

3



Legislation and Policies in Relation to Sign Language and Sign Language Rights

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INTRODUCTION

The denial of rights for a community may extend to and have direct effect on their being denied entry into the general education, employment and cultural system of a nation. For the deaf population, the denial of rights springs from the denial of language rights of a minority by not encouraging the use of Signed Languages, Indian Sign Language (ISL) for the D/deaf¹⁸ population of India, overtly, and covertly by encouraging the use of speech training or a very inapt and weakened version of sign language in education of deaf children in deaf schools as well as regular schools. This state of affairs in India has led to a lamentable situation with regards to penetration of education among the deaf population.

When a vulnerable section of a population is denied linguistic and cultural rights, the role of legislation and policies, attain even greater importance. Legislation, especially for Persons with Disabilities (PWD), is not enacted automatically, but only as a result of continuous and intensive struggle wedged by the affected community and their advocates and sympathisers. Activism of and advocacy for the D/deaf population is only beginning to take shape in the country, as a result, acts and policies to do specifically with the D/deaf population are almost absent, save intermittent mention of Sign language here and there. However, the various disability related acts and policies do take within their ambit the

17. First four sections have been contributed by Bhattacharya, while the other two sections are written by Randhawa.

18. As per convention in Padden (1980), Deaf is used for deaf people who share a language and cultural values which are distinct from the hearing society, whereas the phrase 'deaf people' is used to include Deaf members as well as those members of the deaf community who may not use SL fluently but may still have culturally and linguistically diverse experiences; D/deaf therefore a shorthand to include both.

D/deaf population as well, but a recognition of ISL as the first language of D/deaf person in India is still a very far cry.

UNITED NATION'S CONVENTION ON RIGHTS OF PERSONS WITH DISABILITIES, 2006 (UNCRPD)

Since India is a signatory and has also ratified the UNCRPD in 2007, the Convention is binding on the Indian state. The Convention, as a part of 'definitions' of terms used in it, states that 'Language' includes spoken and signed languages and other forms of non spoken languages. Further, Article 9 on Accessibility, sets the onus on State parties to provide forms of live assistance and intermediaries, including professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public. Also, in Article 21 (Freedom of expression and opinion, and access to information) it is binding on the State parties to take measures to ensure freedom of expression by accepting and facilitating the use of sign languages and other modes of communication of their choice by persons with disabilities in official interactions, in addition to recognising and promoting the use of sign languages.

It is clear from these that Signed Languages are accepted internationally as the language of communication and expression for D/deaf persons. This is also clearly expressed in Article 24 of the Convention on Education, which encourages facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community. Furthermore, Article 30 (Participation in cultural life, recreation, leisure and sport) states that Persons with Disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.

SIGN LANGUAGES RIGHTS AS LINGUISTICS MINORITY RIGHTS

Bhattacharya and Haobam (2010) point out, in the context of linguistic minority rights, that education through mother tongue is a constitutional right as per Article 29 of the Constitution of India. Article 29, falling under cultural and educational rights, named as *Protection of interests of minorities*, is assumed to relate to minorities:

Article 29: *Protection of interests of minorities*

- (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve them.
- (2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

Thus in its scope, Article 29 is applicable to minority sections of citizens resident in the territory of India. ISL as the mother tongue of D/deaf minorities of India should therefore be the automatic choice of language of instruction for education and communication.

Furthermore, Article 27 of the International Covenant on Civil and Political Rights renders the following right to minorities:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of the group, to enjoy their own culture, to profess and practice their own religion or to use their own language.

It was pointed out in Bhattacharya (2010a) that the focus on child-centred learning approach (Article 29(2)(a), (d), (e), and (f)) of the *Right of Children to Free and Compulsory Education Act, 2009* (RTE), may be interpreted for the advantage of D/deaf students, wherein the academic authority appointed by the Central Government must take into consideration, (a) conformity with the values enshrined in the Constitution; and, (f) medium of instruction shall, as far as practicable, be in child's mother tongue.

Article 29 of the Constitution, as pointed out earlier, guarantees minority rights through mother tongue education. This is particularly relevant for a D/deaf child since Sign Language is the mother tongue of such a child. Article 2(d) of the RTE is relevant in this connection as it is about the intended semantics of the phrase "child belonging to disadvantaged group" and allows, among other things, linguistic basis for defining a group. Quite clearly then, on the basis of Article 29(2)(a) and (f) of the RTE, a D/deaf child can be considered to be a part of the above group.

ACTS AND POLICIES CONCERNING PERSONS WITH DISABILITIES

With respect to the few acts that concern persons with disabilities in India, the currently applicable act in the court of law, the PwD Act 1995, does not recognise ISL as a medium of instruction or communication. The proposed Bill does although recognise use of ISL as the primary language for the D/deaf, it does not however distinguish—as in the case of the PwD Act 1995—the need to make a distinction between the hard of hearing and the D/deaf. In the front of policies, there have been several policies that make provisions in education and employment for Persons with Disabilities including the D/deaf population.

Rights of Persons with Disabilities Bill, September 2012

Through several rounds of consultancy at state and the centre level, the Rights of Persons with Disabilities Bill (RPD) has been proposed by the Ministry of Social Justice and Empowerment (MSJE), to be taken up in the parliament for it to be turned into an act. RPD is inspired very much by the UNCRPD, and mentions similar sentiments with respect to the definition of 'language' by stating that 'language' includes spoken and signed languages and other forms of non spoken languages. Further, in Chapter 3 on Education, as per the duties of local government authorities to promote inclusive education, training and employing teachers, including teachers with disabilities, who are qualified in sign language, is included. It also suggests Persons with Disabilities have access to electronic media through sign language interpretation and close captioning, as means to ensure accessible information and communication technology.

However, the current act, the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, does not mention anywhere even the word sign, and does not therefore recognise ISL as the language of communication and expression for persons with hearing impairment and D/deaf persons.

It is not therefore unexpected that the Rehabilitation Council of India (RCI) syllabus (which is the *only* government recognised course) for BEd Special Education (Hearing Impairment) is heavily biased against Sign Language. (only three per cent of total teaching time is devoted to Sign language). Most

deaf schools in the country as well as education of D/deaf or hearing impaired students in the country still emphasise speech training and a form of oralism called total communication that has been given up in more advanced countries.

Indian Sign Language Research and Training Centre (ISLRTC)

In this connection, very significantly, vide order No. No.4-12/2009 NI, the MSJE approved setting of ISLRTC on 21 July 2011 with several broad objectives, among others, such as: to promote the use of (ISL) in India, to carry out research in ISL and create linguistic record/analysis of the language, to train persons in Sign linguistics and other related areas at various levels, to design, promote and offer programmes in ISL, interpreting and bilingual education, at various levels, through various modes including the distance mode, to facilitate educational use of ISL in special schools, as the first language or medium of instruction, and in mainstream schools, as second language or as interpreter mediated language of classroom communication. Although the functioning and continuation of the Centre is far from satisfactory at the moment, it is hoped that with such grand objectives, ISL will be established as the only language of communication and expression for D/deaf persons in India and that in the near future ISLRTC will play a major contributory role towards actions leading to enhanced use of ISL in schools and in public life.

Education Policies for Persons with Disabilities

The UNESCO Education Report for the twenty-first century affirms the importance of higher education in the economic development of a country. The population of PwDs in the country ranges from seven to eight per cent by any conservative estimate—though the last, and therefore the latest—census of 2001 grossly under-reports the percentage to be 2.13, whereas WHO and World Bank have estimated fifteen per cent worldwide. However, number of students with disabilities in universities is less than 0.5 per cent. In comparison to work done to promoting higher and technical education among the disadvantaged sections such as Scheduled Castes, Scheduled Tribes, Other Backward Classes (OBCs), women, and others, very little has been done for persons with disabilities with regard to higher and technical education.

This state of affairs is clearly reflected in the education of D/deaf students; as per the 2001 census 2,196 children with hearing impairment are enrolled in government schools at age 5 and the corresponding number still in school at age nineteen is 2,487. It is also rarely realised that among the students with physical disabilities, D/deaf students are the most vulnerable when it comes to education, since the current education system in the country is heavily biased towards the hearing (see Bhattacharya 2011, 2012 for details).

One of the reasons for this woeful scenario, more so in case of education of D/deaf students as briefly stated above, is the lack of true inclusion in education of students with disabilities. In Bhattacharya (2010a), it was shown that with the more modern policies to do with education of disabled children, the rhetoric and the metaphor of special schools attains more significance. That is, although not an integral part of the National Policy on Education (NPE) 1968, NPE 1986 onwards—for example, Programme of Action (POA) 1992, Person with Disabilities Act (PwD) 1995—special education/ schools attains more prominence and in POA 1992, the largest section is devoted to ‘Education in Special Schools.’

In Bhattacharya (2010b) it was further shown that segregation as a political practice was already well established and therefore lend itself readily when special education emerged out of Enlightenment in the eighteenth century. Within the Indian context, this is shown by (i) Segregationist practices in Women's Education, 1948-49, University Education Commission, (ii) Consistent use of integration as the operative term, (iii) Emphasis on Special Education (e.g. BEd (Special Education) of Rehabilitation Council of India), (iv) Home-based education, Distance education, and (v) In directly encouraging the role of NGOs in imparting special education as a sign of evading State responsibilities.

The handful of students who manage to come of either special schools or mainstream schools, nonetheless face hardship in higher education in terms of lack of infrastructure and facilities in the universities, colleges and professional institutions.

Among the achievements of the Eleventh five year plan in the report of the Working Group on Higher Education for the Twelfth five year Plan, Government of India, published by the Ministry of Human Resource Development (MHRD), Department of Higher Education, in September 2011, are counted the department's initiatives to promote higher/ professional education among the Persons with Disabilities. University Grants Commission (UGC) has integrated schemes such as Teacher Preparation in Special Education (TEPSE) and Higher Education for Persons with Disabilities (HEPSN) to support disabled persons in higher education. All India Council for Technical Education (AICTE) also has a scheme of tuition fee waiver for PwDs. UGC has furthermore issued several guidelines to the universities including three per cent reservation for PwDs, relaxation of marks, exam reforms, etc.

The Higher Education Steering committee for the Twelfth five year plan, under the rubric of 'Equity', suggests the need to create at least one model university per state and one model college per district and two technical education institutions in each geographical region of the country which is able to provide comprehensive support service. Among various suggested facilities, the model universities and colleges must have, the Committee also suggested support for students with hearing impairment. It further states that due to the teaching and non-teaching staffs not knowing sign language and universities not providing Sign Language interpreters or speech to text conversion facility in classes, or installing induction loop systems in all colleges, it makes almost impossible for a person with hearing loss to pursue higher education in universities in India. In universities, resource centres should be established exclusively for students with disabilities which must have Sign Language Interpreters on its panel to be made available to students on request. The proposed Resource centres are also suggested to conduct sign language courses for university staff.

Scholarships for Higher Education for PwDs

This section discusses governmental scholarships and assistance available for students with disabilities in general and students with hearing impairment in particular. It must be noted that the official term 'hearing impairment' is maintained here since that is the only hearing related disability that is recognised by the law at present; D/deaf students (including students who know and identify with ISL, and those who do not) are a part of this general name-tag. Since it is only through successful education that an increased awareness and indispensability of ISL for D/deaf students can be achieved, it is important to understand the role of the government in providing educational facilities and incentives for D/deaf students.

National Handicapped Finance and Development Corporation (NHFDC), for and on behalf of the MSJE, Government of India, every year, invites applications from students with disabilities for award of scholarships under various schemes. Hearing impaired students, in addition, are provided financial assistance for purchase of aids and appliances. For example, they are provided upon successful application Binaural programmable hearing aid with provision of button cells for Rs. 50,000 + Rs 30,000 p.a., a cell phone with SMS SIM card for Rs. 5000, and a laptop with WiFi Bluetooth facility for Rs. 70,000, for the years 2012–2013.

As with students with other disabilities, deaf students are eligible for national scholarships awarded by the MSJE for pursuing graduate, postgraduate and research (MPhil/ PhD) degrees/ diplomas in professional/ technical/ vocational courses at the rate of Rs. 1000 per month. However, students with profound or severe hearing impairment, along with other so-called 'severe' disabilities, are also eligible for scholarship for pursuing general/ professional/ technical/ vocational courses even after class VIII at the rate of Rs. 700 per month.

In addition, the students selected for the national scholarship awards are also reimbursed the course fee subject to a ceiling of Rs. 10,000 per year.

However, since there are only a limited number of such national level scholarship available (1500 for 2012–2013), only a miniscule number of D/deaf students can take advantage of the schemes.

Reservation and Reforms with Regards to PwDs

Advisories and circulars have been issued from time to time by various governmental organisations (MHRD, MSJE, Chief Commissioner for persons with disability (CCPD), UGC) for implementation of three per cent seats in all the courses by the universities/institutions/colleges, etc., as mandated under Section 39 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (PwD Act). The reserved seats for Persons with Disabilities are open to all categories of disabilities unlike the reservation of vacancies in employment which is for only four categories of disabilities. Further, the reserved seats are not meant to be distributed among different disabilities. Reservation of at least three per cent seats in admissions is mandatory in all under-graduate, post-graduate, MPhil and PhD degree courses and other diploma courses.

Advisories and circulars have also been issued for providing reasonable accommodations to students with disabilities in the matter of accessible Teaching Learning Material (TLM) and other services related writing exams. Similarly, the University of Delhi, accepted vide circular No. Exam.VI/Conduct/WP/2011/ an Examination Reform policy which, among other things, also recognised the need to provide Sign language interpreters for D/deaf students writing exams.

Significantly, MSJE issued an order (No. 30-17/2010-DD-III dated 9 March 2012), to appoint member secretary, RCI to undertake a survey of sign language interpreters required at various public places, occasions, institutes and to set up a pool of signers for this purpose. Further, setting up courses Sign Language interpretation courses and sign language departments at all the universities was ordered.

Government of India vide O.M. No.36035/1/89-Estt. (SCT) dated 20/11/1989 introduced reservation for persons with disabilities in promotion to Group 'C' and Group 'D' posts. Ministry of Social Justice and Empowerment, Govt. of India have issued the lists of identified posts for Persons with Disabilities vide Notification No.16-70/2004-DD.III dated 18.01.2007 for Group A and B posts and dated 15.03.2007 for Group C&D posts after consulting all the concerned Ministries/Departments of Government of

India. Department of Personnel and Training have consolidated the instructions on implementation of reservation of vacancies for Persons with Disabilities vide their O.M. No. 36035/3/2004-Estt (Res.) dated 29.12.2005.

ROLE OF NGOS AND DEAF COMMUNITIES/CLUBS

History is witness to the fact that major onus of preservation of sign languages has always been on Deaf communities and Deaf clubs. Deaf is a scattered population and many D/deaf especially in rural areas grow without the proximity of deaf clubs or D/deaf communities and hence are deprived of development of proper sign language, hence a Deaf culture and a Deaf identity. A sign language being visually accessible is naturally the primary language/ the first language for a Deaf person. Sign languages are passed down from one generation of the Deaf to the younger Deaf as most deaf children are born to hearing parents who do not know sign language. Before 1880s Milan conference of educators of the deaf, sign languages and deaf teachers in European and American countries flourished but after this conference where speech was declared superior to sign and a resolution was passed to promote only oral education of the deaf, there was large-scale suppression of sign languages all around. Deaf teachers and teachers knowing sign languages were thrown out of schools. However, even in those times of suppression and in the continued audism from hearing professionals, Deaf communities and Deaf clubs strived and continued to strive and to preserve and promote sign languages. They met regularly, published magazines and produced silent films. The history of National Association of the Deaf in the USA is a good example, how under all odds it strived to preserve American Sign Language.

In India too, D/deaf persons to meet their communication needs have been using some forms of signed languages since ancient times. Those deaf persons, especially in urban areas who become part of Deaf communities and Deaf clubs start using more uniform and advanced form of sign language than those who rarely come across other D/deaf and develop only home signs. As noted above, like in many other countries, ISL is also still struggling to get an official language status and as a mode of communication and medium of instruction in the education of the D/deaf.

In this connection, many NGOs and Deaf clubs have been playing very active roles in empowering the younger D/deaf youth by arranging lectures and activities on the importance of sign language in the lives of D/deaf persons and how the D/deaf people a linguistic minority and why there is a need to view deafness from socio-cultural view and not a medical-deficit model which has been prevalent for centuries. Earlier deaf clubs like Indian Deaf Society of Mumbai, Delhi Association of the Deaf and All India Federation of the Deaf (AIFD) started with providing a non-threatening accepting environment to socialise and enjoy deafhood and deaf culture and communicate using their own language or provide opportunities to learn vocational skills. However, with time, the focus of these and other deaf clubs is now more on activism, making the deaf and hearing population aware of the human linguistic rights of the D/deaf and getting an official language status of ISL.

National Association of the Deaf (NAD) along with Deaf Way which has always been active on issues of paramount importance to the D/deaf community is staging a huge rally on 3 December 2012 to demand official language status for ISL from the Government of India. Establishment of the ISLRTC, as noted above, in New Delhi has been a big step by the government in recognising Indian Sign Language as a proper language.

Most states have state level Deaf organisations and most cities have Deaf clubs. These organisations, apart from organising cultural and sports functions, have become active in D/deaf empowerment. D/deaf activists are often invited to deliver talks centring around the need to promote ISL in homes and schools. Along with the National Institute of Hearing Handicapped (NIHH), Mumbai and its branches, many NGOs like Bilingual Academy, Indore, NOIDA Deaf Society in NOIDA and Speaking Hands in Punjab run ISL classes for parents and teachers and for those wanting to become interpreters. Deaf Way was India's first Deaf club which propagated the use of sign language and offered English and computer education to the D/deaf in sign language taught by D/deaf teachers. Indian Deaf Youth Forum, the youth wing of AIFD, which is recognised by the World Federation of the Deaf, is also very active on this front. The coming years will witness a significant contribution from these deaf clubs and NGOs in the propagation of ISL.

ISL AND THE EDUCATION OF THE DEAF IN INDIA: FUTURE PROSPECTS

Formalisation of education of the D/deaf in India started in the late nineteenth century with the establishment of a special school for the Deaf in Bombay. The Calcutta Deaf and Dumb School was set up in 1893, a detailed history of the school can be found in Bag (2012) and its interpretation in Bhattacharya (2012). It was the time when after the 1880s Milan conference oral education of the deaf with emphasis on speech was spreading and sign languages and deaf teachers were no more welcome in the schools for the deaf. India too followed on the same lines. Apart from one or two schools, all special schools are based on oral education. However, apart from ignoring the linguistic rights of the D/deaf, like elsewhere, in India too, oral education of the deaf failed to produce desired results. Literacy skills, academic achievements and even speech skills have continued to remain poor. Out of more than 550 schools not more than a handful have a clear communication policy. The situation continues to be the same as both diploma and degree level teacher training curriculum continue to prepare teachers only for oral schools whereas in reality most schools do not fulfil the pre-requisites to become successful oral schools. In the absence of universal screening and network of early intervention centres, most deaf children are still entering school late without any language, oral or sign, and apart from few exceptions, even after fifteen years of schooling, pass without much reading, writing and spoken skills.

Madan Vasishta and other researchers of the Gallaudet University, USA in their survey in 1980s and later Dilip Deshmukh found that most of the principals of deaf schools refused that sign language is used in their schools. This situation continues and most principals and teachers are still unaware that ISL can be a viable option for teaching. Ironically, all D/deaf students irrespective of the communication policy of the school know and use sign language of varying degrees. Although ISL was used among the D/deaf, the first grammar of the language based on a linguistic analysis was published by Ulrike Zeshan in 1996 based on her PhD work (developed later as Zeshan, 2000). Further, with her efforts, a BA programme in Applied Sign Language Studies for the D/deaf students was started in IGNOU, New Delhi in the year 2009 in collaboration with the University of Central Lancashire, UK. The medium of instruction of this programme where students are enrolled not only from India but also from many developing countries is ISL. This course will produce qualified D/deaf teachers who can in future teach D/deaf students in special schools using ISL.

The Rehabilitation Council of India on its part produced a manual on communication options in 2010 and copies were sent to all the special schools asking them to make a clear choice of the communication

option out of oral/aural, total communication and sign bilingualism. Sign bilingualism considers ISL as the first language of the D/deaf students, using it as a mode of communication and medium of instruction and develops the majority language as a second language mainly through print. The newly formed ISLRTC is also planning add-on courses for the in-service teachers and a BEd programme in bilingual education for the D/deaf.

Apart from working towards greater awareness building and demanding an official language status for ISL, deaf clubs have started to play an important role in the value addition of educational process of the D/deaf. Many deaf clubs like the ISHARA Foundation in Mumbai and Vadodra, Deaf Way Foundation in Delhi and other places in India, Deaf Enable Foundation in Hyderabad, Ability Foundation in Chennai, Sai Swayam Society in Delhi, Youth Association of Deaf in Mumbai, LEEDS in Pune, All India Federation of the Deaf in Delhi, NOIDA Deaf society in NOIDA and Speaking Hands in Rajpura, Punjab work with the D/deaf where D/deaf teachers use ISL to teach English and IT courses to the D/deaf. However, these efforts are not sufficient unless state authorities wake up to the need to use ISL for education for the D/deaf.

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