

CHAPTER - ONE

1. Introduction

This study is about the 'Use of English in Judicial Practices'. This Chapter consists of general background, importance of English, the spread of English over the world, incentives or supporting for learning English, English language teaching in Nepal. In addition, this chapter also deals with English for Specific Purposes, types of it and ESP in Nepal, a brief introduction of administration including Judicial Justice, need of English in Judicial field, review of related literature, objectives of the study and at last significance of study.

1.1 General Background

Since human beings are the most developed creature among all species, they deserve species- specific property, i.e. language to communicate and express their thoughts, feelings and emotions in their day to day life. Had there not been only language in the world, we would have hardly been able to exchange our feelings, emotions, thoughts and so on.

Mckay and Bokhorst- Heng (2008, P.18) say, "It is estimated that today there are around 5,000 - 6,700 languages in the world and about half of these will become extinct in the next century". According to them, some languages are in danger of loosing their existence in coming few years. McKay and Bokhorst- Heng (ibid.) further say, "About 90 percent of the world's population speaks the 100 most used languages leaving around 6 thousand languages spoken by 10 percent of the population". Considering English, it has far fewer native speakers than Mandarin Chinese but it is English that is considered as the international language of the world to day. Presently, there are more non- native speakers of English than native ones. It is the contributing factor in the spread of English.

Present-day globalization, migration and spread of English have resulted in a great diversity of social and educational contexts in which English is being used and learned. Nettle and Romaine (2000, as cited in McKay & Bokhorst-Heng, 2008, P.19), Say, " English is the dominant or official language in over 60 of 185 nation states recognizes by the United Nations."

English is the language which is spoken all over the world not only by native speakers but also non-native one. Some use it a second language and some as the means of communication or as the foreign language. According to Kachru (1986, as cited in McKay & Bokhorst Heng, 2008, P.19). There are three groups of English users; speakers of the first group, i.e. native speakers, as member of the Inner circle' the second group, i.e. learn/speak English as the second language, as the member of the outer circle' and the last group, i.e. use English as the foreign language, as member of the 'Expanding Circle'. From this, we can say that the speakers of English language are highest in last group, i.e. 'Expanding Circle' which spreads English all over the world rapidly.

At first, four languages have been recognized as the UN languages and two more were added later on. Poser (2004, as cited in Gnyawali, 2010, P.2) presents this view clearly:

The original official languages were English, Chinese, French and

Russian not coincidentally the languages of the security council...

Spanish and Arabic were added in 1973, in both cases because they are languages of a Score of nations.

Among all the languages spoken in the world, the English language is the most richest, most common, popular, widely accepted means of communication and it is used in the field of science and technology, trade, commerce, business, international negotiations, medical, judicial field, hotel and tourism and so on

with its basic use. So, English is used all over the world as lingua franca which permits one to visit and contact with the whole world without any restriction. English is the lingua franca of all the non-native speakers. The view of House (1999, as cited in McKay & Bokhorst - Heng, 2008, P. XVI) also clarifies it, "English as a 'Lingua franca' interactions are defined as interactions between members of two or more different lingua cultures in English, for none of whom English the mother tongue."

1.1.1 Importance of the English Language

English has been practiced and used all over the world by millions of people. English has become the voice of progress, modernization, globalization and development. Today, English has also become an immensely dispersed and diversified international mass of communication. English, now a days, no longer remains the private property of the English speaking countries, like Britain, America and Austrelia. It has rather developed and globalized as an inclusive channel of communication and education throughout the universe. English is considered as a language of civilized, qualified and professionally highlighted persons. In the context of Nepal, English is regarded as the language used by the academically qualified and intelligent people and rest of the people (who do not know English) are as the people of backwards.

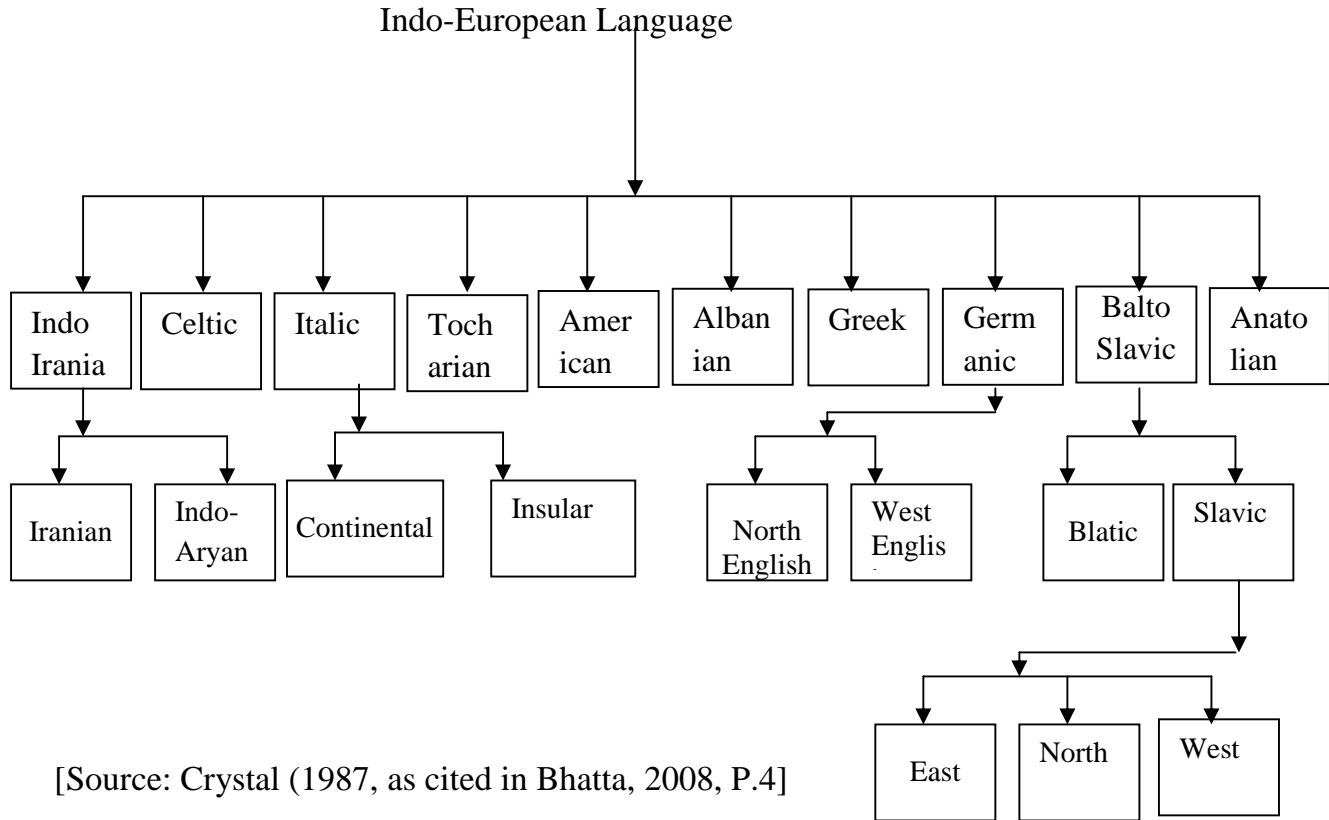
The United Nations Organization (UNO) has allowed English as an official language. it is used in many different International Organizations like to United Nations organization (UNO), South Asian Association for Regional Co-operation (SAARC), World Trade Organization (WTO), United Nations Education, Scientific and Cultural Organization (UNESCO) and so on.

By giving the importance of English language Karn (2006, P.13) remarks, "There has been a belief amongst some that English is the language on which

the sun never sets". According to the survey of UNESCO (as cited in Khanal, 2011, p.), "more than sixty countries of the world use English as an official language, about one hundred and sixty millions people listen to English radio programme and over sixty millions children study English at primary level." Then we must say, English is the gateway through which everyone can learn history, culture, life style, socio-economic status, level of education and so on. Similarly, English is the main language of the world's books, newspapers, advertising, academic conference, diplomacy, business and the bridge of all people to go to the any corner of the world. It is the official, international language of air traffic control. In the same way by showing the important of English, Harmer, (2008, P.13) states: English is also, of course a mother tongue for many people in the world, though as we shall see, such native speakers are increasingly out-numbered by people who have English as a second or third language and use it for international communication.

By the end of twentieth and starting of twenty-first century English was already on its way to becoming a genuine lingua franca, the language used by people who do not share their common mother tongue. Karn (2006, P.74) states, "According to genetic classification, English belongs to Germanic family which in turn belongs to a wider family, Indo-European languages as which is thought to have been developed out of hypothetical parent language namely proto Indo-European."

According to Crystal (1987, as cited in Bhatta, 2008, P.4) the genetic affiliation of the English language is given as follows which will help to understand about this more clearly:



Since, English is the lingua franca and the official language in international organization, no one can move forward with the flow of time to assimilate in the global community avoiding the English language. So, we can discern that anyone willing to get the knowledge of every field and to become versatile should possess the English language. In the same case, Dawadi (2006, P.111) says, "English is the language of global importance of library, diplomacy business, education and employment and the promotion of human rights." There are thousands of languages spoken all over the world and no one needed to learn all. The language which is richest in spoken population, richest in culture, spoken by majority people and internationally recognized as an official language must be learned and that is English. The fact is that, the newly published books

from any corner of the world (any country), sooner or later, gets translated into English. To gain knowledge through these books the knowledge of English is highly required.

Very recent books, articles, journals, theses, which are very rare in market as book size, are easily available in internet. Even to make access in internet, chat in online, sending and receiving e-mails, the English language is must. To reach the access of computer, internet English language is highly needed including the broadcast of radio and television programme. In this regard, Karn (2006, p.73) says, "some sixty percent of the radio broadcasts are beamed in English."

The world, now is becoming narrower and turning into a global village, or a small closed room through which, we can see, view every activity which happens in any corner of the world very soon. According to the globalization, development of countries and awareness raised in people there are several conferences, conventions, seminars, policies made and conducted among many countries which compulsorily held/conducted in English. This in context of Nepal also, increasing the practice of English because Nepalese have to take part in such programmes as the member of the organizations like, UNO, WTO, SAARC, UNICEF and so on. With regard of Nepal's diplomatic relations with foreign countries Uprety (1996, as cited in Gnyawali, 2010 P.4) opines that "Nepal has established diplomatic relations with more than 100 countries of the globe and to maintain and keep it smooth, English has played prominent role from language perspective." In context of Nepal, Uprety (ibid) says, "The recruitment of Nepalese young men in British Army also boosted the importance, need and value of English education."

Increasing the importance of English language Awasthi (1979, p.10) says, "English is important for the acceleration of technical development of the country, since most of the sophisticated technical research works are published in English". Awasthi (ibid) further says, "At the same time, our vernacular language Nepali, is not sufficiently developed to meet all the requirements of

the communication specially in scientific technical matters and is not yet wide spread as a language of scholarly studies."

Many Nepales students go abroad every year for their studies and they must know English properly to communicate with stronger, share feelings, emotions, ideas, experiences and even to read the prescribed materials to the course. Again, Awasthi (1979, p.11) further says, "... then why we should deliberately refuse to learn a language which gives us a passport to travel all over the world."

The importance of English to all the people of the world cannot be denied. It is equally important for all specially who are, educated mass or qualified persons. Bhattarai (2006, P. 15) says more about the importance of English:

This (English) is the only language with which the educated mass, their dialogue with the rest of the world. Thus, English is the great liberator, a common language for the oppressed and oppressor, the democrat and the dictator for putting their causes before the world. Ultimately, we are in the need of more English to guarantee humanity democracy and peace.

In the contexts of our country, Nepal, the English language is taught and learnt as a foreign language of global significance. It is used in different media, travel tourism, science and technology, business, banking, public administration, judicial field, medical and so on. So, people are directly or indirectly influenced by English language in their daily communication and has brought change day by day. In recent years, English is taught for Specific Purposes for business, law, tourism, agriculture etc. Similarly, the English language has been used differently in different situations according to the need of the speakers, such as, doctors, lawyers, judges, waiters, nurses, lectures of non-English subjects, traders and so on.

1.1.2 The Spread of English Over the World:

1.1.2.1 Role of Colonialism

Colonialism can be said to be central to the spread of English for several reasons. Pennycook (1998, as cited in McKay and Bokhorst-Heng, 2008, Pp.4-5) notes, "English language teaching (ELT) was always a significant part of colonial policy. Where the empire spread, so did English." The growth of English (British) empire associated the use of English with power since those who knew English had greater access to jobs. Colonialism played an important role to spread English all over the world. In Colonialism, English was taken as the powerful language to others. In this case, let's take Pennycook's (ibid) view:

Colonialism fueled a discourse of the insider or outsider, or the self and the other, in which the native other was often portrayed as backward, dirty, primitive, deprived, child like feminine and so forth while the colonizers, their language, culture and political structures were seen as advanced, superior, modern, civilized, and masculine and so forth.

As (McKay and Bokhorst-Heng, 2008, P.5) say, "British and American colonizers in the spread of English, is an issue that has been widely debated." Phillipson (1992) and others have argued that the spread of English within British and American colonies is essentially one of linguistic imperialism which Phillipson contends occurs when "the dominance of English is asserted and maintained by the establishment and continuous reconstruction of structural and cultural inequalities between English & other languages." (As cited in Gnyawali, 2010 p. 6). Structural inequalities are material properties such as institutions and financial allocations that favour the use of one language over another.

In this way, as Phillip son (ibid.) says, "the spread of English is due primarily to the linguistic imperialism of British and American colonialism and more recently to a well-funded English teaching establishment."

1.1.2.2 Role of the Alchemy of English

For many, English is seen as a key to knowledge and personal success Kachru (1986, as cited in Mckay & Bokhorst Heng, 2008 P.7), in a book entitled "The alchemy of English', contends, that "Knowing English is like possessing the fabled Aladdin's Lamp, which permits one to open, as it were the linguistic gates to international business, technology, science and travel. In short, English provides linguistic power." By praising it, more recently, Crystal (1997, as cited in Makay & Bokhorst Heng, 2008, P.8), contends that "there has never been a language so widely spread or spoken by so many people as English."

Similarly, a belief in the power of English is clearly present among the youth of many large urban centre today. For example, Coulmas (2003), for example, notes that a survey of city- dwellers in Beijing, Shangai and Guangzhou found that the vast majority of respondents of all age groups believed that fluency in English has a key to success (Mckay & Bokhorst- Heng, Ibid).

1.1.2.3 The Role of Globalization

Giddens (1990, as cited in Mckay & Bokhorst- Heng, 2008, P.2) defines globalization as, "The identification of worldwide social relation which link distance localities in such a way that local happenings are shaped by events occurring many miles away and vice versa."

Different cultural and economic systems, lifestyles, customs, social practices around the world are becoming connected and similar (to some extent) to each other because of the influence of multinationals and improved communication. The world is becoming a narrower place day by day and all the new happenings of the world can be seen by sitting on a chair inside a room of any corner of the world. This situation is being made possible by the globalization and drastic development in science and technology. People have been using English as a

bridge/vehicle to transmit world's developments, changes, inventions and many other things. Since the world has not remained a large cosmos becoming a global village, it needs a language which can be the best facilitative one and surely, this place has been taken by English. This saying can be clarified by a policy statement issued by the United States Government, the statement says: English has become one of the most important world languages. The rapidly growing interest in English cuts across political and ideological lines because of the convenience of a lingua franca increasingly used as a second language in the important areas of the world (cited in Gnyawali, 2010, P.7).

Globalization has certainly played a prominent role in the spread of English besides the individuals willingness to learn it. Because of the rapid changes in the field of science and technology, politics, economics of the world, people seem to be forced to learn it. The competition among the countries is also increasing day by day due to the change in technologies, invention of new theories. To some extent the capacity of earning money by individuals or by a nation has also become a matter of the competence and use of English language.

In this way, for the expansion and spread of English, the role of globalization plays a powerful place. There is no any language which has the richest spoken population, officially recognized and globalized than English language.

1.1.3 Incentives and Supporting for Learning English:

Importance of learning English and supporting things for this are gained further by the existence of various incentives to learn English, some real and others part of the imagined benefits of language learning. McKay & Bokhgort- Heng (2008) discuss three areas of English learning incentives which are highly relevant to the teaching and learning of English. As they mentioned, these incentives are: economic, educational and mass media incentives. They are briefly described below:

Economic Incentives

Broff- Griffler (2002, as cited in Mckay & Bokhorst- Heng, 2008, P.10) says, "With development of industrial capitalism in the late eighteenth century, with England, and later also the United states, as its centre, English more and more became the language of the world market." At first English was, used for the business (trade) but later it is using in many transactional corporations and out-sourcing jobs, English is a condition for employment.

Educational Incentives

English has left its indelible grape, in the field of education. the policies within educational institutions and government policies both never disregard the role and the importance of English language. Even in China as Hu (2005, as cited in Mekay & Bokhorst- Hung, 2008, P.13) says, "The ministry of education gave several economically developed provinences and municipalities the autonomy to develop their own English curricula, syllabi and text books for primary and secondary education" From this, we can discern that English is must in educational field, to read all the text as well as reference materials which mostly publish in English language.

Mass Media Incentives

Mckay & Bokhorst- Heng (2008, P. 14) say, "four areas of mass media that currently provide motivation for English learning among the younger generation, are advertising, music, movies and electronic communication.

Executives of advertising companies offer several responses why they use English in their products. First, by using English in product names, the product has a greater chance of becoming known in other countries due to the widespread use of English. In addition, many consumers seems to believe that if a product has an English name, it will be superior to local products.

Since English is the most dominant language in all field, music cannot be far from it. Music is another aspect of mass media that can provide motivation for

English. In many countries, exposure to popular songs in English has led to good deal of code- mixing in locally produced pop-music.

There is no doubt that American movies dominate the world's film market. To clear that Crystal (1997, as cited in McKay & Bokhorst - Heng, 2008, P.16). states that the United States controls 75 percent of the world film market. What is significant for language learning is that in many contexts, American films are being shown with the English sound tracks and visual subtitles in the local languages. Similarly, electronic communication also provides another source of global exposure to English. The use of internet, world wide web computers, mobiles have grown very rapidly and helping in learning English because they all required command of English.

1.1.4 English Language Teaching in Nepal

Among all the languages in the world, the English language is the most prestigious and dominant language which has highest speakers. It is an international language and vital tool for communication to each other who do not share common language as the mother tongue, i.e. used a foreign language.

The introduction and development of English in Nepal is closely connected with the establishment of British rule in India, and the rise of the Rana rule in Nepal, in the 19th century. Rana's sons were taught English at first with the view in mind that the Rana rule in Nepal would have easy access to British Empire. Regarding the history of the English language in Nepal, Awasthi (1979, pp. 1-3) writes: The history of the English language in Nepal, as quoted in the pages of the annals of the Malla period, goes back to the seventeenth century when king Pratap Malla ruled over Kathmandu. Though at that time, the English language was not popular among the ordinary people, the inscription at Hanuman Dhoka states that king Pratap Malla knew fourteen languages including English.

Awasthi (ibid), further writes: During the Rana autocratic rule over Nepal, the Prime Minister and rich families hired Bengali or English tutors to teach their children. Prime Minister Jung Bahadur Rana who was extremely interested in the English system of education opened a school in his palace in 1844 to educate his own children.

The school opened by Jung Bahadur Rana in 1844 after returning from England, was that first school in the history of formal education in Nepal. The objective behind the establishment of this school was to amity and harmonious relationship with England and to inculcate the Rana children. The same school is known as Bhanu High School now a days.

English, in Nepal has made the history of one and half a century now. Its importance and its use in multiple fields is increasing day by day in Nepal.

About the history of ELT, Bhattarai (2006, P.11) adds: Compared to the history of modern education in the neighboring India and the position that English has occupied there this period is quite short however this has left clear traces of its existence and gradual pace of development in Nepal too.

The opening of Tri-Chandra college in 1918 B.S. provided impetus for the formal beginning of English in higher education. There was no college and university for higher education in Nepal until Tri-Chandra college was opened. After that many schools were established throughout the kingdom during the later part of the Rana regime which further enhanced the popularity of English in Nepal. During the 104 years of Rana regime, as Khanal (2011, P.5) writes, "321 primary schools, 200 lower secondary schools and 11 secondary schools were established. "Now a days, English is taught as a compulsory subject from grade one to Bachelor level in Nepal.

Awasthi (2003, P.22) says, "ELT in Nepal started in 1971 B.S. with the implementation of the National Education System Plan (NESP) and the same year, Tribhuvan University started B.Ed. programme in English education."The

history of English in Nepal shows it was in great need of the people specially students of schools and colleges. Regarding its importance it was included in the course of Tribhuvan University.

About the importance and changing trends of English in Nepal, Pathak (1979, p.1) writes: English syllabus in higher education followed the pattern of Patna University (India) with allowed of 300 marks accounting for 30% of the total number of marks. Educational institutions grew up rapidly after democracy was introduced by King Tribhuvan in 1951. Lack of the scientific manpower and system of education became significant factors that affected the actual teaching-learning practices. The goals of education were not clear. But the time and the situation is totally different in present. The crave for English has grown so much that now within a span of three decades there are large number of famed publishing houses that produced materials (textbooks) in English, these are mostly by native (Nepalese) writers and editors, there are different training institutions and their training centers, different teams of writers, translators, trainers, all for promoting English all engaged in ELT enterprise.

Emphasizing the importance of English Sharma (2006, p. 25) writes, "Keeping away from the treasure of English is almost an intended suicidal." Relating to the context of why Nepalese people would learn English, Malla (1977, as cited in Sharma, 2006, P.25) writes, "We shall have to learn English not because of its prestige value but because of its practical utility particularly in the face of our own limitation-materials as well as non materials.

The NESP (2028) brought a great change in the history of Nepalese education. The NESP principally stressed the need of teaching any one of the U.N. Languages at school. However the NESP declared English as a compulsory subject in Nepal. From then, it is taught and learnt from beginning level in Nepal.

During 1970s, the Nepalese government started overhauling and restructuring education system. Bhattarai (2006, pp. 12-13) Says, "After this, the English language experienced a set back on Nepali medium of education was strengthened from the strong nationalistic point of view". According to Bhattarai (Ibid), "In the early 1980s the government commissioned a survey team under Alan Davies, which came out with the Davies Report, after an extensive study of the ELT situation in Nepal." This was a major effort made for the revival of English in Nepal after the restructuring of the education system of Nepal during the early 1970s. Teaching and learning of English in Nepal has been given higher importance. It, as people think, stands synonymously with the quality education, offers attractive careers for those who can afford it. For years, it has been used mostly for academic purposes and will remain so for year to come.

In Nepal, English is also taught for Specific Purpose in the faculty of science in the institute of medicine, engineering, forestry, college of banking, finance studies, agricultural institute and Business. English is medium of instruction for science subject at all levels of college and most of the subjects of management, education, humanities at T.U. and other universities.

1.1.5 Code Switching and Code Mixing in Nepali language

Code switching and code mixing are sociolinguistic phenomena which take place in bilingual or multilingual society. Code switching takes place when the context, topic or the situation of the communication changes while code mixing takes place within an utterance or within a sentence. These two topics are discussed separately.

1.1.5.1 Code Switching

The term code switching refers to the situation in which the speakers make a choice of another code while he or she is speaking in one. In multilingual speech communities, the speakers often switch their codes basically or signal

the changes with in the context they are speaking. According to Wardhaugh (2008, as cited in Sharma, 2011, p.124): Code switching means that bilingual speakers code wherever they speak within a social situation, they may also be required to switch from one code to another when certain changes take place in the situation or in the social context, such as arrival of a new person change of the topic, change of the style and so on.

That's why, when speakers tend to change their code from one to another for some reasons and for some duration of time in known as code switching.' Code switching is a common feature of bilingual speakers. It takes place for different reasons. Some general reasons for switching of code according to Sharma (2011, p.124) are as below:

- People switch code because of the change of communicating context, situation and in changing of topic.
- People switch code because of their intentions to share the feelings of group membership, identity and ethnicity.
- To express solidarity, affection and sympathy to the addressees.
- To exhibit their personality with high prestige and intellectuality.
- To make clear the meaning of the utterances what is being explained or discussed.

Code switching are of three different types, they are situational, metaphorical and conversational code switching. These types of code switching are described in brief separately as follows:

Situational Code switching

Situational code switching takes place when the speakers finds a change in the social settings, scenes or contexts of the discourse. as Wardhaugh (2008, as

cited in Sharma, 2011, P. 127) States, "Situation of code switching refers to the instance when the languages used change according to the situations that the conversant are involved in. " There is no change of the topic, but a new participant might involve, or the participants reach a new place, such as - school, temple etc or someone has left the conversation. When there is a change in the context, the speaker (s) may change the code- not forever but for short duration of time. In the bilingual situations, frequent code switching is very common phenomenon.

Metaphorical code Switching

It refers to the instance when bilingual speakers change their code according to the topic of their discourse. People switch the code for better understanding of the context, or of the specific topic in a discourse. As Sharma (2011, p. 127) says,

The interesting point is that the topics or context may be discussed in any code the participants have used, but they tend to change the code according to the change in topic in the sense that the choice of code adds a distinct flavour to the specific topic.

Conversational code switching

Conversational code switching is almost equivalent to code mixing that occurs within an utterance. The words of one language are inserted into the utterances of another language. For this type of code switching, the speakers may find no change of situation and of the topic. There is no such change in the situation in conversational code-switching, nor is there any change in the topic which might lead to metaphorical code switching. In conversational code switching, no change of topic, context and the situation but people use it in between the utterances, generally in the informal situation.

1.1.5.2 Code Mixing

As like the code switching, people in the bilingual societies mix the codes, which is always within an utterance or in between the sentence. Code mixing is similar to conversational code switching. The insertion of another language within an utterance while people are speaking one language, is called code mixing. Generally, it is informal phenomenon but if the code mixing takes place in formal situation, it will be formal one.

Globalization and changing situation bring many needs, opportunities, challenges to the people of the world. Changing trends in science and technology brought many advanced things for the present professionals in all fields. As like the other professionals, judicial professionals are not far from these things. Accordingly, they use technologies, discovered things in their professional works daily to be known about the change of the world. For that, they need English to be competitive and mostly they do works through the computer, network etc. and use them in their daily works.

In the same way, code switching and code mixing of English language while speaking in Nepali is also the important need for the people of Judicial practices. They switch the code while speaking in Nepali in pleading if the topic changes, if new context takes place and to give focus what they have said or explained just before. Similarly to give clear meaning of saying, to show their intellectuality and prestige also judges, lawyers or even clients switch the codes. As like other people of other fields, lawyers, judges and the clients change the used language and speak in an other one and make the situation of code switching and code mixing.

1.1.6 English for Specific Purpose

The need based language at first, was considered as Language for Special Purposes (i.e. LSP). Now, many scholars and followers use the term English for Specific Purposes (i.e. ESP). It is thought that the former (i.e. LSP) is

restricted language which, for many people, is small part of ESP, the latter one (i.e. ESP) focuses attention on the purposes of the learner and refers to the whole range of language resources. The concept of need based language learning is called Language for Specific Purpose (ELP) in general. Teaching and learning of English for any particular purpose i.e. relating to a particular field is generally understood as English for specific purpose (ESP). Some examples of ESP can be business English, English for law, for science, for public administration, for medicine and so on. It is concerned with practical outcomes. As a separate branch of English language teaching, ESP does not carry a long history. Evans (2001, in Carter and Nunan, 2001, P.131) says: English for Specific Purpose (ESP) has for about 30 years been a separate branch of English language teaching. It has developed its own approaches, materials and methodologies and is generally seen as a very active even 'feisty' movement that has had considerable influence over the more general activities of TESOL and applied linguistics.

By ESP, is meant the teaching of English not as an end in itself but as an essential means to a clearly identifiable goal. The crucial word is 'purpose', there is always a purpose behind language teaching. The syllabus is made to meet the needs of the students and students should adopt methodology in order to teach the necessary skills. From the early 1960s, English for Specific Purpose (ESP) has grown to become one of the most prominent area of English for Foreign Language (EFL) teaching today. The course helps learner to perform his/her job successfully and the success of ESP course is evaluated in terms of how successfully a learner can gain knowledge of English at work in order to communicate with others. ESP focuses on spoken skills rather than written skills. The main issue to be considered before designing any ESP course is what the students need to do with English? What is their field? which of the skills do they need to master? And how well? We should first recognize the these need of the students. If we are preparing or teaching an ESP course for the people in Judicial field, for example, we should first see for what

purposes the need of English will strike much in their field, what language skills they will require urgently. The key defining feature of ESP is that its teaching and learning materials are founded on the results of need analysis. This initial need analysis provides information about the target situation and what learners will have to do in English. Chambers (1980, as cited in Carter and Nunan, 2001, P. 133), says, "This is generally called target situation analysis"

But some experts say that as far as need analysis is concerned, there should not be any difference between ESP and General English. Hutchinson and Waters (1992, P.53) state about this: It is often argued that the needs of the General English learner, for example the Schoolchild, are not specifiable... In fact, this is the weakest of all arguments, because it is always possible to specify needs, even if it is only the need to pass the exam at end of the school year. What distinguishes ESP from General English is not the existence of a need as such but rather an awareness of the need.

The key defining property of ESP is needs analysis but it is not exclusive to it. Apart from the primacy of need analysis, defining features of ESP can be difficult to identify. Robinson, (1980) opines, "Limited duration (i.e. an intensive course of a fixed length) and adult learners are defining features of ESP courses" (as cited in Carter and Nunan, 2001, P.131). However, in her second survey (1991), she accepts that "though many ESP courses are of limited time, significant no of them are not and also ESP can be taught to beginners", ESP may be designed for specific disciplines or professions. The teacher needs to have at least knowledge of the related field, which may culminate in class room interactions and methodology quite different from that of general English. Khaniya (2006, p.7) states, "Teachers, professors, doctors, engineers, lawyers etc. are regarded as professionals." According to him,

professional is s/he who performs tasks involving not only skills but also expertise.

The terms which are needed to all vocational, technical and practical subjects are not found sufficiently in General English. So, to get knowledge about the specific terms, vocabularies ESP is needed to the students of different fields. In this matter Pathak (1979, p.5) states more:

An engineer may require a lexicon that will enable him/her to talk about building construction, a road construction, different models and so on. He will probably not need names of drugs and treatments for specific diseases, but these things are essential for a student of medicine.

The importance of the English is not only as a general English subject. Its place is found in other subjects like-technical, professional, vocational and others. Pathak(1979) shows the importance of English in the field of medicine, engineering, lawyering, etc.

Pathak (ibid) puts his view again :A lawyer may require an ability in spoken English whereas newspaper correspondent need to be able to express himself effectively in a written form. So, it is the case with writers. A Politician may require listening and speaking more than other two skills whereas a teacher needs all four.

As Awasthi et.al (2011, P. iii) says, "English is widely used medium of communication for different purposes, not only the vehicle of writing reading British, American literature". From this we can point out that English is not only for reading literature but for other purposes too. By supporting this view, Sthapit (2000, as cited in Sharma, 2007, pp. 17-18), points out the following Specific Purpose for which the students of all subjects need to learn English in our context (Nepal):

- to participate in class room participation;
- to study course materials and other related academic or professional matters;
- to use it as a medium of expression in assignments, tests and examination;
- to gain access to the world body of knowledge;
- to appreciate movies, plays, talks, radio and T.V. programmes;
- to participate international meetings, seminars, conferences, communicate with foreigners in general;
- to keep themselves a breast of what is going on around world;
- to develop their personality and enhance their career development.

Speaking of English for Specific Purpose, we should not leave the actual and variable characteristics of ESP. Dudley (1988, pp.4-5) modified and revised the definition of ESP which was given by Anthony (1977):

The Absolute characteristics of ESP

- ESP is defined to meet specific need of the learner;
- ESP makes use of the underlying methodology and activities of the discipline it serves;
- ESP is centered on the language (grammar, lexis, and register) skills, discourse and genres appropriate to these activities.

The Variable Characteristics of ESP:

- ESP may be related to designed for specific disciplines;
- ESP may use specific teaching situations, a different methodology from that of general English;

- ESP is likely to be designed for adult learner either at a tertiary level institution or in a professional work situation. It could however, be for learner at secondary school level.
- ESP is generally designed for intermediate or advanced students;
- Most ESP courses assume some basic knowledge of the language system, but it can be used with beginners.

1.1 .7 Types of ESP

The term ESP has been applied to the situation where a student has some specific reasons for learning the language. The needs are often referred to English for Occupation Purpose (EOP), English for Academic Purpose (EAP) and English for science and Technology (EST). eg. the businessman may need English for international trade, a student who is going to abroad to study may need English to write reports, essays, share ideas, thoughts etc. and the student of technical subjects like medicine and engineering need it to read articles, text books related to their fields. The types of ESP as (Carter and Nunan (2001, p.132) propose are as follows:

I English for Occupational Purpose (EOP):

It is taught in a situation in which learners need to use English as part of their work or profession, e.g. Doctors, need the English to talk and respond with patients of English speakers, read the medicine, diseases etc. In the same way, lawyers also need English for reading textbooks, reference books and the books related to foreign precedents.

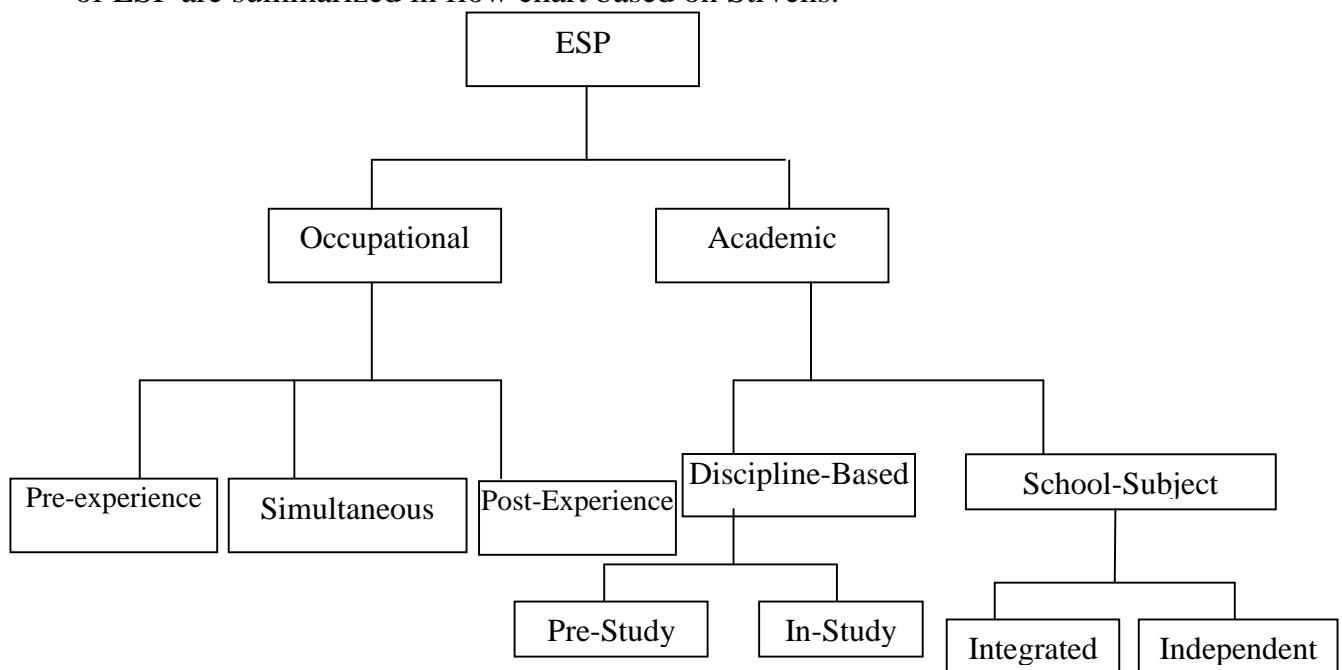
II English for Science and Technology (EST)

Much of the demand for ESP has come from science and technology. The learner needs to learn English for a number of purposes connected with their specialization. Therefore, EST should be an important aspect of ESP programme.

III English for Academic Purposes (EAP)

It is taught generally within educational institution to the students in their study. The language taught may be based on particular disciplines at higher levels of education when the student is specializing on a particular subject e.g. specialization in English.

ESP also can be divided on the basis of their situation of use, the first is the ESP, where English is a separate subject in the curriculum but with a related content of other subjects (i.e. independent ESP) and the next is the ESP where English is the medium for learning other subjects (integrated ESP). The types of ESP are summarized in flow chart based on Strvens.



[Source: Strvens (1977), as cited in Bhatta, 2008, P.13].

Thus, it can be concluded that English for Specific Purpose (ESP) may be related to or designed for specific disciplines and seen as an approach to teaching in which all decisions as to contents and methods are based on the learners reason for learning.

1.1.8 ESP in Nepal

The global and changing new events of the recent world, it is compelled to increase understanding and to improve communication among people of the world. To meet these communicative needs more and more individuals have highly specific academic and professional reasons for seeking to improve their language skills, especially the course falls under English for Specific Purpose.

In the context of Nepal, English for specific purpose is very recent and started in early 1980s. The perception of characteristics of such a course is rather vague, the teacher, the actual implementators were unfamiliar with its ideas and objectives. According to Subedi (1978,as cited in Khanal,2011): In Nepal, the idea of ESP is very recent. The seeds of ESP are presented in every book but the need of ESP is not properly defined by the some courses and ESP is not developed properly to catch for these needs. The students of science are taught the stories from Shakespeare.

ESP can also be taken as a device for teaching English use As well as usage. Teaching English use is teaching the communicative skills as directly required for the Specific Purpose and needs of the learner. ESP programmes focus on developing communicative competence rather written competence in specific fields such as business, tourism, journalism, court, banking etc. As we know, in Nepal, ESP is recently used in different disciplines as a course, ESP meets learners needs and it helps in professional development. So, it is taught as a specific course for different disciplines students, such as , worker, waiter, doctor, nurse, lawyer etc.

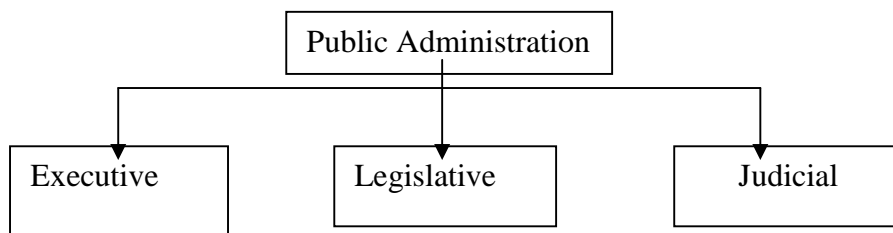
1.1.9 A Brief Introduction of the Public Administration

The birth of public administration seems to have been in the process of fulfilling the basic needs of the citizens by any country. As Cicero (quoted in Sharma (2057, B.S., P. 412), states, "Administration means to help?, to serve, to direct and to rule." Public administration is the management of affairs of the government at all levels; national, state and local. Public administration is a law in action and it is totally non-political mechanism.

As Basu (1995, as cited in Gnyawali, 2010, P.14) says, "Public administration is the non-political maintenance of law and order,... running the schools and hospitals. Public administration operates within political contents."

Bureaucratic machinery of the government for implementing its laws and policies in action.

1.1.10 Branches (Classification) of Public Administration:



- Among these three branches of public administration, the first one, i.e. Executive related to the pure administrative functions including making policies, implementing and monitoring them. Similarly, it works as an observer and the controller of the laws, economic and social development.
- In the same way, the second branch, i.e. legislative functions as the law maker.
- The third branch of administration, i.e. Judicial branch interprets the statutes. In the interpretation of statues, it correct the technical mistakes of legislative work in making law, it helps to make clear the meaning of

the word used in laws, rules by avoiding the vagueness, and duality of meaning of particular words. The judicial branch stands for saying which is good or bad in the behaviour/works and interprets the punishments given to the crime.

1.1.11 The Field of Judicial Justice

The word 'Law' is related with the rights, duties, obligation, sovereignty and so on. The rule of law helps to keep peace in the states, remedies of crime, and the security of human right by recognizing their duties too. For clearing this, Justice K. Ramanswamy (1991, as cited in Dhyani, 2011, P.39) defines, "Law is a social engineering to remove the existing imbalance and to further the progress, serving the needs of the 'socialist Democratic Bharat' under the rule of law". No one is superior than the law, everyone in the world must be obliged to obey the law, even the king, queen and so on. To clear this view that law is supreme let's see this saying. Dhyani (2011, P.41) states, "Everyone whether individually or collectively is unquestionably under the supremacy of law. Whoever he may be, however high he is, he is under the law. No matter how powerful he is and how high he may be."

The law in general is, of two types, civil law and the criminal law. The prior, i.e. civil law is concerned with the general cases of human beings, just like-property, family, adaptation, husband and wife, land lord, etc. on the other hand the latter, i.e. criminal law is concerned with the crimes. The fightings, theft, dacoits, murder are the cases which come under criminal law.

As oxford Advanced Learners' Dictionary defines law as, "The whole system of rules that everyone in a country must obey. At past jurisprudence was used as the law, or we can say, the process of law is the jurisprudence. So, to understand more about law, it will be incomplete if we leave jurisprudence. ."

Making rules and regulation, applying them, revising and correcting according to the time and the defining punishments all the works in process is covered by

jurisprudence. It is Austin, who for the first time, treated Jurisprudence as a science of law, concerned with analysis of legal concepts their exposition, examination, comparison, Dhyani (2011, P.15). For clearing the Jurisprudence Holland (1880, as cited in Dhyani, 2011, P.18) says, "The formal science of those relations of man kind which are generally recognized as having legal consequences, the formal science of positive law." By supporting the view, as jurisprudence as the science, Salmond (1947, as cited in Dhyani, 2011, P.21) defines, "Jurisprudence is the science of the first principle of civil law." The work of law (judicial field) is to rule over the country with laws and regulation by defending the fundamental rights of the people and by recognizing their duties to obey the laws. Judicial field is directly related with courts, legal judgement and practitioners of law through which people can be confident and free to do the works of their interests. The Judicial Justice stands as the master of all human beings. Hart (1994, P.161) defines and states the works of law as: Certainly in the modern world, the fact that the human beings, of whatever colour, are capable of thought, feelings and self control, would be generally though not universally accepted as constituting crucial resemblances between them to which the law should attend.

Eventhough human beings are the social animal from the ancient era of human development, they regarding individuals as processing human's (individuals) natural right break the rules/laws and comes to get punishment. While using fundamental right, the same social, helpful human beings come to the point of breaking others rights and form new laws. So, in this situation, when they (people) themselves not being able to decide what to do, the Judicial Justice works for such cases. For clearing this view, let's take the support of Locke (1960, as cited in Mcleod, 2007, Pp.58-59): Human kind as a far more social animal, but also in regarding individuals as possessing certain natural rights , especially rights in relation to property which has increased in value as a result of the expenditure of labour upon it. These, rights,

being natural exist even while the individuals who have them are in that state of existence which predates human laws and legal system.

Justice, which means 'the fair treatment of people' in general, guarantees the rights and duties of people by giving punishment to those who have committed the crime. The typical work of justice is to treat the people according to their works done. In this regard, Rawl (1972, as cited in Dhyani, 2011, Pp.151-152) expresses the following two principle as the concept of justice:

- (1) Each person is to have an equal right to the most extensive basic liberty for others.
- (2) Social and economic inequalities are to be arranged so that they are both:
 - (a) to the greatest benefit of the least advantaged, and
 - (b) attached to the offences and positions open to all under condition of fair equality of opportunity.

As law is related with rights, duties, obligations and sovereignty of the people of any state, the laws must be able to make relationship among these things.

By showing relationship among these, Bentham defines law,

A law may be defined as an assemblage of signs declarative of a volition conceived or adopted by the *sovereign* in a state, concerning the conduct to be observed in a certain *case* by a certain persons or class of persons who in the case in question are or are supposed to be subject to this power.

[Retrived in July-1,2011, <http://plato.stanford.edu/archivos.com/>.]

In this way, we can discern that the birth of Judicial field is to make guarantee of the rights, duties sovereign of people by fair treatment.

1.1.12 The Need of English for Judicial Professionals

Learning a second language or a foreign language is highly required to the students of the present global age. Learning and practicing of English is must today to share thoughts, ideas, desires, wants, to read, to communicate with the third persons who do not share same mother tongue i.e. common language. Since, English is most prominent, richest language among all others, the students, professionals and the practitioners of law (Judicial work) also required its knowledge. English is necessary for science, technology, business, banking, agriculture and so many such fields, then the law cannot be far from it.

English for specific purpose in law is very recent which has come as the separate discipline few years ago. As like the other fields, the judicial field also used English for Specific Purpose. As like many such fields, law also should not be left in the use of English. In support of the above saying Swales adds more by saying English is needed for the field of commerce, banking, administration, computer technicians, and so on. We will be clear by the statements made by Swales (1977, in Holden, 1977, Pp.37-38): On the whole, the major endeavour has been in English for science and technology and there is clearly room for a similar curriculum development in Commerce and Economics, Banking and Accounting, Administration and Business. However, as the overall picture is one of identifiable mono-disciplinary groups- unlike the typically multi-disciplinary groupings of overseas. Students on courses in Britain a surprising number of highly specified courses have been designed in the last year or two. To instance a few: English for law students, computer technicians, international telephone operators, forest rangers, cabin staff, UN's drivers and political scientists and even to fishing course too.

From the above paragraph, we can surely say that the need of English to the students of law, professionals of law, judges, lawyers, lectures of law faculty and the bureaucrats of administration of law (i.e. supreme courts, appeals

courts etc) is inevitable and must. The rangers of forest, telephone operator, UN'S drivers have got English in their course as Specific Purpose, then why not the students of law?

To highlight the importance(need) of English in Judicial process, we can take the view of Bhatia(1979, in Newton et. al., 1979, P.25), as she says: English is used as a second language in administration, the courts , higher education, science, and Technology, and many other spheres of international co-operation .In calling it a second language I am relying on the usage criterion: its use in specific setting is next to the first and/or mother tongue.

English for Specific Purposes, in the field of Judicial Justice is not for its end but for practice of international laws, policies, relations, rules and declaration of the international organizations. Reading the textbooks, reference books, law relating to international situations and precedents is very essential work in law and that is possible only after the command of English.

Recently, by feeling the necessity of special English for the students of Law faculty, it has been included in the academic course of B.A.L.L.B 1st year (which session consists of five years) named 'Legal English' as a compulsory subject. Similarly, the classes of L.L.M are also run in English medium in which the Professionals of Supreme Court, Nepal Bar Association and Bureaucrates of Administrations of Law are the students. From this , we can discern that professionals of Judicial Justice in their professional practice are in need of English to use it correctly and confidently.

The course books of law are mostly related to international laws, treaties, diplomatic relations, Asylum, UN Charter, Universal Declaration of Human Rights and so on. The students as well as all the related persons of law need to be qualified in English language to get success in their fields. On the other hand, the lawyers, judges and the translators of the legal documents need English in the top most level. Even though the lawyers in the courts (in Nepal),

uses Nepali languages, they need it for special situations while dealing the cases of non-native speakers of Nepali, i.e. foreigners. Similarly they need it to read the books of decided cases of foreign situations and so on. The lawyers, judges need English to read those books which give knowledge of international laws, policies, punishment systems, precedents and so on. Most of the books of the world are written in English including law's books too.

I have already mentioned about the use of English in many branches of Specific Purpose. English, in the field of Judicial Justice is also inevitable and a must. The presence of English language use is found in Judicial Justice. This research is related in the study of the use of English in Judicial Justice. It tries to find out its (English's) manner of use, its focus as well as its necessity. To be specific, the practice of English in lawyering process is very much striking and to know the situations of the use of English and its limitations in the office of Notary Public and Supreme Court is the main focus of this study.

1.2 Review of Related Literature

English for Specific Purposes (ESP) course is widespread and recent in practices. Few studies have been carried out in this field, in context of Nepal. These reviewed researches are related to this study but not the exact one. The researcher has carried out research on 'Use of English in Judicial Practices', which is different from others' studies.

Bhatta (2008), in his M.Ed. thesis entitled "English for Specific Purposes: A case of Waiter Course" observed the waiter course in written form, concluded that the significance of English language among the people who have been working in the field of hotel management is increasing day by day. So, a special focus should be paid to mention ESP in designing the curriculum of school and campus level.

A research work entitled "Analysis of conversations in the Medical Context" by Rai (2010) was reviewed. She, with the recorded conversations of doctor,

nurses, patients concluded that the language used in conversation (i.e. spoken form) is different to written form. So special conversational features of language should be taught to the students of medical field.

Gnyawali (2010) in his M.Ed. thesis entitled "The need of English in Public Administration" was also reviewed. In his thesis his will of knowing in what special situation English needs, concluded that English for Specific Purposes (ESP) course should be designed and taught to the people entering into bureaucracy in the form of training of some months or it should be included as an optional course in university curriculum and those who like for their career in public administration may study it, so that the professional demands of English will be fulfilled to some extent.

Khanal (2011) carried out a research work in her M.Ed. thesis entitled, "English for Specific Purposes: A case of the English at the Institute of Agriculture and Animal Science, (IAAS)" to find out the relevance and advantages of technical writing course in Agriculture field through survey and concluded that the institute should be provided sufficient time for conducting seminar, writing skills and should give facilities of text book, library and electronic devices which are required students.

All these aforementioned works/researches show the attitudes of different groups of people towards English and the need of English in different fields. But none of them have tried to raise the issue towards the field of Judicial Justice. The purposed study is different from all these studies mentioned above. This is concerned with 'Use of English in Judicial Practices'. And this study tries to find out whether or not English is important for Judicial professionals and if needed, in which special purpose and what sorts of English is required to them? Similarly it tries to find out how much the professionals use English in their regular practices of justice in courts as well as Notary Public Offices.

1.3 Objectives of the Study

The objectives of the study will be as follows:

- A To find out the use of English in Judicial Practices under the following variables
 - I In the field of Notary Public Office (For Lawyers working with translation of documents)
 - II In the Supreme Court (Pleading of Bench)
- B To recommend some pedagogical implications.

1.4 Significance of the Study

English for Specific Purposes for some special field, such as science, technology, business, banking is designed and practiced to some extent in context of Nepal. But in the field of law (Judicial Justice) this has not been seen much practiced in comparison to other fields.

This study is significant and important since it aims at finding out how much important is English for Judicial Field and how much the professionals practising it? Similarly, the study tries to throw light to what kinds of pitfalls the professionals may come across due to lack of the command of English. This is also significance, because it tries to see in which field the practitioners of law, the need of English strikes much..

In the same way, the study will be significant and important to those people who are working, in the field of law: students, lecturers, textbook writers, syllabus designers, legal document translators and also to those who are directly or indirectly involved in teaching and learning of English as a second/foreign language especially in the context of Nepal

CHAPTER – TWO

2. Methodology

This chapter deals with the detailed methodology of this study and also describes the appropriate tools that were used during the study. To fulfill the objectives of the study, following methodology was adopted.

2.1 Sources of Data

Both, the primary and secondary sources were used to meet the objectives of the study. The primary sources were used for collecting data and the secondary sources were used to facilitate the research.

2.1.1 Primary Sources of Data

The primary sources of this study were the Ten(10) Notary Publics(involved in the translation of documents) and the Five(5) cases pleaded in Bench of Supreme Court. The data from primary sources were collected by administering two sets of tools; i.e. structured-interview schedule and the check-list.

2.1.2 Secondary Sources of Data

Awasthi (1979), Bhatta (2008), Bhattarai (2006), Carter and Nunan (2001), Dhyani (2011), Harmer (2008), Hart (1994), Holden (1977), McKay and Bokhorst -Heng (2008), Journals of NELTA, other journals, reports, articles, research studies directly or indirectly related to this research, internet information related to the topic were used as the secondary sources of data.

2.2 Sampling Procedure.

The study population of this study were the Notary Publics(involved in the translation works) and the cases pleaded in the Bench of Supreme Court. The total population was consisted of Ten(10) Notary Publics and Five(5) cases

pleaded in Supreme Court were selected through Judgemental or Purposive sampling.

2.3 Tools For Data Collection

The Interview- schedule and the Check –list were used as research tools for eliciting the required information for the study.Both close-ended and open-ended questions were included for the structured-interview.

2.4 Process of Data Collection

To collect the primary data the following procedures were followed:

For interview

- 1 The researcher got appointment for the interview by assuring them of the confidentiality in terms of ethics of research,regarding the information obtained through the interview.
- 2 The researcher interviewed Ten(10) Notary Publics with the help of structured-interview schedule.

For Check-list

- 1 The researcher got permission /pass card by telling the purpose and giving the Identity Card and visited the Bench where the pleading was going on.
- 2 The Check-list was filled in based on the abbreviated note made by hearing as observed by the researcher maintaining the professional ethics.

2.5 Limitations of the Study

The study had the following limitations:

- 1 The study was limited to Kathmandu valley.
- 2 It was confined to 10 Notary Publics involved in translation of documents.
- 3 It was limited to 5 cases of Supreme Court, 'Pleaded in Bench' and random in topic.
- 4 It was also limited to find out the 'Use of English in Judicial Practices' only.

CHAPTER THREE

ANALYSIS AND INTERPRETATION

This chapter deals with the analysis and interpretation of the data collected from primary source. The analysis and the interpretation of primary data are given as follows in two different headings.

A. Analysis and Intrepretation of Interview with Notary Publics

10 Notary Publics,involved in translation of documents were interviewed with the structured-interview schedule as the time appointed previously.20 open-ended and close-ended questions were included in the interview to collect the information required for this study.Now the responses collected by the respondents are dealt below separately.

3.1 Study or Training in English

Three respondents out of ten (i.e.3/10) replied that they studied English as major subject in academic course or took training for some period of time.In the same time, majority of the respondents replied no.It means,they studied English as compulsory subject.

3.2 Respondents'Proficiency in English

Among the 10 respondents,7 responded that they could understand the English speeches delivered in seminars or conferences very clearly.On the other hand,3responded that they could not understand sufficiently because pronunciation,structures sometime creat problems.

Similarly,70 percent of the respondents replied that they get facility from the English speeches given in seminars.Meanwhile,20 percent replied that they did not have this sorts of practice in Nepal and one(1) replied that he does not get any facilities from those all.

3.3 Need to Deliver Speeches in English

The respondents replied mix answer in the question whether they need to deliver speeches in English.4 respondents out of 10 replied, they need to deliver speeches in English sometimes only if the case is related to commercial dealings,related to foreigners, in research oriented work and to provoking laws.In the same time, 6 respondents out of 10 said that it is very rare case by focusing that Nepali is the national language of Nepal which is used Supreme Court too.

3.4 Need to Present Reports in English

The respondents were asked whether they present reports in seminars,meetings and conferences,and also asked how much confident they feel in such work.The responses are not uniform.The majority of the respondents ,i.e.7 out of 10 said that they need it.Among those 7 respondents,6 replied that they feel confident and only one said that he needed former practice before presenting in mass.In the same way,2 respondents out of 10 said it is the rare case to present reports in English.

3.5 Need to Read Books Related to the Profession in English

100 percent of the respondents replied that they need to read the books in English which are related to their profession.They all said that they need to read decided cases,precedents of other countries for the following reasons:

- To understand the comparative jurisprudence which are available only in English.
- To give references for similar matters.
- To know the foreign practices in related cases.
- To relate the cases of humanization,criminal offences and commercial sectors.

- To get the good and perfect knowledge in some aspects.
- To be known what is happening in the world.

3.6 Necessity of Translation from Nepali to English

100 percent of the respondents replied that they need to translate documents into English from Nepali. They also mentioned the names of documents which they used to translate. They are as follows:

- Official letters, citizenship, academic certificates.
- Legal documents, judgements.
- Courts' verdicts/decision, decided cases of the courts.
- Memorandum, articles of the companies or associations.
- Acts, regulations, governmental documents.
- Those all kinds of legal documents which are demanded by clients (i.e. illegal documents are not translated).

3.7 The Terminologies, Structures and Language used in Translation

Majority of the respondents i.e. 9 out of 10 replied the same answer; they need separate terms, structures, and language (legal language) in translating different materials. In the same time, one respondent said that it is not necessary because translation is same in all the field.

5, out of 9 respondents listed the following things about this issue:

- Legal/literal structures.
- Technical/professional structures and terminologies.
- Formal language structures.
- General language with legal terminologies.

4, out of 9 respondents listed these things about this issue;

- It depends on the types and subject matter of the documents.

- Both, legal and general English is used by depending on the need of translation works.

3.8 Need to Translate Anyone's talk in court

The majority of the population i.e. 6 out of 10 replied that they need to translate anyone's talk Nepali to English to make foreigners understand while pleading in the Bench. But they said it happens very rarely in Nepal. Meanwhile, 4 responded that they do not need to do such works in Nepal, since Nepali is the official language in Nepal. They told such works takes place when the case is related to the foreigners, when they do not understand Nepali and then only when the court requests for making convenient in understanding the pleading for foreigners.

3.9 Correctness of the Language Spoken in the Court

The respondents replied the mix answers about the correctness of the spoken language in the court. majority of the respondents i.e. 60 percent replied that minor mistakes do not matter. Similarly, 30 percent emphasised on meaning by saying that if meaning is understood, grammar is minor. One respondent emphasized on correct use of English in court too for giving the exact meaning of the particular word.

3.10 Need of writing Writ or Appeal in English

In this case, majority of the population (7 out of ten) replied no. They said that only Nepali is the language used in courts in written form. On the other hand, three (3) respondents replied that they used English for writing Writ or Appeal in rare cases. They suggested the situation where it is used:

- If some cases are registered in arbitration (ADR process)
- If the Writ or Appeal have to send to foreign countries (i.e. in the case of Supurdagi)

3.11 Necessity of Talking with Foreigners in English

The response in this time is 50/50. The 50 percent said yes we need it sometimes and 50 percent said it happens very rarely while considering the necessity for talking with foreigners in English. It means none of the professionals of law need to talk with foreigners in English regularly.

3.12 Need of Improvement in English

While considering about the improvement of English, only one respondent replied that he was satisfied with the English what he was possessed. All the other respondents (9 out of 10) replied that they need improvement in four levels of English; listening, speaking, reading and writing by focusing in two i.e. speaking and writing. They told some ways they were applying for its improvement:

- By self practice
- By taking part in seminars, conferences and speech programmes.
- By reading Newspapers, Articles, Periodicals and extra books in English.

3.13 Inclusion of Necessary Terms, Structures in Course of Law

The respondents were asked how much sufficiently the necessary terms, structures are included in the academic course of Law. Their answers were mix. 40 percent said some only included in academic course in all levels within the Nepali books, 30 percent said not included at all, 20 percent said they are included in the course of L.L.M. only and 10 percent or one responded that it is not necessary to include.

3.14 Need of Special (Specific) English in Course of Law

The respondents were 100 percent positive in the need or inclusion of Special (Specific) English in the academic course of law which helps students to be more practical and competitive in their future career. Some of them added that they can be included in General English too.

3.15 Place of English in Judicial Practices (Justice)

The total respondents agreed that the place of English in this field is high. The importance of English in this field was emphasised by listing the following reasons:

- English should be given high priority,
- It has its own importance in this field,
- It is important for dealing commercial cases, humanitarian, international offences or criminals.
- Most of the judicial materials are found in English.
- To know the comparative jurisprudence, the UNO has passed the proposal of using English as the official language for its state members because it is an international language which is spoken all over the world.
- To upgrade the quality of the professionals of this field.

B. Analysis and Interpretation of Check -List.

To find out the need of English and the extent use of it, the cases were observed while pleaded in the Bench of Supreme Court. Five different cases were observed and filled in the check-list as based on the hearing by maintaining the professional ethics. (See the cases in Appendix iii). Those cases which were observed are analysed under five (5) different headings below:

3.1 Use of Abbreviations and Acronyms

In the observation of cases I found much more use of the abbreviation and the acronyms of words by the judges, lawyers and even the clients in the pleading of Bench. (See the list in page no. xii). The abbreviations and the acronyms used in those cases were not different to others, i.e. they were same as like other field.

3.2 Use of Nouns, Adjectives and Adverbs

In the pleading of Supreme Court Nouns, Adjectives and Adverbs were also used frequently in most cases which I observed. They are discussed below separately:

I Use of Nouns

Eventhough, Nepali is the official language of Nepal, most people use English in their speech knowingly and unknowingly at present in offices too. In the cases I observed in Supreme Court found frequent use of Nouns. The Nouns used there were not only the Proper, Common, Collective, Material or Abstract in nature but also different than this classification. It means some Nouns were different according to field, context and subject matter just like- decision, legislature, declaration, articles, memorandum, ministry, compensation, etc.

II Use of Adjectives

Adjectives were also used much in pleading of Supreme Court by the professionals of law in normal form. Sometimes they were used in full English sentences and sometimes as code mixing of English in Nepali language. The Adjectives used/spoken in the court, as I observed in the cases were random. It means all the three types of Adjectives (Positive, Comparative and Superlative) were used randomly anywhere. These Adjectives were used much – retrospective, up to date, contradictory, exceptional, special, diplomatic, etc.

III Use of Adverbs

The Adverbs occurred less frequently in comparison to the Nouns and Adjectives in the cases which I observed in Supreme Court. Generally Adverbs occur in sentence final position, but in sentence initial and middle position can also be occurred sometimes. The Adverbs, in the observed cases were random in position. In the same way, frequent use of Adverbs was observed in the cases related to Constitutional Assembly and less frequent in academic cases among

those 5 observed cases in Supreme Court. The Adverbs were- technically, effectively, legally categorically, secretly, exactly, exceptionally, etc.

3.3 Code Switching and Code Mixing in Nepali Speech

Code Switching and code mixing both were used frequently in the cases what I observed for my research. As I observed, found that in the case of commercial and child right protection, code switching and code mixing were used much by lawyers. These were used much for making the meaning clear and for making others understanding much by focusing in English. In the same way, in the case of academic issue also these were used much.

Among the 5 cases I observed, found that code mixing was used much in comparison to code switching. (For the examples, see Appendix IV)

3.4 Use of Command, Polite and Apologizing Language

Since Nepali is the official language of Nepal, English is also used while speaking by the educated, literate and prestigious persons in their professional works, including the judges, lawyers in court. I observed the use of command, polite and apologizing languages sometimes in court by the lawyers, judges and even clients too. English is known as the civilized and prestigious language, in present day world. To focus something, making others understanding much, it is used knowingly and unknowingly because it has become the habit of educated persons in daily life. For example,

Judge: You shouldn't waste the court's valuable time. (case I)

Lawyer: Sorry for that I haven't brought book (Muluki Ain)

but pages from net are here. (case III)

(For more examples, see Appendix V)

3.5 Use of Formal Language Structures and Other

Formal language is the must for formal settings, formal offices and so on. When I observed the 5 cases, I found the use of formal language while

speaking in pleading, in court by the Judges, Lawyers and the Clients as well. They used those languages mostly while talking about the international treaties about commerce, child rights, human rights and so on.

Besides all the things mentioned above, other things were also used in Supreme Court by the judges and lawyers. That, I observed were appreciation, translation etc.-'She is pride of our Country', was the sentence of appreciation made by judge in case I. Similarly, it is found that the lawyer read a paragraph of English version and translated that line by line for the comparison of legal provision made by Nepal and UNO.

CHAPTER FOUR

FINDINGS AND RECOMMENDATIONS

After analyzing and interpreting the data obtained, the following findings have been derived and some recommendations have been made on the basis of the findings.

4.1 Findings of the Study

The findings derived by analyzing and interpreting the collected data are as follows:

A. The Findings of the Research from 'Interview'

- 1 Eventhough, most of the NPs (i.e. Notary Publics) are found not studied English as the major subject, they need to listen to the speeches delivered in English by foreigners in seminars, conferences. Similarly, they need to present reports, deliver speeches in English.
- 2 It is found that majority of the respondents (i.e. 70%) can understand English clearly and for other create problem by pronunciation, structures and terminologies.
- 3 Very interesting result is found that all the NPs need to read the books, decided cases, precedents of other countries in English which are the striking things for professional development and for leading the case properly.
4. 100 percent or all the Notary Publices are found involving in the translation of documents from Nepali to English. Majority of them are in need of legal, literal, professional and technical English in this field.
- 5 Sometimes, in very rare cases they (30% of the NPs) need to write writ or appeal in English even though, Nepali is the official language in Nepal.

- 6 It is found, sometimes, 50 percent of NPs need to speak with foreigners in English.
- 7 The majority of the respondents (60%) were agreed that minor mistakes in spoken English in court do not matter.
- 8 The need of improvement in all language skills are striking things for the 90 percent of the NPs. They face problem mostly in pronunciation, structures and terminologies.
- 9 The necessary terms, structures are not included sufficiently in the academic courses of law, which are needed in the translation works.
- 10 All the respondents are willing to the inclusion of specific English in the academic course of law.

B. The Findings of the Research from the Check-List

- 1 Abbreviations, Acronyms, Nouns, Adverbs and Adjectives were used in the profession based and the adjectives were random in use.
- 2 Code Switching and Code Mixing were used very much in the pleading of Supreme Court. The judges, lawyers and clients also switched and mixed the codes according to the situation, subject matter and personality. Code switching and code mixing were mostly used in the cases related to child right protection and commerce sector.
- 3 Sometimes, Polite, Command and Apologizing languages were used in Supreme Court in English. Command and Polite sentences were used more than apologizing one. Apologizing sentences were mostly used by lawyers towards the judges.

4.2 Recommendations for Pedagogical Implications

Some recommendations have been made on the basis of the findings of both tools (interview and check-list). They are as follows:

- 1 The NPs should be provided with sufficient time, situation to present reports, deliver speech in English by conducting seminars, conferences to make them perfect in their work(profession).
- 2 The translation of Nepali written documents into English needs sophisticated language, knowledge. So, the NPs must be given some training, classes with technical, legal and professional English before entering in such works.
- 3 Every NPs need to read the books, precedents, decisions, treaties,provisions made by other countries in English. So they should be provided the related English in academic course which facilitates them in their profession.
- 4 Since the Supreme Court is the highest organ of Judicial justice, so many cases are pleaded and decided here of different field. In the present time the court should be given emphasis in English.
- 5 Since all the related books of legal profession are in English, references are made with the help of other countries' written documents in many cases. So, English should be allowed in the pleading of the court because it will be easy for the lawyers to explain about the case and provisions in other countries.
- 6 Eventhough, 'Legal English' has been included in the course of B.A.-L.L.B.,Specific English should be included into all levels compulsorily to provide the legal terms, structures and make students confident in their future career which would be full of competition..
- 7 The English language should be made the second administrative language after Nepali because it is the striking demand of the time and generation. It means we should copy the good things of neighbouring countries too.

- 8 Last, but not least, English should be given priority in all the sectors, departments and offices since English is the international language and spoken all over the world.

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Appendix - I

Interview–Schedule

Name of the Lawyer (Optional) :

Name of the office (Notary Public):

Address (Office):

Redg. No.:

Qualification :

Experience (in Years):

Date :

1. Have you taken any course in English before you started working in this field? In academic course or in other forms ? please tell in months or years.

.....

2. How would you rate your English?

i. Excellent ii. Good iii. Average

iv. Not good v. Poor

3. Do you understand speeches delivered by English speaking people sufficiently in conferences or seminars? If not what creates problems? For example, structures, terminologies, pronunciation etc. Please mention.

.....

4 Do the Lawyers get facility in leading cases by using the speeches spoken in English related to their profession, which are using the terminologies, structures of Judicial process?

.....
.....

5. How often lawyers come to the situations in which they need to talk with foreigners in the English language ?

i. Always ii. Sometimes iii. Rarely

6. Do the lawyers need to translate anyone's talk from Nepali to English to make foreigners understand while pleading the case in Bench ? If yes, in which situation. Please state.

.....
.....

7. Are there any situations in which lawyers need to deliver speech in English related to their profession? If yes, how often ?

.....

8. Do you need to present reports, papers etc. in meetings, seminars and conferences in English? If needed how much confident do you feel? Please state.

.....
.....

9. How much do you think the English spoken by lawyers, judges in courts should be grammatically correct? Tick out one option, please.

i. Completely.

ii. Some minor mistakes don't matter.

iii. Meaning should be understood, grammar does not matter

10. Is it necessary for lawyers to read books related matters to Judicial Justice in English?

i. Yes

ii. No

11. Is there a need for reading materials of decided cases, precedents of other countries written in English for lawyers? If yes why ?

.....
.....

12. Is the proficiency in English that you possess sufficient for your profession or do you need to improve it ? If needed improvement, what are the ways ? Give your opinion.

.....
.....

13. Do the lawyers need to write applications for a writ or appeal in English ? whom and in which situation do they write ? list them.

.....

14. Do the Notary Public involve in translation of various documents from Nepali to English ? Please list the names of documents which are translated there.

.....
.....

15. What sorts of special structures, terminologies are used in translation of documents and decided cases ? Could you tell some of them ?

.....
.....

16. What do you think, is the English language used in Judicial field should be separate than other fields' language or does the General English work for this field?

.....
.....

17. Are all the language structures, terminologies which are necessary for judicial process are including in the academic course of law? pelase state.

.....
.....

18. In the process of Judicial practice (i.e. in the court), what sorts of language do the lawyers, judges use? As like formal, command, professional or ... ? Please tell the list.

.....

.....

19. Do the students of law faculty need any specific course in English in their academic classes for better results in lawyering profession? If Yes, what sorts of course should be designed? Give your suggestions to syllabus designer.

.....

.....

20. Where is the place of English in Judicial field (process)? Please give your opinion.

.....

.....

[Concept: Based on J. and Wright, R.A. (1977, in Holden, 1977, P.58)]

Thank you for your invaluable help.

Teja Gyawali.

Appendix – II

Check – List

[For observing the pleading in Supreme Court]

Bench No.

Bench (Single, Joint & Full) :

Name of the honorable Judge/s :

1.
2.
3.
4.
5.

Date :

Case No. :

Case Related:

For/

Against

:

.....

S.N.	Observational Points					Examples	Remarks
		Frequently	Some times	Rarely	Not at all		
1.	Use of Abbreviation and Acronyms						
2.	Use of Nouns						
3.	Use of Adjectives						
4.	Use of Adverbs						
5.	Code switching from Nepali to English						
6.	Code mixing in Nepali of English						
7.	Use of command language						
8.	Use of polite language						
9.	Use of formal language structures						
10.	Use of Apologizing						
11.	Others						

Signature :

Name of the Observer :

Appendix –III

List of Cases observed in Supreme Court

- 1 For/Against: Dr. Roshani K.C.,E.U. including 2.(2068/6/4/4)
- 2 For/Against: Nitish Karki,NRB/ 3 including the Stock Exchange Board Nepal.(2068/6/5/5)
- 3 For/Against: 3, including Krishna Acharya, President, from the Ocean Centre Nepal,3, including Primeminister and the office of the Ministearial Council (2068/5/15/6)
- 4 For/Against: Advocate K. Paudel,the Secretary General of the Child Right Centre, Nepal 1,2, including Ministerial Council. (2068/6/8/1)
- 5 For/Against: B.N. Sharma,(member,Constitutional Assembly), 4, including the Secretariat of Constitutional Assembly,Singh Durbar, Nepal.(2068/6/9/2)

[Note: The real names of cases, involved people and dates are changed maintaining 'Ethics' for their confidentiality as well as the objectives of the study; i.e. to find out only the use of English in Supreme Court while pleaded in the Bench, but not else] .

Appendix –IV

1 Code Switching

- I Client: *Ma Vandai Thiya Ki* 'Time is like a beautiful diamond.' (case I)
- II Lawyer: *Yaha B.N.lai* 'suspended without the provision because it is not mentioned in the Article of Constitutional Assembly.'(case V)
- III Lawyer: *Ahile Samma* 'the special Act has not been made in Nepal.'
(caseIII)

2 Code Mixing

- I Judge: *Yo Dafama* 'contradiction' *Aayo*.(case II)
- II Lawyer: *Yaha* ' Child right' *Ko Barema* 'related ministry' *Le* 'processing'
Gareka Chhan.(case Iv)
- III Lawyer: *Ainko* 'provision' *Anusar* 'power deligation' *Vayako Dekhina Aayo*.
(case v)

Appendix -V

1 Use of Command Language

I Judge: You should not waste the court's valueable time.(case I)

II Lawyer: UN Charter Declaration should be followed by all the
Member states.(case III)

2 Use of Polite Language

I Judge: It is better to read the Acts properly.(case II)

II Judge: Could you tell me in which no.(Dafa) is it mentioned?(case III)

3 Use of Apologizing Language

I Client: I'm extremely sorry for taking court's time again.(case I)

II Lawyer: Sorry for that I have not brought book (Muluki Ain) but pages
from Net are here.(case III)