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### Forensic Linguistic Features of Judgement Texts

**Abstract:** The present paper deals with the analysis of judgement texts. The common people often find legal language strange as it is different from day-to-day language. Legal language is a distinct variety due to features like use of technical terms, foreign words, repetition and impersonal style. The paper deals with forensic linguistic analysis of six judgement copies in civil cases. This analysis is focused on the use of morphology, adverb and adverbials, syntactic complexity, complex sentences, complex prepositions, binomial expressions, legal archaism, archaic Latin-French terms, negative words and religious expressions in the collected data. The use of common terms and simple sentences can be encouraged to make judgement copies more comprehensible and easy to understand. At the same time redundancy

and legal archaism can be avoided. These changes will make legal texts easy to understand for common people.

Keywords- Common people, Comprehensible, judgement texts, legal language, linguistic analysis.

#### Introduction:

Halliday's functional theory of language focused on meaning-making social practice and complex contexts. Context is socially built up and vital. Legal language is entirely context-related. Common people often find this language strange as it is exclusively used by judges, lawyers, police and law enforcement officers. Legal texts are full of meanings. The language of law is different from the common language. It has kept its special position for centuries. A layperson cannot create and understand legal texts. Mellinkoff (1963, 3) defines the language of law as, 'the customary language used by lawyer and includes distinctive words, phrases, mode of expression, certain mannerism of composition not exclusive with the profession but prevalent to have formed a fixed association.' Since the legal language is a product of society, jurisdiction and legal profession, it has changed over many centuries

#### Historical Background:

The use of English language began around 450 A.D. with Angels, Jutes, Saxons and Frisians arriving from the continents. Anglo-Saxons were illiterate and wanted to remember the law, they started using rhyme and alliteration in phrases like - *have and hold, rest, residue and remainder*. Many Anglo-Saxon kings created written codes of law. There are some traces of Anglo-Saxon legal language as in - bequeath, goods, writ, oath, sheriff and swear. With Norman Conquest in 1066, the use of Latin for court records started, it remained until the 18

Th century. Many Latin maxims still exist in legal language, like *caveal empter*, *deminimis non curat lex*.

In the 13 century, legislative writing started using French. The royal household switched to English by early 1400s. Only lawyers used French as professional language. In 1480 Acts of parliament was written in English but legal treaties and reports of courts remained French throughout 16 th century. French left strong influence on English vocabulary, for example, appeal, *attorney*, *claim*, *jury*, *summons*, *verdict*, *voir and dire*. Modern legal English is mainly a mixture of old French, Latin, Greek, German, Dutch and variety of other languages. Colonialism, therefore, was an important factor in the development of legal English.

There is a wide range of the types of legal text like *contracts*, *judgements*, *product warnings*, *notices*, *jury instructions*, *statutes*, *court orders*, *trademarks and wills*. The researchers have focused on linguistic features such as lexis, syntax, semantics, and pragmatics in the analysis of these documents. In fact, the language of legal texts is highly complex in terms of structure and syntax.

#### Linguistic Features of Legal Text:

The law is a system of rules that must be obeyed. The legal language works as a means of spoken and written communication to share and exchange information in legal context. A layperson has never been able to create and understand legal texts. There are number of features that make legal writing a distinct variety. Some of them are discussed below.

#### Technical Terms:

They are pure legal terms. Laypersons know some of them, like *patent*, *royalty etc...* but other are only known to lawyers, *e.g. bailment*, *abatement... etc*. There are some common words with uncommon meaning, *e.g. attachment*, *action*, *consideration*, *execute*, *party..etc*.

The legal vocabulary has words with ordinary as well as legal meaning. The ordinary meaning of the lexicon *instrument* is a device used for making music but in legal set up it could be document

#### Foreign Words:

There are many foreign words and phrases in legal English, most of them are Latin and French. These foreign words have undergone the process of transliteration or the direct borrowing process, e.g. *versus, prose, negligence, adjacent, quit, subscribe.etc.*(Latin), *attorney, counsel, default, defendant, evidence, jury, party, sue, verdict...etc.*(French)

#### Synonymy:

A legal document has to be effective and drafters always pay attention to this, many synonyms are in use in legal writing as in *able and willing, dispute. Controversy or claim.*

Binomials have two lexical units, they can be noun, adjectives, adverbs or prepositions, which are joined by conjunction 'and', e.g. *leave and license, custom and usage, over and above, object and purpose, legal and valid ...etc.*

#### Repetition of Words:

There is no anaphoric reference in legal English, this encouraged the repetition of words. The nouns are being repeated instead of pronouns. The repetition is used in order to avoid ambiguity.

#### Syntactic Features:

The length and complexity are the most notable syntactic feature. Legal writing has a great deal of information so we often see repetitiveness, lengthy noun phrases, peculiar word order, prepositional phrases and also coordinate and subordinate clauses.

#### Nominalization:

It is a morphological process that makes the text long and difficult to comprehend. It is often observed in legal writing as lawyers don't use the word '*to arbitrate*' but '*to go on arbitration*' as the arbitration is a legally defined procedure.

#### Impersonal Style:

Lawyers often make use of certain features that reduce the agent in his identity, while emphasizing the action. There is passive voice and peculiar use of pronouns. The omission of personal pronoun is another feature, it is done to achieve maximum objectivity. The second person singular pronoun is omitted in written *will*, here the first person singular is used. When a provision applies to all, *everybody*, *everyone*, *every person* is used and in prohibition, *no one*, *nobody* is used.

Legal language is formal and objective; consequently, it is achieved by passive constructions, lengthy sentences, prepositional phrases and multiple negations. There are traces of archaic syntax in the use of certain preposition phrases such as *pursuant to*, *subject to* and so on. Archaic suffixes like -ee, as in assignee, bailee...etc. are used in the legal texts. The use of some archaic words is still in practice though they don't have any valid function. These archaic words add an air of solemnity. The examples can be seen in the words like *aforsaid*, *heretofore*. There are high number of conjoined phrases and list of synonyms and near synonyms. Legal drafting prefers nouns or nominalised verbs as in- make decision instead of decide. Legal texts are complex with multiple subordination, postponement of main verb until

very late in the sentence. There is a custom to avoid punctuation marks, full stops, commas, and semicolon. It may change the meaning of a sentence.

#### Data Collection:

To assess the linguistic features of legal text, 6 judgement copies in civil cases are collected from the online source of Bombay High Court website. The judgement copies are available in the pdf format. After collecting these copies, each copy has been analysed from the point of view of forensic linguistics to extract the features of legal text.

#### Discussion:

The analysis of judgment text showed some common features in these collected copies which has been discussed below.

1. **Morphology:** The morphological analysis showed that there is use of archaic suffixes for examples- *alienee, decree, licensees*.

2. **Adverb and Adverbials:** Adverb and Adverbials show grammatical flexibility as they modify verbs, adjectives, adverbs and entire clause. The observed examples in the selected judgements are *manifestly, maintainability, vehemently, conscientiously, arbitrarily, unequivocally, admittedly, indisputably*. They have served communication as well as grammatical function. Legal writing uses some specific adverbials to strengthen weak prepositions for example;

*He submitted that the said ban is clearly contrary to Articles 14 and 15 of the constitution of India.*

*The respondents acceded to this request subject to the compensation being determined at Rs 5000 per month as was directed by the High court previously.*

3. **Syntactic Complexity:** Judgement texts are syntactically complex as they make use of passive construction, nominalization and complex sentences.

Use of passive constructions- Passive constructions allow users to omit the actor, for example;

*Will be elucidated, an application was filed, such a situation must be distinguished, and this arrangement has been welcomed.*

Impersonal noun phrases show that law is objective and not a respecter of persons, for example;

*Plaintiff shall register, according to the learned counsel.*

Nominalization- In Linguistics, nominalization is the use of a word which is not a noun as a noun or as the head of noun phrase, with or without morphological transformation. In legal drafting often it is used, for example;

*Issuance of show cause notice, exercise of discretion, seeking condonation.*

4. **Complex Sentences**-The use of complex sentences is the striking feature of legal drafting. Lengthy and complex sentences make legal documents difficult to read and understand, for example;

*The internal complaints committee submitted a report dated 17<sup>th</sup> February, 2014 and after taking into consideration the allegation which were made by the Petitioner against the Respondent No 2 and the evidence which was produced, the committee came to the conclusion that so far as the incidents which had taken place prior to February/March, 2012 were concerned, no complaint was filed within three months thereafter as prescribed under the sexual Harassment of women at workplace(prevention, prohibition and Redressal) Act, 2013( herein after referred as “ the said Act” , for the sake of brevity) and therefore it has not considered the said allegation though they had made certain observations and given their comments on each of the incidents.*

5. **Complex Prepositions**- The use of preposition+ noun + preposition to bring more clarity is seen in the examples- *in view of, in accordance with law, in terms of, to abide by, on behalf of, as part of...etc.*

6. **Binomial Expressions and Listing**- It is used to make legal text more comprehensible, such as - *to own and acquire, peculiar and distinct, wherein and whereby, first and foremost, by and as a result of the above order, establish and maintain, chaos and indiscipline and so on.*

7. **Legal Archaism**- The presence of archaic terms can be still seen in legal writing as it makes document as there has been no objection in retaining them. The purpose might be to influence lay user and get respect for law, for instance;

*Persuant to the aforesaid, vide letter in furtherance of this, afore recorded, afore returned, pleased to grant a writ of mandamus, rule made returnable forth win by counsel, evasion instead of abidance.*

8. **Archaic Latin-French Words**- The usage of archaic Latin-French terms is seen as it makes legal writing different and specific, for example;

*Dulo lex sed lex, defacto guardia, minor is void ab initio, status-quo, cited supra, ex-facie, stricto sensu, in landem...etc.*

9. **Negative Words**- The negative words also have been in the legal documents. They are *Unbecoming, undeniable, uncalled for, no- uncertain terms, non-joinder....etc.*

10. **Culture Bound and Religious Expressions**- There are certain culture specific and religious expressions like, *dispensing justice, desexualised workplace, learned counsel, trust sought answers, where women could offer prayers...etc.*

Plain English:

Professor David Mallinkoff published *The Language of Law in 1963* to launch the plain English movement in America. Since then legal language in America and Britain underwent significant changes to make legal language more comprehensive and easy to understand. Legal language is specialized language with its words, syntactic structure and concepts related to legal system. The legal system and legal language influence each other. This doesn't mean that it is detached from ordinary language. Legal language influences everyday speech, therefore, many technical terms are now part of common language.

#### Recommendations:

It has been observed that legal language has undergone many changes but a lay person still finds it difficult to read a legal text and understand it without legal aid. There are few recommendations, like judgment copies can be syntactically simpler, Latin- French terms can be replaced with more common terms, sentences can be simple and less complex, redundancy can be avoided, and there can be minimum legal archaism. They may make language easy to understand.

#### Conclusion:

The aim of any writing is to make it reader oriented. Legal language is culturally bound specific language and it has to be objective and comprehensive. With certain changes in legal drafting, the understanding and readability can be improved

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