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LANGUAGE RIGHTS AND EDUCATION IN INDIA

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1. Introduction

In the multilingual context, 'language law' is one of the most important forms, which empowers a language and its speakers too. Language law in India may be comprehensively described and discussed under such themes as the following: Language law in education, Language law in administration, Language law in legislation, Language law in judiciary, Language law in mass communication, etc.

2. Early Codification of Rights

In India, earliest documented codification of various sorts of rights should be traced to Manusmriti (The Law of Manu), written perhaps two thousand years ago. In the colonial period, the first codification of rights as such began with the codification of the ownership of land by the East India Company and the other rights followed this codification. These "...followed the principle of equality before the law - a very strange concept in a society structured by caste" (Barbara 1976:175). The formal system of justice in India was further institutionalized through appropriate Constitutional provisions. Adjudication or judicial review of rights relating to language and other cultural institutions naturally formed part of this process.

3. Language Rights in India

The history of language rights in India can be traced back to the period of the Emperor Ashoka (268 - 226 BC). He was the first ruler to recognize the language rights of the people. He ordered that his edicts and directions relating to governance and righteous living be communicated to the people in their language, and not in his language only. Hence, today we see his inscriptions in the languages of the people in different parts of the country. That was the time when the 'law' was normally not written, but was mainly conventional and practiced by the people as given tenets of life for the community and individuals to follow. Although executive orders and decisions were recorded (we see this happening in some inscriptions retrieved throughout the subcontinent), written law or codification of laws as a body of literature that was intended to be adhered to and interpreted in judicial proceedings is almost an innovation, in spite of the widespread knowledge of Manu's Dharma Shastra, and Islamic Shari'at. This was a contribution of the British rule, and it had its own impact.

In the literature, the term *language right* is treated synonymously with linguistic rights and linguistic human rights. Some scholars consider these as individual rights and some

others consider them as collective rights. Different scholars and different countries treat them differently. There are overt primary rights, often formulated explicitly, and secondary rights that are covert in nature because these secondary rights are the consequences of some other right.

4. The Epicenter of Language Rights

The epicenter around which the discussion of language rights normally revolves is mainly the rights of the linguistic minorities. The sources of these rights in general are: the international declarations, constitutions of the countries, legislation, policy statements, the official communiqués issued by the countries for the promulgation and implementation of language-related orders and declarations, reports of the committees or commissions, and the judgments of the courts relating to language use in different domains. Formulation of language policy in this manner, and any modification(s) of the existing policy affect the character of 'language rights of the people'. Language rights have to be discussed in the social, economic and pedagogical contexts and not in isolation.

5. Globalization and Language Rights

The wind of globalization blowing across the world is bringing changes in every sphere of life in many countries. The acceptance of globalization as a dominant economic model has introduced certain urgency to modify even language loyalty and identity questions in the minds of the citizens of various countries, because, in these nations, English is fast replacing other languages as the lingua franca.

Paulston (1997) writes that,

Language rights is an important new topic for us, because their existence usually reveals past and present injustice or exploitation against the weak in the world. Our responsibility as academics is the careful exploration of the nature of language rights and their consequences.

Accepting this statement as a general premise, I intend to document, analyze, and interpret the status of language rights in general (inclusive of both the majority and minority populations) as they exist in the statute books, and their practice in reality in India.

6. The Focus of This Paper

As language rights relate to the status and use of languages, this paper discusses, from a linguistic point of view, the Rights relating to language education at all levels of education as enshrined in the Constitution of India; Rights bestowed through official orders in continuation of the provisions in the Constitution; the interpretation of the Rights relating to language by the courts of law, and the Rights applicable as part of the declaration of the human rights. These include primarily, the right to learn a language, the

right to learn through a language of choice, and secondarily, the rights of users of various languages, the rights of languages themselves to exist and develop in some sense, and the actual language education scenario in India in the context of all these language education rights.

I would like to discuss the issue of language rights in the context of two or three language policy decisions, rather than in a general context. Accordingly, the discussion is done in the context of two legal battles, one in Karnataka about the right to learn language(s), and another battle in Tamil Nadu about the right to learn through a language of choice and the consequence of pursuing these rights.

7. Language Education

The States Reorganization Commission had asked the Union Government to elucidate a policy outline for education in mother tongue at the Secondary stage. The All India Council for Education recommended the adoption of the Three Language Formula (TLF) in September 1956. The endorsement for this formula came from various directions. It was adopted by the Chief Ministers' conference. The National Policy on Education of 1968 spoke about the regional languages and the Three Language Formula. The 1986 Policy reiterated the earlier stand. The National Policy on Education 1968 recommended the inclusion of the TLF 'which includes the study of a modern Indian language, preferably one of the Southern languages, apart from Hindi and English in the Hindi speaking states, and of Hindi along with the regional language and English in the non-Hindi speaking states,' at the Secondary stage. This was reiterated in the Education Policy 1986 and was adopted as the Programme of Action by the Parliament in 1992. These are major attempts to arrive at a language policy for education.

Since education is in the concurrent list of the Seventh Schedule of the Constitution, the language policy formulation for education and its implementation is left to the State governments under the Constitutional safeguards, recommending the broad guidelines cited above. However, the TLF did not come into practice in all the states consistently. Also, whatever was termed and practiced as TLF was not uniform in all the states that accepted it as a norm. *The National Curriculum Framework for School Education: A Discussion Document* that was released on January 1, 2000, while reviewing the Three Language Formula, states that:

In a number of states/organizations/ boards, however, the spirit of the formula has not been followed and the mother tongue of the people has been denied the status of the first language ... because of the changed socio-economic scenario, the difference between the second and the third languages has dwindled. Thus, in reality, there may be two-second languages for all purposes and functions. Some states follow only a two-language formula whereas in some others classical languages like Sanskrit and Arabic are being studied in lieu of a modern Indian language. Some boards/institutions permit even European languages like French and German in place of Hindi. In this scenario, the three-language formula exists only in our curriculum documents and other policy statements.

According to this document, the three languages are: (i) the home language/the regional language, (ii) English, and (iii) Hindi in non-Hindi speaking states and any other modern Indian language.

The Universal Declaration of Human Rights states, 'Every one has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory... Parents have a prior right to choose the kind of education that shall be given to their children'. The Constitution of India also makes provision for '... free and compulsory education for all children until they complete the age of fourteen years'.

8. Right to Learn Language(s)

A language survives when it is learnt as a mother tongue by its native speakers, grows and develops when it is used in more and more new domains by the people. During the Pre-British period, and during the British period, it was the political power that decided the kind of education to be taught and pursued, and the language in which the education was to be imparted. Individuals had no right to decide, the ruler assisted by his advisors, or according to his whim and fancy, used to decide about the education of their people. People were hardly a party to such decisions. The Indian society was governed by varnashrama, and education was not for all but only for a few. For example, women and Shudras were prohibited from learning. We see the impact of such a situation on this language - the general public do not use it, and many a time, people consider it as a "dead" language. If all the people had equal right to learn it, probably it could have survived as a widely current and spoken language.

Also, in pre-British India, education per se was not as formal as it became in due course of time. It was not also open to all the people. The social stratus decided the kind of education that one can get. There is direct link between language of administration and languages in/of education. English entered the field of education in India in 1792. It became the language to be taught as part of schooling and also a medium of instruction. So, during the British regime English became the official language in India around 1830. Even then the education was not for all, it was for a few privileged classes of people.

9. On Defining the Concept of Linguistic Minority

In the post-independence India, the Constitution of India in its 'Cultural and Educational Rights' Article 29(1) protects the interests of the minorities, by providing certain language rights to them such as -

Any section 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.

The concept of linguistic minority/majority is the result of the re-organization or re-creation of the Indian States on the basis of language as one of the criteria to draw geographic boundary. When the question as to what shall be the unit, either the state or

the country, to consider a group that qualifies for the linguistic minority status, came before the Supreme Court of India, the Court gave the verdict that "Linguistic minority can, therefore, logically only be in relation to a particular State" (Oct 31, 2002; WP No317 of 1995). According to the same judgment "Article 29(1) gives the right to all sections of citizens, whether they are in a minority or the majority religions, to conserve their language, script or culture.

With this background of 'right to learn language,' we can look at its realization in the society.

10. The Constitutional Intent

Other than the protection assured to linguistic minorities mentioned above, the Constitution has no explicit statements regarding the language(s) to be taught in education or the language(s) through which education has to be imparted (except in the case of linguistic minorities). This may have been a tactical compromise or decision on the part of the Constitution makers, because every one could sense the great linguistic complexity of free and democratic India. So, it is left to the wisdom of the Government(s) to frame a suitable language policy for education. Hence the policy is outlined in Policy statements for education, and, many a times, such policy statements were framed based on the guidance or the recommendations of various committees constituted for the specific purpose.

11. Language Rights in Karnataka

Karnataka is one of the most multilingual states in India. The linguistic demography, according to the 1991 Census, is as follows:

Kannada	66.2
Urdu	9.96
Telugu	7.39
Tamil	3.84
Marathi	3.64
Tulu	3.06
Hindi	1.96
Konkani	1.57
Malayalam	1.68
Kodagu	0.21
Gujarati	

12. Majority/Minority Syndrome

In India, we see that both the majority and the minority assert their language rights as far as language in education is concerned. The linguistic minorities are afraid that the language of the majority will be used as a tool of oppression against them. In Karnataka, most of the time the minorities perceive threat from Kannada, the Official Language of the State, and try to find shelter under English. They perceive a threat to the existence of their community as a distinct group. They fear the loss of their home language. And they like to assert their linguistic rights.

Sometimes the majority perceives some threat to the existence and continuation of their language (Kannada) from Hindi, some other times from Sanskrit, and at other times from English.

The Constitution has given right to the regional languages to become official languages of the concerned states. The major challenge towards the implementation of the language policy and its relation to language rights was faced when there was a conflict between the majority and the minority in Karnataka. It continued for more than a decade as a legal battle for language rights.

The Kannada majority began to fear that their language has been deprived of the pride of place in all walks of life as it deserved. This fear forced the majority to agitate for such a place for their language in Karnataka. In the multilingual setup that prevails in Karnataka, the desire to retain and preserve Kannada (and Kannadiga) interests as the dominant linguistic group, and the fear of loss of stature in the state that the Kannadigas consider to be their traditional homeland shape and guide the responses of the majority mother tongue group (Kannada) and to assert their linguistic rights. But the minority, most of the time, perceives a threat from Kannada, the Official Language of the State, and tries to find shelter under English. Often social, economic, political, legal, and other issues not related to education came to influence the language choice for education purposes.

13. The Three Language Formula in Karnataka

Karnataka had adopted TLF for education in schools since the linguistic reorganization of states in 1956 for more than two decades. The late sixties and the early seventies witnessed strong opposition to Hindi since it was perceived as a threat to the existence, use, and development of Kannada. This had forced the Kannada speakers to lean towards English. However, many among them also felt that Kannada faced a threat to its continuation as the dominant school language from Sanskrit. It was possible to pass the SSLC State Board examination without passing the Kannada course in the scheme outlined above. It was but inevitable, then, that this scheme created and widened the incompatibility between the policy of language choice for administration and the languages chosen for the purposes of education.

14. Linguistic Movements for Language Rights

Linguistic movements initiated by various political parties, groups of Kannada teachers, students, college and university professors, literary critics, playwrights, and creative writers created an awakening among the Kannada speaking majority to seek a place of pride or pre-eminent place for Kannada in the affairs of the State. Their dream was to restore the primacy and the lost glory of their language as the only medium of governance in the linguistically re-organized Kannada state. This awakening in favor of using Kannada as the language of administration was a consequence of many factors including linguistic movements, political agitations, and the general political awakening among the backward classes. This description of the linguistic situation in Karnataka can be easily applied to many other linguistically re-organized Indian states also.

15. Inter-twinning of Socio-economic and Political Factors with Language Rights

Spread of literacy mainly in Kannada, and the spread of general education among the people, had led to a new awakening. The large-scale migration of people, mainly from adjacent Tamil Nadu, for jobs that opened up through fast industrialization of the state was perceived to be curtailing the job opportunities for the Kannada majority. All these needed an avenue for the expression of their anger and disgust among the people. The language choice in education in 1979 provided an avenue to meet the challenge thrown up by industrialization and consequent migration of people from other linguistic groups. The government decided to delete Sanskrit from the first language list in 1979 and included it in the second/third language list. But the government that took this decision did not remain in power to implement its decision. The subsequent government reconsidered the stand of the previous government, and decided to maintain the status quo. Pro-Kannada groups protested against this decision.

16. Gokak Committee's Landmark Report

This agitation against retaining Sanskrit in the first language list made the government to think afresh about the language choice in school education. For this purpose the Government of Karnataka constituted a committee (July 5, 1980) with Prof. V.K. Gokak as the Chairman, and placed the following questions before it.

1. Should Sanskrit remain as the subject for study in the school syllabus?
2. If so, how to retain it without it being offered an alternative to Kannada?
3. Would it be proper to have Kannada as a compulsory subject as per the Three Language Formula, and should the option of selecting the remaining two languages be left to students themselves?

The Committee recommended (January 27, 1981) that:

1. Kannada should be introduced as a compulsory subject for all children from 3rd Standard.
2. Kannada should be the sole first language for the Secondary Schools (i.e., 8th, 9th and 10th Standards).

The Committee further recommended that this should be implemented for the education of Kannada speaking pupils from 1981-82 itself, and, in respect of others, from 1986-87, after taking necessary steps to teach Kannada to them from the 3rd Standard beginning with the academic year 1981-82 itself.

17. Government Order on the Gokak Committee Report

The order (dated the April 30, 1982) issued by the Government of Karnataka on the basis of this report prescribed the following pattern for language study:

At the secondary school level First Language Kannada or Mother tongue: Urdu, Tamil, Telugu, Marathi, English, or Hindi.

Two other languages Kannada, Hindi, English, Sanskrit, Arabic, Persian, Urdu, Tamil, Telugu, or Marathi.

The Kannada-speaking majority did not find this solution adequate to meet their demand to accord a pre-eminent place to Kannada. Up to this point, in the debate or agitation over the choice of languages for school education, only the Kannada protagonists were in the forefront.

18. Reconsideration of the Order

The linguistic or religious minorities did not participate in the debate actively. The Government, after reconsidering its order, issued the notification (on July 20, 1982) detailing the language choice for school system and modus operandi for its implementation through the circular, dated the August 11, 1982.

According to this order:

1. At the secondary school level, the language pattern to be adopted shall be as follows (from the academic year 1987-88) A. First language: Kannada shall be the sole first language (to carry 125 marks) B. Two other languages from the following: Urdu, Tamil, Telugu, Marathi, English, Hindi, Sanskrit, Arabic, Persian, Malayalam or Kannada. (To carry 100 marks each).
2. Students coming from outside the State and joining VIII or IX Standard in the State of Karnataka and who did not study Kannada earlier may be permitted to take English or Hindi as first language.
3. The teaching of Kannada from the Ist standard in non-Kannada schools will commence from the academic year 1983 itself and the language pattern for High School prescribed in Para (1) above will come into force from the academic year 1987-88.

19. Inadequate Understanding of the Concepts such as Mother Tongue, First Language, etc.

An analysis of this language formula reveals an inadequate understanding of the concepts like mother tongue, first language, and the strategy adopted for choosing languages for education. Also this formula stands out as an exceptional case where a regional (majority) language/Official Language of the State is ascribed a special status of sole first language in the secondary school, and this language is made a compulsory language for all students irrespective of their mother tongue with the same syllabus. This formula does not grade languages as first language, second language, etc., either in terms of pedagogical concepts, or in terms of chronology of their introduction in the school system. In this formula, the Kannada mother tongue student had an advantage over the students of other mother tongues. A mother tongue Kannada speaker has Kannada as first language. The Urdu or other mother tongue student has to take Kannada as the first language. He might select Urdu or another language as one of the other two languages. The third language may be English. Thus Hindi, one of the languages of the three language formula is not included as part of his education. If he desires to take Hindi, his mother tongue is not included as part of his education.

20. Agitation by the Minorities and the Decisions by the Karnataka High Court

The Linguistic Minorities Protection Committee and others challenged the order and the relevant circular of the Director of Public Instruction in the High Court of Karnataka. The following three questions came up before the Full Bench.

Whether the Government Order dated July 20, 1982 or any part of it is void being violative of the fundamental rights guaranteed to the petitioners under Articles 29(1) and 30(1) of the Constitution

Whether the Government Order dated July 20, 1982 or any part of it is violative of the pledge of equality guaranteed under Article 14 of the Constitution.

Whether, on the facts and in the circumstances of the case, the Circular dated August 11, 1982 issued by the Director of Public Instruction of the State Government is violative of Article 14, 29(1) and 30(1) of the Constitution?

This became a classic case and formed a basis for wider debate on the role of the Regional language/Official Language in the school curriculum and on the question of student's mother tongue as medium of instruction. This case did not have any analogy to the cases decided by the Courts hitherto in the country.

21. The Position of the Litigants - Linguistic Minorities

In this case, the litigants argued as follows: There is no rational basis for making Kannada as the sole first language; it is unreasonable for the State to compel the students to study the official or regional language if they do not have aptitude and if they intend to reside in the state only temporarily; providing opportunity to study their language is as much in the national interest as is the study of the regional language; to achieve primacy for Kannada, minorities need not be compelled to study it from the first standard in the schools; the parents and students should choose whatever they want to study and the State cannot 'indulge in regimentation' in the matter relating to the study of languages; children

must have the benefit of having education in their mother tongue; children whose mother tongue is not Kannada get a discriminatory treatment and they cannot study Kannada and compete with Kannada mother tongue students; the right to equality under Article 14 is affected; the linguistic minorities have the right under Article 29 to take steps to conserve their language and also a right under Article 30 to establish institutions of their choice, which right includes a right to take a decision as to what language should be studied as first language; it is for them to decide in what manner their language should be conserved, preserved, produced and it is not for the Government to decide and the Government under the guise of public interest cannot impose conditions.

22. The Position of the State Government

The State, while arguing in favor of its policy, said: it has the power and right to take steps for the development of Kannada, including making the study of Kannada compulsory to all the children from the primary school stage and as the sole first language in the secondary school since Kannada is the declared Official Language of the State, and hence it is rational to make it compulsory; this is necessary to give primacy to Kannada in the affairs of the State; also 'the State has power to make regulations in the interest of excellence in education and any regulations so made by the Government cannot be regarded as infringing on the rights of the minority groups; the usefulness of a language is measured in terms of its use in administration, trade, industry, defense, managerial decision-making and such other wide variety of a range of domains and in social and family affairs. Such domains can be covered by more than one language used complimentary to each other. Language development is central to educational advancement on a mass scale. Educational development is central to economic, cultural, and political developments. Language development is corollary to national development. India is a country with a population of sizable numbers, speaking and using different languages and therefore the problem becomes difficult and complex,' and 'a child belonging to a minority section of the community in any State speaking a language other than the regional or the local language will thus develop its personality with two languages; one spoken at home, the other spoken beyond the threshold of his home, for, in the absence of knowledge of the local language an individual would be at a severe disadvantage in participating in the daily life of the State. When a child or person learns two languages, one as his mother tongue and the other as the language spoken by the people around, both become his language. Therefore, it cannot be said that a child speaking a language other than the regional language at home is totally alien to the regional language'.

23. The Judgment

The Judges examined the submissions made before them. The majority opinion of the Bench on the teaching of Kannada compulsorily in the primary stage, and as the sole first language in the secondary schools considered that such insistence led to the violation or otherwise of various Constitutional provisions. Their opinions can be summarized as follows:

1. The Government order compelling all children to learn Kannada in the primary schools in the State including those established by minorities is arbitrary and violative of Article 14, because, this Article 'incorporates an injunction both to the Legislature and Executive not to deny equality before law and equal protection of the laws'. The children with Kannada mother tongue and others are dissimilarly placed because the children with Kannada mother tongue will not study any additional language, whereas the children with other mother tongues are forced to study the regional or the Official Language causing additional burden. This burden may cause dropouts. Curtailing the periods allotted to other subjects to accommodate Kannada is irrational and arbitrary.
2. The order prescribing Kannada as the sole first language at the secondary school level is also discriminatory because it prevents the students from having a language of his choice as first language. This will place him in a disadvantageous position from the student who comes with Kannada as first language from the first standard. The grace marks to be awarded to bridge the gap itself accepts this discrimination. Since grace marks are awarded only to the students who fail to secure minimum marks for pass and not to others, the order places everyone in unequal position. Since Kannada mother tongue students can study Kannada both as first language and as other language gives them an advantage over others who have to study three different languages in high school. This is against the three language formula. Also from the point of view of Kannada, even the Kannada mother tongue children are denied an opportunity to take any other language as first language and enhance their knowledge. The students coming from other States for VIII to X standards cannot opt for their mother tongue and have to opt for Hindi or English. This is a clear case of discrimination and is against all other regional languages. It is the opinion of various committees and commissions that children should not be burdened with an additional language in the primary school itself.
3. The issue of medium of instruction and first language is intimately connected. In most of the cases, the language chosen by the student as first language happens to be his medium of instruction also. So 'it would be incongruous to say that a linguistic minority's choice for medium of instruction is absolute but the choice of first language is not'.
4. Prescribing the study of the Official Language of the State as one of the three languages in the high schools under the three language formula will not violate Article 14.
5. The language and script can be conserved through educational institutions. The rights guaranteed under Article 29 and 30 are not subject to restrictions. The State cannot either directly or indirectly take away or abridge, infringe or impart the right guaranteed by these articles. This language rule is not in the interests of the minority. Here the choice is of the minority groups themselves. The Government has only the right to prescribe the general standards to secure excellence in education in each of the subjects.
6. People in this country have one citizenship and under Article 16 have right to employment in service anywhere in the country. Since no other State has such a

- language policy, this policy will be inconsistent with personal liberty and equality guaranteed under the Constitution.
7. In Karnataka, minorities are not opposed to the use of Kannada fully in administration. Even then Kannada has failed to replace English. It is fancy for English that has retarded the progress of Kannada and its replacement in different walks of life.
 8. The judges felt that this 'does not mean that Kannada, the Official Language, cannot be made compulsory subject for study for the students in this State'. They made it clear 'that the State which has, subject to the provisions of the Constitution, the power to prescribe the syllabus to regulate education, can prescribe Kannada as one of the compulsory subjects. It is also the duty of every citizen who is a permanent resident of this State to study Kannada. But the regulations made in this behalf must be of general pattern and should apply uniformly to all'.
 9. They agreed that 'there are no two opinions on the primacy for Kannada in the affairs of the State and its occupation of pride of place in the affairs of the State' and 'that position must be accorded to regional/Official Language of each and every State of our country'. However, in the process of arguments, the possibility that the minority language speaking students who have already accepted Kannada as mother tongue may try to misuse the provision of grace marks by reverting back to their minority mother tongue, and that the allocation of grace marks is likely to condone under-achievement in Kannada, and thus frustrate the very purpose were ignored.

Based on the majority opinion, the court directed that the Government of Karnataka will be at liberty:

1. To introduce Kannada as one of the two languages from that primary school class from which the study of another language in addition to mother-tongue is made obligatory as part of the general pattern of primary education;
2. To make the study of Kannada compulsory as one of the three languages for study in secondary schools, by making appropriate order or Rules, and make it applicable to all those whose mother tongue is Kannada and also to linguistic minorities who are and who become permanent residents of this State, in all primary and secondary schools respectively, whether they are Government or Government recognized, including those established by any of the linguistic minorities.

Thus, as the proceedings show, in language-related litigation academic issues take a back seat and the legal issues come to the forefront.

24. A New Policy Promulgation by the State Government

On the basis of the direction of the court, the Government of Karnataka elucidated the language policy for school education in its order (June 19, 1989) pending the decision of

the Supreme Court. This is the first time that the government used the word language policy for education in its official document. Accordingly:

1. From 1st standard to 4th standard, mother tongue will be the medium of instruction, where it is expected that normally only one language from the group of languages, namely, Kannada, Tamil, Telugu, Malayalam, Marathi, Hindi, Urdu, or English will be the compulsory subject of study. From 3rd standard Kannada will be an optional subject for non-Kannada speaking students. This will be taught on a purely voluntary basis and it will not be at the cost of any other instruction imparted in the school or any other school activity in which all school children participate. There will be no examination at the end of the year in Kannada language.
2. From the 5th standard onwards, where, in the normal course a second language is introduced, the child has to study a second language selected from the group of languages, namely, Kannada, Tamil, Telugu, Malayalam, Marathi, Hindi, Urdu, English, Persian, Sanskrit, or Arabic, which will be other than the First language, subject to the condition that the child who has not taken Kannada as the First language will have to take Kannada as the Second language.
3. From 5th standard, provision will be made for the study of the third language which will be other than the languages studied by the student as First and Second language. This has to be chosen from the group of languages, namely, Kannada, Tamil, Telugu, Malayalam, Marathi, Hindi, Urdu, English, Sanskrit, Arabic, or Persian.
4. Attendance in the third language class will be compulsory, writing of the examination in the third language will also be compulsory, but from 5th to 7th standards it will not be obligatory to pass the third language examination. No extra credit will be given in rank, division, class, etc., on account of the marks obtained in the third language examination from 5th to 7th standard.
5. At the secondary stage, i.e., from 8th to 10th standards, three languages will be compulsory. First language carrying - 125 marks, Second language - 100 marks and the Third language carrying - 100 marks. It will be obligatory to pass the examinations conducted in all these three languages, and one of them shall be Kannada.
6. The standard expected in second and third languages at the end of 10th standard will be what would have been achieved at the end of 6 years of study, if the language subject had been chosen as First language.
7. As contemplated in Government Order No. ED 113 SOH 79, July 20, 1982, Kannada-speaking students will not be given any grace marks in Kannada. Non-Kannada speaking students will be awarded up to a maximum of 15 grace marks to enable the students to pass the Kannada language examination.
8. Exemption from studying Kannada as a compulsory language can be given to the students whose parents have come to the state on temporary transfer.

25. Curriculum Guidelines

Meanwhile, the government, in order to implement the Education Policy 1986, issued curriculum guidelines (April 24, 1992) to be adopted from 1992-93. According to this order, the students could opt for mother tongue Kannada, English, Telugu, Tamil, Hindi, Marathi, or Urdu in the 5th, 6th and 7th standards. The second language will be English for Kannada mother tongue students, and Kannada for all others. The third language can be one of the following: Hindi, Sanskrit, Persian, Arabic or English. Here each language carries 100 marks. Learning Kannada is made compulsory. The students opting for Sanskrit should answer in Sanskrit only. In the secondary school, the first language consists of Kannada, Sanskrit, Telugu, Tamil, Urdu, Marathi, English, or Hindi. The second language list has Hindi, English or Kannada. The third language list has Hindi, English, Sanskrit, Persian, Kannada, or Arabic. One of the three languages should be Kannada. Here the first language is for 125 marks, and other two 100 marks each.

26. Medium versus Language as a Subject

The question of language through which education has to be imparted always gets entangled with the issue of language(s) to be taught in the schools. The same thing happened in case of Karnataka too. The choice of medium of instruction in Karnataka was also based on the statements in the Constitution and the Grant-in- Aid Code of the State government since Oct 19, 1969. According to this arrangement, 'in all primary schools, the medium of instruction shall ordinarily be the Regional Language or mother tongue of the child'. The English medium schools or English medium sections in the primary schools were permitted by the Director of Public Instruction to cater to the needs of migratory groups and 'students whose mother tongue is a minority language for which there is no provision in the schools of the locality.'

27. English Gains Ground

The anti-Hindi stand of earlier decades, instead of supporting the regional languages, gave rise to the fast growth of education in the English medium. This gave an added advantage to the linguistic minorities who could opt for English due to their perceived threat from the regional language. Thus, the microscopic minority of English mother tongue succeeded in providing a universal umbrella for all the elites in all categories, the minorities as well as the majority, by creating a common avenue for education through the English medium.

So, the primary and secondary education in the English medium, like engineering and medical education, has become donation/capitation-oriented, and ultimately a tradable commodity. The legal provisions that were framed to protect minority rights became an effective means for every section of Karnataka society to make capital out of the very same legal provisions. There were institutions of the linguistic minorities imparting higher education and primary education in English medium but not through their mother tongue.

28. Yet Another Battle

The Division Bench of the High Court heard the Linguistic Minorities Protection Committee and others on languages to be taught in schools and medium of instruction. The minority litigants had argued on the basis of the opinions of experts that the child has fundamental right to have education only in his or her mother tongue in the primary schools and found no justification to introduce Kannada in addition to mother tongue at that level.

Government was directed to 'to provide and ensure that primary education up to first four years including pre-primary education is imparted in mother tongue of the children concerned, in Government schools as also schools established by any private agency including linguistic minorities which are recognized, whether receiving financial aid or not, subject to the existence of the prescribed minimum number of children having a common mother tongue who have got themselves admitted to the school concerned '. This order of June 19, 1989 while elucidating the language policy had said, "From 1st standard to 4th standard mother tongue will be the medium of instruction, where it is expected that normally only one language ... will be the compulsory subject of study".

29. Arguments Before the Supreme Court: The Verdict of the Supreme Court

The validity of this judgment was questioned in the Supreme Court on the ground that the linguistic minorities are discriminated and they cannot be forced to study Kannada (violation of Article 14); linguistic minorities can not be prevented from an opportunity to choose languages(violation of Article 350-A).

Finally, the Supreme Court did uphold the High Court judgment and ruled that (a) there is no element of compulsion because mother tongue of the child is medium of instruction, (b) only one of the languages is a compulsory subject of study, (c) Kannada is optional from 3rd standard for non-Kannada mother tongue speakers and it is taught on voluntary basis and there is no examination. Study of Kannada does not throw any burden on children. There is no violation of Article 350 -A.

30. Orders of the Government of Karnataka, 1994

In pursuance of this judgment, the Government issued the order of April 29, 1994 wherein it made a comprehensive policy relating to language choice for education and medium of instruction in Karnataka.

Accordingly, from 1st to 4th standards, the child's mother tongue will be the medium of instruction. It will be Kannada, Tamil, Telugu, Malayalam, Marathi, Hindi, Urdu, or English. From 3rd standard Kannada will be an optional subject. There is no examination in it at the end of 3 or 4th standard. From the 5th standard, the student has to choose second and third languages. They can be one of the following: Kannada, Tamil, Telugu, Malyalam, Marathi, Hindi, Urdu, English, Sanskrit, Arabic, or Persian. The student, who is not studying Kannada as first language, has to study it as second language. Attendance for classes and appearing for examination for third language is compulsory and it is not an examination (a student need not pass this) subject.

In the secondary schools three languages have to be studied compulsorily. The first language will be any one of the following: Kannada, Tamil, Telugu, Malayalam, Marathi, Hindi, Urdu, or English. The second and third languages can be any two of the following: Kannada, Tamil, Telugu, Malayalam, Marathi, Hindi, Urdu, English, Sanskrit, Arabic, or Persian. One of these should be Kannada.

31. Strategies of the Majority

During the evolution of this language policy,

1. The Kannadigas (the majority group) adopted two strategies: the path of persuasion to persuade the government, and the path of agitation to pressure the government.
2. Most of the minority language speakers followed the paths of representation and litigation.
3. But the minority groups of Kodagu, Tulu, Konkani, Lambani/Banjari, Yerava and smaller pre-literate groups did neither, because their mother tongues and Kannada are complementarily distributed in non-formal and formal domains respectively. Their mother tongues are historically restricted to home domains. Almost all the speakers are in areas where they are exposed to Kannada from their birth.

In this context one can raise the question of rights and the exercising of such rights by these people. These communities have found that Kannada/English is/are adequate to satisfy their needs and welfare. In this case, they seem to have exercised their right not to exercise their language right. Their language and culture are protected and groomed by academies, institutions and well meaning individuals in Karnataka. And these groups did not see any threat to the continuation of their identity from Kannada.

Tulu-speaking political leaders have asked that, in their mother tongue speaking area, the moral stories from their language and culture be made part of schooling in 1st and 2nd standards. When the Literacy campaign was conducted in the South Canara district, where Tulu is the majority language, the primers prepared in Tulu using Kannada script were introduced. The adult learners were not enthusiastic about this experiment. The DPEP prepared a draft Soliga (a preliterate language) 1st standard primer in Kannada script for use in the BR Hills region where it is spoken. But it was reported that '...the community leaders and the State Project Officer have expressed reservations about the need for textbooks in Soliga language ...'

32. Two Important Issues: Indian Languages as Media of Instruction

Two important aspects relating to the issue of medium of instruction are,

- Number of students opting for a medium.
- The success rate in the chosen medium.

The number of students opting for the Kannada medium at the SSLC stage is on the ??? so also. Other language media are not that competitive. As regards Marathi, the number of students has actually decreased.

The rate of success in the examinations in the regional language medium is not also encouraging, whereas the English medium education has greater rate of success in the examination.

In fact, the regional language medium is rural-based and is preferred mostly by the poorer sections of Karnataka society. The regional language medium prevails mostly in government schools. The English medium is prominently found in the urban areas, preferred by those who could afford it, and is mainly offered by the schools that are run by private organizations.

Now, the supporters of the Kannada medium of instruction see a threat to Kannada and its development from English/English medium education. All attempts to have new English medium sections in schools/new schools in the government sector are prevented. This has further allowed the private English medium schools to flourish without competition from the schools run by the government. Although it is compulsory to have mother tongue/regional language medium from 1 to 4 standards, it is often reported that many private and unaided schools, even sometimes some of the aided schools, do not follow this rule.

33. The Resultant Scenario

Due to the assertion of rights by majority/minority about the school languages, the following scenario emerges:

1. Earlier, the Mother tongue list at the primary education level was open-ended. Now the list defines them, with specific mention of languages.
2. From the 3rd standard, Kannada is made compulsory for non-Kannada mother tongue students. But this is not an examination subject.
3. From the 5th standard, the students can change their medium of instruction to English or any other medium.
4. From the 5th to 7th standards, the number of languages which can be opted as first language is reduced from 10 to 8. Gujarati and Sindhi are dropped. Sanskrit, Persian, and Arabic are added to the II and III language list. Kannada is one of the two compulsory languages if it is not opted as the first language. Passing in III language is compulsory.
5. The students who take Sanskrit as a subject, should write the examination in that language only.
6. From the 8th to 10th standards, pass in all the three languages is compulsory.
7. Malayalam is added to the first language list, and Sanskrit is deleted.
8. The second language list is expanded by adding Sanskrit, Malayalam, Arabic, and Persian.

9. The medium of instruction is Mother tongue or Kannada. Implications.

The judgments of the High Court and the Supreme Court on the choice of languages in education and medium of instruction have many implications for language education in multilingual India. They are,

1. The three-language formula, which was so far designated as a strategy, and which had no direct Constitutional status and was totally dependent on the governmental and institutional support, has now been given a legal sanction and status from the Apex court of the country for its implementation.
2. Teaching a regional language, the Official Language of the concerned state as a compulsory language in the schools, more specifically at the secondary stage, is recognized as legally acceptable. It may even be considered as a must.
3. Earlier research had claimed that learning more languages is not a load. The same is reinforced by the judgment that teaching more languages as subjects from primary schools is not a burden imposed on the students. A government need not wait up to the 5th standard to introduce a second language. It can be introduced from the 3rd standard itself.
4. The Constitutional safeguard for the linguistic minorities to have education through their mother tongues in the primary schools is made obligatory for all the mother tongue groups, irrespective of their majority or minority status.
5. Kannada is now recognized by the courts as the 'second mother tongue' of the indigenous speakers of the minority languages in Karnataka.

34. Right to Learn Through a Language

Right to learn through a language is an important issue in any multilingual situation. Most of the time teaching languages and teaching through a language gets mixed-up since they are interrelated. So, we saw in the case of Karnataka the way the issue started with 'which language to be taught and when' but ended up in getting a judgment about teaching through a language too from the courts of law.

Tamil Nadu Linguistic Demography

The linguistic demography of Tamil Nadu according to 1991 Census is as follows:

Language	Percentage of speakers
Tamil	86.7
Telugu	7.12
Kannada	2.15
Urdu	1.85

Malayalam	1.17
Gujarati	0.43
Hindi	0.28
Marathi	0.12
Others	0.9

Move Toward English as the Choice Medium of Instruction

In the late nineties, Tamil, the Official Language of Tamil Nadu, also faced a peculiar situation, wherein the Tamil mother tongue students, for a few decades, moved in the direction away from their mother tongue as their medium of instruction in the schools. The apprehension started to grow in the Tamil society that the students studying through the English medium and not studying in their mother tongue were in great number as a product of this trend and they are alien to their culture.

The Government of Tamil Nadu Order and the Madras High Court

So, the Government of Tamil Nadu issued an order on January 13, 1999 stating that "... at least two out of three subjects, that is, Social Studies (History and Geography), Math, and Science shall be taught through the medium of Tamil, apart from teaching Tamil as a subject in Nursery and Elementary Schools."

A single Judge of the Madras High Court, in his judgment on June 7, 1999, held that "... this order is valid only for those students, whose mother-tongue is Tamil. Or in other words ... Government order is not applicable to the pupils, whose mother-tongue is not Tamil."

Justice Mohan Committee

The back drop for the government order was a representation from a Tamil Association which, apart from the above, had demanded that "the priority in employment shall be given to those who have studied through Tamil Medium of Instruction in the Government/Government Undertaking Departments."

In June 1999, a high level five member committee headed by Mr. Justice Mohan, a former Supreme Court Judge, was set up to "...frame guidelines for introducing Tamil as medium of instruction at all levels in the Educational sphere from Nursery to Higher education." On the recommendations of the committee, the Government issued another order on November 19, 1999. The summary of the order is that - In all schools Tamil or mother tongue shall be the first language; in all schools from class 1 to 5, Tamil or mother-tongue shall be the medium of instruction.

Contention About What Constitutes a Mother Tongue

Here, what constitutes a mother tongue became an important item for adjudication. On behalf of the government it was argued that "...mother-tongue of a child should only be understood for the purpose of these cases as the language which the child is most familiar with ... mother-tongue need not be the mother's tongue or father's tongue. Generally, the parents are the proper persons who can assess and say as to which is the language, that child is most familiar with." In 1949, the Provincial Education Ministers had resolved and the Central Advisory Board of Education had approved that "the mother-tongue will be the language declared by the parent or guardian to be the mother-tongue."

The Court Order

The court ruled that the order issued by the government was illegal on many grounds like the following:

1. The order could have been made through proper legislative sanction.
2. The constitution of the Justice Mohan Committee was not proper.
3. Since the matriculation schools had English medium for the past 50 years, now they can not be forced to change over to Tamil medium.
4. Proper application of mind is not there formulating the order as far as its implications are concerned.
5. Notion of mother tongue is not properly understood while making the order.
6. Principle of natural justice is not followed.
7. The rule is not uniformly applicable.
8. The rule does not take mobility of parents of the students into account.
9. One will not lose his culture by studying in English medium, etc.

Important Issues Relating to Language Rights as Exemplified in the Court Order

Issues discussed in the judgment from the point of view of language rights are important to us. They are:

1. The mother-tongue will be the language declared by the parent or guardian to be the mother-tongue.
2. The parents have the right to choose the kind of education that will be given to their children.
3. Right to education is a fundamental right, which also includes the right to choose the medium of instruction, and it can be exercised by the parents on behalf of their children, and they have absolute and exclusive right in this regard.
4. Citizens shall have the freedom of speech and expression, which would include the right to educate and to be educated.
5. The fundamental right guaranteed to the minority institutions under Article 30(1) of the Constitution of India includes "... right to teach the subjects in the medium of their own choice."

6. Career opportunities will be more advantageous to those who have studied in the English medium than using the Tamil medium. Compelling the students to study in Tamil will affect their career, and doom their future prospects.
7. The Universal Declaration of Human Rights - is also applicable in the Indian context since India.
8. India is a signatory to the document.

Language Rights - Theory and Practice

It is interesting to note that in case of Karnataka, it was the linguistic minorities who challenged the modification in the language policy for education, and, in the case of Tamil Nadu, the schools teaching in English medium knocked at the doors of justice. The students in the latter schools were mostly students with Tamil as their mother tongue.

As we saw in both the cases, the pedagogical aspects of language education have taken a back seat and the issues are fought mainly from the legal angle. The issues became very handy for the political parties in some sense. Political interests have counted more than any thing else in the decision-making about language use in education. Practicality of existence of a right and practical utility of such a right under specific socio-economic conditions still remains to be examined. The economic issues are driving the parents/students towards one or the other language normally other than their own mother tongue (Indian language).

Though it looks as if the parents have the right to choose the kind of education they need for the children, the government has the power to decide on the options to be provided about language choice available for the parents and children. The parents have to exercise their choice within the broad framework made available to them.

Indian Census 1991 counts 216 mother tongues within its territory. Through merging of many mother tongues into languages, 114 languages were arrived at. The rights to learn language(s) and the right to learn through languages as already discussed are bestowed on the citizens. In this context, let us see the actual practice of these language rights as recorded in the Third, Fifth, and Sixth All India Education Surveys.

Number of School Languages Taught As First/Second/Third Languages

	Third Survey	Fifth Survey	Sixth Survey
Number of Languages	67	44	41

Medium of Instruction

Stage	Third Survey	Fifth Survey	Sixth Survey
Primary	51	43	33

Upper Primary		31	25
Secondary		22	21
Higher Secondary		20	18

With this evidence it is noticed that there is a reduction in number of languages being used in the schools as school languages and also as medium of instruction. It may be noticed that as the country goes higher and higher in the educational ladder, the number of languages being used too becomes less.

The languages will continue to be used in the schooling process either as a subject or as a medium of instruction or both only if the students/parents exercise their right to learn their mother tongue and through their mother tongue. Seeking, and fighting for recognition of the language rights is different from practicing or exercising them. If we are asked whether linguistic rights are misused or abused, undoubtedly we can say that they are not used for the purpose for which they exist.

Today the consequence of these explanations, clarifications, and adumbrations of Language rights by the courts is that people use their language rights to get education of their choice driven by market forces and not in the letter and spirit as codified in the Constitution, or in the statutes framed for that purpose. There is a paradigm shift. So, English which should have been an additional language in education in India has become a substitute language.

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