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Woes of National Commission for Minorities

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Why in News

Recently, it has been highlighted that the seven-member **National Commission for Minorities** (NCM) has **only one member left** after the retirement of its vice-chairperson while the other 5 posts have been vacant since May 2020.

Key Points

- The **Ministry for Minority Affairs** clarified that the process is underway and there has been a delay in filling the vacancies because of the **Covid-19 pandemic**.
However, it is **not the first time that vacancies have not been filled** in the NCM. In 2017, all seven posts remained empty for over two months.
- In **2004**, the **standing committee on social justice and empowerment**, headed by **Sumitra Mahajan**, made specific recommendations to strengthen the NCM, highlighting its **insufficient investigative powers**.
However, these recommendations were **never implemented** by the then government. The reports tabled by the NCM are **hardly taken up or debated** irrespective of the government in power.
- **Section 13 of the National Commission for Minorities (NCM) Act, 1992** 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, if any, be **tabled before Parliament annually**.
These **reports have not been tabled** in Parliament **since 2010**.

National Commission for Minorities

- **Genesis:**

- In **1978**, setting up of the **Minorities Commission** (MC) was envisaged in the Ministry of Home Affairs Resolution.
- In **1984**, the MC was detached from the Ministry of Home Affairs and placed under the newly created Ministry of Welfare, which excluded linguistic minorities from the Commission's jurisdiction in 1988.
- In **1992**, with the enactment of the **NCM Act, 1992**, the **MC became a statutory body and was renamed as the NCM.**
- In **1993**, the first **Statutory National Commission** was set up and **five religious communities** viz the Muslims, Christians, Sikhs, Buddhists and Zoroastrians (Parsis) were notified as minority communities.
- In **2014**, Jains were also notified as a minority community.

- **Composition:**

- NCM consists of a **Chairperson, a Vice-Chairperson and five members** and all of them shall be from amongst the minority communities.
- Total of 7 persons to be nominated by the Central Government should be from amongst **persons of eminence, ability and integrity.** The Ministry for Minority Affairs recommends the names to the Prime Minister's Office.
- **Tenure:** Each Member holds office for a **period of three years** from the date of assumption of office.

- **Functions:**

- **Evaluation of the progress of the development** of minorities under the Union and States.
- **Monitoring of the working of the safeguards** for minorities provided in the Constitution and in laws enacted by Parliament and the state legislatures.
It ensures that the **Prime Minister's 15-point programme** is implemented and the programmes for minority communities are actually functioning.
- **Making recommendations for the effective implementation of safeguards** for the protection of the interests of minorities by the central or state governments.
- **Looking into specific complaints** regarding deprivation of rights and safeguards of minorities and taking up such matters with the appropriate authorities.
Aggrieved persons belonging to the minority communities may approach the concerned State Minorities Commissions for redressal of their grievances.
- **Getting studies to be undertaken into the problems arising** out of any discrimination against minorities and recommending measures for their removal.
It **investigates matters of communal conflict and riots**. For example, the **2011 Bharatpur communal riots**, as well as the **2012 Bodo-Muslim clashes in Assam**, were investigated by the commission and their findings were submitted to the government.
- It observes the **Minorities Rights Day** every year on **18th December** which marks 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**.
The declaration states that **countries shall protect the existence of the national or ethnic, cultural, religious and linguistic identity of minorities** within their respective territories and encourage conditions for the promotion of that identity.

Constitutional and Legal Provisions Related to Minorities

- The **NCM Act defines a minority** as "a community notified as such by the Central government."
The Government of India has declared **six religions** namely, **Muslims, Christians, Sikhs, Buddhists** and **Parsis** (Zoroastrian) and **Jain** as religious minorities in India.

- **National Commission for Minority Education Institution (NCMEI) Act, 2004:**

It gives the minority status to the educational institutions on the basis of six religious communities notified by the government.

- The term "**minority**" is **not defined in the Indian Constitution**. However, the Constitution **recognises religious and linguistic minorities**.
- **Article 15 and 16:**
 - Prohibition of discrimination against citizens on grounds of religion, race, caste, sex or place of birth.
 - 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 any discrimination on grounds of religion, race, caste, sex or place of birth.
- **Article 25 (1), 26 and 28:**
 - People's freedom of conscience and right to freely profess, practise and propagate religion.
 - Right of every religious denomination or any section to establish and maintain institutions for religious and charitable purposes, manage its own religious affairs, and own and acquire property and administer it.
 - People's freedom as to attendance at religious instruction or religious worship in educational institutions wholly maintained, recognized, or aided by the State.
- **Article 29:**
 - It provides that any section of the citizens residing in any part of India having a distinct language, script or culture of its own, shall have the right to conserve the same.
 - It **grants protection to both religious minorities as well as linguistic minorities**.
 - However, the **Supreme Court** held that the scope of this article is not necessarily restricted to minorities only, as use of the word 'section of citizens' in the Article includes minorities as well as the majority.
- **Article 30:**
 - All minorities shall have the **right to establish and administer educational institutions** of their choice.
 - The protection under Article 30 **is confined only to minorities** (religious or linguistic) and does not extend to any section of citizens (as under Article 29).
- **Article 350-B:**
 - The **7th Constitutional (Amendment) Act 1956** inserted this article which provides for a Special Officer for Linguistic Minorities appointed by the President of India.
 - It would be the duty of the Special Officer to investigate all matters relating to the safeguards provided for linguistic minorities under the Constitution.