

IMPORTANCE OF HINDI AND OTHER LANGUAGE IN INDIAN JUDICIAL SYSTEM

AUTHOR – NIDA PARVEEN* & ANUPRIYA YADAV**

* STUDENT AT AMITY UNIVERSITY, UTTAR PRADESH

** PROFESSOR AT AMITY UNIVERSITY, UTTAR PRADESH

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Abstract

Being a multi lingual country, India should acknowledge the role of Hindi and other language as a vital aspect towards the Indian judicial system in the interest of equitable justice. Most of the high court as well as Supreme Court have English as its official according to the Indian constitution article 343: (1). This heavily depends on the use of English language as a cult to the people whose main mode of communication is their mother tongue. The use of English language in the Indian court is not only a cultural inheritance of the colonialism but also a practical need. The English was introduced to the Indian court through the permission of the court to be governed by the English common law in the colonial times. This was subsequently supported by the English Education Act ,1835 ¹³⁸⁵ and Wood's Dispatch of 1854 ¹³⁸⁶ that put aside Hindi and Persian and other languages that were largely present as the official language in that period. It was further internalised in the legal form in the form of criminal and civil codes drafted in English like IPC and Crpc in the entire of India. But it was a practical need which time brought about, to close the gap in the language-geographies of India, and to make the way easy and facilitate uniformity and mobility across the borders of jurisdiction. Even when district subordinate and revenue court serves in regional language, litigating, pleading and studying the cases of Supreme court and high court is tiresome business to regional people which were done in English. Given that it is a practical need, it will be impractical to nullify it to an extinct level, although, efforts should be made intensively to overcome the language barrier, in terms of applying an artificial intelligence tool and translating the supreme court and high court verdicts in different Indian languages and through institutions. This will be central in enhancing the language accessibility, sound law studies.

Keyword:

English dominance, practical necessity, colonial legacy, wood's dispatch, English education act, regional language.

¹³⁸⁵ Thomas Babington Macaulay, Minute on Indian Education, 1835
¹³⁸⁶ Charles Wood , 1st Viscount Halifax

INTRODUCTION

The legacy of India on English dominance in court is colonial and the need of current use. India being a multi linguistic nation has English as an official language to curb the difference occasioned by a language barrier of the nation. Different culture exists in India with 121 diverse languages and 22 official languages as per to Eight Schedule of Indian Constitution. Such a diversity is a challenge to the judiciary. Making a constitution framer was a struggle and a controversial task, he could not have possibly lived without the official language that would possibly bond the multi lingual country. The non English speaking had issues over English and the non -Hindi had issues over the Hindi being an official language. In a bid to overcome this feud, central government came up with three formula language that includes Hindi, English and regional language.

Historical background:

Indian has already experienced the shift that occurred in official language of Mughal period of Urdu, Farsi and Persian. The first step that was made by British in order to establish an ease in their working or ruling was the introduction of English as an official language in court by codified system of law. Nevertheless, the entry of the English Education Act then ,1835 and the Dispatch of 1854 established by Wood overturned the Hindi, Persian and other languages that were widely used by official language at that time.

It was necessitated by the fact that under the constitution under article 343(2)¹³⁸⁷ the Union shall use official language in Devanagari script which and state that English shall be used as official language of the Union fifteen years after commencement of Constitution of India and in article 343(1) it says that the official language of the Union shall be Hindi in Devanagari script. Non however, the non-Hindi speaking states in India resisted the intention to improve Hindi as

the official language in the country. To eliminate this problem, parliament of India proposed The Official language act 1963¹³⁸⁸, according to which even after expiry of fifteen years period, use of Hindi and other state official language along with English could be used as a judge, decree, etc.

Hypothesis:

Considering the issues discussed above, the study reports that the English introduced with a strategic aim of instilling the dominance of the colonial power remains to be, practically speaking, a necessity. The linguistic cult moreover is still traceable since, on the one hand the initiative to translate the legal judgments, the legal text into vernacular language in the legal domain is, as of now, slow and discontinuous, regardless of the constitutional provision and the numerous attempts undertaken by the government itself. And the same with use in high court and Supreme Court people that do not understand English also face a challenge when using English. This poses concern over the inclusiveness, legal literacy and transparency of judiciary as the instrument of democracy.

Aim:

This study will seek to demystify this issue by answering the question as to whether the preeminence of English in Indian court is the colonialism of expediency and underlining emphasis of Hindi and other regional language in Indian court.

LITERATURE REVIEW

Constitutional provision:

Language of the union and states- article 343-351

Article 343 states that hindi can used as an official language in Devanagari script. However it also permits the use of English as an official language for fifteen years from commencement of constitution

¹³⁸⁷ The Indian Constitution , Article 343-

¹³⁸⁸ The Official Language Act, 1963-provide for continuous use of English along with Hindi for official purpose

Article 344: talks about establishing the official language commission for recommending the progressive use of Hindi and the development of language and also appointment of committee of parliament on official language to review the implementation of the constitution provision related to language

Article 345: allows state legislature to choose an official language for their state

Article 346: allows the union to adapt any language for the communication of the union and the state and between states

Article 347: If a substantial section of a State's population desires that a particular language be used for official purposes in that State, the President may by order recognize that language for those purposes. Also provides safeguards.

Article 349: provides for the enactment of law by parliament to regulate the use of official language

Article 350: ensures that any person can submit a representation in any language used in india to any union or state authority and it mandates that such representation be considered and replied to in the language in which they were made.

Article 351: directs the union to promote the spread of Hindi and to develop it as a medium of expression for all element of the composite culture.

Fundamental rights:

It is litigant fundamental right to participate in the legal proceeding as backed by Article 19 and **Article 21**¹³⁸⁹

Article 19 (1)(a) of Indian constitution guarantees the right to freedom of speech and expression which includes the right to use any language

Article 21 of Indian constitution provides right to justice which empowers his right to understand the whole proceeding and judgment delivered .

Key acts:

Introduction of the English Education Act ,1835 and Wood's Dispatch of 1854 and the official language act 1963.

English Education Act 1835

The act was passed by the British Government in India under the influence of Thomas Babington **Macaulay**, who argued that before 1835, British support for education in India primarily focused on traditional Indian learning, conducted in **Sanskrit, Arabic, or Persian**.

In 1813, the British Parliament had set aside ₹1 lakh annually for education in India, Macaulay submitted his **Minute on Education** (Feb 1835), advocating for English as the medium of instruction and Teaching Western science, literature, and philosophy.

The English Education Act of 1835 institutionalized English as the medium of education in India, based on Macaulay's recommendations. It was a turning point in Indian education – it opened the doors to Western ideas but also led to the erosion of indigenous learning systems.

The Wood's Dispatch (1854):

The Wood's Dispatch of 1854 is often called the "Magna Carta of English Education in India" because it laid the foundational structure for the modern education system during British rule. It was a comprehensive educational policy dispatched by Sir Charles Wood, then the President of the Board of Control of the East India Company, to the Governor-General of India, Lord Dalhousie, on 19 July 1854. This 100-paragraph document provided a detailed framework for developing education in British India and was a response to increasing demands for a systematic approach to Indian education.

Major Outcomes

¹³⁸⁹ Constitution of India article 19 and 21 –guarantee fundamental freedom and the protection of life and personal liberty

1. **Establishment of universities**
2. **Development of Educational Infrastructure:**

- Rapid growth of English-medium schools and colleges.
- Provincial education departments were created.
- First teacher training institutions established.

3. **Promoted female education**

The Wood's Dispatch of 1854 was a pivotal document in shaping colonial education in India. While it expanded access, introduced teacher training, and laid the groundwork for university education, its primary aim was still to serve British colonial interests.

The **Official Languages Act, 1963**

The act is a key law passed by the Parliament of India to regulate the use of Hindi and English for official purposes of the Union government and between the Union and the states. It clarified language use after the expiry of the 15-year transition period (1950–1965) set under Article 343 of the Constitution.

Background

- Article 343 of the Constitution declared Hindi (in Devanagari script) as the official language of the Union.
- English was allowed to be used for 15 years (1950–1965).
- This caused tension in non-Hindi-speaking states, especially in the South (like Tamil Nadu), where people feared the imposition of Hindi.

To address these concerns and avoid unrest, the Official Languages Act was enacted in 1963, and amended in 1967 to ensure continued use of English alongside Hindi.

Legal challenges:

Belagavi border dispute¹³⁹⁰:

one of the prominent case linguistic conflict in India . Belagavi was included in Karnataka due to its Kannada majority following the State Recognition Act 1956. But the Marathi speaking population led Maharashtra to claim it as their part of territory. The dispute increased linguistic barrier and still is unresolved.

Opposition of Tamil Nadu to three language formula:

The Tamils Nadu oppose the inclusion of Hindi in Indian education system. This friction further drew fire with the resuscitation of the three language formula, it wanted Tamil to be sufficiently as an official language in lieu of Hindi.

RESULT:

English as an official language was originally a British propaganda to ensure that the indians became a total slave who could serve them and allow them to be easily in their work and leadership. but it afterwards became a necessity. Completely eliminating English in indian judiciary and school system would lead to a severe depression in the legal process and will further slacken the already straining judiciary.

In order to offer the platform where the law may be accessed, legal right, transparency and democracy use of English is a critical aspect in indian courts. It is also the cure to linguistic barrier and linguistic grudges.

Resourceful action may be accomplished to solve the language problem such as:

Language court action: this is currently underway but the process is very slow due to which the issue remains unaddressed so far. it can be solved by the introduction of applications or AI.

¹³⁹⁰ The belagavi border dispute –a territorial dispute between Karnataka and Maharashtra

Institutional effort: in educational institution, legal language should be taught necessarily with English so as to overcome the language barrier gap.

CONCLUSION:

The legacy of colonialism entails the dominance of English in the Indian judiciary, which up to date has been accountable to access to justice in modern day India. On the one hand, it makes all the countries of a language diversified uniform and consistent, but on the other hand, it introduces a major obstacle to a substantial proportion of the population who is not conversant with the language. Although under the constitution, there are policies of promoting the adoption of Hindi and the regional languages, English is still firmly rooted, especially in the high courts such as the High Courts and the Supreme Court because it is deemed neutral, universal, and legally specific.

Such linguistic exclusivity can be very isolating to litigants and tends to restrict their direct involvement in legal proceedings hence compromising the principle of providing accessible and inclusive justice. Even though there have been partial attempts to encourage the use of the vernacular languages in the lower level of the judiciary system, substantial change at the high level of the judiciary is a rare and a politically delicate process.

The practicality of the English language and the democratic need to include language through linguistics inclusion is a crucial issue of concern. The subsequent language policy has to focus on efficiency of the judicial system as well as the accessibility of language in order to deliver justice not only done to all but also to be comprehended.

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