



Legal English as English for Specific Purposes

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ABSTRACT

There are many varieties of English. The most common of which are dialectic and Register. Dialect is a regional form of language. It may be of specific region or group. The group can be regional, social, ethnic, or it can be based on gender or particular class. Register is measured on a formality scale. The determination of language in register is done on the basis of situation it is used. There are five types of register i.e. Frozen/Static (laws or bibliography style), Formal/regulated (announcements by judges), consultative/Professional (Client-Lawyer, Doctor-Patient), Casual/Group (between peers and friends), Intimate/Personal (between Siblings, Parents, Best Friends). The present paper is concerned with the use of language in the “Consultative and Professional” type. These languages are created by professionals with some abbreviations or short form. It depends upon the profession or the group can be informal or formal. It is different from standard language. The aim of the present paper is to study the legal English as English for Specific Purposes.

Introduction

English is used as a language in legal discourse worldwide. The English language is used by the lawyers is different from ordinary plain English but it is based on ordinary English language as most of the vocabulary of legal language and grammar is similar to those of ordinary language. Legal English also includes technical vocabulary, which is used by law professionals like *tort*, *inter alia*, *alma mater*, etc. These words should be used correctly for which Trans Legal World Law Dictionary has been created. Lawyers have been able to maintain the complete language of their own. Lawyers use their own style of English in their course of work.

According to Ronald Barthes legal language should be without style. He further says that it is a style with a feature of no style, whose distinctive colour is colourlessness.

According to Jefferson, “Lawyers Verbosity, their endless tautologies, their convolutions of case within case and parenthesis within parenthesis and their multiplied efforts at certainly by saids and aforesaid

, by ors and by ands, to make them more plain, do really render them more perplexed and incomprehensible, not only to common readers but to the lawyers themselves”.

Toney Wright criticized this language as “Bad language” : “This is the world of verbless vacuities of robotic repetition of words and phrases that have long lost any connection with the meaning”.

So, another variety of English has been developed as the language of law. However, legal language follow the rules of plain English language but it is different. Hence, legal language can be considered as English for Specific Purposes.

The term English for Specific Purposes (ESP) came out in early 1960’s due to the growth and demand of English language. The term English for specific purposes introduces the use of language which concentrates on the particular communicative practices of particular social groups. English for Specific Purposes (ESP) as defined by Dudley – Evans & St. John (1998) is a specially designed language for both middle and moderate learners at higher levels and also in professional situations. The nature of the language can be determined by the specific purposes of the usefulness of a particular language.

According to Florito English in ESP should be used openly instead of privately in suitable legitimate texts according to the fields. This open use of English will help learners to make appropriate use of English language in their respective fields. If the English language is taught privately without any purpose and legitimate texts, it will not persuade the learners of learn more.

ESP mainly revolves around the languages related to a field of discourse in name of grammar, lexis, register. English is used for communication, in International bodies like the International Court of Justice, International Labour Organization, the International Olympic Association and UN. This particular use of English language open on to the proposal of English called English for Specific Purposes (ESP).

Aim of the study

The present study deals with the study of Legal English as English for specific purposes.

Brief history of Legal English

The development of Legal English is closely related with the history of Great Britain whose legal tradition is based on common law. Following the Norman invasion from many centuries, English was the common spoken language of the majority of the population, but all the written work was done in Latin and French.

The legal language has some characteristics that differ from ordinary plain language. The Anglo-Saxons, Danes and Normans, who settled in England affected the language of English law. The Roman law affected the Continental European legal language. There were two common legal traditions around the world – the Civil Law System, which emerged in Continental Europe and expanded to most of Europe

and also to the former European colonies in Africa, Asia, and the America, and the Common Law System (whose main feature is that laws are not codified) was adopted by English-speaking nations like the U.S, U.K, Canada, Australia, South Africa and New Zealand. The result of this tradition was that the drafting of many important legal documents was done with the use of archaic linguistic forms.

Legal English was greatly influenced by Latin and French. The Latin language being dominating at one time performed a chief role in professional life of European Civil Law lawyers, but medieval English lawyers learned the law in Law French at court. As Latin was the language of education and science, Civil law was taught in Latin. From 1066 Latin remained the language of statutes and treaties. Even though the local language was used for trials, but the judgements were mostly delivered in Latin. The impact of Latin can be seen in words and phrases like *mala fide, bona fide, ad hoc, ultra vires, Prima Facie, Modus Oprana*, etc. which are used in legal writing. English has been taken on for different kinds of legal documents at various times.

In 1066, following the Norman invasion of England, Anglo-Norman, French became the official language of England. It remained as the language of legal proceedings for a period of almost 300 years. It had a great influence on law and government. In Eighteenth and Nineteenth centuries, French was the language of treaties and diplomacy. As a consequence, many words which used in modern English were derived from Anglo-Norman like *property, lease, estate, etc.* Its effect can be shown by some of the complex linguistic structures used in legal writing.

The legal professionals continued the use of Latin and French as it was not clearly understood by the common man. The lawyers did this to save their profession. Sir Edward Coke said that if common man would not understand the law, it would “fall into destruction” (Solon.22)

During the commonwealth period in 1650, parliament gave a law that all books of law should be written in English. Till 1731, both Latin and French were not in use. Although these two languages i.e Latin and French were not used but many words and phrases were borrowed and were not translated such as *court, judge, jury, plaintiff and defendant*. Since 1731, law adopted another variety of English called *legalese* which was different from the ordinary language.

Lawyers during the medieval period started using a mixture of Latin, French and English. Doublets in legal language developed due to the usage of pairs of words from different languages. Some of the examples of the doublets are *Able and Willing, Breaking and Entering (English/French), Fit and Proper (English/French), by and between, lands and tenements (English/French), will and testaments (English/Latin)*. Besides the doublets, some legal triplets are also used like: *ordered, adjudged and decree: rest, residue and remainder*.

Characteristics of Legal English

Legal English can be spoken as well as in written form. It is expected that both the forms, spoken and written forms of legal English are same but it is not.

Legal English is one of the forms of register. The term register relates to the use of language. It is a formality scale. It is one of the most analyzed areas where the use of language is determined by the situation on the basis of formality scale. The five registers of the language are as follows:-

S. no.	Type	Used in
1	Frozen/Static	Laws, bibliography styles
2	Formal/Regulated	Speeches, announcements by judges
3	Consultative/Professional	Client-Lawyer, Doctor-Patient, Student-Teacher
4	Casual//group	Between peers and friends
5	Intimate/Personal	Speech between siblings, parents, and best friends.

The way we communicate is validated on the basis of factors like social occasion, purpose and audience. as register is defined as the level of formality in language so it is regulated by the content in which is spoken or written. It can be formal or informal. Language register is the tone and style of writing. In linguistics, the register is defined as the way a speaker uses language differently in different circumstances. Register is one of the sections of sociolinguistics which is an inquiry of how language is used in a social setting. For the use of language in a legal setting, the term 'legalese' is used for the written forms of legal English which is differentiated on the basis of stylistic features. The term 'legalese' is also called Jargon – a variety of system specific language which is used in a specific context. It may be clearly understood. Legalese is characterized by the sentence length, nominalizations, complex propositional phrases, embedded clauses, verbosity, Latin expressions and passive verbs.

The main characteristics of Legal English are: -

1. Inadequate use of punctuation. Mostly in deeds and conveyances there is an absence of punctuation. According to Lawyers, the meaning of legal documents is within the words used and their context. Punctuation is then used in modern legal drafting to clarify their meaning.
2. There is a use of Foreign phrases instead of English phrases. For example, *inter alia*, *post factum*, *alma mater*, etc.
3. In legal writings there is a use of modifiers such as *the same*, *the said*, etc.
4. There is a usual structure of sentences. The reason behind this is the impact of French grammatical structures.

5. To avoid the repetition of names or phrases, older words like *hereof*, *thereof*, etc. are used in legal English.

6. With the use of alternative endings like *er*, *or*, and *ee* some words and titles are used. For example- employer and employee.

7. There is a overuse of capitals in Legal English.

8. Inclusive languages - Legal language is an inclusive language is that it favours the male pronoun. The female is included in male.

9. Rhetoric as argument - The legal rhetoric is based on argumentative techniques as communication, as persuasion is based on both the presentation and the reception of messages.

10. There is shortening of Words and Phrases.

11. Wordiness and redundancy - This is one of the definite characteristics in the legal profession. According to Lawyers, "Never use one word where you can use two; and the more you use, the better.

12. Ambiguity - Due to the linguistic ambiguity, the legal text gives the impression that the meaning has been distorted, and textual intention has diverged from authorial intention.

13. Borrowed Legal Maxims - Legal Maxims are an important part of the legalese. Due to their foreign origin, discourse is always complicated but in writing their presence makes the language more sophisticated.

Some of the Legal Maxims are:-

- *Actor sequitur forum rec*
- *Cosensus facit jus*
- *Experientia doet*
- *Silent leges inter armae*

14. The use of the Modal Auxiliaries 'Shall' and 'May' - Commonly, 'shall' indicates command, and 'may' indicates permission and possibility. But in legalese 'shall' makes it directory and not mandatory.

15. Quotidian Words having different Meaning in Law - There are some words which have different meaning in general English and in legalese. This makes the text more complex. For example:

Action:- not a physical movement but a law suit.

16. Use of Multiword prepositional Structures - The words like *as far as*, *so far as*, *in respect of*, *in accordance with* are found in legalese. They have become a legal style.

17. The other features are frequency of the word 'any', use of argot, use of open textured words, use of Repetitive and Resonant words, the Prominence of some word classes, New adverbials, Nominalization, restricted range of Verbs and Adjectives etc.

Conclusion

Legal English has traditionally been used as a noticeable variety of English. It is different from the ordinary English due to its own notable features, like long and complex sentences, with unusual word order, wrong use of punctuation, overuse of words etc. It is a different style. It is peculiar variety of English, so needs to be outlooked in a different way.

References

1. Baker, J.H. *An Introduction to English Legal History*. Butterworths, 1990.
2. Bazik, M, et al. *A Grammar of Legal English*. Bratislava, 2008.
3. Barthes, Roland. *Image - Music – Text*. Fontanna, 1977.
4. Bhatia, V. *Analyzing Genre: Language Use in Professional Settings*. Longman, 1993.
5. Johns, A.M et a. *English for Specific Purposes: International in Scope, Specific in Purpose*. TESOL Quarterly. 297-314.
6. “*Legal Language as Distinctive Resource*”. Karnataka State Law University, 2016-17. www.studocu.com.
7. Martin, Jim, et al., editors. *Language, Register and Genre: Analyzing English in a Global Context*. Routledge, 2001.
8. Solan, Lawrence, et al., editors. *The Oxford Handbook of Language and Law*. Oxford UP, 2016.
9. “*Teaching English for Specific Purposes (ESP)*”. Florito, L. 2010. www.usingenglish.com.
10. Yule, G. *The Study of Language*. 2nd ed. Cambridge UP, 1996.