

Making Justice Accessible: Understanding the Barriers of Legal Jargon and Procedures for Common Citizens

Abhay Bansal, Dr. Khaleeq Ahmad

Abstract: *This research is based on the materiality revolving around the current legal structure which orbits around common citizens, who find difficulty with the long procedures, legal jargons, and other uncooperative technicality exists with the court proceedings, which is beyond the reach of a common person. While introducing the system of PILs Justice P.N. Bhagwati thought this would transform the legal landscape of India which would demonstrate that law is not essentially a rich class mace to subjugate the poor as by making justice much expensive for them, but in actuality such methodology is not known by normal or poor class of people, as most of the person don't even want to see the face of courts, as the system seems much problematical and not amicable to them. In this research article the author tries to demonstrate the complex technicality of the law, which is made for the common person which they can't approach to seek justice.*

Keywords: Legal Literacy, Citizens, Ignorance of law, Judiciary, Legislation

1. Introduction

India is an independent nation that upholds socialism, secularism, and democracy. It is governed by the Constitution of India, which outlines its core principles and goals in the Preamble. "We the people of India"¹ In India, anyone who becomes an Indian citizen through Jus Soli, Jus Sanguinis, or registration under the Citizenship Act of 1955 is covered by the protective measures of the Constitution. Section 5 of the Indian Constitution governs the process of Indian Citizenship; the Constitution ensures equal protection for all citizens. While the state unequivocally guarantees safeguarding the rights of each citizen, it is noteworthy that approximate five crores² cases are still pending within the judicial system. To tackle the growing number of pending cases, the highest court has made serious efforts to speed up legal proceedings. They have introduced various ways like Lok Adalat, Alternative Dispute Resolution methods, mediation, Legal Aid, and other creative measures to ease the burden on the judiciary. The lawmakers at both the State and Parliament levels create laws for the people of India, considering the main goals of these laws. These laws protect the rights of the people and provide guidelines for how they should be followed. Nevertheless, the efficacy of many legislations falters during the execution³ phase, primarily owing to a lack of awareness among the intended beneficiaries. It is a well-acknowledged fact that the rural literacy rate in India stands at 73.5%, which alone represents 65% of the total population of India.⁴ Despite being the world's second most populous country and having a comprehensive legal system, India faces a major challenge

in providing access to justice for its citizens. The idea that ignorance of the law is not an excuse, known as 'Ignorantia Juris Non Excusat,' is theoretically upheld. However, in practice, this principle encounters significant obstacles in a society where illiteracy is prevalent. This article aims to highlight specific examples and strategies that can help bridge the gap between legal rights and the general understanding of the law among the population. Despite India being the second most populous country in the world and having a comprehensive legal system, it is still incredibly challenging for its citizens to access justice. The idea that ignorance of the law is not an excuse in court, known as 'Ignorantia Juris Non Excusat,' is upheld in theory. However, in a society where illiteracy is prevalent, putting this principle into practice proves to be quite difficult. This article aims to highlight specific examples and propose strategies to tackle this issue, with the goal of bridging the gap between the legal system and the general public's understanding of it.

2. Concept

Having a proper understanding of the laws of the land empowers individuals and enables them to comprehend and follow their rights and responsibilities within the legal system. This knowledge is crucial for creating a fair and well-organized society. However, there is a paradox when it comes to the relationship between those in power and the general public. While citizens are expected to obey the laws, there is often little consideration given to whether those laws are accessible and understandable for everyone. This raises concerns about the practicality and fairness of enforcing laws that are not clear to a significant portion of society. Unfortunately, a significant number of people lack awareness of their basic rights, duties, and legal provisions that should be common knowledge. This information gap presents a complex challenge, undermining the principles of legal governance and preventing individuals from fully participating in and benefiting from a democratic and just society. It is essential for those in authority and institutions to ensure that the legal system is not shrouded in confusion and ambiguity. In order to uphold justice and democratic

¹ Constitution of India

² "Nearly 5 Crore Pending Cases in Courts, over 69,000 In Supreme Court" *NDTV*, Feb 09, 2023 available at <https://www.ndtv.com/india-news/nearly-5-crore-pending-cases-in-courts-over-69-000-in-supreme-court-3768720> (last visited on 25.03.2023)

³ Bharatiya Vidhi Sansthan available at http://www.bharatiyavidhisansthan.org/Legal_Litracy.aspx (last visited on 25.03.2023)

⁴ IBEF available at <https://www.ibef.org/blogs/rural-education-integral-to-india-s-progress> (last visited on 26.03.2023)

governance, efforts must be made to educate and inform the public about their rights and responsibilities, fostering a society where the rule of law is not just an abstract concept but a practical reality that everyone can understand. Every individual has the inherent right to gain knowledge about the law without incurring financial burdens, be it through attending formal legal education in institutions such as law schools or by seeking advice from legal professionals. The law is not meant exclusively for the legal community; it is intended for the general public. Unfortunately, a common situation arises where individuals involved in legal matters, whether as alleged offenders or victims, often become aware of relevant legal provisions only after the alleged offense has taken place.

The lack of understanding about the law can have significant consequences, especially for marginalized groups who often face barriers to accessing legal and judicial systems. These individuals are vulnerable to violations of their basic rights, corruption, and even police brutality, which leads to their unjust victimization. When people are not aware of the law, the saying "ignorance of the law is not an excuse" loses its significance. Unfortunately, many cases remain unreported, and victims are denied their right to seek justice. In such situations, what options do these victims have? How can they address the problem of not knowing their rights? The governing authority is not accountable to any external body. The creators of the constitution established a democratic system that grants citizens a wide range of rights. However, there is a glaring lack of legal knowledge among the general population, which contributes to underreporting and the dismissal of numerous cases. This article aims to explore the critical issues surrounding legal awareness, its consequences, and possible solutions, emphasizing the urgent need for equal access to legal information and justice in society.

Possible reason of inaccessibility

The famous case exemplifying the legal maxim "Ignorantia Juris Non Excusat" is the State of Maharashtra versus Mayer Hans George⁵. In this instance, a German citizen was detained for illegally bringing a certain amount of gold into Indian territory. Consequently, he was prosecuted for smuggling, with the law imposing a serious and strict liability standard on him as a foreigner. This case highlights the principle that ignorance of the law is not a valid defence, particularly when it comes to serious offenses like smuggling. It serves as a poignant reminder that individuals, regardless of their nationality, are expected to be aware of and comply with the legal norms of the jurisdiction they find themselves in. The notion of legal literacy holds immense significance as it forms the foundation of our Constitutional Democracy. It is through legal literacy that individuals are equipped to navigate the complex network of legal provisions and ensure that their rights and responsibilities are upheld in a fair and democratic society, using easily understandable language. *"Our entire judicial set-up functions on the presumption that all people are aware of their rights and are able to approach the concerned*

⁵ *State of Maharashtra vs Mayer Hans George*, AIR 722, 1965 SCR (1) 123

institution."⁶ As the esteemed former Chief Justice of India highlighted, the court operates under the assumption that individuals have sufficient legal knowledge regarding their rights and can effectively participate in legal proceedings. However, this assumption does not align with the reality we face. Across both rural and urban areas, there is a prevalent lack of understanding when it comes to essential legal remedies, including human rights, constitutional rights, and the laws that protect both individuals and the state in matters of dignity, liberty, and freedom of speech. In practice, the legal system is characterized by lengthy and complex procedures. Although India is making strides towards becoming a developed nation, the majority of the population remains unaware of their legal rights and obligations, as well as the benefits provided by the government. Having a basic understanding of the law has become crucial for the progress of various sectors, such as business, governance, trade, industry, and even for meeting individuals' basic needs. Given these circumstances, it is essential to explain certain key aspects in a simplified manner.

1) Common threat of Police

The confidence that ordinary citizens have in the police force is expected to be steadfast. However, the stark truth is that this trust is often shattered by real-life experiences, making it deplorable. Many cases, unfortunately, remain unheard due to the widespread fear of retaliation from the police, especially among the economically disadvantaged sections of society who view law enforcement officials as formidable figures. This fear strongly deters numerous members of the public from pursuing their grievances through the proper channels. Even if individuals do summon the courage to take legal action by filing a First Information Report (FIR), they often face rejection from the authorities. It's a grim reality that only a select few have the determination and resources to navigate the intricate legal system and make use of Section 156(3) of the Code of Criminal Procedure, 1973. This provision allows them to seek the intervention of a local magistrate to initiate legal proceedings.

2) Victims voice remain unheard

Frequently, victims can find themselves dealing with the worry of being wrongly accused of crimes committed by the person who harmed them. This situation often occurs because they are not aware of the basic legal protections. For example, cases where women sexually assault men or instances of domestic harassment by either spouse can be confusing for those involved, mainly because they don't fully understand the relevant laws.

3) Social Influence

From its earliest days to the present, Bollywood has consistently fascinated people's minds, often portraying tales of men pursuing women, which can be seen as either romantic or alluring. However, it's important to acknowledge that Section 354D of the Indian Penal Code (IPC) covers a wider range of situations, including

⁶ "Right to legal literacy guaranteed under Constitution, says Chief Justice of India", *The Economic Times* Oct 26, 2013 available at <https://economictimes.indiatimes.com/news/politics-and-nation/right-to-legal-literacy-guaranteed-under-constitution-says-chief-justice-of-india/articleshow/24758711.cms?from=mdr> (last visited on 26.03.2023)

instances where a man 'follows a woman,' potentially making him an offender, even if he didn't have any deliberate intentions. It's noteworthy that the woman involved may or may not be aware of such legal provisions, opening the door for legal actions initiated by the court.

4) **Juveniles in conflict with law**

According to a report, an astonishing 92% of cases involving underage individuals were related to offenses classified under the Indian Penal Code (IPC). Most of these cases, which included both IPC and Special and Local Laws (SLL), primarily pertained to crimes against the human body, making up a significant 37.7% of the total. This category included offenses like physical harm and serious physical harm, accounting for 47% of the cases. It was followed by rape at 13% and assault on women with the intention to offend her modesty at 12%, among several others⁷. It's important to note that an overwhelming 91% of these young offenders had completed primary education. However, what remains concerning is that despite their educational background, a considerable number of them are unaware of the intricacies of criminal behaviour and the legal consequences that follow.

5) **Threat against VIP culture**

In the eyes of the law, the fundamental principle of equal treatment prevails. This means that the law should apply in the same way to everyone, regardless of their social or professional status. However, the reality often strays from this ideal, especially when it comes to well-known individuals like politicians, actors, or officials, including both those in the judiciary and in executive positions. In such cases, leniency is often shown or rigorous legal scrutiny is avoided, particularly when these individuals manage to escape the attention of the mass media and the public. These observations highlight some key factors that contribute to the lack of awareness about the law among the general population.

Obstacle Against Legal Knowledge

In UN General Assembly 67th session, the UN Secretary-General states that "the deprivations that persons living in poverty encounter throughout their lives lack access to quality education and reduced access to information" limited political voice and social capital translate into lower levels of legal literacy and awareness of their rights, creating social obstacles to seeking redress⁸.

The absence of comprehension of one's legal rights frequently creates a dilemma for individuals who may not hold significant societal prominence but nonetheless grapple with the apprehension of legal proceedings and the protracted 'tareek pe tareek' (adjournment after adjournment) system. This dual concern encompasses both the preservation of one's reputation and the extended duration of judicial trials, which may result in delayed justice,

⁷ PAVITHRA K M, "More than 99% of the Juveniles apprehended for crimes in 2018 are Boys" *Factly* January 23, 2020 available on <https://factly.in/more-than-99-of-the-juveniles-apprehended-for-crimes-are-boys/> (last visit on 29.03.2023)

⁸ UN General Assembly, Report of the Special Rapporteur on extreme poverty and human rights, UN Doc A/67/278 (Aug 9, 2012).

tantamount to justice being denied. Individuals often refrain from engaging with the judicial system, primarily due to the stigmatization associated with court visits and interactions with law enforcement authorities. In the Indian context, such engagements are still not favourably regarded within society, as individuals are apprehensive about the potential impact on their esteemed social image

3. The Need of Legal Awareness and Solutions

Having established the premise that the absence of legal knowledge diminishes the significance of legal matters and exacerbates challenges when they arise, it becomes apparent that a dearth of legal awareness can inadvertently magnify the gravity of issues by distorting factual circumstances involving victims. Fundamental legal literacy is a potent tool, empowering individuals to safeguard and uphold their rights effectively. Consequently, it becomes imperative for the populace to remain vigilant and cognizant of the evolving legal landscape. In this regard, the following points may serve as a constructive and invaluable framework for personal and societal development, as well as for the formulation or revision of legal statutes

In the case of *Shri Bajrang Vidhyalaya Samati vs. State of Rajasthan*⁹, the court emphasized that the state bears a fundamental responsibility to ensure that a certain threshold of education is attainable within its geographical jurisdiction. This duty extends to regulating and overseeing educational standards and institutions. Specifically, the Bar Council of India, in accordance with the Bar Council of India Act, is entrusted with the pivotal role of ensuring the dissemination of legal education while upholding predetermined benchmarks of excellence. This obligation underscores the state's commitment to fostering a knowledgeable and skilled legal community, thereby upholding the rule of law.

Conversely, in the matter of *Air India Statutory Corporation v. United Labour Union*¹⁰, the judicial interpretation of the concept of social justice goes beyond mere rhetoric. It elucidates that social justice is not merely a lofty ideal but a pragmatic necessity, aiming to achieve a substantial degree of economic, social, and political equality. This objective is not only a legitimate aspiration but also a constitutional imperative. In the unique context of a developing society like India, marked by stark inequalities in social status and opportunities, the law assumes the role of a potent instrument for ameliorating the plight of the underprivileged and marginalized segments of society. The Constitution, therefore, obliges the state to dispense justice equitably across all dimensions of human activity.

In this context, the 'rule of law' emerges as a formidable and indispensable tool for the promotion of social justice and the facilitation of equality. It underscores the importance of a legal framework that is accessible, just, and impartial, ensuring that all members of society have equal access to justice and the protection of their rights. Consequently, the

⁹ *Shri Bajrang Vidhyalaya Samati v. State of Raj & Anr* (17 August 2009) Writ Petition No.7267/2005

¹⁰ AIR1997 SC 645

judiciary's role in upholding the rule of law becomes pivotal in realizing the constitutional objective of social justice and fostering a more equitable society.

The Legal Services Authority Act, 1987, outlines a structured framework for the establishment of various legal entities tasked with the dissemination of legal aid and services. These entities serve a crucial role in promoting access to justice and ensuring that legal rights are protected for all individuals, particularly those who may be economically disadvantaged. Below is a comprehensive elucidation of these entities:

- **Supreme Court's Legal Services Committee:** Section 3A of the Act provides for the establishment of the Supreme Court Legal Services Committee. This committee is entrusted with specific powers and functions, which are delineated through regulations formulated by the Central Authority. It operates at the apex level to facilitate legal aid and services to individuals.
- **State Legal Service Authorities (SLSAs):** The Act, under Section 6, mandates the constitution of State Legal Services Authorities. These authorities are instrumental in the administration of legal aid and services within their respective states. They play a pivotal role in coordinating and supervising the implementation of legal aid programs.
- **High Court Legal Services Committee:** Section 8A of the Act outlines the establishment of High Court Legal Services Committees. These committees' function under the aegis of the State Authority, exercising powers and functions as stipulated by regulations set forth by the State Authority. They serve as intermediaries between the state-level authority and local jurisdictions.
- **District Legal Services Authorities:** Section 9 of the Act empowers the State Government, in consultation with the Chief Justice of the High Court, to constitute District Legal Services Authorities for each district within the state. These authorities play a pivotal role in ensuring access to legal aid and services at the grassroots level, facilitating justice delivery to the local populace.
- **Taluk Legal Services Committee:** Section 11A of the Act vests discretion in the State Authority to form Taluk Legal Services Committees. These committees may be established for individual taluks or mandals or for groups thereof. They function as an extension of the legal aid system, catering to specific geographic areas and ensuring access to justice for residents at the taluk level.

While the aforementioned institutions form the cornerstone of legal aid and services in India, it is crucial to acknowledge that there are numerous other entities and organizations that play a vital role in educating the general public about the law. These organizations, though often undervalued, serve as critical vehicles for legal enlightenment, disseminating legal knowledge, and promoting legal awareness among the citizenry.

- **Educating the Juveniles:** Incorporating legal education into the school curriculum, as envisaged by the National Education Policy (NEP), represents an essential

initiative to impart knowledge of legal rights, duties, and offenses to students in grades 5 through 10. This is particularly crucial since juveniles in this age group are highly susceptible to criminal and cyber offenses due to their vulnerability and impressionability. Such educational measures aim to deter them from engaging in illicit activities that may appear enticing during adolescence.

- **Legal Aid Committee:** Article 39A of the Indian Constitution imposes a solemn duty on legal aid committees to educate the layman and marginalized sections of society. This task involves conducting awareness programs, workshops, and outreach activities, creating an opportunity for underprivileged individuals to gain essential legal knowledge. These initiatives not only empower the disadvantaged but also bridge the gap between legal jargon and accessible information, thereby fostering an understanding of rights and responsibilities among the masses.
- **Rural Areas:** Rural areas serve as the lifeblood of India, contributing significantly to the civil caseload in courts. Panchayats and other governmental bodies play a pivotal role in disseminating information about government schemes. However, it is imperative for these entities to make it obligatory to educate the local populace about these schemes and seek their valuable input. Such interactions can serve as a constructive bridge between the government and rural communities, facilitating the formulation of policies that address their welfare, exemplified by initiatives like "Beti Bachao, Beti Padhao."
- **Legal Journalism:** Legal professionals, both graduates, and undergraduates, can contribute to raising legal awareness through various means, including blogs, articles, research papers, and direct communication with their social circles. Engaging in legal journalism is a powerful tool to elucidate basic legal principles, rights, offenses, and remedies. This aids in disseminating legal knowledge to the common educated civilian, promoting a better understanding of the law within the community.
- **Creative Methods:** Diverse initiatives can be undertaken to enhance legal awareness, such as organizing literacy camps, conducting poster-making competitions, staging street plays (nukad natak), and providing assistance to physically and mentally challenged individuals. These creative methods foster engagement and facilitate the comprehension of legal concepts among various sections of society.
- **Medical Camps:** Conducting free medical camps in government hospitals can serve as a platform to educate individuals on legal aspects related to issues like female foeticide, medical negligence, and abortions. This empowers individuals to assert their rights and safeguards their interests in the healthcare domain.
- **Public Places:** Utilizing public spaces, such as railway stations and bus stands, for informative initiatives is a pragmatic approach. Installing informative signboards or employing audio stations like radio and Doordarshan can capture the attention of the public and disseminate essential legal information, particularly in areas pertaining to transportation regulations.
- **Marginalized Sectors in Urban Areas:** Efforts should be directed toward ensuring that legal awareness

reaches marginalized sectors in urban areas. This can be achieved through workshops, camps, and classes tailored to the specific needs of communities where illiteracy rates are disproportionately high. Such initiatives facilitate the democratization of legal knowledge, ensuring that even the most vulnerable segments of society gain access to their rights and obligations.

4. Conclusion

The framers of India's Constitution envisioned a nation that would prosper, offering its citizens a dignified life and international recognition. The Directive Principles of State Policy (DPSPs) were established as a beacon of hope to guide the country toward these ideals. However, until the people of India attain a substantial level of legal literacy, there remains a risk of fundamental rights violations, as well as the perpetuation of violence, hate speech, corruption, and other injustices. The scope of legal literacy must extend to encompass comprehensive education. The law can serve as a vehicle for moral education, imparting an understanding of constitutional rights and duties that could replace traditional civics education. This approach ensures that legal awareness is not limited to students alone but is disseminated widely to employers and employees alike. Such dissemination can contribute to fostering fair trade practices and curbing arbitrary actions by private employers. In turn, the state will thrive, as injustice becomes more apparent and the legal maxim "Ignorantia Juris Non Excusat" finds greater relevance and resonance among the local populace. The realization of the constitutional vision for India necessitates the widespread promotion of legal literacy. By equipping its citizens with knowledge of their rights, duties, and the law, India can progress towards becoming a more just and prosperous nation, achieving the aspirations set forth by its visionary framers.