

Criminal law Bills renaming is needless meddling

Three new Bills were tabled in Parliament recently. This article is not about the content of these Bills (the controversies on that will play out) but their names: the Indian Penal Code is now replaced by Bharatiya Nyaya Sanhita, the Code of Criminal Procedure by Bharatiya Nagarik Suraksha Sanhita and the Indian Evidence Act by the Bharatiya Sakshya Bill. That these are names unfamiliar to, and unpronounceable by, more than half the country's citizens and an overwhelming majority of its legal practitioners, makes these Bills fail the first test of acceptability. Moreover, Article 348 of the Constitution states that the authoritative texts of all Acts passed by Parliament or State legislatures shall be in the English Language. The body of these new Bills is in the English language, but the title of the Bills being in Hindi goes against the embargo placed by the Article.

Language and the legal regime

The issue of language was hotly contested and debated in the Constituent Assembly and led to the adoption of various provisions in the Constitution as well as the Official Languages Act. The legal regime in place provides that English shall remain an official language until resolutions for the discontinuance of English as an official language are adopted by State Legislatures and by Parliament. That is a dim prospect when we aim to be a strong player in a globalised world.

In a linguistically diverse country where language has been the flashpoint for several protests and people's movements, the emotions and sentiments that people attach to their language must be respected. The fact that India was divided into States based on linguistic differences is sufficient to demonstrate how

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deeply intertwined language is with the identity of States and their residents. Is it necessary to be reminded of the protests that raged, taking lives with it, through the States of Maharashtra, Tamil Nadu, West Bengal, Punjab, and Karnataka when Hindi was sought to be made the sole official language in the 1960s? The issue continues to be highly emotive. Language is an integral part of culture, and the attempt to use Hindi in the names of the Bills introduced by the Union Government will be seen as the imposition of the culture of the linguistic majority on linguistic minorities.

This is majoritarianism

The anxiety of non-Hindi speakers finds its roots in events that are taking place around us now. Statements by persons in positions of power that Hindi must be accepted as the 'national language' soon, and issuance of Hindi-only forms in public undertakings such as the Indian Railways and banks have been flagged repeatedly. The original draft of the National Education Policy 2020 contained provisions which drew protests, being seen as an attempt to "impose Hindi". Over the past few years, the Union Home Minister has made several statements linking the language of Hindi to nationhood and the idea of India. He stated in 2019 that "only Hindi can work to unite the country". He makes a similar statement every Hindi Diwas, and that can only keep the issue burning.

The perception is that there is an attempt to privilege India's most spoken regional language over other regional languages and to place it above the other languages as essential to a person's identity as an Indian. The issue is not just about language but about culture, inclusivity, diversity, and respect. The only argument to

privilege Hindi over other languages of India such as Bengali, Tamil, Telugu, Kannada and Odia is that Hindi is spoken by more people. To say "we are more in number, so other communities must assimilate into our culture and speak our language" is simply majoritarianism and is antithetical to the Constitution. The legal position of the country is that English shall continue to remain an official language until the non-Hindi speaking States desire so. The prerogative to have Hindi as the sole official language, therefore, does not lie with those in the Hindi heartland, but with those on its margins. The Constitutional position is also that the text of laws introduced in Parliament shall be in English. The naming of these Bills, apart from stoking an old fire, is plainly unconstitutional.

Change the names

The plain fact also is that English is the language of the law and of the courts, especially the superior courts, viz., the High Courts and Supreme Court of India. Judges are transferred across the country. Statutes are read in English. We follow the common law system giving importance to precedents, and these are written and stored in English. The law requires utmost precision and clarity in pleadings, arguments and judgments, and Indian lawyers and judges have risen magnificently to the occasion with English. Are we now to subject them to colloquial terms or high flown Hindi names familiar only to pandits in Sanskritised Hindi? This is needless meddling and nothing short of provocation. The first task of the Parliamentary Committee to which the Bill has been referred must be to change the names. And is it that these Bills are referred to the Standing Committee for Home Affairs, and not to the Committee for Law and Justice?

Pilot fatigue in India, a wake-up call for airlines

On October 12, 1976, an Indian Airlines Caravelle flight from Bombay to Madras (IC 171) crashed shortly after take-off at Bombay and while attempting an emergency landing, killing all 95 passengers on board. An engine had caught fire. Among the last words of Captain K.D. Gupta, the commander, picked up by the cockpit voice recorder was that he "was feeling sleepy". He had done the early morning Boeing departure to Delhi and back, spent the whole day in office and opted to operate the delayed Caravelle flight. The ill-fated plane was to operate the flight after the authorities "had made two earlier futile attempts to fly the passengers to Madras" on a Boeing flight. One of the Boeings had had a bird hit and the other had a snag. Passengers were also discontented.

Some of the operating procedures on the Caravelle were different from those on a Boeing, which was highlighted in the court inquiry. Following the crash, one of the quick regulator actions was to stop pilots operating two types of aircraft. The pilots on the Caravelle flight, Captain Gupta and co-pilot Captain K.L. Pershad/Prasad, had endorsements on their licences to fly the Boeing and the Caravelle.

Recent crew incidents

In the past weeks, there have been reports of some Indian pilots who passed away due to cardiac arrest. One of them was a pilot of Indian origin flying for an airline in West Asia. Another was a pilot employed in a major private airline in India who collapsed and died at the boarding gate in Nagpur just before his flight. The third incident involved a pilot on a Latin American airline flight from Miami to Santiago, Chile, who collapsed on the flight and where the co-pilot had to land the aircraft. Ten years ago, another Indian pilot passed away as he stepped out of a simulator after training pilots.

Do airline managements and the aviation regulator in India understand the importance of fatigue and sleep deprivation? Are profits and passenger numbers the only important factor in the airline business? Did not the loss of over 150 lives in the Air India Express crash (IX 812) at



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India has one of the worst sets of rules on crew flight duty time limitations and rest periods in the world for airline crew, who often battle fatigue and sleep deprivation

Mangaluru in May 2010 stir the conscience of all those involved? The Supreme Court of India, the Ministry of Civil Aviation (MoCA), the Directorate General of Civil Aviation (DGCA) and airlines? India has one of the worst sets of rules on Flight and Duty Time Limitations and rest periods. The people who drafted and implemented these rules have no clue about the risks involved. India's DGCA and airlines would do well to read through and understand the chapter, "Pilot fatigue and the regulation of airline schedules in post-war Britain" in the publication, *Balancing the Self*.

On fatigue and stress

In the examples given, only one involved death in the cockpit on a passenger flight. Fortunately, the copilot was experienced and well trained to take over and bring the aircraft to a safe landing. The death of the pilot in Nagpur, just before commencing a multi-sector flight, should be a wake-up call. There are many questions to be answered. One of them is the experience level and also the competence of the copilot if there is a serious issue involving the crew during flight.

Airlines will claim that all their pilots are well trained and meet the minimum standards. Having been a pilot for over 40 years, I have observed how proficiency checks are manipulated and where training is a mere 'box-ticking exercise'. If one adds to this deficiencies highlighted in the International Civil Aviation Organization's Annex 14 Volume 1 "Standards for Runways and airfields", we are living in a dangerous situation. Airlines the world over have a minimum total cockpit time experience for both pilots put together, with specific hours for narrowbody aircraft and widebody aircraft, respectively. Can the DGCA and airlines in India meet these numbers?

I would like to highlight a phrase used by Real Levasseur, the lead investigator of the Air France (AF358) overrun incident at Toronto airport, Canada, in August 2005. He said, "Humans and Humans. They are not machines." When are the MoCA, the DGCA and airlines going to wake up to that wisdom? Duty time for crew is not a 'one size fits all' matter. The fatigue level of a human differs

at different times of the day and the circadian low comes into play in the hours that fall from midnight to sunrise. The number of landings a pilot performs during his duty period adds to the fatigue level.

More than 60 years ago, a scientific study proved that the stress level during an approach land, especially in adverse weather conditions, can raise the heart level to more than 240 beats per minute. The adrenal glands kick in and a body faces severe sugar depletion. Analysis of accidents involving highly experienced crew identified this as a cause. Sleep deprivation and a micro-sleep condition for between five to 15 seconds during the approach and landing phase have also been identified as a cause for accidents. The subject is an urgent matter to be addressed before precious lives are lost.

A different category of staff

Pilots are not in the same work category as airline ground staff, including management staff. Those on ground can avail two days off every week for 52 weeks (a year) in addition to public holidays and annual leave. Flying crew in India on the other hand, get one day off in a week and just their annual leave. 'Safe airlines' worldwide provide at least two days off every week and proper rest periods between flights for the body clock to unwind. DGCA regulations lay down the absolute minimum. Nothing prevents an airline from providing more rest days if their interest in safety and the human factor of the flight crew is to be addressed.

The fatal accident at Mangaluru and Kozhikode (August 2020) had identified another important factor. The pilots were taking medications. This is not confined to a few. With a kind of rostering where crew do not have sufficient time at home but are away from it for six days a week, self-medication becomes a norm. Without many being aware of side-effects, these can induce other conditions.

Having inquiries without implementing their findings will not save lives. The sooner the system in India understands this the better it will be for safety.