

INTRODUCED IN LOK SABHA ON 23.12.2004

Bill No. 104 of 2004

**THE CONSTITUTION (ONE HUNDRED AND THIRD
AMENDMENT) BILL, 2004**

A

BILL

further to amend the Constitution of India.

Enacted by Parliament in the Fifty-fifth Year of the Republic of India
as follows:—

1. (1) This Act may be called the Constitution (One Hundred and Third Amendment) Act, 2004.

Short title and commencement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. After article 340 of the Constitution, the following article shall be inserted namely:—

Insertion of new article 340A.

340A. (1) There shall be a Commission for the Minorities to be known as the National Commission for Minorities.

National Commission for Minorities.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and five other Members and the conditions of service and tenure of the office of the Chairperson, Vice-Chairperson and other Members shall be such as the President may by rule determine: 5

Provided that at least five Members including the Chairperson shall be from amongst the Minorities.

(3) The Chairperson, Vice-Chairperson and other Members shall be appointed, by the President by warrant under his hand and seal, from amongst persons of eminence, ability and integrity. 10

(4) The Commission shall have the powers to regulate its own procedure.

(5) It shall be the duty of the Commission—

(a) to evaluate the progress of the development of Minorities under the Union and the States;

(b) to monitor the working of the safeguards provided in the Constitution and the laws enacted by Parliament and the State Legislatures; 15

(c) to make recommendations for the effective implementation of safeguards for the protection of the interest of the Minorities by the Central Government and the State Governments;

(d) to look into specific complaints regarding deprivation of rights and safeguards of the Minorities and take up such matters with the appropriate authorities; 20

(e) to cause studies to be undertaken into problems arising out of any discrimination against the Minorities and recommend measures for their removal;

(f) to conduct studies, research and analysis on the issues relating to socio-economic and educational development of the Minorities; 25

(g) to suggest appropriate measures in respect of any Minority to be undertaken by the Central Government and the State Governments;

(h) to make periodical or special reports to the Central Government on any matter pertaining to the Minorities and in particular the difficulties confronted by them; and 30

(i) to discharge such other functions in relation to the protection, welfare, development and advancement of the Minorities as the President may, subject to the provisions of any law made by Parliament, by rule, specify.

(6) The President shall cause the recommendations referred to in sub-clause (c) of clause (5) to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations. 35

(7) Where any recommendation referred to in sub-clause (c) of clause (5) or any part thereof is such with which any State Government is concerned, the Commission shall forward a copy of such recommendation or part to such State Government who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendation or part thereof. 40 45

(8) The Commission shall, while performing any of the functions mentioned in sub-clauses (a), (b) and (d) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

5 (d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses and documents;

(f) any other matter which the President may, by rule, determine.

10 (9) For the purposes of this article, "Minority" means a community which the President may, by public notification, specify to be a minority.

STATEMENT OF OBJECTS AND REASONS

The National Commission for Scheduled Castes and the National Commission for Scheduled Tribes have been constituted in pursuance of article 338 and article 338A respectively of the Constitution. Article 350B of the Constitution provides for appointment of a Special Officer for linguistic minorities. The Central Government set up a Minorities Commission in January, 1978 for providing an institutional arrangement for evaluating the safeguards provided in the Constitution and to make recommendations for effective implementation of the safeguards given to the Minorities. Subsequently, in May, 1993, the Central Government constituted the National Commission for Minorities as a statutory body under the National Commission for Minorities Act, 1992.

2. There has been a persistent demand for giving constitutional status to the National Commission for Minorities. It is felt that the constitution of the National Commission for Minorities under a constitutional provision would inspire greater confidence amongst the minorities and the Commission would be more effective in safeguarding their interests. It is, therefore, proposed to amend the Constitution by way of insertion of a new article 340A in the Constitution.

3. The Bill seeks to achieve the above objects.

NEW DELHI;
The 16th December, 2004.

MEIRA KUMAR.

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to insert a new article 340A in the Constitution for setting up of a Commission for the Minorities to be known as the National Commission for Minorities. The proposed Commission shall consist of a Chairperson, Vice-Chairperson and five other Members.

2. It is proposed to repeal the National Commission for Minorities Act, 1992 and dissolve the Commission constituted thereunder by enacting the National Commission for Minorities (Repeal) Bill, 2004 introduced separately. It is also proposed to utilise the services of the Secretary and other officers and employees of the National Commission for Minorities constituted under the said Act for the proposed Commission.

3. An amount of Rs. 303 lakhs has been provided for the National Commission for Minorities constituted under the National Commission for Minorities Act, 1992 for the year 2004-05 under Non-Plan. It is estimated that no additional recurring or non-recurring expenditure is likely to be involved during the said financial year for setting up the Commission under the proposed new article 340A of the Constitution, when enacted.

