

## CHAPTER IX

### LANGUAGE OF LAW AND LAW COURTS—I

#### LANGUAGE OF LEGISLATION

In this chapter and the next two we will consider the problem relating to the language of legislation, the language of law courts, ancillary matters such as the language for legal education and 'the dynamics' of the change-over. First we will consider the problem of the language of legislation both relating to Parliament and the State Legislatures.

In the first place a distinction must be made between the language to be adopted for the proceedings and deliberations of these legislative bodies and the language of the enactments which they legislate. The relevance of this distinction will be explained presently.

1. So far as the language of the proceedings of the Parliament is concerned, Article 120 of the Constitution lays down that, subject to the provisions of Article 348, parliamentary business shall be transacted either in Hindi or in English. There is a proviso added to the proposition, which allows any member who cannot adequately express himself in English or in Hindi to address the House in his mother-tongue. Clause (2) of Article 120 provides that after the expiry of fifteen years from the commencement of the Constitution (i.e. from 26th January 1965), it should be deemed that the words 'in English' were omitted from Article 120, unless Parliament enacts otherwise. Therefore, while at present parliamentary business has to be carried on either in Hindi or in English and, if allowed by the Presiding Officer, in the mother-tongue, by the operation of sub-clause (2), English will *ipso facto* cease to enjoy this position alongside of Hindi after 1965, unless the Parliament chooses to enact otherwise.

So far as the State Legislatures are concerned, the provisions of Article 210 lay down that the business of State Legislatures should be transacted in the official language of the State or in Hindi or in English and the Presiding Officer is authorised, in suitable cases, to allow a member to address the House in his mother-tongue. Article 210 (2) provides that after 1965 English shall cease to be the language of the Legislature unless the State Legislature enacted otherwise.

Article 345 empowers the State to declare any one or more of the languages in vogue in the State, or Hindi, to be the language to be used for the official purposes of the State, subject to the provisions of Articles 346 and 347. The proviso to Article 345 allows the English language to continue for official purposes within the State until the Legislature enacted otherwise.

Hindi in Devanagari script has been adopted as the official language in the States of Bihar, Madhya Bharat, Rajasthan and Uttar Pradesh. Madhya Pradesh has adopted Marathi in Balbodh script as the State's official language in addition to Hindi in Devanagari script. Orissa has adopted Oriya and Saurashtra has adopted

Gujarati as the official language. The State of Jammu and Kashmir continues to use under its old constitutional Act Urdu as the official language. The other States have not so far adopted by law Hindi or any of their regional languages as their official languages.

2. The prevailing practice regarding the use of English, Hindi and regional languages in the legislatures of several States as reported to us is summarised in Appendix VIII. The percentages of speeches delivered in\* different languages during 1954 in the different State Legislatures so far as it has been possible for us to collect the information have also been given in the said Appendix.

In view of the discretion vested in the Presiding Officers to grant permission to the members of the House who cannot express themselves adequately in Hindi, English or the official language of the State, no practical difficulties are likely to be experienced so far as the performance of the deliberative functions of these legislative bodies is concerned. Nor does it appear to us, on the basis of the information received, that any difficulties have been experienced in practice by any members owing to inability to express themselves in one of the permissible media. The practice as regards answering interpellations appears to vary and in some cases provision is made of furnishing, for the information of the other members, translations of questions and answers in the prescribed language or languages of the legislative body concerned. We feel that such a practice might be generalised with advantage. So far as the proceedings of legislative bodies are concerned, the issue is fairly obvious. The Constitution does not prescribe any linguistic standard as a qualification for candidature and the members of these bodies who come in their capacity as representatives of their respective constituencies must be enabled to express themselves in the languages they know if it should happen that they are not familiar with the prescribed language or languages of the particular legislative body. It is also obvious that the proceedings of the legislative bodies should be made available to the members in the languages they understand and the furnishing of translations necessary for this purpose, within limits, has obviously to be undertaken. After 25th January 1965, under Article 120, the position in the Parliament will be that a member may be permitted by the presiding authority to address the House in his mother-tongue if he cannot adequately express himself in Hindi unless Parliament has by law otherwise provided. We can easily conceive of cases, for a period of time after 1965, in which a member who may not be able adequately to express himself in Hindi, may not at the same time be in a position to address the House in his own mother-tongue and may prefer to do so in English. We feel that in such circumstances the presiding authority should be authorised to permit the member to address the House in English. Such a provision can be made by Parliament by law under Article 120(2) and the Parliament should consider this point when the time is ripe for doing so, that is to say just prior to 1965. For similar reasons we feel that a corresponding option should be available in State legislative bodies to members who cannot express themselves adequately in the official language of the State or in Hindi or in their own mother-tongue and would prefer to address the House in the English language. The Legislatures of the States have the power similar to that of Parliament 'to provide otherwise' by law under Article 210(2) and we

have no doubt that the different State Legislatures would consider whether or not to exercise this power at the material time.

We have considered the question of arranging simultaneous translation of speeches to overcome the difficulties of speeches of any particular member of a legislative body not being intelligible to others, on the lines on which such a practice has now become a common feature of international \*conferences. The need for this is more likely to arise in Parliament than in State Legislatures. Whether in fact the necessity for making such a provision would arise or not would depend upon the frequency of occasions when members of the legislative body would have to be permitted to resort, for purposes of adequate expression, to a linguistic medium not generally understood in that legislative body. Should such a need be experienced in Parliament, with reference to any of the regional languages, it would not be beyond the limits of feasibility to provide for such simultaneous translation; although of course, the larger the number of languages into which such simultaneous translation must be made, the greater the amplitude of the arrangements, both of personnel and equipment, necessary for the purpose.

We are of the view that the provisions of language relating to proceedings and deliberations of Parliament and the legislative bodies of the States are sufficient for the requirements of the situation.

3. It is necessary to make a distinction between linguistic requirements of the proceedings and deliberations of these legislative bodies and the linguistic requirements of the enactments or laws which they legislate.

So far as matters such as asking interpellations and eliciting answers, passing resolutions or other motions, conducting discussions on different measures including the passage of bills, that is to say, the 'deliberative' functions are concerned, the obvious requirement is that the members wishing to express themselves should be in a position to do so and the proceedings should be at least generally followed by other members. The linguistic requirements for enactments are, however, quite different. The language of law must be precise, concise and unambiguous. Such language will fall to be interpreted by numerous law courts all over the country who are bound, of course, primarily to consider the plain grammatical meaning of the language used in the enactments and not the intentions, purposes or motives lying behind the words employed, that is to say, *littera legis* as opposed to *sententia legis*. Considerations of convenience and facility of expression by the concerned speakers are the operative factors so far as the language of deliberation is concerned; so far as the language of enactments is concerned, the principal considerations are accuracy, brevity and the maximum possible exclusion of ambiguity.

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\*We had an interesting account of how such simultaneous translations are organised in the discussions we held on the 15th October 1955 with M. Ste'fan Priacel, Professor of Languages in L'Ecole Supérieure d'Etudes Commerciales, Paris, and Interpreter of languages in the U.N.E.S.C.O. and the Council of Europe. M. Ste'fan Priacel happened to be on a visit to India for F.A.O. meetings and we took an opportunity of meeting him in Poona where he happened to be during the Commission's visit to that place for taking evidence. A text of the talk given by M. Ste'fan Priacel is printed as item XI in the Supplementary Papers (not printed).

Arising out of this distinction, it is provided in Article 348(1)(b) of the Constitution that authoritative texts of all bills to be introduced or amendments to be moved in Parliament or in the State Legislatures and the texts of acts, ordinances etc., promulgated by the President or the Governor or the Rajpramukh and the texts of all orders, rules, regulations and bye-laws under the Constitution or under any law, that is to say, all enactments whether of Parliament or of State Legislatures and statutory rules, regulations etc., framed under them, shall be in the English language until Parliament by law otherwise provides.

It will be noticed that the 15-year period laid down in respect of the introduction of Hindi as the official language of the Union does not apply to the language of enactments of Parliament in respect of which Parliament will have, by law, to make a special provision. That is to say, the displacement of English in those fields will not come merely by efflux of time as in the case of the language for the official purposes of the Union but by a law deliberately passed by Parliament. This provision is obviously intended to take account of the fact that a change in the language of enactments has a greater significance than a change in the official business of the State and presupposes certain requisites the accomplishment of which could not be presumed within a period of time that could have been foreseen in 1949 when the Constitution was framed.

Also, so far as the State Legislatures are concerned, the language of enactments will continue to be the English language until Parliament has by law otherwise provided as in the case of parliamentary legislation. There is a further proviso under sub-clause (3) of Article 348 which lays down that where a State Legislature has prescribed any language other than English for bills, acts, ordinances, orders, rules, regulations and bye-laws, a translation of the same in English language, published under the authority of the Governor or the Rajpramukh of the State in the official language of the State, shall be deemed to be authoritative text thereof in the English language under this Article.

We show in the following statement names of States and the languages prescribed by the Legislatures of these States as languages to be used for bills, acts etc. respectively where this action has been taken:—

State.	Language(s) prescribed	Authority
1	2	3
<i>Part A States</i>		
Bihar	Hindi	Bihar Official Language Act, 1950, and Bihar Language of Laws Act, 1955.
Madhya Pradesh	Hindi and Marathi.	Madhya Pradesh Official Languages Act, 1950.

1	2	3
Orissa . . . .	Oriya . . . .	Orissa Official Language Act, 1954.
Uttar Pradesh . . . .	Hindi . . . .	Uttar Pradesh Language (Bills and Acts) Act, 1950 and Uttar Pradesh Official Language Act, 1951.
<i>Part B States</i>		
Jammu and Kashmir . . . .	Urdu . . . .	Jammu and Kashmir Constitution Act (VK) 1996 (1939 A.D.)
Madhya Bharat . . . .	Hindi . . . .	Madhya Bharat Official Language Act, 1950.
Rajasthan . . . .	Hindi . . . .	Rajasthan Official Language Act, 1952.
Saurashtra . . . .	Gujarati . . . .	Saurashtra Official Language Act, 1950.

4. The upshot of the provisions would seem to be that the language will continue to be English in the States where the Legislatures have not prescribed any language other than English for this purpose; in States where the regional or any other language has been so prescribed, the English translation of the measure passed by the Legislatures and published under the signature of the Governor or the Rajpramukh will be considered as the \*authoritative text of the statutes. There would appear to be a slight anomaly appertaining to this state of affairs in that the enactment that has the force of law is not the original legislation considered and passed by the legislative body in the prescribed language but a translation of it in English. We presume that satisfactory arrangements exist for ensuring that the translation adequately carries out the intentions of the Legislature as embodied in the legislation that it has passed.

Apart from the authoritative enactment which in our opinion ought to be eventually in Hindi, both in respect of parliamentary and State legislation, there may be need for the sake of public convenience to publish translations of the enactments in different regional languages. In respect of State legislation this would normally

\*This matter does not appear to have been conclusively decided so far. There have been no rulings of the Supreme Court on this specific issue, and the only High Court ruling bearing on the point that we have been able to trace is in *Saghir Ahmad Vs. the Government of Uttar Pradesh*, A.I.R. 1954, Allahabad, p. 257.

Further particulars relating to this are given at item XIV in the Supplementary Papers. (not printed).

be necessary in the regional languages prevalent in the States whereas in respect of parliamentary legislation it may be necessary in all the principal regional languages current in the country.

5. The next question to consider is a matter of great importance, namely, whether the language of State enactments may be permitted to be other than Hindi, that is to say, any of the regional languages prescribed in this behalf by the respective legislatures when the time comes for displacement of English as the language of the law in the country.

For various important practical reasons we consider that it is essential that the entire statute book of the country should be in one language which cannot of course be other than Hindi, the language of the Union and the language adopted for purposes of inter-State communication. We have a unified judicial system under which the Supreme Court is the highest judicial organ to which appeals lie and from which special ultimate reliefs can be sought. Obviously, the Supreme Court can function as a single organic unit only in one language as it would be impossible to provide that the judges comprising the Supreme Court should be conversant with all the regional languages of the country. Law courts can give their decision only on the basis of the authoritative texts of enactments and it would be improper to suggest that an enactment should be interpreted by a law court on the basis of a translation. The judicial unity of the country cannot be maintained unless there is a corresponding juridical unity which presupposes a common linguistic medium for all enactments of law. Apart from this, there are other strong reasons for prescribing that the entire statute book should be in one language. The Indian Constitution provides for a common citizenship; there are rights bestowed by the Constitution on all citizens such as the right of equality before the law, the freedom to move freely throughout the territory of India, reside and settle in any part thereof; to acquire, hold and dispose of property and practise any profession, occupation, trade or business. Obviously, it would be undesirable that the laws of a State which would be applicable to all the citizens of the country who may have occasion to come within their ambit should be framed in a language unintelligible to all but persons of the linguistic group comprising the bulk of the population of that State. Continuously, the laws of a State apply and might be of interest to other citizens of the country, besides those belonging to the linguistic region of that State. The processes of courts are often issued to places outside the limits of the State in which they are situated and there are provisions for their enforcement outside such limits. Law courts in different parts of the country are often required to interpret enactments passed by legislatures of States other than their own and the incidence of an enactment often travels beyond the boundaries of the State whose Legislature has passed it. Besides, the distribution of legislative powers under the Constitution of India provides for a whole list of powers of concurrent jurisdiction between the Parliament and the State Legislatures. It provides for situations in which in the event of inconsistency, parliamentary laws shall prevail over the laws of the Legislatures of the States. If the statute books were allowed to be in the dozen or so regional languages, every single enactment

in the concurrent field would be liable to be in a dozen languages, rendering its interpretation by the Supreme Court, and even lower tribunals, almost impracticable. All things considered, it is manifest to us that we have to maintain the statute book of the country in a single language and, therefore, the language of enactment by the States must be the language of the Union, namely Hindi.

6. It is quite possible to reconcile, in our view, the requirement that the language of deliberation of a State Legislative body should be the language best understood by its members—which is likely as a rule to be the official language of that State—with the provision that the language of the authoritative enactments should be a single language, namely, the language of the Union. Such a reconciliation is possible if a distinction is made between the deliberative function of a legislature and its powers as an organ for passing enactments. In fact this reconciliation is already achieved in several State Legislatures wherein, at present, the language used for deliberation is very largely the State language, whereas the force of law is invested in the translation of the measure passed by the Legislature and published in the English language as authoritative enactment. The substitution of Hindi for English as the language of the statute book would make no difference in this context. For like reasons as in the case of laws, all statutory orders, rules, regulations and bye-laws issued under any laws made by Parliament or Legislature of a State must also be in the language of the statute book, that is to say, Hindi.

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