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VERNACULARISATION OF LEGAL STUDIES IN INDIA – A MULTIDISCIPLINARY APPROACH

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Abstract

In the Indian context, there's profound importance in learning law in regional languages. The vast number of Indian languages and cultures presents a unique opportunity for the legal education of the aspirants in the opportunity thrown up by a very diverse Indian people. The Indian Constitution very proudly recognizes the number of languages that border its borders. Yet, almost exclusively, the education of aspiring lawyers takes place in English. This is a massive exclusion. It's an incipient breach of something very important—that every law student and every high school teacher of law could read and understand the law. For my generation, this is incendiary. Teaching law in the local language not only accommodates students from many kinds of backgrounds they come from; it also fosters a much more thorough legal scholarship—one that permits students to grapple with our legal concepts and principles. The upshot of this is that they then have a much better comprehension of their rights under law. And when people know what the law is and isn't, they have a much better shot at the kind of legal literacy that enables them to operate and thrive in a society where the rule of law obtains. The local language can act as a medium of instruction in legal education. It can help in customising the legal education to suit the local context. It is not as simple as it appears. We need to read the local language, comprehend it, and then narrate in it. We need to narrate what we have in mind. When we are with the local flavour of the language, it is all the better. The authors here have attempted to correlate disciplines of literature and psychology together with law to render a thought-provoking discussion on this area.

Keywords: Linguistic, Vernacular, Law, Awareness, Student, Culture, Local

LEGAL EDUCATION – A PARADIGM IN QUESTION

Legal education in India is considered a paradigm and not just a system or a curriculum guided by teachers and affiliated with institutions. The enormous importance of a context in the learning of law is not a theoretical or subject-oriented value – it is rather a design of socio-economic, socio-political mechanisms and a continuous osmosis of shared information in an ecosystem that creates the discipline of law. The subject is enigmatic in the sense that it might simply rest on drafted codes, but its application stretched far and wide, into sociology, psychology and mass population behavioural studies. What becomes most important in this entire exercise is the medium or the modus which is the language that is relied upon while exchanging the discourse of this discipline. This exchange depending on the language is not simply dependent on the nature of the classes but also on the kind of interactions that take place in the profession.

Through language, we are able to speak not only about things in the current situation, but also about what was done and what may be done in the future. One would further find that in the built human ability to talk is a very distinctive feature of our species. Different languages have emerged over the years. Communication through a language has always been a known commonplace method of communication. Language represents a vital factor in the area of law- it is a fundamental instrument of lawmaking as well as the main object of legal study. Law school also requires a constant process of learning and growth as well as reading, critical thinking and fluency in writing. With the change of laws is the necessity for legal professionals to update their knowledge and perfect their use of legal terms. During this process, language becomes a source of substantiation not just to those people already in the legal field but also to the students before entering it. (Aggarwal, 1959)

Legal documents are replete with technical words and well-organized syntax. These words are so presumptuous in legal affairs because the interpretation of these words can spell out the results of the case. Although emphasis on teaching the



English language during law school might be considered as a side effect it is important to lay down foundation in law school in developing competence in legal English that is clearly different to plain English that is spoken in everyday conversations. Of no lesser significance is the position of vernacular in the justice structure. (Ahmed, 2015) Regional or native languages could be used in the legal practice in India and the region and in the legal education in order to increase the reach and sense of the wider population that speaks several languages. Encouraging vernacular languages will facilitate the process of smoothing the differences between the institutions of law and the individuals leading to the fact that justice will not be obstructed by language. Therefore, the knowledge of legal English and local languages gives future legal practitioners a voice in the society that is learned and inclusive. (Menon, 2010)

Today, the linguistic barriers continue to exist significantly as was the case beforehand, since there exists a great socio-economic gap between the rich and the poor. Such a split represents the continuous gap between the urban upper echelons of the culture that is symbolized as India and the rural and marginalized who are identified by the term Bharati. The financially endowed get the easy access to the privately owned education systems that are best in offering top-level teachings and fluent learning in most languages, and particularly English, and this makes them gain a clear academic and professional edge. Not surprisingly, there is still a growing gap between the two and most of this is because of mismanagement and poor infrastructure in the state-run schools. (Menon, 2010) Having no consistent policy to emphasise English in the education system has resulted in many students stuck in teaching approaches that are already outdated and exclusive. These tendencies are concentrated on rote memorizing rather than on the meaningful interpretation of the concepts.

The character of legalized English practiced through statutes and case law is one of the biggest problems of legal studies. Moreover, the fact that this form of English has been strongly influenced by Latin, French and outdated Victorian language creates another level of challenge to those who have only learnt English as a second language. Terms like notwithstanding, without prejudice, arguendo, including but not limited to, indemnification, and hereinabove are some of the terminologies used in all legal documents, statutes, and policy papers and as such, it would be difficult to understand by the ordinary man and the student. Even though these linguistic customs can be traced back to British colonial culture and have contributed to the development of our legal system, further using these forms, which have long become outdated, is becoming a bigger issue. (Adumu, 1990)

This paper aims to analyse the theoretical foundation of the linguistic identity of education; how English evolved as a standard of demarcation more than a medium of communication setting up its own boundaries of inclusion and exclusion. While on one hand a linguistically diverse country can never reject the importance of having English language as a common communication code, the lens of holistic education alarm about its prolonged importance and academic polarisation based on the proficiency in this language. The paper engages in this discussion and explores how legal education being a technical education requires vernacularisation to help increase coverage and efficiency .

REGULATING VERNACULAR IMPORTANCE - THEORY AND PRACTICE

With the occurrence of independence, English remained one of India official languages; and it became popular in central government institutions, higher judiciary and legal written records. Consequently, English played an important role in legal education, so it was significant that law students should study law in English even in a post-colonial world. But a large number of the admitted law students had backgrounds in education in vernacular languages, and during the twentieth century there was increased pressure on law teachers to present their classes in local languages and to give exams in local languages. This caused the continual struggle between English and regional languages used in law training. There were quite a number of considerations to make when deciding on the appropriate language to lecture in as far as legal education is concerned. (Aula, 2014)

An example is that early education through the maternal language of a child may ensure cognitive and learning benefits according to previous research yet this style of teaching might not have the same advantages at the later stages of learning. Post globalization, education is progressively being recognized as on par with the international requirements, and the



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demand of higher education to match the international standards more frequently serves as the need to have an education in a globally accepted language such as English. (Bajpai, n.d.)

More so, with English remaining as part of an official language of India, the process of becoming engraved in the social and professional life of the nation itself began, and the language became what some scholars call a linguistic habitus. The importance of English in real life is that English became a tool to acquire social and professional mobility in India, as well as to influence the international scene at the same time representing the country properly. The language of the courts – Supreme Court and high Court remained reserved with English. (India Const. art. 348. (1950).

There in an interesting catch to it as well –

Section 348(2) of Indian Constitution vests a State Governor with the power to approve in advance and use the use of Hindi or any other regional language to be considered an official language in the High Court at the state where the State Governor makes this approval. The same applies to Section 7 of the Official Language Act, 1963, that empowers the Governor again on the prior consent of the President to make a direction in regard to permitting the use of Hindi or the official language of the State, in addition to the English language, when disposing of any judgment, decree or order made by the High Court. But those documents which are issued in a foreign language should be accompanied by an official translation given in the English language which should be duly authorized by such high court. (Ministry of Law and Justice, 2024)

The wider official language policy came into play when it was decided that a Cabinet Committee would be instituted and in a sitting in 21 May 1965, the Committee resolves that any proposal of using any language other than English in any proceedings of the High Court or in the Supreme Court, such proposal must first be approved by the Chief Justice of India. Under these provisions Hindi has been used in High court of Rajasthan since as early as 1950 under Article 348(2). Later, under the direction of the 1965 Cabinet Committee, authorizations like this (consulting the chief justice of India) were given to High Courts, Uttar Pradesh (1969), Madhya Pradesh (1971) and Bihar (1972).

In more recent times, the Governments of states like the Tamil Nadu, Gujarat, Chhattisgarh, West Bengal and Karnataka made plea before the High Courts to have the High Court proceedings with the use of Tamil, Gujarati, Hindi, Bengali and Kannada respectively, in their jurisdiction. The opinions of the Chief Justice of India were consulted accordingly. Acting in reacting, it was also sent through a letter of 16 October 2012 that the Full Court, after proper deliberation in a meeting that occurred on 11 October 2012, resolved to decline the proposals.

Though the ruling, which favoured English as a medium of instruction in legal studies defied a final ruling, its implications are still felt even now. (Jain, 2001) Many of the students, who join law schools in India, have had their earlier studies either in the regional or local languages. To such students, the transition into using English causes not just a problem in learning and communicating but also a problem in thinking in English, as well. This language barrier can also be traced in the law entrance exams, which are normally done in English. Consequently, these tests regularly serve as gatekeepers, which benefit students with a more privileged background who have access to education in English, education in English-medium schools, and environments. These gaps are reflected in the performance at academic levels at the law school level, and subsequently on gaps in recruitment and employment opportunities, which underlines systemic inequalities in the Indian legal educational system.(UNESCO, 2022) This is a systemic problem now – right from primary to higher secondary even if schools are not in English medium, the focus lies with a proficiency parameter in English. It is a deep colonial impact which no one wants to shed or deal with although academic and public discourse celebrates an “*atmanirbharta*” yet there has been no coordinated attempt to substantiate this properly. The situation becomes problematic for students who have a background in non-English medium schooling when they end up appearing for entrance tests like CLAT or other university level examinations. The problem persists with the subsequent law course pedagogy which again has little or no scope to accommodate vernacular learning systems. (Ghonkrokta, 2020)

Also, in the situation where the students have completed some portion of their education in their native language and now their task is to learn the complicated legal theory through English a language which is fluent perhaps in the context which



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has no relation to their socio-cultural reality in the world, this hinders the capacity of digesting law education taking place in a meaningful manner. This discontinuity could also prevent a strong Indian input in Indian legal research, and their ability to engage in other legal discourse as well. (Nyoni, 2019)

Methods and Material

EMPIRICAL STUDY ON THE PROBLEM STATEMENT –

The paper relies on a combination of doctrinal and empirical research methods in the design. While doctrinal sources have analysed the problem and the situation, empirical design has been used to gather practical inputs on the issue.

In order to gain practical insights into the statement of the research and the issue of linguistic divide in comprehending legal education, a purposive sampling methodology was used and two target groups were selected for an empirical social survey. Law students were selected and grouped into two categories – students who studied in English medium schools and students who went to vernacular medium schools. Two sets of 50 students each (n=50) were hence finalised for this survey.

A list of 10 statements was decided through brainstorming and a Likert Scale designed to elicit responses in the form of reactions of agreement or disagreement with the statements. Data was collected through personal interactions where a mix of telephonic, online and physical interactions were involved. Students were explained that the markings carry a polarity with 1 denoting strong disagreement and 5 denoting strong disagreement.

The statements are as follows –

Survey Questions (Q1-Q10)

1. I find it easier to explain and understand complex legal principles in my mother tongue than in English.
2. The use of Latin/Victorian terms significantly slows down my reading speed.
3. I often have to translate a legal concept into my native language in my head before I can fully "understand" it.
4. I feel that my academic performance is a reflection of my English proficiency rather than my actual legal knowledge.
5. I feel confident participating in moot courts or oral arguments conducted exclusively in English.
6. The "Technical English" used in statutes feels disconnected from my everyday socio-cultural reality.
7. I believe I would have scored higher in my law entrance exams (e.g., CLAT) if they were available in my regional language.
8. I struggle to draft legal documents without constantly relying on a dictionary or translation software.
9. During classroom lectures in English, I focus more on understanding the language than the legal theory that is being taught.
10. I feel my career opportunities are limited because I cannot speak "fluent legal English" like my urban peers.

Scores were collected from the respective data sets, and using the arithmetic mean formula the cumulative scores were used to find out a mean response for each statement. Mean responses for each statement have been tabulated for both the data sets to do a comparative study and the same has been presented below –



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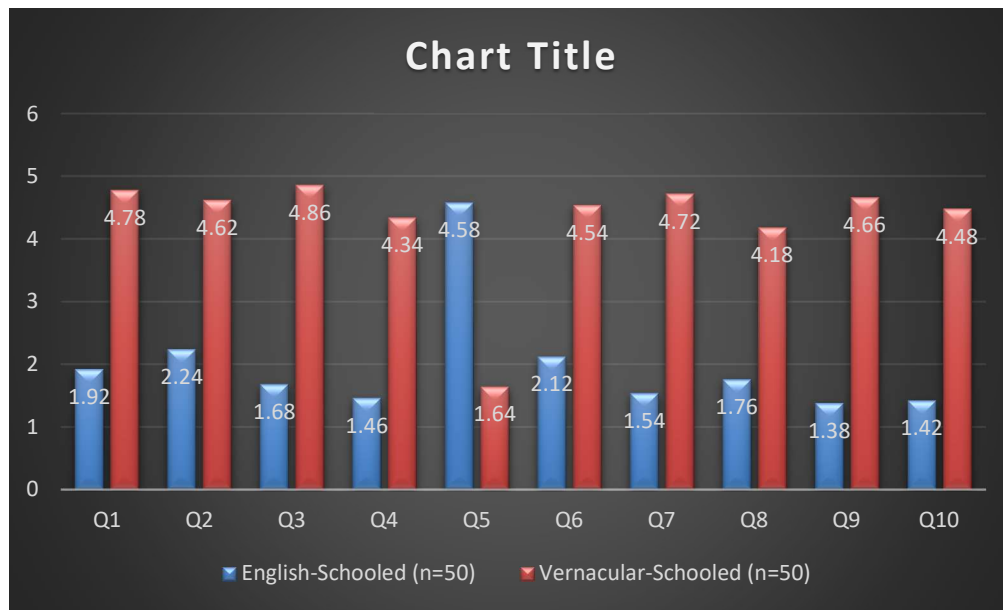
In the table below Q represents the abovementioned statements , in order .

Q. No	Dimension of Analysis	English-Schooled (n=50)	Vernacular-Schooled (n=50)
Q1	Preference for Mother Tongue Explanation	1.92	4.78
Q2	Victorian/Latin Terms slow reading speed	2.24	4.62
Q3	Necessity of Mental Translation	1.68	4.86
Q4	Grades skewed by English Proficiency	1.46	4.34
Q5	Confidence in English Oral Advocacy	4.58	1.64
Q6	Legal English feels socio-culturally alien	2.12	4.54
Q7	Support for Vernacular Entrance Exams	1.54	4.72
Q8	Difficulty in Drafting without aids	1.76	4.18
Q9	Focus on Language over Legal Theory	1.38	4.66
Q10	Perception of Career Exclusion	1.42	4.48

In the graph below Q represents the statements as mentioned in the table.



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(self-compiled data)

In order to have a concrete analysis of the data survey, variance and t values have been calculated that helps to visualise the scenario and responses collected.

In the table , Q represents the statements , in order.

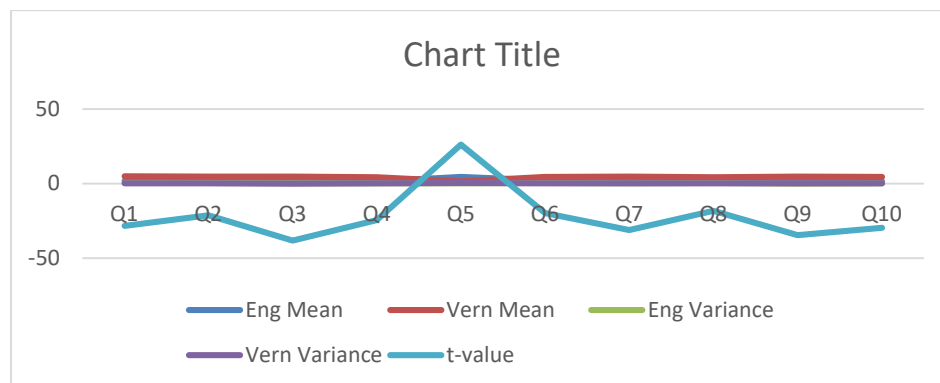
Q. No	Dimension of Analysis	Eng Mean	Vern Mean	Eng Variance	Vern Variance	t-value
Q1	Mother Tongue Preference	1.92	4.78	0.28	0.14	-28.45
Q2	Victorian Term Obstruction	2.24	4.62	0.35	0.22	-21.18
Q3	Mental Translation Necessity	1.68	4.86	0.21	0.08	-38.21
Q4	English-Skewed Grading	1.46	4.34	0.18	0.26	-24.52



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Q5	Oral Advocacy Confidence	4.58	1.64	0.24	0.31	26.11
Q6	Socio-Cultural Alienation	2.12	4.54	0.38	0.19	-19.85
Q7	Support for Vernacular Exams	1.54	4.72	0.15	0.12	-31.04
Q8	Drafting Difficulty	1.76	4.18	0.29	0.34	-18.33
Q9	Language over Theory Focus	1.38	4.66	0.12	0.15	-34.49
Q10	Career Exclusion Perception	1.42	4.48	0.14	0.21	-29.67





ANALYSIS –

1. In the data collected, we find a strong agreement among the students in their respective data groups. This is demonstrated with the help of a very low variance especially in statements 3 and 7 for the vernacular schooled group, and in statements 4 and 9 for the English schooled data set. This represents a cognitive agreement – students have related with the statements in unison and not in variegated patterns.
2. The extremely high *t value of -38.21*, with a negligible *variance of 0.03* for Statement 3 in case of vernacular schooled data set proves that the problem is systemic and not incidental or casually spotted in the population. This shows that the language barrier is not merely a communication or a cultural divide but rather a learning divide where one set of students found confidence others find exclusion.
3. For statement 7, we notice a gatekeeper effect where the *t value is as high as 31* and variance minimal for both the groups. This proves that linguistic advantage in entrance examinations have advantaged the English educated students while vernacular medium students feel left out, disadvantaged hinting at a serious issue of educational equity.
4. A high mean for statement 6 in the vernacular students group shows that students not educated in English throughout their school life feel alien when introduced to core legal concepts in English and this substantiated in their cognition hindering a learning difficulty. This may persist and ultimately pose challenges when these students enter the legal field as advocates, law officers or even academicians.
5. Statement 5 shows a remarkable divergence in the respective arithmetic mean, *4.58 for English and 1.64 for vernacular*-denoting a socio-economic gap that is growing like a professional and academic divide putting one group at an advantage over the other in a system of linguistic exclusion.
6. Statement 5 on oral advocacy shows how the basic skill of oration and public speaking that is required for an advocate also relied heavily on language where the groups are wide apart in their respective responses.
7. Career mobility has become career exclusion where a low variance in the data table shows how almost all students in the vernacular group think English acts against their favour, while the English educated group does not feel this predicament at all.

SOLUTIONS TOWARDS A HOLISTIC DEVELOPMENT –

India is not the only country that has been struggling with the legacy of colonialist influence and impressions on the education. Some African countries, as well have undergone the so-called phenomenon of the caged colonial mentality and this has discouraged any serious revamping of the educational systems and in fact has favoured the decline of the native system of knowledge and also its values and their cultural identity. As another example, it is noteworthy that in Ghana, post-independence legal development was strongly influenced by foreign law, with ideas on education being imported mainly with the US and institutions being imported with the UK. Even physical features such as the design of classrooms indicated this colonial heritage.

But in the case of Ghana, it was shortly after independence that there was active and deliberate effort to reform the legal education. Despite the fact that India had prioritized on the aspect of scientific development, since it was relatively strong and flourishing in doing so, under the Empire, Ghana placed the emphasis on the re-establishment and re-organizing of legal training since this area had experienced the most negligence under the colonial authorities. In Ghana, public debate was aroused over what type of legal education should be encouraged: should it be instrumentalist, or more humanistic along American lines, or should it hang on to some remnants of British traditionalism?(Salunke, 2024)

India by contrast kept on producing legal education in very much instrumentalist directions, oriented to professional rather than intellectual depth. Reforms in Indian law schools have not been enveloped with critical discussion and were mostly anchored around economic and institutional ventures, especially with American institutions.

Attempts at reform were mostly done even when it concerned mainly what was the best way to prepare students as legal practitioners without considering the bigger picture of legal education. (Jain, 2014) This has left Indian legal education as mostly utilitarian. It is high time a paradigm shift was enacted, that is, it is time to engage in further reflection and discussion



concerning focus of legal study. Catering to the same discourse of reform that existed in Ghana in the mid twentieth century, India should critically examine the aims of its legal scholarship so that it can be used to advance not only the society but the minds as well.(Jain, 2014)

This overview of Indian law education points to long-lived predicament that exists to present times. It turns out that one of the decisions made in the post-independence period of several minutes was not able to achieve the goal of building a strong and quality system of legal education. It is also quite remarkable how some crucial decisions are not taken but the question that remains unanswered is why there was lack of substantial discussions that would have developed the field in a more advanced path. One of them is the inability to properly recognize the colonial origin of the Indian system of legal education and the constraints it still has. Interestingly, even in spite of the planned use of Indian scholarly materials in conducting this research project, it was the foreign literature that was therefore more perceptive and critical in its ideas reflective of colonial influences in legal education. This implies that the write-up on the evolution of Indian legal education is still narrated mostly through outsiders' perspectives meaning that indigenous scholarship on the topic has been lacking. Keeping this in mind the present study would like to add an Indian voice to the conversation and elaborate on the long existing structural as well as pedagogical shortcomings in the discipline.

The issues identified and suggestions hinted herein are not supposed to be presented as the major ways of doing it; they are rather to cause reflections, open discussion, and continuous research interest. Hopefully this work will help encourage wider discussions and substantive changes on the scene of legal education in India.

There is a range of teaching strategies in modern law schools, with traditional classroom teaching being one but, on the other end of the spectrum, there is also teaching strategy like problem-based learning. Such strategies are good in shaping the legal knowledge and in practicing analysis. Nonetheless, experiential learning is very important in theory-practice gap. Programs such as Legal Aid Clinics directly expose students to real life exposure of matters of law and this helps the student to acquire practical skills as well as theoretical knowledge (Sharma, 2009). Participation in community-based programs like formation of legal aid camps, general legal awareness camps, helps not only enhance the learning process among students but also helps in improving the level of legal empowerment within the society.

A further important feature of practical law education is internship where the law learners are given a chance to implement their learning skills in law in a real-world law environment (Jain, 2001). These are the experiences that play a role in making one prepared in career.

Teaching profession in the legal education has gained form of legality and merit. The University Grant Commission (UGC) has provided formal standards through which academic progress is to be followed (Iyer, 2012). The output of research, indicative of production i.e., how many and how good, is a focal point of faculty assessment, hence stimulating the translational or research climate in law schools. Also, the aspect of activities of the faculty members in the sphere of legal aid is to be considered. The contributions they make to legal services like the number and the effect of the cases that were served can help improve the unity of teaching and the legal aid system in its entirety in India (Baxi, 2005).

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