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Importance of Effective Communication in the Legal Arena

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Effective communication is an extremely important skill for a legal professional to develop. Although at first instance, the attributes relating to legal communication seem quite theoretical if pursued, in the long run, it will serve the purpose of improving the overall method of communication adopted by the parties. In this research paper, the author attempts to explain the various aspects of communication like elements and process of communication and also elaborates on the different types of communication, and also highlights how communication can be made effective. The research paper also elaborates on numerous features of communication in the legal arena and warns the readers about the barriers that one has to face, the author also plans out certain strategies which should be embraced to make legal communication effective. At last, in conclusion, the author analyses the various reasons why legal professionals should learn how to effectively communicate which will help them grow and progress in their respective professions.

Keywords: *effective communication, legal communication, barriers, strategies for enhancing legal communication.*

INTRODUCTION

Communication is a two-way process of reaching collective understanding, wherein the participating parties create and share meaning to exchange information. This is often referred to as encoding and decoding. Communication is a matter of effectiveness, which comes from the interlocutors' communication competency. Communication, for it to be effective, includes intents and efforts from both sides i.e., the sender of the message and the receiver. The essence

of communication is Understanding. Communication becomes effective when the participants involved enter into communication with the intention of understanding and being understood. Communication is therefore not what is said whether verbally or non-verbally, but what is understood. It is also defined as the process by which people interactively create, sustain and manage to mean (*Conrad and Poole, 1998*)¹.

COMMUNICATION: ITS ELEMENTS AND PROCESS

Communication includes many elements that enable the process. The elements of the communication process are as follows;

a) Context - Context impacts communication, it may be social, physical, chronological, or cultural. Every communication has to proceed with context. The sender has to always choose a context within which the message has to be communicated.

b) Sender - He/she is the person who will send the message. To convey the message, a sender shall make use of symbols. These symbols may include words, graphics, and visual aids to convey the message, and to produce the required response. For instance, a class teacher conducts an induction lecture for a new batch of students. The Sender is also known as the encoder and he/she may be an individual or a group or an organization. The sender's views, background, way of approaching, use of skills, competencies, and knowledge of the sender have a great impact on the message. The verbal and non-verbal symbols selected determine how the message will be understood by the recipient. By doing this, you may be confident that the recipient has gotten the message just as you meant.

c) Feedback - Feedback is the process through which analyses of the efficacy of your message can be done. It allows the sender to confirm if the message has been interpreted accurately. Feedback can also be given in a non-verbal manner, for instance- by passing a Smile.

¹ Conrad C & Poole MS, *Strategic Organizational Communication: Into the Twenty-First Century* (Harcourt Brace College 1998)

d) Message - A message is an expression of ideas that are communicated via signs and symbols. The verbal mode of communication is symbols while the non-verbal way denotes the use of signs. The message is the thought, purpose, or intended idea that the sender desires to communicate. The decision about what message is to be conveyed is essential in a communication process. The clarity of the main objective of the message must be ensured.

e) Medium - Medium is the means through which the encoded message is conveyed. It may also be referred to as the channel. The channel through which the encoder and decoder communicated may not necessarily be the same. A reply to an email may come with a letter, similarly, a reply to a telephone conversation may come via a face-to-face meeting. The sort of communication—which can be either formal or informal—and other aspects are taken into consideration while selecting the route. Immediately available channels of communication, such as a phone call, may be chosen practically if the sender needs a rapid reaction.

f) Recipient - The sender encrypts the communication to send it to the receiver. Factors such as the knowledge of the recipient, their responsiveness to the message, and the trust between sender and receiver will decide the degree to which the receiver understands the message.²

THE TYPES OF COMMUNICATION

There are several forms of communication, and they are categorised according to various aspects:

Verbal communication: In verbal communication to send a message from one point to another, words are used or written symbols may also be used.

Non-verbal communication: In non-verbal communication to send a message from one point to another, wordless cues happen. Under non-verbal communication, language along with the use of voice, touch, distance, and physical environment is done. By using encoding and decoding techniques, nonverbal communication is accomplished. The act by which the generation of information happens such as gestures, facial expressions, and postures are said to

² *Ibid*

be the encoding of language. The act by which the interpretation of information from received actions is done is said to be the decoding of language.

Oral communication: Communication is done by word of a mouth. It comes within the ambit of verbal communication. Face-to-face conversation, telephonic conversation, etc. are some examples.

Written communication: Information is communicated via written media, such as letters, reports, and other documents.

Formal communication: In the organisational structure, communication takes place according to the formal relationships of authority. The hierarchy at different levels is observed according to the management's established rules.

Informal communication: Informal information exchange between individuals or groups takes place in an informal setting to function as communication. It is frequently referred to as "grapevine". The hierarchy is often at the same level, which may help improve communication inside an organisation because it is rapid and doesn't necessitate following any particular process.³

THE EIGHT C'S OF EFFECTIVE COMMUNICATION IN GENERAL

Communication should be effective; this will make it more understandable and convincing to the receiver. The following are the eight principles for making our communication effective;

Completeness: The sender must ultimately give all the required information to the receiver by taking into consideration the mindset and emotional outlook of the receiver. Conveyance of all the facts is necessary.

Conciseness: To be understood in the manner that has been intended, the message should be concise; that is the message should be sent in the least number of words possible.

³ *Ibid*

Consideration: The sender should have considered the receiver's position and condition, and the receiver's viewpoint, background, culture, etc. shall be considered. The sender will have to make an effort to analyse the audience. The sender should not make any unnecessary comments which may offend the receiver.

Clarity: This suggests that the sender should make it obvious what the message's primary purpose is before sending it. This in turn makes the message completely understandable, it highlights the goal for the audience. Taking the help of a Proper vocabulary can come in handy.

Concreteness: The message has to have a concrete and precise meaning for it to be articulated in an intended manner, this also strengthens the confidence of the sender.

Courtesy: It conveys that showing respect is a feature that is a must in communication to show a level of gratitude to the receiver towards the receiver. This may be done by being polite, judicious, and reflective.

Correctness: No grammatical errors should be made and the facts should also be verified once before communicating them.

Convincing Power: Communication can persuade or influence the listeners, this can be done by learning how to organise and present your arguments, facts, and evidence by using all the eight principles.

LEGAL COMMUNICATION

Legal communication is the type of communication when advocates, judges, solicitors, etc. transmit a message through electronic means or by gestures, spoken means, or written relating to legal aspects and which is generally binding in nature. This message may contain an idea, information, opinions, etc. This kind of communication is used in the court of law, document draftings such as contracts, affidavits, and even the constitution. The skills of Legal writing and drafting are essential for a lawyer or any legal professional. These communication skills enable a legal expert to learn the ability of effective writing and drafting in various legal situations. If

these attributes are learned then it will build the ability to explore the different attributes of an effective legal writer and drafter.

"Legalese" denotes words that are other than the "terms of art", these words are used in the legal arena and not usually in general use of English. Terms of art are those that have been unanimously agreed upon by legal professionals, and their use enables the message to be concise and unambiguous. Stare decisis is an excellent example of the same.

FEATURES OF LEGAL COMMUNICATION

Legal professionals use legal communication in a manner that correctly presents their message, to be able to effectively communicate their message they have to keep in mind certain features of legal communication. Some of these features are mentioned below;

It has to be purposeful: Legal communication is done keeping in mind a purpose like prohibiting unwanted activities, ordering or directing a person, presenting arguments in front of a court, and resolving issues for aggrieved persons.

Usage of technical language is a must: The vocabulary used in such communication is complex and particular to the matter at hand. Excessive use of terms of art is very much appreciated as they denote a technical meaning, these may not seem familiar to the layman but for legal professionals, it works as a very efficient way of expressing ideas. The terms of art include terms like waiver, promissory estoppel, legal maxims, etc. Phrasal verbs are often used in a quasi-technical manner to help effectively convey the message.

It takes place between or among parties: Legal communication is done between or among parties which implies that it involves an exchange of ideas, knowledge, and experiences for coming to a mutual consensus for resolving issues or imparting conditions, in both oral and written form.

It is context-oriented: Legal communication always happens with an aim in mind. For instance- The advocates never deviate from the main context for arguing.

Use of foreign words: Legal communication also entails under it the use of foreign words like chattel, estate, etc. These words often have French or Latin origins.

Usage of ordinary words in peculiar contexts: In legal communication, ‘Consideration’ means a lot more than just the regular definition of it in English. Many other words are used in different contexts under legal language like- prefer, redemption, hold and furnish.

Usage of doublets and triplets: A historical tendency motivates experts to stick two or three words together to convey a message. Null and void, fit and appropriate, etc. are a few examples. This way of communication should be treated with caution as the meaning of the words may completely differ from situation to situation.

Usage of pronominal adverbs: Legal communication often uses words like thereof, whereof, herein, and whereupon that are not used in general English. The usage of such words helps in reducing the amount of repetition of names of things in any document. An example of such usage is, ‘the parties hereto’ instead of writing ‘the parties to this contract.’

The sentences are usually lengthy and complex: Legal communication uses sentences in styles that are particular to the context of the document or case, and an attempt is made to encompass everything that should come under the purview of the statute of the case.

Excessive use of negation: Legal communication includes within its fold the excessive use of negation as the main object of it, usually, is to regulate law and order by issuing probation orders like negative injunctions and stay orders.

Tendency to use impersonal constructions: In legal communication, experts avoid first and second-person expressions (I and you). Instead, these experts use impersonal constructions like Perpetrators of the crime shall be brought to the local magistrate within 24 hours of their respective arrests. In the above-mentioned instance, the statute not only speaks to the perpetrators of the specified crime but also to the police as well as the local magistrate, and further with the populous of the state. This feature may render the sentence to be a bit ambiguous. This tendency also helps in the creation of the impression of authority or objectivity

as reflected in the use of the phrase 'the court' instead of saying 'I', it further helps to legitimize the legal system.

EFFECTIVE LEGAL COMMUNICATION

To make the parties to a communication process understand every detail and side of the purpose with which the process had started, communication would need to be effective. When communication is free from barriers and anything else which may cause poor communication then it is said to be effective communication.

BARRIERS TO EFFECTIVE LEGAL COMMUNICATION

Conditions that lead to poor communication or a complete breakdown of the process of communication are called communication barriers. Several of the barriers to effective communication are given below:

Physiological Barriers: Abilities such as speaking, hearing, and sight are some which are indispensable when looking at the fundamental components of effective communication. In case a person has to deal with the dysfunction of any of the essential abilities then he/she shall be allowed an alternative method and ensure that communication is as seamless as possible. Thus, such sensory incapacities may lead to becoming a physiological barrier to effective legal communication.

Psychological Barriers: When dealing with situations that do not let one concentrate or understand the details of the communication properly like lack of attention, generalizations, bias or prejudice, etc., effective communication becomes very difficult to perform. An individual state of mind is also to be taken into consideration when pursuing the process of effective communication as emotional barriers are also an important role-playing factor as internal issues like fear, worry or suspicion may hinder effective communication. Communication of a message cannot be seamless when one has to face such issues and his/her thinking is clouded.

Semantic Barriers: When by the use of ambiguous words, the difference in native or learned language, different accents, and pronunciations and usage of vocabulary a situation prevails

whereunder there is no clear demarcation of duties and obligations or what is expected of the receiver of the message then that is said to create a barrier to communication. This may happen due to a lack of structure or even a lack of proper infrastructure can create such a situation wherein the level of understanding necessary is not reached for effective communication.

Information Overload: There are situations where the information imparted to the speaker is a bit too much, under such a condition the listener may not be able to grasp everything that has been said or written to them and hence fail to comprehend the main issue that was supposed to be conveyed.

Lack of common experience: People often do not share the same set of experiences and hence differ in the knowledge that they have, this in turn hinders the process of communication, and people are hindered from sharing ideas and information.

Cultural barriers: The world is diverse and people differ in culture from country to country and sometimes even from town to town, this turns out to be a barrier as people coming from different backgrounds may have different upbringing environments and this reflects in their way of communicating which is the reason why some people may be shy from sharing their views and some may be very confident as the condition, they have been brought up in is different. For instance- An Indian may not be able to easily communicate with a native American as their beliefs and views may be different from each other and this may even make them hesitate from speaking to each other. There are some other factors like a variation in the dialect of the language of the parties or the accent they use to communicate which further deprives the parties of having effective communication.

MAJOR SKILLS REQUIRED FOR EFFECTIVE COMMUNICATION

Certain skills are required for effective communication-

Listening: It is critical to realise that good communication involves more than just conveying your ideas and expressing your opinions. Being a good listener is the first step in learning how to communicate effectively. It's vital to instill in your child the value of listening intently to what

others have to say and allowing them the opportunity to speak. Another smart move for excellent communication is to let your youngster ask questions. But they must be trained to do so without disturbing others. Active listening, nonverbal response, and empathy are just a few of the essential listening abilities that may make us better listeners. By concentrating on these, we may better comprehend what other people are going through and be able to interact with them both personally and professionally. Effective listening helps us build stronger bonds with others and ourselves, which improves the harmony in our interpersonal interactions and communities.

Body Language: The body language of the speaker and listener is another essential component of any type of communication. Since their body language frequently reveals that they are unconfident and uneasy in their settings, many teens struggle with this. Even while we usually only think of communication as verbal exchange, it encompasses much more. Just as crucial as verbal communication is nonverbal communication. It's crucial to realise that participating in a conversation requires your entire body, not just your head and face. The most important thing to do when someone is speaking is to sit up straight, show them you are paying attention, and convey your knowledge of what they are saying. Eye contact is another component of communication that is extremely important. Maintaining eye contact with the person you are speaking to will show them that you are paying attention to them and are interested in what they have to say.

Effective Speech and Expression: When your child can listen and focus, they will be better equipped to learn how to speak clearly and develop the necessary abilities to express themselves. A person cannot communicate successfully unless they have mastered the art of self-expression. Teaching your child, the manners they must adhere to when speaking with someone else is essential. Additionally, the youngster has to be taught and explained several essential aspects of speaking. They need to be taught, for instance, how important voice tone is and how it affects what they say. Additionally, it is crucial to emphasise to them the need of communicating concisely and clearly so that the audience can grasp what they are saying.

Confidence: Confidence is a critical component of effective communication because it allows you to be heard by many people and win their support for your position. Teenagers should be taught the fundamentals of public speaking at a young age to help them gain confidence and communicate their ideas.

Differentiation: Understanding the distinctions between the various types of communication as well as how to respond to certain situations is equally essential. Learning the many strategies and abilities needed while interacting with friends, family, or a bigger group is crucial for everybody. Communication with your boss will differ slightly from that with your family, with your co-workers, and finally from that with your boss.

The Art of Balance: Teenagers must have the ability to balance various stages of life. They get additional abilities that are crucial for leading successful lives in addition to improving their communication skills as a result of this. Teaching children how to strike a balance between their family and social lives, as well as the value of managing their time between school, sports, and other enjoyable pursuits like Sarajevo Free Walking Tours, helps them grow into strong individuals who can enjoy every stage of life to the fullest. Future leaders will emerge as a result of young people mastering the art of balance. They'll develop into capable leaders who can successfully juggle professional and personal obligations, enhancing output and encouraging sincere care for others. Therefore, improved communication creates more chances to assist others.

STRATEGIES FOR ENHANCING LEGAL COMMUNICATION

It becomes very important in the legal arena, for enhancing legal communication, to overcome these barriers to effective legal communication, to do so certain strategies have to be undertaken, some of these strategies are listed below-

Focus on the topic: While speaking or writing any topic, the focus of the speaker or writer should be only on the topic at hand, if there is poor focus or a lack of focus the receiver may get disinterested in the topic.

Understand the audience: The sender must always analyse the type of audience he/she is conveying the message to, the nature and type of audience may demand a different way of communication. The relevancy of the communication may be ascertained if one can understand what the audience desires. How the audience might react to the message can also be determined by doing the same.

Simple Language should be used: If the sender learns to communicate using clear and simple language, the receiver may be able to understand the message without difficulty. This is because when the sender uses words or phrases that are difficult to understand, ambiguous, or overly use jargon, it may create a barrier.

Reduction and elimination of noise levels: Although this might seem a point that is irrelevant at first, if the place of communication is too noisy then that place must be avoided and in case a source of noise is identified then it must be gotten rid of.

Active listening: There is a major difference between hearing and listening. When the receiver actively listens to the message it means that he/she is properly understanding the message while hearing. This may allow them to clarify with the speaker by asking them questions to learn what the speaker intended to convey.

Avoid information overload: The sender should understand what work to prioritize. This may enable them to smoothly send the message by not overloading the receiver with unnecessary work that can be done later. This strategy can be mastered by listening to the feedback of the receiver.

Consistency: One of the most important factors to keep in mind while communicating is maintaining consistency with your presentation of the message. Focus on things like vocabulary, spelling, formatting, etc. should be emphasised.

Proper selection of medium: Lawyers should keep in mind the message that has to be delivered and a choice of the means of communication can be made based on it. In case, a simple task has to be given to a subordinate then that should be done face to face or by a telephone conversation.

If a complex message is to be delivered then written modes like email or letter should be adopted. Reminders and follow-ups are also encouraged if a key message has been delivered, and this can be done by using written communication like memos, notices, etc.

RATIONALE FOR STUDYING LEGAL COMMUNICATION SKILLS

Law students are encouraged to learn legal communication skills for the following reasons-

- To attain the knowledge required to properly write legal documents.
- To acquire the ability to learn how to effectively interpret legal documents.
- To learn how to express legal issues effectively.
- To attain the ability to present effectively before the audience.
- To acquire the understanding enabling them to be able to persuasively speak and write.
- To attain interrogative skills.
- To learn the technique of constructively challenging arguments.
- To confidently provide one's views and enable oneself to properly challenge arguments.

COOPERATIVE PRINCIPLE IN LEGAL COMMUNICATION

In linguistics, the cooperative principle enables us to understand in depth how people interact with one another. At the first instance, the cooperative principle looks like a prescriptive command, it is when looking at the principle at its core you realise that the principle is intended as a display of how people interact and behave while communicating with each other. To be understood perfectly and completely, all the parties to the communication should speak cooperatively and aim towards finding a way of mutual acceptance. This principle comes into use while communicating in social instances and describes how effective communication can be achieved. The cooperative principle is presented by the means of four maxims known as Grice's maxims. The cooperative principle is applicable from both sides as the speakers use the principle and the listeners assume that the speakers are using it in their speaking style.

GRICE'S MAXIMS

Maxims are phrases that express general truth and rules of conduct. The four of Grice's maxims which guide us in achieving effective communication, are as follows:

The maxim of quantity - This maxim describes how the information provided should contain the required information in a perfect manner it should not be either too lengthy or too short.

The maxim of quality - This maxim states that one should not provide the receiver with information that he/she will not be able to substantiate with proof or evidence.

The maxim of relation - This maxim elaborates on how one should only work towards making his/her communication as relevant to the subject matter as possible and not discuss issues that are not pertinent to the problem at hand.

The maxim of manner - This maxim explains how one has to be clear, brief, and organised in what one communicates, ambiguity should be avoided at all costs.

There may be an overlap regarding the length of the message, as there may arise a condition wherein the maxim of manner and the maxim of quantity may overlap. An instance of such a situation may be when the lawyer provides all the information that he/she has to the other negotiating party now this may satisfy the maxim of manner but it does not satisfy the maxim of quantity. It may be clear and precise as to every aspect of the information that had to be provided but, in every circumstance, it is that very piece of information that has to be provided to the receiver. There should be consideration of a dividing line whereunder both the maxims of quantity and quality are broken.

CONCLUSION

The use of effective language is very necessary for the legal arena, as doing so will enable the legal professional to attain the required knowledge, and the ability to interpret the technique of expression, presentation, and persuasion to easily convey his/her message. It will also allow them to learn interrogative skills which will further help them to improve their technique of challenging arguments with the proper premise and substantive reasoning and evidence. Effective communication also helps legal professionals develop professional work ethics and a

healthy personality. This in turn will help these professionals grow and progress in their respective careers and make use of the skills in their everyday work. Using language effectively should be the ultimate goal of any sender, in the legal arena.