

State Legislative Brief

KARNATAKA

The Kannada Language Comprehensive Development Bill, 2022

Key Features

- Kannada will be the official language and be used in all legislation, orders, and rules.
- Private industries must reserve some seats for Kannadigas to avail tax benefits. A Kannadiga is defined as someone who has (or whose parents/guardians have) lived in the state for at least 15 years, and can read and write Kannada.
- Certain seats in higher and professional education will be reserved for students who have studied in Kannada medium from the 1st to 10th standard.
- Consumer products manufactured and sold in Karnataka must specify the name of the product and directions for use in Kannada.

Key Issues and Analysis

- Indirectly providing reservation to Kannadigas in private unemployment may be arbitrary and unfair towards industries. Reservation or preference to candidates on the basis of language or domicile has been held to be violative of the Constitution.
- It is unclear if the Kannada translation of central legislation and sub-ordinate legislation will be the sole authoritative text.
- State legislature may not have competence for regulating: (i) language courses in higher education, (ii) label requirements of products manufactured and sold in the state, and (iii) the use of language in central PSUs.
- Retrospective compounding of offences may not be constitutionally permissible.

The Kannada Language Comprehensive Development Bill, 2022 was introduced in the Karnataka Assembly on September 22, 2022. It repeals the Karnataka Official Language Act, 1963 and the Karnataka Local Authorities (Official Language) Act, 1981.

PART A: HIGHLIGHTS OF THE BILL

Context

The Constitution provides the framework for the use of language for official purposes across the country. The authoritative text of all Acts, Bills and delegated legislation must be in English.¹ All Supreme Court and High Court judgements and proceedings must be in English. States have been given some powers to allow conduct of official work in other languages. For example, proceedings in High Courts may be in another language if authorised by the Governor with the consent of the President (four states have approved Hindi in their High Courts).² States may adopt a regional language as their official language, subject to certain conditions.³ Punjab, Maharashtra, Telangana, Tamil Nadu, and West Bengal have passed laws to adopt their regional language as the official language. Certain states have also mandated the use of official language in administration, and have required knowledge of such language for public employment. For instance, Kerala requires proficiency in Malayalam (different provisions for linguistic minorities) for employment in government jobs.⁴ The Maharashtra Local Authorities (Official Languages) Act, 2022, provides for the use of Marathi in official and administrative transactions, and penalises officers who fail to comply with the Act.⁵

States have also tried to promote regional languages by promoting their usage in education. For instance, in Kerala and Maharashtra, Malayalam and Marathi are mandatory subjects from the 1st to the 10th standard, respectively.^{6,7} Karnataka has also tried to promote Kannada through several measures. The Karnataka Education Act, 1983 requires Kannada to be taught in primary level education.⁸ Some policy proposals in Karnataka related to language requirements have been struck down by courts. In 2008, Rules notified under the Karnataka Shops and Commercial Establishment Act, 1963, required the use of Kannada in display boards. However, the Rules were beyond the mandate of the Act and were struck down by the Karnataka High Court.⁹

The Kannada Language Comprehensive Development Bill, 2022 was introduced in the Karnataka Assembly on September 22, 2022. It seeks to promote the development and implementation of the Kannada language as the official language as Karnataka.

Key Features

- **Kannada to be the official language:** Kannada language must be used in legislation, such as Bills, Acts, orders, rules, or regulations. Existing legislation in English must be translated to Kannada, which shall be the authoritative text, when signed by the Governor. District Courts, Trial Courts, and Tribunals shall also conduct proceedings and pronounce judgements in Kannada.

- **Promoting Kannada in employment:** Private industries must reserve a percentage of seats for Kannadigas to avail tax benefits such as rebates or grants. Kannadigas are those who: (i) have resided in Karnataka (or whose parents/guardians have) for 15 years, and (ii) can read and write Kannada with valid documents as proof. Those seeking public employment at the state or local level, in registered co-operative societies, or non-statutory bodies must pass a Kannada language examination conducted by the Karnataka Public Service Commission. A person who has Secondary School Leaving Certification (SSLC) or equivalent examination in Kannada as first or second language will be exempt from the exam.
- **Promoting Kannada in higher education:** Certain seats in higher, technical and professional education will be reserved for students who have studied in a Kannada medium from first standard to 10th standard. Students will be taught functional Kannada in higher, technical and professional education. University students who have not studied Kannada as a language at the SSLC level will be taught basic Kannada.
- **Obligations for businesses:** Industrial and consumer products manufactured and sold in Karnataka, as far as possible, shall: (i) specify the name of the product, and (ii) the directions for use, in Kannada also. Certain specified industries will be required to establish Kannada Cells to promote use of Kannada in daily work, and Kannada teaching units for non-Kannada speaking employees. These industries include: (i) those owned by the state and central government, (ii) public sector undertakings (PSUs), (iii) banks, and (iv) private industries with more than 100 employees.
- **Enforcement mechanism:** The Bill establishes an Enforcement Authority with Committees at the state, district, and taluka level to implement the provisions from the Act. It designates an Enforcement Officer to ensure compliance by inspecting government departments, local authorities, and industries. It also establishes an Official Language with four members with a five year term period.
- **Directorate of Enforcement of Official Language:** The Directorate of Kannada and Culture will also be the Directorate of Enforcement of Official Language.

PART B: KEY ISSUES AND ANALYSIS

Reservation in private employment on the basis of domicile and language

Bill:
Clauses
2 and 20

Under the Bill, a Kannadiga is defined as a person who has ordinarily resided in Karnataka for at least 15 years (or his parents/legal guardian have), and can read and write in Kannada. Private industries must reserve a certain percentage of seats for Kannadigas to avail land concessions, tax rebates, or grants. Further, all industries governed under the Apprentice Act, 1961, must give preference to Kannadigas for apprenticeship. While the Bill is not directly providing for reservation to Kannadigas in private industries, it is indirectly mandating reservation in private employment on the basis of language and domicile. The Supreme Court (2000) has held that what the state cannot do directly, it also cannot do indirectly.¹⁰ Such reservation raises questions regarding unfair and unequal treatment of citizens as well as businesses. We discuss them below.

Reservation for Kannadigas in private employment may be unfair to businesses

The Bill is providing for business-related concessions and benefits to only those industries that provide reservation to Kannadigas. This may violate Article 14 of the Constitution since mandating reservation for Kannadigas seems to be arbitrary, and it could be unfair towards some industries.

Such concessions may benefit companies who need to hire employees who understand Kannada to engage with Kannada speaking customers (local customer service). However, there are also companies that require skilled workers, and an employee's ability to speak the regional language has no implication on their business (IT companies). Linking the provision of concessions and benefits to employing Kannadigas could affect the competitiveness of those industries that do not necessarily benefit from hiring them, and consequently be unfair towards such companies.

One argument is that since the state is providing these benefits to industries, it can make them conditional. Typically, land concessions and tax rebates are provided to improve the ease of doing business for companies. These encourage industries to set up their business in that state, help with employment generation and improve the economy of the state. However, making such business-related concessions conditional upon hiring persons with language proficiency and domicile seems to be arbitrary, as it has no relation with improving the functioning of a company.

Indirectly providing reservation to Kannadigas may violate the Constitution

The Statement of Objects and Reasons of the Bill states that the Bill seeks to develop the usage of Kannada and provide opportunities for Kannadigas in private industries and establishments. In the past, other states have tried to implement reservation on the basis of domicile or language proficiency. The Supreme Court has held that providing reservation or preference to candidates on these conditions violates Article 14 and 16 of the Constitution.

In 2011, the Court has held that providing preference to candidates on the basis of language could weed out better candidates and give undue advantage to less meritorious candidates.¹¹ It has also noted the need to create better

employment opportunities for a class of citizens, and affirmative action in that regard is accepted with the constitutional framework, as long as it seeks to achieve the overall goal of equality. However, it held that localism in itself does not provide any valid or reasonable classification for providing such reservation and should be backed up by scientific study.¹² Further, while examining reservation in higher education based on permanent residence, the Court noted that India is a country with one citizenship, where all citizens enjoy certain fundamental rights.¹³ The Court noted that treating a person with permanent residence in Tamil Nadu or who speaks Tamil, differently in Karnataka may violate his right against discrimination and freedom to freely move through the country. It also noted that it would derecognise the essential unity and integrity of the country by treating it as if it were a mere conglomeration of independent states.

The Bill or the Statement of Objects and Reasons does not provide any data on whether Kannadigas are under-represented in private employment within the state. As per the 2011 Census, about 94% of the population of Karnataka is born in the state, and about 65% of the state's population speaks Kannada.¹⁴ The question then is whether such people (who are born in the state and speak the dominant language) are under-represented in private industries in the same state, and hence would require such affirmative action.

Reservation in education

Bill: The Bill provides that students who have studied in a Kannada medium school from the 1st to the 10th standard will be provided reservation in higher, technical, and professional education. This may be violative of Articles 15(5) and 15(6) of the Constitution.¹⁵

As per Articles 15(5) and 15(6), states may reserve certain seats in educational institutions (other than minority educational institutions) for: (i) socially and educationally backward classes, (ii) Scheduled Tribes, (iii) Scheduled Castes, and/or (iv) economically weaker sections. However, every student who has studied in a Kannada medium school from the 1st to the 10th may not belong to any of these categories. Further, the Bill does not specify if such reservation will exclude religious and linguistic minority educational institutions, who are exempted from the applicability of such reservation.

Legislative competence for several provisions

Mandating language courses in higher education

Bill: The Bill provides that functional knowledge of Kannada language will be taught in higher, technical and professional courses. Students who have not studied Kannada at the SSLC level will be taught basic Kannada as a subject in such courses. Education, including technical education and universities, falls under the Concurrent List in the Constitution, giving legislative powers to both states and Parliament.¹⁶ However, this is subject to entries 63 to 66 under the Union List of the Constitution which implies only Parliament can legislate on these matters. These include: (i) standards in higher education, (ii) an institution of national importance (such as NIT Surathkal), (iii) institutions of technical and scientific education financed by the Union (such as IISc Bangalore), and (iv) union institutions for technical training and special research. Therefore, the state may not have the legislative competence to prescribe mandatory Kannada courses in these universities.

Language promotion in state and central PSUs

Certain industries will be required to establish Kannada Cells to promote use of Kannada, and Kannada teaching units for non-Kannada speaking employees. These industries include: (i) those owned by the state and central government, (ii) public sector undertakings (PSUs), (iii) banks, and (iv) private industries with more than 100 employees. The state legislature may not have regulatory authority over central PSUs to promote the use of an official language.

Mandating product labelling standards

State legislature may not have legislative competence to mandate labelling

Bill: The Bill provides that industrial and consumer products manufactured and sold in Karnataka, as far as possible, shall: (i) specify the name of the product, and (ii) the directions for use, in Kannada also. The state legislature may not have legislative competence to mandate such product labelling requirements.

Regulation of standards of weights and measures is under the Union List of the Constitution.¹⁷ The Legal Metrology Act, 2009, establishes standards of weights and measures, which include regulating the labels for packaged products. Under this Act, the central government is empowered to make Rules regarding the declarations to be made on the label of a pre-packaged commodity.¹⁸ The Legal Metrology (Packaged Commodities) Rules, 2011 specify that any other language in addition to Hindi or English may be used by the manufacturer to make declarations on the label, if they wish to do so.¹⁹ These include: (i) retail sale price, (ii) net quantity, and (iii) name/address of the manufacturer.

Labelling requirements may affect business competitiveness

Non-compliance with the labelling requirement also attracts a penalty. There may be domestic and international businesses that manufacture their products in Karnataka, whose consumer base may not be limited to residents of Karnataka. Requiring businesses to modify their packaging exclusively for sale in Karnataka may increase their costs and affect their competitiveness with industries in other states.

Kannada translation of Bills to be the authoritative text

Bill: The Bill requires Kannada to be used in all legislation, rules, regulations, or orders in the state. It also requires that existing legislation (state Acts and central Acts pertaining to the state) be translated into Kannada. It specifies that such translation into Kannada authorised by the governor, will be the authoritative text. Translation of existing orders, rules, regulations, notifications, schemes, and bye-laws authorised by the state government will be the authoritative text. This may violate the Constitution on several counts.

Clauses 4 and 6

It is unclear whether the Bill mandates Kannada translation to be the sole authoritative text for laws

Bill: The Bill states that the Kannada translation of central Acts in the Concurrent List of the Constitution, and other state legislation, authorised by the Governor, will be the authoritative text. There are two issues with this.

Clause 6

First, this provision may violate Article 348(1) of the Constitution. It provides that the authoritative text of all Bills, Amendments, Ordinances, and Acts passed by Parliament will be in English, unless Parliament provides otherwise. As per the Official Languages Act, 1963, the Hindi translation of such legislation, authorised by the President, will be the authoritative text in Hindi and will accompany the authoritative English text.²⁰ The Supreme Court has held in multiple instances that if a conflict arises between the text in a state language and in the English translation, the English translation will prevail.^{21,22} Hence, a Kannada translation cannot be the sole authoritative text.

Second, the Bill does not specify if the Kannada translation authorised by the Governor will be the sole authoritative text or the authoritative text among multiple Kannada translations. Similar provisions exist in Punjab and Telangana where the Acts clearly specify that Punjabi (for Punjab), and Telugu and Urdu (for Telangana) translations authorised by the Governor will be the authoritative text in Punjabi, Telugu and Urdu respectively.^{23,24} However, the English and Kannada versions of this Bill seem to differ with respect to this provision. The Kannada translation of the Bill states that the Kannada translation of central Acts shall be the authoritative text in the Kannada language.

Authoritative text of subordinate legislation

The Bill specifies that the English translation of subordinate legislation, such as rules and regulations authorised by the state government will be the authoritative text. However, the Constitution provides that in states (where the official language is not English), the English translation of legislation and subordinate legislation will be the authoritative text in English when it is authorised by the Governor.²⁵

Bill: Clause 6

Compounding of offences committed retrospectively

Bill: The Bill prescribes certain requirements for businesses and penalises business owners for non-compliance. These include: (i) the upper half portions of boards of hospitals, and commercial and industrial undertakings must be in Kannada, (ii) PSUs (state and central), banks, and private industries with more than 100 employees must establish a Kannada cell, and (iii) banks and other financial institutions must use Kannada also in all their communication. The Bill also allows compounding of such offences even if they are committed retrospectively. If an offence does not have retrospective applicability, it is unclear how the compounding of such offence can apply retrospectively.

Clauses 17, 23 and 24

In any case, the retrospective compounding of offences may not be constitutionally permissible. Currently, Karnataka does not penalise the offences mentioned above. Consequently, the Bill may violate Article 20(1), which protects individuals from retrospective application of penalties. Under this, if a person commits an offence before a law comes into force, they cannot be: (i) convicted for that, or (ii) penalised more than the then penalty for such violation.

Functions of the Official Language Commission not specified

Bill: The Bill constitutes an Official Language Commission under the Department of Parliamentary Affairs and Legislation. It specifies the number of members, their qualifications, term of office, and pay and allowances. However, it does not specify the functions of the Commission.

Clause 5

Some districts have a high concentration of non-Kannada speakers

Karnataka is a multilingual state with Kannada as the mother tongue of 65% of the population.¹⁴ The remaining 35% speak languages including Urdu (10%), Telugu (8%), Tamil (5%), and Marathi (4%). In several districts, more than 10% of the population has mother tongue other than Kannada. For instance, 49% of people in Dakshina Kannada are Tulu speakers.

Table 1: Districts where over 10% of the population speaks a non-Kannada language

Language	Number of districts	Name of some districts
Marathi	2	Belgaum, Bidar
Tamil	2	Bangalore, Kolar
Telugu	3	Chikkaballapura, Kodagu
Urdu	14	Haveri, Gulbarga, Dharwad
Malayalam	1	Kodagu
Tulu	2	Dakshina Kannada, Udupi

Sources: Population Census 2011; PRS.

Table 2: Inter-state comparison on enforcement of official language

State	Official language	Translation of Central legislation	Official language as mandatory subject in higher education	Use of official language in employment	Obligation for Businesses	Enforcement mechanisms
Karnataka (Bill)	Kannada	Translation to be the authoritative text.	Kannada as a mandatory subject for non-Kannada speakers.	Yes, for public employment. Only private industries hiring a certain percentage of Kannadigas will avail land concessions, grants, and tax rebates.	Boards of certain government and private institutions must primarily be in Kannada. All boards that display advertisements and notices issued in public interest must have a percentage of the content in Kannada.	Enforcement bodies at the state, district, taluka level, and enforcement officers to ensure the implementation of the provisions of the Bill.
Maharashtra	Marathi. Hindi will only be used as an exception, for purposes notified by the state.	Not provided	Not specified	Not specified	Not provided	Yes. Enforcement bodies at the state and district level.
Punjab	Punjabi	Translation to be the authoritative text in that language.	Not specified	Yes, for public employment (with specified exceptions).	Not specified	Yes, enforcement bodies at the state and district level.
Tamil Nadu	Tamil	No reference made	Not specified	20% of vacancies in public employment appointments shall be set apart for preferential basis for people that have studied in Tamil-medium.	Not provided	No mechanism specified
West Bengal	Bengali. Nepali also recognised in the three hill divisions of Darjeeling.	Translation to be the authoritative text in that language.	Not specified	Yes (either Bengali or Nepali) for public employment.	Not provided	Not provided
Telangana	Telugu, Urdu (2nd official language)	Translation to be the authoritative text in that language.	Not specified	Not specified	Not specified	Yes
Andhra Pradesh	Telugu, Urdu (2nd official language)	Translation to be the authoritative text in that language.	Not specified	Not specified	Not specified	Yes
Kerala	Malayalam and English	Official Language Commission set up to translate Central Acts.	Not specified	Yes (except linguistic minorities) for public employment.	Not specified	Not provided

Sources: **Maharashtra**: The Maharashtra Official Language Act, 1964; **Punjab**: Punjab Official Language Act, 1967; The Punjab Civil Services (General and Common Conditions for Service) Rules, 1994; **Tamil Nadu**: The Tamil Nadu Official Languages Act, 1954; State of Persons Studied in Tamil Medium Act, 2010; **West Bengal**: The West Bengal Official Language Act, 1961; **Telangana**: The Telangana Official Language Act, 1966; Telangana State Private Universities (Establishment and Regulation) Act; **Andhra Pradesh**: Andhra Pradesh Official Language Act, 1966; **Kerala**: Kerala Official Language (Legislation) Act, 1969; Official Language Legislative Commission, Law Department, Government of Kerala; Kerala State and Subordinate Services Rules, 1958; PRS.

1. Article 348(1), [The Constitution of India](#).

2. [Use of Hindi and Regional Languages](#), Department of Justice, Ministry of Law and Justice.

3. Article 345, [The Constitution of India](#).
4. [Kerala State and Subordinate Services Rules](#), 1958.
5. [The Maharashtra Local Authorities \(Official Languages\) Act](#), 2022.
6. [Malayalam Language Learning Act](#), 2017.
7. [Maharashtra Compulsory Teaching and Learning of Marathi Act](#), 2020.
8. [The Karnataka Education Act](#), 1963.
9. Writ Petition Appeal No. 3428 of 2009, The State of Karnataka v. Vodafone Essar South Limited, Karnataka High Court, 2014.
10. Case No. Appeal (Civil) 4656 of 1999, Delhi Administration v. Gurdip Singh Uban & Ors., 2000.
11. Sunanda Reddy v. State of Andhra Pradesh (1995), AIR1995 SC 914.
12. Kailash Chand Sharma v. State of Rajasthan (2002), AIR2002 SC 2877.
13. [Pradeep Jain v. Union of India](#) (1984), 1984 AIR 1420.
14. [Karnataka Demographics](#), ENVIS Centre Karnataka, Ministry of Environment and Forests.
15. [Article 15](#), The Constitution of India.
16. Entry 25, List III, Concurrent List, [Seventh Schedule](#), Indian Constitution.
17. Entry 50, List I, Union List, [Seventh Schedule](#), Indian Constitution.
18. [The Legal Metrology Act](#), 2009.
19. [The Legal Metrology \(Packaged Commodities\) Rules](#), 2011.
20. [Official Languages Act](#), 1963, cl.5.
21. Jaswant Sugar Mills vs Industrial Tribunal, AIR 1962.
22. Bhikam Chand vs State, Rajasthan High Court, AIR 1966.
23. [The Telangana Official Language Act](#), 1966.
24. [The Punjab Official Language Act](#), 1967.
25. [Article 348 \(3\)](#), The Constitution of India.

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