

## OVERVIEW OF EIGHTH SCHEDULE OF THE CONSTITUTION OF INDIA: ANALYZING THE NEED FOR ADDITION OF NEW LANGUAGE IN EIGHTH SCHEDULE OF THE CONSTITUTION OF INDIA

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### ABSTRACT

*This paper is an endeavor to critically analyze the Eighth Schedule of the Constitution which gives recognizes few of the major languages spoken in country. In the process of doing the same the author strives towards determining the scope of the Eighth Schedule of the Constitution and the various implications on the languages that are enlisted in the Schedule. In Eighth Schedule there are 22 languages. The primary focus of the research paper is to determine whether there is a need for new languages to be enlisted in Eighth Schedule and is it justifiable to have only 22 languages when there are 122 major languages and 1599 other languages. This research paper is an attempt to analyze the importance of the recognition of languages especially with respect to Eighth Schedule. The research paper also focuses on the importance of the Eighth Schedule of the Constitution, its scope and objective. The researcher further relies on the philosophy of Historical school and jurist Friedrich Carl Von Savigny and the concept of Volksgeist (National Spirit). The author further focuses on the benefits of being recognized or enlisted in the Eighth Schedule of the Constitution. The paper analyses the need for a proper and well-established guideline to determine the criteria of recognition in Eighth Schedule.*

*The author has referred to primary sources of the Law for the purpose of this research such as the Constitution of India and Official languages Act, Official Language Resolution 1963, Official Languages Rules. The paper will also take into consideration the reports of the various committees and Commissions established for recognition, development and encouragement of languages in India.*

**Keywords:** *Constitution of India, Eighth Schedule, Languages*

## **I. Introduction**

India is a land of languages. According to the Census of 2001 there are 122 major languages that are spoken and also there are other 1599 languages. In 1956 the states were divided or reorganized on linguistic grounds. From the above number of languages we can see that how vast and diverse the culture of the nation is thus it can be inferred that language is something that is closely associated with the people of India. So when there are these many languages along the length and breadth of India it becomes very important to recognize protect and encourage these various modes of communication. Language is a concept that is closely associated with culture and the people itself. Language is not only a mode of communication it gives the people a sense of identity and part that they can associate with themselves. In a land of difference there has to be a law or guidelines for setting aside these differences and work towards harmony. Language is dynamic in nature and its usage changes as per changing needs of the society. Eighth Schedule of the Constitution of India recognizes certain languages which are given Recognition in the Constitution itself. This paper analyses and provides an overview of the Eighth Schedule of the Constitution and analyses the need for new languages to be recognized in the said schedule. However the decision is at sole discretion of the parliament and is an area that is kept away from the judiciary, the paper focuses on the need for formulation of guideline for the process of recognition of languages and setting criteria for the same to remove the arbitrariness and achieve the objective of Eighth Schedule of the Constitution of India.

## **II. Note on the Standpoint of the Law with respect to Languages**

The laws pertaining to the languages in India are confined mainly within the Constitution itself. The primary source where the languages receive their recognition is the Eighth Schedule of the Constitution. Eighth Schedule of the Constitution is the list of various other languages which are recognized in the Constitution. These languages enlisted receive the recognition under constitution and does not by default become the official language. At present there are 22 languages that are recognized in the schedule of the Constitution. Other constitutional provisions that deal with the languages are the Article 345 which gives the state the authority to recognize one or more languages as the official language of the state. Article 343 declares that Hindi as the official

language of the Union and Article 344 empowers the President to set up commission and committee on official language. The above provisions speak about recognition of a language as an official language among the states and the Union. Article 347 is a special provision which gives the President the power to declare a language as an official language of the state on demand if satisfied. Eighth Schedule is set of those languages that are recognized by the Republic of India. These provisions also entrust an obligation on the Union and the States to develop these languages due to which there is growth and rapid increase in the richness of the language and thus becomes an effective means of communicating modern knowledge.

### **III. Identification of appropriate Theory/Concept**

The theory or the concept that is adopted here is the principle idea of the Historical School of jurisprudence. As identified by Hugo the essence of the Law is its acceptance, regulation and observance of the people. Historical jurisprudence deals with law as it appears in various forms at its several stages of the development. The same principle is applicable in case of the languages as well as it also develops and forms as suited to the different changing circumstances. Historical school emphasis on the people's spirit or the will of the people and same has to be reflected in the laws of a country.

The historical jurisprudence as mentioned earlier is a branch which deals with the evolution or development of the law and focuses more on the will of the people. The idea behind such an application is even though Language is a mode of communication it has not remained the same it has evolved, changed and developed according to the changing circumstances. Irrespective of the change it is the People's will that has led to the development or moreover sustainment of such language. Thus in order to seek the importance of such development the principle of Historical School has been adopted. However in order to make it relevant to the subject matter or the objective of the research paper it is essential to apply the Hopfield's analysis. The Hopfield's analyses the rights and duties of various parties which in this case is the general public and the state. It is important to analyse whether the public has claim to the recognition of language as an official language in Eighth Schedule and the State has the duty to grant and protect the same. It can be analyzed whether the State has the privilege to make a language official and public can exercise

no rights with regards to the same. However the positions are interchangeable with respect to the jural relations, it gives an idea of holding a certain burden or entitlement.

#### **IV. Report of the Official Language Commission 1956**

Article 344 of Constitution places an obligation on the president of India to constitute a Commission and a committee for language. In pursuance of the same the then President Dr Rajendra Prasad appointed the Language Commission with B.G. Kher as the Chairman on June 7 1955. The commission submitted a report on 1956. The report dealt with series of issues with respect to languages and also dealt with the importance and recognition of Languages. The Report derived a direct co relation between the language and the literacy rate, which later had an effect on the overall development of the country. The report says that language is the medium of expression and it is a part of process of imparting knowledge. The report identified that at the time when the large masses of the society was illiterate the reason for the same was language. The British rule suppressed the Indian languages in all the activities, and English was made the official language of Governance and as a result advanced education and advanced work/activities was made accessible only through the usage of English. The report addressed the Indian language problem, and how lack of access to the knowledge in regional languages and their suppression by English led to the down fall of the society as a whole. Due to this the indigenious languages could not cope up with requirements of modern usage and life and led to the downfall. The report also analyses the multilingual countries and their approach to the concept of official languages. The report also addresses that India has not one but 14 official languages at the time and the government is placed with the obligation for the development of the same. The report also imparts a duty on the state and central government to determine the mode of education in their respective states.

#### **V. Benefits of Enlistment under Eighth Schedule of the Constitution**

During the time of enactment of the Constitution Eighth Schedule served merely as a list of languages of that are recognized by the Constitution. The sole purpose for the same was to take the representatives from the languages enlisted in the Eighth Schedule into the Official Language Commission and Committee mentioned under article 344 for development and spread the usage of Hindi language. The same was also backed by the provisions of Official Language Act 1963

which was mainly development of the Hindi Language. However this has changed with the Official Language Resolution of 1968. As per this Resolution the Government or the State is entrusted with the duty of development of the Languages listed under the Eighth Schedule of the Constitution. Funds are thus allocated for the development of Languages recognized under this Schedule. The Resolution also promotes a 3 language model in which along with Hindi and English one other language that is recognized under Schedule which would lead to the development of that language. The resolution also entrusts the Union wherever possible to make competitive exam for services available in the languages enlisted under Eighth Schedule. Eighth Schedule languages paves way for the literary, cultural, artistic works to be recognized under the Sahitya Academy and also translation of such works into languages recognized under Eighth Schedule.

## **VI. Need for the Addition of new languages**

Taking into consideration recommendations of the Commission of Language Report of 1956, it can be noticed that how a non-recognition or non-access to an information in a particular language would lead to the downfall of the language and the people who use it. Language is dynamic in nature, it changes along with time, but language cannot do on its own. For a language to survive it must be in use. The more it is used the more it is developed and more it is susceptible to change. As mentioned above language develops along with the people who use it. The language is a mode of communication and plays a major role in imparting the knowledge. Thus language plays a major role in education, literacy and other cultures associated with the same. Recognition of Language in Eighth Schedule makes the information and knowledge more accessible. The recognition also opens up opportunities in employment since more information is accessible and the same would be applied more effectively and thus increasing the overall efficiency. It also leads to development of literary works, exchange of ideas and culture as Scheduled languages are recognized under Sahitya Academy and thus paving the way for translation of works. In 1950 14 languages were recognized as official languages. 80 years after enactment only 8 more languages are added to Eighth Schedule of the Constitution. More the languages recognized, the better the mode of communication, the better the access to information and knowledge. Thus in the land of more than 1600 languages, rises a need for recognition of more than just 22 languages in the Eighth Schedule of the Constitution.

## **VII. Need for a legislation/ Guideline**

Changes or Addition of Languages to Eighth Schedule is only possible through Amendment under Article 368 of the Constitution of India. Thus the power of the addition of Languages lies in the Hand of the parliament. As a result of this most of the time language as a means is used to gain the votes with promises of recognition under Eighth Schedule. 22 languages are enlisted in Eighth Schedule of the Constitution of India. it is interesting to observe that out of 1600 Indian languages only 22 have been recognized, which raises a question what sets these languages apart from that of the other 1600 languages. The process of recognition of languages under Eighth Schedule has been out from the hands of the judiciary. Since determination of status of languages lies in the hands of people of political power, it requires a set of guidelines determining the criteria for a language to be enlisted in the Eighth Schedule of the Constitution. There are 38 languages which have been demanding recognition under Eighth Schedule. Tulu is one such language which has been demanding recognition with 19 lakh speaking population (as per 2011 census) which is not recognized and Manipuri which is recognized under Eighth Schedule has 16 lakh population ( as per 2011 census) which is clearly less in number. Tulu speaking population is more than Bodo with a speaking population of 14 lakhs (as per 2011 Census) which is recognized under Eighth Schedule by a margin of 5 Lakhs. India being one of the largest English speaking nation does not recognize English under Eighth Schedule of the Constitution. From the above data it can be established that the numbers are not common ground for the recognition under Eighth Schedule but the recognition of languages lies in hands of people of Political power. Since the language recognition falls under arbitrary will of the people with political power and the process has also been away from the ambit of judiciary, it is essential that there be a more mechanic and systematic process of determination and recognition of Languages under Schedule 8 of the Constitution.

## **VIII. Conclusion**

India being a country representing unity in diversity, it becomes essential to recognize the differences within the country and strive towards unity by accepting those differences. Eighth Schedule is one such part of the Constitution of India that recognizes and grants a special status to significant differences that is the languages. The States and Government must strive towards

development of these languages along with other minor languages in the country. However it is time for India to recognize the other languages into the schedule, such recognition to take place under due process of the law and not at the discretion of people of political power for their selfish motives and same issue has endeavored to be addressed in this paper.

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