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## CLARITY AND READABILITY IN LEGISLATIVE DRAFTING: A CONSTITUTIONAL AND GOVERNANCE PERSPECTIVE

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### **Abstract**

Readability and clarity are also considered crucial to proper legislative drafting in a constitutional democracy such as India. Legislation is not only a commanding authority or a governance measure which controls the rights, duties and liabilities of the citizens. The legitimacy of the law is based on the constitutional validity and the availability of the law to the people. The ambiguity of statutory text or too complicated statutory texts usually lead to the uneven application of laws, more legal challenges and unnecessary judicial discretion, thus undermining citizen confidence in the legal system.

This paper will discuss clarity and readability in legislative drafting both constitutionally and governance-wise. It evaluates how the practice of drafting is connected with the original principles of the constitution, including the rule of law, the division of powers and judicial review. Among the important drafting techniques, the study singles out structured legislative sentences, accurate definitions, a rational structure of the provisions, and clear Statements of Objects and Reasons. It also considers the role of accountability and transparency mechanisms in legislation.

The paper presents that clarity is not just a question of style, but it is a constitutional requirement because ambiguous laws can be in contravention of the equal protection and due process. Finally, when drafted clearly, it facilitates democracy, enhances governance and decreases interpretative differences.

### **Introduction**

The most important source of law in contemporary constitutional democracies is legislation. In India, laws are enacted by the Parliament as well as State Legislatures in which all the spheres of social, economic and political life are regulated. Nevertheless, formal enactment is not the only source of legislative authority. A law should be understood by people who are governed by it. Whenever a statute is obscure, overly technical, or ambiguous, this defeats the object of its enactment.

Legislative clarity and readability is the application of accurate, plain and organized language, that with clarity expresses the intent of the legislation. Clarity entails certainty and precision of the meaning of a provision. Readability is the ability of the language to be understood by the target audience. These values are becoming accepted as important aspects of good governance.

The Indian Constitution supports the need to be clear. The rule of law doctrine, recognized as part of the basic structure of the constitution in *Keshavananda Bharti v. State of Kerala*<sup>1</sup>, demands that the laws must be predictable and certain. The Constitutional article 14<sup>2</sup> ensures equality before the law, and vague or arbitrary laws can be nullified on the basis of breaching the principle, as affirmed in *E. P. Royappa v. State of Tamil Nadu*<sup>3</sup> and Expanded in *Maneka Gandhi v. Union of India*<sup>4</sup>. Judicial review gives the court power to quash laws which are considered unconstitutional and ambiguity traditionally gives the courts a free hand. In this way, the constitutional validity is directly connected with clarity.

In addition, the law making is done under the doctrine of separation of powers. The enactment of laws occurs through the legislature and the interpretation through the judiciary. Lack of clarity also means that when writing bills, the courts must take a role in filling in holes, or correcting ambiguities; this can result in a court overreaching, or creating an unintended policy effect. Certain writing reduces conflicts over interpretation and maintenance of institutional equilibrium.

In this paper, the issue of clarity and readability is examined in three dimensions, which are interconnected, namely constitutional principles, drafting techniques and governance outcomes. It examines the impact of bad drafting on interpretation, adoption, administration, and enforcement. It also considers the role of legislative drafters in precision, the relevance of

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<sup>1</sup> *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

<sup>2</sup> *Indian Consti.*, Art. 14.

<sup>3</sup> *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3.

<sup>4</sup> *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

the statement of objects and reasons, the composition of Bills, as well as the introduction of accountability and transparency measures.

The thesis statement of this paper is as follows: clarity and readability are not simply virtues of technical drafting, but also constitutional and governance instruments, without which a democratic legitimacy is impossible.

### **Research Questions**

1. What are the roles played by clarity and readability in drafting the legislation to ensure compliance with the Constitution and the rule of law in India?
2. What is the relationship between drafting methods like the use of structured language, logical organization and wording and legislative effectiveness?
3. How does transparency in legislation facilitate good governance, accountability and transparency?

### **Research Objectives**

1. The purpose of the study was to analyze the constitutional principles of clarity and readability in the legislative drafting.
2. To research the most important drafting methods that can be used to make work more precise, coherent and easily readable.
3. To assess clarity as a tool of enhancing transparency, accountability and good governance.
4. To find out the problems of the legislative drafters, and propose reforms to enhance the drafting standards in India.

### **Scope of the Study**

This research paper is concerned with the clarity and readability in the Indian legislative system. It studies constitutional provisions like rule of law and separation of powers and judicial review and statutory interpretation dogmas. The study will address bill-writing, Bill

structure, delegated acts and laws of governance. This is mainly a doctrinal and theoretical analysis that is backed by the appropriate principles of the constitution and interpretive practices.

### **Limitations of the Study**

The analysis is limited to the legislation writing in India and does not involve a comprehensive comparative study with other jurisdictions. It is more of a doctrinal nature and excludes empirical research and interviews with drafts of legislature. Because of space limitations, few constitutional principles and drafting principles are observed. The further topicality of certain examples discussed can also be influenced by rapid changes in the legislation.

### **Concept of Clarity and Readability in Legislative Drafting**

A clear language in the legislation draft implies accuracy of words, lack of ambiguity and true expression of the intent of the law. Readability is the ease of expression, logical arrangement, and understanding. Whereas clarity brings about legal certainty, readability brings about accessibility<sup>5</sup>.

Traditionally, the language of legislation was marked by long sentences, archaic sentences and jargon. Accessibility is usually not the priority in such drafting. Nevertheless, contemporary legislative tradition focuses on plain language without compromising accuracy.

Clarity requires:

Application of controlled terms, minimization of ambiguous phrases, logical organization of provisions, good punctuation, and well-organized subsections and clauses.

Readability requires:

Short sentences, Clear headings, Active Voice, Sequential organization, and less cross-referencing.

These aspects can be correlated with the syllabus topics of the legislative sentence construction, language draft, and composition rules.

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<sup>5</sup> G.P. Singh, *Principles of Statutory Interpretation (15th ed., LexisNexis, 2017)*.

## **Legal Basics of Transparency.**

### 1. Legal Certainty and Rule of Law.

A constitutional law that requires the clarity, predictability and publicity of the laws is the rule of law. Legal stability gives people the opportunity to control their behavior based on established legal provisions. In case laws are unclear or imprecise, citizens are not in a good position to predict the legal outcome of their behaviors. Such ambiguity disables equity and can even allow arbitrary or selective application by the authorities. Transparent laws facilitate stability, consistency and citizen trust in the administration. Hence, certainty in law is not only a drafting value but a constitutional value that is vital in ensuring that there is order, justice and democratic accountability within a law system.

### 2. Article 14 and Arbitrariness

Article 14<sup>6</sup> in the Indian constitution has ensured- equality before the law and equality in the protection of the laws. Judicial interpretation has moved beyond the protection against arbitrariness in State action. A vaguely defined and broad based legislation can give too much discretion to those who enforce it causing an unequal or discriminatory implementation. Unclear clauses may permit like-minded people to be treated in an unequal manner without justifiable reasons. This arbitrariness is a violation of equality in the constitution. It is therefore important to be clear when drafting so as to avert abuse of authority and also to ensure that law acts consistently and fairly according to the constitutional dictates of non-discrimination and reasonableness.

### 3. The Judicial Review as a Corrective Body.

Judicial review serves as a constitutional protection in case of the lack of clarity of the legislative action. Ambiguous statutes are interpreted by the courts by applying internal aids, including preambles and definitions, and external aids, including legislative history and objects and reasons statements. Courts support the intent of the legislation through interpretation, and at the same time, make sure that the constitution is adhered to. Nevertheless, the common judicial interference could signify the flaws in the drafting. Courts that are forced to interpret the ambiguity of the law or implicate restriction of the statute are in fact amending the law.

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<sup>6</sup> Supra Note 1

Even though judicial review enhances law-fulness, overreliance on judicial review is an indication of lack of precision in the laws made by the legislators and can cause blurred institutional boundary between the judiciary and the legislature.

#### 4. Separation of Powers

Separation of powers doctrine entails that law-making, law-interpretation and enforcement should be functionally distinct. The laws are passed by the legislature but interpreted by the judiciary. In the unfocused statutory drafting, courts must tend to fill the gaps, clarify the ambiguity or deemed policy objectives. In *Union of India v. Deoki Nandan Aggarwal*<sup>7</sup>, the court held that courts cannot rewrite statutes. By so doing, the impact and the scope of legislation can be influenced or expanded and the impact is indirectly reflected in policy choices. Although this guarantees continuity of the government, it poses a threat of encroaching the legislative roles. Clear and concise writing is a way of respecting institutional limits of limiting interpretative discretion which does not alter the constitutional balance between the legislature, executive and judiciary.

This is due to clarity in the drafting of legislation so that the meaning of a statute can be seen in the text. But in cases of statutory ambiguity, inconsistency or vagueness, the courts have to apply interpretative doctrines in order to determine legislative intent. These doctrines are some of the corrective instruments, although, they are more frequently used, which is indicative of poor drafting.

#### **Clarity and Doctrines of Interpretation**

The Literal Rule directs the courts to apply the ordinary and grammatical meaning of words. In cases where the language is clear, there is no need of further interpretation. This rule is a reminder of the need to be accurate in writing to limit judicial discretion. But when a literal approach does not give reasonable outcomes, it is that the courts resort to the Golden Rule, which permits the adjustment of the plain meaning to prevent absurdity or incompatibility. This goes to show the use of ambiguity, forcing courts to make statutory language changes<sup>8</sup>.

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<sup>7</sup> *Union of India v. Deoki Nandan Aggarwal*, 1992 Supp (1) SCC 323.

<sup>8</sup> *Statute Law Review*, Volume 46, Issue 3, December 2025, hmaf035, <https://doi.org/10.1093/slr/hmaf035>

Mischief Rule is purposive in nature and it considers the vice that the statute was meant to address. In cases of vague drafting with respect to scope or purpose, the court construes terms under the light of the purpose of the legislation. On the same note, the doctrine of Harmonious Construction is used when various provisions seem to be contradictory. Such conflicts are resolved by courts in order to have the statute as a whole work, and in many cases this will be to address the structural or drafting mistakes<sup>9</sup>.

The Doctrine of Severability also permits the court to invalidate merely the unconstitutional part of a statute and leave the rest intact in an attempt by the court to conserve legislative intent where the statute was poorly drafted. Prospective Overruling also limits the disruptive effect of constitutional invalidation.

All these doctrines protect the constitutional balance and justice. However, their wide application means that ambiguity, in turn, beckons judicial creativity. Clarity and specificity minimize the reliance on interpretative teachings and maintain supremacy by the legislature, and enhance the rule of law.

### **Drafting Language and Legislative Sentences**

Legislation must be technically perfect and properly formulated so that they can attain the intended purposes. Technical soundness is the accuracy of language, logical framework, congruence of the provisions, and uniformity in terminology of the statute. An effective law should also have its scope well spelt out, define rights and obligations in a systematic way and should not contain contradictions or ambiguity. Technical rules of how to frame various forms of legislation are stipulated in drafting manuals, legislative guidelines and procedural rules in most jurisdictions. These tools give guidelines on how the structure should be set, how the definitions should be used, and how the clauses should be formulated, how the amendments are to be made, how the citation is to be done, and generally the methodology to be followed in drafting the documents to ensure consistency and legal certainty<sup>10</sup>.

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<sup>9</sup> Ananya Singh, INTERPRETATION OF STATUTES: ANALYSIS OF THE RULE OF HARMONIOUS CONSTRUCTION, IJLMH, volume 6(4), (2023). <https://www.ijlmh.com/wp-content/uploads/Interpretation-of-Statute-Analysis-of-the-Rule-of-Harmonious-Construction.pdf>

<sup>10</sup> Legislative Drafting: Principles and Materials, <https://law.uok.edu.in/Files/5ce6c765-c013-446c-b6ac-b9de496f8751/Custom/legislativedrafting-marksegal.pdf>

There are structure principles that are applied in drafting legislations so as to be clear and precise. *One idea per sentence* principle ensures that the provision does not congest with various conditions, which may cause confusion and interpretation conflicts. The presence of *numbered subsections* improves the ease of reading since complex provisions are divided into structured sections and it becomes easy to refer to them or amend them. The prevention of the use of *double negatives* will help avoid linguistic complexity that can cause a loss of meaning or ambiguity in commitments and prohibitions. *Cross-references are clear* so that at the point of reference in one section to the other, the relationship is accurate and clear, and not likely to be misused. *Unified terminology* ensures that the statute has the same meaning throughout the statute, it avoids instances of interpretation contradictions due to different phrases indicating the same thing. Also, *punctuations* are very important in the drafting of legislations; commas, semicolons and colons form meaning and bring out relationships between the clauses. Using a misplaced comma can cause a major misinterpretation and courts have occasionally used punctuations to settle a statutory dispute, proving their relevance in law.

### **Delegation Lawmaking and Transparency**

Delegated legislation are rules, regulations, notifications or by-laws which have been made by the executive on the basis of a parent statute which delegated its powers. Although it allows flexibility and administrative efficacy, both the enabling Act and the delegated instrument have to be clear, lest power will be abused. The parent law is to specify the extent, boundaries and purposes of the delegated power. Delegation can be vague or excessively broad causing too much discretion and therefore arbitrariness and constitutional difficulty.

Transparency in delegated legislation will make sure that the executive branch has limits in which it can operate and citizens know their rights and responsibilities. The enabling provision must indicate those issues upon which the rules can be framed, the process that shall be taken and the protection that shall be taken which can be prior consultation or legislative scrutiny. Likewise, the delegated rules should also be accurate, uniform and easily availed.

Judicial review is very important in scrutinizing the delegations of legislations that are beyond the statutory powers or are against the principles of the constitution. Nonetheless, a lot of lawsuits regarding subordinate legislation are indicative of incomprehensible drafting. As such, the transparency of the parent Act and the subordinate legislation enhances accountability, promotes rule of law and constitutional balance of legislature with the executive.

### **Transparency as a Good Governance Instrument.**

Good legislation is a tool of enlightenment in the drafting of the law. Good governance entails the transparency, accountability, efficiency and fairness in the exercise of the state power. By having the laws well formulated the citizens will easily know their rights, duties and legal obligations and thus, consent to obey the laws and participate voluntarily in the democratic processes. Proper laws minimize cases of misunderstanding and scope of arbitrary interpretation by the administrative authorities.

Accountability is also enhanced by clarity. In cases where the statutory powers and obligations are well established, it becomes difficult to misuse discretion as well as the activities of the officials which exceed their authority. Institutional responsibility is augmented by well formulated clauses that embrace reporting, inspection, redress of grievances and punishment of non-conformity. Additionally, objectives and realistic targets in law are easy to monitor and assess the policy consequences.

In the anti-corruption view, law ambiguity usually brings about loopholes and can be used to dishonestly make profits. Such opportunities are constrained through precise drafting, which decreases flexibility in interpretation. Obvious laws also reduce avoidable law suits saving time and resources of the society. Therefore, transparency is not just a drafting virtue but a governance need that enhances transparency, efficiency and confidence by citizens in the legal system.

### **Limitations and Constraints in Writing.**

Although legislative drafting is guided by the principle of clarity and precision, the process has a number of practical and institutional limitations. Political compromise is one of the major limitations. They can be laws that are the result of a compromise between various parties and the necessity of the language to accommodate conflicting interests can lead to the complexity or a purposely broad language. Another important limitation is time pressure, especially when the urgent legislation has to be enacted with the response to economic crisis, urgent situations of the population or judicial guidelines. This rush can destroy proper consideration and development.

There are also problems with technical complexity. Contemporary laws often touch on either a niche area like taxation, environmental law or computer technology which necessitates the employment of technical terms that can influence the readability process. Also, the process of drafting has to comply with the provisions of the constitution, the established laws and judicial decisions, restricting the freedom of expression.

The issue of multilingualism in the country such as India further complicates the matter because the laws have to be consistent in translations. Access to research resources and capacity to administer can also influence the quality of drafting. In spite of these limitations, the drafters of legislation should struggle to achieve a balance between precision and accessibility as far as the laws should be readable, consistent, and constitutional.

## **Conclusion**

Constitutional democracy and good governance cannot exist without clarity and readability in drafting a law. They provide legal security, maintain rule of law and safeguard the basic rights. Indeterminate laws contradict equality, promote arbitrariness and ample judicial activism. The constitutional system and especially, the concepts of judicial review and separation of powers enforce the need of accurate writing.

It is not just the stylistic grace, but a constitutional necessity that things be clear. A good law is one that accommodates democracy by allowing the citizens to interpret the law and follow it. It enhances accountability since it restricts the discretionary abuse. It creates a better governance as standards are measurable and transparent mechanisms are provided.

The law making process should hence focus on clarity between idea and law. There should be plain language conventions, a systematic drafting style and arrangement of the provisions followed by legislative drafters. The pre-legislative consultation, impact assessment and drafting of statements of objects and reasons with care, all help in creating interpretative certainty.

Conclusively, readability and clarity make the legislation a more democratic tool than it is a technical tool. They reconcile idealistic constitutionalism and pragmatic politics. In the context of the Indian changing legal system, the rule of law, protection of rights and good governance must be supported by the enhancement of clarity in law making.

## **Suggestions**

Considering the finding that clarity and readability constitute constitutional requirements and essential instruments of good government, a number of practical and institutional improvements can be suggested that can enhance the process of legislative drafting in India.

First, the legislative drafting capacity in institutions should be increased. It should increase the number of dedicated and professionally trained legislative drafting cells on both Union and State levels. Legislation drafters should be subjected to continuous training programmes revolving around plain language drafting, statutory interpretation and constitutional principles. The process of drafting must not be seen as a mere technical clerical process, but as a specialized constitutional process which needs legal, linguistic and policy expertise.

Second, the principles of plain language should be adopted officially in the manuals of drafting and parliamentary procedures. Even though accuracy should never be lost, legal jargon, old-fashioned phrases and unreasonably long sentences should be avoided. Well defined statements, subsections, rational order of the statements and uniformity of terms must be enforced drafting rules. Before introducing a Bill, a standard drafting checklist can be implemented so that it is in accordance with clarity standards.

Third, the mechanisms of pre-legislative consultations should be reinforced. Distribution of draft Bills, Green and White Papers and stakeholder consultations can be used to find the areas of ambiguity and practical challenges at the initial stage. The inclusion of the populace contributes to the transparency and better readability as it makes sure that the legislation is based on the real-life experience instead of the technical presumption.

Fourth, there should be institutionalization of impact assessment and clarity review mechanism. Any significant Bill must be subject to legislative impact analysis, including readability, enforceability and probable interpretative issues. Parliamentary committees or the independent review bodies can evaluate the inclusion of accountability, monitoring, and anti-corruption in the Bill.

Fifth, increased accessibility can be enhanced with the increased usage of digital tools and technology. The amended statutes can be made simpler to the citizens by providing consolidated editions of the laws, simplified explanatory notes and online annotated editions.

Inconsistency, duplication and drafting mistakes can also be detected with the help of technology.

Lastly, the judicial feedback is to be systematically researched. Such cases when courts have often used interpretative doctrines to elaborate ambiguity should guide future drafting changes. The judicial decisions can be used to inform structural and linguistic improvement.

To sum up, the clarity of legislation drafting as a stylistic goal should be identified not only as an objective but also as a constitutional duty. India can enhance legal certainty by making institutions stronger, using plain language standards and improving the participation process to serve democratic governance so that the legislation can be effectively used in the judicial system.

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