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Institutional Mechanism for Monitoring Minority Safeguards in India: Role of the NCM

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Abstract

The presence of minorities in all societies is an empirically established fact. It is observed that minorities face multiple threats in societies they live. These threats ranging from attempts at subjugation and exclusion to extermination or genocide entail theories and discourses for addressing the problems of minorities. It has been widely accepted today that minorities need special protection by the states they live in. The special protection may include effective constitutional and legal safeguards with institutional mechanism to monitor the enforcement of those safeguards. India is often described as confederation of minorities for having large number of minorities based on religion, language, culture and race etc. The Constitution of India recognizes minorities based on religion and language and provides constitutional and legal safeguards for the protection and promotion of their rights. This paper attempts to understand and critically examine the institutional mechanism and its role in monitoring the implementation of minority safeguards in India.

Keywords: Minorities; Religion; Educational Institutions; Discrimination.

The Preamble of the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities [1] (hereinafter Declaration on Minorities) declares that the promotion and the protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to the political and social stability of states in which they live [2]. The Declaration on Minorities further obligates the states " to protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories," [3] and to " encourage conditions for the promotion of that identity [4]." It also mentions that "States shall adopt appropriate legislative and other measures to achieve those ends [5]." Thus, it is evident that it is an international obligation of the States to protect its minorities through appropriate and effective constitutional, legal and institutional arrangements. It is interesting to note that the Government of India set up the Minorities Commission at the national capital of India in 1978 much before the adoption of the Declaration on Minorities by the General Assembly of the United Nations.

Establishment of the Minorities Commission

The Minorities Commission was first established in 1978 by a Government Resolution [6]. The Commission got statutory status with the enactment of the National Commission for Minorities Act, 1992 and was renamed as the National Commission for Minorities [7]. However, the root of this body can be traced to Pre-independence days. In fact, it was Sapru Committee [8] 1945 which proposed the establishment at the centre and in each of the provinces an independent Minority Commission.

After the lapse of Sapru Committee the creation of a body for protecting the rights of minorities was discussed in detail in the Constituent Assembly of India. The questionnaire on Minority Rights (drafted by K.M. Munshi and circulated among the members of the Sub-Committee on Minorities) contained a question about the setting up of machinery to supervise the efficacy of the safeguards provided to minorities [9]. Subsequently, the issue of administrative machinery to ensure protection of rights of minorities was taken up by the Subcommittee. Several proposals were brought before it for consideration including the establishment of 'a Minority Commission whose findings should be mandatory on government' (proposed by Mr. Khandekar) [10]. Mr. Anthony suggested a Minority Commission with the right only to make a report [11]. However, both the proposals were lost by majority in the Sub-Committee. Dr. Ambedkar's proposal for the appointment of an independent officer by the President at the center and by the Governors in the provinces to report to the union and Provincial legislatures respectively about the working of the safeguards provided to minorities was finally accepted. Thus Article 299 of the Draft Constitution made provisions for appointment of a Special Officer for Minorities to look after the safeguards. But sadly, after the partition when the debate on minority rights was reopened in the Constituent Assembly, the proposal of Ambedkar was dropped in the 'changed circumstances' [12] and minorities were suggested to 'trust the good-sense and sense of fairness of the majority' (emphasis added) rather than demanding any special treatment for them [13].

When the debate on minority rights was reopened in the Constituent Assembly on 26th May 1949 and the House was determined to reject any kind of reservation on religious ground, Jawaharlal Nehru made a historic speech. He favoured the motion that there should not be any reservation for minority based on religion but with a note of caution. He said,

I would remind the House that this is an act of faith, an act of faith for all of us, an act of faith above all for the majority community because they will have to show after this that they can behave to others in a generous, fair and just way, let us live up to that faith [14].

But the subsequent events and experiences revealed that the state or the majority community could not live up to the faith expressed and desired by Nehru. Large scale communal riots with not only the complacency of the state apparatus but with its active participation in atrocities against minorities showed that the right to life of minorities were under threat let alone the special safeguards provided to them in the Constitution of India. Sardar Patel's assurance to minorities in the Constituent Assembly

of India that 'trust us and see what happens' [15] was unfolding on minorities in a different manner as they were being subjected to torture, cruelty and discrimination. The greatest challenge faced by the minorities in independent India is constant threat to their life and property and the failure of state in providing them protection during turbulent situations. The studies of riots in post –independence India have revealed this fact very clearly [16].

The Resolution that was moved by the government to create the central Minorities Commission itself reflects that there existed a feeling of insecurity and discrimination amongst minorities. The Resolution states:

Despite the safeguards provided in the Constitution and the laws in force, there persists among the minorities a feeling of inequality and discrimination. In order to preserve secular traditions and to promote National integration the Government of India attaches the highest importance to the enforcement of the safeguards provided for the minorities and is of the firm view that effective institutional arrangements are urgently required for the enforcement and implementation of all the safeguards provided for the Minorities in the Constitution, in the Central and State laws and in Government policies and administrative schemes enunciated from time to time. The Government of India has therefore, resolved to set up a Minorities Commission to safeguard the interests of the Minorities whether based on religion or language [17].

The above mentioned Resolution of Central Government entrusted the Minorities Commission at the centre with the following functions:

- to evaluate the working of the various safeguards provided in the Constitution for the protection of Minorities and in the laws passed by the Union and the State Governments;
- to make recommendations with a view to ensuring effective implementation and enforcement of all the safeguards and the laws;
- iii. to undertake a review of the implementation of the policies pursued by the Union and the State Governments with respect to the Minorities
- iv. to look into the specific complaints regarding deprivation of rights and safeguards for the Minorities;
- v. to conduct studies, research and analysis on the question of avoidance of discrimination against Minorities;
- vi. to suggest appropriate legal and welfare

measures in respect of any Minority;

vii. To serve as a National Clearance House for information in respect of the conditions of the Minorities; and

viii. To make periodical reports at prescribed intervals to the Government [18].

Composition

The said Resolution also mentioned that the Commission shall consist of a chairman and two other members whose term would not ordinarily exceed three years [19]. Accordingly, a three member Central Minorities Commission was set up by the President on 26 February 1978. The Commission was headed by a Parsi Chairman and having two members one each drawn from the Christian and the Muslim communities [20]. However, the appointment of a Parsi as Chairman created a lot of controversy. The largest minority of the country, which was actually the worst victim of the communal slaughter and repression felt neglected and cheated. Thus, the Commission with its creation was shadowed in controversy. The criticism and furore forced the Government to review its decision and the Commission was reconstituted on 28 July 1978. This time the composition of the Commission was different with 'a Muslim chairman and four members, one each drawn from the Buddhist, Christian Parsi and Sikh communities [21]. Latterly, under the National Commission for Minorities Act 1992 which was subsequently amended in 1995, the composition of the Commission was changed. Now the Commission consists of a Chairperson, a Vice- Chairperson and five members one each drawn from the five religious minorities notified by the government for the purpose of the Act.

If we try to delve deep into the Resolution of the Government for the creation of the Commission, we find that the Government made an attempt to make the Commission effective and instrumental but with limited powers and resources. For example, besides other things the Resolution also mentioned that all the Central Government Ministries and Departments will furnish to the Commission all the information, documents and assistance required by the Commission, expressing a trust that the State governments too will do the same. It asked the Commission to submit to the President of India, Annual Reports detailing its activities and recommendations besides submitting to the Government special reports whenever it deemed necessary on the matters within their scope of work and all Annual Reports of the Commission were required to be laid before each House of Parliament with Action Taken Memorandums, also explaining the reasons for non-acceptance of a recommendation if any [22]. However, no time limit was prescribed for tabling of the reports in the Parliament. Moreover, the Commission was not given the power of investigation and inquiry. Thus, the Commission which was created with high hopes could not live up to the expectations because of the inadequate powers conferred upon it and apathy consistently shown by the subsequent governments.

Government's Endeavour to Grant Constitutional status to the Minorities Commission

The Janata Government showed its sincerity with regard to Minoriteis Commission when it introduced in the Lok Sabha 46th Constitutional Amendment Bill on 3 August 1978. The purpose of the Bill was to abolish the office of Special Officer for linguistic Minorities provided for in Article 350-B, and to add Article 338-A to make room for a constitutionally sanctioned Minorities Commission [23].

While introducing the Amendment bill in the Lok Sabha, the Government in the Statement of objects and Reasons said:

The Government are of the view that appointment of a Commission to safeguard the interests of all Minorities, whether based on religion or language would provide a more satisfactory institutional arrangement for achieving the desired objective. A minorities commission was, therefore, set up by an executive order. Such a Commission would, if set up in pursuance of Constitutional provisions, inspire greater confidence among the Minorities [24].

Unfortunately, the Bill lapsed due to lack of interest showed by the members of the ruling coalition and apathy of the main opposition party (the Congress). The Government however made another attempt to grant Minorities Commission a constitutional status by bringing in Fifty-First Amendment Bill in 1979 with the same purpose and objects. This time the Bill was hotly debated in the Lok Sabha but failed to get the required support and could not be passed. Thus, the sincere attempts of the first non-Congress Government to grant the constitutional status to an institutional arrangement failed. However, the Morarji Government should be appreciated at least for demonstrating political will to create a body like the Minorities Commission for the protection of the rights of minorities in India.

With the fall of Janata Government in 1979 and return of the Congress to power, the existence of the Minorities Commission (created by Janata

Government) was in danger. But the Commission once created had attracted the attention and interest of minorities and it would have been against the simple political wisdom for the Congress to dismantle this body. Thus rather than bringing this body to an end the Congress government deformed it and its face was changed. The Commission was allowed to complete its three years term. On the completion of its first term, the Commission was given second term in 1984 but with a new circular under which it was placed under the newly created Ministry of Welfare [25].

This was indeed a big ideological transition for the Commission which changed its very nature and face. What was conceived and started as a rights enforcement mechanism was now perceived as a welfare agency [26].

Although, the Commission was never dismantled after its creation in 1978, its powers were constantly curtailed. The Congress Government never tried to give it a Constitutional or statutory status until 1991. The united Front Government led by V.P. Singh could not give it a constitutional status because he formed government with the help of the Bharatiya Janata Party (BJP) which was dead against the Minorities Commission [27]. It was only in 1991, when the Congress returned to power that it tried to accord the Commission an ordinary statutory status. This was also because the Hindu Card played by Rajiv Gandhi in 1986 had a boomerang effect. The BJP grabbed the opportunity and started Ram Janmabhoomi movement with unimaginable success [28]. The Congress on the other hand lost its minority vote bank. Later on V.P. Singh with Mandal card robbed Congress of its traditional OBCs vote bank. The Congress was losing its traditional support base, and therefore it was determined to regain minority support. Also the period 1980 to 1992 was the worst as far as the frequency of communal riots with genocidal tendencies against minorities is concerned. The Moradabad riots 1980, Biharsharif 1981, Godhra (1980-81), Nellie (Assam) 1983, Bhiwandi 1984, Anti-Sikh riots of Delhi 1984, Delhi riots 1987, Meerut 1987, Bhagalpur 1989, Aligarh 1990, Varanasi 1991, Bombay 1992-93 are the few such riots to mention [29]. This was a period when the country was facing turbulence due to the Ram Janmabhoomi Movement resulting into demolition of Babri Masjid on 6 December 1992. The Secessionist Khalistan Movement and operation Blue Star [30], greatly annoyed the Sikh minority and subsequently assassination of Indira Gandhi by her Sikh body guards led to anti-Sikh program in Delhi [31] and many other places. The anti-Christian campaign by

the Sangh Parivar resulting into violence against the Christian minority developed a sense of insecurity and gross injustice amongst them and other minorities. This is also a coincidence that the United Nations General Assembly was preparing to adopt Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities on 18 December 1992.

These were the circumstances under which the Congress Government at the centre decided to grant statutory status (not constitutional status as promised by it in its election manifesto of 1991) to the existing Minorities Commission by an Act of Parliament. Thus on 4th May 1992, a "National Commission for Minorities Bill" was introduced in the Lok Sabha. Mr. Sita Ram Kesri the then Welfare Minister presented the Bill. The statement of objects and Reasons of the Bill stated:

The Minorities Commission with a statutory status would infuse confidence among the Minorities about the working and effectiveness of the Commission. It would also carry more weight with the State Government/ Union Territory Administrations and the Ministries/ Departments and other organizations of the Central Government [32].

Debates on the Bill: 11-12 May 1992

When the Bill to constitute a National Commission for Minorities with statutory status was introduced in the Lok Sabha on 11 May 1992, it generated a heated debate between the opposition and the Treasury Bench. The leader of the Opposition in the Lok Sabha L.K. Advani vehemently opposed it. He argued:

I oppose it not only because of the contents of this particular Bill but I oppose it on more basic grounds. I regard it as one more example of the Government's mishandling of this issue which is ostensibly related to minorities, but which, I believe is very much linked up with the unity of this country. As it is, I regard this particular piece of legislation as ill-conceived and retrograde. It will solve no problem, it will create new problems [33].

Advani Blamed the Politics of Vote Bank for the Bill and Argued

This kind of bill is addressed in name, of course to the Christians, to the Parsis, to the Sikhs etc., But it is addressed only to one section. I am sorry to say that this is not prompted by any earnest consideration of their interest. This is prompted by sordid politics of the vote banks [34].

Advani quite naively observed that the creation of Minority Commission will tear India into pieces and will encourage Muslims to demand a second Pakistan for Muslim majority area, a Christendom for Christians, or a Khalistan so far as the Sikhs are concerned [35].

Mr. Advani also pointed out that as the BJP was in good strength in the Parliament, the Congress Government could not give Minorities Commission a constitutional status. He suggested that in place of Minorities Commission a 'National Integration - cum - Human Rights Commission' should be setup which was earlier recommended by Justice Beg who happened to be the chairman of the Minorities Commission. He also pointed out the definitional dilemma surrounding minority [36]. In fact his speech in the Parliament was meant not only to oppose the Bill on Commission but he was adamant that there should not be anything like minority or majority. Minorities should surrender their distinct identity and assimilate themselves into majority has been the consistently held ideological position of the Sangh Parivar [37].

Dig Vijay Singh of the Congress while supporting the Bill argued that the Minorities Commission should be empowered with the specific powers to investigate and prosecute all suit offenders who have violated the rights of minorities. He asserted that more teeth have to be given to the Minorities Commission to make it more effective and meaningful [38].

Ram Vilas Paswan argued that the establishment of the Minorities Commission in 1978 by the Janata Party regime was a historic deed and now when the Commission is going to be given a statutory status it must have equal powers as that of SCs and STs Commission. He also argued that the government must provide minorities with the equal rights as are envisaged for Scheduled Castes and Scheduled Tribes [39].

Shrimati Shusheela Gopalan Strongly supported the Bill and gave emphasis on proper implementation of the provision of the Bill. She also pointed out that the proposed Commission should be made to participate in the planning process for minorities in cooperation with the Planning Commission [40].

Ebrahim Sulaiman Sait also compared the powers of the Minorities Commission with that of the Scheduled Castes and Scheduled Tribes Commission and said that more powers have been given to the SC & ST Commission in comparison to NCM. Therefore the NCM should be brought at par with the SC & ST Commission to make it more effective [41].

Sultan Salahuddin Owaisi Speaking on the Occasion Said

I cannot support this bill wholeheartedly, because if the Government is really interested to set right the injustice done to the Muslim minority, it should have given those rights which have been given to the Scheduled Castes and Scheduled Tribes through a bill which has been passed by the House. But it is a very strange policy of the Congress that it shows a lot of sympathy, but when the occasion for giving something arise it makes a lot of curtailment in the facilities which were genuinely required for the minorities [42].

He said that in the absence of real powers to the Commission nothing concrete can be achieved through it. He argued that as a result of it the Commission will present reports only and will not be able to take concrete steps for the welfare of the minorities". Mr. Owaisi demanded adequate powers for the proposed Commission.

Raja Gopal Naidu Ramasamy not only supported the Bill but also gave valuable suggestions on the issue. He suggested:

I fully agree with the principles of the Bill and I also agree with the necessity of according the Minorities Commission a statutory status. While the government is for a statutory status to the Commission, I would like to go a step further and suggest that it should be given a statutory and democratic status. To achieve this end, I propose the creation of a standing Parliamentary Committee on the Welfare of Minorities. The Committee must be created on the lines of the existing Committee like PUC, PAC and SC, ST Committee. The creation of such a Committee has several advantages. A Parliamentary Committee will be more independent than a commission constituted by the Government. It will have enormous powers to summon witnesses and documents, and it will have access to all areas affected by communal riots and the functioning of the Committee cannot be obstructed as it enjoys the privilege of the Houses. The willful disobedience to comply with the directions of the Committee for implementation of its recommendations will also attract punishment for breach of privilege [43].

Other important suggestions given by the honourable MP were as follows:

- The chairman and the Members of the proposed Commission should not be appointed by the Central Government. They should be elected by the members of the Parliament.
- ii. The continuance of the Commission must be reviewed at every 10 years.
- iii. The Report of the Commission must be tabled before the state legislatures because in most cases,

they are the implementing authority.

- iv. The development of composite Police force is essential to allay the fears among the minority communities.
- v. An express provision for trying communal offences by special courts should also have been made in the Bill
- vi. Special provisions on the lines of Tamil Nadu Prevention of Destruction to Public Properties Act and Goondas Act should be there in the Bill for detaining people who incite communal violence in addition to provisions in the National Security Act.
- vii. The root cause of several communal tensions all over India is the Press. We must note with disapproval the role played by the press in the name of freedom in inciting communal violence. Most of the regional Press is indulging in yellow journalism. Therefore, those who cry for codification of privileges of public representatives must realize that indeed we want a law for regulating freedom of pressmen who are, unlike public representatives not accountable to the people of India. The government must bring a law for regulating Press freedom [44].

S.M. Lal Jan Basha supported the Bill and demanded that Minorities Finance Corporations should be set up in each and every state. He also demanded measures to reserve 5 to 10% jobs for minorities and similar reservations for them in education in proportionate to their population [45].

Shri Chitta Basu while supporting the Bill said that the creation of the Commission with statutory backup is in fulfilment of our national commitment of our freedom movement [46].

Syed Shahabuddin delivered an insightful speech on minority problems and proclaimed uniformity can never be as lovely as diversity [47] while giving his opinion on the Bill, Shahabuddin said:

I would like to add that minority problem is not (therefore) just a Muslim problem. It is a political problem and a national problem. What is the essence of the Problem? There is enough safeguard in this book, Sir, enough in the law that we have made. But we need a watch dog; we need an autonomous body to keep a tab on the gap between precept and practice. The problems of the deprived groups arise not because the rights have not been defined and do not flow from the Constitution. They do. They arise because in actual practice, man being what he is, there is always a gap between precept and practice, between the Constitutional Safeguards and the

implementation. So, the essence of the Minorities Commission must be to act as a watch dog and the capacity to look into a right claimed under the Constitution. I may ask for the moon, and you have every right to deny me the moon. If I ask something that is implicit and explicit in the Constitution, you have no right to deny me. And if you deny me, I must have an authority to whom I can appeal. That is why I wanted a statutory status for the Minorities Commission [48].

He also Shared his Experience of the Minorities Commission that Existed since 1978 and Observed

It was a like a toy in our hand; it had no life, it had no spirit; it was not really functioning; it was not even a mechanical toy; it was a rigid and fringed toy which could not laugh; which could not cry and which could not weep. Therefore, today you are instilling life into it. It was created in 1978...... it could not be given a statutory status at that time and until 1992 it has completed 13 years of its life. Twelve reports have been submitted. I believe that nine of the reports have been placed on the table of the House by the Hon'ble Ministers concerned over a period of time. I am very sorry to inform you that none of these reports have ever been discussed in this House" [49].

He expressed hope that "with the passage of this bill, we shall certainly ensure that there is at least annual debate on the state of the minorities in our country". Shahabuddin complained that the famous report of the High Power Panel headed by Mr. Gopal Singh, remain unimplemented. He also suggested that the 15 point Programme needs to be recast. He said regarding the programme that "it has not been implemented because in many ways it is not implementable". He called upon to make the programme "an effective instrument for the welfare of the religious minorities of the country" [50].

Kumari Frida Topno supported the Bill. While evaluating the performance of the Minorities Commission since 1978 she said:

Till today, the work of the Minorities Commission has been of a survey making and recommending authority. Its recommendations have no compelling force to the legislature to be bound to consider such recommendations. The administration has not been made answerable for its acts of omission and commission leading to encroachment upon minority rights. In the recent past many communal violence have taken place in many parts of the country. And what was the role of the Minorities Commission? Is it just to survey and report? How many administrators have been made answerable or have

been punished [51]?

She suggested that the Commission must have enormous administrative as well as judicial powers to try and punish the persons responsible for such communal violence. In order to deal with firmly and timely, a riot force may be created and be placed under the disposal of the Minorities Commission.

Prof. Rasa Sign Rawat Opposed the Bill and went to the Extent of Saying

Hardly has the nation forgotten the trauma of partition that Shi Kesri has come up with a National Commission for Minorities Bill, which caries within its womb, the seeds of another partition [52].

Shreesh Chandra Dikshit termed the Bill as antinational, and "against the national integration" [53].

While the debate on the Bill was going to be concluded after the Speech of Sri Seta Ram kesri, Syed Shahabuddin again sent the Minister on back foot by asking as to Why there is a difference between the function of the Commission of the Scheduled Castes, Scheduled Tribes and the earlier functions of the Minorities Commission set up through a resolution? He asserted that the functions of this Commission should be same as that of Scheduled Castes and Scheduled Tribes Commission [54]. Many members rose to support the proposal of Syed Shahabuddin but the proposed Bill was passed without any substantial change. L.K. Advani, leader of the opposition, left the House by saying... "we don't want to be associated with the passage of this bill and therefore we are leaving the House in protest". After that the Motion was adopted. Commenting upon the debate on the Bill, Tahir Mahmood observes:

The debaters on both sides went far beyond the scope and purposes of the Bill and talked about a lot of other things having no direct relevance to it [55].

The National Commission for Minorities Act, 1992

The Act consists of five chapters. Chapter I of the Act deals with title, extent and definitional aspects. The Act has declared that "it extends to the whole of India except the state of Jammu and Kashmiri", and for the purposes of the Act, Minority means" a community notified as such by the Central Government [56].

Chapter II deals with the composition of the Commission, term of office and conditions of service of chairperson and members and procedure of removal of chairperson and members, salaries and allowances of its employees and officers. Chapter III deals with Powers and functions of the Commission.

Chapter IV and V deal with Finance, Accounts and Audit, and Miscellaneous matters respectively.

Functions of the Commission

The powers and functions assigned to the NCM under Chapter III of the NCM Act 1992 are as follows:

The commission shall perform all or any of the following functions, namely:

- Evaluate the progress of the development of minorities under the Union and the States;
- Monitor the working of the safeguards provided in the Constitution and in laws enacted by the Parliament and the state Legislatures;
- Make recommendations for the effective implementation of safeguards for the protection of the interests of minorities by the Central Government or the State Governments;
- d. Look into specific complaints regarding deprivation of rights and safeguards of the minorities and take up such matters with the appropriate authorities;
- Cause studies to be undertaken into problems arising out of any discrimination against minorities and recommended measures for their removal;
- f. Conduct studies, research and analysis on the issues relating to scio-economic and educational development of minorities;
- Suggest appropriate measures in respect of any minority to be undertaken by the Central Government or the State Governments;
- h. Make periodical or special reports to the Central Government on any matter pertaining to minorities and on particular difficulties confronted by them: and
- 1. Any other matter which may be referred to it by the Central Government.
- 2. The Central Government shall cause the recommendations referred to in clause (c) of sub-section (1) to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.
- 3. Where any recommendation referred to in clause (c) of sub-section (1) or any part thereof is such

with which any State Government is concerned, the Commission shall forward a copy of such recommendation or part to such State Government who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken of proposed to taken on the recommendation relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations or part.

- 4. The Commission shall, while performing any of the functions mentioned in sub-clauses (a), (b) and (d) of sub-section (1), have all the powers of a civil court trying a suit and, in particular, in respect of the fallowing matters, namely:
- Summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- Requiring the discovery and production of any document;
- c. Receiving evidence on affidavits;
- d. Requisitioning any public record of copy thereof from any court or office;
- e. Issuing commissions for the examinations of witnesses and documents; and
- f. Any other matter which may be prescribed. 57

Comparison and Appraisal

A cursory glance of the NCM Act 1992 reveals that the Government has assigned very important functions to the Commission but the powers given to it are not commensurate with the responsibilities assigned to it. Moreover, the apathy and indifference of the government to the Commission make it a mere ornamental body. As we delve deep into the provisions of the NCM Act 1992 and compare them with the Acts of other National Commissions [58], we find that the NCM Act 1992 suffers from many weaknesses creating thereby practical difficulties for the Commission.

As we know that creation of a body with Constitutional status to ensure the enforcement of Constitutional safeguards provided to minorities has been a major demand of minorities since the period of freedom struggle. However, the changed circumstances culminating into partition led to change of mind and heart of the members of the Constituent Assembly. Thus many important demands of minorities including establishment of a body to ensure the enforcement of safeguards provided to minorities by the Constitution were

dropped. After independence many political parties made promises of creating such a body with Constitutional status but never kept their promises. The Central Minorities Commission created after Emergency in 1978, functioned under Government Resolution until 1992. During this period some half hearted efforts were made to accord Constitutional or at least statutory status to the Commission. However, it was only in 1992 that the Bill was passed by the Parliament to grant the Commission a statutory status. Thus the statutory position of the Commission itself makes it inferior in comparison to the only such Commission with Constitutional status—the Scheduled Castes and Scheduled Tribes Commission.

The Central Minorities Commission created in 1978 was attached to the Home Ministry. Keeping in view the nature of work assigned to the Minorities Commission it can be said that under such arrangement, the Commission was better equipped and soundly placed to discharge its functions. But in 1984 it was detached from the Home Ministry and placed under the Welfare Ministry. This led to weakening of the Commission. Prof. Tahir Mahmud, one of the illustrious chairmen of the Commission (1996-1999) argues:

This was not only downgrading of the Commission but a conceptual and foundational change in its basis, objects and thrust of activities – effected unmindfully if not thoughtfully. And it was wholly unwarranted both by the Commission's history and the nature of Minority problems in the country which it had to take care of [59].

Since 1984, the Commission had been working under its nodal Ministry the Ministry of Welfare (renamed as Ministry of Social Justice and Empowerment). Thus despite having acquired statutory Status the National Commission for Minorities, placed under the welfare Ministry/ Ministry of Social Justice and Empowerment lacked teeth. In February 2006, the NCM was placed under the newly created Ministry of Minority Affairs. Since then the Commission is working under this Ministry. It may be a welcome move but the experts argue that the Ministry itself is insignificant keeping in view its powers and budget allocated to it. Thus the fate of the NCM is dependent upon the fate of the Ministry itself [60]. On the other hand, the National Human Rights Commission (hereinafter NHRC) established in 1993 with statutory status has been placed under the Ministry of Home Affairs is in a better position to discharge its functions. Thus we find that NHRC has conspicuously made its presence felt in the matter of enforcement of human rights in our country. It is perhaps due to this factor also that the NHRC has done better than its counterpart with constitutional status–Scheduled Castes and Scheduled Tribes Commission. In fact only NHRC is attached to the Home Ministry and all other National Commissions constituted for looking after the affairs of special groups are attached to different nodal Ministries [61].

The composition of the NCM and the procedure of constitution of the Commission is another important point attracting our attention. Section 3(2) of the NCM Act provides that the Commission shall consist of a Chairperson, a vice chairperson and six members to be nominated by the Central Government from amongst *persons of eminence, ability and integrity*. (emphasis added)

It also provides that five members including the chairperson shall be from amongst the minority communities. Thus the only qualifications mentioned for the chairman, vice-Chairman or other members is that they must be persons of eminence, ability and integrity (of course in the eyes of the Government). Such a vague criterion leaves space for manipulation of qualifications and obvious politicization of the Commission. This has been quite evident from the list of the occupants of the coveted offices of the Commission since its inception [62]. As the office depends upon the incumbent, the ill-conceit procedure and qualifications of appointment to the various positions in the Commission have greatly undermined its reputation and functioning. Tahir Mohammad points out:

The result is the all sorts of persons most of them having no knowledge of ever the basic law on Minorities, and quite often disgruntled politicians, are appointed to the Minorities Commission. It is generally done to accord political favour to individuals seeking Post-retirement settlement or just a comfortable placement in Delhi, rather than as an exercise in the interest of the Minorities [63].

It is important to mention that the eligibility to be appointed on the NCM is most ambiguous, not requiring any relevant special qualification like knowledge of minority jurisprudence or experience in the field of minority affairs etc. On the other hand the other such National Commissions have at least some relevant eligibility criteria [64]. For example; the composition and qualification for the occupants of NHRC are reasonably good which makes this body adequately professional in dealing with the matter of human rights.

One fails to understand that why the knowledge of law or practical experience in matter relating to minority rights has not been made eligibility for acquiring any position in the NCM. It is also note worthy that the NCM has been provided with all the powers of a civil court trying a suit in many important matters, even then a Supreme Court or High Court judge or legal practitioner has not been sought as a an important functionary of the NCM. As a result, the NCM very seldom exercises its power of a civil court.

The NCM is an specialized body to deal with the affairs of minorities but the NCM Act has sought a limited role for the Commission in matter relating to rights of minorities as the Government *may* (emphasis added) refer such matters to the Commission. Tahir Mahmood has made a good comparison of NCM with other similar Commissions. He points out:

The NCM must be compulsorily consulted by the Government on all major policy matters affecting women and the NCSK on all major policy matters affecting the Safai Karmcharis. The NCBC shall tender such advice to the Central Government as it deems appropriate and its advice is ordinarily binding on the Government. There are no corresponding provisions in the NCM law. The poor Minorities Commission may, and generally is, ignored by all governments in all policy matters relating to the Minorities [65].

One can very easily understand that the nature of the work assigned to the NCM demands that it must possess the power of investigation. However the Commission has not been given any such power despite the statutory recommendation for suitably amending the NCM Act, 1992 to confer powers of investigation to the Commission' on the pattern of those obtaining in the Protection of Human Rights Act, 1993 [66].

There is another lacuna in the NCM Act 1992 that it does not prescribe any time limit under which the annual report of the Commission is to be compulsorily tabled in the Parliament with Action-Taken report by the Government. As a result the annual reports of the Commission gather dust in the store houses of the concerned Ministry and the Commission respectively. This has greatly undermined the prestige of the Commission and therefore it has been reduced to an ornamental body to provide lip service to aggrieved minorities. Unless the reports are tabled in the Parliament, they cannot be made Public. Therefore nothing can be known about the problem of minorities through the NCM in this situation.

Role of the Commission

The role played by the Minorities Commission can

be understood by the title of Tahir Mahmood's book "Minorities Commission: Minor Role in Major Affairs". Since the book has been authored by a person who himself chaired the Commission [67], it must be taken as an authentic exposition of the role and functions discharged and challenges faced by the Commission. Besides, the Government of India has obligated the Commission to submit Annual Report to the President of India detailing its activities and recommendations. Hence, these annual reports are the index of the Commission's performance and progress made by the minorities under the aegis of the Commission. The Commission was also authorised by the Government to submit special reports on the matters within their scope of work. The Central Government on the other hand has to table these reports before each House of Parliament along with a memorandum explaining the action taken on the recommendations relating to the Union and the reasons for the nonacceptance, if any of such recommendations. Thus the Government's treatment of these reports and action taken on the recommendations is an exposition of its sincerity towards minorities and their problems.

Annual Reports of the Commission (1978-2008)

The Commission submitted its First Annual Report to the Government for the year ending the 31st December 1978. We find that anti-minority communal violence has always figured prominently in the annual reports of the Commission. Communal riots took place at Pernambut town (Tamil Nadu), Aligarh (Uttar Pradesh) and at many other places in 1978. The Commission conducted on-the-spot enquiry into Pernambut and Aligarh communal riots. It expressed its view that sufficient measures were not taken by the authorities to protect the life and property of the Muslims of Pernambut [67]. On the communal disturbances in Aligarh, the Commission observed that the P.A.C has adopted a partisan attitude against the Muslims and all those who died as a result of firing by the P.A.C were Muslims [68]. Since the submission of its first annual report the Commission has been consistently taking the cognizance of the anti-minority communal violence and suggesting preventive and remedial measures. However, the Government never paid attention to the recommendations and valuable suggestions of the Commission. For example, communal riots like in previous reports figured in the Seventh Annual Report of the Commission. The gruesome violence and terror unleashed against the Sikh minority in the wake of assassination of the Prime Minister Indira Gandhi by her Sikh bodyguards was noted with horror. The Commission expressed its view that the

communal violence must be curbed at all cost. It suggested actions on three fronts for containing communal violence:

- i. Action on the law and order front where severe and adequate punishment for dereliction of duty and for encouragement given to communal violence by those holding offices or position of authority in particular and a system of rewards for those who perform their duties well in very trying circumstances.
- ii. Improved system of detecting the nature and causes of communal violence.
- iii. A new system of education capable of transforming people's thoughts and behaviour towards the common heritage and composite culture of our country.

The Commission criticized police for giving false reports about communal incidents. It observed:

A reading of official versions of riots and their causes will show a tendency to place the blame on a particular community without objective analyses of exploration of probabilities. If the machinery were impartial and the machinery of detection were efficient, we could expect better results and more reliable versions. Our distrust is based partly on lack of logic disclosed by some of the behaviour attributed to large groups without disclosing evidence or natural probabilities affecting causation.

The Minorities Commission emphasized the need for maintaining communal balance in Police by providing representation to minorities through suitable policies. It is sad to note that the Government hardly showed any interest in implementing the recommendations of the Commission. Contrarily, the Central Minorities Commission was not allowed to discharge its duties for non-cooperation of the state and central governments. For instance, the situations in Assam demanded an urgent attention of the Commission. It proposed to visit Assam to find out for itself the facts of the situation there. But the Home Ministry advised the Commission 'not to trouble itself with conflicts in Assam' and the State government 'did not approve the visit of the Commission'. Thus, the Commission did not visit Assam and it was severely criticized. However, the Commission prepared a report on Assam issue which is nothing more than an irrelevant and highly deviated document. The report on Assam did not reflect the situation out there but unnecessarily discussed Constitutional provisions relating to minorities which seems completely out of context.

The Minorities Commission took special interest

in the cultural and educational rights of minorities as these are the constitutionally guaranteed special rights of minorities. The Commission's report to the government on the Aligarh Muslim University (Amendment) Bill, 1978 deserves our special attention. Upholding the educational rights of minorities the Commission not only recognised the minority character of the Aligarh Muslim university but also advised the government that "the Aligarh Muslim University was established by the Muslims of India with their own funds and properties, and that the judgment of the Supreme court in Azeez Basha's case must be deemed to have been overruled by subsequent judgments of larger Benches of the Supreme Court in certain other cases and that in any event the Parliament was competent to pass legislation recognizing the Minority Character of the University". It also successfully intervened in the matter of withholding of AMU's grant by the UGC on the issue of reservation of SC/ST in the University. In its observation on the issue of reservation of the SCs and STs in the minority educational institutions the Commission pointed out that " the UGC is exceeding its legal jurisdiction in forcing the Minority Educational Institutions to protect the interests of Sc/ST at the cost of the interests of the Minorities themselves."

The Minorities Commission has been quite consistently expressing concern over the low percentage of minorities especially the Muslims and neo –Buddhists and calling upon the government to adopt special measures for providing them adequate representation. For example, after studying the problems relating to public Employment and Educational Backwardness amongst Muslims of India, the Commission recommended:

So far as Muslims or other primarily, educationally, economically and socially backward minorities, taken as a whole are concerned, it is imperative that their economic condition is improved first through such measures as have been adopted by the government for the Weaker Sections of society. The Planning Commission of India has identified 172 districts of the country as backward. Out of these, 39 districts have a considerable Muslim population. As many as 30 of there find a place in the list of the most backward districts and 7 have been included in the list of the most backward districts and 17 have been declared as non-industry districts. Minorities like other citizens, should derive benefits out of the various Schemes launched by the Planning Commission and the financial assistance, which is available to the weaker Sections Under the 20-Point Programme of the Prime Minister, can also be availed of by them if they are really backward.

However, like all other recommendations this too did not impress the government and as a result the percentage of Muslims kept on dwindling in public employment which has been well-documented by the Sachar Committee Report.

It is also important to note that the Commission under able stewardship has achieved some milestone as well. For instance, the NCM's intervention in the cases of innocent Muslim youths falsely implicated by the Andhra police in Mecca Masjid blast case brought relief to the victims. The Commission directed the Andhra Government to give adequate compensation to the victims of police atrocities and also issue the certificates of innocence to these youths. Deccan Herald, 23 June, 2012. This step of the Commission has been widely acclaimed.

The NCM and Political Compulsions

The Minorities Commission has been designed to work under immense political pressure which is evident from its functioning. For example, the year 1992-93 was unique and perhaps sad in the history of the Minorities Commission. During this period the Commission functioned without a Chairman and unfortunately no Annual Report was ever prepared for this financial year. This was perhaps deliberate and politically motivated action. Tahir Mahmood noted this malfunction of the Commission and observed:

It was during this year, 1992-93, that the status of the Minorities suffered the biggest and most violent jolt in Independent India- in the form of the anti-Constitutional vandalism and wanton sacrilege leading to daylight destruction of the religio-historic monument in the holy city of Ayodhya, known as the Babri Masjid. The Commission had nothing to say or report about this most heinous crime against the Nation's honour. Was it, then, just a lapse or deliberate escapism? There is no justification at all why 1992-93 was treated as Zero year and no report was ever submitted for it not even by the next Commission.

The Commission's ineffective presence during and after communal slaughter of Muslims in Gujarat genocide 2002 was felt by the victims as well as serious observers. Most of its actions were just eyewash. It prepared a very weak and perhaps a misleading report on Gujarat 2002. It could neither dare to call it genocide nor could do anything noteworthy for the victims. If we compare its work

with NGOs that have been working with very modest resources, we find that the Minorities Commission does not stand anywhere. This is again perhaps due to political compulsion.

Commission's Website

The Commission's website is poorly arranged, unsystematic and incomplete. It does not have its annual reports on the website. Most of its sections are lying under construction for last many years. Even the most important Complaint Monitoring System and Research Studies are under construction for last many months or years. This is an act of negligence and irresponsibility which cannot be expected from a highly responsible governmental body. Its Public relation office is worst so far as making or even maintaining contact is concerned. The Public relation officer tries to conceal information rather than passing it to public.

The NCM's Recommendations

Under the National Commission for Minorities Act, 1992, the Commission has been empowered to recommend actions, policies and programs for the betterment of minorities. The NCM has been constantly making recommendations and suggestions accordingly. However, its statutory recommendations are not taken seriously by the government. The NCM made recommendations several times for suitably amending the NCM Act to provide it at least the power of investigation and inquiry which is quite essential for providing it some teeth. The government never bothered to give this essential power to the Commission. On the other hand, the government has been constantly making claims for the upliftment of the minorities and also giving impression that it is sincere in its pledge to provide constitutional status to the NCM. In fact even a constitutional NCM will be ineffective without the power of inquiry and investigation. Similarly, the Commission's recommendation for placing of its statutory recommendations on the table of both Houses of parliament within time frame has never been accepted or implemented. Thus it is evident that the government's apathy and indifference to the Commission's recommendations make this body ineffective and incapable of promoting and protecting the rights of minorities.

Conclusion

The foregoing discussion leads us to conclusion that the root of the NCM lies in our freedom struggle.

In fact, the leading actors of the freedom struggle were quite convinced that an additional institutional arrangement was necessary in post independence India to allay the fears of minorities and ensuring the enforcement of constitutional safeguards proposed to be provided to minorities. As the minority problem could not be settled to the satisfaction of the most dominant and assertive minority (Muslim), the Indian dominion was divided into two independent and sovereign nations - India and Pakistan. However, the demand for institutional arrangement for ensuring the effective implementation of the safeguards to minorities remained a major issue during the Constituent Assembly debate even after the Partition of India. The demand remained an unrealized dream until 1978 when the Government of India created a central Minorities Commission by a Resolution. The NCM Act, 1992 provided it a statutory status. During this period (1978-1992), the Government made some halfhearted abortive attempts to accord Constitutional status to the NCM.

The debate in the Parliament on the Bill to give statutory status to Minorities Commission reflects that the BJP has been quite hostile to the idea of any special institutional arrangement for minorities. The debates that followed the introduction of the Bill is also reflective of ignorance of the honourable members regarding minority jurisprudence and its basic premises. Many members however showed their insight on minority issues and their commitment to promote the cause of minorities. The Bill finally passed, became the NCM Act 1992. The Act so passed is quite encouraging for the minorities but it suffers from many weaknesses making the National Commission for Minorities a toothless watchdog of minority rights. As the bill for granting constitutional status to the NCM has been introduced in the Lok Sabha and subsequently referred to the parliamentary Standing Committee on Social Justice and Empowerment [67] one may hope that the Government will make the Commission an effective body to deal with the issues and challenges faced by the minorities in India.

References

- 1. The Declaration was adopted by the General Assembly on 18 December 1992, vide resolution 47/135.
- 2. See *Minority Rights*, Fact sheet No. 18(Rev. 1), Office of the United Nations High Commissioner for Human Rights, Geneva, 1998.

- 3. Article 1(1)
- 4. Ibid.
- Article 1(2)
- Government of India Resolution, Home Ministry Notification, No-11-160/2/2/77-NID issued on 12 January 1978.
- National Commission for Minorities Act passed on 17 May 1992 and enforced with effect from 17 May 1993.
- 8. The committee headed by Sir Tej Bahadur Sapru was appointed by Non-Party Conference in its meeting held in Delhi on 18-19 November, 1944 to examine the whole communal and minorities question from a constitutional and political point of view. See for detail Constitutional Provisions of the Sapru Committee 1945, Padma Prakashan, Bombay.
- 9. The Questionnaire on Minority Rights drafted by K.M. Munshi included what machinery should be set up to ensure that safeguards are effective? See B. Shiva Rao, *The Framing of India's Constitution: Select Documents*, Vol. II, p.391.
- 10. See report of the Sub-Committee on Minorities, 27 July, 1947 in B. Shiva Rao, *op. cit.*, pp. 396-401.
- 11. *Ibid.*, Similar suggestions were given by many other members of the Assembly. For instance Shyama Prasad Mookerjee also had suggested formation of a Minority Commission in each province and Jairamdas Daulatram suggested a Minority Court to adjudicate on complaints of unfair treatment to minorities. See Manju Subhash, *Rights of religious Minorities in India*, National Book organization, New Delhi, 1988, p. 60
- 12. The partition of India in August 1947 had changed the circumstances resulting in a fresh look by the members of the Constituent Assembly on the rights of minorities. Thus many important proposals on the rights of minorities were dropped. See Anwarul Yaqin, "Constitutional Protection of Minority Rights in India", in Iqbal A. Ansari (ed.) *op. cit.*, Vol.11, pp. 1-30.
- 13. Sardar Vallabh Bhai J. Patel, Chairman of the Advisory Committee on Fundamental Rights and Minorities etc advised minorities on the eve of reopening of the debate on Minority rights in the constituent Assembly of India on 25-25 May, 1943. See for the full text of the debate, Constituent Assembly Debates, Vol. VIII, pp. 269-342.
- 14. Cited by Iqbal A. Ansari, op. cit., Vol. II, p. 403.
- 15. Sardar Patel, the Chairman of the advisory committee on Fundamental Rights and Minorities etc., made the statement during the course of debate in the Constituent Assembly of India. See for the full text, C.A.D. Vol. VIII, pp. 351-354.
- See Iqbal A. Ansari (ed.), Communal Riots, the State and Law in India, Institute of objective studies, New Delhi, 1997.

- 17. Government of India Resolution, Home Ministry Notification, No.11-160/2/2/77-NID issued on 12 January, 1978.
- 18. Ibid., clause 4
- 19. Ibid., clause 3.
- Tahir Mahmood, Minorities Commission Minor Role in Major Affairs Pharos Media & Publishing (P) LTD, New Delhi, 2001, p. 27.
- 21. Ibid., p. 28
- 22. Government of India Resolution, Ibid., Clause 6.
- 23. Tahir Mahmood, Op. cit., pp. 29-30.
- 24. Ibid., p.33
- 25. Ibid.
- 26. Ibid.
- 27. Bharatiya Janata Party (hereinafter BJP) believes in a homogeneous nation and therefore, it does not recognize the special rights or claims of minorities. It included in its manifesto for the Parliamentary elections of 1998 the dismantling of National Minorities Commission as one of the policies to be carried out by it.
- 28. BJP managed to win only two seats in 1984 parliamentary elections. In 1989 however, it won as many as 88 parliamentary seats. The BJP's success was attributed to its Ram Janam Bhoomi Movement for the construction of Ram Temple at the place of Babri Masjid at Ayodhya.
- 29. See for short accounts of the communal riots, Iqbal A. Ansari (ed.) Prevention of communal violence: Rule of law and Peace Initiative, Minorities Council, New Delhi, 2002. See also M.J. Akbar, Riot after Riot, Roli Books Pvt. Ltd., New Delhi, 2003. See for an insightful study of communalism and communal riots in India, Christopher Jaffrelot, The Hindu Nationalist Movement and Indian Politics, 1925 to the 1990s, Penguin books, New Delhi, 1999.
- 30. Operation Blue Star (3-6 June, 1984) was an Indian Military operation ordered by Indira Gandhi, the then Prime Minister of India, to remove Sikh separatists who were allegedly amassing weapons in the Golden Temple in Amritsar, Punjab.
- 31. The anti-sikh riots in Delhi witnessed organized mob violence against the Sikh minority. There were gruesome incidents like burning alive and linching of the people form the community. See *Report of the Inquiry Commission into Communal Disturbances, Delhi,* 1984 by Justice Ranganath Misra.
- 32. Tahir Mahmood, op. cit., p. 36.
- 33. Lok Sabha Debates, Vol. XII: No. 47, pp. 92-93.
- 34. Lok Sabha Debates, vol. XII: No.47, p.98.
- 35. Ibid., p.99.
- 36. Ibid., p. 102
- 37. This ideological position of the Sangh Parivar (a

conglomeration of communal Hindu organisations) is evident from the following statements of the Sangh ideologue Golwalkar: There are some people who claim that they have achieved unity of Hindus. Muslims, Christians and all others on the political and economic plane. But why limit the oneness only there? Why not make it wider and more comprehensive so as to fuse them all in the Hindu way of life in our Dharma and take them back as lost brothers? To those who speak of unity on the political and economic plane, we say that we stand not only for political and economic unity but also for cultural and religious unity we have thrown open our homes, our sanctuaries and temples, our age-old culture and heritage undoubtedly. This is a broader outlook. M.S. Golwalkar: Bunch of Thoughts, p.13, as cited by Moin Shakir, Politics of Minorities, Ajanta Publication, Delhi, 1980, pp. 11-12.

- 38. Speech of Mr. Digvijay Singh in the Lok Sabha on 11 May 19s92, Lok Sabha Debates, op. cit., 115-118.
- 39. Speech by Mr. Ram vilas Paswan in the Lok Sabha on 11, May, 1992, Lok Sabha Debates, op. cit., p. 11
- 40. Srimati Susheela Gopalan, Ibid., p. 148.
- 41. Ebrahim Sulaiman Sait, Ibid., pp. 149-156.
- 42. Sultan Salahuddin Owaisi, Ibid, pp. 168-171.
- 43. Rajagopal Naidu Ramasamy, Ibid., pp. 182-186
- 44. Ibid.
- 45. S.M. Laljan Basha, *Ibid.*, pp. 187-190
- 46. Chitta Basu, Ibid., p. 191
- 47. Syed Shahabuddin, Ibid., p. 196
- 48. Ibid., p. 200.
- 49. Ibid., p. 201.
- 50. Ibid., pp. 201-203
- 51. Kumari Farida Topno, at http://parliamentofindia.nic.in/LS/LSdeb/LS10/Ses3/1511059201.htm (the official website of the parliament of India). pp.148-149.
- 52. Prof. Rasa Singh Rawat, Ibid., p.150
- 53. Sheesh Chandra Dikshit, Ibid., p. 123
- 54. Syed Shahabuddin, Ibid., p. 190
- 55. Tahir Mahmood, op. cit., p.39.
- 56. The notified communities are: Muslims, Christians, Sikhs, Buddhists, Zoroastrians.
- 57. National Commission for Minorities Act, 1992, Section 9(1), read with Clauses (2), (3) and (4) of Section 9.
- 58. The other such National Commissions are the Scheduled Castes and Scheduled Tribes

- Commission (a constitutional body), the National Human Rights commission, the National Commission for Women, the National Commission for Backward Classes, and the National Commission for Safai Karmcharis all have statutory status.
- 59. Tahir Mahmood, op. cit., p. 33.
- 60. The fate of the Ministry of Minority Affairs is dependent upon the will of the ruling party at the centre. Thus, no one knows that whether the Ministry will continue if the rightist Political Parties return to power, as they believe that any special measure for religious minorities is nothing short of appeasement of minorities.
- 61. The National Commission for Women is attached to the Ministry of Human Resources Development, the Scheduled Castes and Scheduled Tribes Commission, the National Commission for backward Classes, and the National Commission for Safai Karmcharis are attached to the Ministry of Social Justice and Empowerment.
- 62. The constitution of the various Statutory Commissions since 1992 reveals that with few exceptions (like, Justice Sardar Ali and Prof. Tahir Mahmood) most of the Chairmen of the Commission were not from the relevant field of specialization in minority jurisprudence, despite their high stature in other fields.
- 63. Tahir Mahmood, op. cit., p. 198.
- 64. See Protection of Human Rights Act 1993, section 3 (2) (c), National Commission for Women Act 1992, Section 3 (2) (a) & (b), National Commission for Backward Classes Act 1993, Section 3 (2), National Commission for Safai Karmcharis Act, 1993, Section 3
- 65. Tahir Mahmood, op. cit., p. 199
- 66. Letter of the Joint Secretary, National Commission for Minorities addressed to the Secretary, Government of India, Ministry of Welfare under letter No. 8-12/95-Estt. Dated 6 September, 1995.
- 67. Prof. Tahir Mahmood is an eminent scholar of law. He has extensively written on the issues of minorities. He chaired the NCM from 1996-1999.
- 68. On 23rd December 2004, 'The Constitution (103rd Amendment) Bill, 2004' was introduced in the Lok Sabha for the purpose of insertion of a new Article (340-A) in the constitution for upgrading the status of NCM to a constitutional body. After introduction in the Lok Sabha, the Bill was referred to the Parliamentary Standing Committee on Social Justices Empowerment and currently it is lying with the committee. See the National Commission for Minorities, Annual Report, 2005-06, p.13.