

Date- 26.03.2020

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

INTRODUCTION TO LEGAL LANGUAGE

What is legal language?

Simply speaking, legal language is the language used by persons related to the law field or legal profession. Legal language in the present study is English which necessitates it be called legal English as well. Legal English has traditionally been the language of lawyers from English-speaking countries viz. America, England, Canada, Australia, New Zealand, Kenya, and South Africa and so on. These countries have shared common law traditions. However, due to the colonial forces early on the trends of globalization, privatization and liberalization, import and export-international business, it has now become the language of the globe. It has become a lawspeak, speaking informally.

Hence, the language used by lawyers, judges, jurists, legislative draftsmen and other persons related to law fraternity is legal language. 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).

Ashok Kelkar, a veteran law (legal) expert identifies five types of situational contexts wherein legal discourse or communication is evident (quoted, Tandon & Behl 4):

- The law giver to the judge and the counsel.

□ The judge to the counsel and vice versa-judgments, briefs, courtroom exchanges and so on.

□ Consultation among judges, counsels and men of law as part of legal discussions. This may be termed as informal as it takes place outside the court in the chambers of judges and advocates, offices of lawyers etc.

□ Judge to the jury; counsel to the client and vice versa.

□ Between ordinary citizens. This may include contracts, wills, agreements, bylaws, notices and other drafts.

The legal language or the legal English takes into its fold its use in the context of-

- legal documents: contracts, licences, etc.
- court pleadings: summonses, briefs, judgments, etc.
- laws: Acts of Parliament and subordinate legislation, case reports
- legal correspondence

National constitutions have come into existence by means of written language; laws and statutes are enacted, and contractual agreements between private individuals take effect.

There are different types of legal writing and all of them can be grouped together in the legal language. Though they differ marginally, the differences do exist. Goddard (2010) has discussed the following kinds of legal writing: (a) academic legal writing as in law journals, (b) judicial legal writing as in court judgments, and (c) legislative legal writing as in laws, regulations, contracts, and treaties. It is interesting to note that the legal English used in the academic writing which is reflected in the law journals, theses, dissertations, research papers and books is quite different from the

legal English found in the court judgments and in the laws and contracts. The purpose of writing and the intended readers determine the linguistic style of the legal writing. The academic touch and discursive note is quite evident in the journals and books. Legal English in the judgments differs primarily because the intended reader is usually a lawyer or lawyers who will in turn interpret the meaning to their clients. It is more authoritative and is more direct as well. The legal English found in the laws, contracts, treaties and agreements differs as it has the binding effect on the readers who could be the beneficiaries.

Apart from the above cited three types of the legal language(s), one more variety can be added which is the user/reader-friendly legal language used by the lawyers in order to communicate with their respective clients especially when they (and mostly the former i.e. the lawyer (s) are discussing a legal topic necessitated by their case (s). hence, a legal expert or the person belonging to the law field communicating and interacting with a layperson uses legal language which is distinct from other three legal writing discourses. Hence, it is a variety within a variety; a register within a register. It is a legal discourse with more and more communicative competence and has more common words than found in the other three kinds of legal writing.

One more variety can be added. When two persons not necessarily belonging to the legal field interact on a legal theme or topic, then also it would be termed as legal language. There would be minimum legal words and maximum everyday words. It is quite interesting and equally imperceptive to note that there is significant difference in the written legal language and the spoken legal language. Spoken language in legal discourse is equally essential. It comprises of the interrogation of plaintiffs and defendants in a courtroom, the testimony of witnesses, the pleadings by attorneys, their arguments, the cross examination, or the instructions from a judge to a jury.

Legal language is no distinct language as such. It is the contextual variety of any language. Hence, legal language in general sense can be Marathi, Hindi, English or any language that has been used in the legal discourse or law filed (s). However, if the world panorama is taken into consideration, English is used as the legal language all over the world. As legalese or legal language is not a separate or distinct language as such, the veteran linguist and Sahitya Akadami award winner Prof. Ganesh Devy claims that legal language is not a language but a register. It becomes imperative here to have a look at register and discuss how it is different from a language.