A B S T R A C T

This doctoral dissertation aims at a study of the politics of minority rights and safeguards in India with special reference to the role of the National Commission for Minorities (NCM). Although the Constitution of India does not define the term "minority", it recognizes the existence of minorities based on religion, language and culture and guarantees them certain rights and safeguards. The NCM is a statutory body set up by the Government of India to deal specifically with the problems of five notified religious minorities, viz. Muslims, Christians, Sikhs, Buddhists and Parsis. This study thus focuses on the enforcement of the rights and safeguards of these religious minorities.

The presence of minorities based on religion, language, culture or ethnicity is a perennial feature of all human societies. These minorities not only cherish the characteristic features of their distinctiveness but also wish to preserve them in most of the cases. However, the history bears a testimony to the fact that those who are in majority and in a dominant position by virtue of their number try to impose their ideas and values upon others who are in a non-dominant position. Thus, the minorities who are usually in a non-dominant position in democracies face discrimination and sometimes hostility on the part of the dominant majority and therefore, it becomes difficult for them to realize their equal rights as citizens. This is the reason that minorities everywhere demand certain assurances, rights and special safeguards and effective institutional arrangements for enabling them to live with dignity as a citizen and as a member of a minority group. These special rights and safeguards in no case whatsoever may be termed as appeasement of minorities. As a matter of fact, it has been acknowledged by all having any amount of civility and sensibility that these are the legitimate claims of the minorities living in territorial states. The universal acceptability of these claims of the minorities is evident from the various international arrangements, treaties,
declaration and conventions. Article 27 of the International Covenant on Civil and Political Rights and the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities deserve special mention here.

The minority problem assumes special significance in India as this is a confederation of minorities. There is a significant presence of all major religious communities in India in addition to many linguistic, cultural and ethnic minorities. Even the Hindus who constitute the majority in India are a conglomeration of many castes, sub-castes and communities. They are not a monolith as the Hindu social order is vertically, horizontally and diagonally divided. However, this is not to deny the existence of the Hindus as the majority in India. According to the Census 2001, the Hindus constitute 80.5 percent of the total population and the remaining population consists of the various religious minorities and others.

The history of the evolution of the minority rights and safeguards in India reveals that although the minorities had existed here for quite a long time, yet it was during the British rule that it started getting a new attention and configuration. However, to read minority problem in India entirely in terms of British policy of divide and rule will be a grotesque distortion of truth and falsification of historical and anthropological social reality of India. The gravity and seriousness of the minority problem in India can be understood by the fact that the adjustment of claims of minorities to their satisfaction was not only the most baffling problem during the freedom struggle but it was the major cause of political and constitutional deadlock for long. Its seriousness is further emphasized by the painful and bloody partition of India in 1947 and the communal holocaust accompanied by it. The minority problem continues to be the major cause of communal flares and social unrest in independent India.

The history of making of the Constitution of India by a Constituent Assembly mirrors the deep Communal divide and competing claims of various communities in India. The Constitution is a classic example of
accommodation and adjustment of these claims. The Preamble of the Constitution declares India a ‘Sovereign Socialist Secular Democratic Republic’ and promises to all its citizens freedom, equality and justice. It also provides special rights and constitutional safeguards to minorities and other weaker sections of the society. Besides guaranteeing fundamental rights to religious freedom to all its citizens, the Constitution provides to its minorities the special package of cultural and educational rights under Articles 29 and 30. The pre-natal history of these Articles shows that they were incorporated as the special rights of specific minorities. However, amendments made to these provisions at different stages in the Constituent Assembly added an element of sophisticated ambiguity into the ambit and scope of these Articles creating thereby an apparent conflict between Articles 29 and 30 of the Constitution. The manner in which these Articles are being enforced and interpreted has convinced the legal and constitutional experts to assert that ‘Article 30 (1) must be liberated from the sinister grip of Article 29 (2)’.

In fact, the partition cast a shadow on most of the provisions relating to minority safeguards. It not only made ineffective the cultural and educational rights of minorities by dropping many important proposals like the right of a child to get primary education in one’s own mother tongue, but also all proposals relating to economic safeguards and political representation of minorities were completely whittled down. The Constitution of India does not include any explicit provision either for the economic security or for ensuring political representation of minorities. This in fact is in complete disregard to the promises made to minorities by the Indian National Congress during the freedom struggle. The absence of economic and political safeguards for minorities has contributed to their marginalization and exclusion in public employment and policy-making bodies as is evident from the Gopal Singh Panel Report 1983 and the Prime Minister’s High Level Committee to Study the Social, Economic and Educational Backwardness of the Muslims of India, 2006.
Notwithstanding the above-mentioned facts, the interests of minorities are further jeopardised by political apathy and bureaucratic hostility and obstructionism. Added upon this is the continued physical insecurity and economic exclusion because of the resurgence of the ultra-rightist and fascist forces and inability of the Government to check anti-minority violence and discrimination.

The role of the judiciary in the protection of minority interests is of crucial importance in a secular democracy like India. The minorities look at the judiciary not only as the guardian of the Constitution but also as the custodian of their rights and safeguards. Despite many inconsistencies in its approach to deal with the minority rights and safeguards, the judiciary commands the respect and trust of minorities to an appreciable extent. It has consistently upheld the rights of minorities to establish and administer educational institutions of their own choice.

The Supreme Court's timely intervention in the affairs of Gujarat after the massacre of the Muslims in 2002 has been widely acclaimed. It has aroused new hope and instilled confidence among the disgruntled minorities. However, on many occasions the minorities feel that the judiciary especially the lower judiciary has not lived up to their expectations. Thus mishandling of the Babri Masjid Ramjanam Bhoomi issue by the lower Court and subsequently by the higher judiciary has lowered its image. Besides denying benefit of reservation and affirmative actions of the State to the Dalit Christians and Muslims, the silence of judiciary on the issue of denying access to legal remedy in accordance with the principle of natural justice to the accused of terrorist activities by many Bar Associations in the country, its rejection of the plea of a Muslim student to grow a beard in the Convent School and the irresponsible remark of the learned judge equating the beard with the Talibanisation of the country, are few instances having negative impact on the image of judiciary in relation to the protection of the rights of minorities.
The institutional arrangements for the effective implementation of the rights and safeguards of minorities are of crucial importance in a constitutional system. In spite of the persistent demand by the minorities and promises made by the Indian National Congress during the freedom struggle, no institutional arrangement was ever made for the implementation of the limited guarantee of religious freedom and cultural and educational rights of minorities. It was after sixty years of India's independence, that a Minorities Commission was established by the first non-Congress Government at the centre. The Commission was created by a Government Resolution and was attached with the Ministry of Home Affairs. The Minorities Commission once created could not be winded up therefore it was deformed and made less effective by a number of uncalled for measures taken by the ruling Congress party. However, realizing the growing discontentment amongst the minorities against the policies and programmes of the Congress party, it promised in its Election Manifesto of 1991 to accord a constitutional status to the existing Commission. After returning to power, it introduced a bill in the Parliament to accord a 'statutory status' to it. The debates over the bill in the Parliament were reflective of the misgivings of the majority community about the minorities in India. The bill was passed by the Parliament as the National Commission for Minorities Act, 1992 thereby denying a constitutional status and the Commission was renamed as the National Commission for Minorities (NCM). Since then the NCM is working as a statutory body though its primary role as an advisory body remains intact.

Despite many weaknesses inherent in the Act and the consistent apathy of the different governments towards the NCM, it has nevertheless made an impact on the situation of minorities in India. It has never failed except once (1992-93) in submitting its Annual Reports to the Government. It has conducted some studies into the major problems of minorities and made some very significant recommendations. Many of its recommendations have been accepted by the government but ironically
many of its statutory recommendations and suggestions have not been attended to at all. The political apathy of the government towards the NCM is evident from the unexplainable delay in tabling of its *Annual Reports* before the two houses of Indian Parliament. Despite its consistent demand, the NCM has not been provided the much-needed power of investigation and inquiry. It suffers from the lack of staff and paucity of funds. As the Bill to accord, a constitutional status to the NCM is pending before a Parliamentary Standing Committee one may wish that the government would try to make this institutional mechanism more effective and add teeth to it to enforce the rights and safeguards of the minorities.

The nature of minority rights and safeguards as provided by the Constituent Assembly reveals that as far as the fundamental rights of the citizens, in general are concerned, it was approached dualistically. If on the one hand the liberal-modernists wanted to emulate the Western model of constitutional guarantee of civil liberties and fundamental rights, the conservative-revivalists adhered to the tradition of authoritarian statism and fettered these guarantees with limitations. This was the case in respect of the guarantee of religious freedom. Nevertheless, the devastating blow was given to the material rights and safeguards accorded to the religious minorities under British rule, namely, their representation in the legislative bodies and their assured quota in government services and public jobs. On the morrow of partition, their positive substantive rights were wiped out and they were handed out what have been called negative rights. Then even these rights were rendered ineffective in the absence of institutional mechanism to enforce them. Moreover, the rise of communal fascist forces and frequent occurrences of communal riots and the failure of the government to check them have further compounded the problems of minorities.

The same attitude of indifference is reflected in the dealing of both the Congress and the non-Congress governments in respect of minority
rights and safeguards as well as the central and provincial minority commissions. No government has ever intended to make them real instruments of the implementation of the minority safeguards. Thus, the Indian record on this score has been very poor during the past 60 years.

This study is divided into seven chapters including the Introduction and the Conclusions. Chapter I provides an outline of this study and introduces the general theme of the topic. Chapter II traces the history of origin of various religious communities and discusses the evolution of the rights of minorities in India. Chapter III investigates into the constitutional and legal safeguards of minorities. Chapter IV makes a critical evaluation of the role of Judiciary in protecting the rights of minorities. Chapter V and VI investigate into the circumstances leading to the establishment of the Minorities Commission and its role as an institutional mechanism to protect the rights and interests of religious minorities respectively. Chapter VII is the concluding part, which also highlights the main findings of this study.

This study arrives at a number of conclusions from an analysis of the available data and facts. These findings are summarized below:

First, the Constituent Assembly began to approach the question of minority rights and safeguards with a very positive frame of mind which is evident from the Objectives Resolution (termed by Nehru as an expression of the underlying policy of the proposed Constitution) which promised to all the people of India Justice—social, economic, and political; equality of status, of opportunity, and before the law; freedom of thought, expression, belief, faith, worship, vocation, association etc and adequate safeguards for minorities, backward and tribal areas, and depressed and other backward classes. The Questionnaire on Minority Rights, drafted by K. M. Munshi and circulated among the members of the Sub-Committee on Minorities also contained questions relating to political and economic safeguards besides religious, educational and cultural rights of minorities. However, the Partition cast shadow on the legitimate claims of minorities as the
economic and political safeguards were given an ignominious burial by the Constituent Assembly and the minorities were given only educational and cultural rights. The absence of constitutional provisions for the protection of economic and political interests of minorities has contributed to their marginalization and exclusion in public services and policy-making bodies. This is more evident in the case of the Muslims (the largest minority in India) as has been highlighted by the *Gopal Singh Panel Report* and the *Sachar Committee Report*.

As a matter of fact, the minorities are finding it difficult to realize their fundamental rights relating to their identity in the absence of positive socio-economic and political rights. The necessity and significance of constitutional provisions relating to these rights for the non-dominant groups like minorities can be understood in the light of their positive impact on Dalits in India.

Second, the right to religious freedom as guaranteed by the Constitution of India (Articles 25-28) can be called as the bedrock of a secular democratic State as it fulfils the promise of equality and non-discrimination in matters of religion to all groups of people whether minorities or majority. However, the minorities are not in a position to enjoy fully these rights because of atmosphere of growing intolerance and violence against them. The right to profess, practise or propagate one’s religion as provided by Article 25 of the Constitution has been whittled down as a result of the anti-conversion laws enacted by several states of the India Union. The Presidential Order of 1950 limiting the benefit of reservation in public services and legislatures only to the Hindu Scheduled Castes, and the subsequent amendments in the said Order in 1956, and in 1990 to include the Scheduled Castes of the Sikh and Buddhist origin respectively, and denying the same to the Muslim and Christian Dalits is in complete disregard to the promise of equality and non-discrimination in matters of religion as guaranteed by the Constitution. Moreover, the inbuilt punishment for converting to Islam or Christianity and the
incentive in case of the Muslim or Christian Dalits returning to the fold of Hinduism/Buddhism/Sikhism is evident from the fact that the person can reclaim the attendant benefits denied to him by virtue of his or her earlier conversion to Islam or Christianity.

The issue of religious conversion assumes a unique significance in India as it is the majority which expresses concern over the conversion of Hindus (mainly Dalits) to other religions (mainly Christianity and Islam). Sharing the concern of the majority community over the alleged conversion by inducement or force by the followers of non-indigenous religions (i.e. Christianity and Islam) and reflecting the feature of a majoritarian democracy, the anti-conversion laws have been upheld by the Supreme Court of India. The manner in which these laws are being used or misused to harass the Christian missionaries working for social welfare and the Muslim philanthropic organizations is a cause of worry for the minorities in this country.

Third, the Constitution of India which came into force on 26 January 1950 does not contain any additional or specific provision for ensuring economic security or political representation of the minorities with the honourable exception of the Anglo-Indian community. However, the minorities are provided some additional safeguards in the form of constitutional guarantees to protect their language, script and culture and their right to establish and administer educational institutions of their own choice. In fact, these were the only special safeguards conceded to minorities by the framers of the Constitution. But as we noticed that the provisions relating to these rights were changed at different stages in the Constituent Assembly and finally modified to such an extent that they seem to have lost their original purpose and object. This is evident from the fact that there is an apparent conflict between individual rights enshrined in Article 29 (2) and group rights guaranteed under Article 30 (1). The experiences reveal that what was sought to be the special right of minorities to protect their language, script and culture through
autonomous educational institutions maintained by them has become a
general individual right in many cases. There is a need to restore the
original object and spirit of these Articles in the light of their pre-natal
history.

Fourth, the role of the judiciary in the enforcement of constitutional
safeguards to minorities is of crucial importance in India as it is the
guardian of the Constitution and custodian of the rights and liberties of the
people. The vulnerable sections of society like minorities look at it as
their best friend and protector. An evaluation of the role of judiciary in
protection of interest of minorities reveals that in most of the cases
it has given a generous and sympathetic consideration to the claims
of minorities. It is more evident in the cases relating to cultural and
educational rights of minorities. The Supreme Court has consistently
upheld the rights of minorities to establish and administer educational
institutions of their choice. It has been protecting the autonomy and the
measures necessary for maintaining the minority character of these
institutions. The Supreme Court in the St. Stephen’s College case has
permitted the minority aided educational institutions to regulate
admissions preferring their own community candidates up to fifty percent
as the Court found it essential to maintain the minority character of the
institution. The judiciary’s sympathetic approach to minority educational
institutions is also evident from the fact that it has held that even in the
name of national interest the minority institution cannot be forced to
compromise with the interests of the concerned minority community. In
the Sidhrajbhai case the Supreme Court made it emphatically clear that state
regulations allowable under Article 30 must be in the general interest of
minority itself and not of the public or nation as a whole. Consequently,
the Supreme Court has liberated minority institutions from reserving seats
for the Scheduled Castes and Scheduled Tribes, as it will not promote the
interests of minorities themselves. A number of trend-setting judgments
have been discussed in the chapter on judicial response to minority rights
of this study that reveal that the judiciary has quite effectively protected the minority educational institutions from the undue interference of the political executive or any other authority for that matter. The intervention by the competent authority has been allowed only to save the institution from maladministration. However, it was in the Azeez Basha case that the Supreme Court seems to be deviating from its consistent approach to deal with the minority educational institutions. The Hon’ble Court quite strangely denied the historical character of Aligarh Muslim University by holding that the university is not a minority institution, as it was not established by the Muslim community but by an Act of Parliament. The Judgment defies all human logic and is in complete disregard to the history and inherent character of the Aligarh Muslim University.

The Supreme Court has played a vital role in keeping intact the secular character of Indian Republic. It has declared secularism as the “basic feature” of the Constitution. It has also maintained a delicate balance between the values of secularism and fundamental right to freedom of religion. In a country where Hindus are said to be more than 80 percent of the total population, the judiciary has consistently upheld the freedom of conscience and the right to profess, practise and propagate religion of one’s choice. Keeping in view the sensitivity of the people of India toward religious issues, the Court has foiled all attempts of communalists to misuse religion for political gains and for disturbing communal harmony and peace. However, the Supreme Court judgment declaring Hindutva a way of life and allowing its use during elections has rightly been described as a ‘severe blow to the principle of secular democracy’. Similarly, the misuse of the so-called anti-conversion laws against the Christian and Muslim organisations by the administrative machinery of the State calls for an urgent judicial review of these laws.

The minorities living in abject poverty and suffering from socio-economic and educational backwardness have observed with pain that it is judiciary, which has frustrated the attempts of executive
to provide the benefit of affirmative actions to religious minorities. The judiciary has not applied the principle of 'equality among equals and inequality among unequals' in relation to minorities while discouraging religion-based reservation in the country. It is important to note that the caste-based reservations have got judicial protection whereas the attempts at community-based reservations have received severe blow from the judiciary. Thus, judiciary is equally responsible for the socio-economic and educational backwardness of the minorities.

Although the minorities in general, express faith in judiciary, they also desire that it should play more active role in protecting them from communal riots, police atrocities, media trial and discrimination etc. Thus the positive intervention of the Supreme Court in cases of Gujarat riots 2002 has been appreciated by enlightened sections of the Indian society.

The minorities have also questioned the wisdom and competence of judiciary in matters of interpretation of their personal laws. In fact, the Supreme Court of India has been directing the Government to implement Uniform Civil Code for all. The minorities feel that it will lead to doing away with all personal laws, and that it is an undue interference in the cultural and religious practices of minorities. Even the Court’s sincere attempt to Islamize the procedure of divorce in the light of the Quran to rescue Muslim women from the tyranny of the finality of the pronouncement of instant unilateral divorce has not found favour with the Muslim community. Thus, they have been adopting agitational means against the decision of the Court and have been successful in maintaining the continuance of the practice of triple divorce, which goes against the procedure of divorce as clearly mentioned in the Quran. The Christian community also opposed the Christian Marriage Bill 2000 on the ground that it was against the Christian personal law.

In a nutshell, it can be said that the judiciary is considered by the minorities as the most trusted organ of the government consistently
preserving their rights and interests. On occasions, they have felt uncomfortable with the decisions of the judiciary yet they consider it their saviour and friend at the time of crisis. Indeed some decisions of the Court have seriously and adversely affected the interests of minorities but one can understand that striking a delicate balance between the ideals of secular democracy based on quality and justice for all, on the one hand, and living up to the expectations of minorities with additional safeguards, on the other hand, is a daunting task. Therefore, the evaluation of the role of judiciary in preservation of constitutional rights of minorities should be made keeping in view the inherent diversities of India and its attending challenges.

Fifth, there is no denying the fact that the institutional arrangements for the enforcement of constitutional and legal safeguards for the minorities are as important as the safeguards themselves. The minorities were aware of this fact and this was the reason that one of their persistent demands included the appointment of Minorities Officers (at the centre and in the provinces) or an official body to monitor and report the working of the minority safeguards. However, as in the case of the demand for economic safeguards, the demand for the appointment of Minorities Officers was also dumped by the Constituent Assembly working under the dictation of the Congress leaders.

It was only in 1978 that the Government of India under the Janata Party realized that 'despite the safeguards provided in the Constitution and the laws in force, there persists among the minorities a feeling of inequality and discrimination'. Consequent upon that the Government set up a semi-governmental organization called the Minorities Commission at the centre. The Commission was assigned some very important functions but the powers given to it were not commensurate to its responsibilities. Moreover, it neither enjoyed statutory basis nor constitutional status. Thus the Commission faced many difficulties in discharging its duties as it was not taken very seriously even by the departments and agencies of the
government. The biggest lacuna of the Commission was that it was not conferred the powers of inquiry and investigation which was very much essential for discharging its duties.

The Minorities Commission as originally set up in 1978 was attached to the Home Ministry but in 1984, it was shifted to the Ministry of Social Welfare thereby degrading the political status and reducing its role to that of a welfare agency dealing with matters relating to the rights of minorities. In fact, keeping in view the nature of problems faced by the minorities in this country, the Commission’s attachment to the Home Ministry would have been more relevant and useful.

The Minorities Commission became a statutory body with the enactment of the National Commission for Minorities Act, 1992, and renamed as the National Commission for Minorities (NCM). The debate that followed the introduction of the Bill in the Parliament to accord a statutory status to the Commission mirrors the communal divide in the country and reflects the hostility of the rightist forces towards the minorities.

The according of a statutory status to the National Commission for Minorities did not make much difference either in its functioning or in the attitude of the government towards the minorities. Despite persistent demands by the concerned individuals and bodies the Commission was not conferred the much-needed powers of inquiry and investigation. The new statutory Commission was like an old wine in a new bottle. A Bill to grant it [the NCM] the constitutional status is pending in Parliament. Its fate hangs in balance because in India crucial issues are decided in the light of the political interest of the ruling class, not on merit.

Sixth, an appraisal of the working of the NCM from 1978 to 2006 on the basis of its Annual Reports reveals that despite many weaknesses it suffers from, it has made an impact in India. With its limited resources and powers, it has tried to discharge its assigned duty of monitoring the implementation of the constitutional and legal safeguards of the
minorities. In its several Annual Reports, the NCM has drawn the attention of the competent bodies towards the violation of fundamental rights of the minorities guaranteed under Articles 29 and 30 of the Constitution. The Commission undertook special studies and on the basis of these studies it consistently held that the autonomy of the minority-run educational institutions must be maintained. In its guidelines for the minority educational institutions, it also held that there should be no reservation of the Scheduled Castes or Scheduled Tribes in these institutions. It also acknowledged and recommended that the minority character of the Aligarh Muslim University must be maintained. The NCM was also very critical of the fact that the minority educational institutions faced delay or denial of their recognition by government departments.

Seventh, one of the major problems faced by the minorities in independent India has been the frequent occurrence of communal disturbances. The Commission took cognizance of the communal riots and suggested very appropriate long and short-term measures for curbing communal violence. Ironically, the Government of India has not taken all those recommendations into consideration.

The Commission also tried to expand its territorial and functional jurisdictions by recommending that Jammu & Kashmir should be included in the jurisdiction of the Commission and Jains at national level and the Hindus in the States and Union Territories wherein they constitute less than 50 percent of any other community, should be treated as minority. Accordingly, it took up the cases of Kashmiri Pandits and suggested corrective measures.

Eighth, it does not mean that the Commission has not failed in discharging its duties. In fact, on many occasions the minorities felt that the Commission did not do the needful. For example, the minorities at the time of communal riots face the partisan behaviour of the police and local administration but the Commission remains conspicuous by its absence.
The victims of Terrorist and Disruptive Activities (Prevention) Act (TADA), 1987 and Prevention of Terrorist Activists Act (POTA), 2002 are mostly from the minority communities. The victims could not feel at any point of time that there is a body to protect them from cruelty and sufferings. The Commission is also not able to maintain a data of the members of minorities killed in police firing, encounters and in police custody. The non-submission of Annual Report for the year 1992-93 is another example of malfunctioning of the National Commission for Minorities. In fact, the Commission’s report for the year 1992-93 would be the most important and authentic document on the circumstances leading to the demolition of Babri Masjid at Ayodhya on 6 December 1992, which also sparked large, scale Hindu-Muslim communal riots throughout the country. However, the National Commission for Minorities had nothing to report about the most visible manifestation of communal fascism and the deliberate 'lapse' on the part of the Government and its agencies. This is also an example of politically motivated nature of work of the Commission.

Notwithstanding all these, it cannot be denied that in the given situation no extraordinary achievement can be expected from the Commission. In fact, it is the government which has failed the Commission by its indifference, apathy and some times by contempt for the recommendations and suggestions of the Commission. There is a need to suitably amend the law relating to the Commission to make it more effective, independent and autonomous.

It has been observed that the appointment of the incumbents of the Commission is politically motivated. Thus many times, these incumbents are neither well versed in the law relating to minorities nor interested in the affairs of the minorities. Therefore, it is suggested that a Search Committee as in the case of the National Human Rights Commission must select the Chairman and Members of the Commission. Its regional offices should be set up to achieve coordination as suggested by the Commission.
in its various *Annual Reports* and also the Minorities Commissions should be set up in all the States and Union Territories.

*Ninth*, one of the most important problems confronted by the NCM is that its *Annual Reports* are not tabled before the Parliament on time. Thus, as suggested by Tahir Mahmood, a mandatory time frame of six months from the date of submission should be specified in the NCM Act, 1992 for tabling all its reports before the Parliament or state legislatures as the case may be and it should be provided that on the expiry of the period every report would be treated as a public document.

There is a growing discontentment amongst minorities against the custodial and encounter deaths. There have been many incidents of alleged fake encounters and custodial deaths of members of minorities. As the minorities are losing faith in Police and Intelligence Agencies and blame them for partisan behaviour, it is suggested that besides providing power of inquiry to the Commission, the Government should issue an order to all state governments to report every custodial death and encounter killing to the Commission if the victim happens to be the member of a minority community.

According constitutional status to the NCM will be highly desirable. However, if the government fails in its endeavour to accord constitutional status to the Commission, it should at least provide the Commission, the same powers and privileges that have been given to the National Human Rights Commission, which is also a statutory body like the National Commission for Minorities.

*Tenth*, the constitutional and legal safeguards for the minorities seem to be constantly under threat because of the growing menace of majoritarian communalism and xenophobia in India. Inspired and motivated by a mythical cultural unity of India the communalists are hell bent upon the cultural homogenisation of India. They disapprove of the diversities and brand any special safeguards for the minorities as their "appeasement "for securing their votes. Thus, they openly call for
assimilationist policies by the State. Taking advantage of the Article 44 of the Constitution, they call for imposing a Common Civil Code upon the religious minorities and abolition of their separate personal laws. Not only this, but they also call for the Indianization of both Islam and Christianity by which they mean that these non-indigenous religions should assimilate themselves into the culture and ethos of India (i.e. Hinduism). This rightist majoritarian ideology based on communal hatred is growing and becoming militant day by day. It has unleashed massive violence and a reign of terror in many parts of the country threatening the very survival of the minorities. Therefore, it is imperative to emphasize that it is incumbent upon the State to ensure that the minority safeguards are faithfully implemented and the secular character of the Indian Republic strengthened.

To sum up, it can be said that it is the constitutional obligation of the Indian Republic to protect its minorities from oppression, recurring violence, discrimination and exclusion. It has been rightly observed that the civilizational status of every state must be judged by the way it treats its minorities. The record of the Indian State on this plane since Independence does not appear to be satisfactory. We may wish that the democratic ideals enshrined in the Preamble of the Indian Constitution would some day become a reality for the minorities as well.