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ROLE OF ENGLISH LANGUAGE IN LEGAL PROFESSION IN INDIA AND ITS CHALLENGES

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ABSTRACT :

With an impact of Globalization and Liberalization, at present it is important for everyone particularly for the students of law, to learn English as an international language. The legal profession in India has undergone a rapid transformation over the last few decades. Presently, apart from traditional practice in courts, the law aspirants can get an opportunity in various corporate houses, law firms, administrative services and many more. As communication skill is an inseparable part of legal profession, a lawyer must have command over language to convince the variety of audience. Otherwise, in spite of having intense domain knowledge, he cannot communicate or present the case properly in the court. In India, the lawyers have to argue the cases in the Supreme Court and the High Courts in English, judges have to prepare the long judgments in English and legal advisors in multinational companies have to prepare their reports in English. Moreover, most of the study material as books, journals and judgments is available in English only. Hence, it is essential that the students of law should be well-versed not only in legal drafting but in

communication also in English. The students who take admission in law courses particularly from vernacular medium schools should be trained properly in four skills of English - Listening, Speaking, Reading and Writing. This research paper highlights the importance of English Language as well as the challenges of language faced by legal professionals in India.

KEYWORDS : Language globalization, opportunities, language prominence, communication skills, literature availability, drafting skills, language skills, challenges.

INTRODUCTION

Language is a subtle and complex instrument used to communicate an incredible number of things in any society. Language and law are inextricably linked in many ways: rules are expressed, understood, and interpreted in language; legislation too is a special form of expression, as is a judge's opinion. Furthermore, it is said that law is a profession of words. Hence, developing strong communication skills along with legal analysis is a critical part of a top-notch legal education. The main job of a lawyer is to communicate and to persuade confidently to a variety of clients. Language is the primary weapon of lawyers in accomplishing this mission. For lawyers language has a special interest as an instrument of social control. Words are of utmost importance to the lawyer for drafting and interpretation of statutes, wills, contracts and other legal documents. John Gibbons has rightly said —The relationship between language and law is deep. Laws are coded in language and permeate all areas of life.||

English language in India is as old as the East India Company. After coming in India, the English searched for Indian mediators to help them in administration in India but language was the main obstacle in their way to rule in India. Therefore, British adopted a policy to create an Indian class who should support them in ruling India or as it was said in Britain, —Indians in blood and colour but English in taste, in opinion and morals and intellect||. It got importance in the educational sector in 1857 when the first three universities were established in Calcutta, Bombay and

Madras where emphasis was given on teaching English and high class Indians were encouraged to get education in these Universities so that they could help British in India after learning English. The modern Indian leaders of that era also supported English language and claimed it to be the main key towards success. With the passage of time, it was believed by the national leaders that English would gradually be replaced in every sphere of life including administration, education and mass media. However, the position of English remained unchanged until the Independence of India in 1947. After Independence, English became an associate Official Language and Hindi along with other languages came to be promoted fervently. At present, after Hindi, English is the most commonly spoken or used language in India particularly in legal, financial, educational, business and communicative systems.

The principal official language of India is Hindi while English is the secondary official language. Article 343(1) of the Constitution provides that Hindi in Devanagari script shall be the Official Language of the Union. On the other hand, Article 348 of the Constitution states the language to be used in the Supreme Court and High Courts and for Acts and Bills etc. shall be English. Permission will be granted for use of Hindi or any other language only by the President and translation of the same shall be made available in English.

The former Chief Justice of India, Justice Balakrishnan rejected the proposal on the use of languages other than English saying, —The Supreme Court and all the High Courts should have a common language. English should continue to be the language of the Supreme Court and all the High Courts, until in due course Hindi becomes rich and ripe enough to take its place and regional languages should not be introduced as languages of High Courts. ||

Justice Balakrishnan added —If regional language is permitted to be used in orders, decrees and other proceedings of the High Court; it will create difficulties for the judges who may not know the regional language, in order to discharge their judicial functions. The translation being a costly affair may not be accurate and may not reflect the true import of the judgment or order of the High Court. This will cause delay in disposal of cases in Supreme Court. ||

The other practical difficulty that may arise will be transfer of Judges. The Chief Justice in most cases also presides over important Public Interest Litigations. Since most Chief Justices are not well versed with regional languages, it may be difficult to make regional languages as court languages.

Thus, English plays a vital role in Indian Judiciary. But it is often observed that in a nation as developed as ours, sometimes the lawyers are reluctant to argue in English. Even if they are allowed to argue in a regional language, it has to be translated for the Judge. The Judges are conversant in English as a universal language in all the High Courts and this in turn makes it easy in transferring a Judge from one court to another, which happens frequently. The use of regional language in courts and introducing Regional Benches' may act as a barrier and cause unnecessary delay in our judiciary system.

Thus, the lawyers have to argue the cases in the Supreme Court and the High Courts in English, judges have to prepare the long judgments in English and legal advisors in multinational companies have to prepare their reports in English. Moreover, most of the study material as books, journals and judgments is available in English only. Hence, it is essential that the students of law should be well-versed not only in legal drafting but in communication in English also. In today's scenario, for a student, armed with a law degree, various job opportunities like advocate, solicitor, teacher, writer, legal Advisor and many other posts in the excise department, sales tax and income tax as judicial members are available. For these jobs, the students of law should have command over at least three languages – English, Hindi and any one regional language. At present, more than 50% students come to join law from vernacular medium languages. They find it difficult to write and speak in English and thus are diffident to face the public.

Realizing the importance of the English language which may prove beneficial for every student for his career, the National Knowledge Commission of India has proposed to the Government of India to strongly recommend the inclusion of English from standard I in the school curriculum. The Commission is of the opinion that —in the 21st century marketplace languages are the new bargaining chips. They are tools of trades, no less or more; that is precisely why we must embrace them. || Considering this, Bar Council of India has made English

compulsory as a subject in LL.B (5 Year Course). Moreover, English has been made the medium of instruction in most of the law colleges. The law aspirants come from the cultural and linguistic diverse background and they speak different languages. In Law colleges, teachers have to teach not only General English but the language of law also. The students of law must have proper knowledge of grammar and legal language. Anyone who wishes to become a good writer should endeavor, before he allows himself to be tempted by more showy qualities, to be direct, simple, brief, vigorous and lucid.

Hence, the students of law should be trained properly in four skills - Listening, Speaking, Reading and Writing. Learning language should be made an enjoyable experience for them. Listening and Speaking are two sides of the same coin. Audio-lingual method is one of the best ways for improving the skills of listening and speaking. Students can learn phrases and sentences easily through repetition. Moreover, in the class, students should be encouraged to read current cases either from law books or from newspapers to improve their pronunciation and their knowledge of legal terms and phrases and the same can be discussed in group in the class. Dialogue chains, Role Play, Moot Court, Book Review, Group Discussion etc. may be very helpful in improving their communication skill and create confidence in them. Writing is perhaps the most demanding skill for a lawyer. It has to be deliberately cultivated. Unlike listening and speaking, it is not something which is natural to humans- it is a skill which has been developed in civilized society to pass on knowledge or messages beyond the constraints of here and now. Translation method may also be very useful for them. It is a way of learning a language by studying the rules of grammar and then applying these rules to the translation of sentences and texts. Accuracy of language should be given great importance. For it, knowledge of grammar and vocabulary is must. Teaching of grammar can be made more interesting through visual (Power Point Presentation) presentation of the topics instead of traditional method of teaching it through blackboard. Nevertheless, the students can practice grammar through various grammar books or online exercises are also good option for them where they can get the answers immediately. Presently, English symbolizes in Indian minds better education, better culture and higher intellect. Hence, it is the need of the hour that attention must be paid towards these important factors to improve the standard of legal education. At present, it is important to bring some changes in the existing curriculum of the legal education in India by addition, subtraction or cancellation in syllabus to keep pace with the changing situation of the world and of course emphasis must be given in law colleges on teaching and learning English so that the students can compete at International level confidently.

In fact, many of the undergraduates in the Law lack the specific language skills needed for legal English such as the pragmatic competence required to interview their clients especially if they are foreigners or expatriates, the skills to cross-examine witnesses or present a cogent argument in court to defend their clients. In addition, while most of the students seem to be able to read and interpret simple law-based materials, the majority are not able to write well-organized, error-free essays of an argumentative or logical nature. In other words, they lack the skills for critical thinking simply because they lack the necessary tools in the English language. Many are also unable to make a short oral presentation in English without multiple grammatical and vocabulary errors.

In addition to this, in various law colleges in India, though the medium of instruction for law courses is English, still in some law colleges particularly in rural areas, all the subjects of law are taught in regional language only which creates a great obstacle for students to understand the subject in English. It is a bitter fact that an enabling English language environment cannot be created overnight. Learners need to experience appropriate input so that they can become engaged with the language. Students need to feel the language in the air in the college because for the vast majority of students, English is not available outside the premises of the college. The creation of such an enabling environment has to be encouraged through curricular and other extra-curricular activities in and outside the college.

In the long run, it can be concluded that in a democratic country like India, language should not be a hindrance to be progressive in life. The students should be taught minimum three languages at the school level: regional language, Hindi and English but as English is a foreign language for us so focus must be on teaching correct use of English so that all the options for the bright career of law students should be open. Moreover, virtual class rooms or flipped class rooms in the law colleges may also help to keep the students interested and

updated. E-courses, on-line tests and assignments etc. can be used for providing knowledge and sharing information easily to the students of law to develop their personality and to create confidence in them.

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