

PalArch's Journal of Archaeology of Egypt / Egyptology

LEGAL POLICY FOR THE PROTECTION OF URDU LANGUAGE IN INDIA

M.Z.M. Nomani¹ Ghazal Salahuddin² Madiha Tahreem³

¹Professor, Faculty of Law, Aligarh Muslim University, Aligarh-202001(U.P./India)

² Assistant Professor (Guest Faculty), (PhD DST-INSPIRE), Geography Section, Women's College,
Aligarh Muslim University, Aligarh (India)

³Sr.Secondary Schhool(Girls), Aligarh Muslim University, Aligarh-202001(U.P./India)

e-mail: ¹zafarnomani@rediffmail.com; ²ghzl10@rediffmail.com
³madihatahreem487@gmail.com

**M.Z.M. Nomani¹ Ghazal Salahuddin² Madiha Tahreem³ Legal Policy For The
Protection Of Urdu Language In India– Palarch's Journal Of Archaeology Of
Egypt/Egyptology 17(7) (2020). Issn 1567-214x**

**Keywords: Linguistic Identity, Religious Diversity, Minority Right, Linguistic
Minority, Multi-culturism, Urdu Language, Constitutional Protection.**

Abstract: The Urdu speaking populace's linguistic aspiration backed by Articles 29 and 30 of India's Constitution of India, 1950. The protection of the linguistic minority was ensured through the National Commissioner for Linguistic Minorities. Urdu was recognized as one of the languages under the eighth schedule of India's Constitution, 1950. It is recognized as an official language in many states of India. There is no research in identifying the gap between the constitutional ideal and reality in inculcating Urdu languages officially and non-officially in India among the spoken linguistic minority. But the Indian Constitution is not a self-enforcing document and requires the executive action and substantive infrastructure for compulsory educations in the Urdu language and mother tongue. However, despite the rise of the Muslim population, the Urdu speaking population did not rise proportionately over the last six decades. The paper takes a legal stance on the constitutional status of Urdu in India.

INTRODUCTION

the Eighth Schedule of the *Constitution of India*, 1950, recognized 22 scheduled languages. There are hundred other languages under non-scheduled languages hitherto not recognized by the Constitution. However, these are

officially accepted by states as a statute, directive, and administrative orders. Urdu is one of the scheduled languages under the the *Constitution of India*, 1950 and popular on he cultural mosaic of the country. It has recognized as an official language in many states of India. This organic character of the Constitution raised excitement among Urdu lovers by I. K. Gujral, Ali Sardar Jafri, and Ranganath Mishra Commission's recommendations of the revival of Urdu in India(Brass, 1974: 208). Some of the states have more than one official language besides Hindi languages spoken by most of India's populace. The Constitution did not recognize Urdu as a national language despite its seminal contribution in ushering in the freedom movement. Therefore, Urdu contended to be a scheduled speech and 14 other languages and considered sufficient for its growth in post-independent India (Benedikter, 2009: 32-35). The paper takes a legal stance of Urdu's constitutional status in India in the context of multiculturalism and linguistic diversity.

MATERIAL & METHOD

The official language's legal policy is essential for the linguistic minorities and their collective identity in the multicultural state (Khan & Akhtar, 2018:211-220). India and Israel enforced language policies concerning two major minority languages-Urdu and Arabic- secular and ethnic democratic frameworks. However, both states relegated the minority language to a marginal position (Shalev,2006:28-57). The ethnic identification of Urdu-speaking linguistic minority subsumes the relationship between the secular institution of citizenship and power equation and politics of ethnic identity formation (Redclift, 2011: 25-42). The linguistic aspiration also delineates the problematic emotional ordering, collectively construct of minorities, and exclusionary social policies (Nomani,2012:1-9). There is a shortage of research regarding the prevalence of languages officially and non-officially. As a result, many states have more than one official language giving rise to disputes and competitive assertive of linguistic identity.

RESULT

The country's largest linguistic survey conducted by the *Bhasha Research and Publication Centre, Vadodara (Gujarat)*, in 2013 has identified 780 Indian languages of India. According to the study, 480 languages spoken by tribal and nomadic tribes, and about 80 were coastal (Kumar,2015:Internet). There are 22 scheduled languages in the Constitution and a hundred other languages under non-scheduled languages hitherto not recognized by the Constitution but officially accepted by states as a statute, directive, and administrative orders.

3.1 Legal & Constitutional Setting: The legal and constitutional setting of Urdu was studied to foster unity in diversity in the country. India's Constitution, 1950 shares legislative power between states and centres in formulation of language and education policies(Nomani, 1997:203-222). Chapter XVII of the *Constitution of India*, 1950 contains the language of Union which adumbrates11 sections are reflecting promotion of official, state, courts(Constitution, 1950:Art. 51A(f) and special directives of instruction of in mother tongue(Constitution, 1950:Art. 343-351). Despite constitutional promise to promote language, states are left at mercy to adopt a proactive stance. Education was primarily a state subject(Constitution,

1976:Amendment); hence, the promotion of language heavily remains dependent until 1976 on states' sagacity where the center has an advisory role. The nation's linguistic uniformity is fortified under Article 343 as Hindi in *Devanagari* script as an official language (Constitution, 1950: Art. 343). Surprisingly, directives under Article 351, Hindi language development (Constitution, 1950: Art. 351). One may argue why not being fully developed, the Hindi language officially declared as the Union's official language. Secondly Hindi being the official language still requires crutches to stand upon with the directives 'to *promote and spread* the Hindi language to develop it as a medium of expression of *all elements of composite culture*.' The constitution-makers seemed to have neither satisfied nor convinced with the provisions of 343 and 351 as cardinal safeguards to Hindi enunciated that 'legislature of states may by law adopt any one or more languages in state' in addition to Hindi under Article 345 (Constitution, 1950: Art. 345).

3.2 Legal Status Of Urdu: The constitutional writers have variously described the Constitution's linguistic provision. Granville Austin has described Munshi–Ayyangar formula as a half-hearted compromise. He says that it was a compromise between opinions that were not easily reconcilable (Austin, 1999: 354-378). H.M. Seervai has analyzed the provisions of our Constitution relating to language has raised no tough questions of legal interpretation. Still, they have raised severe political problems. It is outside the scope of this work to describe the various phases of the language controversy, which resulted in the enactment of Part XVII of our Constitution (Seervai, 2015: 354-378). D.D. Basu, while dealing with Part XVII under the sub-title "Need for a National Language," observes that the Constitution makers failed to declare one language as the national language of India, and provided in the Constitution is mainly a compromise between the diverse claims (Basu, 2011: 354-378). The constitutional safeguards to linguistic minorities are open-ended and need a liberal construction and harmonious interpretation (Nomani & Rahman, 75-103). This juristic optimism and organic character of the Constitution unnecessarily raised excitement among Urdu lovers for their plight and portrayal by the Commissioner for Linguistic Minorities in its annual reports.

3.3 Enforcement Of Urdu Language: It is logical to ask whether there are adequate enforcement and inspectorate to translate linguistic idealism underpinned in the Constitution. The Indian constitutional provisions appear liberal and fair to the minorities (Nomani & Rahman, 2015: 21-40). But the Constitution of any country and constitutional laws never happens to be a self-enforcing document. It requires the executive action and an elaborate infrastructure for the implementation of constitutional promises. Every state in India is under obligation to provide free and compulsory education to all children who may, *among other things*, reasonably include primary education in the mother tongue. However, despite the rise of the Muslim population, the Urdu speaking population did not rise proportionately over the last six decades.

Table-I: Urdu Speaking & Muslim Population in Uttar Pradesh [1951-2001]

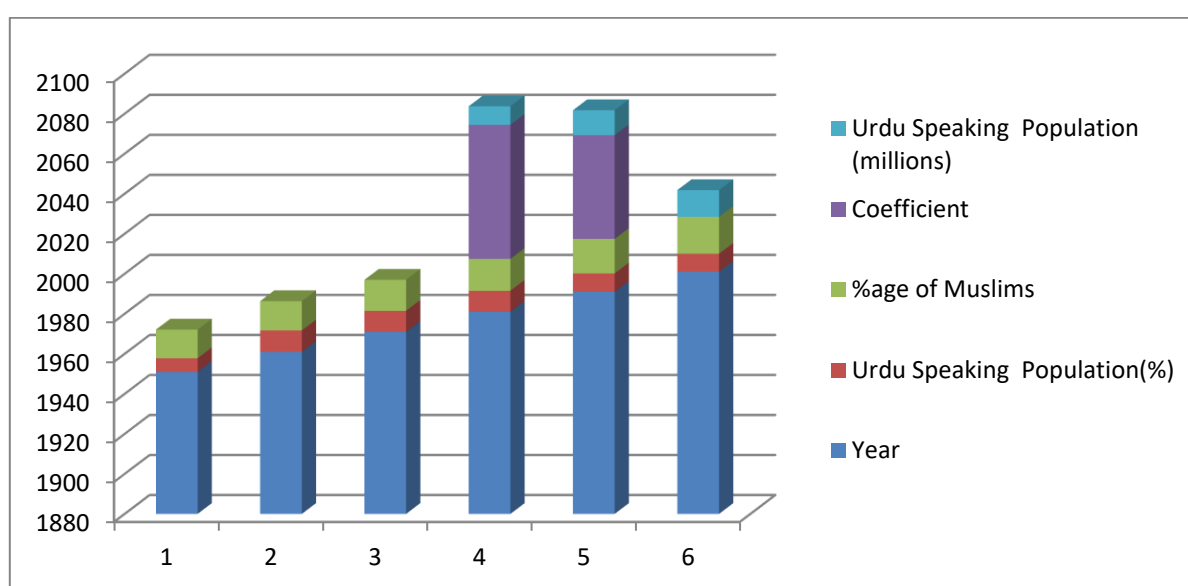
Year	Urdu Speaking Population(%)	%age of Muslims	Coefficient	Urdu Speaking Population (millions)
1951	6.8	14.28		
1961	10.70	14.62		
1971	10.49	15.48		
1981	10.50	15.93	67	9.27

1991	9.15	17.3	51.8	12.49
2001	8.98	18.5		13.3

Source: Based on the Census of India [1951-2001]

With the gradual demand of universalization of elementary education, it acquired the status of a fundamental right (Constitution,1950:Art.21A) and essential duties(Constitution,1950:Art. 51A(k)). This is a quantum leap in teaching education in the mother tongue. For instruction in mother tongue at the secondary stage of education, "a minimum strength of 60 pupils in the last four classes and 15 pupils in each class will be necessary, provided that for the first four years, the strength of 15 in each class will be sufficient(C.L.M., 1976: 17th Annual Report)."

Figure-I: Urdu Speaking & Muslim Population in Uttar Pradesh [1951-2001]



Source: Based on the Census of India [1951-2001]

The egalitarian framework of education,language and culture fosters he rights and aspirations of the linguistic minorities throughout the nation. But are constitutional guarantees and executive decisions implemented (Ishtiaq,1998: 254-262). He real works implememntation and state practices vary in the country.It remains a subject of theritical groundings from the popint of view of implementation of constitutional guarantees to the linguistic minorities. (Shahabuddin, 2008: 354-378).

DISCUSSION

The constitutional history of language reveals that the Gandhian Formula by one vote favored the Hindi language. The Constitution Assembly adopted Hindi as the national language by a voice vote and as the link language called *lingua franca* (Choudhary, Khosla & Mehta, 2016: 224-225).

4.1 Historical & Cultural Legacy: it is necessary to have a brief historical survey of the Urdu language's vicissitude in pre and post-independent India. On partition, Urdu was declared as Pakistan's national language though it was

spoken by only 5 percent of its population. Urdu's branding as a national language in Pakistan appears as if to have exonerated India from its historical responsibility of making it national language and contended merely affording Urdu as scheduled language status. As a result of migration, on the Indian side, the Hindu community, including Urdu and Punjabi speaking refugees from Pakistan, steadily dissociated themselves from Urdu. Since then, Urdu has not come out shells and bounds of Pakistan national language imagery and its gradual relegation to the language of migrants (*mohajirs*) in Pakistan and marginalized Muslims of India, barring few exceptions. While Urdu migrated to Pakistan, it charted new routes and crossed the seven seas to find bases in the Gulf, U.K., and the U.S. One may say that Urdu has spread horizontally but lost in its vertical base in the land of birth *i.e.* India, due to repressive policies and inbuilt discrimination. A series of education ministers' conference decisions, memorandums of the Indian government, chief ministers' conference decisions since 1949 clearly and unambiguously provide safeguards to the linguistic minorities as detailed in almost every annual report of the Commissioner for Linguistic Minorities since 1956. The National Commission for Religious and Linguistic Minorities Report, 2007 recommended that "the three-language formula should be implemented everywhere in the country making it compulsory for the authorities to include in it the mother tongue of every child-including especially Urdu and Punjabi (NCRLM, 2007: internet).

4.2 Politics Of Marginalisation: Deriving sustenance and life breathe from constitutional safeguard to cultural and educational rights of minorities' it adumbrated provisions such as article 350A (Constitution, 1950: Art. 350) and 350B (Constitution, 1950: Art. 350B). Under the cloak of protection of minorities, it stated that 'any section of a citizen having a *distinct language, script or culture* of its own *shall have rights to conserve* the same. On the other hand, the right to minorities to establish and administer educational institutions extends to religious minorities and linguistic minorities (Khalidi, 2004: 53-77). Article 350A obliges every state and local authority to "provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups." Article 350B establishes a "Special Officer for Linguistic Minorities," to be appointed by the President to report on "all matters relating to the safeguards provided for linguistic minorities under the Constitution. These reports are then placed before Parliament and sent to the state governments. There is no bar in having representation and redressal of grievances in any scheduled languages, including Urdu (Beg & Kidwai, 2012: 79-93). However, this provision showcased to quell the demand for one's language as an official language (Constitution, 1950: Art. 350). To keep linguistic aspiration of the Urdu speaking populace in good esteem, the Constitution as *via* media appointed a National Commissioner for Linguistic Minorities ostensibly to translate the minorities' right underpinned in Article 29 (Constitution, 1950: Art. 29) and 30 (Constitution, 1950: Art. 30) of the *Constitution of India, 1950*.

4.3 Legal Policy For Official Language: The legal policy for the official language during the British period regulated both Urdu and Hindi as the medium of instruction. The student preferring Urdu as a first language had to read Hindi as a compulsory language as well. Earlier, the teachers were competent and proficient in Urdu and Hindi languages simultaneously. These teachers concurrently impart Urdu and Hindi under the curriculum and pedagogy. (Abbasi, 1981). The Constituent Assembly implicitly denied Urdu was a language distinct from Hindi. Urdu's demand is rooted in 'two-nation theory' (CAD, 1949: 913-916) and foreign imposition (Upadhyaya, 1958: 4).'

The most Urdu-speaking populated state Uttar Pradesh declared Hindi in *Devanagari* letters as the sole language of courts and administration on October 8, 1947. Later on, the Uttar Pradesh Education Board Education directed that only Hindi would be the medium of examination for high schools (UP Language Committee, 1963:38). the Urdu relegated to the language of no region in India. It is only a foreign and unacceptable style of Hindi with an unfamiliar script and foreign vocabulary imposed on India during a period of foreign domination (Graham, 1990:118). One should not forget that the Constitution ordains every citizen's fundamental duty to value and preserve our composite culture's rich heritage, encompassing the Urdu language (Constitution, 1950:Art. 51A (f)).

CONCLUSION

The spirit of the linguistic secularism provided in Chapter XVII of the *Indian Constitution*, 1950 provides space for more languages, and the court generally upheld linguistic aspirations. There are states which seem proactive and duly translated constitutional mandate. The researches and surveys also buttressed from the surveys and I. K. Gujral, Ali Sardar Jafri, and Ranganath Mishra Commission's recommendations of Urdu's revival in all states little response in ameliorating the decay and death of Urdu in India. A relatively new state like Jharkhand has the highest number of official, *i.e.*, eight languages, whereas Gujarat has Urdu and Hindi as its official languages. No one can deny that the northern belt is predominantly Hindi-speaking, but there is a sizeable Urdu-speaking population in Uttar Pradesh and Bihar. A state also has to grant funds for the official language that sometimes leads to a brawl. In such a situation, can a state contend to Hindi as an official language by the conservative yardstick of Article 345? The increasing interstate mobility between states and their cities are no longer monolingual. This is evident from a survey in a city like Mumbai, where more than 300 languages in currency today. The Urdu speaking population's linguistic freedom needs a more proactive approach to nurture the linguistic diversity of India.

Ethical Clearance: Not Required

Source of

Funding:

Self

Conflict of Interest: None

REFERENCES

- Abbasi, M.A. 1981. Aspects of Politics and Society: Memoirs of a Veteran Congressman, 145
- Austin, G. 1999. Indian Constitution: Cornerstone of a Nation. New Delhi, Oxford
- Basu, D.D. 2011. Constitution of India 21st Ed. New Delhi, Lexis Nexis
- Benedikter, T. 2009. Language Policy of Linguistic Minorities in India: An Appraisal of the Linguistic Rights of Minorities in India. Germany, L.I.T. Verlag Münster p.32-35
- Brass, P. 1974. Language, Religion and Politics in North India. Cambridge: Cambridge University Press, p. 208.
- Choudhary, S. M. Khosla, & B.P. Mehta. 2016. Oxford Handbook of Indian Constitution. New Delhi, Oxford University Press.
- Commissioner of Linguistic Minorities (C.L.M.). 1976. 17th Annual Report, 1974-1975, Allahabad: C.L.M., 5

- Constituent Assembly Debates.1949. VIIth Official Report,1949. New Delhi, 913-916.
- Constitution of India, 1950, Art 29, protection of interests of minorities.
- Constitution of India, 1950, Art 30, Right of minorities to establish and administer educational institutions
- Constitution of India, 1950, Article 21A The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the state may, by law, determine.
- Constitution of India, 1950, Article 343, Official language of the Union.
- Constitution of India, 1950, Article 345, Official language or languages of a State.
- Constitution of India, 1950, Article 347 Special provision relating to language spoken by a section of the population of a State.
- Constitution of India, 1950, Article 350 A provides for facilities for instruction in mother-tongue at primary stage.
- Constitution of India, 1950, Article 350, under Chapter –IV makes special directives regarding language to be used in representations for redress of grievances.
- Constitution of India, 1950, Article 350B makes provision for Special Officer for linguistic minorities
- Constitution of India, 1950, Article 351, Directive for development of the Hindi language.
- Constitution of India, 1950, Article 51A(f) provides fundamental duties
- Constitution of India, 1950, Articles 29 &30 the Cultural and Educational Rights enunciates.
- Constitution of India, 1950, Articles 348 & 349(Article 348 deals with language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc. And Article 349 deals with Special procedure for enactment of certain laws relating to language)
- Constitution of India, 1950, Chapter XVII, Art 343-351
- Constitution of India, 1950,Article 51A(k): Every citizen who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.
- Constitution's Forty-Second Amendment, 1976 brought education from a State Subject to central subject.
- Graham, B.D. 1990. Hindu Nationalism and Indian Politics.Cambridge: Cambridge University Press, 118.
- Ishtiaq, M. 1998.Levels of Language Retention among Muslims in Bihar and Uttar Pradesh. In: Qureshi, M.H. Muslims in India Since Independence. New Delhi, Institute of Objective Studies:117-126.
- Khalidi, O. 2004. Politics of Official Language Status for Urdu in India. Journal of South Asian and Middle Eastern Studies 28(3): 53-77.
- Kumar, A. 2015. Linguist Who Gave Voice to Tribal Languages, Calls It Quits.The Indian Express, September 8, 2015) <<http://indianexpress.com/article/cities/ahmedabad/bhasha-research-publication-centre-devy-linguist-who-gave-voice-to-tribal-languages-calls-it-quits/>> accessed November 19 2018
- Nomani, M.Z.M. & Rahman, F. 2015. Constitutional Interpretation Of Minority Rights: A Tale Of Two Verdicts Of Supreme Court. Religion & Law Review. 24(1):21-40
- Nomani, M.Z.M. 2012. Conceptualization & Contextualisation of Social Inclusion and Exclusion under Equal Opportunity Commission Report: Reflections & Appraisal. Journal of Exclusion Studies. 2(1):1-9.
- Nomani, M.Z.M. 2018. Imperative of Personal Law Reform & Good Governance. In: Khan, A.U.& Akhtar, A.Ed. Socio-Economic Inequalities:

- Why Does India's Economic Growth Need An Inclusive Agenda. New Delhi, Institute of Objective Studies:211-220
- Nomani,M.Z.M. & Rahman,F. 2015. Role Of National Commission For Minority Educational Institutions In Actualization of Minorities Right. Journal of Objective Studies.27(1/2):75-103.
- Nomani,M.Z.M.1997. Federalism under Indian Constitution: A Study of Environmental Law. Indian Bar Review 24 (1/2):203-222.
- Nomani,M.Z.M.2012. Empowerment of Minorities Through Equalisation of Opportunities: Some Tentative Suggestions. In: Beg, M.A.& Kidwai.A.R.Ed. Empowerment of Indian Muslim: Perspectives, Planning & Road Ahead. New Delhi, Concept Publishing House: 79-93.
- Redclift, V.2011. Subjectivity and Citizenship: Intersections of Space, Ethnicity and Identity among the Urdu-Speaking Minority in Bangladesh. Journal of International Migration and Integration. 12(1): 25-42.
- Report of the National Commission on Religious and Linguistic Minorities(NCRLM). (New Delhi: Ministry of Minority Affairs, 2007, <http://www.imc-usa.org/files/NCRLM_Ranganath_Misra_Report.pdf>accessed November 19 2018
- Seervai, H.M. 2015. Constitutional Law of India: A Critical Commentary (4th Ed.) Ne Delhi, Universal Law Publishing.
- Shahabuddin, S. 2008. Status of Urdu in India: Based on Analysis of Language Census 2001. XLVII(1) Mainstream. XLVII(1):(December 20, 2008)
- Shalev, A.H. 2006. The Status of Minority Languages in Deeply Divided Societies: Urdu in India and Arabic in Israel: A Comparative Perspective. Israel Studies Forum. 21(2):28-57.
- U.P. Language Committee.1963. Government of Uttar Pradesh, 38.
- Upadhyaya, D.D. 1958. The Politics of Urdu.Organizer,4.