

I Columns

Against the use of English in district courts



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A recent [column](#) in *Bar & Bench* argues that the use of English in courtroom proceedings in district courts should be “increased” for the sake of the “judicial system”. The column is written in the context of Haryana’s recent law mandating Hindi as the language of proceedings in district courts.

In this response piece, I rebut the four claims made in that column: (i) that English is accorded “primacy” under the Constitution; (ii) that the Supreme Court’s use of English should induce a similar usage in district courts; (iii) that having different languages in different courts is bad for the “system”; and (iv) that English should be adopted because it serves the rights and interests of some.

The alleged “primacy” of English

The column suggests, based on what appears to be an isolated reading of [Article 348](#), that the Constitution confers some kind of “primacy” on English (a language

[Article 343](#) declares Hindi as the official language of the Union, but allows Parliament to provide for the continued use of English for a temporary (but extendable) period of fifteen years from the commencement of the Constitution. In a similar vein, [Article 348\(1\)](#) provides for the use of English in High Courts and the Supreme Court “*until Parliament by law otherwise provides*”, and the now-obsolete [Article 349](#) prohibits Parliament from so providing – co-extensively with the transition conceptualized in Article 343 – for a period of fifteen years (unless some special requirements are met).

It is hard to see what in this scheme confers “primacy” upon English. To the contrary, it is evident that English was meant to be a *temporary* (and hence quite *secondary*) tool. The scheme is designed only to enable a smooth administrative transition from British India to free India, and Parliament was entrusted with the task of identifying the right moment for the transition after the expiry of fifteen years from the date of commencement of the Constitution.

“Until” that moment, English may continue. The use of the word “until” as opposed to “unless”, though not conclusive, deserves some attention. It is a question of *when*, not *if*. Parliament has the hammer, and since January 25, 1965, it possesses absolute discretion in when to bring it down.

The Trickle-Down Argument: English at the Supreme Court

The second claim in the article can be broken down into two steps/prongs for the purpose of analysis:

1. It is reasonable for the Supreme Court to render judgments *only* in English, and “*it cannot be said that the Supreme Court or High Court should deliver judgments only in a language which the litigant understands.*” Further, translating judgments into the litigant’s languages would be a “*tall order*”.
2. Because lawyers across the country are to read, understand and apply these judgments, they must be well-versed with English, for which it is necessary that district courts conduct proceedings in English.

Both prongs, I suggest, are mistaken.

As regards the first, it is not only unreasonable but also *unconstitutional* for judgments not to be translated into the languages that common people understand. The principles of natural justice – now [seen](#) as embodied in Article 14 as well – require that a document must be [adequately promulgated](#) before it can be considered “law”. This would at least mean that the law must be published in a language understood by its subjects.

read and acquaint themselves with. Equally, the [right to receive information](#) guaranteed under Article 19(1)(a) would imply, if anything, an individual's right to know the law of the land.

Hence, in a country where a majority of the population does not understand English, vernacular translations of judgments are a matter of constitutional *right*. And the Supreme Court on its administrative side is as much [bound](#) to protect this right as are the legislatures and executives of the day. It is quite immaterial how expensive or humongous the task of translations might be, for neither [financial](#) nor [administrative](#) difficulties are valid grounds for the State to refuse to protect fundamental rights.

The second prong also fails as a sequitur. Because the Supreme Court's judgments must be translated into vernacular languages, there is no need for district courts to stick to English so that lawyers can remain up to date with the law. Even otherwise, it is not clear why local lawyers and judges who are otherwise conversant in English would suddenly stop understanding English judgments if district court proceedings were conducted only in the local language (which anyway happens in many districts).

Of course, lawyers who are *not* English speakers (as well as their clients) would tremendously benefit from a rule that prevents opposition lawyers from using English, for now the dynamics of the case would be controlled by logical thinking ability, not by social privilege.

The Incoherent System Argument

Having different languages at different levels in the judicial setup, the claim states, "*does not augur well for the system*" because it creates an "*artificial language-based classification between courts and legal professionals*". But it is not obvious how and why such a classification harms the system. To the contrary, it enables local, non-English speaking lawyers to create their own space and identity within the system, thus making the system more *inclusive*. I see immense value in an inclusive system, but none in one that is hegemonized by an English-speaking elite.

Rights and Interests

This last argument is particularly interesting, for the "rights" it mentions and those it does not. It is concerned about the rights of students preparing for judicial entrance exams in states other than their own. It also worries about lawyers who might want to settle down and practice in other states for personal or professional reasons.

(as argued [earlier](#)) and the right to access to justice under Article 21. It is unjust to debate courtroom language without even acknowledging the rights of those for whom the system exists. The rights of to-be judges and to-migrate lawyers cannot take precedence over the rights of the litigants who pay court fees in the hope that they will be heard and given justice.

Perhaps what often guides this flippant approach is our unfair expectation from litigants to take a back seat in the litigation process and leave everything to the great *vakeel sahab*. But is the *vakeel sahab* always competent, responsive, honest and ethical? I suggest we pause and reflect. The realities of our legal system demand that litigants not be shut out from the litigation process, and that their rights be acknowledged and taken seriously in debates on courtroom language.

Conclusion

The Constitution treats English as temporary and secondary even in the context of High Courts and the Supreme Court. It also recognizes the fundamental right of litigants to understand and effectively participate in court proceedings, which in turn implies a right to have courtroom proceedings conducted in a language they understand.

The present use of English at the Supreme Court level is no bar, in law or logic, to the adoption of vernacular languages in district courts (Section 137 of the Code of Civil Procedure and Section 272 of the Criminal Procedure Code expressly empower state governments in this regard). Rather, such a measure would make the legal system more inclusive for non-English speaking lawyers and more respectful of litigants' rights.

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[Supreme Court of India](#)[Constitution of India](#)[District Courts](#)[Court Language](#)[Hindi](#)[Article 348](#)[Haryana Official Language Amendment Act, 2020](#)[Primacy of English](#)

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