Introduction

Legal English is a fascinating topic of study. There has been remarkably little interaction between language experts and lawyers: neither seems to know very much about the work of each other. Anyone who has ever seen a legal document realizes that it differs from ordinary English. In fact some people have argued that lawyers speak a separate language; it seems best to regard it as a variety of English. For the most part, legal language follows the rules that govern English in general. At the same time, it diverges in many ways from ordinary English, far more than the technical languages of most other professions. There is no single, easy answer to the question of how legal language came to be what it is. Much of the explanation lies in a series of historical developments, each of which left its mark on the language of the law. The story opens in England, where the language of the law was molded by Celtic-speaking Britons, Anglo-Saxon mercenaries, Scandinavian raiders, Latin-speaking clerics,
Norman invaders and lawyers themselves. Eventually, England propagated the legal system and its peculiar language across the globe. Even today, it remains the legal language of numerous nations around the world, including many African nations, Australia, Canada, India, Malaysia, New Zealand, Singapore, etc.

The legal profession focuses intensely on the words that constitute the law, whether in the form of statutes, regulations or judicial opinions. Lawyers use language to interpret law, to advise clients and to argue before a court. The legal rights and obligations of their clients are created, modified, and terminated by the language contained in contracts, deeds, and wills. An average lawyer’s daily routine consists almost entirely of reading, speaking and writing. The thesis hopes to address the needs of a third group: the public at large by drawing on both legal language and linguistic system. Legal language is not merely the most important tool of an average lawyer, nor just an interesting research area for linguists, but it also affects the daily lives of virtually everyone in our
society. There is no doubt that legal language is peculiar and often hard to understand from the perspective of lay public.

Chapter 1 begins by discussing discourse and how a discourse analysis of written texts focuses on making explicit those norms and rules which produce language in that context and the way the writer packages the quantum of information that he or she has to convey. The chapter emphasizes that in practical terms, the discourse centres on the actual operation of language beyond the restrictions of grammar, focusing on those devices which chunk speech or writing into functional segments and discourse analysis as a way of approaching and analyzing a research problem in order to gain a comprehensive view of the specific problem and ourselves in relation to that problem. A part of the chapter is concerned with the implications of discourse and discourse analysis to stimulate an understanding of language. The literature indicates that it is discourse deficiency which tends to prevent non-native speakers (NNSs) from participating fully and appropriately. The introduction of discourse and discourse
analysis into the classroom can give the teacher new tools to cater for student’s needs. Teachers can focus on the cohesive devices of discourse and more specifically on discourse markers as a useful tool to make logical connections and coherent stretches of both written and spoken discourse. Besides, when analyzing discourse, a certain amount of procedures are activated within the listener/reader, which facilitates its interpretation. The chapter also highlights how matrix analysis for language learning lies in the development of logical and critical thinking. If students are given empty cells, they can be invited to consider what type of discourse material might need to be supplied to fill the cells and its implications can lead to the soundness of the writer’s argument. The concept of ‘appropriateness’ is also included, which grounds the theories of language variation.

During the 1970s of the last century linguists turned their attention to identifying the special features which different types of texts contained and which made them distinct from one another. The result was a quick growth of
discourse types in different fields. Today, we talk of different discourses in order to show how language is used differently in different fields. Legal discourse has also been shown as having some distinctive features which makes its study all the more relevant and interesting. How does legal English differ from other varieties of English would form the core of discussion in Chapter 2. It will revolve around the lawyers' language taken to mean the distinctive discourse used in stating and practising law. The language involved in the enunciation and application of rules constitutes a special segment of human discourse with distinctive features which lead to confusion if neglected. It is peculiar and distinctive as its linguistic structure is puzzling and not amenable to common modes of definition. It is the product of a society in which only a very limited class of legally competent people can comprehend the text of that language. The chapter sketches legal discourse as syntactically complex and lexically dense by describing its obscurity, opacity, impenetrability and unintelligibility. The legal critics focus
on the effects of forces, such as tradition, culture, ideology at
the collective level, and motivations at the individual level,
on the shaping of language enunciated in legal discourse. The
result is that language tends to be deceptive and mystifying
with its figures of speech, tropes, tricks and hidden meanings.
It possesses a complex grammar and is fraught with intricate
constructions of double and triple negatives, different types
of 'if' clauses, hypothesis—piling, exceptions, reservations,
declarations, etc. The chapter also identifies law as a social
discourse and points out its flexible and general language,
unusual sentence structure, wordiness and redundancy,
jargon, argot and technical terms, overuse of capitals and
peculiar linguistic conventions. Legal language in its entirety
is embedded in the history of its institutionalisation and in the
complex interrelations of various languages, multiple
audiences and frequently divergent communicative and
practical effects.

Chapter 3 deals with analysis of statutes and other legal
documents to provide a sharpened awareness of words which
will refine and clarify our appreciation of that for which they stand. The language and style of lawyers differs substantially from one variety of writing to another. Some of the more common legal varieties are pleadings, petitions, orders, statutes, and private legal documents like contracts and wills. As a class, these can be called operative legal documents. These documents tend to have not only very formal and formulaic legal language, but traditionally adhere to a very rigid structure. The most notorious attributes of legal English tend to occur in operative documents. Another general class can be called expository documents. These typically delve into one or more points of law with a relatively objective tone. An office memorandum or letter to a client is an example of this category. Expository documents tend to conform to a traditional structure, but it is less rigid than that of operative documents. A final general category is persuasive documents. This class includes briefs, memoranda of points and authorities. Like expository documents, these tend to be formulaic or legalistic in language, although they
use fairly formal Standard English. Attempts are made to analyse the distinctive features of legal English like antiquated morphology, ambiguity and equivocation, passives and nominalizations, impersonal constructions, stretched definitions, referential pronouns, conjoined phrases and lists of words, etc. The chapter also highlights the problem of incommensurability, which is still undeveloped in philosophical literature, but is very important for any kind of legal determinacy. Attempts are also made to analyse the language of product warnings. Product liability is a recent development in the legal discourse, but the legal standards have not given any substance to the requirement that the warning be adequate in a linguistic sense. In short, the aim of the chapter is to provide a recognition of the linguistic problems inherent in viewing legal discourse as a system of communication and non-communication.

Chapter 4 focuses on the implications of legal English by examining what we call ‘internal legal language’. This is the language used for communication within the profession
and thus addresses an audience mainly of lawyers. The chapter concerns itself with the suggestions that even internal legal documents should be written in the most intelligible possible way so that the client who has paid to have the document prepared and whose rights are affected by it, knows what is being proposed on his behalf. Similarly, statutes confer rights and obligations on the public, or greatly affect the public should therefore be able to consult statutes directly, rather than engage the services of a professional interpreter. Even if we have the required intelligence and aptitude, most of us do not have the time to learn other trades and professions well enough to engage in more complicated procedures. The same is true for law. With a good, non-technical explanation or a well-written and straight-forward statute, many people can determine what the law is on a particular subject, or even draft a simple will. While statutes and court opinions have notorious attributes of legalese, private documents written on behalf of lay clients have not lagged behind. This is highly ironic when a client signs a will
of contract, it is the client—not the lawyer—who is legally speaking through that document. Thus, it is the client's intent that is deemed to govern the meaning, even though the client may scarcely understand it. Law students also find legal language difficult to comprehend and refer to it as 'talking like a lawyer'. They have to work hard to acquire this lingo. The difficulties of reading statutes are also acknowledged by many of the books intended for law students. Even native speakers of English find reading a statute a very complex process. By the time students enter higher education they become expert readers. Faced with a statute which is a distinctive kind of text from those with which they are familiar, they become novice readers again.

Legal language has been the focus of criticism from the Plain English Movement. The movement has mainly concentrated on consumer documents. Besides, a particular focus of the chapter is on rhetoric as the politics of legal language, indeterminacy as boundarylessness, algorithmic justice and correct semantic theory. Attempts are also made to
discuss the language of legal discourse and language of literary discourse and the necessity of English language in law syllabuses. A part of the chapter proposes some suggestions to enhance readability and understanding of legal discourse.

We hope that the thesis will prove intrinsically interesting to lawyers and anyone else who has a curiosity about the legal English. But most of all, we hope that it will motivate the profession to communicate as clearly, concisely and comprehensibly as possible, so that the legal discourse can become an accessible discourse.