

National Commission for Minorities (NCM)

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In News: The 7-member National Commission for Minorities (NCM) is down to just one member after the retirement of its vice-chairperson in October and the non-filing of 5 other seats since May 2020.

About NCM

- The Minorities Commission was detached from the Ministry of Home Affairs in 1984, and placed under the Ministry of Welfare.
- Once the National Commission for Minorities Act was enacted in 1992, the Minorities Commission became a statutory body and was renamed as National Commission for Minorities.
- National Commission for Minorities (NCM) which consist of Chairperson, a Vice-Chairperson and five Members.
- The five Members including the Chairperson shall be from amongst the minority communities.

Role of NCM

- The commission monitors the working of the safeguards provided in the Constitution and in laws enacted by Parliament and the State Legislatures.
- It also makes recommendations for the effective implementation of safeguards for the protection of the interests of minorities by the Central Government or the State Governments.
- Evaluation of the progress of the development of minorities under the Union and States.
- Looking into specific complaints regarding deprivation of rights and safeguards of minorities and taking up such matters with the appropriate authorities.

- Undertaking research and study into the problems arising out of any discrimination against minorities and recommending measures for their removal.
- Making special reports to the central government or any matter pertaining to minorities particularly the difficulties faced by them.
- Any other matter which may be referred to it by the Central Government.
- To mark the adoption of the “Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities” by the United Nations in 1992, it observes the Minorities Rights Day every year on 18th December.

Issues faced by the NCM

In a book titled Minorities Commission 1978-2015: Minor Role in Major Affairs authored by former NCM chairman Tahir Mahmood, NCM is referred to as a toothless tiger, white elephant, Sarkari puppet. It has been referred to as “National Commission for Tokenism” too.

- **No constitutional status:** NCM does not have a constitutional status (it is a statutory body) which if bestowed upon it would give NCM autonomy and clout it needs to carry out its functions effectively.
- **Absence of any constitutional power:** It lacks the constitutional power to conduct independent enquiries or investigations in cases of the transgression of minorities’ rights, and especially in cases of communal violence, render the Commission legally incapacitated to fulfil its duty. This limitation has also been mentioned in a recommendation in the Commission’s 2007-08, 2008-09, and 2010-11 annual reports of the Commission.
- **Toothless tiger:** It hasn’t been provided with any “teeth” in terms of their legal capacity to carry out their Constitutional mandate. The decision of the Commission can be overturned by the district and high

courts.

- **No reports tabled:** Section 13 of the NCM Act mandates that the annual report, “together with the memorandum of action taken on the recommendations contained therein’’, as well as the reasons for non-acceptance of the recommendations be tabled before Parliament annually. Sources said these reports have not been tabled in Parliament since 2010. Further, its recommendations are routinely rejected or simply filed away and forgotten.
- **Partisan representation:** There has been a shift in the kind of members appointed to the body. While past appointments included former chief justices, civil servants, academicians etc, the recent appointees were mostly “social activists” with links to the ruling party.
- **Capacity related challenges:** These include human resource deficiency as is the case now. The Commission is unable to effectively fulfil its mandate when the key positions of Commission members remain vacant. For example, the Commission mandated to conduct hearings is unable to process the numerous cases it receives.
- **Underutilization of technology:** there is no real-time communication of schedules and appointments for hearings with the complainants which results in wastage of time and money.
- **Only a few State minority commissions:** A major recommendation of the Annual Conference of State Minorities Commissions (2008) was “that the State Governments should also set up State Minorities Commissions on similar lines (as that of the NCM).” However, only 16 states have set up such commissions. These too remain understaffed and mostly dysfunctional due to lack of capacity in human resources as well as in the absence of a regular monitoring mechanism of the State Commissions’ workings.
- **Pressure on NCM:** with ineffective State Finance Commissions, the pressure is borne by the NCM which

further reduces its efficiency.

- **Inadequate powers to State Minority Commissions:** State Minority Commissions are not given adequate powers to implement, monitor, and review developmental programs and welfare schemes under the Prime Minister's 15 Point Program for Minorities.
- **Lack of research:** Only a small proportion of the allocated budget of the Commission is spent in research activities even when conducting "studies, research and analysis on the issues relating to the socio-economic and educational development of minorities" is among the primary mandates of NCM.

Constitutional provisions for minorities

- Constitutional provisions related to minorities can be seen in Fundamental Rights (FR), Directive Principles of State Policy (DPSP), and Fundamental Duties (FD).

Fundamental Rights:

- ARTICLE 14: people's right to 'equality before the law' and 'equal protection of the laws'
- ARTICLE 15: prohibition of discrimination against citizens on grounds of religion, race, caste, sex or place of birth
- ARTICLE 16: citizens' right to 'equality of opportunity' in matters relating to employment or appointment to any office under the State – and prohibition in this regard of discrimination on grounds of religion, race, caste, sex or place of birth;
- ARTICLE 25: people's freedom of conscience and right to freely profess, practice and propagate religion – subject to public order, morality and other Fundamental Rights;
- ARTICLE 26: the right of 'every religious denomination or any section thereof – subject to public order, morality and health – to establish and maintain

institutions for religious and charitable purposes, 'manage its own affairs in matters of religion', and own and acquire movable immovable property and administer it 'in accordance with law'

- ARTICLE 27: the prohibition against compelling any person to pay taxes for promotion of any particular religion'
- ARTICLE 28: people's 'freedom as to attendance at religious instruction or religious worship in educational institutions' wholly maintained, recognized or aided by the State.

Directive Principles of State Policy

- DPSPs under Part IV includes the following provisions having significant implications for the Minorities: –
- the obligation of the State 'to endeavour to eliminate inequalities in status, facilities and opportunities' amongst individuals and groups of people residing in different areas or engaged in different vocations; Article 38 (2)
- the obligation of State 'to promote with special care' the educational and economic interests of 'the weaker sections of the people' [Article 46]

Fundamental Duties

- Article 51A:
- citizens' duty to promote harmony and the spirit of common brotherhood amongst all the people of India 'transcending religious, linguistic and regional or sectional diversities; and
- citizens' duty to value and preserve the rich heritage of our composite culture