

## The Nuances of Legal Lexicon

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### ABSTRACT

Legal language is the essence of our lives as law touches every walk of our lives. There is an indivisible connection between law and language. Laws are expressed in language and language has its own laws. Legal lexicon is an indispensable entity of legal language. In order to understand the laws, duties, rights and legal matters, it is imperative to understand legal language which is full of distinct lexicon. Same words carry different meanings in legal and ordinary contexts. There are archaic words and phrases besides the overpowering of foreign words which have been fully assimilated in the legal language. All these need to be taken into consideration. The present paper focuses on the various facets, features and nuances of legal lexicon.

**Keywords:** *Legal language, legalese, lexicon, plain language.*

## The Nuances of Legal Lexicon

As law affects all aspects of our lives, legal terminology is fundamental to who we are. The link between language and the law is unbreakable. Language has its own laws, and it also expresses laws. An essential component of legal language is the legal lexicon. Understanding legal language, which has a rich and varied vocabulary, is essential in order to comprehend laws, obligations, rights, and other legal issues. The same words have distinct meanings in formal and informal situations. Along with the overwhelming number of foreign terms that have been thoroughly integrated into the legal language, there are still outdated words and expressions.

The development of legal language is the result of painstaking efforts by different jurists, judges, legislators, lawyers and legal experts at various levels. Today's legal language is the result of many nuances and upheavals that the legal language has gone through. No language is born and developed overnight; it takes decades and centuries for its proper growth. Legal language is no exception to it. Actually, the term legal language itself is contradictory. Is legal

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language a language like English or Hindi or Spanish? The answer is negative. However, it is undoubtedly a sub-genre or a sub language. It would be better to call it register rather than a language because legal language does not have its own alphabets or grammatical pattern of synthetic pattern to make it a distinct entity as a language. It does not have its own set patterns of grammar nor has its own vocabulary. It is grown by many changes assimilating different words from different languages like Latin, French, and Greek etc. Yes, it does have its own facets and features that make it different from a usual language.

After the argument regarding the status of legal language as language and register, there is another thought that legal language is nothing but English for Specific Purposes. It is compared with the language of medicine, of engineering and of journalism etc. This means legal language is no distinct language but a variety of language used with specific purposes and tasks in mind. Yes, it is better to call the legal is an English for Specific Purposes.

Legal language is “a varietal system of technical terms, situations meanings, complicated procedural arrangements etc which communicate at least among the law men in a unique style imperceptibly interwoven with certain juristic traits and judicial qualities” (N.R.Madhava Menon, quoted, Tandon & Behl 3). There is distinction in the form of words or lexicon which is full of farfetched words and antique phrases which are beyond understanding of layperson. Over the years it has not changed its syntactic pattern which is full of circumlocution and complexity. Its lengthiness is often troublesome for the comprehension of lay minds. Will Rogers ridicules legal language by saying: “The minute you read something you can’t understand, you can be almost sure it was drawn by a lawyer” (Quoted, Tandon and Behl 09). John Lindsay also criticises the legal language when he opines, “Law books are the largest body of poorly written literature ever created by human race” (Quoted, Tandon and Behl 09). It is said that ignorance of law cannot be an excuse. On the other hand, the legal language is so complicated that it is beyond the understanding of common persons and hence a large chunk of people remain ignorant about their law, rights, and duties and so on. As a result of this, common people think that ignorance is bliss and for the knowledge of law they prefer to pay to the lawyers. As a result of this, the legal language has become the premise of lawyers or legal experts. Urban Lavery has contributed significantly in making the legal language reader-friendly. In his studiously written article *The Language of the Law* he has said:

...the lawyer in his field-even as the physician and the priest in theirs-remains the last resource of other men and women. When the wisdom of common men fails them and disaster is at hand, when the layman’s

brain is overworked till his mental fuse burns out, when the motorcar of 'Business' blows out its tires and piles up in the ditches of insolvency, when the human derelict is finally tossed upon the rocks by the stormy seas of life, then the lawyer is sent for and his "quiddities" and his "quilllets" are more than welcome. (Bhatnagar 33)

There have been efforts to simplify the legal language and as a consequence of this, plain language movement came into existence though with limited effectiveness or success. However, it will be useful and substantial in the days to come when common people will try their best to understand the laws so that no injustice is meted out to them. In order to understand the language one needs to understand the facets and features of that language. If one understands the syntactic features of legal language, if s/he has reasonable knowledge of the lexicon that is legal lexicon and he is he or she is able to understand the nuances of legal language then legal language will be accessible to him or her.

The basic purpose behind the use of legal is they drafting, pleading and conveyancing, the argument presented before the court, the court judgment, the interaction between judges, lawyers and lawyers on some legal matters, the discussion between client and lawyer and so on. Our lives have been occupied by law through the use of language in various facets and forms. They are our duties, laws, forms, rules, regulations, human rights, fundamental duties, preamble, acts, cases, pleas, pleadings, PiLs, reports, conditions, terms, contracts, agreements, wills, summons, drafts, legal opinions, cybercrimes and so on. When utilizing language in the legal field, one must be extremely careful because even a little misconception might have a big impact. Lord Mansfield has precisely opined, "Most of the disputes in the world arise from words"(Quoted, Tandon & Behl 2). Therefore, it is important to learn the basics and basis of a language which are evident in lexicon, sentence patterns, tenses, grammar, rules of punctuation and so on. The flaws in legal language are vagueness, ambiguity, length, verbosity, and complexity, which result from linguistic ineptitude and aesthetic flaws. This English is used for specific purposes and the same stakeholders use altogether different English in the general context like the interaction with family members and friends. The language used is usually English which is used for explicit purposes in specific circumstances and contacts which is slightly different from the regular and usual English. There are differences in the forms of lexicon or vocabulary, the syntax, the sentence structure and the overall style of the legalese. Ramsfield says: "We study legal language as a kind of second language, a specialized use of vocabulary, phrases, and syntax that helps us to communicate more easily with each other" (145).

It is challenging for both literary and non-literary pupils to decipher and separate the literal meaning from metaphorical (suggestive) meaning. The context (discourse) is a little more complicated in the legal discourse since some words have distinct meanings there (legalese). These terms do not have the same meaning as those used in regular speech. Legalese frequently uses phrases like action which means lawsuit, consideration which means support for a pledge; execute which means to sign to effect, and party which means a principal in a lawsuit. Other terms with multiple meanings include right, suit, and duty, incorrect, required, and arbitrary. The legal discourse is a very unique and in its own right rich discourse. Although archaism has been criticized as a flaw, a closer examination reveals that it is really quite decorative. Even while ornamentation is largely meaningless in a professional conversation, it highlights its distinctiveness.

While in the general and usual sense, the subordinators like if and unless are used; the legalese uses provided. The word provided apparently is the past form of provide and is a regular verb but it has been distinctly and indifferently used in the legal context. It is no more used as a verb but is used as a connector or conjunction. Same word has different forms and meanings in different context. So is the case with the word will. There are two meanings of the word will. On one hand it is a helping verb or a modal auxiliary and on the other hand it is a thing of one's desire or determination.

The word will is associated with the death will which is a sort of contract in the legal context. It is a person's desire or decision to register his or her property and choose a successor. The common trade between usual and legal English here is willingness. It is written by aged people while they foresee their declining health and nominate somebody to have the right on their property. Popular proverb will finds the way is having pun because the word will has dual meaning.

Another word that has dual meaning- that is one in legal language and another in the general usage is the word act. In general discourse, the word act is a verb as well as a noun. In the context of literature in general and drama in particular, it is a division of a drama in different sections. However, in the legal language it is a very important law which is framed after in-depth study.

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Do is a major auxiliary verb that is both a main verb and a member of the To Do family of aiding verbs. When the need to emphasise, anything emerges, it is frequently employed to create negative and interrogative statements rather than the more uncommon forceful sentences. However, in the context of law, the word do frequently comes in declarative statements, but not to emphasise or contrast anything, but rather to show that the primary verb establishes or alters legal institutions or relations. The following lines serve as examples: “I ‘do’ hereby solemnly affirm and declare on oath before the oath commissioner or magistrate...” (Declaration in a court.)

The same logic is evident in the statutes too:

“The people of the state... represented in... Assembly, ‘do’ enact as follows...” (Legislation by the J & K State Assembly.)

In the examples above, the word do designates the verbs as ‘performatives’, which is analogous to the word hereby, which indicates that the verb is really carrying out an operational legal act. In legal discourse, interpretation is a crucial concept. In every circumstance, words have not the similar meaning. In legal discourse, some terms have various meanings. Here, Lord Macmillan’s focus on the fundamental principle of interpretation is brought to mind:

the grammatical and ordinary sense of the word is to be adhered to unless that would lead to some absurdity or some repugnance or inconsistency with the rest of the instrument, in which case the grammatical or ordinary sense of the word may be modified so as to avoid that absurdity and inconsistency but no further (quoted, Tandon & Behl 4).

A prominent trait of the legal language is the legal doublet where there is a sort of cluster of two synonyms. Their root can be traced in the Norman Period. “A legal doublet is a standardized phrase used frequently in English legal language consisting of two or more words that are near synonyms” (Wikipedia). Remarkable and famous examples of doublets are: deem and consider, devise and bequeath, each and every, heirs and successors, just and equitable, terms and conditions, and rules and regulations. Doublets are just the same word repeated in a different way. Since the words are frequently interchangeable, monotony results from repetition of any kind. The doublets make legal language more comprehensible and easier for users to grasp.

Verbosity is considered as a defect in the legal language. While choosing the lexicon, it needs to be ensured that there is no verbosity. Accuracy and succinctness are the hallmarks of noteworthy style. Being too verbose is viewed as a flaw. Why do so many words need to be used when one will do? The readers frequently ask themselves this question. Expressions come in a variety, and diversity is the flavour of life. The phrase despite the fact that is a lengthy way to represent the word although. Legal language writers have frequently come under fire for their flowery jargon. Authors that are renowned for their concise writing and lack of flowery language include the famous American novelists Mark Twain and the Nobel Prize winning novelist who wrote highly optimistic novels but committed suicide-Ernest Hemingway. The siblings of verbosity—wordiness, verbiage, prolixity, grandiloquence, garrulousness, expatiation, logorrhea, and sesquipedalianism—are all disliked. “Slang terms such as verbal diarrhea also refer to the practice” (Wikipedia).

Two or three words are frequently used differently and somewhat unnecessarily to express one idea. The comparison between the verbose and precise expressions shown below supports the same:

Verbose Expression	Exact Expression
Give consideration to	consider
Give goods to	delivery
At the time of his birth	when he was born
Have need of	need
Make provision for	provide (for)

(Examples taken from drsabnis/dbamlaw.in)

The legalistic and ordinary expressions also make a vast difference in understanding:

Legalistic	Ordinary
Adequate number of	enough
Be empowered to	may
Be able to	can

Abutting	next
Per diem	per day
In case	if
Previous to	before
Pursuant to	in accordance with
Until such time as	until
In order to	to
In the interest of	for
Per annum	per year

(Examples taken from [drsabnis/dbamlaw.in](http://drsabnis/dbamlaw.in))

Verbose language makes legal language even more difficult since it is already frequently polluted by other issues that discourage laypeople from adopting it. This verbosity is often the result of caution and attention, i.e., to prevent interpretive gaps.

Even those in the legal industry have harshly criticised the verbosity, wordiness, and repetition. It has been opined by a judge from USA that “the legal mind finds magnetic attraction in redundancy and overkill” (Coca Cola Bottling Co.Vs Reeves 4 pp. 383-4). It has also been criticised because the legal fraternity's slogan appears to be “Never use one word where you can use two; and the more you use, the better”.

Chief justice of the King’s Bench, Sir Mathew Hale has given interesting reasons for the growth of extensive pleadings: “These pleadings being mostly drawn by clerks, who are paid for Entries and Copies thereof, the larger the pleadings are, the more profits come to them, and the dearer the clerks” (111-12).

The legal discourse is a very unique and in its own right rich discourse. Although archaism has been criticised as a flaw, a closer examination reveals that it is really quite decorative. Even while ornamentation is largely meaningless in a professional conversation, it highlights its distinctiveness.

This distinctiveness is determined by many words which have been used rarely. They are termed as archaic expressions also. Most of them are adverbials. The adverbials which are rarely used in the general discourse but are amply found in the legal language are the clusters and compounds like wherefore, herein, hereby, whomsoever and so on. Alcaraz & Brian have cited more examples of such expressions:

-The parties hereto agree as follow.

- Hereinafter referred to as wife.

- The total rent for the term hereof is the sum of \_\_\_\_\_. (Alcaraz & Brian)

It has been rightly said that “many lawyers prefer to use the antique terms. ‘imbibe’ replaces ‘drink’; ‘inquire’ is used in place of ‘ask’; ‘peruse’ has been widely used instead of ‘read’; ‘forthwith’ is a substitution of ‘right away’ or ‘at once’ for them” (Alcaraz & Brian 5).

The lengthy Norman dominance of England in areas like law and administration must be the reason for the heavy lexical influence of French and Latin on English legal terminology. Most legal writings are tainted by the frequent use of ancient French and Norman French terminology like tort, lien, estoppels, and laches that are seldom used in everyday English. (Wikipedia)

Additionally, a significant number of terminologies with Norman origins (e.g. court, judge, appeal) continue to be employed in legal English. Nowadays, many of these terms are almost unknown outside of the legal community for example attainder which means the loss of civil rights following a high treason conviction. However, due to their frequent usage in everyday functioning, these phrases have ‘naturalised’ as English words. Other phrases, like profits à prendre, have retained all of their Frenchness (meaning the right of common, where one has the right to take the fruits of the property of another). Acquis communautaire, a phrase from French used in modern law, describes the complete corpus of EU legislation. Ex parte (on behalf of), ratio legis (the reason for, or principle underlying, a law), and many other foreign lexical phrases or expressions used in legal writings have Latin roots.

There are good number expressions like Jurisdiction, alien, arbitrator, attorney, per capita from other languages and they do not appear to be foreign now as they have been merged fully in English. Their amalgamation and assimilation is noteworthy because they have become indistinguishable and inseparable.

Another striking feature of legal language is the limited range and scope for verbs.



The verbs such as accept, administer, require, designate, grant, agree, recognise, present, constitute, perform, prevent, comply with, observe, exercise, enter, remain, direct, control, impair, request, conduct, receive, obtain, limit, accrue, invalidate, etc have been seen being used more. It is because of such restriction that often the paraphrases of the same concepts are seen in the same document. (drsabnis/dbamlaw.in)

These verbs have been completely assimilated in the general English as well. Their distinction is quite difficult. Moreover, though many of them originally belong to some other language, they are not identical. Almost similar is the case of adjectives in the legal discourse. Select adjectives have been used widely and extensively in the legal language. They are statutory, discretionary, general and elective (they collocate with powers and rights); informal and unsupervised (administration); real and personal (property), specific (devises, bequests, articles) – all in the; (un)enforceable, (in)valid, void (provisions, articles, agreement), necessary (disbursement, costs, fees), liable and responsible (person, party, body entity); additional (powers, duties), and minor, consequential, incidental, supplementary (provisions, amendments) in the Acts. (drsabnis/dbamlaw.in)

Legal language has its own facets and features and they have been maintained for many centuries. The efforts through the Plain Language Movement in the developed countries have little or no impact in the commonwealth countries who have, more or less, imitated the models of developed countries. As far as Indian legal language is concerned, it can be seen that British model has been followed. Many laws prevalent in the Pre-Independence era have been retained. Same is the case with legal language. However, the Mughal Rule and the presence of Persian and Urdu through them and the dominance of Sanskrit for over years have changed the complexion of legal language in India. As a result of this, many Indian words like Kacheri, Mamletdar, Tehsildar and Mofusil are prevalent in the Indian legal language.

### **Conclusion**

Legal language has its own characteristics and peculiarities which makes it distinct and unique. In order to understand the legal language, it is necessary to understand the underlying features of its various components like legal lexicon and legal syntax. It is different from the general usage of English language. Legal lexicon is quite different in its form and presentation. On one hand it is the sign of richness to the people from the legal sector. On the other hand, it is a matter of great difficulty to get acquainted with the legal lexicon and understand its salient features. When there have been talks of human rights and duties, it has become more pertinent than before to have the basic knowledge of laws, rights and rules. In order to understand them,

one needs to have at least the preliminary knowledge of legal language. The understanding of the legal lexicon which is the crux of the present paper will certainly help in understanding the legal and language and subsequently the rights of man.

Ignorance is bliss but the ignorance of law cannot be an excuse. Hence, it is imperative to have the basic knowledge of various laws. Over the years, the legal language remained untouchable to the laypersons because of its intricacy and complexity. However, the understanding of the nuances, facets and features of legal language in general and legal lexicon in particular would understand the basic tenets of various laws, rights and duties so that a layperson will be alert and vigilant. Amidst soaring legal matters and easy availability of legal experts, it is pertinent to have the elementary knowledge of laws. It is only then that awakened citizens can be seen in the society.

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