

## **Section two**

### **The difficulties of legal language**

Legal English as a distinct linguistic register employed by legal practitioners across jurisdictions, presents considerable challenges, particularly for individuals for whom English is a second language. This text examines the underlying reasons for the complexity of Legal English, identifying the linguistic characteristics and contextual elements that contribute to its difficulty. A comprehensive understanding of these factors enables legal professionals to adopt more effective strategies for mastering the language, thereby improving both the precision of their legal communication and the depth of their interpretive competence.

As One of the primary reasons Legal English is challenging is its extensive use of specialized terminology. Legal terms often have precise meanings that differ significantly from their everyday usage, which can lead to confusion and misunderstandings.

#### **First : Latin and French influence:**

A significant proportion of legal terminology originates from Latin and French, reflecting the historical development of the common law. Expressions such as *habeas corpus*, *amicus curiae*, and *force majeure* exemplify this enduring linguistic heritage. For individuals whose primary education was not conducted in English, such terms often present a substantial learning challenge, necessitating additional effort to acquire, comprehend, and accurately employ them within legal discourse.

#### **Second : Specialized legal definitions :**

In Legal English, numerous words assume technical meanings that diverge markedly from their ordinary usage. For instance, the term “*consideration*” denotes a valuable element exchanged between contracting parties, serving as a necessary component for the formation of a binding contract. This specialized definition contrasts sharply with the general understanding of the word as mere thoughtfulness or reflection, thereby illustrating how legal language transforms everyday vocabulary into precise instruments of legal reasoning.

#### **Third: The main problems facing legal writing in English.**

## **1. Uncertainty and Ambiguity**

Legal terminology frequently contains expressions lacking precise definition, thereby creating interpretive difficulties. The reader is often required to infer meaning from the context in which a particular term or phrase appears. For example, the word “*right*” may denote a “*claim*”, “*exactness*”, or “*justice*”, depending on its contextual application.

## **2. Inherent Incompleteness of Human Language**

Human language, by its very nature, is incomplete and imperfect. Except within the discipline of mathematics, it is virtually impossible to devise definitions that are wholly exhaustive. Legal definitions must therefore be interpreted in light of the subject matter to which they pertain. Even in mathematics, language is not immune from ambiguity when applied to real-world situations, and meanings must still be constructed contextually.

## **3. Evolution of Meaning**

The meanings of words evolve over time.

- a. Some terms acquire narrower meanings;
- b. Others expand in scope;
- c. Some undergo metaphorical transfer, wherein the original sense may either persist or disappear.

## **4. Emotive Connotations**

Certain words possess emotive or affective force, imparting undue persuasive weight to legal statements. A term performs an *emotive function* when it expresses or elicits an emotional or volitional response. For instance, the assertion “*justice requires all moral wrongdoing to be punished*” conveys a moral sentiment rather than a purely rational proposition, suggesting an intrinsic link between wrongdoing and retribution.

## **5. Penumbral or Indefinite Meanings**

Some expressions, though not strictly equivocal, remain inherently vague—such as “*about,*” “*near,*” or “*more or less.*” When such terms appear in legal documents, they may give rise to interpretive uncertainty and potential disputes.

## **6. Arbitrary Reassignment of Meaning (“Humpty-Dumptyism”)**

Lawyers occasionally assign meanings to words that deviate from their ordinary or common usage. Since linguistic meaning is, in essence, conventional, this practice risks undermining mutual comprehension. As language primarily serves to communicate thought, its effectiveness depends upon a shared understanding of the terms employed.

## **7. Rhetoric**

Rhetoric, often associated with legal discourse, possesses both commendatory and pejorative implications. Positively, it refers to the art of persuasive and effective expression, whether in speech or writing. Rhetorical questions, in particular, are designed to produce an effect rather than to elicit information, the implied answer being evident within the question itself.

## **8. Legal Jargon**

The term “*jargon*” denotes the specialized vocabulary characteristic of a particular profession or discipline. Within the legal sphere, some consider mastery of legal jargon indispensable to professional competence, while others view it as unnecessarily obscure. In its negative sense, jargon refers to pretentious or unintelligible language that hinders clear communication.

## **9. Verbosity**

Legal drafting often exhibits redundancy, employing multiple words to convey a single concept. *Verbosity* implies excessive wordiness or unnecessarily elaborate expression, while *verbiage* denotes language that is both inflated and devoid of substantive meaning. The use of archaic terms such as “*said*,” “*aforsaid*,” “*whereas*,” “*hereinbefore*,” and “*hereinafter*” contributes to this defect in legal style.

## **10. Legalism or Lawyerism**

*Legalism* differs from *legality*. While *legality* connotes strict conformity with the law, *legalism* represents an excessive or formalistic attachment to legal rules, often to the detriment of substance.

- a. It manifests as a preoccupation with formality devoid of meaning.
- b. It reflects an overly technical style characteristic of legal drafting.

Lawyers and legislators are thus advised to avoid both *legalism* and *Latinism*—the latter referring to the use of obscure Latin expressions that impede understanding.

## **11. Formalism**

Formalism denotes undue adherence to prescribed forms and ceremonies, frequently at the expense of clarity or substance. This differs from *formality*, which implies proper observance of established rules. Excessive formality in legal language results in an artificial and inflated style, laden with unnecessary pomposity and detachment from plain communication.

## **4. Solutions and Best Practices**

### **4.1 Precision in Terminology**

Legal terminology must remain consistent throughout legislative documents[17]. Identical concepts should be expressed uniformly without departing from ordinary, legal, or technical meanings. Drafting offices should maintain comprehensive terminological databases ensuring consistency across regulations and minimizing definitional conflicts.

### **4.2 Coherence and Organization**

Both statutes and judgments require logical organization and clear hierarchical structure. Proposals for legislation should employ plain language while maintaining necessary technical precision, avoiding unnecessary jargon, and establishing clear relationships among provisions[18]. Judicial decisions should demonstrate transparent reasoning through methodical progression from facts through applicable law to conclusions.

### **4.3 Minimization of Syntactic Complexity**

Modern drafting practice advocates simplification of sentence structure, active voice preference, and elimination of redundant formulations[4]. Drafters should avoid archaic legal terminology ("hereinafter," "aforementioned") and obsolete stylistic conventions, substituting contemporary expressions that remain technically precise.

### **4.4 Contextual Interpretation Frameworks**

Both drafters and judges should acknowledge that language cannot exhaust all possible factual applications. Establishing clear canons of interpretation and recognizing the role of contextual, purposive, and jurisprudential analysis in resolving ambiguity creates more predictable legal systems[19]. This approach embraces, rather than resists, the inherent limitations of language.

## **Conclusion**

Problems of legal language in statute drafting and judgment writing reflect fundamental tensions between the inherent imprecision of natural language and law's demand for certainty and predictability[20]. Neither elimination of vagueness nor production of absolute clarity proves entirely achievable. Rather, effective legal practice requires deliberate choices by drafters and interpreters to

balance clarity, precision, accessibility, and flexibility. University students entering legal practice must develop sophisticated understanding of these linguistic challenges and cultivate facility with techniques that maximize legal language effectiveness within necessary constraints.