

**Can We Protect Our Socio-Cultural Identity?  
Language Rights, Mother Tongue and Creation of a Constitutional  
Paradox**

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**Abstract**

*In India, The Constitution and the policy documents have always recognised the importance of mother tongue and have cherished the linguistic diversity of India. Language is a marker of identity and plays a key role in the formation of the socio-cultural identity of an individual. The various quantitative benefits of having mother tongue based education are well documented. Hence, this this paper specifically explores situations beyond these general statements. It attempts to study the various qualitative aspects related to mother tongue and how these ultimately shape the socio-cultural identity of the individual. Although people in India have the right to conserve their language and pursue education through it, a Hohfeldian analysis shows that there are complexities involved in realising this right. This paper attempts to understand some of the issues associated with non-realization of language rights and its effect on the loss of socio-cultural identity. It explores the position of language rights in the broader spectrum of constitutional structure related to language, especially the effects of transition from erstwhile multilingual States to primarily monolingual States. Further, it evaluates the importance of mother tongue being a specific focus of study within the broader concept of language rights. It explores the interface between language and education and argues that in this regard language rights ought to be non-negotiable. In this regard, it attempts to compare educational rights in the Constitution from the perspective of preservation of linguistic diversity of India. Finally, it details out the unique relationship of language and culture in India and also the role of language in the formation of socio-cultural identity of an individual. The paper is housed under the broad theme of evaluating whether the present linguistic rights and other constitutional*

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*provisions are sufficient in the long run to preserve the linguistic diversity of the country.*

**Keywords:** *Socio-Cultural Identity, Mother Tongue, Education, Language Rights, Culture.*

## **I. Introduction**

Three nearby villages of the Naxalbari region in Darjeeling district of West Bengal is popularly known as *Dhimal Basti* (*Ketugapur* in the Dhimal language), named after the eponymous Dhimal community residing there. A small population of approximately 1000<sup>2</sup> to 2000<sup>3</sup> and the place being their only major residence in India, their language faces a huge crisis, and is susceptible to loss and extinction. They are unable to educate their own children in their mother tongue, in their own country! However, the Constitution and the policy documents do recognise the importance of mother tongue and cherishes the linguistic diversity of India. The present paper seeks to examine the cause of such a paradoxical situation and the effects of the same.

Language is a marker of individual identity as well as of a community identity in a multi-ethnic society. As a marker of a differential characteristic of any group of people, language seems to be similar to other markers like religion, caste, gender, etc. However, speaking of language, we often use the term “*mother-tongue*” which we do not use in specifying the importance of the other markers of identity. This term signifies the special position that language holds in anyone’s life and underlines the emotional content that this term carries. Even though this association is often taken for granted, the subtle contours of this can only be understood after a thoughtful enquiry into the actual meaning and the role it plays in the overall process of individual development.

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<sup>2</sup> See B. Lahiri, *Dhimal: A struggle for existence*, 1 VAAK MANTHAN, THE JOURNAL OF THE SOCIETY FOR ENDANGERED AND LESSER-KNOWN LANGUAGES 1, 1-5 (2016).

<sup>3</sup> In a previous empirical study of this community conducted by the present author, the number was suggested to be approximately 2000 by the participants.

In legally solving the linguistic conflicts the concept and role of mother tongue is always the starting point. It is mother tongue, based on which a person's linguistic identity is developed, nurtured and comes in contact with other socially present linguistic identities. The term *mother-tongue* is often invoked in linguistic conflicts and is championed for even through the means of voluntarily giving up one's life itself. The December 1952 incident of death after a long fast, of linguistic State activist Potti Sriramulu is well remembered in public history. Lisa Mitchell writes that "*Just four days later, Prime Minister Jawaharlal Nehru responded to the widespread disorder, read by journalists, politicians, and historians alike as irrefutable evidence of the collective will of the people, by declaring the formation of a new Telugu linguistic state within the Indian nation.*"<sup>4</sup> In fact, the very designation and celebration of Mother Language Day, reflects the commemoration of the sacrifice of lives for Bengali language, signifying the emotional connect with language.

It can be said that the formation of linguistic identity is promoted or at least sustained in an institution where education is provided in the Mother Tongue due to the following reasons:

*First*, Education in the Mother Tongue frees the child from the burden of learning another language in early years of education. Thus, learning only one language in home as well as school will result in better comprehension, understanding and use of the language apart from developing a sense of belonging or relationship with the language.

*Second*, the use of the same language in home and school will do away with the artificial separation created between home (informal) and school (formal) language. The artificial division often creates a perception of the unsuitability of the home language (spoken in informal spaces) of being used in formal spaces. This perception is grounded in and also develops a faulty understanding of one language being inferior to the other.

*Third*, the use of language other than the Mother Tongue in schools disciplines the child not to speak the Mother Tongue (at least while in school) and this may

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<sup>4</sup> LISA MITCHELL, LANGUAGE, EMOTION AND POLITICS IN SOUTH INDIA: THE MAKING OF A MOTHER TONGUE 2 (Indiana University Press 2009).

result in lack of interest in the Mother Tongue, especially if educational requirements are not possible through that language.

The formation of linguistic identity of the child being challenged at such an early age will cause a sense of alienation from the Mother Tongue and thus may dilute the linguistic identity itself. The Mother Tongue will neither be taught, nor will be used by the child in the long term and this will result into the loss of linguistic diversity of India. In exploring the paradoxical situation identified above, the uniqueness of language as a social occurrence needs to be understood. Language involves factors like educational opportunities, individual/socio-cultural identity, upward social mobility, emotional connect, social influence of dominant languages, etc. All these adds up to make this area an interesting account of a unique socio-legal phenomenon, which calls for Constitutional and legal intervention.

Generally, language rights are argued for and realised as a part of a broader socio-cultural identity and mother-tongue is used as a marker of such identity. The various benefits of having mother tongue based education are well documented and understood. However, the specific focus of this paper is to explore situations beyond these general statements. This paper will attempt to study the various qualitative aspects related to mother tongue and how these ultimately shape the socio-cultural identity of the individual. Section II explores the position of language rights in the broader spectrum of constitutional structure related to language. Further, it evaluates the importance of mother tongue being a specific focus of study within the broader concept of language rights. Section III explores the interface between language and education and argues that in this regard language rights ought to be non-negotiable. Further, it explains some qualitative aspects about the loss of a mother tongue. Finally, Section IV details out the unique relationship of language and culture, especially in India and also the role of language in the formation of socio-cultural identity of an individual.

## **II. Language Rights in the Broader Spectrum of Constitutional Structure in India**

### **A. Limitation of Language Use and Loss of Linguistic Diversity**

A simple statement of the importance of mother tongue seems not to justify the reality of its lived experience in India. Ours being a linguistically rich and diverse

country, a brief analysis of the language position is a must before we proceed to understand the special position of the Mother Tongue in an individual's identity formation and educational achievements.

India is described in Article 1 of the Constitution as a Union of States and although the formation of States in India are not exclusively based on any specific ethnic characteristic<sup>5</sup>, yet the linguistic principle<sup>6</sup> was the primary criteria followed for the federal division in 1956<sup>7</sup>. Every major Indian language which came to command sufficient popularity and prominence got their own State, though this rule had exceptions. This reorganisation changed the earlier division which, according to scholars were large multilingual States which was conducive with the Congress vision of a Socialist government<sup>8</sup>. Though the Commission had recommended for 16 States, the Act of 1956 modified this and made

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<sup>5</sup> The origin of the word ethnic is from the Greek term *ethnos* which means people belonging to a particular ethnic group. These are the people who have a separate culture and a sense of heritage which is specific to them and thus which substantially differentiates them from other ethnic groups.

<sup>6</sup> STATES REORGANISATION COMMISSION, REPORT OF THE STATES REORGANISATION COMMISSION 45, 46 (1955). In Chapter III titled "Language and Culture" at page 45 the Commission concludes that "...it is neither possible nor desirable to reorganise States on the basis of the single test of either language or culture, but that a balanced approach to the whole problem is necessary in the interests of our national unity." Detailing out this balanced approach at page 46, the Commission confirms that such an approach will, amongst other things, "...recognise linguistic homogeneity as an important factor conducive to administrative convenience and efficiency but not to consider it as an exclusive and binding principle, over-riding all other considerations, administrative, financial or political;"

<sup>7</sup> The historical development of federal reorganisation in India with reference to the emergence and role of linguistic affinity in the same is not the subject of this paper. This paper is limited in exploring the aspects like official recognition of linguistic affinity as a base for territorial reorganisation of the federal setup and the changes made in the Constitution concurrently. The analysis is limited to comprehend the thinking of the then legislators and reflect the true position of their understanding of the role of language as far as the concepts of Mother Tongue and the formation of Cultural Identity is concerned.

<sup>8</sup> Bethany Lacina Bethany Lacina, *How Governments Shape the Risk of Civil Violence: India's Federal Reorganisation, 1950-56*, 58 AM. J. POL. SCI. 720, 720-738 (2014). For a description of the earlier territorial division of the States See Sagarika Dutt, *Identities and the Indian State: An Overview*, 19 TWQ 411, 411-434 (1998).

provision for 14 States<sup>9</sup>. Reorganisation was but a complex issue and a complex solution, for one can find the solution going off on tangents from the primary criteria of linguistic homogeneity. For example, Bombay continued housing Marathi and Gujarati people, two very vibrant linguistic communities with their respective languages included in the original list of 14 languages under Eighth Schedule. On the other hand, Rajasthan have always been a separate State in India, and *Sahitya Akademi*<sup>10</sup> awards have also been instituted for this language since 1974 (recognising the literary importance of Rajasthani), without the language finding a place in the Eighth Schedule! Another example to show the complexity of this linguistic principle of Statehood is Chhattisgarhi, which have been adopted as the State Official language of Chhattisgarh<sup>11</sup> (formed in 2000), spoken, used and identified with widely yet is presenting a demand<sup>12</sup> for inclusion in the Eighth Schedule as without it, certain handicaps for the language continues to exist, like the inability to its use in public service exams.

State reorganisation threw open the potentiality of language movements in the future for separate Statehood. However, given the linguistic diversity of India, a separate State for each language group is an impossibility and unrealistic idea to sustain even hypothetically. Separate Statehood being impossible, the existing legal system must conform to some basic criteria that can safeguard the interests of the linguistic minorities within the same federal setup. This is more so now, because within each State, one specific linguistic majority group existed and held the power. The appreciation of safeguarding the linguistic minorities becomes more apparent if we consider the legislative subjects over which the States can legislate. For example, the term ‘language’ does not find mention in any of the

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<sup>9</sup> Madaboyina Gopi, *History and Evaluation of State Reorganization Commissions in India*, 12 ARTS SOCIAL SCI. J., 479 (2021).

<sup>10</sup>SAHITYA AKADEMI, [https://sahitya-akademi.gov.in/awards/akademi%20samman\\_suchi.jsp](https://sahitya-akademi.gov.in/awards/akademi%20samman_suchi.jsp) (last visited Jan. 27, 2023).

<sup>11</sup> See Ritesh Mishra, *Chhattisgarh CM writes to PM Narendra Modi, demands inclusion of Chhattisgarhi dialect in 8th Schedule*, HINDUSTAN TIMES (last visited Jan 27, 2023), <https://www.hindustantimes.com/india-news/chhattisgarh-cm-writes-to-pm-narendra-modi-demands-inclusion-of-chhattisgarhi-dialect-in-8th-schedule/story-GqRbmrICmDXY4NKOHBCAiN.html>

<sup>12</sup>LANGUAGES IN THE EIGHTH SCHEDULE, <https://pib.gov.in/newsite/erelcontent.aspx?relid=5928> (last visited on Jan 27, 2023).

entries of the Seventh Schedule<sup>13</sup>, while ‘education’ can be found in all the three lists. It is obvious that education includes the question of medium of instruction and thus through education; language use can also be affected. Given the fact that *Cultural and Educational Rights* are housed in the Constitution under Articles 29 and 30 as Fundamental Rights, the very enjoyment of such rights becomes insulated from any legislative interference vide Article 13 of Part III itself. Thus, a language right, if exercised under these provisions becomes immune from State interference. There appears to be no problem in such a reading of the Constitution, however, on a closer scrutiny, a problem is revealed.

In the Hohfeldian perspective<sup>14</sup>, the *two forms of rights* are claim-right (correlative of duty) and liberty (correlative of no-right) also known as passive rights (since there is nothing for the claimant to do in a claim-right) and active right (the beneficiary must do something actual to exercise his liberty). The right to conserve a distinct language under Article 29 Clause (1) is primarily exercised through Article 30 Clause (1) which empowers minorities “...to establish and administer educational institutions of their choice.”. Both these provisions are not claim-rights but merely active rights and situations may arise where due to lack of funds, initiative, and other practical difficulties, communities may be unable to exercise them, although there is nothing in law to actually prohibit them in exercising the same. In such a scenario, the practical effect of having such beneficial provisions in the Constitution cannot be realized.

This leads to a situation where not only the rights are left unattended and hence ineffective, but also the linguistic community seeking the implementation of these rights may become helpless in demanding protection of their language. This helplessness stares at the constitutional provisions which otherwise supports and cherishes the rich linguistic diversity of India.

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<sup>13</sup> Seventh Schedule of the Constitution of India contains the Union, State and the Concurrent lists, respectively housing the legislative entries over which the Constitution recognise the authority of the Union, the States and their Concurrent authority in framing the respective laws.

<sup>14</sup> See generally Heidi M. Hurd and Michael S. Moore, *The Hohfeldian Analysis of Rights*, 63 AM. J. JURISPRUD. 295, 295-354 (2018).

## **B. Locating the Need for the Concept of Mother Tongue in Indian Linguistic Landscape**

The limitation of using a language by any linguistic community indirectly leads to the dilution of linguistic identity. The aforementioned social situation seems to be looming large on the minds of the statesmen too at the time of reorganisation of States. Thus although the term “mother-tongue” did not find place<sup>15</sup> in the Original Constitution of 1950, it was added vide the Constitution (Seventh Amendment) Act, 1956, inserting Article 350A in Part XVII making provision for “...adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups...”<sup>16</sup>

The Constituent Assembly had included both language and culture under Articles 29 and 30 which contains ‘Cultural and Educational Rights’ recognising the importance of education in transmitting the language and culture from one generation to another. Moreover, the rights under Article 29 being available to all the linguistic communities (whether minority or not) recognised the interconnectedness of language and culture. Still, the inclusion of mother-tongue under Article 350A on the same year of State-reorganisation signifies the importance of mother-tongue and also the role of education in its preservation. Further, it is the President under Article 350A who “...may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities.” It is obvious to note here that Presidential directions being superior, the States have to follow the same and this Article does not give any say to the States so far as such directions are concerned. Thus, mother-tongue was not only constitutionally provided for, but the Union through the President was made supreme in so far as evaluation of any need for such education and its provision is concerned<sup>17</sup>. Herein lays the importance of understanding mother-

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<sup>15</sup> This term only found mention under Articles 120 of Part V and Article 210 of Part VI with reference to the language to be used in the Parliament and the State Legislatures respectively.

<sup>16</sup> See INDIA CONST. art. 350A.

<sup>17</sup> Whether the violation of such Presidential direction would cause a ground for the invocation of emergency can be another perspective to look at the importance of this Article. However, this aspect being not directly related to the present discussion, have not been explored here.

tongue as a specific focus of study in the broader system of linguistic rights. Mother-tongue after the amendment of 1956 became constitutionally entrenched and it can be argued that this happened due to the changed dynamics of language which resulted from the reorganisation of the States.

### III. Interface between Language and Education

#### A. Language and the Experience of Education

*In a narrow sense*, education means merely going through the process of educating oneself. The State-led formal education system stimulates this and literacy rate is often seen as an important indicator of this. *In a wider sense*, education involves going beyond mere literacy. Critical thinking, social values, problem-solving skills, empathy, etc. forms part of this education and State-led formal education is complemented by the community or society which plays an important role in this sense.

Any present discussion on the Right to Education starts from Article 21A of the Constitution which was inserted by the Constitution (Eighty-sixth) Amendment Act, 2002<sup>18</sup>. It states that the State *shall provide free and compulsory education* to all children from the *ages of six to fourteen years* in such a manner *as the State may by law determine*. However, speaking of the constitutional vision, the Constituent Assembly was well aware of the special position of language in Indian social life and of the rich linguistic landscape of India. Thus, the Constitution provided for safeguarding the Indian languages from potential language loss<sup>19</sup> due to linguistic dominance of one or the other language. The Constitution houses two *fundamental rights under Articles 29 and 30* in Part III. Under Article 29, sections of Indian citizens having a *distinct language, script* or culture have the *right to conserve* the same. Again, under Article 30, *linguistic minorities have the right to establish and administer educational institutions* of

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<sup>18</sup> This paper concerns itself with only the provisions under Part III and thus does not contain a study of the similar provisions under Parts IV and IV-A of the Constitution of India.

<sup>19</sup> Further, the Constitution (Seventh Amendment) Act, 1956 inserted Articles 350A and 350B in Part XVII of the Constitution which makes provision for “...*facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups...*” and for Special Officer for linguistic minorities respectively.

their choice. The special position of these minority institutions is also evident from the wording of Article 15 (5) and 15 (6) which specifically exclude these institutions from the operation of laws enacted for the admission of weaker sections of the society in educational institutions. Interestingly however, the 165<sup>th</sup> Report of the Law Commission of India (1998) which was considered before passing the Constitution (Eighty Sixth Amendment) Act, 2002 does not inquire into this issue of language in education.

A closer scrutiny of this constitutional arrangement can lead us to some underlying issues with these provisions so far as language is concerned. To start with, being a Fundamental Right, Article 21A has *greater sanctity than any other constitutional rights* (e.g., other language rights). Further, this being a *positive right* (in so far as the beneficiary is entitled to some form of service from the State) points towards the important role that is to be played by the State as the legislative body. Language is inherently associated with the process of education as a *medium of instruction in schools, medium of educational resources*, etc. and a Fundamental Right which lauds *compulsory education* may well relegate a minority language to the informal domain<sup>20</sup> (since this provision has no reference to language) while creating an aura of social acceptance and superiority associated with the language used in education. If the languages used in an institution functioning under Article 21A is not the individual's mother tongue then the socialisation process within the community may be affected, affecting the education in the wider sense.

Thus, the question of medium of instruction is intricately connected with survival of language and the linguistic community itself as well as with education itself. The Constitution champions *social justice*, which broadly means that the burden of social cooperation<sup>21</sup> is evenly distributed amongst different social groups. In

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<sup>20</sup> For example, indigenous languages which are non-existent in the official or broader social sphere are often used only in the home and private interactions of the speakers and thus lose its social presence. Gradually these languages also tend to lose speakers strength and even exclusive usage in private interactions is affected, as because, the other languages start to creep into these communications. See Shaila Sultana, *Indigenous ethnic languages in Bangladesh: Paradoxes of the multilingual ecology*, 0(0) ETHNICITIES 1, 1-26 (2021).

<sup>21</sup> Social justice pre-supposes the existence of inequality in any society and hence the potential divisions between majority and the minority communities.

this reference, this requires a linguistic group to be treated equally with other such groups and the right under Article 29<sup>22</sup> provides for this. However, Equality is a broad principle meaning both formal and substantive equality<sup>23</sup> and within this, *Equality of Opportunity* is both, an end in itself (as a characteristic feature of the society), as well as a means for the perfection of the principle of social justice. Thus, we find a separate mention has been made of the institutions coming under Article 30. Reading together, these rights would thus mean prohibition of discrimination on the basis of language and equal chance of competition for the various social goods and resources. Or, conversely stating, no linguistic community should be benefitted in its access to social goods and resources only by virtue of its language. Again, from the common perspective of language and education, this would mean at least minimum provisions on educational resources, medium of instruction, teacher diversity and system of evaluation.

In this reference, it can also be said that the various principles mentioned in the Preamble and then supported by the provisions under Part III like those mentioned above are ought to be non-negotiable for every community. Such an understanding is also supported by the concept of human rights, by virtue of which every human being is equal and thus each must have the right to conserve their own language (it is beyond the scope of this paper to study in detail the linguistic human rights).

### **B. Mother Tongue and the Effects of its Loss**

In general terms, the term mother-tongue would mean the language spoken by the mother to the child, that is, the first language that, under usual circumstances would be learnt by the child having a mother. Mother-tongue thus being learned from the mother herself would be a language which holds personal and emotional

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<sup>22</sup> Further, linguistic demands of State formation, recognition of Classical languages, Scheduled languages, etc. are the political manifestations of the same right which leads or may lead to the creation of completely separate social and political institutions. This aspect of the right however is beyond the scope of present discussion.

<sup>23</sup> Substantive equality under the Constitution can be afforded to the individual (as in Article 15 Clause 3) or to a class of individuals (as in Article 15 Clauses 4, 5 and 6). See also Michel Rosenfeld, *Substantive Equality and Equal Opportunity: A Jurisprudential Appraisal*, 74 Cal. L. Rev. 1687, 1687-1712 (1986).

importance to the child. The loss of a language thus is a loss that occurs in relation to the most intimate and personal attributes of a human being. The child being taught the mother tongue right from their interaction with the mother herself, most often, this is the language in which the child is most comfortable and which comes naturally to the child. This personal attachment to the language is distinct and separate from the cultural attributes of the language. Thus, when there is a loss of a language (be it the loss of the abilities to speak, read or write, or the loss of opportunities for using the language in the public space), this loss affects the speaker on a personal level which is always subjective. Language loss then becomes a lived through experience and reflects a loss of personal attribute, which being subjective, the real effect of the same being not susceptible to measurement. Hence, mother tongues are to be legally accounted for through rights, owing to the otherwise cruel situation of making an individual go through the personal feeling of loss, especially if she is denied educational rights in the same<sup>24</sup>. This denial is not a simple act, but flavoured with associated perceptions of lack of respect, which can lead to self-sabotaging in minor linguistic groups.

Next, on a different but analogous note, a brief mention will be made of the philosophical importance of this term. Mother tongue, in case of it not being renounced becomes an important language for thinking, that is, a person talks to herself in the depth of her soul in this language<sup>25</sup>. This is the first home of our true being and the inseparable first link between our cognition, understanding and expression in a group which uses the same language. Mother tongue echoes

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<sup>24</sup> Charles Taylor writes that both non-recognition and misrecognition can be a form of oppression which imprisons someone in a false, distorted, reduced mode of being. Recognition thus becomes a fundamental human need in this respect. See Charles Taylor, *The Politics of Recognition*, IN MULTICULTURALISM: EXAMINING THE POLITICS OF RECOGNITION 25 (Amy Gutman ed., 1994).

<sup>25</sup> Mücella Can, *A Philosophical Analysis on The Importance of Mother Tongue in Effective Communication*, 74 TURCOLOGY RESEARCH 315, 315-323 (2022), <https://turcology.org/en/a-philosophical-analysis-on-the-importance-of-mother-tongue-in-effective-communication-131808> (last visited on Jan. 27, 2023). (The present scholar have translated this Article originally written in Turkish to English using Google Translate).

the soul, not in an optical mirror, but an acoustic mirror<sup>26</sup>. This language the becomes our spiritual nature since birth apart from being transparent, natural and organic means for developing philosophical thinking. Mother tongue thus viewed and nurtured along with an associated system of values will only lead to higher forms of thinking grounded in respect for one's culture and the use of reflective thinking in deeper level of the self. Such a speaker of mother tongue will retain the language and study the world through it, implying that languages will not be seen to be as antagonistic or competing in terms of majority-minority divide.

The present paper does not concern itself on the various advantages of having mother tongue as a medium of instruction in schools with reference to the positive effects on learning outcomes<sup>27</sup>. This is because in India, the role of mother-tongue has always been recognised and also promoted through policy documents and legal measures wherever possible. Linguistic minorities also have specific rights to preserve their language, thus framing arguments about the importance of mother-tongue in education seems unrequired and will be repetitive. However, the concept of mother-tongue can be used to understand the dynamics of language and social identity and it can be explored how far the present legal framework accommodates the various aspects of this mother-tongue, in so far as this term is related to the formation of a socio-cultural identity.

#### **IV. Language and Culture**

##### **A. Unique Relationship of Language and Culture in India**

Before we take note of the role of mother-tongue education and formation of socio-cultural identity of an individual, arriving at certain other conclusions from related questions seems to be important. These conclusions will make us understand the fact that although role of language is often evaluated through the transmission of cultural practices from one generation to another, but culture

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<sup>26</sup> *Ibid.* The scholar states that this analogy allows us to understand the specific role of mother tongue as a reflective language through which self-knowledge and conscience is achieved.

<sup>27</sup> See generally BILINGUALISM AND ACHIEVEMENT IN SCHOOL (E. Annamalai ed., Central Institute of Indian Languages 1980); See also LANGUAGES AND MEDIA OF INSTRUCTION IN INDIAN SCHOOLS (THIRD ALL-INDIA EDUCATION SURVEY) (M.G. Chaturvedi and Satvir Singh eds., NCERT 1981).

being a dynamic concept, several exceptions to this situation can also exist in the society. This understanding will be of benefit to evaluate whether one-size-fits all approach of the present linguistic rights is sufficient or different sub-sets of linguistic rights may be needed to actually preserve the linguistic diversity of India. Thus, the questions may be posed: Is a mother-tongue important only because it secures the formation of a distinct socio-cultural identity of an individual? Does the importance of a language as a social reality exists only because it signifies a different culture altogether? And finally, what is the role of a common mother-tongue, if any, in the existence of separate cultural identities?

Language and culture is interconnected and as such, these terms are often spoken of and used in similar manner, or in a similar context. For example, questions of language are often argued on the basis that they signify<sup>28</sup> different cultures and culture is often taken to signify the distinct use of any associated language. The State Reorganisation Commission, 1955 also explored the concept of culture, when the major question was to arrive at a solution for reorganisation of States, and the public outcry was to have a linguistic reorganisation. In this respect, the Commission included the topic of culture within Part II, Chapter III titled “Language and Culture” and stated that “...in most cases the cultural argument has been pressed into service with very little justification. In fact, there was hardly a political note struck before us which did not carry a cultural undertone.”<sup>29</sup> On the question of culture, the observations made by the Commission seems not only to be correct, but also the only practical conclusion in India, from the legal as well as the sociological point of consideration. Thus, the Commission rightly recognises that culture includes language, and the cultural needs of the people, so far as reorganisation is concerned will be “...considered primarily in terms of the growth of the regional languages, the maintenance of customs and the popularisation of the line arts,”<sup>30</sup> The consideration of culture in any manner beyond this basic relationship of language and culture may, in the views of the Commission, restrict cultural evolution, or cause cultural isolation (or conflict),

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<sup>28</sup> See generally Joan Kelly Hall, *Language, Education and Culture*, IN 1 ENCYCLOPEDIA OF LANGUAGE AND EDUCATION 45 (S. May and N. H. Hornberger eds., Springer 2008).

<sup>29</sup> STATES REORGANISATION COMMISSION, REPORT OF THE STATES REORGANISATION COMMISSION 47 (1955).

<sup>30</sup> *Ibid.*

in addition of coming into way of creating a vibrant synthesis of the broader composite Indian culture. Thus, the Commission was "...disinclined to attach too much importance to cultural distinctiveness as a factor independent of the linguistic needs of the people."<sup>31</sup>

Even as a sociological concept<sup>32</sup>, culture is dynamic and scholars have differed in identifying and coming at a uniform understanding about the same. Further, contact of various cultures, their interactions and the process of assimilation, acculturation, etc. makes this concept even more dynamic and fluid at any point of time. The formulation of a restrictive definition of such a fluid sociological concept, or, any statement about specific rights related to this, itself appears to be an exercise that will do more harm than good. Hence, it can be stated that so far as law is concerned, the study of educational and linguistic rights (along with the associated jurisprudential concepts of liberty, equality and justice) can be well served if we arrive at a *preliminary assumption* that language is a part of culture and protecting language will eventually lead to the preservation of culture itself.

This *preliminary assumption* can be proved to be useful and sufficient if we probe into the existence of two separate social situations in this regard. In the following examples, the first is of two languages sharing a common cultural space and the second is of one language housing two sub-sets of culture. These examples are given to better understand the varying role of language in a cultural setup.

*Example One: Hindi-Maithili tension*

The cultural history of roughly the regions in North Bihar<sup>33</sup> is captured through the Maithili language. Maithili, despite being rich and with long literary traditions of its own, often finds itself in a tension between Hindi-Maithili<sup>34</sup>

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<sup>31</sup> *Id.* at 48.

<sup>32</sup> See generally Michael Wesch, *THE ART OF BEING HUMAN* (Createspace Independent Publishing Platform 2018).

<sup>33</sup> Sachida Nand Jha, *Translation as a cultural tool*, *THE PIONEER* (last visited on Jan 27, 2023), <https://www.dailypioneer.com/2017/columnists/translation-as-a-cultural-tool.html>.

<sup>34</sup> The Editors, *What the Maithili Movement tells us about language politics in India And resistance in the face of 'Hindi imposition'*, *HIMAL SOUTHASIAN* (last visited on Jan 336

divide. Hindi got huge support from North India as a contender for National Language in 1950 when it was primarily contending with Urdu which came to signify a different religious community in the popular view. However, after being recognised as one of the Official Languages of India, Hindi became more popular and North Indian regions came to be known as Hindi-belt. Scholars argue that only Rajasthani from the Hindi belt have been recognised, while languages like Bhojpuri, Awadhi, etc. were never<sup>35</sup>. Today, even a language like Maithili has to face the misconception in popular imaginary of being just a dialect<sup>36</sup> of Hindi. The importance of this language can be well appreciated if one considers the fact that the celebrated George Grierson (credited for having completed The First Linguistic Survey of India) studied this language extensively<sup>37</sup> apart from other scholars<sup>38</sup>. The geographical region where Maithili is used has always been considered as a part of the broader Hindi-belt and in this case, there perhaps is no substantive cultural difference between the speakers of these languages. Maithili after a long struggle for recognition was included in the Eighth Schedule by the Constitution (Ninety-second Amendment) Act, 2003 whereas Hindi was there since 1950.

*Example Two: Sibling rivalry between Ghotis and Bangals*

The ghoti-bangal divide is more of a sibling rivalry between the members of a same linguistic community of Bengali. This divide is still a recurrent occurrence in many social situations and is socially expressed as arguments over cultural

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27, 2023), <https://www.himalmag.com/what-the-maithili-movement-tells-us-about-language-politics-in-india/>.

<sup>35</sup> Abhishek Anand, 'Hindi belt' languages must thrive like Hindi: Bhojpuri, Maithili experts, India Today (last visited on Jan 27, 2023), <https://www.indiatoday.in/india/story/hindi-belt-languages-must-thrive-bhojpuri-maithili-experts-2000315-2022-09-14>.

<sup>36</sup> *Supra* note 33.

<sup>37</sup> See GEORGE GRIERSON, AN INTRODUCTION TO THE MAITHILI LANGUAGE OF NORTH BIHAR (Asiatic Society Calcutta 1881).

<sup>38</sup> See PAUL BRASS, LANGUAGE, RELIGION AND POLITICS IN NORTH INDIA (Cambridge University Press 1974); Also see Richard Burghat *A Quarrel in the Language Family: Agency and Representation of Speech in Mithila*, 27 MOD. ASIAN STUD. 761, 761-804 (1993).

superiority or inferiority<sup>39</sup>. The cultural differences include differences in food habits, lifestyle, food choices, rituals in Pujas, traditions in marriage, etc. Though this cultural divide is seemingly of friendly sibling rivalry, yet, the social existence of the same can never be overlooked. This rivalry has been explored through the medium of movies and is a much lived social reality amongst Bengalis<sup>40</sup>. However, although there are cultural overtones to this rivalry, the common unifying factor is the Bengali language that cuts across such differences and unites the linguistic community as a single social unit.

The first example shows that the geographical and cultural spaces may be shared between two separate languages. Culture being a dynamic concept is difficult to be captured in legal terminologies, however, language and linguistic identity by itself is capable and desirable of legal recognition and conferment of rights, irrespective of the fact that whether such language signifies a different culture altogether (substantially). Further, this example shows the emotional and social identity which the people may associate with their language, in this case, people having supported Hindi and being Hindi speakers, also sought the recognition of their Maithili language by rightfully distinguishing the same from Hindi and championing for its preservation. The second example shows that language can be a unifying factor in social situations where there are cultural differences. In such a case, the entire linguistic community seems to regard the cultural differences as minor ones and their overall socio-cultural identity is unaffected by the differences.

Hence, from the above two examples of the uniqueness of the linguistic scenario in India, we can conclude that: *first*, cultural *similarity* does not necessarily mean linguistic similarity and linguistic identities in this case can be separately argued for and secure legal recognition; *second*, cultural *differences* do not come into the way of having a common linguistic identity and in this case language and culture becomes intricately mixed and seen as a broader socio-cultural identity.

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<sup>39</sup> Urmi Khasnobish, *Did You Know About The Famous Ghoti Vs Bangal Tussle Which IS Unique To The Bengali Psyche Since Partition?*, ED TIMES (last visited on Jan 27, 2023), <https://edtimes.in/did-you-know-about-the-famous-ghoti-vs-bangal-tussle-which-is-unique-to-the-bengali-psyche-since-partition/>.

<sup>40</sup> See generally Agnidh Baruah, *Ghoti-Bangal Differences and Conflicts as Represented in Bengali Films*, 27 IOSR-JHSS 1, 1-8 (2022).

Thus, in the second example where the Bengali language is a means to the vibrant Bengali culture, the cultural sub-differences does not matter so far as linguistic rights and education is concerned. Hence, the *preliminary assumption* that language is a part of culture and protecting language will eventually lead to the preservation of culture itself seems to be correct. If language is part of a distinct culture (as in case of Bengali), protecting language rights will protect the culture and other cultural differences within the same linguistic community will not warrant separate protection as they are regarded as minor reflection of a broader socio-cultural identity. Next, even if language is not a part of a separate substantial culture, yet, linguistic identity will be a form of major social identities and can be regarded as a subject of conferring linguistic and educational rights.

Hence, from the perspective of the mutual relationship between culture and language, there appears to be three separate social situations: *first*, language as a social identity may exist without the popular perception of the same language being the carrier of distinct socio-cultural identity; *second*, language and linguistic rights may exist cutting across minor cultural differences and as a part of broader socio-cultural identity; *third*, language may be a carrier of distinct socio-cultural identity and thus require special protection on this ground alone. It is these third types of languages that will be studied next and the importance of their being protected and legally provided for will be evaluated.

### **B. Language and the Formation of Socio-Cultural Identity**

Number of speakers and profound existence of cultural knowledge is directly related. In India, in an unfortunate case of 2010, the only surviving speaker of the Bo language died and one language was lost forever ‘... *breaking a 65,000-year link to one of the world’s oldest cultures*’<sup>41</sup>. Wherever there is co-existence of a separate and distinct culture and also of a distinct language, then the role of that language in transmitting the cultural knowledge to the next generation is significant. Such languages are not only a medium of communication, a marker for social identity, but also a symbol of distinct cultural identity. Hypothetically,

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<sup>41</sup>Jonathan Watts, *Ancient tribal language becomes extinct as last speaker dies*, THE GUARDIAN (last visited on Jan 27, 2023), <https://www.theguardian.com/world/2010/feb/04/ancient-language-extinct-speaker-dies>

let us take an example of a child from this cultural community who is not fluent in this language. In such a case, it would be difficult for the child to communicate with other members of his cultural group, or to internalise and live their cultural practices, especially if the members are also unable to speak comfortably the other language that the child speaks. This child will then be also unable to negotiate his or her individual linguistic identity or the broader socio-cultural identity, and this in the long term would lead to loss of language and culture. According to Antara Dev Sen<sup>42</sup>, Language and literature is connected with our reality and aids in the formation and strengthening of a self-identity and then an overall inclusive Indian identity. She further writes “By neglecting the roots of our mother tongue cultures, we weaken ourselves.”

The correctness of the above example can be evaluated if we consider the fact that in today’s world, multilingualism is often a requirement and also perceived to be of more utility. In such a scenario, children from many linguistic backgrounds tend to learn a non-mother-tongue and this gives rise to the rise of bilingualism in children, sometimes from a very early age. A narrative of personal experience came across during the present study<sup>43</sup> stated that influenced by the research on language maintenance and bilingual education, parents decided to delay their children’s exposure to a second language as long as possible by using the first language at home. Their decision is also stated to be based on the experiences of other families who struggled to maintain the heritage language and found their children dominantly speaking the second language once the children were interacting with peers from the second linguistic group. Thus, the role of language in formation of socio-cultural identity is *preliminary found to be correct*. One can argue that this interconnectedness of language and culture was recognised even in 1950 and thus the rights under Article 29 are available to all sections of people, not just the minorities. In fact, the role of language in shaping the culture of a society is so profound that “Unity and diversity of cultures pre-supposes unity and diversity of languages.”<sup>44</sup> Even in championing

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<sup>42</sup> Antara Dev Sen and Pratik Kanjilal, *Thinking Allowed*, 62 INDIAN LITERATURE 35, 35-38 (2018).

<sup>43</sup> Sandra G. Kourtizin, *A Mother’s Tongue*, 34 TESOL Q. 311, 311-324 (2000).

<sup>44</sup> P. C. Joshi, *Culture and Cultural Planning in India*, 18 ECON. POLIT. WKLY. 2169, 2169-2174 (1983).

the cause of Hindi as the National Language of India, cultural arguments can be found and the role of a language in signifying and shaping the culture was well understood. Education played a key role in remoulding perception of Hindi as a cultural marker of India and in the process engaged with the concepts like Sanskritisation, question of Devnagri script and Urdu-Persian heritage<sup>45</sup>.

In the context of language being attached to a distinct socio-cultural identity, two different perceptions may be taken into account. Taking the social reality in account, minority groups can exhibit strong attachments to their language as a *part of their group identity* or may view the language as a language of *minimum utility*<sup>46</sup> and this variation depends from one group to another. However, given that every community is free to preserve whatever aspects of their culture they want to preserve, protection of another degree may be needed when any community intends to protect their separate socio-cultural identity through the means of linguistic rights. The dialectic of preservation and loss of languages are marked by the presence of two forces, the dominant force of language shift and social mobility, and the counter current of a commitment by groups to protect their “ethnocultural identity”<sup>47</sup>. Demands of social mobility may cause a language shift in multilingual societies and this shift is by default in favour of and towards the dominant languages spoken in the society, provided that cultural consciousness are not well developed. Kamal. K. Sridhar<sup>48</sup> writes that languages with comprehensive literary traditions and extensive written materials like Gothic and Hittite have succumbed to the same fate of language shift and are classified as dead languages today. He further gives the examples of language maintenance among the speakers of Asian Indian languages like Kannada, Gujarati and Malayalam in the U.S. where he found that majority of the children tend to be bilingual with more dominance in English. In the Indian scenario, the author gave the example of the Marathi language in Tamil Nadu where it was

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<sup>45</sup> Krishna Kumar, “Quest for Self-Identity: Cultural Consciousness and Education in Hindi Region, 1880-1950” Vol. 25, No. 23 ECON. POLIT. WKLY. 1247, 1247-1249+1251-1255 (1990).

<sup>46</sup> See K.K. SRIDHAR, ENGLISH IN INDIAN BILINGUALISM (New Delhi 1989).

<sup>47</sup> See Kamal K. Sridhar, *Mother Tongue Maintenance: The Debate. Mother Tongue Maintenance and Multiculturalism*, 28 TESOL Q. Special-Topic Issue: K-12 628, 628-631 (1994).

<sup>48</sup> *Ibid.*

being gradually replaced with the regional language Tamil in face of economic demands of learning a language which is the majority language in the society. The author contemplated that with more Tamil words being absorbed into Marathi, soon the language will be replaced even in the home domain. Thus, appreciation of the perception of language being a carrier of socio-cultural identity changes the extent of language use and thus qualifies for differential legal recognition and subsequent protection in legal rights. If these two forms of perception about language are treated uniformly, as appears to be in the Indian scenario, soon major languages and socio-cultural identities may be wiped out due to the pressure from dominant languages.

Next we can take the role of language, specifically mother-tongue in the primary socialization of the child. Primary socialization here means the very first elements of personal and social communications through which the child learns to communicate with other members of the community. Such communication being developed first (with reference to other forms of social communication) in the point of time, the child is of very young age when he learns the mother-tongue. This language learning is formed and shaped through the communications happening between the child and the primary care-givers, which is often the parents, the grandparents, siblings and other close relatives of the family. In such a scenario, can the loss of language mean only the loss of socio-cultural identity, the benefits of having mother-tongue in educational attainments, or, does this loss have other effects? L.W. Fillmore suggests that the effect is felt even in "...integrity of their families and the society they live in."<sup>49</sup> Fillmore states that loss of mother-tongue usage resulting in loss of socialization may lead to hindrances in the communication of values, beliefs, wisdom, meaning of moral/ethical concepts and the essential bond of everyday interactions. This ultimately may lead to rifts "...and families lose the intimacy that comes from shared beliefs and understandings." The scholar cites the example of Korean to drive home a point that some languages are spoken considering the speaker's social position and age relative to those of the person addressed to, and loss of such will inevitably lead to social alienation between

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<sup>49</sup> Lily Wong Fillmore, *When Learning a Second Language Means Losing the First*, 6 EARLY CHILD. RES. Q. 323, 323-346 (1991).

members of the linguistic community if such forms of speech are not adhered to, and in extreme cases may cause families to fall apart!

In the Indian case, many languages like Hindi, Bengali, etc. have different forms of speech when referring to persons of an older age. Such forms being generally absent in the English language; this example may well be explored in India with reference to the general hostility that the old generations of speakers show towards exclusive English speaking of the younger speakers of their community. However, the language socialization may vary in different families<sup>50</sup>, and the above result of alienation is only the most extreme form of negative effects occurring due to language loss. Language when learned from primary care gives entail not only the use of such language, but also the social and cultural context in which it is used, thus being the exclusive means by which a child learns his socio-cultural orientation<sup>51</sup>. The role of mother-tongue in socialization is such that learning a second language have been termed as re-socialization where the previous cultural training is used with modifications in learning "...another culturally-established language system."<sup>52</sup> Thus our understanding about the role of language in formation of socio-cultural identity which was *preliminary found to be correct*, becomes more strengthened taking into account the indispensable need of mother-tongue in primary socialization and as a subtle cultural force in the life of a child belonging to linguistic minority.

#### IV. Conclusion

Sridhar found that "...the Indian case studies show, minority language can survive and thrive even in economically weaker situations if the society as a whole respects, not just tolerates differences...the only hope...is a genuine, positive commitment to multiculturalism."<sup>53</sup> Consider the above example of Marathi language with the situations faced by Dhimal people. The latter

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<sup>50</sup> See Sandra R. Schecter and Robert Bayley, *Language Socialization Practices and Cultural Identity: Case Studies of Mexican-Descent Families in California and Texas*, 31 TESOL Q. 513, 513-541 (1997)

<sup>51</sup> Bambi B. Schieffelin and Elinor Ochs, *Language Socialization*, 15 ANNU. REV. ANTHROPOL. 163, 163-191 (1986).

<sup>52</sup> Lillian O'Connor, *The "mother tongue" and socialization*, 3 PHILIPP. SOCIOL. REV. 7, 7-10 (1955).

<sup>53</sup> *Supra* note 46.

community is only consisting of thousand members approximately, their mother-tongue being obscured in Census identifications and the process of language shift being acute. In such a scenario, present form of linguistic rights does not seem to be able to benefit this group in the protection of their socio-cultural identity. Marathi language being otherwise a strong and vibrant linguistic community seems to be well protected and provided for legally, thus favouring the author's conclusion. However, the variations that exist between the language-cultural relationships explored in the preceding section of this chapter lay open the possibility of having different sets of linguistic rights if linguistic communities are to be actually protected from the influence of dominant languages, especially when language is connected with a distinct cultural identity.

While in a multicultural society like India where linguistic identity is strongly felt and lived through, the exposure to a second language cannot snap the linguistic identity primarily formed through the mother-tongue provided that such an identity is well internalised and accepted by the child. However, if the child has not yet formed a stable and well-founded linguistic identity through the means of mother-tongue, then researches<sup>54</sup> show that the younger the child, the greater will be the effect of assimilative forces of language learning on her. This form of language shift and assimilation may eventually lead to the loss of not only the primary language but through it the very socio-cultural identity that it signifies. Multicultural education hence is a must for preserving the rich linguistic diversity in India and such a form of education needs to appreciate the daily lived through experiences of every child<sup>55</sup>. Only such form of exposure to the various streams of our composite Indian culture can help any child to actively negotiate and form her own linguistic and socio-cultural identity. On a bare minimum, even if multicultural education is not possible to be imparted perfectly, it is imperative that education as a social process and means of social mobility must not indirectly lead to the loss of rich languages and socio-cultural diversity of India. The linguistic minorities should be given a choice of education through their own languages. Only when a choice is available and there is no associated

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<sup>54</sup> *Supra* note 48.

<sup>55</sup> See generally Sarah Woodbury Haug, *Ethnicity and Ethnically "Mixed" Identity in Belize: A Study of Primary School-Age Children*, 29 ANTHROPOL. EDUC. Q. 44, 44-67 (1998).

perception of artificial superiority or inferiority of any dominant language, can the actual social reality of language choice be of real import. Otherwise, it is very easy to cite economic, and resource limitations in not providing for educational opportunities to various linguistic communities.

In the data on languages, the Census<sup>56</sup> shows that the North Eastern States have the highest percentage of speakers of 'Other Languages', ranging from 26.36% in Sikkim to 88.13% in Nagaland. However, States with highest percentage of population speaking 'Scheduled Languages' include Uttar Pradesh (99.98%), West Bengal (99.47%), etc. It becomes clear that the multi-lingual character of India differs from one region to another. Hence, a one-formula-suits-all approach will be of futile consequences. The analysis of the term mother tongue has shown that with each language lost, there will be irreparable loss not only in quantitative terms but also qualitative terms.

We can try to capture the importance of mother tongue, culture and the need to preserve language by posing a final question. Language learning and demands of education, social mobility and limitations of economic and other resources may make the provision of mother tongue education a still distant dream in India. This lack may not affect the individual relationships in the present age, and the mother tongue may be unnecessary for wider social communication. But, how will we communicate between the living and the dead? Losing the language will mean losing the connection with our ancestors, the common link that unites us and languages will be lost forever like the Indus script or the Bo language! This loss will snap us from the very soil in whose nourishment we were to grow and evolve naturally.

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<sup>56</sup> CENSUS DIGITAL LIBRARY, <https://censusindia.gov.in/nada/index.php/home>.