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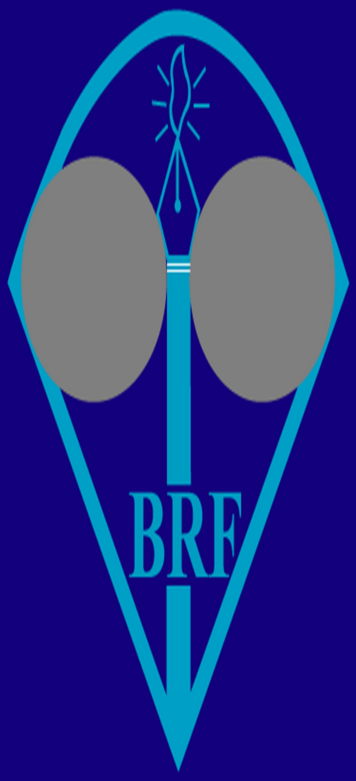

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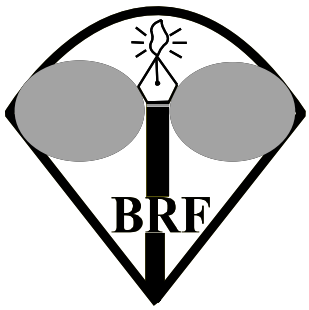

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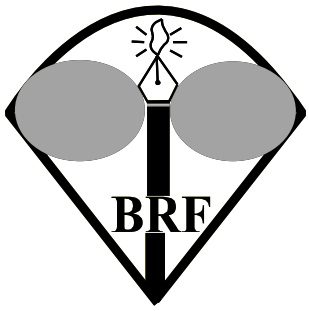

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Language Learning through Expressions: An Overview of Non-Verbal Communication

Aminul Islam[1]

Abstract

Studies show that non-verbal communication pays a major concern in attaining second language communicative competence; a deep concern regarding paying fullest attention using this to practical practicum in the arena of teaching has not yet been properly flourished. This article chiefly illustrates the imperative character of non-verbal communication in the total communication process, where it does scrutinize the interaction of body language, particularly gesture, facial expression and gaze behavior. In addition to this, specific activities that convey the visual and auditory channels together via video, drama and role-play have too been stated.

Keywords: Expressions, Language, Non-Verbal communication, communicative competence, EFL/ESL

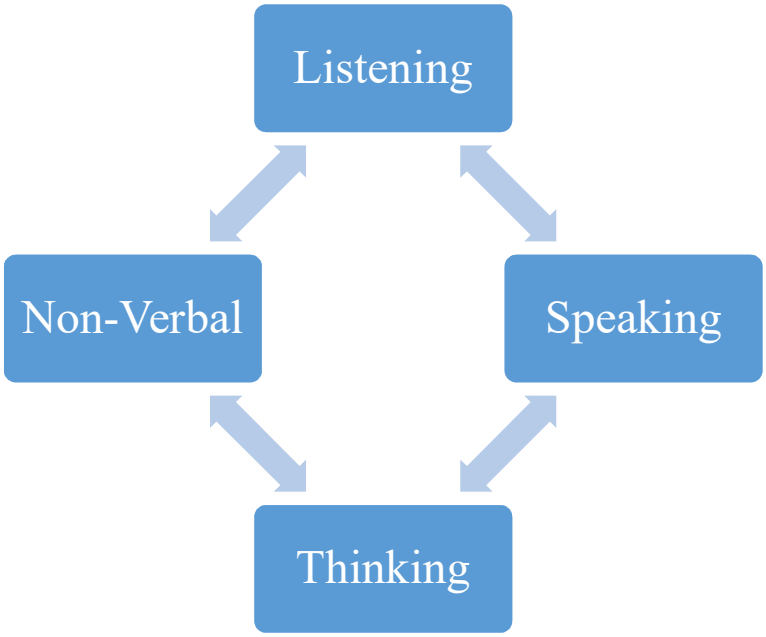
Introduction

Of the existing four communication skills of language, non-verbal is, for sure, a key one that consists of all the messages other than words. In oral communication, these symbolic messages are transferred by means of intonation, tone of voice, vocally produced noises, body gestures, facial expressions or pauses. Almost fifty-five percent of our communication contains non-verbal elements; knowing how and what to say to whom is an essential one of communicative competence. The aspirations as teachers of EFL/ESL to challenge our learners to go beyond the grammaticality of being able to put the subject, verb, and object in the correct syntactic order, and achieve what Canale and Swain called discourse, strategic, and sociolinguistic competencies do have a greater impact indeed.[1] With the emphasis of language instruction moving from grammatical accuracy and phonological correctness to making oneself understood, it is crucial to take a closer look at all of the resources at our disposal that enhance mutual intelligibility. Kinesics, or the way gesture, facial expression and gaze behavior is used to communicate messages. People rely heavily on non-verbal communication in their daily lives.

[1]**Assistant Professor & Chairman, Department of English, Cox's Bazar International University, Cox's Bazar, Bangladesh**

A brief look at research calculations supports this. People spend about seventy percent of their waking time in the presence of others, but individuals speak for only ten to eleven minutes a day, each utterance taking about 2.5 seconds.[2]

The Communication Skills in Language: The Fours by Name



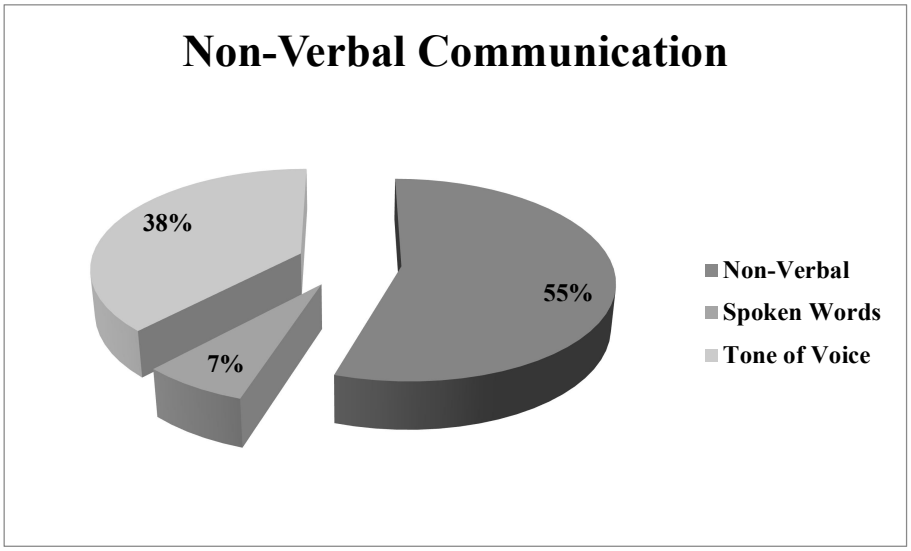
These numbers are testament to the reliance that we have on non-verbal communication to express ourselves and to interpret the unspoken activities of others. The non-verbal channel of communication bears an estimated two thirds of the social meaning load, leaving only one third of all meaning carried via the spoken word.[3] According to Singelis,

> The fact that at least one communicator is working in a second language means the verbal content may not be as clear as it would be in an intercultural interaction. Consequently, the reliance on nonverbal communication may be even greater than normal.[4]

Non-verbal Communication: A Glimpse

Non-verbal communication includes 'all communication other than language'.[5] Inherent in this definition is that language is solely a human endeavor and that arbitrary symbols are used to convey meaning. De Vito and Hecht describe nonverbal communication as 'all of the messages other than words that people exchange.'[6] In this definition, messages are seen as symbolic and therefore their use is intentional.

For example, if a language learner extends his arm above his head in a stretching motion to relieve himself of a muscle cramp, this behavior was not intended as communication; however, if this same motion is done to signal his desire to answer a question in class, the movement symbolizes his willingness to volunteer, and would thus be considered nonverbal communication. That is to say, not all behavior leads to communication. The second element of this definition involves 'other than words' messages, meaning that nonlinguistic codes such as body language, facial expression, prosodic vocal features, time, touch, space, physical appearance, and environment are used to communicate meaning. Finally, this definition limits nonverbal communication to that which involves an exchange between people, thus eliminating any messages transmitted between animals or intrapersonal communication that occurs when an individual has a thought or 'talks' to himself/herself. This distinction between what is verbal and nonverbal, however, is only in definition.



Gestures: The Movements

There are four types of gestures important for effective communication: illustrators, regulators, emblems, and affect displays.[7] Those behaviors that complement or accentuate the verbal message are called illustrators (see **Figure 1**). For most individuals, these are the natural hand and body gestures that accompany speech, such as gesturing, smiling, frowning, or pointing to illustrate a point. These nonverbal cues convey the same meaning as the verbal message, and either complete or supplement it. For an English language learner, these greatly aid in understanding a speaker's message as they supply extra context clues for determining the meaning of an utterance. When asking for directions to a particular location the speaker most likely will point in the appropriate direction as the verbal message is communicated. For example, Eliza may not know the meaning of 'straight down the hall,' but close observation of her interlocutor's illustrator gesture would send her in the correct direction. Body language cues that serve to control turn-taking and other procedural aspects of interpersonal communication are called regulators (see **Figure 2**). As turn-

taking is one of the fundamental organizations of conversation and interaction patterns, it plays a key role in the process through which participants interpret each others' meanings and intentions. A practical requisite of every conversation is the determination of who speaks when, and this is usually done unconsciously and quite smoothly because of regulators like the termination of a gesture, changes in gaze direction, or the speakers' looking way from the hearer as an utterance ends.[8] Turn-taking in conversations is guided by transition signals.

Figure 1 Illustrators

Figure 2 Regulators

Figure 3 Emblem

Figure 4 Affect display

Emblems (see **Figure 3**) are nonverbal behaviors that can be translated into words and that are used intentionally to transmit a message. Because these gestures can substitute words, their meaning is widely understood within a culture. Finally, affect displays (see **Figure 4**) are another type of body language necessary for language learners to process. These are behaviors that express emotion.

Facial Expression: The Medium of Expression

Facial expressions are also a form of kinesics used to nonverbally transmit messages. According to Knapp and Hall,

> The face is rich in communicative potential. It is the primary site for communication of emotional states, it reflects interpersonal attitudes; it provides nonverbal feedback on the comments of others; and some scholars say it is the primary source of information next to human speech. For these reasons, and because of the face's visibility, we pay a great deal of attention to the messages we receive from the faces of others.[9]

The face is a primary means of managing interaction, complementing a response, and replacing speech. Through facial expression, we can open and close channels of communication. For example, in turn-taking, interlocutors will open their mouths in anticipation of their words, signaling readiness (see **Figure 5**). Smiles and flashes of the brow are used in greetings (see **Figure 6**), and although the smile is usually perceived in the communication of happiness, it is also associated with signaling attentiveness and involvement in the conversation, similar to the head nod, facilitating and encouraging the interlocutor to continue.

Figure 5 Signals readiness

Figure 6 Smiles and flashes used in greetings

Figure 7 Smiles temper a negative message

Figure 8 Conspiratorial wink

The face also complements or qualifies a message. When as a speaker or a listener we want to emphasize, diminish or support the spoken word, a flick of the eyebrow or the lips curling into a smile may temper an otherwise negative message (see **Figure 7**). In terms of replacing speech, the face can function similarly to the emblem gesture where there is a general understanding of what the display means; the conspiratorial

wink of the eye (see **Figure 8**), the wrinkling of the nose in disgust, or the eyebrows meeting in the middle communicating 'what?' (see **Figure 9**) are all facial displays that replace a spoken word and will usually be interpreted consistently and correctly.[10] Although the examples just given may have some cultural variation, Ekman and Friesen (1975) created a list of six emotions that they contend are innate and universal.[11] That is to say, no matter where one travels on the planet, these six emotions will be expressed and interpreted in a consistent way. They include happiness, sadness, fear, anger, disgust, and surprise (see **Figures 10-15**).

Figure 9 Eyebrows meet to communicate confusion

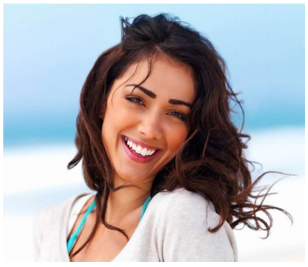


Figure 10 Happiness

Research with blind children has demonstrated that the same facial expressions are used to communicate the same emotions as sighted children, thus supporting the notion that these six basic expressions are not learned, but part of an innate communication system. [12]

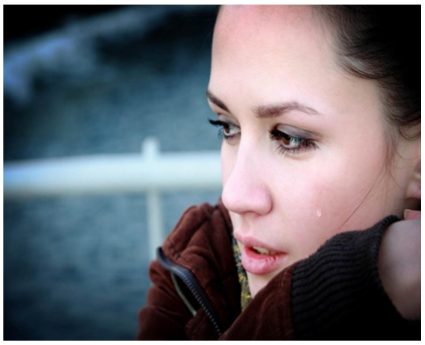


Figure 11 Sadness

Figure 12 Fear

Figure 13 Anger

Figure 14 Disgust

Initial interest in the communication of emotion through facial expression, its universality and its innateness began with Charles Darwin, who in 1872 published his book, *The Expression of Emotions in Man and Animals*. In it, he made a case for his evolutionary ideas, positing that the ability to communicate non-verbally had followed an evolutionary process similar to that of the brain and body in humankind. What are culture specific, however, are the learned 'display rules' that govern when and how emotional displays are considered socially and situationally appropriate. Every culture has different norms that dictate how much emotion can be displayed under certain circumstances. Individuals manage their facial emotions through simulation, intensification, neutralization, de-intensification, and masking.[13]

Figure 15 Surprised

Figure 16 Face simulates emotion

For example, the language learner who simulates facial affect (see **Figure 16**), or shows feelings when he really has none, is seen in David, who is really quite ambivalent about the fieldtrip to the supermarket, but who feigns happiness at the prospect in order to not let his enthusiastic language teacher down. The language learner who intensifies (see **Figure 17**) his facial expression, or wants to appear as having more feelings than he really does, is content with his classmate's oral performance but smiles from ear to ear as he wildly applauds in order to really encourage his friend. The neutralizer (see **Figure 18**), or the individual who demonstrates feeling when in reality nothing is felt, can be seen in Marco who stands stoically stone-faced in front of his teacher not wanting to reveal his surprised, innermost joy at having received an A, because he wants to give the impression that he had expected it all along. De-intensification (see **Figure 19**) of emotion, or giving the real, is exemplified by half smile. She really wanted to leap for joy at having heard she had just won a huge amount.

Figure 17 Face intensifies emotion

Figure 18 Face neutralizes emotion

Finally, those individuals who mask (see **Figure 20**) their emotions are those who cover a feeling by expressing another. This display rule is accomplished by Emma who thought that she would win the award, and is actually quite angry, but instead of her face communicating her discontent, she smiles broadly and congratulates her classmate. Although not innate, these display rules are learned early in childhood and are defined differently by individual cultures.[14]

Figure 19 Face de-intensifies emotion

Figure 20 Face masks emotion

Gaze Behavior: Another Assisting Medium

'Eyes are the window to the soul.' Eye behavior has a higher probability of being noticed than any other bodily movements, so it is a much more prominent interaction signal. Communications researchers make a distinction between eye contact (or mutual gaze), which occurs when both people involved in a conversation look into each others' eyes and gazing, which occurs anytime when an individual looks at another.[15] Knapp and Hall define five functions of gazing: Regulating the flow of conversation, monitoring feedback, reflecting cognitive activity, expressing emotion, and communicating the nature of interpersonal relationship. First of all, the flow of conversation is regulated through visual contact in two ways: it indicates that the interlocutors are open to communication, and it manages turn-taking by sending and receiving signals. Individuals who seek visual contact with another are signaling that

they want to engage in communication, and those who obviously avoid eye contact are sending the opposite message. In many cultures, listeners who do not make eye contact with their interlocutor will be perceived by their conversation partner as not being attentive. Eye contact also signals cognitive activity. There is a shift in attention from the external conversation to internal cognition .[16]

Pedagogical Implications: The Impacts/Effects

Reasons abound for including visually supported spoken messages in the ESL classroom. Communicative competence is limited when learners are deprived of all the authentic input, both visual and auditory, that works in tandem to achieve such competence.[17] Thus, teachers may want to reconsider the use of materials such as audiocassettes and non-visual multi-media that limit the learners' ability to rely on visual sensory input, and to provide opportunities for learners to increase their awareness of the appropriate use of nonverbal communication.

Video: The Plus Point

Butler-Pascoe and Wiburg describe a variety of exercises that use videos. They suggest that language learners can be shown an opening scene in an adventure movie. The teacher then would ask the students to predict what might happen after it, with the option of showing the next scene with or without sound. Students would then be asked for further predictions. One group would be shown the video without sound and asked to make a prediction about what might be said, while a second group listens only to the sound and tries to ascertain what images might be passing on the screen. [18]

Drama: The Performance

Drama activities like the two that follow provide ESL students with a method for both discovery and discussion. In the first activity, students will develop improvisational skills; learn to listen and react in a spontaneous way, as well as to learn new vocabulary in context. To begin, an individual gets into the middle of a circle of other learners and mimes an action. The whole group supports that individual by mirroring the action. When someone in the circle discovers the name for the action, that individual turns to a neighbor and names it. The person in the middle who mimed the action says the action out loud, giving the cue for another volunteer to step in and quickly begin to mime a new action. The game continues until all have taken a turn in the middle. [19]

Interviews: The Outcomes

Interviews are an effective way for students to learn about others in the class and the countries from which they come. In the following exercise, learners will become aware that communication in novel situations with a new language can be ambiguous, often times frustrating, and necessitates new ways of conveying meaning. The first

step in this interview is to pair up students and instruct them that they are to find out as much as possible about their partners and their countries, but that they are not allowed to speak. Large pieces of paper and magic markers should be made available to the students with the limitation that they are not allowed to write words or numbers. After 20 minutes, students give information about their partners to the rest of the group, checking to see if they gave and received clear messages. Inaccurate information needs to be clarified. An ensuing feedback discussion will highlight to the learners the important role of nonverbal communication, but also demonstrate how ambiguous it can often be. [20]

Conclusion

Certain ideas of teaching stimulating non-verbal awareness are presented here; the aim of this article is to scintillate the ingenuity of other language teachers to conceive and also to integrate activities that do not synthetically dissociate the auditory and visual channels of the communicative process. This article raises learners' consciousness about the language learning through expressions.

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Scope of and Challenges for Legal Research in the Private Universities in Bangladesh: A Socio-LegalStudy of Private Universities in Sylhet

Md. Fariduzzaman[1]

Hussain Ahmed[2]

Abstract

Legal research is an inevitable part of legal education. The private universities in Bangladesh have been the best alternative for providing legal education alongside the public universities. But questions arise on the issues of scope of and challenges for conducting legal research there. In the survey, the authors got hold of some answers of questions put to both the students and teachers of four private universities in Sylhet. 84% students think that there is no amicable environment for legal research in private universities whereas 16% think that they have proper environment for legal research. Similarly, 80% faculty members think that there is no friendly environment for conducting legal research in private universities but only 20% think that there is opportunity for legal research. Besides, there are collateral challenges for conducting legal research in the private universities in Bangladesh. To find out solutions, the authors have given a few recommendations for flourishing the scope of legal research in Bangladesh.

***Keywords**: Legal Research, Private Universities, Scope, Challenge*

1.0 Introduction:

Quality of law graduates depends upon the legal research because legal research means the process of identifying and receiving information necessary to support legal decision-making. The importance of legal research is increasing day by day. But legal research could not be conducted sufficiently because in private universities when any one shows interest to conduct any legal research, one faces various types of problems. In this research paper, the researchers try to identify and recommend probable solutions to solving this problem.Legal research should be

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objective and not subjective. Generally, object of legal research is to familiarize with the legal phenomena, facts into new theoretical framework, legal facts and hypothesis of cause and effect relation between variables and concepts.

Objectives of research are divided into general and specific objectives. The general objective of research is to explore what types of problems are faced by the legal researchers in private universities to conduct their legal research. The specific objectives are: to identify the real problems of legal research in private university; to identify the opportunity of legal research in private university; availability of the proper legal research content and environment in private university; to explore infrastructure facilities about legal research which are provided by the privateuniversity; and to show a way forward to incentivize legal research in collaboration with both the faculties and fellow students.

1.1 Methodology

This paper has been constructed based both on analytical and empirical research methodology. Here both primary and secondary sources have been used. Primary data has been collected from survey and law statutes and secondary data has been collected from different textbooks, law journals and internet sources. For conducting empirical research, data has been collected and analyzed. In this article, sampling method has been applied. For this purpose, questionnaire survey has been applied. Because a questionnaire survey is a structured data collection technique whereby each respondent is asked a pre-formulated written set of questions to which he records his answers. Also, in the questionnaire survey method, the researcher collects data directly fromrespondents about their beliefs, institutional experience, educational experience and their financial background.[1]

2.0 Literature Review

2.1 Debunking issues on legal research

Legal research is generally the process of finding an answer to a legal question or checking for legal precedent that can be cited in a brief or at trial. Sometimes, legal research can help determine whether a legal issue is a "case of first impression" that is unregulated or lacks legal precedent. In other words, legal research is the process of identifying and retrieving information necessary to support legal decision-making. In its broader sense, legal research includes each step of a course of action that begins with an analysis of the facts of a problem and concludes with the application and

[1] For more see, Fink, Arlene,How to conduct surveys: A Step-by-step Guide, 6th editions, SAGE Publications, USA, (2017) available https://jerosystems.com/2016/rskills4.pdf (Last Accessed on 01-07-2018)

communication of the results of the investigation[3].Similarly, some authors define the terms 'legal research' to be a tool of 'finding the law'.[2]

Legal research is performed by anyone with a need for legal information, including lawyers, law librarians, and paralegals. Law around the world provide research services to help their patrons find the legal information they need in law schools, law firms and other research environments. Many law libraries and institutions provide free access to legal information on the web, either individually or via collective action, such as with the Free Access to Law Movement.[3]

With the advancement of science and technology as a paradigm shift, the ways and means of legal research has changed. Most of the high ranked universities at home and abroad reorganize their classrooms and research support centers with modern technologies. Both the teachers and students need to embrace 'up-to-the minute information' on legal issues based on 'computer-assisted legal research (CALR)'.[4]

Legal research is accomplished following a number of rules and regulations. These rules and regulations are classified in various categories. The most common categories concern both primary and secondary sources needed to use reference in researches. In some cases, the researchers are dictated to make plans as a requirement of good legal research.[5] The tools which are applied in legal research involve a number of origins. The legal researchers have to go through the constitutional provisions- the supreme law of the state, the collateral statues, law reports, law journals, case finders[6], etc. for approaching a research question.

In Bangladeshi private universities, there are confusions on what should be the actual academic name of legal research. Most of the universities regard it as either 'dissertation' or 'research monograph' or 'thesis' or 'thesis project' etc. For specification, the authors have coined the terms 'legal research' broadly irrespective of the titular name used in hegemonistic characteristics.

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[3] J. Myron Jacobstein and Roy M. Mersky*, Fundamentals of Legal Research*, 8th Edition. Foundation Press, (2002) p. 1.

[2] Nolfie, Edward A., *Basic Legal Research for Paralegals*, 2nd Edition, McGraw-Hill, New York (1993), p.01

[3] Free Access to Law Movement (FALM) is an international voluntary association having more than 50 members around the world. FALM provides members free access to legal information. Actually, this institution facilitates legal research by helping researchers have free access to legal journals and by organizing international conference on various coherent issues of law. To know more, see, www.fatml.org [last accessed 25 April,2018]

[4] Legal research is different from researches in other disciplines because primary sources of data in researches in other disciplines come from direct interviews of the respondents. But in legal research, the statutes themselves are the sources of primary data. For more, see generally Bast, Carole M. & Hawkins, Margie, Foundations of Legal Research and Writing, (4th Ed., Delmer, Cengage Learning,2010)

[5] Supra Note, 03 at P. 05

[6] Ibid, at P. 83

There are numerous ways in which legal research can be ventured. The classical mode of legal research focuses on analytical theorization on contemporary relevant legal discourses. Here, the researchers are required to go through legal books, articles, newspapers for furthering hypothesis. Conversely, with the advent of scientific advancement, the means of legal research accomplishment has embarked engaging electronic media. Technology is extendedly approached in order to find resources, organize data, conclude results and even show layouts in the form of recommendations or solutions. Like general form of research, electronic research also works for 'finding the answer of questions'.[7]

2.2 Importance of Legal Research to Legal Studies and Practice:

Research is essential for pursuit of higher study and acquiring scientific knowledge in any discipline. UGC Chairman Professor Abdul Mannan said that there are two conditions for any university. These are- knowledge creation and distribution of knowledge. Knowledge is created through research[8]. Sirajul Islam Chowdhury said, "If there is no research in University, then no university will be a university"[9]. Professor Syed Manjurul Islam of the English Department of Dhaka University said, "Many studies are needed to ensure higher education and new knowledge in higher education"[10]Prof. Md. DelwarHossain Sheikh, researcher of Institute of Education and Research (IER) at Dhaka University told, "There is no higher education except research. If the university does not conduct research, then how could it be the university?".[11]Chairman of the Private University Association, CM Shafi Sami said, "To provide quality higher education in private universities, the environment of research activities should be created".[12]

Legal scholarships spend a great deal of their time reading and writing, preparing briefs, reports, letters, by engaging themselves in numerous writing projects. It is important, therefore, to ensure that the written work produced by a law student or a teacher should be up-to-date and structurally accurate since the work of the scholars are inevitable for policy reformulations and upgradations of concerned institutions.

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[7]Delaney, Stephanie, *Electronic Legal Research: An Integrated Approach*, 2nd Edition, DelmerCengageLearning, USA (2009), P. 04

[8]For more, see, UGC Annual Report, 2016>http://www.ugc.gov.bd/uploads/2018/annualreport/Annual_Re-2016.zip (Last Accessed on 01-07-2018)

[9]Karim, Riyadhul, 'Private universities are unacceptable in the study', *The Daily ProthomAlo*, (Dhaka, 04 May,2014) <http://www.prothom-alo.com/bangladesh/article/207888 (Last Accessed on 01-07-2018)

[10]Rahaman, Amanur, 'There is no research in 37 universities', *The Daily Nayadiganta*, (Dhaka, 26 November,2015) <http://www.dailynayadiganta.com/?/detail/news/72559?m=0 (Last Accessed on 01-07-2018)

[11]"Even if the income of private universities increases, the value is not rising" *The Daily Kalerkantha*(Dhaka,17 November,2016) <http://www.kalerkantho.com/home/printnews/429969/2016-11-17 (Last Accessed on 01-07-2018)

[12]Supra 10

Legal research, therefore, involves three very important processes- the first of which is finding the relevant sources. This can be done in a library, at a law office or government office, online, or anywhere in which the researcher can find authentic legal sources. Finding the right materials is a very important step because knowing what to look for can 'make or break' the resulting document. The law student can be assisted here by a reliable law librarian or research assistant with a good general knowledge of available sources on different legal subjects. After finding the materials, the next step for a researcher is to fit the relevant information collected from the sources which he/she has. There are different ways to get information from sources, and if the researcher does not know where or how to look within any particular source, then he/she might get little or no information from the correct source or end up collecting irrelevant or wrong information. Even where the researcher has found the right source and the right information, he must know how to use that information. Important issues such as lack of citation, language and arrangement, among others, can greatly reduce the value of the hard work of a researcher.

When research is well-undertaken and concluded, it can produce very insightful material that is expected to contribute to the body of knowledge in any particular field of legal studies and practice. Legal research is important for a number of reasons.

Research is all about discovery. Through research, the law student discovers new arguments, legal provisions and positions on relevant topics and new ways of doing things. Research can also reveal new aspects and approaches to old issues. For instance, where a general idea has been developed on a particular issue, effective research can enable the researcher to discover and reveal new perspectives on such issues.

Good research helps the researchers clarify their ideas on issues pertinent to their work. Where a researcher is able to find reliable sources on an issue, these can enlighten the researcher, especially where there is confusion or misconceptions about any issue.

Effective research contributes to the general advancement of knowledge, understanding and processes. Where a good law student discovers new issues or errors in old thinking, they can reveal this constructively so as to clarify the position and advance knowledge in that area.

Research helps compare different ideas, especially where they are conflicting. It develops the researcher's analytical skills by providing them with different ways of addressing any particular issue. It also helps compare different sources, documents, and even legal systems. This broadens the scope of the researcher's thinking, helping them discover more, clarify issues and advance theirs and general knowledge.

Research is important for the purpose of authenticating the thoughts, ideas, and positions of the researcher. When research has been undertaken on a particular

issue, the results of the research possess a considerable level of authenticity, depending on the quality of the research, which mere thoughts and opinions may not possess.

3.0 Empirical Discussion

3.1 Data Analysis

3.1.1 Response on the environment to conduct legal research:

Table-1.0

Category of Response	Number of Respondents (students)	Percentage (%)
Yes	64	16%
No	336	84%

(source: survey data-2017)

84% respondents from student group think private universities have no chance to conduct legal research properly and only 16% respondents think chances are available to conduct legal research in private university[13].

Table-1.1

Category of Response	Number of Respondents (Teachers)	Percentage (%)
Yes	6	20%
No	24	80%

(source: survey data-2017)

On the other hand, 20% of the teachers think that private universities in Bangladesh have opportunity in conducting legal research whereas 80% of them answered negatively in this aspect.

3.1.2 Administrative or Government financial support to conduct legal research:

[13] Actually, the data analysis in this paper has been completed based on survey of 400 students and 30 faculty members in four private universities in Sylhet. They are- North East University Bangladesh(NEUB); Leading University (LU); Metropolitan University (MU); and Sylhet International University (SIU). In each of the universities, the law schools are styled in different names like the Department of Law and Justice under the School of Law (NEUB); Department of Law (LU and MU). Both the faculties and students were asked seme-structured questions on the scope of and challenges for legal research in their respective university.

Table-2

Category of Response	Number of Respondents (students)	Percentage (%)
Yes	72	18%
No	328	82%

(source: survey data-2017)

It is a harsh reality exposed in response from the respondents whose 18% claim that there is proper administrative or government financial support to conduct legal research in private universities. On the other hand, a handy number of participants (82%) unfortunately claim that such financial support is absent in incentivizing legal research in private universities.

Table-2.1

Category of Response	Number of Respondents (Teachers)	Percentage (%)
Yes	4	13%
No	26	87%

(source: survey data-2017)

Only 13% of the academicians opined that the university administration supports their venture in academic research. At the same time, they are claiming that they are offered government financial support for research collaboration. But it is observed that a few universities have allocated rooms in the name 'research support center'. On the other hand, 87% faculty believe that there is no administrative or governmental support for conducting legal research in private universities.

3.1.3 Response on the sufficiency of time to conduct legal Research:

Table-3

Category of Response	Number of Respondents (students)	Percentage (%)
Yes	120	30%
No	280	70%

(source: survey data-2017)

Time constraint is another major hurdle for conducting legal research in private universities. In our field visit, the responds are found quite visibly divided in answering the question on the sufficiency of time to conduct legal research. About 30% of the respondents gave negative answer about sufficiency of time for disposing research.

Table-3.1

Category of Response	Number of Respondents (Teachers)	Percentage (%)
Yes	14	47%
No	16	53%

(source: survey data-2017)

On the same query, the respondents from the teachers seemed too highly divided about the shortness of time given to them for research accomplishment. Here, 47% of the teachers replied supporting the query on shortness of time. On the other hand, roughly, 53% respondents think that short period of time is not the reason of low quality research. They think research quality actually depends on the perseverance with patience.

3.1.4 Response on the question of fund allocation for research in private Universities:

Table-4

Category of Response	Number of Respondents (students)	Percentage (%)
Yes	24	06%
No	376	94%

(source: survey data-2017)

Only 06% students think that fund allocation for research in private universities is adequate. Their reply seems unrealistic from the agreed assertion of the other group of the respondents who (94%) claim that the fund for research accomplishment in private universities is unfortunately insufficient. The incidents of fund allocation are managed in joint collaboration between the respective private universities and donor groups like government or any NGOs. So,theseaspectsare determined by the policy analysis which actually creates gaps on data sharing on exact funding which exposes imbalance in sharing views of the respondents.

Table-4.1

Category of Response	Number of Respondents (Teachers)	Percentage (%)
Yes	6	20%
No	24	80%

(source: survey data-2017)

The survey data collected from teacher group implies a robust position on the point of funding for research in private universities. Though the faculty members are directly involved in research funded by universities, their views on the question of sufficient funding is splitting. Among them, 20% think that fund for research is allocated properly and fruitful research can be conducted with the specified fund. But a handy number of them (80%) think opposite and claim more fund is required to execute extensive research in private universities.

3.1.5On the necessity to include legal research as a regular course in syllabus:

Table-5

Category of Response	Number of Respondents (students)	Percentage (%)
Yes	368	92%
No	32	08%

(source: survey data-2017)

Private universities in Bangladesh are often criticized for overloaded number of impractical courses conducted in law schools. But surprisingly they opt to leave this significant course without any regularity. The students feel little ecstasy in working out on the demand of making the subject a regular one. The above view is crystal clear from the response of the respondents. Approximately, 92% think that research should be a regular class-based course. But unfortunately, only 08% of them claim that it is not imperative to include this course in the syllabus as regular course.

Such view may arise from lack of future incidents coming to them as a blessing as a legal researcher in research institute in Bangladesh and beyond.

Table-5.1

Category of Response	Number of Respondents (Teachers)	Percentage (%)
Yes	22	73%
No	8	27%

(source: survey data-2017)

The teacher community is also not in a consensus position on the question of making the research course a regular one. Actually, they are not included in the policy making body. Such decision is ultimately approved by the University Grants Commission. In so doing they evaluate the teachers are allocated to contributing in reorganizing the existing syllabus. Practically, most of the time, their academic recommendations are barely followed up. From the table, it can be argued that 73% replied in the positive whereas 27% argue that this course doesn't need to be a regular course.

3.2 Findings

Data analysis of the above addresses the followingconsequencesfaced by the legal researchers to conduct their legal research: -

Researchers cannot perform their research properly for financial crisis. Students of private university are bound to pay proper tuition fees for acquiring undergraduate and graduate degree without engaging themselves in legal research in an obligatory manner. So, though, in Bangladesh,101[14] private universities are available, they provide higher education withmeagrefund allocation[15] to conduct research.

Technical knowledge is a sine qua non for legal research. To undertake a legal research and carry out it effectively, one needs to understand the source of law and their relationship to each other. But most of the students of private universities do not have proper idea about this. Because, most of the private universitiesdo not provide

[14]http://www.ugc.gov.bd/en/home/university/private/75>(last accessed 05 May, 2018)

[15]The Dhaka Tribune- a widely circulated newspaper in Bangladesh-conducted a survey on private universities for determining rank based on many indicators. Among the indicators, it reported on overall situations of research in private universities in Bangladesh. It concluded that Bracuniversity spends the largest amount of fund for research purpose. According the 2016 UGC Report, 86 universities increased their research fund allocation. In 2016, the private universities spent approximately TK93.36 crore. See Ruhani, Rashid Al, "Private Universities increase focus on research" *Dhaka Tribune* (November 27, 2017)<https://www.dhakatribune.com/bangladesh/education/2017/11/26/private-universities-have-increased-their-focus-in-research/>(last accessed on 05 May,2018).On the other hand, the govt.doesn't feel to allocate budget for private university research.

extra classes or seminar for this. Because of these, the private university students do not get chance to acquire these types of basic knowledge and they face more types of problem to conduct legal research. It is true that any one for being a researcher or before undertaking legal research, it is much more essential to acquire technical knowledge of how to efficiently and intelligently use the law books and uses of the same legal materials. But still now, most private university students do not know how to efficiently and intelligently use the law books and use the same legal materials in case of research.

We know that in Bangladesh most private universities decorate one educational year within 3 semesters. That means, students get 4 months to complete one semester. And teachers must complete lecture of a subject within this time. This is very short time for them. For this shorter duration of semester, researcher between students and teachers in private universities try to end their legal research within very short time which reduces the value of their research papers.

Private Universities in Bangladesh are generally hackneyed in conducting legal research. Here, the researchers have not created a feeling of accountability to furnish high quality research. As there is no monitoring in this regard, the research monographs and journals seem to be just show of average performance in legal research. Even the research papers are not checked following the plagiarism software for determining authenticity and originality of research.

Law reports and relevant law books are the most essential tools for a legal researcher. By reading law reports, researchers try to know the positive law procedure of home and abroad. But in the library of Private Universities in Bangladesh, especially in Sylhet, the collection of law reports and relevant law books are very short in the private universities.

If we look at the genesis of private universities, some universities initially, or even now, have been sponsored, and these so-called founders believe that they own this 'business.' And many believe that since they invested money in the university, they would get some returns. Due to their exacerbated prone by business- centric inner feeling, they don't show their interest to allocate fund for research.

Proper environment is an important factor to become interested in any field of legal research. But in private universities, there is 'no suitable environment for research'.[16]It is observed in the authors' survey that most of the private universities don't have facilities for research lab organized with technologically embellished tools.

[16]Azad, Emran, Taking legal education seriously, *The Daily Star*, (Dhaka,09 May 2017) <http://www.thedailystar.net/law-our-rights/taking-legal-education-seriously-1402654 (last accessed 02 July, 2018)

The tendency of comparison on the standard legal research among world class universities[17] is absent in Bangladeshi private universities. Rather, there is tendency of getting certificate anyhow and of applying for job irrespective of specialty in academic performance

4.0 Recommendations:

After a painstaking and profound analysis of the data and their practical implications in the private university, the authors have shed light on some issues depicting themselves some fora of recommendations.

1. The private universities in Bangladesh should increase the budgetary fund for research with a view to complying with the directions given in the Private University Act, 2010.[18]Moreover, the Academic Council[19], the faculties[20] and the respective departments[21] shall furnish incentives for research in the graduate and undergraduate level.
2. The concerned faculties should reorganize their syllabi in collaboration with the University grants Commission (UGC) providing sufficient classes on the theory of legal research by which student acquire sufficient knowledge about legal research.[22]
3. The universities should organize qualitative seminar more and more to disseminate the experiences of the mentors and trainers from such seminars. Such seminars shall help both the teachers and students understand the source of law and their relationship to each other and to understand basic rules, principles about legal research.
4. Increasing the duration of semester is a demand of time now in Bangladeshi private universities.Accomplishment of legal research within 4 monthsis quite impossible if the level of understanding capacity of students and facilities to the faculties are taken into account.

[17] THE 50 TOP RESEARCH UNIVERSITIES, available at http://www.bestcollegereviews.org/top-research-universities/> (Last accessed , 02 June,2018)

[18] Section 9(6) of the Private University Act, 2010 states "The expenditure on the annual budget of the private university will be spent on a portion determined by the commission for the purpose of research."

[19] Section 20(2)(B) of the Private University Act,2010 imposes responsibilities on the Academic Council to determine the curriculum of study and research development in the university following the rule and orders of the UGC.

[20] Section 21(2) of the Act stresses the need on the shoulder of the Dean of the respective School of Studies to take measures for research initiative following the instructions of the Vice Chancellor and UGC provided rules and regulations.

[21] Section 22(1) of the Act also imposes duty to collaborate with the individual faculties to accomplish research.

[22] Section 24 of the Act gives unbound independence on the Departments to frame their syllabi. So, there is ample opportunity to include extensive syllabus on the course material on legal research in private universities in Bangladesh.

5. Administrative incendivity can also contribute in improving the disciples' capacity of legal research.The administration should announce of their wish to give award to the best researchers in their respective fields.
6. Appoint those types of teachers who are experienced in research. It is true that, in our country, we cannot hire world class academicians because we cannot meet their salary expectation. Moreover, Private University Administration should try to recruit those types of teacher who have minimum experience about research.
7. Monitoring of the research projects in progress in the universities should be increased by the UGC. This would ultimately increase the sense of more immersing both in the teachers and students in legal research.
8. The present world order is blessed with wide usage and access to technology. The private universities should be modernized with internet based legal research tools.[23]The private universities should subscribe to as many internationally recognized universities and research institutions as it is possible so that both the teachers and students can have easy access to the study and research materials having high impact factors. Moreover, joint collaboration among the universities and with the Supreme Court of Bangladesh and other research institutions like Bangladesh Institute of legal and International Affairs (BILIA)[24],Ain O ShalishKendro (ASK)[25], Bangladesh Environment Lawyers'Association (BELA)[26]etc. should be established for facilitating legal research in the private universities.
9. Government should allocate handy fund for research for Private Universities like as they provide for Public Universities. Most of the government in the west[27] allocate a considerable amount of their budget in university research purpose.
10. The private universities should cooperate in publishing student Journal by which student will be motivated to be a researcher. Joint collaboration between teachers and students shall ensure an atmosphere of activeparticipation for brooding research of high stature and desirability. In

[23] For more recommendations see, Brown, Valerie J. Atkinson, *Legal Research Via Internet*, 1st Edition, Thomson Delmar Learning (2001) at pp. 39, 43, 73

[24]BILIA is a leading think tank in South Asia for advanced research in legal and international affairs. All other information is available at http://www.biliabd.org/institute.php.

[25]ASK is a national legal aid and human rights organization in Bangladesh. Along with supporting legal assistance to the disempowered, this organization also exerts for legal research. For more information about ASK, see www.askbd.org/ask/about-us/.

[26] Established in 1992, BELA mainly works on environmental jurisprudence and development. This organization contributes immensely to legal research on environmental issues. To know more on this organization, see http://www.belabangla.org/#

[27]Comen, Evan, Michael B. Sauter, Samuel Stebbins and Thomas C. Frohlich, The 20 universities getting the most money from the federal government, *msn* (USA, June 06,2017)<https://www.msn.com/en-us/money/careersandeducation/the-20-universities-getting-the-most-money-from-the-federal-government/ar-BByBiwQ>(accessed May 21, 2018). But it is a great regret that the Bangladesh Government does not allocate fund for research individually even to the public universities let alone the private universities.

this regard, the universities can gather experience of some other accoladed universities where students are energized to publish legal research journal.[28]

11. The concerned universities, specially, both the public and private universities should establish a council together for the purpose of collaboration in legal research. Such wide evaluation tool shall embolden their outlook to compare themselves with other exemplary universities far too ahead in legal research basically in research score.[29]

5.0 Conclusion:

Due to the low quality of training, lack of combination of knowledge and practice, poor capacity and quality of graduates, both the number of legal researchers and legal research in private universities are reducing day by day. The absence of conducive environment promised by universities in their brochures and mission and visions in the manifestoes witnesses hegemonic results in legal research. The private universities have to depend in most of the cases on their own limited capital and resources to run almost every aspect of both the administrative and academic needs. The curriculum set for students in a calendar year creates pressure on both the students and teachers. So, they don't get enthusiast in undertaking legal research which is an integral part of higher studies in universities. The absence of tripartite collaboration among the government, UGC and private universities along with foreign experience can be deemed responsible for the insular vision of researchers in private universities in Bangladesh. Similarly, the respective private universities also need to refurbish the syllabi containing theoretical analysis on legal research. The systemic change in class- based study outlines should be initiated so that a sense of inspiration works for more analytical and applied research on positive law and theoretical.

[28] In Bangladesh, there is no single public or private university where the students themselves publish legal research in their own student journal. The only exception is the Department of Law under the Faculty of Law at University of Dhaka. Here the students run their own Law journal- Dhaka Law Review. Their activities can be observed at http://www.dhakalawreview.org/; Moreover, there are many foreign private universities where students accomplish legal research through their legal research in their own journal. For example, SOAS Law Journal is published solely by the SOAS graduates under university of London, UK. Available at-https://www.soaslawjournal.org/.

[29]Nakib, Dr. SalehHasan, How much Bangladeshi Universities are ahead in comparison to those of Indian-Pakistani Universities, *Bengal View*(Dhaka, 28 May 2018)<http://bengalview.com/english/> [last accessed on 28 May 2018]

Presentation of Words in William Faulkner's *As I Lay Dying* and Adrienne Rich's Poetry: A Comparative Study

Ziaur Rohman[1]

Abstract

Both William Faulkner and Adrienne Rich explore different aspects of words, but from different perspectives. While one is more preoccupied with the nature of words, the other is highly concerned with the projection of them. Words form the basic ingredient in our expression. They give our statements an outstanding dimension. Most of the American writers demonstrate their great obsession with words. But it is far more dominant in the writings of Faulkner and Adrienne Rich.

Faulkner and Adrienne Rich both exhibit the fundamental inauthenticity of words. But they bring it into focus from different viewpoints. Faulkner takes an extreme position regarding words. He believes more in action than in words. Words are like a virgin girl. As a virgin girl cannot produce anything likewise words cannot produce anything till they come face to face with real experiences. The real purpose of words gets fulfillment when action takes place. The projection of this thought is revealed through different statements for Addie, the protagonist in the novel, *As I Lay Dying.*

Addie, as a person, does not believe in words for they are to no purpose. She believes in violence because acts of violence paves the way for the release of her pent up feelings as well as they help her assert her self-identity. As a school teacher, she whips her students in order to overcome in barriers between her and other: "I would think with each blow of the switch Now you are aware of me! Now I am something in your secret and selfish life, who have marked your blood with my own forever and ever." We can see her selfishness here, however, as she violently imposes herself onto others without opening herself to them. Similarly, she holds her back from her children maintaining an impenetrable individuality, except for Cash and her favourite, Jewel. Her contradictions highlight the fundamental compulsion to maintain one's private self while yearning to connect with others.

Addie compares her virginhood with a state of unproductively. "The shape of my body where I used to be a virgin is an empty vessel. Neither words nor virgin bodies

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produce life." Words are useless until they come into the contact of reality. Just in the same way when virginity is violated then something is produced.

Motherhood is merely a heard term to Addie up to the time she has not experienced it in actuality. While giving birth to Cash, Addie experiences bloodletting. Her fallings of motherhood and what it is really like to be a mother cannot be exposed in words. Moreover, no specific definition in words absorbs the true fallings of motherhood, love, affection, hatred and so on. Such feelings are valuable as long as one has not experienced them in reality. Whenever a person comes face to face with these in reality, these words become useless to them losing their real significance.

Addie Bundren speaks of Anse's 'name': "I could see the word as a shape, 'a vessel' and a significant shape profoundly without life like an empty door frame." (p.161). In her another statement she reveals Anse's nature: "I would watch him liquefy and flow into it like cold molasses flowing our of the darkness into the vessel, until the jar stood full and motionless." (p.161).

Anse all through his life has been a word to Addie Bundren. Addie takes pleasure in making Anse give her words to take her to Jefferson in order to bury. Anse while performing it ignorant of Addie's hidden desire will have to take a lot of pains and thus Addie will have her long-cherished revenge on Anse by making work though at the end of her life. It would be in a sense her revenge on words. Addie brings out the fragility of words through some other prominent comments: "Words neither protect nor contain life. They like physical body are subject to disintegration."

Addie phrases another expression summing up her view on words: "I would think how words go straight up in a thin line, quick and harmless and how terribly doing goes along the earth, clinging to it. So that after a while the two lines are too far apart for the same person to straddle from one to the other." (p. 162).

The passivity of words is reflected in the activities of other characters as well. Jewel's fierece love for his mother. Addie cannot be explained in terms of his violent words. Similarly the degree of Addie's profound love for Cash and Jewel cannot be depicted through words. Verdaman's feelings deep inside his mind are impossible to project in respect of words. Verdaman starts his unpunctuated dialogues and gets lost on the way. Words fail to absorb his feelings. The most sensible character, perhaps in the whole novel except for Addie, is Darl Bundrren. His apparently mad activities cannot be interpreted in terms of words. Through his penetrating insight, he can go into the heart of each character in the novel and know their hidden real motives for going to Jefferson except for the apparent reason to bury Addie. He can discern the ludicrousness of such a hazardous futile journey with everyone having their own

personal reasons. So, he burns the barn belonging to Gillesspie which contains Addie's dead body. Apparently this is an insane work done by Darl. But he does this as a protest against the hollowness of almost all the characters. His work is interpreted as insanity but he is the sanest and most normal man in the abnormal world, though words do not certify it.

Darl and Dewey Dell communicate with each other without any word. Their communication without words proves that some non-verbal gestures may be more powerful than words. Words are no good and they are even worse when one cannot organize them in an effective way. We notice it in Verdaman's case. Both Dewey Dell and Anse are victims of words. Dewey Dell is defrauded by the drugstore clerk and Anse has to take Addie to Jefferson undergoing a lot of pains only for words.

Faulkner has to adopt a number of typographic techniques in *As I Lay Dying* in the forms of blank space, italicized words or italics, unpunctuated dialogues and the picture of the coffin, etc. merely to indicate the gap between the words and the expression. Thus Faulkner exhibits the cardinal incapacity of words through different possible ways in *As I Lay Dying.*

But unlike Faulkner, Adrienne Rich is much more preoccupied with how words are politicized or politically used by the patriarchal society and thus construct the identity of a community or a nation. We regard women as the patriarchal society has made them. She has demonstrated in her poems that women are caught in the dance of the patriarchal society. The male-centred society has given out that women are weak, inferior and potentially impotent. The society has created a book of myth about women through such words. Adrienne Rich very much like Simone de Beauvoir who postulates that no one is born a woman rather one becomes a woman. One becomes a woman because one is made a woman.

Adrienne Rich undermines the patriarchal society's politics of words to underestimate the women's potentials. Adrienne Rich thwarts the endeavor of male- dominated society of using words as means of establishing their supremacy over the women through the potent use of words. Her prominent poem "Orion" explores the male aspects hidden in women where male presents all that is active, assertive and potent. Rich follows three steps to establish her proposition: First, the stage of admiration and idolizing the male aspects here represented by the Orion; Second, the stage of entrapment and suppression of these aspects and third, the hope of breaking the bonds and soaring.

The Orion is a constellation in the Northern Hemisphere known as the 'Hunter' in the form of a man standing with a sword wearing a belt. Rich chooses this as her idol that represents the male aspects of a woman because it is a symbol of aggressiveness, defiance and even power. In psychoanalysis, Jung refers to the masculine aspects of a woman as the 'animus' and feminine aspects of a man as 'anima'. In this case Orion is Rich's animus and embodies the spirit of ambition, aggressiveness and defiance of

the woman in general. When she is young, Rich idealizes the Orion as her 'king', 'genius', 'cast-iron Viking', and describes how boldly he looks down from above wearing his belt and sword which weights him down, yet he won't give up his 'bravado' for anything, This may be symbolic of the phallus which is the emblem of pride; power is the emblem of pride, power and authority of the male. The first stage of the poem ends with this emersion of the poet in the Orion.

The second stage is the stage of realization, understanding and conscious acknowledgements of the society and family that cases her. This is the stage of critical apprehension that male society is eating into the vitals of the women and this prompts the women and this prompts the women race to form a resolve to overcome their subjection. The third stage depicts Rich's resolution of breaking the shackle of male domination culminating in her being a free-winging bird. In this way, Rich depoliticizes the male's politics of words through the potency and raciness of her language.

Adrienne Rich has explored the pain and anger of creative, thinking woman in a culture that has denied the most essential aspects of a woman's experience and her identity. As she has become increasingly conscious of her deepest feeling, her poetry has reflected her growing desire to define her experience for herself and help other women collectively to, 'revision' their lives. One of the recurrent themes in Adrienne Rich's poetry the suffering produced by the painful inner split between the 'animus' and 'anima' part of her soul, has changed with years. In the process of her growing self-awareness. Her quest for a unified self based on a vision that goes beyond gender and difference is portrayed in her poems.

In "Aunt Jennifer's Tigers", she talks about a woman suffering from the split from the between her imagination presented in the tapestry and her lifestyle mastered by the ordeals of the society she lives in:

"Aunt Jennifer's Tigers stride across a screen

Bright topaz denizens of a world of green….

The tigers in the panel that she made,

Will go on striding, proud and unafraid."

The tight rhyme scheme serves to control the turbulent emotions seething beneath the surface and enacts the exploration of anger and helplessness of an artistically accomplished woman who lives in a society that demands that she be selfless and that she scarifies her needs to the institutions of marriage and motherhood as defined by men. This results in her being intellectually suppressed just like the tiger trying to come out of the tapestry.

The 'wedding band' sitting tight on the Aunt's hand refers to the male dominated society's tendency to sap women's potentiality. The energy of creation, that is the

creativity of women, is fettered through the energy of relation, the masculine setting of the society. Rich falsifies the male notions about women created in the book of myth through the cogent application of her words and thoughts.

In "Snapshots of a Daughter-in-law," Rich calls forth a woman in command of her body, her erotic and creative energies, who celebrates life, no death. This woman is not defied by her reproductive function, instead she is in command of the powers of both her mind and her body. It is a ground breaking step propounded by Rich in reconstructing the identity of the women.

In "Double Monologue" (1960) anger and denial are converted into despair and even madness or suicide. Although move vigorous language and personal rhythms replace the careful formalism of her earlier poems, "snapshots" in less forceful than Rich's later work. In her easy, "When we dead Awaken: writing as re-vision", Rich uses a dialogue with her work to demonstrate the transformations in her writing. Society does not expect a woman to have a job as a writer rather writhing is considered to be a hobby for women. Rich has been taught that society considers poetry to be universal meaning non-female. This creates an internal drive in Rich to express her own words for the sake of women. The relation between a woman and her male counterpart should be based on a mutual understanding, perfect sharing and caring, each respecting the other's rights and potentials. But the existing situation is in sharp contrast with this. "The Knot" explores marriage as a sinister institution.

"Diving into the Wreck" experiments the myth about men and women and the split from which women have lost their equality with men. She intends to explore how far the damage has been done. She carries a knife to cut her way in, a camera to record ad the book of myth because these all are required in the course of her hazardous journey.

"I came to explore the wreck.

The words are purposes.

The words are maps.

I came to see the damage that was done

And the treasures that prevail."

If we scrutinize the above mentioned description regarding Faulkner and Adrienne Rich, we may arrive at a conclusion concerning their approaches towards words. Both Faulkner and Rich negate words but from different positions. Faulkner rejects words because they have no essential meanings.

He is in favour of words only when they come into the contact of real experience. Rich does not negate words but she negates the way words are projected by the

patriarchal society. She creates her own words rejecting patriarchal society's representation of them so that she may establish her own identity in society. But she is ultimately entangled in a greater perilous chain of patriarchy--- a vicious circle from which she can never come out. To warp up, while Faulkner is exclusively concerned with the nature of words, Adrienne Rich is concerned with the presentation of word. Both of them demonstrate an attitude of declination towards words from different perspective. But ultimately they have resort to words to fulfill their purposes. Faulkner writes his novels in words and Adrienne Rich resolves to recreate her identity through words. Indeed, words are not so much inauthentic as they are interpreted. Words are inadequate in so far as they cannot absorb our feelings in the true degree of experience. Other than this, words are only the acceptable medium of expression. What we have to do is that we have to use right words in the right places to express us more vividly, explicitly so that others can grasp us more easily and intelligibly.

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The Efficaciousness of the Grammar-Translation Method at Undergrad Level in Bangladesh

Abdulla-All-Mijan[1]

Abstract

English is an important academic subject in Bangladesh. It is a must to learn English in order to keep pace with the changing world. Several times different methods and methodologies have been applied in learning and teaching of English language in Bangladesh. Grammar-Translation method is one of them. It is the most traditional methods, dating back to the late nineteenth and early twentieth centuries, in which native language gets preference in classrooms. The history of the English language teaching discloses the fact that the Grammar-translation method dominated foreign language teaching (FLT) through perpetual and fleet translation of sentences from the target language (L2) into the learners' first language (L1). On the contrary, there have always been contradicting views about whether or not to use the mother tongue of the learners in the foreign language (FL) classrooms. This paper focuses on the efficaciousness of the Grammar-Translation method in the English (L2) classrooms and an effort has been made to look into the recommendations of the language teachers and expectations of the Undergrad level students about the teaching and learning of English in Bangladesh and to evaluate them.

Key words: Grammar Translation Method, Teaching, Target Language, Undergrad level.

Introduction

In Bangladesh, English is inherited from the British. Here it is a colonial legacy. British made it the language of administration, communication and education for establishing the foundation of their new colony in Indian Subcontinent. So, British wanted to teach us their language to dominate randomly. From that very moment teaching and learning English became very lucrative and different methods and methodologies are applied to make the process fruitful. Grammar-Translation method is traditional one. Grammar-Translation method is to know everything about something rather than the thing itself.

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Grammar Translation was in fact first known in the United States as the Prussian Method (A book by B. Sears, an American classics teacher, published in 1845 was titled *The Ciceronian or the Prussian Method of Teaching the Elements of the Latin Language)*. Though Johann Seidenstucker, Karl Plotz, H.S. Ollendorf are some of its leading exponents suggest that Grammar Translation was the offspring of German scholarship. To evaluate the efficaciousness of this traditional method in Bangladesh we know the core information of this method. The goal of foreign language study is to learn a language in order to read its literature or in order to benefit from the mental discipline and intellectual development that result from foreign language study. Grammar Translation is a way of studying a language that approaches the language first through detailed analysis of its grammar rules, followed by application of this knowledge to the task of translating sentences and texts into and out of the target language. It hence views language learning as consisting of little more than memorizing rules and facts in order to understand and manipulate the morphology and syntax of the foreign language. "The first language is maintained as the reference system in the acquisition of the second language" (Stern 1983:455).

Reading and writing are the major focus; little or no systematic attention is paid to speaking or listening. Vocabulary selection is based solely on the reading texts used, and words are taught through bilingual word lists, dictionary study, and memorization. In a typical Grammar-Translation text, the grammar rules are presented and illustrated, a list of vocabulary items is presented with their translation equivalents, and translation exercises are prescribed.

The sentence is the basic unit of teaching and language practice. Much of the lesson is devoted to translating sentences into and out of the target language, and it is this focus on the sentence that is a distinctive feature of the method. Earlier approaches to foreign language study used grammar as an aid to the study of texts in a foreign language. But this was thought to be too difficult for students in secondary schools, and the focus on the sentence was an attempt to make language learning easier.

In Grammar-Translation Method accuracy is emphasized. Students are expected to attain high standards in translation, because of "the high priority attached to meticulous standards of accuracy which, as well as having an intrinsic moral value, was a prerequisite for passing the increasing number of formal written examinations that grew up during the century" Howatt (1984:132)**.**

Grammar is taught deductively-that is, by presentation and study of grammar rules, which are then practiced through translation exercises. In most Grammar Translation texts, a syllabus was followed for the sequencing of grammar points throughout a text, and there was an attempt to teach grammar in an organized and systematic way.

The student's native language is the medium of instruction. It is used to explain new items and to enable comparisons to be made between the foreign language and the student's native language.

Grammar Translation is basically a method of teaching and learning second and foreign languages so teachers who are not fluent in speaking English can teach English through this method. As there is lack of fluent English teachers in Bangladesh, this problem can overcome by using this method. This method demands fewer efforts from teachers. This is the easiest way of explaining vocabulary items. Knowledge of morphology and syntax will make students to analyze and solve problems. Students can understand the meaning of abstract words and complicated sentences. As students, conscious of the grammatical rules they can comprehend the message through reading text and can produce grammatically correct sentences. For the left brained students who respond well to rules, structure and correction, the Grammar Translation Method can provide a challenging and even intriguing classroom environment.

Virtually no class time is allocated to allow students to produce their own sentences, and even less time is spent on oral practice. There is often little contextualization of the grammar although this depends upon the passages chosen and the teachers own skills. There are lacking of students to communicate in target language. It is impossible to translate exactly from one language to another.

Literature Review:

Many studies have been conducted on the area of using Grammar-Translation method in language teaching as a foreign language. These studies have contributed a lot to the development of the discipline of language teaching. Various studies try to probe that translation is one of the most effective pedagogies applicable to the L2 teachers. Following researches have been conducted about the efficaciousness of Grammar Translation in learning English language. Views are as follows:

Before translation of a text it should be read carefully and analyzed in detail to determine the contents in term of what, how, and why it is said (Leonardi, 2009).

The findings show that the translation enhances the competence and right performance of language, it is a preferable method for both teachers and students, and using the L1 alongside the L2 fulfills the needs of the students (Al Refaai, 2013).

Translation, Reading and grammatical exercises are in fact perceived by learners to be conductive to learning (Donough, 2002).

Teaching English Grammar provides explicit trademark to guarantee producing correct structures expedite the learning process (Hedge, 2000).

In order to develop in the students a linguistics awareness of contrast between L1 and L2 grammatical structures, and thus counteract interlingua interferences, the teacher can quite legitimately get students to translate L1 sentences designed to pinpoint and

clarify structures and patterns the students still have not been assimilated (Perkin's, 1985).

This teaching method is still common in many countries and institutions around the world, and still appeals to those, interested in language from an intellectual and linguistic perspective (Tylor).

By observing the views of scholars, the importance of Grammar Translation Method is cleared in learning target language.

Statement of the Problem:

In Bangladesh, the big concern of English language teachers and researchers is the poor condition of English at undergrad level students. The examination system or the curriculum given by the NCTB helps the students to pass the public examination (S.S.C and H.S.C) without improving the four basic skills of English. The policies that the Government introduced from time to time on teaching English did not help students to develop their proficiency. This study attempts to figure out if the Grammar-Translation method can help students to move forward in learning process, explore the students' attitude and teachers' attitude toward this method.

Research Objectives:

This research attempts to achieve the following objectives:

1. To analyze whether Grammar-Translation method affects learning process.
2. To analyze the learning concepts by students through this method.
3. To focus the necessity of Grammar -Translation Method in Educational institutions in Bangladesh
4. To explore whether undergrad students in universities of Bangladesh respond to Grammar-Translation method when acquiring EFL.

Research Questions:

1. How undergrad students in Bangladesh do respond to Grammar-Translation method in their classrooms for learning English?
2. Do they want to be taught by using both native language and target language in their classrooms?
3. Does Grammar-Translation method affect acquiring English?

Research Methodology:

A Multiple methodological approach that included classroom observation, interview English teachers and a questionnaire consisted of 10 statements was designed in order to generate data to answer the research questions. The researcher conducted a quantitative research through the students at undergrad level of two renowned universities and highly qualified faculty members to check the efficaciousness of Grammar Translation Method in teaching and learning of English language.

The sample of the study consisted of fifty undergrad students from Department of English, European University of Bangladesh and Rajshahi University of Engineering and Technology (RUET). Students were randomly selected from first year and second year classes and their first language is Bangla. Teachers are also selected from European University of Bangladesh and Rajshahi University of Engineering and Technology (RUET) to take their interview and for classroom observation.

Name of the institutions:

1. European University of Bangladesh (EUB)

2.Rajshahi University of Engineering and Technology (RUET)

Table 1: Summary of the methodology

Number of classes observed	03
Number of teachers interviewed	10
Number of students who took part in questionnaire	50

Class Observation:

Table 2: Classroom activities: Rajshahi University of Engineering and Technology (RUET)

Date and Time	Program	Course Name and Course code	Course Teacher	Topics	Teachers' Activities	Students activities	Duration of class And Comment

23.05.17 10:30 AM	BSc Engineering in CSE	Functional English HUM 1113	M.D. Sayeed Anwar	Right forms of verbs	Instructs the rules, shows examples	Listening the class lecture, answer questions, writing important information	One and half hour, Grammar rules learning, apply GTM, inductive grammar

In the first class, the topic of the lesson was 'the right forms of verbs'. The teacher gave instruction on the rules of grammar using both Bangla and English language. Then he showed the students some examples and told them to do some exercises using the rules. The teacher gave emphasis on learning grammar rules but no attempt was made to involve the students in any kind of activity where they could practically use the rules of grammar though the facial expression of the students proved that they understood the rules clearly because of the use of Bangla by their course teacher. So, this class was an example of the traditional Grammar-Translation Method.

Table 3: Classroom activities: European University of Bangladesh

Date and Time	Program	Course Name and Course code	Course Teacher	Topics	Teachers' Activities	Students activities	Duration of class And Comment
22.05.2017 12.00 PM	BA Hons in English, Second year, regular Batch	16th Century Literature, ENG-202	Sharif Ahmed	Poem- "Shall I compare thee to a summer's day" by William Shakespeare	Recite the poem, clear word meaning, reading critical appreciation	Listening the poem, memorizing word meaning	One and half hour, Translation method, Emphasis on vocabulary

In the second class, the teacher taught a poem of William Shakespeare named "Shall I compare thee to a summer's day". The teacher started reading from the textbook and explained the poem line by line but the problem is that the students cannot catch the meaning of several words i.e.

'Thou', 'hath', 'untrimmed', 'ow'st', etc. at first sight. After clearing the meaning of those words by their course teacher the students understood the critical appreciation of that poem. So, this class proved that vocabulary learning is important for the second language learner to understand a text which is an important characteristic of Grammar-Translation Method.

Table 4: Classroom activities: European University of Bangladesh

Time and Date	Program	Course Name and Course code	Course Teacher	Topics	Teachers' Activities	Students activities	Duration of class And Comment
22.05.2017 10:30 AM	BA Hons in English, Second year, regular Batch	17th Century Literature, ENG-201	MS Afsana Choudhury Shanta	Metaphysical Poetry	Delivering lecture in Bangla, Explains line in Bangla	Listening the class lecture, answer questions, writing important information	One and half hour, More active participation of the students

Although in the third-class, literature was taught, the presentation was little bit different. Here, the teacher taught literature in Bangla and at the same time engaged all the students in the lesson and the students enthusiastically took part in the activities. So, this type of lesson proved that every class can be effective if the teacher is efficient in using native language in the case of teaching second language.

After observing the three classes of Department of English at European University of Bangladesh and Rajshahi University of Engineering and Technology (RUET) I found their Classroom Techniques, which are:

- Translating target language into native language.
- Finding information in a passage and relating to personal experience.
- Finding antonyms and synonyms for words.
- Learning spelling or sound patterns that correspond between Bangla and English language.
- Understanding grammar rules and their exceptions and applying them to new examples.
- Filling in gaps in sentences with new words.
- Memorizing vocabulary lists, grammatical rules and grammatical paradigms.
- Students create sentences to illustrate they know the meaning and use of new words.

- Students write about a topic using the target language.

Their techniques are very much similar to the characteristics of Grammar-Translation Method.

Interview with teachers:

Ten English teachers were interviewed in the European University of Bangladesh to gather their comments and opinions on different issues regarding their teaching, efficaciousness of the GTM and problems regarding teaching through this method.

Table 5: Interview of teachers

Questions	Never	Very rarely	Occasion-ally	Frequently
1. Should native language be used in English classes?	2	2	4	2
2. How often do you think native language should be used in the English classes?	4	3	1	2
3. How often do you think target language should be used in English classes?	0	2	1	7
4. Do you believe using target language in classes helps you master the target language?	1	2	3	4
5. Do you think it is appropriate to use native language in English classes at the time of Introducing new materials?	1	1	4	4
6. Do you think it is appropriate to use native language in English classes at the time of Explaining difficult concepts?	1	2	4	3
7. Do you think it is appropriate to use native language in English classes at the time of defining new vocabulary?	1	2	3	4
8. Do you think it is appropriate to use native language in English classes at the time of carrying out group work?	0	2	3	5
9. Do you feel more comfortable using native language in English classes?	1	2	3	4
10. Do you think it is important to know grammar rules and translation for acquiring competency in target language?	1	2	4	3

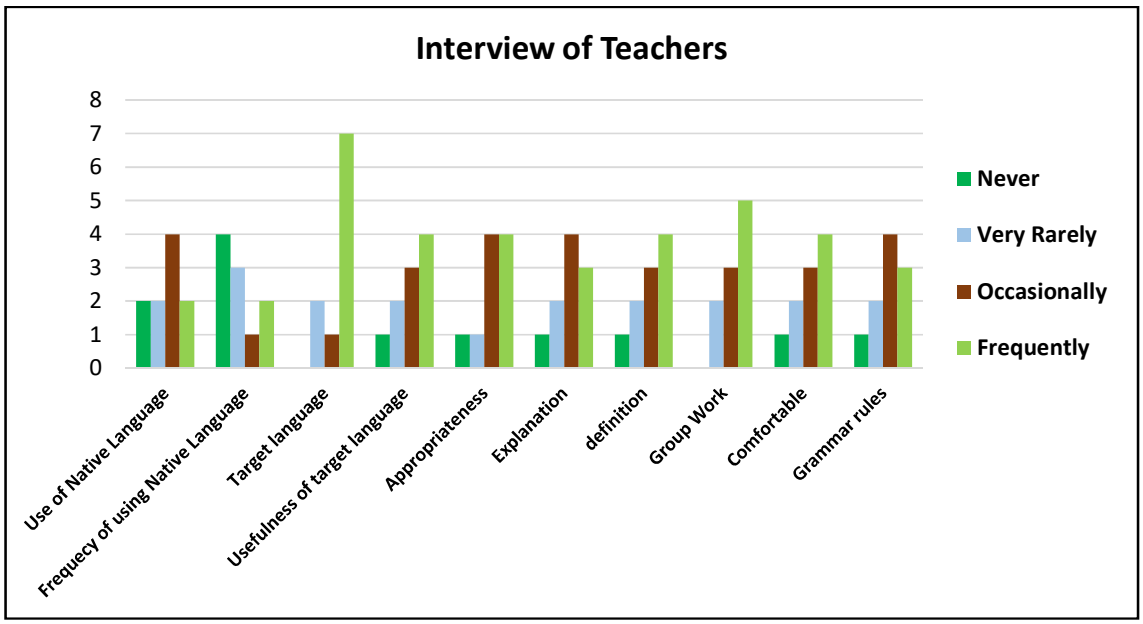

Figure-1: Teachers Interview

Description: Table 5 shows that 10 teachers are involved in this study and lion portion of teachers hold master's degree and they are experienced one. I measured their opinion in four scales i.e. never, very rarely, occasionally and frequently. According to the interview, among 10 teachers 4 teachers think that teachers should use native language occasionally in English class but other teachers' opinion divided same portion of other scales. 4 teachers think they should never use native language in English classes. 7 teachers think target language should use frequently in English classes.4 teachers think using target language in classes helps student master the target language but the rest respondents are confused. 4 teachers think in the case of introducing new materials in English class they can frequently use native language but the rest teaches opinion are divided.At the time of explaining difficult concepts 4 teachers think they can use native language occasionally but 3 teachers think it should be frequently. At the time of defining vocabulary 4 teachers think use native language is appropriate in class. 4 teachers think it is important to know grammar rules and translation for acquiring competency in the target language.

Table and chart are given to illustrate the data that help to explore the aspects of findings.

Suggestions of the teachers:

Teachers came up with some very good suggestions for the effectiveness of Grammar-Translation Method in English classrooms. They are:

- Some of them suggested that more grammatical items should be included in the

  Syllabus.
- Students should be encouraged to discuss on topics that are related to their everyday contexts in the target language.
- Student's errors should be accepted according to their levels otherwise they would not be encouraged to use English.
- Training of the teachers.
- Besides GTM other methods are introduced to the students.
- Encourage students in understanding rather than memorizing.

Discussion and findings:

After observing the class, interviewing teachers and collecting opinions of students about learning and teaching English through Grammar Translation Method, the researcher came to a point. As students and teachers' native language is Bangla and their second language is English this method is very helpful in English classrooms at undergrad level. Teaching through translation and with grammatical rules becomes easy and beneficial. Furthermore, it is observed by the researcher that, due to lack of English speaking community, it is difficult for pupils to learn English through other modern methods because Grammar-Translation facilitates them with understanding of concept given in the textbooks in their first language. A comparison of both the structure of L1 and L2 gives them ample understanding of the ideas.

Here Grammar-Translation proved an entrance road for the students to enter in the world of English. It is also noted that if only the target language is used to deliver lecture, it gives mental inconvenience to the learners because there would be lack of understanding. In this situation, English becomes a phobia for students. So, to remove this phobia Grammar-Translation Method proved a helping a tool.

No doubt, Grammar-Translation is the oldest method and it does not play greater role in improving listening and speaking skills of a language but is proved through the opinions of undergrad level students that Grammar-Translation is extremely helpful in developing and enhancing the other two skills of a language i.e. reading and writing.

There is not any portion in the paper of English for checking listening and speaking skills. The whole paper is designed to check how well a student can read and write. So, use of Grammar-TranslationMethodis proved beneficial for learners.

Another very important finding that came out from the research was that because teachers received insufficient or no training, they were not able to carry out the principles of other methods and methodologies in the classroom to develop the English language competence of the students. In this case Grammar-Translation Method is proved beneficial for teachers. How is Effective Grammar Translation Method in Teaching and Learning of English Language?

Table 6: Questionnaire

Sr. No	Question	Strongly agree	Agree	Disagree	Neutral
1	Conversation in English in the English language class gives mental satisfaction.	29	12	9	0
2	Understanding the text in target languages seems tough.	23	7	10	10
3	Reading Translation increases the competency of understanding the texts.	47	1	1	1
4	Translation of the text keeps the learners' interest in the lecture.	40	5	5	0
5	Grammatical exercises help to get good marks in the exam.	48	1	0	1
6	Message can be clarified in one's native language more easily.	25	20	3	2
7	English as well as Bangla, both should be used by the teacher.	30	1	16	3
8	Teacher feel relax using native language in English class.	0	25	20	5

9	It is impossible to translate meaning thoroughly.	2	1	45	2
10	Students understanding grammar rules easily when acquiring EFL.	25	20	3	2

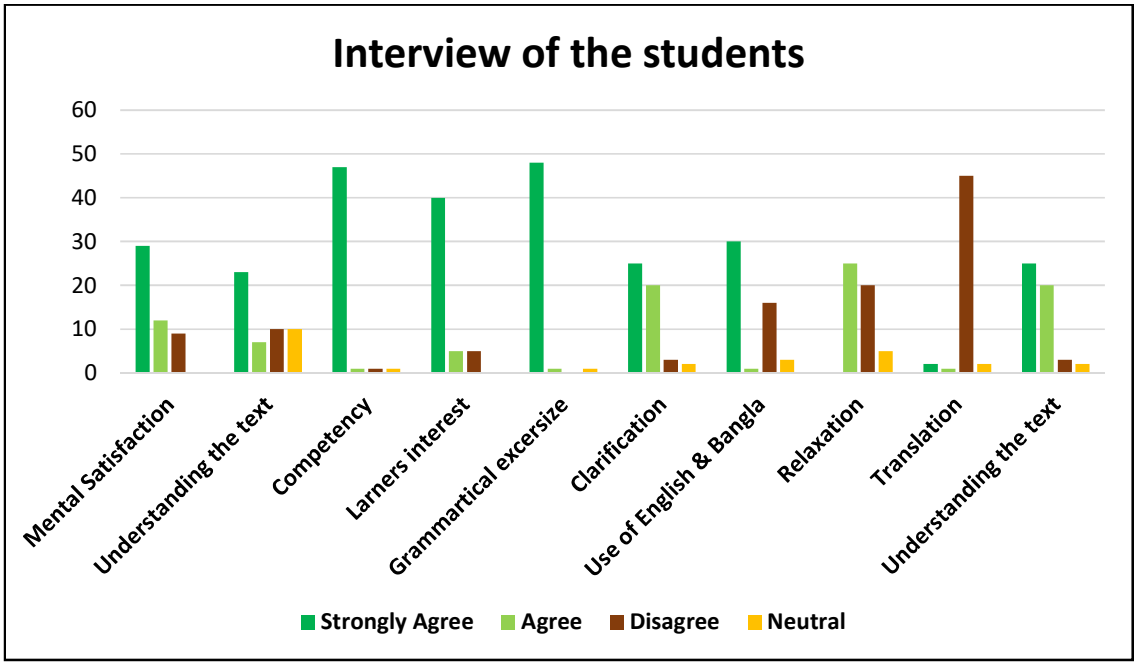

Figure-2: Interview of students

Description: Table 6 shows that 50 students are involved in this study and I divided their opinion in for scales i.e. strongly agree, agree, disagree, neutral. According to the respondents, 29 students are strongly agree that conversation in English in the English language class gives them mental satisfaction. 23 students strongly agree that understanding the text in target languages seems tough. 47 students strongly agree that reading translation increases the competency of understanding the texts. 40 students think translation of the text keeps the learners' interest in the lecture. 48 students think grammatical exercises help to get good marks in the exam. In the case of clarifying message 25 students strongly agree that one's native language is easier but 20 students are normally agree. 30 students think that English as well as Bangla both should be used by the teacher. 25 students think teacher feel relax using native language. 25 students think that they understanding grammar rules easily when acquiring EFL.

Questionnaire and chart are given to illustrate the data that help to explore the aspects of findings.

Recommendations and Conclusion:

This research is conducted to check the use of Grammar-Translation Method for English at undergrad level in Bangladesh. In this research, only the positive aspects of GTM are focused and researched. Further, its negative impacts can be studied. New work can be conducted to know that students are lacking in which areas or aspects of language learning by using Grammar -Translation Method.

The research findings indicate that Grammar-Translation method is an important kind of teaching and learning methodology. The teachers should adapt it to teach English as a second language at undergrad level in Bangladesh. This method is easy to conduct. The learner can use it when they unable to express by the target language. Students obtain good marks in their exams by teaching through this method. It can be recommended that Grammar-Translation method should be used along with other modern methods.

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Commercial Dispute Settlement in Bangladesh: Practice, Challenges and Way Forward

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Abstract

*At present time commercial disputes are very complicated and not easy to solve. A **commercial dispute** is any disagreement between two or more businesses, usually concerning contracts or a property. The method of dispute settlement is civil litigation and other formal methods of dispute settlement are **alternative dispute resolution.** Commercial Dispute Settlement is the process is very important in commercial transactions both in domestic and international. This article discusses settling commercial disputes by using different mechanisms available for the entrepreneurs'. Also tried to discuss different commercial dispute settlement institutions, their necessities, purpose and practice for the settlement of disputes of commercial nature and suggested how this system and facility can be improved in Bangladesh.*

Introduction

Commercial means involving or relating to the buying and selling of goods. Commercial dispute means any problem arises in dealing of commercial matters. Commercial disputes include disputes arising from, for example, a payment default on delivery of goods or a dispute concerning the payment or, finalization of projects. Usually a dispute settlement clause in a commercial contract indicates the forum at which an existing or a future dispute should be settled. The Commercial Dispute Settlement has a tradition of many centuries, both at the domestic and international level. However, it started to be used widely when the first bilateral investment treaties (BITs) were concluded in 1959 and thereafter, when the World Bank initiated the ICID-Convention in 1965. Even though, at the beginning there were only about one case per year but in later years, dispute settlement mechanism has been chosen or used in thousands of cases such as treaties, investment contracts to provide a peaceful solution to solve the commercial dispute between parties. Therefore, the popularity of commercial dispute settlement mechanism has leaded the parties to include it while

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concluding an agreement, which will contain a 'normal' dispute settlement clause referring to an institution of commercial dispute settlement mechanisms. In a Commercial Dispute Settlement, different factors such as the environment provided by the local political system, the professional background of the entities and persons involved, the involved sections of society has a strong impact on the legal framework and its implementation. For example, after the political revolution in Iran, Iran-United States Claims Tribunal at The Hague involved nearly 4,000 cases from the two statesthat were and still are bitter enemies and had and have no diplomatic relations.[i]In a commercial dispute settlement, two systems namely the 'common law'system and the '*Civil Law*' system of continental Europe are widely used by counsel and arbitral tribunals both at the national and international levels. The differences in the legal culture between countries and regions of the world become particularly relevant in a commercial dispute settlement. In many cases, the very different role that governments and other state institutions have has an impact in settling commercial dispute, even though Article 21 (2) of the new ICC Rules states that the tribunal has to take into account the relevant trade usages.[ii]The commercial dispute settlement mechanism established to handle commercial disputes between two enterprises but due to local governmental administration, it was in fact usually a form of administrative adjudication with a high level of political and administrative control over the entities created to settle those commercial disputes. In such a case, international standard was not maintained properly, even when a commercial dispute happened to include a foreigner as one of the parties; domestic law was applied, both as to the procedure and, more importantly to the substance of the dispute as well.[iii]

What is Commercial Dispute Settlement?

Commercial Dispute Settlement is the process of resolving commercial disputes between parties. A commercial dispute arises when one party adopts a trade policy *measure* or takes some *action* that other party considers to a breach of the agreements or to be a failure to live up to obligations. By signing or concluding an agreement, both parties can agreed that if one believes the other party is in violation of trade rules, they will settle their commercial disputes by using the multilateral system of settling disputes instead of taking action unilaterally. Therefore, a commercial dispute settlement system is considered or seen as "the most active adjudicative mechanism in the world today."In some legal systems the word "Commercial" is a technical term of great legal significance. In other legal systems the word has no particular legal connotation. So, there is no clear concept of what is meant by "commercial" but it has been given a wide interpretation so as to cover matters arising from all relationships of a commercial nature, whether contractual or not. Relationships of a commercial nature includes: any trade transaction for the supply or exchange of goods or services; exploitation agreement or concession; licensing; distribution agreement; carriage of goods or passengers by air, sea, rail or road; commercial representation or agency; factoring; leasing; construction of works; consulting; engineering; investment;

banking; insurance; financing; joint venture and other forms of industrial or business co-operation.Each contracting parties reserves the right to limit their obligation as to contracts which are considered as commercial under its national law and agree to submit to dispute settlement mechanisms all or any differences that may arise in connection with such contract relating to commercial matters or to any other matter capable of settlement by it. This practice by the parties was carried forward to the 1927 Convention for the Execution of Foreign Arbitral Awards and later in 1958 New York Convention.[iv]

Different Commercial Dispute Settlement Mechanism

Commercial Dispute Settlement mechanism is an important requirement in commercial trade nowadays and it falls into two major categories:[v]

1. Adjudicative Processes – a judge, jury or arbitrator determines the outcome of the commercial dispute between parties, such as lawsuits (litigation) or arbitration.
2. Consensual Processes – the parties attempt to reach agreement, such as collaborative law, mediation, conciliation, facilitation or negotiation.

Litigation

A lawsuit or suit in law is a claim or dispute brought to a court of law for adjudication and it may involve commercial dispute resolution of private law issues between individuals, business entities or non-profit organizations. A lawsuit may also enable the State to be treated as if it were a private party in a civil case, as plaintiff, or defendant regarding an injury, or may provide the State with a civil cause of action to enforce certain laws.The local legal system provides a necessary structure for the settlement of many commercial disputes, for instances, when parties fail to reach agreement through a collaborative processes or when they need the coercive power of the State to enforce a resolution and more importantly, when parties want a professional advocate to resolve a commercial dispute, particularly if the dispute involves perceived legal rights, legal wrongdoing, or threat of legal action against them.When one party files suit against another, outcomes are decided by an impartial judge and/or jury, based on the factual questions of the case and the application law. The verdict of the court is binding upon them but both parties have the right to appeal regarding the judgment to a higher court.

Arbitration

Arbitration, a form of alternative dispute resolution (ADR), is a technique for the resolution of commercial disputes outside the courts, in which a dispute is resolved by an impartial adjudicator whose decision the parties to the dispute have agreed, or legislation has decreed, will be final and binding. Parties often seek to resolve their commercial disputes through arbitration due to a number of perceived potential advantages over judicial proceedings:[vi]

- When the subject matter of the dispute is highly technical, arbitrators with an appropriate degree of expertise can be appointed (as one cannot "choose the judge" in litigation)
- Arbitration can be cheaper and more flexible for businesses
- In arbitral proceedings the language of arbitration may be chosen, whereas in judicial proceedings the official language of the country of the competent court will be automatically applied
- Arbitration is often faster than litigation in court
- In most legal systems there are very limited avenues for appeal of an arbitral award, which is sometimes an advantage because it limits the duration of the dispute and any associated liability.
- Arbitral proceedings and an arbitral award are generally non-public, and can be made confidential

Some of disadvantages include the formal or semi-formal rules of procedure and evidence as well as the potential loss of control over the decision by the parties after transfer of decision-making authority to the arbitrator.

Collaborative Law

Collaborative law is a legal process enabling parties who have decided to resolve their commercial dispute to work with their lawyers in order to avoid the uncertain outcome of court and to achieve a settlement peacefully that best meets the specific needs of both parties.

Mediation

In a commercial dispute, the contracting parties use mediation, which is a form of alternative dispute resolution (ADR) method where a neutral and impartial third party, the mediator, facilitates dialogue in a structured multi-stage process to help parties reach a conclusive and mutually satisfactory agreement. Mediation has a structure, timetable and dynamics that "ordinary" negotiation lacks and mediators use

various techniques to open, or improve, dialogue between disputants, aiming to solve their commercial dispute peacefully.

Conciliation

Conciliation is another dispute resolution process that involves building a positive relationship between the parties of commercial dispute. A conciliator meets with the parties separately in an attempt to resolve their dispute and do this by lowering tensions, improving communications, interpreting issues, providing technical assistance, exploring potential solutions and bringing about a negotiated settlement. However, it is fundamentally different from mediation and arbitration in several respects. Conciliation is a method employed in civil law countries like Italy and is a more common concept than mediation. It is unlike arbitration, in that conciliation is a much less adversarial proceeding.

Negotiation

Negotiation is another form of alternative dispute resolution (ADR) method where each party involved in negotiating tries to gain an advantage for themselves by the end of the process. While negotiating to resolve point of commercial disputes, both parties must have intention to compromise to reach an understanding or gain advantage in outcome of dialogue. There are two types of negotiations – distributive and integrative negotiations. In a distributive negotiation, each party often adopts an extreme position with no real intention to settle the commercial dispute. Both parties knowingly employ a combination of guile, bluffing, and brinksmanship in order to cede as little as possible before reaching a deal. An integrative negotiation focuses on the underlying interests of the parties rather than their arbitrary starting positions and attempts to create value in the course of the negotiation to resolve commercial dispute peacefully.

Facilitation

Facilitation is another commercial dispute resolution process that involves parties with a common purpose to solve their dispute.

Necessity of Different Commercial Dispute Settlement Mechanisms

Different Commercial Dispute Mechanisms are a part of the business now a day and have positive effects in the economy.[vii] A commercial dispute can be settled much sooner between the parties with Alternative Dispute Resolution (ADR); often in a matter of month, even weeks, while bringing a lawsuit to trial can take a year or more.

As it takes much less time to resolve the dispute through Alternative Dispute Resolution (ADR), the parties are able to save money, which they would have spent on attorney fees, court costs and experts' fees etc. In most of the Commercial Dispute Settlement Mechanisms, both parties have more opportunity to express their demand or side of the story than they do at trial. In mediation, parties are allowed to fashion creative resolutions that are not available in a trail; therefore they can typically play a greater role in shaping both the process and its outcome. Other commercial dispute settlement processes, such as Arbitration, allow the parties to choose an expert in a particular field to decide the commercial dispute. Alternative Dispute Resolution (ADR) is considered to be a less adversarial and hostile way to resolve a dispute, for example, an experienced mediator can help the parties effectively communicate their demand and point of view to the other side. This can be an important advantage where the parties have a relationship to preserve but in a trial, there is typically a winner and a loser. The losing party is not likely to be happy, and even the winner may not be completely satisfied with the outcome. Such a case Alternative Dispute Resolution is able to help the parties to find win-win solutions and achieve their real expectation. Thus, along with all of Alternative Dispute Resolution (ADR)'s other potential advantages, may increase the parties overall satisfaction with both the dispute resolution process and the outcome. Quick, cost effective and satisfying resolutions are likely to produce happier clients and thus generate continuing business with the parties. Due to the above potential advantages, the entrepreneurs' consider different commercial settlement mechanisms to resolve their dispute.

Commercial Dispute Settlement in Bangladesh

The courts in Bangladesh are overburdened with cases but the situation is worsening every year. According to the annual report 2010 of the judiciary,[viii] a total of 9,521 civil cases are pending in the Appellate Division of the Supreme Court while the number is 79,890 in the High Court and 701,789 in the district courts. There are about 118,680 commercial cases are currently pending in the formal courts in Bangladesh. Even though Bangladesh has a sound legal framework with the High Court providing an appropriately powerful forum for enforcement of fundamental rights and for judicial review of administrative action but there is a significant concerns as to the accessibility of the court system. There is huge backlog of cases as evidenced by official statistics and due to procedural delays; timely commercial dispute resolution is not often available. As a developing country, our economic growth is decidedly reliant upon investment both from the internal private sector and outside the country, therefore, a quick and ease of commercial dispute settlement procedure has always been one of the most important considerations for any investor to do business here. Delayed resolution of any commercial dispute has adverse impact on the economy both from micro and macroeconomic viewpoint, as a result, a colossal amount (approx. $1.4 billion)[ix] of private capital funds locked up in all these commercial disputes that eventually impeding our economic growth significantly. Our commercial dispute resolution is complex which has a detrimental effect on our standing as an investor-friendly state and causes foreign investors to lose confidence in Bangladesh. Not only that it discourage internal or existing investors from investing further but

also generate bad publicity amongst prospective investors and deter future foreign investments to Bangladesh.

The lack of any comprehensive review and updating of substantive laws is a significant issue. There are only few mechanisms in place to prevent or reduce delays with regard to case management. Technical and personnel limitations also exist, for example, the absence of any system for recording transcripts of hearings as well as the lack of recording, transcribing or computer facilities. The implications of these delays are, therefore, not providing for effective resolution of commercial disputes, most particularly because it does not offer timely resolution. Entrepreneurs' require a very simple, quick, efficient and straightforward approach to resolve commercial dispute, so an investment culture that allows for effective commercial dispute resolution system would clearly benefit Bangladesh, which will promote local or foreign investment and thereby increase the economic growth for Bangladesh.

However, the government is working to reform the legal system so that entrepreneurs' can settle their commercial dispute, to comply it, introducing mandatory Alternative Dispute Resolution (ADR). Once Alternative Dispute Resolution (ADR) functions properly, the litigants would go to the court as a last resort and it would also save their costs and facilitate quicker commercial dispute resolution.

Besides the above mentioned measures adopted as the process of Alternative Dispute Resolution (ADR), Bangladesh Government has promulgated the following acts for the effective application of Alternative Dispute Resolution (ADR) procedure for dispensing the commercial dispute outside the court:

(a) Insertion of sections 89A, 89B and 89C in the Code of Civil Procedure, 1908[x]

(b) The Bankruptcy Act, 1997[xi]

(c) The Arbitration Act, 2001[xii]

(d) ArthorinAdalat Ain, 2003[xiii]

The Code of Civil Procedure, 1908 provides for the provisions of Alternative Dispute Resolution (ADR) through Section 89A, 89B and 89C. In 2003 through 3rd Amendment of the Code of Civil Procedure 1908 these provisions have been inserted. Here it is said that if all the contesting parties are in attendance in the Court in person

or by their respective pleaders, the Court may, by adjourning the hearing, mediate in order to settle the dispute or disputes in the suit, or refer the dispute or disputes in the suit to the engaged pleaders have been engaged or to a mediator from the panel as may be prepared by the District Judge under Sub-Section (10), for undertaking efforts for settlement through mediation. Moreover Section 89A of the Code of Civil Procedure 1908 says about different procedures for mediation where Section 89B and 89C says about the Arbitration and Mediation in Appeal. As the basic process of Alternative Dispute Resolution (ADR) is negotiation, mediation and arbitration,Code of Civil Procedure 1908 has rightly discussed the basic Alternative Dispute Resolution (ADR) process.

In Bangladesh there were two laws- the Insolvency (Dacca) Act, 1909 and the Insolvency Act, 1920. The Bankruptcy Act 1997 has repealed both the Acts and re-enacted the law on insolvency using the expression "bankruptcy" in place of "insolvency". The Bankruptcy Act 1997 is designed to handle problems relating to financial matters in a more effective and extensive manner, where company, association, partnership firm and their directors and owners are brought within the fold of the new law. Bangladesh thus on its way in its strides to achieve the goal of developing the areas of insolvency and creditor rights systems, marching ahead hand in hand with other members of the community of nations and this system of Bankruptcy inserts a new system of Alternative Dispute Resolution (ADR) in Bangladesh.

The Arbitration Act 2001 is enacted by the government which came into force on 10th April 2001, repealing the Arbitration (Protocol and Convention) Act 1937 and the Arbitration Act 1940. The new Act was again amended in 2004 in certain respects. Such legislative steps were urgent in the face of increasing foreign investment in Bangladesh in various sectors; especially in natural gas and powers, and the ever growing export trade with the rest of the world. The Act consolidates the law relating to both domestic and international commercial dispute settlement. It thus creates a single and unified legal regime for commercial dispute settlement and gives Bangladesh a face lift as an attractive place for commercial dispute resolution in the field of international trade, commerce and investment. Although the new Act is principally based on the UNCITRAL Model Law, it is a patch work quilt as some unique provisions are derived from the Indian Arbitration and Conciliation Act 1996 and some from the English Arbitration Act 1996.

ArthaRinAdalat or Money Loan Court was established under a law in 1990 to adjudicate the cases relating to the recovery of loans of financial institutions. Earlier, the cases for loan recovery were the jurisdiction of the general Civil Courts. To

strengthen the ArthaRinAdalat (Money Loan Court), a new ArthaRinAdalat Ain was enacted in 2003. Under the law specialized courts for the settlement of disputes between the borrowers and the lenders were established in the premises of the District Judge's Court. The Courts of Joint District Judge establishes under the new law have overriding powers on other laws of the land. This means, in case of conflict with any other law in force, the provisions of the new law relating to money loan shall prevail. Under the provisions of the Act, subordinate judges are appointed judges of the money loan courts in consultation with the Supreme Court. The law requires filing of all suites for realization of the loan of the financial institutions, banks, Investment Corporation, House Building Finance Corporation, leasing companies and non banking financial institutions, constituted under the provisions of Financial Institutions Act 1993, with the money loan courts for trail. The money loan court has all the powers of the Civil Court.

Initiative taken by Bangladesh International Arbitration Center (BIAC)

The first-ever alternative dispute resolution centre, Bangladesh International Arbitration Centre (BIAC)[xiv] is a not-for-profit organization, is the first international arbitration institution of the country. It was established in April 2011 and began its journey with a promise to help settle commercial disputes in a quick, transparent and cost-effective manner.

A striking feature is that the initiative is led and driven by the private sector – International Chamber of Commerce-Bangladesh (ICC-B), Dhaka Chamber of Commerce & Industry (DCCI) and Metropolitan Chamber of Commerce & Industry (MCCI), Dhaka cooperatively established and sponsoring the BIAC. Under a co-operation agreement, the International Finance Corporation (IFC) with funds from UK Aid and European Union is also supporting BIAC in the initial stages.The BIAC provides a neutral, efficient environment where clients can meet their arbitration needs and also has reliable commercial dispute resolution service; therefore, its work revolves around the best ways to adapt arbitration to the fundamental changes in the economy. Since establishment, BIAC is already renowned for its first-rate, state-of-the-art arbitration facilities, experienced panel of independent arbitrators.

The BIAC is assisting by preventing the accumulation of further backlogs, reducing the huge backlog of commercial cases, minimizing the delays of the formal justice system, reducing the cost of doing business and legal uncertainties.BIAC introduced its Arbitration Rules in April 2012.[xv] These Rules incorporate some of the leading developments in domestic and international arbitration, while conforming to the Bangladesh Arbitration Act 2001.

In order to boost revenue collection and clear backlogs of thousands of tax-related cases pending at courts, the first public sector agency the National Board of Revenue (NBR) has recently usedAlternative Dispute Resolution (ADR)for resolving tax disputes (disputes regarding income tax, value added tax and custom duty) of almost $1.4 billion.[xvi]The board has amended all the relevant acts in 2011 to introduce facilitation (largely derived from the concept of mediation) and very recently enacted tax Alternative Dispute Resolution (ADR) rules for all three taxes to implement out of the court tax dispute resolution in Bangladesh.

Commercial entities prefer some States over others for businesses only if there is enough protection and justice for them, so they want to know if there will be finality in case of a dispute resolution. In absence of an internationally recognized dispute settlement tool foreign companies get reluctant to invest, as they feel unprotected. With the establishment BIAC, Bangladesh is on course to improve its position in Doing Business in "enforcing contracts" and will increase foreign direct investment (FDI).BIAC's presence would not only put Bangladesh on the global map as an arbitration-friendly state but also help access to justice for businesses so that businesses can have rapid and uncomplicated access to solutions to their disagreements.

The close conjunction of private sector and government working hand-in-hand suggests that Alternative Dispute Resolution (ADR) is an idea whose time has come in Bangladesh for effective commercial dispute resolution. They see Alternative Dispute Resolution (ADR) in any form as being an acceptable method of speeding up the delivery of justice and reducing their very heavy caseloads.

Findings

Different commercial dispute settlement mechanism encourages compromise, which can be good way to settle commercial dispute but it is not appropriate for others. In serious justice conflicts and cases of intolerable moral difference, compromise is simply not an option because the issues meantoo much to the disputes.According to the Arbitration Act 2001, if a party send notice to the other party requesting arbitration to solve a particular commercial dispute but other party does not respond to the notice, the court on behalf of the non-responding party will appoint an arbitrator, as a result, it takes years together to even get the arbitration tribunal constituted and the hearing started. Should the parties fail to agree to settle their commercial dispute through arbitration or mediation, the expectation of the entrepreneurs' to have a simple, quick, efficient and straightforward approach to

resolve commercial dispute through ADR is not fulfilled?All ADR settlements are private and are not in the public record, therefore, are not open for public scrutiny.According to the article 23 of the BIAC Arbitration Rules 2011, the Arbitration Tribunal shall apply the rules of law designated by the parties as applicable to the substance of the dispute, failing which, the Arbitration Tribunal shall apply the law which it determines to be appropriate. So, as it appears that there are no specific Rules of Procedure for arbitration, the parties need to depend on the rules of arbitration determined by the tribunal, therefore, an uncertainty exists of the outcome of the ADR. As commercial dispute resolution is moved from the local court system to the private sphere, it will prevent the local law from developing to meet changing circumstances.There is no room for filing an appeal on merit if any party is not satisfied with the outcome of a resolution of the commercial dispute through arbitration. If it appears that the commercial dispute settlement tribunal was biased, only then an award can be set aside, which discourages the entrepreneurs' to choose arbitration over lawsuits.It is possible that keeping information about the details of commercial dispute settlements out of the public domain will prevent its use as a comparator, as a result, may lead to an increase in the number of dispute claims by the parties. Countries like USA, UK where Alternative Dispute Resolution (ADR)as a commercial dispute settlement mechanism is established; a great emphasis is given on institutionalization of the system of Alternative Dispute Resolution (ADR). In those countries, private institution such as – London Court of International Arbitration (LCIA), which offer institutional support for Alternative Dispute Resolution (ADR), have separate rules of procedure, panel of arbitrators etc., so newly established Bangladesh International Arbitration Center (BIAC) and other arbitration service provider should receive more institutional support from the government.Even though Bangladesh International Arbitration Center (BIAC) exist now to settle all kind of commercial disputes but a large number of entrepreneurs' do not have the requisite knowledge of the system. Therefore, they will have to be made aware of the advantages of Alternative Dispute Resolution (ADR)and disadvantages of court based litigations to make Alternative Dispute Resolution (ADR)popular.

Recommendations

- Steps should be taken to establish a commission for commercial dispute settlement through Alternative Dispute Resolution (ADR), which will lay down principles and policies to make Alternative Dispute Resolution (ADR)available to all entrepreneurs'. Additionally, a nationwide network needs to be envisaged for providing solutions through Alternative Dispute Resolution (ADR)and if necessary, disburse funds and grants to different Alternative Dispute Resolution (ADR)authorities for implementing Alternative Dispute Resolution (ADR)schemes and program successfully.

- The government should take necessary steps to amend its local law so as to establish a legal framework for Alternative Dispute Resolution (ADR)with international standard.

- The parties can be obligated to insert a clause into the agreement to settle any commercial dispute, if arises, though Alternative Dispute Resolution (ADR) or discuss about the possibility of commencing Alternative Dispute Resolution (ADR). Even though, parties retain the right not to choose Alternative Dispute Resolution (ADR)but legislature can introduce certain provisions which discourage initiation of litigation in cases where out of court settlements can easily be worked out.

- BIAC is committed to maintain high standard while settling a commercial dispute but it should ensure that the tribunal maintains international standard, failing to do so, will discourage entrepreneurs' from using it.

- Training facilities should be increased to train localmediators/arbitrators, judges, legal community to be capable of settling commercial disputes.

- Since the establishment of BIAC, the local people still not aware of it. Alternative Dispute Resolution (ADR) is a fairly new concept to many and concepts like these not only take time in percolating to the grass root levels, acceptance of such a concept is also a big problem. So, to make the Alternative Dispute Resolution (ADR) successful, a robust program such as communications campaigns, conferences, workshops, publications etc. imparting legal literacy becomes a necessity. Cooperation and commitment from the entrepreneurs are a must for making timely commercial dispute settlement successful.

- The capacity of BIAC should be increased to be able to provide credible commercial dispute resolution or Alternative Dispute Resolution (ADR)services.

- Commercial dispute settlement mechanisms can be taught as an essential course in the university or law institutions, so that law graduates learn the necessity of using it by the parties.

- The perceptions of the Bangladeshi legal system would also have to be addressed so as to reassure clients or parties that they would not become sucked into the courts following any award in their favor, especially those who will use arbitration and/or mediation.

Conclusion

Commercial arbitration laws still require more improvement to maintain international standard. However, developing the law is not enough. As a part of the formal laws it is also need to develop the institutional rules, like BIAC has initiate a rule privately. But this rule has to be re-examined and revised in order to take into account new experiences from their practical implementation. It is quite difficult task to make the national court systems fit for dealing with different commercial mechanisms but the

developing process should be continued. The parties or litigants who have been on the losing side in a number of arbitrations will see the fault in the system rather than in their own conduct, so to retain public confidence, modernisation and transparency of arbitration rules and institutions is a must. Bangladesh is trying to play an important role in international trade nowadays and require more foreign investment for its economic growth, the government must provide some legal security for such investments including the option of settling commercial disputes through international arbitration standard and take some effective initiatives to improve the system that could be easier for everyone and perusable also.

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Much Disputed Rampal Power Plant: An Analysis from Legal Perspective

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Abstract

There is much dispute for long time as to the project of Rampal Power Plant. This dispute relates to various probable impacts of the project upon environment, health and specially the sundarbans. Acute dispute is centered upon the impact on the sundarbans and its rich biodiversity. The reason is that it is the only tidal mangrove forest in the world and it is also included in the World Heritage sites of UNESCO. This article aims to analyse the issues mentioned heretofore critically and thereby to examine the legality of the project.

Keywords: EIA, Environment Concern, Environment vs. Development, Rampal Power Plant

Introduction

The Rampal Power Plant proposal, also known as the Maitree Super Thermal Power Project, is one of eleven coal-fired power stations planned under Bangladesh's Power Development Board (BPDB) plans for commissioning by 2021. The proposed imported-coal-fired power plant is to be a joint venture of BPDB and India's largest power producer, NTPC Limited, under the name of Bangladesh-India Friendship Power Company Limited. The proposed project, on an area of over 1834 acres of land, is situated 14 kilometres north of the world's largest mangrove forest Sundarbans which is a UNESCO world heritage site. It will be the country's largest power plant.

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Legality of the Project

For the determination of legality of the Rampal Power Plant, the following issues are required to be discussed.

Environment Clearance Certificate and EIA

There is a statutory requirement for initiating any development project that is to obtain Environment Clearance Certificate from the Department of Environment. As Section 12 of the Environment Conservation Act, 1995 runs as follows:

> No industrial unit or project shall be established or undertaken without obtaining, in the prescribed by rules, an Environmental Clearance Certificate from the Director General.

For the purpose of issuing Environmental Clearance Certificate Section 7(1) of the Environment Conservation Rules 1997 has classified the industrial units and projects into following four categories:

a. Green;
b. Orange-A;
c. Orange-B; and
d. Red.

Section 7(6) (d) requires Environment Impact Assessment for the application for Environmental Clearance Certificate for red category of industry. Since Rampal Power Plant falls in red category of industry, EIA is mandatory for it.

Let us examine how far the legal requirements of ECC and EIA have been complied with relating to the project. Apparently it is found that the requirements have been

fulfilled by way of obtaining ECC and submitting EIA report as a pre-requisite for ECC. But there is a question as to the EIA and ECC.

Firstly, we would like to discuss EIA. In a research conducted by TIB, it is found that there is a question as to the neutrality of the EIA as it is evident from a study done by TIB. The study shows that:

> Despite the fact that Rampal project is being implemented by Bangladesh government, the EIA of this project was conducted by the same party (Centre environmental and Geographic Information Services – CIGIS, Bangladesh government's body). Due to the possibilities of conflict of interest, the respondents of this study opined that the EIA failed to achieve the standards of neutrality.

In September 2015, South Asians for Human Rights (SAHR), a non-governmental organization that "seeks to contribute to the realization of South Asian peoples' right to participatory democracy, good governance and justice, published a report on its April 2015 fact-finding mission to Rampal. According to the report, the mission's objective was to evaluate the impact of the power plant on the livelihoods of the people and ecology of the region, examine the legal framework governing its establishment and assess if the proposed power plant violates any laws, policies and guidelines that protect the Sundarbans. Members of the mission visited the site of the power plant and met with key state and non-state stakeholders including affected villagers, environmentalists, lawyers, academics, journalists, human rights defenders and other members of the civil society. The mission corroborated evidence, cited by many other sources, of irregularities in the environmental review process for the project, including issues related to access to information and meaningful public consultation, which are internationally recognized as essential elements of legitimate environmental 7 decision-making. For example, the report noted obstacles preventing

local communities and advocacy groups from accessing and adequately reviewing the draft EIA:

> The [draft EIA], written in English, is 676 pages long and was not disseminated among any citizens' groups. It was available only online and the time for sending people's views on the report was limited to two weeks, that too, during the Eid holidays when all the offices were closed for 3-5 days. It appears that people's access to the report was deliberately restricted by the government (31).

The report further documented a lack of meaningful public participation throughout the EIA process:

> The EIA states that different groups of people, including farmers, fishermen, development workers, activists, etc., were consulted. Locals claim however, that opinions reflected in the EIA were misleading, partisan and unrepresentative of people's true sentiments. Informants alleged that most of the people who were invited to discussions for the EIA were affiliated with the ruling party, and as such, they did not represent the people's concerns about the environment, loss of livelihoods, etc. … Within a week from the event, the EIA was finalized, without incorporating any of the changes suggested by the stakeholders (32).

This is also supported by the study conducted by TIB. As the study of TIB shows that:

> In finalizing the EIA report, CIGIS was alleged for not taking any expert opinion. Respondents also alleged that conducting public hearing after finalizing the report was quite useless. During a public hearing, various parties, including the environmentalists, highlighted the negative effects of the project that were ignored in the final EIA report. The local level stakeholder meetings were not participatory because the local community was threatened by influential local political leaders that their "tongues would be torn down if the project was opposed". Because of this threat, the local community merely participated in the stakeholder meetings without voicing any complaints. The stakeholder meetings were organized in controlled environments of the implementing organization.

These procedural irregularities call into question the legitimacy of the environmental review process and its conclusions. Apart from the procedural irregularities, EIA is defective also for various reasons which will be touched under the heading of environment.

Secondly, let us give a look upon the matter of Environmental Clearance Certificate. In this respect, TIB report claims that Department of Environment has violated the law in issuing ECC. As the study shows:

> According to the law, the Department of Environment (DoE) has no authority to approve such types of projects except in industrial, industrialized or empty areas. The DoE had violated the ACR 1997 by approving environmental clearance of Rampal project which is not an industrial, industrialized or empty area. The Sundarbans are a reserve forest, whose legal custody is under the Forest Department. But the DoE did not seek the opinion of the Forest Division in approving site clearance of this project.

Environment Concern

In this part firstly, we shall examine the gravity of the detrimental effect of the project on the environment under the heading of ***"How far the project is detrimental to environment***". Secondly, we shall see the environment taking the right to development into consideration and also analyze the legal issues relevant thereto under the heading of "Development vs. environment and legal issues concerned."

How far the Project is Detrimental to Environment

Emission of pollutants: The proposed power plant will burn around 4.75 million tons of coal annually when more or less 0.3 million tons ashes and around 0.5 million tons sludge and liquid waste may be produced. It would also emit a good amount of carbon dioxide (CO_2) – key factor for global warming – some other toxic gases and

airborne particles, according to the Union of Concerned Scientists, a USA-based group. Prof. Dr. M A Sattar discussed on the types and levels of pollution of coal-fired power plant (Chowdhury 2). The ground water and that of the Poshur would also be polluted by the huge amount of waste produced due to burning of the coal. Whereas the existence of strict laws to protect the environment and the wildlife, the government has recently decided to declare a part of Poshur and Andharmanik rivers sanctuaries for dolphins. The liquid waste or sludge contains hazardous arsenic, mercury, cadmium and chromium. These toxic substances can contaminate drinking water supplies and damage vital organs and the nervous system of people living around the place and the natural resources of the Sundarbans.

The possible air pollution will certainly be higher than what is anticipated if it uses Indian coal – considered to be of low quality due to the presence of high sulphur in it. The coal of Barapukuria, however, is recognized as a high quality type has less than 1% sulphur. According to the expert opinion, the quality of Bangladeshi coal is also better than that of Indonesia and Australia.

Impact of water withdrawal and discharge: Rampal plant will withdraw 9,150 cubic meters of water per hour from the Pashur River which is less than 1% of the total water flow. After use in the plant, purified water will be discharged at the rate of 5,150 cubic meters of water per hour into the river. Without assessing the impact on the flow of the river due to withdrawal and discharge of the water, the EIA report only commented "hydrological features may not be changed". According to respondents, the information used to show the flow of water in the river is not updated (information of 2005). On the other hand, 'zero discharge'

principle was not adopted in water discharge from power plant. According to respondents, the purification, water temperature, water discharge motion and dissolution of various elements in the water will negatively affect the Pashur and over the Sundarbans and the Bay of Bengal.(Hossain et al.,6)

Risk of human health: There will be great risk to human health by the project. To this effect EIA revealed that the different structures of the power plant project may cause environmental hazard, which may eventually affect the health profile of this area (291). EIA further showed that another major health risk involves cooling tower. With world experience, different studies suggest that bacterial contamination of cooling tower may case outbreak of pneumonia in the surrounding community (291).

Threat to Sundarbans and other wildlife sanctuary: The Sundarbans are a UNESCO World Heritage site and a recognized Ramsar wetland. The project would have a range of disastrous and irreversible impacts on the richly biodiverse forest. The importance and vulnerability of the Sundarbans is often contrasted with the mass destruction the Rampal power plant will continue to bring if built. Once the plant is in operation, it will emit various pollutant gases. These gases will be spread out by wind and affect the people, trees, animals, soil and livestock. Heavy metals resulting from coal burning will be kept in a coal ash pond, containing toxic sludge located close to the Passur river, a cyclone and flood prone area. Additionally the plant will discharge toxic water into the river for the next 25 years; navigational vessels traveling up and down the Passur river for coal transportation will also alter the ecosystem. Given the history

of oil, fertilizer, and coal vessels sinking in the rivers of Sundarbans, there is room for concern. These will most certainly harm the fragile ecosystem of the Sundarbans. And thus the people, the tigers, the dolphins, the turtles, the fish, the mangrove and the innumerable crucial organisms that keep the Sundarbans alive.

Development vs. environment and legal issues concerned

It is eternal truth that there is eternal conflict between development and environment. Where there is development there is pollution. Now question arises for environment concern, will the development work be stopped? It is already settled worldwide that development work should go keeping the issue of environment in consideration.

Now let us examine the legal provisions as to the environment which relates to the Rampal project. There are about 185 laws to deal with environmental issues. The parent laws for environmental protection are: The Bangladesh Environment Conservation Act 1995 and the Environment Conservation Rules 1997. In the statutory laws no special provision has been made for coal bases power plant.

In Bangladesh, there is no effective constitutional protection of the environment. Only article 18A of the Constitution of the People's Republic of Bangladesh provides soft law for the protection and preservation of the environment and its some important components. As the provision runs as follows:

> The State shall endeavour to protect and improve the environment and to preserve and safeguard the natural resources, bio-diversity, wetlands, forests and wildlife for the present and future citizens.

But the higher judiciary has played some positive role to protect environment by way of judicial activism in the format of interpretation of fundamental rights like right to life and liberty and so on. In this respect the FAP 20 case is a milestone in the arena of environmental justice. In this case, the meaning of right to life was extended to include right to a healthy environment.

> "Articles 31 and 32 of our constitution protect right to life as a fundamental right. It encompasses within its ambit, the protection and preservation of environment, ecological balance free from pollution of air and water, sanitation without which life can hardly be enjoyed. Any act or omission contrary thereto will be violative of the said right to life."

However, the court declined to interfere with the FAP project as foreign assistance was involved and the whole project was meant to be for the benefit of the public. Moreover, it took account of the substantial amount of money that has been spent and that the project has been partially implemented. From the judgment, it is not clear how much environmental damage the court was prepared to tolerate in the name of development. So, it is evident that there is vagueness in the laws.

Conclusion

Finally, we can say that since the Rampal power plant is coal based, it is very much risky for environment, Sundarbans and its biodiversity. From legal point of view it can be concluded that if not project violate laws regarding environment directly, at least it has violated spirit of environmental laws prevalent in Bangladesh.

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