

English for Legal Purposes: A Brief History, Challenges and Remedies for Effective Use

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Abstract: *This paper deals with the importance, challenges and solution for efficient use of Legal English in India. Legal English has been in use ever since the British came to India and took over its political and business administration. They continued British law and language that was in force in England and other British colonies. During the pre-independence age, there was no resistance for the use of English used in India as a few elite people with foreign educational qualifications got into legal profession and it pleased the British officers as well. Post independence, Indian legal system has not changed much immediately. It took a lot of time for Indian system to adapt to the local needs shedding the influence of the age old colonial legal practices. As Indian legal professionals felt the need for reforms in Indian legal system, they began making it simple and the use of plain English was incorporated eventually. The paper also highlights the challenges Indian legal English faced and the barriers that hampered the progress of it due to various reasons and factors are also discussed. The paper concludes with a set of remedies that address the challenges encountered by both legal professionals and ordinary people in understanding, analyzing and interpreting legal language.*

Keywords: Bandwagon Effect, British Colonial Rule, Foreign Phrases, Indian Legal System, Legal English

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Introduction: History of the English Language in India

English has been an integral part of India since the colonial era. The arrival of the British in India marked the beginning of an everlasting linguistic shift and impacted the subcontinent in more than one way. It began as a connecting link between the British colonizers and the local people in the country. After gaining the required space and public acceptance, it became more than just a functional tool; it turned out to be a symbol of power and control over the Indian population. Lord Macaulay's Minute on Education in 1835, advocated and promoted English replacing the supremacy of classical languages like Sanskrit and Persian. Macaulay's vision was to create a class of Indians who were "Indian in blood and color, but English in taste, in opinions, in morals, and in intellect." This very idea led to the start of English as the medium of instruction in schools and colleges across India. The English education in India effectively laid a strong foundation for its dominance in the legal and administrative systems. The linguistic divide between the educated upper class, making it an elite language for them while the masses could not afford the English education due to their poverty and other sociopolitical reasons. English remained as the language of the courts, the government, and the higher education system. Due to Britishers' expansion of control over the Indian subcontinent, English became an inalienable part of the country's legal framework. Laws were written in English, court proceedings were conducted in English, and legal education was imparted in English language replacing the local languages. Use of English language and its indispensable nature made it a compulsion on people looking for employment in law. Even after India became independent in 1947, English language continued its importance because of its role established in administration, law, and education, etc. It became the link language, bridging the gap between various regions and their native languages.

Legal English: Its Evolution in India

The current status of Legal English in India is a result of the country's complex legal and cultural landscape. In the beginning, it was a mark of colonial control introduced by the British to standardize law across their colonies. Then it was rigid following the British legal traditions and was within the reach of a few Indians. Colonial administration being its target, it ignored the Indian's prevailing linguistic needs and diversity. With India gaining freedom from the tyrannical clutches of the British, Legal English adapted itself to the realities and

needs of a newly sovereign nation. Though English retained its position as the main language to deal with legal issues in India, there was a gradual shift keeping in view the socio-legal context of India and Indian traditions. Indian legal experts quickly integrated indigenous legal concepts and practices into the language giving it the regional flavor. In due course of time, Legal English in India was seen as an independent legal entity having no strict adherence to British norms. It became more user-friendly catering to the practical needs of the Indian legal system. Influenced by the need of using plain language and the growing role and acceptance of regional languages in legal proceedings, it gained special importance. Today, its flexibility, accessibility, adaptability and accessibility made it the finest form of legal communication while answering and catering to the changing demands of India's diverse legal landscape. Indian legal English plays a global role connecting India with the world outside ameliorating its standard matching the universal expectations with enhanced clarity. Globalization has a definite impact on Legal English, leading to the adoption of international legal terms and practices. These trends demonstrate a shift towards making legal communication more inclusive and comprehensible, while still connecting itself to global legal standards and practices.

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Legal Education and Training

Indian legal profession is highly influenced by the introduction of English as the medium of legal education during the colonial era. This framework continues to influence today's Legal English as the primary language and will remain the same forever as English has become a part and parcel of India's population irrespective of their formal literacy of illiteracy. To ensure that future legal professionals are proficient and globally fit in the language, institutions like National Law Universities and other colleges offering legal education use English as the medium of instruction conducting classes, examinations both written and oral. Achieving both consistency and uniformity has been a big challenge while emphasizing on the use of English as the primary medium of language. It is even bigger challenge to ensure that all students get aware of the same case laws, principles given in law throughout the country. The legal education and training aim at creating global legal professionals to facilitate access to international legal resources and practices. It allows Indian lawyers to engage with global legal systems and participate in international legal discourse. The dominance of English legal education has created barriers for students from non-English speaking backgrounds. To address this barrier, in some cases, regional languages are allowed to fill the gaps and make legal education accessible to everyone across the country. English remains the game changer in legal education in India reflecting its continued influence and importance in shaping the legal profession.

Challenges and Opportunities of English as Legal Language

As discussed above, the evolution of Legal English in India is a combination of both challenges and opportunities as the legal system adapts to changing needs and contexts. One of the major challenges of legal English is its complexity that hinders access to justice for those unfamiliar with Legal English. Numerous efforts are underway to simplify legal documents, many legal texts remain dense and opaque, creating confusion for the general public. This complexity also hampers the legal communication and hinders the efficacy of legal processes. Balancing between maintaining the technical precision of Legal English while making it accessible is yet another challenge. Simplification of legal language means compromising on the nuances and exactness essential for legal accuracy. Logistical and practical difficulties such as the need for multilingual legal resources and training occur when incorporating regional languages into legal proceedings. Despite these challenges there are equally a fair number of opportunities. The modern legal professionals' endeavor for plain language and greater accessibility can lead to more transparent, equitable and rational legal processes. Streamlining of legal work and improving higher clarity in legal documents require total exploitation of technological advancements. While integrating regional languages into legal English can enhance inclusivity, reflecting India's linguistic diversity and making the legal system more representative and accessible. Overall, addressing these challenges while leveraging opportunities will be crucial in shaping a legal system that is both modern and responsive to the needs of a diverse population.

Globalization and Legal Practice

Globalization has immensely impacted Legal English in India. It has set the examples on how legal practice is conducted and how legal professionals must engage with the global legal community. As India has been incessantly endeavoring to soar into the global economy, Indian legal professionals and law firms are competing with international legal standards and practices more frequently. To achieve the global standards, a greater emphasis on proficiency in Legal English is inevitable. This makes English as the lingua franca of international law. Because of globalization, Indian legal professionals are now routinely involved in cross-border transactions, international arbitration and global legal consulting requiring them to simplify and understand the complex legal documents and communicate effectively with international clients and counterparts. Legal English and its usage at the global level facilitates interaction between professionals across the globe providing a common ground for legal discourse and ensuring that Indian legal practices align with global standards. Foreign legal terminologies such as Latin, Greek and French are incorporated within Indian legal English. This process has of incorporating global legal frameworks and concepts into Indian legal education and practice enriched the legal lexicon and enhanced the competence of Indian legal professionals on the world stage. However, this trend also addresses the hurdle of balancing global and local needs of Indian legal language requirements. While enabling global integration, the legal language also highlights the need for constant efforts to ensure that it remains accessible and apropos within India's diverse linguistic and legal context.

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Technology and Legal Language

Legal English in India is fast changing due to the rapid momentum of technology. It has brought about both opportunities and challenges in the way legal language is used and understood today. With the introduction of digital platforms and technical tools making legal education and its accessibility to all has significantly altered legal practices. The increased use of legal technology tools that rely on Natural Language Processing (NLP) and machine learning is a revolutionary change in the legal English. These tools are designed to analyze legal texts, draft documents and even predict legal outcomes. They require Legal English to be precise and standardized making way for greater clarity and consistency in legal language. Technology also ensures the automation of routine legal tasks such as contract review and legal research, which demands a high level of accuracy in the language used. Additionally, digital platforms have expanded access to legal information, making it available to a broader audience. This has led to efforts to simplify legal English, making it more comprehensible to non-specialists. Plain language is used in online legal resources such as legal blogs and e-books. These are written in plain language to ensure that legal information is accessible to the general public. However, undue and over dependance on technology is not without concerns and bad consequences though. As legal documents become more digitized, ensuring that technological tools have thorough understanding and correct interpretation of the nuances of Legal English.

Legal language, often referred to as “legalese,”. It is the specialized language used in legal documents, contracts, laws and court proceedings. It serves to ensure the much-required precision, clarity and consistency in legal matters. It also creates significant barriers for the layman. In a country like India with a diverse population and a complex legal system, the problems of legal language need a special focus and require solutions.

The Nature of Legal Language

Legal language is highly complex as it includes a set of registers with unique vocabulary, long and intricate syntax overly ornated with the use of Latin and archaic terms. With this kind of distinction ensures unambiguous legal documents that can stand the test of time for centuries to come. Despite such accuracy and rigidity, legal documents are still inaccessible to many a layman due to their complex nature.

The Indian legal system is based on common law and influenced by British legal traditions and practices. Hence Indian legal language retains many of these archaic and foreign elements. Since many Indians are not aware of these foreign expressions and unfamiliar with Greek, French and Latin terms fail to comprehend the language used in law. This often leads to confusion, frustration and a sense of alienation from the legal system. Most legal professionals' resort to regional languages for translating the original texts or legal literature.

Lingual Complexities

Lingual complexity refers to the legal documents which often use long sentences, complex grammatical structures and an extensive use of technical jargon. The best example is the Indian Penal Code which is considered as the main pillar of criminal law in India is drafted with dense, convoluted sentences that are difficult for ordinary people to understand and interpret.

Long Sentences and Complex Structures

One of the barriers to understanding legal documents is the use of long sentences. Recent research conducted by Jaya Verma on Indian legal texts revealed that the average sentence length was 71.33 words, with some sentences exceeding 400 words. Such lengthy sentences leave the readers frustrated leading to misinterpretation or a complete lack of comprehension.

In addition to the lengthy sentences, legal documents often contain multiple clauses within a single sentence. This can be difficult to navigate. This very feature reflects in the translated versions when done in Indian languages. The effect is often misleading to the readers and won't serve the intended purpose.

Use of Archaic and Foreign Terms

Indian legal language is replete with archaic terms and Latin phrases that have been carried over from colonial times. Foreign terms like *habeas corpus*, *ex parte*, *bona fide*, *res judicata* are commonly used in Indian courts and legal documents. These terms carry specific legal meanings, but they are often incomprehensible to those without a legal knowledge.

The use of these terms not only complicates legal language but also perpetuates a sense of exclusion among the public. When people encounter such terms in legal documents, they may feel intimidated or discouraged from engaging with the legal system.

Legal Interpretations and Ambiguities

In India, where multiple languages are spoken and legal documents are often translated between languages, these ambiguities can be obvious. Legal language is often deliberately vague or open to interpretation. This can also lead to ambiguity and confusion.

Sometimes a legal term in English may not have a direct equivalent in Hindi or another Indian language, leading to various interpretations. This can result in legal disputes and misunderstandings, further complicating the legal process for the non-professional individual.

The Bandwagon Effect

In the Indian legal community, many legal professionals tend to adhere to traditional legal language, even when simpler alternatives are available. This is known as “bandwagon effect”. It is due to the combination of professional norms and a desire to appear knowledgeable. There is also a strong sense of reluctance to deviate from standard and established practices.

For instance, the junior lawyers are often trained to use complex legal jargon in their drafting and court submissions. This practice makes Indian legal system sound more legalese training the next generation of lawyers to follow the suit.

Resistance to Change

Legal experts in India insist on the use of precision and technical accuracy of legal language. They further opine that these are essential for ensuring that the law is applied consistently and fairly. They conclude that over simplification of legal language will lead to misunderstandings and undue consequences. Such a resistance to change will make the legal language inaccessible to the average person. This makes those with legal training fully engage with the legal system while avoiding a large portion of the population.

Impact on Access to Justice

When legal language is difficult to understand, it creates barriers for people seeking to assert their rights, navigate the legal system or defend themselves in court. These problems in legal language in India have a direct impact on access to justice.

Barriers to Legal Literacy

Legal literacy is a critical component to get proper information. But due to its complexity, it is very difficult for many people to those who are unable to read it. For example, a person who receives a legal notice or contract in complex legal language may not be able to understand its implications. This might lead people to unwittingly agree to the terms or miss important deadlines or fail to benefit from their legal rights.

Dependence on Legal Professionals

Legal language being very complex in its nature, many people in India rely on lawyers to know and understand the legal system. Explanation and interpretation legal language as it is important at the same time, costly and time-consuming. This kind of dependence on legal professionals is a major barrier and disadvantage for those who cannot afford lawyers' fees. Those who live in areas with limited access to legal services also suffer a lot. The communication gap between lawyers and clients can be a big challenge. If a lawyer uses the legal language as it is, the client may not fully understand its contents.

Remedies for the Problems of Legal Language

There is no one stop solution for the problems of legal language in India. It requires a multifaceted approach that includes reforms in legal system, and the training in and promotion of plain language can be a proper way out to find solutions.

Legal Reforms and Use of Plain Language

Revising the existing laws and regulations using simpler, more ordinary language is one of the solutions. The use of Hindi and other regional languages in court proceedings and legal documents without compromising on the quality and accuracy of meaning can achieve the desired results. At the same time, we must ensure that legal language is accessible to all citizens, regardless of their linguistic background or level of education. All legal documents including contracts, court forms and legal notices should be made available in plain language.

Legal Education and Awareness

Creating awareness about legal education and awareness is another important step in addressing the problems of legal language in India. This requires giving formal legal education for lawyers and judges and public in general. Such widespread legal education initiatives will solve the issues relating to the problem.

Conducting workshops and facilitating legal resources by legal aid organizations in India could provide people with common legal terms and concepts. Community centers and schools and can play promote legal literacy by incorporating basic legal education into their curricula. When general public is familiar with the legal language, they will be able to enjoy their legal education and legal rights without depending on others.

Conclusion

Accessing justice is highly impossible unless legal language is made simple and is within the reach of everyone. Strong and continued efforts are needed from policy makers, community members and educators to simplify the legal language and use plain language as far as possible. Spreading legal literacy among all Indians irrespective of rich, poor, caste or any other disparities shall be the aim of the stakeholders.

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