

PART IV  
ADMINISTRATIVE AND ALLIED MATTERS  
CHAPTER I

SAFEGUARDS FOR LINGUISTIC GROUPS

757. An important question connected with the reorganisation of States is that of providing safeguards for linguistic groups which are in a minority in different states. The problem of such groups exists in unilingual states and not merely in composite States. In a way, the problem is a cause as well as an effect of the movement for linguistic units. On the one hand, it is argued that multilingual States arrest the cultural growth of linguistic minorities and retard their political and economic advancement, and, on the other hand, it is contended that it is implicit in the very formative principle of a linguistic State that in such a State linguistic minorities must be reduced to the status of inferior citizens.

758. The scheme of redistribution of State territories which we have recommended will result in many cases in bringing together people speaking a common language. To that extent, it will reduce the number of linguistic minorities. It is, however, quite evident that even if the linguistic principle were applied very rigidly, the problem of linguistic minorities will, by no means, be solved. This is because there are obvious limitations to the realisation of unilingualism at the state level, the limiting factors being the following:

- (i) not all the language groups are so placed that they can be grouped into separate states;
- (ii) there are a large number of bilingual belts between different linguistic zones; and
- (iii) there exist areas with a mixed population even within unilingual areas.

Besides, the Constitution guarantees freedom of movement to all citizens of India. The present picture of the linguistic composition of various administrative units of India, therefore, can, by no means, be regarded as static.

759. It is true that often the complaints about the plight of minorities in composite states or bilingual areas are greatly exaggerated. In fact, we have noticed a tendency to whip up a kind of 'persecution complex' amongst minority language groups to secure their support for certain demands. This, however, does not mean that such groups have nowhere been discriminated against. By way of illustration we

may refer to the enforcement, in a number of States, of domiciliary qualifications and language tests for recruitment to services, which undoubtedly cause hardship to minorities. The problem of linguistic minorities, therefore, is not unreal.

#### **Foreign practice**

760. The problem of linguistic minorities in the States of the Indian Union, as compared to the problem of minorities in other countries, is, we must recognise, a limited one. The arrangements for safeguarding the interests of linguistic minorities in other countries were adopted against their own particular backgrounds. We must be careful, therefore, in applying such precedents to our own problems.

761. In other countries, it may be of interest to note, the following expedients have been tried, singly or in combination, to protect the interests of the minorities:

- (i) constitution of administrative units on the basis of homogeneous nationalities, realised to a great extent in Switzerland, the U.S.S.R. and Yugoslavia;
- (ii) recognition of more than one language as official languages, tried mainly in Switzerland, Canada and South Africa;
- (iii) minority representation in the cabinet, tried in Switzerland and Canada;
- (iv) guaranteeing to the minorities an effective voice in legislation concerning them, *e.g.*, the Scottish Standing Committee of the House of Commons;
- (v) appointment of special ministers to look after the interests of minorities, as, for example, the Secretary of State for Scotland in the British cabinet;
- (vi) fundamental rights for protection of minority interests, as in the constitutions of the U.S.S.R., Yugoslavia, Switzerland, Canada and Palestine, and in the pre-1939 constitutions of Poland and Czechoslovakia; and
- (vii) assumption of special responsibility by the federal government in respect of minority rights in constituent units, as in Canada.

#### **Provisions of the Indian Constitution**

762. The Indian Constitution embodies the bulk of the rights which are generally guaranteed to minorities, within the framework of the fundamental rights of Indian citizens in general. With the exception of Article 335, which provides for special consideration being given to scheduled castes and scheduled tribes in the matter of

appointments to services, the special and transitory provisions contained in Articles 336 and 337 for the Anglo-Indian community, and the directive principle contained in Article 46 for the promotion of educational and economic interests of scheduled castes, scheduled tribes and other weaker sections, the only provisions in the Constitution which have been particularly devised to safeguard the interests of minorities are those contained in Articles 29, 30 and 347.

763. Of these, Article 29 provides that any section of citizens having a distinct language, script or culture shall have the right to conserve the same. It also prohibits discrimination in the matter of admission to educational institutions maintained or aided by the State.

764. Article 30 provides that "all minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice". It also provides that, in giving aid to educational institutions, the State shall not discriminate against the institutions managed by such minorities.

765. Article 347 enables the President to direct, in appropriate cases, the use of minority languages in the administration.

766. If the relevant provisions of the Indian Constitution are compared with the corresponding provisions of some of the European constitutions, it will be found that the substance of fundamental rights usually guaranteed to minorities in other countries is provided for under our Constitution, except for the right to receive instruction in the mother-tongue in state or municipal schools at the primary stage.

### **Principles which should govern safeguards for linguistic minorities**

767. During the course of our enquiry, the question of reinforcing the existing system of safeguards for minorities figured prominently. It was strongly urged before us that the safeguards for minorities embodied in the Constitution have proved inadequate and ineffective against the cultural oppression of linguistic minorities and their economic exploitation. Whatever the merits of this assertion, we have to take into consideration the fact that large sections of public opinion, both among the proponents and the opponents of linguistic states, favour the strengthening of the existing constitutional guarantees to linguistic minorities.

768. We realise that overemphasis on the rights of minorities and too many special safeguards for them would tend to keep the minority-consciousness alive and might thereby hamper the growth of a common nationhood. We, are, therefore not in favour of setting up too

elaborate a system of guarantees to the minorities which would, in our opinion, complicate rather than solve the problem. At the same time, we are impressed by the need of according to the linguistic minorities sufficient opportunity for development so that they may not suffer from a sense of neglect or discrimination.

769. Before we make our specific recommendations on the subject, we wish to indicate the broad principles and objectives which have governed our approach to the problem. These are:

- (i) as the problem of linguistic minorities is common to unilingual as well as polyglot areas, the measures to be adopted should be such as can be applied to linguistic as well as composite States;
- (ii) while minorities are entitled to reasonable safeguards to protect their educational, cultural and other interests, it has to be borne in mind that such safeguards should not so operate as to perpetuate separatism or to impede the processes of natural assimilation;
- (iii) the system of guarantees to minorities should not be such as to lend itself to misuse by parties interested in promoting a sense of disloyalty to the State; and
- (iv) it should be clearly understood that a state in which a particular language group constitutes the majority cannot be considered to be the custodian of the interests of all people speaking that language, even when they are residents of other States.

#### **Disabilities of linguistic minorities and suggested safeguards**

770. Following the principles we have set out in the preceding paragraphs, we do not think that a number of suggestions which were made to us are feasible or will be in the interests of linguistic minorities themselves. Thus, for instance, the question of their representation in the State cabinets cannot be governed by any rule but must depend on the circumstances of each case.

771. So far as allegations of discriminatory treatment in the field of commerce, trade and industry are concerned, there are adequate provisions in the Constitution to deal with such discrimination. To the extent that a State Government acts in disregard of these provisions, no system of guarantees other than the right to move a court of law will be of any use. We hope, however, that good sense will prevail, that non-discrimination will be the rule, and that it will not be necessary for the minorities to have recourse to legal remedies.

772. The problem of fair distribution of development expenditure is not confined only to areas in which linguistic minorities are found. We have elsewhere made recommendations for the appointment of a permanent body, of adequate standing, to ensure that development expenditure is as far as possible equitably distributed over the various areas which need attention.

### **The right to instruction in the mother-tongue**

773. The more important aspects of the problem, however, are the right of linguistic minorities to instruction in their mother-tongues, the use of minority languages in the administration, and the representation of the minorities in the State services. The language of instruction in educational institutions and the language of the administration are matters that touch, in practice, many vital aspects of the life of every individual. They, therefore, constitute what we regard as the core of the problem of linguistic minorities.

774. We first deal with the question of the right of minorities to instruction in the mother-tongue. The Indian Constitution guarantees to the minorities the right to private schools but does not specifically recognise the right to instruction in the mother-tongues in public schools. It seems to us that linguistic minorities do not have the resources required to establish and maintain their own educational institutions particularly in rural areas. In such cases, therefore, a positive duty should be cast on the State to provide for facilities to the minorities for education in the mother-tongue at the primary school stage.

775. It may be recalled that the right of each language group to have education in the mother-tongue in public schools at the primary school stage has been recognised by the Congress Working Committee in its resolutions adopted in August, 1949, and May, 1953. The right has also been recognised in principle by the State Governments as well as the Government of India. This is clear from the resolution adopted at the Provincial Education Ministers' Conference held in August, 1949, which has been approved by the Government of India, and now serves as a guide to the State Governments in making arrangements for the education of their school-going children whose mother-tongue is different from the regional language. This resolution states:

“The medium of instruction and examination in the junior basic stage must be the mother-tongue of the child and where the mother-tongue is different from the regional or

State language, arrangements must be made for instruction in the mother-tongue by appointing at least one teacher, provided there are not less than 40 pupils speaking the language in the whole school or 10 such pupils in a class. The mother-tongue will be the language declared by the parent or guardian to be the mother-tongue. The regional or State language, where it is different from the mother-tongue, should be introduced not earlier than Class III and not later than the end of the junior basic stage. In order to facilitate the switching-over to the regional language as medium in the secondary stage, children should be given the option of answering questions in their mother-tongue, for the first two years after the junior basic stage."

776. From the data supplied to this Commission by the State Governments it appears that most of the States are endeavouring to implement this resolution, though it is difficult to say to what extent it is being carried out both in the letter and in the spirit. The resolution is only recommendatory; the States are, therefore, not following a uniform policy. After carefully examining the background of the question, the reasons why the suggestion for making suitable provision in the Constitution on the subject did not find favour with the Constituent Assembly, and the views expressed before us, we have come to the conclusion that the right of the minorities to have education in the mother-tongue at the primary stage, subject to a sufficient number of students being available, should be placed on a more stable footing than is the position at present. We, therefore, recommend that constitutional recognition should be given to this right and that the Central Government should acquire power to issue appropriate directives for the enforcement of this right on the lines of the provisions contained in Article 347 of the Constitution.

777. So far as secondary education is concerned, the policy of the Government of India, as embodied in the Resolution of the Central Advisory Board of Education adopted in 1949, has been that regional languages should be introduced at the secondary stage, with provision for instruction in the mother-tongue even at this stage if the number of pupils in the area is sufficient to justify establishment of separate schools, or for instruction in the same school if one-third of the pupils in the school ask for it. We are doubtful if this deals with the problem adequately. It is, of course, clear that, so far as secondary education is concerned, it will have to be treated differently from the education at the primary stage. We, therefore, do not recommend

the extension of the principle of the constitutional recognition of the right to have instruction in mother-tongue to secondary education. At the same time, we feel that the Government of India should, in consultation with State Governments, lay down a clear policy and also take more effective steps to implement it.

### **The use of minority languages for official purposes**

778. The next question to be considered is the use of the minority languages for official purposes. Article 347 of the Constitution, as we have already stated, empowers the President to provide for the use of a minority language also in the administration of a State. We understand that so far no order has been issued under this Article and it has been left more or less to the States concerned to regulate the use of the minority languages for administrative purposes.

779. From the information furnished to us it appears that the States of Uttar Pradesh, Bihar, Madhya Bharat, Madhya Pradesh, Rajasthan, Ajmer and Saurashtra have adopted legislation under Article 345, recognising the respective regional language or languages as the official language or languages in the States concerned. In other States, English continues to be the official language. Some States have recognised more than one official language. Thus, in Madhya Pradesh, both Hindi and Marathi are the official languages at all levels. The Punjab and PEPSU have demarcated two distinct zones—a Punjabi-speaking zone and a Hindi-speaking zone. In Bombay and Hyderabad, official business at district and taluk levels is conducted in the languages of these units.

780. In Hyderabad, PEPSU, Rajasthan, Travancore-Cochin and Madhya Bharat, the regional language or languages have been recognised for use in the High Court. In other States, English continues to be the language of the High Court.

781. As regards the lower courts, there is no State, with the exception of Assam, in which English is used exclusively in the lower courts. In most States, where English is used in the High Court, the subordinate courts use both English and the regional languages, the general practice being that judgments are written in English and other work is done in the regional languages. Several States have permitted the use of the minority languages in subordinate courts. Bihar, Bombay, Andhra, Madras, Orissa, Hyderabad, Travancore-Cochin and West Bengal have allowed the use of two, or even three languages in certain areas.

782. The present position, therefore, is that, while it is generally agreed that minority languages should receive due recognition in bilingual areas, a clear policy has not so far been laid down for regulating the use of the minority languages in the administration.

783. We do not desire to make any recommendation about the details of the policy to be followed in prescribing the use of minority languages for official purposes. However, we are inclined to the view that a State should be treated as unilingual only where one language group constitutes about seventy per cent or more of its entire population. Where there is a substantial minority constituting thirty per cent. or so of the population, the State should be recognised as 'bilingual' for administrative purposes.

784. The same principle might hold good at the district level; that is to say, if seventy per cent. or more of the total population of a district is constituted by a group which is a minority in the State, the language of the minority group, and not the State language, should be the official language in that district. It will also be of advantage if, in bilingual districts, municipal areas, or other smaller units such as taluks, where there are minorities constituting fifteen to twenty per cent of the population, documents which are used by the people at large, such as government notices, electoral rolls, ration cards, etc., are printed in both the languages. It should also be permissible to file documents in the courts etc. in the minority language. Likewise, where the candidates seeking election to any local bodies are required to have a working knowledge of a language, the knowledge of a language of such minor language groups should be given recognition.

785. These suggestions are for the consideration of the Government of India. What we wish to emphasise is that the Government of India should adopt, in consultation with the State Governments, a clear code to govern the use of different languages at different levels of State administrations and that effective steps should be taken to ensure that this code is followed.

#### **Discriminatory treatment in the matter of recruitment to services**

786. Recruitment to the services is a prolific source of discontent amongst linguistic minorities. The main complaint is that a number of States confine entry to their services to permanent residents of the State, 'permanent residents' being defined in varying ways. These domicile tests, it is contended, have been so devised as to exclude the minority groups from the services.



787. The residence required under these rules varies from three years in certain cases to fifteen years. These rules are, strictly speaking, in contravention of Article 16(1) of the Constitution. They have apparently been allowed to continue in terms of Article 35(b) pending a general review of the position.

788. This review, we understand, has now been undertaken. Legislation is likely to be promoted in Parliament in order to regulate the extent to which it would be permissible for a State to depart in future from the principle of non-discrimination as between citizen and citizen, as laid down in Article 16(1). We strongly recommend that the contemplated legislation should be taken up early, and that, if any departure from the principle of non-discrimination is to be authorised at all, it should be such as to cause minimum hardship.

789. One form which discrimination against language groups takes, it has been stated, is the tendency in certain States to make their services a preserve for the predominant language group by prescribing a high test of proficiency in the regional language or by making this language the medium in the various competitive tests. At present, higher competitive examinations are conducted in most States in English. Some States, however, have allowed an option to offer one or more of the regional languages. In a number of States there is also a compulsory paper in the regional language. For lower examinations one of the regional languages is the medium and also a compulsory subject. Most States insist on a departmental examination of proficiency in the regional language or the local dialect for candidates whose mother-tongue is other than the regional language.

790. That all public servants should be conversant with the official language or languages of the State admits of no dispute. The point for consideration, however, is whether candidates belonging to one language group should have an initial advantage over those belonging to the other language groups. We feel the present practice in certain States tilts the scales in favour of the dominant language group, and consider it both practicable and desirable that, for services known as the 'State services', apart from the main language of the State, the candidates should have the option to elect, as the medium of examination, the Union language—English or Hindi—or the language of a minority constituting about fifteen to twenty per cent. or more of the population of the State. A test of proficiency in the State language should be held, in that event, after selection and before the end of the period of probation. In the case of subordinate services, however, the State language could continue to be the medium of examination.

791. So far as promotions or disciplinary and other matters connected with services are concerned, no conceivable safeguards can ensure justice, should those in power choose to fill important posts on grounds other than those of administrative purity, efficiency and fairness. It is desirable, however, to constitute State Public Service Commissions in such a manner as to ensure that these bodies are not affected by particularist trends. This objective can be achieved to some extent by constituting, so far as possible, one Public Service Commission for more than one State. Under the Constitution, appointments to Public Service Commissions serving more than one State are made by the President. We recommend that this principle be extended even to Public Service Commissions serving only single States. This arrangement, we are sure, will give these bodies a higher stature and more independence.

#### **Agency for enforcing safeguards**

792. We now come to the question of devising a suitable agency to enforce the rights of the linguistic minorities. It follows from what we have stated earlier that the Centre should not only be responsible for prescribing policies governing certain important matters, such as the education of minority groups and the use of minority languages for official purposes, but also for due observance of such policies.

793. One suggestion that has been made to us is the creation of a Central Ministry for Minority Affairs. Since the Centre's responsibility, under the scheme we have in view, will be confined to the enforcement of safeguards in the educational field and to making arrangements for the use of the minority languages in the administration, a separate Central Ministry will not be justified.

794. Another proposal which has been put forward in certain memoranda received by us is that a Statutory Commission for Minority Affairs should be appointed. This Commission, it has been suggested, should be a non-political quasi-judicial, advisory body. The most important argument in favour of such an arrangement would be that it would instil confidence into the minorities. On the other hand, it will have a serious disadvantage in that the existence of a tribunal before which State Governments could be impugned might lead to vexatious claims and counter-claims and might encourage the minorities to look constantly beyond the borders of the State for the redress of their grievances, real or imaginary. There is a large area of administration in which the minorities will have to

depend on the goodwill of the dominant language group. Any effort, therefore, to enforce "strict justice" to linguistic minorities might lead to the worsening of the relations between the State Governments and the minority groups. We, therefore, do not regard this as a satisfactory solution of the problem.

795. Under the Government of India Act of 1935, the responsibility for protecting the interests of minorities was cast on the provincial Governors. Public opinion in India, however, viewed the special powers of Governors and the provisions for the protection of minority interests as convenient instruments of the policy of "balance and counterpoise" by which the then rulers of India sought to perpetuate their power. When the Constitution was framed, the position of the Governor was examined against this background; and there was a considerable body of opinion against the grant of special powers to a nominated Governor. The Constitution has, therefore, recognised the Governor as a purely constitutional head, without any discretionary functions.

796. In the course of the debate on the Andhra Bill, it was suggested that the Governors of multilingual States might be vested with special powers to protect the interests of the minorities. But the proposal did not find favour with Parliament.

797. Against this background, we hesitate to revive the suggestion for vesting special powers in the Governors to ensure that the minorities are not discriminated against. There are, however, clear advantages in utilising the services of the Governor for supervising the implementation of the policies of the Central Government in regard to linguistic minorities. With his detached outlook and knowledge of the requirements of administration, the Governor would be better suited for this task than a judicial or quasi-judicial Commission. The arrangement would also not involve extra expenditure.

798. We have carefully examined the objections to such an arrangement. It is understandable that the Governor should not exercise discretionary functions in the state field. There is no reason, however, why the Governor should not function as an agent of the Central Government in regard to a matter which is of national concern. There is nothing anti-democratic about such an arrangement, because the Central Government will be responsible to the Union Parliament for functions performed by the Governor as its agent. It will amount only to supervision by the larger democracy over the smaller democracies in respect of matters of national concern.

799. To the extent that the Governor acts in accordance with the Instrument of Instructions issued to him, his role as an agent of the Centre need not bring him into conflict with his cabinet. However, with a view to minimising the possibility of any such conflict, it may be provided that, when the Governor finds the State Government acting in disregard of the Central Government's policies, he should, in the first instance, advise the State Government to take the measures necessary for the implementation of such policies; if the State Government disagreed with him, he should have the right to refer the matter to the Central Government, along with his advice and the views of the State Government. The decision of the Central Government should be issued as a directive from the President.

800. The arrangement which we have suggested will involve no constitutional amendment. It will have the clear advantage of entrusting the task of advising the Central as well as State Governments to a person who is on the spot and is in a position to weigh the relative needs and interests of the linguistic minorities as well as of the administration.

801. Before we conclude, we wish to emphasise that no guarantees can secure a minority against every kind of discriminatory policy of a State Government. Governmental activity at State level affects virtually every sphere of a person's life and a democratic government must reflect the moral and political standards of the people. Therefore, if the dominant group is hostile to the minorities, the lot of minorities is bound to become unenviable. There can be no substitute for a sense of fairplay on the part of the majority and a corresponding obligation on the part of the minorities to fit themselves in as elements vital to the integrated and ordered progress of the State.