

From Community Dialogues to Courtroom Participation: The Influence of Vernacular Languages on Justice Accessibility

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Abstract

The text discusses the contradictions between the complex legal terms being used in India and the common perceptions about these terms. While law forms the foundation of any democracy, the suffocating legal language coupled with archaic tongues offered by the lawyers as ‘simplified’ versions of the law leaves many citizens tongue-tied grappling with baffling head-spinning conundrums. Criticism focuses on the widespread use of Latin phrases, various complicated sentence structures and / or professional terms that often alienate the laypeople. The Indian constitution incorporated provisions for language and proximate movement in the use of languages from English to Hindi and other regional languages. However, the current legal framework is still primarily in English with its resulting adulteration of access for non-English speakers and a deficiency of legal knowledge. It is emphasised how clearer and more accessible legal communication is key essence to a functioning judicial system. Concerning the simplification of the legal language, apart from the legal documents, the use of simplified language that the common person could comprehend should have been included. Change like that would lead to a better public understanding of legal rights, access to the justice system and democracy. Legal papers and court process should be multilingual to try and dismantle the current barriers that prevent justice for all citizens, irrespective of their linguistic ability. The document deals with the issues of challenges and initiatives about language accessibility in Indian legal system. Although efforts have been made at translating important legal documents in local languages - implementation is not consistent and lack of trained translators has resulted in delays and inaccuracies. However, difficulties remain, including technical limitations and complexity of legal language, as it relates particularly to marginalized communities.

Keywords: English, Vernacular, Language, Legal, Justice, Participation

Introduction

The relationship between language and law is one of the most important instruments in legal systems as well as a factor in influencing social phenomena. The legal English is the form of written used in the area related to law, such as legislation enactment, contracts and judgments of court. There's a dialectic on the edge of our democracy. On the contrary, 'rule of law' prevails, everyone is under obligation to remain within the ambit of law and ignorance of law is not an excuse as it assumes 'law' to be knowable and accessible. Laws, from another point of view are complicated, difficult to grab hold of and impossible to truly understand. As India progresses as a society and a nation, the citizens need to know the laws that govern them. This can result not only in a more literate citizenry, but also in an engaged citizenry making decisions about the things that affect their lives, public accountability of leaders, and a fair distribution of decision-making power. The idea of the rule of law makes no sense if people don't know the laws that govern them. Language of law is supposed to be plain for the purpose of no ambiguity content and for proper understanding of the people. Knowing the law enables people to protect themselves as well as their rights, and obtain redress when they have been wronged. Laws are not supposed to come out of a niche, specialist exercise. It can be a challenge for non-lawyers to comprehend legal documents. The legal English employed in these texts has been largely shaped by Latin and French. The legal industry is abundant with legalese that does not necessarily say what you mean. It throws up a major roadblock in the path of laypersons seeking to comprehend, let alone play a role in their legal system. The post goes in how judgements and laws have to be no more so full of legal terms to make the point, that is upon their language making accessible what is being said to the common man. This paper intends to look into these aspects by emphasizing the fact that how will clients be interpreted, and how is it going to affect them in their pursuit of justice when the professional language as "Law" intervenes on individual's combined with social experiences? In the process, it may even teach some fellow members of the legal profession to communicate more clearly.

Perceptions and Barriers to understand the Legal Rights

The use of convoluted and technical language of the law is a major handicapping factor in the fuller understanding of one's legal rights by many Indians. For example, when people get legal notice or called to court, they don't understand what it means or what they should do to act accordingly. This lack of understanding can lead people to unknowingly to abdicate their legal rights or unknowingly to be in violation of procedure rules. Marginalized communities also

struggle the most to access legal information and resources due to the extent of legal language. These groups face legal problems in issues like for example land issues, labour rights and access to public services. However, they are usually not in a better position to move through the legal system. The language-speaking makes them all the more vulnerable and unable to do an effective job advocating their rights and looking for redress. Plain language statutes and documents are 'efficient' as compared to traditionally worded ones. They're easier to read, both by lawyers and non-lawyers; they save lawyers and non-lawyers' time. plain language documents are easier to read, queries about meaning are reduced. plain language enhances the image of the legal profession the obscurity of whose traditional language has long been mocked and quite apart from its obscurity, legal writing is impersonal. It builds barriers of aloofness. It intimidates readers and keeps them in the dark. In a world which has increasingly prioritise 'democratising access', this sort of forced ignorance incurred due to unwarranted complexity is understandably judged with disfavour. It is agreed that a profession e.g. law, engineering, physicist, philosophy requires special words as there are no other words which can substitute them but law deals with human being's relationship with another human, his society & with his government hence do not require Latin and French terms in day-to-day affairs. Laws that are easy to understand and to understand are essential component of an accessible legal system. Intricate legal judgments take more time to grog evidence as compared with the judgments generated in plain English. Legible epistations of laws and judgements can be better understood, complied with and administered.

Problems in Court Proceedings for the non-legal professional

There is a large section of Indian population that does not afford the legal representation and which has to appear before the courts on its feet. The specific archetypical and largely archaic linguistic nature of theory is extensively used in court administration, thus leading to a gross multidirectional disadvantage for the self-represented litigant. These people fail to represent their cases in an appropriate manner that typically results in unfavourable outcomes.

This contrast is clearest in light of litigants who are sufficiently well-off to retain lawyers and players who are well-versed in the workings of the law. Unintelligible language which is used in the courts and more particularly in the higher courts distances the commoners from engaging in their work. As such, the principle of equality before law has failed, due to those not legally competent or financially elaborate being unable to afford proper representation, being discriminated against in disproportionate numbers, and theik law being thick with vocabulary

and complex in syntax, making it incomprehensible to non-service users such as a literature student. By contrast with everyday English, such has a continuing substantive association with obfuscation (use of outdated vocabulary), jargon (vocabulary and speech peculiar to legal professionals) and the like, all analytical features that are important to explain why legal English is often so 'unfriendly' to the unlearned.

Studies suggest that legal English is far removed from the comfort zone of non-specialist, including university students in literature or English classes, who do not naturally know what the strange terminology, stolidity of structure, and reconditeness of legal English are all about. By contrast, law students perceive legal language as highly complex, distant and resistant to those outside the field. Often, these students lack the necessary context to comprehend legal language and thus do not fully understand legal principles and are unable to process legal documents. Diffusion of simplified legal English modules, which include: principles of language; and contextualized example to demonstrate usage, has been demonstrated to differentiate significantly in the understanding of non-specialists-important pedagogical interventions widening the gap between the 'general' and 'legal' English and discerning legal.

Language Provision in the Constitution

The provisions with regard to language are contained in the Part Seventeen of the Indian constitution. Article 343 - 351 is about official language in India. Article 343 The official language of the Union is involved with Article 343. It States Hindi in Devanagiri script to be the official language beside English which is also allowed. Article 345 has reference to a language of official states. Article 345 give that Legislature of the State shall be empowered to adopt by law one or more of the languages in use in the State or Hindi as the language or languages to be adopted for all or any of official purpose of the State so as to be in use for all or any of official purpose of the State as stipulated in of here from. Article 348 (1) of the Constitution of India provides that all whatsoever proceedings in the supreme court and each of the high courts shall be in English language then otherwise provided by law by the parliament. Article 348 (2) has empowered the Governor of the States with the prior consonance of the President for allowing the language Hindi or any other language to be used for any official purposes of the States by way of proceedings of the High Court. Article 351 lays down special directions towards making Hindi the official language. It shall be the duty of the Union to promote the dissemination of the Hindi language, to evolve it so as to make it a means of expression of all elements of composite culture of India and secure its enrichment

by assimilation non-interference with its genius, of Hindustani and other languages of the Eighth Schedule and by drawing from Sanskrit and other languages predominantly Sanskrit and secondarily Sanskrit.) It was because of Munshi, that 8th schedule was born. It has a total of 22 languages in these last-minute additions (according to the 92nd amendment) Protection of the scripts and languages was first considered by the Supreme Court in this context under Article 29 of the Constitution. "It struck down a discrimination ('imprincial') as unconstitutional on the basis of language, not only in the context of fundamental rights assured under Articles 14 and 16 of the Constitution, but in the field of employment."

The Constitution does not name any of the languages as the national language of India. The Governor of a State who has received permission, with prior approval of the President, exercises authority in respect of the Hindi or State official language, other than English language. Any judgment, decree or order is passed or made in any such language (other than in English), a translation thereof shall accompany the same in English. Aim of Effecting the older laws that provided for continuity of English as the official language even after 1965 was borne out after agitations against the imposition of Hindi, mainly in the non-Hindi speaking States of the Indian Union.

Using Regional languages in the Courtrooms

While Article 348(1)(a) of the Constitution of India includes the provision that all proceedings in the Supreme Court and High Courts are to be in English language, provision has been made for change under Article 348(2) of the Constitution of India. It provides authority for the Govt. of a state to authorize use of Hindi or other official state language in the High Court previous consent of the President. Similarly, use of Hindi or a state's official language for judgment, decrees and orders is allowed in High Courts by Section 7 of the Official Language Act, 1963 only with regard to English translation of orders.

Following the decision of Cabinet Committee on official language policy 1965 again it became mandatory to take the consent of Chief Justice of India (CJI) in the event of any such change. Therefore, Hindi language became well into practice in High Court of Rajasthan Old (now has bench, principal bench seat) from 1950, High Court of Uttar Pradesh (now renamed as Allahabad HC) from 1969, in MP HC from 1971 and in Bihar HC from 1972 by consulting CJI. Subsequently, Tamil Nadu, Gujarat, Chhattisgarh, West Bengal and Karnataka have made proposals to the Government of India seeking permission for use their own regional/targetes local language in their High Courts. However, the Full Court of the Supreme Court after much

thought well has declined such proposals on many occasions. The latest rejection communications were sent by the CJI in October 16, 2012, and January 18th, 2016, in letters. The issue of setting up of regional benches of Supreme Court has also been moved. While Article 130 provides that the Supreme Court could function in other places with the permission of the President, the Full Court held in a meeting on February 18, 2010 that there was no justification to establish benches outside Delhi. A subsequent legal challenge over a facility of National Court of Appeal has been referred to a Constitutional Bench and is sub-judice. Despite these challenges, major movements are being made to help make judgments more accessible to the masses in regional languages. Supreme Court has constituted AI Assisted Legal Translation Advisory Committee where AI tool is used for translating judgments of e-SCR. As of December 2, 2023, more than 31,000 Supreme Court judgements have been translated into 16 languages. A similar endeavor is being carried out by the committees in all High Court. It is also being taken care of by the Ministry of Law and Justice by way of Bar Council of India's 'Bharatiya Bhasha Samiti' to develop a common legal vocabulary for the language in Indian legal discourse, which will further facilitate translation of legal materials into Indian languages.

Empowering the Marginalized Communities

Marginalized and socio-economically disadvantaged communities tend to suffer the consequences of linguistic barriers for the most part. Many of these groups have limited amounts of formal education and they do not speak English well. By having legal proceedings either in their mother tongue or in their mother tongue the judiciary can enable them to give voice for their concerns in an effective manner. This is especially the case with land cases, family law and criminal justice where the litigants do not have the resources to pay for lawyers who speak their language. It is also facilitated to provide supporting services that deal with the identity and authenticity of origin such as legal-aid and Lok Adalats in local languages which becomes most important to act as non-technical quick forum for settle down the dispute. Furthermore, the inclusion of local idioms and cultural references in legal analysis can facilitate a better comprehension of law. The system of justice will be a better reflection of the individuals it serves, but it also will greatly facilitate that access and reduce fear.

Overcoming the Linguistic Barrier and Enhancing Access to Justice

The Indian judicial machinery is in for a gigantic battle; how to overcome the hindrance of linguistic division so that justice can become material rather than nominal. English is the

language of most of this country's written official business, and it tends to get bloated so long no one can understand it. The parties, witnesses and even lawyers in inferior courts have occasionally been "out of order," as indeed we are when we see the balance of justice so obviously weighed against our court system. Having an interpreter is better than having none" If a provider can speak the client's main language, trust as well as rapport may be increased.⁶ However this is only a partial solution. Many people don't speak the reports language in which official proceedings are conducted for submission of petitions to pronouncement of judgments. What it boils down to is lack of being able to communicate in a language that causes miscommunication, procedural error and communal impotence within the legal system.

As a result, it would be wrong to say that the usage of vernaculars at all levels of the judiciary is a matter of convenience, it is or necessary condition precedent for procedural fairness. This allows for citizenship by which the citizen can follow up for his own cases and understand what arguments are being made and plead himself actively.

Practical Steps and Challenges in Implementation

Including vernacular languages in the Indian legal system is a difficult task and supported by a lot of tactical barriers. It is an enormous task to translate statutes, legislations and precedents into all the known languages of a jurisdiction. Furthermore, to ensure that justices and judges and desk officers work at ease in the two languages, they would all have to be trained. However, the following challenges are not insurmountable.

Utilization of Technology - The government can utilize technology specifically AI-based translations to speed up the process of translating legal documents. Additionally, judicial academies can integrate vernacular language curriculum into their programs. The current regime already allows regional languages to be used in the lower courts and a gradual extension of the provision into higher courts is achievable. To facilitate this, some High Courts have put this program into effect wherein pleadings and arguments can be put in Hindi in certain jurisdictions by the High Courts.

Whilst this is a positive step, a more comprehensive, national policy is still needed. This policy could be implemented in a phased manner, beginning with compulsory translation of essential documents and subsequently proceeding to all processes being conducted in the local language. In the absence of a greater distribution of justice, in a more participatory sense this project would not only democratize justice but deepen the relationship between a society saturated with power and militarism and the judiciary that intervenes within it.

Conclusion

The paper shows that in a fair and workable court system in India, communication with practicing persons in their respective languages is essential. At the present time, English is the foreground of the higher courts and as a result, most of people face complexities and barriers in understanding and following the legal process. People who couldn't afford a lawyer were denied access to legal help, which equates to denial of justice – that not everyone is truly valued or innocent. The regional languages are not just a matter of convenience but an issue that meets the basic existential demands for fulfilling commitments under the Constitution's promise of equality and justice. If the courts use the vernacular languages, it would also restore more confidence in the courts. A system that mirrors the languages of its people is more transparent, more accountable & more legitimate. This change, with translation and training, is conceivable but will be slow. With technology as it is, and a fall scheduled for in between points." The courts of India may cease to be their courts for Englishmen, and become the court of a great and wise system such as France itself could be proud of. It is really important that the justice in our Country must speak the various languages of our land so that every individual can demand for justice and get access to justice with the same ease irrespective of from where he comes. The local languages need to be used not arrondissement like a pathway into itself but as a key to unlocking a more just and democratic penal system.

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