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Language of Justice in India: Needs a revitalisation from complexity to simplicity

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Abstract

Communication of justice is as important as the determination of justice. This recognition is imperative to ensure the integrity of our legal system. We have seen that how regional languages as also Hindi have been marginalized by not giving them any place of prominence by allowing the status quo of English to continue uninterrupted and undiminished since last more than 73 years. The complexity of statutory language has made the legal system incomprehensible to the common man. The linguistic barrier is area of concern in India with respect to accessing law, court, procedure, and adjudication. The language barrier limits the understanding of the lay man regarding his rights, exacerbates lack of awareness and effectively prevents them from accessing the justice system. The language of justice seems tedious and verbose. A reader is compelled to consult a legal expert to recover meaning from the syntactic labyrinth. There is a need to make legal language comprehensible to ordinary people. In this paper an attempt has been made to highlight the fundamental importance of adequate plain language services in providing access to justice. This paper touches upon the complexity and linguistic issues encountered within the legal domain acknowledged by the legislature and higher judiciary. Perhaps measures to remedy this situation involve some amount of introspection by the legislature and higher judiciary, and we may optimistically hope that the acknowledgement that the problem exists may be the first step towards solving it.

Keywords: Access to justice, language of law, complexity, language revitalisation .

Introductions

There is a fundamental contradiction at the heart of our democracy. On the one hand, 'rule of law' is supreme, everyone has to obey the law, and 'ignorantia juris non-excusat' means ignorance of the law is no excuse because law considered to be knowable and understandable. On the other hand, laws are complex, difficult to access and impossible to fully understand. As India grows as a society and an economy, it's important that her citizens understand the laws that govern them. This can lead to a more informed citizen body, and lead to an increased participation of the people in deciding the factors governing their lives, public accountability of leaders, and an equitable distribution of decision making power. We can have as many laws as we want, but they are useless if only legal professional understand how they work. The whole idea of rule of law is meaningless if people don't understand the laws that govern them.

Knowing the law allows people to protect themselves, assert their rights and seek justice when they have been wronged. Laws were not written to be an exclusive, niche product meant for experts. They concern everyone in India and are applicable to almost everything. Indian laws have often been criticised for very complex drafting, which makes them difficult to read and understand. There is over-reliance on archaic drafting elements such as provisos, notwithstanding clauses, gendered and non-inclusive terms, and the use of foreign terms. It is the accumulated baggage of words and conventions gathered and retained over centuries. To the extent that "English" as used by the profession is considered different from common speech "English". It includes not only distinctive words, phrases, and expressions but also manner of composition. This combination forms the "language of the law" that is associated with law, the courts, and of course the profession. Complex legal drafting goes against the grain of a democratic and participatory society as it reduces accessibility of the law to the common man.

Language of law is supposed to be plain in order to leave no room for any ambiguity and for proper understanding of the people. It has often been joked upon lawyers that the minute you read something which you can't understand, you can almost be sure that it was drawn up by

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a lawyer ^[1]. Take the following case crafted by an English critic for example: When an ordinary man wants to give an orange to another he would merely say: "I give you this orange, you may do with it whatever you may please!" but when a lawyer has to do the same, he may say it this way: "Know all men by these presents that I hereby give, grant, bargain, sell, release, convey, transfer and quitclaim all my right, title, interest, benefit and use whatsoever in, of and concerning this chattel otherwise known as an orange, or citrus orantium, together with all the appurtenances thereto of skin, pulp, pip rind, seeds and juice for his own benefit, to himself and heirs in fee simple forever, free from all liens, encumbrances, easements, limitations, restraints or conditions whatsoever, any and all prior deeds, transfers or other documents whatsoever, now or anywhere made to the contrary notwithstanding, with full power to bite, cut, suck or otherwise eat the said orange or give away the same, with or without its skin, pulp, pip, rind, seeds or juice."

In India we find many common words with uncommon meanings. For example; To lay man "demise" means a person's death; to lawmen it means "transfer of a property by lease". To layman "presents" means gives; to lawmen it means "this document". To layman "motion" means "movement or process of moving"; to lawmen it means "application to a court". To layman "said" means the past and past participle of "say"; it is an adjective for lawmen – for example, the "said" building. Lawmen use long sentences so that by the end of it the reader needs another lawyer to explain what it means. In our legal system we use words which are of antiquity – which go back thousand years – and are not in current general usage – words such as aforesaid; forthwith; henceforth and thenceforth. We use multiple words to convey an idea where one would do. We will say "null and void and of no effect whatsoever" when just "void" or "null" would be good enough.

Loan words are words borrowed from other languages. The need for these arose as English and French languages were considered vulgar and deficient in logical expressions. Latin was the language of Law in England till 1066. Thereafter a variety of Latin known as 'Low Latin' containing Latinised English and French was used in courts till the Fourteenth Century. This explains the occurrence of Latin and French words in Indian legal documents written in English.

Most of the words still prevalent are not easy to commonly understand. Latin words like : ab initio; ex parte; res judicata; prima facie. habeous corpus, certiorari, qua warranto, ex post facto; de minimis; in pari materia; in personam; mens rea; mutatis mutandis; pari passu; res judicata; quasi; sui generis are generally used in Law. Everyone cannot be expected to be proficient in Latin. We use "argot" – which linguists describe as slang or jargon of a profession. It is form of a language of communication within a group. Sometimes deliberately designed to exclude those outside the group. Argot is insufficiently technical or specific to qualify as a "term of the art" but we pretend it is. Here is a sampling: at issue; cause of action; four corners of the instrument; on all fours; show cause; purported; pursuant to; set down for hearing; reversed; remanded; time is of the essence; without prejudice. This is our daily staple of legalese and jargon. We still use words which are of ceremonial and ritualistic flavor – the majesty of the law bit. Many of these constructions and words are peculiar to language of the law. For example: " Most Respectfully showeth" "To All To Whom These Presents Come,

Greetings"; "Know All Men by These Presents; "for such other and further relief as which this Hon'ble Court may deem just and proper to meet the ends of justice"; "may it please the court"; "the truth, the whole truth, and nothing but the truth, so help me God"; prior (instead of "before"); subsequent (instead of "after");". In simple terms, the language of the law is full of "long sentences, awkward constructions, and fuzzy-wuzzy words". Some critics have suggested that the long retention of legalese is not just due to the profession's general conservatism, but comes from what might be called a "conspiracy of gobbledygook." As suggested by David Mellinkoff, who wrote a classic critique of the language of the law: "What better way of preserving a professional monopoly than by locking up your trade secrets in the safe of an unknown tongue?". Justifying fees is not the only reason for the persistence of legalese. Their distinctive language allows lawyers to mark themselves as members of the profession ^[2].

It is often said that lawyers used legalese sound sophisticated and smart. This statement is not totally untrue. In 2020 a Delhi based lawyer Subhash Vijayan filed a Public Interest Litigation regarding this very problem. In this writ petition he stated that "the writing of most lawyers is: (1) wordy, (2) unclear, (3) pompous and (4) dull. We use many words to say what can be said in two. We use arcane phrases to express commonplace ideas ^[3]. In response to this, the Supreme Court has requested the Ministry of Law and Justice and Bar Council to take action ^[4]. Moreover, this problem is not limited to the lawyers alone. In 2017, the Supreme Court had to set aside a judgment of Himachal High Court due to the excessive use of legal jargons rendering the judgment incomprehensible ^[5]. The Himachal Pradesh High Court ruled:

"Even if assumingly no efficacious evidence nor any evidence of cogent worth may stand adduced qua the defendants raising any obstruction upon the suit land yet the decree of permanent prohibitory injunction dehors any obstructive act done by the defendants during the pendency of the suit before the learned trial Court or during the pendency of the appeal before the first appellate Court also dehors no scribed relief in consonance therewith standings prayed for by the plaintiffs would not estop this court to permit the executing court to carry the mandate of the conclusively recorded decree of permanent prohibitory injunction pronounced qua the plaintiffs, conspicuously when thereupon the mandate of the conclusively recorded decree pronounced qua the suit land would beget consummation besides would obviate its frustration."

Supreme Court bench objects to language of 2017 order written by Justice Sureshwar Thakur, High Court judge for using impenetrable language for the fourth time. While considering an appeal on a decision of the Himachal Pradesh high court, the judges of India's Supreme Court found themselves at an uncharacteristic loss for words. The order that was being appealed had been written in language so convoluted that even the most learned legal minds in the country struggled to comprehend what exactly it was saying. "How do we understand this judgment?" asked Justice K.M. Joseph in evident frustration, "Is it in Latin?" To which even the senior counsels present had to concede that the order was indecipherable. The order was returned to the aforesaid high court with a request that it be re-written ^[6]. Now we can very easily imagine the plight of common man who is not well versed in law.

In *State Bank of India vs Ajay Kumar Sood* [7] the top court, which was dealing with a Himachal Pradesh High Court verdict, said it is "incomprehensible" and the court found it difficult to navigate through the "maze of incomprehensible language in the decision". A bench of Justices DY Chandrachud and AS Bopanna said "The judgment of the division bench of the High Court of Himachal Pradesh is incomprehensible. This court, in appeal, found it difficult to navigate through the maze of incomprehensible language in the decision of the high court. A litigant for whom the judgment is primarily meant would be placed in an even more difficult position. Untrained in the law, the litigant is confronted with language which is not heard, written or spoken in contemporary expression."

The Court said judgments of the high courts and the Supreme Court also serve as precedents to guide future benches and a judgment must make sense to those whose lives and affairs are affected by the outcome of the case. The purpose of judicial writing is not to confuse or confound the reader behind the veneer of complex language. The judge must write to provide an easy-to-understand analysis of the issues of law and fact which arise for decision. Judgments are primarily meant for those whose cases are decided by judges. Confidence in the judicial process is predicated on the trust which its written word generates. If the meaning of the written word is lost in language, the ability of the adjudicator to retain the trust of the reader is severely eroded. The Hon'ble Supreme Court in *Shakuntala Shukla v. State of Uttar Pradesh* [8], elaborated on what should be the content of the judgment. The Court made it clear that, unless judgment is not in a precise manner, it would not have a sweeping impact. There are some judgments that eventually get overruled because of lack of clarity. Therefore, whenever a judgment is written,

- i. It should have clarity on facts;
- ii. on submissions made on behalf of the rival parties;
- iii. discussion on law points and
- iv. thereafter reasoning and
- v. thereafter the ultimate conclusion and the findings and thereafter the operative portion of the order.

There must be a clarity on the final relief granted. A party to the litigation must know what actually he has got by way of final relief. The aforesaid aspects are to be borne in mind while writing the judgment, which would reduce the burden of the appellate court too.

Reasons for Complexity of a Legalise

Legalise is a special language which differs from the common language by using registers peculiar to law. It has a reputation for being complex and archaic and hardly comprehensible to the layperson. Some of the main reasons for its complexity are: Frequent use of common words with uncommon meanings; The use of Latin, and sometimes French, words, and phrases to express a rule, principle, doctrine, maximum, etc. which can be easily phrased in English; The use of obsolete, archaic or old English words which have passed from the English language but have been kept alive by their frequent use in the Legal profession; Use of argot; The practice of assigning common English words a new, different, unusual and purely legal meaning or assigning these words some exclusive legal definitions and The ridiculed tendency of legal professionals both lawyers

and judges to write often long and complex sentences without any punctuation.

Justification for Simplification

Plain language statutes and documents are more 'efficient' than traditionally worded ones. They are easier to read, for both lawyers and non-lawyers, saving time for lawyers and non-lawyers. 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 a source of ridicule. And quite apart from its obscurity, legal writing is impersonal. It creates barriers of aloofness. It intimidates readers and keeps them in the dark. In a world that has increasingly prioritized the democratization of access, this sort of forced ignorance that arises out of unwarranted complexity is understandably viewed with disfavour. It is agreed that a profession like law, engineering, physicist, philosophy requires special words as there are no other words which can substitute them but law deals with a human being's relationship with another human, his society and with his government hence they do not require Latin and French terms in day to day affairs. Laws that are clear and easy to understand are an essential part of an accessible justice system. Intricate legal judgments require more time to grasp as compared to the judgments produced in plain English. Clearly written laws and judgements can be better understood, complied with and administered.

Constitutional Provisions on Language

The provisions related to language are included in the Part XVII of the Indian Constitution. Article 343 – 351 deals with the official languages of India. Article 343 deals with the official language of the Union. It states Hindi in Devanagari script is the official language besides English also allowed. Article 345 deals with the official languages of the states. Article 345 provides that the Legislature of the 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 the State.

Article 348 (1) of the Constitution of India provides that all proceedings in the Supreme Court and each High Court shall be in the English language unless the Parliament provides otherwise by law. Article 348(2) allows the Governor of the State, with the previous consent of the President, to authorize the Hindi language or any other language to be used for any official purposes of the State in proceedings in the High Court

Article 351 gives special directions for the development of the Hindi official language. It says :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.

As a result of Munshi – Ayyangar formula, 8th schedule was formulated. It contains 22 languages the last two languages added as in the 92nd amendment. The Constitution protected scripts and languages under Article

29. It prohibited discrimination on the grounds of language under Articles 14 and 16.

Area of Concern: Hindi and Regional Languages

Every nation has its own national language through which the day-to-day affairs goes among the people in that country. India being a diverse country with different languages, dialects, religions, regions, and cultures, has a problem with lingua franca. According to the people's linguistic survey of India, there are 780 languages and 86 scriptures out of which 250 languages are extinguished and some other languages are endangered. It reflects the culture^[9]. In democratic set up the litigants expect that their concerns are communicated and conveyed through effective ideas and expressions before a Court of law in a language that fulfils the duality of communication and clarity of understanding. The genius of any human expression emanates from the spark that is ignited by ideas, whatever be the language employed to communicate the same.

The language used in Courts in India has seen a transition over centuries. After that India was conquered by the Islamic rulers, then Persian becomes the language in most of the regions of the country. Urdu was gradually developed as a combined language of Persian and Sanskrit. Inspired by the wealth of India, the British came in the year 1600 as traders. But later they settled as rulers. The English language overpowered Persian. At first, they used the local language in the courts and in other matters. Later onwards most of the functions of the government switched over to the English language. Many were supported by the English language as it opens the gates to modern science and education. When we have a close look at British English, we find that it is a borrowed language. It has undergone numerous modifications and changes over the years. It has got lexicon from the Latin, Greek, French languages. Hence many English roots are not English! This added to its beauty on the one hand and difficulty on the other.

After independence, there was a proposal to make Hindi an official language as it can be understood by a large percentage of the people in the country. This resulted in agitation among Non-Hindi speaking states. There were two problems regarding Hindi being the official language: The first one was which dialect of Hindi has to be chosen for the official language? (As there are many dialects of Hindi) and second one was other languages in India.

The Constitutional assembly was segregated into groups. Most of the assembly members Lokmanya Tilak, Gandhi, C. Rajagopalachari, Subash Chandra Bose, Sardar Vallabhai Patel, demanded Hindi would be a national language. As they demanded, some of the non-Hindi speakers opposed as it is unfair to inflict something like their language which is not. It also affects the people in their employment, public services, education etc. There was also another group that wanted to make Sanskrit an official language as it is considered the mother of all languages. After so much debate constitutional assembly came to a compromise which is known as Munshi – Ayyangar formula. According to the Munshi-Ayyangar formula, English will be considered as official language besides Hindi for a term of 15 years. The power of extension was given to the Parliament. As a result of this Official Language Act, 1963 was enacted but the provisions of the Act couldn't be satisfied by the protestors. Later onwards Official Language Act, of 1967 was amended

by Indira Gandhi's government which made Hindi and English the official language of the country.

Communication of justice is as important as the determination of justice. This recognition is imperative to ensure the integrity of our legal system. We have seen that how regional languages as also Hindi have been marginalized by not giving them any place of prominence by allowing the status quo of English to continue uninterrupted and undiminished since last more than 73 years. The complexity of statutory language has made the legal system incomprehensible to the common man. The language barrier limits the understanding of the lay man regarding his rights, exacerbates lack of awareness and effectively prevents them from accessing the justice system. To cultivate the confidence of the common man, the goal of the legal system should to eliminate language difficulties making the process of entering courts less burdensome and daunting for non-English speakers. The Rule of Law requires that the law must be simple, clear and accessible. Yet English law which is considered as complex, unclear and inaccessible is still dominant in our legal system.

The Law Commission of Indian^[10] on "Feasibility of Introduction of Hindi as Compulsory Language in the Supreme Court of India", noted as follows:

- i) "Language is a highly emotional issue for the citizens of any nation. It has a great unifying force and is a powerful instrument for national integration. No language should be thrust on any section of the people against their will since it is likely to become counter-productive.
- ii) It is not merely a vehicle of thought and expression, but for Judges at the higher level, it is an integral part of their decision-making process. Judges have to hear and understand the submissions of both the sides, apply the law to adjust equities. Arguments are generally made in higher courts in English and the basic literature under the Indian system is primarily based on English and American textbooks and case laws. Thus, Judges at a higher level should be left free to evolve their own pattern of delivering judgments."

Despite the disadvantages referred to above, a multilingual legal system can be adapted in some form at par with the changing times and evolution of the Indian society. States like Bihar, Uttar Pradesh, Madhya Pradesh and Rajasthan have been permitted to conduct proceedings in their High Courts in Hindi as the official language. On the other hand, the Supreme Court of India rejected the proposal of allowing the States of Chhattisgarh, Gujarat, Tamil Nadu and Karnataka for permission to conduct court proceedings in local languages. Although in Tamil Nadu, lawyers in the High Court are invariably allowed to argue in the Tamil language. Interestingly, Bills^[11] have also been introduced in Parliament - to mandate the use of regional languages in courts including the Supreme Court, but so far nothing has come of these. The problem is that the High Court judges are at present seamlessly transferred to various states because the language of the courts is English and not the local language which they may not understand. Secondly, the language of the court, used for articulation and writing judgements, must be precise, certain and understood by all officers of the courts. Thirdly, the current system of the higher judiciary is unified by a link language which would stand disrupted by the use of local languages. And yet, the

fact remains that the litigant, the ordinary citizen, has the fundamental right to “understand” and participate in court proceedings and the judgement delivered. The question is how to reconcile these issues without either emotion or politics creeping in.

Prime Minister Sh. Narendra Modi while inaugurating the All India Conference of Law Ministers and Law Secretaries from 14th to 16th October 2022 via video conference stressed that laws should be written in a clear manner and in regional languages to bring in “ease of justice,” so that even the poor can easily understand them and legal language doesn’t become a barrier for citizens. Very recently while delivering his speech at the 12th convocation ceremony of Tamil Nadu Dr Ambedkar Law University on 2nd December 2022, the Union Minister Sh. Kiren Rijju also said that he is against the imposition of only one language ^[12]. He stressed the need to prioritise the use of regional languages in the curricular activities of courts across the country to make justice accessible to the common man. He added that court orders should be published in the local language. Similarly the move to make Supreme Court judgments multi-lingual is reportedly credited to a 2017 conference held in Kochi, during which the then President Sh. Ram Nath Kovind highlighted the need to render judgments in regional languages for the benefit of non-English speakers. President Ram Nath Kovind advocated for a system where translated local and regional language copies of High Court judgments are made available to litigants. The President argued that providing certified translations would benefit litigants who are not conversant in English, and otherwise would not be able to appreciate the linguistic nuance of courts that statutes necessitate.

Related to the issue of language, while addressing the gathering after inaugurating the new building for Allahabad High Court, in Allahabad, Uttar Pradesh on 13th October 2018 Vice President of India, Shri M. Venkaiah Naidu said that “I firmly believe that the language used in the courts should be understood by the petitioners who are seeking justice. The entire process should be in the State language so that the petitioners have the confidence that they will get a fair hearing and treatment” ^[13].

It is interesting to note that High Courts in Madhya Pradesh, Uttar Pradesh, Rajasthan and Bihar have in sharp contrast with other High Courts already been using Hindi as an optional language. However, for orders/judgments/ decrees passed, even these High Courts are not allowed to use Hindi. A permanent change in this regard can only be brought about by a parliamentary legislation. In India, all the scheduled languages enjoy equality of status and hence, any kind of heavy-handedness should be discouraged while deliberating upon language policy. Haryana Governor Bandaru Dattatraya has recently approved the notification amending the Haryana Official Language Act, 1969 to use Hindi language in all civil and criminal courts and tribunals subordinate to the Punjab and Haryana High Court in Haryana. The approval of the Governor followed cabinet's resolution passing the Haryana Official Language (Amendment) Act, 2020. As per Section 1(2) of the the Amendment Act, a new provision, namely Section 3-A has been inserted in the Haryana Official Language Act, 1969. The newly amended Act shall be applicable from April 1, 2023.

Against the decision of Haryana Government, a petition was filed in Supreme Court where petitioners ^[14] contended that Haryana Official Language (Amendment) Act of 2020 has unconstitutionally and arbitrarily imposed Hindi as official language to be used in lower courts across the state. In this matter The Supreme Court refused to interfere with the decision of Haryana government to enforce Hindi as official language in all subordinate courts and tribunals across the state.

A bench of Chief Justice S A Bobde and Justices A S Bopanna and Hrishikesh Roy questioned the petitioners as to what was wrong with the law as around 80 per cent of the litigants do not understand English.

"There is nothing wrong in Hindi as the official language of subordinate courts in some states. Even, during the British Rule, the recording of evidence was doing in vernacular language," the bench said, observing that it is fair for the state to bring such law.

Similarly High Court of Jammu & Kashmir & Ladakh refused to entertain a public interest litigation (PIL) ^[15] petition seeking directions to declare Hindi as official language in the Union Territories of Jammu & Kashmir and Ladakh. A bench comprising Chief Justice Ali Mohammad Magrey and Justice Vinod Chatterji Koul observed that the subject of the PIL squarely comes within the the domain and powers of the executive.

Legal education in India is offered at different levels by the traditional universities and the specialized law universities and colleges recognized by the Bar Council of India. It is true that language acts as a barrier in the spread of Legal education however language barrier coupled with profession barrier acts as the real challenge. To become a lawyer in our country one needs to be well versed in English. Even the Bar Council of India in its Proposed Direction for reforms in Legal Education has emphasized the medium of instruction at all law schools would be English and this would be a mandatory and strict requirement for accreditation of the law school. Even though the teaching of law has been in English for more than a century, a majority of India Law Students feel that it is difficult to understand the explanations and discussions in English, it is difficult for them to think in English and still more difficult to write in legal English. Hence the demand to use Hindi or regional language as option for Legal Education and its daily usage practice in courts looks reasonable.

India is a multi-lingual country where many languages are spoken. There are 22 official languages in India ^[16]. Despite the fact that Article 343 (1) of the Indian Constitution specifically lays down that official language of the Union shall be Hindi in Devnagri script, the States where Hindi is not the mother tongue of people residing there, opposed this imposition of Hindi. English which was intended to be used for official purposes of the Union only for 15 years, continues to be still in use for parliamentary proceedings, inter-State and Centre- State communications, Language of all High Courts and the Supreme Court of India also remains English. Even though now the Acts passed by the Parliament are bilingual, in English and Hindi, in case of doubt it is the English version that is treated as authoritative. Nonetheless, language of the Courts of Munsif, Magistrate, Civil and Sessions judges and that of the District Judge remains regional. Therefore, practically, there is a valid need for the bilingual teaching of law.

Keeping in view the need, a national Committee for developing regional languages in legal education has been constituted by the Bar Council of India (BCI), which will discuss teaching law in 12 Indian languages in over 1,000 colleges. The Committee, chaired by Justice SA Bobde, former Chief Justice of India, plans to roll out textbooks for law students in local languages by the 2023-24 academic session. Other members of the Committee include Justice L Narasimha Reddy, former Chief Justice of Patna High Court; Prof M Jagadesh Kumar, Chairman, UGC; Prof Ishwara Bhat, former Vice-Chancellor, National University of Juridical Sciences (NUJS) Kolkata and Karnataka Law University; Ashok Mehta, senior advocate, Prayagraj; Prof. Dr S Vaidhyasubramaniam, Vice-Chancellor, Sastra University, Tamil Nadu; Anjali Vijay Thakur, advocate, Nagpur; Prof Satya Narain Sharma, Dean, Law department and former Principal, Madhav College, Ujjain; Dr Gopakumar Sharma, Joint Secretary, UGC and Anjul Dwivedi, SC advocate. It's really a historic step which will go a long way in making a legal education rooted in Indian ethos.

Conclusion

The Indian legal system is not indigenous (native) but based on the British legal system. Indian legal language is developed on the background of English legal language. The words from Latin, German and French which are found in legal English make it more difficult for the Indians. Indian legal language based on foreign legal language causes problems due to the use of such types of words and phrases. In India legal text, in its current form is difficult to understand. The structure of the bare text and the complex language become huge barriers for understanding even basic information. This lack of knowledge, along with the lack of access to knowledge is what leads to the law being viewed with fear and suspicion, instead of a tool for empowerment as it's intended to be.

The linguistic barrier is another area of concern in India with respect to accessing law, court, procedure, and adjudication. The foregoing discussion reveals that communication of justice in the language of the parties seeking justice is as important and crucial as the determination of justice. But it is a great travesty of justice that no effort has been made in the last 73 years to make sure that adequate steps are taken to ensure that justice is imparted by plain statutes and judgments in the language of the parties seeking justice. The language of law seems tedious and verbose. A reader is compelled to consult a legal expert to recover meaning from the syntactic labyrinth. There is a need to make legal language comprehensible to ordinary people. Paraphrased and translated versions which aid comprehension can help people understand the documents though these cannot be used for legal interpretation in a court of law. Hence laws should be simplified in the English language and then from this Standard English, they should be converted into other regional languages so that the masses can benefit, and the true meaning of legal access can be achieved. Our laws and legal system do not need to be so inaccessible. A few strategic steps in the right direction will go a long way towards democratizing public access to it.

Throughout the world many countries have switched over to legislations that impose plain- language obligations on government functionaries, requiring them to communicate

in words that can be easily understood. In the US, the Plain Writing Act of 2010 requires federal government agencies to "promote clear Government communication that the public can understand and use." In the UK, the Tax Law Rewrite Project simplified tax laws so that taxpayers could understand them without needing the assistance of lawyers and chartered accountants. If it is impossible for a layman to understand the laws of the country, they can hardly be blamed for not complying.

It is expected that the laws written by the legislatures can be made understandable to average laymen as well as to the legal professional, these laws must be written in non-technical terms, legislatures should use short sentences with adequate punctuations, the use of Latin and French phrases should be abandoned, the use of obsolete archaic English words should be abandoned and at last, the same meaning of words should be applied to those legal terms as the same meaning in common usage. Hence laws should be simplified in the English language and then from this standard English, they should be converted into other regional languages so that the masses can benefit and the true meaning of legal education can be achieved.

There is no denial to the fact that a profession like law, engineering, physicist, philosophy requires special words as there are no other words which can substitute them but law deals with a relationship of one human being with another human, his society and with his government hence they do not require French or Latin words. It is also concluded that although the value of legalese which have been used for generations cannot be disregarded at once, there is a need for simplifying the language used in statutes especially when the statute requires direct participation of the people.

Language of judgement delivered by court is another area of concern. It has been analysed that many times the litigant is confronted with language which is not heard, written or spoken in contemporary expression. Complex Language used in a judgment defeats the purpose of judicial writing. The purpose of judicial writing is not to confuse or confound the reader behind the veneer of complex language. The supreme court expressed its views on the brevity and art of writing judgment while delivering the judgment in the case of State bank of India v. Ajay Sood. The case was related to termination of an employee of state bank of India by bank in a disciplinary proceeding. While the case was before Supreme Court in appeal, the court also found the issue of difficult language used in judgment by the High court. So it is suggested that the judgement must provide an easy-to-understand analysis of the issues of law and fact which arise for decision. Judgments are primarily meant for those whose cases are decided by judges. Judgments of the High Courts and the Supreme Court also serve as precedents to guide future benches. A judgment must make sense to those whose lives and affairs are affected by the outcome of the case.

The Hon'ble Supreme Court in *Shakuntala Shukla v. State of Uttar Pradesh* ^[17], already elaborated on what should be the content of the judgment. The judgement has to be strictly adhered to so that the concerned parties don't face problems in understanding the implications of the judgment delivered and how it affects them directly or indirectly. It needs no rocket scientist to conclude that to ensure that the parties seeking justice are able to cross the barrier of language, the judgments should be delivered as a rule only in the language which they understand best.

With an aim to make the Supreme Court judgments understandable in vernacular languages as well, the top court had began translating the daily orders and rullings into some languages. The idea is to facilitate access to justice for litigants and also reduce their dependence on lawyers. This is undoubtedly a great landmark step in the right direction by which millions of people stand to gain by reading for themselves the judgment in the regional language which they understand best.

Legal Education in India has undergone changes over the times. Starting from the earlier days when it was not studied as a separate branch of study, it has come to the point where every person, fulfilling the eligibility criteria set by the respective authority, can study Law and choose it as a profession, practicing or otherwise. Throughout India the medium of imparting legal education is English as per the legal education rules³ and the situation remains the same even in the Draft of Legal Education Rules, 2019 ^[18]. Wherever allowed by the respective Universities, the medium of instruction remains regional language, with the requirement of clearing the General English as a mandatory paper. However, the fact remains that generally the study of the English language suffers from lack of attention which it deserves. Therefore the learners find it difficult and at times almost impossible to understand its grammar and hence lack the proper understanding of it to begin with and face difficulty in appreciating the finer nuances of law ^[19].

The New Education Policy, 2020 also touches upon it and proposes certain changes in its approach. NEP, 2020 in its para 20.4 stated that “Legal education needs to be competitive globally, adopting best practices and embracing new technologies for wider access to and timely delivery of Justice. At the same time, it must be informed and illuminated with Constitutional values of Justice -Social, Economic, and Political and directed towards National reconstruction through instrumentation of democracy, rule of law, and human rights. The curricula for legal studies must reflect socio-cultural contexts along with, in an evidence-based manner, the history of legal thinking, principles of justice, the practice of jurisprudence, and other related content appropriately and adequately. State institutions offering law education must consider offering bilingual education for future lawyers and judges in English and in the language of the State in which the Institution is situated” ^[20].

So, keeping in view the mandate of new education policy 2020 with the approval of the Bar Council of India, Law Universities and Law colleges must provide the option of reading and writing law in several regional languages ^[21]. Law schools, especially in India, possess a diverse representation of students, from all kinds of backgrounds. For a large population, formal legal language, usually involving complicated English and Latin maxims, can be a serious barrier. There are various instances where it may be harder for a student to express themselves freely, solely because of the barrier of language, and fear of not knowing its intricacies. Such unfavourable circumstances may also affect a student’s decision to pursue a career in law. In district court, regional language plays a significant role. Implementation of regional language in academic curriculum will help to conduct legal affairs at grass root level.

It has been found that that many State Governments have in the past very strongly advocated the great idea of breaking

with the past and make Hindi or regional language as option in the courts, which is understood best by most of the people living in nearby areas where the high court itself is located. Thus, in conclusion, it is my contention that while the use of local languages in the district courts is important, the use of English should not be excluded altogether from High Courts and supreme Court and efforts should be made to give Hindi and other regional languages as option in a phased manner.

At the end it is again highlighted that that while determining the language of the courts, Article 348(1) specifically lays down that until Parliament otherwise provides, proceedings in the Supreme Court and in a High Court are to be in the English language. It must be noted here that it is nowhere prohibited that English language cannot be ever replaced. English language has been just given status quo until Parliament steps in to provide otherwise. In other words, English has to give way to Hindi or regional language in the Supreme Court and the High Courts as soon as the Parliament decides to replace it with any other language. We thus see that all responsibility rests on the shoulders of the Parliament to ensure that which language shall be used in the Supreme Court and the High Courts in the best interest of litigants.

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