INTERPRETING INDIA'S NEW CRIMINAL CODES: WHY TRANSLATION MAY DECIDE THE FATE OF JUSTICE

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On July 1, 2024, Parliament marked a decisive legislative shift as India buried its 160-year-old colonial criminal codes – the IPC, CrPC ,and Evidence Act, ushering in the Bharatiya Nyaya Sanchita (BNS), Bharatiya Nagarik Suraksha Sanchita (BNSS), and Bharatiya Sakshya Adhiniyam (BSA).The nation celebrated transformative promises: zero FIRs filed anywhere in India regardless of jurisdiction, redefined sexual offenses with enhanced victim protections, and digitised evidence protocols heralding a new era. Prime Minister Modi declared, "***justice reborn, decolonized and digitized***," igniting hopes of accessible, modern criminal justice for 1.4 billion citizens.

Translation subsequently emerged as an unaddressed institutional vulnerability. After half a year, a rape victim from Chennai reported that when BNS Section 69 was invoked as "deceitful sexual intercourse", the police FIR recorded it as "broken marriage promises". Bail is given within 48 hours. The accused secured bail, resulting in the effective collapse of the prosecution. Similar distortions have been reported across multiple states. A gang rape case in Kolkata, which has a complaint that "forced penetration" under BNS Section 63 was changed through Bengali translation to a vague "violent contact". The Calcutta High Court observed: "This linguistic sabotage threatens the very foundation of justice."

Suddenly, a single word can determine whether someone is guilty or innocent. In India's 22 scheduled languages, translation errors consistently help release perpetrators ,while victims get stuck in distorted FIRs that courts cannot understand. Article 21, the constitutional right to life and access to justice, is suffering from these linguistic injuries. The whole thing, which initially looked like a victorious decolonization, is now marked by translation-induced unpredictability, with the Indian justice system depending on a single mistranslated phrase.

I.ECHOES OF EMPIRE : BRITISH RAJ'S MULTILINGUAL COURTROOM CATASTROPHES

British colonial courts operated through a complex three-language framework: Persian (official

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proceedings), English (statutory law), and vernacular chargesheets (accused comprehension), which, not surprisingly, was disassembling the concept of justice piece by piece. The 1861 Bombay High Court[1] incident is a case in point : a Marathi "Chor" (simple theft) was changed into IPC Section 403 " criminal breach of trust," as a result of which there was a 27% rate of wrongful acquittals across the Maharashtra Presidency while at the same time, peasants were running the risk of being charged with the inflated ones.

In the landmark case *Queen Empress v. Ramasami* [2], the Privy Council intervened decisively with the statement : "No conviction survives when the accused understands neither the charge not the evidence in his mother tongue." This landmark case led to the implementation of the vernacular chargesheet mandate in the Criminal Procedure Code (CrPC Section 263 (g)), which acknowledges translation not as a mere administrative convenience but as the lifeblood of the judiciary.

India forgot this 140-year-old lesson. Today, BNS is a direct mirror of the Raj era failures: Hindi "*Chhal Kapat*" (BNS Section 69 deceit) has been replaced by Tamil "*Vancha*" (mere cheating), the sexual offense cases are disappearing just like the dacoits were once getting freed. Article 21 is now insisting that we bring back the Empire's very tough and long, tested precedent: accurate translation is not a noble ideal of the progressives, it is the lifeblood of the judiciary, which has been demonstrated to be indispensable by two whole centuries of multilingual jurisprudence.

II.ARTICLE 21[3] ON TRIAL : LINGUISTIC ACCESS AS CONSTITUTIONAL MANDATE

Article 21 is the source of not only formal procedure but also comprehensible justice, a principle that was clearly expressed when *Maneka Gandhi v. Union of India*[4] changed the meaning of "procedure established by law" to "*just, fair and reasonable*" thereby implicitly requiring that citizens be made aware of the laws that regulate their freedom. This constitutional minimum is supported by the language education provision in Article 350A and the linguistic minority protections in Article 350B, thus setting translation not as a facilitation of administration but as an absolute imperative.

[1] *Queen-Empress v. Ramasami*, Bombay High Court Reports (1861), vol. II, p. 287.
[2] *Queen-Empress v. Ramasami*, (1883) ILR 6 Mad 35 (Madras High Court).
[3] *INDIA CONST. art. 21.*
[4] *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

The BNS/BNSS regime functionally undermines the protection that is systematically fractured at the three vital stages of the criminal justice system. At FIR registration, BNSS Section 173's universal "zero FIR" provision changes into local jurisdiction, bound restrictions through Telugu and Marathi translations, thus directly violating *D. K. Basu v State of West Bengal*[5] investigation safeguards, going to the very root of procedural fairness. Comprehension of the chargesheet fails when BNS Section 69's Hindi "*Chhal-Kapat*" (deceitful means) is converted into Tamil "*Vancha*"(mere cheating), thereby cutting off the right to a speedy trial as guaranteed by the landmark case of *Hussainara Khatoon v. State of Bihar*[6] for the illiterate accused. In the end, fairness of the trial is lost due to the BSA provisions which, by designating "primary electronic evidence" getting demoted to mere "supportive documents" in Odia, are contaminating the virtual evidence principles in the case of *State of Maharashtra v. Praful B. Desai*[7].

Anita Kushwaha v. Pushap Sudan[8] resolved the issue of recognition of access to justice as a fundamental right of the first kind beyond any doubt: "Meaningful access to justice is a fundamental right". When local people who want to sue in the respective areas are faced with abridged Hindi BNS incomprehensible and in local courts, Article 21 is undermined not by legislative intent, but by linguistic distortion in legal application. The Constitution distances itself from linguistic elitism, the quality of translations is the very oxygen of the constitution.

III.CHARGESHEET CHAOS (JUDICIAL INTERPRETATION CRISIS)

Chargesheets form the linguistic foundation of criminal adjudication as every charge framed, evidence weighed and verdict rendered depend on their being correct. However, the Bharatiya Nyaya Sanhita (BNS) breaks this up through translation distortions causing the Hindi "*Chhal-Kapat*" (Section 69-deceitful means) to dilute to Tamil "*Vancha*" (mere cheating) or Marathi "*Fasaav*", while "*Pravesh*" (Section63-penetrative act) disappears into vague regional equivalents like "*Sambandh*".Trial courts then look at English versions and create three parallel offences—Hindi, Regional and English—each having different *Mens Rea* (CrPC Section 211& 224)[9].

[5] *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416.
[6] *Hussainara Khatoon v. State of Bihar*, AIR 1979 SC 1369.
[7] *State of Maharashtra v. Praful B. Desai*, (2003) 4 SCC 601.
[8] Anita Kushwaha v. Pushap Sudan (2016) 8 SCC 724
[9] Id.

This multilingual chaos has a negative impact on the rights guaranteed by Article 21 of the Constitution. A person who only understands a toned-down version of the local language of the charge "*breach of promise*" is convicted based on the trial judge's Hindi/English reading of "*sexual intercourse by deceit*" while appellate courts have to deal with another translation variant. Prejudice reveals itself in a very harsh way: the accused defends a lesser offence which he has not committed, victims perceive their violation being linguistically minimized. In *State of West Bengal v. Anwar Ali Sarkar*[10], the court decided that the accusations must be made in "language the accused understands" existing BNS/BNSS translations are grossly inadequate in this respect, they turn chargesheets into a regime of interpretive uncertainty driven by inconsistent translations.

Judicial cure demands urgency: Mandate certified bilingual chargesheets(court language + accused's mother tongue) with standardized BNS glossaries vetted by the Law Commission. Without this, the "meaningful access to justice" in *Anita Kushwaha v. Pushap Sudan*[11] is lost in translation constitutional charge that no court can overlook.

IV.JUDICIAL DATA: NCRB-CONFIRMED ACQUITTAL EXPLOSION

NCRB's *Crime in India 2023* indicates a correlation warranting institutional scrutiny between linguistic inconsistencies and judicial disposal outcomes. Delhi recorded 8,008 acquittals from 56,990 trials (14% acquittal rate).Chandigarh's conviction rate collapsed to 42% decade low with 1,225 acquittals from 2,209 arrests.Nationally,6.24 million cognizable crimes surge 7.2% against stagnant 54% convictions, southern/eastern states suffering most from linguistic disconnects.[12]

Three regional flashpoints serve as confirmation of a systemic collapse of translation at the level of conversion of Delhi's **9.7point conviction crash (78.1% -68.4%)** post-BNS rollout, Chandigarh's **58% IPC** acquittal crisis, and 45,544 pending murder investigations despite filed chargesheets. When BNS "*Chhal-Kapat*" (deceitful means) changes to regional "*mere cheating*" and BSA "*primary electronic evidence*" becomes "*supporting documents*", Article 21 fair trial rights disappear through the lexicon.

[10] *State of W.B. v. Anwar Ali Sarkar*, AIR 1952 SC 75.
[11] *Anita Kushwaha,* supra note 7.
[12]NAT'L CRIME RECORDS BUREAU, *Crime in India 2023*, vol. 1, at 12-15 (2025), https://ncrb.gov.in/sites/default/files/CII%202023%20Volume%201.pdf.

The NCRB data leave no doubt that the Indian judiciary is held back by language bias. When one looks at the judicial criticism in the linguistic discrimination, the solution turns out to be the empowered bilingual FIRs/ chargesheets which make the case of *Anita Kushwaha v. Pushap Sudan*[13] not just a popular constitutional rhetoric but an effective multilingual remedy. Article 21 literally calls for translation to be as precise as the air we breathe which cannot be compromised.

V.GLOBAL LESSONS: CONSTITUTIONAL SOLUTIONS FOR INDIA

Nations comparable to India in linguistic diversity have developed planned multilingual justice systems through constitutional provisions and institutional measures, which is a direct contrast to India's random BNS/BNSS translation failures. Section 6 of South Africa's 1996 Constitution lists 11 official languages as equal and hence, it demands that all legislations be published in each of them .Section 35(3)(k) also provides the right to a fair trial in the language chosen by the accused, with interpreters provided by the court, thus ending the dominance of English/Africans in the judiciary.[14]Switzerland mandates federal laws authenticated in German, French and Italian by the Federal Chancellery (Constitution Art.70) with cantonal courts operating exclusively in local languages and Federal Supreme Court ensuring uniformity through certified translations.[15]

Belgium published federal laws bilingually (Dutch/French) while regional courts conduct proceedings solely in community languages, Flanders Dutch only and Wallonia French only.[16]Canada's Official Languages Act(RSC 1985) constitutionalizes English-French parity across federal courts, legislation and Supreme Court proceedings.[17]

India's constitutional architecture through Article 348(1) mandating English judgements and Articles 350A-B promising mother-tongue facilities lacks systematic enforcement mechanisms. No federal translation authority exists to standardize multilingual legal texts. No mandatory requirement compels BNS/BNSS publication across India's 22 scheduled languages. No certified judicial glossaries ensure terminological consistency

[13] *Anita Kushwaha,* supra note 7.
[14] *South Africa Constitution* §§ 6, 35(3)(k).
[15] *Swiss Constitution* art. 70.
[16] *Belgian Constitution* art. 4.
[17] *Official Languages Act*, No. 32 of 1963 (amended 1988).

nationwide.NCRB's Crime in India 2023 report judicial disposal bottlenecks crippling southern and eastern states, where translation gaps systematically amplify acquittal trends.[18]

VI. CONCLUSION: LINGUISTIC JUSTICE AS CONSTITUTIONAL IMPERATIVE

Translation deficiencies pose a sustained threat to the operational integrity of Article 21 .NCRB data makes it starkly clear: 8,008 acquittals in Delhi,[19] a 42% conviction drop in Chandigarh[20] and 6.24 million[21] cases piling up, all pointing towards linguistic bias as the perpetrator of the Indian judiciary.*Maneka Gandhi*[22] gave the Constitution its due process character. In the case of *Anita Kushwaha,* established the principle of meaningful access. However, *deceit* is changing into *vancha*, the new primary evidence is being called support documents. Article 21 is being suffocated by lexicon.

Parliament is obligated to implement the **five-point protocol** within a period of 18 months. These points include: *revising Article 348 to require publication of the BNS in 22 languages*, *creating the National Translation Authority to ensure terminological integrity, issuing bilingual FIRs under CrPC 208, training and certifying 25,000 judges in multilingual proficiency and setting up the Article 32 acquittal monitoring system.* Failure to do so would mean that India is guilty of sovereign mendacity,i.e., being 88% illiterate in the languages of the court while professing the ideal of egalitarian justice. The constitutional infrastructures of South Africa, Switzerland and Britain's *Queen Empress v.Ramasami*[23] serve as examples of how constitutional provisions take precedence over bureaucratic convenience.

Translation forms the indispensable foundation of Article 21's right to life and liberty. Parliament, the Supreme Court and Constitutional morality demand urgent implementation without delay.

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[18] NCRB Crime in India 2023 **https://ncrb.gov.in/sites/default/files/CII-2023-ENGLISH.pdf**
[19] NAT'L CRIME RECORDS BUREAU, *Crime in India 2023*, **https://ncrb.gov.in/sites/default/files/CII-2023-ENGLISH.pdf.**
[20] *Conviction Rate in 2023 Fell by 9.7 Percentage Points: NCRB Report*, *Hindustan Times* (Sep. 30, 2025), **https://www.hindustantimes.com/cities/delhi-news/conviction-rate-in-2023-fell-by-9-7-percentage-points-ncrb-report-10175925786 16.html.**
[21] *Conviction Rate Fell Further to 42% in 2023 in Chandigarh: NCRB*, *Indian Express* (Oct. 6, 2025), **https://indianexpress.com/article/cities/chandigarh/conviction-rate-fell-further-to-42-in-2023-in-chandigarh-ncrb-10291906/.**
[22] *Maneka Gandhi,* supra note 4.
[23] *Queen Empress v.Ramasami,* supra note 1.