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National Commission for Minorities Gets New Chairman, Reviving Debate on Institutional Independence and Minority Rights Protection

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Recent Developments:

- **Harjit Singh Grewal** assumed charge as the **Chairperson of the National Commission for Minorities (NCM)** after the post remained vacant for more than a year following the completion of the previous Chairperson's tenure in **April 2025**.
- The appointment of an active political functionary to a statutory rights institution has triggered debate regarding the **independence, impartiality, and institutional autonomy** of the Commission.
- The development has renewed discussions on strengthening the institutional framework for the protection of minority rights, ensuring transparent appointments, and improving the effectiveness of statutory commissions.

National Commission for Minorities (NCM):

About, Legal Status:

- The **National Commission for Minorities (NCM)** is a **statutory body** established under the **National Commission for Minorities Act, 1992**.
- It functions as the principal statutory institution for safeguarding the rights and interests of **religious minority communities** in India.
- The Commission advises the Union Government on matters relating to minority welfare, constitutional safeguards, and policy implementation.

Composition:

- The Commission consists of:
 - **One Chairperson.**
 - **One Vice-Chairperson.**
 - **Five Members.**
- All members are nominated by the **Central Government** from among persons possessing **eminence, ability, and integrity**.
- At least **five members**, including the **Chairperson**, must belong to the notified minority communities.

Tenure:

- The **Chairperson** and **Members** hold office for a period of **three years** from the date of assuming office.

Resignation, Removal:

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- The Chairperson or any Member may resign by submitting a written resignation to the **Central Government**.
- The Central Government may remove the Chairperson or a Member if the individual:
 - Becomes an **undischarged insolvent**.
 - Is convicted of an offence involving **moral turpitude**.
 - Is declared to be of **unsound mind** by a competent court.
 - Refuses or becomes incapable of performing official duties.
 - Remains absent from **three consecutive meetings** without prior permission.
 - Abuses the office in a manner detrimental to the interests of minorities or public interest.
- No removal on the ground of abuse of office can take place without providing a **reasonable opportunity of being heard**, ensuring compliance with the principles of **natural justice**.

Mandate and Functions of the NCM:

Constitutional Safeguards, Minority Welfare:

- Evaluate the progress of minority development programmes implemented by the **Union Government** and **State Governments**.
- Monitor the implementation of constitutional and legal safeguards available to minority communities.
- Examine complaints regarding deprivation of minority rights and recommend corrective measures to the appropriate authorities.
- Conduct research, studies, surveys, and policy analysis relating to the **social, economic, and educational** development of minorities.
- Recommend legislative, administrative, and policy reforms for improving minority welfare.
- Submit reports and recommendations to the **Central Government** on issues affecting minority communities.

Powers of the NCM:

Civil Court Powers:

- While investigating matters, the Commission enjoys powers equivalent to those of a **Civil Court** under the **Code of Civil Procedure, 1908**, including:
 - Summoning and enforcing the attendance of witnesses.
 - Requiring the discovery and production of documents.
 - Receiving evidence on affidavits.
 - Requisitioning public records from any court or office.
 - Issuing commissions for the examination of witnesses and documents.
- These powers facilitate inquiry; however, the Commission's recommendations remain **advisory** and are not legally enforceable.

Minorities in India:

Constitutional Position:

- The **Constitution of India** does not define the term **Minority**.
- The Constitution guarantees cultural and educational rights to minorities primarily through:
 - **Article 29** — Protection of the interests of minorities by preserving their language, script, and culture.
 - **Article 30** — Right of religious and linguistic minorities to establish and administer educational institutions of their choice.
- Other constitutional provisions promoting equality and religious freedom include **Articles 14, 15, 16, 25, 26, 27, 28, 350A, and 350B**.

Statutory Definition:

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- Under the **National Commission for Minorities Act, 1992**, a minority means a community notified by the **Central Government**.

Notified Minority Communities:

- The Central Government has notified six religious minority communities:
- **Muslims.**
- **Christians.**
- **Sikhs.**
- **Buddhists.**
- **Parsis (Zoroastrians).**
- **Jains**, notified in **2014**.

Important Judicial Pronouncements:

T.M.A. Pai Foundation v. State of Karnataka (2002):

- The **Supreme Court** held that the **State**, and not the entire country, is the appropriate unit for determining religious and linguistic minorities under **Articles 29 and 30**.
- The judgment recognised that a community constituting a majority nationally may qualify as a minority within a particular State.

Bal Patil v. Union of India (2005):

- The Supreme Court observed that the identification of minority communities should promote national integration while protecting constitutional rights.
- The Court emphasised that minority status should not become a source of social fragmentation.

Major Concerns Regarding the NCM:

Limited Enforcement Powers:

- The NCM is frequently described as a "**toothless tiger**" because its recommendations are advisory and lack binding force.
- Unlike the **National Commission for Scheduled Castes** under **Article 338** and the **National Commission for Scheduled Tribes** under **Article 338A**, the NCM does not enjoy constitutional status.
- Governments are under no legal obligation to implement its recommendations.

Political Appointments, Institutional Independence:

- The Central Government possesses complete discretion in appointing the Chairperson and Members.
- Appointments have often attracted criticism for favouring politically affiliated individuals rather than independent experts.
- Such perceptions may affect the Commission's credibility and public confidence.

Vacancies, Functional Delays:

- Prolonged vacancies in leadership positions disrupt grievance redressal, policy advice, and monitoring functions.
- Administrative delays reduce institutional effectiveness and weaken minority rights protection.
- The **Delhi High Court** expressed concern in **2025** regarding prolonged vacancies affecting the Commission's functioning.

Weak Parliamentary Accountability:

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- The **National Commission for Minorities Act, 1992** requires submission of an **Annual Report** together with an **Action Taken Memorandum** before Parliament.
- Delays in laying these reports weaken legislative oversight, executive accountability, and transparency.

National, State-Level Minority Determination:

- The Commission identifies minorities according to the nationally notified list.
- The **T.M.A. Pai Foundation** judgment recognises the **State** as the appropriate unit for determining minority status under **Articles 29** and **30**.
- The resulting divergence continues to generate constitutional and policy debates.

Weak State Institutional Framework:

- Effective implementation depends significantly upon **State Minority Commissions**.
- Several States have not constituted functioning commissions, while others face:
- Inadequate financial resources.
- Staff shortages.
- Limited investigative capacity.
- Weak State-level institutions reduce accessibility and effectiveness of grievance redressal.

Need for Strengthening the NCM:

Independent Appointment Mechanism:

- Introduce a transparent selection process similar to that adopted for the **National Human Rights Commission**.
- Appointments may be made by the **President** on the recommendation of a high-level selection committee comprising:
- **Prime Minister**.
- **Speaker of the Lok Sabha**.
- **Union Home Minister**.
- **Leader of the Opposition** in both Houses.
- **Deputy Chairman of the Rajya Sabha**.
- A collegium-based process would strengthen institutional independence and public trust.

Grant Constitutional Status:

- Elevate the Commission from a statutory body to a constitutional body through an appropriate constitutional amendment.
- Constitutional status would enhance institutional authority, functional independence, and accountability comparable to the **NCSC** and **NCST**.

Evidence-Based Policymaking:

- Implement the recommendations of the **Sachar Committee (2006)** by establishing:
- An **Equal Opportunity Commission (EOC)** to address discrimination.
- A **National Data Bank (NDB)** for reliable socio-economic data relating to minority communities.
- Evidence-based policymaking would improve targeting and evaluation of welfare programmes.

Strengthen Parliamentary Oversight:

- Prescribe a statutory time limit for placing **Action Taken Reports (ATRs)** before Parliament.

- Require the Government to provide detailed reasons whenever recommendations are not accepted.
- Stronger legislative scrutiny would improve transparency and executive accountability.

Strengthen State Minority Commissions:

- Ensure establishment of **State Minority Commissions** in every State.
- Provide adequate financial resources, trained personnel, and investigative infrastructure.
- Improve coordination between the National Commission and State Commissions for effective implementation.

Enhance Monitoring Capacity:

- Develop digital grievance redressal systems, periodic social audits, and outcome-based monitoring indicators.
- Encourage greater engagement with civil society organisations, educational institutions, and minority representatives for evidence-based policy formulation.

Constitutional Significance of Minority Rights:

Democratic Governance, Inclusive Development:

- Protection of minority rights strengthens **constitutional morality, pluralism, and inclusive democracy**.
- Effective implementation of minority safeguards promotes **social justice, national integration, and equal citizenship**.
- Strong institutions contribute to balancing individual rights with the constitutional vision of unity in diversity.

UPSC Value Addition:

Important Constitutional Articles:

- **Article 14** — Equality before law.
- **Article 15** — Prohibition of discrimination.
- **Article 16** — Equality of opportunity in public employment.
- **Article 25** — Freedom of conscience and free profession, practice, and propagation of religion.
- **Article 26** — Freedom to manage religious affairs.
- **Article 27** — Freedom from taxation for promotion of any religion.
- **Article 28** — Freedom regarding religious instruction.
- **Article 29** — Protection of the interests of minorities.
- **Article 30** — Right of minorities to establish and administer educational institutions.
- **Article 350A** — Facilities for instruction in the mother tongue at the primary stage.
- **Article 350B** — Special Officer for Linguistic Minorities.

Important Committees:

- **Sachar Committee (2006).**
- **Ranganath Misra Commission (National Commission for Religious and Linguistic Minorities).**

Important Institutions:

- **National Commission for Minorities (NCM).**
- **National Commission for Scheduled Castes (NCSC).**
- **National Commission for Scheduled Tribes (NCST).**
- **National Human Rights Commission (NHRC).**

State Minority Commissions (SMCs)

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