



**Government of India  
National Commission for Minorities**

**Draft Policy on Minority  
Communities in India**

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## **Draft Policy on Minority Communities in India**

### **1. Introduction- preamble of the NCM Act and Constitutional Rights of Minority Communities**

The United Nations Declaration on the rights of persons belonging to national, ethnic, religious and linguistic minorities emphasizes that the promotion and protection of rights of persons belonging to such minorities contribute to the political, social and economic stability of the country and peace. Government of India also feels that despite constitutional and legal safeguards as well as certain positive actions recently taken by Government of India, minority communities in India still have fear of their diminishing identity, and faces inequality, insecurity, discrimination and fear of extinguishing population. Despite certain measures taken by successive Governments, they have consistently been lagged behind on the front of education, employment, political representation and socio-economic development. Government of India therefore attaches highest importance to all round participatory development and inclusive growth of minority communities of India, particularly Muslims, which share a major portion of minority communities and comparatively remain far behind on the front of education, employment, socio-economic development and participation in politics.

To safeguard the interest of minorities, provided in the Constitution of India and in Laws enacted by Parliament & the State Legislatives, the Govt. of India constituted National Commission for Minorities under the NCM Act, 1992. It extends to the whole of India except the State of Jammu & Kashmir. Under this Act, the five communities viz. Muslims, Sikhs, Christians, Buddhists, and Zoroastrians (Parsis) have been notified as Minority Communities for the purpose of this Act. As per Section 9 of the NCM Act the Commission will perform the following functions:

- (a) evaluate the progress of the development of minorities under the Union and the States;
- (b) monitor the working of the safeguards for minorities provided in the Constitution and laws enacted by Parliament and the State Legislatures;
- (c) make recommendations for the effective implementation of safeguards for protection of interests of minorities by the Central Government or the State Governments;
- (d) look into specific complaints regarding deprivation of rights and safeguards of minorities and taking up such matters with the appropriate authorities;

- (e) cause studies to be undertaken into the problems arising out of any discrimination against minorities and recommend measures for their removal;
- (f) conduct studies, research and analysis on issues relating to socio-economic and educational development of minorities;
- (g) 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 or any matter pertaining to minorities and in particular the difficulties confronted by them; and
- (i) any other matter which may be referred to it by the Central Government.

Section 9(4) of the Act provides that the Commission will enjoy all the powers of a civil court during the course of the performance of its functions laid down in the above-cited clause (a), (b) & (d) of Section 9(1) of the Act.

### **1.1 Constitutional rights and safeguards provided to the minorities in India**

Though the Constitution of India does not define the word 'Minority' and only refers to 'Minorities' and speaks of those 'based on religion or language', the rights of the minorities have been spelt out in the Constitution in detail.

### **1.2 'Common Domain' and 'Separate Domain' of rights of minorities provided in the Constitution**

The Constitution provides two sets of rights of minorities which can be placed in 'common domain' and 'separate domain'. *The rights which fall in the 'common domain' are those which are applicable to all the citizens of our country. The rights which fall in the 'separate domain' are those which are applicable to the minorities only and these are reserved to protect their identity.* The distinction between 'common domain' and 'separate domain' and their combination have been well kept and protected in the Constitution. The Preamble to the Constitution declares the State to be 'Secular' and this is a special relevance for the Religious Minorities. Equally relevant for them, especially, is the declaration of the Constitution in its Preamble that all citizens of India are to be secured 'liberty of thought, expression, belief, faith and worship and 'equality of status and of opportunity.'

### **1.3 'Common Domain', the Directive Principles of State Policy – Part IV of the Constitution**

The Constitution has made provisions for the Fundamental Rights in Part III, which the State has to comply with and these are also judicially enforceable. There is another set of non-justiciable rights stated in Part IV, which are connected with social and economic rights of the people. These rights are known as 'Directive Principles of

State Policy’, which legally are not binding upon the State, but are “fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws”. (Article 37). Part IV of the Constitution of India, containing non-justiciable Directive Principles of State Policy, includes the following provisions having significant implications for the Minorities :-

- (i) 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) ]
- (ii) obligation of State ‘to promote with special care’ the educational and economic interests of ‘the weaker sections of the people’ (besides Scheduled Castes and Scheduled Tribes); [Article 46] and

#### **1.4 ‘Common Domain’, the Fundamental Duties – Part IVA of the Constitution**

Part IVA of the Constitution, relating to Fundamental Duties as provided in Article 51 A applies in full to all citizens, including those belonging to Minorities. Article 51A which is of special relevance for the Minorities stipulates as under :-

- (i) 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
- (ii) citizens’ duty to value and preserve the rich heritage of our composite culture.’

#### **1.5 ‘Common Domain’, the Fundamental Rights – Part III of the Constitution**

The Constitution has provided a definite space for both the ‘domains’ i.e. ‘common’ as well as ‘separate’. Part III of the Constitution, which deals with the Fundamental Rights is divided into two parts viz. (a) the rights which fall in the ‘common domain’ and (b) the rights which go to the ‘separate domain’. In the ‘common domain’, the following fundamental rights and freedoms are covered:

- (i) people’s right to ‘equality before the law’ and ‘equal protection of the laws’; [Article 14]
- (ii) prohibition of discrimination against citizens on grounds of religion, race, caste, sex or place of birth; [Article 15 (1) & (2)]
- (iii) authority of State to make ‘any special provision for the advancement of any socially and educationally backward classes of citizens’ (besides the Scheduled Castes and Scheduled Tribes); [Article 15 (4)]
- (iv) 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 16(1)&(2)]

- (v) authority of State to make 'any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State; [Article 16(4)]
- (vi) people's freedom of conscience and right to freely profess, practice and propagate religion – subject to public order, morality and other Fundamental Rights; [Article 25(1)]
- (vii) 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 26]
- (viii) prohibition against compelling any person to pay taxes for promotion of any particular religion'; [Article 27]
- (ix) people's 'freedom as to attendance at religious instruction or religious worship in educational institutions' wholly maintained, recognized, or aided by the State.[Article 28]

#### **1.6 'Separate Domain' of Minority Rights**

The Minority Rights provided in the Constitution which fall in the category of 'Separate Domain' areas under.

- (i) right of 'any section of the citizens' to 'conserve' its 'distinct language, script or culture'; [Article 29(1)]
- (ii) restriction on denial of admission to any citizen, to any educational institution maintained or aided by the State, 'on grounds only of religion, race, caste, language or any of them'; [Article 29(2)]
- (iii) right of all Religious and Linguistic Minorities to establish and administer educational institutions of their choice;[Article 30(1)]
- (iv) freedom of Minority-managed educational institutions from discrimination in the matter of receiving aid from the State;[Article30(2)]
- (v) special provision relating to the language spoken by a section of the population of any State;[Article 347]
- (vi) provision for facilities for instruction in mother-tongue at primary stage;[Article 350 A]
- (vii) provision for a Special Officer for Linguistic Minorities and his duties; and [Article 350 B]

- (viii) Sikh community's right of 'wearing and carrying of *kirpans*; [Explanation 1 below Article 25]

## **2. Minorities Education**

- 2.1** A proportionate percentage of funds will be earmarked in all Central Sector and Centrally Sponsored Schemes in the field of all types of Education and Human Resource Development, including at college and university levels, particularly for areas and pockets where substantial population of minority communities is concentrated.
- 2.2** Central Government will provide financial assistance for recruitment of Urdu language teachers at all level particularly in those areas and institutions that serve one-fourth Urdu speaking population.
- 2.3** Madarsa education will be modernized and substantially strengthened by *inter-alia* incorporating professional and technical courses and effectively implemented. Resources will be provided for establishment and upgradation of basic educational infrastructure particularly in the areas of concentration of economically and educationally backward minority communities.
- 2.4** Schemes of scholarships at all levels for students from minority communities will be formulated and implemented effectively.
- 2.5** The Government shall provide all possible financial assistance in the form of equity and/or interest free loans and / or grant to institutions working in the area of development of infrastructure at all level of education in order to strengthen and enable them to expand their activities more effectively particularly in minority concentrated districts and areas.
- 2.6** A proportionate percentage of all new technical and professional institutes will be located in areas predominantly inhabited by minority communities and a proportion of existing technical and professional institutes will be upgraded as Centres of Excellence.

- 2.7 Exclusive scheme will be launched for candidates belonging to minority communities to provide coaching for appearing in competitive examinations for employment in Government sector, in Government institutions as well as in private coaching institutes with credibility.
- 2.8 In regard to Minority Status Certificate, the issue should be revisited. Presently, the Certificates are granted by the State Governments for one year and renewed every year. The Commission's recommendations should be to grant to the Minority Educational Institutions permanent certificate in stead of renewal of the certificate every year the State Governments may review the permanent certificate or modify the same, if on subsequent inspection by the concerned authorities, it is found that the requisite conditions have not been fulfilled by the institution. Procedure for issuance of minority status certificates to educational institutions will be simplified and made hassle free.

### **3. Government Employment**

- 3.1 The representations of minority communities in the Government sector is reported to be declining. A survey need to be done by the military and para military organizations so that suitable remedial measures can be taken. Besides, Central Government will give special consideration and priority to minority communities candidates in recruitments in Central Para Military Forces, Police personnel and all Civil Services Group 'A', 'B', 'C' and 'D' posts. Representatives of Minority communities will invariably be included in all the Selection Committees constituted for recruitment of such posts. Universities including Central Universities, Railways, Nationalized Banks, Public Sector Enterprises *etc.* will ensure that special consideration and priority is given in recruitment for candidates belonging to minority communities.
- 3.2 State Government will be advised to give special consideration and priority to minorities in recruitment of State Government personnel, civil and police, by including representatives from minority communities in all Selection Committees constituted for selection of all such posts.

### **4. Employment and Economy**

- 4.1 A proportionate percentage of funds will be earmarked in all Central Sector and Centrally Sponsored Schemes in the field of employment in both rural and urban

sectors for beneficiaries belonging to the minority communities for creation of durable, social, physical and economic infrastructure.

## **5. Social and Physical Infrastructure**

5.1 A proportionate percentage of the physical and financial targets under all housing and social / physical infrastructure schemes and programmes will be earmarked for beneficiaries from minority communities living in both, rural and urban areas.

## **6. Bank Credit**

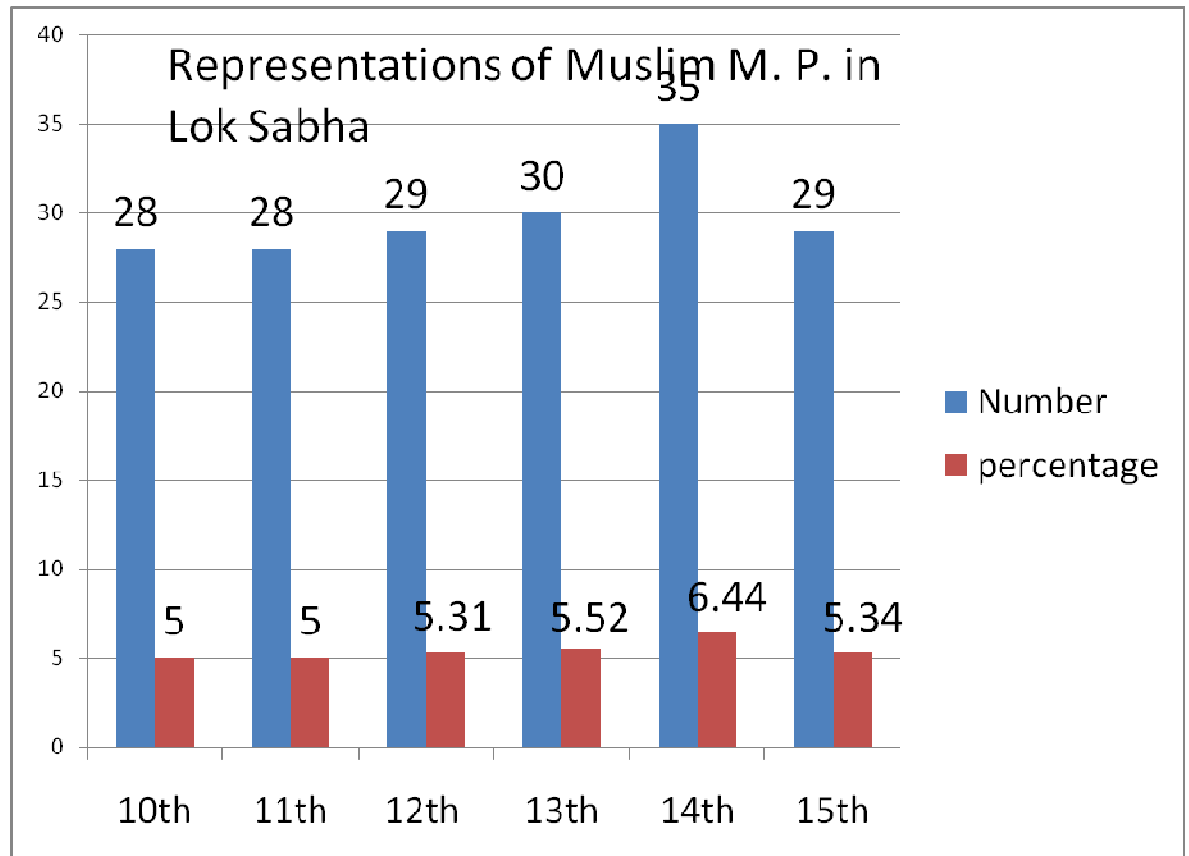
6.1 A proportionate percentage of priority sector lending *viz.* agricultural loans, loan to small-scale industries & small business, loans to retail trade, professional and self-employed persons, education loans, housing loans and micro-credit *etc.* will be earmarked for the minority communities.

6.2 Government will evolve an interest subsidiary scheme for the people belonging to riot affected Minorities Communities in respect of all communal disturbances or riots, if take place, in future.

## **7. Participation in Politics**

7.1 Central Government will ensure proportionate involvement of minority communities by 'nomination' or otherwise in Political Institutions in order to increase their inclusiveness and participation in governance and polity.

7.2 State Governments will also be encouraged for greater involvement of minority communities at all levels starting from Panchayat level, by 'nomination' or otherwise in Political Institutions in order to increase their inclusiveness in governance and polity.



## 8. Security related issues

- 8.1 State Governments shall be advised that Police officials of highest known efficiency, impartiality, integrity and secular record must be posted in sectarian sensitive and riot prone districts and areas to create a sense of confidence. Prevention of sectarian tension would be first and foremost duties of the District Magistrate and Superintendent of Police. They would be held unequivocally responsible in the event of outbreak of sectarian violence. Their performance in this regard would be an important factor in determining their promotion and career progression prospects. Intelligence mechanism in this regard should also be strengthened.
- 8.2 Severe action and demonstrable action should be taken against all those who incite sectarian tension or take part in violence, thereby debarring them permanently from Government jobs and from benefitting from Government beneficiary oriented schemes such as holding of ration cards, gas connections, driving licenses, arms licenses *etc.*
- 8.3 Special (Fast Track) Courts should be exclusively set up to try sectarian offences to be set up so that offenders are brought to book, investigated and punished

speedily i.e. within three months, and if necessary, an extension of another three months will be given.

8.4 National Human Rights Commission will be given statutory powers to monitor the performance of Special Courts and place the performance reports before the legislature of the concerned States as well as before the Parliament.

8.5 Victims of sectarian riots will be given immediate relief, i.e. within 30 days of the incidents, and provided prompt, adequate, uniform and equitable compensation for their rehabilitation. Compensation for damage of moveable and immovable properties (commercial as well as residential) will be provided at current replacement value and that too within a period of six months.

### **9. Miscellaneous**

9.1 Constitutional status will be conferred on 'National Commission for Minorities' thereby enabling it to conduct independent inquiry and investigation, as in the case of National Commission for Scheduled Castes and Scheduled Tribes.

9.2 Legislation will be enacted for prevention, control and rehabilitation of victims of sectarian violence.

9.3 State Governments will be encouraged to set up State Minorities Commissions in the States where they do not exist and also accord them 'Statutory Status'.

9.4 Urdu and Gurmukhi languages will be promoted. Efforts will be made to include the Bhoti language will be included in the VIIIth Schedule of the Constitution.

9.5 Dalit Christians and Dalit Muslims will be considered for benefits at par with Scheduled Castes and Scheduled Tribes.

9.6 Reports of all Inquiry Commissions set up to inquire into incidents of communal or sectarian violence will be made available in public domain and their recommendations will be closely followed up and implemented speedily.

9.7 State Governments will be given incentives to earmark a proportionate share to Minority Communities in all infrastructural programmes and employments.

9.8 Wakf properties will protected be by the State Governments and be put to optimum use and fresh institutional supports will be provided. State Governments will also be advised to do the same.

9.9 A National Data Bank will be created where all relevant data for various Minority communities will be maintained.

- 9.10 An autonomous Assessment and Monitoring Authority (AMA) will be created to evaluate the extent of development benefits which accrue to different Minority community through various programmes and schemes.
- 9.11 Periodic interactive should be encouraged with various commissions dealing with Minority issues.
- 9.12 An Equal Opportunity Commission will be constituted to look into the grievances of Minority communities.

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