

SIGNIFICANCE AND ROLE OF LAW IN LANGUAGE DEVELOPMENT: AN ANALYTICAL STUDY

Dr. Yogesh A Mahajan

Assistant Professor,
S.S.Maniyar Law College,
Jalgaon.

Abstract

Language is an important mode of communication. Language is defined as a system that includes sounds, signs, symbols, and gestures which are an important means of communicating the thoughts, and emotions from one individual to another. The importance of language in our society is clear as it has helped to smooth social contacts, maintain our culture and convey our thoughts to individuals and people in groups effectively. People rely on language to communicate and socialize, and on law to regulate their communication and social practice. The creative and comprehensible power of language is of particular importance for legislation. The research paper tries to analyse the provisions on language under law and how these provisions contribute towards the development of nation. There are different provisions under Indian Constitution which deals with language their ultimate purpose is to give equal representation to all languages so as to foster our nation development. This research paper has discussed in detail about the provisions with leading case laws. Language provides communication within the society. Law settles the conflicting interest in the society and helps in the existence of the society whereas language also provides peace and harmony in the society. Law as a social arrangement is an important tool for social control and its ultimate aim is social welfare. Language plays an important role in national development as it fosters understanding, unity and sense of belonging among the various members of the different ethnic and social groups that constitute a nation. Law and language are the essential elements for systematic formation of a society and its stability.

Keywords:- Language, Law, Constitution, NEP, Universal Declarations, Judiciary.

INTRODUCTION

Language is one of the important modes of communication. It is through language that our thoughts can be expressed and informed to others. It is through the language man identifies and makes finding about his environment. Language is developed for spreading Knowledge, literacy and has an important place in social planning and national development. A language is a result of social consensus, resulting from a very long evolution. The importance of language in our society is clear as it has helped to smooth social contacts, maintain our culture and convey our thoughts to individuals and people in groups effectively. The formation of linguistic states, constitutional determination of language policy of the nations and regions and protection of the interests of linguistic minorities are examples of use of law in language planning. Language is a crucial and defining aspect in the life of every individual. Not only a medium of effective communication, it is a harbor of culture and systems of knowledge.

India is a vast country where people of diverse backgrounds speak different languages. People of different cultures, creeds, religions, and caste interact with each other. That is why India is also known for its 'Unity in diversity' or as a 'Land of diversity'. Interacting with different sects of people in different languages brings unity and a feeling of oneness. Various activities and elements of life stem from ones' own mother tongue. Language acclimatizes the individual and the community to the surrounding environment by equipping them with the necessary knowledge, which has been accumulating and evolving together for centuries.¹ India is one of unique countries in the world that has the legacy of diversity of languages. The Constitution of India has recognised 22 official languages. Multilingualism is the way of life in India as people in different parts of the country speak more than one language from their birth and learns additional languages during their life time. Though officially there are 122 languages, Peoples Linguistic Survey of India has identified 780 languages, of which 50 are extinct in past five decades. The twenty two languages that are recognised by the Constitution are: Assamese, Bengali, Bodo, Dogri, Gujarati, Hindi, Kashmiri, Kannada, Konkani, Maithili, Malayalam, Manipuri, Marathi, Nepali, Oriya, Punjabi, Sanskrit, Santali, Sindhi, Tamil, Telugu and Urdu are included in the Eighth Schedule of the

¹ <https://blogs.lse.ac.uk/southasia/2019/02/21/linguistic-minorities-in-india-the-entrenched-legal-and-educational-obstacles-they-face>

constitution.²Law as a policy instrument of the organised political society has a definite role in language planning and social development.

Characteristics of Language³:-

- 1) Language is a system of speech sound.
- 2) It is acquired from childhood.
- 3) Language is dynamic.
- 4) It is conventional.
- 5) It is complex and systematic.
- 6) Language is a vehicle of thought and expression.
- 7) Language is a means of personal and professional development.

Constitutional provisions on Language⁴:-

Indian Constitution lays down different provisions relating to language. The concept of equal language rights reinforces the constitutional values of federalism, democracy and fundamental rights as they aim at equality of opportunity in regional government, deliberation and self expression. The constitutional provisions are discussed below-

- 1) Non-discrimination in public employment on the grounds of language- Article 16(1) of the Constitution states:- "There shall be equality of opportunity for all citizens in matters relating to employment of appointment to any office under the state."
- 2) Right to conserve distinct language:-Article 29(1) states the protection of interests of minorities. "Any sections of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same."
- 3) Right of minorities to establish and administer educational institutions:-Art.30(1) provides that all minorities, whether based on religion or language shall have the right to establish and administer educational institutions of their choice. Art.30(2) provides that state shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of minority, whether based on religion or language.
- 4) Article 120 of the Constitution says that business in Parliament shall be transacted in Hindi or English and Article 210 of the Constitution says that business in the legislature of state shall be transacted in the official language or languages of the state or in Hindi or in English. If any member is unable to express with the prior permission of authority he can express in his mother tongue.
- 5) Article 343 of the Constitution states that the official language of the Union shall be Hindi in Devanagari script.
- 6) Article 348 of the Constitution lays provisions relating to language to be used in Supreme Courts and in High Courts and for Acts, Bills etc which states that until Parliament by law otherwise provides all proceedings shall be in English language.
- 7) Article 350 A says that facilities for instruction in mother-tongue at the primary stage. It says that "It shall be the endeavour of every state and of every local authority within the state to provide adequate facilities for instruction in the mother tongue at the primary stage of education to children belonging to linguistic minority groups, and the President may issue such direction to any state as he considers necessary or proper for securing the provision of such facilities."

Constitutional Provisions on Education and Language Policy⁵:-

Our constitution has its own philosophy that embodies the ideals, social values, hopes, and aspirations of its people. So, education can find out an important place and an effective democracy. The right of children to free and compulsory education act provided provisions of state policy in education. The Constitution of India has laid down various provisions relating to education. Some of the major provisions of constitution on education are as follows:-

1. Free and Compulsory Education (Article 45)
2. Education of Minorities (Article 30)
3. Education for Weaker Sections (Article 15, 17, 46)
4. Secular Education (Article 25 (1), 28(1,2,3), 30)

² <https://pib.gov.in/newsite/printrelease.aspx?relid=158532>

³ <https://iproject.com.ng/english-language/language-and-national-development-challenges-and-impediments-in-a-multilingualsociety/index.html>

⁴ <https://www.uottawa.ca/clmc/language-provisions-constitution-indian-union>

⁵ <https://bidyapatibedstudy.wordpress.com/2021/03/27/language-policy-and-provision-in-the-indian-education>

5. Equality of Opportunity in Educational Institutions (Article 29(1),)
6. Instruction in Mother -Tongue (Article 26 (1), 350)
7. Promotion of Hindi (Article 351)
8. Women's Education (Article 15(1,3))
9. Education in the Union Territories (Article 239)
10. Fundamental duty to provide opportunity for education (Article 51-A)

Thus constitution of India have made special provisions regarding free basic education for students under article 45 and 21A, of weaker sections of the society. There are more than 2500 languages, which are spoken in different regions across the country, but, all can't sustain and few languages are there in the constitution for representation. However, due to the federal structure and diversity in language, the constitution has not given any importance to any of local or regional languages to have supremacy over other languages in India. Our education system that plays a key role in strengthening the societal fabric as a whole and language is the most vital part of society, and it also plays an important role in imparting education to the child education. Meaningful language education also requires teachers, who have well skilled and knowledgeable as contextualize materials. Further, the constitution has come up with the three-language formula the new education policy in our education system. This gives a ray of hope to further advancement in our learning education environment by removing social disparity.

NEP and Language:-

The three language formula according to NEP 2020 has taken numerous structures in India based on states and their own authority and nearby languages. While Hindi and English stay basic to all, they change from the primary language to second and third dialects relying upon that specific state's administration. Further, it is also stated that wherever possible, the medium of instruction until at least Grade 5, but preferably till Grade 8 and beyond it will be the home language/mother-tongue/local language/regional language. The three-language formula will continue to be implemented to promote multilingualism as well as promote national unity. NEP states that there will be greater flexibility in the three-language formula. But no language will be imposed on any State. To learn three languages will be the choice of States, regions, and students themselves, as long as at least two of the three languages are native to India. The new National Education Policy 2020 promoting Indian languages as medium of instructions in the schools, teaching the young in their mother tongue hoping that it can improve their cognitive language. The long awaited National Education Policy (NEP) 2020 was notified by the Government of India, after the Cabinet nod on 29th July 2020. It lays down a roadmap for transforming Indian Education System and proposes revision and revamping of all aspects of educational structure for making 'India a global knowledge superpower'. NEP 2020 visualizes universal access and adopts a constructivist approach to school education at all levels pre -school to secondary, reducing drop out and achieving 100 % gross enrolment ratio by 2030. Many of the proposals in NEP 2020 sound well drawn, progressive and innovative. The New approach plans to clear the way for major groundbreaking changes in school and advanced education frameworks in the country. This arrangement replaces the 34 year old National Policy on Education (NPE), 1986. The Cabinet likewise endorsed a proposition to rename the Ministry of Human Resource Development as the Ministry of Education. It is said that the new approach is advanced; it is for the 21st century. It expects to make India the worldwide information superpower guaranteeing value, access and consideration. The NEP proposes an "early implementation of the three-language formula to promote multilingualism" from school level. The three-language policy leaves it to states to decide on what that language would be. The document says the three-language formula will continue to be implemented "while keeping in mind the Constitutional provisions, aspirations of the people, regions, and the Union, and the need to promote multilingualism as well as promote national unity". However, the NEP also says, there will be a greater flexibility in the three-language formula, and no language will be imposed on any State. The three languages learned by children will be the choices of States, regions, and of course the students themselves, so long as at least two of the three languages are native to India. In particular, students who wish to change one or more of the three languages they are studying may do so in Grade 6 or 7, as long as they are able to demonstrate basic proficiency in three languages (including one language of India at the literature level) by the end of secondary school," it adds from the implementation and the policy says, there will be a major effort from both the central and state governments to invest in large numbers of language teachers in all regional languages around the country, and, in particular, for all languages mentioned in the Eighth Schedule of the Constitution of India. States, especially States from different regions of India, may enter into bilateral agreements to hire teachers in large numbers from each other, to satisfy the three-language formula in their respective States, and also to encourage the study of Indian languages across the country, though NEP proposal of formula leave us to many questions regarding proper implementation and practical aspects to it. E – Learning platform to be single – minded examine and many difficult task in time to come. According to the HRD Ministry of Education, the three-language formula will continue to be implemented in schools with greater flexibility but "no language will be imposed on any state."⁶

⁶ An article entitled "NEP: An Analysis of Three Language Policy", Global Journal of Applied Engineering in Computer Science and Mathematics (GJAECMSMA) – Special Edition 1 – Apr 2022

Global Scenario on Language⁷:-

There are various international instruments which lay down provisions about language. Article 2 of Universal Declaration of Human Rights, 1948 declares, "Everyone is entitled to all the rights and freedoms set forth in this declaration, without distinction of any Kind, such as race, colour, sex, language." Article 2(2) of International Covenant on Economic, Social and Cultural Rights, 1966 also regards language as one of the prohibited grounds of discrimination. Article 27 of the International Covenant on Civil and Political Rights, 1966 declares, "In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language." The UN Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities adopted by the General Assembly in 1992 has not only made the policy of non-discrimination a core principle, but also employed all means of imposing positive duty upon the member nations to take appropriate measures to overcome the difficulties of minorities. According to it, linguistic minorities have right to use their own language, in private and public, freely and without interference or any form of discrimination. Article 30 of the UN Conventions on the Rights of the Child, 1989 provides, "In those states in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such minority or who is indigenous shall not be denied the right, in harmony with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language."

Judicial Approach towards Language:-

Judiciary has in a number of cases given the view of promoting equal respect for all languages. The purpose and object of linguistic states is to provide with greater facility the development of the people of that area educationally, socially and culturally, in the language of that region but while the state or University has every right to provide for the education of the majority in the regional medium, it is subject to restrictions contained in Articles 25 to 30.⁸ In T.M.A Pai Foundation case⁹ it was said although fixation of different standards of fee for students belonging to the same state and for those hailing from other states was approved, the local only rule-which had the propensity of excluding "outsiders" was outright rejected as violative of right to equality. It was further held that the right under Article 30(1) is not so absolute as to prevent the government from making any regulation whatever. Any regulation framed in the national interest must necessarily apply to all educational institutions whether run by the majority or minority. The regulation must satisfy the dual test, the test of reasonableness and the test that is regulative of the educational character of the institution and is conclusive of making the institution an effective vehicle of education for the minority community or other persons who resort to it.

CONCLUSION

It can be concluded that in a multilingual federal democracy like India language right attains a great significance as it has a wider dimensions of human rights. As a social and cultural resource, language has a greater importance in present scenario. Indian constitutional policy on language has shown adequacy of strength to deal with language problems. , ideals of linguistic harmony contribute towards national integration. Language policy in education has to promote linguistic harmony and linguistic justice based on the proposition of equal language rights of all. Law as a policy instrument of the organised political society has a definite role in language planning and development. The framework of the New Education Policy is to guide the development of education in the country. It aims to make India the global knowledge superpower enduring equity, access and inclusion. The new National Education Policy 2020 advancing Indian dialects as a vehicle of directions in the schools, training the youthful in their primary language trusting that it can improve their intellectual language. It is commonly understood that the three languages referred to are Hindi, English and the regional language of the respective States. Thus Language plays a vital role in the formation of the societies, countries and nations and law has an important role in it.

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⁷ P. Ishwara Bhat, Law and Social Transformation, Eastern Book Company, Lucknow, First Edition, 2009 at p.325

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