



Determination of Minority in India

For Prelims: National Minorities Commission Act, 1992, Article 29, Article 30, Article 350(B).

For Mains: Determination of Minorities in India and Related Constitutional Provisions, Issues Related to Minorities.

Why in News?

Recently, the Union government has told the [Supreme Court \(SC\)](#) that state governments can now grant minority status to any religious or linguistic community, including Hindus.

- The SC had sought the Union government's response in a plea that sought **directions for framing of guidelines identifying minorities at the state level.**
- The **expression "minorities"** appears in some Articles of the Constitution, but is **not defined anywhere.**

What is the Case?

- The plea contended that **Hindus are in a 'minority' in six states and three Union Territories of India** but were allegedly not able to avail themselves of the benefits of schemes meant for minorities.
 - Plea Showed as per **2011 census** Hindus have become a minority in **Lakshadweep (2.5%), Mizoram (2.75%), Nagaland (8.75%), Meghalaya (11.53%), J&K (28.44%), Arunachal Pradesh (29%), Manipur (31.39%), and Punjab (38.40%).**
- They should be given minority status in these states in accordance with the principle laid down by the **SC in its 2002 TMA Pai Foundation and 2005 Bal Patil Case ruling.**
 - **TMA Pai Case:**
 - The SC had said that for the purposes of Article 30 that deals with the rights of minorities to establish and administer educational institutions, **religious and linguistic minorities have to be considered state-wise.**
 - **Bal Patil Case:**
 - In 2005, the SC in its judgement in 'Bal Patil' referred to the TMA Pai ruling.
 - The legal position clarifies that henceforth **the unit for determining status of both linguistic and religious minorities would be 'state'.**
- The petition claimed that NCMEI (National Commission for Minority Education Institution) Act 2004 gives unbridled power to the Centre and is "manifestly arbitrary, irrational, and offending".
 - Section 2(f) of **NCMEI Act 2004** confers power to the Centre to identify and notify minority communities in India.

What is the Centre's Stand?

- The Centre said the petitioners' argument is not correct **since states can also "certify institutions as being minority institutions** as per the rules of the said state.
 - The Centre pointed out that **Maharashtra had notified Jews as a minority community**

in 2016 and Karnataka had notified [Urdu](#), [Telugu](#), [Tamil](#), [Malayalam](#), [Marathi](#), [Tulu](#), [Lamani](#), [Hindi](#), [Konkani](#) and [Gujarati](#) as minority languages.

- [Parliament](#) and State legislatures have [concurrent powers](#) to enact law to provide for the **protection of minorities** and their interests.
- Matters such as **declaring the followers of [Judaism](#), [Bahaism](#), and [Hinduism](#)** who are minorities in Ladakh, Mizoram, Lakshadweep, Kashmir, Nagaland, Meghalaya, Arunachal Pradesh, Punjab and Manipur can establish and **administer educational institutions of their choice in the said state and laying down guideline(s) for identification of minority at state level** may be considered by the concerned state governments.
- The ***TMA Pai ruling*** also **“reveals that the SC has nowhere eroded the power of the Central Government to notify a community as a ‘minority’**.
 - The **Parliament was empowered under Article 246** of the Constitution read with **Entry 20, “economic and social planning”, of the Concurrent List to enact laws** to promote and protect the interests of minorities.
 - Parliament has the legislative competence and the Central government has the executive competence to notify a community as a minority **under Section 2(c) of the [National Commission for Minorities Act of 1992](#)**.

What are the Constitutional Provisions for Minority?

- **Article 29:**
 - It provides **that any section of the citizens residing in any part of India having a distinct language, script or culture of its own, shall have the right** to conserve the same.
 - It grants **protection to both religious minorities as well as linguistic minorities**.
 - However, the SC held that the scope of this article is not necessarily restricted to minorities only, as use of the word **‘section of citizens’** in the Article includes minorities as well as the majority.
- **Article 30:**
 - All minorities shall have the right to establish and administer educational institutions of their choice.
 - The protection under Article 30 is confined only to minorities (religious or linguistic) and does not extend to any section of citizens (as under Article 29).
- **Article 350-B:**
 - The **[7th Constitutional \(Amendment\) Act 1956](#)** inserted this article which provides for a Special Officer for Linguistic Minorities appointed by the President of India.
 - It would be the duty of the Special Officer to investigate all matters relating to the safeguards provided for linguistic minorities under the Constitution.

Who are the minorities notified by the Government of India?

- Currently, only those communities notified under section 2(c) of the **[NCM Act, 1992](#)**, by the central government are regarded as minority.
- In 1992, with the enactment of the NCM Act, 1992, the MC became a statutory body and was renamed as the NCM.
- In 1993, the first Statutory National Commission was set up and five religious communities viz. **The Muslims, Christians, Sikhs, Buddhists and Zoroastrians (Parsis) were notified as minority communities**.
- **In 2014, Jains were also notified** as a minority community.

[Source: TH](#)

