

# NON CONSTITUTIONAL BODIES

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## ✍ NATIONAL INSTITUTE FOR TRANSFORMING INDIA (NITI AAYOG)

- NITI or National Institution for Transforming India Aayog is a policy think-tank of Government of India that **replaces Planning Commission** and aims to involve the states in economic policy-making in India. It will be providing strategic and technical advice to the central and the state governments.
- Union Government of India announced the formation of NITI Aayog on 1 January 2015.
- India's Finance Minister Arun Jaitley made the following observation on the necessity of creating NITI Aayog: *“The 65-year-old Planning Commission had become a redundant organization. It was relevant in a command economy structure, but not any longer. India is a diversified country and its states are in various phases of economic development along with their own strengths and weaknesses.*

*In this context, a ‘one size fits all’ approach to economic planning is obsolete. It cannot make India competitive in today’s global economy”.*

## **Composition –**

1. **Prime Minister** of India as the Chairperson
2. **Governing Council** comprising the Chief Ministers of all the States and union territories with legislature and lieutenant governors of other Union Territories
3. **Regional Councils** will be formed to address specific issues and contingencies impacting more than one state or a region. These will be formed for a specified tenure. The Regional Councils will be convened by the Prime Minister and will consist of the Chief Ministers of States and Lt. Governors of Union Territories in the region. These will be chaired by the Chairperson of the NITI Aayog or his nominee.
4. **Experts, specialists** and practitioners with relevant domain knowledge as special invitees *nominated by the Prime Minister*
5. **Full-time organizational framework** (in addition to Prime Minister as the Chairperson) comprising:
  - ***Vice-Chairperson***: Rajiv Kumar
  - ***Full-time Members***: Ramesh chand, V.K. Paul and V.K. Saraswat
  - ***Part-time members***: Maximum of two from leading universities, research organizations and other relevant institutions. Part-time members will be on a rotational basis
  - ***Ex Officio members***: Maximum of four members of the Union Council of Ministers to be nominated by the Prime Minister. Amit Shah, Rajnath Singh, Nirmala Sitaraman and Narendra Singh Tomar.

***Chief Executive Officer***: To be appointed by PM for a fixed tenure, in the rank of Secretary to

NITI AAYOG	PC
Financial clout	
To be an advisory body, or a think-tank. The powers to allocate funds might be vested in Finance ministry.	Enjoyed the powers to allocate funds to ministries and state governments
Full Time Members	
The number of full-time members could be fewer than Planning Commission	The last Commission had eight full-time members
States' Role	
State governments are expected to play a more significant role than they did in the Planning Commission	States' role was limited to the National Development Council and annual interaction during Plan Meetings.
Member Secretary	
To be known at the CEO and to be appointed by the prime minister	Secretaries or member secretaries were appointment through the usual process

Constitution	
Governing Council has state chief ministers and lieutenant governors.	The commission reported to National Development Council that had state chief ministers and lieutenant governors
Organization	
New posts of CEO, of secretary rank, and Vice-Chairperson. Will also have five full-time members and two part-time members. Four cabinet ministers will serve as ex-officio members.	Had deputy chairperson, a member secretary and fulltime members.
Participation	
Consulting states while making policy and deciding on funds	Policy was formed by the commission and states
allocation. Final policy would be a result of that.	were then consulted about allocation of funds.
Allocation	
No power to allocate funds	Had power to decide allocation of government funds for various programmes at national and state levels.
Nature	
NITI is a think-tank and does not have the power to impose policies.	Imposed policies on states and tied allocation of funds with projects it approved.

## **Critical Evaluation of NITI AAYOG –**

- NITI Aayog will seek to provide a critical directional and strategic input into the development process.
- The centre-to-state one-way flow of policy, that was the hallmark of Planning Commission era, is now sought to be replaced by a genuine and continuing partnership of states.
- NITI Aayog will emerge as a "think-tank" that will provide Governments at the central and state levels with relevant strategic and technical advice across the spectrum of key elements of policy.
- The NITI Aayog will also seek to put an end to slow and tardy implementation of policy, by fostering better Inter Ministry coordination and better Centre-State coordination. It will help evolve a shared vision of national development priorities, and foster cooperative federalism, recognizing that strong states make a strong nation.

- The NITI Aayog will develop mechanisms to formulate credible plans to the village level and aggregate these progressively at higher levels of government. It will ensure special attention to the sections of society that may be at risk of not benefitting adequately from economic progress.
- The NITI Aayog will create a knowledge, innovation and entrepreneurial support system through a collaborative community of national and international experts, practitioners and partners.
- It will offer a platform for resolution of inter-sectorial and inter-departmental issues in order to accelerate the implementation of the development agenda.
- In addition, the NITI Aayog will monitor and evaluate the implementation of programmes, and focus on technology up gradation and capacity building

## NATIONAL COMMISSION FOR MINORITIES (NCM)

### Under Ministry Of Minority Affairs

- National Commission for Minorities (NCM) is the **statutory body** set up by the Central Govt. under National Commission for Minorities Act, 1992.
- Five religious communities, viz, **Muslims, Christians, Sikhs, Buddhists** and Zoroastrians (**Parsis**) have been notified as minority communities by Union Government.
- Further vide notification dated 27th Jan **2014**; **Jains have also been notified as minority community.**

### UN Declaration of 18th December 1992

- In order to strengthen the cause of the minorities, the United Nations promulgated the “**Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities**” on 18th December 1992 proclaiming:
- “States 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.”
- The National Commission for Minorities has been observing the 18th December as a Minorities Rights Day every year.

### **Composition –**

- The Commission shall consist of a Chairperson, a Vice Chairperson and five Members to be nominated by the Central Government from amongst persons of eminence, ability and integrity; provided that five Members including the Chairperson shall be from amongst the minority communities.
- The Chairperson, Vice Chairperson and Members nominated by Central Government.
- Chairperson: - Shri Shri Ghayorul.

### **Functions of NCM**

- To evaluate the progress of the development of Minorities under the Union and States.
- To monitor the working of the safeguards provided in the Constitution and in laws enacted by Parliament and the State Legislatures.
- To make recommendations for the effective implementation of safeguards for the protection of the interests of Minorities by the Central Government or the State Governments.
- To look into specific complaints regarding deprivation of rights and safeguards of the Minorities and take up such matters with the appropriate authorities.

- To cause studies to be undertaken into problems arising out of any discrimination against Minorities and recommend measures for their removal.
- To conduct studies, research and analysis on the issues relating to socio-economic and educational development of Minorities.
- To suggest appropriate measures in respect of any Minority to be undertaken by the Central Government or the State Governments.
- To make periodical or special reports to the Central Government on any matter pertaining to Minorities and in particular the difficulties confronted by them.
- any other matter which may be referred to it by the Central Government.

## **Powers of NCM**

- 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.
- Receiving evidence on affidavit.
- Requisitioning any public record or copy thereof from any court or office.
- Issuing commissions for the examination of witnesses and documents.

## ✂ NATIONAL COMMISSION FOR WOMEN (NCW)

- Under Ministry of Women and Child Development.
- In January 1992, the National Commission for Women (NCW), was set up as a **statutory body** under the **National Commission for Women Act, 1990**
- The First Commission was constituted on 31st January 1992 with Mrs. Jayanti Patnaik as the Chairperson.
- To review the constitutional and legal safeguards for women; recommend remedial legislative measures, facilitate redressal of grievances and advise the Government on all policy matters affecting women.

### **Composition:**

- A Chairperson, committed to the cause of women, to be nominated by the Central Government.
- 5 Members to be nominated by Central Government from amongst persons of ability, integrity and standing who have had experience in law or legislation, trade unionism, management of an industry, women's voluntary organisations (including women activist), administration, economic development, health, education or social welfare;
- Provided that at least one Member each shall be from amongst persons belonging to the Scheduled Castes and Scheduled Tribes respectively;
- A Member-Secretary to be nominated by the Central Government who shall be - an expert in the field of management, organisational structure or sociological movement, or An officer who is a member of a civil service of the Union or of an all-India service.

## **Functions**

- Present to the Central Government, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;
- Make in such reports recommendations for the effective implementation of those safeguards for improving the conditions of women by the Union or any State;
- Review, from time to time, the existing provisions of the Constitution and other laws affecting women and recommend amendments thereto so as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcomings in such legislations;
- take up the cases of violation of the provisions of the Constitution and of other laws relating to women with the appropriate authorities;
- Look into complaints and take *suo motu* notice of matters relating to: Deprivation of women's rights; No implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development; Non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women, and take up the issues arising out of such matters with appropriate authorities;

- Call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal;
- Undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres and identify factors responsible for impeding their advancement;
- Participate and advise on the planning process of socioeconomic development of women;
- evaluate the progress of the development of women under the Union and any State;
- Inspect or cause to be inspected a jail, remand home, women's institution or other place of custody where women are kept as prisoners or otherwise, and take up with the concerned authorities for remedial action, if found necessary;
- Fund litigation involving issues affecting a large body of women;
- Any other matter which may be referred to it by Central Government.
- The Central Government shall consult the Commission on all policy matters affecting women.

## **NATIONAL HUMAN RIGHTS COMMISSION (N.H.R.C.)**

### **Under Ministry Of Home Affairs**

- Human rights are "commonly understood as inalienable fundamental rights to which a person is inherently entitled simply because she or he is a human being." Human rights are thus conceived as universal and egalitarian which are applicable to everyone and everywhere.

### **UNO and human rights –**

- The preamble of the UN charter provides that the members "reaffirm faith in fundamental human rights, in the equal rights of men and women"
- UN Charter provides that UN shall promote the universal respect for, and observance of human rights and fundamental freedoms for all.
- The Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly in 1948.
- UNO General Assembly passed several UN Conventions and treaties like Complete Elimination of Discrimination against Women (CEDAW), Child Right Convention 1989, and Elimination of Racial Discrimination etc.
- The Universal Declaration of Human Rights 1948, International Covenant on Civil and Political Rights 1966 and International Covenant on Economic, Social and Cultural Rights 1966 together are called as International Bill of Human Rights

## **National Human Rights Commission**

- NHRC is an autonomous public body constituted in 1993 under the Protection of Human Rights Ordinance 1993. It was given a statutory basis by the Protection of Human Rights Act, 1993.
- NHRC is the national human rights institution, responsible for the protection and promotion of human rights, defined by the Act as "rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants".

## Structure of the Commission

- NHRC is a multi-member body which consists of a Chairman and seven other members. Out of the seven members, three are ex-officio member.
- **President appoints the Chairman and members** of NHRC on recommendation of high-powered committee headed by Prime Minister.
- The Chairperson and the members of the NHRC are appointed for 5 years or till the age of 70 years, whichever is earlier.
- They can be removed only on the **charges of proved misbehavior or incapacity**, if proved by an inquiry conducted by a Supreme Court Judge.
- Commission also has five **Specialized Divisions** i.e. Law Division, Investigation Division, Policy Research & Programmes Division, Training Division and Administration Division.
- The chairman and the members of **State Commission are appointed by the Governor** in consultation with the Chief Minister, Home Minister, Speaker of Legislative Assembly and Leader of the Opposition in the State Legislative Assembly.

### **Functions and Powers of NHRC:**

- NHRC investigates grievances regarding the violation of human rights either suo moto or after receiving a petition.
- It has the power to interfere in any judicial proceedings involving any allegation of violation of human rights.
- It can visit any jail or any other institution under the control of the State Government to see the living conditions of the inmates and to make recommendations thereon.
- It can review the safeguards provided under the constitution or any law for the protection of the human rights and can recommend appropriate remedial measures.
- NHRC undertakes and promotes research in the field of human rights.
- NHRC works to spread human rights literacy among various sections of society and promotes awareness of the safeguards available for the protection of these rights through publications, media, seminars and other means.

- The Commission takes an independent stand while providing opinions for the protection of human rights within the parlance of the Constitution or in law for the time being enforced.
- It has the powers of a civil court and can grant interim relief.
- It also has the authority to recommend payment of compensation or damages.
- NHRC credibility is duly reflected in large number of complaints received every year and the trust reposed in it by the citizens.
- It can recommend to both the central and state governments to take suitable steps to prevent the violation of Human Rights. It submits its annual report to the President of India who causes it to be laid before each House of Parliament.

## **Limitations of NHRC**

- NHRC does not have any mechanism of investigation. In majority cases, it asks the concerned Central and State Governments to investigate the cases of the violation of Human Rights
- It has been termed as 'India's teasing illusion' by Soli Sorabjee (former Attorney-General of India) due to its incapacity to render any practical relief to the aggrieved party.
- NHRC can only make recommendations, without the power to enforce decisions.
- Many times NHRC is viewed as post-retirement destinations for judges and bureaucrats with political affiliation moreover, inadequacy of funds also hamper its working.
- A large number of grievances go unaddressed because NHRC cannot investigate the complaint registered after one year of incident.
- Government often outrightly rejects recommendation of NHRC or there is partial compliance to these recommendations.
- State human rights commissions cannot call for information from the national government, which means that they are implicitly denied the power to investigate armed forces under national control.
- National Human Rights Commission powers related to violations of human rights by the armed forces have been largely restricted.

## Protection of Human Rights (Amendment) Act, 2019

- A person **who has been a Judge of the Supreme Court** is also made eligible to be appointed as Chairperson of the Commission in addition to the person who has been the Chief Justice of India.
- **Increasing the members of the commission who have knowledge of human rights issues**, from two to three, out of which one must be a woman;
- Include **Chairperson of the National Commission for Backward Classes, Chairperson of the National Commission for the Protection of Child Rights and the Chief Commissioner for Persons with Disabilities** as deemed Members of the Commission;
- **Reduces the term of the Chairperson** and Members of the Commission and the State Commissions from **five to three years** and shall be eligible for re-appointment;
- A person who has **been a Judge of the High Court is also made eligible** to be appointed as Chairperson of the State Commission in addition to the person who has been the Chief Justice of the High Court; and,
- **Confer upon State Commissions**, the functions relating to human rights being discharged by the Union territories, other than the Union territory of Delhi, which will be dealt with by the Commission.

## **CENTRAL INFORMATION COMMISSION**

- The RTI act 2005 provides for establishment of Central and State information commissioner as a designated authority to receive and inquire into a complaint from any person.

### **Composition of Central Information Commission**

- The CIC consists of one Chief Information Commissioner, who will head the Commission, and such number of Central Information Commissioners, as may be deemed necessary, but *not exceeding ten*.
- The general superintendence, direction and management of the affairs of the Commission are vested in the Chief Information Commissioner, who is assisted by the Information Commissioners.

## **Appointment:**

- Chief Information Commissioner and Information Commissioners shall be ***appointed by the President*** on the ***recommendation of a committee*** consisting of—Prime Minister as Chairperson, the Leader of Opposition in the Lok Sabha; a Union Cabinet Minister to be nominated by the Prime Minister.
- Chief Commissioner and Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.
- The Commissioner or a commission member shall not be a Member of Parliament or Member of the Legislature of any State or Union territory.
- The Chief Information Commissioner shall hold office for a ***term of five years*** or after he has attained the ***age of 65 years*** whichever is earlier. Every Information Commissioner shall hold office for a term of five years.
- Conditions of Service of Chief Information Commissioner shall be the same as that of the Chief Election Commissioner; an Information Commissioner shall be the same as that of an Election Commissioner and receive salaries and allowances same as them.

## **Powers and Functions of CIC**

- To receive and inquire into complaints from any person relating to access to information under the control of public authorities
- to decide appeals against the decisions of designated appellate officers.
- Powers to require the public authority to compensate the complainant for any loss or other damage suffered.
- The decision of the Commission on an appeal is binding and is not subject to further appeal in a court of law.
- Can make recommendations to public authorities not conforming to the provisions or the spirit of the Act.
- The Commission shall recommend to the Government every year, reforms on any “matter relevant for operationalising the right to access information”.
- While inquiring into a complaint it has the same powers as of a civil court under the Code of Civil Procedure 1908: enforcing the attendance of persons and compelling them to give oral or written evidence on oath and to produce documents or things; inspection of documents; evidence on affidavit; any public record or copies thereof from any court or office; issuing summons etc.
- The Act mandates the CIC to submit Annual Reports to the Parliament.

## **Issues with RTI Act 2005**

- Lack of awareness amongst the citizens and various constraints like fees, complicated procedures faced by them.
- The Information commissions can only direct public authorities to take necessary steps to comply with the Act, but cannot enforce if such directions are ignored.
- The Central and State Information Commissions have been functioning with less than their prescribed maximum strength of eleven because governments have not shown enthusiasm in making appointments.
- Vacancies lead to delay in disposal of cases, which is further compounded by the backlog in the High Courts, where a number of decisions of the commission are challenged.
- Numerous frivolous queries often continue along genuine ones leading to clogging of the RTI system.
- Suo motu disclosure required under RTI Act has remained unsatisfactory.
- Lack of infrastructure, staff and proper training to information officers.
- It has several limited provisions for organisations like judiciary, legislature and law enforcement agencies.

### **Right to Information (Amendment) act, 2019:**

- The Right to Information (Amendment) Bill, 2019, seeks to amend Sections 13, 16, and 27 of the RTI Act.
- Section 13 of the original Act:
- It sets the term of the central Chief Information Commissioner and Information Commissioners at five years (or until the age of 65, whichever is earlier)
- It states that salaries, allowances and other terms of service of “the Chief Information Commissioner shall be the same as that of the Chief Election Commissioner”, and those of an Information Commissioner shall be the same as that of an Election Commissioner.

### **Proposed amendments:**

- The appointment will be “for such term as may be prescribed by the Central Government”.
- The salaries, allowances and other terms of service of the Chief Information Commissioner and the Information Commissioners “shall be such as may be prescribed by the Central Government”.
- Section 16 of the original Act deals with state-level Chief Information Commissioners and Information Commissioners.
- The proposed amendment allows the Central government to control through rules, the terms and conditions of appointment of Commissioners in the States.
- This is an assault on the idea of federalism.

- Also, the status of the Central Information Commissioners (CICs) has been brought on par with the Election Commissioners and the status of State Information Commissioners with the Chief Secretary in the States so that they can function in an independent and effective manner.
- However the amendment has neglected the recommendation of the parliamentary standing committee that the Information Commissioner and CIC were to be made on par with the Election Commissioner and the CEC, respectively.
- The amendment empowers the Central government to unilaterally decide the tenure, salary, allowances and other terms of service of Information Commissioners, both at the Centre and the States.

## **What are the issues in the amendment?**

- The RTI law has been a breakthrough in creating mechanisms and platforms for the practice of continual public vigilance that are fundamental to democratic citizenship.
- It has always been a constant challenge to the misuse of power, a threat to arbitrariness, privilege, and corrupt governance.
- The RTI has been used to question every public institution on matters of public interest like the Reserve Bank of India, the Finance Ministry, on demonetisation, non-performing assets, the Rafale fighter aircraft deal, electoral bonds, unemployment figures, the appointment of the Central Vigilance Commissioner (CVC) etc.
- Importance of RTI can be ascertained from the fact that nearly 60 lakh RTI applications are being filed every year.

- The information related to decision-making at the highest level has in most cases eventually been accessed because of the independence and high status of the Information Commission.
- It has been acknowledged that one of the most important structural constituents of any independent oversight institution, i.e. the CVC, the Election Commissioners (CEC), the Lok pal, and the CIC is a basic guarantee of tenure.
- Thus, these amendments will lead to the dismantling of transparency architecture as they empower the Central government to unilaterally decide tenure, salary, allowances and other terms of service of Information Commissioners (both at the Centre and the States).
- The Commission which is vested by law with status, independence and authority, will now function as a department of the Central government.
- These amendments fundamentally weaken an important part of the RTI architecture.
- They violate the constitutional principles of federalism, undermine the independence of Information Commissions, and thereby significantly dilute the widely used framework for transparency in India.

**Thank You!**