



## Language of Courts in India

**For Prelims:** Supreme Court, High Court, Subordinate Court, Language in Court, Article 19, Article 21, Article 343, Article 348.

**For mains:** Language used in Courts and its significance, Analysis of using regional languages in Higher Judiciary.

### Why in News

Recently, the Gujarat High Court has asked a journalist facing [contempt of court](#) proceedings to **speak only in English as that was the language in the higher judiciary.**

### Key Points

#### ▪ Background:

- The language used in Courts in India has seen a **transition over centuries with the shift from Urdu to Persian and Farsi scripts during the Mughal period** which continued in subordinate courts even during the British Rule.
- The **British introduced a codified system of law in India with English** as the official language.
- Post-independence, [Article 343](#) of the Constitution of India provides that the **official language of the Union shall be Hindi in the Devanagari script.**
- However, it **mandated that the English language will continue to be used for all official purposes of the Union for 15 years** from the commencement of the Constitution of India.
  - It further provides that the [President](#) may, during the said period, by order to authorise the use of the Hindi language for any official purpose of the Union, other than the English language.

#### ▪ About:

- **Article 348(1)(a)** states that unless Parliament by law provides otherwise, all proceedings before the [Supreme Court](#) and in every High Court shall be **conducted in English.**
- **Article 348(2)** provides further that notwithstanding the provisions of Article 348(1), the [Governor of a state may, with the previous consent of the President, authorise the use of Hindi or any other language](#) used for any official purpose, in proceedings in the High Court.
  - States of **Uttar Pradesh, Bihar, Rajasthan and Madhya Pradesh have already authorised the use of Hindi** in proceedings before their respective high courts and taking a cue, Tamil Nadu is also working in that direction – to authorise the use of Tamil before its high court.
- A further provision states that nothing in this clause would apply to any judgement, decree, or order made by the High Court.
- Therefore, **the Constitution recognizes English as the primary language of the Supreme Court and the High Courts**, with the caveat that when some other language is used in the proceedings of High Courts, judgments of the High Courts must be delivered in

English.

▪ **Official Languages Act 1963:**

- It empowers **the Governor of a state to, with previous consent of the President, authorise the use of Hindi/the official language of the state, in addition to English**, for the purpose of any judgement, decree or order passed by the High Court of that state.
- It further **provides that where any judgement/decreed/order is passed in any such language it shall be accompanied by a translation** of the same in English.
  - Read with the constitutional provisions, it is clear that **primacy is given to English even by this Act.**
- The Official Languages Act **makes no mention of the Supreme Court, where English is the only language in which proceedings are conducted.**

**Note:**

- The litigant has the **fundamental right** to understand and participate in the courtroom proceedings as it arguably confers a bundle of rights under **Article 19 and Article 21.**
  - The **litigant has the right to speak in the language he/she understands before the magistrate.** Similarly “right to justice” is also recognised under Article 21 of the Constitution.
  - So, **the constitution has conferred the right to justice on the litigant** which further encompasses that he shall have the right to understand the whole proceedings and the judgement delivered.
- **Language of Subordinate Courts:**
- The language of all courts subordinate to High Courts generally **remains the same as the language on the commencement of the Civil Procedure Code 1908**, till the state government determines.
  - There are two provisions regarding the use of language in subordinate courts. **Under Section 137 of the Code of Civil Procedure, the language of the district courts shall be similar to the language of the act.**
  - The **state government has the power to declare any regional language as an alternative for the proceedings of the court.**
    - However, **judgments, orders, and decree may be passed by the magistrate in English.**
    - The **recording of the evidence** shall be done in the prevailing **language of the state.**
    - In case of a pleader being unacquainted with English, a translation into the language of the court shall be supplied to him on his request and the court shall bear such costs.
  - **Section 272 of the Code of Criminal Procedure 1973**, states that the State government shall determine the language of all courts other than the High Courts. So, broadly it means that the language used in the district courts shall be in the regional language as the state government directs.
- **Reasons for Using English:**
- Just like cases from all over the country come to the Supreme Court, **judges and lawyers of the Supreme Court also come from all parts of India.**
  - Judges can hardly be expected to read documents and hear arguments in languages with which they are not familiar.
  - Without the use of English, **it would be impossible to discharge their duty. All judgments of the Supreme Court are also delivered in English.**
    - Though, in 2019, the Court introduced an initiative to **translate its judgments into regional languages**, it is rather a tall order given the sheer volumes of judgments which the Court delivers.
- **Significance of Using English:**
- **Uniformity:** At present the judicial system in India is well developed, integrated and uniform throughout the country.
  - **Easy Access:** Lawyers as well as the judges have the **benefit of easy access to the views of other high courts on similar legislations** and other matters of law and

constitution.

- **Seamless Transfers:** Presently, the judges **from one high court are transferred to other high courts seamlessly.**
- **Unified Structure:** This has given a **unified structure to the Indian judicial system.** The hallmark of any robust legal system is that the law should be certain, precise and predictable and we have nearly achieved that in India.
- **Link Language:** To a very great extent, we owe it to the **English language, which has served as a link language for India** where we have about two dozen official state languages.

## Way Forward

- Language has always been an **emotive issue in India** and the spectre of introduction of **respective official languages of the states in 25 different high courts** looms large, which will **have very serious repercussions** for the Indian judicial system.
- A hitherto **unified and well structured legal system within the country might well disintegrate** in the game of lingual one-upmanship by the states.
- The introduction of official state languages to the proceedings also **directly confronts and interferes with the transfer policy of high court judges.**
- Thus the **move by the different states to introduce their official language in their respective high courts without having a discussion** with other states at any level or making any effort to achieve even a semblance of consensus for the alternative link language in place of English will only **create legal pigeon holes with judiciary of one state having no means to interact with the judiciary of the other states.**
- The **channels of communication between judiciaries of different states will be broken.** In that eventuality the unified structure of the judicial system of the country will not be the only thing, which may **crumble at the altar of petty regional politics and lingual chauvinism.**

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