

THE LANGUAGE OF LAW: A PHILOSOPHICAL INQUIRY INTO LINGUAL JUSTICE AND LEGAL ACCESSIBILITY IN THE PHILIPPINES

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Introduction

The philosophy of law is concerned both with the nature of law and the reasoning that sustains it, as well as with the normative issues it inevitably raises. Inquiry into law must raise questions not only about what the law prescribes, but also about whom it ultimately serves and how it is experienced by those subject to it. One of the most pressing issues where such inquiry is necessary lies in the relationship between law and language. In the Philippine context, this relationship is most visible in the linguistic practices of legal proceedings, particularly in how courtroom communication, testimony, and judgment are conducted almost exclusively in English.

While legislation and legal documentation also reflect this lingual dominance, the focus of this study is on how courtroom language use shapes access to justice and the distribution of power between legal professionals and lay participants. While English serves as the dominant language of the legal system, the country itself is profoundly multilingual. This dissonance raises serious concerns about accessibility: What happens to justice when its very language excludes many of those it governs?

This paper asks: If citizens cannot fully understand or express themselves in the language of the law, can the legal system truly claim to deliver equal justice? What would a fair and ethically defensible language policy look like for the Philippine legal system, particularly in how laws are written, interpreted, and applied in court proceedings, so that all participants in the legal process can understand and engage in a multilingual society?

To answer these, the study draws on three complementary theories to examine lingual justice and its legal accessibility in the Philippines. First, Jürgen Habermas' Theory of Communicative Action emphasizes that justice depends on mutual understanding achieved through free and equal dialogue. Next, Miranda Fricker's concepts of Epistemic Injustice explains how individuals can be wronged in their capacity as knowers. Lastly, Philippe van Parijs' Theory of Linguistic Justice addresses fairness in multilingual societies, questioning whether the dominance of one language over another—such as English—can be justified when it systematically disadvantages others. Together, these theories provide a normative lens for evaluating how language functions as either a barrier or bridge to justice. They guide this study in arguing that true legal accessibility in the Philippines requires not merely translation, but the transformation of lingual structures to ensure equity and understanding for all.

Linguistic Justice as a Foundation

Linguistic justice, as argued by van Parijs (2002), concerns the unequal distribution of linguistic burdens in multilingual societies. In contexts where one language dominates, speakers of minority or regional languages often bear the disproportionate cost of learning the dominant language, while dominant language speakers enjoy the benefits of wider communication without reciprocal effort.¹ To address this imbalance, he proposes a principle of equal ratios of benefit to cost, meaning that each linguistic group should enjoy benefits from mutual communication proportional to the effort and resources they contribute.²

¹ This imbalance, he argues, represents a form of injustice grounded in what he calls “free riding,” where the costs are borne by one party while both parties enjoy the benefits.

² Under certain simplifying assumptions, this leads to a 50–50 cost-sharing principle, whereby the dominant linguistic group should bear half of the total costs incurred by others in learning their language, including both explicit tuition expenses and implicit opportunity costs.

Applied to the Philippine context, this framework reveals a striking asymmetry: the non-English-speaking majority often shoulders the significant burden of navigating legal processes in English, incurring opportunity costs in time, effort, and resources, while the English-speaking legal elite benefits from their lingual dominance without making reciprocal adjustments.

Epistemic Injustice and Language

Building upon the distributive perspective, Fricker (2007) provides a complementary account of how lingual inequality produces epistemic harms. Epistemic injustice undermines an individual's capacity to function as a knower.

This manifests primarily in two forms. The first is testimonial injustice, which happens when prejudice toward a social group leads a hearer to unjustly diminish a speaker's credibility, thereby undermining the speaker's capacity as a knower and contributor of information (Fricker, 2007). This is highly relevant, for example, in the Philippine context, where individuals speaking indigenous or regional languages may be afforded less credibility by speakers of dominant languages (e.g., Filipino or English) in formal settings such as courts, schools, or government offices (Mansueto, 2022). Their dialects and accents are often mocked or disregarded, leading to a systematic devaluation of their testimony in legal and institutional contexts.

The second is hermeneutical injustice, which arises when gaps in shared interpretive resources hinder an individual's ability to make sense of their social experiences, thus wronging them in their capacity as a subject of social understanding (Fricker, 2007). In the Philippines, this is evident in the dominance of Tagalog (and, to a large extent, English), which constraints the articulation, recognition, and legal accessibility of regional and indigenous languages (Mansueto, 2022). Speakers of Bisaya, Ilokano, or other regional tongues often lack institutional support

(examples include: translation services in courts, multilingual legal materials, or culturally informed legal education) thereby creating barriers to their participation in legal processes.

Communicative Action and Legal Accessibility

While Fricker's framework reveals how testimonial and hermeneutical injustices operate in the Philippine lingual landscape, Habermas's Theory of Communicative Action situates language as the primary medium through which mutual understanding, social coordination, and legitimacy are achieved (Rochberg-Halton, 2019; Zurn, 2010).

Habermas argues that rational communication is intrinsic to human interaction and that genuine understanding emerges when participants can engage in open, undistorted dialogue where claims to truth, rightness, and sincerity are equally contestable (Rochberg-Halton, 2019). This distinction is particularly significant in legal settings where the use of dominant languages (Tagalog and English) without sufficient support for regional or indigenous tongues often transforms communication from a space of understanding into a tool of exclusion.

In the Philippine legal system, this detachment is evident when procedural systems prioritize efficiency and uniformity in language use at the expense of the lived lingual realities of marginalized groups. When communication fails, individuals are forced into a discourse aimed at rebuilding consensus, ideally guided by what Habermas calls the "unforced force of the better argument."

Historical and Structural Dominance of English

In an article by Martin (2018), the English-dominant legal system in the Philippines reflects both historical legacy and structural reinforcement. As introduced during the American colonial

period, English became the language of law and education, rooting from the Anglo-American legal principles. Today, despite the Philippines' multilingual population, English retains a prestigious status and, alongside Filipino, is officially recognized in national language policy. In practice, however, English continues to dominate legal education, court proceedings, and documentation. Moreover, law students must meet English requirements, legal documents must be in English (or Filipino), and submissions in regional languages require translation.

Hence, this structural dominance clearly illustrates van Parijs' concept of lingual justice, which emphasizes that non-English speaking Filipinos bear the substantial burden of navigating legal processes in a language they did not choose, while English-speaking legal elites benefit with minimal effort. It also generates epistemic injustices, as described by Fricker. From a Habermasian perspective, the prioritization of English transforms legal communication from a space of mutual understanding into one of exclusion.

Structural Injustice in Legal Language

Iris Marion Young (1990), an American political theorist and socialist feminist, stated that “persons suffer injustice by virtue of structural inequality when their group social positioning means that the operation of diverse institutions and practices conspire to limit their opportunities to achieve well-being” (p. 82). Structural injustice, therefore, does not arise from individual wrongdoing or intentional acts of discrimination. Rather, it emerges from the ordinary and accepted operations of institutions that shape people's lives. For instance, when a judge shows impatience toward a witness who struggles to speak English, that act may reflect personal prejudice. Yet when such behavior is common and sustained by a legal system that privileges English as the only “proper” language of law, the injustice transcends individual conduct. It becomes institutional. The judge's behavior is

reinforced by the legal structure itself—a system that already decides whose voices are valued and whose views must be treated with doubt.

The Philippine legal system exemplifies such a structural injustice through its reliance on English as the dominant language of law. This injustice is embedded not only in institutional policies but also in the everyday practices of legal actors—lawyers, law professors, and lawmakers—whose customary use of English in legal discourse reinforces the privileging of one language over others. English functions as the language of authority, legitimacy, and rationality, shaping who can meaningfully participate in the legal process long before a case begins. In this sense, English proficiency becomes a precondition for access to justice. It produces a hierarchy in which lingual fluency determines communicative power and positions non-English speakers at a persistent disadvantage.

Drawing from Habermas' theory of communicative action, the language hierarchy embedded in the Philippine legal system violates one of the fundamental preconditions of justice—the ideal of communicative rationality. Thus, communicative rationality concerns both the substance of institutional claims and the formal conditions that allow participants to reach genuine understanding. When Habermas states that law gains legitimacy through rational communication in which everyone affected can take part, he indicates that legal authority depends on inclusive participation rather than the internal logic of legal rules, since “reaching an understanding functions as a mechanism for coordinating actions only through the participants... coming to an agreement concerning the claimed validity of their utterances” (p. 99). If citizens cannot understand the language of the law, then the communicative foundation of its legitimacy collapses, and the law—despite its substantive rationality—fails formally as it excludes those who should be able to participate.

In this sense, when the language of law is inaccessible to most citizens, those who cannot participate lingually are deprived of the ability to raise or assess validity claims on their own behalf because they must rely on others to interpret for them. Such a structure negates communicative rationality and reduces the citizens to being passive recipients of legal authority.

Similarly, Fricker's concept of epistemic injustice further deepens the analysis. It argues that individuals can be wronged in their capacity as knowers. Take, for example, a witness who testifies in a regional language and must rely on an interpreter. Even when their statements are accurate, subtle nuances may be lost in translation or perceived as less credible compared to the fluent English of legal professionals. This dynamic shows that the listener dismisses the speaker's credibility because language-based prejudice overrides the content of the testimony. Judges or lawyers, consciously or not, may equate lingual fluency with intelligence or honesty, thus disregarding the speaker's reliability.

Importance of Filipino or Mother Tongue in Courts

In this section, it does not argue that Filipino should be the only language used in legal court proceedings. Rather, it recognizes that while Filipino serves as the national language of the Philippines, it remains somewhat "foreign" to many provinces across the country.

For Habermas, the legitimacy of a democratic legal system depends on citizens' ability to participate in rational discourse about the norms that bind them. This concerns the authority of the institutions that apply and interpret the law. If people cannot understand the language of the law, they are effectively excluded from that discourse, and the legal system loses its claim to democratic legitimacy (Peter, 2023).

In the course of developing this paper's argument, to say that law becomes an "instrument of authority" does not deny that law must exercise authority; rather, it distinguishes between authority that is legitimate—grounded in public understanding and consent—and authority that is coercive, sustained only through obedience without comprehension. Habermas (1996) explains that law always carries an element of coercion, yet this coercion can only be justified when it serves freedom—that is, when citizens can comply "out of respect for the law" and not merely out of fear of its sanction.

Through the lens of van Parijs' linguistic justice, equal access to legal processes demands more than translation. It requires inclusion within the lingual structure of public institutions. Translation may allow formal compliance but it does not eliminate the underlying inequality between those who naturally speak the language and those who must constantly adapt to it.

Even so, this does not imply that courtroom decorum should be abandoned; rather, it highlights the need to provide citizens with a platform where their voices can be heard. It is important to recognize that many people lack academic literacy, educational access, or even the basic ability to read and write. Hence, when legal processes rely on lingual and educational competence as prerequisites for participation, those who lack such resources are left defenseless against systems and individuals who might exploit their vulnerabilities.

Under such conditions, the principle of communicative equality³ is gravely compromised. It does not assume that all speakers possess the same knowledge or expertise, but that all are entitled to participate in a discourse where their contributions are treated as intelligible and credible. In Habermesian terms, communicative equality refers to a condition where understanding is reached through dialogue among free and equal participants. It should not be through deference to institutional or linguistic authority. However, communicative equality can be undermined even

³ Central to both justice and democratic legitimacy.

when people share a common language. Suppose a lawyer and an indigenous farmer may both speak Filipino, but only the former possesses the discursive and conceptual vocabulary of legal reasoning. Their inequality, therefore, is not purely lingual but epistemic. In this case, it stems from unequal access to the social and educational conditions that determine whose words count as reason and whose do not.

Here, Fricker's (2007) account of epistemic injustice becomes crucial. Fricker explains that certain speakers are discredited not because of the substance of what they say, but because of how they say it—their accent, vocabulary, or lack of institutional fluency. In the legal setting, such biases mean that lingual competence functions as a proxy for intelligence or truthfulness. Consequently, individuals who lack formal education or mastery of legal English are often perceived as less rational or credible even when their testimonies are sincere and grounded in lived experience.

Ensuring communicative equality, then, requires creating conditions in which lingual and epistemic authority are not monopolized by the educated or English-fluent elite. When individuals are able to use Filipino or their respective local language, those involved in legal proceedings are able to better grasp the processes that place their rights and freedoms at stake. The accused can follow the testimony, witnesses can express themselves clearly, and clients can genuinely understand their lawyer's advice. In such conditions, the courtroom transforms into a communicative space where meaning is mediated among all participants. It becomes independent of translation or the authority of an unfamiliar language. Moreover, those who speak in their own tongue do not need to doubt whether their words have been accurately represented or whether their testimony has lost credibility in translation.

Questioning the Emphasis on English Proficiency

If lingual inclusion promotes communicative justice, then the continuing privilege of English raises a deeper question about what kind of justice the legal system truly serves. The prevailing emphasis on English proficiency in the Philippine legal system reflects a structural belief that justice depends on lingual uniformity rather than communicative equality. As Martin (2018) shows, the Philippines' English-only policy in the legal domain marginalizes many Filipinos who do not belong to the educated English-speaking circle. In many legal and educational contexts, English is treated as a marker of intelligence, professionalism, and precision. An English-dominant system therefore presents itself as a kind of formal justice, following Lyons (1973): a view that treats justice as adherence to established rules and uniform procedures, without regard to the substantive content of those rules or the consequences of applying them. On this understanding, justice requires officials to "treat like cases alike" through a single stable legal vocabulary.⁴

The model proposed in this paper addresses this tension by prioritizing mutual comprehension and communicative fairness over perfect equivalence. This approach balances the need for formal consistency with the ethical imperative of inclusion, ensuring that all participants can understand and engage with legal processes.⁵ Moreover, the moral justification for privileging a single language often rests on efficiency or procedural convenience. Yet, again, a legal system cannot claim moral legitimacy if it excludes people from understanding and participating in decisions that affect them. True legitimacy emerges from inclusivity and democratic participation where everyone affected must be able to engage in the reasoning process on equal terms.

⁴ Some may argue that lingual inclusion could compromise this formal justice since translations may lose subtle nuances.

⁵ Minor imprecision in translation is considered acceptable when weighed against the goal of equitable access to justice. By shifting the burden of comprehension from litigants to the institution, these measures address the structural inequities and reinforce the principle that justice should not depend on English fluency alone.

The emphasis on English proficiency therefore demands a re-evaluation. For it does not merely organize communication, it organizes power. It privileges those who have already mastered the language while placing the burden of adaptation entirely on those who have not. As van Parijs' account of linguistic justice demonstrates, fairness requires that the costs of communication be shared and not borne solely by those outside the dominant linguistic group. In the Philippine legal system, the burden falls disproportionately on the non-English speaking majority who must constantly adjust to the lingual norms of power to access the justice that should already belong to them. This unequal distribution of lingual effort transforms English proficiency into a mechanism of exclusion—one that disguises privilege as a merit and perpetuates structural inequality under the guise of professionalism.

Still, one may then ask what is actually objectionable about being a “free rider,” as van Parijs describes it. A lingual burden is often viewed negatively because calling a group free riders already implies a moral judgment.⁶ Yet the notion of lingual burden can also be interpreted as a neutral measurement of relative contribution, which does not, on its own, imply that any arrangement is unjust.

First, what is meant by the “burdens of learning”? It refers to the effort required to understand the language and concepts used in legal processes. Sharing this burden matters because it ensures that understanding does not depend solely on the disadvantaged group's ability to adjust. When institutions take responsibility for making legal communications accessible, both sides move toward a more equal level of understanding. Next, the notion of “freeloading” becomes significant only when unequal contributions lead to patterns of dependence or imbalances of power, and not simply because the contributions differ. In lingual settings, such burdens matter when they shape

⁶ This leads to more questions: why measure the burden at all? Why think that a fair language system must have equal effort from everyone? And would it necessarily be unjust if the effort were not shared equally?

people's opportunities, independence, or ability to take part in public institutions. Moreover, justice does not require that all groups require equal effort; rather, it requires that inequalities do not weaken anyone's ability to exercise their rights or access social services. In this way, measuring lingual burdens is justified not because everyone must contribute equally, but because certain inequalities—especially those built into legal and bureaucratic systems—can directly result in unequal access to justice. This is particularly evident when viewed through the lens of Fricker's concept of epistemic injustice. Lingual asymmetries can produce testimonial injustice when speakers of non-dominant languages are not taken as credible because of their lingual limitations. On the one hand, it can also be recognized as hermeneutical injustice when their experiences cannot be properly understood or articulated within dominant institutional frameworks. What is morally troubling, then, is not freeloading per se, but the ways lingual differences can reinforce disadvantage and produce epistemic injustice that hinders fair legal participation.

Ultimately, to question the emphasis on English proficiency is a call to realign them with justice itself. A fair and democratic legal system must assess competence not merely by fluency in the language of authority, but by a person's understanding of the law—a grasp that does not depend on the accustomed formal legal education. This includes the ability to comprehend legal concepts, reason logically about rights and obligations, interpret rules in context, and recognize the broader social and ethical implications of legal decisions. Even those without formal training can engage with the law, advocate for themselves, and participate thoughtfully in legal processes. For language is only one aspect of comprehension, it is not the sole means of understanding, but rather one *necessary condition* for it.

Whose Convenience Does English Serve?

The dominance of English in the Philippine legal system exposes a clear power asymmetry between those who administer justice and those who stand before it. Judges, lawyers, prosecutors—educated and trained in English—control the language of legal reasoning, whereas many accused persons and witnesses come from communities where English is not commonly spoken. This imbalance allows language to determine who can participate actively in legal proceedings. At present, it primarily benefits the educated elite who command the language of authority and marginalizes those who must constantly adapt to it.

The effects of this lingual imbalance extend beyond the courtroom, influencing every stage of the legal process. Police reports, affidavits, and even arrest warrants are often written in English even when neither the complainant nor the accused understands the language. Defendants may be asked to sign documents they cannot read, or to confirm statements translated only partially or inaccurately.⁷

However, the challenge of being uneducated encompasses far more than a person's fluency in English. For instance, an uneducated indigenous person may still struggle to understand their rights even when these are communicated in their vernacular. This suggests that if an indigenous person does not grasp the underlying legal concepts, translating legal terms into the local language will not necessarily improve comprehension unless the conceptual framework itself is made accessible. It becomes increasingly evident that the justice system is shaped by English speakers,

⁷ In a news article, Gonzaga (2011) reported that Aetas in Pastolan, Bataan were pressured to sign a Joint Management Agreement with the Subic Bay Metropolitan Authority over 4,200 hectares of ancestral land without fully understanding it. Tribal elder Leonardo Abraham noted the community's poverty and limited knowledge made them vulnerable, and although he refused to sign, SBMA officials went house to house to secure agreements, with some local leaders supporting the agency. In a different illustrative example, witnesses during trial may hesitate to speak freely out of fear that their use of Filipino, Bisaya, or other regional language will appear "uneducated" or "unreliable" to the court. Meanwhile, English-speaking lawyers and judges move comfortably within the discourse because it continuously affirms their authority.

while those who do not speak the language face compounded difficulties. They struggle to understand legal proceedings, even in their own vernacular, and their lack of formal legal education further limits their ability to navigate a system that was never built to recognize their voices. From this perspective, two conditions must be taken into account: (1) legal inaccessibility is primarily conceptual, and (2) lingual barriers further intensify this conceptual gap. In other words, English functions as the “medium” of exclusion, while legal technicalities constitute its “substance.”

This disparity undermines the fairness of judicial processes. What appears precise and efficient to the court may be inaccessible and alienating to those on trial. When verdicts and proceedings are delivered in English, the ability to comprehend them is further diminished. The accused that depends on interpreters or lawyers to navigate a system that does not speak their language reduces their participation to just passive compliance. In cases where interpreters are present, the translation may still fail to capture tone, emotion, or nuance which are elements essential to understanding testimony. In such settings, justice becomes a monologue spoken by the dominant group (English-speaking elite) and heard only partially by the governed. Thus, uneven comprehension undermines the moral foundation of due process. The justice system cannot claim neutrality while it privileges the comfort of those in power over the understanding of those most affected by its decisions.

In Fricker’s (2007) concept of testimonial injustice, it helps explain how this lingual hierarchy shapes the credibility of speakers. Prejudice distorts how hearers evaluate a speaker’s testimony, assigning less credibility to those who do not embody dominant social or lingual norms. This is evident in the Philippines where the colonial legacy of English continues to define what counts as rational and authoritative speech. Martin (2012) further observes that English remains the “language of power” in the country’s legal system, while Filipino and other local languages are

often viewed as informal or emotionally charged. The result is a form of epistemic harm because the very structure of the system privileges certain voices. By upholding English as the language of authority, the system ultimately serves the interests of those who already occupy positions of power and reinforces social and lingual inequality.

Conclusion

While these are just some of the key arguments and background of my thesis and not the full paper, I believe they already demonstrate that legal inaccessibility in the Philippine legal system is primarily conceptual, and that lingual barriers further intensify this conceptual gap. Drawing on van Parijs, Fricker, Habermas, and Young, the analysis shows that the dominance of English is not merely a neutral administrative choice but a structural condition that shapes access to justice, participation in legal processes, and the distribution of epistemic credibility. In this sense, lingual inequality does not only affect communication; it deepens pre-existing difficulties in understanding legal concepts, reasoning about rights, and engaging with legal institutions.

Ultimately, the study argues that justice in a multilingual society cannot be reduced to translation or procedural accommodation alone. While translation and interpretation may mitigate surface-level barriers, they do not fully resolve the deeper structural inequalities embedded in language hierarchies. What is required is a more fundamental rethinking of how legal language operates—one that prioritizes communicative equality, shared understanding, and epistemic fairness for all participants in the legal system. Only by addressing both conceptual and lingual dimensions of exclusion can the legal system move closer to the ideal of genuinely equal justice in a multilingual society like the Philippines.

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