IN THE SUPREME COURT OF INDIA

EXTRA-ORDINARY ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. 887 OF 2020 (PIL)

(Under Article 32 of the Constitution of India)

PUBLIC INTEREST LITIGATION

IN THE MATTER OF:

DR. SUBHASH VIJAYRAN ... PETITIONER

VERSUS

UNION OF INDIA & OTHERS … RESPONDENTS

WITH

I.A. NO. 79408 OF 2020

(Application for permission to appear and argue the matter In-Person)

PAPER- BOOK

FOR INDEX: KINDLY SEE INSIDE

Drafted on 18.08.2020
E-filed on: 19.08.2020 as Provisional Application No. 4996/2020
Entered on 19.08.2020 as Diary No. 17441/2020
Registered as W.P. (C) No. 887/2020 on 20.08.2020

DRAFTED AND FILED BY:

DR. SUBHASH VIJAYRAN (ADVOCATE)
(PETITIONER-IN-PERSON)

Diary Number 17441 of 2020

DECLARATION

All defects have been duly cured. Whatever has been added/ deleted/ modified in the petition is the result of curing of defects and nothing else. Except curing of defects, nothing has been done. Paper-books are completed in all respects.

Dr. Subhash Vijayran
Petitioner-In-Person
Date: 19.08.2020
Mobiles: 8920086150, 8285711205

I N D E X

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IN THE SUPREME COURT OF INDIA

PROFORMA FOR FIRST LISTING

SECTION: PIL (W)

The case pertains to (Please tick/check the correct box):

☐ Central Act: **CONSTITUTION OF INDIA, 1950**

☐ Section: **ARTICLE 14, 21 & 39A**

☐ Central Rule:

☐ Rule No(s):

☐ State Act: (Title) NA
☐ Section: NA
☐ State Rule: (Title) NA
☐ Rule No(s): NA
☐ Impugned Interim Order: (Date) NA
☐ Impugned Final Order/Decree: NA
☐ High Court: NA
☐ Name of Judges: NA
☐ Tribunal/Authority: (Name) NA

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1. Nature of Matter: **CIVIL**

2.
   (a) Petitioner/Appellant No-1: **Dr. Subhash Vijayran**
   (b) E-mail ID: **drsubhashvijayran@gmail.com**
   (c) Mobile phone number: **8920086150, 8285711205**

3.
   (a) Respondent No-1: **Union of India**
   (b) E-mail ID: gn.raju@nic.in
   (c) Mobile phone number: **011-23384617**, **011-23387553;**

4.

(a) Main Category classification: **08: Letter Petition & PIL Matters**

(b) Sub-classification: **0818: Social Justice Matters**

5. Not to be listed before: NA

6.

(a) Similar disposed of matter with citation, if any, & case details: ***Anita Khushwa v. Pushpa Sadan:*** **Judgment dated 19.07.2016 in Transfer Petition (C) No. 1343 of 2008 (5 Judges) on Access to Justice.**

(b) Similar Pending matter with case details: **As per my knowledge, there is no similar matter pending before this Hon'ble Court.**

7. Criminal Matters: NA
   (a) Whether accused/convict has surrendered: □ Yes □ No
   (b) FIR No. NA Date: NA
   (c) Police Station: NA
   (d) Sentence Awarded: NA
   (e) Sentence Undergone: NA
8. Land Acquisition Matters:
   (a) Date of Section 4 Notification: NA
   (b) Date of Section 6 Notification: NA
   (c) Date of Section 17 Notification: NA
9. Tax Matters: State the tax effect: NA
10. Special category (first petitioner/appellant only):
    □ Senior Citizen > 65 years □ SC/ST □ Woman/Child □ Disabled □ Legal Aid Case □ In custody
11. Vehicle Number (in case of Motor Accident Claim matters): NA

Dated: 19.08.2020

DR. SUBHASH VIJAYRAN (ADVOCATE)
(PETITIONER-IN-PERSON)

SYNOPSIS

The writing of most Lawyers is: (1) wordy, (2) unclear, (3) pompous and (4) dull. We use eight words to say what can be said in two. We use arcane phrases to express commonplace ideas. Seeking to be precise, we become redundant. Seeking to be cautious, we become verbose. Our writing is teemed with legal jargon & legalese. And the story goes on.

For whom are the Constitution, Law and Legal System for? For the lawyers? Or the judges? Or – most important, but often neglected – *The Common Man*.

Yet, it is the common man who is most ignorant of the system – in fact quite wary of it. Why? Because he neither understands the system nor the laws. Everything is so much complicated. The way laws are enacted, practiced and administered in our country violates the fundamental rights of the masses by denying them – *Access to Justice*. 'Speedy Justice' and 'Legal Awareness' are the two, out of the many, facets of *Access to Justice*.

SIMPLIFY THINGS – USE PLAIN LANGUAGE

The Legislature & Executive: The legislature should enact precise and unambiguous laws, and as far as possible, in plain language. A guide in Plain English and in vernacular of the laws of general public interest should be issued by the Government – explaining the law and its application – in easy to understand language. Further, all rules, regulations, notifications, communications etc., drafted and issued by all branches of the Government – that are of general public interest – should be in Plain Language.

The Bar Council of India: The Bar Council of India should introduce a mandatory subject of *"Legal Writing in Plain English"* in the 3 year and 5 year LL.B. courses – where law students are taught to draft precise and concise legal documents in Plain English – so as to enable our legal manpower in providing *Access to Justice* to the masses.

The Supreme Court of India:

- It is time the standard of pleadings filed in the Supreme Court is mandated to be of the highest quality. Lawyers need to put in extra efforts & revisions to make their pleadings clear, crisp, concise & accurate. This would remove considerable burden off the judges, who otherwise have to struggle their way through a jungle of verbosity. A page limit for pleadings and time limit for oral arguments should be imposed. Too much of precious time, energy and resources of both the Court as well as lawyers/ litigants are wasted due to badly written & *verbose* drafts and *ad-nauseam* oral arguments.

- These steps would not only ensure speedy justice and reduce case pendency in this Court, but also help the Court to dispense quality justice. In a court, where litigants have to wait for 5-10 years for final hearing, we really don't have the luxury of hearing fancy and, many a times, irrelevant arguments for hours and days on end. We have to prioritize and efficiently use our resources. If this court is to be truly a court of the masses – and not court of a fortunate few – the era of *never-ending* oral arguments and *verbose* pleadings has to go.

LIST OF DATES

1596: England	Criticism of legal writing is nothing new. In 1596, an English Chancellor decided to make an example of a particularly prolix document filed in his court. The chancellor had a hole cut through the center of the document and then ordered the person who wrote it to have his head stuffed through the hole, and he was then led around to be exhibited to all those attending court at Westminster Hall.
1970s: Western Legal Systems	Legal writing has long remained a subject of jokes and ridicule, but a reform movement started in the West in 1970s. The movement toward plain legal language is changing the legal profession: ➢ Court rules, regulations etc. have been rewritten to make them easier for lawyers and judges to use. ➢ Statutes, rules, regulations, communications, contracts, etc. are drafted in Plain English, easier to understand and act upon. ➢ Diligent committees of experts are rewriting packaged jury instructions to help make legal doctrines understandable to the jurors who must apply them. ➢ Law schools are now teaching plain language style in their legal writing courses. ➢ Practicing lawyers have become eager students in continuing legal education courses that teach clear writing.

1970 to present: INDIA	In the past few decades, litigation has increased many-fold in our country. Owing to complexity, our legal system has long remained out of the reach of millions of Indians. Our systemic deficiencies are the biggest violator of the fundamental rights of our people by denying *Access to Justice* to them.
15.01.2016	Speech of the Hon'ble Minister of Law and Justice on *"Making India: Role of Empowering Citizens with Legal Awareness"* delivered at Kochi on 15.01.2016, is annexed as **Annexure: P-1 (pages 15 to 19).**
04.06.2020	Representation sent to Respondents. Copy annexed as **Annexure: P-2 (pages 20 to 23).**
16.08.2020	During drafting of this petition, I downloaded some pages and documents from the internet. Since these were undated, I am mentioning them under the date "16.08.2020" – the date on which I searched for and downloaded them. ➢ An article from Plain English Campaign, titled, *"Drafting in Plain English"* is annexed as **Annexure: P-3 (pages 24 to 28).** ➢ Article titled, *"The Plain English Movement"* is annexed as **Annexure: P-4 (pages 29 to 33).**
19.08.2020	This PIL e-filed before this Hon'ble Court.

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(Under Article 32 of the Constitution of India)
PUBLIC INTEREST LITIGATION

IN THE MATTER OF:

DR. SUBHASH VIJAYRAN (ADVOCATE)

Aged around 38 years, son of Smt. Rampyari & Sh. Jaipal, Occupation: Advocate [BCD Enrollment No. D/6633/2019],
H.No-105, Village Nithari, P.O. Sultanpuri, New Delhi 110086
E-mail: drsubhashvijayran@gmail.com
Mobiles: 8920086150, 8285711205

…PETITIONER

VERSUS

1. **UNION OF INDIA,**
   Through its Secretary, Ministry of Law & Justice,
   R.No. 405-A, A Wing, 4th Floor,
   Shastri Bhawan, New Delhi- 110001
   Ph: 011 – 23384617, 23387553; E-mail: gn.raju@nic.in

2. **BAR COUNCIL OF INDIA**,
   Through its Chairman,
   21, Rouse Avenue Institutional Area,
   Near Bal Bhawan, New Delhi- 110002
   E-mail: info@barcouncilofindia.org, manankumarmishra@gmail.com
   Ph: 011- 49225000, FAX: 011-49225011

3. **SUPREME COURT OF INDIA**,
   Through its Secretary General, Tilak Marg, New Delhi-110002
   Ph: 011-23388922-24, 23388942; FAX: 011-23381508, 23381584
   E-mail: supremecourt@nic.in

… RESPONDENTS

FUNDAMENTAL RIGHTS VIOLATED:

ARTICLES 14 & 21 OF THE CONSTITUTION OF INDIA

To

Hon'ble The Chief Justice of India and his Associate Justices of The Supreme Court of India. The Writ Petition of the Petitioner above-named **MOST RESPECTFULLY SHOWETH:**

1. This is a Writ Petition [PIL] under Article 32 r/w Articles 14, 21 & 39A of the Constitution of India, praying for writs/ orders/ directions facilitating *Access to Justice* by the common man by use of Plain Language and by placing page limit on pleadings and time limit on oral arguments before this Hon'ble Court.

2. **Antecedents of the Petitioner & Statements/ Declarations:**

   A. I am an Advocate by profession enrolled with Bar Council of Delhi. My details are:

      i. Bar Council of Delhi Enrollment No.: D/6633/2019
      ii. PAN No:
      iii. Aadhar No:
      iv. Voter I.D. Card No:
      v. Driving License No:
      vi. Passport No:
      vii. Annual Income:

   B. I am filing this petition under Article 32 of the Constitution of India as Public Interest Litigation in the interest of general public and have no personal interest in the same.

C. I am filing this petition on my own and not at the instance of someone else. The litigation costs including travelling expenses are being borne by me.

D. I have not filed a similar matter seeking the same relief before this court or any other court of law.

E. I give my consent for the matter to be taken up through video-conferencing mode. I shall prefer to link to the Hon'ble Bench by video-conferencing through my own desktop/ laptop/ mobile phone. In case of any technical glitch in Video-Conferencing, I consent for teleconferencing by WhatsApp Audio or Video call on any of my numbers i.e. 8920086150 or 8285711205.

3. **FACTS CONSTITUTING THE CAUSE OF ACTION:**

A. The writing of most Lawyers is: (1) wordy, (2) unclear, (3) pompous and (4) dull. We use eight words to say what can be said in two. We use arcane phrases to express commonplace ideas. Seeking to be precise, we become redundant. Seeking to be cautious, we become verbose. Our writing is teemed with legal jargon & legalese. And the story goes on.

B. For whom are the Constitution, Law and Legal System for? For the lawyers? Or the judges? Or – most important, but often neglected – *The Common Man.*

C. Yet, it is the common man who is most ignorant of the system – in fact quite wary of it. Why? Because he neither understands the system nor the laws. Everything is so much complicated and confusing. The way laws are enacted, practiced and administered in our country violates the fundamental rights of the masses by denying

them – *Access to Justice*. 'Speedy Justice' and 'Legal Awareness' are the two, out of the many, facets of *Access to Justice*.

SIMPLIFY THINGS – USE PLAIN LANGUAGE

D. ***The Legislature & Executive:*** The legislature should enact precise and unambiguous laws, and as far as possible, in plain language. A guide in Plain English and in vernacular of the laws of general public interest should be issued by the Government – explaining the law and its application – in easy to understand language. Further, all rules, regulations, notifications, communications etc., drafted and issued by all branches of the Government – that are of general public interest – should be in Plain Language. Here, I will like to appreciate the good work that the Department of Justice is already doing in spreading legal literacy among the masses.

E. ***The Bar Council of India:*** The Bar Council of India should introduce a mandatory subject of *"Legal Writing in Plain English"* in the 3 year and 5 year LL.B. courses – where law students are taught to draft precise and concise legal documents in Plain English – so as to enable our legal manpower in providing *Access to Justice* to the masses.

F. ***The Supreme Court of India:*** It is time the standard of pleadings filed in the Supreme Court is mandated to be of the highest quality. Lawyers need to put in extra efforts to make their pleadings clear, crisp, concise & accurate. A

page limit for pleadings and time limit for oral arguments should be imposed. Too much of precious time, energy and resources of both the Court as well as lawyers/ litigants are wasted due to badly written & verbose drafts and *ad-nauseam* oral arguments.

G. Speech of Hon'ble Minister of Law and Justice on *"Making India: Role of Empowering Citizens with Legal Awareness"* delivered at Kochi, on 15.01.2016 is annexed as **Annexure: P-1 (pages 15 to 19).**

H. On 04.06.2020, I sent a representation to the Respondents. Its copy is annexed as **Annexure: P-2 (pages 20 to 23).**

I. An article from Plain English Campaign, titled, *"Drafting in Plain English"* is annexed as **Annexure: P-3 (pages 24 to 28).**

J. Article titled, *"The Plain English Movement"* is annexed as **Annexure: P-4 (pages 29 to 33).**

4. **Source of information:**

A. (1) My personal experience as an Indian Lawyer (2) Going through online resources on various legal systems (3) You Tube videos, on-line news items (4) Website of this Hon'ble Court.

B. I have personally verified the information by cross-checking the information on the websites of respective

courts and also cross-verified by the information from multiple independent sources.

5. **Details of remedies exhausted:** I have sent a representation dated 04.06.2020, via e-mail to the Respondents. The nature of issues in this PIL is such that they would require directions by this court. As such there are no statutory and/or other remedies left to be availed.

6. **Nature and extent of injury caused or likely to be caused to the public:** The common man is ignorant and wary of our legal system. His fundamental rights are infringed by its complications and delayed delivery of justice.

7. **Nature and extent of personal interest, if any, of the petitioners:** I have no personal interest except than to uphold the rule of law.

8. **Details regarding any civil, criminal or revenue litigation, involving the petitioner or any of the petitioners, which has or could have a legal nexus with the issue(s) involved in the Public Interest Litigation:** No such litigation, past or present.

9. **Whether issue was raised earlier; if so, what result:**

   A. I declare that the issues raised in this petition were neither dealt with nor decided by a Court of law either at my instance or, to the best of my knowledge, at the instance of any other person.

B. I declare that in no P.I.L., any cost has been ever been awarded to or imposed upon me, and no appreciation or stricture has ever been passed for/against me.

10. **Whether concerned Government Authority was moved for relief(s) sought in the petition and if so, with what result:** I have sent a representation dated 04.06.2020, via e-mail to the Respondents over the issues raised in this petition. The nature of issues in this petition is such that they would require directions by this court. I declare that I have availed all statutory and other remedies. No reply has been received as of date from the respondents.

11. **GROUNDS:**

A. As held in catena of judgments of this Hon'ble Court, *Access to Justice* is a fundamental right being a facet of Article 14 read with Article 21 & 39A of the Constitution of India. 'Speedy Justice' and 'Legal Literacy/ Awareness' are facets of *Access to Justice*.

[Refer Judgment dated 19.07.2016 in Transfer Petition (C) No. 1343 of 2008 (5 Judges Constitution Bench) in *Anita Khushwa v. Pushpa Sadan for detailed discussion on* Access to Justice as fundamental right and compilation of Case Laws on the subject].

B. For the population to access justice, they must understand their rights and the means for claiming them. For most people, the laws and the formal justice system are alien institutions they fear or do not understand. Legal awareness helps counter this misunderstanding and promote *Access to Justice*. Messages should be in plain language for easy understanding of the citizens.

C. **Access to Justice: United Nations & the Rule of Law:**

"In strengthening access to justice, the UN system works with national partners to develop national strategic plans and programmes for justice reform and service delivery. UN entities support Member States in strengthening justice in areas including: monitoring and evaluation; empowering the poor and marginalized to seek response and remedies for injustice; ***improving legal protection, legal awareness, and legal aid****; civil society and parliamentary oversight; addressing challenges in the justice sector such as police brutality, inhumane prison conditions, lengthy pre-trial detention, and impunity for perpetrators of sexual and gender-based violence and other serious conflict-related crimes; and strengthening linkages between formal and informal structures."*

https://www.un.org/ruleoflaw/thematic-areas/access-to-justice-and-rule-of-law-institutions/access-to-justice/

D. **Practice Note dated 09.03.2004: United Nations Development Programme (UNDP)**: *"Legal awareness is the foundation for fighting injustice. The poor and other disadvantaged people cannot seek remedies for injustice when they do not know what their rights and entitlements are under the law. Information on remedies for injustice must be intelligible to the public and knowledge provided to them must serve their practical purposes."*

https://www.undp.org/content/dam/aplaws/publication/en/publications/democratic-governance/dg-publications-for-website/access-to-justice-practice-note/Justice_PN_En.pdf

E. Because of the complicated nature of our legal system, there is a vast disparity between the *haves* and *haves not* vis-à-vis *Access to Justice*. The fortunate few are able to wrestle their way through the matrix of our legal system and get an early hearing – (where they even argue for hours and days on end) – while the majority has to wait for decades for their matter to be finally heard and decided by courts of law.

F. Plain language is designed to ensure that the reader understands it as quickly, easily, and completely as possible. It avoids verbose, convoluted language and jargon. Using plain language in communications ultimately improves efficiency, because there is less ambiguity for the readers, and less time is taken for clarifications and explanations. This is a step toward *Access to Justice*.

G. Using plain Language does not mean writing everything in the style of a tabloid newspaper. It means writing documents in a way that is appropriate for the audience. If a law affects people, those people should have a chance of understanding it. The language used in a law should depend on who the law affects; taking account of how familiar they are with the subject.

H. In many countries, laws mandate that public agencies use plain language to increase access to programs and services. The '*United Nations Convention on the Rights of Persons with Disabilities'* includes plain language as

one of the "modes, means and formats of communication".

I. Though not all laws are of interest to the general public, yet there are statutory areas that are of intense interest to the people. Examples include criminal law, and laws relating to family, divorce, property, inheritance, employment, civil rights, landlord-tenant relations, consumer protection etc. Surely, ordinary citizens ought to be able to understand the rights conferred and obligations imposed by such statutes for meaningful *Access to Justice.*

J. It is a trite law – *"ignorance of law is no excuse"*. But if we don't express these laws of general public interest in plain and easy to understand language, how can we expect ordinary citizens to obey them?

K. It is, thus, imperative that guidebooks/handbooks on the laws of general public interest and mechanisms of vindication of rights and redressal of grievances under the law be issued by the Department of Justice both in Plain English and in vernacular. On the same lines, all rules, regulations, notifications, communications etc., drafted and issued by all branches of Government – that are of general interest to public – should be in Plain Language.

L. For adequate training of legal manpower, it is imperative that the subject of *"Legal Writing in Plain English"* be taught as a mandatory subject in 3 year and 5 year LL.B. courses in Indian Law Schools. The trained law graduates

graduating from our law schools would, thus, help in providing *Access to Justice* to the masses.

M. In this Hon'ble Court, where litigants wait for 5-10 years for final hearing of their cases, we really don't have the luxury of hearing fancy, and many a times, irrelevant arguments for hours and days on end. Too much of precious time, energy and resources of both the Court as well as lawyers/ litigants are wasted due to badly written & *verbose* drafts and *ad-nauseam* oral arguments. We have to prioritize and efficiently use our resources. If this court is to be truly a court of the masses – and not court of a fortunate few – the era of *never-ending* oral arguments and *verbose* pleadings has to go.

N. It is time the standard of pleadings filed in this court is mandated to be of the highest quality. Lawyers need to put in extra efforts & multiple revisions to make their pleadings clear, crisp, concise & accurate. This would remove considerable burden off the judges, who otherwise have to struggle their way through a jungle of verbosity. A page limit for pleadings and time limit for oral arguments should be imposed. Another step towards *Access to Justice.*

O. As a humble suggestion vis-à-vis pleadings, a 50-60 page limit for pleadings of the parties (excluding annexures/ exhibits etc.) and 20-30 page limit for replies to the pleadings of opposite parties may be imposed. These limits should only be relaxed in exceptional cases of

constitutional or public importance, involving lengthy arguments. Also permission should be granted to the parties to highlight the relevant portions of their annexures/ exhibits by coloured pens, for the convenience of the court.

P. As a humble suggestion vis-à-vis oral arguments – for each side – time limits of 5-10 minutes for applications, 20 minutes for short cases, 30 minutes for cases of moderate length, and 40-60 minutes for long cases may be imposed. Only in exceptional cases of constitutional and public importance, should the time limit of oral arguments be relaxed beyond one hour. These steps would not only ensure speedy justice and reduce case pendency in this Hon'ble Court, but also help the Court to dispense quality justice.

12. **Grounds for interim relief:** No interim relief is prayed.

13. **MAIN PRAYER:** On the basis of the above premises, it is most humbly and respectfully prayed that this Hon'ble Court may graciously be pleased to issue a writ of mandamus or any other appropriate writ or order or direction as follows:

A. Direct Department of Justice to issue guides/handbooks in Plain English and in vernacular – easily understandable by layman – of Laws of general public interest – explaining the law and procedure for vindication of rights and redressal of grievances under the law.

B. Direct use of Plain Language – easily understandable by the layman – in drafting and issuing of all government

rules, regulations, notifications, communications etc., which are of interest to the general public.

C. Direct Bar Council of India to introduce a mandatory subject of *"Legal Writing in Plain English"* in 3 year and 5 year LL.B. courses in all Law Schools in India and,

D. Direct imposition of page limit for pleadings and time limit for oral arguments in this Hon'ble Court in a manner this Hon'ble Court may deem appropriate.

E. Pass any other or further order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case in the interest of justice and to meet the ends of justice.

14.**Interim relief, if any:** No interim relief is prayed.

AND FOR THIS ACT OF KINDNESS, I, YOUR HUMBLE PETITIONER, AS IN DUTY BOUND SHALL EVER PRAY

Place: New Delhi
Drafted on: 18.08.2020
E-filed on: 19.08.2020

DR. SUBHASH VIJAYRAN
(PETITIONER-IN-PERSON)

IN THE SUPREME COURT OF INDIA

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PUBLIC INTEREST LITIGATION

IN THE MATTER OF:

DR. SUBHASH VIJAYRAN ... PETITIONER

VERSUS

UNION OF INDIA & OTHERS … RESPONDENTS

AFFIDAVIT

I, Dr. Subhash Vijayran son of Smt. Rampyari & Sh. Jaipal Singh, aged around 38 years, resident of H.No-105, Village Nithari, P.O. Sultanpuri, New Delhi-110086, do hereby solemnly affirm and declare as under:

1. I am a citizen of India and Petitioner in the above matter and as such I am fully conversant with the facts and circumstances of the case and competent to swear this affidavit.
2. I have drafted this Writ Petition [PIL] along with the accompanying I.A.(s) and I have gone through its contents: Synopsis and List of Dates (pages B to E), Main WPC with Prayer (Para-1 to 14, pages 1 to 13), I.A.(s) (page-34 to 35) and I state that the contents of the same are true and correct to the best of my knowledge and belief.
3. There is no personal gain, private motive or oblique reason in filing the Public Interest Litigation.
4. The Annexures annexed with this petition are true and correct copies of the originals.
5. I usually sign in Hindi language, though I am well conversant with English and have myself drafted this application and gone through the same and I am and well conversant its contents and have understood them.

DEPONENT

VERIFICATION: Verified at New Delhi on 18.08.2020 that the contents of the affidavit is true and correct to the best of my knowledge and belief and no part thereof is false and no material has been concealed there from.

DEPONENT

Annexure: P-1

Date: 15.01.2016

SPEECH OF HON'BLE MINISTER OF LAW AND JUSTICE ON "MAKING INDIA: ROLE OF EMPOWERING CITIZENS WITH LEGAL AWARENESS" ON 15TH JANUARY, 2016 AT KOCHI

Ladies and gentlemen,

I deem it a great honour to be invited to give a talk on 'Making India: Role of Empowering Citizens with Legal Awareness' on the occasion of inauguration of 'Justice V.R. Krishna Iyer International Mission for Social Justice'. I wish and hope that this will leave a mark as an important milestone in spreading the ideals and aspirations of the departed great Jurist and usher our Nation into a new era. I thank the organisers for giving me this opportunity.

Our Constitution provides for an effective and independent judicial system. Right to 'access to justice' has been recognized as one of the fundamental rights. Justice delivery or administration of justice is one of the paramount functions of the State. We cannot be said to fulfill our social obligations unless we are able to promote justice on the basis of equal opportunity and provide legal aid to all citizens of the country.

To bring justice closer to the underprivileged segments of the society, a number of innovative measures including providing legal aid to poor have evolved with time. Article 39A of our Constitution provides that the State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. In a number of judgments, Supreme Court has also emphasized the necessity for providing legal aid to the poor.

The language of Article 39A is couched in mandatory terms. This is made more than clear by the use of the word "shall" - occurring twice in Article 39A. It need not be emphasized that good legal system

should be able to deliver justice expeditiously on the basis of equal opportunity and provide free legal aid to ensure that opportunities for securing justice are not denied to any citizen by reasons of economic or other disabilities. The Supreme Court has emphasized, while interpreting Article 21 in the light of Article 39A, that legal assistance to a poor or indigent accused who is arrested with jeopardy of his life or personal liberty, is a constitutional imperative mandate not only by Article 39A but also by Articles 14 and 21. In the absence of legal assistance, injustice may result and every act of injustice corrodes the foundations of democracy.

It was in this context that the Parliament enacted the Legal Service Authorities Act, 1987. While on one side, the Act gives statutory recognition to the resolution of disputes by compromise and settlement by the Lok Adalats, on the other, it provides for free and competent legal services to the weaker sections of the society. The concept of Lok Adalat has been gathered from system of Panchayats, which has root in the history, and culture of this country and the provisions of the Act are meant to supplement the court system. You are aware that National Legal Services authority (NALSA) was constituted in the year 1995 under section 3 of the Legal Services Authorities Act, 1987.

Apart from making legal aid a constitutional right and extending its scope to legal literacy and pre-trial processes, the contribution of the judiciary in access jurisprudence lies in giving a status and credibility to public interest litigation unprecedented in the judicial history of the so-called developed countries of the world. You are aware of the developments where access has been enabled on matters involving public interest even to total strangers to the dispute and the expanded doctrine of standi by which, a civil rights organization has been allowed to maintain a petition for the rights of a class of the society. Another development facilitating the PIL is the acceptance of what are called ‘letter petitions’ where any citizen, without seeking the help of lawyers, can now activate the court by writing a letter, which the court treats as a writ petition in appropriate cases involving violations of fundamental rights.

The Constitution has made provision for promoting the aspirations and protecting the rights of different sections and classes of the Indian

people. In addressing themselves to the delivery of justice the Courts must necessarily pay heed to the ideals and objectives enshrined in the Constitution and to the broad provisions made in relation to those sections and classes. Nevertheless, the Court remains the guarantor of justice to all citizens, in accordance with their respective rights and obligations. In assisting the Courts in their great purpose, the legal profession holds a role of considerable significance. It is a role assigned to the legal profession by history and by the nature of its functions. In order to make our laws more effective, the 'Bench' and the 'Bar' must work together with an intuition to work for the objectives of our Constitution. Our Constitution is not to be construed as a mere law, but as the machinery by which laws are made. It is a living and organic thing which, of all instruments, has the greatest claim to be construed broadly and liberally.

You may recall, our Hon'ble Prime Minister Shri Narendra Modiji has, in his speech on National Legal Services Day, emphasized on 'Sabka Nyaya' along with 'Sabka Saath, Sabka Vikas'. I, therefore, feel apt at this moment to point out various concerns and barriers to access to justice. High cost of litigation, the difference in capacity of the individual litigant to extract from the legal system, lack of adequate legal awareness, cumbersome procedures of litigation and quality of legal aid services available to poor and marginalized are some issues bothering all of us. Though the legal aid camps, legal aid clinics and legal awareness programmes are being conducted regularly, we have still a long way to go in creating awareness on legal rights among public in general and actual ways of getting redressal through the legal system in particular.

An effective judicial system requires not only that just results be reached but that they be reached swiftly. Concerns have also been raised on quality of legal services available to the poor and marginalized largely due to reluctance on the part of experienced and senior advocates to volunteer for the legal aid services. You are aware that Lok Adalat Programme is being run on a massive scale across the country, providing a low cost alternative to a regular court based adjudication mechanism especially in areas like family disputes, contractual disputes, motor accident claims, disputes with neighbors. Despite all these, major challenges remain to achieve the objectives

enshrined in our Constitution, and we must debate and come out with creative solutions in this regard.

Friends, Government is committed to undertake the role assigned to it. The Justice Delivery and Judicial Reform project has been undertaken with the strategy to adopt a coordinated approach to judicial reforms by taking action in the areas of Improvement in judicial infrastructure, increase in manpower of judiciary, computerisation of courts through e-courts project and legislative and policy initiatives taken already and proposed. On a successful completion of eCourts phase-I project; Government has embarked upon eCourts Phase-II project with a renewed and vigorous emphasis on automation of workflow management and multi-platform services to the litigants. The public access to National Judicial Data Grid has made possible the better case management by the litigants and effective monitoring by the respective High Courts over its subordinate courts.

The Government has also partnered with the UNDP to commence a decade long Access to Justice for Marginalized People Project, which is being implemented in eight States of India with the highest proportion of people living in poverty. Our focus is also on the North East and Jammu and Kashmir. The aim of these projects is to strengthen legal aid and legal empowerment for the marginalized. We have already imparted legal literacy to about 20 lakh people in 62 districts. Simultaneously, our Government's aim is to transform the Government into an efficient and responsible litigant. On the recognition that Government and its various agencies are the pre-dominant litigants in courts and Tribunals in the country; a National Litigation Policy is under our consideration for reducing avoidable and unnecessary litigation involving the Government. Efforts are also being made in other areas where simplification of the existing laws and repeal of the obsolete laws shall be able to contribute to reduction in litigation. Some of the areas have already been addressed like amendments in Negotiable Instruments Act.

In the last fifty years, we have witnessed significant changes as well as major challenges together as a nation. With the advent of socio-economic revolutions and transformations on a global level, especially the steep rise of science and technology, we observed that

the way the world came to work today is starkly contrasted from when we began our tryst with destiny. Law also cannot afford to remain static. Following this socio-economic revolution, new jurisdictions in the law are bound to come into existence. New value systems will take birth. New social and economic goals will begin to appear on the horizon, calling for new levels of capacity and equipment in the institutions of the country. The judge and the lawyer will be caught up in the main stream of that great change. The judicial administration and the legal profession must prepare themselves not only to effectively fulfil their responsibilities of today, but also to meet the challenges of tomorrow.

On this occasion, may I appeal to young legal brethren to appreciate the importance of learning best legal innovative skills to prove themselves to ever growing legal challenges? They must maintain the dignity, decency and decorum of this pro-bono public service professed by Mahatma Gandhi, Lenin, Lincoln and other galaxy of great men.

I hope and wish 'Justice V.R. Krishna Iyer International Mission for Social Justice' will stimulate innovative ideas to boost morale of the advocates to play a pivotal role as a 'social engineer.' With these words, I conclude and once again thank the organizers and all present here for giving me this opportunity.

Thank you.

Source: http://legalaffairs.gov.in/sites/default/files/2016-01-15%20-%20LEGAL%20AWARENESS.pdf

And also at

http://lawmin.gov.in/sites/default/files/2016-01-15%20-%20LEGAL%20AWARENESS.pdf

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Annexure: P-2

Sent on 04.06.2020

To,

1. Union of India through its Secretary,
   Ministry of Law & Justice, Room No. 405-A,
   A Wing, 4th Floor, Shastri Bhawan, New Delhi-110001
   Ph: 011 – 23384617, 23387553
   E-mail: gn.raju@nic.in

2. Bar Council of India through its Chairman,
   21, Rouse Avenue Institutional Area,
   Near Bal Bhavan, New Delhi-110002
   E-mail: info@barcouncilofindia.org,
   manankumarmishra@gmail.com
   Ph: 011- 49225000, FAX: 011-49225011

3. Supreme Court of India (On Administrative Side),
   Through its Secretary General,
   Tilak Marg, New Delhi-110002
   Ph: 011-23388922-24, 23388942
   FAX: 011-23381508, 23381584
   E-mail: supremecourt@nic.in

SUBJECT: REPRESENTATION REGARDING USE OF PLAIN LANGUAGE IN LAW

BACKGROUND:

1. We lawyers do not write Plain English. We use eight words to say what can be said in two. We use arcane phrases to express commonplace ideas. Seeking to be precise, we become redundant. Seeking to be cautious, we become verbose. Our writings are teemed with legal jargon & legalese. Our sentence twist on, phrase within clause within clause, glazing the eyes and numbing the minds of our readers. The result is a writing

style that has four outstanding characteristics. It is: (1) wordy, (2) unclear, (3) pompous and (4) dull.

2. Legal writing has long remained a subject of jokes and ridicule. A reform movement for using Plain English started in the West in the 1970s. This movement is now changing the landscape of their legal profession. Most Law Schools in the West now have a separate course of Legal Writing in which they teach students to write in Plain English. Practicing Lawyers are taking Continuing Legal Education Courses that teach them to write clear and precise writings. Laws and Rules are being re-written in Plain English.

3. For whom are the laws enacted? For whom are the Constitution, the Laws and the legal system in place? Are they for the lawyers? Or for the Judges? Or are they for the most important, though often neglected part of the system – The common man.

4. The legislature enact laws, lawyers practice it, and judges write judgments based on the law – not for their self promotion, but to address needs of their people. It is our people who are most affected by our legal system – yet they are the ones who are the most ignorant of it – in fact quite wary of it.

5. Why? Because they neither understand the system nor the laws that govern it. Everything is so much complicated. The way law is enacted, practiced and implemented in our country directly violates the fundamental rights of the common man.

6. All four – the legislature, executive, lawyers and the judges – have their role to play in solving this problem.

THE SOLUTION:

7. ***The Legislature & Executive:*** The legislature should enact concise and precise laws that are in plain language – easily understood by the layman. Subsequent to enactment, a Guide in English and vernacular should be issued by The Ministry of Law and Justice explaining the Act in plain language. To start with: Guides in English & Hindi language of The Indian Penal

Code, Criminal Procedure Code, Civil Procedure Code, Evidence Act, and other important Civil and Criminal Laws could be issued.

8. ***The Bar Council of India:*** Similar to the West, the Bar Council of India should introduce a mandatory course of Legal writing during LL.B.; where law students are taught to draft precise and concise legal documents in Plain English.

9. ***The Supreme Court of India:*** It's time the standard of drafting of documents filed, at least in the Supreme Court, if not in other Courts, is mandated to be of the highest quality. It's time the Court issues practice directions regarding drafting of documents to be filed in the Supreme Court. A page limit for pleadings and time limit for oral arguments would be a welcome step. Too much of precious time, energy and resources of both the Court as well as lawyers and litigants are wasted due to badly written and verbose drafts and never-ending oral arguments. This would not only ensure speedy justice and reduce case pendency, but also help the Court to dispense quality justice. The initiative taken by the Court in making available its judgments in vernacular is highly appreciated.

10. ***Prayer:*** It is therefore humbly prayed that appropriate steps as suggested above or other steps that your worthy office may deem fit and proper be taken to address the issue at hand.

Thanking you,

Yours sincerely,

Sd/- 04.06.2020

DR. SUBHASH VIJAYRAN (Advocate)
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REPRESENTATION REGARDING USE OF PLAIN LANGUAGE IN LAW
1 message

Dr. Subhash Vijayran <drsubhashvijayran@gmail.com> Thu, Jun 4, 2020 at 1:46 PM
To: gn.raju@nic.in, info@barcouncilofindia.org, manankumarmishra@gmail.com, supremecourt@nic.in

To,

1. Union of India through its Secretary,
Ministry of Law & Justice, Room No. 405-A,
A Wing, 4th Floor, Shastri Bhawan, New Delhi-110001
Ph: 011 – 23384617, 23387553
E-mail: gn.raju@nic.in

2. Bar Council of India through its Chairman,
21, Rouse Avenue Institutional Area,
Near Bal Bhavan, New Delhi-110002
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Tilak Marg, New Delhi-110002
Ph: 011-23388922-24, 23388942
FAX: 011-23381508, 23381584
E-mail: supremecourt@nic.in

Sir/Madam,

Please find annexed a Representation (4 page PDF file) regarding the use of Plain Language in Law.

Thanking you,
Yours sincerely,

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Legal Representation - Use of Plain English in Law.pdf
142K

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Annexure: P-3

Downloaded on 16.08.2020

DRAFTING IN PLAIN ENGLISH

What is plain English?

Plain English is presenting information so that in a single reading, the intended audience can read, understand and act upon it. Plain English means writing with the audience in mind and presenting information clearly and accurately.

How do courts interpret laws?

Courts originally used a literal approach, meaning that the words in a law were interpreted exactly as they appeared, however ridiculous the effect. The legal system now more commonly uses a purposive approach, meaning the intended purpose of the law is taken into account. The legal rule *'noscitur a sociis'* (literally, a thing is known by its associates) means that laws should be interpreted in their intended context.

What does this mean for drafting in plain English?

The experience of courts shows that attempts to make Acts of Parliament totally comprehensive with no room for different interpretations have failed. Trying to cover every eventuality does not work, and is not necessary when courts use their discretion. The argument that clarity should be sacrificed for a document to be comprehensive does not stand up.

Why are laws written in legalese?

- Laws were originally written in Latin or French, and many of the common terms are still being used.

- Drafters were once paid by the word, rather than by the job.
- Drafters prefer to use tried and tested clauses rather than risk using alternative language.
- Many laws were originally written by humble court clerks rather than skilled lawyers.

What are the main features of legalese and why do they cause problems?

Long sentences, often trying to cover several points

This may be because of a tradition of making each part of a bill or legal document only one sentence long. Experience shows that shorter sentences, each dealing with only one main point, are more effective. This does not have to mean using an over-simplified writing style, rather making a conscious effort to make each sentence serve one precise purpose.

Verbiage (using more words than are necessary)

As well as obscuring the message, this can be risky. Courts will usually assume that every word in an Act is there for a reason, and unnecessary words may be interpreted in a way that the writer had not intended.

Too many double negatives

If double negatives are used, the reader has to perform mental gymnastics to understand the meaning of a sentence.

Being overly formal

This often includes using unfamiliar words where common ones would do just as well, although there is a minority of legal expressions, called *'terms of art'*, that have a precise meaning which cannot be achieved in plain English. A reader confronted with an overly formal, unfamiliar term will usually try to work out the difference between that term and the everyday alternative. When there is no difference, the reader will be on a fruitless task,

which will harm their understanding of the text. If you have to use such expressions, it is best to provide the reader with a glossary explaining these terms at the beginning of the document.

What do other countries say?

United States

The National Conference of Commissioners on Uniform State Laws says: 'The essentials of good bill drafting are accuracy, brevity, clarity and simplicity. Choose words that are plain and commonly understood. Use language that conveys the intended meaning to every reader. Omit unnecessary words.'

Canada

The Uniform Law Conference's drafting conventions say: 'An Act should be written simply, clearly and concisely, with the required degree of precision, and as much as possible in ordinary language'.

European Union

EU guidelines say that 'the wording of (an) Act should be clear, simple, concise and unambiguous; unnecessary abbreviations, "community jargon" and excessively long sentences should be avoided'.

What are the arguments against plain English drafting, and are they valid?

'Plain English is simple, restrictive language, and takes away the skills of the drafter.'

Drafting a document in plain English takes a lot of skill. Communicating your points clearly so that the reader can accurately interpret your meaning is the most important task in writing. The draftsman's job is to communicate precise ideas, not produce a work of literature.

'There is no need to make legislation easy to read. It's not meant to be the same as a newspaper. People who want to read laws should educate themselves.'

Using plain English does not mean writing everything in the style of a tabloid newspaper. It means writing documents in a way that is appropriate for the audience. If a law affects people (for example, an employment law affecting small business), those people should have a fighting chance of understanding it. The language used in a law should depend on who the law affects; taking account of how familiar they are with the subject. Saying it is impossible to produce laws that everybody understands is no reason not to make it understandable to as many people as possible. Plain English is not dumbing down.

'Plain English is not legally accurate or precise.'

This myth has been steadily and repeatedly shattered. In the United States, 44 of the 50 states have some form of requirement for insurance contracts to be written in plain English. Contrary to lawyers' expectations, there has never been a case where a contract has been declared less legally valid through being written in plain English.

Attempts to make text legally accurate through excessive (and impenetrable) detail are often flawed. For example, trying to define an organization’s powers through a comprehensive list will inevitably lead to problems. Eventually a situation that the drafter had not foreseen will arise. A perfect example is when new technology arises, such as when courts have to decide if a law applying to a posted letter also applies to an e-mail. Courts can use their discretion to settle such disputes, taking account of the law's intended purpose as well as its exact content.

In any case, this argument is based on the idea that existing legalese is perfectly accurate. If this were true, there would be far less need for lawyers to debate conflicting interpretations of a law or document. Drafters should aim for clarity and precision rather than choosing between the two.

'Plain-English drafting is too expensive and time-consuming.'

Our experience shows that rewriting legalese into plain English can take time, but this can be avoided by using clearer drafting in the first place. Even if the drafting takes longer, the new law or document will take less time to understand, and there will be less need for its meaning to be debated and explained. Studies in the Australian state of Victoria, which uses plain-English drafting, show that lawyers can understand and use a plain-English version of an act in between a half and a third of the time it takes with the traditional version.

What use would a purpose clause serve?

Given that English courts take into account the intention behind an Act, the purpose clause would be an extremely useful way for the drafter to give guidance for future disputes. The purpose clause would give a clear explanation of what a law should achieve, overriding any interpretation of its contents that appeared to contradict this aim. The purpose clause would also help the drafter, as a writer who starts with a clear outline of his message is far more likely to write that message clearly.

Is plain English drafting really possible?

Realistically, the idea of producing legal documents that everyone can understand on a single reading is unlikely, but not impossible. The law is the most important example of how words affect people's lives. If we cannot understand our rights, we have no rights.

Source: http://www.plainenglish.co.uk/campaigning/past-campaigns/legal/drafting-in-plain-english.html

Annexure: P-4

Downloaded on 16.08.2020

THE PLAIN ENGLISH MOVEMENT

JUDGE: The charge here is theft of frozen chickens. Are you the defendant?

DEFENDANT: No, sir, I'm the guy who stole the chickens. (Thanks to Robert Patterson, esq., of Santa Barbara)

The premise behind the plain English movement is that legal documents ought to be plainer – and more comprehensible – to the average person. It's probably fair to say that the modern movement began in the 1970s. But people have objected to the obscurity of lawyer's language for many centuries.

The first major struggle in England was to get legal texts into English, the language of the people, rather than French or Latin. The problem largely arose when William, Duke of Normandy, defeated the Anglo-Saxon King Harold at the Battle of Hastings in 1066 and became King of England. William and his followers spoke a type of French. And their legal documents were mainly in Latin, and later also in French. English, in contrast, was the lower-class language of a subjugated people. The vast majority of the English people had always been English speakers. Not surprisingly, by 1422, the new King, Henry VI, was a native English speaker. Yet French did not die out among English lawyers. *Au contraire*, it thrived.

Unhappiness about this state of affairs led to what might be considered the first plain English law: the Statute of Pleading, enacted in 1362. The law, written in French, recited that French was much unknown in the realm; it therefore required that all pleas be "*pleaded, shewed, defended, answered, debated,* and *judged* in the English Tongue."

An even sterner critic was Jeremy Bentham, who excoriated the language of lawyers as *"excrementitious matter"* and *"literary garbage."*

Bentham advocated codification, in which all of the law would be systematically divided into codes on various topics. Individual parts of each code should be small enough for people to remember, and written clearly enough for citizens to know the "exact idea of the will of the legislator." Bentham argued that plain legal language is essential to proper governance. "Until, therefore, the nomenclature and language of law shall be improved, the great end of good government cannot be fully attained."

At about the same time, the newly independent American states were also engaged in trying to achieve the great end of good government. Some of the founding fathers were well aware of the problems with legal language. John Adams criticized English legal language and the "useless words" in the colonial charters. He hoped that "common sense in common language" would become fashionable. Likewise, Thomas Jefferson lambasted the traditional style of statutes, which from their verbosity, their endless tautologies, their involutions of case within case, and parenthesis within parenthesis, and their multiplied efforts at certainty by *saids* and *aforesaids*, by *ors* and by *ands*, to make them more plain, do really render them more perplexed and incomprehensible, not only to common readers, but to lawyers themselves.

Unfortunately, the revolutionary fervor of the early Americans did not extend to overthrowing the language of the law. They ultimately imitated the ponderous style of his Majesty's statutes, if not their substance. A modern plain English movement did not really arise until the 1970s. David Mellinkoff's book, *The Language of the Law*, pointed out the many absurdities of traditional legalese. On a more practical level, Richard Wydick's *Plain English for Lawyers* has been widely used to teach law students the art of legal writing. In fact, plain English principles have been incorporated into the writing curriculum of most law schools. The crusade to make legal language less convoluted and more accessible to average citizens has also resonated outside the academy.

In the United States, some of the earliest efforts to improve legal language directed at consumers were initiated by the Federal government, beginning rather modestly in the 1940s. In 1978 President Carter signed an executive order that required that Federal regulations be *"as simple and clear as possible."* Federal law now requires clear,

conspicuous, accurate, or understandable language in many types of consumer transactions, including the Truth in Lending Act, the Fair Credit Reporting Act, and the Magnuson-Moss Warranty Act. Egged on by the consumer movement, the states also responded. New York enacted America's first general plain language law in 1978, and several states have followed. Most states now require straightforward language in specific transactions, especially insurance policies.

After slowing during much of the 1980s, the movement has recently picked up steam. Some states are in the process of making their jury instructions more understandable, or have recently done so. The Securities and Exchange Commission has begun to require that the summary and certain other portions of prospectuses be in ordinary language. And the Clinton administration mandated in 1998 that federal regulations be written in plainer prose; in fact, it was part of their *"reinventing government"* initiative. Statutory drafters have not remained oblivious to these developments. American legislative drafting manuals now advocate the use of plain language principles. One such manual recommends avoiding elegant variation, as well as legalistic terms such as *such, said, aforesaid,* and *to wit*. It also favors the active voice over the passive. These are, of course, standard guidelines for clear writing.

The movement has also taken root in English-speaking countries outside of the United States. At about the time that Citibank released its promissory note, the Australian Sentry Life Insurance Company, responding to a survey of its customers, produced a plain language insurance policy. The United Kingdom has the Plain English Campaign, started by a Liverpool woman who was fed up with unintelligible government forms. She took hundreds of the offending documents, proceeded to Parliament Square, and publicly shredded the lot. Her Majesty's government seems to have been sufficiently embarrassed; it soon began systematic revision of its forms. In addition, in 1999 the English court system implemented new rules of civil procedure. They received a fair amount of press attention because they had abolishes some time-honored legal terms for modern equivalents. A *subpoena* is now a *witness summons*, an *in camera hearing* is now a *private hearing*, and a *writ* is now a *claim form*. Even the venerable term *plaintiff* has been replaced by *claimant*.

Anyone who pages through a book of statutes will realize that we still have a long way to go. A statute is not something that the average person can readily understand. In fact, requiring that all statutes be understandable to the lay public is almost surely an unrealistic goal. As the world around us becomes ever more complex, statutes inevitably are becoming longer, denser, and more specialized.

Arguably, many statutes – such as those relating to bankruptcy, civil procedure and evidence, corporations, public utilities, the structure of government, and the military – are not directed to the general public at all, but are rather addressed to a sub-community of experts. Few of these specialized subjects lend themselves to ready explanation to a lay audience. And often ordinary people may not care all that much, anyway.

Yet there are statutory areas that are of intense interest to the public. Examples include the criminal law, as well as laws relating to the family, divorce, community property, inheritance, employment, civil rights, landlord-tenant relations, and consumer protection. Surely ordinary citizens ought to be able to understand the rights conferred and obligations imposed by such statutes.

At the same time, it may be that the law cannot or should not be stated too plainly. Lawyers often argue that important nuances would be lost if the law were stated in plain English. In addition, legal language facilitates communication within the profession; it might be very time-consuming the try to explain the entire law in fully understandable language.

One solution has been proposed by Paul H. Robinson, Peter D. Greene, and Natasha B. Goldstein, in an article entitled, *Making Criminal Codes Functional: A Code of Conduct and a Code of Adjudication*, 86 J. Crim. L. & Criminology 304 (1996). They note that most criminal statutes have a dual audience: members of the public and adjudicators. They suggest that adjudicators can tolerate the complexity that is inherent in most current criminal codes, but that members of the public have a right to a criminal code that they can understand. In essence, there ought to be two criminal codes, one for the public and one for judges. The authors then proceed to offer a draft code of conduct that explains to the public, in plain English, what they can and cannot do, as well as a draft code of adjudication in legalese for judges and other professionals. The interesting thing about this proposal is that it recognizes quite explicitly

that legal language and ordinary English are, in a sense, two different languages. It suggests that perhaps the job of lawyers, who are essentially bilingual, is to translate legal language into ordinary speech. At the same time, I am somewhat reluctant to embrace the bilingual view, because it largely removes the pressure on the system to speak more clearly.

A consumer about to sign a lease or to purchase a refrigerator on credit should not have to pay a lawyer to explain what the legalese in the relevant documents means. I suppose that in the end, there are certain categories of legal documents – particularly those that affect the rights and obligations of ordinary consumers – that should stated as plainly as possible. On the other hand, it is far less of a problem if agreements between large multinational corporations which are all represented by lawyers are impenetrable to the average consumer, although even these agreements can often be drafted much more clearly than they currently are.

It is more difficult to decide what to do with statutes. Realistically, I doubt that we will be seeing a plain English Internal Revenue Code in our lifetimes. On the other hand, it seems to me that it should not be that terribly difficult to improve the language of the criminal codes. Several American states have managed to craft relatively plain jury instructions, which explain the criminal law to jurors in ordinary language. If we cannot express the criminal law in ordinary English, how can we expect ordinary citizens to obey the law?

Overall, the language of the law is definitely better than it was twenty or thirty years ago. But there remains much room for improvement.

Source: http://grammar.ucsd.edu/courses/lign105/student-court-cases/plain%20english.pdf

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IN THE SUPREME COURT OF INDIA

EXTRA-ORDINARY ORIGINAL JURISDICTION

I.A. NO. _____ OF 2020

(Application for permission to appear and argue the matter in-person)

IN

WRIT PETITION (CIVIL) NO. _____ OF 2020 (PIL)

(Under Article 32 of the Constitution of India)

PUBLIC INTEREST LITIGATION

IN THE MATTER OF:

DR. SUBHASH VIJAYRAN ... PETITIONER

VERSUS

UNION OF INDIA & OTHERS … RESPONDENTS

APPLICATION FOR PERMISSION TO APPEAR AND ARGUE THE MATTER IN-PERSON

To

Hon'ble The Chief Justice of India and his Associate Justices of The Supreme Court of India.

The Writ Petition of the Petitioner above-named MOST RESPECTFULLY SHOWETH:

1. This is a Writ Petition [PIL] under Article 32 r/w Articles 14, 21 & 39A of the Constitution of India, praying for writs/ orders/ directions facilitating *Access to Justice* by the common man by use of Plain Language and by placing page limit on pleadings and time limit on oral arguments before this Hon'ble Court.

2. Since I am an Advocate by profession, I am in a position to assist this Hon'ble Court. I have myself drafted this petition and am well versed with the facts and relevant law of the case. I, thus, do not require aid of an advocate to represent me.

3. **PRAYER:** On the basis of the above premises, it is most humbly and respectfully prayed that this Hon'ble Court may be pleased to:

    A. Grant permission to the Petitioner to appear and argue the matter in person.

    B. Pass any other or further order(s) as this Hon'ble Court may deem fit and proper in the interest of justice and to meet the ends of justice.

AND FOR THIS ACT OF KINDNESS, YOUR HUMBLE PETITIONER, AS IN DUTY BOUND SHALL EVER PRAY

Place: New Delhi
Drafted on: 18.08.2020
E-filed on: 19.08.2020

DR. SUBHASH VIJAYRAN
(PETITIONER-IN-PERSON)