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A Comprehensive Analysis of Potential Impact of Bilingual Legal Education over Students' Indian Legal Academic Realm

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ABSTRACT

The Union Government provided some instructions for raising the country's educational standard in its National Education Policy 2020. The committee recommends that state-run law schools embrace bilingual legal instruction in paragraph 20.3. This idea has several ramifications. This needs to be understood in light of recent developments in the Indian legal system. Meeting certain requirements and criteria is necessary for this plan to be implemented effectively. This article examines how such a policy may affect the worried kids. In the current Indian legal environment, the article aims to determine if a "bilingual legal education system" is progressive or regressive.

I. INTRODUCTION

The value of the study of law to society is enormous. The most important weapon for fostering social change, advancement, and development is the law. Law serves as a tool for justice but also protects people's rights, social harmony, and order. The democratic aspect of the community, which in turn depends on the rule of law, is essential to the wellbeing of the society. Legal education is defined by the Law Commission of India as a science that conveys to its students' understanding of certain legal principles and laws to prepare them to enter the legal profession. Legal education is a technique, arena and platform for the rational and orderly settlement of disputes and handling of conflicts.² These all aspects strengthen the importance of law as a disciplinary in the society. The importance of legal education in the society can be understood through the words of Blackstone, when he explains legal education as 'communicating the knowledge of the country as part of the culture of a gentleman, noble man and common man committed in a learned profession.'³

A discipline can thrive thanks to the organizations and people involved in it. It is evident that developing quality institutions and offering proper training are crucial for the expansion and

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² CHALLENGES OF LEGAL EDUCATION IN THE 21st CENTURY, , <https://www.legalbites.in/challenges-legal-education-21st-century/> (last visited Oct 10, 2021).

³ Dr Justice A.S. Anand, HL Sarin Memorial lecture, ' legal education in India, past, present and future.

advancement of any field. The study of law is not an exception. Legal education has not been a priority in India for a sizable amount of time. The general trend did not alter significantly either. Even the World Bank held off until the 1990s before recognizing legal education as a field with room for growth. The Indian law colleges have long been criticized for their overcrowded campuses, lack of creative thinking and high-quality research. All of the rules and standards that the Government and Bar Council introduced were in the right path. However, because it was dependent on the resources and facilities of different law institutions, its application lacked standardization. This has caused a startling disparity in the caliber of graduates from these universities. The government's creation of National Law Colleges benefited Indian legal education since it set a standard for other universities to aspire to. However, the lack of resources created a gap in India's legal education.

The Government of India, through the National education policy put forward a variety of suggestions to improve the standard of legal education in India.⁴ The chief among them was the Government's proposal to initiate 'bilingual legal education' in all state-run universities in India. The policy explains bilingual education as learning both in English as well as the local language of the state. This paper is an attempt to analyze the potential impact of bilingual legal education over the students. The challenges to the implementation of the policy will also be analyzed.

II. INFLUENCE OF ENGLISH LANGUAGE OVER INDIAN LEGAL SYSTEM

India embraced the British legal system. During the period leading up to independence, all significant statutes were written in English. The commencement of the contemporary Indian legal system was the formation of the Supreme Courts in Madras, Bombay, and Calcutta. The rulings of our country's constitutional courts were previously given in English, while the top court later began giving rulings in a few indigenous languages. The majority of higher court proceedings are still done in English. English is indeed an indispensable factor in Indian Legal System. Technical English is the language of the law and also the medium of instruction in the Indian Legal System.⁵

⁴ NATIONAL EDUCATION POLICY 2020, (2020), https://ruralindiaonline.org/en/library/resource/national-education-policy-2020/?gclid=Cj0KCQjwwY-LBhD6ARIsACvT72OiX4qxOaVajZ1iucCdEdvTbD9Nj81TarSK9g1y2dITyLCzIL6f34QaAtk3EALw_wcB (last visited Oct 11, 2021).

⁵ Language Reforms In The Indian Legal Education System, , <https://legalserviceindia.com/legal/article-1740-language-reforms-in-the-indian-legal-education-system.html> (last visited Oct 21, 2021).

Article 343 of the Constitution of India provides that the official language of the country shall be Hindi in Devanagari script.⁶ The article further provides that English language shall be used for all official purposes for a period of 15 years from the commencement of Constitution of India.⁷ Furthermore, the article provides the President, power to issue an order authorizing the use of Hindi in the said period along with English for any official purposes.⁸ Article 348(1) provides that all proceedings before the High Court and before the Supreme Court shall be in English, unless the parliament by law provides otherwise.⁹ (2) of Article 348 allows the Governor of the state to issue an order with the prior permission of the President authorizing the state to use Hindi or any other language in proceedings before the High Court.¹⁰

Numerous languages are spoken by people in India. In a nation like India, especially in its legal system, it is essential to have a common language. The Indian legal system is uniform thanks to the English language. Indian High Court judges frequently move between states. The fact that English is a widely used language helps with the administration of justice. Additionally, despite being translated into a small number of ethnic languages, the majority of key acts and rulings from the supreme court are written in English. Many regional languages lack an exact translation for the majority of Latin legal maxims and technical terminology. Therefore, Indian Legal System without English language will struggle. The Bar Council of India in its rules for legal education in India in 2008 as well as the draft rules in 2019 mandated the use of English as the medium of Instruction in law collages in India.

The biggest advantage of having English as the primary language in the Indian Judicial system is that, it provides homogeneity to Indian Legal System. Lawyers are primarily trained to do cases and also to argue it in English. Any shift has the possibility to seriously hamper the career prospectus of the lawyers. There is a high chance of lawyers getting confined to their respective states. Interstate litigants who comprise a considerable number in cities will find it difficult to carry on their cases. English also plays a great role in limiting the cost involved in cases as the requirement of translation gets limited.

India is quickly becoming more globalized. India has advanced economically from the 1950s when it was still undeveloped and underdeveloped. The Liberalization, Privatization, and Globalization policies implemented by the Indian Government in the 1990s deserve a lot of

⁶ Article 343 in The Constitution Of India 1949, 34, <https://indiankanoon.org/doc/379861/> (last visited Nov 19, 2021).

⁷ *Id.* at 34.

⁸ *Id.* at 34.

⁹ Article 348 in The Constitution Of India 1949, 34, <https://indiankanoon.org/doc/928281/> (last visited Nov 19, 2021).

¹⁰ *Id.* at 348.

credit. Over time, one of the main elements luring foreign investment into our nation was the availability of trained labor. The Indian legal system has also undergone changes as a result of this. Lawyers now have more possibilities than the traditional litigation, research, etc. Many businesses use lawyers as part of their decision-making process. The opportunities increased further due to an increasing trend of choosing Alternate Dispute Resolutions as the favored mode for settling disputes by companies. In such a scenario, promoting local languages along with phasing out English from Indian Legal System has the potential to discourage investments from abroad to India.¹¹ The resemblance of Indian Legal System with that of the British and extensive use of English in the Indian Legal System is providing a significant advantage for Indian Economy compared to its competitors.

In *Madhu Limaye v Ved Murthi*¹² the difficulty of not using English was discussed by the Supreme Court. One of the intervening parties to the case insisted on appearing in person. He further insisted on using Hindi. The opposite party argued that Hindi cannot be used as they were not able to understand Hindi. The intervening party refused to use English, he submitted all documents in Hindi and even refused his counsel to argue before the court. The Supreme Court cancelled his intervention citing Article 348 and held that the language of the Apex Court was English.

III. AN ALTERNATIVE APPROACH

The Union Cabinet on 29th July 2020, approved The National Education Policy of India, 2020.¹³ The vision of the document is to provide an India centric education to the students so that it enables the remodeling of India to an impartial, unbiased and dynamic society. An important aspect of the National Education Policy is its focus on languages. The policy suggests that the medium of instructions to students up to class 5 shall be in their mother tongue or in local language of the state as it is beneficial to the students at their elementary levels to understand concepts clearly. The Policy also proposes three language formulae where a student will learn a total of three languages in school and two of them should be native to India. The policy further provides that no language shall be forced on the students.

The National Education Policy in para 20.4 suggests some measures for improving the standard of legal education in India. Legal Education in India witnessed its first reforms when five-year integrated law course was introduced in the 1990s and this adaptation of 'law school' model

¹¹ Court Language in India: Divided by English as a Common Language, , <https://www.lawyered.in/legal-disrupt/articles/courts-india-divided-english-common-language/> (last visited Nov 19, 2021).

¹² *Madu Limaye v Ved Murthi* (1970) 3 SCC 378

¹³ NATIONAL EDUCATION POLICY 2020, *supra* note 3.

from the west, motivated young minds to choose as a career.¹⁴ An important scope for further reform of Indian Legal education is proposed by the National Education Policy, 2020 through its suggestion that all state-run law colleges shall consider introducing bi-lingual legal education to its students. Bi-lingual legal education is defined as delivering education in English and also in the language of the state concerned. This coincides with the Government's policy of 'not imposing any languages on any students. As per the report, one of the major reasons for introducing bi-lingual legal education in state run law colleges is that since most procedures in lower judiciary are conducted in the local language of the state concerned, bi-lingually trained lawyers can considerably reduce the delay in procedures and hence make the process less cumbersome. Also the fact that law is a social science involving critical thinking and its in the nature of human beings that they tend to think, analyze and present better in their mother-tongue. This aids in improving their performance and thereby uplifting the overall excellence.

An alternative route for Indian legal education is provided by the National Education Policy, 2020. By encouraging the use of ethnic languages, the program seeks to gradually lessen the influence of English on the Indian legal system. This has been a long-standing demand from numerous groups in order to make legal education more inclusive. Due to the fact that the majority of state-run schools use their native tongue as their primary teaching medium, this regulation is highly pertinent. The goal of the policy is to prevent any class from finding legal education hard simply because of the language in which they were raised.

IV. PROGRESSIVE OR REGRESSIVE?

The question whether the proposal to implement bi-lingual education in state run law schools is progressive or regressive is a relevant one. The advocates of 'the progressive stand' argue that bilingual legal education paves the way for the much-required autonomy of Indian Legal System from the British culture, the English language to be more precise. They back their claim on the ground that no language should be forced on anyone. The critics of bilingual education argues effective and efficient legal education can be given only in English. They further argue that the recommendation for bilingual legal education is too late as quality English education is increasing among the masses.

Bilingual Legal Education can open doors for more diversity at law schools around the nation. Students from non-English backgrounds may find the fast-paced legal jargon employed in law

¹⁴ C. N. Manjappa says, *LEGAL EDUCATION AND NATIONAL EDUCATION POLICY 2020 | National Law School of India University* (2020), <https://nlspub.ac.in/legal-education-and-national-education-policy-2020/> (last visited Oct 10, 2021).

schools to be demotivating and discourage them from enrolling in law schools. Giving students the chance to study law in both languages could perhaps fix this issue. This can increase the inflow of interested students towards the field of law. Julious G Getman in his article¹⁵ points out the importance of Bi-lingual legal education in India. He argues that the performance of both faculties as well as students can be considerably improved as a result of bi-lingual legal education.

Law is a social science. Studying of law requires immense understanding about one's surroundings. Studying law cannot be done in isolation. It involves important elements of Critical thinking. A bilingually trained professional lawyer or a law student can understand his surroundings better. He can understand the concepts better in his language of choice than on the language imposed on him. It is also argued that critical thinking and answering can be done better in a bilingual legal education system¹⁶.

The biggest advantage for a bilingually trained lawyer awaits in the lower judiciary. In our country, the lower courts still function predominantly in the local language of the concerned state. The procedures followed are also in the local language of the state. The litigants will also benefit from this as they will get a clearer understanding about the proceedings. A bilingually trained lawyer can utilize this opportunity to his/ her advantage. Various procedures like drafting, instructing clients, etc becomes easier. Studying law bilingually will help students who wishes to practice law in their native place or in lower courts. This can also help in reducing considerable delays in legal procedures as documents can't move up without proper translation.

The state concerned will benefit from bilingual legal education as it can avail the services of some skilled legal professionals as bilingually trained lawyers will find the best opportunities in their home state. The National Knowledge Commission has also taken cognizance of the importance of legal education. In its report, the commission states that the aim of legal education should not be constrained to the creation of Advocates for litigation, rather legal education should focus on creation of eminent jurists, policy makers, legislators, researchers, etc.¹⁷ Bilingual legal education is an appropriate method to realize this objective.

However, the large number of languages in India is an important factor to be considered in the case of bilingual legal education. Every community regards its language as its biggest asset.

¹⁵ Julius G Getman, *The Development of Indian Legal Education: The Impact of the Language Problem*, JOURNAL OF LEGAL EDUCATION 11.

¹⁶ *Id.*

¹⁷ National Knowledge Commission Report, 2008

But law has a universal application. The availability of legal literature in local languages of the state poses a threat to the implementation bilingual legal education.¹⁸ In order to translate pertinent material into regional languages, the government has suggested setting up translation units. Legal professionals, educators, and students who are fluent in both the target language and English will make up the translation cells. The learner might compare different provisions by using the worldwide literature on the subject. It will be interesting to observe how effective translation is in tackling this issue. The 2008 Bar Council regulations permit universities to provide exams in regional languages. However, the rules also make an examination on English compulsory in all Universities that allow students to have vernacular languages as a medium of Examination.¹⁹

An important problem associated with bilingual legal education is that it has the potential to weaken the homogeneity of Indian Legal System. Increase in the use of regional languages by lawyers will make the practise of other lawyers who may not have sufficient skills in regional languages difficult. This can decrease the opportunities for bilingually trained lawyers outside their respective states. In the changed circumstances where the opportunities for lawyers outside the court are witnessing a rapid increase, the relevant question to be asked is whether the concept of bilingual legal education is going against the trend? Indian Legal World is extremely competitive. The supply far outweighs the demand. Various scholars have raised concerns regarding the emergence of a system that excludes bilingually trained lawyers in the future.

The conclusion that can be derived is that the concept in its bare literal meaning is regressive in nature. This is because in a globalized world, creating walls of separation is not ideal. However, depending on the circumstances existing India, the concept is progressive. The level of English literacy²⁰ in the country is indeed on an upward trajectory. But its not uniform. A policy like this is imperative in bringing the large masses of population to the forefront.

V. CONCLUSION, FINDINGS AND SUGGESTIONS

The idea to introduce bilingual instruction in state-owned universities is a step in the right direction. This change has long been demanded by several states and academics. The idea is futuristic in nature because it intends to accomplish its goal in a few decades. The incapacity of the Indian judiciary to resolve disputes in a timely manner has always been one of its major

¹⁸ Language and Future of Legal Education: Contemporary Challenges, 12 RMLNLUJ (2020) 191

¹⁹ Education Rules 2008 «The Bar Council of India, , <http://www.barcouncilofindia.org/about/legal-education/education-rules-2008/> (last visited Nov 3, 2021).

²⁰ By literacy, author means the ability to skillfully handle English language.

issues. In this regard, bilingual legal education is welcome as it has the ability to significantly resolve this difficult problem.. Also, learning law in the language of choice of the student will help him in understanding the concepts better, thereby refining legal education. Bilingual legal education is part of the policy put forward by the Government that no language shall be imposed upon the students.

Availability of adequate literature that are translated to the concerned languages is an important factor that is to be considered while implementing this policy. Major languages already possess considerable amount of literature. India has a number of languages and not all of them possess translated literatures uniformly. The National Education Policy proposes to set up translation cells that are supposed to translate literatures to concerned languages. The translated copies should be reviewed extensively before circulating so that the loss of information as a result of translation can be minimised. Law is a growing and evolving concept. The translation cells should not be created as a one-time measure. There should be a permanent translation cell for each state so that important legal documents can be translated and circulated without delay. The availability of faculties skilled both in English and concerned language of the state should also be ensured.

The concept of Bilingual Legal Education should be implemented in its strict sense. The National Education Policy, 2020, explains it as education both in English and also on the language of the state concerned. India is not alien to language politics. The so-called 'reforms' to boycott English should not be allowed to manipulate this concept to their advantage. Bilingual legal education should not lead to total exclusion of English language. The concerned authorities including Bar Council of India has a duty to make sure that the 'progressive approach' won't turn 'regressive'. The developing Indian Economy and Legal System should also be taken into consideration. Extensive study has to be conducted to analyse whether the policy has the potential to cause a hindrance over the careers of its recipients. Any possibility over the emergence of a class differentiation between bilingually trained law students and others should be adequately dealt with.

An investment in legal education. If the investment is done carefully and wisely, it could hasten the pace of society's and the nation's advancement on a bigger scale. Along with being bilingual, legal education should also be modern and tailored to the demands of the present legal industry. Legal education should undergo more changes than just linguistic ones. A sufficient amount of attention should be paid to infrastructure development, frequent syllabus updates, etc. The government has a responsibility to fund legal infrastructure and education. These can all be used to start the much-needed reforms in legal education.