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

THE USE OF JARGONS

The foreign words and the technical vocabulary constitute a great bulk of legalese. Such words are often termed as legal jargon. Before going into the details of the legal jargon, here is a look at the meaning of jargon.

Jargon is a type of language which is used in a specific context and may not be well understood outside of it nor may have much significance. The context can be an occupation or profession or an academic field though any group can have its own jargon. The special vocabulary of a profession distinguishes it from the other fields. This special vocabulary that is expected to be understood by the persons belonging to the profession is termed as jargon.

Jargon is thus “the technical terminology or characteristic idiom of a special activity or group”. (Wikipedia)

Some of the examples of legal jargon are ‘black-letter law’, ‘boilerplate’, ‘case at bar’, ‘case on point’, ‘case on all fours’, ‘chilling effect’, ‘conclusory’, ‘decedent’, ‘grandfather clause’, ‘a hypothetical’ (used as a noun, as in a good hypothetical is hard to find), ‘instant case’, ‘judge shopping’, ‘predecease’, ‘sidebar’ and numerous others.

Precision and efficiency of communication are the main aims targeted by the jargon. The widely accepted and extensively used words are retained so as to give specific meaning which helps to avoid circumlocution. However, all this is done at the cost of simplicity and comprehensibility. Jargon has been indirectly discussed under

other heads. But here is another attempt of the foreign and technical words which appear jargon.

Bassey Garvey Ufot (6-7) classifies jargon as true jargon and pseudo jargon. The following examples have been given in the scholarly paper:

A. True Jargon

1. addendum (Latin) an addition; something added
2. affidavit (Latin) a written declaration made upon oath
3. alias (Latin) an assumed name
4. alibi (Latin) the excuse of being elsewhere when a crime was committed
5. arson (Old French; Latin) a crime of willfully setting fire to property for purposes of mischief
6. assault (Old French; Latin) an intentional or reckless act which results in immediate and unlawful violence to another
7. bail (Old French; Latin) money for temporary release of a suspect who must appear in court or it is forfeited
8. battery (Old French; Latin) unlawful physical violence against a person
9. defendant (Old French; Latin) a person against whom a court action is brought
10. equity (Old French; Latin) decisions based on principles of natural justice and fair conduct
11. exhibit (Latin) a document or object produced as evidence in court
12. felony (Old French; Latin) a (serious) crime

13. fiduciary (Latin) trustee; a person who acts on behalf of another in relation to his beneficiary
14. homicide (Old French; Latin) the killing of a human being by another person
15. libel (Old French; Latin) a written offensive material considered injurious or defamatory of another person
16. lien (Old French; Latin) right to retain possession of another's property pending the discharge of a debt
17. litigate (Latin) to bring a lawsuit
18. manslaughter (Old English) the accidental killing of another human being
19. murder (Old English; Latin) the unlawful and willful killing of another human being
20. perjury (Old French; Latin) the offence of giving false evidence under oath in court
21. plaintiff (Old French) a person who brings a civil action
22. proviso (Latin) a clause containing a condition; a condition
23. quash (Old French; Latin) to make void or invalid; cancel
24. res (Latin) matter; issue or object
25. slander (Old French; Latin) a spoken offensive material considered injurious or defamatory of another person
26. subpoena (Latin) under penalty; a writ issued by a court requiring a person to appear in court

27. tort (Old French; Latin) a wrong arising from an act of commission or omission without regard to a contract

28. treason (Old French; Latin) betrayal of, or crime against, one's country

29. trespass (Old French; Latin) to intrude or encroach on another person's private property, privacy and rights

30. writ (Old English) a sealed document ordering a person to do, or refrain from doing, some specified act

It is interesting to note that much of the words mentioned above are derived from Latin. They are retained for giving precision and stability in the meaning.

Bassey Garvey Ufot (7) notes the words like *manslaughter*, *murder*, *quash* and *trespass* to which have been termed as true jargon as having no exact English equivalents. The scholar further believes that morphologically also, most of such (legal words) lexical items have no affixes reinforcing their ease of pronunciation. It has been said that due to this ease, such words are preferred. In order to focus on the syllabic structure of such lexical items, it has been found that there is noticeable variety with words of two and three syllables predominating. The scholar gives the following systematic chart to exemplify and justify:

monosyllables	dissyllables	trisyllables	polysyllables
bail	alias	addendum	affidavit
lien	arson	alibi	fiduciary
quash	assault	defendant	
res	battery	equity	
tort	libel	exhibit	
writ	murder	felony	
	plaintiff	homicide	
	slander	litigate	
	treason	manslaughter	
	trespass	perjury	
		proviso	
		subpoena	

The afore mentioned words, which are mostly nouns and which are otherwise termed jargons, are not much complex morpho-phonemically. Moreover, most of the words are nouns. According to Bassegy Garvey Ufot (7) “It is the result of the dual most important linguistic phenomena in the legal profession- naming and conceptualization. Nouns i.e. the nominal overpowers the other parts of speech.”

B. Pseudo-jargon

The lexical items that no more appear to be jargon because of their extensive use in legalese and journalese are termed as pseudo jargon. Here is a list of ten of the most popular of these expressions. Bassegy Garvey Ufot (8-9) lists the pseudo jargons:

- 1.ab initio (Latin) from the start
2. amicus curiae (Latin) friend of the court; a person who is not directly involved in a case but advises the court

3. *ex parte* (Latin) motion or injunction on behalf of one party only in a court case
4. *habeas corpus* (Latin) you have the body; an order for a detainee to be brought to court
5. *interlocutory injunction* (from Latin) a provisional pronouncement in the course of court proceedings
6. *locus standi* (Latin) a place for standing; the right of a party to appear and be heard in court
7. *mens rea* (Latin) guilty mind; a criminal intention or knowledge that an act is wrong
8. *pari passu* (Latin) with equal speed or progress; the right of creditors to receive assets equally from the source
9. *prima facie* (Latin) at first sight; evidence as it seems at first
10. *sub judice* (Latin) under judicial consideration; a rule which makes it an offence to make comments which might prejudice a case in court

It can be seen from the above list that there is predominance of the Latin-origin words besides the words or lexical items from Old French which constitute the legal lexicon. Bassegy Garvey Ufot (9) thinks that they are frequently deployed more for purposes of bombast than for the registration of information. It is further said, “Lexical items such as *pari passu* and *prima facie* are often employed in facetious contexts and serve the bombastic needs of the modern journalist or prestige-seeking expert.” However, the scholar does not find them desirable in the serious academic texts and contexts.

It can be summed up that many jargons (which are termed as pseudo jargons) have been used so extensively, usually and frequently that they no more appear to be

jargons. The unusual words have been used so widely outside the legal discourse that they appear to be belonging to the general discourse. They are mostly found in the journalese or the journalistic writing and the electronic media. They appear to be clichés.

“A cliché or cliché is an expression, idea, or element of an artistic work which has become overused to the point of losing its original meaning or effect, even to the point of being trite or irritating, especially when at some earlier time it was considered meaningful or novel.” (Wikipedia)

Precision is always aimed at in the legal texts in order to avoid loopholes, variability of meaning, or misinterpretation.

It has been said that the salient features of legal language often appear to be a symbol of the inaccessibility of the law to laypersons and of the astonishing cost of legal services. Solan opines: “To many, I imagine, lawyer is some sort of bizarre translating device: The lawyer is presented with a problem in the actual world, such as an automobile accident. He translates this easily understood problem into some sort of incomprehensible jargon. The judge then rules, and the incomprehensible jargon is translated into dollars owed, or prison terms, or something else that can once again be understood. For all of this translation back and forth, the lawyer charges a healthy fee”.