UGC-WRO funded

Minor Research Project in English

Entitled

Legal Language as ‘English for Specific Purposes’: A Study

Submitted to

Western Regional Office, Pune of University Grants Commission, New Delhi

By

Dr. VAIBHAV JAYPALRAO SABNIS
Assistant Professor of English
Dr.Babasaheb Ambedkar Memorial college of Law, Deopur, Dhule-424002, Maharashtra

File No.23-1003/13(WRO)

March 2017
<table>
<thead>
<tr>
<th>Chapter No.</th>
<th>Title of the Chapter</th>
<th>Page No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chapter I</td>
<td>Introduction</td>
<td>1-31</td>
</tr>
<tr>
<td>Chapter II</td>
<td>Legal Lexicon</td>
<td>31-61</td>
</tr>
<tr>
<td>Chapter III</td>
<td>Legal Syntax</td>
<td>62-90</td>
</tr>
<tr>
<td>Chapter IV</td>
<td>Legal Style</td>
<td>91-112</td>
</tr>
<tr>
<td>Chapter V</td>
<td>Conclusion</td>
<td>113-119</td>
</tr>
</tbody>
</table>

*Bibliography* | 120-127
CHAPTER I
INTRODUCTION

1.1 Preface:

Legal Language and ESP i.e. English for Specific Purposes have an indivisible relationship. The language used in the legal discourse worldwide is English. However, the English used in the legal discourse is distinct from the usual-general English. It is the English used with specific purposes in mind. Hence, legal language needs to be approached as English for Specific Purposes.

The term ESP refers to the language use that focuses on the specific communicative needs and practices of particular social groups. English for Specific Purposes is a sphere of teaching English language that includes Business English, Technical English, and Scientific English, English for medical professionals, English for waiters, English for tourism, English for Art Purposes and others. ESP is defined to meet specific needs of the users. ESP is centered on the language appropriate to the specific activities related to a field of discourse in terms of grammar, lexis, register. ESP assesses needs and integrates motivation, subject matter and content for the use in the relevant domain of use.

English has the unique distinction of being India’s integrating language. The speakers of Chinese and Spanish are more in number but English is the language that is used in the significant fields of business, commerce, medicine, technology, research and law. Its stretch is in about one hundred and fifty countries of the world. This necessarily shows that English is used differently in different situations for different purposes. Such distinct use of English for a specific or special purpose leads to the approach called English for Specific Purposes (ESP). In international bodies like the UN, International Court of Justice, International Labour Organization (ILO) and the International Olympic Association (IOA), English is used for communication.

Legal English i.e. English in law discourse (or English of law field) is one of such distinct varieties. Legal language (English) is made up its own specific characteristics. It is illustrated through the spoken exchanges in a court between lawyers and witnesses in a cross-examination. It is noticed in the relatively standardized instructions given to jury members who are required to express a
verdict in a court case. It includes the jargon employed by members of the legal profession in interpersonal communication. Mellinkoff defines this specialized lexis as ‘argot’ (17). Legal English is found used in the written language in case law, law reports and prescriptive legal texts. The English used in the court proceedings, judgments, law books, legal notices, and other related fields is distinct and used distinctively for the very specific purposes of conducting legal transactions and legal procedures and presenting arguments in trials in various courts and in the judgments delivered by the Judiciary.

The present Minor Research Project entitled “Legal Language as ‘English for Specific Purposes’: A Study” has been divided into five chapters. The first chapter is introductory. The second chapter is devoted to the legal lexicon. The third chapter encompasses the study of legal language from syntactic point of view whereas the fourth chapter comprises of the legal style. The fifth chapter is conclusion which includes the findings of the study besides the accomplishment of the objectives, validation of the hypotheses and the pedagogical importance of the study.

This chapter i.e. Chapter first of the present Minor Research Project is introductory. It encompasses the objectives, hypotheses, significance of the study, research methodology, review of the related research and literature, and scope and limitations of the present study. It is also devoted to the different definitions of English for Specific Purposes which is popularly called ESP (and henceforth will be mentioned so). ESP has multiple manifestations in the different realms of life. Legalese or the Legal language is one such manifestation. It can be termed as the Register of Law in the linguistics. The chapter further briefly discusses Legal Language and its salient characteristics followed by the discussion over essence of research project i.e. Legal Language as an ESP. will be discussed at length.

1.2 The Statement of the Problem:

To study legal English as an ESP.

1.3 Aim and Objectives of the Study:

1.3.1 Aim:

The aim of the present study is to study legal English as English for Specific Purposes.

1.3.2 Objectives:

The present research project attempts to attain the following:
1. To study legal English as an ESP.
2. To study and evaluate the legal language on the basis of illustrative judgments, cases and law books.
3. To analyse and interpret the lexicon, morphology, sentence structures and grammatical patterns in the illustrative materials.
4. To analyse legal style.

1.4 Hypotheses:

The present research project is based on the hypotheses that-

1. Legal English is a specific purpose variety of the English language.
2. The specific purposes are determined by the field of discourse which is law.
3. Greek, Latin and other loan words and maxims characterize the legal language.
4. The lexicon, syntax (sentence pattern) and the style suit the specific purposes of legal transactions.

1.5 Need and Significance of the Study:

Since the law field covers all the other fields, its length and breadth is wide and it is an all-inclusive, all-encompassing field today. With the advent of computers and micro computers, revolution in the IT field, this field has become too challenging-rather more challenging than before. In this context, the knowledge of rules and regulations, laws, rights and duties becomes imperative especially in the era of globalization, privatization and liberalization.

There is apparently a notion among amateurs that legislative language must be intricate and barbarous. Certain antic phrases are thought by them to be essential to law writing.

English is an international language. It is also considered as the official language of courts in India and in the world (at the international arena). There is frequent interaction among the countries due to the forces of Globalization, Privatization and Liberalization. English is the language of international law also.

Due to the presence of British in India and because of the status of English as the language of courts, English is the core language of law in India. Most of the Greek, Latin and Roman terms and concepts are retained in English and in Indian (national) languages also. English is the bridge language between the foreign terminology and its pragmatic value or use in India. Legal English used by the non-
native speakers or users of English is a distinct variety in the variety of English. It’s a register, a field of discourse.

The present study is an attempt to discuss the legal lexicon, sentence structures and grammatical patterns. The acts, cases and other legal documents are intended to be evaluated or studied for the analysis. It will help unfold the characteristic traits of the legalese. This will enhance not only the richness and magnanimity of it but will also the taste of the users. The evaluation, observation and conclusions will help to approach the legal discourse with more ease and comfort. It will help exhibit that legalese is no more monotonous nor intricate but is rich in its style and register. Hence, even the common readers or users will find legalese user-friendly if it is approached as ESP. there is fear in the minds of many Indians about English and is more so about legal language. To some extent both have remained untouchable to masses. However, this research project will help bring it closer to the masses that have remained aloof. The user-centric approach will open up the facets of legal language. This will certainly help even a layman understand the tenets of legalese. It will also make legal language recognized and acknowledged as a distinct variety of English.

1.6 Scope and Limitations of the Study:

The present research focuses on Legal Language as ‘English for Specific Purposes’. It aims to observe, analyse, interpret and arrive at conclusion the various characteristic features of legal language. While doing this, certain cases, books and other manifestations of legal language will be taken into consideration. However, the limited scope of the present research work does necessarily give scope to too many cases. Hence, the study is limited to certain legal texts. The study is also limited to legal language only.

1.7 Research Methodology:

The researcher has made an attempt analyse and evaluate the relevant illustrative material from the sources indicated such as books, cases, petitions, suits, legal notices and other works of related disciplines. The researcher has used explorative, descriptive, analytical, investigative, evaluative and interpretive methods for the present research. In order to give a pragmatic support to the discussion, the researcher interviewed and interacted judges, lawyers and linguists. As the researcher
has been teaching in a law college, he sought feedback from his colleagues and students as well which has been incorporated in this research work.

1.8 Review of Related Literature and Research:

Law, rights, duties, rules, regulations and such terms are there from the time immemorial. In order to have discipline and order in the society, laws were made, probably right from the advent of man. The oral laws in the primitive period turned into written one and were presented in a more systematic way as the time progressed. In the later period, the bunch of laws, duties and rights became more systematized and were compiled in a book of it called ‘constitution’.

Some of the latest research work has been taken into consideration here:

David Mellinkoff’s monumental work, *The Language of the Law* was the first book that tended me to work on the present research topic. Mellinkoff was a professor of law at the UCLA School of Law. In this historic book he has taken the review of the legal language covering the historical development of legal English. He begins with the Anglo-Saxon roots of legal language and makes us pass through the Middle English period and brings to the contemporary period with his convincing arguments relevant in the present day. He duly acknowledges the role of Latin and French and contributions from these languages. He contemplates on some grammatical features of the legalese besides authoritatively highlighting the social and cultural significances. The 500-page book appears to be the masterpiece on legal language.

Peter Tiersma’s book entitled *Legal Language* is yet another reliable discourse on the legal language. Tiersma, a professor of law like Mellinkoff, having a degree in linguistics delineates with linguistic angle too which has appeal to both the language lovers and the legalese related people. He minutely gives details of the facets and features of the legal language and explains why and how the laymen find it difficult to access and understand. The characteristic features which often appear to be defects that he points out in the legal language are wordiness, redundancy, and specialized vocabulary besides the syntactic elements of lengthiness, complexity and unusual sentence structure.

The Cambridge University Press published 183-page book entitled *English for Specific Purposes* by Tom Hutchinson and Alan Waters is the book that gave the idea of how legalese is ESP. The present research studies the same. The book is the
most commanding book on ESP. The master writers have discussed the origin, development, contemporary relevance of the ESP besides giving valuable practical ideas of designing the syllabus, material and so on. As they have adopted the learner-centric approach, it helps the teacher in different roles: teaching, syllabus designing and material designing, evaluation and so on. If legal language is to be introduced as English for Specific Purposes, the book proves to be the most useful one.

The Handbook of English for Specific Purposes edited by Brian Partridge and Sue Starfield is the latest and greatest book on ESP. The book is a very systematically arranged treatise on ESP wherein different areas under the umbrella of ESP have been given due justice by the twenty eight scholarly contributions of different authors. There are many areas discussed like English for Nursing, English for Medical Purposes and so on. The chapter or article entitled Legal English by Jill Northcott correlates ESP and Legalese.

The book entitled Legal Writing: A Revised View by Chris Rideout and Jill J. Ramsfield is a landmark book on legal language. The writers have studiously contrasted the traditional view on legal language with the recent one. They have undertaken various perspectives that include formalist perspective, social perspective and process perspective in order to justify their say. Their appeal is to the students and whoever comes across legalese. They have put forth a very convincing programme through their expertise views on the curriculum design and other related matters.

Genre analysis has proved a useful tool. Bhatia’s framework for understanding the language of the law, distinguishing genres as pedagogic, professional or academic, has been very influential in Legal English teaching. The methods advocated have been taken up and adapted for different teaching situations.

The syntactic features of legislative text are described in Bhatia (1993). These include sentence length, nominalization, complex prepositional phrases, binomial and multinomial expressions, initial case descriptions, qualifications in legislative provisions and syntactic discontinuities.

The book Plain English for Lawyers by Wydick is exclusively directed at writing seen as lexico-grammar-on words and sentences. Some books go further than this lexico-grammatical level of legal writing. Some books address more precise legal writing strategies (such as organizing, drafting, and editing strategies) and take account of discourse level considerations (such as issues of context, audience, and
purpose). They also include advice on producing diverse written legal genres. A distinctive example from this category is *Clear and Effective Legal Writing* by Charrow, Erhard, and Charrow. Even though these books focus more specifically on legal genres and go well beyond lexico-grammatical considerations to fit in areas of rhetoric, they are still evidently aimed at native English-speaking legal professionals.

Besides this, there are books designed mainly for second language users. They are: *Introduction to Legal English* by Chroma and Coats; *American Legal English: Using Language in Legal Contexts* by Lee, Hall, and Hurley; *English for Law* by Riley; *English Law and Language* by Russell and Locke and *Introduction to Legal English: An Introduction to Legal Terminology, Reasoning, and Writing in Plain English* by Wojcik.

The review of the research shows that legal language has not been approached as ESP which is the necessity today. The present research project is an attempt to trace and discover the characteristic features of the Legal English or legalese which is approached as ‘English for Specific Purposes’. The research will provide inputs on how the legalese is a special variety; how it is discourse orientated and meets the demands of the specific users.

1.9 **Law and Language:**

The law is a profession of words.

- David Mellinkoff

Language is the principal medium and a superb gift for the human beings to communicate their thoughts, ideas, views, opinions, feelings and emotions. It is an inevitable statement that like other spheres of study, law also is greatly reliant on language. Knowingly or unknowingly; directly or indirectly; willingly or unwillingly we are associated and surrounded by legal language. Right from our birth through the Birth Certificate to our death (through the Death Certificate), we are associated closely with the legal language and legal documents. Almost everyone talks of rights (though few think of their duties). Today in the age when we are governed by Information and Technology and everyone is enchanted by Android and windows, legal texts have become more common in our lives. Right from the admission of the children to school to travelling and shopping, legal transactions or laws, rules and regulations are involved. Whether it is a loan process applying for passport or license or medical certificates or deals and agreements, legal language is the soul of all of
These. Before the constitutional laws came into force, the god-given laws would be governed or the laws in the name of God would be governed. Legal rights, duties, rules and regulations and obligations were incorporated in the form of contracts, wills, deeds, notices etc. Whether it was natural law or dictates of God or will of sovereign or welfare law aiming to serve justice and interest of society, laws communicated through language has been the part and parcel of the society. Even in those days, laws were in force and so were language and the legal language. It can be briefly said that law and language have been associated with the human beings right from the time immemorial. It is the interpretation of laws through language that has mattered. The aim has been the maintenance of a stable, peaceful and orderly society which has been enhanced by laws ensured and interpreted through language. Both law and language have evolved slowly over a long period of time. Both of them have been modified considering the adaptability of the society of the time over the years.

It is quite interesting to note the origins of the words ‘law’ and ‘language’ and find some commonalities between them. The word ‘language’ is derived from the Latin word ‘lingua’ that means tongue, whereas the word ‘law’ is taken as an derivative of the verb ‘leggia’ which means laydown. Right from the Anglo-Saxon to the classical languages like Latin and Greek; from the old English and French to simple English of today, language as well as law has gone through remarkable changes. Adaptability and acceptability are key features of both law and language which is evident in the significant evolution of law and language.

There is a very deep and subtle relationship between law and language. They are interdependent. Law is governed through language whereas language is also governed by laws (grammatical, syntactic etc). Laws are coded in language and both occupy every sphere and walk of our life. The legal fraternity uses language in order to articulate, discuss and implement laws.

Commenting upon the relationship between law and language, Prof. M.L.A.Hart in ‘Concept of Law’ opines that language has an ‘open texture’. In ‘Law Language and Communication’, Probert emphasizes ‘word’ consciousness’ in law. Logical sense is equally important that way. Many legal terms are ‘value impregnated’ without serving any rational function as per Glanville Williams. Robert M. Dworkin views that “We are all beneficiaries or victims of what is done to the language we share”. (Quoted, Tandon and Behl 02)
Law has occupied our life through language in the guise of rights, duties, wrongs, Acts of Parliament, Cases, Reports, documents like contracts, licenses, applications, forms, wills, agreements, transfers, notices, deeds; Court pleadings, summons, briefs, arguments, judgments; legal texts like books, journals, references, correspondence and so on. One has to be very cautious while using language in law as a slight misinterpretation may change the things significantly. Lord Mansfield has rightly said, “Most of the disputes in the world arise from words.” (Quoted, Tandon & Behl 2) Hence, proper study of grammar, punctuation, spelling, syntax, diction is quite necessary to say what is actually intended and desired. Vagueness, ambiguity, lengthiness, verbosity and complexity are the defects in legal language arising out of the linguistic incompetence and stylistic defects. This necessary shows the close or rather inseparable relationship between law and language. Both are intertwined and interwoven in a fabric which is a very interesting topic of study. Hence, the study of the language used in the legal discourse i.e. legal language is imperative. Whatever the form of legal writing, both legal and language skills are significant.

Though ignorance is bliss, ignorance of law is no excuse. It is rather contradictory. The knowledge of law is necessary and language should not be a barrier between the laws and the persons who want access to it. Law should be then intelligible to all. In order to support this, the remarks of Peter Tiersma are imperative to be quoted. He says:

“Legal language must be judged how clearly, concisely and comprehensively it communicates rights and obligations conferred by the Constitution, opinions expressed by courts, regulations embodied in statuettes, promises exchanged in contracts. But unfortunately, a large chunk of legal text is shrouded in a dense, complex maze of archaic, verbose vocabulary.” (Quoted, Tandon and Behl 10)

However, the language of law is so different (though not difficult) that a layperson cannot understand it easily or without the help of a legal expert. Many innocent and less educated people have been cheated and deceived on account of their ignorance of the laws. They blindly sign the documents and later on face the consequences. It’s in banks, insurance policies, share market, Medical insurance, loans, deals and decrees, where people are usually deceived on account of their ignorance and sometimes casual-careless approach. Nevertheless, the so called educated too fall prey to it as they blindly agree to the conditions laid by the app providers in Smartphones. The knowledge of laws and rights has become more
important today than ever before. It is directly connected to an individual’s life and career. Globalization, privatization, liberalization, internet, web, Smartphones, computers have brought many developments in their train in the era of Information and Technology. However, along with the development, they have brought hazards as well. Smartphones are blissful. However, there is great negligence on the part of the users. It is a ridicule and great concern that many of us ‘agree’ to the terms and conditions laid down by the app providers least bothering about the contents. This is horrible and can be hazardous. The Google apps often get it agreed to view and access our personal data on our Smartphone. Better to speak least about the hacking. Call Recording without permission is illegal but many app providers, after getting consent that it is legal in our country, give us permission to download and use the app. This is due to terrible negligence on the part of the users.

In this context, it has to be discussed whether we should carry on with the same intricate legal language which is beyond the understanding of the laypersons or bring in easier and simpler-user-friendly legalese?

1.10 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.
- 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.

A celebrated writer of the law discourse Urban Lavery (Edt. Bhatnagar) has argued that the lawyers are better speakers than writers. In his article entitled The Language of the Law he criticises the lawyers for poor writing. He has appreciated the lawyers’ fluency and logic in spoken English and has highlighted many defects in their writing. It is a matter great scrutiny whether to call those things as defects or characteristics.(33-34)

Legal language has its own characteristics. Some call them the properties and features and others call them defects. They are experts (especially the judges and lawyers) who feel that legal language as it is good and there is no necessity of making it plain, user-friendly, easily understandable/comprehensible to laypersons and so on. There are some linguists and veteran English professors who advocated
continuation of the same legal language. To him, the legalese is unique, distinctive and the legal fraternity uses it easily.

An honourable High Court Judge too spoke in the same vein in our informal interaction. He further said that the legal fraternity is used to the archaic words, intricate language, foreign words and phrases and so on. They feel quite comfortable using it. Hence, simplicity at the cost of beauty is unexpected and unnecessary. This reminds us of the poem *Pylons* where the poet speaks of the unearthed mountain. The mountain is beautiful in its entirety. When we dig it and try to see what is inside, it loses its beauty. So is the case with the legal language. If we focus more on communication part, the charm it has will get diminished.

A senior professor of English from Kolhapur University feared that if laypersons are at ease with legal language, then advocates and lawyers will be less necessary which will consequently affect the earning and prestige of law fraternity. Another linguist and who has authored many books approved of legal language as it is and opined that if one studies it minutely, it is not incomprehensible. According to him, closer look at the legal language does not make it remain beyond the reach of the laypersons. Moreover, to him, it is not possible to develop a register as per the requirements of individuals.

However, there are champions of the plain language movement who are thinking of simplifying the legal language so that it will be within the reach of the comprehension of the laypersons. Many linguists, authors, legal luminaries, teachers of law and many from legal fraternity have advocated the need of reader-friendly legalese. These experts have highlighted the defects in the legal language and have suggested measures, substitutes to the words and complicated expressions. Hence, if the principles of effective communication (the 7 C’s) e.g. clarity, comprehensibility, courtesy, correctness, conciseness, completeness and consideration are strictly followed in the legal texts, the problem can be solved.

Will Rogers ridicules legal language by saying: “The minute you read something you can’t understand, you can be almost sure it was drawn by a lawyer.” (Quoted, Tandon and Behl 09) John Lindsay too satirizes the legal language while he says-

“Law books are the largest body of poorly written literature ever created by human race.” (Quoted, Tandon and Behl 09)
David Mellinkoff terms the legalese as “wordy, pompous and dull” whereas Lawrence Friedman opines that it is “swaddled in obscurity.” Jeremy Bentham thought it to be “characterized by redundancy of language and unnecessary intricacies.” (Quoted, Tandon and Behl 09)

Annelize Nienaber has criticised it for its “obscure expression, Latin terms, technical jargon, wordiness, long complex sentences, seemingly meaningless repetitions and archaicisms.” (Quoted, Tandon and Behl 10)

Against this backdrop, it is imperative here to take note of both: the salient features and the so called defects in the legal language. An ornament for one may seem to be a defect to another. Tandon and Behl say this of the legalese:

“No language is flawless, but legal language enjoys the doubtful distinction of being the most ridiculed language—its users are also its abusers.” (9)

The opening lines of Prof. Fred Rodell’s ‘Goodbye to Law Reviews’ are:

“There are two things wrong in almost all legal writings. One is style. The other is its content.” (Quoted, Tandon & Behl 09)

Some of the main characteristics of written legal English are the sentence length and the complexity of its sentence structures, repetitiveness, the high concentration of Latinisms and archaic or rarely used lexical items etc. (Bhatia 77). Such features have been widely held for centuries as having an exclusionary function, entrenching the privileges of the legal profession.

Heavy reliance on authority and citation besides importance to precedent are other distinguishing features of the legalese. Legalese is often ambiguous, vague and loose in language and structure which allows various interpretations. The word ‘right’ means claim, exact, just, correct etc. depending upon the context. Hence, contextual meaning gains great importance.

Equivocal words are used in plenty. Verbosity is too frequently visible. The typical phrases and expressions like ‘subject to’, ‘notwithstanding’, ‘provided’ often peep into the legal texts. Here even the word legal has two meanings: legal versus illegal and legal versus general. Hence, I was asked by a gentleman is there any illegal language also when I had been talking of legal language.

Logic and facts are the geneses of law. Legalese has been the language of ages known for its wisdom, reason, rationality and justice. Accuracy is the soul of it. Uniformity is its prime feature, though laws have been interpreted differently. From the time immemorial courts, judges and lawyers have been seen more respectable in
the society as they are the last hope of the people. They are the last resort. Hence, besides doctors, advocates/lawyers have been held importance in our society. Urban Lavery in his article entitled The Language of the Law speaks in the same tune:

“...the lawyer in his field—even as the physician and the priest in theirs—remains the last resource of other men and women. When the wisdom of common men fails them and disaster is at hand, when the layman’s brain is overworked till his mental fuse burns out, when the motorcar of ‘Business’ blows out its tires and piles up in the ditches of insolvency, when the human derelict is finally tossed upon the rocks by the stormy seas of life, then the lawyer is sent for and his “quiddities” and his “quillets” are more than welcome.” (Bhatnagar 33)

People have great faith in the judiciary and it is the only hope and last refuge when the world goes against them. It is the judicial system or the court where they truest and expect to have free, fair and impartial judgment. This belief, faith and truest is not gained by a day or year but has been the result of the experience of the centuries together. Even when the actual courts and lawyers were not in existence, the Caste/Community Court which is called Jaat Panchayat (जात पंचायत) played the role and ensured justice. Today too in many communities and especially in the tribal communities, the Caste Courts have great importance. It’s because these experts involved in bestowing justice are having force and authority, the sanction and validation of many centuries and many civilizations. Hence, the lawyers and judges today are the part of that continuing tradition that has influences of Greeks, French, and Latin and so on. The laws today and its administration is the incorporation of the complex web of various laws practiced in various countries that were dominating. The imperial influences are too obvious. The centers of world-wide authority changed over the stretch of time. As a result of this we had Greeks as superiors earlier followed by the Romans and the French and then the British and now the Americans leading the world in many walks of our life.

Tampering with the legal language can be hazardous. The widely accepted and acknowledged meanings will be lost and there cannot be powerful and suitable equivalent to the legal words which are often termed as jargon, archaic and borrowed (foreign). Many words have a sort of force in them and the word is enough to convey the desired and expected meaning. Substitution of such words and expression may cause misinterpretation and subsequently miscommunication.
Besides these, there are ample characteristics of legal language which have been discussed in detail in the subsequent chapters.

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.

Wikipedia defines 'register' as “a variety of a language used for a particular purpose or in a particular social setting.” Its focus is on the manner or way language is used in particular situations. It is further argued in Wikipedia “scholarly consensus has not been reached for the definitions of terms including ‘register’, ‘field’ or ‘tenor’; different scholars’ definitions of these terms are often in direct contradiction of each other. Additional terms including diatype, genre, text types, style, acrolect, mesolect and basilect, among many others, may be used to cover the same or similar ground. Some prefer to restrict the domain of the term ‘register’ to a specific vocabulary (Wardhaugh 1986) (which one might commonly call jargon), while others [who?] argue against the use of the term altogether.” This argument takes to call legalese a genre. This will be supported by the following explanation given in Wikipedia: “Genre is any category of literature, music or other forms of art or entertainment, whether written or spoken, audio or visual, based on some set of stylistic criteria.” However, ‘genre’ does not appropriately fit to the legalese socialistically due its characteristic features. It can be, to some extent, termed as the textual type as it is at times descriptive, narrative, expository, and argumentative. Legalese can be distinguished from its counterparts from its stylistic features as well. As the whole of this research is based on the stylistic features of legalese, it is preferred not to argue more on it here.

Legalese can well said to be a jargon also. It is imperative here to define jargon. “Jargon is a type of language that is used in a particular context and may not be well understood outside of it.” It is further explained that “The context is usually a particular occupation (that is, a certain trade, profession, or academic field), but any in-group can have jargon. The main trait that distinguishes jargon from the rest of a
language is special vocabulary—including some words specific to it and, often, narrower senses of words that out-groups would tend to take in a broader sense.” (Wikipedia)

Oates & Enquist have distinguished between the legalese and the legal language i.e. legal English (English used in the law discourse) (127). They consider it to be a pejorative term associated with a traditional style of legal writing. It belongs to the special discourse of the lawyers which “lay readers cannot readily comprehend”. Hence, the legalese is the typical language which is supposedly beyond the reach of the lay persons. It has its own characteristics and like the classical languages Latin, it appears rich but is beyond the reach of billions of readers and users. When Oates & Enquist term it as pejorative, they are necessarily talking about the poor legal writing which is “cluttered, wordy, indirect, and uses unnecessary technical words or phrases”. (Butler 32.) Such features-cum-faults have kept the legalese limited to the lawyers. Every language has the basic communicative purpose but the legalese seems to have it restricted to the law fraternity. It is completely different from the ordinary discourse. Hence, the language used in the legal drafting of the contracts and statutes or in the pleading differs significantly from the everyday use of English. This gives special importance to the lawyers because of which they have occupied a specialized position in the society. This is true in the context of the religious scriptures and treatises as well. The common people always relied on the secondary sources as the primary sources were incomprehensible to them. Hence, the word of the god did not directly reach out to the masses. The masses had to and have to depend upon the interpretation of the ‘religious agents’ for the meanings from the religious texts. The reader unfriendly issues of the legalese have been taken up by the activists of the Plain Language Movement. The promoters and supporters of plain language argue that legal “writing style should not vary from task to task or audience to audience...; whatever lawyers write must be Clear, Correct, Concise, and Complete”. (Wydick 3) However, it must be agreed and accepted that there is bound to be difference and distinction between different discourses wherein the language is determined by the context-formal vs. informal and so on. Hence, though it is a valid argument to expect the legalese to be clear, correct, concise and complete, one has to accept that the complexity and wordiness are determined by the discourse which is often inevitable. Besides the four Cs proposed by the proponents of the plain language, some other Cs are imperative
in effective communication viz. Comprehensibility, Considerateness, Courtesy. When these there Cs are added to the previous four Cs, legalese will be communicative (the eights C). Wydick says that these Cs are the “characteristics of good legal writing style” in the United States.

1.11 The Importance of English in India: Various Purposes

English is undoubtedly an international language today. Due its global presence in almost all lifestyles, it has become more important today than ever before. Once upon a time it was the British arrival in India that introduced English to the Indians who were expected to be better clerks for facilitating administrative purposes. However, today English has become the part and parcel of Indian life. It will not be exaggeration if English is called the life-line today. It has surpassed Hindi and has become a sort of national language linking and bringing together people belonging to different and diversified cultures, geographical regions, mindsets, attitudes and so on. It will not be overestimation if it is termed as a language that has united people under an umbrella. English in India has been the language of trade and commerce and with globalization at its height, import and export is as common as the use of English for its purpose. It is the library language and the language of education. Most parents send their children to the English medium schools. Even otherwise, the students are advised to opt for Semi-English for their core subjects like Maths and Science at their secondary and higher secondary levels.

There is a significant paradigm shift in the realm of English Language Teaching (henceforth ELT) in India. The communicative approach has been followed everywhere so that the students become conversant in English after their schooling. The use extensive use of ICT in education has changed the educational scenario significantly. The gap between the literate and the illiterate, between the educated and the uneducated is narrowing. The rural and tribal area are also witnessing sea change with the students from such neglected areas coming out with flying colours. Mobile phones and computers have become very common today. The introduction of MALL and CALL in the teaching of English and the concepts like edutainment and infotainment has become catch-phrases. English is seen being used in all the sectors from education to entertainment and from fashion to fantasy. Many literary artists have proved their mettle producing masterpieces and many of them have been acknowledged world-wide and few of them have received prestigious awards.
Translations, adaptations and transcreations have taken the centre stage. The novels and stories have been adapted for films and there are script writers producing radio plays and so on. The English news channels are views widely and the hot discussions and debates are taking place in fluent and spontaneous English. The parliamentary debates and arguments are also taking shape in English as the politicians or people’s representatives from some states avoid the use of Hindi. English has become not just a link language but the language of status and prestige. Hence, the crop of English Speaking classes is also seen everywhere.

Few enlightened Indians learned the values of liberty, fraternity and equality from the French Revolution and other sources which was availed through English. The British rule brought many evils in its train but the biggest and probably the only positive thing or virtue they brought is the English language and English education though their motive was not pious. It is remarkable and interesting to note that most of the freedom fighters who selflessly fought for our freedom were barristers. They got the degrees educating themselves in England and had the first hand experience of the laws and rules. This helped igniting the Indian minds against the brutality and foreign rule of the British and they spared no opportunity in revolting against them.

Since India was a British colony, the rules and regulations amidst fewer rights and more duties were obvious. As the result of this, the Indians had to follow the British rules or British made rules for over 150 years. The British laws did help to eradicate some social evils like Sati custom/tradition. However, by and large, the rules were made by the British for the exploitation of the Indians-the subject race. The Indian ethos was so much used to the British laid rules and laws that they were blindly followed in the years after their departure as well. The backbone of legal system-Indian Penal Code was introduced by the British and we have following it even today. Because of all these reasons, the language of law remained English. Moreover, the British English became the language of law. English in India is the language of law as well. Many British-made rules and regulations, concepts and terms, words and phrases are still in vogue. Hence, English is heart and soul of our legal system. Most of the primary sources of law are available in English alone and it is the language of court in honourable High Courts and the honourable Supreme Court.

When we have a close look at British English, we find that it is a borrowed language. It has undergone numerous modifications and changes over the years. It
has got lexicon from the Latin, Greek, French languages. Hence many English roots are not English! This added to its beauty on the one hand and difficulty on the other. English is an accommodative language and adjusted with diverse fields including law, medicine, pharmacy, engineering, and technology. Through this came newer discourses and registers. These are the most sought educational sectors where the most talented aspire to study. Every Indian studies English in his/her career or educational life but English is taught regardless of the needs and requirements. Only general English is taught which makes an individual conversant in English though the ideal goal is to enable the students speak and write English accurately and fluently. However, this has failed to a great extent and many students who have either scored good marks or have been the product of English medium schools have faced enormous difficulties while pursuing their degree of Engineering, technology, medicine, law, pharmacy, hotel management, nursing and so on. It is mainly because such students have been taught general English which does not necessary meet their demands of English for certain particular purposes. Dr. Archana Shrivastava thinks:

Learners feel that the things they have learned in their educational institutions or training centers are not proving helpful when they enter the workplace once they have completed their education. The problem does not restrict only to those students who have studied in Hindi medium schools but also with many who have got their education from good English medium schools. Generally the learners complain that the prescribed textbooks do not satisfy their needs. They feel high scarcity of appropriate words while at work place. (www.esp-world.info)

The work place and the job demands are varied and hence, the English that meets their demands needs to be introduced in their curriculum. It is necessary because the language of instruction in such faculties is English. Moreover, all these disciplines and faculties which have been mentioned above have been borrowed in India from abroad especially the European nations. Hence, their language and their terminology is English and it is almost impossible to find regional equivalents to them. Hence, the need to introduce English as per the needs and requirements was felt which necessitated the introduction of English for Specific Purposes.

1.12 English for Specific Purposes (ESP):

English has occupied its distinct position not just as our national language but also an international language taking under its domain the fields like business,
commerce, medicine, technology, research and law. This necessarily shows that English is used differently in different situations for different purposes. Such distinct use of English for a specific or special purpose leads to the approach called English for Specific Purposes.

English for Specific Purposes (ESP) is a sphere of teaching English language which includes Business English, Technical English, Scientific English, English for medical professionals, English for waiters, English for law, English for tourism, etc. The term ESP refers to the language research and teaching that focuses on the specific communicative needs and practices of particular social groups. ESP is defined to meet precise needs of the learners. It is focused on the language suitable to need-based activities in terms of grammar, lexis, register, study skills, discourse and genre. It examines needs and integrates impetus, subject matter and content for the teaching of relevant skills. (Ken Hyland, 52)

Dudley-Evans, have discussed the ‘absolute’ and ‘variable’ characteristics of ESP.

**Absolute Characteristics**

1. ESP is defined to meet specific needs of the learners
2. ESP makes use of underlying methodology and activities of the discipline it serves
3. ESP is centered on the language appropriate to these activities in terms of grammar, lexis, register, study skills, discourse and genre.

**Variable Characteristics**

1. ESP may be related to or designed for specific disciplines
2. ESP may use, in specific teaching situations, a different methodology from that of General English
3. ESP is likely to be designed for adult learners, either at a tertiary level institution or in a professional work situation. It could, however, be for learners at secondary school level.
4. ESP is generally designed for intermediate or advanced students.
5. Most ESP courses assume some basic knowledge of the language systems.

Hutchinson et el. rightly say, “ESP is an approach to language teaching in which all decisions as to content and method are based on learners reason for learning.” (53) Though the demarcation line between General English and ESP is very thin, it does exist. When asked about the differences Hutchinson et. al. (53) aptly remarks “in theory nothing, in practical a great deal.”
Considering the absolute characteristics of ESP, it is clear and acceptable that legal language is ESP. The first characteristic discussed is that it is expected and designed to meet the specific needs of the learners. The legal professionals or the law fraternity has to learn English for the specific needs. They have to comprehend first and then master the legalese that comprises of the legal lexicon full of foreign terminology, borrowed maxims and the special uses of certain words. Legal Language as ESP centers on the language (English) which is appropriate to the activities in terms of grammar, lexis, register, study skills, discourse and genre. When compared to/with the general-everyday discourse, the distinction between the legal and ordinary discourse is crystal clear. The overdose of subordinate clauses, archaic words, specific terms most of which are borrowed and the overall legal style makes it a distinctive genre. However, it is used to serve specific purposes. Hence, the same legal professional may not use the legal language in the ordinary communication. It is limited use and hence is exclusive in specific situations.

The language is driven by the situational demands and is hardly used outside the legal context. The situations are the contexts are the legal advice, the pleading or arguing in the court, the discussion between the legal professionals on some legal
topic, the counseling of the clients and so on. Nevertheless, the legal professionals or the persons relating to the legal profession do tactics of code-switching and code-mixing while in ordinary-routine communication so that they would maintain their distinct identity.

It is designed for the adult learners. As usually a person chooses the legal profession or education after graduation level, the legal language is not designed for the children. The complexity and necessity is felt only at the adult age. It has been rightly said that it is a popular fallacy to think that the lady of common law lies alone. In order to under the laws and the overall procedure, one needs to have the knowledge and understanding of the social, political, cultural, educational, psychological and physical spheres. This understanding comes one grows and studies different disciplines. Though it is felt that the basic information can be and should be given through the school level, it has not been implemented in India considering the socio-economic scenario, I think. The uneasiness of people with English, the problems of rural-tribal students are imperative to be considering while thinking of legal knowledge to be given at/from the school level. The complexity of the matter and language may handicap the ordinary learners barring the advanced learners. The basic knowledge of the language i.e. English is must. Hence, legal language can be introduced at the secondary or the higher secondary levels in English medium schools. The topics could be simple. It would be the introduction of our constitution and so on. The simple laws at the elementary level can be introduced to this age group.

1.13 Legal Language as English for Specific Purposes:

Like the professional fields such as medicine, engineering and so on, the legal field has its distinct indentify due to its language use and specific purposes. They serve certain people. They have special professional use in the mind while the language is used in the situations. Hence, when the context determines the language and when the language is used with a specific purpose in mind, it is the language for specific purposes. Recently there has been a spur to use language appropriate to the occasion and demand. Hence, as far as English is concerned that too in India, there are special needs that haven’t been met even after so many years of its existence in India. English for general purposes and for the day to day use has got its distinct place. However, English needs to be approached as per the specific purposes. In the
present research, legal language, though can be any language, has been perceived to
be English.

The English used in the general-everyday use differs from the English used in
the legal documents or used by the doctors and engineers. This necessitates the
requirement of English to be taught and used with the specific demands in mind.
This tends to think of legal language as English for specific purposes. Legal language
is governed by the specialized use of certain terms and linguistic patterns. The legal
language differs from English in many ways viz. vocabulary, morphology, syntax,
and semantics. Ramsfield speaks in the same voice: “We study legal language as a
kind of second language, a specialized use of vocabulary, phrases, and syntax that
helps us to communicate more easily with each other”. (145)

The distinction and difference are evident in multiple ways. First the legal is
quite distinct. This feature of the legal language has been delineated discursively and
exemplified in the Chapter II of this project. Besides the lexicon, the legal syntax is
quite unique. This has been further detailed in the chapter III of this research project.
The legal lexicon and legal syntax determine the legal style which has been the study
discussed in detail in the fourth chapter of this Minor Research Project.

Legal professionals in the capacity of lawyers, advocates, judges, jurors, law
officers and legal advisers use language according to the special needs of the
profession. It has been alleged and criticised that legal professionals in general and
the legal drafters in particular have created an artificial language that is
incomprehensible for laypersons. The reason may be that English is hardly taught as
English for legal purposes. It is in the course of time, that the legal professionals
acquire the linguistic skills. Legal language has its own salient features which
distinguishes it from other uses of English language. In order to understand the
various facets of the language, the need based approach is necessary. This can be
determined by the teaching-learning of legal language as English for specific
purposes. The following picture will explain it better.
The specific purposes of the utility of a particular language determine its nature. Therefore, the needs, requirements, purpose and specificity makes legal language the English for specific purposes. The needs of the profession differ from the ordinary necessities of the language. Legal language is visible almost everywhere. Law is related to all the spheres of life and hence, it is widely and extensively seen. There are certain areas where we find the employment of the legal language. Hence, right from the birth certificate to the death, contracts, treaties, deeds, wills, different forms, affidavits and so on we find the exclusive use of the legal language. The requirements determine the register and therefore we find the distinct words or the familiar words and phrases used distinctively. The caution gives birth to the lengthy sentences with many clauses foregrounded. This is to overcome the loopholes and lacunae. Precision, clarity and conciseness are hallmarks of any writing. However, we often find prolixity, ambiguity and complexity in the legal language which, I believe, is necessitated by the nature of the content and its utility. In order to understand these traits of the legalese, it has to be approached with different angle. The comparison of legalese and general English is not worthwhile as the purposes of communication differ completely. Both the varieties of languages have to be studied from a specific point of view. This means, legalese ought to be studied as English for specific purposes. The following tree diagram expresses it the best.
This makes us to believe that legal language has a recognized specialized form. The language in use is specific and distinct as per the special requirements and necessitates for which the law has been put into use. Maley (49) has noted in the similar way that our contemporary legal discourse maintains its uniqueness as a decidedly focused and typical genre of English.

Nevertheless, it has been known that there are multitudes of legal situations which tend to have various types of legal discourses which are interrelated and interconnected.

Hiltunen (84) traces three main types of legal writing:

a) Academic texts on law which consist of academic research into the use of language in the process of law. This kind type of discourse is evident in the academic journals and legal text-books

b) Legislative or statutory writing which deals with the language employed in the statutes which we find in the Constitution of a country, the Acts of Parliament, contracts, treaties, etc.
c) Juridical texts which represent the language which are used in adjudication such as court proceedings, judgements, law reports, etc.

It is quite interesting to note that though these types of writings involve various linguistic choices, they belong to the larger legal discourse as they pertain to law, finally. Hence, they share many common traits and we find their unity in diversity itself.

Besides law and language, there has been inseparable relationship between law and literature too. Shelley has termed poets as the unacknowledged legislators of society which clearly exhibits the relationship between the law and literature. Function of a legislator is to lay down the law, a settled course of action that men may follow. Poetry and literature generally do this in a quiet and unobtrusive way. There is much to be talked about the relationship between law and literature, law as literature and law in literature. There have been popular movements in the West lead by John Wigmore and Benjamin Cardozo who acknowledged novelists and poets as the principal teachers of law in the first half of the 20th century. However, the scope of this research does not allow any discussion on it.

1.14 Features and Purpose(s) of Legal Writing:

Legal language has been criticised for its obscure expressions, complex syntactic constructions and enormous use of repetitions, archaisms, Latinate words, etc. Many notable experts and scholars have discussed these issues in their respective works. The scholars include Mellinkoff, Maley, Bhatia, Gibbons, Rossini Favretti, Tiersma, Williams. Some scholars have criticised and some have upheld the speciality of the legal language. The most distinguished Indian scholar on legal language Bhatia remarks,

“To the specialist community these are indispensable linguistic devices which bring in precision, clarity and unambiguity and all-inclusiveness”. (101-102) The legalese appears easy to those who have got acquainted with it. However, the laypersons find it indifferent due the ignorance of its linguistic features.

The legal texts can be classified in two ways: informative and normative. The function of the informative legal text is merely to give information (as the name signifies) and the function of the normative one is basically prescriptive wherein a course of action to be conformed to has been prescribed. Their principal function is to keep the human relations in order which determines their general illocutionary
force. This force is directive which aims to impose obligations, give permission and confer rights. Šarc’ević opines: “Normative texts prescribe how the members of a given society shall act (command), refrain from acting (prohibition), may act (permission) or are explicitly authorized to act (authorization)”. (11)

It is this function of the language that determines its course of nature and appears rather difficult. The purpose determines the style. The normative variety of the legal texts is generally formal and it is written in high impersonal style which, according to Williams “helps to reinforce the idea of impartiality and authoritativeness”. (114) The same language may appear pompous, verbose and circumlocutory to the laypersons. However, the experts do understand and interpret it at ease. This may appear a tactics to keep the laypersons away from the legal language. It may also be termed as a ploy by the legal fraternity to retain their distinguished importance to be approached for interpretation. But this may not be so. As the drafters of legislative acts, though write for the interest of the common public, do not address the general public with their documents and the actual readers are judges and lawyers who have to interpret the documents for ordinary citizens (Bhatia 102-103). In order to restrict free interpretability, legislative writing has to be precise, clear and unambiguous on the one hand, and all-inclusive on the other hand. It is out of such difficulties that the need for plain language started getting momentum recently. In this context, it is imperative to have a look at the plain language movement.

1.16 Plain Language:

Mellinkoff’s revolutionary book The Language of the Law to the renowned lawyers and scholar tended to feel the need to clarify and simplify the register in order to make the legal documents really accessible and understandable to the laypersons or the non-law experts. The laws are made for all but except the legal experts or the legal fraternity; all remain untouchable to it which is an injustice. In order that the laypersons understand their rights, duties, responsibilities, obligations and the laws, it is necessary to make use of familiar ways of expressions which was the main aim of the proponents of the plain language movement.

The main aim of the movement was to simplify legal English and prevent it from being restricted to a small group of legal experts. Besides, the attempt has been to enable common people or the lay persons to comprehend the legal texts which
often seem inaccessible and incomprehensible to the laypersons. The plain language movement began as a consumer movement to simplify the language of the law. The persons involved ought to understand the documents such as apartment rental leases, insurance policies, or promissory notes, agreements, contracts, wills or affidavits which they are supposed to sign. Richard Wydick criticises and condemns the linguistic style used by the lawyers which is “(i) wordy, (ii) unclear, (iii) pompous, and (iv) dull.” and advocates the use of plain English.(3)

The initial research of legal language undertaken by Mellinkoff, Crystal and Davy and Gustafsson contributed significantly in the movement but with limited success.

1.17 Summing Up:

Legal language is a distinct English language. It has its own salient features that distinguish it from the general English language used in the everyday discourse. It is special variety of English and hence needs to be approached differently with specific goals in mind. Its study as English for Specific Purposes would help to understand its peculiar features after studying its lexicon, syntax and style. All these peculiarities have been further discussed in detail in the next chapters.
Works Cited:

- Bain, Butler, D. Strategies for Clarity in Legal Writing. Clarity, 2013.
• www.esp-world.info%2FArticles accessed 08.9.2016
2.1 Introduction:

The present chapter discusses the lexical features of legal language. A lexicon is the vocabulary of a person, language, or branch of knowledge. Legal lexicon has its own characteristics. It differs from the general-usual discourse in multiple ways. Three p’s namely, ‘precision’, ‘preservation’ and ‘prestige’ are quite crucial in this regard. Legal language is characterized by utmost precision as every care is taken to avoid loop holes. It is an attempt to save from the possibility of instability and vagueness of meaning with the likely effect of dissolution of agreements and contracts. As many words from the traditional sources have been used in the legal texts that are available in the forms of treaties, contracts, agreements, etc, they are more or less known as legal jargon today as they belong to the classical languages like Greek and Latin. The legal drafters too prefer such words in the legal documents as the retaining of the words does not necessarily change the connotations or acquire new meanings of the words utilized. The words from such sources have validity for years and hence the necessity of new words does not arise.

Several years ago, Thomas Jefferson, lawyer and statesman, had criticised the legal language in general and the outdated archaic words in particular by saying that language becomes incomprehensible due to the use of *said*, *ands*, *ors* and *aforesaid*. He was refereeing to the lengthiness of legalese which generates complexity. He further verbally attacked the endless tautologies, convulsion of case within case, parenthesis with parenthesis, multiplied efforts at certainty by said and aforesaid.

(Tandon & Behn 5)

2.2 Technical Terms or Technical Vocabulary:

Technical words are the words the meaning of which is well agreed to among law persons, but are unfamiliar to a lay person using ordinary English. Most of the words in the legal discourse are technical and obviously so, as they belong exclusively to the discourse of law. As law touches every field of this universe, the range of legal words or the technical words is quite wide. Some of the legal words or the legalised words are- *abate*, *bail*, *allege*, *requisition*, *domicile*, *forfeit*, *Decree*, *Mortgage*, *Sub-letting*, *Deem*, *Permises*, *Tenant*, *Lease*, *Hereinafter*, *landlord*, and
so on. Some of these are English words whereas many of them belong to the foreign origin.

Every profession has its own characteristic vocabulary so has the legal language. The terms like warranty, deed, criminal proceedings, Procurator Fiscal, grantee, devisee, waiver, furnish, covenant, demurrer, novation and so on are typically found in the legal language and make it distinct. Then there are some terms or words which have both the everyday meaning and the legal meaning too and obviously both differ. They are polysemic in nature and have high contextual meaning e.g. Assignment, Maintenance, Consideration, Title.

However, it is quite interesting and significant to note and mention here that such technical words which are hardly found in the everyday discourse have been duly defined in the acts. Here is an example of the THE MAHARASHTRA UNIVERSITIES ACT, 1994:

"‘adjunct professor, ‘adjunct reader’ or ‘adjunct lecturer’ means a person from industry, trade, agriculture, commerce or any other allied field who is so designated during the period of collaboration or association with the university.” (advocatekhoj)

The term ‘adjunct professor’ is not very familiar or usual and hence the definitions are served in the act itself to avoid any ambiguity arising out of its unfamiliarity. There are many such definitions of the unusual expressions like ‘Denotified Tribes’, ‘conducted college’, ‘autonomy’ and so on in the act but in order to be succinct, they have not been refereed here.

Technical terms or phrases like ‘cy pres’ that means in case the purposes for which properties are dedicated by way of Trust or Will cannot be accomplished, it is permissible under the doctrine of cy pres to utilize the properties for similar purposes are a boon because in just two words an explanation in a paragraph is accomplished. Such technical terms have precise definitions. The great scholar of legal language Mellinkoff (293 & 388) who usually criticises legal jargon also admits that “a small area of relative precision in the language of the law—mostly terms of art”. The use of technical terms in legal language is the result of the convention.

2.3 Archaic Expressions:

“Art of expression or efficiency in speaking is considered to be a synonymous of the legal language.” (Tripathi xxi) When the present writer spoke about the faults of others, he himself has committed many grammatical errors in the above sentence.
Among the rarely used or archaic expressions are the adverbial expressions like *hereinafter, herein, hereto, hereby, hereof, whosoever, thereof, therein, heretofore, herewith, whereby, and wherefore*; said and such (as adjectives); verbs like to darrain (to clear a legal account or settle an accusation or controversy); nouns like surrejoinder (the answer by the plaintiff to a rejoinder by the defendant); adjectives like afore-said, and so on.

The archaic adverbs which are actually a mixture of deictic elements (Alcaraz & Brian 8):

- The parties *hereto* agree as follow.
- *Hereinafter* referred to as wife.
- The total rent for the term *hereof* is the sum of ________.

The origin of such archaic expression can be traced back in Old English and, “may have originally been introduced as ambiguity resolving elements or means of abbreviation” (Hiltunen 84). The archaic expressions make the legal documents more formal and distinct too. Tiersma states that “legal language often strives toward great formality; it naturally gravitates towards archaic language”. (95)

Many lawyers prefer to use the antique terms. ‘imbibe’ replaces ‘drink’; ‘inquire’ is used in place of ‘ask’; ‘peruse’ has been widely used instead of ‘read’; ‘forthwith’ is a substitution of ‘right away’ or ‘at once’ for them. (Alcaraz & Brian 5). Moreover, the words like ‘witnesseth’ instead of simple ‘witness’ add the archaic flavor the legal language.

Rather arbitrary and strange expressions are often experienced in the legal language. The expressions ‘of even date herewith’ is used in place of the easier and usual expression ‘dated the same as this document’; ‘these presents’ instead of ‘this document’; ‘the date hereof instead of ‘today’; ‘in my said mother’, instead of ‘my mother’; ‘for the purpose of identification only more particularly delineated’, instead of ‘for identification only’ or ‘more particularly’ delineated ; ‘jointly and severally’ instead of ‘separately and together’.

On one hand the archaic expressions or the antiquated terminology add complexity to the meaning and on the other had it is a boon also. Besides retaining the distinct identity of the legal language, it has other functions to perform. It helps to evade niggling changes as regards the legal lexical meaning is taken into consideration. Crystal and Davy (213) rightly endorse it when they say that “what has been tested and found adequate is best not altered”. The archaic and antiquated
expressions have been tested and have received authoritative interpretation over the years. Moreover, the frequent use of rare Old English and Middle English gives archaic feel to legalese.

The world renowned linguists namely David Crystal and Derek Davy (1969) in the masterpiece *Investigating English Style* have said that they had been also intrigued by the rarity in legal documents of substitute words like *he, she, they, their, this, that and it.*

It is not difficult but also risky to alter them. Words have different facets of meanings as per the context (s) and hence, sometimes it has been felt better to retain the same archaic words. So the risk of finding difficulty in understanding is better than the danger of misinterpretation. Hence, the conservative legal terms are better often though they handicap the better understanding especially of the laypersons as they become more inaccessible to the common readers.

### 2.4 The Use of Foreign Words and Expressions:

English legal language is greatly instilled with lexical items derived especially from French and Latin which must be the result of the long Norman domination of England in the fields like law and government. Regular use of old French and Norman French words like *tort, lien, estoppels, laches* which are never used in common vocabulary can be termed as loan words which cast shadow over most legal works. (Wikipedia)

Since Anglo-Norman was the language of the courts, there were French borrowings into the legal English. Interestingly, Latin was used for the official documents. Due to the widespread opposition to the Latinized expressions, there was an unsuccessful attempt through the British Parliament in 1730 to abolish Latin expressions from the legal proceedings. However, there was not smooth sailing in the absence of Latin expressions and the Latin expressions had to be restored after short suspension. Blackstone (cited in Williams 65) has said that certain technical terms were “not capable of an English dress with any degree of seriousness”. The Legalese inevitably comprises of many Latin and French expressions (medieval and modern) in their original forms. As we Indians follow the British model of English and legalese is primarily English, we find many French and Latin expressions in the legal discourse.
As a result of this, we have ‘habeas corpus’, ‘de jure’, ‘animus furandi’ and ‘ex parte’ very much legalised from Latin whereas ‘tort’, ‘a posteriori’ etc are borrowed from the French. There is a very wide range of words from the Latin and French origins.

Moreover the huge number of terms of Norman origin is still used in legal English (e.g. court, judge, appeal). Many of such words are now virtually unfamiliar outside legal circles, e.g. attainder (the loss of civil rights through conviction for high treason). However such terms have become ‘naturalized’ as English words due to the consistent use of them in the usual functioning. Other expressions have maintained all of their Frenchness, such as profits à prendre (meaning the right of common, where one has the right to take the fruits of the property of another). A French term found in contemporary legal English is acquis communautaire, which refers to the entire body of EU law. A vast number of foreign lexical terms or expressions in legal texts originate from Latin, such as ex parte (on behalf of), ratio legis (the reason for, or principle behind, a law) etc.

The foreign expressions such as Jurisdiction, alien, arbitrator, attorney, per capita, suo moto, statute, ex officio have become amalgamated and assimilated in such a way that they are undistinguishable today from the other native expressions. However, the words like mens rea, de facto, amicus curiae, prime facie, habeas corpus, corpus delicti, interalia, though are borrowed from foreign languages, have little place in today’s normal English language. Here are some more expressions with their meaning:

- **sine die**: without arranging a date for another meeting
- **ad hoc**: (Latin) for this purpose only
- **alias**: a name used other than the given name of a person
- **sub judice**: a legal case or piece of evidence which is being considered by a judge or in a court and some details of it cannot be discussed in public.
- **alimony**: support paid by one ex-spouse to the other as ordered by a court in a divorce case.
- **per diem**: per day. e.g. The financial assistance for permanent teachers of University/colleges will be paid maximum 50% of the total admissible expenditure.
- **bona fides**: evidence or proof that someone has sincere feelings or is who they claim to be Synonyms or related words for this sense of bona fides.
- Res judicata: an issue adjudicated
- Bes nova: a new thing; an undecided question of law
- Actus reus: guilty act

As far as Indian legal language is concerned, we find many Parasi-Arabic-Urdu words in it. It must be the result of the 400 year old Mughal Empire. Hence the words like Vakalatnama, Belif, hawaldar, mamletdar, kacheri, mofusil, talak, kabool, hokum are still found in the legal language used in India in general and Maharashtra in particular.

Like Latinisms, the existence of legal French terms within English legal language is also apparent. After the Norman Conquest in 1066, the language of the invaders gained an undeniable position in the legal sphere of England, bringing with it a wealth of legal French terminology (Crystal & Davy 208)

English is a borrowed language and so is law. The emperors affected the language and law equally. Hence, clear evolution through the impact of the invasions and emperors is apparent and evident in the legal language. The legal vocabulary (in English as English is considered here as the legal language) contains many words of French origin viz. appeal, bar, counsel, suit, estate, jury, lease, summon, tenant, verdict, contract, proposal, schedule, terms, conditions, policy, alias, quash and so on. During the time of Christ, Latin became the language of law, court records and statues. However, it remained the language of the highly learned-intelligentsia and could not become the legal language in strict sense as it was hardly used in pleadings and debates. Despite this, it left a mark on the legal language as the Latin terms like ab intio, suo motu, ultra vires, bonafide, adhoc got assimilated into the legal language. Such Latin terms and Latinized vocabulary has become the life and blood of legal language.

2.5 Borrowed Legal Maxims:

Legal maxims have been the integral part of the legalese. Their foreign/alien origin often complicates the discourse though their presence makes (appears) the language rich and sophisticated. Some of the famous maxims are as follows:

- **Absoluta Sententia Expositore Non Indiget**: this means the language wic unequivocal and unambiguous does not require an interpreter
• **Rex Non Protest Peccare**: King can do no wrong. This maxim has two meanings:
  a) King is above all laws and everything he does is just and lawful. b) Crown (king) can do no injury to its people.
• **Ignorantia Facit Excusat**: Ignorance of law is no excuse (though ignorance of fact may be excused).
• **Noscitur A Socils**: The meaning of doubtful word may be ascertained by reference to the meaning of words associated with it.

2.6 The Use of the Modal Auxiliaries ‘Shall’ and ‘May’:

In the everyday discourse *will* is used extensively and *shall* has a very limited use as far the as the reference to future is concerned. *Shall* is hardly used after the first pronoun pronouns now a day. However *shall* denotes obligation and so is customarily used to communicate an obligatory or mandatory outcome of a legal decision. The word ‘shall’ is frequently used as the most powerful imperative expression. It is not just a marker of the future tense but also an imperative marker. It denotes something which is compulsory, final and without any alternative. E.g. “A person appointed as Member shall hold office for a term of five years from the date on which he enters upon his office.” (Chitnis 84) It is used for something obligatory and if not ‘may’ is used for permission. It represents a type of binding sequel of a legal decision. However, ‘shall’ and ‘may’, by the non-law persons are basically perceived and interpreted as Modal Auxiliaries and the meaning is derived accordingly. This leads to ambiguity quite often.

However, the court verdict in *State of UP v.Manbodhan Lal Srivastava* (SC Nirnay Patrika 606) while interpreting ‘shall’ adds more complexity. It says that the meaning of the word ‘shall’ in any statute is interpreted as mandatory, but is not necessary that is used always in mandatory sense.

Traditionally, the modal *shall*, in legal texts, carries an obligation or a duty as opposed its common function: expressing futurity (Tiersma 105)

Usually, ‘shall’ denotes command and ‘may’ denotes permission and possibility. But in the legalese in general and in statues in particular shall makes it directory and not mandatory, e.g. ‘shall be accepted’, ‘notice shall be given’. It is synonymous to the expression ‘may be’. Sometimes other modal auxiliaries like *must* and *would* are also used.
‘Shall’ has a special function in statutes. It has been used to indicate something that is intended to be legally compulsory or binding. This also makes it unambiguous. Frederick Bowers has rightly noted that ‘shall’ is generally “used as a kind of totem, to conjure up some flavour of the law”. (80) It is because of this reason that it has been pervasiveness in legal discourse.

2.7 Quotidian Words Having Different Meanings in Law:

The literary and non-literary students find it difficult to decode and distinguish the literal meaning with figurative (suggesting) meaning. In the law (legal) discourse also as some words have different meaning in it (legalese), it makes the context (discourse) little more intricate. Such words differ in meaning from the ordinary-everyday discourse. The words e.g., action (lawsuit), consideration (support for a promise), execute (to sign to effect), and party (a principal in a lawsuit) are commonly used in the legalese. There are other words like right, suit, duty, wrong, necessary, arbitrary which have dual meanings.

Some other legal Quotidian words which have been discussed in many law books are:

- **Action**: not a physical movement, but a lawsuit.
- **Brief**: a noun referring to a type of legal document, not an adjective, and despite the name, virtually never brief.
- **Continuance**: the postponement of a proceeding until a later date; if a judge continues a hearing, it will not continue, but will stop and start up again later.
- **Notice**: formally notifying a person of something, as in giving notice of a claim against that person. It is legally effective, as a rule, regardless of whether anybody actually notices it.
- **Personal property**: Property other than real property, including not only used clothing and furniture, but also automobiles and large trucks.
- **Prayer**, usually the last part of the pleading in which the party requests the court to grant or deny the relief sought by the plaintiff.

Tandon and Behl note:

“Lawyers are partial to typical legalistic words like adjacent to, contiguous to, forthwith intimate, subsequent to, pursuant to etc.” they further expose the defects in the legalese saying “The legal draftsman shareas a special rapport with certain words.
Lawyers ‘execute’ rather than sign; they ‘demise’ and not ‘lease’; they insist on ‘shall’ when it means ‘must’.” (8)

Interpretation is a very important thing in legal discourse. Words do not carry same meaning in all the situations. Certain words have distinctive meanings in legal contexts. We are here reminded of Lord Macmillan who emphasises the golden rule of interpretation that “the grammatical and ordinary sense of the word is to be adhered to unless that would lead to some absurdity or some repugnance or inconsistency with the rest of the instrument, in which case the grammatical or ordinary sense of the word may be modified so as to avoid that absurdity and inconsistency but no further.” (quoted, Tandon & Behl 4)

Legal language is characterized by the words or expressions with general or sometimes flexible meanings. It has been believed that such terminology is used for its pliability. It has been taken quite positively. Reed Dickerson (48) notes that flexibility in legal language is often a “positive benefit”. The best example of such flexible words is the word ‘reasonable’ which has been exploited quite often in the legal language. We find it in the expressions like ‘reasonable care’, ‘beyond a reasonable doubt’ and ‘reasonable man.’ A foremost American commentator on law William Prosser (15) has said:

“The conduct of the reasonable man will vary with the situation with which he is confronted; under the latitude of this phrase, the courts have made allowance and have applied, in many respects, a more less subjective standard.”

2.8 The Recurrence of Certain Words and Expressions:

The words like fair, just and reasonable are used recurrently.

The expression ‘as to’ recurs in many instances:

- As to the question, the plaintiff has no reply.
- She did not know as to where the offence was committed.

The motive for such repetition is to ascertain there can be no ambiguity whatsoever in what is being referred to. Outside legal discourse such recurrence would be deemed as unusual, even comic.

2.9 Use of Multiword Prepositional Structures:

The multiword prepositional structures e.g. in respect of, in accordance with, pursuant to, as far as, so far as are found in plenty in the legalese. It has become more a mark of legal style than the necessity.
‘And’ is conjunctive in the usual sense and ‘or’ is disjunctive. Moreover, the two conjunctions are never used together. ‘Owner or master’ means owner and master obviously without any confusion. But this grammatical rule is not followed by the legal experts. ‘And’ in ‘or abets or aids or solicits or incites and does any act….’ is wrongly used. Derivatives like with, by, above, on, upon etc confuse the students of plain English.

2.10 The Use of Doublets:

Doublets are the words which are used in pairs. They can be termed as word pairs. They are “fixed in the mind as frozen expressions, typically irreversible” (Danet 281). One of the salient features of the legalese is legal doublet. Their root can be traced in the Norman Period. “A legal doublet is a standardized phrase used frequently in English legal language consisting of two or more words that are near synonyms.” (Wikipedia). Following are some of the examples arranged in an alphabetical order:

- Able and willing
- aid and abet
- all and sundry
- acknowledge and confess
- alter or change
- answerable and accountable
- appropriate and proper
- art and part
- attach and annex
- bills and notes
- bind and obligate
- breaking and entering
- by and between
- care and attention
- cease and desist
- covenant and agree
- custom and usage
- deem and consider
- demise and lease
• depose and say
• devise and bequeath
• due and payable
• due and owing
• each and every
• final and conclusive
• fit and proper
• fraud and deceit
• free and clear
• from now and henceforth
• full faith and credit
• furnish and supply
• good and tenable
• goods and chattels
• have and hold
• heirs and successors
• hue and cry
• indemnify and hold harmless
• just and equitable
• keep and perform
• keep and maintain
• kind and nature
• law and order
• legal and valid
• let or hindrance
• lewd and lascivious conduct
• liens and encumbrances
• maintenance and upkeep
• make and enter into
• means and includes
• mind and memory
• new and novel
• null and void
• over and above
part and parcel
peace and quiet
perform and discharge
power and authority
restrain and enjoin
sale or transfer
separate and apart
sole and exclusive
successor and assigns
surmise and conjecture
terms and conditions
then and in that event
true and correct
understood and agreed
unless and until
various and sundry
will and testament

**Besides the doublets, there are some common legal triplets:**

- cancel, annul and set aside
- convey, transfer and set over
- form, manner and method
- give, devise and bequeath
- grant, bargain, sell
- lands, tenements and hereditments
- name, constitute and appoint
- ordered, adjudged and decreed
- possession, custody and control
- remise, release and forever quit claim
- ready, willing and able
- repair, hold and maintain
- rest, residue and remainder
- right, title and interest

Doublets are but the repetition of the same word in another form. The words are synonymous most of the times and hence, repetition of any kind brings
monotony. The scholars believed that because of the doublets, the legal language becomes clearer and easier for the understanding of the users. However, many modern legal scholars and writers speak against the doublets and triplets and advise to eliminate them altogether because they feel that doubts and triplets are unnecessarily superfluous and/or redundant.

Much similar to the doublets are the use of alternatives. There are collocations such as synonyms, antonyms and alternatives widely and extensively used in the legal expressions. Some of them have been listed below:

- **synonyms or near synonyms:**
  - Situate, lying and being at Ogodo Village
  - … all that piece and parcel of land
  - … has broken down irretrievably whereby to the degree extent or scope that no reasonable person can expect the parties …
  - total and absolute

- **antonyms**
  - directly or indirectly
  - proximately or remotely
  - whether accidental or otherwise

- **alternatives**
  - belonging to, held in trust by, or in the custody or control of
  - being carried in or upon or entering or getting on to or alighting from
  - without interruption and disturbances from the Vendor or persons claiming by, through, under or in trust for him or from him and encumbrances customary or otherwise…

The doublets are usually the pairs of the synonyms. The alternative terms are used for the better comprehension of the users. Mellinkoff thinks that such words are nothing more than “worthless doubling”. (340) Robert Dick describes this as “killing one bird with three stones”. (128)

### 2.11 Frequency of Any:

Though the indefinite pronoun or adjective any is considered redundant, in legal documents, it is quite common. The expressions like any child or children, any encumbrances, any other assets, etc are found in plenty.
2.12 Use of Argot:

Argot is a specialized legal vocabulary in which words are not sufficiently technical, as to qualify as terms of art. Some of the examples of argot are *inferior court, contributory negligence, due care* etc.

Quite a few writers have opined that the legal lexicon consists of a reasonable amount of argot. The great writer MellinKoff uses the term to refer to a specialized language or means of communication with a group. (18)

2.13 Use of Open Textured Words:

Open textured words are the words with flexible meanings, phrases like ‘gross negligence, reasonable person, undue influence, good cause, just and equitable etc.

2.14 Use of Repetitive and Resonant Words:

Legal language is full of repetitive and resonant words. Such expressions include a very popular legal expression found in movies and serials-*the truth, the whole truth and nothing but the truth*.

2.15 Attempts at Extreme Precision and Formality:

There are many bygone practices still in vogue on the legal sphere. The typical colonial practice of addressing the Court as the *Honourable Court*, Counsel is referred as the *learned counsel*, and a Judge is reverently called as *Your Honour* and so on. If such expressions are not used, it is considered derogatory and disrespectful.

2.16 The Dominance of some Word Classes:

In most of the legal texts, there is dominance and recurrence of certain word classes. Some word classes are used extensively whereas others find little scope for their use in the legal language. Word classes are not utilized uniformly. The word classes which are usually found and prevalent are nouns, verbs, prepositions and conjunctions. They are followed by adjectives and adverb. Three is massive use of passive voice which belittles the importance of the pronouns. As a result of this, there is least appearance and occurrence of the pronouns. Numerals are also rare though definite article is found frequently.

2.17 New Adverbials:

Another unique feature of the legal lexicon is the admixture or blending of the adverbials of place and prepositions to create adverbials. Such adverbials are found in plenty in the legal discourse and a few of them have been used in the ordinary usage too. Here are some of the examples:
Whereof wherein
Hereto hereon hereby hereof herein
Hereinbefore hereinafter therein thereafter
thereto therewith thereat thereunder therefor
thereon thereupon hereunder therefrom thereof

Such words were quite common in medieval English. Instead of saying ‘under it’ or ‘under that’, medieval English speaker would say ‘hereunder’ or ‘thereunder’. These adverbials help to obtain precise references in the legal discourse. Moreover, they give the archaic impression of the language. However, Mellinkoff has denounced this habit and argued that the above terms are archaic and often imprecise. (312-17)

Besides the above mentioned words and expressions, *forthwith* is another archaic expression. It is an imprecise and archaic expression. It is archaic and hence it is imprecise. Bryan A Gamer, in *A Dictionary of Modern Legal Usage* called it a “fuzzy word with no pretence of precision”. (372) Professor Mellinkoff has traced its meaning from the Middle English, when it was ‘forthwith’ and meant “alongwith, at the same time with something else”. (310)

The word ‘immediately’ is the best alternative to ‘forthwith’ if ambiguity and vagueness is intended to be avoided. Moreover, ‘immediately’ is commonly used in the everyday discourse outside law. Piesse (127-28.) says that ‘forthwith’ and ‘immediately’ are synonyms, ‘stronger’ than the expression ‘within a reasonable time’ and that they mean something like ‘without any delay’, speedy and prompt action and an omission of all delay.

2.18 The Use of Special Determiners:

The definite article ‘the’ is generally used to when something is certain, fixed or definite. However, in legal English, the definite article is often replaced by the legal determiners- *such as, said* and *such*. These are the distinctive determiners which represent the specific-the one that is being concerned and refereed and no other.

2.19 Nominalization:

Nominalization is plentiful in the legal language. Before contemplative over the use of it, it is imperative to define nominalization. Various scholars and experts have given their valuable opinions on this salient feature of the legal language.
Nominalization is both a lexical and a syntactic device. In the lexical sense, it has been defined as “a process whereby a verb or adjective is converted into a noun” (Givón 287). Quirk (Quirk et al. 1985) thinks that nominalization is a process of turning a verb or an adjective into a noun. Similar notion is evident when nominalization has been defined as the grammatical process of forming nouns from other parts of speech, usually verbs or adjectives (Longman). According to Chomsky (1968), “nominalization is a process by which a stem, verb phrase or sentence is transformed into a nominal”. To Thompson (167), “nominalization is the use of a nominal form to express a process meaning”. He further believes that “nominalization can also be used to express an attributive meaning – a relational process together with the Attribute”. Mathews opines that nominalization is “any process by which either a noun or a syntactic unit functioning as a noun phrase is derived from any other kind of unit” (109). Halliday, who has been received as one of the most famous linguists, thinks that nominalization refers to any element or group that can function as nouns or noun groups in a clause, including clauses, nominalized adjectives or verbs, etc. (112)

The legal linguists and the scholars like Mellinkoff, Bhatia and Di Renzo Villata who have worked on legal language have termed nominalization as the typical feature in legal English. They have commented upon the tendency to nominalize verbs and use nouns in their place (Tiersma 77-79; Williams 115). Bhatia (107) exemplifies it thus:

“No will shall be revoked by any presumption of an intention on the ground of an alteration in circumstances”. This linguistic device contributes to the high level of formality of legal writing, and to render it “both precise and all-inclusive” (Bhati 154), although this may be at the expense of concision (Williams 115). One may hypothesize that if nominalization is closely respondent to the requirements of the legal type of discourse, it should also be a commonly shared feature cross-linguistically.

The type of nominalization that has been extensively used most of the legal texts is deverbal nominalization where the suffixes *ion* and *ment* are found in plenty. We have the nominalised words with the suffix *ion* like *foundation, protection, provision, adoption, discrimination, consideration, implementation* and with the suffix *ment* such as *development, punishment, imprisonment, agreement,*
involvement, enjoyment. The suffixes *ion* and *ment* consign the state, action or instance of verbs and indicate the process of making or doing.

It increase the complexity of the legal language an average reader might find it tough to comprehend easily but at the same time is the distinct feature of the legal language. Here are some more examples of the nominalizations which are frequently found in the legalese.

- give consideration of = consider
- give recognition to = recognize
- have knowledge of = know
- have a need of = need
- in the determination of = in determining
- is applicable = applies
- is dependent on = depends on
- is in attendance at = attends
- make an appointment of = appoint
- make application = apply
- make payment = pay
- make provision for = provide for

Few more examples of nominalization through the nominalizers ‘-or’ and ‘-ee’ have been referred here.

Assign refers to
- assignor: (a person from whom a property or a right is legally transferred)
- assignee: (a person to whom a property or a right is legally transferred)

Transfer refers to
- transferor: (a person from whom a property or the deed drawn from it is conveyed)
- transferee (a person to whom a property or the deed drawn from it is conveyed)

Mortgage refers to
- mortgagor: (a debtor who gives his property in a mortgage)
- mortgagee (a creditor who receives a mortgage)

(Victoria A. Alabi)

The suffix *-or* which designates **one who gives** and the suffix *-ee* which designates **one who receives** are used differently in the legal discourse. In the
following examples, the lexemes with asterisk are exclusively found in the legalese and not in general English:

inspector *inspectee
survivor *survive
*appointor appointee

However, the words like employer-employee and addressee-addresser are commonly found in both the legalese and the general English. When a verb is converted to a noun, the sentence requires additional verbs, prepositions and articles which make the legalese full of verbose. Nominalizations also tend to lead to passive voice and weaker verb choice. Nominalizations lead to wordiness and intricate sentence structure as well. This has been further elaborated in the Chapter III of this project the title of which is Legal Syntax. Hence, nominalization has been perceived as the syntactic features of legal language in the third chapter.

2.20 Unusual Use of the Words ‘The Same’, ‘Such’ And ‘Said’:

One of the most common and ancient legalism in legal language is the use of ‘said’. It has been sued different in different situations. It is used as an article or demonstrative pronoun: John promises to pay a deposit. Said deposit shall accrue interest at a rate of five percent per annum. (J&K Houses and Shops Rent Control Act, 1966.)

In the above instance, the definite article ‘the’ or the demonstrative pronoun ‘this’ could replace ‘said’ and facilitate ease on the part of the reader. In an ordinary sense, ‘Said’ is also used as an adjective: the ‘said deposit’ is equally possible. It appears archaic too. Tiersma opines that the word ‘said’ could be substituted by the article ‘the’ or the demonstrative pronoun ‘this’ with no loss of meaning. The words the same, such and said have distinct identity in the legal discourse. The word ‘the same’ usually implies comparison to a similar object or person, but in legal use it refers to sameness of reference. In order to support the idea, the following example has been served:

“The tenant shall pay all the taxes regularly levied and assessed against Premises and keep the same in repair”. (88)

In the above cited example, the word ‘premises’ has been refereed or substituted by ‘the same’ which, according to Tiersma, can be done by the personal pronoun ‘it’. (91) ‘It’ seems to be a more convenient option.
A close variant of ‘said’ is ‘aforesaid’. It is almost similar in meaning as ‘said’, because anything said ‘before’ or ‘afore’. According to David Mellinkoff, “the purpose of ‘aforesaid’ is to refer to something that has been said, and its chief vice is that you can’t be sure what it refers to”. ‘Said’ and ‘aforesaid’ are exclusively anaphoric, as they can only refer to something that has been mentioned previously. Actually ‘said’ and ‘aforesaid’ are literal translations from Latin terms, ‘dictus’, ‘said’ and ‘predictus’, ‘aforesaid’. (340)

Besides ‘the same’, ‘such’ is another unusual word found in plenty in the legal language. As far as the usual or general use of ‘such’ is concerned, it means ‘that sort’ or ‘this sort’.

“We conclude that the trial court’s order constituted an abuse of discretion in the procedural posture of this case which compels us to set aside such order.” (SLJ.)

In the above cited example, ‘such order’ means ‘this (exact) order’. It seems that, the phrase ‘such order’ denotes ‘this order’. Therefore, Such acts similar to the demonstrative pronoun this. Moreover, employment of ‘such’ confuses because it has the possibility of being interpreted to mean ‘this kind of (especially in the plural).

Here is another example where such is used four times in a single sentence.

THE MAHARASHTRA PROHIBITION ACT

The 4 [State] Government may also invest any person 8* * * with such powers, impose on him such duties and direct him to perform such functions under this Act, rules or regulations or orders made thereunder, as may be deemed necessary. Such persons may be given such designation as the 4 [State] Government may deem fit.(advocatekhoj)

Concerning the function of the word said in legal drafting, it is used as an article or a demonstrative pronoun (Sabra 43). To illustrate this, we include the following example:

“Lessee promises to pay a deposit. Said deposit shall accrue interest at a rate of five percent per annum.”

2.21 Lexical repetition or redundancy

Anaphoric devices or referential pronouns are mostly avoided in the legal language. The example is of the personal pronouns (he, she, it and so on) or the demonstrative ones (this, that, these and those) besides the verb ‘to do’ which may help to substitute a whole clause as evident in:
“He rents a car and so does his brother.” (Sabra 44). Legalese focuses more on the exactness of reference and expression which gives birth to lexical repetition and consequently to the functional redundancy.

2.22 The Use of Jargon:

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)


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:

<table>
<thead>
<tr>
<th>monosyllables</th>
<th>dissyllables</th>
<th>trisyllables</th>
<th>polysyllables</th>
</tr>
</thead>
<tbody>
<tr>
<td>bail</td>
<td>alias</td>
<td>addendum</td>
<td>affidavit</td>
</tr>
<tr>
<td>lien</td>
<td>arson</td>
<td>alibi</td>
<td>fiduciary</td>
</tr>
<tr>
<td>quash</td>
<td>assault</td>
<td>defendant</td>
<td></td>
</tr>
<tr>
<td>res</td>
<td>battery</td>
<td>equity</td>
<td></td>
</tr>
<tr>
<td>tort</td>
<td>libel</td>
<td>exhibit</td>
<td></td>
</tr>
<tr>
<td>writ</td>
<td>murder</td>
<td>felony</td>
<td></td>
</tr>
<tr>
<td></td>
<td>plaintiff</td>
<td>homicide</td>
<td></td>
</tr>
<tr>
<td></td>
<td>slander</td>
<td>litigate</td>
<td></td>
</tr>
<tr>
<td></td>
<td>treason</td>
<td>manslaughter</td>
<td></td>
</tr>
<tr>
<td></td>
<td>trespass</td>
<td>perjury</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>proviso</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>subpoena</td>
<td></td>
</tr>
</tbody>
</table>

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 Bassey 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. Bassey 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. Bassey 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 journales or the journalistic writing and the electronic media. They appear to be clichés.

“A cliché or cliche 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”. (121)

2.23 Enumeration:

Enumeration is the listing of more than two elements of the same meaning or similar character which is widely found in the legalese. It is the result of attaining precision and to avoid the loopholes. It is also a sort of respect to the tradition. Following serve as the perfect examples:

- claims, costs, losses, fees, interests, or damages;
- all files, records, documents, drawings, specifications, equipment, and similar items;
- invalid, void and unenforceable;
- debts, expenses, taxes, administration costs and individual devises and bequests.

2.24 The Occurrence of Abstract Nouns:

Legal language is marked with abstract nouns rather than the concrete ones. The nouns like authority, power, rights, duties, provision, benefits, conditions, regulations, procedure, resolution, compensation, expiration, termination, etc are
found in numerous legal texts. This makes the language abstract and increases the level of difficulty.

2.25 Restricted Range of Verbs:

The verbs such as accept, administer, require, designate, grant, agree, recognise, present, constitute, perform, prevent, comply with, observe, exercise, enter, remain, direct, control, impair, request, conduct, receive, obtain, limit, accrue, invalidate, etc have been seen being used more. It is because of such restriction that often the paraphrases of the same concepts are seen in the same document. For instance, the phrase confer power on somebody appears in the texts as authorise somebody, accredit somebody, or grant somebody the authority to, grant accreditation, or even to nominate (though depending on the context); have effect, be in/at effect and be in force mean completely the same; come into effect and come into force employ the same idea as well.

2.26 Limited Range of Adjectives:

A literary language is full of adhesives as giving connotative meaning becomes imperative there. However, when the factual and direct language is used, it is often full of the technical words with little or no figurative language involved. As a result of this, we find less adjectives. The specific purpose too determines this. The occurrence of adjectives depends upon the legal context as well. There are varieties of legal contexts.

The frequently found adjectives in the legal language are statutory, discretionary, general and elective (they collocate with powers and rights); informal and unsupervised (administration); real and personal (property), specific (devises, bequests, articles) – all in the; (un)enforceable, (in)valid, void (provisions, articles, agreement), necessary (disbursement, costs, fees), liable and responsible (person, party, body entity); additional (powers, duties), and minor, consequential, incidental, supplementary (provisions, amendments) in the Acts.

Reasonable is the most frequently found adjective in the legalese. It is in collocation with nouns such as grounds (Acts), fees, costs, compensation, promotional activities, and requirements and so on. Because legal language is technical and has specific purpose (as has been discussed throughout this project), the adjectives used in the legal contexts are fixed items employed technically.
2.27 Use of Acronyms:

An acronym is formed from the initial letters of many words belonging to a group. It is a way of abbreviated expression. Use of acronyms is another legalistic feature of the legal language. It is a way to shorten legal phrases. Acronyms are quite common in many fields, trades and professions. IPC (Indian Penal Code), TP (Transfer of Property), RTI (Right to Information), MVA (Motor Vehicle ACT), CrPC (Criminal Procedure Code), v. (Versus), CPC (Civil Procedure Code) and so on are some of the usual examples of legal acronyms.

The acronyms are quite easy and convenient for the law professionals to use and understand but for the non-law persons, it increases difficulty.

2.28 Inclusive Language:

It has been an age old practice to include or take for granted the feminine gender in the male gender. Some ancient proverbs like “Man is mortal”, “Practice makes a man perfect”, “Man is mortal” and so on reflect the male dominance in the use of language too. Legal language is no exception to this. In legal language male gender includes the female gender.

This is quite commonly found in the standard legal documents like a mortgage or lease which have been designed to be used by both males and females. The statutes generally state that the masculine gender will comprise of the feminine and the neuter. Thus the masculine personal pronoun ‘he’ includes the feminine personal pronoun ‘she’ and the neuter personal pronoun ‘it’ and the noun ‘man’ presumably includes the noun ‘woman’.

2.29 Overuse of Capitals

The legal discourse is marked by another characteristic feature of the overuse of capital letters. The reason is primarily historical which is evident in the old enactments. The reason behind its overuse today is basically in order to identify terms.

In quite a few legal documents the words e.g. ‘Grantor’, ‘Grantee’, ‘Guarantor’ and ‘Corporation’ have been capitalized. However, they may appear to unnecessary and visually disconcerting. Reed Dickerson thinks that the legal drafters should use initial capital letters only where required by good usage, as for proper nouns. (159)
Some other experts have suggested the sparing use of capitals. Piesse has suggested that although the undue use of capital initial letters is ‘inelegant’, the device may actually help the careful reader. (48-49) The capital letter helps the reader in order to understand the purpose of the document where the capitalised word has particular meaning. Sometimes the whole word is capitalised. This is evident in the traditionally drafted documents. The commonly capitalised words are:

WHEREAS, TOGETHER, WITH, PROVIDED, THAT, ALL THAT, and the like. However, overuse of capitals in whole words or passages hinders fluent readers. (National Consumer Council 25)

2.30 Use of Do:

‘Do’ is a main verb as well as a primary auxiliary verb belonging to the ‘to do’ family of helping verbs. It is usually used for making the negative and interrogative sentences and quite rarely in the assertive sentences when the necessity to emphasise something arises. However, in the legal discourse, ‘do’ often appears in declarative sentences, but not to emphasise something or for contrastive sense but it used to indicate that the main verb creates or modifies legal Institutions or relations as are exemplified in the following sentences:

“I ‘do’ hereby solemnly affirm and declare on oath before the oath commissioner or magistrate...” (Declaration in a court.)

The same sense can be experienced in the statuettes also:

“The people of the state... represented in... Assembly, ‘do’ enact as follows...”” (Legislation by the J & K State Assembly.)

‘Do’ in the above quoted instances marks the verbs as being ‘performatives’ which is equivalent to ‘hereby’ which states that the verb that follows is actually performing an operative legal act.

2.31 Summing Up:

It can be summarized that legal language has its own distinct lexicon. It is marked by the specialized words and phrases unique to law such as tort, fee simple, novation and so on. The ordinary words like action (lawsuit), consideration (support for a promise), execute (to sign to effect), and party (a principal in a lawsuit) have extraordinary meaning in the legal context. Archaic vocabulary (hereby, heretofore, herewith, whereby) is the hallmark of legal language and there are many old words and phrases though were previously quotidian language, today subsist mostly in law.
Borrowing is another lexical feature of the legal language and hence we find many loan words and phrases from the languages like French (estoppel, laches, and voir dire) and Latin (certiorari, habeas corpus, prima facie, inter alia, mens rea, sub judice). However, such words have been assimilated in English otherwise they would be italicised to show their foreign identity.

To sum up, it must be said that legal lexicon is distinct and differs from the general or ordinary usage of it. This unique lexicon is at once the unique feature of legalese and is burdensome to the laypersons’ minds as without the considerable familiarity with the legal sector, it is very difficult to comprehend and interpret.
Works Cited:

• Srinagar Law Journal. 2005, SLJ.
Chapter III
Legal Syntax

3.1 Introduction:

After conserving the facets and features of legal lexicon in the previous chapter, the syntactic features of legal language have been incorporated in the present chapter. Before contemplating on the legal syntax, it is imperative to have a look at some of the definitions of syntax. Wikipedia defines syntax as “the arrangement of words and phrases to create well-formed sentences in a language.”

The legal syntax is unique in its own ways. The legal scholars take it as the speciality whereas the laypersons perceive it be a defect because legal syntax is too complicated to be understood easily by laypersons. It is marked by long and complex sentences, too many embedded clauses, and overuse of certain classes of words and so on. All these features have been discussed in detail.

3.2 Long and Complex Sentences:

The legal language comprises of a very large number of long compound and complex sentences. There are multiple sentences too. However, one noticeable thing is the little or minimal presence of the simple sentences. The simple sentences appear either in the beginning of the text or at the end of it. Hence, the compound sentences are full of many main clauses and they also make the sentence very long. The complex sentences, as the name is enough to denote, are full of various subordinate clauses which are interdependent and finally dependent on the main clause(s). Hence, there is delay in arriving at the conclusion of the sentence. It has been recorded that there are as many as 462 words in a single sentence. (Lavery 37) This number is enough to state the long and complex nature of the sentences in the legal language.

Bentham has noted that lawyers have favoured “long windedness” and suggested that “the shorter the sentence the better” (Jenny Bentham 264)

Too many modifications, over-caution, embedded clauses, atypical word order and insertion of words or phrases there where they are not usually used in the usual discourse cause complexity of sentences.

The following Article regarding the use of English language in legal sector itself is the fine example of intricate and lengthy sentence structure:

“Article 348 (3) of the Constitution States that where the Legislature of a State has prescribed in, or Acts passed by the Legislature of the State or in Ordinances
promulgated by the Governor of the State or in any order, rule, regulation or bye-law referred to, in above stated provision, a translation of the same in the English language published under the authority of the Governor of the State in Official Gazette of that state shall be deemed to be in the authoritative text thereof in the English language under this article.” (Tripathi ix)

The above Article (in a single sentence) contains 92 words! It is not an example of lengthy sentence but of the repetition of words (‘state’). It contains several phrases and nonfinite clauses. The words: article, state and acts, have dual meaning which can confuse a layman very easily. The error in capitalization of ‘States’ committed by the writer in the opening line, may put the average reader in jeopardy. As it is a verb, it must not be capitalized. Moreover, the word ‘state’ recurs 4 more times as a noun and once as a verb in past form. Hence, the caution has to be taken while using them their proper form to avoid any ambiguity.

Long, convoluted sentences also result from adopting the principle of all-inclusiveness, which is often essential in a legal document if every possible circumstance and eventuality is to be envisaged (Maley 35; Bhatia 138). However, it is found and often criticised by the experts that this ‘all-inclusiveness’ excludes the non-law masses.

The sentence below (Ireland’s Assurance Policy) consists four cases of syntactic discontinuity, coming respectively after If, are, may and including:

“If, after informing the supervisory authority concerned under subsection, any measures taken by the supervisory authority against the insurance undertaking concerned are, in the opinion of the regulatory authority, not adequate and the undertaking continues to contravene this Act, the regulatory authority may, after informing the supervisory authority of its intention, apply to the High Court for such order as the Court may seem fit, in order to prevent further infringements of this Act, including, insofar as is necessary and in accordance with the Insurance Acts 1909 to 2000, regulations made under those Acts and regulations relating to insurance made under the European Communities Act 1972, the prevention of that insurance undertaking from continuing to conclude new insurance contracts within the State.”

The Indian Evidence Act 1872 is delineated, under the subtitle ‘May Presume’, thus:
Whenever it is provided by this Act that Court may presume a fact, it may either regard such fact as proved, unless and until it is disproved, or may call for proof of it:
“Shall presume” – Whenever it s directed by this Act that the Court shall presume a fact, it shall regard such fact as proved, unless and until it disproved;

“Conclusive proof” – When one fact is declared by this Act to be conclusive proof of another, the Court shall, on proof of the one fact, regard the other as proved, and shall not allow evidence to be given for the purpose of disproving it.

The Preamble of Indian Constitution is a unique piece of solemn and stately legal language. Though the sentence contains 84 words, it is systematically and logically divided into different parts and each part is like a poetic line with the initial capital letter of the word. It is all inclusive and encompasses the mission and vision of the country. Certain words are foregrounding by highlighting them through making them bold.

“WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN, SOCIALIST, SECULAR, DEMOCRATIC, REPUBLIC and to secure all its citizens:

JUSTICE, social, economic and political;
LIBERTY of thought, expression, belief, faith and worship;
EQUALITY of status and of opportunity; and to promote among them all
FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949,
do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.

The preamble of India is a one whole coherent sentence. It is a compound sentence contains many phrases. The long but easy-to-read sentence is divided into various parts with the commas and semicolons. The sublime adjectives SOVEREIGN, SOCIALIST, SECULAR, DEMOCRATIC, REPUBLIC have been used in the beginning show alliteration with the repetition of the sound ‘s’. Further, the aims are stated which are further explained with more adjectives. So JUSTICE is social, economic and political. There is a marked break with a semicolon as equally important points follow. It is the oath to secure LIBERTY of thought, expression, belief, faith and worship. Again with a semicolon yet another point is noted down-EQUALITY of status and of opportunity; and to promote among them all. One more point is noted and it is the last one- FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation. Though the sentences are
divided by the semicolons and breaks in the lines, the sense is continuous and many things are covered in the briefest possible way. The words are stately, the composition of the preamble is of epic scale, the style is also grave and the overall form of it is elevated. There is parallelism in the structure. Firstly the adjectives are having the same form and then the important points which substantiate the constitution. Hence, we find *justice, liberty, equality and fraternity* are have parallel structure. Interestingly their form is same. All the letters of these core words are capital letters and they are foregrounded and highlighted through that. Moreover, the nouns *justice, liberty, equality and fraternity* have been followed by the adjectives that describe and qualify the nouns that they follow. This parallelism in the structure at once makes it easy to understand and looks great in form and appearance. The syntactic structures, the tight and compact sentence structure, the systematic division of the sentence make the preamble at once an embellished piece of writing and a superb example of rhetoric.

The preamble of the Indian constitution vehemently shows that the length matters little if the sentence is systematically drafted and properly divided.

3.3 The Syntax of/in Acts:

The Acts have a very typical syntax. It has been very systematically drafted with the delineation of minute details. Utmost care and caution is taken and each and every necessary term is duly explained. Moreover, citations are given to refer to the precedents. The style of acts is discussed in details in the next chapter. However, here is the syntactic analysis of the acts. The act taken for discussion is The Maharashtra Prohibition Act.

THE MAHARASHTRA PROHIBITION ACT

The 6[State] Government may, by notification in the Official Gazette, appoint an officer to be called the 7[Commissioner of Prohibition and Excise], who subject to the control of the 6[State] Government and subject to such general or special orders as the 6 [State] Government may from time to time make, shall exercise such powers and shall perform such duties and such functions as are conferred upon, by or under the provisions of this Act and shall superintend the administration and carry out generally the provisions of this Act:
[Provided that, the person holding the office of Director of Prohibition and Excise immediately before the commencement of the Maharashtra Director of Prohibition and Excise (Change in Designation) Act, 1973 shall be the Commissioner of Prohibition and Excise for the State and shall hold that Office until the State Government otherwise directs]. (advocatekhoj)

Above part of the act can be primarily divided into two parts: the delineation before the parentheses and the explanation in the parenthesis. There are marked parallel structures visible in the example. The expression ‘subject to’ that lays the condition has been twice mentioned. ‘Such duties and such functions’ are other phrases that see the parallel structure. ‘Shall exercise’ and ‘shall superintend’ also have the marked resemblance. The sentence begins with the main clause: “The [State] Government may, by notification in the Official Gazette, appoint an officer to be called the [Commissioner of Prohibition and Excise]”. The subject of the sentence is ‘The [State] Government’. The word ‘state’ in the brackets has been given a footnote as it was earlier referred as ‘Provincial’. This has been clearly explained in the footnote to avoid any ambiguity arising out of it. The subject consists of the head word government and its parenthetical attribute state which has replaced provincial. But its insertion in the brackets shows the use of the earlier attribute in some areas or the probability of its use. ‘Appoint’ is the main verb which is transitive and regular. ‘An officer’ is the object of the main clause which has ‘an’ as the attribute and ‘officer’ as the head word-a noun. This officer is in parenthesis.

The officer has now been called ‘Commissioner of Prohibition and Excise’ and earlier he/she was the ‘director’. The expression he is accountable to or controlled by the state government is expressed through the typical legal language-

subject to the control of the [State] Government and subject to such general or special orders as the [State] Government. The adjective clause beginning with the subordinator ‘who’ is actually who shall exercise such powers and it has been made compound with the coordinator and which adds another clause shall perform such duties and such functions for which ‘who’ is common. It is split. The above expression beginning with ‘subject to’ is imbedded in it. Yet another subordinate clause as are conferred upon is embedded.

Moreover, two more subordinations are found. Again the clauses begin with the modal auxiliary ‘shall’ and have ‘who’ as the common subordinator which also functions as the subject of the clauses. In all the modal auxiliary ‘shall’ has been
used four times and each time it is quite away from the subordinator-subject ‘who’. This increases the complexity of the over sentence structure. It is very difficult to identify the clauses and the relationship between the parts of speech split. The overall sentence may be called a multiple sentence. ‘Who’ connects the sense, as it is about the officer and hence all the expressions are co-related to it.

More details of the person appointed are given in the brackets and it is no less than a paragraph though it is a single expression. The addition of footnotes clarifies doubts and leaves no ambiguity though it increases the complexity. The citations also make the complex sentence more complicated. The substitutions add somewhat difficulty for the layperson’s understanding. The modal auxiliary ‘shall’ has an obligatory function for which ‘must’ is used in the general context.

The further delineation of the Maharashtra Prohibition Act under the heading ‘Prohibition’ is paragraph containing a single sentence which is quoted below.

Notwithstanding anything contained in the following provisions of this Chapter, it shall be lawful to import, export, transport, manufacture 7 [bottle], sell, buy, possess, use or consume any intoxicant or hemp 8[or to cultivate or collect hemp] or to tap any toddy producing tree or permit such tree to be tapped or to draw toddy from such tree or permit toddy to be drawn therefrom in the manner and to the extent provided by the provisions of this Act 9 [or] any rules, regulations or orders made or in accordance with the terms and conditions of a licence, permit, pass or authorization granted thereunder. (advocatekhoj)

The sentence containing 104 words in its single para commences with the typical legal expression ‘Notwithstanding’. The verbs import, export, transport, manufacture, sell, buy, possess, use or consume stand in parallel with one another. Maximum possible alternatives are given. In all 24 verbs have been used in this sentence which is approximately 25%. It is all-inclusive and every care has been taken to include everything which ought to be included leaving no room for loop holes. Interestingly, the sentence is simple with only one clause and too many verb phrases. Two words ‘therefrom’ and ‘thereunder’ show archaism of the language which too adds to the complexity of the sentence structure.

The average sentence length of an act is 48 words. The sentence length of a scientific prose, on the contrary, is 27.6 words; of a dramatic text in one corpus is 7 words (in a sentence). (Marita Gustafsson 9-10.) Risto Hiltunen (108-9.) has found
lengthier sentences where the sentence length is around 79.25 words. The shortest sentence, as per his study, is having 7 words whereas the longest sentence contains 740 words.

The reason behind using the lengthy sentences is the motive to include all the necessary information on a specific topic in single self-contained and self-sufficient unit called sentence. It is possible with the help of many conjoined and embedded clauses which increase the intricacy of the matter. According the study of Gustafsson (13-14), sentences in Acts have an average of 2.86 clauses per sentence and there are few simple sentences. Surprisingly, one sentence has nine dependent clauses. Hence, the legal discourse appears to be more complicated than the scientific and journalistic discourses.

3.4 The Unique Syntactic Features of Deeds:

Deed is legal document wherein there is the close association of laypersons. However, the complex sentence structure and the repetition of certain words with lengthiness add to the difficulty of understanding by the laypersons. Here is a sample of Deed of Separation between Husband and Wife and Maintenance. (Retawade 690)

The unnecessary part is omitted and the focal area has been taken for consideration here.

After the preliminaries of biographical details of the parties, the deed goes thus:

Whereas the parties hereto are husband and wife, their marriage having been solemnized at Pune on.....according to the Hindu region and Vaidic rights and ceremonies;

And whereas after their marriage, the parties hereto have been residing and cohabiting together for a period of about five years;

And whereas while cohabiting together, the parities hereto had a happy married life;

And whereas during the recent past, there have been a lot and serious type of differences between the Husband and the Wife;

And whereas all the efforts for bringing about reconciliation made by their friends and relatives have failed;

And whereas the parties hereto have come to a tacit conclusion that it has now become extremely difficult for them to live and cohabit together;
And whereas due to the indifferences between the parties, here have been mental tensions and tortures caused to both the parties inter se;

And whereas the parties hereto have finally decided to live apart for the mutual understanding and reciprocate benefits as per the advice given to them by their well wishers;

And whereas the parties have anyhow reached to their final decision of living separately on some terms and conditions, which they have worked out and also decided to reduce into writing;

In the above part of the deed of separation, the subordinate clauses that are conditions prevailing till the separation have been mentioned. There is a characteristic syntactic style as the first sentence begins with whereas which means while. The sentence does not end till the terms and conditions are mentioned further to be agreed upon. The next condition in the form of clauses begins with and whereas. This is an unusual beginning in general English but specialty in the legalese. The clauses end with a semicolon and there is a parallel structure of such conditions arranged systematically syntactically which is easy to understand though the lexical features might increase difficulty to the common reader. The archaic word hereto adds the antique impression of the language. If we take into consideration the conditions alone, they are 206 words. Obviously, more the conditions, there are more the words.

Almost all the deeds, contracts and agreement have similar formats and styles. Here is the sample of DEED OF SETTLEMENT:

WHEREAS the vacant site more fully described in the Schedule hereunder was purchased by the SETTLOR herein by a sale deed dated executed by and others represented by their Power of Attorney/Agent and the said sale deed was registered as Document No. of Book No. volume No. filed at pages from to on the file of the Sub Registrar of and the SETTLOR herein has been in exclusive possession and enjoyment of the property more fully described in the Schedule hereunder till date;

Similar to the earlier cited example, this deed also has its characteristic legal syntax. The antique words hereunder and herein are used. The single condition is divided into four mail clauses the principal clause being the clause beginning with whereas.
Besides the deeds, memorandum too has its own salient legalistic features. The syntax differs from the general syntax employed. Here is an example of the same. It is the Memorandum of Trust ((Retawade 681).

We, the following signatories to this deed of trust desirous of doing some social service of public development, do hereby come together and agree upon the following memorandum...

Soon after the mention of the subject we, the noun phrase in apposition appears which is having nine words.

3.5 Uniformity:

Uniformity is another key characteristic of the legal syntax. Even though it is studded with too many clauses and phrases, they are interwoven systematically and logically. Though the sentences are long, they are divided into clauses and phrases with commas, colons and semicolons; citations are added with the footnotes which gives the sense of uniformity. There is a marked form and structure of the legal documents. This has been discussed under many heads in the present project. However, it is felt imperative to discuss an act. If we talk of the Motor Vehicles Act, 1988, we find that the structure or form of the act is similar to other acts.

It begins with the short title, followed by the definitions of the important terms, words, phrases and expressions. Then under different heads, necessary information is given. Firstly, the whole act has the great signs of uniformity. Secondly, the sentences, though very long and complex, too have uniformity. Here is an example of the commencement of the Motor Vehicles Act, 1988:

It shall come into force on such date* as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different State and any reference in this Act to the commencement of this Act shall, in relation to a State, be construed as a reference to the coming into force of this Act in that State. (advocatekhoj)

The commencement of the act is delineated in 63 words which occupy five lines of this page and is divided into various clauses and phrases with commas in place. It shall come into force on such date is the main clause of the sentence followed by the adverb clause of time as the Central Government may appoint. However, the mode of appointment and its announcement is imbedded- by notification in the Official Gazette. The semicolon in the second line suggests a long
break. The appointment is further detailed with the dates for different states. There is marked rhythm with the internal rhyme in the expression *different dates may be appointed for different States*. This is followed by a two main clauses *different dates may be appointed for different State* which has passive voice—another salient feature of the legal syntax. Another main clause *any reference in this Act to the commencement of this Act shall, in relation to a State, be construed as a reference to the coming into force of this Act in that State* has one prepositional phrase embedded and this clause is also in the passive voice. There are 14 prepositions in the sentence—almost a quarter of all the words in the long-composite sentence. Hence, even though the sentence is long and complex, it is clearly divided into various segments which make it easy to be read and understood.

3.6 The Recurrent Use of Passive Constructions:

Another aspect characterizing written legal English is the frequent use of passive constructions (Jackson 119-120). Approximately one quarter of all finite verbal constructions in prescriptive legal English take the passive form (Williams 228). In the following passage (Article 5) we find four successive verbal constructions in the passive:

“The acronym EURES shall be used exclusively for activities within EURES. It shall be illustrated by a standard logo, defined by a graphic design scheme. The logo shall be registered as a Community trade mark at the Office for Harmonization in the Internal Market (OHIM). It may be used by the EURES members and partners.”

The below cited example is the 32nd point of the judgment of the honourable Supreme Court of India. It is between Appellant: Smt. Indira Nehru Gandhi Vs. Respondent: Shri Raj Narain and Anr. The case was decided on: 07.11.1975.

*Judicial review in many matters under statute may be excluded. In many cases special jurisdiction is created to deal with matters assigned to such authorities. A special forum is even created to hear election disputes. A right of appeal may be conferred against such decision. If Parliament acts as the forum for determination of election disputes it may be a question of parliamentary privilege and the courts may not entertain any review from such decisions. That is because the exercise of power by the Legislature in determining disputed elections may be called legislative power. A distinction arises between what can be called the traditional judicial determination...*
by courts and tribunals on the one hand and the peculiar jurisdiction by the legislature in determining controverted elections on the other. (advocatekhoj.com)

Not just in the acts but in the judgments also we find passive voice constructions. It is the impersonal style of writing. It is sometimes to foreground the act done or the object or sometimes it is the uncertainty of the subject i.e. when the subject is not certain, passive voice is preferred to be used.

In Ram Krishna Dalmia v. Shri Justice S.R. Tendolkar and Ors. AIR 1958 SC 538, passive voice is visible:

(c) that it must be presumed that the legislature understands and correctly appreciates the need of its own people, that its laws are directed to problems made manifest by experience and that its discriminations are based on adequate grounds...(advocatekhoj.com)

In the first example of passive voice construction, it is to be presumed by whoever reads it or is associated with it. Hence, the subject is not certain which necessitates the construction of passive voice. The laws are directed by many authorities who cannot be told singularly.

Active voice is more concise and stronger and there is clear identity of the actor or the doer of action. However, if the actor is not known or is unspecific or is not intended to be known or when the action is more important than the actor (or the doer of action), in such circumstances passive voice is preferable. Ideally speaking, active voice should be preferred because it can determine clarity and conciseness which are two great assets of any writing. Moreover, active voice is clearer and hence better because it draws our focus on the “doer of the action” which helps to bring conciseness. Passive voice is more difficult to understand and generally takes more words.

Nevertheless we cannot undervalue the importance of passive voice in the persuasive writing especially when the actor’s identity is expected to be de-emphasized or even masked. The selection and use of voice depends upon the side one is defending. If one’s client is a criminal, passive voice is better to be used to conceal his/her identity and to describe the happening. On the contrary, if one’s client is the victim, active voice is preferred to be used as active verbs help to link the defendant to the crime. Of course this is limited to the lawyers’ drafting and the judge and other persons have no role to play in such situations.

- e.g.
- The Defendant slashed Mr. Patil four times with a knife.  
  (prosecution--Active Voice)
- Mr. Patil was stabbed.  
  (defense--Passive Voice)

If the actor or the doer action is not known, passive voice is necessitated to be used. Moreover, if the actor’s identity is decided to be kept a secret, in such contexts also passive voice is preferably used. If action is intended to be stressed and not the actor, then also passive voice is preferred to active voice. Many English scholars advise to avoid the passive voice as they fear and believe that it is weaker and more burdensome than the active voice which is more vigorous and more condensed. It should be summed up by saying that the selection of voice is governed by the situation and intention.

In the Passive constructions and nominalizations, the identity of the actor is quite unclear which sometimes increases ambiguity and reduces precision.

Even Supreme Court of the United State of America has commented on this in the following way:

“When Congress writes a statute in the passive voice, it often does not indicate who must take a required action. This silence can make the meaning of a statute somewhat difficult to ascertain.” (United State v. Wilson 334-35)

The law drafters especially the legislators and judges intend to make their commands to seem as much objective as possible and try to give them the greatest feasible rhetorical strength which subsequently results in the passive constructions. The active voice construction ‘we shall punish the guilty’ appears quite personal and even vindictive. However, if passive construction is used-‘The guilty shall be punished’ sounds more convincing. ‘Those who skateboard on sidewalks shall be punished’.

3.7 Multi-meaning and Ambiguity:

Inactive and ambiguous form of words can create doubt in legal result. E.g. the expression: “Notice shall be issued.” It is not categorically mentioned who will issue the notice. Here is another expression: “School building shall have fire alarms.” It is not clear from it who is liable-School Authority, Fire Brigade, State Fire Extinguisher Office, Electrical Contractor or who.
3.8 An Impersonal/Detached Style of Writing:

Using passive forms is one of the most common methods of emphasizing the impersonal in a language (Sarcevic 177). The comprehensive use of the third person (singular and plural) in legislative texts helps to emphasize the idea of objectivity, detachment and authoritativeness. Where, for instance, a provision applies to everybody, the sentence either begins with every person, everyone etc. when expressing an obligation or authorization, or no person, no one etc. when expressing a prohibition:

No one may be subjected to slavery, servitude or forced labour.

Everyone has the right of access to – (a) any information held by the state; and (b) any information that is held by another person and that is required for the exercise or protection of any rights.

Unsurprisingly, in wills, which is a personalized document, the first person singular is used abundantly. One of the few exceptions to the common rule of ‘impersonalization’ in legislative texts is usually seen at the beginning of constitutional documents, such as the Preamble to the Indian Constitution where the first-person plural pronoun and possessive adjective are used:

“WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens…” (Wikipedia)

3.9 Verbosity:

One of the most criticized features of legal language is verbosity. “Verbosity or verboseness is speech or writing which uses more words than needed.” (Wikipedia) Precision and conciseness are the hallmarks of good style. Verbosity is considered as a defect. When one word can suffice, why is there the necessity of many? This is a common question that arises in the minds of readers. There are varieties of expressions and variety is the spice of life. The word ‘although’ has its verbose expression in the form of a phrase ‘despite the fact that’.

The drafters of legal language have been often criticised for their verbose expressions. There are literary figures like Mark Twain and Ernest Hemingway who are known for their succinct styles and avoidance of verbosity. Wordiness, verbiage, prolixity, grandiloquence, garrulousness, expatiation, logorrhea, and
sesquipedalianism are the brethren of verbosity and all are detested. “Slang terms such as verbal diarrhea also refer to the practice.” (Wikipedia)

Often, to express one view, two or three words are used differently and rather unnecessarily. The following comparison of the verbose and exact expression justifies the same:

<table>
<thead>
<tr>
<th>Verbose Expression</th>
<th>Exact Expression</th>
</tr>
</thead>
<tbody>
<tr>
<td>Give consideration to</td>
<td>consider</td>
</tr>
<tr>
<td>Give goods to</td>
<td>delivery</td>
</tr>
<tr>
<td>At the time of his birth</td>
<td>when he was born</td>
</tr>
<tr>
<td>Have need of</td>
<td>need</td>
</tr>
<tr>
<td>Make provision for</td>
<td>provide (for)</td>
</tr>
</tbody>
</table>

The legalistic and ordinary expressions also make a vast difference in understanding:

<table>
<thead>
<tr>
<th>Legalistic</th>
<th>Ordinary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adequate number of</td>
<td>enough</td>
</tr>
<tr>
<td>Be empowered to</td>
<td>may</td>
</tr>
<tr>
<td>Be able to</td>
<td>can</td>
</tr>
<tr>
<td>Abutting</td>
<td>next</td>
</tr>
<tr>
<td>Per diem</td>
<td>per day</td>
</tr>
<tr>
<td>In case</td>
<td>if</td>
</tr>
<tr>
<td>Previous to</td>
<td>before</td>
</tr>
<tr>
<td>Pursuant to</td>
<td>in accordance with</td>
</tr>
<tr>
<td>Until such time as</td>
<td>until</td>
</tr>
<tr>
<td>In order to</td>
<td>to</td>
</tr>
<tr>
<td>In the interest of</td>
<td>for</td>
</tr>
<tr>
<td>Per annum</td>
<td>per year</td>
</tr>
</tbody>
</table>

The verbose expressions increase the complexity of the legal expression which usually already marred by many other things that keep the laypersons away from it. This verbosity is often the result of the caution and care i.e. in order to avoid loopholes in the interpretation.

The verbose, wordiness and redundancy have been severely criticised even by the persons belonging to the legal sector. An American judge has said that “the legal mind finds magnetic attraction in redundancy and overkill.” (Coca Cola Bottling Co.Vs Reeves 4 pp. 383-4.) It has been further criticised that the motto of
the law fraternity seems to be “Never use one word where you can use two; and the more you use, the better”. Verbose is evident at many instances. Nevertheless, verbose is commonly found in the grants of rights. It has been said that the grantee is given “the full right to pass and repass on foot or with or without vehicles along and over the foot paths and roads respectively of the said estate”. (J&K State Land Grants Act, 1960)

The use of prepositional phrases in particular and other phrases in general also gives birth to verbose or wordiness. Prepositional phrases are preferred to adverbs which tend for the extra words to be added and contribute to verbosity.

Instead of using the subordinators like ‘if, ‘before’, and ‘after’, the phrases such as ‘in the event that’, ‘prior to’, or ‘subsequent to’ have been preferred. Instead of using ‘during’, ‘during the time that’ has been used whereas in place of ‘until’, ‘until such time as’ and in place of ‘to’, ‘in order to’ for ‘to’ have been employed which increase the complexity and contribute to wordiness. Sir Mathew Hale, Chief justice of the King’s Bench, has given amusing reasons for the development of lengthy pleadings:

“These pleadings being mostly drawn by clerks, who are paid for Entries and Copies thereof, the larger the pleadings are, the more profits come to them, and the dearer the clerks.” (111-12)

There have been many examples in India and abroad where lengthiness is evident in the law books, pleadings and judgments. There has been a recent example of lengthiness caused by wordiness wherein a pleading which was originally of over 2600 pages had to be reduced to about 360 pages. The judge expressed his dislike and displeasure at it by using epithets like “contradictory, embarrassing, and so convoluted that the pleadings are well-nigh impossible... to comprehend.” (South Australia Vs Peat Marwick Mitchell & Co.)

An American expert on legal language Richard Wydick who advocated clarity opines:

“Lawyers are busy, cautious people, and they cannot afford to make mistakes. The old, redundant phrases worked in the past, a new one may somehow raise a question. To check it in the law library will take time and time is the lawyer’s most precious commodity. But remember once you stay one of these old monsters, it will stay dead for the rest of your legal career. Such trophies distinguish a lawyer from scrivener.” (20-21)
3.10 The High Concentration of Latinisms:

The legalese is full of the Latin lexicon. Not just words but the Latin phrases represent a distinct identity of legal syntax. The English equivalents or the English meaning of the Latin expressions are different obviously, problems are faced while interpreting the Latin expressions. Here are some examples of the Latin phrases used extensively in the legal language.

- **ad hoc** for this purpose
- **amicus curiae** friend of the court
- **bona fide** in good faith
- **corpus delicti** "body of the crime" - material evidence that crime has occurred
- **cui bono** good for whom, i.e., who benefits?
- **de facto** according to the fact or deed
- **de jure** according to the law
- **de minimis non curat lex** the law takes no account of trifles
- **et uxor** and (his) wife
- **ex officio** by virtue of the office held
- **ex post facto** a new law applied retroactively to a deed already done
- **habeas corpus** you may have the body (writ requiring party be brought to court promptly)
- **mala fide** in bad faith
- **in flagrante delicto** in the act
- **in prope persona** in one’s own person - without a lawyer
- **ipso facto** by the very deed
- **modus operandi** manner of working, operating
- **nolo prosequi** “I don’t wish to prosecute” (will drop all parts of a lawsuit)
- **nolo contendere** I will not contend (plea equal to admission of guilt but allows recourse to deny the matter in subsequent proceedings)
- **non compositis** not of sane mind
obiter dictum         a judicial opinion not binding on other courts
onus probandi       burden of proof
per se              in itself
prima facie         at first sight
pro forma           as a matter of form only
pro tempore (pro tem) for the time being, temporarily
quid pro quo        something for something - a fair exchange
sine die            without a specific date set for reconvening
subpoena            under (threat of) punishment

3.11 Importance to Precedent:

Precedent has been defined by the Oxford Dictionary as “A previous instance taken as an example or rule for subsequent cases, or used to support a similar act or circumstance; spec. (Law) a judicial decision which constitutes a source of law for subsequent cases of a similar kind.” It is further defined as “A record of past proceedings, serving as a guide for subsequent cases.” Both definitions pertain to the legal context. In a court of law, a precedent is important because it gives the judges a base guideline to work from when deciding the outcome of a case. Many of the precedents laid down for the courts to follow have been around for over 200 years. (reference.com)

Wikipedia defines precedent as “In legal systems based on common law, a precedent, or authority, is a principle or rule established in a previous legal case that is either binding on or persuasive for a court or other tribunal when deciding subsequent cases with similar issues or facts.”

In common law legal systems, a precedent or authority is a legal case that establishes a principle or rule. This principle or rule is then used by the court or other judicial bodies use when deciding later cases with similar issues or facts. This principle or rule is then used by the court or other judicial bodies use when deciding later cases with similar issues or facts. (Legal Information Institute). The use of precedent provides predictability, stability, fairness, and efficiency in the law. The Latin term stare decisis is the doctrine of legal precedent. (“Stare decisis”. Legal Information Institute) Precedent is central to legal analysis and rulings in countries that follow common law like the United Kingdom and Canada (except Quebec). In some systems precedent is not binding but is taken into account by the courts. (Wikipedia)
While the article 14 that talks of Equality before Law. In order to explain it more, the precedent has been used thus:

“In Kalyan Sarkar v. Rajesh Rajan, (2005) 3, SCC 3.7, the Supreme Court ruled that, members of Parliament or influential politicians were not above the law and while in custody were to be kept in a prison cell like any other normal prisoner.” (Anbhule 49)

The characteristic style of such precedent is evident in many matters where the case or the name of the parties is taken both in the bold and italics followed by the year of judgment. SCC stands for Supreme Court Cases. This in itself is quite unique syntax of the precedent.

Precedent has its own positives. Common law tends the users to look backwards as in the past (precedent) lies the authority. The past judicial decisions are easier than innovating something. Instead of altering the existing premise, the precedent is preferred. The popular saying says the same: “Hard cases make bad law”.

Lord Denning, a famous judge for his balanced comments, while expressing his views on clear and right style, gives his valuable opinion on precedent. He says:

“Let it not be thought from this discourse that I am against doctrine of precedent. I am not. It is the foundation of our system of case law that has evolved by broadening down from precedent to precedent. By standing by previous decisions, we have kept the common law on a good course. All that I am against is its rigid application—a rigidity which insists that a bad precedent must necessarily be followed. It would treat it as you would a path through the woods. You must follow it certainly so as to reach your end. But you must not let the path become too overgrown. You must cut out the deadwood and trim off the side branches, else you will find yourself lost in thickets and brambles. My plea is simply to keep the path to justice clear of obstructions which would impede it.” (314)

Not just the lawyers but the literary artists have also criticised the legalese. In his masterpiece Gulliver’s Travels, Jonathan Swift, the eighteenth century novelist and pamphleteer endorses the views of the twentieth century judge Lord Denning. Swift, through the mouth of his hero, describes society of men in England bred from youth to prove by words multiplied for the purpose that black is white and white is black. It is said:
“It is a maxim among these lawyers, that whatever hath been done before: may legally be done again. And therefore they take special care to record all the Decisions formerly made against common justice and the general Reason of Mankind. These, under the name of precedents, they produce as Authorities to justify the most iniquitous opinions; and the judges never fail of decreeing accordingly... It is likewise to be observed, that this society hath a peculiar Cant and Jargon of their own, that no other Mortal can understand and wherein all their laws are written, which they take special care to multiply; whereby they have wholly confounded the very Essence of Truth and Falsehood of Right and Wrong, so that it will take Thirty years to decide whether the Field, left me by my Ancestors for six Generations, belong to me, or to a Stranger three Hundred Miles off.” (249-50.)

Swift’s attack on the typical legal language through Gulliver is the most lethal one in order to call for a clear and precise legal language.

3.12 Circumlocution:

Merriam-Webster dictionary defines circumlocution as “the use of an unnecessarily large number of words to express an idea”.

Wikipedia defines it thus: “Circumlocution is locution that circles around a specific idea with multiple words rather than directly evoking it with fewer and apter words,” but has been criticised because “it is also often a flaw in communication.”

Circumlocution is the roundabout way of expressing the ideas. “Roundabout speech refers to using many words (such as "a tool used for cutting things such as paper and hair") to describe something for which a concise (and commonly known) expression exists.” (Wikipedia)

Circumlocution tends a person avoid making the references directly and habituates him or her to use scholarly expression and long-winded sentences amounting to roundabout way of saying the things.

There are many such expressions found in the legal discourse and outside. The popular legalistic examples of circumlocution are: ‘The guardians of law’ for the police, ‘pillars of justice’ for judges and so on. There are some positives too as evident in the following opinion:

“Used occasionally, and in the proper context, circumlocution lends variety to the style of writing and speaking, but frequent use of it can turn away the readers or
the listeners. Circumlocution may be taken as one's desire to show off their scholarship.” (www.univsource.com)

3.13 Equivocal Expressions:

“Equivocation is the use of ambiguous language with the purpose of avoiding telling the truth or committing oneself”. (New Oxford American Dictionary) Having several meanings; synonymous with ambiguous. The word equivocal is an adjective and has number of synonyms which shows its complexity and extensive use in the legal discourse. Here is the list of the synonyms:

- ambiguous
- ambivalent
- amphibological
- bewildering
- cloudy
- confusing
- controversial
- debatable
- deceptive
- dim
- disputable
- doubtful
- dubious
- enigmatic
- enigmatical
- equivocating
- equivocatory
- hard to understand
- hazy
- imperspicuous
- imprecise
- indecisive
- indefinite
- indeterminate
- misleading
moot
nebulous
obscure
of doubtful meaning
of uncertain significance
open
open to question
perplexing
possessing double meaning
prevaricating
puzzling
questionable
recondite
shadowy
uncertain
unclarified
unclear
undecided
undefined
undetermined
unexplained
unintelligible
unplain
unresolved
unsolved
unsure
untransparent
vague

Equivocal words and those which are used in a doubtful sense are to be understood in their more worthy and effective sense

3.14 Unusual Sentence Structure:

This is sample of ‘a notice to the employer institute for compliance of the demands made by our retiring client’. The words in the single inverted commas form
the title of the notice which is spread in 7 pages. One of the conditions has been cited below.

“That you are hereby requested and called upon to please note it very seriously that it was and is still incumbent upon you as the competent authority to take all the necessary actions in all these matters, or, at least, inform my client about their progress, but unfortunately nothing of the sort has ever happened, and hence, you are liable for the same, not only in your official capacity but also personally.” (Retawade 57)

The single sentence with very few breaks and pauses runs into 72 words. There are nearly five clauses. There are many such long and complex sentences that vary from 15 words to 100 words. All the points that are in the form of conditions begin with the conjunction ‘that’. It is because the notice begins thus:

“Under instructions from and on behalf of my client, Dr.PWD, resident of 1111, Shivajinagar, Pune 411005, I have to address you this notice as follows:” (Retawade 52) Hence, the conditions are, though complete in themselves, are the conjunctive clauses or subordinate classes. If the whole expression is taken into consideration, it serves as the object of ‘have to address’. This sentence structure and the form of notice are quite usual to the legal professionals but quite strange to the laypersons.

3.15 Nominalization:

This feature has been discussed in the previous chapter as well. The consideration there was of the lexical characteristics of nominalization. In the present chapter the issue is of syntactic nominalization.

Nominalization has been perceived as either a lexical or a syntactic device in literature. As far as its lexical sense is concerned, it has been defined as “a process whereby a verb or adjective is converted into a noun” (Givón 287), whereas in a broader in general and syntactic sense in particular, it is “the process via which a prototypical verbal clause, either a complete one (including the subject) or a verb phrase (excluding the subject), is converted into a noun phrase” (ibid.).

Legal discourse is full of nominalizations. It is a distinct feature of the legal language but at the same time it is a curse on the part of the layperson or the average-common reader. Nominalizations let the speaker to leave out reference to the
performer. Here is an example of publishing agreement where nominalization is reasonable:

If there is an ‘infringement’ of any rights granted to the Publisher ... the Publisher shall have the right, in its sole discretion to select counsel to bring an action to enforce those rights...(Schane 66)

In the above case, as we find in passive constructions, the doer of action or the actor is all inclusive. As no specific actor is mentioned, it covers anyone associated with it i.e. whoever infringes. If the nominalization has been replaced by the possible regular constructions like “if anybody or any person infringes any rights” or “whoever infringes”, the possibility of a corporation or group infringing cannot ruled out. In such contexts, the nominalization is justifiable. (Schane 67)

Gotti (59) and Bhatia (126) advocate the judicious use of nominalization. They believe that through nominalization, information is extremely condensed in titles, lists and preambles, and it is systematically arranged as a series of nominal expressions so as to fit well with the organized structure of parliamentary acts and articles. From this viewpoint, nominalization conforms to some of the primary requirements of legal writing, namely efficiency and concision on the one hand, and condensation and all-inclusiveness on the other hand.

Encapsulation is one of the important functions of nominalization. Nominalization enables to create the sense of objectivity for the text. However, there are the critics of the nominalization. It has been believed that nominalization makes the text more ambiguous. In a text packed with nominalizations, when clausal patterns or congruent forms are replaced by nominalized ones, some of the information is lost. Nominalization sometimes makes the wording more lengthy, complex, objective, succinct, convincing, and unified. It is best to use straightforward active verbs rather than nominalizations or passives. The basic sentence type containing a subject, active verbs and object, is easiest for people to process. (Fredrick Bowers 339).

Anne Enquist & Laurel Currie Oates (87) have criticised the nominalisation by giving the following examples and their simplified versions:

**Nominalization:** The usage of the property by the defendants was for the storage of firewood and building materials. (17 words; passive voice; weak verb)
Better: The defendants stored firewood and building materials on the property. (10 words; active voice; stronger verb—“stored” instead of “was”; you don’t need “usage” at all)

Nominalization: An agreement was made by the parties to reach a decision by Friday. (13 words; passive voice; weak verb)

Better: The parties agreed to decide by Friday. (7 words; active voice; stronger verbs—“agreed” and “decide”)

Nominalization: The intention of Congress was for the interpretation of the statute to be made broadly by the courts. (18 words; passive voice; weak verbs)

Better: Congress intended the courts to interpret the statute broadly. (9 words; active voice; stronger verbs—“intended” and “interpret”)

It can be concluded from the above discussion that nominalizations lead to verbose and increase the sentence length amounting to complexity. Because when a verb is turned into a noun, the sentence necessarily demands additional verbs, prepositions and articles. Nominalization also leads to passive voice construction and a weaker has been chosen for the purpose. Hence, it is desirable to use it reasonably.

3.16 Separation of the Auxiliary from the Main Verb:

Separation of the helping verb from its main verb is another characteristic feature of the legal syntax. The following examples will suffice the view:

(a) … the vendor if called upon to do so will at the request of the purchaser or any person deriving title under him, do all lawful assurances …

(b) The Insured shall within fourteen days of the loss or damage coming to his knowledge and at his own expense deliver to the company a claim in writing containing as particular an account as may be reasonably practicable. (Victoria A.)

Because of this feature, it is often very difficult to comprehend the legal text without efforts. It increases the complexity and the layperson may find it too difficult to understand easily.

3.17 Numerous Phrases:

As has been criticised and noticed in the legal texts, the sentences in the legal texts are full of numerous clauses and phrases. There are plenty of adjective phrases, noun phrases, prepositional and adverbial, finite and non-finite clauses, and of-constructions.
The commonly found legal prepositional phrases are ‘In the event of’, ‘for a period of’, and ‘during the course of’. However, it is because of the convention that they have been retained otherwise they can be substituted by the words. Words replacing the phrases can minimize wordiness and subsequently the sentence length and consequently the complexity. The shortened forms of prepositional phrases can be as follows:

- ‘In the event of’ = ‘if’,
- ‘For a period of’ = ‘for’,
- ‘During the course of’ = ‘during’.

Many words carry both literal and idiomatic meanings. They may be termed as the connotative and denotative meanings. The words and phrases in ordinary usage may mean differently from their use in the legal senses. Here are some more prepositional phrases with their simplified equivalents preferred by the proponents and practitioners of plain English taken from Bryan Garner's *Legal Writing in Plain English* (2013)

- an adequate number of - enough
- a number of - many/several
- a sufficient number of - enough
- at the present time - now
- at the time when - when
- at this point in time - now
- during such time as - while
- for the reason that - because
- in the near future - soon
- is able to - can
- notwithstanding the fact that - although
- on a daily basis - daily
- on the ground that - because
- prior to - before
- subsequent to - after
- the majority of - most
- until such time as - until
In order to validate the point, here is an example of the details and provisions:

Procedure when investigation cannot be completed in twenty-four hours. (Bhuvan 163)

(2-A) notwithstanding anything contained in sub-section (1) or sub-section (2), the officer-in-charge of the police station or the police officer making the investigation, if he is not below the rank of a sub-inspector, may, where a Judicial Magistrate is not available, transmit to the nearest Executive Magistrate, on whom the powers of a Judicial Magistrate or Metropolitan Magistrate have been conferred, a copy of the entry in the diary hereinafter prescribed relating to the case, and shall, at the same time, forward the accused to such Executive Magistrate, and thereupon such Executive Magistrate, may, for reasons to be recorded in writing authorize the detention of the accused person in such custody as he may think fit for a term not exceeding seven days in the aggregate; and, on the expiry of the period of detention so authorized, the accused person shall be released on bail except where an order for further detention of the accused person has been made by a Magistrate competent to make such order; and, where an order for such further detention is made, the period during which the accused person was detained in custody under the orders made by an Executive Magistrate under this sub-section, shall be taken into account in computing the period specified in paragraph (a) of the proviso to sub-section (2):

Provided that before the expiry of the period aforesaid, the Executive Magistrate shall transmit the nearest Judicial Magistrate the records of the case together with a copy of the entries in the diary relating to the case which was transmitted to him by the officer-in-charge of the police station or the police officer making the investigation, as the case may be.

The above quoted example is a single sentence containing 277 words. Of course, it has too many clause and numerous phrases. It begins with the difficult-sounding word ‘notwithstanding’ which has been quite rarely used in the general circles. There is marked separation of the verb from the rest of the part of the sentence especially the modal auxiliary ‘may’ indicates that distance. There are nearly eight conjunctions most of them being the subordinators. There are many clauses embedded. The meaning stretched further and further. All kinds of phrases ranging from the noun phrases, verb phrases and prepositional phrases are evident in plenty. Interestingly, a very rare use of adjective phrase ‘accused person’ is found. Adverb phrases are quite in the legal language.
3.18 Summing Up:

Legal language has its own characteristic syntactic peculiarities. Sentence length and its complexity are the major issues that have severely criticised. However, it has been often found to be the part of convention as well as the necessity determined by the complexity and seriousness of the subject matter as well as the cautious nature of the purpose of language. Latinized expressions, unusual order of words, embedding of clauses, separation of the subject from the verb, passive constructions and nominalizations are some of the most prominent features of the legal syntax.

If legal language is taught with special focus on the use of language i.e. as English for Specific Purposes, it would be easier to be understood. However, the large chunk of common people is bound to remain aloof from it. Though plain language has its own positives, it cannot be brought into force overnight. Hence, the best alternative is to make oneself aware of the features of the legal language.
Works Cited:

- Coca Cola Bottling Co.Vs Reeves 486 So 2nd 3 7 4 , Miss.1986 Robertson J.
4.1 Introduction:

Every profession has its unique language peculiarities. These peculiarities are visible at the phonological, semantic, syntactic, lexical and graphological levels. Hence, the language of a profession could be termed and distinguished as professional register. It differs significantly from the other registers in terms of the stylistic features manifested in the lexical, the syntactic and the graphological peculiarities. The legal texts are prescriptive, descriptive, argumentative, persuasive and analytical depending upon the context. Present research is an attempt to discuss such stylistic peculiarities of the legal language. No fixed parameters have been chosen for the analysis as quite a few stylistic features have been available which make the legalese distinct. However, foregrounding, cohesion and such parameters have been the part of the analyses and interpretations.

Style is man. Every person and profession has a distinct style of its own. No language should be considered as “a readily identifiable object in reality which we can isolate and examine” (Crystal and Davy 3). Stylistics is the study and interpretation of the different elements that make a particular writing distinctive and unique. Leech, Deuchar and Hoogenraad define style in this way “…language also varies according to the use to which it is put. While the term dialect is convenient to refer to language variation according to the user, REGISTER can be used to refer to variation according to use (sometimes also known as style).” (9)

The style of legal language differs not just from other professions but also from the ordinary usage of language. Legal language is a particular language variety; it is a “functional variant of natural language” (Mattila 3). The unique lexicon, the syntactic features that comprise of the sentence types, clauses types, the way the things have been presented and so on constitute the stylistic study of the legal language. Actually, Legal language comprises of many sub-genres within the domain of legal matters mirror a great variety of legal discourses. The kind of language used by advocates in the Courtroom language is different from the language used by the authors of legal texts or legislators. Judicial decisions have their own peculiarity and
stands as sub-genre; the language of regulations, statutes, agreements, etc. is another distinct sub-genre, etc.

“Common features of style include the use of dialogue, including regional accents and individual dialects (or ideolects), the use of grammar, such as the observation of active voice and passive voice, the distribution of sentence lengths, the use of particular language registers, and so on.” (Wikipedia)

Though legal language is not the premise of an individual or group, its convention makes it a distinct register. Danet is of the opinion that legal language is distinct and differentiated. Hence, she thinks it is possible to call it a separate dialect or sublanguage. Nevertheless, she prefers to label it a register due to her conviction that “register is mainly a matter of formality” (275). In order to understand the peculiarities of it, stylistic study is imperative. This study does include the lexical and syntactic features of the legal language which have been already discussed in the previous chapters of this research project. However, there will be an attempt to throw light on the same with new dimensions and other added features will be discussed in this chapter which is devoted to the study of legal style.

There is marked difference in the way the lawyers or the persons belonging to the law fraternity speak especially in the legal discourse. Though spoken legal language is not aimed at here, its mention is necessary. Urban Lavery (Bhatnagar 33) appreciates lawyers for their nimbleness in spoken discourse against their poor writings skills. Speech and writing differ greatly. The legal language in written form has its own features and defects too which is the area of this research.

In order to validate the argument, various cases, acts and other legal documents have been taken into consideration. Some of such texts have already been discussed after their thorough analysis in the previous chapters. Hence, in order to avoid their repletion, only peculiarities have been discussed here. The stylistic analysis will be at the graphological, grammatical, syntactic, lexical, grammatical and textual levels.

4.2 Technical Terms:

Every profession has its own characteristic and distinct lexicon. The legal discourse is full of the terms like abate, bail, allege, requisition, domicile, forfeit, Decree, Mortgage, Sub-letting, Deem, Permisess, Tenant, Lease, Hereinafter, landlord which do not any meaning in the general usage and hence they are technical
as belonging to the law discourse alone. Though they increase the difficulty in understanding for the laypersons, they have been accepted for years and hence have special significance in the discourse and cannot be replaced as claimed by the proponents of the plain language. The words carry great significance and have been tried and tested over the years. They are the part of the great legal tradition as well. Hence, though seemingly they are different and abstract in nature, they have been defined duly especially in the acts as even known words have been defined in order to suggest the specific meaning intended by the law in the context. Such words have been discussed in detail in the second chapter of this project. Moreover, in the cases and acts that have been analysed in this chapter, they are easily visible.

4.3 Archaism:

The legal discourse is highly distinct discourse as it is rich in its own way. Though archaism has been criticised as a defect, the close look at it makes one believe it be a highly ornamental thing. Though ornamentation has hardly any significance in a professional discourse, it brings its peculiarity to the fore. Hence, the age-old and outdated expressions like hereinafter, herein, hereto, hereby, hereof, whosoever, thereof are still retained. Though their simplified versions are available, their absence makes the legal language indifferent. Hence, it seems, they have been used today also. These simplified versions or equivalent of the archaic words have been discussed at length in the second chapter of this project the title of which is ‘Legal Lexicon’. They give an antique look to the legal language. In the second chapter of this research project, they have been discussed in detail. The criticism in favour and against has also been taken into consideration there.

4.4 Foreign Expressions:

English is a borrowed language and the Norman domination is quite evident in the legal language. As a result of this we find many words from the French and Latin languages. The words like Jurisdiction, alien, per capita, suo moto, statute, ex officio, de facto, amicus curiae, prime facie, habeas corpus, though belong to foreign languages, no more appear so because of their consistent appearance not just in the legal discourse but in the journalistic and parliamentary discourses. Some of such words have been now widely used in the everyday use. The expressions- alien, per capita, ex officio, prime facie, etc. have been extensively used in general discourse
also. Besides, *ad hoc, per diem, bonafide* have been used in many official discourses which have no direct connection with the legal discourse.

Moreover, there are many legal maxims which have got a great validly and wide meaning and have been used quite extensively. Here is just a sample of it—*Ignorantia Facit Excusat*: Ignorance of law is no excuse (though ignorance of fact may be excused). These maxims are the legal proverbs. The proverbs are pregnant with meaning. A sentence tells the things that cannot be expressed in hundred of words. They are like the moral that we draw and derive from the parables and other such stories. They help for being succinct in expression especially amidst the charge against the lawyers for being verbose often.

### 4.5 Common Terms with Uncommon Meanings:

Words carry contextual meanings. Words have many layers and facets of interpretation depending upon their use in a discourse. The same is the case with legal language where the words gain special significance. The common words found in the everyday usage like *action, suit, appeal, judge, right, duty* and numerous others have a distinct meaning in the legal register. Such words are termed as quotidian words too.

Even the modal auxiliary ‘shall’ which has been ordinarily used after the first person pronouns have obligatory meaning in the legal discourse. It gives a binding force. It is used after any subject and is not restricted to the personal pronouns alone. “Every student shall abide by the rules and regulations of the college” is binding on the students. The students are supposed to follow the rules and regulations of the college.

### 4.6 The Use of Doublets and Triplets or Binomials:

One of the salient features of the legal language is the use of synonymous words side by side. It is “a sequence of two words pertaining to the same form-class, placed on an identical level of syntactic hierarchy, and ordinarily connected by some kind of lexical link”. (Gustafsson 9) If they are two, they are doublets and when they are three, they are termed as triplets. Though this contributes to wordiness, it makes the intended meaning clearer. Legal language has such features that at a time some appear to be stylistic defects and the qualities too. Here are some examples of the same:

- answerable and accountable
- bind and obligate care and attention
- due and payable
- heirs and successors
- new and novel

It is equally important and inevitable to mention that the doublets are necessary if different situations are taken into consideration. Law is a game of words and on the basis of the interpretations of the words mostly that the matters are decided. Hence, to avoid any sort of misinterpretation or the meaning beyond the expected one, doublets have been in vogue. In the above cited examples, thought answerable and accountable are synonymous, they have their own meanings which are possible to be meant different in different legal situations. Heirs differ from the successors; new and novel differ on many grounds and due is not every time payable.

Here are some triplets:

- form, manner and method
- name, constitute and appoint
- possession, custody and control

In order to give no way to more than one interpretation or in the situation when multiple possibilities are supposed, triplets are also utilized. Hence, on one hand form, manner and method different from one another on the other hand they have been used in a single phrase to mean the same. The words stand in resemblance maintaining their own individuality. Possession may be of property; custody is of a person and control can be of a situation too.

However, doublets are not always synonymous. Sometimes they are antonymous e.g directly or indirectly. Often there more than one possibility which are better served by such doublets. Though it is a quality, it is a defect as it brings monotony too. This has been already discussed in the second chapter of this project.

4.7 Nominalization:

This is one of salient characteristics of the legal language which has been dealt in detain in the second and third chapters of this research project. However, here is a cursory glance from the stylistic viewpoint.

When a verb or adjective is converted into a noun, the process is called nominalization. The most frequent nominalization found in the legal language is deverbal nominalization where the suffixes *ion* and *ment* are found in plenty. We
have the nominalised words with the suffix *ion* like *foundation*, *protection*, *provision*, *adoption* and with the suffix *ment* such as *punishment*, *imprisonment*, *agreement*. The suffixes *ion* and *ment* denote the state, action or instance of verbs and signify the process of making or doing.

This style has been criticised bitterly for incrassating the intricacy which is already there in the legal language.

**4.8 Lengthiness, Complexity and Monotony:**

Legal language is full of very long, enormously complex sentence structures that give birth to monotony in expression. Instead of terming it to be a stylistic peculiarity, it is better to call it a stylistic defect. The proponents of the plain language movements have worked on this more than anything else. Other peculiarities have positives more than the negatives. But this feature has more the defects. Whatever it may be, it one of the stylistic features of the legal language where the average sentence length varies from seven words to over four hundred words. In his very scholarly article the legal language entitled ‘The Language of the Law’; Urban Lavery, a veteran legal scholar and critic has cited numerous examples from the medieval to modern periods. Right from the Acts of Parliament in the times of Henry VII to the modern Acts of Parliament, the writer finds extremely long and intricate sentence structures which, to him, are utterly unnecessary. He has justified his argument quite convincingly by citing the examples where the sentences with more than four hundred words have been frequently found. (33-48).

The complexity is the result of wordiness which is considered as a defect. Moreover, it is also the consequence of too many modifications, over-cautiousness to avoid misinterpretation, embedded clause, archaic expression, employment of foreign expressions which are termed as jargon or argot, foreign maxims, Latinized expressions and so on. The below cited examples under the various heads like style of acts, deeds and cases would better exemplify this. Moreover, these issues have been given justice in the third chapter of this research project entitled ‘Legal Syntax’. We criticise legal language for repetition and hence, to discuss this feature more would amount to repetition itself.

**4.9 Extensive Use of Passive Voice:**

Whether it is to attain uniformity or to bring objectively, the extensive use of passive construction is the characteristic feature of the legal language. This has been
less criticised by the experts as it is felt to be a necessity quite often. There are situations where and when the actor is not specific. There are requirements when the identity of the actor is to be kept a secret deliberately. There are times when the action is more importance than the doer of the action. In all such and many other situations, passive voice is preferred. Though it adds to the ambiguity and abstractness, it is sometimes the necessity. Hence, if the proponents of the plain language call it a defect, it is actually a necessary thing. If it is evil, in their eyes, it is a necessary evil for me. However, it must be taken positively as it is wonderful stylistic feature of the legal language especially because it ensures objectivity and uniformity which are the necessities of the law and its discourse. Moreover, the impersonal and detached character of the legal language is desired which is achieved by the use of passive constructions. This feature has been delineated with quite few examples in the third chapter of this research project.

4.10 Verbosity:

Verbosity or wordiness is another style of the legal language. This is also much criticised as being needless and contributing to complexity and monotony. The doublets and triplets which have been discussed earlier in this chapter also cause wordiness. When one word enough, why two? Though this is justifiable in certain situations, this has been considered as a defect as it causes wordiness and wordiness is not a virtue. Precision and conciseness are the properties of good style.

The bountiful verbose expressions are found in the legal discourse. *Adequate number of* is used instead of *enough*; *Until such time as* is used for *until* and so on. The preference of prepositional phrases to adverbs amounts to wordiness. This feature has been detailed in the third chapter of this research project.

Arthur Symonds has bitterly criticized the verbosity, wordiness and pompousness of lawyers and parliamentary draftsmen. (75) He has given a very amusing example where a simple expression ‘I will give you that orange’ will be pompously and monotonously put forth in the legal language.

“I give you all and singular, my estate and interest, right, title, claim and advantage of and in that orange, with all its rind, skin, juice, pulp and pips, and all right and advantage therein, with full power to bite, cut, suck and otherwise eat the same or give the same away as fully and effectually as I the said A,B, am now entitled to bite, cut, suck or otherwise eat the same orange or give the same away
with or without its rind, skin, juice pulp and pips, anything hereinbefore or hereinafter any other deed or deeds, instrument or instruments of what nature or kind so ever, to the contrary in any case, notwithstanding.” (Symonds 75)

4.11 Circumlocution and Jargon:

Circumlocution is yet another stylistic feature of the legal discourse. It is considered as a defect too. Rightly so as needless employment of more words cannot be a asset. Urban Lavery, a very strong and staunch critic of the defects in legal language says:

“Another chief defect in the writing of layers is the fact that they use circumlocution rather than straight, blunt speech. They prefer to go round a subject with their words rather than straight to it. In their use of language they prefer a steam shovel rather than a spade-and then they neglect to cast away the rubbish.” (43) Circumlocution and jargon have a very close association. Jargon necessities to use the lawyers use circumlocution rather than short straight speech. Moreover, it tends for the use of vague, woolly, abstract nouns rather than the concrete nouns.

Sir Arthur Quiller Couch, the famous professor of English literature at Cambridge University, in his treatise ‘Art if Writing’, while rebuking circumlocution, devotes one chapter to ‘Interlude: On Jargon’. He says (Quoted, Lavery in Bhatnagar):

“Caution is its father, the instinct to save everything and especially trouble; its mother, Indolence. It looks precise, but it is not. It is in these times safe; a thousand men have said it before and not one to your knowledge has been prosecuted for it.” (44) In order to justify his point, the learned professor cites a fitting example:

“Has a minister to say “No” in the House of Commons? Some men are constitutionally incapable of saying no; but the Minister conveys it thus: “The answer to the question is in the negative.” That means “no”. Can you discover it to mean anything less, or anything more except that the speaker is a pompous person?” (44)

The words like case, instance, character, nature, condition, pursuant, degree have been used many times rather unnecessarily. Quiller-Couch says: “…whenever in writing your pen betrays you to one or another of them, pull yourself up and take through…” (44)
The expressions like *as regards, with regard to, in respect of, in connection with, according as to whether* are considered as the dodges of jargon. In Marathi or Hindi also such expressions frequently used as fillers. When the thought or idea is unclear, they help to fill the gaps in communication/conversation until the proper words is arrived at. Hence, we have “I want say…”, “Do one thing…” and so on. I call it the introductory expression which is quite needless in fluent speech or rhetoric. Such words amounting to circumlocution have been compared to charity as they too have multitude of sins. The words are compared to springboard, used for jumping from one idea to another. (45)

4.12 Prolixity:

Prolixity is considered as a salient feature. However, it has been criticised too. Webster defines *prolix* as *extending to great length*. It is one of the most frequently found feature of the legal discourse which has been discussed to great length in this chapter under the heading *Lengthiness, Complexity and Monotony*. Webster considers prolixity as one of the worst qualities of style. (Lavery in Bhatnagar 41) Prolixity in the legal discourse is evident due to an impelling urge toward guarded and cautious language. It happens when the phrases and clauses are imbedded and parenthetical expressions are used. The cases, acts and other examples of legal language quoted in the present research would serve the purposes.

4.13 Stretched Definitions:

This is another stylistic feature of legal language. Every act has numerous words which have been defined in characteristic way. This feature has been discussed in detail under the title ‘The Style of the Acts’. The definitions serve the intended meaning and not more than that. They help to the users to be specific and help to reduce misinterpretation, if any that arises or may arise. Drafting should be without loopholes. As Crystal and Davy state:

“Whoever composes a legal document must take the greatest pains to ensure that it says exactly what he wants it to say and at the same time gives no opportunities for misinterpretation…. when a document is under scrutiny in a court of law, attention will be paid only to what, as a piece of natural language, it appears actually to declare …and if the composer happens to have used language which can be taken to mean something other than he intended, he has failed in his job.” (193)
To layperson it is often strange to read the definitions of very common and usual words. It sometimes creates unintended humour. This is evident in an Australian statute where ‘fish’ is defined as that includes ‘beachworm’, ‘fingerprint’, and ‘toeprint’. (Fisheries Management Act, 1994.)

Another example of this which also creates wordiness is of the definition of industry. Industry means any business, trade, undertaking, manufacture or calling of employers and includes any calling service, employment, handicraft, or industrial occupation or avocation of ‘workmen’. (Industrial Dispute Act, 1947.)

Such stretched definitions have invited criticism not just from the supporters of Plain Language Movement or layperson but also from the legal fraternity. When it has been acknowledge and criticised by a person of Justice Krishna Iyer’s stature, it assumes more significance and requires serious attention. Commenting upon the definition of ‘industry’, the honourable justice says: “…a definition is ordinarily the crystallization of legal concept promoting precision and rounding off blurred edges but, alas! The definition viewed in retrospect has achieved the opposite….” (A.R.R 1978, S.C. R.548) He has criticised the definition of industry terming it to be “clumsy, vaporous and tall and dwarf.” (A.I.R. 1978, S.C. R. 548.)

Firstly, the definitions are expected to be served when necessary. Secondly, they should be as much succinct as possible. The length of definition should not make read feel that the word is easier than the definition. Hence, stretched definitions need to be avoided. Reed Dickerson too thinks in the similar way and call stretched definitions, Humpty Dumptyism, echoing Humpty Dumpty’s scornful assertion: “When I use a word, it means just what I choose it to mean—neither more nor less.” (Carrol 127)

4.14 Conjoining:

Conjoining is another salient feature of the legal language. It is joining of words and phrases with the coordinating conjunctions and as well as or. They are also termed as binomial expressions like any and all. (Gustafsson 123 & 132.)

This feature of langue is also termed as ‘recursion’: “given any grammatical sentence of the language, it is always possible to form a sentence that is longer” (O’Grady, Dobrovolsky and Aronoff 134.)
Various linguistic categories are jotted together. There are nouns and even verbs. Here is an example of a typical publishing contract where conjoining is evident:

“While this agreement is in effect, the author shall not, without the prior written consent of the publisher, ‘write’, ‘edit’, ‘print’, or ‘publish’ or cause to be ‘written’, ‘edited’, ‘printed’ or ‘published’, any other edition of the work, whether ‘revised’, ‘supplemented’, ‘corrected’, ‘enlarged’, ‘abridged’, or otherwise...”(Farnsworth and Young 166.)

In the above example, first the active verbs and then the passive forms of verbs have been conjoined. It’s the repetition of the same class of words in order to cover larger canvas of meaning and interpretation.

4.15 Impersonality, Detachment, Objectivity and Formality:

Using passive forms is one of the most common methods of emphasizing the impersonal in a language (Sarcevic 177). The comprehensive use of the third person (singular and plural) in legislative texts helps to emphasize the idea of objectivity, detachment and authoritativeness. Where, for instance, a provision applies to everybody, the sentence either begins with every person, everyone etc. when expressing an obligation or authorization, or no person, no one etc. when expressing a prohibition:

No one may be subjected to slavery, servitude or forced labour.

Everyone has the right of access to – (a) any information held by the state; and (b) any information that is held by another person and that is required for the exercise or protection of any rights.

Unsurprisingly, in wills, which is a personalized document, the first person singular is used abundantly. One of the few exceptions to the common rule of ‘impersonalization’ in legislative texts is usually seen at the beginning of constitutional documents, such as the Preamble to the Indian Constitution where the first-person plural pronoun and possessive adjective are used:

“WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens...” (Wikipedia)

Though the style of the preamble is not completely detached, it is all-inclusive because of the first person plural pronoun. It appears majestic, impressive
and objective. It has been said that an alternative to the third person pronoun in order to bring objectivity is ‘we’, which is often used in formal or scientific writing by a single individual. (Quirk et al 350)

However, in most of the cases, the third person pronouns are used which give the sense of impersonality and objectivity. The honourable judges are not addressed ‘May it please you’ which will give it a personal colour. On the contrary ‘May it please the Court’ is preferred which is completely detached and impersonal. This is evident at many instances. It has been said ‘it shall be unlawful’, ‘it has been alleged’ ‘the plaintiff has alleged’ and so on. Passive voice also helps in ensuring objectivity and detachment in the legal discourse. It has been said that the legal profession’s regular reliance on impersonal constructions is another factor that makes legal documents harder to understand. (Felker et al 31-33.) Though objectivity and impersonality or detachment increases complexity, it is necessary also. Hence, objectify at the cost of complexity is understandable. The general applicably and address to the general and not specific people necessitates the objective and impersonal style. Hence it is quite justifiable. The expressions bench and court (synecdoche and metonymy) also help to keep the legal style impersonal, e.g.

‘Has the court made a ruling yet?’

‘May I approach the bench?’

However, this impersonally is highly objected for being less human and more machine-like. Some people think that since law is for real people in real situations, the language of law should be more humane. Richard Lanham opines:

“Human beings, we need to remind ourselves here, are social beings... We become uneasy if, for extended periods of time, we neither hear nor see other people. We feel uneasy with the official style for the same reason. It has not human voice, no face, no personality behind it. It creates no society, encourages no social conversation. We feel that it is unreal.” (66.)

Almost all the documents except the deeds, agreements, testament and affidavit are written in the third person that denotes impersonality of the legal language. Even when first or second person pronouns are used, the use of passive voice, employment of technical words and formal vocabulary make it quite formal and balances the formality and impersonality.
Many expressions in legal discourse have too much of formality, e.g. the preference of shall to will; positions of people and institutions involved have capitalised initial letters, for instance Grantor, Deviser, Contractor, Attorney, even the names of the documents are capitalised – Warranty Deed, Last Will and Testament, etc.

4.16 Multi-Meaning and Ambiguity:

Legal language has been criticized for having multi-meaning and ambiguity. This has been evident when the vagueness has been tried to be minimized by the use of doublets and triplets. However, there are expressions, where more than one interpretation is possible. Inactive and ambiguous form of words can create doubt in legal result. E.g. the expression: “Notice shall be issued.” It is not categorically mentioned who will issue the notice. Here is another expression: “School building shall have fire alarms.” It is not clear from it who is liable-School Authority, Fire Brigade, State Fire Extinguisher Office, Electrical Contractor or who.

4.17 Importance to Precedent:

A record of past proceedings, serving as a guide for subsequent cases is precedent. While the new judgments are pronounced, a reference to the previous judgment has often been taken into consideration which validates the given judgment. The precedent serves as the basis or strong foundation. Most importantly, precedent is also a judgment given some time in the past. All the necessary factories are taken into consideration while it is declared. Hence, high amount research and thought has been utilized in it which becomes a very solid foundation for the convincing judgment. Moreover, it helps to take extensive research in hand as already the courts are heavily burdened with too many pending matters. Hence, the characteristic feature of citing the previous judgment of the superior court which is termed as precedent is a peculiar and quite useful style of the legal discourse. This feature has been discussed in detail in the previous chapter of this research.

4.18 The Style of the Acts:

Every act begins with a short title, year of its enactment and its extent and commencement. As many laws had been introduced by the British during their rule in India, the new laws with sometimes the same titles with the year of its commencement and enchantment in the title are brought to the fore.
e.g. *The Evidence Act, 1872*. The title has the year of its commencement. Though it was introduced by the British, it has been continued and retained today also. Had it been modified or repealed by the Indians after the Independence of India, the year could have been different.

The title is followed by the extent. The aforesaid *The Evidence Act, 1872* further says:

It extends to the whole of India [Except the State of Jammu and Kashmir] and applies to all judicial proceedings in or before any Court, including Courts-martial, [other than Courts-martial convened under the Army Act,] (44 & 45 Vict., c.58) [the Naval Discipline Act (29 & 30 Vict., c 109) or [***] the Indian Navy (Discipline) Act. 1934] (34 of 1934) [or the Air Force Act] 7 Geo. 5, c. 51) but not to affidavits presented to any Court to any Court or Officer, not to proceedings before an arbitrator And it shall come into force on the first day of September, 1872. (advocatekhoj.com)

In the above quoted extent, the scope and nature of the law/act is clearly defined and mentioned. What it includes and what is excluded are taken into account which does not let to have any confusions or ambiguity. The citations and references are also mentioned. There are exclusions and their references are mentioned in the brackets.

Every term has its source mentioned and nothing is in the air. Nothing is hypothetical. It has got its base which is precisely mentioned in the extent of the act itself. If anybody has any doubts, (s)he can visit the source. If there are amendments, the year mentioned at the end of the title of act ensures which one is the latest one. The clear-cut aim, scope and extent which follow the title of the act are the salient feature of legal writing. As everything has to be dealt in neatly and clearly and there is little or no margin to have any other interpretation than the literal meaning, very often the legalese appears to be lengthy. However, it can be asserted from the above quoted example that lengthiness is imperative when you are expected to encompass the inclusions and the exclusions.

The definition and extent are followed by the interpretation of the expressions in the form of words which are supposed to have distinct meaning in the legalese. It is called the interpretation clause. It begins thus:

In this Act the following words and expressions are used in the following sense. Unless a contrary intention appears from the context-
“Court”- includes all Judges and Magistrates, and all persons, except arbitrators, legally authorized to take evidence.

Caution and care are the key features of the legalese. At the outset of the interpretation clause, the intended meaning of the words and terms have been mentioned. However, in case there is possibility of any other interpretation, the act says:

*Unless a contrary intention appears from the context…*

This affirms the fact that the meaning defined is not final and there are possibilities of the contextual meanings of the words. Though the word ‘court’ is quite common, it has also been clearly interpreted. However, more interesting is the interpretation of the word ‘fact’.

“Fact” – “Fact” means and includes-

(1) any thing, state of things, or relation of things, capable of being perceived by the sense;
(2) any mental condition of which any person is conscious.

Illustrations

(a) That there are certain objects arranged in a certain order in a certain place, is a fact.
(b) That a man heard or saw something, is a fact.
(c) That a man said certain words, is a fact.
(d) That a man holds a certain opinion, has a certain intention, acts in goods faith or fraudulently, or uses a particular word in a particular sense, or is or was at a specified time conscious of a particulars sensation, is a fact.
(e) That a man has a certain reputation, is a fact.

“Relevant” – One fact is said to be relevant to another when the one is connected with the other in any of the ways referred to in the provisions of this Act relating to the relevancy of facts.

The definition of the word is followed by its illustrations. Various possible meanings have been taken into consideration and it is expected that the meaning or interpretation of the word ‘fact’ does not go beyond the meaning illustrated. There are several words in the act and almost all the words which may have more than one interpretation have been defined and illustrated. This gives birth to two things-one it gives a very clear and unambiguous nature to the law; two it makes the legalese lengthy and complicated. Bentham (265) has endorsed this function of definitions
and ‘abbreviated words’ as a remedy for long windedness. He has suggested that they be used in legal language like the variables X and Y in mathematics.

Illustrative and descriptive nature of the legalese is evident here. The act cannot be made compact and if it is made, it may be open to more than one interpretation. It may create loopholes. Hence, lengthiness becomes a requisite thing.

In order to support this argument, here is another example. It is the Motor Vehicles Act, 1988. (advocatekhoj.com) The act is too long to be quoted here and discuss in detail. However, it is imperative to mention that the act has been defined in a very very detailed manner as it contains the definitions of 49 terms. Every act has the customary beginning followed by the illustration. Despite all this caution and care, there have been loopholes that are found out by the legal experts and there are arguments in the court. One of the striking features of the legalese in the use of English while drafting acts is the use of the modal auxiliary ‘may’.

This Act may be called the Indian Evidence Act, 1872.

This Act may be called the Motor Vehicles Act, 1988.

The use of ‘may’ indicates that ‘it may be called’ and not necessarily ‘is called’. It shows a bit of tentativeness. However, contrary to this tentativeness is the compulsion reflected in the modal auxiliary ‘shall’.

“It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different State and any reference in this Act to the commencement of this Act shall, in relation to a State, be construed as a reference to the coming into force of this Act in that State.” (advocatgekhoj.com)

Some things are made mandatory as the enforcement of the law whereas the states have the liberty to introduce it through passing some law which is indicated by the modal auxiliary ‘may’. Considering the multiple possibilities, the addition of clauses is evident. In the routine discourse the above discussed modal auxiliaries contend different meaning.

The Maharashtra Universities Act, 1994 is another prime example of the legalese with distinct words and expressions which is quite different from the ordinary usage of English language. The objective of the act is cited at the outset which says thus:
“An Act to unify, consolidate and amend the law relating to the non-agricultural and non-technological universities in the State of Maharashtra”.

The expressions ‘relating to’ instead of ‘related to’ and ‘in the State of Maharashtra’ instead of ‘in Maharashtra’ distinctively represent the legal style. The act is further delineated in a characteristic legal style with many clauses and phrases.

WHEREAS it is expedient to provide for a unified pattern for the constitution and administration of non-agricultural and non-technological universities in the State of Maharashtra and to make better provisions therefore;

AND WHEREAS with a view to consider and recommend measures for better governance of such universities and reorganisation of higher education, the Central Government and the Government of Maharashtra had appointed various committees and study groups;

AND WHEREAS after considering the recommendations made by these committees and groups, and the experience gained in implementing the present university Acts, it is felt necessary to make provisions to enable each university to effectively carry out with responsibility the objects of the university, to promote more equitable distribution of facilities for higher education, to provide for more efficient administration, financial control, better organisation of teaching research, to ensure proper selection and appointment of teachers and other employees, to provide for representation of students and teachers on various bodies of the university, to take measures for curbing or for eradicating undesirable non-academic influences detrimental to maintenance of discipline and standards of education or academic excellence in the universities and to provide for matters connected with or incidental thereto; it is considered expedient to unify, consolidate and amend the law relating to such universities in the State; It is hereby enacted in the Forty-fifth Year of the Republic of India as follows :–...

The expression WHEREAS it is expedient to provide for a unified pattern is the exclusive expression of legalese. Usually in the general English (non-legal English) the conjunction ‘whereas’ does not come at the beginning of a sentence. Its recurrence is seen in the long sentence divided into three parts. Parallelism is quite evident there. Moreover, there is recurrence of the non-finite phrases beginning with
‘to’ which talk of the objects of the university. The ‘to’ infinitive is written in bold in
the above quoted example. The sentence contains two hundred and twenty nine
words out of which there are twenty five verbs.

…it is felt necessary to make provisions to enable each university to
effectively carry out with responsibility the objects of the university...

The underlined main clause from the above quotes has three infinitives. The
first one ‘to make provisions’ functions as the object of the verb in passive form ‘is
felt’ whereas others function as adverbials.

4.19 The Legalese Reflected in the Cases:

Use of Passive Voice is a salient feature of the legalese. Many cases are too
long to be discussed and quoted. Hence, important part(s) of them has been taken for
discussion here. In the Delhi Rape case, it is said thus:

“The convicts are also informed that they can file an appeal against the
judgment and order on sentence within a period of 30 days as per Article 115 of the
Limitation Act, 1963.” (advocatgekhoj.com)

The expression like ‘the convicts are also informed’ are found quite frequently
in the legalese. The idea behind it is that there is no particular authority or person
informing it. Moreover, the expression ‘within a period of 30 days’ is an example
where the characteristic legal expression is seen. It could also have been said as
‘within 30 days’. However, in the legalese, the ‘period’ has to be mentioned, hence
the occurrence.

It is further said in the judgement—“The exhibits be preserved till the
confirmation of death penalty by the Hon’ble High Court.”

‘Be’ is not a verb which can be used in isolation. It must accompany some
verb. However, it is widely used in the legal expression as in the above quoted
example. The judgement further says thus—

“The file be prepared as per Rule 34 of Chapter 24 Part B Vol. III of Delhi
High Court Rules and be sent to Hon’be High Court as per rules”.

Moreover, the word honourable is written in the contracted form as ‘hon’ble’.

The Supreme Court judgment in the Keshawanand Bharti vs the State of Kerla
case is spread over 1450 pages. However, it is said by the legal experts that the ratio
has to be gone through and not the obiter dicta (a Latin term). This case produced the
basic structure of the Indian constitution. Hence, many minute things had to be
explained which amounted to the lengthiness and bulkiness of the judgment. Multiple issues were raised and hence, more things had been necessitated to be illustrated. This is the defense of the legal experts.

4.20 The Language of a Deed:

If we take into consideration the legal language from the graphological point of view, we find that the legal texts have their own characteristics of the layouts. There is identical structure of the layout in most legal texts as is reflected in different forms and deeds.

There is a marked division from the beginning till the end. The whole text or document is systematically divided into various paragraphs. We find this division in the form of sections and subsections, units and subunits depending upon the character of the document. Here is an example of the **Deed of Partnership**:

**Deed of Partnership**

*This Deed of Partnership is made at................. on this ............... day of .............. by and between: Shri .................. aged about ............ years, son of Shri .................. resident of .................................................. (Hereinafter to be called the First Party); Shri .................. aged about ............ years, son of Shri .................. resident of .................................................. (Hereinafter to be called the Second Party); Shri .................. aged about ............ years, son of Shri .................. resident of (Hereinafter to be called the Third Party); Shri .................. aged about ............ years, son of Shri .................. resident of (Hereinafter to be called the Fourth Party);*

*Whereas the parties to this deed have been carrying on the business of ................................ under the name and style of M/s. ................. with its principal place of business at ............ on the terms and conditions incorporated in the Partnership Deed executed on ..........................................................(advocatekhoj.com)*

There are various techniques used to determine the division. The first means or technique used is capitalization (the title of the deed in the above mentioned case and names of the parties as First, Second and Third...they are considered as the proper names and of course the initial letters of new sentences...in fact the initial capital letter confirms the beginning of a new sentence). The second technique is spacing or
ellipsis. The necessary or desired information is to be filled by the respective beneficiaries in the spaces left blank. The third tool used for division is the additional information given in the brackets which is explicitly used in the above deed. Often the names of the parties are made bold for simplicity and ease and sometimes for focus as well. The entire paragraph or the even the deed or document is punctuated well which enables a reader, even a layperson to read and use the document easily. Hence we find the commas, full stops, colons, semicolons and brackets appropriately used in the above cited example of the deed. There are 136 characters in the above sentence. The sentence is quite long but is systematically divided with the proper use of punctuation marks. The proper placement of punctuation mark is important from the point of view of emphasis, focus, division (separation) and the contrastive information.

The above cited example of the deed is only 10% of the entire deed as further details are too long to be quoted here. However, it is imperative to mention that there are single sentences that constitute the paragraph of the document. Sometimes a single sentence is divided into two paragraphs. Such singular division is due to the additional information given separately with equal emphasis. Here is the example from the same deed quoted above:

AND FURTHER WHEREAS the parties to this deed have been carrying on the above said business in partnership on the terms and conditions orally and mutually agreed amongst themselves as aforesaid;

And Now Whereas the parties to this deed desire that the terms and conditions on which they have been carrying on the above said business in partnership since ...................... and propose to continue in future be reduced to writing to avoid future difficulties or misunderstanding.

It is quite interesting to note that the sentence begins with the word ‘and’ which is rather unusual. Further, all the letters of the first three words are capitalised. Since it is a deed document, conditions are laid with the further division of the sentence into paragraphs. This is probably to systematize and simplify the document. The first letters of the first three words in the last paragraph quoted above, though it is not the beginning of the sentence as it is followed by a semicolon used at the end of the previous paragraph, highlight the importance of the deed and its conditions in the present and future times. The doublet terms and conditions is also a salient
feature of the legalistic style of the language used for the specific purpose. Apart from this, the deed contains many archaic words viz. *Hereinafter*, WITNESSETH and aforesaid.

4.21 Summing Up:

Legal language is argumentative, descriptive, prescriptive, regulatory and even expressive depending upon the context and circumstances. Regardless of its function, the common characteristics and the stylistic features are evident all over the discourse. Legal language is a distinct variety of English. Many peculiar features of it have been evident. Length and complexity of sentences, Latinism, verbosity, technical jargon, formality, passive constructions, ambiguity, antiquated expressions, etc have been the salient characteristics of the legal style. Ignorance of law is not an excuse. Hence, a language should never a barrier. If one chooses “to disregard the rules of language, or fail, through ignorance, to obey them, then language can become instead a barrier to successful communication and integration” (Crystal and Davy 4).
Works Cited:

- www.advocatekhoj.com
Conclusion

5.1 Preface:

Legal language is the special variety of English. It has its own properties that distinguish it from the other discourses. These peculiarities appear difficult to the laypersons whereas the lawyers take pride in the legacy of the legal language. Every coin has two sides so does the legal language has. Various features of the legal language have been discussed in this research project and have been perceived it as the English used with specific purpose in mind. The synoptic summary of the chapters would justify it.

5.2 Synoptic Summary of the Chapters:

The present Minor Research Project entitled “Legal Language as ‘English for Specific Purposes’: A Study” has been divided into five chapters. The first chapter of the present minor research project is entitled ‘Introduction’. It comprises of the objectives, hypotheses, significance of the study, the research methodology utilized, review of the related research and literature, and scope and limitations of the present study. ESP has been defined and illustrated. Various perspectives pertaining to legal language have been taken into consideration. The insightful research done in the area also has been taken into account. The salient characteristics of legal language followed by the discussion over essence of research project i.e. Legal Language as an ESP has been incorporated in the first chapter.

The second chapter is entitled ‘Legal Lexicon’. It discusses the distinct legal lexicon which is at a time an asset bestowed by the convention and a great matter of tension for the laypersons. Jargon, foreign expressions, verbosity, uncommon words, technical vocabulary are some of the lexical features discussed in the chapter.

The third chapter which is entitled ‘Legal Syntax’ discussed the syntactic peculiarities of legal language. The legal syntax has been greatly criticised for it redundancy, length, foregrounding of too many clauses and phrases, passive constructions, nominalizations and complexity.

The fourth chapter is devoted to the legal style. Its title is ‘Legal Style’. Actually, legal style is reflected in the lexical and syntactic features that have been duly elaborated in the previous chapters. However, some more stylistic features have been discussed on the basis of the analysis of the cases and acts.
Chapter fifth is the conclusion which encompasses the findings, accomplishments of the objectives and so on.

5.3 Accomplishment of the Objectives:

a. The first objective of the present study is “To study legal English as an ESP”. It has been discussed in the present project how legal English or the legal language is different from the ordinary discourse and is a distinctive sort of language within language used for specific purposes. The same persons who use legal language in certain contexts use general language in other day-to-day discourse. Hence, the words, phrases, sentence structure that is to say the semantic, syntactic and lexical features of the language in the legal discourse differs significantly from the ordinary discourse where special use of language is evident which is termed as English for Specific Purposes. This is how the first objective of the present research has been accomplished.

b. “To study and evaluate the legal language on the basis of illustrative judgments, cases and law books” is the second objective of the present research project. In order justify legal language as a distinctive variety of English language, illustrative judgments, cases and some law books have been analysed with the focus on the legal lexicon, legal syntax and legal style. Besides this, in order to understand the mind behind the language, some judges and authors have been consulted. The discussions have been incorporated in the present research. In this way the second objective of the present research work has been accomplished.

c. The third objective of the present research project is “To analyse and interpret the lexicon, morphology, sentence structures and grammatical patterns in the illustrative materials”. Select cases, books, statutes, acts and other legal documents have been thoroughly analyzed and the legal lexicon, morphology, sentence structures and grammatical patterns have been highlighted. Legalese or the legal language has its own characteristic features in the realm of its lexicon, morphology and syntax. The legal lexicon consists of largely borrowed words from foreign sources. The sentence length is more than found in the general discourse and syntax is also distinctive marked by too many clauses and phrases.

5.4 Validation of the Hypotheses:

a. The first hypothesis is “Legal English is a specific purpose variety of the English language”. This has been validated by many examples. Legal language
has been approached and studied as the English for Specific Purposes. The purpose of legal writing is different from the purpose of ordinary-usual-general discourses. There are distinct words, phrases, syntax (sentence structure) and stylistic features found abundantly that distinguishes legal English from other types of uses of English. Hence, special attention has to be paid while analyzing and interpreting the legal texts or discourse. Once, the salient features of the legal language (legal English) have been identified and understood, it is easy to comprehend it.

b. The second hypothesis of this study is “The specific purposes are determined by the field of discourse which is law”. This hypothesis has been validated. The purpose or aim of communication determines the field of discourse. Hence, legalese is often a persuasive writing and sometimes regulatory too. Such functions of the language which are field specific make the legalese distinct in its identity. Hence, the law discourse is differs from the ordinary discourse.

c. The third hypothesis of the present Minor Research Project is “Greek, Latin and other loan words and maxims characterize the legal language”. This has been validated by showing their visible presence in the legal language. This aspect has been discussed at length in the second chapter of this project. Actually English itself is a borrowed language as we find many words of Latin, Greek and French origins. The legal language has more of such words as the British laws have been influenced by the Latin, French and Greek models. The Greek and Latin words have been now assimilated into English and hardly stand isolated. They have been accepted and extensively used in the legal language in India too.

d. The fourth hypothesis of the present research is “The lexicon, syntax (sentence pattern) and the style suit the specific purposes of legal transactions”. This has been validated in the three previous chapters where the specialized legal lexicon, distinct syntax and the unique style of the legal language respectively have been discussed in detail. The distinct features serve various purposes right from avoiding the misinterpretation to avoiding loopholes. The convention and tradition plays a pivotal role. The law fraternity is habituated to the use and hence, they serve the specific purposes without any difficulties.
5.5 Findings of the Study:

1. Legal Language is the distinct variety of English. It is better to be approached as English for Specific Purposes. It differs from the ordinary discourse in many ways. The lexicon of the legal language differs from the lexicon found in the usual-general discourse. Legal Syntax is quite different from the syntax found in the everyday discourse. All these constitute the unique style of legal language. As it is a different register, it has to be approached differently. It is based on convention and conventions are retained with acceptability. Hence, it will continue to be used as it has been used. In order to understand and the peculiarities of legal discourses, specific study needs to be undertaken.

2. Legalese is a distinctive style which is with many unique features as well as numerous difficulties. It has characteristic syntax and lexicon which widely differs from the day-to-day language which makes the layperson believe to highly intricate and beyond common understanding. The sentence length and the jargon are the basic difficulties and also the areas that have invited more criticism.

3. Antique expression, Latinism, foreign borrowings are the causes of the linguistic complexity of the legal discourse.

4. Precaution and perfection are the positives of the legalese. This is evident in all types of texts. There has been care and concern not to let loose the language so that loopholes appear and are taken benefit of. Hence, sentence length increases. All-inclusiveness is another peculiarity that contributes in complexity of the sentence structures resulting in the intricacy.

5. Circumlocution, verbose, repetitiveness and syntactic complexity are the defects of the legal language. They are supposed as necessities by those who uphold it. However, defects are defects and even the learned judges have ridiculed these defects. Such defects can be overcome by careful use of language. Some suggestions given by the proponents of plain language movement can be accounted for.

6. Plain Language Movement is partially successful worldwide and is little known in India. It is almost impossible to make drastic changes in the convections that have been upheld for centuries. The simplification of the language is welcome, but entire transformation appears a day dream and far-fetched thing.
7. Legal language is untouchable to the common persons. Until legal language is approached and taught with a specific purpose in mind, it is bound to remain out of the reach of the layperson. In order to remove this untouchability, specific purposes with specific curriculum and study material is necessitated.

8. Legal language has majestic and royal touch. Latinism makes it more so. The richness will disappear if it is simplified. Some argue in its favour some against. If strong substitutes are served, both the things can be achieved.

5.6 Suggestions and Recommendations:

On the basis of the research undertaken, analysis done and the conclusions drawn, following suggestions and recommendations have been incorporated:

- Replace archaic, rarely used and foreign terms with words closer to everyday use. Prefer common, known or familiar words.
- Avoid using unnecessary words and expressions.
- Reduce sentence length.
- Use simple sentences more than the compound and complex ones.
- Minimize the use of the passive constructions.
- Prefer active voice.
- Use concrete words instead of the abstract ones.
- Make the legalese precise.
- Technical language should be used only when necessary.
- Jargon, circumlocution and archaic words must be avoided.
- Popular and prevailing words and expression should be preferred.
- Paradoxical and ambiguous/opaque expressions should be avoided.
- Performative speech acts should be used.
- In order to simplify the legal language, verbosity, idiomatic expressions and traditional old words (archaic) have to be avoided which will facilitate effective communication.
- Syllabus of English of the law faculty should be so designed as to meet the requirements of the profession.
- Legal language should be taught as ESP.
- The entire course should be designed on the grounds of ESP.
- Students should undertake extensive research with teachers so as to understand the peculiarities of the language.
• More extensive research is the need of the hour. The characteristic features and also defects of the register should be brought to notice and need to be worked upon.

• There should be more fund availed for the research in legal sector as is done in the medical field. Legal field is no less important than the medical field.

5.7 Pedagogical Implications of the Present Study:

The present minor Research Project has high pedagogical implications and value. Since there has been very little research done in legal language in India, this study will prove to be a guiding light to many. The law schools, institutions and college will be able to frame and design their curriculum according the specific needs of the students. There has been too much focus on the legal aspects and very little attention has been paid to the linguistic abilities of the students who afterward play various roles in the capacities of lawyers, advocates, legal draftsmen, legal advisors, judicial officers, parliamentarians and so on. Moreover, the law lovers will also find the legal discourse easily accessible after going through the specific features of the legal language which is the crux of the present study. The study will be an eye opener to those who still follow the antique models of legal drafting and there would be attempts from all levels to simplify the legal language. The Plain Language would also be considered as an alternative and the new generation hypnotised and driven by the information and technology would find it better suited. Hence, it would not be a surprise if we find revolutionary changes in the legal language.

If Legal Language is perceived and approached as ESP, the teachers and the students would find themselves at ease. There would be focused teaching-learning due to the narrowed scope and nature of the language. This would certainly facilitate better linguistic competence among the law fraternity.

Various facts of the legal language have been discussed in detail in the present research project which let the laypersons understand the legal language better and hence ignorance of law would be decreased, the litigants would be able to understand their case better and law colleges would emerge as research centers.

5.8 Scope for Further Research:

There is too much wide scope for the research in legal language. Apart from Bhatia, there has been no renowned name to be mentioned of a scholar in this area. Legal language is a neglected area as the lawyers are busy in the practice and the
linguists prefer other areas to this one probably considering the complex nature of it.

Research can be undertaken on quite a few areas which are as follows:

✔ Language of the Acts, cases and statutes.
✔ Stylistic study of legal language
✔ Legal Language: Discourse Analysis
✔ Lexical Features of legal discourse
✔ Legal Discourse: A Syntactic Analysis
✔ Legalese: A Linguistic Study
✔ Language of the judgments
✔ Law and Literature
✔ Legal themes in English Literature
✔ Discourse analysis of judgments
✔ Linguistic study of the Legalese
✔ Legal Language in Speech in Writing
✔ Legalese and Journalese: A Comparative Study

5.9 Summing Up:

From the above discussion it can be concluded that all-inclusiveness, objectivity, impersonality and caution make the legal expressions bulky, lengthy and beyond the capacity of common man’s understanding. The recurrence of foreign words, terms, phrases, maxims and archaic expressions, though give special status to legal language, it badly affects the easy comprehension.

However, legal language is rich in itself. The majestic convention makes it distinct from the ordinary discourse. In order to understand the peculiar features of legal language, specific approach needs to be had. Hence, the need of the hour is to study legal language as English for Specific Purposes.
Bibliography:

- Bain, Butler, D. Strategies for Clarity in Legal Writing. Clarity, 2013.
• Chakrabarty, N.K. *Principles of Legislation and Legislative Drafting*. Kolkata: R.Cambray, 2014
• Coca Cola Bottling Co.Vs Reeves 486 So 2nd 3 7 4 , Miss. 1986 Robertson J.
• Fisheries Management Act, 1994.
• Goddard, C. *Didactic aspects of Legal English: Dynamics of course preparation*. In M. Gotti and C. Williams (Eds.), *ESP Across Cultures [Special issue]: Legal English Across Cultures*: Vol. 7, 2010.
• J&K Houses and Shops Rent Control Act, 1966.
• *Landmark Judgments* New Delhi Universal Law Publishing 2014


Madhu, M. *Legal English, Drafting*. Hyderabad: Asia Law House, ND.


• Rao, R.S.  *Lectures on Legal Language and Legal Writing*. Hyderabad: Asia Law House, 2012
• SC Nirmay Patrika 606, 1969.
• South Australia Vs Peat Marwick Mitchell & Co. Supreme Court of South Australia Olsson J, 15 May 1997.)
• Srinagar Law Journal, 2005, SLJ.
• Thompson, Devy. Reading and Discrimination. London: Chatto and Windus, 1996.


**Dictionaries:**


**Webliography:**


