

# THE MAIN CHARACTERISTICS OF ENGLISH LEGAL LANGUAGE

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## ABSTRACT

The aim of this paper is to describe the development of English legal language through history and to present its most salient features. First of all the influence of the Anglo-Saxons on this type of language, then the influence of Christian missionaries in 597 A.D. who introduced many Latin terms in English legal language and the Norman invasion in 1066 A.D. which made the French language an official language in England. French, Latin and English were used simultaneously up to 1730 when English became the only official language of English legal system.

The language of the law is a specific type of language which consists of one part which is general language code and another part which is normative legal language. It differs from general English in several segments: a) legal language contains long, complex sentences, b) English legal language uses terms which are unknown to non-professionals, c) there are words from general language which have special meaning in law, d) impersonal and passive constructions and nominalisations are characteristic for legal language, e) legal acts are written in an unemotional, unexpressive and rational language, g) the modal verb “shall” has an uncommon usage in legal language etc.

English legal language is a separate part of general English with its own lexical, semantic and syntactic features and it is a part of the ESP (English for Specific Purposes) language family.

**Key words:** English legal language, general English, complex sentences, passive constructions, nominalizations, English for Specific purposes

## Introduction

English legal language is considered as a language subsystem used by all legal persons who pronounce legal norms, both general and specific, by lawyers and other legal persons in the course of their practical and scientific work. Here we also take into consideration legal written language which can be found in legal documents like contracts, warrants, court documents, court invitations, verdicts, judicial reports, laws, judicial precedents and legal correspondence.

The language of the law as a specific language subsystem consists of one part of general language code and of legal language which represents the normative legal code. The actual application of the elements of the language of the law is realized by means of language legal actions or *legal discourse* – oral or written which produces the so called *legal messages*. Legal speech is used in pronouncing general legal norms, and specific (particular) legal forms (sentences, decisions), legal reports, complaints, testimonies, verbal offences etc. The written form of these legal actions are *legal acts*.

One of the main characteristics of English legal language, as well as of other legal languages is their difficult comprehensiveness, “remoteness” and complexity for people who are not in this profession. One of the reasons for this is the fact that some old documents and reports of old cases, especially in the English legal system are of great importance and their reformulation may bring about ambiguity, which ambiguity may be used by some people as legal loophole. That is why when governments bring new laws they often use formulations of older laws.

## The historical development of English legal language

Contemporary English legal language is based on standard English, but it also contains some specific characteristics concerning terminology, linguistic structure, punctuation etc. which are the results of the historical development of English legal language.

First of all the Anglo-Saxons had great influence on this type of language, and many Anglo-Saxon words have been retained up to present, for ex. *writ, ordeal, temptation, witness, oath, moot* etc. In 597 A.D. the Christian missionaries arrived in England and they introduced many Latin terms in English legal language (*ad hoc, de facto, bona fide, etc.*) The influence of Christianity and the Latin language was significant because they stimulated writing, which had later great impact on the development of law. Although Latin was incomprehensible for the majority of the population, this language developed communication in conditions when there were no standards in written language.

In 790 A.D. The Scandinavians (the Vikings) started attacking the English coast and settling down, but apart from the crucial word “law”, which is of Scandinavian origin there are not many words from this language in English legal language.

The Norman conquest in 1066 placed the Normans, who spoke French, on almost all important positions in England, so French became the official language and that is why a great number of English words referring to government and ruling are of French origin. At the beginning the Normans used Latin more often than French as written language in the field of law. The statutes written in French appeared 200 years after the Norman conquest and remained up to 1480. The use of French language in the courts is connected with the expansion of the jurisdiction of the Crown courts in this period, and French was the language of the Royal family and of nobility. It is in this period when the class of professional lawyers appeared.

During this period the Latin language continues to be used as the language of the law and is known as "Law Latin". The proverbs from the field of law are still used in Latin, many titles of acts (*mandamus, certiorari* etc.), the terminology in the names of the cases (*versus, ex rel.*), expressions like *ad hoc, inter alia, vice versa, inter vivos, habeas corpus, prima facie* and many others, as well as the irregular plural of many nouns as : *referendum-referenda, criterion-criteria, corpus-corpora, moratorium-moratoria* etc.

The French language was gradually pressed out from everyday usage and became only the language of jurists, known as Law French. French was retained in legal usage because this language enabled more precise communication due to its wide technical vocabulary, but at the same time expressed the conservatism of the lawyer's profession, because lawyers wanted their profession to remain incomprehensible and remote for common people. Some characteristics of French legal language from this period remained in the contemporary English language, as for example adding an initial *e* to words like *squire-esquire*, then compound nouns in which the adjective follows the noun, for example *attorney general, court-martial, Lords Spiritual, Lords Temporal* etc. as well as many basic words in English legal system as *agreement, arrest, estate, council, plaintiff, plea* etc.

English jurists were trilingual using French, Latin and English up to 1356 when the Statute of Pleading was enacted, which stated that all legal proceedings should be conducted in English (but recorded in Latin). Since the system of law inherited by the English-speaking nations, the common law, is based on tradition for the most time of its history it was never written down and has still, to some extent, remained uncoded.

Nevertheless the written form of English legal language gradually became more and more significant especially with the invention of printing, so nowadays only the statutes which were written are relevant as well as the written form of judicial decisions which brought about the appearance of judicial precedent as one of the main sources of English law.

## Specific characteristics of English legal language

Taking into consideration the basic elements of language – phonetic, morphological, lexical, semantic, syntactic and pragmatic, the language of the law belongs to one general language system, i.e. the English language system. English legal language is a subsystem of the general language and has acquired most of its formal and semantic features from it. Nevertheless this language subsystem is one special language, a register which differs from the standard, general language in many features.

The specialty of the language of the law can be seen on all language levels, except the phonetic one and the differences between the language of the law and the general language show in their semantic features – when the legal system creates its own language elements or in the frequency of usage, i.e. when in the legal language some elements of the general language are used more or less often than in everyday language.

If we compare the language of the law with general language or with other specialized languages we will find four levels of expressions and meanings.

The first layer of this language consists of unchanged elements of general language like all morphological categories (nouns, verbs, adjectives, pronouns, numerals, adverbs, adjectives and others as well as the grammatical categories (tense, number, gender, person etc.) which in legal English are used in their original form and function. Nevertheless they are used rather selectively, some of them very often, some of them not so often, and some almost never. Generally speaking the choice of language elements is poorer in legal language than in general language or in the literary one. Namely the following nouns and verbs are very frequent in the language of the law: *person, thing, will, parents, money, regulation: must, may, will/shall, decide, deprive*, etc. whereas others occur rarely or almost never as for example *love, friendship, , flower, sleep, fancy, shave* and many others. The greater frequency in the usage of the first group of expressions is due to the fact that they signify relations which are essential for the existence of one social system and conflict of interests which endanger that system, whereas the smaller frequency of the usage of the second group of words is a consequence of the fact that they do not express so important and conflicting social interests.

The second layer of English legal language contains modified elements of general language, and that means mixed ordinary and specialized terms and meanings. Namely because of the needs of the legal system to accomplish greater accuracy in defining legal relations and other factors in the normative-legal code, it was necessary to transform many expressions and meanings from everyday language, i.e. to widen or narrow their meaning by means of normative definitions from the legal science or legal practice. Such examples of semantic extension are for ex. *law, property, theft, guilt, residence, marriage, separation* etc, which have retained part of their meaning in general language and are understandable to people without legal education, but on the other side have one special, additional meaning which is comprehensible only to jurists.

The third layer of English legal language contains purely professional legal terms, created by legal experts and defined in accordance with the needs of legal communication. These terms are sometimes well-known words or expressions from everyday language like *sources of law*, *legal remedies*, *legal person* etc. which have in a way lost their original meaning and gained a new, professional meaning which is unknown and incomprehensible to legal laymen. Here we also have words which are totally unknown to legal laymen, words like *replevin* ( a return of ownership), *nemo dat* ( a principle of lack of the right of acquiring ownership from a person who did not legally have that right) etc. There are also words which are formal and which are not understandable by many people because they are very old and are used only in law. Such words are *hereinafter* (further on in this document), *aforesaid* ( the above mentioned) etc.

The third layer also contains words and expressions of Latin origin which are numerous in English legal language, like *legal act*, *conversion*, *bilateral*, *contract*, *clause* etc. as well as the original Latin terms and syntagms which are used in their unchanged forms and have international meaning. Such expressions are : *res iudicata*, *vacation legis*, *corpus delicti* , *habeas corpus*, *prima facie* etc.

The second and the third layer of the language of the law is called *legal language* which represents the nucleus of the legal discourse and the main bearer of the significance and function of legal system and an object of linguistic research in the field of law. This language is created, systemized, learnt and used by jurists as a separate sociolinguistic group.

One of the basic characteristics of legal language is the existence of many archaisms. The fundamental law of the two greatest forces of English speaking territory, Great Britain and USA was established a long time before the fundamental laws of other nations and that is why many legal documents which are still valid are written in archaic English language.

Finally, there is the so called fourth layer of the language of the law, the so called non-legal professional terms which include all political, economic, medical, scientific and other technical terms which have been accepted by the legal system, especially in conditions of extended legal regulations in the contemporary world which encompasses all segments of social and economic life.

As we mentioned above English legal language differs from standard English language in several segments.

a) Research has shown that legal language is characterized by long, complex sentences which consist of several dependant clauses . Sometimes it appears that there are attempts for a whole statute to be expressed in one, single sentence, although that same statute can be expressed by simpler sentences and not lose anything from its content. That means that in fact there is no justification for the existence of such long and complex sentences. Lawyers very often use long sentences, full of unnecessary words and phrases, for example *at slow speed* or *subsequent to* instead of the simple words *slowly* and *after*.

b) English legal language, as well as other foreign languages for specific purposes, uses terminology which is unknown to people who are not part of the legal profession. Such are the terms and phrases like *waiver*, *injunction*, *specific performance*, *accessory before the fact*, *vicarious liability*, *terms of year absolute*, *tenancy at will* etc.

c) On the other hand, there are words from English general language which have special meaning in law. Such words are for ex. *consideration* which in general English means careful thought and attention whereas in law it means the right or benefit when entering a contract, *redemption* means being saved (from sins) and in law it means the return or repossession of property offered as security upon payment of a mortgage debt ; *nuisance* somebody or something that annoys you or causes trouble whereas in law it means a civil wrong, or tort; *case* means box or container and in legal language it is a problem that will be dealt with by a law court.

d) Impersonal constructions are also one of the main features of legal language, i.e. avoiding personal pronouns for the first and second person singular and plural (I/we/you). The judges prefer to use the word *the court* to the pronoun *I* in order to create an impression of objectivity and authority. Another characteristic is the repeating of nouns instead of using personal pronouns, because pronouns may sometimes have unclear reference, so in this way a greater accuracy is being achieved. For ex.” *The player promises the player will play ...* “

e) The passive constructions and nominalizations can be found very often in legal language because in that way we avoid distinguishing the performer of the criminal action who is unknown at the beginning (*The girl was injured at 5.30 p.m.*) . The passive constructions are very frequent in court orders because of their impersonality which gives a note of objectivity and authority. However, in contracts these constructions are not so frequent because here the doers of the actions, i.e. the parties must be specified.

f) Besides impersonality which is very often, legal actions and legal acts are also characterized by lack of emotions and expressiveness and great rational objectivity. In legal documents people describe, explain, draw conclusions or demand something without emotions, narration nor fantasy in contrast to individual speech and literary language. But of course there are parts of legal communication where there is freer and emotionally coloured expressions of people as for example during testimonies, in complaints and appeals of citizens, in the speeches of the counselors of the prosecution and of the defence. In such cases emotionality is not only allowed but it is appreciated and functional , especially in lawyers` speeches. Sometimes in courtrooms and parliamentary halls, amidst cold and monotonous legal language we can hear highly emotional legal rhetoric initiated by the passion of the conflict between the opposing parties.

g) Due to all abovementioned lexical, semantic and syntactic characteristics, English legal language can be qualified as very meager, monotonous and repetitive. This type of language avoids free and open language combinations, narration, metaphors, dialects (except in interpreting the statements of the parties in a lawsuit) which make this language mainly monotonous and

stereotype. As far as repetition is considered, it is very typical of the legal discourse, and it is a result of the mere nature of law, which means that lower legal actions and acts are performed within the frames and repetition of the higher legal actions and acts.

h) Legal vocabulary abounds in *archaic morphology* as for example the unusual usage of some forms like *the same, the said, the aforementioned*. It is interesting that these pronominal forms in legal texts do not replace the noun – which is their main function, but are used as adjectives which modify the noun, for example *the said Mr. Jones* (the abovementioned Mr. Jones). The usage of pronominal adverbs like *hereof, thereof, whereof, herewith, thereunder, whereto, hereto, and others* are specific for legal terminology as a way to avoid names or objects. For ex. *My signature hereto appended to this (document)* meaning *My signature is added to this (document)*.

i) The lack of punctuation is also one of the main characteristics of old legal documents because lawyers and jurists in the past thought that punctuation is unnecessary, even confusing and that the meaning of legal documents is much clearer without using punctuation. In contemporary legal documents punctuation is used with the same function as in general language.

j) The usage of two or three words with approximately the same meaning in one phrase as for ex. *in null and void, fit and proper, perform and discharge* etc. is common in legal English. These combinations have come from Anglo-Saxon language which produced phrases in which there were two words with similar meanings and alliteration as for example *to have and to hold*. In the so called *Legal French* (French legal language) there were doublets in which one of the words is of English and the other of French origin. Such are the following examples: *acknowledge and confess, had and received, will and testament, fit and proper* etc.

k) There is an unusual word order in some legal documents as for ex. *a proposal to effect with the Society an assurance* which was taken from an insurance policy. These unusual structures are characterized by separation of the subject from the predicate, separation of compound verbal forms which leads to reducing comprehensibility. There is also the usage of various types of subjunctives which are not present in contemporary English language. Such is the example with the subjunctive which consists of a verb in infinitive form and expresses approximately the same meaning as the verbs *let* and *may*. This usage which is very formal and old fashioned is still present in English legal language. Such is the example of the British enactment clause which appears in the beginning of all statutes in Great Britain and states: *Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled and by the authority of the same ...* Besides subjunctive this clause contains some other characteristic features of English legal language as the word order influenced by the French language (*Lords Spiritual and Temporal*), formal language (*Queen's most Excellent Majesty*), unusual word order (*in Parliament assembled*) and conjoined phrases (*by and with, advice and content*).

l) In English legal language the appearance of nouns which end in *-or* and *-ee* is very common, for example *employer/employee, lessor/lessee, mortgagor/mortgagee* etc. This phenomenon originates from Latin language.

m) The modal verb *shall* has an unusual use in legal language, because whereas in general language this verb expresses future tense or offer, in legal language it is used for expressing order or obligation. For example: *The Congress shall have power to enforce this article by appropriate legislation* (obligation). But *shall* is also used in legal language in promises and declarations. Thus in concluding contracts, the parties give promises and these promises are expressed by the modal verb *shall*, although the modal *will* can express more precise meaning.

## Conclusion

From all above stated examples and analyses we can conclude that English legal language represents a special part of general English language and has its own specific lexical, semantic and syntactic features and is a part of the big language family called ESP (English for Specific Purposes).

The English language is beginning to dominate in international business relations and it has become clear to the international legal community that studying general English language is not enough for satisfying the needs of all those who deal with the legal profession in English. That is why all those who professionally deal with law, and for whom the English language is not their mother tongue, need specialized courses in legal English, as well as consulting law dictionaries, course books, and grammar books in legal English.

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