



## 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 **[7<sup>th</sup> 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](#)

