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**Reading Material for B. Com LL.B. X Semester**

## **INTRODUCTION TO LEGAL LANGUAGE AND LEGAL WRITING**

Law and Language

The law is a profession of words.

- David Mellinkoff

Language is the principal medium and a superb gift for the human beings to communicate their thoughts, ideas, views, opinions, feelings and emotions. It is an inevitable statement that like other spheres of study, law also is greatly reliant on language. Knowingly or unknowingly; directly or indirectly; willingly or unwillingly we are associated and surrounded by legal language. Right from our birth through the Birth Certificate to our death (through the Death Certificate), we are associated closely with the legal language and legal documents. Almost everyone talks of rights (though few think of their duties). Today in the age when we are governed by Information and Technology and everyone is enchanted by Android and windows, legal texts have become more common in our lives. Right from the admission of the children to school to travelling and shopping, legal transactions or laws, rules and regulations are involved. Whether it is a loan process applying for passport or license or medical certificates or deals and agreements, legal language is the soul of all of these. Before the constitutional laws came into force, the god-given laws would be governed or the laws in the name of God would be governed. Legal rights, duties, rules and regulations and obligations were incorporated in the form of

contracts, wills, deeds, notices etc. Whether it was natural law or dictates of God or will of sovereign or welfare law aiming to serve justice and interest of society, laws communicated through language has been the part and parcel of the society. Even in those days, laws were in force and so were language and the legal language. It can be briefly said that law and language have been associated with the human beings right from the time immemorial. It is the interpretation of laws through language that has mattered. The aim has been the maintenance of a stable, peaceful and orderly society which has been enhanced by laws ensured and interpreted through language. Both law and language have evolved slowly over a long period of time. Both of them have been modified considering the adaptability of the society of the time over the years.

It is quite interesting to note the origins of the words 'law' and 'language' and find some commonalities between them. The word 'language' is derived from the Latin word 'lingua' that means tongue, whereas the word 'law' is taken as an derivative of the verb 'leggja' which means laydown. Right from the Anglo-Saxon to the classical languages like Latin and Greek; from the old English and French to simple English of today, language as well as law has gone through remarkable changes. Adaptability and acceptability are key features of both law and language which is evident in the significant evolution of law and language.

There is a very deep and subtle relationship between law and language. They are interdependent. Law is governed through language whereas language is also governed by laws (grammatical, syntactic etc). Laws are coded in language and both occupy every sphere and walk of our life. The legal fraternity uses language in order to articulate, discuss and implement laws.

Commenting upon the relationship between law and language, Prof. M.L.A.Hart in 'Concept of Law' opines that language has an 'open texture'. In 'Law Language and

Communication’, Probert emphasizes ‘word’ consciousness’ in law. Logical sense is equally important that way. Many legal terms are ‘value impregnated’ without serving any rational function as per Glanville Williams. Robert M. Dworkin views that “We are all beneficiaries or victims of what is done to the language we share”. (Quoted, Tandon and Behl 02)

Law has occupied our life through language in the guise of rights, duties, wrongs, Acts of Parliament, Cases, Reports, documents like contracts, licenses, applications, forms, wills, agreements, transfers, notices, deeds; Court pleadings, summons, briefs, arguments, judgments; legal texts like books, journals, references, correspondence and so on. One has to be very cautious while using language in law as a slight misinterpretation may change the things significantly. Lord Mansfield has rightly said, “Most of the disputes in the world arise from words.”(Quoted, Tandon & Behl 2) Hence, proper study of grammar, punctuation, spelling, syntax, diction is quite necessary to say what is actually intended and desired. Vagueness, ambiguity, lengthiness, verbosity and complexity are the defects in legal language arising out of the linguistic incompetence and stylistic defects. This necessary shows the close or rather inseparable relationship between law and language. Both are intertwined and interwoven in a fabric which is a very interesting topic of study. Hence, the study of the language used in the legal discourse i.e. legal language is imperative. Whatever the form of legal writing, both legal and language skills are significant.

Though ignorance is bliss, ignorance of law is no excuse. It is rather contradictory. The knowledge of law is necessary and language should not be a barrier between the laws and the persons who want access to it. Law should be then intelligible to all. In order to support this, the remarks of Peter Tiersma are imperative to be quoted. He says:

“Legal language must be judged how clearly, concisely and comprehensively it communicates rights and obligations conferred by the Constitution, opinions expressed by courts, regulations embodied in statutes, promises exchanged in contracts. But unfortunately, a large chunk of legal text is shrouded in a dense, complex maze of archaic, verbose vocabulary.” (Quoted, Tandon and Behl 10)

However, the language of law is so different (though not difficult) that a layperson cannot understand it easily or without the help of a legal expert. Many innocent and less educated people have been cheated and deceived on account of their ignorance of the laws. They blindly sign the documents and later on face the consequences. It's in banks, insurance policies, share market, Medical insurance, loans, deals and decrees, where people are usually deceived on account of their ignorance and sometimes casual-careless approach. Nevertheless, the so called educated too fall prey to it as they blindly agree to the conditions laid by the app providers in Smartphones. The knowledge of laws and rights has become more important today than ever before. It is directly connected to an individual's life and career. Globalization, privatization, liberalization, internet, web, Smartphones, computers have brought many developments in their train in the era of Information and Technology. However, along with the development, they have brought hazards as well. Smartphones are blissful. However, there is great negligence on the part of the users. It is a ridicule and great concern that many of us 'agree' to the terms and conditions laid down by the app providers least bothering about the contents. This is horrible and can be hazardous. The Google apps often get it agreed to view and access our personal data on our Smartphone. Better to speak least about the hacking. Call Recording without permission is illegal but many app providers, after getting consent that it is legal in our country, give us permission to download and use the app. This is due to terrible negligence on the part of the users.

In this context, it has to be discussed whether we should carry on with the same intricate legal language which is beyond the understanding of the laypersons or bring in easier and simpler-user-friendly legalese?