

Tamil Migrants and their Linguistic Rights in Kerala

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Abstract

Of all the States evaluated, Kerala has taken more effective measures towards internal migrants and their needs than other States. According to the 2019 Interstate Migration Policy Index and Index compiled by Indian Migration (Aggarwal et al., 2019), Kerala is ranked first out of seven for migrant friendly policies. This article details Tamil minorities in Kerala, including a significant number of migrants who came here as labourers, plantation workers and traders. The article is not about Tamil migrants' common problems or challenges in different spheres but about the rights they share in public with the dominant majority, based on their language. Since they are also included in the category of minority Tamils, and are eligible for all the language rights granted by the government in accordance with those granted by national and international instruments, this article argues that immigrants have rights as a minority according to international legal frame frameworks. Therefore, in consonance with their international obligations, States are expected to enact policies that safeguard their rights and thus promote their integration into the host society.

Keywords

Tamil migrants, linguistic rights, beneficiaries, implementation

Introduction

India is the world's second-most populous country with a multitude of ethnic groups and languages. Each State in India has reservations for residents of the State in areas like the government sector, employment, tertiary education and social welfare schemes such as the public food grain supply system. Nearly all States are apathetic to migrants' needs, which

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hinders their access to jobs, education, social security schemes, welfare entitlements, health benefits and even elections. This article examines the concept of minority language rights (MLR) against the backdrop of international and state covenants to assess the linguistic safeguards provided for the language rights as a subset of human rights for Tamils including the natives and migrants of the Palakkad district in Kerala.

Minority Language Rights: Beneficiaries

A common concern is whether, as a minority, immigrants have special rights. It should be remembered, however, that States have an obligation under the provisions of human rights instruments to safeguard the rights of all persons under their jurisdiction. International instruments are constructed in an inclusive or egalitarian language to protect all people without discrimination, regardless of their ethnicity or immigration status. This concept includes democratic rights and freedom of movement ICCPR (International Covenant on Civil and Political Rights) 1966, but not minority rights. Therefore, irrespective of their ethnicity, culture, faith, national origin, gender, language or immigration status, immigrants are all equally entitled to human rights as citizens.

Individuals are generally the beneficiaries of minority language rights in international law. None of the instruments grant rights to groups without reference to persons belonging to such groups (Dunbar, 2006). In order to support the statement, Dunbar continues to expand his point: "Article 27 of the ICCPR, which provides that those States where ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right to enjoy their own culture, profess and practice their own religion in community with other members of their group; while individuals enjoy the right Article 27 guarantees, a 'minority' must exist in order to claim the protection of Article 27, and the individual must be a member of that minority. The identification of a minority's existence is complicated by the fact that the concept is not defined in Article 27, and has never been properly defined in international law" (Dunbar, 2006: 99). It was partly to avoid the intractable difficulties in defining 'minorities' and 'national minorities' and in determining membership in such groups that the authors of the Charter for Minority Languages linked State obligations to languages themselves.

There are potential differences between countries as to how they define

minorities, how minorities are defined by international standards, and how minorities define themselves. Groups that self-identify as minorities with a view to accessing internationally offered minority protection may face difficulties in claiming rights as minorities *per se* domestically (UNDP, 2010).

In an international treaty which is generally accepted, there is no clearly formulated definition of minorities because of the difficulty in pinpointing common elements which could grasp the plurality of existing relevant groups living within States. Thus, States are generally free to include the so-called new minorities in the definitions set out in domestic law (Benedikter et al., 2008).

Minorities do not have to be citizens in order to claim basic minority rights. Historically, resident minorities (the geographic factor) may have claims to take more positive measures than recently arrived minorities (UNDP, 2010). Although the ICCPR applies to the rights of minorities in the States in which they live, its applicability is not officially recognised by a State as a minority. States that have ratified the Covenant are expected to ensure that their privileges are exercised by all persons within their jurisdiction. This could include substantive steps to redress the inequalities to which minorities are subject. Minorities do not need to be State citizens. It is self-identification rather than State recognition that favours international law, which is a key indicator of minority or indigenous status.

The main criterion, therefore, is free self-identification and self-declaration, which encompass the rights of each individual minority member to quit that position. The subjective choice of the individual is inseparably linked to objective criteria relevant to the identity of the person. Consequently, the status of a minority cannot be enjoyed merely on the basis of a purely subjective perception or feeling but must be based on a proper combination of subjective and objective components (Benedikter et al., 2008).

Tamils in Kerala

Multiple Tamil communities live in Kerala, and they are an integral part of society. They constitute the largest number of migrants in the State (District Census Handbook 2001). The Tamil population in the Palakkad district is comprised mostly of natives who were in Kerala even before the 1956 State reorganisation. After the formation of the State of Kerala, the immigrants, employees and workers who came together as part of

urbanisation or industrialisation as well as the Tamil people left in Kerala constitute the total Tamil population in the modern district of Palakkad. They form the beneficiaries of their linguistic rights in the State and are exemplified by the study on Tamil minorities in the Palakkad district.

Language rights play a significant role in ensuring the protection of cultural heritage, sustainable development, national integration, and introduction of an inclusive society. Linguistic rights are important in the sense that they are human rights. Linguistic rights are associated with all other rights such as those of expression, information, and development.

Some Tamils came to Kerala generations ago. They were invited to perform palace and priesthood administrative works in the Padmanabhaswamy temple during the time of the Travancore kings. These migrations had continued for years and there are now more than ten Aghraharams. "The people of Tamil origin who now live in Kerala may mainly be classified into three. The first is the Tamil Brahmins who have adopted Tamil as their mother tongue. Second is those who, along with the Tamil Brahmins, migrated but belonged to other castes and sub castes. Some of them were invited to do palace and priesthood administrative works in the Padmanabhaswamy temple during the time of the Travancore kings. Tamils who migrate to Kerala in search of jobs are the third, mostly as daily wage labourers or plantation labourers. The second and third generations that have long settled in Kerala primarily as plantation labourers have adopted Malayalam as their mother tongue and have identified with the mainstream" (Manalil, 2006: 334).

State Reorganisation in 1956

The State Reorganisation in 1956 left many Tamil and Kannada linguistic minorities (natives) in Kerala, especially in the border areas. As a result, in India, a large number of bilingual belts are interspersed with various linguistic zones. The selected locale of study, the Palakkad district, is this type of bilingual belt in monolingual Kerala, wherein 7.5 per cent of the population belong to the Tamil sector. State governments (G.O. (MS) No.110 dated 21.03.1966 public (Rules)) have declared certain designated areas as linguistic minority regions primarily based on the proportional strength of the population of the minority community in a particular area. The proportional strength of the minority community is expected to be 15 per cent or more of the total population. This is relevant in the case of the Tamils in the Palakkad district with two officially declared Tamil minority

regions, Palakkad Municipal region and Chittur taluk wherein they constitute more than 15 per cent of the total population. This is the criterion for designating a tehsil, taluk or a district as a total linguistic minority area (G.O.(MS)No.701, 22-12-1962).

Linguistic Rights in the Indian Constitution

There are several provisions in different international covenants which include the UDHR (Universal Declaration of Human Rights), the OSCE (Organisation for Security Co-operation in Europe) report, the UDLR (Universal Declaration Linguistic Rights), the ICCPR, and the European Charter for Regional or Minority Languages Minorities Protection Act 1992, that provide for the rights of minority languages and the communities who speak them in essential public and private domains. In tune with the international declarations, linguistic minorities have specific fundamental rights along with special rights or preferential status under the Indian Constitution, with built-in institutional arrangements under Articles 29, 30, 347, 350, 350A and 350B, along with Articles 32 and 226.

Specific Fundamental Rights Safeguarding the Interest of Minorities

Article 29

- Right to preserve language.
- Admission into any educational institution maintained by the State without distinction.

Article 30

- Right of minorities to administer and establish educational institutions.
- Special Directives under the Indian Constitution for Linguistic Minorities.

Article 347

- Official use of Minority languages in any province with presidential consent.

Article 350

- Minority language to be used in Representations for Redress of Grievances.

Article 350 A

- Facilities for instruction in the mother tongue at the primary level to children of linguistic minority communities.

Article 350 B

- As per the above Article there is a Special Commissioner for Linguistic Minorities (CLM) in India (Ali et al., 1955).

In addition to the above constitutional safeguards for minorities, legislations and reorganisation in India accorded safeguards to linguistic minorities, considering their status and population on the basis of region at State, district and taluk levels. There are also institutional arrangements at national, State and district levels for monitoring the implementation of linguistic safeguards.

The Combined Scheme of Safeguards

Since 1956, constitutional safeguards and legislations towards the protection of linguistic minorities provide for the Combined Scheme of Safeguards which is a compiled form of all safeguards. Included here are those safeguards that have been enshrined in the Constitution and their conversion into practical steps for ensuring that the minority languages are treated fairly and the linguistic minorities are made to feel that they are a part of the larger mosaic. They are listed below.

- Notification of areas with 15 per cent or more linguistic minorities population;
- Translation and publication of important rules, regulations and notices into all languages, which are spoken by at least 15 per cent of the total population at district or sub-district level;
- Declaration of minority languages as a second official language in districts where persons speaking such languages constitute at least 60 per cent of the population;
- Receipt of, and reply to, representations in minority languages;
- Instruction through mother tongues/ minority languages at the primary stage of education;
- Instruction through minority languages at the secondary stage of education provided there are 15 pupils in one class and a minimum of 60 pupils in the last four classes;
- Advance registration of linguistic preference of linguistic minority pupils, and inter school adjustments;
- Provision of text books and teachers in minority languages;
- Implementation of the Three-language Formula and provision for text books in minority languages;
- Availability of teachers in minority languages and training facilities

for them;

- Place of minority languages in recruitment to public services;
- Setting up of a proper machinery for the implementation of linguistic minority safeguards at the zonal, State and district levels;
- No insistence upon knowledge of the State's Official Language at the time of recruitment. A test of proficiency in the State's Official Language to be held before completion of probation;
- Issue of pamphlets in minority languages detailing safeguards available to linguistic minorities;

Kerala State: Safeguarding Minority Rights

In order to guard the interest of linguistic minorities, Kerala State has prepared a list of areas where 15 per cent or more of the population represents speakers of Tamil or Kannada. Accordingly, one Taluk in the Kasargode district for Kannadigas and six Taluks in three districts for Tamils are declared as linguistic minority areas (Table 1).

Table 1: The list of linguistic minority areas in Kerala with the population of linguistic minorities

Language	Per cent	District/Taluks/Tehsils
Tamil	22.27	Chittur taluk in Palakkad Dist.
Tamil	20.81	Idukki Dist.
Tamil	46.39	Devikulam taluk in Idukki Dist.
Tamil	39.58	Peermede taluk in Idukki Dist.
Tamil	15.00	Udumbanchola taluk in Idukki Dist
Tamil	17.90	Thiruvananthapuram taluk in Thiruvananthapuram Dist.
Kannada	More than 15	Kasaragod taluk in Kasaragod Dist.

Source: G.O. No. 135054/N1/81/GAD, (Rules), dated 05-05-1982.

The Kerala Official Language (Legislation) Act, 1969

The following special provisions have been made in the Kerala Official Language (Legislation) Act, 1969 as safeguards for the rights of the linguistic minorities in the State.

- a) The Tamil and Kannada minorities in the State may use their respective languages for their correspondence with the State Government in the Secretariat and the Heads of Departments and also with all the local offices of the State Government situated in those areas which are

declared by the Government to be linguistic minority areas for this purpose, and the replies sent in such cases shall also be in their respective minority languages and

- (b) The linguistic minorities other than Tamil and Kannada in the State may use the English language for their correspondence with the State Government offices and in such cases the replies sent to them shall be in the English language (Kerala Official Language (Legislation) Act, 1969).

Implementation of the Safeguards for Linguistic Rights

A thorough evaluation of the safeguards specific to linguistic minorities in predominant international instruments, constitutional safeguards and linguistic legislations for States in India, and a methodological analysis of the data collected on the affirmative actions taken by the government of Kerala in the Palakkad district have led to the conclusion that there are existing orders issued by the government and some are revised as per the needs and demands of the community. Almost all implementations are in line with the provisions in the combined scheme of linguistic safeguards. In accordance with the orders there are notified linguistic minority areas inside the district.

In Kerala there are provisions for the use of minority languages for official purposes, the availability of services in Tamil, giving representations, the issue of ration cards and voters' lists in Tamil, the use of Tamil for registration purposes, as well as Tamil clerks in the Munciff courts. Educational safeguards implemented include instruction in Tamil, advance registration of the linguistic choice of linguistic minority pupils, and the provision of schools, text books and teachers or instructors in minority languages. Provisions are also there for recruitment to public services and 'out of turn' promotion. Above all there are provisions for monitoring mechanisms at State and district levels for the implementation of the legislations regarding their welfare.

The linguistic safeguards are realised when they reach those who deserve them. Beneficiaries responses are significant in this regard. The administrative language being Malayalam in Kerala, those who have no proficiency in Malayalam suffer several linguistic barriers in the public sphere.

In brief, there is considerable amount of implementation of the safeguards pertaining to the use of the minority languages for education

and public recruitment in the Palakkad urban and Chittur rural areas. The implementation of those safeguards are better in Chittur Taluk than in the Palakkad municipal area. Tamils in the urban area are considerably less aware of their safeguards. Kerala has a significant population of Tamils in the districts of Idukki, Palakkad and Thiruvananthapuram. The Chief Minister has taken initiative of appointing a senior IAS officer to study Tamil and Kannada linguistic minority issues in Kerala.

Conclusion

State-level governmental activities affect virtually every sphere of a person's life, and a democratic government's policies must reflect the people's moral and political aspirations. In this respect, the role of government in promoting and publicising their rights is crucial. Their awareness as well as promoting their rights by the members of the community are also equally important. The Tamils in Kerala experience the benefits of minorities in different domains in the public sector, especially in the official use of their language. Employment rights require education up to the 10th standard in the Tamil medium. At present most of the members of their community cannot enjoy this due to the fact that their medium of instruction is in other languages such as English and Malayalam. For experiencing these rights in a fully-fledged form, they would have to be more linguistically conscious to promote their safeguards.

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