease rentals. The properties are worth several thousands of crores and the Mutawallis and the Boards, functionaries have no vision. For earning a few lakhs of rupees for the functioning of the Board as the Government is not funding them, they have found out this easy way, instead of taking a development route to augment the resources. The situation is so serious that in another five to ten years, all the Wakf

properties in Delhi, Punjab, Haryana and Himachal Pradesh, will have been given on lease and there will not be any property left for development. **The Committee expresses its grave concern and deplores in the strongest terms the short sighted approach of the these Boards in bartering away the valuable Wakf properties worth thousands of crores. This exhibits the incompetence of the Boards to take up the development of the properties which the Wakf Act, 1995 mandates them under Section 32(4)(5)(6). The Committee expresses its unhappiness over the total indifferent attitude of the State Governments and the bureaucracy dealing with Wakf matters. The Committee strongly recommends that the Central Government may take immediate measure to stop leasing of commercial properties by the Mutawallis or the Wakf Boards which can be developed. Leasing of any landed Wakf property, irrespective of the size of property, should be banned forthwith and all leases of landed properties given on eleven month lease should be taken back on the expiry of the lease. If the Board or the Mutawallis have given NOC for putting up a structure on a land given on lease for eleven months, it should be treated as a criminal offence. The Committee urges the Central Government, in the interest of saving valuable Wakf properties, to bring suitable legislative measures, addressing all these issues.**

12.3 The Committee in its Third Report on amendments to the Wakf Act, 1995 recommended certain amendments in the Act for development of Wakf properties and for their better management so that they could yield more income to the Wakfs which would go a long way in helping the community at large.

12.4 The Committee recommended insertion of, the words “education, technical education” in Sub-Section (4) of Section 32, before the words “shopping centre”. Similarly, it also recommended for deletion of the words “with the prior approval of the Government” in Sub-Section (5) of the said Section.

12.5 The Committee also suggested for insertion of following new sub-sections in section 32:

“Notwithstanding anything contained in the Wakf deed, any gift, sale, exchange or mortgage of or creation of third party rights in any immovable property which is Wakf property, the Board shall have the power to change the nature and object of Wakf property, after inviting and considering objections through prior public notice in one urdu/vernacular daily and in one popular English daily in case the original object of the Wakf has ceased to exist and has become incapable of achievement”.

12.6 The Committee in the said report also suggested for adding the following new chapter on “Development and Promotion” in the Act.

“Development and Promotion

- **The Central Government shall establish, as soon as possible, a National Wakf Properties Development Board, for the development of Wakf properties in the country.**
- **The Central Government shall, as soon as possible, establish a National Board for promotion of education among Muslims and utilise the surplus funds of the Wakf institutions in the country generated through the development of Wakf properties.**
- **Provided that the Central Government may frame rules for administration of these Boards as may be considered appropriate.”**

12.7 When the Ministry of Minority Affairs was asked to inform the Committee about the action taken on the above suggestion made by the Committee, the Ministry stated that it appeared necessary to set up an institutional arrangement for planned development of Wakf properties to generate a surplus that could be utilized for the welfare of the community. Since this would constitute remunerative services, private capital would be forthcoming. The Ministry, however, stated that induction of private equity participation in a large way may influence management policies and Wakf lands may be drawn into the whirlpool of urban land speculation. It was further stated that to avoid such a contingency, equity participation could be restricted to Government financial institutions in the public sector *e.g.* HUDCO, etc. and reputed financial institutions in the private sector *e.g.* IDBI, ICICI, etc. The Ministry stated that it was felt that the existing National Minorities Development and Finance Corporation (NMDFC) could be converted from a Section 25 Company to a non-deposit taking Non-Banking Financial Company (NBFC) which could then be a holding company for the Minority Partnership (MP) and National Wakf Development Agency (NWDA). The Ministry also stated that the Government had accorded in principle approval to the action proposed.

12.8 The Central Government through the Central Wakf Council took some initiative for development of Wakf properties by providing loans to those Wakfs, that desire to develop the properties commercially to enhance their income. This scheme has been in operation since 1974-75 and the total grant-in-aid released by the Central Government is Rs. 30 crore

and 26.36 lakhs to the Central Wakf Council upto March, 2007. Out of that, an amount of Rs. 349.25 lakh was sanctioned during the financial year 2006-07.

12.9 The Central Wakf Council informed the Committee that it created a Revolving Fund from the repaid loan amount by the loanee institutions. Under this fund, the Central Wakf Council released a sum of Rs. 4,64,89,000 to support 87 projects, out of which 66 project had been completed and 21 projects were still going on. It was further stated that though the scheme was still in operation, but the quantum of assistance was so meagre that it was not possible to take up big projects under the scheme, which required huge amounts.

Plans for development of Wakf properties in various States:-

12.10 The Committee has sought plans of all the state Wakf Boards for development of Wakf properties. Some states have responded to the request of the Committee and sent their development plans, some of which are discussed in the succeeding paragraphs.

ASSAM

12.11 The then JPC in its Fifth Report had recommended that developmental Schemes of the CWC be fully availed by the Wakf Boards. In regard to development of Wakf properties, the Assam Wakf Board submitted in their Action Taken Report that it had decided to construct a multi-storied Commercial Complex to be known as “Ohidur Rahman Wakf Commercial Complex” in a part of the Ohidur Rahman Wakf Estate at Fancy Bazar, Guwahati. On completion of the proposed Commercial Complex, an estimated annual rent of Rs. 6.00 Lakhs (Rupees Six Lakhs) was expected. Commenting on the latest position on the development of Ohidur Rahman Wakf Estate, which is in the midst of Guwahati city, the Chief Executive Officer stated that the Wakf Board had already entered into an agreement with Builders for construction of a commercial-cum-office complex. The Committee, however, learnt that the property was under litigation and there were some High Court cases, and the Court had ordered to maintain status quo.

12.12 On the question of setting up a Wakf Development Corporation, the Board Stated that the proposal had already been submitted to the State Government and the State Government was still examining the issue, and no decision had been taken so far.

BIHAR

12.13 In regard to the Development of Wakf properties in Bihar the Committee was informed that the Sunni Wakf Board had been making persistent efforts for development of urban Wakf properties to augment the income of the Wakf institutions and fifteen Wakf

estates had already been partially developed. It was further stated that the Board had now chalked out a programme for further development which would be completed in three phases. Work on two new projects had been commissioned. It was also stated that urban properties of three Shia Wakf estates had already been developed. The Board chalked out a programme of development of another three Shia Wakf estates. The development plans proposed by Sunni Wakf Board are as follows:-

(i) First Phase:-

It is proposed:-

- (a) to build one more floor in the Wakf market, Patna which will provide about extra twelve shops which will fetch rental between Rs. 2000/- to 3000/- pm each as also to beautify the existing shops which look only too gloomy.
- (b) to demolish the existing shops numbering 25 in Patna City which are dilapidated and may collapse any day and construct 3 storied shopping complex (total about 40 shops as against existing 25 now). To build shopping complex near Kotwali by the side of Mourya Lok in the place of existing shops.
- (c) Anjuman Islamia Hall built in 1885 has great historical importance but is in a dilapidated state. It would be better to demolish the existing building and convert one multi-purpose hall into two multi purpose halls with extra 44 to 60 rooms as hotel rooms which could also be utilised for marriage parties. This will give a return of minimum Rs. 2 to 2.25 crores per annum.

(ii) Second Phase:-

- (a) Land which is shown as graveyard near Kotwali P.S. is vacant and no burial has taken place in it for the last about 50 years. On this land, there is illegal occupation which can be got vacated. Land measuring about 14/15 kathas is available. On this land, a shopping complex and an office complex are proposed to be built after obtaining Fatawa from the competent authority.
- (b) By the side of planetarium about 10 kathas of land is available which is in illegal occupation of the vendors, kabadiwallas, etc. Efforts are on to get this land vacated. On this land, too, a shopping-cum-office complex can be built.

- (c) There is a plot of land on Wakf No. 20 at Madarasa Shamshul Hoda near Patna Science College. It is proposed to construct a polytechnic on this land for diploma courses.

(iii) Third Phase:-

It is proposed to build an Engineering College at Pawapuri besides an English medium residential public school. Nalanda (Bihar Sharif) district has enormous Wakf properties and if these are developed properly, it can go a long way in carrying out various charitable and educational programmes and make the Boards self-sufficient. Since Wakf Estate no. 2 (Soghra Wakf Estate) has sufficient land, the Engineering College can be further extended to a University level, for which grant from the Central Wakf Council will be elicited.

12.14 On being asked about the estimated potential of Wakf properties in the state yet to be tapped for increasing income, it was agreed that there was huge potential to enhance the income of Wakf properties.

KARNATAKA

12.15 The Karnataka Wakf Board stated that it identifies Wakf properties which had commercial viability and encourages the Wakfs to take up commercial projects like shopping complex, shaadi mahalas, hostels, etc. The commercial projects that had been taken up for development were developed either by leasing the Wakf properties to potential developers or by availing loan from the State Wakf Development Council. It was also stated that the other source of finances was MPLAD funds. The Karnataka Wakf Board was a pioneer in availing and utilizing loans from the Central Wakf Council.

12.16 A total number of 74 projects had been financed by the Central Wakf Council. Out of these, 56 projects were completed and 16 projects were under progress in 2006. A total loan amount of Rs. 1621.76 lakh had been sanctioned, out of which an amount of Rs. 1341.33 lakh had been released. The institutions whose projects had been completed had repaid an amount of Rs. 983.33 lakh to the Central Wakf Council. The Secretary, Minority Development Department, informed the Committee that the State Government through its scheme under the Karnataka Wakf Development Council finances Wakf institutions for development. It had so far financed 329 Wakf institutions at a cost of Rs. 14.22 crore for taking up development works.

12.17 The Committee however, came to know that several Wakf properties in prime locations were not yielding sufficient benefits and rents. The best example is the Hotel Windsor Mannor at Bangaluru developed on 5 acres of Wakf land taken on lease for a period of 30 years. The lease rental given was around Rs. 12 thousand per month for a present land value of around Rs. 5 hundred crores. There is a dispute about the period of lease of this property and the matter is in the Court. Recently, the Court has ordered to lessee to deposit a rent of Rs. 6 lakh per month.

TAMIL NADU

12.18 In respect of development of Wakf properties in Tamil Nadu, the Central Wakf Council sanctioned a development loan under the scheme of development of Urban Wakf properties, and the Wakf Board so far had received Rs 2,44,38,000 from the Central Wakf Council for this purpose. In regard to future proposals for the development of Wakf properties, the Tamil Nadu Wakf Board submitted to the Committee the following plan:

The Tamil Nadu Wakf Board in its order in item no. 136/03 dated 02.12.03, resolved to permit the Ashraf Ali Sha and Farid Ali Sha Thaikka, Mandaveli, Chennai, to develop the Wakf property with the investment that may be brought in by the Idgah Mosque, Mandaveli, Chennai. The Board finally directed the Committee of Idgah Mosque, Mandaveli and Ashraf Ali Sha and Farid Ali Sha Thaikka, Mandaveli to prepare a memorandum of understanding on mutually agreed terms and conditions with the Board.

WEST BENGAL

12.19 The Committee was informed that several developmental activities were undertaken by the Board in West Bengal. The following are some of the developmental programmes undertaken/proposed to be undertaken:

- a. The Board proposes to construct soon a residential school at Patherchapuri, Birbhum in collaboration with Al-Ameen Mission. The Wakf Board of West Bengal has taken decision for the remodeling of the Holy shrine of date Mahboob Shah at Patharchapuri out of the income of the Wakf estate.
- b. The Board has entered into an agreement with the Mutawallis for construction of Boys' Hostel at Boo Ali Wakf Estate, 1, Kaiser Street, Sealdah, Kolkata.

- c. The Board has entered into an agreement with the Bangladesh High Commission for constructing a commercial-cum-residential complex along with Community Hall in Dr. Suhrawardy Wakf Estate located at 3, Suhrawardy Avenue in the house presently rented to the Library & Information Centre, Dy. Commissioner, Bangladesh.
- d. Negotiation is under way for developing a commercial complex at Kalimpong, Darjeeling.

12.20 It was also stated that proposal for development of some more Wakf estates had already been sent to the Government for getting necessary approval.

12.21 The Committee was also informed that the matter of large scale development of Wakf properties was under consideration of the Government for the welfare of Muslim community, but in the absence of specific development rules, the matter was not progressing. The Board had very recently resolved to frame development rules for implementation of the scheme. In the meantime, however some schemes had already been taken up.

UTTAR PRADESH

12.22 The Committee was informed that the Uttar Pradesh Wakf Development Corporation had been established by the State Government for the Development of Wakf properties. The Board has granted permission for the development of 69 Wakfs to the Development Corporation, but the Corporation has been able to finalise only 28 cases during the last 25 years.

12.23 In Uttar Pradesh, the Central Wakf Council granted loan for the construction a Cold Storage at Wakf No.-457-Moradabad (Amroha, J.P. Nagar) and Abrariya Musafir Khana at Wakf No.-9-Firozabad. The grant of loan was released by the Council after a long period and the projects could not be completed against the estimated amount.

12.24 The Committee was informed that for the speedy development of the Wakf properties, the Development Committee of the Uttar Pradesh Sunni Wakf Board, decided to give the Wakf properties on license basis to private builders/construction agencies as also for the construction of shopping/residential complex, shops, flats, etc., under the supervision and control of the nominees of the Board. For this purpose, the Development Committee approved a tripartite deed of License with certain terms and conditions to be

executed jointly by Mutawallis/Managing Committee, Nominee of the Board and the Uttar Pradesh Wakf Vikas Nigam/Builder/Construction Agencies.

MAHARASHTRA

12.25 The Maharashtra Wakf Board informed the Committee that there were several prime Wakf properties located in various cities in the State with large potential for development. But due to illegal occupation and litigation, the properties could not be taken up for development. It was stated that although about 20 locations, could be taken up immediately for development, but active support of the Government, Revenue Machinery and Police would be required, which was difficult on many occasions. It was also stated that no Wakf properties had been developed or taken up for development during the last three years and only four properties had been developed since the inception of the Wakf Board.

12.26 There are several prime Wakf properties in Maharashtra, particularly Mumbai, which if developed properly, could fetch a huge amount for the Wakf and the Wakf Board. There is one Currimbhoy Ebrahim Orphanage Trust which was visited by this Committee and the status of which is currently under adjudication in the Bombay High Court. This property was dedicated for running an Orphanage by the late Currimbhoy. The Trust was running an Orphanage with just 50 orphans. The Committee was informed that the Trustees applied to the Charity Commissioner, Maharashtra to permit them to sell the property as they did not have adequate income to run an orphanage. The property was sold for a paltry sum of Rs. 21 crore though the market value of the property is estimated to be over Rs. 350 crores.

ANDHRA PRADESH

12.27 The Committee was informed that the Government of Andhra Pradesh released revolving fund to Wakf institutions to the tune of Rs. 925.00 Lakhs from 1996-97 to 2007-08 for construction of commercial complexes to augment income in respect of 40 properties.. The Government provided Rs. 130.00 Lakh during the year 2008-2009 and a sum of Rs. 25.00 Lakh was released in the first quarter of the year 2008-2009.

12.28 The Wakf Board took up the unique project of Construction of the Haj House at Hyderabad on the Wakf land of Razzack Manzil with a project cost of Rs.10 crore providing facilities to the Haj Pilgrims. The Government released Rs. 4.89 crore for construction of the Haj House between the period 1996-97 and 2003-04 and the remaining amount was to be paid by the Wakf Board and the Central Haj Committee. This project has been completed. The Committee was informed that after completion of the Haj House, the

Government constituted Haj House Management and Development Committee for maintenance of the Haj House and was accordingly providing funds for its maintenance. During the year 2007-08 Rs. 25.00 lakhs were provided and Rs. 5.00 lakhs released for the first quarter for the year 2008-2009. The Committee was also informed that the Andhra Pradesh Wakf Board took up the following development plans:-

- (a) Dh. Hzt. Kareemullah Shah Quadri, Kasoor, Nellore District.
- (b) Dh. Hzt. Jan Pak Shaheed, Janapahad, Nalgonda District.
- (c) Dh. Hzt. Jahangeer Peeran, Mahaboobnagar District.
- (d) Dh. Syed Saadullah Hussaini, Baba Pahad, Nizamabad District.
- (e) Dh. Hzt. Yakoob Shaheed, Annaram Shareef, Warangal District.
- (f) New trades opened in JPITI, Mahaboobnagar.

12.29 The Committee, during its visit to Andhra Pradesh in July 2008, was informed that the State Government acquired and sold certain Wakf properties that have been discussed in the Chapter on Encroachments. One Wakf land in Manikonda was sold by the Government of Andhra Pradesh to a private company at the rate of Rs. 4 crores per acre in the Hi Tech City of Hyderabad. The company was putting up a mini Cyber City in the area and the Committee was informed that the total construction on the 100 acres land which was being developed, would fetch over Rs. 10,000 crores to the company.

12.30 Another disputed Wakf land, measuring around 6,000 acres in Andhra Pradesh is in Vizag. As already discussed earlier, the Government of Andhra Pradesh, presuming that the land belongs to them, allotted about 900 acres to NTPC and another 800 acres to Hindujas at the rate of Rs. 2.25 lakhs per acre. The Committee was informed that the dispute had been resolved by the State Government and the Wakf Board and the State Government agreed to share the proceeds of the sale to NTPC and Hindujas in the proportion of 2/3 and 1/3 - 2/3 to Wakf Board and 1/3 to the people who were occupying the land or cultivating the land as compensation. Despite this, around 4000 acres land is still vacant and available. With the presence of NTPC, the value of the land has gone up and now the land price in the area is around Rs. 20 to 25 lakhs per acre. If the available land is properly utilized, it is likely to fetch around Rs. 1,000 crores.

HARYANA

12.31 The Committee was given to understand that as already discussed earlier, in the Faridabad Industrial area in Haryana, a valuable piece of Wakf land measuring around 5 acres and situated in a fully developed area, had been given on lease to three parties as agricultural land for a paltry rent of Rs. 500/- per year. The Lessee has taken the agricultural land for agricultural purposes and later on got converted its use from agricultural to industrial activity and had put up huge industrial sheds and had further leased out to different parties and was earning an income of over Rs. 5 lakhs per month. The present value of the property would be more than is Rs. 25 crore but it is fetching hardly any income to the Board.

12.32 The Committee is happy to note that the Haryana Wakf Board has taken a laudable initiative by setting up an Engineering College in Mewat region of Nuh District, which will impart technical education to the children coming from the weaker sections of the society and thus fulfilling the objectives of the Wakf.

OBSERVATIONS AND RECOMMENDATIONS

12.33 Though the Act of 1995 has been in force for over thirteen years, hardly any Wakf Board has taken proper initiative to develop properties under Section 32 (4), (5) and (6) of the Act. This is because almost all the Boards are financially weak, members of the Boards have hardly any vision and the management is abysmally weak. Further, they do not have the capability of raising resources for the development. The financial condition of the Boards is so bad that they are not having sufficient income even to pay the salaries of the staff. The funding for development by the Central Wakf Council is very meagre which, in fact, will not be sufficient for the development of prime urban properties. The maximum amount provided by the Central Wakf Council Development Fund is around Rs. one crore. With this amount the Central Wakf Council is unable to fund large capital intensive projects, which require huge investment.

12.34 With the present state of affairs of the State Wakf Boards and its administrative set up, the dream of development of Wakf properties will remain on paper only, if the Central Government, the State Governments and the Muslim Community fail to address seriously the problems of the development of Wakfs in the country. All this can happen only if there are sufficient finance provided for this purpose. Any development can be possible only through organized institutional mechanism involving highly professional people to meet the challenges of development. There is a need to establish a mechanism and set up a development agency, which may exclusively devote for the development of valuable Wakf properties, which are at present being illegally occupied and exploited by unscrupulous builders in connivance with corrupt officials of the State Wakf Boards, Mutawallis and the weak management Committees. Metro cities like Delhi, Kolkata, Chennai, Bangalore, Hyderabad, Mumbai and other major cities have prime Wakf properties which would be worth several thousand crores such as Windsor Manner Hotel of Bangalore, Tolly Ganj Club of Kolkata, Shaw Wallace Building at Kolkata, nearly four thousand acres of land in the hi-tech city and near the Airport of Hyderabad and another four thousand acres of land in Vizag, after some of it was allocated to NTPC and Hindujas. These are all Wakf properties. In the capital city of Delhi alone, there are several Wakf properties in the fully developed commercial areas. One should not forget the fact that these properties are, basically, public properties which do not belong to any individual. It is the responsibility of the Government to protect, preserve and develop these properties. The responsibility of

the Government will not be over just by enacting a law and not making efforts to sincerely implement it as also to monitor its implementation. From the evidence tendered before the Committee, the Committee has come to the conclusion that Governments, Central and the State, are aware of the misuse of valuable Wakf properties, which are public properties but what is astonishing is that they have remained silent spectators to all this and have not discharged their responsibilities in a manner they are expected to do.

12.35 The Committee feels that the Central Government and the State Governments cannot abdicate their duty towards the Muslim community thereby ignoring their legitimate aspirations. In this context, it would be necessary to point out that the Right to Freedom of Religion has been guaranteed under articles 25, 26 and 27 by the Constitution which includes right to protect the religious and charitable properties. The Committee, therefore, strongly feels that the Central Government should take urgent steps to develop the Wakf properties and redress the genuine grievances of the Indian Muslims, who constitute 15 per cent of the total population of the country. What is expected of the Government is to establish an institutional and regulatory mechanism, as has been done in several other cases to protect public properties by the Government. Such action does not require huge budgetary involvement. Though Section 32 (4), (5) and (6) of the Wakf Act, 1995, empowers the Wakf Boards to take over properties which can be developed commercially, this, however, requires huge financial funding, which is not currently available with the Boards. The Committee, therefore, feels that adequate funding be made available to Wakf Boards by setting up a Wakf Development and Finance Corporation at the national level which can raise resources from the market and other sources, including commercial institutions, prepare development plans and finance them. On the same lines, the State Governments may promote a Wakf Development and Finance Corporations which would take care of development of large Wakf properties and financing of the development of Wakf properties.

12.36 Such an Agency would be most viable as no investment on the land is involved. Today, in real estate, the major cost of developing a property is its land value. As no investment will be required on the land, the investment in building a super structure over the land will enhance the value of the property manifold. The return on investment made will be quite substantial and the period of realization of the amount invested will not take more than two to three years time. Just to elaborate this, if a

project is taken up for commercial development of property in any of the Metros on a plot of 10 thousand sq. ft., the total asset value created will be around Rs. 10 crore. The return of income is calculated on the total asset value and if a minimum of 10 per cent return of this developed property is taken into account, the annual return will be about Rs. 1 crore per year. This example is cited only to highlight how viable and safe the investment will be in the Wakf properties. Thus, it would not be difficult to raise resources for such a Corporation. There are hundreds of Wakf institutions which are financially viable institutions having surplus income. Even with a conservative estimate that 5 per cent of the total Wakf institutions in the country are financially viable then there will be more than 20 to 25 thousand Wakf institutions which can easily invest their surplus in such a Corporation. Such a Corporation would also be able to borrow from international investors, investment banks and emerging Islamic banks as the investment is in compliance with the Shariat Law and the returns will be attractive in such projects.

12.37 There is a great enthusiasm among the people in general and the Muslim community, in particular, supporting the idea that the Wakf properties be developed and the income so generated should be utilized for the educational and economic uplift of the Muslim Community. The Committee is of the view that there is need to motivate the Community to channelize its savings to be invested in the proposed Development Corporation. The Muslim Community of 150 million people in India will definitely support such an effort, if such a Corporation is established under the regulations of the Central Government. The Committee feels that it is possible for such a Corporation to mobilize on an average Rs. 5 hundred crores annually and invest in the Wakf properties for development. It is possible to invest over Rs. 10 thousand crore in the next 10 years, which will be yielding over Rs. 10 thousand crore annual income after 10 years. The income so generated will take care of the educational and economic uplift of the Muslims in particular and public in general. Though such an estimation of the potentiality of Wakf development may, for the present, look too ambitious and dreamy but some of the examples of the properties developed would reveal that it can be achieved.

12.38 There are several hundreds of such properties in India in urban areas which can be developed. If the private developers can develop the properties, the Committee sees no reason as to why the Government should hesitate in creating an institution to develop Wakf properties and enhance the income of the Wakf. The Committee is

strongly of the view that there is a need to survey and identify properties which can be commercially developed.

12.39 The Muslim Community, which is the main beneficiaries of the Wakfs, is agitated and feels helpless because of the indifferent attitude of the Central and State Governments. The Committee feels that the Muslim Community and its leadership too cannot escape from sharing responsibility for this sorry state of affairs of the Wakf properties. The Community has hardly taken any interest in preventing the misuse of the valuable Wakf properties and raising its voice against the misuse. Muslim Community has remained silent spectator to the exploitation of the Wakf properties by vested interests and has only remained contented by voicing its concern over the apathy regarding the Wakf and step motherly treatment by the Government. Though under the Wakf Act, the entire management of Wakf is in the hands of Muslims and the Mutawallis, the misuse of majority of the Wakf properties has been done by the Muslims themselves and, therefore, it is but appropriate that the community should take the blame for the present state of affairs.

12.40 The Committee is happy to note that the Central Government has given its approval to the setting up of a National Wakf Development Agency as a Subsidiary of the National Minorities Development and Finance Corporation. The Committee appreciates the Government for acting promptly on the recommendation made in its Third Report.

12.41 Taking in to consideration the extent of potential Wakf properties in the metro cities and the important cities in the country, a massive investment is needed if these properties have to be saved and developed. The required investment is so huge that the Government or any other corporation will not be able to provide. The Government has several schemes for financing the development of the urban properties of statutory bodies like Municipal Corporations, Road Transport Corporations and similar bodies under Jawaharlal Nehru National Urban Renewal Mission (JNNURM) and Urban Infrastructure Development Scheme for Small & Medium Towns (UIDSSMT). The Committee recommends that the Central Government may include development of Wakf property in the scheme and provide funds for Wakf Development projects under JNNURM/UIDSSMT scheme.

12.42 The Committee further recommend that the proposed Corporation should be professionally managed and its main objectives shall be to identify Wakf properties which have the potential for development and after such identification, develop them

commercially by entering into development agreement with the Wakf institutions / Wakf Boards and then transfer the developed properties to the Wakf after realizing the cost incurred and the profit margins. The proposed Corporation may also enter into a management agreement with Wakf institutions to manage the developed properties on commercial lines.

12.43 The Committee recommends that Section 56 of the Wakf Act may be suitably amended to exempt properties given for development to the proposed Corporation and to such other institutions which the Central Government may deem fit in consultation with the Wakf Board and State Government concerned.

12.44 The Committee recommends that all properties developed by the proposed Corporation after realizing the costs incurred and the agreed profits from the income generated through the developed property, the remaining income first could be used to meet the expenditure to be incurred on the basic objective of the Wakf and the remaining income, then, could be utilized as under : one third of the balance income for building reserve for the Wakf, one third be contributed to educational activities and one third be utilized for the economic development of the community.

12.45 The Committee also recommends for the setting up of a Disputes Resolution Authority which would resolve the long pending land disputes between the Government and the various Wakfs. The Authority could either be a statutory body or set up by an order of the Government. It would resolve all disputes between the Government and the Wakf and shall consist of three members, presided over by a Judge of the High Court, a retired senior administrative officer not below the rank of the Chief Secretary of a State and a nominee of the Wakf Board, who should be a practicing advocate or a financial expert with a minimum standing of twenty years or a Government administrative officer not below the rank of an Additional Secretary to the Government of India. This Authority will hear all the disputes between the Government and the Wakf Board and resolve the disputes amicably between them. The decision of the Authority shall be binding on the parties. The Committee recommends that if need be, the Wakf Act, 1995, may also be amended for incorporating a provision for setting up of such an Authority.

12.46 The development of Wakf properties is a much debated subject. The question of developing Wakf properties particularly urban Wakf properties for commercial use and to enhance the income of the Wakf, for the benefit of the Wakf and its

beneficiaries has been a subject matter of discussions and debates since the enactment of the Wakf Act, 1954. Taking into consideration the large extent of Wakf land available in urban areas and the meagre income from such properties, it needs an urgent attention of all concerned including the Government, Wakf Boards and the community to commercially develop such lands and enhance the income of the Wakfs.

12.47 Considering the nature and the extent of large number of urban Wakf properties, the annual development assistance should be to the order of say, between Rs. one thousand to two thousand crore and much of it can come through institutional mechanism. Another biggest hurdle for the development of the properties is the legal impediment and the resistance by the Mutawallis and also objections of the Shariat Law for diversion of the income from one Wakf to the other. The Muslim society should address these issues.

12.48 The Committee urges upon the Muslim society to come forward in protecting the Wakf properties from further alienation and expose all such persons both individual and organizations who have usurped the Wakf properties and misused it for their personal gains. Muslim society should impress upon those Mutawallis, who have grabbed the valuable properties, to vacate occupation of such properties for the overall benefit of the community.

12.49 The Committee strongly feels that the Government should enact stringent legal measures to punish those Mutawallis who are using the Wakf properties for their personal benefit. The Committee also noted that a vast majority of the valuable Wakf properties in the country are in possession of Muslims or Muslim organizations, who are paying rents which are not sufficient even for the upkeep of the property, let alone meeting the other expenses of the Wakf. Muslims, who are using the properties commercially and not paying the fair rent, should be persuaded to pay fair rent or they should be evicted as in most of the States, Wakf properties have been exempted from the Rent Control Act. The Committee regrets to observe that the Wakf Boards have totally failed in protecting the Wakf properties and enforcing the Wakf Act. There is an adequate legal framework existing for the removal of illegal occupation and encroachment, however, what is expected of the Wakf Boards is that they should now act.

12.50 The Committee observes that the restrictions imposed on the leasing of Wakf properties in Section 56 of the Wakf Act, 1995, are, in fact, to encourage development of Wakf properties and for this purpose, explicit provisions in Section 32 (4) (5) (6) in

the Act have been made, which intend to develop Wakf lands and discourage their leasing.

CHAPTER - XIII

Summary of Observations and Recommendations

Problems faced by the Wakf Institutions

13.1 Despite wide powers and major responsibilities given to the State Governments in the matter of Wakf administration under the Wakf Act, 1995 the States have generally failed to monitor the activities of the Boards and have not taken any interest in Wakf administration and remained a silent spectator to the gross violations of the Act and encroachments of the valuable Wakf properties.

(Para No. 2.7)

Constitution of Wakf Boards

13.2 Besides, the Boards also suffer from the apathy of the State Governments in not appointing regular CEO who is the most important functionary of the Wakf Board and, for all practical purposes, he discharges the directions of the Board. However, from the material available with the Committee, it has been found that most of the States have hardly considered the CEOs as important functionaries of the Boards. Major States have not shown the willingness in appointing full time CEOs resulting in the breakdown of the entire machinery of the Wakf Boards.

(Para No. 3.9)

13.3 The Committee is constrained to note that Bihar, which is one of the biggest States in India, having a large number of Muslim population and a large number of Wakf properties, has not taken any steps to reconstitute the Board after the term of both the Boards had expired. It is about two years since the term of both the Boards had expired, and in spite of the assurances given by the Chief Secretary and the Secretary, the situation has not changed so far. The Bihar Wakf Board is currently directionless and non-functional. This is, again, a case of lack of seriousness on the part of the state Government to constitute the Board.

(Para No. 3.14)

13.4 The Committee expresses its deep anguish over the lack of interest by the State Government of Bihar in providing the full staff strength to the Wakf Boards. The Sunni Wakf Board is not having even the 50 per cent of the sanctioned strength. Without adequate staff it would be difficult to manage the activities of the Wakf

Board and to look after the Wakf properties.

(Para No. 3.18)

13.5 The Committee urges the Himachal Pradesh Government for early reconstitution of the Wakf Board.

(Para No. 3.22)

13.6 The Committee is constrained to note that sufficient staff is not being provided by the State Government to the Wakf Board. Since the Himachal Pradesh Wakf Board is a new Wakf Board, it requires sufficient staff to manage the affairs of the Board as well as to take care of the Wakf properties. The State Government should also take necessary steps to ensure framing of rules and regulations at the earliest and sanction adequate staff.

(Para No. 3.23)

13.7 The Committee feels that the explanation and the reasons given for not constituting (Andhra Pradesh) Board were not valid because the Board can still be constituted even if vacancies exist in one or two categories. There is no sincerity on the part of the Government to constitute the Board. By not constituting the Board for over four years, the State Government has violated the provision of the Wakf Act.

(Para No. 3.26)

13.8 The Committee feels that the Andhra Pradesh Wakf Board is directionless and non-functional at present and expresses its displeasure at the state of affairs of the Board. The Committee strongly urges the Government of Andhra Pradesh to constitute the Board without any further delay and to post a full time CEO in the Board. Taking into consideration of the number of Wakf properties and the stake of the Board to protect and develop these huge properties, the Board's staff strength should be increased. The Committee is constrained to note that the Andhra Pradesh Wakf Board, which has been in existence for over 40 years, has not been able to remove illegal occupation or encroachment on Wakf properties, develop Wakf properties and enhance the Wakf income. In fact, several properties have been further encroached upon or illegally occupied during the existence of the Board.

(Para No. 3.29)

13.9 The Committee is not happy with the state of affairs of the Maharashtra Wakf Board. Maharashtra is one of the most progressive states in the country. Wakf properties are public properties and it is the duty of the state to protect them by implementing the law in letter and spirit. The Committee strongly feels that the

Maharashtra Government has totally abdicated its constitutional obligation to implement the law passed by Parliament. (Para No. 3.40)

13.10 While the report was being finalized, the Committee was informed that the State Wakf Board has been constituted and a regular CEO has also been appointed. This has been done due to the intervention of the Committee. The State Government should ever be vigilant.

(Para No. 3.41)

13.11 The Committee expresses its deep concern about the way the Punjab Board is functioning, and the way valuable Wakf properties are leased out for a negligible consideration.

(Para No. 3.43)

13.12 The Committee urges the Punjab Government to post full time CEO as early as possible. The Committee was also given to understand that the Punjab Wakf Board did not have building of its own inspite of having land in Mohali. The Board is paying a monthly rent of Rs. 60,000. The Board had sent a proposal of constructing a separate building in the said land, to the State Government which has not been cleared so far. The Committee takes a serious view of this and desires that the State Government may take early action to clear the proposal.

(Para No. 3.44)

13.13 The Committee strongly urges upon the Government of Haryana to reconstitute the Board immediately and to post a senior officer of the State as full time Administrator and a CEO. The Committee further urges the State Government to direct the Board not to lease out the properties, instead the Board should be asked to develop properties as per the provisions of section 32(4)(5) and (6) of the Wakf Act, 1995.

(Para No. 3.46)

13.14 The Committee urges the Government of Orissa to post a full time CEO and to increase the staff strength.

(Para No. 3.50)

13.15 The Committee urges the state Government to immediately permit the Board to fill the vacant posts and also finalise the rules and regulations on a priority basis.

(Para No. 3.53)

13.16 The Committee urges upon the state Government to reconstitute the Wakf Board immediately. Further the Committee advises the Government of Uttarakhand to post a Muslim officer as Administrator in accordance with the provisions of the Wakf Act, 1995.

(Para No. 3.56)

13.17 The Committee is dismayed to note that the Jharkhand Sunni Wakf Board has been constituted by the State Government nearly eight years after the formation of the State, that too when the Committee had persistently taken up the matter with the State Government. The Committee desires to know the status of Shia Wakfs in the State as the State Government has not given any information regarding the constitution of the Shia Wakf Board. (Para No. 3.59)

13.18 It is very unfortunate that the State Government of Jharkhand has not paid the desired attention to the Wakf matters. (Para No. 3.60)

13.19 The Committee expresses its displeasure at the state of affairs of the Gujarat Wakf Board and hold the Government of Gujarat responsible for neglecting its responsibilities under the Wakf Act, 1995. The ignorance of those who are in charge of Wakf affairs about the state of affairs of Gujarat Wakf Board reflects their attitude as also total lack of commitment to their duty. The Committee urges the Government of Gujarat to immediately constitute the Board and take proper administrative steps for effective functioning of the Wakf Board in the State. (Para No. 3.63)

13.20 From the review of the status of the Wakf Boards in the Country, it has been noticed that the Wakf Boards have not been constituted in majority of the States. The Committee is constrained to note that even the bigger States such as Andhra Pradesh and Bihar, having large Wakf properties, are not taking initiative to constitute the Wakf Boards. In States like Andhra Pradesh and Himachal Pradesh, the Wakf Boards have been superseded whereas in States like Bihar, the State Government has not constituted the Wakf Board after the term of the existing Board had expired. Most of the State Governments do not appear to have the will and interest in the implementation of the Wakf Act, 1995. For the proper monitoring and management of the Wakf properties, it is very essential that Wakf Boards exist and function effectively in every State. The Committee expresses its deep concern over the unhelpful attitudes of the State Governments on Wakf matters. The Committee strongly recommends that the Central Government may direct every State to constitute Wakf Board immediately as per the provision of the Wakf Act, 1995 wherever it does not exist or not constituted. The Committee further urges the Central Government to convene a meeting of the Chief Ministers of the states to discuss the non-cooperative attitude of the State Governments relating to the Wakf matters. The Committee also fails to understand why the States of Punjab, Haryana, Himachal

Pradesh and Union Territory of Chandigarh, despite opting for independent Boards, have not evinced any interest in the administration of their Wakf Boards.

(Para No. 3.65)

13.21 The Committee strongly recommends that the Wakf Boards should not be used for providing political patronage by the State Governments. Politics should be kept away from the Wakf Boards. Wakf Boards deal with the religious and charitable institutions and discharge a very sacred duty. These institutions possess huge valuable assets belonging to the community. Unscrupulous and incompetent persons should not be put in charge of the Wakf Boards and damage the cause of the Wakf.

(Para No. 3.66)

13.22 The State Governments should avoid superseding the Wakf Boards for extraneous political considerations. This should be resorted to only in the rarest of the rare case, when it is unavoidable. The State Governments should use its statutory power under the Act to deal with mismanagement of the Wakf affairs by the Boards.

(Para No. 3.67)

13.23 The Committee regrets to note that certain States have continued the Wakf Boards with the same composition without reconstituting them even after the term of the previous Board had expired. The Committee found that in the case of Gujarat, neither the State Government nor the Chief Executive Officer was aware of the provisions of the Wakf Act, 1995 for reconstitution of the Board after the term of the previous Board had expired. The Committee is constrained to observe that this reflects the attitude of certain officials dealing Wakf matters in the Government.

(Para No. 3.68)

13.24 The Committee has also noted that certain State Governments do not appoint Administrator whenever Wakf Board is superseded or to be reconstituted or ceases to exist, by virtue of completion of the term or supersession. Appointment of Administrator in such cases is mandatory. In the absence of the Board, the Administrator will discharge the functions of the Board. The Committee has, however, noted that in States like Bihar, the Administrator has not been appointed even though the term of the Shia Wakf Board of Bihar had expired two years ago. In the absence of the Board and the Administrator, the Wakf Board becomes non-functional as there is nobody to exercise the powers of the Board or to monitor the functioning of the Wakfs in the State. Some of the States have designated the CEOs as Administrators,

which is illegal. The Administrator and the CEO cannot be the same person. It is, therefore, necessary that whenever the Board ceases to exist, an Administrator should invariably be appointed at the earliest to exercise the powers of the Board till the new Board is constituted.

(Para No. 3.69)

13.25 The Committee would, in this regard, like to draw the attention of the Government to the amendments proposed by it, in its Third Report, proposing changes in the composition in the Wakf Boards. This has been done with a view to making the Wakf Boards more effective. The Committee reiterates this recommendation and further desires that the Government should consider the recommendations contained in its Third Report and take action at the earliest.

(Para No. 3.70)

13.26 In respect of the Chief Executive Officers, the Committee has noticed that in most of the States, the charge of the Chief Executive Officers is given as an additional charge to his existing duties. The Committee is of the view that this arrangement will not go well with the duties that are to be performed by a Chief Executive Officer, particularly in bigger States like Andhra Pradesh and Bihar, which have large number of Wakf properties. The Committee has also noticed that sometimes the Chief Executive Officers are removed or transferred on flimsy grounds, even though the officers are performing well. The experience of Maharashtra is a classic example in this regard. The Chief Executive Officer is an important functionary of the Wakf Board. If he has been given an additional charge, he would not be able to do justice to his duties. The Committee, therefore, recommends that the Chief Executive Officers should always be given regular charge and not as additional charge.

(Para No. 3.71)

13.27 The Committee has also noticed that in States like Jharkhand, the Chief Executive Officer has not been appointed at all. As a matter of fact, in Jharkhand, there is no Office of the Wakf Board, and there are no other staff members. The Committee takes a strong exception to such a callous attitude of the State Governments. The Committee, therefore, recommends that the State Government should appoint a senior Muslim officer as Chief Executive Officer of the Wakf Board.

(Para No. 3.72)

13.28 The Committee has also noticed that in most of the Wakf Boards, the staff strength is insufficient. Besides the insufficient staff strength, the Committee has also noticed that there are a large number of vacancies in the State Wakf Boards and the positions have been allowed to remain vacant for several years. With such meagre staff, needless to say, Wakf Boards would hardly be able to work. For example, in Bihar in the Sunni Wakf Board, against the sanctioned strength of 50, there are only 17 persons in position, leaving 23 vacancies for a very long time. The Committee, therefore, recommends that the State Governments, in the first instance, should sanction sufficient staff for the Wakf Board as may be required by them. The State Governments should also keep in mind the requirement of the staff at the district level also for inspecting the Wakfs in the districts. Similarly, whenever there are vacancies in the staff positions, the State Governments should immediately get the vacancies filled up and for this purpose, there should be a regular coordination between the Wakf Boards and the State Governments. In cases of delays due to genuine and unavoidable reasons, *ad hoc* or part time staff be provided so that the working of the Boards is not adversely affected.

(Para No. 3.73)

13.29 The Committee during its visits to various States was informed by the employees that there are hardly any promotional avenues for employees working in the Wakf Boards. It was also informed that due to lack of promotional avenues the employees stagnate in the same post for many years thus resulting in losing interest and incentive. The employees pleaded before the Committee, that similar promotional avenues as are available to the State Government employees may also be made available to them. The Committee therefore recommends that the Secretariat's of the Wakf Boards may be restructured in such a manner providing for timely promotions at every level. The State Governments may also give similar facilities to the employees of the Wakf Board as available to the State Government employees.

(Para No. 3.74)

13.30 The Committee has also noted that in several States, rules and regulations under the Wakf Act have not been framed. Wakf rules and regulations are very essential for the proper functioning of the Board. They would bring in transparency to the extent possible in the functioning of the Board. Only very few States like Assam, Kerala, have both rules and regulations in place. The Committee, therefore, recommends that the Central Government should impress upon the State Governments to finalise the Wakf rules and regulations for the Wakf Boards at the

earliest.

(Para No. 3.75)

13.31 It would be seen from Table III that there are several States which have shown either very less number of Wakf properties or no properties such as Arunachal Pradesh, Meghalaya, Mizoram, Nagaland. In two other States in North-East, Manipur has 240 properties and Tripura has 625 properties. However, the Committee has noted that even though there is lot of expenditure to be incurred, the income of the Boards is very meager in smaller States. It would, therefore, be appropriate if small States are clubbed together and a common Wakf Board is formed under section 106 of the Wakf Act. The Committee, therefore, recommends that the Central Government may explore the possibility of having common Wakf Boards for smaller States and Union Territories for better management of the Wakfs.

(Para No. 3.76)

13.32 The Committee has noted that the Jammu and Kashmir Wakafs Act, 1978 provides for constitution of Tehsil Wakf Committees. Section 7 (1) of the Act provides for establishment of one or more Wakf Committees in each Tehsil. The Committee desires that Tehsil or Taluka level Committee is a good proposition for better management of Wakfs at the local level. The Committee, therefore, recommends that there may be a District Committee at the District level and Taluka/Mandal Committees at the Taluka/Mandal level as the case may be in each District of every State. However, there may be some Talukas/Mandals where there are no sufficient Wakf properties/Muslim population for forming a Taluka/Mandal level Committee. In such cases, the adjoining two or three Talukas/Mandals may be joined together and one Committee may be formed. The Government may bring in necessary amendment in this regard in the Wakf Act, 1995.

(Para No. 3.77)

Survey of Wakfs

13.33 The Committee in its Second Report had recommended that procedure for the survey of Wakf properties should be such that it was transparent and open to the public, with a system to correct errors in survey.

(Para No. 4.6)

13.34 The Committee is of the opinion that Assam should be having more Wakf properties than it has identified and there is need for the Board and the state Government to speed up the survey and identify the Wakf properties. There seems to

be lack of interest on the part of the state Government and the officials which is regrettable. The Committee strongly urges the state Government to evince more interest in the administration of the Assam Wakf Board. (Para No. 4.14)

13.35 It has been about ten years since the Survey Commissioner was appointed. It is not a satisfactory performance by a State like West Bengal. A period of ten years is a very long time for this work and it appears that the State machinery was not serious in completing the task. The Committee has also noted from the schedule sent by the West Bengal Government in July, 2008, that the survey was proposed to be completed by 21.10. 2008. (Para No. 4.24)

13.36 The Committee is constrained to note that even though survey was notified in 1999, not even 1/7th of the Wakfs could be covered so far. The Principal Secretary sought one year's time to complete the survey. Such a slow pace of survey work reflected the lackadaisical approach of the State Government. If there is sufficient will, the survey can be completed within six months. (Para No. 4.30)

13.37 Delhi being the Capital of the country, survey work should have been taken up on a priority basis and it should have been completed much earlier. The procrastination by the officials is not acceptable to the Committee and the entire machinery should be activated so that the survey and verification process is completed at the earliest to ensure the notification of the survey report without much delay. (Para No. 4.32)

13.38 The Committee feels that the survey work in Andhra Pradesh is very slow and is not methodical. If the survey is not done on time, there will be further encroachments and the very purpose of re-survey will not be served. Encroachments of new Wakf properties would create more problems. (Para No. 4.41)

13.39 The Committee is of the view that the properties that were missing in the survey may be surveyed again instead of surveying all the properties. An early decision may be taken in the matter. (Para No. 4.43)

13.40 The Committee observes that the assurances given earlier have not been fulfilled. For the survey of 18,506 properties, it took about 7 years and for the remaining 13,718 properties, it is not known how long it would take. Therefore, it is necessary to appoint the required number of staff for this purpose so that the survey can be completed at the earliest. The process cannot prolong endlessly.

(Para No. 4.49)

13.41 At this rate, the Committee feels that the survey is not going to be completed in the near future, even though the Secretary had assured that the survey would be completed within one year. (Para No. 4.54)

13.42 The Committee is at a loss to see that even though survey was commissioned in 2001, not much progress has been made till now. In the first instance, the survey should not have been transferred to the Minority Welfare Department as the Revenue Department was the right agency to do the survey. The survey work should, therefore, be assigned to that Department only. The Committee is disappointed to see that successive assurances given to the Committee had not been implemented. This reflected the callous attitude of the State as the State machinery was hardly taking any interest in the matter. Necessary staff also needs to be put in place immediately for completing the survey work in a time-bound manner. The Committee desires that all these impediments may be removed for early completion of survey. (Para No. 4.57)

13.43 The Committee finds that Jharkhand is a classic case of inactive State machinery. Even though the Survey Commissioner was appointed, since there is no Wakf Board, there would be nobody to assist the Survey Commissioner to complete the survey at the earliest. (Para No. 4.59)

13.44 Survey of Wakf properties as mandated in section 4 of the Wakf Act, 1995 has not been carried out sincerely in any of the states, even after 12 years of the enactment of the Wakf Act. There is no state in the country which has completed the survey and notified the Wakf properties after the survey. This reflects the attitude of the State Governments and their sincerity in protecting and preserving the Wakf properties. The Central Government has a constitutional obligation to impress upon the states to implement the legislation. The Central Government cannot remain a silent spectator to the inaction of the State Governments. (Para No. 4.61)

13.45 The purpose of directing the State Governments to conduct survey under section 4 of the Wakf Act is to find out the left over Wakf properties in the earlier survey and also to ascertain the extent of encroachment of the Wakf properties. Any delay in carrying out the survey will only help land grabbers and land mafia in occupying valuable Wakf properties. The Committee has noted that some of the State Governments are conducting survey under the Wakf Act, 1995 only on the additional Wakf properties whereas earlier Wakf properties surveyed prior to the

Wakf Act, 1995 are not being touched. This is not the right procedure and every State is required to conduct survey of all the Wakf properties situated in the State. The Committee, therefore, strongly recommends that every State should conduct survey of all the Wakf properties situated in the State, registered or unregistered.

(Para No. 4.62)

13.46 The Committee has been given to understand that there is scarcity of staff in most of the States and sufficient staff strength is not being provided for conducting the survey. This has resulted in inordinate delay in completing the survey. Complaints have been received from almost all the States, including Karnataka, which is supposed to be a pioneering State in the Wakf administration. The Committee, therefore, recommends that the State Governments should augment the staff strength for conducting survey and completing it at the earliest.

(Para No. 4.63)

13.47 The Committee has been given to understand that in some of the States the survey work is being handed over midway, to the Department of Minority Affairs. The Committee is of the view that the Department of Minority Affairs will not be able to do the survey on its own without the survey staff of the Revenue Department, which is actually qualified to conduct surveys. The Committee feels that this is another move to shirk the responsibility and to delay the survey or to do a poor quality survey. The Committee is of the view that the Revenue Department of the state cannot abdicate its responsibility to conduct survey and recommends that the State Governments should associate the revenue survey staff in conducting the survey of the Wakf properties in the State.

(Para No. 4.64)

13.48 The Committee has also learnt that in some States, a peculiar situation has arisen. In the States of Maharashtra and Kerala, though survey was completed under the Wakf Act, 1995, complaints have been received on the quality of survey because several Wakf properties which were already notified as Wakf properties have been left out in the survey conducted under the Wakf Act, 1995. In view of this, in both the States, the survey has been held up and resurvey has been proposed to be conducted. The resurvey is yet to commence. The Committee is, of the view that the properties that have already been surveyed under the Wakf Act, 1995 may be notified immediately, and the additional properties that may come to light after the resurvey that may be conducted now may be included in the revised list which may be notified after completing the survey. The Committee strongly feels that wherever mistakes are

found in the survey, the State Government should immediately order for resurvey.

(Para No. 4.65)

13.49 The Committee is strongly of the view that if urgent steps are not taken by the central Government to impress upon the State Governments to conduct proper survey and expedite the survey, it will cause irreparable damage to the Wakf properties spread all over in the country.

(Para No. 4.66)

Encroachment of Wakf properties

13.50 The Committee appreciates the action of the West Bengal Government for enacting stringent penal provision for preventing encroachment and misuse of Wakf properties. The Committee hopes that the West Bengal Government would continue to take stringent action against the encroachers of the Wakf properties. The Committee recommends that the Government of West Bengal may bring all Wakf properties under the ambit of the Public Premises Act.

(Para No. 5.12)

13.51 These are only some of the cases which were brought to the notice of the Committee and there could be several other Wakf properties which might have been encroached. The Committee is happy to note that while the Rajasthan Wakf Board has taken action under section 54 and 55 and covered a considerable number of properties, but dismayed at the fact that the SDOs have not taken action except in a few cases. Large number of cases have been referred to SDOs under section 55. The Committee strongly urges the State Government to direct the SDOs to take immediate action to execute the eviction orders and get the properties evicted, and if they fail to take action, within a reasonable time, it should be held against them as dereliction of duty.

(Para No. 5.15)

13.52 The Committee strongly recommends that the Wakf Board may terminate the leases where the rent is not commensurate with the market rent, as the Rent Control Act is not applicable and fix the current market rent. The Committee further recommends to take *suo motu* action in implementing the Public Premises Act instead of waiting for receiving complaints.

(Para No. 5.18)

13.53 The Committee while interacting with the members of the Board learnt that they are not reviewing the progress of removal of encroachment, removal of illegal occupation and action taken under section 54 and 55 in their monthly meetings. The Committee advises the Board that it should make it mandatory in every Board meeting to review the progress of various statutory actions including the progress of

survey.

(Para No. 5.19)

13.54 The above cases are only illustrative and there could be many more Wakf properties encroached. The Committee is not satisfied with the functioning of the Assam Wakf Board. There are valuable Wakf properties in Assam and only a proper and effective survey alone will be able to identify which are the properties encroached and the extent of encroachment. The Committee is of the opinion that the number of Wakf properties registered with the Board is not correct. The Board should take active interest in identifying the Wakf properties and to register them. For example, Assam must be having hundreds of Mosques and Burial grounds which are definitely Wakf properties. The few properties shown above are very valuable properties and need to be protected. The Board has to initiate action under section 54 and 55 of the Wakf Act in the above cases.

(Para No. 5.22)

13.55 The Committee regrets to note that the State Government has totally neglected the Wakf administration. The Committee strongly urges the Government of Assam that it is its constitutional responsibility to implement the Wakf Act in letter and spirit and to supervise the functioning of the activities of the Board. The attitude of the Assam Government is regrettable and the Committee hopes that the Government of Assam will discharge its obligation and set right the affairs of the Wakf Board.

(Para No. 5.23)

13.56 The Committee is constrained to note that more than a thousand properties are under encroachment in the state with huge area. The Committee is also surprised to note that 587 eviction cases are pending with R.D.Os./S.D.Ms. and this does not present a good picture of the State machinery. The Committee appreciates the action of the Board for initiating action under section 54 in all the 1081 cases and issuing certificates in as many as 587 cases and have removed encroachment in 29 cases. The Committee express its unhappiness over the inaction of the RDO/Sub-divisional Magistrate in executing the certificates. The Committee strongly urges the State Government to direct the RDOs and the Sub-Divisional Magistrate to expedite the execution of the certificates.

(Para No. 5.27)

13.57 In view of fact that the case (Currimbhoy Ebrahim Khoja Orphanage Trust) is pending in the High Court and as such it is *sub judice* the Committee does not want to make any comment on the transaction. The Committee would leave it to the Wakf

Board to establish its claim in the Court.

(Para No. 5.29)

13.58 There are also several cases of alienation of Wakf properties in Maharashtra. The Committee was informed that the Chairman acted in a questionable manner by permitting the sale of several properties and issued NOC for lease or sale of the properties with his signature for which he was not authorised to do. The executive head of the Wakf Board is the CEO and all orders of the Board are issued under the signatures of the CEO and not the Chairman. The action of the then Chairman needs to be probed into by the Government, in view of the several complaints from the public.

(Para No. 5.30)

13.59 The Committee strongly recommends that the transactions that had been approved by the earlier Chairman may be enquired. The Committee further urges the Maharashtra Wakf Board to identify the properties that were encroached and initiate action to get the properties vacated.

(Para No. 5.31)

13.60 The Committee expresses its displeasure at the state of affairs of the Maharashtra Wakf Board. The Wakf administration has collapsed and the valuable Wakf properties worth several hundred crores are at the risk of being alienated by vested interests and land mafia. Maharashtra is one of the progressive states and it is regrettable that the Wakf Board is in shambles and Wakf properties are allowed to be encroached upon because of the negligence of the State Government and the Wakf Board. The Committee hopes that the State Government would understand the seriousness and discharge its obligation.

(Para No. 5.32)

13.61 The Committee inspected some of the encroached Wakf properties. The Committee is not happy with the efforts of the Wakf Board in removing the encroachment. With the buoyancy in the prices of real estate in Delhi, the land has become valuable. Instead of removing the encroachments, the Wakf Board is regularising the encroachment by collecting paltry rents. The Wakf Board is not able to safeguard the Wakf properties as it has limited staff and they seem to be more interested in getting rents than developing these valuable properties. Misuse of leasing provisions of the Wakf Act is rampant in certain States like Delhi, Punjab, Haryana and Himachal Pradesh which has been discussed in a separate Chapter.

(Para No. 5.36)

13.62 The Andhra Pradesh Wakf Board, which has been in existence for over forty years, has not been able to remove illegal occupation or encroachment on Wakf properties, develop Wakf properties and enhance the Wakf income. In fact, several properties have been further encroached upon or illegally occupied during the existence of the Board.

(Para No. 5.38)

13.63 On the basis of this assumption, several thousands acres of land in Andhra Pradesh has been taken over by the Government, which in the view of the Committee is not correct. The intention for which the land was granted to the Wakf is very important and it is very clear that the intention of the rulers granting the land was for the permanent and perpetual maintenance of the institution, *i.e.*, Dargahs and Khankhas. The stand of the Government that the grant is not to the Dargah but to the Sajjada or to the Mutawalli is not correct. Because of this approach, the Wakf has lost thousands of acre of land in Andhra Pradesh. The Committee urges the State Government of Andhra Pradesh to reconsider its decision and restore the lands to the Wakf and if the State needs the land, it may acquire it for any public purpose.

(Para No. 5.41)

13.64 The case of Dargah Hazrat Syed Ali Ishaq Madani Aulia is a classic case where the Government had to transfer back the land to the Wakf. The Committee urges the Government of Andhra Pradesh to decide other similar disputed land cases in the spirit of the judgment of the Supreme Court and not to prolong the litigations.

(Para No. 5.42)

13.65 The Committee urges the Government of Andhra Pradesh not to deprive the Wakf of such large area of land. The Wakf Board being a statutory body under the supervision of the State Government will not be in a position to fight the might of the State Government as a subordinate body. The Committee strongly recommends that the State Government should amicably settle the dispute instead of fighting a prolonged legal battle. The Committee further suggests that if the State Government for any reason, wants the land, it can acquire and pay adequate compensation to the Board so that it can develop other properties.

(Para No. 5.47)

13.66 The Committee expresses its displeasure that the Andhra Pradesh Wakf Board is non-functional as there has been no Board or Administrator for over four years. The Committee strongly feels that with such a weak administration of the

Board, it will not be able to protect the Wakf properties let alone removing the encroachment. The present Board with such large number of encroachment, has hardly initiated action under section 51 and 54 of the Act. Such a state of affairs will reflect the lack of interest of the state Government in Wakf affairs. The Committee strongly urges the State Government to immediately constitute the Board and provide a strong administrative set up to the Board. (Para No. 5.48)

13.67 The Committee regrets to observe that the trifurcation of the Punjab Wakf Board has not helped the Wakfs, but helped a few individuals and land mafia who, in connivance with the Government and the Board have grabbed valuable properties for a meagre consideration.

(Para No. 5.49)

13.68 From Table III it can be seen that the Wakf Boards have not been able to get the encroachments removed under Section 54 of the Wakf Act, 1995. This is mainly because most of the Boards are either non-functional or do not have the necessary funds, staff, etc. As discussed earlier, in most of the Boards, the CEOs are either holding additional charge or there is a vacancy of CEO. The Committee was shocked to know that the bigger States like Andhra Pradesh, Maharashtra, Bihar and Assam are not having full-time CEOs. Even in cases where the CEOs have initiated action under Section 54 for the removal of encroachment and issued necessary certificates, no action has been taken by the Sub-Divisional Magistrates to get the encroachment vacated. (Para No. 5.51)

13.69 Another important problem is that a large number of Wakf properties are in possession of the Government, both the State and the Centre. This is because the State Governments have assumed a large area of landed property, which was granted to the Wakf institutions, by the erstwhile rulers, for the maintenance of the Wakf institutions, by means of Inam or Jagirs, by invoking the provision of the Inam Abolition or the Jagir Abolition Act or the Land Reform Act and not treating the land as permanent dedication. Some of the Wakf properties were fraudulently occupied by the Mutawallis as their individual property which later came under the Land Reform Act. The stand taken by the State Governments in this regard is erroneous as the land is for the maintenance of the Wakf institutions, which remains with the Wakf in perpetuity. The Wakf land with the Government, though strictly, cannot be classified as encroached or illegally occupied, nonetheless by wrong interpretation of the provisions of the Inam Abolition Act or the Jagir Abolition Act, merely on technical grounds, the land is taken over by the Government. It is difficult for the Wakf Boards

to fight the Government in litigation, as the Boards are under the administrative control of the State Governments. There are hundreds of cases between the Wakf Boards and the Government pending in the Courts in the country. The Committee urges the Central Government to intervene and find out an agreeable solution to this problem. (Para No. 5.52)

13.70 The Committee strongly feels that the Government of Andhra Pradesh should revisit the entire issue of the Jagir lands taken over by the Government after the introduction of the Inam or Jagir Abolition Act and come to an amicable solution so that with the development of these valuable properties, the socio-economic and educational aspiration of the Muslims of Andhra Pradesh in particular and the Muslims in general could be fulfilled. The Wakf Board or the other statutory bodies were created for the supervision and protection of the Wakf properties. The Wakf properties are, in fact, public properties. The State Government should not treat these properties as private properties and on certain technical grounds defeat the very intention of grant of land. The Supreme Court Judgement in Civil appeal No 4372 of 1985 in the Visakhapatnam property may serve as a guiding principle in the matter. (Para No. 5.53)

13.71 The Committee appreciates the fact that the Government of Andhra Pradesh has constituted a high-level Committee consisting of representatives of the Revenue Department, Minority Welfare Department and the Wakf Board for resolving the disputes. The Committee desires that fast-track process may be initiated so as to reach an early decision and come to an amicable understanding with regard to all the disputed properties between the Government and the Wakf Board. While appreciating the action of the Government, the Committee wish to caution that the Government should be genuinely concerned about protecting the Wakf properties and should not stifle the voice of the Wakf Board using the power of the State. Such a situation may be there in other States as well and the Committee desires that all other States and the Central Government may take similar course of action in respect of the disputed properties between the Wakf Board and the Government. (Para No. 5.54)

13.72 The Committee was also given to understand that some State Governments and the Government agencies, including local Government authorities, are resorting to compulsory acquisition of certain Wakf properties for purposes other than public interest. One such example is Wakf property situated in Chauma Village, Tehsil

Gurgaon, District Gurgaon, Haryana measuring about 2.5 acres with Khasra Nos. 53 and 54. The Committee visited this land during an on-the-spot study and noticed that the Haryana Urban Development Authority (HUDA) acquired this property by offering a meagre compensation. In this connection, the Committee would like to emphasise that a Wakf property cannot be acquired by any agency, including Government, except in the public interest. The Committee, therefore, recommends that whenever any Government agency wants to acquire any Wakf land in the public interest, it can do so by paying adequate compensation at the market value so that the Wakf can acquire or develop other properties. (Para No. 5.55)

13.73 The Committee also took note of the fact that the then Prime Minister had in a letter addressed to some of the Chief Ministers in 1976, reiterated the suggestions which were made in 1961 requesting for dealing with the Wakf properties in possession of Government Departments/local bodies, as per the following suggestions:-

- (i) Where feasible, the Wakf property should be vacated and handed over to the Wakf Board concerned;**
- (ii) Where costly buildings have been put up on the land and their vacation is not feasible, the State Governments may enter into permanent leases with the Wakf Boards, after paying the Boards the bulk of the market value as premium, or**
- (iii) In the alternative, the State Governments may arrange to make over the fair market value of the lands to the Boards, which will relinquish their rights over the land, if in their direct management, or obtain from the Mutawallis concerned, with their consent, necessary deeds of relinquishment. (Para No. 5.56)**

13.74 The Committee recommends that these guidelines may be strictly adhered to by the Central Government as well all the State Governments and the Union Territories. (Para No. 5.57)

13.75 The Committee has also noted that some of the Wakf properties have been alienated by the Wakf Boards by legal and illegal means. The Committee has also been given to understand that NOCs are given even by a Wakf Inspector or a Wakf Officer despite the fact that only the Wakf Board is competent authority to do so. The Committee desires that the Wakf Boards should not resort to alienation of Wakf properties. Similarly, all the Wakf Boards should inform all the Wakf inspectors

working in different parts of States about their jurisdiction and impress upon them not to issue NOCs. (Para No. 5.58)

13.76 Even though the Committee has recommended an amendment in Section 54 of the Wakf Act, 1995 giving the powers of Magistrates/SDMs to the Wakf Boards CEOs enabling them to evict the encroachments, it may take some time for this amendment to find a place in the Act. The Committee, however, impresses upon the State Governments to issue instructions to all District Magistrates/SDMs to proceed for eviction of encroachment of Wakf properties on receipt of a report from the CEO, Wakf Board. They should not delay the process. (Para No. 5.59)

13.77 The Committee also desires that the community and the District Wakf Committees should be vigilant and whenever any encroachment comes to their notice, it should be immediately brought to the notice of the Wakf Board. On receipt of such information, the CEO should take immediate action for eviction. (Para No. 5.60)

13.78 The Committee recommends that the Wakf Act, 1995 should be amended so as to make encroachment of Wakf properties a criminal offence, as has been done in West Bengal. The Committee strongly recommends that the Wakf Boards may initiate criminal proceedings under trespass, against the encroachers, as encroachment amounts to trespass which is an offence under the Cr.P.C, in addition to initiating action under the Wakf Act. (Para No. 5.61)

13.79 The Committee recommends that the Wakf Act, 1995 be further amended so as to bar the encroachers from approaching the civil court or the High court, bypassing the Wakf tribunals. If these steps are not taken, then the establishment of Wakf Tribunals will become redundant. (Para No. 5.62)

13.80 The Committee in its Third Report recommended for addition of a new subsection to Section 54 providing that the Central or the State Government, as the case may be, by notification in the official Gazette shall declare all or any Wakf institutions registered with the Wakf Board, other than *Wakf-al-aulad* to be public premises. This, when incorporated into the Act and implemented, would remove many of the problems in the removal of encroachments. Further, this could prevent any new encroachment. The Committee reiterates this amendment. (Para No. 5.63)

13.81 The Committee also feels that there is no sufficient awareness about the Wakf properties, among the public due to which people sometimes resort to encroachments without knowing the implications of the illegal act committed by them. The

Committee therefore, desires that public awareness campaign should be launched about the Wakf properties and for this purpose the media including electronic media and local language newspapers may be made use of. (Para No. 5.64)

Finances of Wakf Boards

13.82 The financial condition of the Wakf Boards is very pathetic. While a few States are giving some token grants, other states are not giving any grants and have left the Boards entirely to manage their affairs solely from the Wakf contribution which they are receiving from the Wakfs. The Wakf contributions from most of the Wakfs are negligible as most of these properties are not yielding any income. In this situation Wakf Boards are totally left as uncared institutions. Wherever grants are given, these grants are not adequate to meet even the day-to-day expenditure of the Boards including payment of salary to the staff, etc., not to speak of carrying out any development activity. (Para No. 6.27)

13.83 The Committee observes that the States which have large number of Wakfs like Maharashtra, Gujarat, Uttar Pradesh and Punjab are not extending any grant-in-aid to their respective Wakf Boards. The Wakf Boards are, in fact, surviving entirely on their own meagre income, due to which the welfare activities and development activities undertaken by these Boards are virtually non-existent. Since Wakf Boards are constituted under the Wakf Act, 1995, it shall be the duty of the State Government to meet the establishment charges of the Boards including salaries of the staff, etc. The Committee therefore, recommends that the State Governments should give adequate grant-in-aid to the Wakf Boards. (Para No. 6.28)

13.84 The Committee observes that though some of the State Governments like Tamil Nadu, Karnataka, Rajasthan and Andhra Pradesh provide funds for other developmental activities, the assistance to these activities still falls short of the requirements of the Board in those areas. The Committee also observes that while, some State Governments do provide regular grants, though insufficient, extra funds to the Wakf Boards for carrying out development and welfare activities are, however, provided by only a few States. The Committee recommends that all the State Governments may provide adequate funds to the State Wakf Boards for carrying out welfare activities separately. (Para No. 6.29)

13.85 The financial position of the State Wakf Boards as observed from the information supplied to the Committee, looks very dismal. The setting up of the State

Boards has been mandated by the Wakf Act, 1995 and no State has been serious enough to address the problem of finances being faced by the Wakf Boards. Needless to say that it is not possible for these Boards to function and carry out their responsibilities in the absence of adequate resources and infrastructure. In this connection, it may be mentioned that the Committee, during its visit to various States, impressed upon the Chief Secretaries, during the discussions held with them, that each State should give a minimum grant of Rs.1 crore every year as grant-in-aid to the Board depending upon the establishment charges of the Wakf Boards. The Committee also asked them to give Capital grants also for developing infrastructure like office building, furniture, computers, etc at least to the tune of Rs.10 crores as a one time grant. The Committee, however, has noticed that even though all the Chief Secretaries, including some Chief Ministers, had assured the Committee during the discussion held with them, none of the States, however, took it seriously to fulfill the assurance. (Para No. 6.30)

13.86 One per cent contribution to the CWC is a statutory provision under the Wakf Act, 1995. The Committee observes that while majority of the States have adhered to this provision, some of the States such as Uttar Pradesh, Uttarakhand, Rajasthan, Orissa, Bihar, Meghalaya and Punjab have huge outstanding arrears to be given to the Central Wakf Council. The Committee takes a serious view of the total disregard shown by the States to this provision of the Act and urges upon all the States to clear their dues at the earliest. The Central Government is also not providing any assistance to the Central Wakf Council for carrying on its activities except the grants given for creating a revolving fund. The only source of Central Wakf Council is income from the Wakf contribution. (Para No. 6.31)

13.87 The Committee found that the budget preparation process of the Wakf Boards is faulty and it needs to be more precise and focussed. There was no segregation of expenditure for plan and non-plan activities. In the Boards, the amount received as grant-in-aid from the State Governments is mainly utilised for meeting the day-to-day administrative expenses like paying of rent, salaries, etc. The Wakf Boards of States like Kerala, Tamil Nadu and Karnataka, where some spare funds are available for developmental activities, also have no separate provision for planned activities. The Committee recommends that the State Wakf Boards must adopt sound and acceptable financial and budgetary practices with adequate transparency. (Para No. 6.32)

13.88 The Committee is of the opinion that unless the Wakf Boards improve their infrastructure and equip themselves with qualified and professional staff and adequate number of field staff, their functioning cannot be improved. They need adequate resources to improve their functioning and at present none of the Wakf Boards is having sufficient resources. The Committee strongly recommends that the Central Government and the State Governments should give the Boards sufficient grants so as to improve their functioning. The Committee further urges the Central Government to call a meeting of the Finance Ministers of the States to discuss about the finances of the Wakf Boards and assistance to be given to the Wakf Boards to develop the Wakf properties for income generation. (Para No. 6.33)

Wakf matters under adjudication and Wakf Tribunals

13.89 There are a number of disputes in Andhra Pradesh pending in the courts. The Committee advises the Government of Andhra Pradesh and the Wakf Board to resolve the disputes amicably, instead of carrying on prolonged litigation. One method of resolving the disputes is to jointly develop such property and share the revenue in an agreed proportion, which will benefit the State and the Wakf Board which again is a public institution. (Para No. 7.25)

13.90 The Committee strongly recommends that the state Government (Haryana) should cancel all permissions obtained illegally by the tenants including the conversion of the property from agriculture to non agriculture purposes. The Haryana Government had asked Central Government to have the enquiry conducted by the CBI. This may be done expeditiously. (Para No. 7.27)

13.91 At present none of the Boards can afford to have strong professional legal set up because of their limited resources. The dispute of Vizag property which was contested properly and was won by the Board in its favour resulted in the gain of the Wakf Board which got Rs 5000 crores worth of property. Similarly, properties in Kolkota and Bangalore, are now fetching enhanced rent, which are 1000 times more than what the Wakf was getting. The issue for the consideration of both the state as well as the Central Government is that enacting a law alone is not sufficient. Effective implementation of the law is also the responsibility of the Government. The Committee has come to the conclusion that both the State Governments and the Central Government have failed in the proper implementation of the provisions of the Wakf Act, 1995 and in protecting the valuable Wakf properties from their misuse. The Committee hopes that before it is too late, the Central and the State Governments

will address these concerns seriously and come to the help of the Boards in protecting and developing the Wakf properties which are, in fact, a national asset by extending support to the Wakf Boards put in place a strong legal set up. (Para No. 7.36)

13.92 There are a large number of legal disputes relating to Wakfs pending in the courts in various States. The Wakf Boards are financially very weak and have no effective legal machinery to deal with the legal cases. The State Governments may provide necessary assistance to the Wakf Boards as is available to all other Government agencies/departments for establishment of a strong legal set up.

(Para No. 7.37)

13.93 The Boards being a part of State administration may find it difficult to contest cases against their own Government. The Committee, therefore, desires that the State Governments and the Wakf Boards may resolve the disputes amicably, by having an out of court settlement instead of carrying on prolonged litigation. One method of resolving the disputes is to jointly develop such property and share the revenue in an agreed proportion, which will benefit both the State and the Wakf Board.

(Para No. 7.38)

13.94 The Committee has observed that certain disputes, to determine whether a property is Wakf property or not, are taken to High Courts, even after the establishment of the Wakf Tribunals bypassing the Tribunals invoking the writ jurisdiction of the High Courts. Whether a particular institution is a Wakf institution or not has to be decided first by the Tribunal but certain parties, in order to prolong the litigation, are directly going to the High Courts. The Committee desires that recourse to writ Petition should not be taken by individuals/institutions without first approaching the Wakf Tribunal. The Committee urges the Central Government to examine through the Ministry of Law and Justice whether any amendments can be brought in the Act to avoid such a situation.

(Para No. 7.39)

Wakf properties and Archeological Survey of India

13.95 The DG, ASI stated that out of all the ASI protected monuments, 34 could be treated as Wakf properties. Whereas in Delhi itself, out of 172 Wakf properties listed out by the Delhi Wakf Board, 94 were actually Centrally-protected. The Committee feels that there is some confusion in the ASI in identifying and recognising the protected monuments as Wakf properties. The Committee is, however, happy to note that ASI has got a document of 1927 which lists out the properties protected by the

then Government in undivided India. This document would definitely throw some light in deciding the nature and character of the properties under the protection of ASI. The Committee, therefore, desires that ASI may scrutinize the list and come to a conclusion at the earliest. (Para No. 8.12)

13.96 The Committee is also happy to note that ASI has started the process of consultation with the Central Wakf Council and the State Wakf Boards for entering into an agreement with Wakf Boards in respect of Wakfs which are under the protection of ASI. The Committee desires that this process may be hastened in all the States and initially, the list of Wakfs under the maintenance of ASI may be finalised. Thereafter, agreements with owners of the Wakfs may also be signed under Section 6 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958.

(Para No. 8.13)

13.97 The Committee takes serious view of the fact that some of the monuments are not being properly maintained. The monuments may crumble any time and therefore, it desires that ASI should take immediate maintenance of all those monuments under their protection which are Wakf properties. The Committee also takes serious view of the fact that in some of the areas where monuments are situated within the regulated area, encroachments are taking place. In all such areas, wherever ASI is protecting the monuments and wherever the Wakf Boards are owner and they approach the ASI for the development of the area, immediate permission may be accorded. Whenever ASI officers observe any encroachment beyond the prohibited area, they should immediately bring the matter to the notice of the officials of the Wakf Board/the Wakf concerned. Instructions in this regard may be given to all the Circle Offices of the ASI for strict compliance. There should be periodic dialogue between the ASI, its regional offices, Central Wakf Council, State Wakf Boards and the management of the Wakf concerned.

(Para No. 8.14)

Computerisation of Wakf Boards and creation of a central data base

13.98 The Committee is of the view that the National Informatics Centre (NIC) should be asked to develop necessary software in consultation with the Central Wakf Council for being used by all the State Wakf Boards. The proposed software to be developed by the NIC on Wakf Management may broadly contain the following details:-

- (i) Historical, religious and other aspects of the Wakfs in general.

- (ii) Constitution and current status of Wakf Boards.**
- (iii) Status of Survey of Wakf properties.**
- (iv) Since the entire set of activities revolve around the Wakf properties, therefore, the software should contain a detailed status of such properties and should provide a transparent system based on entries of register maintained under section 37 of the Wakf Act, 1995.**
- (v) The entries under section 37 should be linked to various procedures, proceedings and information provided in the Act of 1995.**

For example, a survey of development potential, rental value, litigation status, statutory contribution from Wakfs and other aspects of the Wakf properties may be given. These crucial pieces of information when linked with the entries of the concerned Wakf, a transparent picture of every Wakf property will be available for its strategic development and socio-economic planning.

- (vi) The software should also cover finances of the Wakf Boards and should be able to generate annual balance sheets of the Wakf Boards automatically.**
- (vii) It should also include a module for file tracking and human resource management systems.**
- (viii) The software should be interactive with specific access to the users at relevant points.**

For example, at the district level, Assistant Survey Commissioner, Wakf should be able to update the basic information regarding the Wakf properties. Similarly, at the Wakf Board level the access should be with the administrator of the system.

- (ix) If an information generates income to the Wakf Boards, then there should be provision in the software to provide that information by charging a fee.**
- (x) Since the Wakf records are, in general, quite old and there exists a strong possibility of theft or damage to these documents, digitization of such record is also necessary.**

- (xi) **The information should be maintained in standardised formats for all Boards so that inter-Board comparison or consolidation could be carried out.**

After the execution / implementation of above project, it may be integrated with the records of the Revenue Department. (Para No. 9.3)

13.99 The Right to Information Act, 2005, directs that all public Offices/Organisation should digitize the information and to provide more information to the public through their websites. The Central Government also has a policy to assist all public entities to digitize their records and has a programme to assist Ministries/Departments financially for computerization and introducing e-governance in their administration. The Committee would like the Central Government to earnestly address this problem and pursuant to its policy, initiate a time bound programme for introducing ICTs in the operations of the State Wakf Boards. The Committee strongly recommends that the Central Government should immediately fund the computerisation programme of the Wakf Boards and provide a one-time grant of at least Rs. 25 crores to the Central Wakf Council for the purpose and the Central Wakf Council in consultation with the NIC should prepare the necessary software and provide the much needed hardware for the total computerization of all the Wakf Boards in the country. (Para No. 9.5)

13.100 The central data base with regard to the States of Wakf properties in all the States and Union Territories should be made available with the Central Wakf Council. The website of CWC should function as the repository of information relating to Wakf properties for which it has to play an active role in data archiving of Wakf properties. This may require setting up a linkage between the website of the Central Wakf Council and the State Wakf Board. Such a linkage would enable Central Wakf Council to undertake regular evaluation and assessment of Wakf properties in the States through collection and collation of information from all the State Wakf Boards. (Para No. 9.6)

Leasing of Wakf properties : Need for new approach

13.101 Though the Board was getting around Rs. 65 lakhs as rent, it could have been much more if the leases are done in a fair manner. The Committee, therefore, recommends that all the leases may be done in a transparent manner through open

tenders/advertisements as the case may be.

(Para No. 10.4)

13.102 The Committee is of the opinion that if the same trend of leasing continues in Delhi, there will be no Wakf property left for either development or for leasing in another 10 years. All Wakfs and the Wakf Boards will have to be contended with limited income.

(Para No. 10.5)

13.103 The Committee visited some of the prime Wakf properties in Delhi. The Committee recommends that the Delhi Government should give direction to Delhi Wakf Board to stop leasing Wakf properties for eleven months in Delhi and also should not renew leases in case of properties which can be developed commercially in terms of Section 32(4)(5)(6) of the Wakf Act. The Committee further directs the Delhi Wakf Board that it has leased a large portion of land for the purposes of plotting to cancel such leases given for plotting which amounts to alienating the property illegally under Section 51 of the Wakf Act. The Committee urges the Delhi Government to inquire into all such cases of leases.

(Para No. 10.6)

13.104 In the case of a Wakf property under encroachment at Fatehpur Chandel, District Faridabad, the tenant, in connivance with the State officials and the Wakf Board officials, has been able to occupy illegally the Wakf property. The encroachers in this case have managed to get staty from different authorities despite the formation of the Wakf Tribunal. The Committee is of the view that all the lease contracts which had been signed by the Chairman of the Wakf Board in the State of Haryana should be cancelled forthwith.

(Para No. 10.13)

13.105 The Committee expresses its grave concern over the way in which the provisions of the Act are being circumvented and Wakf properties are leased out, in many cases for eleven months and renewed thereafter. The Committee is also constrained to note that in some of the lease cases, the land so given is plotted and construction is undertaken though under the law, it is not permitted. The Committee understands that under three years lease generally nobody will come forward. The Boards in connivance with the Mutawallis and others, lease out the properties to the disadvantage of the Wakf and the Wakf Board. The Committee feels that not only in Punjab but in all the states particularly in States of Haryana and Himachal Pradesh and the NCT of Delhi, land mafia is thriving on leasing of Wakf properties. The Committee, therefore, recommends that all such leasing of Wakf properties may be stopped forthwith. In the case of all those properties which have already been given

on lease, particularly on 11 months lease, no further renewal of the lease may be done. All such cases of lease may be reviewed and detailed plans may be made for their development or open advertisement may be issued for developing the properties, as the case may be. (Para No. 10.17)

13.106 The prime Wakf properties which can be developed may be taken up for development with the assistance of State Government, Central Wakf Council or with private agencies jointly instead of leasing them on BOT basis. (Para No. 10.18)

13.107 The Committee expresses its grave concern over the fact that in several State Wakf Boards, the Chairman of the Board signs the lease orders. However, under the Act, the Chairman has no such authority. The Committee strongly recommends that all the lease contracts signed by the Chairmen of the Wakf Boards in any state and particularly in the states of Punjab, Haryana and Himachal Pradesh and NCT of Delhi may be cancelled forthwith treating them as illegal. The Committee desires that the Central Wakf Council in consultation with Ministry of Minority Affairs may prepare a Uniform Leasing Policy which should be made applicable in all the States. (Para No. 10.19)

13.108 The Committee feels that the Wakf properties need to be exempted from the Rent Control Acts of the respective States so that the rents of the Wakf properties could be fixed at the market rate. Once this is done, the revenue of the Wakf Boards would automatically increase manifold. Certain States such as Rajasthan and Karnataka had already done this. The Committee in its Third Report on amendments to the Wakf Act 1995 recommended that all the State governments may exempt the Wakf properties in the respective States from their Rent Control Acts. For this purpose, the State governments may make necessary amendments in the Rent Control Acts. The Committee again reiterates this recommendation and urges upon the Union Ministry of Minority Affairs to issue necessary instructions to all the states to take necessary action in the matter at the earliest. (Para No. 10.20)

13.109 In view of the present prevailing situation of leasing of Wakf properties indiscriminately, particularly in Punjab, Haryana, Himachal Pradesh and NCT of Delhi, the Committee is of the view that a waiver could be provided in the provisions of Section 56 of the Wakf Act, 1995. Whenever prime Wakf properties are proposed to be developed, such development projects may be undertaken, if necessary jointly with Government/private agencies and if in all such cases, leasing beyond three years is required, such proposals may be finalised through consultation between the State

Government, the Wakf Board and the Central Wakf Council and such other agency as may be decided through a transparent procedure. The Government may, therefore, consider amending Section 56 of the Wakf Act, 1995 for the purpose. (Para No. 10.21)

Empowering Central Wakf Council

13.110 The Committee would like to recall that it had in its Third Report on amendments to the Wakf Act, 1995 also discussed the role of Central Wakf Council. The Committee felt that the Council in its present form had not helped to improve the Wakf administration. The Committee also considered various suggestions for the purpose and felt that the structure of the Council need not be changed. The Committee is, however, of the view that in order to make the CWC effective, it would be appropriate if its Chairman is elected from amongst the members of the Council. Since the Committee intends to strengthen the CWC, which would naturally require that a senior level officer should look after the affairs of the Council, for which at least a Joint Secretary level officer should hold the post of Secretary, CWC. The Committee, however, felt that by amending Section 9 of the Act, the Council can be strengthened which can have desired result without encroaching on the powers of State Wakf Boards/State Government. (Para No. 11.23)

13.111 The Committee therefore, recommended that in sub-Section 1 of Section 9, the words “for the purpose of advising it” may be substituted by the words “To advise Government of India, States and Wakf Boards”. According to this amendment, the role of the Central Wakf Council would not only remain confined to advising the Government of India but it would be able to advise the States and Wakf Boards as well. This enhances the jurisdiction of the Council. The Committee also recommended for adding the following at the end of the sub-Section (1):

“which may be continuously provided information/reports by the State Wakf Boards/State Governments on the performance of Wakfs/Wakf Boards in the State, particularly on their financial performance, annual reports and audit reports, etc”.

This amendment makes it mandatory on the part of the State Wakf Boards/State Governments to send the annual reports and audit reports, etc.

(Para No. 11.24)

13.112 The Committee also recommended some more amendments to Section 81, Section 102, and Section 106. Under Section 81, the State Government shall examine the auditor’s report and may call for the explanation of any person in regard to any

matter mentioned therein, and shall pass such orders on the report as it thinks fit. The Committee recommended that the following may be added:

“A copy of the auditors report along with the orders passed by the State Government on it shall be forwarded by the State Government to the Central Wakf Council within one month of the laying of the report”.

The above amendment enables the Central Wakf Council to know about the happenings of the Board and the State Government’s remarks/observations thereon. If there are any problems, the Council can intervene in the matter. (Para No. 11.25)

13.113 Section 102 deals with special provision for reorganisation of certain Boards. Under the Section, whenever the State Government sends any scheme for reorganisation of the Board to the Central Government, the Central Government may, under sub-Section (2) after consulting the State Government, approve the scheme with or without modifications. The Committee, in the said Report, recommended that in sub-Section (2) of Section 102, after the words, “after consulting the”, the words “Central Wakf Council and” may be inserted. With this amendment, now it becomes mandatory for the Central Government to consult the Council whenever any such reorganisation scheme is under the consideration of the Government. (Para No. 11.26)

13.114 Section 106 deals with the powers of the Central Government to constitute common Boards. The Committee in its Third Report, recommended that in sub-Section (1) if the Section, after the words, “after consultation with” the words “the Central Wakf Council and” may be inserted. Under this amendment, whenever the Central Government proposes to constitute a Common Wakf Board, it has to consult the Central Wakf Council besides the concerned State Governments. (Para No. 11.27)

13.115 The above amendments proposed by the Committee in its Third Report, if implemented would go a long way in strengthening the Central Wakf Council. The Committee, therefore, reiterates the amendments recommended by it in its Third Report. (Para No. 11.28)

13.116 As has been stated by the Secretary, Ministry of Minority Affairs, the State Wakf Boards and the State Governments have acceded to the proposals of the Committee. The proposals sent by the Ministry in the written note after his oral evidence are more or less in conformity with the recommendations of the Committee except the proposal no. iv which provides for constituting a quasi judicial authority

for redressing grievances, if any, between the Council and States. It is, however, not against the recommendations of the Committee and it only provides a mechanism for redressing the grievances. The Committee, therefore, agrees with the proposals of the Ministry and recommends that it may go ahead with implementing the proposals. However, if any further amendments are required in the Wakf Act, 1995, in addition to the amendments proposed by the Committee in its Third Report, as mentioned above, such amendments may also be brought forward along with the above mentioned amendments. (Para No. 11.29)

Development of Wakf properties

13.117 The Committee, therefore, strongly recommends that the Central Government may increase the grant to the Central Wakf Council for Wakf development revolving Fund to Rs. 10 crore and to increase the size of fund to Rs. 100 crore in the next 5 years. (Para No. 12.1)

13.118 The Committee expresses its grave concern and deplores in the strongest terms the short sighted approach of the these Boards in bartering away the valuable Wakf properties worth thousands of crores. This exhibits the incompetence of the Boards to take up the development of the properties which the Wakf Act, 1995 mandates them under Section 32(4)(5)(6). The Committee expresses its unhappiness over the total indifferent attitude of the State Governments and the bureaucracy dealing with Wakf matters. The Committee strongly recommends that the Central Government may take immediate measure to stop leasing of commercial properties by the Mutawallis or the Wakf Boards which can be developed. Leasing of any landed Wakf property, irrespective of the size of property, should be banned forthwith and all leases of landed properties given on eleven month lease should be taken back on the expiry of the lease. If the Board or the Mutawallis have given NOC for putting up a structure on a land given on lease for eleven months, it should be treated as a criminal offence. The Committee urges the Central Government, in the interest of saving valuable Wakf properties, to bring suitable legislative measures, addressing all these issues. (Para No. 12.2)

13.119 The Committee is happy to note that the Haryana Wakf Board has taken a laudable initiative by setting up an Engineering College in Mewat region of Nuh District, which will impart technical education to the children coming from the weaker sections of the society and thus fulfilling the objectives of the Wakf.

(Para No. 12.32)

13.120 Though the Act of 1995 has been in force for over thirteen years, hardly any Wakf Board has taken proper initiative to develop properties under Section 32 (4), (5) and (6) of the Act. This is because almost all the Boards are financially weak, members of the Boards have hardly any vision and the management is abysmally weak. Further, they do not have the capability of raising resources for the development. The financial condition of the Boards is so bad that they are not having sufficient income even to pay the salaries of the staff. The funding for development by the Central Wakf Council is very meagre which, in fact, will not be sufficient for the development of prime urban properties. The maximum amount provided by the Central Wakf Council Development Fund is around Rs. one crore. With this amount the Central Wakf Council is unable to fund large capital intensive projects, which require huge investment.

(Para No. 12.33)

13.121 With the present state of affairs of the State Wakf Boards and its administrative set up, the dream of development of Wakf properties will remain on paper only, if the Central Government, the State Governments and the Muslim Community fail to address seriously the problems of the development of Wakfs in the country. All this can happen only if there are sufficient finance provided for this purpose. Any development can be possible only through organized institutional mechanism involving highly professional people to meet the challenges of development. There is a need to establish a mechanism and set up a development agency, which may exclusively devote for the development of valuable Wakf properties, which are at present being illegally occupied and exploited by unscrupulous builders in connivance with corrupt officials of the State Wakf Boards, Mutawallis and the weak management Committees. Metro cities like Delhi, Kolkata, Chennai, Bangalore, Hyderabad, Mumbai and other major cities have prime Wakf properties which would be worth several thousand crores such as Windsor Manner Hotel of Bangalore, Tolly Ganj Club of Kolkata, Shaw Wallace Building at Kolkata, nearly four thousand acres of land in the hi-tech city and near the Airport of Hyderabad and another four thousand acres of land in Vizag, after some of it was allocated to NTPC and Hindujas. These are all Wakf properties. In the capital city of Delhi alone, there are several Wakf properties in the fully developed commercial areas. One should not forget the fact that these properties are, basically, public properties which do not belong to any individual. It is the responsibility of the Government to protect, preserve and develop these properties. The responsibility of

the Government will not be over just by enacting a law and not making efforts to sincerely implement it as also to monitor its implementation. From the evidence tendered before the Committee, the Committee has come to the conclusion that Governments, Central and the State, are aware of the misuse of valuable Wakf properties, which are public properties but what is astonishing is that they have remained silent spectators to all this and have not discharged their responsibilities in a manner they are expected to do. (Para No. 12.34)

13.122 The Committee feels that the Central Government and the State Governments cannot abdicate their duty towards the Muslim community thereby ignoring their legitimate aspirations. In this context, it would be necessary to point out that the Right to Freedom of Religion has been guaranteed under articles 25, 26 and 27 by the Constitution which includes right to protect the religious and charitable properties. The Committee, therefore, strongly feels that the Central Government should take urgent steps to develop the Wakf properties and redress the genuine grievances of the Indian Muslims, who constitute 15 per cent of the total population of the country. What is expected of the Government is to establish an institutional and regulatory mechanism, as has been done in several other cases to protect public properties by the Government. Such action does not require huge budgetary involvement. Though Section 32 (4), (5) and (6) of the Wakf Act, 1995, empowers the Wakf Boards to take over properties which can be developed commercially, this, however, requires huge financial funding, which is not currently available with the Boards. The Committee, therefore, feels that adequate funding be made available to Wakf Boards by setting up a Wakf Development and Finance Corporation at the national level which can raise resources from the market and other sources, including commercial institutions, prepare development plans and finance them. On the same lines, the State Governments may promote a Wakf Development and Finance Corporations which would take care of development of large Wakf properties and financing of the development of Wakf properties. (Para No. 12.35)

13.123 Such an Agency would be most viable as no investment on the land is involved. Today, in real estate, the major cost of developing a property is its land value. As no investment will be required on the land, the investment in building a super structure over the land will enhance the value of the property manifold. The return on investment made will be quite substantial and the period of realization of the amount invested will not take more than two to three years time. Just to elaborate

this, if a project is taken up for commercial development of property in any of the Metros on a plot of 10 thousand sq. ft., the total asset value created will be around Rs. 10 crore. The return of income is calculated on the total asset value and if a minimum of 10 per cent return of this developed property is taken into account, the annual return will be about Rs. 1 crore per year. This example is cited only to highlight how viable and safe the investment will be in the Wakf properties. Thus, it would not be difficult to raise resources for such a Corporation. There are hundreds of Wakf institutions which are financially viable institutions having surplus income. Even with a conservative estimate that 5 per cent of the total Wakf institutions in the country are financially viable then there will be more than 20 to 25 thousand Wakf institutions which can easily invest their surplus in such a Corporation. Such a Corporation would also be able to borrow from international investors, investment banks and emerging Islamic banks as the investment is in compliance with the Shariat Law and the returns will be attractive in such projects. (Para No. 12.36)

13.124 There is a great enthusiasm among the people in general and the Muslim community, in particular, supporting the idea that the Wakf properties be developed and the income so generated should be utilized for the educational and economic uplift of the Muslim Community. The Committee is of the view that there is need to motivate the Community to channelize its savings to be invested in the proposed Development Corporation. The Muslim Community of 150 million people in India will definitely support such an effort, if such a Corporation is established under the regulations of the Central Government. The Committee feels that it is possible for such a Corporation to mobilize on an average Rs. 5 hundred crores annually and invest in the Wakf properties for development. It is possible to invest over Rs. 10 thousand crore in the next 10 years, which will be yielding over Rs. 10 thousand crore annual income after 10 years. The income so generated will take care of the educational and economic uplift of the Muslims in particular and public in general. Though such an estimation of the potentiality of Wakf development may, for the present, look too ambitious and dreamy but some of the examples of the properties developed would reveal that it can be achieved. (Para No. 12.37)

13.125 There are several hundreds of such properties in India in urban areas which can be developed. If the private developers can develop the properties, the Committee sees no reason as to why the Government should hesitate in creating an institution to develop Wakf properties and enhance the income of the Wakf. The Committee is

strongly of the view that there is a need to survey and identify properties which can be commercially developed. (Para No. 12.38)

13.126 The Muslim Community, which is the main beneficiaries of the Wakfs, is agitated and feels helpless because of the indifferent attitude of the Central and State Governments. The Committee feels that the Muslim Community and its leadership too cannot escape from sharing responsibility for this sorry state of affairs of the Wakf properties. The Community has hardly taken any interest in preventing the misuse of the valuable Wakf properties and raising its voice against the misuse. Muslim Community has remained silent spectator to the exploitation of the Wakf properties by vested interests and has only remained contented by voicing its concern over the apathy regarding the Wakf and step motherly treatment by the Government. Though under the Wakf Act, the entire management of Wakf is in the hands of Muslims and the Mutawallis, the misuse of majority of the Wakf properties has been done by the Muslims themselves and, therefore, it is but appropriate that the community should take the blame for the present state of affairs.

(Para No. 12.39)

13.127 The Committee is happy to note that the Central Government has given its approval to the setting up of a National Wakf Development Agency as a Subsidiary of the National Minorities Development and Finance Corporation. The Committee appreciates the Government for acting promptly on the recommendation made in its Third Report.

(Para No. 12.40)

13.128 Taking in to consideration the extent of potential Wakf properties in the metro cities and the important cities in the country, a massive investment is needed if these properties have to be saved and developed. The required investment is so huge that the Government or any other corporation will not be able to provide. The Government has several schemes for financing the development of the urban properties of statutory bodies like Municipal Corporations, Road Transport Corporations and similar bodies under Jawaharlal Nehru National Urban Renewal Mission (JNNURM) and Urban Infrastructure Development Scheme for Small & Medium Towns (UIDSSMT). The Committee recommends that the Central Government may include development of Wakf property in the scheme and provide funds for Wakf Development projects under JNNURM/UIDSSMT scheme.

(Para No. 12.41)

13.129 The Committee further recommend that the proposed Corporation should be professionally managed and its main objectives shall be to identify Wakf properties which have the potential for development and after such identification, develop them commercially by entering into development agreement with the Wakf institutions / Wakf Boards and then transfer the developed properties to the Wakf after realizing the cost incurred and the profit margins. The proposed Corporation may also enter into a management agreement with Wakf institutions to manage the developed properties on commercial lines.

(Para No. 12.42)

13.130 The Committee recommends that Section 56 of the Wakf Act may be suitably amended to exempt properties given for development to the proposed Corporation and to such other institutions which the Central Government may deem fit in consultation with the Wakf Board and State Government concerned.

(Para No. 12.43)

13.131 The Committee recommends that all properties developed by the proposed Corporation after realizing the costs incurred and the agreed profits from the income generated through the developed property, the remaining income first could be used to meet the expenditure to be incurred on the basic objective of the Wakf and the remaining income, then, could be utilized as under : one third of the balance income for building reserve for the Wakf, one third be contributed to educational activities and one third be utilized for the economic development of the community.

(Para No. 12.44)

13.132 The Committee also recommends for the setting up of a Disputes Resolution Authority which would resolve the long pending land disputes between the Government and the various Wakfs. The Authority could either be a statutory body or set up by an order of the Government. It would resolve all disputes between the Government and the Wakf and shall consist of three members, presided over by a Judge of the High Court, a retired senior administrative officer not below the rank of the Chief Secretary of a State and a nominee of the Wakf Board, who should be a practicing advocate or a financial expert with a minimum standing of twenty years or a Government administrative officer not below the rank of an Additional Secretary to the Government of India. This Authority will hear all the disputes between the Government and the Wakf Board and resolve the disputes amicably between them. The decision of the Authority shall be binding on the parties. The Committee

recommends that if need be, the Wakf Act, 1995, may also be amended for incorporating a provision for setting up of such an Authority. (Para No. 12.45)

13.133 The development of Wakf properties is a much debated subject. The question of developing Wakf properties particularly urban Wakf properties for commercial use and to enhance the income of the Wakf, for the benefit of the Wakf and its beneficiaries has been a subject matter of discussions and debates since the enactment of the Wakf Act, 1954. Taking into consideration the large extent of Wakf land available in urban areas and the meagre income from such properties, it needs an urgent attention of all concerned including the Government, Wakf Boards and the community to commercially develop such lands and enhance the income of the Wakfs. (Para No. 12.46)

13.134 Considering the nature and the extent of large number of urban Wakf properties, the annual development assistance should be to the order of say, between Rs. one thousand to two thousand crore and much of it can come through institutional mechanism. Another biggest hurdle for the development of the properties is the legal impediment and the resistance by the Mutawallis and also objections of the Shariat Law for diversion of the income from one Wakf to the other. The Muslim society should address these issues. (Para No. 12.47)

13.135 The Committee urges upon the Muslim society to come forward in protecting the Wakf properties from further alienation and expose all such persons both individual and organizations who have usurped the Wakf properties and misused it for their personal gains. Muslim society should impress upon those Mutawallis, who have grabbed the valuable properties, to vacate occupation of such properties for the overall benefit of the community. (Para No. 12.48)

13.136 The Committee strongly feels that the Government should enact stringent legal measures to punish those Mutawallis who are using the Wakf properties for their personal benefit. The Committee also noted that a vast majority of the valuable Wakf properties in the country are in possession of Muslims or Muslim organizations, who are paying rents which are not sufficient even for the upkeep of the property, let alone meeting the other expenses of the Wakf. Muslims, who are using the properties commercially and not paying the fair rent, should be persuaded to pay fair rent or they should be evicted as in most of the States, Wakf properties have been exempted from the Rent Control Act. The Committee regrets to observe that the Wakf Boards have totally failed in protecting the Wakf properties and enforcing the Wakf Act.

There is an adequate legal framework existing for the removal of illegal occupation and encroachment, however, what is expected of the Wakf Boards is that they should now act.

(Para No. 12.49)

13.137 The Committee observes that the restrictions imposed on the leasing of Wakf properties in Section 56 of the Wakf Act, 1995, are, in fact, to encourage development of Wakf properties and for this purpose, explicit provisions in Section 32 (4) (5) (6) in the Act have been made, which intend to develop Wakf lands and discourage their leasing.

(Para No. 12.50)

ANNEXURES

ANNEXURE-I

**List of Reports presented by the earlier Joint Parliamentary Committee on the
Functioning of Wakf Boards**

1. First Report of Joint Parliamentary Committee on the Functioning of Wakf Boards on Lakshadweep Wakf Board.
2. Second Report of Joint Parliamentary Committee on the Functioning of Wakf Boards on Pondicherry Wakf Board.
3. Third Report of Joint Parliamentary Committee on the Functioning of Wakf Boards on Dadra & Nagar Haveli Wakf Board.
4. Fourth Report of Joint Parliamentary Committee on the Functioning of Wakf Boards on Meghalaya Board of Wakfs.
5. Fifth Report of Joint Parliamentary Committee on the Functioning of Wakf Boards on Assam Board of Wakfs.
6. Sixth Report of Joint Parliamentary Committee on the Functioning of Wakf Boards on Durgah Khwaja Saheb, Ajmer.
7. Seventh Report of Joint Parliamentary Committee on the Functioning of Wakf Boards on Implementation of the Wakf Act, 1995 in Goa.
8. Eighth Report of Joint Parliamentary Committee on the Functioning of Wakf Boards on Implementation of the Wakf Act, 1995 in Maharashtra.
9. Ninth Report of Joint Parliamentary Committee on the Functioning of Wakf Boards on Implementation of the Wakf Act, 1995 in Manipur.
10. Tenth Report of Joint Parliamentary Committee on the Functioning of Wakf Boards on Implementation of the Wakf Act, 1995 in Tripura.

ANNEXURE-II

List of Reports presented by the present Joint Parliamentary Committee on Wakf

1. First Report of Joint Parliamentary Committee on Wakf on implementation of Wakf Act, 1995 in West Bengal and working of Board of Wakfs, West Bengal.
2. Second Report of Joint Parliamentary Committee on Wakf on implementation of Wakf Act, 1995 in Rajasthan and working of Rajasthan Board of Muslim Wakfs.
3. Third Report of Joint Parliamentary Committee on Wakf on Amendments to the Wakf Act, 1995.
4. Fourth Report of Joint Parliamentary Committee on Wakf on implementation of Wakf Act, 1995 in Assam and working of Assam Board of Wakfs.
5. Fifth Report of Joint Parliamentary Committee on Wakf on Implementation of Wakf Act, 1995 in U.T. of Chandigarh and Working of Chandigarh Wakf Board.
6. Sixth Report of Joint Parliamentary Committee on Wakf on implementation of Wakf Act, 1995 in Karnataka and working of Karnataka State Board of Wakfs.
7. Seventh Report of Joint Parliamentary Committee on Wakf on implementation of Wakf Act, 1995 in Tamil Nadu and working of Tamil Nadu State Wakf Board.
8. Eighth Report of Joint Parliamentary Committee on Wakf on implementation of Wakf Act, 1995 in Bihar and working of Bihar State Sunni and Shia Wakf Boards.

ANNEXURE-III

MINUTES OF THE MEETINGS OF THE COMMITTEE

I FIRST MEETING

The Committee met at 03.00 P.M. on Friday, the 27th January, 2006 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

1. Shri S.M. Laljan Basha — *Chairman*

RAJYA SABHA

2. Shri Sk. Khabir Uddin Ahmed
3. Shri Kamal Akhtar
4. Shri S.P.M. Syed Khan
5. Shri Motiur Rahman
6. Shri Birabhadra Singh

LOK SABHA

7. Shri Anwar Hussain
8. Shri Narayan Chandra Borkataky
9. Shri Avinash Rai Khanna
10. Shri Jaswant Singh Bishnoi
11. Shri Mohammad Salim
12. Shri T.K. Hamza
13. Shri Mukeem Mohammad
14. Shri Chandrakant Bhaurao Khaire
15. Shri Suravaram Sudhakar Reddy
16. Shri A.R. Shaheen

SECRETARIAT

Shri Shamsheer Singh, Joint Secretary
Shri P.P.K. Ramacharayulu, Deputy Secretary
Shri J. Sundriyal, Under Secretary
Shri P. Narayanan, Committee Officer

WITNESSES

Representatives of the Ministry of Social Justice & Empowerment

- (i) Smt. Sarita Prasad, Secretary
- (ii) Shri Sandeep Khanna, Additional Secretary
- (iii) Shri G.N. Pegu, Joint Secretary
- (iv) Shri B.K.Pandey, Director

(v) Dr. M.R. Haque, Secretary (CWC)

2. At the outset, the Chairman, welcomed the Members of the newly constituted Joint Parliamentary Committee on Wakf. He requested the Members to express their views on the background papers received from the Ministry of Social Justice and Empowerment on various issues concerning the Wakf Act, 1995. The Members of the Committee made a number of suggestions including the need to examine the issue of encroachment of Wakf properties for a better and comprehensive study of Wakf matters.

3. The Committee then heard the oral evidence of the Secretary of the Ministry of Social Justice and Empowerment on the status of implementation of the Wakf Act, 1995 in different States and the functioning of Central Wakf Council as well as all the State Wakf Boards. The Secretary during her evidence covered other issues such as registration of Wakf, survey of Wakf, publication of list of Wakf, establishment of a Central Wakf Council and establishment of tribunals to decide on disputes relating to Wakfs. The Members sought clarifications on the points arising out of the presentation to which the Secretary replied.

4. The Committee directed the Secretary to furnish the exhaustive information about the encroachment of the Wakf properties across all the States of the country for its consideration. The Committee also directed her to furnish updated Action Taken Notes on First to Tenth Reports of the Committee at the earliest.

The officials then withdrew.

A verbatim record of the proceedings was kept.

5. The Committee then adjourned at 4.50 P.M.

II SECOND MEETING

The Committee met at 10.00 A.M. on Tuesday, the 23rd May, 2006 in Room No. 63, First Floor, Parliament House, New Delhi.

PRESENT

1. Shri S.M. Laljan Basha — *Chairman*

RAJYA SABHA

2. Maulana Obaidullah Khan Azmi
3. Shri Sk. Khabir Uddin Ahmed
4. Shri S.P.M. Syed Khan
5. Shri Motiur Rahman

LOK SABHA

6. Shri Iqbal Ahmed Saradgi
7. Shri Anwar Hussain
8. Shri Rashid J.M. Aaron
9. Shri Narayan Chandra Borkatakya
10. Shri Hansraj Gangaramji Ahir
11. Shri Avinash Rai Khanna
12. Shri Jaswant Singh Bishnoi
13. Prof. K.M. Kadermohinddin
14. Shri Arjuncharan Sethi
15. Shri Suravaram Sudhakar Reddy

SECRETARIAT

Shri P.P.K. Ramacharayulu, Deputy Secretary

Shri J. Sundriyal, Under Secretary

Shri P. Narayanan, Committee Officer

2. At the outset, the Chairman, welcomed the Members of the Committee.
3. The Committee then considered the functioning of the Central Wakf Council. The Chairman informed the Members that grants given by the CWC for various purposes are very less. The Committee also took note of the fact that some State Wakf Boards do not send proposals to the CWC for getting grants from it. The Committee felt that the matter needs to be taken up with the State Wakf Boards. The Chairman also expressed his concern on the meagre quantum of grants-in-aid received by the CWC from the Central Government over the years and after some discussion, the Committee decided to take up the matter for increasing Grant-in-aid with the Secretary of the Ministry of Minority Affairs later on.

4. The Committee, thereafter, took up for consideration the functioning of State Wakf Boards. Some Members expressed their concern over the functioning of Assam and Bihar Wakf Boards. They mentioned that whereas Assam and Bihar Wakf Boards are facing financial crunch, Wakf Boards of other States such as Karnataka, Andhra Pradesh etc. are getting enough assistance from CWC. To this point, Chairman of the Committee suggested that Members should approach the Wakf Boards of their concerned States to formulate and send proposals to the concerned Ministry and the Central Wakf Council for consideration. Some Members took a serious view of the fact that some of the States have not sent the background notes on the functioning of their Wakf Boards, including the Bihar Wakf Boards. The Committee directed that the Ministry be asked to obtain the background note from the respective states and circulate it to the Committee for consideration. Some Members then pointed out certain inadequacies in the background notes on the functioning of Wakf Boards. The Committee, after some discussion, directed the Secretariat to obtain details thereon.

5. The Members, then, discussed about the future programme of the Committee. After some discussion, the Committee felt that it was necessary to hear the officials of State Wakf Boards and the Secretaries in-charge of Wakf matters of the State Governments. To begin with the Committee decided to hear the officials of State Wakf Boards and the Secretaries in-charge of the State Governments of Assam and Bihar on 13th June, 2006 and Tamilnadu and Karnataka on 14th June, 2006 on the functioning of the respective Wakf Boards and desired that updated status on the implementation of the Wakf Act, 1995 may be obtained in respect of these States.

6. The Committee also decided to make on-the-spot assessment of the functioning of the Wakf Boards of some of the States/UTs and Wakf properties situated in those states and the efforts being made by these Boards to effectively implement the provisions of the Wakf Act, 1995. The Committee also felt that such visits would also be necessary to get a first hand information about the encroached properties and the efforts being made to retrieve them. To begin with, the Committee decided to visit Rajasthan during the first/second week(s) of July to make an assessment of the working of Rajasthan Wakf Board and the implementation of the Wakf Act, 1995, subject to the approval of Hon'ble Chairman. The Committee authorised its Chairman to approach Hon'ble Chairman for necessary permission.

7. The Committee then adjourned at 11.00 P.M. to meet again at 03.00 P.M. on 13th June, 2006.

***IV**
FOURTH MEETING

The Committee met at 04.00 P.M. on Wednesday, the 23rd August, 2006 in Room No. 63, First Floor, Parliament House, New Delhi.

PRESENT

1. Shri S.M. Laljan Basha — *Chairman*

RAJYA SABHA

2. Shri Sk. Khabir Uddin Ahmed
3. Shri S.P.M. Syed Khan
4. Shri Motiur Rahman

LOK SABHA

5. Shri Anwar Hussain
6. Shri Abdul Mannan Hossain
7. Shri G. Nizamuddin
8. Shri Avinash Rai Khanna
9. Shri T.K. Hamza
10. Shri Mukeem Mohammad
11. Shri Chandrakant Bhaurao Khaire
12. Shri Suravaram Sudhakar Reddy
13. Shri A.R. Shaheen

SECRETARIAT

Shri Sham Sher Singh, Joint Secretary
Shri P.P.K. Ramacharyulu, Deputy Secretary
Shri B.C. Sharma, Under Secretary
Shri P. Narayanan, Committee Officer

WITNESSES

Representatives of Government of Punjab and Punjab Wakf Board

- (i) Dr. B.C. Gupta, Principal Secretary (Home), Govt. of Punjab
- (ii) Shri Liakat Ali Khan, CEO, Punjab Wakf Board
- (iii) Shri Mansur Ali, Member, Punjab Wakf Board

2. At the outset, the Chairman welcomed the Members of the Committee and the witnesses. Then he requested the representatives of the Punjab Government and State Wakf Board to apprise the Committee about the status of Wakf properties, their registration with the Wakf Board and the progress made in completing the survey of Wakf properties,

besides steps taken to remove the encroachment on the Wakf properties. The Principal Secretary (Home), Govt. of Punjab and the Member of the Wakf Board, then, made a brief presentation about working of the Punjab Wakf Board. They also informed the Committee about the number of registered/unregistered properties with the Wakf Boards, total number of encroached properties, status of Wakf Survey. The Member, Wakf Board suggested that at present, the Board was empowered to lease a Wakf property only for a period of three years which should be enhanced to more years for the larger interest of the Board.

3. The Member, Punjab Wakf Board, further, requested the Committee to make a recommendation to the State Govt. to extend the applicability of the Public Premises Act to the Wakf properties. The Member, Wakf Board also requested that encroachment on Wakf properties should be made a cognizable offence under the provisions of Criminal Procedure Code.

4. In response to a query about the effect of trifurcation on the income of the Wakf Board, the Member, Wakf Board replied that trifurcation is proving beneficial and the Board was able to run many welfare and developmental schemes and in turn generating a good income from its properties.

5. As regards Court cases pending in different courts /tribunals against the Board, the Member, Wakf Board assured the Committee that the required information will be sent to the Secretariat soon.

6. The Member, Wakf Board also suggested some amendments in the Wakf Act in order to make its implementation more effective.

7. After the presentation, some Members sought some information/clarification. Some of the queries raised by the Members remained unanswered. The Principal Secretary (Home) assured the Committee to send all the required information to the Committee.

The witnesses then withdrew.

A verbatim record of the proceedings was kept.

8. The Committee then adjourned at 5.45 P.M. to meet again at 4.00 P.M. on 24th August, 2006.

V
FIFTH MEETING

The Committee met at 4.00 P.M. on Thursday, the 24th August, 2006 in Room No. 63, First Floor, Parliament House, New Delhi.

PRESENT

1. Shri S.M. Laljan Basha — *Chairman*

RAJYA SABHA

2. Maulana Obaidullah Khan Azmi
3. Shri Sk. Khabir Uddin Ahmed
4. Shri S.P.M. Syed Khan
5. Shri Motiur Rahman

LOK SABHA

6. Shri Iqbal Ahmed Saradgi
7. Shri Anwar Hussain
8. Shri G. Nizamuddin
9. Shri Avinash Rai Khanna
10. Prof. K.M. Kadermohinddin

SECRETARIAT

Shri P.P.K. Ramacharyulu, Deputy Secretary

Shri B.C. Sharma, Under Secretary

Shri P. Narayanan, Committee Officer

WITNESSES

**Representatives of Govt. of Himachal Pradesh and Himachal Pradesh
Wakf Board**

- (i) Smt. Parminder Hira Mathur, Addl. Chief Secretary, Government of Himachal Pradesh
- (ii) Shri Gulzar Mohammad Bharti, Chairman, H.P. Wakf Board
- (iii) Dr. Saif Khan, CEO, H.P. Wakf Board

Representatives of Govt. of Haryana and Haryana Wakf Board

- (i) Shri K.S. Bhoria, Financial Commissioner and Principal Secretary (Home), Government of Haryana
- (ii) Shri M.K. Midha, Special Secretary (Home), Government of Haryana
- (iii) Dr. Parvez Ahmad, CEO, Haryana Wakf Board

(iv) Shri Imteyaz Khizar, Administrative Officer, Haryana Wakf Board

(v) Shri M.R. Farooqi, Welfare Officer, Haryana Wakf Board

2. At the outset, the Chairman welcomed the Members of the Committee and the witnesses. Then he requested the representatives of the Himachal Pradesh (H.P.) Government and State Wakf Board to apprise the Committee about the status of Wakf properties, their registration with the Wakf Board and the progress made in completing the survey of Wakf properties, besides steps taken to remove the encroachment on the Wakf properties. The Additional Chief Secretary of the H.P. Government and the Chairman of the Wakf Board, then, made a brief presentation about the number of registered properties with the Wakf Boards, its income, information about encroached properties and the status of Wakf Survey. They informed the Committee about the welfare schemes being run by the Board.

3. After the presentation, some Members sought some information/clarification which were replied by the witnesses.

4. The Chairman, Wakf Board, thereafter, requested the Committee to consider its request regarding disproportionate distribution of funds between the Wakf Boards of H.P., Punjab and Haryana. He submitted that at the time of trifurcation, H.P. Wakf Board was given a meagre amount as compared to other two Boards. The Chairman of the Committee has agreed to consider the matter.

5. The Chairman, Wakf Board, also submitted that most of the Wakf properties were still in the name of erstwhile Punjab Wakf Board and process of transferring them in the name of H.P. Wakf Board was in progress.

The witnesses then withdrew.

6. The Chairman, then, welcomed the representatives of the Haryana Government and State Wakf Board and requested them to make a brief presentation about the implementation of Wakf Act, 1995 in the State. The Principal Secretary of the Haryana Government, then, made a brief presentation about the number of registered/unregistered properties with the Wakf Boards, total number of encroached properties and the status of Wakf Survey.

7. In response to a query by a Member about the income of the Board, the CEO of the Board has informed that the Board generates its own income from its Wakf properties and does not receive any grant from the Central or State Government. During 2005-06, the

Board had earned an income of Rs. 7.08 crore which was the highest ever revenue collection by the Board.

8. As regards survey work, he stated that total number of Wakf properties in Haryana was 11,929 and survey work of these properties was in progress. About the number of encroachment, it was informed that 176 wakf properties were under encroachment of Govt./Semi-Government agencies and 716 Wakf properties were under encroachment of private individuals. During 2005-06, the Board has recovered its 103 encroached properties by way of compromise.

9. In response to a query by a Member about the educational and welfare activities being run by the Board, the CEO informed that the Board was actively engaged in various educational and welfare programmes. The Board provides pension to 662 widows and destitute/old-aged and orphans, honorarium to 268 Imams posted in different mosques in the State, which are being run under the direct Management of the Board, monthly grant to 277 mosques/maktab/madrasas and merit scholarships to needy and deserving students. It is running 3 schools one each at Ambala, Panipat and Faridabad. The Board is also running 1 Dispensary and 1 Library under its direct management. The Board is also providing financial assistance to 15 schools/college and vocational centres, which are being run by the private individuals.

The witnesses then withdrew.

A verbatim record of the proceedings was kept.

10. The Committee, thereafter, decided to visit Karnataka, subject to permission of Hon'ble Chairman, Rajya Sabha, from 18th to 22nd September, 2006 to make on-the-spot assessment of the working of the Karnataka Wakf Board, implementation of the Wakf Act, 1995 in Karnataka and also the encroachment of Wakf properties in the State. The Committee would also take the opportunity to have interaction/discussions with the members of public, the State Government of Karnataka through Chief Secretary and other officials and also the representatives of Wakf Board of Karnataka.

11. The Committee then adjourned at 6.20 P.M.

SIXTH MEETING

The Committee met at 3.00 P.M. on Thursday, the 5th October, 2006 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

1. Shri S.M. Laljan Basha — *Chairman*

RAJYA SABHA

2. Maulana Obaidullah Khan Azmi
3. Shri Sk. Khabir Uddin Ahmed

LOK SABHA

4. Shri Abdul Mannan Hossain
5. Shri Rashid J.M. Aaron
6. Shri Narayan Chandra Borkataky
7. Shri Avinash Rai Khanna
8. Shri Jaswant Singh Bishnoi
9. Shri T.K. Hamza
10. Shri Mukeem Mohammad
11. Shri A.R. Shaheen

SECRETARIAT

Shri Shamsheer Singh, Joint Secretary

Shri P. Narayanan, Committee Officer

2. At the outset, Chairman welcomed the Members of the Committee.
3. The Committee, expressed satisfaction over the work so far done by the Committee including the feedback received by it during the visits to Rajasthan and Karnataka, where the impact of the visit of the Committee was visible which activated the respective Wakf Boards and State Governments on encroached Wakf properties and then considered its future course of action and after some discussion, decided to hear the Secretary, Ministry of Minority Affairs on the disproportionate division of assets to the Himachal Pradesh Wakf Board while trifurcating Punjab Wakf Board. The Committee decided to meet at 3.00 P.M. on Tuesday, the 17th October, 2006 on the matter.
4. The Committee also considered the alleged low rent paid by the State Bank of India on the Wakf property situated in Ajmer whose estimated cost is about 50 crores. After some

discussion, the Committee directed the Secretariat to seek detailed information on the issue from the Bank and thereafter, if need be, Chairman of the Bank for clarifications.

5. Thereafter, the Committee decided to visit States of Assam and West Bengal tentatively from 7th to 12th November, 2006 to make on-the-spot assessment of the working of the State Wakf Boards, implementation of the Wakf Act, 1995 and also the encroachment of Wakf properties in Assam and West Bengal. The Committee would also take the opportunity to have interaction/discussions with the members of public, the State Governments of Assam and West Bengal through Chief Secretaries and other officials and will also hear the representatives of State Wakf Boards.

6. The Committee then adjourned at 3.30 P.M.

VII SEVENTH MEETING

The Committee met at 3.00 P.M. on Tuesday, the 17th October, 2006 in Committee Room 'E', Basement, Parliament House Annexe, New Delhi.

PRESENT

1. Shri S.M. Laljan Basha — *Chairman*

RAJYA SABHA

2. Maulana Obaidullah Khan Azmi
3. Shri Sk. Khabir Uddin Ahmed
4. Shri Motiur Rahman

LOK SABHA

5. Shri Iqbal Ahmed Saradgi
6. Shri Abdul Mannan Hossain
7. Shri Narayan Chandra Borkataky
8. Shri T.K. Hamza
9. Shri Mukeem Mohammad
10. Prof. K.M. Kadermohinddin

SECRETARIAT

Shri Shamsher Singh, Joint Secretary
Shri P.P.K. Ramacharyulu, Deputy Secretary
Shri B.C. Sharma, Under Secretary
Shri P. Narayanan, Committee Officer

WITNESSES

Officials of Ministry of Minority Affairs

- (i) Shri M.N. Prasad, Secretary
- (ii) Shri Sujit Dutta, Joint Secretary
- (iii) Smt. Shamima Siddiqui, Deputy Secretary
- (iv) Dr. M.R. Haque, Secretary, Central Wakf Council

2. At the outset, the Chairman welcomed the Members of the Committee and the witnesses. Then he requested the Secretary, Ministry of Minority Affairs to express the views of his Ministry on the complaint made by the Himachal Pradesh Wakf Board

(HPWB) to the Committee about the alleged unfair division of assets and cash to the HPWB during the trifurcation of the Punjab Wakf Board.

3. The Secretary informed that the United Punjab Wakf Board was divided into four Wakf Boards of Punjab, Haryana, Himachal Pradesh and UT of Chandigarh on 1st August, 2003 on the basis of "Scheme for Division of Assets and Liabilities" which was agreed to and consented by all the four Wakf Boards. Consequently, moveable and immoveable properties were divided amongst the four Boards with their consent. The Secretary informed the Committee that the income of HPWB was 2.74% whereas expenditure was 5.19%. The Secretary, therefore, refuted the claim of HPWB that its income was diverted to other Boards as expenditure of HPWB was more than its income.

4. Regarding levying of low-rent on the Wakf properties of HPWB, the Secretary informed the Committee that rent in Hilly areas is normally low than the rent in plain areas. He expressed his inability to further explain the point.

5. In response to a query by the Chairman to the Secretary to suggest a viable solution about the problem, the Secretary suggested that HPWB should convene a meeting with other three Wakf Boards. The Chairman directed the Secretary to get a meeting arranged.

6. During the course of discussion, some Members also sought some information/clarification which were replied by the Secretary.

The witnesses then withdrew.

A verbatim record of the proceedings was kept.

7. Thereafter, the Committee decided to meet at 11.00 A.M. on 6th November, 2006 to hear the Secretary, Central Wakf Council on the functioning of the Council.

8. The Chairman also informed the Members that Hon'ble Chairman accorded permission to the Committee to undertake visits to Assam and West Bengal from 7th to 12th November, 2006 to make an assessment of the working of State Wakf Boards of Assam and West Bengal and the implementation of the Wakf Act, 1995, in those States.

9. The Committee then adjourned at 3.35 P.M.

VIII EIGHTH MEETING

The Committee met at 11.00 A.M. on Monday, the 6th November, 2006 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

1. Shri S.M. Laljan Basha — *Chairman*

RAJYA SABHA

2. Shri Sk. Khabir Uddin Ahmed

LOK SABHA

3. Shri Abdul Mannan Hossain
4. Shri Narayan Chandra Borkataky
5. Shri Prahlad Joshi
6. Shri Avinash Rai Khanna
7. Shri Jaswant Singh Bishnoi
8. Shri Mohammad Salim
9. Prof. K.M. Kadermohinddin
10. Shri A.R. Shaheen

SECRETARIAT

Shri P.P.K. Ramacharyulu, Deputy Secretary

Shri B.C. Sharma, Under Secretary

Shri P. Narayanan, Committee Officer

WITNESSES

Representative of Central Wakf Council

Dr. M.R. Haque, Secretary

2. At the outset, the Chairman welcomed the Members of the Committee and Dr. M.R. Haque, Secretary, Central Wakf Council (CWC). The Chairman, then, requested the Secretary, CWC to make his presentation.

3. The Secretary informed the Committee that CWC is a statutory body established in 1964 to advise the Government of India on matters concerning the working of Wakf Boards and administration of Wakfs in the country. He informed that the most important advise given by the Council is establishment of National Wakf Development Corporation

which will help in accelerating the development of Wakf properties (both urban and rural) on commercial lines.

4. The Secretary informed the Committee that the Council derives its income from the contribution received from the various State Wakf Boards, which is, @1% of the net income of the Wakfs. All the administrative and other expenses of the Council are met out of this income. He further informed that only eight State Wakf Boards are getting grant from the State Governments while other State Governments are not giving any grant to their respective Wakf Boards. He requested the Committee to seriously consider this aspect.

5. In response to a query regarding releasing loans to the State Wakf Boards from CWC, the Secretary stated that the Council grants loans to the State Wakf Boards only after receiving request from the State Wakf Boards. Among North-eastern States, only Manipur has sent request.

6. The Secretary also stated that the Wakf properties fall under the purview of the Assam Non-Agricultural Urban Area Tenancy Act, 1955 and it needs to be amended. The Government has written letters in this regard to the Government of Assam. But the Assam Government has not yet taken any action to amend the said Act and exempt Wakf properties.

7. A Member suggested to the Committee that to check encroachment on Wakf properties and removal of encroachments, Karnataka and Rajasthan Governments have brought the Wakf properties under the purview of the Public Premises Act. He suggested that the same mechanism may be adopted in all the States. The Secretary informed the Committee that this is a State subject and necessary action in this regard can be taken only by the State Governments.

8. A Member raised a point that CWC has established a few ITIs in the country which should be increased. In reply, the Secretary informed the Committee that the Council does not get any grant to run its educational programme. The Council gives only loans for which no service or administrative fee is charged. The Council spends money on payment to the Staff from its own fund, postal expenses, etc. In lieu of that, the Council requests the Loanee Mutawallis to pay six per cent donation on outstanding loan to the Education Fund of the Council. That amount is so meagre that Council is not able to run the educational scheme on the scale it is actually required. The money available with Council is so little that it is able to assist only 13 ITIs.

9. The Secretary, CWC concluded his presentation with a submission that States of Arunachal Pradesh, Mizoram and Nagaland have not established Wakf Boards as the Wakf properties are very few in number in those States. As per the provisions of the Wakf Act, 1995, every State must have a Board. In the alternative, he suggested that a Common Wakf Board for Assam, Arunachal Pradesh, Mizoram, Nagaland and Sikkim may be constituted so that Wakf properties in those States can also be protected.

10. During the course of discussion, some Members sought clarifications which were replied to by the Secretary.

The witness then withdrew.

A verbatim record of the proceedings was kept.

11. The Committee then adjourned at 12.10 P.M.

IX NINTH MEETING

The Committee met at 3.00 P.M. on Wednesday, the 13th December, 2006 in Room No. 63, First Floor, Parliament House, New Delhi.

PRESENT

1. Shri S.M. Laljan Basha — *Chairman*

RAJYA SABHA

2. Shri S.P.M. Syed Khan
3. Shri Motiur Rahman

LOK SABHA

4. Shri Anwar Hussain
5. Shri Abdul Mannan Hossain
6. Shri Rashid J.M. Aaron
7. Shri Narayan Chandra Borkataky
8. Shri T.K. Hamza
9. Shri Mukeem Mohammad
10. Prof. K.M. Kadermohinddin
11. Shri A.R. Saheen

SECRETARIAT

Shri Shamsher Singh, Joint Secretary
Shri P.P.K. Ramacharyulu, Deputy Secretary
Shri M. R. Verma, Under Secretary

WITNESSES

Representatives of Government of Madhya Pradesh and Madhya Pradesh Wakf Board

- (i) Dr. Bhagirath Prasad, Principal Secretary (Backward Class and Minority Welfare), Government of Madhya Pradesh
- (ii) Shri A.W. Qureshi, Deputy Director, M.P., Backward Class and Minority Welfare
- (iii) Shri O.P. Khattani, Administrator, M.P. Wakf Board

2. At the outset, the Chairman welcomed the Members of the Committee and the witnesses. Then he requested the representatives of the Madhya Pradesh (M.P.) Government and State Wakf Board to apprise the Committee about the status of Wakf properties, their registration with the Wakf Board and the progress made in completing the survey of Wakf properties, besides steps taken to remove the encroachment on the Wakf properties. The Principal Secretary of the M.P. Government and the Administrator of the Wakf Board, then, made a brief presentation about the number of registered properties with the Wakf Boards, its income, information about encroached properties and the status of Wakf survey. They informed the Committee about the welfare schemes being run by the Board.

3. After the presentation, some Members sought some information/clarification which were replied to by the witnesses.

The witnesses then withdrew.

A verbatim record of the proceedings was kept.

4. The Committee, thereafter, reviewed the work done so far and took note of the fact that the term of the Committee was scheduled to expire on 1st January, 2007. After some discussion, the Committee felt that the tasks assigned to it under the terms of reference was not completed. The Committee, accordingly, decided that it should seek extension of time and authorized its Chairman to approach Hon'ble Chairman, Rajya Sabha for the extension of the term of the Committee.

5. The Committee also decided to visit the States of Maharashtra and Madhya Pradesh, subject to the permission of the Hon'ble Chairman, Rajya Sabha tentatively from 9th to 15th January, 2007 to make on-the-spot assessment of the working of the State Wakf Boards, implementation of the Wakf Act, 1995 and also the encroachment of Wakf properties in Maharashtra and Madhya Pradesh.

5. The Committee then adjourned at 4.25 P.M.

X
TENTH MEETING

The Committee met at 3.00 P.M. on Monday, the 12th February, 2007 in Room No. 62, First Floor, Parliament House, New Delhi.

PRESENT

1. Shri S.M. Laljan Basha — *Chairman*

RAJYA SABHA

2. Maulana Obaidullah Khan Azmi
3. Shri Sk. Khabir Uddin Ahmed
4. Shri Kamal Akhtar
5. Shri Motiur Rahman

LOK SABHA

6. Shri Abdul Mannan Hossain
7. Shri Rashid J.M. Aaron
8. Shri Narayan Chandra Borkataky
9. Shri Chandrakant Bhaurao Khair
10. Shri A.R. Shaheen

SECRETARIAT

Shri P.P.K. Ramacharyulu, Director
Shri M. R. Verma, Under Secretary
Shri P. Narayanan, Committee Officer

WITNESSES

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Representatives of Govt. of NCT of Delhi and Delhi Wakf Board

- (i) Smt. Naini Jayaseelan, Divisional Commissioner, Government of NCT of Delhi
- (ii) Shri S.M. Ali, CEO, Delhi Wakf Board
- (iii) Shri Mohd. Arif, In-charge (Properties), Delhi Wakf Board
- (iv) Shri Azimul Haq, Survey Commissioner (Wakf)
- (v) Shri Vinay Kumar, Additional District Magistrate, Government of NCT of Delhi

2. At the outset, the Chairman welcomed the Members of the Committee and the witnesses. He informed the Members that the tenure of the Committee had been extended by the Hon'ble Chairman, Rajya Sabha for one year, i.e. upto 2nd January, 2008.

3. The Chairman, then, informed the Members that a press release to the public inviting suggestions on the working of the Wakf Boards and the Wakf Act, 1995 may be issued. After some discussion, the Committee acceded to the proposal.

The Chairman also placed a proposal to form a separate Sub-Committee to examine the proposals to amendments to the Wakf Act, 1995. The Committee after some discussion authorized its Chairman to form Sub-Committees as may be required.

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10. The Chairman, then, welcomed the Divisional Commissioner (DC), Government of NCT of Delhi and other officials/representatives of the Delhi Wakf Board and requested them to make a brief presentation about the implementation of Wakf Act, 1995 in the State. The Divisional Commissioner, then, made a brief presentation about the number of registered/unregistered properties with the Wakf Boards, total number of encroached properties and the status of Wakf Survey.

11. The DC informed the Committee that Board is getting enhanced rent for its properties and 10% hike is effected every year. About survey of Wakf properties, she stated that out of 1934 properties, survey in respect of 1382 has been completed and after their verification, the same shall be notified in the Gazette. Survey of 225 disputed properties could not be done so far, she added.

The Committee suggested to the DC to constitute a time bound Task Force for the speedy completion of survey of Wakf properties.

12. The Committee sought to know about action taken on some big hotels on the Wakf land. The DC replied that only after demarcation of Wakf properties by the State Revenue

Department, necessary action will be taken to remove unauthorized occupation from the Walk land.

The Committee expressed its deep concern over the slow pace of demarcation process.

13. On a direction by the Committee, the DC assured to send the information about the Wakf properties occupied by the Delhi Government and the outstanding rent.

About the evacuee properties, the DC informed that Wakf properties do not come under the jurisdiction of Wakf Act and governed by the Custodian of Evacuee Properties Act.

14. The DC requested the Committee to make a recommendation that Wakf Properties in the State of Delhi should be kept out of the purview of the Rent Control Act and should be governed by the Public Premises Act.

15. The Committee, thereafter, decided to visit Wakf properties situated in NCT of Delhi, subject to permission of Hon'ble Chairman, Rajya Sabha, tentatively in March, 2007 to make on-the-spot assessment of the working of the Delhi Wakf Board and implementation of the Wakf Act in the State and also the encroachment of Wakf properties in the State. The Committee would also take the opportunity to have interaction/discussions with the members of public, the State Government of Delhi through Chief Secretary and other officials and also the representatives of Delhi Wakf Board.

The witnesses then withdrew.

A verbatim record of the proceedings was kept.

16. The Committee then adjourned at 5.15 P.M. to meet again at 11.00 A.M. on 13th February, 2007.

XI ELEVENTH MEETING

The Committee met at 11.00 A.M. on Tuesday, the 13th February, 2007 in Room No. 62, First Floor, Parliament House, New Delhi.

PRESENT

1. Shri S.M. Laljan Basha — *Chairman*

RAJYA SABHA

2. Maulana Obaidullah Khan Azmi
3. Shri Sk. Khabir Uddin Ahmed
4. Shri Kamal Akhtar
5. Shri Motiur Rahman

LOK SABHA

6. Shri Abdul Mannan Hossain
7. Shri Narayan Chandra Borkataky
8. Shri Prahlad Joshi
9. Shri Hansraj Gangaramji Ahir
10. Shri Chandrakant Bhaurao Khaire
11. Shri A.R. Shaheen

SECRETARIAT

Shri P.P.K. Ramacharayulu, Director
Shri M. R. Verma, Under Secretary
Shri P. Narayanan, Committee Officer

WITNESSES

Representatives of Chhattisgarh State Wakf Board

- (i) Shri Salim Ashrafi, Chairman
- (ii) Shri Akbar Ali Farooqi, Member
- (iii) Dr. S.A. Farooqi, CEO

2. At the outset, the Chairman welcomed the Members of the Committee and the witnesses. Then he requested the representatives of the Chhattisgarh State Wakf Board to apprise the Committee about the implementation of Wakf Act, 1995 in the State, measures to strengthen the Wakf Board, status of Wakf properties, their

registration with the Wakf Board and the progress made in completing the survey of Wakf properties, besides steps taken to remove the encroachment on the Wakf properties problems being faced in the implementation of the Wakf Act. The Chairman of the Wakf Board, then, made a brief presentation about the number of registered properties with the Wakf Boards, its income, information about encroached properties and the status of Wakf Survey. They informed the Committee about the welfare schemes being run by the Board.

3. After the presentation, Members sought clarifications on the points arising out of the presentation, which were replied by the Chairman and CEO of the Wakf Board.

4. A Member of the Committee suggested the witnesses to write to the State Government to extend the applicability of the Public Premises Act to the Wakf properties and keep them out from the jurisdiction of the Rent Control Act.

5. Another Member suggested the witnesses to increase the rent of Wakf properties as per market value.

The officials then withdrew.

A verbatim record of the proceedings was kept.

6. The Committee then adjourned at 11.50 A.M.

***XIII**
THIRTEENTH MEETING

The Committee met at 3.00 P.M. on Wednesday, the 16th May, 2007 in Room No. 63, First Floor, Parliament House, New Delhi.

PRESENT

1. Shri S.M. Laljan Basha — *Chairman*

RAJYA SABHA

2. Shri Sk. Khabir Uddin Ahmed
3. Shri S.P.M. Syed Khan
4. Shri Motiur Rahman

LOK SABHA

5. Shri Anwar Hussain
6. Shri Narayan Chandra Borkataky
7. Shri Avinash Rai Khanna
8. Shri Mohammad Salim
9. Prof. K.M. Kadmohiuddin
10. Shri A.R. Saheen

SECRETARIAT

Shri P.P.K. Ramacharyulu, Director
Shri M. R. Verma, Under Secretary
Shri P. Narayanan, Committee Officer

WITNESS

Representative of Government of Jharkhand

Shri U.K. Sangma, Principal Secretary (Welfare), Government of Jharkhand

2. At the outset, the Chairman welcomed the Members of the Committee and informed the Members that in the State of Jharkhand, no Wakf activity was going on. The State Wakf Board has not been constituted so far and even after the formation of the State in 2000, the division of assets and liabilities of the Wakf Board has not taken place. The Committee expressed its disappointment over the sorry state of Affairs in Jharkhand.
3. The Chairman, then, welcomed the Principal Secretary (Welfare), Government of Jharkhand and requested him to apprise the Committee about the status of Wakf properties,

progress made in completing the survey of Wakf properties, besides steps taken to remove encroachments on the Wakf properties. The Principal Secretary informed the Committee that the Wakf rules have been framed and notified in the year 2005. The survey of Wakf properties in the State was in progress and final report was awaited. About the constitution of the State Wakf Board, he stated that a list of names of the persons, to be appointed in the Wakf Board, had been submitted to the Government for consideration and the matter was pending at the highest level of the State Government. The Principal Secretary concluded his presentation with the remarks that Wakf activities in the State would start once the Wakf Board is constituted.

4. After the presentation, Members sought clarifications on the inadequacies of information mentioned in the replies to the questionnaire and points arising out of the presentation, which could not be replied by the Principal Secretary as he took over the Minority Department in the State Government only a few days earlier. The Committee expressed its displeasure over his inadequate preparation for the meeting and decided to hear the Chief Secretary later.

The witness then withdrew.

A verbatim record of the proceedings was kept.

5. The Committee, thereafter, reviewed the work and decided to meet on 4th and 5th June, 2007 to hear experts who have knowledge about the Wakf matters.

6. The Committee also decided to visit the States of Maharashtra and Madhya Pradesh, subject to the permission of the Hon'ble Chairman, Rajya Sabha tentatively from 18th to 24th June, 2007 to make on-the-spot assessment of the working of the State Wakf Boards, implementation of the Wakf Act, 1995 and also the encroachment of Wakf properties in Maharashtra and Madhya Pradesh.

7. The Committee then adjourned at 3.55 p.m.

***XVI**
SIXTEENTH MEETING

The Committee met at 3.00 P.M. on Friday, the 6th July, 2007 in Committee Room 'A',
Ground Floor, Parliament House Annexe, New Delhi.

PRESENT

1. Shri S.M. Laljan Basha — *Chairman*

RAJYA SABHA

2. Maulana Obaidullah Khan Azmi
3. Shri Sk. Khabir Uddin Ahmed
4. Shri Kamal Akhtar
5. Shri Motiur Rahman

LOK SABHA

6. Shri Abdul Mannan Hossain
7. Shri Rashid J.M. Aaron
8. Shri Narayan Chandra Borkatakya
9. Shri Hansraj Gangaramji Ahir
10. Shri T.K. Hamza
11. Shri Mukeem Mohammad
12. Prof. K.M. Kader Mohideen
13. Shri Chandrakant Bhaurao Khaire
14. Shri A.R. Shaheen

SECRETARIAT

Shri P.P.K. Ramacharyulu, Director
Shri P. Narayanan, Committee Officer

2. At the outset, Chairman welcomed the members of the Committee.
3. The Chairman thanked the Members for their co-operation extended during the visit of the Committee to the States of Maharashtra and Madhya Pradesh. The Committee, thereafter, expressed satisfaction over the work so far done by the Committee including the feedback received by it during the visit to States of Maharashtra and Madhya Pradesh, where the impact of the visit of the Committee was visible which activated the respective Wakf Boards and State Governments to retrieve encroached Wakf properties.

4. The Chairman, then informed the Members that on that day the Chief Secretary, Government of West Bengal was invited to appear before the Committee for clarifications on the working of the West Bengal State Wakf Board, particularly in the light of the discussion held by the Committee during its visit to West Bengal. However, the Chief Secretary had expressed his inability to appear before the Committee due to heavy rain in Kolkata. The Chairman informed the Members that the hearing had been postponed and in lieu thereof a local visit had been arranged to inspect some of the Wakf properties in Delhi, *i.e.*, Fatehpuri Mosque, 64 Khamba and Qabristan Panjpeeran, Nizamuddin and requested the Members to join the local visit.

5. The Committee also decided to visit Uttar Pradesh and Bihar tentatively from 26th to 31st July, 2007 to make on-the-spot assessment of the working of the Shia and Sunni Wakf Boards of Uttar Pradesh and Bihar, implementation of the Wakf Act, 1995 and also the encroachment of Wakf properties in those States. The Committee would also take the opportunity to have interaction/discussions with the members of public, Chief Secretaries of the State Governments and other officials and also the representatives of Shia and Sunni Wakf Boards of Uttar Pradesh and Bihar. The Committee authorized its Chairman to obtain permission of the Hon'ble Chairman, Rajya Sabha for the said visit.

6. The Committee then adjourned at 3.20 P.M. to proceed on the local visit.

***XVIII**
EIGHTEENTH MEETING

The Committee met at 3.00 P.M. on Thursday, the 20th September, 2007 in Committee Room 'C', Parliament House Annexe, New Delhi.

PRESENT

1. Shri Mohammad Salim — In the *Chair*

RAJYA SABHA

2. Maulana Obaidullah Khan Azmi
3. Shri Sk. Khabir Uddin Ahmed
4. Shri Kamal Akhtar
5. Shri S.P.M. Syed Khan

LOK SABHA

6. Shri Anwar Hussain
7. Shri Narayan Chandra Borkataky
8. Shri Hansraj Gangaramji Ahir
9. Shri Avinash Rai Khanna
10. Shri Jaswant Singh Bishnoi
11. Shri Mohammad Salim
12. Prof. K.M. Kader Mohiddin
13. Shri Chandrakant Bhaurao Khaire
14. Shri Arjuncharan Sethi
15. Shri A.R. Shaheen.

SECRETARIAT

Shri P.P.K. Ramacharyulu, Director
Shri M. R. Verma, Deputy Director
Shri P. Narayanan, Assistant Director

WITNESSES

Representatives of Government of Chhattisgarh

- (i) Shri M.K. Raut, Secretary, SC/ST Minorities and OBC's Department
- (ii) Dr. S.A. Farooqui, CEO, Chhattisgarh Wakf Board

Representatives of Government of Orissa

- (i) Shri B.K. Patel, Principal Secretary (Law)

(ii) Shri K.L. Barik, Deputy Secretary (Law Department)

At the outset, the Chairman, welcomed the Principal Secretary, Government of Chhattisgarh. The Chairman, then requested the Principal Secretary to brief the Committee about the Working of Chhattisgarh State Wakf Board and the State Government's efforts in implementing the Wakf Act, 1995. The Principal Secretary, then informed the Committee that the Chhattisgarh State Wakf Board came into existence on 20th July, 2005. The State Government provided a Budget grant of Rs. 50 lakhs to the Board in 2005-06. As regards survey the Principal Secretary informed that no survey has been ordered till date. However, Survey Commissioner, Addl. Survey Commissioner had been appointed. All the preparatory work for starting the survey was going on in full swing he informed. On a query as to when the survey was likely to commence, the Principal Secretary informed that it was likely to start in 2009.

About the illegal encroachments he informed the Committee that there were 824 illegal encroachments, in the State. The State Government constituted a Wakf Tribunal and 21 cases had been transferred to the Tribunal and 16 cases had been disposed of by the Tribunal in Board's favour. The Principal Secretary also informed the Committee that Wakf properties were covered under the Rent control Act and extension of Public Premises Act to Wakf properties would be considered by the State Government. Members sought some clarifications to which the Principal Secretary responded.

The Witnesses then withdrew.

The Chairman then welcomed the Principal Secretary (Law), Orissa and requested him to brief the Committee about the implementation of the Wakf Act, 1995 in the State. The Principal Secretary informed the Committee that Orissa Wakf Board was constituted in 2005. The State Government provided a grant-in aid of Rs. 16.5 lakh in 2003-04, Rs. 14.5 lakhs in 2004-05, Rs. 15 lakhs each in 2005-06 and 2006-07. Apart from the grant-in-aid, the State Government also provided subsidy for carrying repair work to the Mosques etc., to the tune of Rs. 4 lakhs each in 2003-04, 2004-05 and 2005-06 and Rs. 4.5 lakhs was given in 2006-07. On survey, the Principal Secretary informed the Committee that the first survey was conducted in 1986 and 3,729 Wakf properties were identified. The second survey was started in 2001 and upto March, 2007, 433 new Wakf properties had been identified. He also informed that it would take 2 more years to complete the survey work. About the constitution of Wakf Tribunal, the Principal Secretary stated that Tribunal had been constituted 32 cases were transferred to it, out of which 24 cases had been decided and 4 were still pending. He also informed that 3 Wakf institutions were under the direct

management of the Board. The rules were framed way back in 1997, however the regulations were yet to be framed, he added. On the question of appointment of full-time CEO, he informed that there was a litigation going on in the High Court, Orissa, and steps were being taken to clear the litigation. He also informed that a Panel of five eligible persons had been submitted to the court, and the court had given its approval for the same. The Committee directed the Principal Secretary, to get vacated the stay as early as possible, so that a full time CEO could be appointed.

Members then sought some clarifications to which the Principal Secretary responded. The Committee also directed the Principal Secretary to send replies to the assurances made by him before the Committee.

A verbatim record of the proceedings was kept.

The Committee then adjourned at 6:15 P.M.

XIX NINETEENTH MEETING

The Committee met at 11.00 A.M. on Thursday, the 18th October, 2007 in Room No. 63, First Floor, Parliament House, New Delhi.

PRESENT

1. Shri S.M. Laljan Basha — *Chairman*

RAJYA SABHA

2. Maulana Obaidullah Khan Azmi
3. Shri Sk. Khabir Uddin Ahmed
4. Shri Kamal Akhtar
5. Shri S.P.M. Syed Khan

LOK SABHA

6. Shri Iqbal Ahmed Saradgi
7. Shri G. Nizamuddin
8. Shri Rashid J.M. Aaron
9. Shri Narayan Chandra Borkataky
10. Shri Hansraj Gangaramji Ahir
11. Shri Avinash Rai Khanna
12. Shri Jaswant Singh Bishnoi
13. Shri Mohammad Salim
14. Shri T.K. Hamza
15. Shri Arjuncharan Sethi

SECRETARIAT

Shri P.P.K. Ramacharyulu, Director
Shri P. Narayanan, Deputy Director

2. At the outset, the Chairman welcomed the Members of the Committee and wished them greetings on Eid. The Chairman then requested the Members to offer their suggestions on the Amendments suggested by the Sub-Committee, to the Wakf Act, 1995. After some discussions, the Committee decided to hear the views of Secretary M/o Minority Affairs and Secretary, Deptt. of Legal Affairs on the matter before proceeding further.

The Committee then discussed its visit to Cochin and Chennai from 23rd to 27th October. On the Suggestion of a Member the Committee decided to postpone its visit to Kochi because of heavy rains over there, and rescheduled its visit to Chennai from 24th to 27th October, 2007.

The Committee then adjourned at 12.15 P.M.

A verbatim record of the proceedings was kept.

***XXI**
TWENTY FIRST MEETING

The Committee met at 11.30 A.M. on Friday, the 1st February, 2008 in Committee Room No. 53, First Floor, Parliament House, New Delhi.

PRESENT

1. Shri S.M. Laljan Basha — *Chairman*

RAJYA SABHA

2. Shri Sk. Khabir Uddin Ahmed
3. Shri Kamal Akhtar
4. Shri S.P.M. Syed Khan
5. Shri Tariq Anwar

LOK SABHA

6. Shri Iqbal Ahmed Saradgi
7. Shri Avinash Rai Khanna
8. Shri Mohammad Salim
9. Shri Mukeem Mohammad
10. Shri Chandrakant Bhaurao Khaire

SECRETARIAT

Shri P.P.K. Ramacharyulu – Director

Shri P. Narayanan, Deputy Director

WITNESSES

- (i) Shrimati Vinita Kumari, Principal Secretary, Department of Social Welfare, Government of Uttarakhand
- (ii) Shri Kutubuddin, Chief Executive Officer, Uttarakhand Wakf Board
- (iii) Shri Shahid Hussain, Tehsildar, Roorki
- (iv) Shri Furkhan Ahmed, Manager, Dargah
- (v) Shri Mohammed Ali, Wakf Inspector

At the outset, the Chairman welcomed Smt. Vinita Kumari, Principal Secretary, Department of Social Welfare, Government of Uttarakhand and other Officials of the State Government of Uttarakhand. He requested the Principal Secretary to brief the Committee on the following:

- (i) Steps taken by the State Government to maintain the Wakf Properties to keep them free from encroachments;
- (ii) proper implementation of the Wakf Act, 1995;
- (iii) Status of survey of Wakf Properties; and
- (iv) To make the Board financially viable.

2. The Committee then heard the oral evidence of the Principal Secretary, Department of social Welfare, Government of Uttarakhand. During the discussion, the Principal Secretary informed the Committee that Uttarakhand Wakf Board was constituted under Section 13(1) of the Wakf Act, 1995 under the Chairmanship of Shri Choudhary Raees Ahmed. Subsequent to the creation of the Board, the Board Chairman did not comply with the provisions of the Wakf Act, 1995 and the Board was superseded on 26th December, 2007 and the District Magistrate was given charge. The Principal Secretary also informed the Committee that all the records of the Wakf Properties were not traceable and an FIR has been lodged in this regard. Some Members of the Committee advised the Principal Secretary to get the records from the U.P. Wakf Board. The Members sought clarifications on the points arising out of the presentation to which the Principal Secretary replied.

3. The Committee directed the Secretary to furnish exhaustive information about the encroachments of the Wakf Properties in the State of Uttarakhand.

The Officials then withdrew.

4. The Committee also decided to visit Uttarakhand tentatively from 16th to 18th February, 2008 to make on-the-spot assessment of the working of the Uttarakhand Wakf Boards, implementation of the Wakf Act, 1995 in that State and also the encroachment of Wakf properties. The Committee would also take the opportunity to have interaction/discussions with the members of public, Chief Secretary of the State Governments and other officials and also the representatives of Uttarakhand Wakf Board. The Committee authorized its Chairman to obtain permission of the Hon'ble Chairman, Rajya Sabha for the said visit.

A verbatim record of the proceeding was kept.

5. The Committee then adjourned at 12:20 P.M.

***XXVI**
TWENTY SIXTH MEETING

The Committee met at 3.00 P.M. on Wednesday, the 21st May, 2008 in Committee Room 'A', Parliament House Annexe, New Delhi.

PRESENT

1. Shri K. Rahman Khan — *Chairman*

RAJYA SABHA

2. Shri Kamal Akhtar

LOK SABHA

3. Shri G. Nizamuddin
4. Shri Narayan Chandra Borkataky
5. Shri Hansraj Gangaramji Ahir
6. Shri Avinash Rai Khanna
7. Shri Mohammad Salim
8. Shri Mukeem Mohammad
9. Shri Chandrakant Bhaurao Khaire
10. Shri Arjuncharan Sethi
11. Shri A.R. Shaheen

SECRETARIAT

Dr. V.K. Agnihotri, Secretary General

Shri G.C. Miglani, Joint Secretary

Shri P.P.K. Ramacharyulu, Director

Shri P. Narayanan, Deputy Director

Shri S.B.Malkani, Committee Officer

2. First of all, the Chairman of the Committee welcomed all the Members to the meeting and sought their co-operation in completing the work assigned to the Committee. The Chairman thereafter gave an overview of the work done so far by the Committee as per its terms of reference and the items of work that were pending before it. He explained that the Committee has so far submitted 18 reports. Ten reports were submitted by the previous Committee out of which one was on the Dargah Khwaja Saheb Ajmer and nine on State Wakf Boards whereas eight reports were presented by the present Committee out of which one was on Amendments to Wakf Act and seven on State Wakf Boards. The Chairman also stated that the Committee had visited 14 States to interact with the representatives of

respective State Governments in charge of Wakf matters and the functionaries of respective Wakf Boards and 14 more States were yet to be covered by it, with reports being still required to be submitted by it on the status of implementation of the Wakf Act 1995 and the working of the State Wakf Boards in 20 States. The Chairman further stated that the Committee could give separate report on each of its terms of reference.

3. Giving an overall picture on the situation prevailing in the country on the Wakf front, the Chairman stated that the States and the State Wakf Boards were not showing any interest to identify the Wakf Properties through proper survey and the Survey work was also moving at a snail's pace in every State. On encroachments, he stated that neither the Wakf Boards were serious on removing them nor the State Governments were willing to assist the Boards on this issue. The State Governments were also not serious in invoking the provisions of Wakf Act, 1995 on encroachments. He felt that the Committee needs take a view on this. The Chairman also said that certain stringent steps need to be taken to stop the Wakf Properties from being illegally gifted, transferred, mortgaged, leased or sold as the present legislative measures were not sufficient enough to deal with the problem.

4. He also suggested that for sustenance of Wakfs in India, proper measures have to be taken to develop Wakf Properties. On the functioning of Wakf Boards, the Chairman observed that at present they were financially very weak and the Committee should recommend measures to make them financially sound. He felt that the Central Government through Central Wakf Council should assist them in a big way. Thereafter, the Chairman requested the Members to give their views/suggestions in the matter.

5. Felicitating the Chairman, on his assuming the office, the Members felt that the Committee would stand to gain immensely from the vast knowledge and wide ranging experience on Wakf matters possessed by him. They assured him of their full cooperation in smooth conduct of the business of the Committee. Thereafter one of the Members while expressing his view on the wakf administration in the country stated that though the Committee had visited several States and found several irregularities in the administration of wakf properties and the same were brought to the notice of the State Governments, but the ground level situation had not changed much. The response from the States on Wakf was generally lukewarm. There was lack of co-operation from the revenue authorities. He, therefore, suggested that stringent measures should be taken whenever any Wakf Property is encroached. Another Member suggested that whenever the Government takes possession of any Wakf Property, an alternate property worth the same value should be given to the Wakf Board. One Member suggested that some expert on wakf matters should be

associated with the Committee to complete its task within the given time-frame. The members were generally of the view that it would not be possible for the Committee to complete the task entrusted to it within its present tenure which was upto 30th June, 2008 and extension of its tenure by another six months *i.e.* upto December 31, 2008 was necessary.

6. The Chairman agreeing with the views of the Members assured them that their views would be taken care of. Also agreeing with the view that the present term of the Committee *i.e.* upto 30th June, 2008 would not be sufficient to complete the task assigned to it and accordingly further extension of its tenure for at least six months will have to be obtained. The Committee accordingly authorized its Chairman to seek extension of tenure of the committee upto 31st December, 2008 to enable it to complete the remaining work.

7. The Committee then adjourned at 4.15 P.M.

XXVII
TWENTY SEVENTH MEETING

The Committee met at 3.00 P.M. on Thursday, the 5th June, 2008 in Room No. '63', Parliament House, New Delhi.

PRESENT

1. Shri K. Rahman Khan — *Chairman*

RAJYA SABHA

2. Shri Kamal Akhtar
3. Shri Mohammed Amin
4. Shri Shivanand Tiwari

LOK SABHA

5. Shri Anwar Hussain
6. Shri Narayan Chandra Borkataky
7. Shri Avinash Rai Khanna
8. Shri Syed Shahnawaz Hussain
9. Shri T.K. Hamza
10. Shri Mukeem Mohammad
11. Shri A.R. Shaheen

SECRETARIAT

Dr. V.K. Agnihotri, Secretary General
Shri N.C. Joshi, Secretary
Shri S.K. Kathuria, Joint Secretary
Shri P.P.K. Ramacharyulu, Director
Shri B.C. Sharma, Joint Director
Shri P. Narayanan, Deputy Director
Shri Suresh B. Malkani, Committee Officer

WITNESSES

Representatives of the Central Wakf Council

- (i) Justice Naseemuddin (Retd.), Member
- (ii) Shri Shakeel Ahmed, Member
- (iii) Dr. Syed Ahmad, Member
- (iv) Smt. Salma Sultan, Member

- (v) Shri Ziaullah Sheriff, Member
- (vi) Shri Syed Shah Hasan Mani, Member
- (vii) Shri Mansoor Ali, Member
- (viii) Dr. Razi Ahmad Kamal, Member
- (ix) Dr. M.R. Haque, Secretary.

Representatives of the Ministry of Minority Affairs

- (i) Shri M.N. Prasad – Secretary
- (ii) Shri Sujit Dutta – Joint Secretary
- (i) Shri S.M. Akthar, Deputy Secretary

At the outset the Chairman, welcomed the newly nominated Members Shri Mohammad Amin and Shri Shivanand Tiwari to the Committee. The Chairman then informed the Members that he had consulted some experts to do research work and advice the JPC. Some of them had agreed to assist the Committee. The Chairman stated that a Research Advisory Group could be formed with these experts. The Members agreed to the suggestion of the Chairman and authorized him to approach the Hon'ble Chairman for his approval.

2. The Chairman then informed the Members that one of the Members of the council Shri Syed Shahabuddin, Ex. M.P. who was not able to attend the meeting sent his following written suggestions for the effective working of council.

- (i) By amending the Wakf Act, 1995 the CWC should be defined as an autonomous body rather than an attached or subordinate office. The Minister of Minority Affairs should not be its Chairman, though the Council should function under the Ministry of Minority Affairs. The Ministry of Minority Affairs should not interfere with the day to day working of the CWC. The Secretary, Ministry of Minority Affairs may be designated as the appellate authority for the employees of the CWC.
- (ii) The Members of the Committee should not all be nominees of the Government but of various professional bodies and eminent Muslim organizations of national importance.
- (iii) The membership should include the Chairmen of the State Wakf Boards or interstate Wakf Boards which look after at least 500 Wakf estates or properties. The CEC should be represented reciprocally in every State or interstate Wakf Board.

- (iv) The Member should elect a Chairman and have the power of removing him through a vote of no confidence.
- (v) The CWC should receive a grant-in-aid from the Central Government to cover its administration budget.
- (vi) The CWC should exercise supervisory control and superintendence over the State Wakf Boards.

3. Thereafter, the Chairman welcomed the Members of the Central Wakf Council and informed them that JPC had been constituted with the following terms of reference:-

- (a) To ascertain the status of the implementation of the Wakf Act, 1995 by various State Governments;
- (b) To suggest such amendments to the Wakf Act, 1995, as may be considered necessary so as to achieve its objectives including retrieval of Wakf Properties encroached;
- (c) To examine the functioning of the Central Wakf Council and suggest suitable measures for effective functioning; and
- (d) To look into the working of the State Wakf Boards and recommend suitable measures for their proper and smooth functioning.

4. Thereafter, he sought their views on the functioning of the Central Wakf Council and suggestions to make it effective so as to protect, develop and better utilize Wakf properties in the country.

5. One of the council Member then stated that Section 9 of the Wakf Act, 1995 under which the Central Wakf Council is constituted, mandates the Central Wakf Council to advise the Central Government on matters concerning the working of Wakf Boards and administration of the Wakf. He also stated that there was a need for debate as to whether the role of Central Wakf Council should remain only as advisory or it should be vested with some regulatory functions. If it had to be advisory, it was to be seen whether the Central Wakf Council had the necessary infrastructure to discharge its advisory role. It was added that the present structure of the Council, with limited financial resources and without any authority, would be of no use for the proper functioning of the Wakf Boards in the country.

6. One Member of the Council suggested following amendments to the Wakf Act, 1995:

- (i) Section 9 (1) may be read as under:-

“For the purpose of advising it and advising the State Government and the Wakf Boards on matters concerning the working of Wakf Boards and due administration of the Wakfs, the Central Government, by notification in the Official Gazette, establish a Council to be called the Central Wakf Council.”

- (ii) The following new clause may be added to Section 9 (1): “besides performing other acts under this Act and the rules framed thereunder, the Council so established may, in its function, call for the information, reports from the State Governments and the Wakf Boards on the performance of Wakf Boards in the States, particularly in their financial performance, survey, maintenance of Wakf deeds, revenue record, encroachment on Wakf Properties, annual reports and audit reports, and may also issue necessary directions and advice as it may think fit with the concurrence of the Central Government and the State Government, and the Boards shall comply with such directions and advice.” He stated that, the words ‘shall comply with’ would give some teeth to the Council and every suggestion, direction or advice, which has to be complied with, has to be communicated to the Boards or the State Governments through Central Government.

7. Another Member suggested that the word ‘advisory’ had no teeth and it should be changed from ‘advisory’ to ‘regulatory’.

8. Giving a brief account on the working of the council the Secretary, Central Wakf Council informed the Committee that the council does not get any grant from the Government of India for its administrative or establishment expenditure. Wakf Boards collect seven per cent of the annual income of the Wakfs. They retain six per cent with them for their expenditure and remit one per cent to the Central Wakf Council. That money so received was used for administrative and establishment expenditure of the council. Besides that the Central Government gives grant-in-aid under the Scheme named ‘Scheme for the Development of Urban Wakf Properties’. The money so received was released to the Wakf institutions for development of their urban Wakf Properties, which was repayable in 20 instalments in 20 years after a moratorium of two years. The loan was interest free. However, the Central Wakf Council requests the loanee Wakfs to pay six per cent donation to the Education Fund of the Central Wakf Council. Explaining about the meeting of the Council, the Secretary stated that the Council needs to meet at least twice a year and the Committees constituted by the Council meet as frequently as required.

9. Some Members of the Council also made the following suggestions:
 - (a) Wakf Boards are losing cases in the courts because of slackness and collusion between the wakf officials and the land grabbers or encroachers. Therefore, there should be a Committee in the Central Wakf Council which should monitor the cases that are pending in different States where Wakf Boards are parties. The Council should have a list of such cases so that if necessary they may provide them some legal assistance.
 - (b) Some mechanism should be developed to convert the Central Wakf Council from 'advisory' to 'regulatory' authority.
 - (c) A way should be found out so that the desired and effective amendments can be worked out without getting the same declared *ultra vires* in the Courts.
 - (d) The Central Wakf Council (CWC) can be developed like the Insurance Regulatory and Development Authority or any other authority which has reasonable teeth.
 - (e) Efforts should also be made to develop as a coordinating authority also because at present the CWC has no coordination relations with the State Wakf Boards or the wakf administration.
10. Thereafter, Members of the Committee sought some clarifications, which were replied to.
11. The Chairman then informed the council Members that the Committee would like to have their opinion and suggestions on each of the terms of references of the Committee. He requested them to send their suggestions, if any, to the Secretariat.
12. The witnesses then withdrew.
13. The Chairman then welcomed the Secretary and other Officials of the Ministry of Minority Affairs and informed the Secretary that one of the mandates of the Committee was to look into the functioning of the Central Wakf Council and suggest suitable measures for its effective functioning. It was also stated that the Committee would like to know the possible steps the Government propose to take to strengthen the Council. The Chairman further stated that the Committee would like to know the opinion of the Government as to

how the Central Wakf Council could be strengthened. The Chairman also sought his views on the Terms of Reference.

14. The Secretary, Ministry of Minority Affairs, informed the Committee that the Central Wakf Council was a toothless tiger. It had only an advisory role, but if anything goes wrong in the administration of Wakf, then neither the Central Government nor the CWC was in a position to act decisively and intervene firmly. The Secretary further informed the Committee that the Minister for Minority Affairs had recently called a meeting with the members of the All India Muslim Personal Law Board wherein a decision was taken that CWC should have more authority and should have more effective role. As far as the administration of the Wakf Act was concerned, it had been found that under the present Wakf Act, the Central Government sends an advisory, but the problem encountered was that even if an advisory was sent by the Central Government to the State Government or the Wakf Board, neither of it pays any heed to it. He further stated that there was precious little that the Central Government or the CWC could do. On an objective study of the Wakfs, it was apparent that things were not on good standing. The Secretary accordingly suggested that a reasonable solution had to be found for harmonious relations between State Government and Wakf Boards. Thereafter some members of the Committee sought clarifications to which the Secretary replied.

15. The witnesses then withdrew.

A verbatim record of the proceedings of the meeting was kept.

16. The Committee, thereafter, discussed its future programme. After some discussion, the Committee decided to visit Andhra Pradesh during current inter-session period to make an on-the-spot assessment of the working of the Andhra Pradesh Wakf Board, implementation of the Wakf Act, 1995, there, and also the encroachment of Wakf properties in the State. The Committee would also take the opportunity to have interaction/discussions with the members of public, Chief Secretary of the State Government and other officials and also the representatives of Andhra Pradesh Wakf Board. The Committee authorized its Chairman to obtain permission of the Hon'ble Chairman, Rajya Sabha for the said visit.

17. The Committee then adjourned at 5.15 P.M.

**XXVIII
TWENTY EIGHTH MEETING**

The Committee met at 11.00 A.M. on Friday, the 6th June, 2008 in Room No. '63', Parliament House, New Delhi.

PRESENT

1. Shri K. Rahman Khan — *Chairman*

RAJYA SABHA

2. Shri Kamal Akhtar
3. Shri Tariq Anwar
4. Shri Mohammed Amin
5. Shri Shivanand Tiwari

LOK SABHA

6. Shri Anwar Hussain
7. Shri Narayan Chandra Borkatakya
8. Shri Hansraj Gangaramji Ahir
9. Shri Avinash Rai Khanna
10. Shri Syed Shahnawaz Hussain
11. Shri T.K. Hamza
12. Shri Mukeem Mohammad
13. Shri A.R. Shaheen

SECRETARIAT

Dr. V.K. Agnihotri, Secretary General

Shri N.C. Joshi, Secretary

Shri S.K. Kathuria, Joint Secretary

Shri P.P.K. Ramacharyulu, Director

Shri B.C. Sharma, Joint Director

Shri P. Narayanan, Deputy Director

WITNESSES

Representatives of Government of Haryana and Haryana Wakf Board

- (i) Shri Sandeep Garg, Special Secretary, Home Department, Government of Haryana.
- (ii) Ch. Hamid Hussain, Chairman, Haryana Wakf Board.

(iii) Shri Hanif Qureshi, Chief Executive Officer, Haryana Wakf Board.

At the outset the Chairman, welcomed the Special Secretary, Government of Haryana, Chairman and Chief Executive Officer of Haryana Wakf Board. The Chairman then stated that one of the issues that had been engaging the attention of the Committee was the problem of encroachment of prime properties, particularly in Faridabad Committee wanted to know the reasons behind illegal occupation of Wakf Properties in Haryana, particularly in Faridabad and Gurgaon. He further stated that the Committee was given to understand that one such property in Faridabad involves Sareen brothers. He therefore, informed them that the Committee wanted to know the reasons behind illegal occupation of Wakf Properties in Haryana, particularly in Faridabad and Gurgaon districts with specific reference to properties involving Sareen Brothers and the status of survey, encroachment, financial assistance given by the State Government, properties under the occupation of the State Government and about the working of the Wakf Board.

2. The Chief Executive Officer informed the Committee that about 12,000 Wakf Properties were there in Haryana. Out of which 716 properties have been encroached and all of them by private individuals. A total number of 183 properties are under unauthorized occupation of Government, semi-Government agencies and local bodies in the State of Haryana.

3. The Chairman then asked them to send the details of urban and rural properties which were encroached upon and free from all encumbrances and directly under the control of the Wakf Board and the details of properties which are located in Gurgaon, Faridabad and in other areas nearing Delhi. The Chief Executive Officer assured the Committee that he would submit the details of rural and urban properties within a month.

4. Commenting on Sareen Brothers case, the CEO and the Secretary, Home Department, informed the Committee that land measuring about 12 acres situated in Fatehpur Chandela, Tehsil & District, Faridabad was initially leased in 1967 to Smt. Prabhavati Ranga for agriculture purpose, but she could not get the possession of the land in question from defaulter Pattedar. Punjab Wakf Board filed a suit for possession of the land. In 1972, the lease of the land in question was allotted to Sareen Brothers and Shri Sirajul Haq @ Rs. 425/- and Rs. 125/- respectively for agriculture purposes, but on their own, they made change in land use and started raising construction on the land without approval of the Board. In 1989, the Administration took a decision to file suits against them. In 1991, suits were filed which were later decided against the Board.

5. It was also added that in 1997, the Administrator filed suits in the revenue court. In 2004 the Assistant Collector, First Grade decided in favour of Sareen Brothers considering it as an agricultural land. The Committee was further informed that the Board appealed to the Collector, Faridabad against that decision. In April, 2006, it was decided in favour of the Board, and it was stated that the market rent should be paid by the Sareen Brothers. It was further stated that directions had been issued in the last meeting that illegal encroachment on the land should be removed and appropriate court action should be taken. These directions had been issued, but no action had been initiated. On being asked whether the State Government had been approached by the Board for canceling the license, the CEO stated that within one month they would pass the order and seek the cancellation.

6. Some Members then sought certain clarifications and the representatives replied thereto. The Chairman directed representatives of Government of Haryana and the Wakf Board to send the following information to the Committee within one month:

- (i) List of properties on regular lease in Gurgaon and Faridabad other than encroachments indicating these status and extent of each property, rent, whether it is agriculture or urban, whether any buildings have come up.
- (ii) Fulfilment of assurance made before the Joint Parliamentary Committee on Wakf that action would be taken within one month and orders would be passed for cancellation of license.
- (iii) Enquiry Committee Report on the property involving Sareen Brothers.
- (iv) Action taken on the assurance made by the CEO that he would take action under Section 54 on all the encroached properties whether they were Government or private.
- (v) A CD of all the encroached properties and the action taken against the people who are responsible for Sareen Brothers involvement.
- (vi) Information about how the license for electricity, water and construction of shed was given and under what provisions of law the license was given.
- (vii) Whether Government would take action to cancel the license and withdraw the permission given for electricity and for other purposes.

7. The witnesses then withdrew.

8. A verbatim record of the proceedings of the meeting was kept.

9. The Committee then adjourned at 12.30 P.M.

XXIX
TWENTY NINTH MEETING

The Committee met at 11.00 A.M. on Thursday, the 19th June, 2008 in Room No. '63', Parliament House, New Delhi.

PRESENT

1. Shri K. Rahman Khan — *Chairman*

RAJYA SABHA

2. Shri Mohammed Amin
3. Shri Shivanand Tiwari
4. Shri S. Anbalagan

LOK SABHA

5. Shri Iqbal Ahmed Saradgi
6. Shri G. Nizamuddin
7. Shri Avinash Rai Khanna
8. Shri Mohammad Salim
9. Shri T.K. Hamza
10. Shri Mukeem Mohammad
11. Shri Chandrakant Bhaurao Khaire

SECRETARIAT

Dr. V.K. Agnihotri, Secretary General

Shri N.C. Joshi, Secretary

Shri S.K. Kathuria, Joint Secretary

Shri P.P.K. Ramacharyulu, Director

Shri B.C. Sharma, Joint Director

WITNESSES

Representatives of NCT of Delhi and Delhi Wakf Board

- (i) Smt. Nutun Guha Biswas, DC and Secretary (Revenue), Government of NCT of Delhi.
- (ii) Ch. Matin Ahmed, Chairman, Delhi Wakf Board.
- (iii) Shri S.M. Ali, CEO, Delhi Wakf Board.
- (iv) Shri Azim-ul-Haq, Surveyor Commissioner.

2. At the outset, the Chairman welcomed the Members of the Committee and informed that the meeting was fixed for examining the Maharashtra Wakf Board and the Secretary, Government of Maharashtra, but the Secretary, Government of Maharashtra has expressed his inability to come because the Chairman of the Board was not there and the CEO has also been transferred. The Chairman then informed the Committee that the Secretary (Revenue), Government of NCT, Delhi alongwith the Officials of Delhi Wakf Board is appearing before the Committee.

3. The Chairman, welcomed the Secretary (Revenue), Government of NCT, Delhi and other Officials. Thereafter the Committee wanted to know the present status of survey, encroachment, financial assistance given by the State Government, properties under the occupation of the Government agencies and working of the Delhi Wakf Board. The Chairman was very specific to mention that one of the issues that has been attracting the attention of the Committee was the problem of encroachment of prime properties in Delhi. The Secretary (Revenue), informed the Committee that the present Delhi Wakf Board was constituted by the Government of NCT, Delhi under the Wakf Act, 1995 on 25.10.2004. The Wakf Rules, namely, the Wakf Rules, 1997, in the Delhi Wakf Board had been framed and the same had been notified. The regulations under the Act had been drafted and were under active consideration of the Board. There were around 1977 Wakf properties which were earlier notified as Wakf on the basis of the survey conducted during 70's. The Secretary (Revenue) then requested the CEO of the Wakf Board to give the presentation.

4. The Chief Executive Officer of the Delhi Wakf Board informed the Committee that encroachment was a peculiar problem. 123 properties were under stay by the Hon'ble High Court and the Board was not able to take any action under Section 54 of the Wakf Act. The second problem was that all the Wakf properties were scattered all around and the Board did not have the kind of support staff and due to the paucity of funds Delhi Wakf Board is not in a position to protect these properties. The Wakf properties were mostly Kabristans or lands attached to the Dargahs or mosques. The lands were rented out to the people by the Wakf Board and around 1100 odd cases of encroachments had come to the notice of the Board and, eviction orders had already been passed in the case of 125 properties; and 115 cases were pending for eviction. Eviction proceedings were going on in the Divisional Commissioner's Offices.

5. The CEO informed the Committee that the Wakf Board got its income from the rented properties and donation which was about one crore per annum. The CEO further informed the Committee that about 250 mosques were directly under the control of the Board. The

Board had appointed Imams and Mosims there. Honorarium amounting to Rs. 80 lakhs per annum was being paid by the Board. The Board also provides pension to 1000 and odd widows and other welfare measures like short-term medical grants which costs Rs. 4 crores a year all incurred by the Board. Another major activity that the Board undertakes pertains to performing last rites of unclaimed bodies. The small Dargahs were maintained through Mutawallis. The Board appoints Mutawallis. Their descendents take over and then the Board notifies them.

6. The Surveyor of the Board informed the Committee that the progress in the last few years in respect of survey had not been up to the desired level. As per notification, there were 1977 Wakf properties but the actual number of properties were 1933 because a few properties had been notified twice. The Board had sent all the site plans to the Sub-Divisional Magistrates for verification with Revenue records. Some of them completed this job while some others were busy with Elections and therefore, the progress had not been at the desired pace. The Board constituted a task force where the Deputy Commissioner was also a member. The task force had completed almost 50 to 60 per cent of verification work.

7. Some Members of the Committee then sought some clarifications and the representatives replied thereto.

8. The witness then withdrew.

A verbatim record of the proceeding was kept.

9. The Committee then adjourned at 12.35 P.M.

XXX
THIRTIETH MEETING

The Committee met at 12.00 P.M. and 2.00 P.M. on Thursday, the 24th July, 2008 in Committee Room 'A', Parliament House Annexe, New Delhi.

PRESENT

1. Shri K. Rahman Khan — *Chairman*

RAJYA SABHA

2. Shri Kamal Akhtar
3. Shri Tariq Anwar
4. Shri Mohammed Amin
5. Shri Shivanand Tiwari
6. Shri S. Anbalagan
7. Shri Sabir Ali

LOK SABHA

8. Shri Iqbal Ahmed Saradgi
9. Shri Abdul Mannan Hossain
10. Shri G. Nizamuddin
11. Shri Rashid J.M. Aaron
12. Shri Narayan Chandra Borkataky
13. Shri Prahlad Joshi
14. Shri Hansraj Gangaramji Ahir
15. Shri Avinash Rai Khanna
16. Shri T.K. Hamza
17. Shri Chandrakant Bhaurao Khaire
18. Shri Arjuncharan Sethi
19. Shri A.R. Shaheen

SECRETARIAT

Shri G.C. Miglani, Joint Secretary
Shri P.P.K. Ramacharyulu, Director
Shri B.C. Sharma, Joint Director
Shri R.S. Rawat, Assistant Director

WITNESSES

Representatives of Government of Maharashtra and Maharashtra State Board of Wakf

- (i) Smt T.F. Thekkekara, Principal Secretary, Minority Development, Government of Maharashtra.
- (ii) Shri S.S. Gunjal, Chief Executive Officer, Maharashtra State Board of Wakfs, Government of Maharashtra.
- (iii) Shri A.R. Sheikh, Former Chief Executive Officer, Wakf Board and Additional Chief Executive Officer, Bhandara District, Maharashtra.

Representatives of Government of Punjab and Punjab Wakf Board

- (i) Dr. B.C. Gupta, Principal Secretary, Department of Home Affairs and Justice, Government of Punjab.
- (ii) Smt. Razia Sultana, Chairperson, Punjab Wakf Board.
- (iii) Shri Mohammat Hayat Khan, Member, Punjab Wakf Board.
- (iv) Shri B.B. Sethi, Deputy Secretary, Department of Home Affairs and Justice, Government of Punjab.
- (v) Shri L.A. Khan, Chief Executive Officer, Punjab Wakf Board.
- (vi) Shri S.H. Naqvi, Administrative Officer, Punjab Wakf Board.

At the outset, the Chairman welcomed the Hon'ble Members of the Committee and informed them about the passing away of Shri G.M. Banatwala, who was a Member of the earlier Joint Parliamentary Committee on Wakf. The Committee then stood in silence for two minutes. The Chairman then informed the Members that an extension of six months has been given to the Committee and the Committee should finalise its Report, as early as possible.

2. The Chairman then informed the Committee that an Expert Advisory Group had been constituted and that in a meeting with the Group on the 23rd July, 2008 the following points were discussed:

- 1. Problems of the Wakf Boards;

2. Constitution and functioning Wakf Boards;
3. Wakf problems in India and its state-of-affairs;
4. Lack of interest on the part of the Government in protecting the Wakf Properties;
5. Finances of Wakf Board;
6. Role of *Muttawallis*;
7. Social aspects of Wakf Development; and
8. Separate Wakf Act in Jammu and Kashmir.

3. The Chairman then sought approval from the Committee to summon the representatives of some of the State Governments and the Wakf Boards and to collect further facts and data, on Wakf matters and also sought approval of the Committee to visit along with the Officials of the Secretariat, to hold meetings and take evidence from those State who have not supplied required information to the Secretariat.

4. The Chairman then welcomed Shri Sabir Ali, a newly nominated Member of the Committee. Thereafter the Chairman requested the Principal Secretary, Minority Development of the Government of Maharashtra to make him presentation. The Principal Secretary informed the Committee that after the Wakf Act, 1995 came into force the Wakf Board of Maharashtra who constituted on 4th January, 2002 and the Wakf Rules were framed in 2003. She further stated that there was no Chief Executive Officer and most of the Members of the Wakf Board had retired and a new Wakf Board would be constituted at the earliest.

5. The Members thereafter sought some clarifications which were replied to.

6. The witnesses then withdrew.

7. The Chairman welcomed the Principal Secretary, Department of Home Affairs and Justice and Members of the Punjab Wakf Board. The Chairman conveyed his displeasure for absence of the Chief Secretary, Government of Punjab for not attending the meeting. The Chairman asked the Principal Secretary, about the survey, encroachment of Wakf Property, financial assistance given by the State Government to the Wakf Board, properties under the occupation.

8. The Chairperson of the Punjab Wakf Board informed the Committee that there were a large number of land mafias in Punjab who were encroaching the Wakf land with the

connivance of Punjab Government. The Chief Executive Officer of Wakf Board has informed the Committee that he was having the additional charge of Chief Executive Officer and wants to present certain facts regarding encroachment. The Chief Executive Officer then informed the Committee that out of 24,000 units of Wakf Properties, nearly 582 units were under illegal encroachment and out of those 362 unit were under encroachment either by the State Government of Punjab or by the Central Government.

9. The Chief Executive Officer further informed the Committee that after trifurcation of the Board, 714 cases were decided out of which 543 cases were settled in favour of Punjab Wakf Board. The Chief Executive Officer also informed the Committee that he had tendered his resignation as Chief Executive Officer, which had not been accepted by the Government of Punjab, till date. Thereafter, the Members of the Committee sought some clarifications to which the Principal Secretary, Chairperson and Chief Executive Officer of the Punjab Wakf Board replied.

10. The witness then withdrew.

A verbatim record of the proceedings of the meeting was kept.

11. The Committee then adjourned at 4.12 P.M.

XXXI
THIRTY FIRST MEETING

The Committee met at 2.00 P.M. on Friday, the 22nd August, 2008 in Room No.63, Parliament House, New Delhi.

PRESENT

1. Shri K.Rahman Khan — *Chairman*

RAJYA SABHA

2. Shri Kamal Akhtar
3. Shri Mohammed Amin
4. Shri S.Anbalagan

LOK SABHA

5. Shri G. Nizamuddin
6. Shri Narayan Chandra Borkataky
7. Shri Hansraj Gangaramji Ahir
8. Shri Avinash Rai Khanna
9. Shri Mohammad Salim
10. Shri T.K. Hamza
11. Shri Mukeem Mohammad
12. Prof. K.M. Kadermohinddin
13. Shri Chandrakant Bhaurao Khaire
14. Shri A.R. Shaheen

SECRETARIAT

Shri N.K.Singh, Joint Secretary
Shri P.P.K.Ramacharyulu, Director
Shri B.C.Sharma, Joint Director
Shri P.Narayanan, Deputy Director
Shri R.S.Rawat, Assistant Director

WITNESSES

- I. **Representatives of State Government of Gujarat and Gujarat Wakf Board**
 - (i) Shri M.H. Shah, Secretary, Legal Department, Govt. of Gujarat
 - (ii) Shri K.M. Lala, Deputy Secretary, Legal Department, Govt. of Gujarat
 - (iii) Shri Yusuf Mohd. Kureshi, Chairman, Gujarat State Wakf Board

(iv) Shri K.K. Ansari, Chief Executive Officer, Gujarat State Wakf Board

II. Representatives of the Union Ministry of Minority Affairs

(i) Shri M.N. Prasad, Secretary, Ministry of Minority Affairs

(ii) Shri Sujit Datta, Joint Secretary

(iii) Shri M.R. Haque, *Secretary, Central Wakf Council*

(iv) Shri S.M. Akhtar, *Deputy Secretary*

III. Charity Commissioner, Government of Maharashtra

Shri S.D. Mahod, *Charity Commissioner*

2. At the outset, the Chairman welcomed the Members of the Committee. Thereafter, the Chairman informed the Committee about his visit/discussions held in Banaglore on 29th July, 2008, in pursuance of the decision taken by the Committee. He further informed about the discussions he held in Delhi with the Secretaries of the Governments of Assam, Bihar, Chhattisgarh, Jharkhand and Orissa and the officials of the respective State Wakf Boards. During these discussions it had been found in almost all the States the survey of the Wakf was not taken seriously and therefore had not been completed in many of the States. State Wakf Boards in Bihar, both Sunni and Shia Wakf Boards had not been constituted even though their term had expired in October, 2006. In Jharkhand, ever since it was carved out of Bihar, the Wakf Board had not yet been constituted and in most of the States, the Chief Executive Officers of the Wakf Board were holding additional charge.

Oral evidence of Secretary, Legal Department and other Officials of the Government of Gujarat regarding implementation of Wakf Act, 1995 and working of Gujarat State Wakf Board

3. The Chairman then welcomed Shri M.H.Shah, Secretary, Legal Department and other officials from the Government of Gujarat. The Chairman took exception to the Government of Gujarat had not till then sent any of the materials or information asked for by the Committee. The Secretary explained to the Committee that there being about 22,400 Wakf properties in the State, it was difficult to collect the information of all the properties during the given time. He however, apologized for not being able to send the information to the Committee and assured to send all the information as sought by the Committee within the shortest possible time. In regard to the constitution of the Wakf Board, he stated that the Board was constituted in 2000 and its term had expired in 2005. But subsequently nothing had been done because they understood that Section 22 of the Wakf Act, 1995

allowed the Board to continue. The Committee took a strong exception to such a lackadaisical approach. The Secretary, Government of Gujarat agreed that it ought to have been constituted by 2005. The Secretary further informed the Committee that survey had not been completed and the work was in progress. He further stated that no steps had been taken by the State Wakf Board to vacate the encroached Wakf properties. It was stated that after the survey was over, the Wakf properties encroached would be identified by the Board and necessary action for vacation of such encroachment would be taken.

4. Thereafter, some members of the Committee sought certain clarifications, to which the Secretary replied. The Chairman, then directed the Secretary to send all the information pertaining to the working of the Board to the Committee at the earliest.

The witnesses then withdrew.

Oral evidence of Secretary, Ministry of Minority Affairs, Government of India on the Action Taken by the Ministry on the recommendations of the Committee made in its Third Report, particularly relating to Central Wakf Council

5. The Chairman then welcomed the Secretary and other officials of the Union Ministry of Minority Affairs and asked the Secretary to brief the Committee on the action taken by the Government on the recommendations of the Committee in its Third report, particularly to those relating to the Central Wakf Council.

6. The Secretary informed the Committee that a conference of all the Chairmen and Chief Executive Officers of State Wakf Boards was held on the 30th July, 2008 to discuss and finalize the Amendments to the Wakf Act in the light of the suggestions made by the Joint Parliamentary Committee on Wakf. In the conference it was decided that there would be annual and six-monthly reports on the working of Wakf Boards. The annual reports would be on the accounts and audits of the State Wakf Boards and the six monthly reports would be on the six issues i.e. reports on the survey, status of Wakf properties, reports on maintenance of Wakf deeds, reports on encroachment of Wakf properties and removal and the action-taken to remove them, reports on their social and educational schemes. It was also agreed that there would be a provision for a quasi-judicial body to be headed by a Supreme Court Judge to which the State Governments could refer the matter, if it felt that an advisory issued by Central Wakf Council was bad in law. The State Governments would have one appeal before the quasi-judicial body. Thereafter, members of the Committee sought some clarifications to which the Secretary replied.

The witnesses then withdrew.

Oral evidence of Charity Commissioner, Government of Maharashtra regarding the sale of property by Currimbhoy Ebrahim Khoja Orphanage Trust

7. The Chairman then welcomed the Charity Commissioner, Mumbai, Government of Maharashtra and sought some clarifications about the sale of some Wakf properties in Mumbai. About the sale of property by Currimbhoy Ebrahim Khoja Orphanage Trust the Charity Commissioner informed the Committee that the permission for the sale of the property was given to the Trust in the year 2002, whereas the notification about the constitution of the Wakf Board was made in the year 2003. Thereafter, some amendments were made to the notification in the year 2005. Accordingly, the Charity Commissioner's office transferred some of the properties to Wakf Board and some of them which were not prepared to go to Wakf Board preferred writ petitions before the High Court.

8. Thereafter, Chairman and some members of the Committee sought some clarifications to which the Charity Commissioner assured the Committee that he would send the required documents to the Committee.

The witnesses then withdrew.

A verbatim record of the proceeding was kept.

Tour programmes to be undertaken by Committee during the current Inter-Session period

9. The Committee discussed its future programme and then decided to make on the spot study of the functioning of the Kerala Wakf Board and implementation of Wakf Act, 1995 in Kerala and also to visit some encroached Wakf properties in Faridabad and Gurgaon districts of Haryana. The Committee authorized its Chairman to finalise the tour programmes during the current inter-session period and to approach the Hon'ble Chairman, Rajya Sabha for necessary permission.

10. The Committee then adjourned at 4.40 P.M.

XXXII
THIRTY SECOND MEETING

The Committee met at 4.00 P.M. on Monday, the 20th October, 2008 in Room No. 63, Parliament House, New Delhi.

PRESENT

1. Shri K. Rahman Khan — *Chairman*

RAJYA SABHA

2. Shri Shivanand Tiwari
3. Shri S. Anbalagan
4. Shri Sabir Ali

LOK SABHA

5. Shri Iqbal Ahmed Saradgi
6. Shri G. Nizamuddin
7. Shri Rashid J.M. Aaron
8. Shri Narayan Chandra Borkataky
9. Shri Prahlad Joshi
10. Shri Syed Shahnawaz Hussain
11. Shri Mohammad Salim
12. Shri T.K. Hamza
13. Shri Mukeem Mohammad
14. Shri Chandrakant Bhaurao Khaire

SECRETARIAT

Dr. V.K. Agnihotri, Secretary General
Shri N.C. Joshi, Secretary
Shri N.K. Singh, Joint Secretary
Shri P.P.K. Ramacharyulu, Director
Shri P. Narayanan, Deputy Director
Shri R.S. Rawat, Assistant Director

2. The Committee took up for consideration the draft Ninth Report. After some discussion, the Committee adopted the Report with some modifications.
3. The Committee then decided that the Report may be presented to both the Houses of Parliament on the 23rd October, 2008. The Committee also decided that its Chairman, and

in his absence, Shri Shivanand Tiwari and Shri S. Anbalagan may present the Report to Rajya Sabha and Shri Chandrakant Bhaurao Khaire, and in his absence, Shri Mohammad Salim may lay the Report on the Table of the Lok Sabha.

4. The Chairman thereafter informed the Committee that there were certain other issues which would be taken up in the subsequent meetings and the Members agreed thereto.

5. The Committee then adjourned at 5.30 P.M.

ANNEXURE-IV

List of Witnesses heard by the Committee

Sl. No.	Date of Meeting	Witnesses
1	27.01.06	3
1.	27.01.06	Representative of the Ministry of Social Justice and Empowerment:-
		(i) Smt. Sarita Prasad, Secretary
		(ii) Shri Sandeep Khanna, Additional Secretary
		(iii) Shri G.N. Pegu, Joint Secretary
		(iv) Shri B.K.Pandey, Director
		(v) Dr. M.R. Haque, Secretary (CWC)
2.	23.08.06	Representatives of Government of Punjab and Punjab Wakf Board:-
		(i) Dr. B.C. Gupta, Principal Secretary (Home), Government of Punjab
		(ii) Shri Liakat Ali Khan, CEO, Punjab Wakf Board
		(iii) Shri Mansur Ali, Member, Punjab Wakf Board
3.	24.08.06	Representatives of Government of Himachal Pradesh and Himachal Pradesh Wakf Board:-
		(i) Smt. Parminder Hira Mathur, Addl. Chief Secretary, Government of Himachal Pradesh
		(ii) Shri Gulzar Mohammad Bharti, Chairman, H.P. Wakf Board
		(iii) Dr. Saif Khan, CEO, H.P. Wakf Board

		Representatives of Government of Haryana and Haryana Wakf Board:-
		(i) Shri K.S. Bhoria, Financial Commissioner and Principal Secretary (Home), Government of Haryana
		(ii) Shri M.K. Midha, Special Secretary (Home), Government of Haryana
		(iii) Dr. Parvez Ahmad, CEO, Haryana Wakf Board
		(iv) Shri Imteyaz Khizar, Administrative Officer, Haryana Wakf Board
		(v) Shri M.R. Farooqi, Welfare Officer, Haryana Wakf Board
4.	17.10.06	Officials of Ministry of Minority Affairs:-
		(i) Shri M.N. Prasad, Secretary
		(ii) Shri Sujit Dutta, Joint Secretary
		(iii) Smt. Shamima Siddiqui, Deputy Secretary
		(iv) Dr. M.R. Haque, Secretary, Central Wakf Council
5.	06.11.06	Representative of Central Wakf Council:-

		Dr. M.R. Haque, Secretary, Central Wakf Council
6.	13.12.06	Representatives of Government of Madhya Pradesh and Madhya Pradesh Wakf Board:-
		(i) Dr. Bhagirath Prasad, Principal Secretary (Backward Class & Minority Welfare), Government of Madhya Pradesh
		(ii) Shri A.W. Qureshi, Deputy Director, M.P. Backward Class & Minority Welfare
		(iii) Shri O.P. Khattani, Administrator, M.P. Wakf Board
7.	12.02.07	Representatives of Government of NCT of Delhi and Delhi Wakf Board:-
		(i) Smt. Naini Jayaseelan, Divisional Commissioner, Government of NCT of Delhi
		(ii) Shri S.M. Ali, CEO, Delhi Wakf Board
		(iii) Shri Mohd. Arif, In-charge (Properties), Delhi Wakf Board
		(iv) Shri Azimul Haq, Survey Commissioner (Wakf)
		(v) Shri Vinay Kumar, Additional District Magistrate, Government of NCT of Delhi
8.	13.02.07	Representatives of Chhattisgarh State Wakf Board:-
		(i) Shri Salim Ashrafi, Chairman
		(ii) Shri Akbar Ali Farooqi, Member

		(iii) Dr. S.A. Farooqi, CEO
9.	16.05.08	Representative of Government of Jharkhand:-
		Shri U.K. Sangma, Principal Secretary (Welfare), Government of Jharkhand
10.	20.09.07	Representatives of Government of Chhattisgarh:-
		(i) Shri M.K. Raut, Secretary, SC/ST Minorities and OBC's Department
		(ii) Dr. S.A. Farooqi, CEO Chhattisgarh Wakf Board
		Representatives of Government of Orissa:-
		(i) Shri B.K. Patel, Principal Secretary (Law)
		(ii) Shri K.L. Barik, Deputy Secretary (Law Department)
11.	01.02.08	Representatives of Government of Uttarakhand:-
		(i) Shrimati Vinita Kumari, Principal Secretary, Department of Social Welfare, Government of Uttarakhand
		(ii) Shri Kutubuddin, Chief Executive Officer, Uttarakhand Wakf Board
		(iii) Shri Shahid Hussain, Tehsildar, Roorki

	(iv) Shri Furkhan Ahmed, Manager, Dargah
Inspector	(v) Shri Mohammed Ali, Wakf
12. 05.06.08	Representatives of the Central Wakf Council:-
	(i) Justice Naseemuddin (Retd.), Member
	(ii) Shri Shakeel Ahmed, Member
	(iii) Dr. Syed Ahmad, Member
	(iv) Smt. Salma Sultan, Member
	(v) Shri Ziaullah Sheriff, Member
	(vi) Shri Syed Shah Hasan Mani, Member
	(vii) Shri Mansoor Ali, Member
	(viii) Dr. Razi Ahmad Kamal, Member
	(ix) Dr. M.R. Haque, Secretary
	Representatives of the Ministry of Minority Affairs:-
	(i) Shri M.N. Prasad, Secretary
	(ii) Shri Sujit Dutta, Joint Secretary
	(iii) Shri S.M. Akhtar, Deputy Secretary
13. 06.06.08	Representatives of Government of Haryana and Haryana Wakf Board:-
	(i) Shri Sandeep Garg, Special Secretary, Home Department, Government of Haryana
	(ii) Ch. Hamid Hussain, Chairman, Haryana Wakf Board
	(iii) Shri Hanif Qureshi, Chief Executive

Officer, Haryana Wakf Board	
14. 19.06.08	Representatives of NCT of Delhi and Delhi Wakf Board:-
	(i) Smt. Nutun Guha Biswas, DC and Secretary (Revenue), Government of NCT of Delhi
	(ii) Ch. Matin Ahmed, Chairman, Delhi Wakf Board
	(iii) Shri S.M. Ali, CEO, Delhi Wakf Board
	(iv) Shri Azim-ul-Haq, Surveyor Commissioner
15. 24.07.08	Representatives of Government of Maharashtra and Maharashtra State Board of Wakf:-
	(i) Smt. T.F. Thekkekara, Principal Secretary, Minority Development, Government of Maharashtra
	(ii) Shri S.S. Gunjal, Chief Executive Officer, Maharashtra State Board of Wakfs, Government of Maharashtra
	(iii) Shri A.R. Sheikh, Former Chief Executive Officer, Wakf Board and Additional Chief Executive Officer, Bhandara District, Maharashtra
	Representatives of Government of Punjab and Punjab Wakf Board:-
	(i) Dr. B.C. Gupta, Principal Secretary, Department of Home Affairs and Justice, Government of Punjab
	(ii) Smt. Razia Sultana, Chairperson,

	Punjab Wakf Board
	(iii) Shri Mohammad Hayat Khan, Member, Punjab Wakf Board
	(iv) Shri B.B. Sethi, Deputy Secretary, Department of Home Affairs and Justice, Government of Punjab
	(v) Shri L.A. Khan, Chief Executive Officer, Punjab Wakf Board
	(vi) Shri S.H. Naqvi, Administrative Officer, Punjab Wakf Board
16. 22.08.08	Representatives of State Government of Gujarat and Gujarat Wakf Board:-
	(i) Shri M.H. Shah, Secretary, Legal Department, Government of Gujarat
	(ii) Shri K.M. Lala, Deputy Secretary, Legal Department, Government of Gujarat
	(iii) Shri Yusuf Mohd. Qureshi, Chairman, Gujarat State Wakf Board
	(iv) Shri K.K. Ansari, Chief Executive Officer, Gujarat State Wakf Board
	Representatives of the Union Ministry of Minority Affairs:-
	(i) Shri M.N. Prasad, Secretary, Ministry of Minority Affairs
	(ii) Shri Sujit Dutta, Joint Secretary
	(iii) Shri M.R. Haque, Secretary, Central Wakf Council
	(iv) Shri S.M. Akhtar, Deputy Secretary

**Charity Commissioner, Government of
Maharashtra**

Shri S.D. Mahod, Charity Commissioner

ANNEXURE-V**List of Official and Non-Official Witnesses heard by the Chairman of the Committee**

Sl. No.	Date	List of Witnesses	
1	2	3	
1.	13.08.08	Representatives of Government of Bihar:-	
		(i)	Shri Afzal Amanullah, Principal Secretary, Department of Home and Minority Welfare, Government of Bihar
		(ii)	Shri Md. Hasnain Khan, Chief Executive Officer, Sunni Wakf Board
		(iii)	Shri Qamruddin, Chief Executive Officer, Shia Wakf Board
2.	14.08.08	Representatives of Government of Assam:-	
		(i)	Mohd. Alauddin, Secretary, Welfare of Minority and Development Department, Government of Assam
		(ii)	Shri A.S. Choudhury, Chief Executive Officer, Assam Wakf Board
3.	18.08.08	Representatives of Government of Orissa:-	
		(i)	Shri B.K. Nayak, Principal Secretary, Law Department, Government of Orissa
		(ii)	Dr. D.P. Choudhury, Additional Secretary, Mulla Mohammed Ali, CEO-Incharge, Orissa State Wakf Board
		Representatives of Government of	

		Chhattisgarh:-	
		(i)	Shri M.K. Raut, Secretary, Government of
			Chhattisgarh
		(ii)	Shri Salim Ashrafee, Chairman,
			Chhattisgarh State Wakf Board
		(iii)	Dr. S.A. Farooqui, Chief Executive
			Officer, Chhattisgarh State Wakf Board
4.	19.08.08	Representative of Government of	
		Jharkhand:-	
			Shri U.K. Sangma, Secretary, Department
			of Minority Affairs, Government of
			Jharkhand
5.	27.08.08	Representatives of Government of Madhya	
		Pradesh:-	
		(i)	Shri M.K. Roy, Principal Secretary,
			Department of Other Backward Castes and
			Minority Welfare, Government of Madhya
			Pradesh
		(ii)	Shri Jabbar Dhakwala, Commissioner,
			Department of Other Backward Castes and
			Minority Welfare, Government of Madhya
			Pradesh
		(iii)	Shri Gufran Azam, Chairman, Madhya
			Pradesh State Wakf Board

		(iv)	Shri A.W. Qureshi, Chief Executive Officer, Madhya Pradesh State Wakf Board
		Representatives of Government of Uttar Pradesh:-	
		(i)	Shri A.K. Joshi, Principal Secretary, Government of Uttar Pradesh
		(ii)	Shri M.A.A. Khan, Secretary, Department of Minority Affairs, Government of Uttar Pradesh
		(iii)	Shri Hafiz Usman, Chairman, Sunni Wakf Board, Uttar Pradesh
		(iv)	Shri Shaukat Ali Tyagi, CEO, Sunni Wakf Board, Uttar Pradesh
6.	12.09.08	Representatives of Haryana Wakf Board:-	
		(i)	Shri Hanif Qureshi, Chief Executive Officer, Haryana Wakf Board
		(ii)	Shri Mohammed Shayin, Former Chief Executive Officer, Haryana Wakf Board
		Non-Official Witnesses	
		(i)	Shri Dilshah Ahmed
		(ii)	Shri Mohd. Israil
		(iii)	Haji Allah Mehar
		(iv)	Shri Rahisuddin
		(v)	Shri Abdul Altaf

		Representatives of Ministry of Culture and	
		Archaeological Survey of India:-	
		(i)	Shri Abhijit Sengupta, Secretary, Ministry
			of Culture, Government of India
		(ii)	Smt. Anshu Vaish, Director General,
			Archaeological Survey of India
		(iii)	Shri R.C. Mishra, Joint Secretary, Ministry
			of Culture, Government of India
		(iv)	Dr. B.R. Mani, Joint Director General,
			Archaeological Survey of India

ANNEXURE-VI**Study visits undertaken by the Committee**

Sl. No.	Dates of visits	Places of Visits
1.	10th to 14th July, 2006	Ajmer, Jodhpur and Jaipur (Rajasthan)
2.	18th to 22nd September, 2006	Bangalore, Gulbarga and Raichur (Karnataka)
3.	7th to 12th November, 2006	Guwahati (Assam) and Kolkata (West Bengal)
4.	18th to 24th June, 2007	Aurangabad, Mumbai (Maharashtra) and Bhopal (Madhya Pradesh)
5.	26th to 31st July, 2007	Lucknow (Uttar Pradesh) and Patna (Bihar)
6.	3rd to 9th October, 2007	Chandigarh (UT), Jalandhar (Punjab), Ambala (Haryana) and Shimla (Himachal Pradesh)
7.	24th to 27th October, 2007	Chennai (Tamil Nadu)
8.	7th to 9th July, 2008	Hyderabad (Andhra Pradesh)
9.	3rd to 6th October, 2008	Kochi (Kerala)