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Indian Languages & the Constitution

Rama Kant Agnihotri

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Translation: Namita Kala



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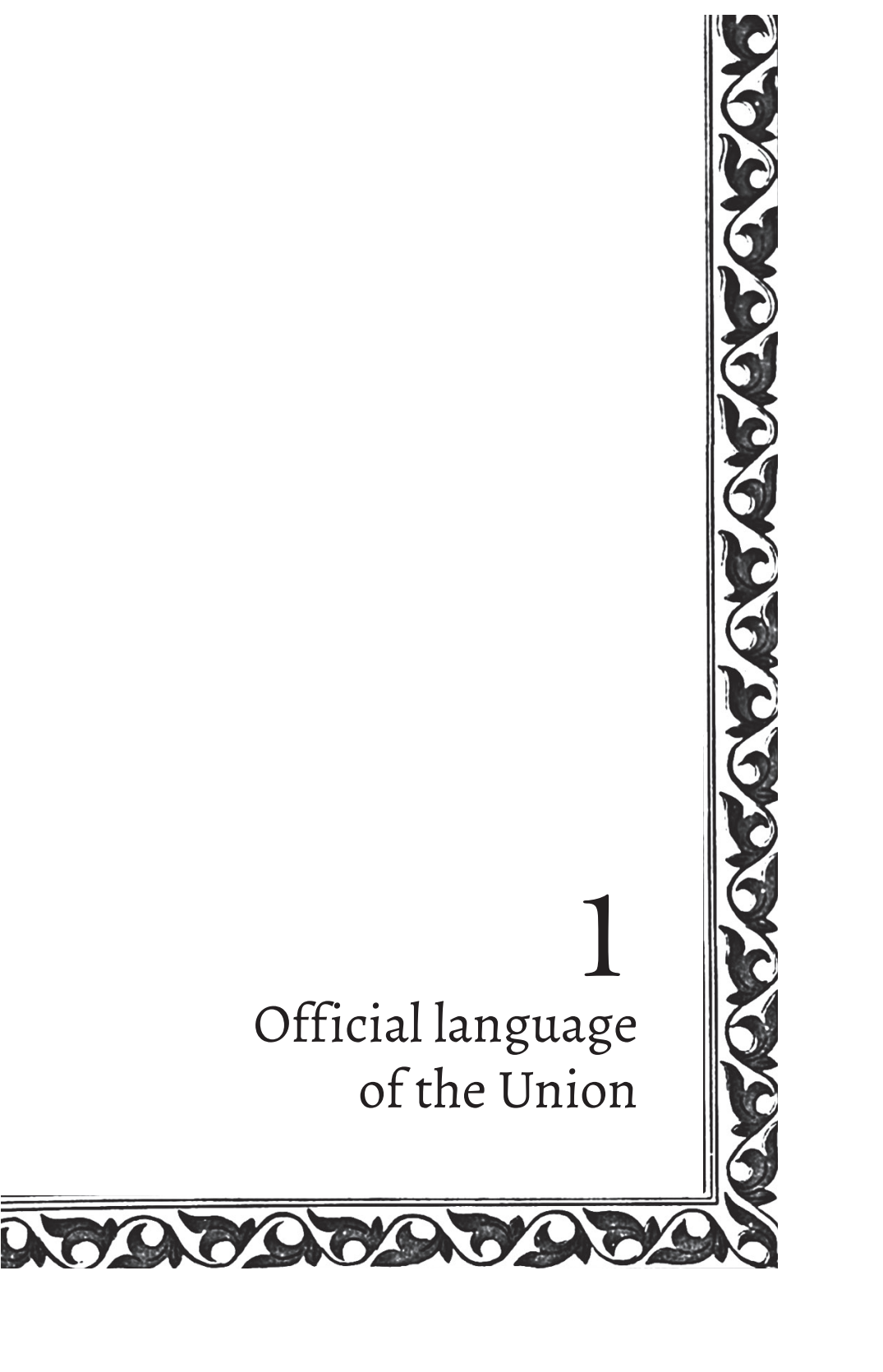
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About this booklet

Language was an important issue in the Constituent Assembly debates. Several questions were being discussed. Should the country have its own national language or would just having an official language be enough? Which language should be chosen as the official or national language — Hindi, Urdu or Hindustani? What would be its script? Which script shall be used for writing its numerals? What place would Sanskrit occupy? What would be the contribution of regional languages? What would be the language of the parliament, administration and the courts? In which language would education take place? What would be the rights of a common citizen in the context of education? Members of the Constituent Assembly were wrestling with several such issues.

After several arguments and counter-arguments, the Constituent Assembly came to an agreement with respect to these questions. These issues have been examined in this booklet.

Language is an inflammatory issue in our nation even today. Under the circumstances, learning about the debates that took place in the Constituent Assembly on the language question is not merely placating historical curiosity. It can also help us to form an informed opinion in the context of the current debates. It is hoped that in this sense, this booklet, comprising of articles originally published in Hindi in *Shaikshanic Sandarbh* magazine, will prove to be useful for a wide-ranging class of readers.

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1
Official language
of the Union



Part XVII

Official Language
Chapter I—Language of the Union

*Official language
of the Union.*

343. (1) *The official language of the Union shall be Hindi in Devanagari script.*

The form of numerals to be used for the official purposes of the Union shall be the international form of Indian numerals.

(2) *Notwithstanding anything in clause (1), for a period of fifteen years from the commencement of this Constitution, the English language shall continue to be used for all the official purposes of the Union for which it was being used immediately before such commencement.*

Provided that the President may, during the said period, by order authorise the use of the Hindi language in addition to the English language and of the Devanagari form of numerals in addition to the international form of Indian numerals for any of the official purposes of the Union.

(3) *Notwithstanding anything in this article, Parliament may by law provide for the use, after the said period of fifteen years, of—*

- (a) *the English language, or*
- (b) *the Devanagari form of numerals,*

for such purposes as may be specified in the law.

*Commission and
Committee of
Parliament on
official language.*

344. (1) *The President shall, at the expiration of five years from the commencement of this Constitution and thereafter at the expiration of ten years from such commencement, by order constitute a Commission which shall consist of a Chairman and such other members representing the different languages specified in the*

In the first chapter of this booklet which is about Indian languages and the constitution, we will discuss Article 343 and Article 344 of the constitution. An important point that is essential to clarify is that Hindi is India's official language and not its national language. If the Constituent Assembly had not reached an agreement on this issue during its debates, then perhaps the geographical and federal contours of India would not have taken on the shape that they have today. It is possible that it would have broken up into several different nations.

The first meeting of the Indian Constituent Assembly took place on December 1, 1946. Debates continued in the assembly for approximately three years. Its last meeting was held on January 14, 1950. During this period more than 300 people came from different parts of the country and participated in its meetings. Looking at their sincerity, wisdom and sensitivity, it is difficult to believe the state that our parliament is in today. In only 11 meetings, the Constituent Assembly debated upon highly complex and contrasting issues but none of its members ever took recourse to incivility. I believe that some portions of the debates that took place in the Constituent Assembly should become an essential part of the school/college curriculum in our education system.

It is true that no specific impact of the research on the nature, structure, acquisition and diversity of language that was taking place throughout the world at that time is found in the debates of the Constituent Assembly. Yet, there is no doubt that language was a critical issue for it and an open, highly sensitive debate took place over it. Scholars and political leaders from different states came and participated in this debate. Along with Rajendra Prasad, Nehru, Patel, Azad, there were people like Purushottam Das Tandon, Seth Govind Das, Sampurnanand, Ravi Shankar Shukla, and KM Munshi to put forward their views in favour of Hindi. From Bihar, Jaipal Singh, and the United Provinces (present-day Uttarakhand and Uttar Pradesh) Mohammed Hifzur Rahman and Algu Rai Shastri, SV Krishnamoorthy Rao, Lakshmi Kanta Maitra, and Durga Bai were present. Our constitution contains a total of 22 parts (three sub-parts were added later) and 12 schedules. Of these, Part 17 and Schedule 8 deal exclusively with language. Part 17 has four chapters which comprise Articles 343 to 351. Earlier, the Eighth Schedule, called 'Languages' contained 14 languages. It now has 22. It is worth noting that the title of Part 17 is 'Official Language'. The title of the first chapter of Part 17 is 'Language of the Union'. We will discuss this chapter in this essay.

Our official constitution is only available in English. Unfortunately, even today our constitution is not available in Hindi or any other Indian language. The Chairperson of the Constituent Assembly and our first President, Rajendra Prasad had promised that within a year of the framing of our constitution, a universally accepted translation of the constitution in Hindi would be available. Attempts were also

made to make it available in other Indian languages but because of the politics over language, no universally accepted translation has been possible till today.

The questions before the Constituent Assembly

Nothing is possible without language. Language remained a crucial issue in all the discussions on politics, parliament, education, administration and the judiciary. This is why it is natural that there were several questions regarding language in the Constituent Assembly, especially in a country where until then all the important work was done in English. It was important for independent India to communicate in its own language but with the existence of several important languages this was not an easy task and one big question that loomed large in the debates was which language would be the national and/or official language of the country. Even if there was no national language, in which language would numerals be written down, what would be the language of education, which language would be used in offices, what position would English occupy, what would be the position of regional languages in Independent India, what would be the language of parliament and the courts, what would happen to the languages of the minorities, what would be the provisions for tribal languages etc?

National language or official language?

For one group of the Constituent Assembly, it was absolutely clear that English, Urdu, Persian, etc had now no utility in this country. These members believed that a lot of people understood Hindi and it should be the national language of new India. A new country, a new identity — Pakistan's identity, Urdu and Hindustan's identity, Hindi. Tandon, Govind Das,

and KM Munshi would repeatedly argue this point and request the rest of the citizens of India, especially those from the South that they would have to make at least this sacrifice for Hindi.

Several other languages too laid claims to become the national language. Chief among them was Sanskrit. The supporters of Sanskrit said that it was the mother of all languages and it was also the symbol of our ancient culture. Some people did not appreciate the fact that India had languages belonging to different language families and many of them had nothing to do with Sanskrit. Then why just Hindi and Sanskrit? Many people argued that Bengali and Telugu were strong candidates for being the national language. It was said in favour of Telugu that in contemporary times it had the most advanced and suitable glossary for science which was not present in Hindi or any other Indian language. There was also an opinion that English should be allowed to remain as the language of the country. All the work was being carried out in it and it would also be effective for education and knowledge. But the maximum number of arguments took place over two issues. One was that Hindi should be the national language or else, Gandhi's Hindustani.

Prominent national leaders like Jawahar Lal Nehru, Vallabhbhai Patel and Maulana Azad were in favour of Hindustani. They were of the opinion that it was the language of the common people and it should be the national language. Obverse to this, supporters of Hindi were in favour of a language that was close to Sanskrit. They were of the view that all the words from English, Persian, and Urdu had to be removed from Hindi. The country's new identity would be a new Hindi. It would be based on Sanskrit and it would not be written in the Persian script, but would only be written in the Devanagari script. Before independence, several languages were written in the Persian script. Most of the work in

courts was also mostly done in Urdu. But these people said that it is a new nation, it has new borders, a new flag, a new national anthem, and because of this a new Hindi which was sanskritized, was needed as its symbol. If people had had their way, they would have also talked about a single religion. However, India's history has been different — it has been multi-lingual, multi-religious and multi-cultural.

How the Constituent Assembly solved this complex issue is indeed praise-worthy. It was quite clear that it was difficult to reject the majority. The South would not accept Hindi or Hindustani as the national language. North India was not ready to accept anything except Hindi. Then how did the Constituent Assembly resolve this issue?

As has been mentioned, the title of Part 17 is 'Official Language'. The first step in resolving the language issue was the decision that there would be no national language. This is the reason why India has no national language, only an official one.

Therefore, Hindi is only the official language, that is, it is the language used for government work; it is not the national language. The first chapter of Part 17 bears the name, 'Official Language of the Union'. Article 343 of the chapter states:

(1) The official language of the Union shall be Hindi in Devanagari script. The form of numerals to be used for the official purposes of the Union shall be the international form of Indian numerals.

(2) Notwithstanding anything in clause (1), for a period of fifteen years from the commencement of this Constitution, the English language shall continue to be used for all the official purposes of the Union for which it was being used immediately before such commencement:

Provided that the President may, during the said period, by order authorise the use of the Hindi language in addition to the English language and of the Devanagari form of numerals in addition to the

international form of Indian numerals for any of the official purposes of the Union.

(3) Notwithstanding anything in this article, Parliament may by law provide for the use, after the said period of fifteen years, of -

(a) the English language, or

(b) the Devanagari form of numerals,

for such purposes as may be specified in the law.

The formulation of this article was much debated upon and we must thank the members of the Constituent Assembly that they agreed to it. That the provisions of different clauses have so many riders is a reflection of the pain and effort that members must have gone through to accommodate each other's deep-seated demands. There was finally an agreement to call Hindi the official and not the national language but then there was the issue of the script. If one group gave in on the national/official issue, the other group had to give in on the script issue. At that time, Hindustani, like many other Indian languages, was also written in the Perso-Arabic script. The people of Lahore, Delhi, Karachi, Lucknow and Amritsar used the same script in several domains. But now it was a question of marking national identities. As the partition graduated into two separate nations, new identities needed to be created, overnight as it were — separate flags and separate national anthems. Pakistan declared Urdu to be its national language to be written in the Perso-Arabic script; India resolved the issue by saying: 'The official language of the Union shall be Hindi in Devanagari script.'

The form of numerals to be used for the official purposes of the Union shall be the international form of Indian numerals. It has also been stated that for 15 years from the commencement of this Constitution (that is the 15 years that follow after

the Constitution comes into force), the English language shall continue to be used for all the official purposes of the Union for which it was being used immediately before such commencement.

However, after the lapse of 15 years, there was so much unrest in the South that English remains with us as one of the main co-official languages; it has now become an integral part of the language ecology of India even though it is still largely a prerogative of the elite and middle classes. Protagonists of Hindi were also fighting for the Devanagari form of numerals and made sure that they should be introduced after 15 years once English is finally banished from India.

After independence, people in the south became nervous about slogans like 'Aryan society', 'Aryan culture', 'Aryan Language' and 'Aryan Script' etc. According to the constitution, the removal of English (from official language status) in 1965 had been settled, however, before that period itself, a fierce and massive movement on the language issue broke out in the South in which several people were arrested and more than 70 people were killed.

It is clear from the provisions of Article 343 (3) that the makers of our Constitution anticipated these problems.

The first chapter of Part 17 only has two Articles — 343 and 344. We have discussed article 343 above, now we will talk about Article 344.

Article 344 is mainly about (a) the progressive use of the Hindi language for the official purposes of the Union and (b) restrictions on the use of the English language for all or any of the official purposes of the Union. It states that the President

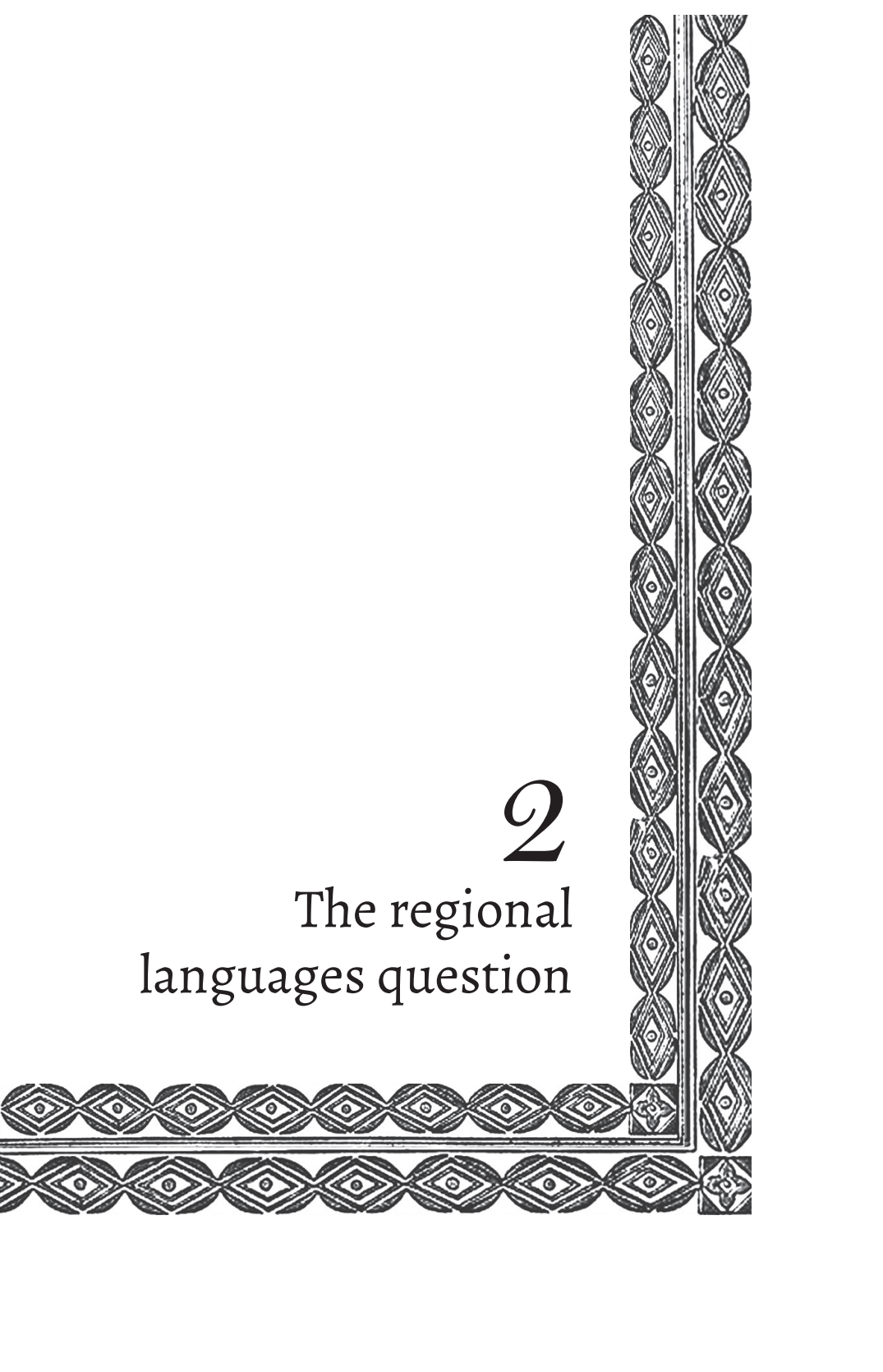
shall constitute a commission which shall consist of a chairman and such other members representing the different languages specified in the Eighth Schedule. It shall be the duty of the commission to make recommendations to the President as to — the progressive use of the Hindi language for the official purposes of the Union; restrictions on the use of the English language for all or any of the official purposes of the Union; and recommendations regarding the official language of the Union and the language for communication between the Union and a state or between one state and another and their use.

The debate regarding Hindi is still going on. Several scholars believe that English, Persian, Arabic and Urdu words should be removed from Hindi. Even today, Hindi has not been able to become the language for serious discourse. The languages that prosper and become vehicle for the dissemination of knowledge do not break their connection with the ground realities and nor do they close their doors to other languages. It is important for Hindi not to isolate itself from the other languages of India and the rest of the world.

Nehru repeated this point again and again during the debates in the Constituent Assembly. He said we should stay connected to the people, only then the language will thrive. All doors should remain open, only then the language will grow.



(Source: *Shaikshanik Sandarbh*, issue 122, May-June 2019)



2
The regional
languages question

Eight Schedule as the President may appoint, and the order shall define the procedure to be followed by the Commission.

(2) It shall be the duty of the Commission to make recommendations to the President as to—

- (a) the progressive use of the Hindi language for the official purposes of the Union;
- (b) restrictions on the use of the English language for all or any of the official purposes of the Union;
- (c) the language to be used for all or any of the purposes mentioned in article 348;
- (d) the form of numerals to be used for any one or more specified purposes of the Union;
- (e) any other matter referred to the Commission by the President as regards the official language of the Union and the language for communication between the Union and a State or between one State and another and their use.

(3) In making their recommendations under clause (2), the Commission shall have due regard to the industrial, cultural and scientific advancement of India, and the just claims and the interests of persons belonging to the non-Hindi speaking areas in regard to the public services.

(4) There shall be constituted a Committee consisting of thirty members, of whom twenty shall be members of the House of the People and ten shall be members of the Council of States to be elected respectively by the members of the House of the People and the members of the Council of States in accordance with the system of proportional representation by means of the single transferable vote.

(5) It shall be the duty of the Committee to examine the recommendations of the Commission constituted under clause (1) and to report to the President their opinion thereon.

(6) Notwithstanding anything in article 343, the President may, after consideration of the report referred to in clause (5), issue directions in accordance with the whole or any part of that report.

Chapter II.—Regional Languages

*official language or
languages of a State*

345. Subject to the provisions of articles 346 and 347, the Legislature of a State

The Constituent Assembly did not just have to resolve questions about the official language, national language and the script that would be adopted for them; there were other issues as well. Even today we might think that solving the issue of language and script must have been very easy for the Constituent Assembly. The reality was the exact opposite. Constituent Assembly member, Mr. Naziruddin Ahmad stated that Hindi was not yet ready to be the national language of India. The language which is adopted as the national language of India must possess excellent writers and philosophers; it should have experts who can write in it along with scientists. Hindi is not yet that kind of language. Despite this, a sanskritized form of Hindi started wielding influence. The Muslim colleagues in the Constituent Assembly suddenly began to feel as if they had arrived in a different country. Hifzur Rahman was bewildered that just a short while ago in the debates everyone was exceedingly pleased that Hindustani would be the country's national language and would be written in both the scripts, that is, Persian and Devanagari. Then, how did all this happen suddenly? Gandhi very enthusiastically became part of the Hindi Sahitya Sammelan. But as soon as he discovered that the institution wanted to segregate Hindi and Urdu and that it wanted to establish a sanskritized Hindi in place

of Hindustani which was spoken by the common people, he immediately resigned from it. Changing common Hindustani words with Sanskrit or Persian words was not acceptable to him. Hifzur Rahman felt that on the issue of language the Constituent Assembly was relentlessly moving away from Gandhi's dream. He said that Urdu had not come from Arabia, Iran, or Spain; it was India's own language.

According to HM Seervai (1983), Gandhi was worried about the national language. Sometimes he favoured Hindi and sometimes Hindustani. But from his writings, it was clear that by this he by no means meant a sanskritized Hindi or a persianized Urdu and he believed that the Congress should put forth a clear opinion in this regard. Nobody was against the view that a newly independent country should have a new lingual identity. This identity till then had been maintained by English to a great extent. But what was to be done now?

As we have seen in the first chapter, there was no significant place for Urdu in the constitution.

The only solution that was found was that no talks should even be held regarding a national language. Discussions should only be limited to an official language and its script could be Devanagari. In reality, almost all issues were determined less by logic and more by consent. It is very difficult to say what would have been appropriate from a logical viewpoint at the time. It was considered apt to agree to safe decisions with the consent of the majority. This process consisted of the practise of giving and taking. The script would be Devanagari but the numerals, international. Along with Hindi, English would also be an official language. When many people did not agree, a clause was inserted that English would be removed from its

official language status after 15 years. Perhaps most people knew even then that this would not be possible. Simultaneously, the Eighth Schedule was framed and 14 languages were entered into it. Even now there is no consensus regarding Hindi, Urdu and Hindustani. A lot of people believe that sanskritized Hindi is the national language or want to make it so. The language of the common people even today is Hindustani. Urdu is taught in several schools even now. All kinds of writings are found in the literature. The fact is that there is not much difference in the structure of these three styles of a single language, except for a few words. If you tilt Hindustani towards Arabic and Persian occasionally in a Persian script, it becomes Urdu and if you steer it towards Sanskrit then it becomes Hindi, occasionally with a Devanagari script. If there is a difference, it is in the words and the script. And even that is not there in the lingua franca. Pakistan's national language is Urdu and India's official language is Hindi. But even today, the citizens of these two countries can talk to each other with ease when the need arises.

The next big question that faced the Constituent Assembly was about the status of the regional languages. Let's see how this was resolved.

The title of the second chapter of Part 17 of the constitution is 'Regional Languages.' This has three Articles, 345, 346 and 347. Several regional languages put forward their claims during the national/official language debate. Chief among them were Sanskrit, Bengali, Telugu and Tamil. English had its own assertions. There was also anguish in the minds of several people concerning Urdu. Still, some kind of consensus had to be reached. Everyone had to be kept happy. There was only one way and it was devised through the Eighth Schedule, which we will discuss in chapter 4.

may by law adopt any one or more of the languages in use in the State or States as the language or languages to be used for all or any of the official purposes of that State.

Provided that, until the Legislature of the State otherwise provides by law, the English language shall continue to be used for these official purposes within the State for which it was being used immediately before the commencement of this Constitution.

Official language for communication between one State and another or between a State and the Union.

346. The language for the time being authorised for use in the Union for official purposes shall be the official language for communication between one State and another State, and between a State and the Union:

Provided that if two or more States agree that the Hindi language should be the official language for communication between such States, that language may be used for such communication.

Special provision relating to language spoken by a section of the population of a State.

347. On a demand being made in that behalf, the President may, if he is satisfied that a substantial proportion of the population of a State desire the use of any language spoken by them to be recognised by that State, direct that such language shall also be officially recognised throughout that State or any part thereof for such purpose as he may specify.

Chapter III.—Language of the Supreme Court, High Courts, etc.

Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc.

348. (i) Notwithstanding anything in the foregoing provisions of this Part, until Parliament by law otherwise provides—

- (a) all proceedings in the Supreme Court and in every High Court;
 - (b) the authenticative texts—
 - (i) of all Bills to be introduced or amendments thereto to be moved in either House of Parliament or in the House or either House of the Legislature of a State;
 - (ii) of all Acts passed by Parliament or the Legislature of a State and of all ordinances promulgated by the President or the Governor or Rajpramukh of a State; and
 - (iii) of all orders, rules, regulations and bye-laws issued under this Constitution or under any law made by Parliament or the Legislature of a State,
- shall be in the English language.

Article 345 pertains to the official language or official languages of the state. Each state is conferred with the freedom to choose its official language through it. Different sections with conflicting interests would have found relief through it. It states:

Subject to the provisions of articles 346 and 347, the Legislature of a State may by law adopt any one or more of the languages in use in the State or Hindi as the language or languages to be used for all or any of the official purposes of that State:

Provided that, until the Legislature of the State otherwise provides by law, the English language shall continue to be used for those official purposes within the State for which it was being used immediately before the commencement of this Constitution.

Under this article, several states have their own official languages, apart from Hindi and English. Nagaland has many official languages — Ao, Angami, Sema, Lotha and Konyak. Similarly, Jammu and Kashmir also has several official languages — Kashmiri, Dogri, Urdu, Ladakhi, Pahari, Punjabi and Dadri. In Uttar Pradesh, there was a lot of turbulence about Hindi and Urdu, and litigations were fought in major courts.

Article 346 pertains to the official language for communication between the states or between a state and the Union. According to it,

The language for the time being authorised for use in the Union for official purposes shall be the official language for communication between one State and another State and between a State and the Union:

Provided that if two or more States agree that the Hindi language should be the official language for communication between such States, that language may be used for such communication.

Article 347 gave the President certain special powers. It states:

On a demand being made in that behalf the President may, if he is satisfied that a substantial proportion of the population of a State desire

the use of any language spoken by them to be recognised by that State, direct that such language shall also be officially recognised throughout that State or any part thereof for such purpose as he may specify

In 1997, such a case came before the Supreme Court. This was an appeal by the Hindi Sahitya Sammelan against a law enacted by the Uttar Pradesh government.

The matter was regarding a decision made by the Uttar Pradesh government that Hindi would be the official language of the state. But in 1989, the state government amended the law and awarded the status of second official language to Urdu. The Uttar Pradesh Hindi Sahitya Sammelan believed that this decision by the government was unconstitutional.

The High Court's verdict was that the amendment was legal. The Supreme Court also agreed that the law by the Uttar Pradesh Government was legitimate and constitutional. Citing Articles 345 and 347, the court said that the government had the power to respect the recommendations by people regarding a language and adopt it in its administrative policy. The Supreme Court stated that Indian laws on languages were not harsh, but accommodative. They aimed to inspire linguistic neutrality. While delivering its judgement, it used some portions of a book written by B Shiva Rao and his associates (1968).¹



(Source: *Shaikshanik Sandarbh*, issue 123, July-August 2019)

1 <https://indiankanoon.org/doc/122755055/>

3

Which Hindi?



(2) Notwithstanding anything in sub-clause (a) of clause (1), the Governor or Rajpramukh of a State may, with the previous consent of the President, authorise the use of the Hindi language, or any other language used for any official purposes of the State, in proceedings in the High Court having its principal seat in that State:

Provided that nothing in this clause shall apply to any judgment, decree or order passed or made by such High Court.

(3) Notwithstanding anything in sub-clause (b) of clause (1), where the Legislature of a State has provided any language other than the English language for use in Bills introduced or, or Acts passed by, the Legislature of the State or in Ordinances promulgated by the Governor or Rajpramukh of the State or in any order, rule, regulation or bye-law referred to in paragraph (iii) of that sub-clause, a translation of the same in the English language published under the authority of the Governor or Rajpramukh of the State in the Official Gazette of that State shall be deemed to be the authoritative text thereof in the English language under this article.

343. During the period of fifteen years from the commencement of this Constitution, no Bill or amendment making provision for the language to be used for any of the purposes mentioned in clause (1) of article 343 shall be introduced or moved in either House of Parliament without the previous sanction of the President, and the President shall not give his sanction to the introduction of any such Bill or the moving of any such amendment except after he has taken into consideration the recommendations of the Commission constituted under clause (1) of article 344 and the report of the Committee constituted under clause (4) of that article.

Chapter IV—Special Directives

350. Every person shall be entitled to submit a representation for the redress of any grievance to any officer or authority of the Union or a State in any of the languages used in the Union or in the State, as the case may be.

351. It shall be the duty of the Union to promote the spread of the Hindi language, to develop it so that it may serve as a medium of expression for all the elements of the composite culture of India and to secure its enrichment by assimilating without interfering with its genius the forms, style and expressions used in

Special procedure
for enactment of
certain laws relating
to language.

Language to be used
in representation for
redress of grievances.

Directive for develop-
ment of the Hindi
language.

Now we will discuss chapters three and four of Part 17. The third chapter of the constitution has two articles, 348 and 349. The fourth chapter consists of two articles, 350 and 351. We will begin our discussion with Article 351. It is directly related to Hindi and the process of drafting the constitution.

Article 351

Several people were anxious to make Hindi the national language. They felt that the people from the south who spoke languages from a different linguistic family like Tamil and Malayalam should naturally accept Hindi as the national language. After all, it was an issue concerning the entire nation and not just a part of it. South India stated that if you wish to keep us with you then our view must also be heard. English should continue.

People advocating Hindi failed to understand the fact that every province in the south had its own separate identity which they did not want to lose. Tamil culture and literature are in every domain as rich as that of Sanskrit. The same was true of Kerala, Andhra Pradesh and Karnataka. It is fine that most of the languages of north India are related to Sanskrit. It is also a fact that all languages have been constantly borrowing and absorbing words from each other. But based on their structure,

the Dravidian languages in the south, the Tibeto-Burman languages of the north-east and the Munda languages that are spoken among the Adivasis (tribals) had no connection with Sanskrit. After a very long debate, the decision to make Hindi the official language was taken. There were, however, a few special provisions that were essential for Hindi supporters, which is why Article 351 was formulated. It states:

It shall be the duty of the Union to promote the spread of the Hindi language, to develop it so that it may serve as a medium of expression for all the elements of the composite culture of India and to secure its enrichment by assimilating without interfering with its genius, the forms, style, and expressions used in Hindustani and in the other languages of India specified in the Eighth Schedule, and by drawing, wherever necessary or desirable, for its vocabulary, primarily, on Sanskrit and secondarily on other languages.

The reasoning that words should primarily be taken from Sanskrit is a matter of debate between academicians and writers even today. If words will mostly be taken from Sanskrit, then what would happen to the Hindustani style and composite culture? In several schools, studies are conducted in both Hindi and Urdu. Many universities have separate departments for Hindi and Urdu. Hindustani is never discussed. Should Prem Chand be regarded as a writer of Hindustani, Hindi or Urdu? On one occasion the Tamil Nadu government decided that those who had opposed Hindi should get a special pension. The Madras High Court also accepted this premise. However, the Supreme Court adjudicated that this decision by the Tamil Nadu government was unconstitutional.²

This case took place between RR Dalavai versus the State of Tamil Nadu.³ The Supreme Court stated that nobody in the

² <https://indiankanoon.org/doc/1160503/>

³ SCR 601, May 1976, AIR 1559

country had the right to raise their voice against Hindi and to award them a pension for doing so was impossible. It directed those who had received the said pension to return it. In its judgement in May 1976, the Supreme Court said:

In our opinion the pension scheme formulated by the Tamil Nadu Government contains the vice of disintegration and fomenting fissiparous tendencies. If any State will be engaged in exciting emotion against Hindi or any other language such provocation has to be nipped in the bud because these are anti-national and anti-democratic tendencies.

Article 348

References to the language to be used by the Supreme Court and High Courts, the bills and amendments presented in parliament and state assemblies and the form of language of the ordinances, etc passed have been mentioned in Article 348.

Article 348 (1) provides that all proceedings in the Supreme Court and every High Court shall be in English until Parliament by law otherwise provides.

Tensions had heated quite a lot over Hindi in the debates of the Constituent Assembly. People were of the view that if we cannot ask for justice in our own language in our own land then of what use is this freedom. Earlier the British used to rule and now English will rule. Dhulekar became highly agitated over the issue. He was of the opinion that those who did not know Hindustani should leave the country and they don't even have the right to be members of the Constituent Assembly.⁴ In the end, the Munshi-Ayyangar formula was accepted. Hindi and English were both accepted as the official languages — English for 15 years. The Eighth Schedule was framed to give room to

4 Debates of the Constituent Assembly (CAD 1): 26-27

The Munshi-Ayyangar Formula

In the Draft Constitution of India, 1948, there were no provisions related to the national or official language. It was only on September 12, 1948, that language provisions were formally moved in the Assembly by Gopalswami Ayyangar. These provisions came to be popularly referred to as the 'Munshi-Ayyangar formula' to indicate the authors of the proposal. KM Munshi and Ayyangar were tasked by the Assembly to propose language provisions that could be accepted by all warring groups.

In this proposal, Hindi was given the status of the official language of the Union in the Devanagari script. It was also stated that the form of numerals to be used for official purposes of the Union would be the international form of Indian numerals and it also provided that for a period 15 years from the commencement of the Constitution, the English language would continue to be used for all official purposes of the Union



Gopalswami Ayyangar



KM Munshi

which were being used immediately before such commencement and also gave parliament the power to allow English to continue as the official language after the specified period.

The supporters of Hindi were not altogether satisfied with this proposal. They were upset over the inclusion of the use of international numerals and also with the fact that the time period given to English for the activation of Hindi was too much (15 years). Under pressure from this group, this proposal was accepted with some amendments.

(Source: https://www.constitutionofindia.net/constitution_of_india/official_language/articles/Article%20343)

other languages. English was accepted as the language of the High Courts and the Supreme Court.⁵

Ayyangar said that our courts have become used to working in English. All the laws are in English and so are all the acts, orders, rules and sub-rules. All the law books are in English. The verdicts on which new judgements are to be based are also in English. According to the constitution, even the new laws that will be made in the future will also be in English. From the legal perspective, it is not easy to find Hindi meanings for English expressions.

5 <https://www.livelaw.in/english-the-language-of-supreme-court-of-india/>

In the 216th report of the Law Commission, well known legal expert, Fali Nariman said, “I would earnestly request both the Parliament and the Government of India not to tinker with the legal system as it has existed — principally because the entire legal system in India is based on, and has much in common with, the English-language: both were originally imported from abroad. For over 300 years, each has become distinctively Indian. The language of our law, in more senses than one, is English. It is true that the English language as spoken and written in India has the same alphabet and conforms to the same rules of grammar — but the idioms, the expressive phrases, and even the pronunciation of words are vastly different. Many new words have crept in. We have institutionalized and localized the English language; as someone said, it has become English — so it is with the legal system. Originally an English transplant with Anglo-Saxon roots, the legal system in India has grown over the years, nourished in Indian soil; it has become indigenized; what was intended to be an English Oak, has turned into a large sprawling Banyan tree whose aerial roots have descended to the ground to become new trunks.”

Nariman also said, “To change the language in which Acts are drafted and to require Courts to deliver judgments in Hindi is at present something impossible to conceive — unless we throw out our legal system and adopt a new one by consensus.”

In 1970, in the case of *Madhu Limaye vs. Ved Murthy and Others* before the Supreme Court, Raj Narain (appearing as an intervener) said that he would only make his arguments in Hindi.⁶ The case was being heard by a seven-bench judge of the Supreme

6 SCC 738: AIR 1971 SC 2608. This matter was related to personal liberty and Raj Narain, the Socialist leader of Janta Party, wanted to argue in Hindi before the court.

Court. The apex court gave a verdict that as per the constitution arguments in the Supreme Court could only be made in English. Thus, the court cancelled his intervention.

Article 348 (1)

This article is concerned with the language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc.

It states:

(1) Notwithstanding anything in the foregoing provisions of this Part, until Parliament by law otherwise provides —

(a) all proceedings in the Supreme Court and in every High Court,

(b) the authoritative texts

(i) of all Bills to be introduced or amendments thereto to be moved in either House of Parliament or in the House or either House of the Legislature of a State,

(ii) of all Acts passed by Parliament or the Legislature of a State and of all Ordinances promulgated by the President or the Governor of a State, and

(iii) of all orders, rules, regulations and bye laws issued under this Constitution or under any law made by Parliament or the Legislature of a State, shall be in the English language.

Article 349

Article 349 is very important from the language perspective. It contains a special procedure for the enactment of certain laws relating to language. It states:

During the period of 15 years from the commencement of this Constitution, no Bill or amendment making provision for the language to be used for any of the purposes mentioned in clause (1) of Article 348 shall be introduced or moved in either House of Parliament without the previous sanction of the President, and the President shall not give his sanction to the introduction of any such Bill or the moving of any such amendment except after he has taken into consideration the

recommendations of the Commission constituted under clause (1) of Article 344 and the report of the Committee⁷ constituted under clause (4) of that article.

Article 350

Article 350 perhaps empowers the common people the most. Under this article, every person shall be entitled to submit a representation for the redress of any grievance to any officer or authority of the Union or a state in any of the languages used in the Union or the state, as the case may be.

In 1956 two amendments were made and Articles 350–A and 350–B were inserted. A provision was made under Article 350–A that it shall be the endeavour of every state and every local authority within the state to provide adequate facilities for instruction in the mother tongue at the primary stage of education to children belonging to linguistic minority groups. It further states that to ensure the provision of such facilities the president may issue such directions to any state as he considers necessary or proper.

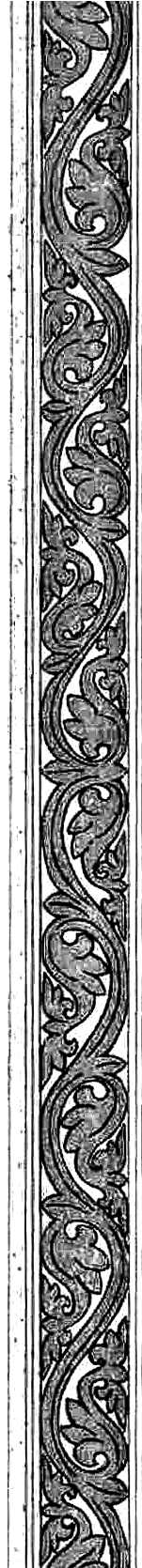
Article 350-B provides that the president shall appoint a special officer for linguistic minorities. It further states that “It shall be the duty of the special officer to investigate all matters relating to the safeguards provided for linguistic minorities under this Constitution and report to the President upon those matters at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament, and sent to the Governments of the States concerned.

(Source: *Shaikshani Sandarbh*, issue 124, September-October 2019) ■ ■

7 According to Article 344 (4), a Committee of members from both the houses shall examine the recommendations of the Commission constituted under Article 344 (1) and report to the President their opinion thereon.

4

Stroke of raw genius



Eighth Schedule

[Articles 344 (1), and 357]

Languages

1. Assamese
2. Bengali
3. Gujarati
4. Hindi
5. Kannada
6. Kashmiri
7. Malayalam
8. Marathi
9. Oriya
10. Punjabi
11. Sanskrit
12. Tamil
13. Telugu
14. Urdu (Persianised)

Jawaharlal Nehru	B. Pattabhi S. Ramaswami
K. P. S. Reddy	G. P. Ramalinga Reddy
M. G. K. Menon	Amma Swaminadhas
M. S. Golwalkar	K. Santhanam
P. V. Rao	M. D. Ranjan
G. Durgabai	M. Thiyyalal
V. K. Rajwade	M. S. Sampurnanand

When the decision about Hindi and English had been made, then what was the need for the Eighth Schedule? Two questions were constantly skirted during the Constituent Assembly debates. One pertained to language and the other was regarding the compulsory qualifications required to become a member of the Parliament. Both questions have remained a millstone around our necks to date. Several persons sitting in Parliament today have cases of serious crimes pending in court against them.

According to Article 84, there are only two requirements to become a member of the Parliament: you should be a citizen of India and be at least 25 years of age for the Lok Sabha and 30 years for the Rajya Sabha. To limit the pronouncement to just this, on such an important issue was perhaps inappropriate. Looking at the current situation, this is what one feels. But perhaps looking at the Constituent Assembly of the time the prevailing opinion was that the stature of the members of parliament would always be as exalted as it was then. Today, one wonders what became of those aspirations.

The claimants of National/Official Language

As has been mentioned earlier, during the Constituent Assembly debates, votaries for Hindi were adamant that a

sanskritized form of Hindi should be the national language. When people from other states did not agree to this then an agreement was reached on the official language. Several people even stated that only Sanskrit should be the national language of India. Pandit Lakshmi Kant Maitra averred that only Sanskrit was worth being made the national language. According to him, Sanskrit was the mother of all the languages of the world and even scholars around the globe acknowledged this. If India had got the opportunity to make its destiny now, then it must certainly adopt Sanskrit. He asked whether India was feeling embarrassed to give recognition to Sanskrit today. He believed that languages like Bengali, Marathi, Gujarati, Tamil, Telugu, and Malayalam were great but they were languages of other states and they had originated from Sanskrit. Sanskrit was the language of our country. Supporters of Telugu claimed that Telugu was the only language that had a developed scientific vocabulary, which was why Telugu should be made the national language of modern India. Similarly, there were also a lot of people present to speak in favour of Tamil and Bengali.

Those who were speaking in favour of Sanskrit were perhaps not being able to understand that there are four linguistic families in India and of these three had nothing to do with Sanskrit. Especially the Tamil language and culture of the Dravidian family which was as ancient as Sanskrit. Anyway, after 15 years elapsed, a lot of riots took place in the South. Whenever there were attempts to impose Hindi on the country, there was fierce opposition against the language, especially in Tamil Nadu. In 1937, C Rajagopalachari put forward a proposal to teach Hindi in schools in Tamil Nadu. From 1937 to 1940, various kinds of meetings and conferences took place against

The result of the one-sided emphasis on Hindi, English, Sanskrit, and other major languages was that the minor languages of the Austro-Asian and Tibeto-Burman families were side-lined so completely that we are paying for it to this date. Lakhs of children who speak Angami, Santhali, Ao, Sora, and Bodo are compelled to study in lingual mediums with which they are completely unfamiliar, and when they are unable to grasp the subject matter in science or social sciences due to linguistic difficulties they are labelled as unintelligent and incompetent.

The beliefs of the advocates of Sanskrit and sanskritized Hindi arose from their ignorance of the development of languages and in a sense their spurious nationalism. Those who backed Hindi felt that to develop a language, it was necessary to eradicate all root 'foreign' words from that language. They did not know that only those languages develop which openly exchange words from other languages and which are accepted by the common people. Maitra and other members of the Constituent Assembly like him were not able to understand that all languages are equally scientific and if given sufficient opportunity any language would be capable of meeting the needs of modern society.

The most important fact is that the members of the Constituent Assembly were viewing a specific 'language' as an autonomous object. It was difficult for them to understand that language is an evolving process and most of its rules are formed through an interaction between the universal grammar and the course of mutual interaction between people.

Hindi and people fasted and sat on dharnas. The British were in power. Stern measures were taken. Several people were arrested and two people died. That was the moment of the inception of the Dravidian political parties.

To rescue the situation, Nehru had to get the Official Languages Act passed in Parliament in 1963 (amended in 1967) under which Hindi and English were to be the official languages of India. The people of Tamil Nadu were never ready to accept the removal of English from the constitution so that Hindi could be imposed upon the entire nation. In a multilingual country like India, it is not at all necessary to strengthen a slogan like 'one nation, one language'. Even today, attempts are made to impose Hindi, and ever so often quarrels over the language also occur. On several occasions, discussions to impose Hindi on the southern provinces of India have taken place. The result of all this was that to reinforce their lingual identity, the Tamilians selected Tamil alternatives for Sanskrit words and also built up a Tamil vocabulary for modern science. TT Krishnamachari had even said, "It is up to my friends in UP to have a whole India; it is up to them to have a Hindi India. The choice is theirs."

Eighth Schedule

The objective of the Eighth Schedule was to ensure that all the major languages of India found a place in the constitution. It also aimed at pacifying several people who were annoyed with the intent to end their ire. Notably, this schedule is only called 'Languages' and not Indian languages or regional languages, etc. This means that this was an open list in which any language could be added at any time. This is why Austin (1966/2000) has described it as 'a stroke of raw genius'. All the complaints of the votaries of Tamil, Bengali, and Urdu ceased, and by making

Hindi the official language it also gave a lot of comfort to the supporters of Hindi. But even then, as has been mentioned earlier, several articles were added to the constitution for the constant promotion and dissemination of Hindi (Chapter 3).

No language gets any particular benefit by entering into the Eighth Schedule. Yes, it is certainly true that it gets an identity and the foundation for a sense of self-respect is created. According to the constitution, the only provision in the Eighth Schedule is that every language that is added to it will have a representative in the Language Commission which will be constituted to tackle issues about languages. A provision was also made that Hindi would take the assistance of the languages included in this schedule for its modernization and development. The good thing that happened was that this schedule became a new bridge for multilingualism and lingual identity. The government too should have no particular difficulty in adding new languages to this schedule. Undoubtedly, this has gradually become a complex political issue and as of now, the government has proposals pending for the inclusion of several languages in the schedule. It should come as no surprise that this schedule began with 14 languages and has now reached up to 22.

The 14 languages which were included in Eighth Schedule in 1950 were: Assamese, Bengali, Gujarati, Hindi, Kannada, Kashmiri, Malayalam, Marathi, Oriya, Punjabi, Sanskrit, Tamil, Telugu, and Urdu. First of all, Sindhi was added to this schedule. Sindhi did not have any particular region of its own but Sindhis were spread out in different parts of the country and they had made special contributions to the nation's culture. But even after it entered the Eighth Schedule, the Sindhi people didn't do anything special for the Sindhi language. Nothing much is achieved by merely entering into the Eighth Schedule

except for some ideological satisfaction. Well-known linguist, DP Pattanayak has correctly stated that every regional language of India should be added to this schedule. In 1992, Konkani, Manipuri, and the Nepali languages were accepted in this schedule. In the discussions of nation-building, the southern-eastern regions were hardly discussed. The people of Manipur waged a very long battle to get Manipuri added to this schedule. West Bengal had given Nepali the status of a regional language in 1961 itself. The issue of Konkani arose when talks regarding the inclusion of Goa into Maharashtra came to the fore. Konkani was recognized as a separate language and Goa as a separate state. In this way, 18 languages became part of this schedule. Then for several years, nothing happened. In December 2003, four more languages were added to this schedule – Bodo, Santhali, Maithili, and Dogri – and today a total of 22 languages are part of the schedule.

There has been a special kind of politics behind the inclusion of every language. But the issues that were universal to all of them were mental satisfaction, social status, and national identity. Talks to include languages into this schedule of the constitution often began from those areas which were rife with social and political unrest and where people were not happy with those in power. People of the Bodo tribe had been unhappy with the Assam government for years. They wanted to build their own separate identity in Assam. In 2003, an agreement took place between the Bodo people, the Assam government, and the Centre under which the Bodo language was added into the Eighth Schedule. Similarly, another tribal language, Santhali, was also brought into this schedule. Santhali, the common language of communication between the Santhal tribe and other people living in different parts of the country

is written in five different scripts. The addition of Maithili and Dogri into this schedule was an even bigger political issue. When the Census of India told the government in 1961 that the number of people studying Hindi was falling, several well-known languages were recognized officially as part of Hindi due to which the number of Hindi speakers started appearing as very large. These included languages like Awadhi, Bhojpuri, Maithili, Braj, Bundeli, etc. This caused a huge furor. Maithili speakers fought a lot for their own identity. The same is true of Dogri. If Kashmiri exists, then so does Dogri.

The Eighth Schedule included the established languages which were mentioned in the Constituent Assembly debates. Some people had also raised the issue of tribal languages. But at the time, nobody paid any attention to them. On September 14, 1949, when the language issue was being debated in the Constituent Assembly, Jaipal Singh of Bihar had raised this question about Mundari, Gondi, and Oraon. He stated that whereas people who spoke languages like Sanskrit were merely in the thousands, lakhs of people spoke these languages. He also said that when these people can keep learning our national and regional languages, we can also make an effort to learn their languages. He also believed that it was imperative to learn these languages to understand our ancient culture. People thought that this process could lead to the formation of several small states. But Jaipal Singh explained that this was not the case. A language like Santhali is spoken in several provinces including states like Bengal, Bihar, Assam, and Odisha. By including them in the constitution they will become prosperous themselves and will also enrich the national/official language further. Anyway, none of this happened at that time, but later after various kinds of struggles, languages like Bodo and Santhali entered the Eighth Schedule.

Minority Community

Keeping in mind the statements of Jaipal Singh and several other members, some other important provisions were made in the constitution. Article 29 (1) provides that 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 the same. Article 30 (1) has the provision that all minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

Minority communities often suffer acute losses in agreements reached with the majority communities. People from majority groups often strike compromises by agreeing to some things and forcing agreements on others among themselves, but matters raised by minority communities often remain unheard during the process. A healthy democracy should not just be based on majorities. Some languages from each of India's four linguistic families could have been included in the Eighth Schedule. It is true that the maximum number of languages would still have been from the Indo-Aryan and Dravidian linguistic groups, but not including Munda or any other language from the Tibeto-Burman group was perhaps an excess.



(Source: *Shaikshanik Sandarbh*, issue 125, November-December 2019)

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Language is an inflammatory issue in our nation even after seven decades of independence. Under the circumstances, learning about the debates that took place in the Constituent Assembly on the language question is not merely placating historical curiosity. It can also help us to form an informed opinion in the context of the current debates. It is hoped that in this sense, this booklet will prove to be useful for a wide-ranging class of readers.



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