

# Rights Of Linguistic Minority(Ies) In India Legal- Constitutional Framework And Protective Policies

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**Citation:** Nikhat Jahan, et.al (2023). Rights Of Linguistic Minority(Ies) In India Legal- Constitutional Framework And Protective Policies, *Educational Administration: Theory and Practice*, 29(4) 5673 - 5682

Doi: 10.53555/kuey.v29i4.10641

## ARTICLE INFO

## ABSTRACT

India, a diverse country with diverse cultures, languages, religions, and ethnicities, has faced challenges in its post-colonial history due to its policy of accommodation and appeasement of minorities. The Indian Constitution guarantees minority rights, but the term "minority" is not explicitly defined. Language plays a central role in pre- and post-independence India, breeding ethnic conflicts. The UNESCO Atlas of the World's Languages in Danger places India first with 196 languages threatened with extinction.

## Epilogue

India is a country of diverse cultures, languages, religions and ethnicities. Language and religion have played a crucial role in defining what constitutes India today. India's political independence, after nearly two hundred years of British rule, was accompanied by a territorial partition of India into two states, India and Pakistan, based on religion. The newly independent India faced unprecedented communal violence as a result of this partition. The two fundamental issues in post-colonial India were national security and the accommodation of the vast diversity of the Indian population within the Indian Union. This accommodation and integration of this plural and disparate Indian culture was a huge challenge. It helped open the Pandora's box of minority issues in India. Indian policy can therefore be understood in terms of a policy of accommodation and appeasement of minorities.<sup>1</sup>

The most striking factor in Indian policy is the policy of reverse discrimination adopted by the Central and State Governments in the form of quotas in educational institutions and in federal and provincial civil service employment. This quota policy depends on the minority to which an individual belongs in India. In this connection, it is to be noted that minorities in India fall into the following typology: religious, linguistic, caste and tribe whose minority rights are guaranteed by the Indian Constitution in view of its huge population. These rights are inviolable and as such are included in Chapter Three of the Indian Constitution relating to Fundamental Rights.<sup>2</sup>

Yet, there is no reference in the Constitution to the very term "minority." Who constitutes a minority? On what basis can a "minority" be defined? It is easier to answer this question for minorities based on religion or caste since they have a pan-Indian identity. Muslims, like Sikhs and Parsis, are religious minorities. Their members belong to minorities listed as Scheduled Castes or Scheduled Tribes. However, no linguistic community can claim the status of a majority language since none comprises 50% or more speakers in India. Hindi/Hindustani, or a dialect of Hindi, is the language of a majority of the population, but is not the language of the majority since it is spoken by only 41% of the total Indian population. Moreover, in the absence of a definition of "minority" in the Indian Constitution, it is often left to the judiciary to decide who belongs to a minority community or not when the question arises. This article will trace the historical journey of the role played by language in pre- and post-independence India. In doing so, it will attempt to shed light on the question of who are the linguistic minorities. This entails paying particular attention to the debates in the Constituent Assembly as well as at the judicial level on the issue of linguistic minorities and their recognition by the federal state and the language policies to be put in place for these linguistic minority groups in India. It will also consider how best to preserve linguistic diversity and highlight the role of

<sup>1</sup>Andeva, Marina. *Minority rights protection in multiethnic border regions-Case study analysis*. Diss. Università degli studi di Trieste, 2012.

<sup>2</sup> Vaish, Vinita. "A peripherist view of English as a language of decolonization in post-colonial India." *Language policy* 4 (2005): 187-206.

members of linguistic minority groups in their effective work to support and develop their languages.<sup>3</sup> The question of language is central, India having rebuilt itself at Independence according to linguistic criteria. It still remains the breeding ground for ethnic conflicts as evidenced by the recent examples of Bodoland and Gorkhaland.<sup>4</sup>

### Introduction

Language has played a central role in the birth and development of the Indian state and remains crucial for an understanding of modern Indian politics. Language has been the central component of the Indian nation's struggle for independence and this is reflected in the way independent India was reorganised. Language is at the very heart of the federal structure of India, a multilingual and multicultural state with over sixteen hundred varieties of languages spoken. 'Unity in Diversity' is the mantra etched at the heart of the Constitution of India. The framers of this Constitution ensured that India adopted a policy of accommodation towards multiple diversities.

### Why is language important?

Human life is conceived, organized, expressed and evolved through language. It is as precious as having a name and moreover not having a language makes us unnameable. The human "ego" is not only social but is built on language. Language is an important identity marker for both individuals and groups. In addition to this critical aspect, it also plays a fundamental political role. The very concept of "nation" is based on a precondition of a "single language." The subject of all controversies, it remains nonetheless that speakers of a common language can establish strong links and share a sense of belonging. Language as a vector for sharing thought effectively provides the closest link uniting people. Without language, unified social action becomes impossible. Language is considered as the social institution allowing us to access our social heritage and to become full members of our societies. Language appears to be the greatest factor of socialization to the point that "society cannot be formed without a language." Ludwig Wittgenstein goes so far as to say that "the limits of my language are those of my world."<sup>5</sup>

Language is not only the very basis of human society, but it also functions as a tool for participating in the functioning of the state and, *conversely*, not being able to speak the dominant official language can have negative consequences for prospects of access to employment, education, courts and offices. Unequal linguistic enjoyment can be a source of interpersonal injustice Latin and Reich, based on the recognition that the ability or inability to speak a dominant language can constitute a form of injustice, defend the liberal democratic approach which conceives citizens as holders of the right to mobilize to defend a community language or policies considered to be part of the public or collective good. They welcome the politicization of linguistic difference because whatever its outcome, it will have been achieved democratically and will have the value of democratic character.<sup>6</sup>

### Language in India before independence

Language has played a crucial role in Indian politics. Even before the birth of the Indian National Congress, many in different regions of India felt the need for an Indian language to serve as a link in inter-regional communication. Most social reformers in India believed that language was a powerful force and could be used to eradicate the harmful social practices prevalent in Indian society. Raja Ram Mohan Roy, one of the leaders of the social reform movement in India, also called the "father of modern India", started publishing a magazine in Bengali, *Samvad Kaumudi*, in 1821 and *Mirat-ul-Akbar* in Persian in 1822. For Raja Ram Mohan Roy, these two magazines in two major languages of India conveyed a message about the negative impact of the social evils of sati and child marriage. They also advocated women's rights to inheritance and equality. His vision was to modernise Indians and he relied heavily on modern education in English to achieve this. Govind Ranade, an influential member of the *Prarthana Sabha*, launched the Anglo-Marathi newspaper *Induprakash*. Swami Dayanand Saraswati, founder of the *Arya Samaj*, a Hindu reform movement, in 1875, proclaimed that Hindi would be the lingua franca of India. He wrote his best-known work, *Satyarth Prakash* in Hindi. Bal Gangadhar Tilak, one of the early extremist leaders of the Indian National Congress, launched two *Marathas* in English.<sup>7</sup>

<sup>3</sup> Arora, Balveer, et al." Indian federalism." *Political Science: Indian Democracy* 2 (2013): 100-162.

<sup>4</sup> Eriksen, Thomas Hylland." Linguistic hegemony and minority resistance." *Journal of Peace Research* 29.3 (1992): 313-332.

<sup>5</sup> Mitra, Subrata K." The NDA and the politics of 'minorities' in India." *Coalition politics and Hindu nationalism*. Routledge, 2007. 77-96.

<sup>6</sup> Bhatia, Tej K." English language policy in multilingual India." *English in East and South Asia*. Routledge, 2021. 61-74.

<sup>7</sup> Gupta, Raghuraj." Changing role and status of the Muslim minority in India: a point of view." *Institute of*

Raja Ram Mohan Roy strongly believed that the development of English and Western education would help in the upliftment of the Indian masses. He did remarkable work in the field of translation of Vedic texts into English and in education. He aspired for the convergence of Western scientific education and Indian literature so that the masses could be freed from social evils and develop a more egalitarian Hindu society. Thus, he founded the *Brahmo Samaj* movement in 1828.<sup>8</sup>

*Dayanand Saraswati initiated the Arya Samaj* movement which, apart from its work in developing the Vedic language and culture, opposed English education. He began delivering his lectures in Hindi. He wanted to establish a system of Vedic schools imparting education in Hindi. The Gurukul Kangri University was established in 1902 by one of his disciples, Swami Shraddhanand at Haridwar in the United Provinces to impart Hindi education as an indigenous alternative to Lord Macaulay's precepts on English education. The *Prarthana Samaj* movement was founded in 1849 by Ram Balkrishna Jaykar along with Mahadev Govind Ranade in Bombay. It was also Ranade who founded the Poona Sarvajanik Sabha movement, which also published a monthly in Marathi. Apart from these aspirations to reform society, the social movements respected the diversity of Indian society and worked to instil a sense of pride and respect in all Indians towards their fellow human beings. Ram Mohan Roy wrote in both Bangla and Persian while Ranade wrote in Marathi and English as did Tilak. All three social reformers wanted Indian society to shed its caste burden and take pride in religious, linguistic and cultural affiliation rather than simply toeing the line of its colonial masters.<sup>9</sup>

The "Brahmo Samaj and the Arya Samaj were in favour of developing Hindi for these purposes." The first Hindi newspapers, "*Udant Martand* and *Bangdoot* were published in Bengal in 1824 and 1826 respectively." The *Nagar Pracharani Sabha*, for the promotion of the use of Hindi, was founded in 1893 in Benares. One of its demands was "the introduction of Hindi as the language of the courts in the United Provinces. They succeeded in 1900 when Hindi was finally accepted in the courts along with Perso-Arabic and Kaithi. In 1881, Hindi was also accepted in the courts of Bihar."<sup>10</sup>

### **The language question before Indian independence**

The emergence of the linguistic principle as a formula for organizing Indian territory was first seen in 1903 during the negotiations on the partition of Bengal. Later, in 1918, the Montague- Chelmsford Report, which examined the viability of forming sub-provinces along linguistic and racial lines, suggested that governance would be simplified by homogeneous units and by legislating in the vernacular in order to attract into the public sphere men who were not familiar with English. The Indian National Congress (INC), through its opposition to the partition of Bengal on religious grounds, indirectly indicated its support for the linguistic principle in 1905. According to Joseph E. Schwartzberg, "the partition of 1905 aroused the interest of the Congress in the language question for the first time." This support continued with the formation of a province of Bihar in 1908 and then of Sindh and Andhra in 1917 by the Congress and with the acceptance of the reorganisation of provinces along linguistic lines as an explicit policy objective at the 1920 Congress Session at Nagpur. From then on, the organisation of the Indian National Congress was done on a linguistic basis.<sup>11</sup>

The INC enjoyed massive participation from the moment Gandhi joined its ranks. Its members, like Gandhi, knew that to gain popular support and participation in the struggle for independence, language was a valuable tool to unite the masses. He opposed the British Empire's strategy of using religion to divide Indian society. Thus, language was considered the lesser evil by the INC.<sup>12</sup>

The Nehru Committee's All Parties Conference of 1928 was also in favour of the linguistic principle. Its report, the All Parties' Conference Report (APCR) of the same year stated that "the distribution of provinces in India has no rational basis and is merely the accidental or circumstantial result of the increase of British power in India." In response to the question of what principle should govern the redistribution of provinces, the report stated that the primary consideration "must necessarily reflect the wishes of the people and the linguistic unity of the area in question." The APCR also strongly recommended that Hindustani should be the common language of all India but that, at the same time, provincial languages should also be encouraged to develop rapidly in the provinces. Insisting on the linguistic principle for redistributing the provinces, the APCR stated that "if a province is to educate itself and work daily in its own language, then this must necessarily be based on a linguistic area." Furthermore, stressing the importance of language, the APCR

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*Muslim Minority Affairs. Journal* 5.1 (1984): 181-202.

<sup>8</sup> Bhatia, Tej K., and William C. Ritchie. "bilingualism in South Asia." *The handbook of bilingualism* (2006): 780-807.

<sup>9</sup> Sinha, Manoj Kumar. "Minority rights: a case study of India." *Int'l J. on Minority & Group Rts.* 12 (2005): 355.

<sup>10</sup> Jodha, Narpat S. "Poverty debate in India: a minority view." *Economic and Political Weekly* (1988): 2421-2428.

<sup>11</sup> Chopra, Suneet. "Problems of the Muslim Minority in India." *Social Scientist* (1976): 67-77.

<sup>12</sup> Lateef, Shahida. "Muslim women in India: A minority within a minority." *Women in Muslim societies: Diversity within unity* (1998): 251-274.

indicated that "language as a general rule corresponds to a specific variety of culture, tradition and literature. In a linguistic area all these elements can contribute to the general progress of the province." The other principle that found favour with the APCR concerned the "popular will." The report insisted that "we, who speak of self-determination on a large scale, cannot justify it on a smaller area. The mere fact that people living in a given area feel a sense of unity and the desire to develop their culture is a factor to be taken into consideration even if there is no sufficient historical or cultural justification for such a requirement. Feelings in such matters are often more important than facts."<sup>13</sup>

The Indian *Statutory* Commission of 1928 also shared this view of the APCR regarding the distribution of Indian provinces on a linguistic basis. The Commission reported that, If those who speak the same language form a compact and self-contained area, capable of supporting itself as a separate province, there can be no doubt that the use of a common speech is a strong and natural foundation for the individuality of that province. But it is far from being the only means of ensuring this. The most important of all is the general agreement to the greatest extent between the two sides, namely the area which loses and the area which gains territory.

The Commission also recommended the setting up of a Delimitation Commission headed by a neutral personality. Except for these, the *Sapru Report*, the *Hindu Mahasabha*, the *Radical Democratic Party* and the *Justice Party* all embraced the idea of linguistically based provinces on the eve of the 1935 election." The Provinces created on linguistic basis namely Tamil, Kannada, Telugu and Malayalam" were separated from the Madras Presidency by a resolution in March 1938. Similarly a "resolution was passed by the Bombay Legislative Assembly in favour of the creation of the province of Karnataka."

The framers of the Constitution knew that the Indian state was a nation of nations and that almost every region of India had a strong linguistic and cultural identity. This explains why they formed a state whose founding principle was *unity in diversity*. In the face of the partition that accompanied Indian independence, the question of reorganising India along linguistic lines was seen as a further step towards the division of an already divided society. In spite of this, the question of the official language remained the most hotly debated issue in the Constituent Assembly and the question of linguistic reorganisation was left in the background. Most political leaders of the time such as Nehru, Patel and Ambedkar were opposed to the idea of linguistic reorganisation of the state. In these discussions, Ambedkar remarked that "the genius of India is its capacity to divide itself." He was of the view that the reorganisation of states was a way of dividing India in the name of linguistic states "which would lead to the cohesion of the north and the balkanisation of the south." Nehru too was not in favour of this reorganisation along linguistic lines, as he told the Constituent Assembly "what matters most is national cohesion and any other question can be worked out later." This change of heart among the most senior leaders of the Indian National Congress on the question of linguistic reorganisation is to be seen in connection with the partition of India on religious lines. They feared that language would become a divisive factor like religion and they opposed anything that might contribute to further division of the newly independent state.<sup>14</sup>

### **The language issue in the Constituent Assembly debates**

The question of the official language of the Indian Union was the point on which the members of the Constituent Assembly were divided into two clearly distinct groups. The first group called the *Hindiwallahs* favoured Hindi rendered in Devanagari as the sole official language of India, while the other group of members from southern and eastern India favoured two official languages, English and Hindi. Many members of the Assembly feared that "a strong central power speaking Hindi might enslave those who did not speak the language of the legislators and the Centre." A few members opposed the imposition of Hindi on the non-Hindi speaking states of India. Some members of the Constituent Assembly still advocated recognition of regional languages like Shri L. Krishnaswami Bharathi of Madras who, while commending the draft Constitution for avoiding the pitfalls of the national language, said that "if we are all to decide on Hindi, let us have one language for the Central Government and let it be clear beyond doubt that in the provinces, the provincial languages and their respective regional languages shall be the official language of those territories. Then the bulk of this debate will disappear. The regional languages shall be used both in the courts and in the high courts of the provinces." The gravity of the controversy between *Hindiwallahs* and non-Hindi speaking supporters is reflected in the fact that the vote that declared Hindi in Devanagari script as the official language of the Indian Union was won by one vote over the opposing camp. Thus, if a compromise was reached on the language question in India, as Austin rightly points out, it was "not with a light heart."<sup>15</sup> The language question became an issue in the newly independent India. It represented a real "challenge to Indian nationalism." Noting the virulence of the debate on the question of the national language and the

<sup>13</sup> Pandharipande, Rajeshwari." Minority matters: issues in minority languages in India." *International Journal on Multicultural Societies* 4.2 (2002): 213-234.

<sup>14</sup> Andeva, Marina. *Minority rights protection in multiethnic border regions-Case study analysis*. Diss. Università degli studi di Trieste, 2012.

<sup>15</sup> Vaish, Vinita." A peripherist view of English as a language of decolonization in post-colonial India." *Language policy* 4 (2005): 187-206.



linguistic reorganisation conceived as a solution to reach consensus in the House, the Constituent Assembly appointed a committee to examine the language question as a basis for the reconstruction of independent India. This committee, since known as the Linguistic Provinces Commission and more familiarly the Dar Commission after its chairman S. K. Dar, was formed in June 1948. It was appointed to report on the question of the formation of the states of Andhra, Kerala, Karnataka and Maharashtra. The Linguistic Provinces Commission (LPC) submitted its report in December 1948 and recommended that language should not be considered as the exclusive criterion for the formation of provinces. She concludes that when undertaking to form new provinces, "linguistic unity may be one of the factors to be taken into consideration among others, but it cannot be decisive or even central."<sup>16</sup>

In its recommendations, the LPC opposed the linguistic criterion as the basis for the reorganization of the Indian states, arguing that the linguistic division of India would lead to the fostering of separatist tendencies in the newly independent state. It stipulated that, When a conflict of interests, real or imagined, arises between linguistic groups of different numerical strength, mental and moral capacities, the minority soon realizes that it has no chance against the majority and finds in its desire for separation an easy solution to its problems.<sup>17</sup>

The LPC argued that linguistic reorganisation of the Indian states would create a "new type of minority" and that linguistic grouping of India would create sub-nationalism at a time when nationalism was not yet deeply rooted in the Indian soil. It argued that the linguistic principle was essentially wrong because "It would create a minority problem...and give rise to provinces with sub-national preference at a time when nationalism was taking its first steps." It further reiterated that "in linguistic provinces, sub-nationalism will dominate over nationalism."<sup>18</sup>

It placed the nation and national interest above any distribution of Indian states. The LPC warned that "however urgent the problem of redistribution of provinces may be, it is nothing compared to the problem of defence, inflation, refugees and food..." However, the LPC gave much consideration to the problem of the Telugus, Malayalees, Kannadigas and Maharashtrians in the areas of Madras, Bombay, the Central Provinces and Berar. It stipulated that "an immediate administrative solution should be found for these linguistic groups."

The LPC concluded that there was "no need for immediate re-formation of provinces." This could be undertaken once the "integration of the Indian States" had been achieved. The LPC rejected the solution of linguistic re-formation of states in India by pleading for the cause of Indian nationalism and insisted that, "The first and last need of India was to constitute a nation. Whatever can help to increase national feeling must be put forward and whatever can contribute to creating obstacles must be refuted." This report was the subject of bitter controversy.

This led to the appointment of a three-member Congress committee comprising Jawaharlal Nehru, Sardar Patel, and Pattabhi Sitaramayya (JVP Committee) at the December 1949 Jaipur session. This committee was to study and review the question of linguistic provinces in the light of the new problems that had arisen in independent India. This committee too recommended against the formation of Indian states on linguistic basis and commented that "the old policy of the Congress of forming linguistic provinces will jeopardize the political and economic stability of the country and therefore cautioned that such a principle could only be implemented after careful consideration and on a case-by-case basis." It even went to the extent of recommending the postponement of the formation of new provinces till the nation was consolidated. The JVP for the first time opposed the earlier decision of the Congress in favour of language as the basis for the reorganisation of India. Listing his reasons for opposing linguistic reorganisation, he asserted that: 1. Language is a divisive force. 2. While endorsing the linguistic principle, the Congress did not consider its "practical implementation and consequences." 3. "Unity, security and economic prosperity" should take precedence over all other objectives of India. All separatist tendencies should be discouraged or the distribution of states along linguistic lines would lead to such separatist tendencies. 4. The policy of linguistic provinces can only be implemented on a case-by-case basis "without compromising the political and economic stability of the country."<sup>19</sup>

Although opposed to linguistic provinces, the JVP Committee recognised that "if public opinion persisted in a large majority, the practicability of meeting the general demand with its implications and consequences should be studied." The Congress endorsed the JVP Committee report in April 1949 and also issued it as its political programme for the 1951 Assembly elections. The Congress's stand was adopted by the Congress Working Committee at its Hyderabad session in January 1953 and reiterated at the Kalyani Congress session in

<sup>16</sup> Eriksen, Thomas Hylland. "Linguistic hegemony and minority resistance." *Journal of Peace Research* 29.3 (1992): 313-332.

<sup>17</sup> Mitra, Subrata K. "The NDA and the politics of 'minorities' in India." *Coalition politics and Hindu nationalism*. Routledge, 2007. 77-96.

<sup>18</sup> Habib, Irfan, Iqtidar Alam Khan, and K. P. Singh. "Problems of the Muslim Minority in India." *Social Scientist* (1976): 67-72.

<sup>19</sup> Jodha, Narpat S. "Poverty debate in India: a minority view." *Economic and Political Weekly* (1988): 2421-2428.

1954 in the following terms: "in the reorganisation of the State, attention should be paid to all the factors to be taken into consideration, namely, the unity of India, national security and defence, cultural and linguistic convergence, administrative convenience, financial considerations and economic development."<sup>20</sup>

The resolution on linguistic states was defeated by the Lok Sabha (the lower house of Parliament) by 261 votes to 77 on 12 July 1952. The question of the official language was also a hotly debated one and the Hindi Devanagari script was adopted by only a majority vote. Consensus was far from being reached. The two official languages of independent India would be Hindi and English. All the national languages which were also dominant regional languages would be incorporated in the Eighth Schedule of the Constitution of India. The year 1953 saw a turnaround on the issue of language accommodation from centralised authoritarianism to regional conciliation. This was largely due to the anti- Hindi riots and demonstrations in Andhra and Madras. The Nehru government appointed the State Reorganisation Commission in 1953 to make recommendations on the future development of the states. The SRC recommended linguistic reorganisation. However, it was clear that no Indian state could be unilingual and hence there would be a minority population in all states.<sup>21</sup>

### Definition of linguistic minority(ies) in India

Minorities in India can be grouped into 4 categories, namely caste, tribe, religion and language. Of these categories of minorities, the first three are pan-Indian in nature while the fourth, based on languages, is region-specific. In India, Hindus form the religious majority comprising 79.8% of the population. Muslims, on the other hand, form the largest religious minority with 14.2% of the population. But the division is not at all of the same order in terms of language since Hindi, spoken by 43.63% of the Indian population is the language spoken by the largest number of Indians without being the majority language in the whole of India. In fact, Hindi speakers constitute a linguistic minority in most of the southern, western and eastern states of India.

The term 'minority' is nowhere defined in the Indian Constitution although it was debated in the Constituent Assembly. Dr. BR Ambedkar, Chairman of the Constitution-Framing Committee, had distinguished between technical and non-technical use of the term 'minority'. He had shown that the technical meaning of the word 'minority' is used for certain political safeguards such as legislative representation and public service (however in Article 23) the word is not merely used in a technical sense but encompasses minorities in their cultural and linguistic sense<sup>22</sup>

He went so far as to illustrate this distinction by examples and observed that if a certain number of people from Madras came to settle in Bombay for a certain purpose, though not a minority technically, they would constitute a cultural minority... the section purports to provide protection in the matter of culture, language and script.<sup>23</sup>

Mr. Lari, a member of the Constituent Assembly moved an amendment to use the term 'minority' in place of 'section of citizens' in the draft of Article 23 as follows: Any section of citizens resident in the territory of India or any section thereof having a distinct language, script and culture shall have the right to retain the same.<sup>24</sup>

This amendment was rejected by the Constituent Assembly, as Dr. BR Ambedkar explained: The justification for dropping the term 'minority' was due to our feeling that the word might be interpreted narrowly, whereas the intention of the House was to give it a much wider meaning.<sup>25</sup>

Another example of the desire to use appropriate terminology in the Constitution in relation to minority rights is in Amendment moved by Pandit Bhargava, in relation to the use of the term 'community' in the proposed Article 23 clause 3. It provided that It is desirable to remove the word 'community' from this provision as it is meaningless. While it is true that the existence of a community is determined by certain common characteristics and all communities are found under the heading of religion or language, 'community' as such is not based on anything. Thus, this provision is so broad that in relation to caste, race, language or religion, no discrimination can be tolerated.<sup>26</sup>

<sup>20</sup>Sinha, Manoj Kumar. "Minority rights: a case study of India." *Int'l J. on Minority & Group Rts.* 12 (2005): 355.

<sup>21</sup>Arora, Balveer, et al." Indian federalism." *Political Science: Indian Democracy* 2 (2013): 100-162.

<sup>22</sup> Vaish, Vinita." A peripherist view of English as a language of decolonization in post-colonial India." *Language policy* 4 (2005): 187-206.

<sup>23</sup> Bhatia, Tej K., and William C. Ritchie." bilingualism in South Asia." *The handbook of bilingualism* (2006): 780-807.

<sup>24</sup>Gupta, Raghuraj." Changing role and status of the Muslim minority in India: a point of view." *Institute of Muslim Minority Affairs. Journal* 5.1 (1984): 181-202.

<sup>25</sup> Habib, Irfan, Iqtidar Alam Khan, and K. P. Singh. "Problems of the Muslim Minority in India." *Social Scientist* (1976): 67-72.

<sup>26</sup> Zain, Omar Farooq. "Marginalization of Muslim Minority in India." *Pakistan Journal of Social Sciences* 29.1 (2009): 101-106.

This amendment was supported by BR Ambedkar, Chairman of the Constitution-making Committee. Damodar Swarup Seth of the United Provinces proposed that paragraph 3 of the proposed Article 23 should include the term "linguistic minority." He justified this by arguing that: In a secular State minorities based on religion or community cannot be recognised... if they are recognised it will promote communalism... only minorities on linguistic grounds should be recognised and they should have the right to establish and administer educational institutions for the purpose of promoting their language and literature.<sup>27</sup>

Since there is no mention of what constitutes 'minorities' in India in the Indian Constitution, it has fallen to the Supreme Court to provide the criteria for defining 'minorities' in India from time to time. In the Kerala Education Act, 1958, it has defined 'minority' as 'a community consisting of less than 50 per cent of the total population of a State'. Going even further in its reply to the President's reference to the Kerala Education Act, the Supreme Court observed that, Article 30(1) of the Constitution, which was a necessary complement to Article 29(1) in guaranteeing minorities the right to establish and administer their institutions, did not define the word 'minority', nor did it define it elsewhere in the Constitution, but it was absurd to infer from that that a minority or party as contemplated by Articles 30(1) and 29(1) could mean only such persons constituting a numerical minority in a particular area.<sup>28</sup>

Citing Article 350(a) of the Constitution in *DAV College, Jullundhar v. State of Punjab*, the Supreme Court observed that A minority within the meaning of Article 30(1) must at least have a distinct spoken language. It is not necessary that that language should also have a distinct script for those speaking it to be considered a linguistic minority. There are certain languages in this country which do not have a specific script but the sections relating to the persons speaking that language will be considered a linguistic minority entitled to the protection of Article 30(1).<sup>29</sup>

In 2002, the Supreme Court held that "the operational unit competent to determine who belongs to a minority in terms of Article 30 will be the State and not India as a whole." The term "State" here refers to the 28 territorial entities that make up India. Due to the absence of a definition of the term in the Indian Constitution, it has repeatedly fallen to the Supreme Court to deal with the term "minority" and provide clarification on a case-by-case basis. Language, culture and religion are central to the study, analysis and understanding of minorities around the world and India is no exception.<sup>30</sup>

### Language Policy in India

India has adopted a two-tier policy:

**At the national level:** India has adopted bilingualism at this level, i.e. two languages, Hindi and English are the official languages of the Indian Union.<sup>31</sup>

**At the state level:** Here, the majority languages of the state are declared as official languages, this recognition is accompanied by provisions whereby states can declare any additional language as official.<sup>32</sup>

Therefore, at the state level, there is mostly one official language (the majority language in most cases) in addition to English in the southern and eastern states of India and Hindi in the northern and western states. Thus, if a language does not enjoy the status of an official language in any Indian state, it is more penalized. Although the Sahitya Parishad, the national literary organization of India, has incorporated many Indian languages, it is the major languages that benefit the most. The major groups of non-dominant languages are also growing but at a slower pace. Those that are particularly affected are the tribal languages, some of which are facing the threat of extinction. The central question is how many languages can be recognized? What kind of rights can certain groups claim? Although India has been established on a linguistic basis, the question remains as to the internal minorities in these states. What will be the fate of these internal linguistic groups?

### Collective linguistic rights: The legal-constitutional framework

Collective rights play a vital role in multicultural states because they provide a space in which minority groups can work to promote their development and the progress of the given groups and delegate "the burden to members of other groups to respect the culture(s), language(s) and values of the minority

<sup>27</sup> Lateef, Shahida. "Muslim women in India: A minority within a minority." *Women in Muslim societies: Diversity within unity* (1998): 251-274.

<sup>28</sup> Mallick, MdAyub. "Multiculturalism, minority rights and democracy in India." *IOSR Journal of Humanities and Social Sciences* 16 (2013): 72-82.

<sup>29</sup> Sinha, Manoj Kumar. "Minority rights: a case study of India." *Int'l J. on Minority & Group Rts.* 12 (2005): 355.

<sup>30</sup> Misra. "Hindu nationalism and Muslim minority rights in India." *International Journal on Minority and Group Rights* 7.1 (2000): 1-18.

<sup>31</sup> Darlong, H. Theresa. "Conceptualisation of minority and minority rights in India." *International Journal of Human Rights and Constitutional Studies* 8.4 (2021): 258-266.

<sup>32</sup> Van der Veer, Peter. "Minority rights and Hindu nationalism in India." *Asian Journal of Law and Society* 8.1 (2021): 44-55.

group(s)." People belonging to minority cultures are often unable to enjoy their individual rights outside the protection of collective rights because they belong to the lowest echelons of the state power hierarchy. Minority language groups need collective rights not only to protect, preserve and promote their language but also to meet their basic needs such as employment, education, access to schools and universities, health facilities, participation in public life, the ability to lodge complaints with the courts, receiving information from the state etc. Indeed, not mastering the main "majority language can prove to be a major obstacle to achieving economic, political, social and cultural development." Discrimination based on language can have varying degrees ranging from diminished creative space and cultural vibrancy to significant disadvantages in education and employment.<sup>33</sup>

The Indian State has mainly recognised the rights of minority groups of two types: (a) educational rights and (b) the right to establish minority educational institutions to promote minority languages.<sup>34</sup>

Constitutionally recognized rights in education for minority language groups:

The Fundamental Rights (Articles 29-30) enshrined in the Indian Constitution guarantee cultural and educational rights to every individual and every cultural and linguistic community to have access to educational institutions aimed at promoting, preserving and developing their language and culture.<sup>35</sup>

Article 347 of the Constitution empowers the Presidency to ensure that the use of minority languages in the administration of the States is strengthened. The same applies to the Governor's office, which will be vested with specific powers to protect the interests of linguistic minorities<sup>36</sup>

The office of the Commissioner for Linguistic Minorities was created to ensure effective safeguarding of minority languages by the addition of Article 350 (A) of the Seventh Amendment to the Constitution which provides that "Every State and every local authority within a State shall endeavour to provide adequate facilities for mother tongue instruction in the early stages of education for children belonging to minority linguistic groups; and the Presidency may issue such directions to any State as it deems necessary or appropriate for the purpose of securing the provision of such facilities."<sup>37</sup>

Article 350(B)(1) states that "there shall be an officer specially appointed by the Presidency to deal with linguistic minorities."

### **Establishing institutions for linguistic minorities**

The first and major conference on protection and safeguards for minority groups in India was held at the *Conference of Provincial Ministers of Education* in 1949. This was an all-India conference for the first time. The central issue discussed was the recognition of the right of linguistic minorities to instruction in their mother tongue at the primary and secondary levels. The decisions taken at this conference were made mandatory in all schools run by State Governments, Municipalities and District Councils. The principles agreed upon were: That at the primary stage of education, if the mother tongue differs from the regional language and there are not less than ten pupils in a class of forty in the whole school who desire instruction in their mother tongue, arrangements shall be made for providing such instruction as they desire by at least one teacher.<sup>38</sup> That the regional or state language, when different from the mother tongue, should not be introduced before the third year of primary school and not later than the end of elementary school. That in order to facilitate the transition to the regional language as the language of instruction in secondary school, children should have the option of answering questions in their mother tongue during the first two years following elementary school.<sup>39</sup>

<sup>33</sup> Andeva, Marina. *Minority rights protection in multiethnic border regions-Case study analysis*. Diss. Università degli studi di Trieste, 2012.

<sup>34</sup> Mital, Kushal. "The Long, Last Mile: Linguistic Minority Barriers to Financial Inclusion in India." *The Public Sphere: Journal of Public Policy* 12.1 (2024).

<sup>35</sup> Bhatia, Tej K. "English language policy in multilingual India." *English in East and South Asia*. Routledge, 2021. 61-74.

<sup>36</sup> Singh, Gurharpal, and Heewon Kim. "The limits of India's ethno-linguistic federation: Understanding the demise of Sikh nationalism." *Regional & Federal Studies* 28.4 (2018): 427-445.

<sup>37</sup> Chopra, Suneet. "Problems of the Muslim Minority in India." *Social Scientist* (1976): 67-77.

<sup>38</sup> Mitra, Subrata K. "The NDA and the politics of 'minorities' in India." *Coalition politics and Hindu nationalism*. Routledge, 2007. 77-96.

<sup>39</sup> Eriksen, Thomas Hylland. "Linguistic hegemony and minority resistance." *Journal of Peace Research* 29.3 (1992): 313-332.



## Secondary education

If the number of pupils whose mother tongue is a language other than the regional or state language is sufficient to justify the establishment of a separate school in the area, the language of instruction in such a school may be the mother tongue of those pupils. If such schools are organized and established by private companies or organizations, they shall enjoy recognition and subsidies from the Government in accordance with the laws in force.<sup>40</sup>

The Government shall provide similar facilities in all schools under the control of the Government, in district town halls where one-third of the total number of children in the school request instruction in their mother tongue.<sup>41</sup>

"The Government shall also use subsidized schools to provide such education if one-third of the total number of pupils so desire and if there are no suitable facilities of this type in the area.<sup>42</sup> The regional language shall, however, be a compulsory subject throughout secondary education. It was stressed that all these arrangements were particularly important in large cities and places where there was a high proportion of people speaking different languages. These resolutions taken at the conference were endorsed by the Central Board of Education and the Government of India.<sup>43</sup>

Another source of protection of linguistic rights of particular importance is the *Memorandum on Protection of Linguistic Minorities of the Ministry of Home Affairs* in 1956. The Ministry of Home Affairs prepared this memorandum after consulting all other recommendations on the subject of the SRC. It provides the basis for any study of the rights conferred on linguistic minorities in India. These safeguards relate to various issues relating to education. They range from the use of minority languages for official purposes at various levels of the State administration to the simplification of residence checks for linguistic minorities or the relaxation of regional language proficiency tests as a prerequisite for admission to State service etc. Some of the important points of the Memorandum are as follows: In the matter of affiliation of minority language schools and colleges situated in the reorganised States it should be facilitated if possible with the universities and boards of education within the State. In case such facility is not available in the State(s), affiliation of an educational institution with universities and boards of education outside the State and in which the minority language in question is an official language or enjoys the status of a State language shall be facilitated.<sup>44</sup> Candidates belonging to minority groups appearing in state examinations should be given the option to choose the medium of instruction of their choice, either Hindi, English or the minority language if it is spoken by 15-20% of the population of the state.<sup>45</sup>

Taking into account the SRC's apprehension about the disadvantages faced by minority language groups by the mandatory domicile test in some States, the memorandum concluded that "it was neither necessary nor desirable to impose... any type of restriction as to place of residence in any branch of the State." Certain exceptions were made for Telangana and other areas less advanced in terms of career prospects in the civil services.<sup>46</sup>

The SRC recommended that in the case of centralised Indian services, at least 50 per cent of the new recruits should be from outside the State. The memorandum did not lay down any rules in this regard but it was to be kept in mind in future allocations of posts. Similarly, it should be borne in mind that as far as possible, one-third of the judges should be selected from outside the State.<sup>47</sup>

Apart from the Provincial Conference of Education Ministers and the Memorandum of Understanding for Linguistic Minorities, another important system of protection for these linguistic minorities emerged from the meeting of the Southern Zonal Councils in 1959. The issues discussed and agreed upon were of the utmost importance because of their unique nature. It was the first ever meeting of such importance in South India and was held to discuss the protection measures for the linguistic minorities of that region. It was also

<sup>40</sup> Dev, Rajesh." Human rights, relativism and minorities in North-East India." *Economic and Political Weekly* (2004): 4747-4752.

<sup>41</sup> Jodha, Narpatt S. "Poverty debate in India: a minority view." *Economic and Political Weekly* (1988): 2421-2428.

<sup>42</sup> Darlong, H. Theresa. "Conceptualisation of minority and minority rights in India." *International Journal of Human Rights and Constitutional Studies* 8.4 (2021): 258-266.

<sup>43</sup> Pandharipande, Rajeshwari." Minority matters: issues in minority languages in India." *International Journal on Multicultural Societies* 4.2 (2002): 213-234.

<sup>44</sup> Zain, Omar Farooq. "Marginalization of Muslim Minority in India." *Pakistan Journal of Social Sciences* 29.1 (2009): 101-106.

<sup>45</sup> Arora, Balveer, et al." Indian federalism." *Political Science: Indian Democracy* 2 (2013): 100-162.

<sup>46</sup> Vaish, Vinita." A peripherist view of English as a language of decolonization in post-colonial India." *Language policy* 4 (2005): 187-206.

<sup>47</sup> Gupta, Raghuraj." Changing role and status of the Muslim minority in India: a point of view." *Institute of Muslim Minority Affairs. Journal* 5.1 (1984): 181-202.

extremely important in that the SRC was eventually formed by Nehru in 1953 mainly because of the Madras riots of 1953 on the death of Potti Sriramulu on 15th December 1952. He had been on hunger strike for a separate state in Andhra Pradesh for the Telugu-speaking population of Madras. As noted above, the JVP (Jawaharlal Vallabhbhai and Pattabhi) Committee of 1948 rejected the reorganisation of India on linguistic lines because of the partition on religious grounds. The committee was convinced that priority should be given to strengthening the national integration of India rather than reorganisation on linguistic lines which was seen as likely to divide the newly independent state.<sup>48</sup>

### Concluding remarks

From our analysis, some conclusions can be drawn about India's policy towards its minority language groups.<sup>49</sup> First, the major linguistic groups in India got their fair share in the form of territorial recognition. The second group of linguistic minorities concentrated in specific areas within the Union States were also well treated in the form of some autonomy in specific areas, for example by declaring the minority language as an additional official language in areas where they were in the majority or by allowing mother tongue education in primary schools. Thus, Assam declared Bengali as an additional official language in the area where it is spoken, in the Cachar district, and similarly for Nepali in the Darjeeling and Kurseong districts of North Bengal. A tripartite agreement was recently signed between the central government, the West Bengal government and the Gorkha Janmukti Morcha of Darjeeling to form the Gorkha Territorial Administration, an independent autonomous authority. The third group of linguistic minorities which remains scattered in one or more States has the right to educational institutions to enable them to preserve and promote their languages. It is the fourth category, that of tribal linguistic groups, which is the least well-off among the minority linguistic groups in India. These groups are, from an educational and economic point of view, at the bottom of the social ladder.

Second, the UNESCO *Atlas of the World's Languages in Danger* (2009) places India in first place with 196 of its languages threatened with extinction. Among these are two Indian languages, Bodo and Manipuri, which are the official languages of Assam and Manipur respectively. It is therefore relatively clear that language development and preservation policies have not received the necessary impetus from Indian state agencies and that much remains to be done.

<sup>48</sup> Singh, Gurharpal, and Heewon Kim. "The limits of India's ethno-linguistic federation: Understanding the demise of Sikh nationalism." *Regional & Federal Studies* 28.4 (2018): 427-445.

<sup>49</sup> Habib, Irfan, Iqtidar Alam Khan, and K. P. Singh. "Problems of the Muslim Minority in India." *Social Scientist* (1976): 67-72.