



A Saga of Exclusionary Practices: Systemic Hindrances in Obtaining a Certificate of Legal Practice in India- Part III

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A Saga of Exclusionary Practices: Systemic Hindrances in Obtaining a Certificate of Legal Practice in India

Part III

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Abstract

This is the third part of a three-part article that seeks to critically examine the All India Bar Examination, one that law graduates need to necessarily pass to practice law in India. In the second part (which can be found [here](#)), the authors brought to light the issues of the centralised All India Bar Examination such as the fee and associated costs along with the unfamiliar methods and processes of the exam in itself. The first part can be found [here](#). In the current third and last part of the article, we highlight the poor quality of questions papers in the only qualifying examination for legal professionals in India. We also address the inadequate grievance redressal system of AIBE. This article was first published in LiveLaw (<https://www.livelaw.in/columns/all-india-bar-examination-aibe-bar-council-of-india-bci-197405>) in April 2022.

¹ The authors are associated with the [Centre for Social Justice](#) and can be contacted at socjust@gmail.com. The Centre for Social Justice, is a socio-legal organisation that uses the judicial system to fight the rights of the marginalised communities.



AIBE has consistently faced criticism for its disorganised arrangement of the examination and delayed release of results. It has only worsened amidst the pandemic. The exam centres are witness to unplanned delays and rampant cheating. This problem is exacerbated by the unchanging, low-quality of question papers. In the AIBE XVI which was conducted in October 2021, five incorrect, ambiguous questions were cancelled post declaration of the results. This has sadly been a pattern over the years.

Poor quality of question papers

Most of the questions cancelled are at the national level and we were unable to locate any cancellations of questions at the state level. This implies that the cancellation of questions are merely based on their incorrect framing in English.

We observe that the quality of AIBE question papers significantly deteriorates once the English paper is translated to the 11 vernacular languages. From a perusal of Hindi and Gujarati papers, it is clear that the questions are not made/ translated keeping in mind the legislation in their regional languages. The English questions are loosely translated from English to the regional languages, and therefore the translated legal terms are drastically different from the legal terms used in the legislation. When using an open book exam, this can adversely affect the candidates in their performance. We will be exploring the reason for the same in the following section of the article.

In an analysis of several AIBE question papers in Hindi and Gujarati, some stark observations are shared.



Questions	The year and set of the paper	The issue with the question
Incorrect names of the legislation		
<p>78. नागरिक प्रक्रिया संहिता के तहत कौन सा प्रावधान प्रतिवादी पर समन की प्रतिस्थापित सेवा से संबंधित है</p> <p>(क) O. 5 R. 19A (ख) O. 5 R. 19 (ग) O. 20 R. 20 (घ) O. 5 R. 211</p>	AIBE XV SET D	Civil Procedure Code has been translated incorrectly as “naagrik prakriya sahati” instead of “civil prakriya sahati”. Civil has been translated as “Naagrik” meaning citizen.
<p>71. सीमा अधिनियम की धारा 5 पर लागू होता है</p> <p>(क) सूट (ख) निष्पादन (ग) चुनाव याचिकाएं (घ) उपरोक्त में से कोई भी</p>	AIBE IX SET A	The Limitation Act has been incorrectly translated as “Seema Adhinyam” instead of



		<p>“Pariseema Adhinyam”. A literal translation of the word limitation which is “seema” is used which means boundary.</p>
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<p>70. परक्राम्य साधन अधिनियम की धारा 21 के तहत दृष्टि में, 1861 का अर्थ है</p> <p>(क) प्रस्तुति पर</p> <p>(ख) भाग पर</p> <p>(ग) दृष्टि में आने पर</p> <p>(घ) उपरोक्त में से कोई भी</p>	<p>AIBE IX SET A</p>	<p>The Negotiable Instruments act has been incorrectly translated as “Prakramy Saadhan Adhinyam” instead of “Prakramy likhit adhinyam”</p> <p>A literal translation of the word instrument which is “saadhan” is used which means</p>
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		device/tool.
<p>82. 1996 के पंचाट और सुलह अधिनियम के प्रावधानों की व्याख्या 1940 अधिनियम में अंतर्निहित सिद्धांतों से अप्रभावित होने के नाते की जानी चाहिए। इस अवलोकन में निर्धारित किया गया था</p> <p>(क) एम.एम.टी.सी लिमिटेड बनाम स्टरलाइट इंडस्ट्रीज (इंडिया) लिमिटेड</p> <p>(ख) सुंदरम फाइनेंस लिमिटेड बनाम एन.ई.पी.सी. लिमिटेड</p> <p>(ग) ओलंपस सुपरस्ट्रक्चर्स प्राइवेट लिमिटेड बनाम मीरा विजय</p> <p>(घ) ओरमा इम्मेक्स प्राइवेट लिमिटेड बनाम निसारी प्राइवेट लिमिटेड</p>	AIBE IX SET A	<p>The Arbitration and Conciliation Act has been incorrectly translated as “Panchat aur Sulah ” instead of “Madhyast atha avem Sulah Adhiniyam”.</p> <p>Arbitration here is translated as Panchat which means award.</p>

While one might argue that the translation is not bad enough to cause difficulty in identifying the correct legislation, however one should consider that this is a national level exam and the only qualifying exam for the entire legal community. These mistakes are not an exception. All question papers repeatedly have such mistakes which shows the level of institutional neglect that exists.



<p>91. Which of the following are included in the concept of "State" under Article 12 / નિયમ 12 હેઠળ નીચે માયો કયા નો સમાવેશ "રાજ્ય" ની ધારણા માં થાય છે?</p> <p>a) Railway Board and Electricity Board / રેલવે બોર્ડ અને વીજ બોર્ડ</p> <p>b) Judiciary / ન્યાયતંત્ર</p> <p>c) University / યુનિવર્સિટી</p> <p>d) All of the above / ઉપર આપેલા બધા</p>	<p>Question 91 from AIBE IX SET B.</p>	<p>"Article" has been incorrectly translated as "niyam" meaning rules instead of using the correct translation which is "anuched".</p>
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<p>30. Section 66A of the Information Technology Act was struck down under Art. 19(1) (a) read with Article 19 (2) in the case of/ ઈ-કૉમ્યુનિકેશન ટેકનોલોજી અધિનિયમના અનુચ્છેદ 66A ને કલમ 19(1) (a) હેઠળ તોડયો હતો તેને કલમ 19 (2) સાથે ના કિસ્સામાં વાંચ્યો</p> <p>a) Justice K. S. Puttaswamy Vs Union of India/ ન્યાયાધીશ કે. એસ. પુત્તસ્વામી વિરુદ્ધ ભારતીય સંઘ</p> <p>b) Kharak singh Vs State of U.P./ ખારકસિંઘ વિરુદ્ધ યુ.પી. રાજ્ય</p> <p>c) Govinda Vs State of M.P./ ગોવિંદા વિરુદ્ધ એમ.પી. રાજ્ય</p> <p>d) Shreya Singhal Vs Union of India/ શ્રેયા સિંઘલ વિરુદ્ધ ભારતીય સંઘ</p>	<p>Question 30 from AIBE XV SET C</p>	<p>'Section' has been translated as "anuched" which means article. The correct translation of 'section' is "dhaara" or "kalam".</p> <p>Moreover, 'Article' is translated as 'kalam'</p>
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		meaning section instead of “anuched”.
<p>Illustratively, for questions that need to be looked up from the Constitution, it’s easy to identify if the correct term Article is used (If the question does not mention that the constitution is to be referred). However in most of the translations for example in Gujarati, the word “kalam” which means “section” is used instead of the word “anuched” which translates to “Article”. Thus, identifying the legislation from which the candidates have to find the answer becomes difficult.</p> <p>It makes the paper disproportionately difficult for those attempting the question in languages other than English. A translation that is just blatantly incorrect (such as translating “Section” to “Rules”- which refer to very different parts of the legislation) points towards the lack of application of mind that goes into the translation process.</p>		
Translations that make scanning answers from the Bare Act difficult		

<p>24. Which of the following Section deals with search warrant/ નીચેના પૈકી કયો વિભાગ સર્ચ વોરંટ સાથે સંબંધ ધરાવે છે</p> <p>a) 93 <input checked="" type="checkbox"/></p> <p>b) 94</p> <p>c) 95</p> <p>d) 96</p>	AIBE 10 SET A	The english word “search warrant” has been written in Gujarati script instead of using the word “jacti warrant” as used in the Bare Act.
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<p>49. The concept of "plea bargaining" is not applicable to the offence committed against/"माझीनी याचिका" _____ विरुद्ध करवाમાં आवल गुनाમાં लागु पडती नथी</p> <p>a) A women/ स्त्री </p> <p>b) A child/ બાળક</p> <p>c) Both a and b/ a અને b બંને *</p> <p>d) None of the above/ ઉપરોક્ત પૈકી કોઈપણ નહી</p>	<p>AIBE 10 SET A</p>	<p>"Plea Bargaining" has been incorrectly translated as 'Maafini yachika' instead of "saudabaji nu rajuwat" as used in the Bare Act.</p> <p>The term "Maafini yachika" means an application seeking apology.</p>
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<p>100. Security for good behaviour from habitual offenders is dealt under/ રોજના અપરાધીઓ પાસેથી સારા વર્તન માટેની સુરક્ષા હેઠળ કાર્યવાહી કરવામાં આવે છે</p> <p>a) Section 109 of Cr.P.C./ સી.આર.પી.સી. ના અનુચ્છેદ 109</p> <p>b) Section 110 of Cr.P.C./ સી.આર.પી.સી. ના અનુચ્છેદ 110</p> <p>c) Section 111 of Cr.P.C./ સી.આર.પી.સી. ના અનુચ્છેદ 111</p> <p>d) None of the above/ ઉપરોક્તમાંથી એકપણ નહિ</p>	<p>AIBE 15 SET C</p>	<p>Habitual offenders has been incorrectly translated as “roojna apradhio” which literally translates to</p>
<p>65. Section 105 (H) of Cr.P.C deals/ અનુચ્છેદ 105H સંબંધિત છે</p> <p>a) Forfeiture of property in certain cases./ અમુક કેસોમાં સંપત્તિ જપ્ત.</p> <p>b) Notice of forfeiture of property/ મિલકત જપ્ત કરવાની નોટિસ</p> <p>c) Management of properties seized or forfeited/ જપ્ત કરેલી અથવા જપ્ત કરાયેલ મિલકતોનું સંચાલન</p> <p>d) Identifying unlawfully acquired property/ ગેરકાયદેસર રીતે હસ્તગત કરેલી સંપત્તિની ઓળખ</p>	<p>AIBE 15 SET C</p>	<p>‘everyday offenders’ instead of using the word “Reeda gunegharon” which is used in the Bare Act.</p>
		<p>Forfeiture of property has been incorrectly translated to “sampati japt” which means confiscation of property</p>



		instead of “sarkar badal dakhal” which is used in the bare act.
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As mentioned in the previous [article](#) on challenges with open book exam pattern, the strategy to ace an open book exam is to know how to quickly scan for answers in the Bare Acts. Translation errors mean that candidates cannot adopt this strategy of scanning the index for the answer but have to read it entirely to find synonyms or words that might loosely translate to what the examiner might have intended to ask.

Incorrect question

<p>42. सिविल प्रक्रिया संहिता, 1908 के आदेश XXXV की धारा 88, निम्नलिखित में से किससे संबंधित है</p> <p>(क) अंतर्वादीय मुकदमा (ख) अंतर्वादीय आदेश (ग) पुनर्स्थापन आदेश (घ) अनुलग्नक आदेश।</p>	<p>AIBE XXV SET D</p>	<p>None of the options in the question mention the correct translation of Interpleader suit which is “Antarabhivachi Vaad”.</p>
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The question was correct in the English paper. Therefore, this question would take barely 5 seconds for candidates taking the exam in English. However, a candidate attempting this question in Hindi will not be able to answer it since the options are translated erroneously and hence, are incorrect.

Even though this is an incorrect question, this question will most probably not get cancelled by the AIBE. Since only incorrect English questions get cancelled, candidates attempting the exam in vernacular languages lose out on marks.



Questions that have lost their meaning in the translation

<p>37. भारतीय अधिनियम के खंड 122 के तहत विवाह के दौरान पति /पत्नी के बीच का संवाद</p> <p>(क) विवाह के टूटने के बाद भी उस संवाद को विशेषाधिकार प्राप्त होंगे</p> <p>(ख) तलाक के द्वारा विवाह के टूटने के बाद विशेषाधिकार प्राप्त नहीं रहेंगे</p> <p>57. केवल उन अपराधों के संबंध में लागू होता है जिनके लिए कारावास की सजा की अवधि वर्ष तक हैं-</p> <p>(क) 7 वर्ष</p> <p>(ख) 10 वर्ष</p>	<p>AIBE XXVIII SET A</p> <p>AIBE XV SET D</p>	<p>The English version of the question mentions that the question is talking about Section 122 of the Indian Evidence Act. The word Evidence Act has not been mentioned in the hindi translation.</p> <p>The English version of the question mentions that the question is talking about</p>
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		“Plea Bargaining”, it is however not mentioned in the hindi translation.
As mentioned above, even these questions would not get cancelled, thereby further disadvantaging candidates attempting the examination in vernacular languages.		

Despite the BCI having six months to design, translate and review the question papers, such errors persist. This demonstrates the non-application of mind exercised by the BCI while drafting the papers.

Inadequate grievance redressal mechanisms

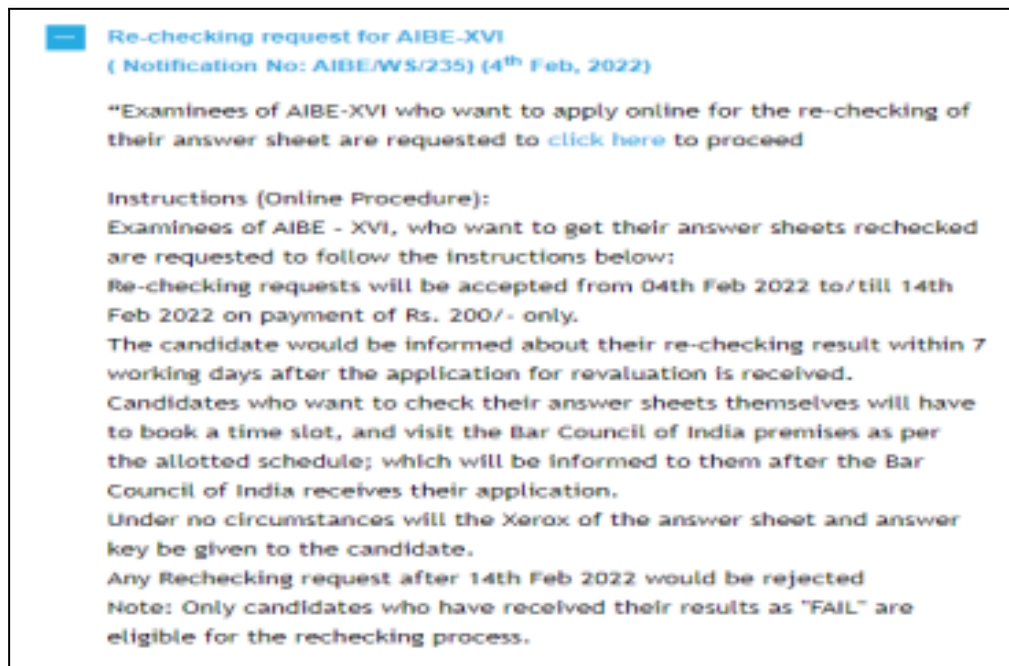
The process for rechecking the AIBE results (for those who failed the exam) is announced shortly after the results. While applying for rechecking, one has to pay an additional cost of Rs. 200 and incur further costs if they opt for physical verification.

Candidates of AIBE XVI were given only 10 days to place a rechecking “request” online and get their paper re-examined (Please refer to *Picture 2*). While it may seem that 10 days is adequate to fill an online application form, considering that the information dissemination system of the BCI and AIBE is deeply exclusionary, the time period is insufficient. For example; the AIBE notifications available on the official website are only in English, and hence most candidates do not even get to know about this provision, let alone apply within the time frame mentioned.

There is another facility for candidates who want to check their answer sheets themselves. For this, they have to pre-book a slot and visit the Bar Council of India in Delhi. There is no other provision for candidates to obtain digital or photocopies of their answer scripts. Since physical examination of the answer script is the only



option available, it would be sought only by candidates who are either residents of Delhi or nearby cities or have the means to travel. A grievance redressal mechanism that can be availed only by a few of the candidates is merely tokenistic.



Picture 2: The notification of AIBE XVI for rechecking the results.

Furthermore, on 23rd February 2022, AIBE came up with a notification stating that 5 questions were deleted/rejected by the Monitoring Committee, making the total marking out of 95 marks. It further said that the passing percentage remains the same i.e. 40% for General/OBC category and 35% for SC/ST category. Thus, candidates scoring 38 marks and above in the General/OBC category and 33 marks and above in the SC/ST would now be declared to have passed the exam.

This notification was announced a week after the deadline for applying for rechecking i.e. (14th February 2022) and almost 20 days, i.e., (3rd February 2022) after the results were announced.

The fact that the opinion of the monitoring committee came after the results and the deadline for applying for rechecking the paper highlights the mismanagement in the conduct of AIBE. The least one expects after a delayed result, is that they finish the reviewing processes before releasing the results.



Notification dated 23.02.22 displaying the revised results and new passing marks

There is a need for exercising more due diligence while translating the question paper so that attempting the paper does not become disproportionately difficult for candidates appearing for the exam in vernacular languages. In case translation errors do happen, a process needs to be in place so that candidates get grace marks for those incorrect questions, similar to the process followed in the cancellation of English questions.

The aim of this series was to capture the lived experiences of law graduates, especially from marginalised communities as well as those from non-urban context, who continue to face hardships due to systemic apathy and institutional neglect. It has attempted to bring forth to the public discourse the exclusionary nature of the legal profession right from the enrollment stage till the results of the AIBE exam.



About the Author

The authors are research associates at the Centre for Social Justice, Ahmedabad. The Centre for Social Justice is a socio-legal organisation working in the sphere of access to justice, that uses the judicial system to fight the rights of the marginalised communities. The authors have their respective field areas. Gatha works with the Gumla unit in Jharkhand, India; Tanvi works with the Amreli unit in the coastal area of South Gujarat India; and Nivedita works with the Dang unit in the tribal area of South Gujarat, India.