

# Development of Legal English

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**Abstract:** Legal English language is a specialized kind of language used by such people as, lawyers, judges, and others who need to use such language among themselves for professional needs for oral or written communication. However, legal English is not only for professionals within the field of law. Many laymen find themselves facing the use of legal English many times in their lives, when they take part in social and legal acts; understanding of legal text becomes a necessity. Legal language, the way we know it today, has gone through centuries of development and has been shaped by many internal and external forces. This paper looks at the past and present of legal English.

**Keywords:** legal English, development of legal English, characteristics of legal English.

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## 1. INTRODUCTION

English is the main language of law, international business, and general global communication. It is certainly considered the main legal language in the European Union. Legal English is globalized and widely accepted. It is used by lawyers and other professionals in the field of law. Legal language is a language of very specific characteristics regarding its terminology, structure, grammar, punctuation, and other conventions. The development of Legal English has been molded together with the history of Great Britain and its legislation and common law. For many centuries English has been the official language of British population, but French and Latin languages have had major influence on legal English. Many archaic linguistic forms still used in legal English today are the result of just such circumstance. Legal English, language that is such an important part of people's existence, specifically in times when dealing with difficult situations, is one that is not always easy to understand by common citizens.

## 2. THE HISTORY AND DEVELOPMENT OF LEGAL ENGLISH

The English language, as Tiersma (The Nature of Legal language: 4) suggests, has gone through centuries of development. It has been shaped by history, principally by major political, societal, and industrial events. Legal English as a variety of the English language is no exception. Throughout the history of English language, or in this case the history of legal English, the linguistic consequences of the turmoil, constant changes, and modifying events cannot be overlooked. They are evident in the style, structure, and morphology of contemporary legal English, a language that every legal professional – including a legal translator –uses every day. It is imperative that legal translators have solid knowledge base of the development of legal English and are aware of the influences that shaped it throughout the centuries.

Tiersma (4-6) further maintains that although it is widely known that legal English originated largely from French and Latin languages, legal English is an outcome of a number of invasions of Britain. The History of English (Invasions of Germanic Tribes and The Anglo-Saxon or the Old English: 2011) gives an overview of the early development of legal English language describing the influence of the first invasions concerned three tribes called the Angles, the Jutes, and the Saxons. A combination of their languages produced a language called Anglo-Saxon, or Old English. It was similar to German. Only a few words remain from the Celts who had lived in Britain. The History of English (The Old English and

the Vikings: 2011) further suggests the influence of two more invasions supplemented the Old English vocabulary. The Vikings invaded Britain over a thousand years ago. Finally, as stated in *The History of English (The Coming of Christianity and Literacy: 2011)*, the invasion that had arguably the biggest influence on the development of legal English as we know it happened in 1066 by the French forces from Normandy led by William the Conqueror. General consensus proposes that because of the Norman Conquest, French became the official language of the courts in England. The English language was spoken by the majority of people in England; it was the language of the common people. However, the court, as well as the government, legal officials, religious dignitaries, and military representatives used French, which was at that time considered to be the language of upper classes. This fact can be used to explain the influence of French on the development of the English legal language. The strong influence of French on contemporary legal English can be seen in many key legal terms, such as agreement, attorney, claim, contract, covenant, guardian, trespass, pledge, obligation, debt, agreement, and many more.

As much as French influenced the development of the English legal language, it was Latin that was the preferred language when writing legal documents. Latin would ultimately have more influence on English than French in the Middle English period. Loaned Latin legal terms changed pronunciations of Germanic or English words. For a long time, Latin remained the language of scholarship and science. It was taught through the medium of French. It is suggested that Latin terms were pronounced and spelt in the French way, so in many cases it is quite hard to discriminate whether certain English words are of French or Latin origin due to the mutual influence of both languages.

Since the court procedures were in the French language, the uneducated English people did not understand the process. As a result of this, in 1362, the Statute of Pleading was implemented, which ordered the English language to be the official language of all court proceedings. It was an event of historical proportions because, in words of Ormrod (2003: 750), it was a statute that is one of the best-known, but least-understood, statements on the use of the vernacular in medieval England. The legislation required that English, rather than French, should be the compulsory language of oral communication in all royal and seigniorial courts in the land. Studies of the history of English have traditionally cited the statute as evidence that the second half of the fourteenth century marked a particularly eventful and interesting stage in the reemergence of the vernacular as the spoken language of the aristocracy and, thus, as an acceptable written language of literature.

Due to various challenges, including the reality that the study of law was in French, it took a hundred years before the switch was implemented and English became the official language of English courts. That did not mean that the French and Latin terminology disappeared from legal English. Quite contrary, it became its prominent component. To prevent confusion during the times of transition, both terms were included; this combination of synonyms or near synonyms has become an integral part of legal English. Such word pairings include: cease and assist, null and void, title and interest, peace and quiet, breaking and entering.

Middle English gave birth to many legal terms, which are still used today. Such words include: notwithstanding, aforesaid, and many other terms that include the words "where", "here", and "there", such as wherein, whereby, whereof, whereupon, hereunder, thereby, and thereupon. These words can still be seen in legal documents, while one would not encounter these in commonly used language.

In the next centuries, legal English was changing its form rapidly. During this time, many new legal terms came to existence, such as: affidavit, subpoena, and corporation. Scholars continued using Latin, French, Italian, and Spanish as a backbone of legal language. There was, however, a strong push for improvement of English language. Emerson (1935: 85) states, the English wanted to "...place [English language] on a level with the classic tongues" by abandoning "importation of words from the classical languages, especially Latin, and imitation of the rhetorical effects of the classical writers."

It is safe to say that the centuries of influence of other languages on English has left a major mark on the contemporary language. According to Holdsworth (1956: 14), one cannot become a professional in the legal field "without the knowledge of the authentic books of the law in their genuine language"; where French and Latin are considered genuine languages.

### 3. CONTEMPORARY LEGAL ENGLISH

Contemporary legal English can be subdivided into many subvarieties according to the area of the law practiced. Maley mentions judicial legal language, which is a language of judicial decisions that are filed as reports; courtroom language, which is used by judges, counsel, court officials, witnesses, and other participants; language used in legal documents, such as contracts, regulations, deeds, wills, or statutes; and the language used between professionals in the legal field and between a professional in the legal field and a client. As characterized by Maley (1994: 13), each area “has a characteristic flavor” and it “differs according to the situation in which it is used”.

Each subgroup of legal English has its own characteristics, vocabulary, and multiple typical features. However, regardless of which subgroup of legal English is considered, legal English in general follows very strict rules regarding its style, tone, morphology, level of formality, and grammatical structures in both its oral and written form. It is expected that these rules be applied under any circumstances, whether in original legal documents or their translated versions. Failure to do so can have potentially devastating consequences, as it would take away the uniformity and universality of legal language, or cause possible misunderstandings, which have to be avoided at any cost to maintain the value of the document. Therefore, utmost care must be taken and detailed studies or research must be done before drafting and translating such documents.

One of the obligatory aspects of legal English is its preciseness. Hunt (2002:114) declares that "ambiguity is the most serious disease of language and nowhere is the absence of this disease more important than in legislation". In other words, general language can and often is vague, but in legal language, ambiguity is decidedly detrimental, as it can lead to negative consequences. Hunt argues that preciseness is closely related to clarity. He defines precise language as "that which is unambiguous and capable of only bearing the meaning intended by its author". Hunt (2002: 116) adds, "Plain language is not necessarily clear language." In other words, if a piece of language is understood by someone, it does not automatically mean that the exact and intended meaning is being communicated. Despite a clear need for legal language to be specific, precise, formal, and universal, a movement for simplification of legal English has formed and is likely to make a mark on the way in which legal English is perceived and created.

### 4. CONCLUSION

Lack of knowledge in the field of legal language does not excuse one from liability. It is widely accepted that every person is to know what the law is; and if he/she does not, he/she must make true efforts to learn the law. The same goes for the complex phenomenon that is legal language. Legal language, in all its complexity and splendor, is here to serve as a communication tool in everyday law-related situations. It is not, as much as we would like it to be that way, just a language of lawyers; common people face it regularly as well.

Looking into the history of legal English, one can gain understanding of the complexity of certain legal expressions. Globalization of legal English may, however, need lead to making this language more accessible to everyone. That is what language is, always fluid, always malleable, always there to express the ideas of the very people who shape it.

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