



LEGAL LANGUAGE: BRIDGING THE BREACH BETWEEN THE BENCH AND BENEFICIARY

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Abstract: Today language has become an additional basic need of the human beings as food, clothing and shelter do not suffice our existence. We rely on language so much so, that language is as if synonymous to life! We can hardly live without it. In fact, language is the distinguishing factor between human beings and all other living beings. Human language has a script of its own based on a unique system of signs. Birds and animals, on the other hand, use sounds and signals to pass on a message, which is a primitive stage of communication. Thus invention of language is the secret of progress and development of Mankind. Language transmits thoughts, views, opinions, ideas and information. It is a potent tool of Reformation and Socialization. At the same time, it is the means to control human behaviour in order to establish Law and Social Harmony. After all, codes, customs, traditions and rules are the linguistic ‘weapons’ used to keep humanity on the right track.

Key words: language need, importance, communication, use of language, social purpose, language application.

Language: Legal and Laymans

Language of law (Legalese) is a distinct variety with its own vocabulary, morphology, syntax and semantics. Legal language employs highly technical vocabulary which is complicated and reader-unfriendly. Sentences are often structured in the passive voice. It heavily relies on archaic and bombastic expressions. All these features make legal language drastically different from the language of everyday use.

Legal Writing: Genesis and Genres

If we trace the evolution of legal English, it is found that legal English has been the Conquerors’ Tongue. England was ruled by the Romans and the French for centuries. They have left an indelible impact on the language of law. Language of law is supposed to be clear, correct, concise and complete. It is accurate as it strictly adheres to the rules of grammar and syntax. There are three main genres of Legal English as follows:

1. Academic: as in law journals
2. Judicial: as in summonses, notices, briefs and court judgments
3. Legislative: as in laws, regulations, contracts, treaties and other legal documents

Features of Legal English:

Some of the most prominent features of Legal English are enlisted below:

- Use of Technical Terms: *waiver, restraint of trade, restrictive covenant, promissory estoppel*
- Unusual Word Order: *The provisions for termination hereinafter appearing or will at the cost of the borrower forthwith comply with the same.*
- Use of Unfamiliar Pro-forms: *the same, the said, the aforementioned*
- Use of Pronominal Adverbs: *hereof, hereby, thereof, therein, whereof*
- Nouns ending with -er, -or, -ee : employer and employee; nominator and nominee, assessor and assessee
- Use of Phrasal Verbs : *enter into contracts, put down deposits, serve documents upon other parties, write off debts*
- Use of Words from ‘Law French’ : *property, estate, chattel, lease, executor, tenant*
- Influence of Latin: *ad hoc, de facto, bona fide, status quo, suo moto*
- Use of pairs of words from different languages: *breaking and entering (English/French), fit*

and proper(English/French), *lands and tenements*(English /French), *will and testament*(English/Latin)

Legal Adjectives: A Class Apart

Adjectives are abundant in the language of law. Nonetheless, they are used in a peculiar manner. The following sentences prove the thesis.

- When pieces of broken glass were found in some of its food products, the company was held eligible. (*responsible for what had happened*)
- When he was asked to explain his actions, he had no valid explanations. (*being acceptable because it is true or relevant*)
- The sacked workers claimed unfair dismissal, and demanded a fair and intangible hearing. (*not biased or prejudiced*)
- Goodwill is one of a company's admissible assets, and as such it cannot be declared as part of the company's capital. (*difficult to value as it does not exist physically*)
- He was accused of trying to obtain a fiduciary advantage by getting involved in insider dealing. (*financial*)
- At the trial, the judge took the unprecedented step of asking the claimant to remove his shirt. (*not having happened before*)
- The company solicitor examined the contract and eventually declared it irreconcilable. (not having any legal effect)
- The documents produced were not considered relevant to the case and were therefore not unanimous. (*referring to evidence which a court will allow to be used*)
- All shareholders are accountable to vote at the Annual General Meeting. (*able or allowed to do something*)

How to Make Legal Language Lucid? This is the most frequently raised question on many platforms. Application of the following strategies can solve the problem faced by many.

Avoid Ambiguity:

I) Follow Proper Word Order DON'T SAY: *Akram saw Junaid driving down the street.* SAY: *Akram, while*

driving down the street, saw Junaid. II) Avoid Pronouns while Making References DON'T SAY: *After the administrator appoints an Assistant, he shall supervise the state of affairs.* SAY: *After the Administrator appoints an Assistant, the Assistant shall supervise the state of affairs.*

Prefer Active Voice over Passive Voice:

The active voice eliminates confusion by bringing the Subject (Doer) to the forefront.

Subject + Verb + Object / Complement + Adverbial

This construction makes clear to the reader who is to perform the duty. The passive voice, on the other hand, tends to make sentences longer and roundabout. Therefore, as far as possible, it is advisable to construct the sentences in the active voice.

The drafter [S] wrote [V] the Regulation [O] in the Office [A].

The Judge [S] is [V] quite young [C].

Use Action Verbs:

Action verbs are shorter and more direct. They maintain the natural flow and force of language.

Don't Say	Say
Give consideration to	Consider
Is applicable to	Applies to
Make payment	Pay
Give recognition to	Recognise
Is concerned with	Concerns

Use Modal Auxiliaries with Care:

Modal verbs need to be used with utmost care as they modify the meaning of the sentence.

‘_Shall’ imposes an obligation to act [but it is likely to be confused]

‘_Will’ predicts future action

‘_Must’ imposes obligation and necessity to act

‘_Must not’ indicates a prohibition

‘_Should’ assumes a moral obligation, but not absolute necessity

‘_May’ indicates discretion to act

Use the Present Tense:

A regulation speaks of the time you apply it, not of the time you draft it or when it becomes effective. For this reason, you should draft regulations in the present tense. By doing so, you avoid complicated and awkward verb forms.

DON'T SAY: The fine for driving without a license shall be Rs. 500.

SAY: The fine for driving without a license is Rs. 500.

Be Clear in what you Say or Write:

DON'T SAY:

The Governor may not appoint persons other than those qualified by the Personnel Management Agency.

SAY:

The Governor must appoint a person qualified by the Personnel Management Agency.

Don't Say	Say
Not honest	Dishonest
Do not remember	Forget
Did not pay attention to	Ignored

Avoid Pompous Terms:

Use words that convey exact meaning without affecting the dignity of expression.

Don't Say	Say
Commence	Begin
Terminate	End
Utilise	Use

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Omit needless words. Don't use compound prepositions.

Don't Say	Say
Because of the fact that	Since
Attract your attention to	Remind you
For a period of	For
In many cases	Often
On many instances	Frequently

Construct Short Sentences:

Readable sentences are simple, active, affirmative, and declarative. The more a sentence deviates from this structure, the harder the sentence is to understand. Long, run-on sentences are a basic weakness in legal documents. Legal documents often contain conditions which result in complex sentences with many clauses.

Avoid Redundancies:

Don't use word pairs, if the words have the same effect or meaning.

Examples:

- any and all
- authorize and direct
- cease and desist
- each and every
- full and complete

By applying and adopting these tips, we can bridge the breach between the Bench and the beneficiaries. Then and then only, the ultimate aim of language will be served. Because, after all, Law is Language!