

RESEARCH ARTICLE

Specific Features of Legal Discourse: Study and Interpretation

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Abstract

The article examines the distinctive features of legal discourse and the methods by which these features can be studied and interpreted. Legal texts are treated here as professional communicative practice with its own vocabulary, syntax, genre system and pragmatic purposes. The analysis combines genre theory, speech act theory and the findings of forensic linguistics. On this basis the article proposes a three-level analytical model that connects the formal properties of legal texts with their institutional functions and with practical problems of interpretation and translation.

KEY WORDS

Legal discourse, legal language, legal genre, performativity, normative text, deontic modality, forensic linguistics, legal translation, interpretation.

INTRODUCTION

Law exists in and through language. A statute, a contract, a judgment or an indictment is first a text, and its legal force depends on the wording that has been chosen. For this reason legal discourse cannot be described as a decorative style or as a matter of professional habit. It is a way of acting through words, and the words themselves create rights, duties and prohibitions [1]. Linguists became interested in this field for a very practical reason. Citizens found that they could not understand the documents which regulated their own lives, and lawyers found that small verbal details decided large disputes [10].

The study of legal discourse has become still more relevant in recent decades. Cross-border trade, international arbitration and the harmonisation of national legislation have created an enormous volume of legal texts that must work in several languages at once [3]. Lawyers who are not native speakers of English now draft contracts and pleadings in English, and translators must render national codes for foreign readers. In such conditions a wrong equivalent is not a stylistic error but a legal risk [11]. Legal education in many countries therefore

includes the linguistic analysis of legal texts as a separate professional skill.

The aim of the present research is to identify the features that make legal discourse a distinct type of institutional communication. The article describes these features at the lexical, syntactic, textual and pragmatic levels. It also shows how the same features shape the work of interpretation, and it brings the separate observations together in one analytical model.

LITERATURE REVIEW

The systematic description of legal language in the English tradition begins with Mellinkoff [10]. He collected and classified the archaisms, doublets and borrowings that fill legal documents, and he showed that many of them survive for historical rather than functional reasons. His conclusion was sharply critical. A great part of legal wording, he argued, is neither more precise nor more economical than ordinary language, and it often serves to protect the professional monopoly of lawyers. This work gave the later plain language

movement its empirical foundation.

Tiersma continued this line of research with a fuller linguistic apparatus. He treated legal language as the historical product of several layers of contact, including Old English formulas, Latin and Norman French borrowings, and later statutory drafting conventions. His main theoretical contribution concerns the tension between precision and comprehensibility. Drafters add qualifications in order to close every possible gap, and each addition makes the text longer and harder to process. Tiersma also demonstrated that legal texts are written for an audience of professional interpreters rather than for the people they govern.

Bhatia [2] approached the same material from the position of genre analysis. He showed that legislative provisions, contracts and case reports are organised into recognisable sequences of communicative moves, and that these sequences reflect the professional purposes of the discourse community. His analysis of legislative sentences is especially productive for the present study. A provision typically consists of a main operative clause surrounded by qualifications of case, condition and exception, and the position of each qualification is not accidental. Bhatia thus replaced the purely lexical description of legal language with a functional account of legal genres.

Forensic linguistics developed this functional interest towards spoken legal interaction. Gibbons [6] described the language of police interviews, courtroom examination and jury instruction, and he documented the communicative disadvantage of lay participants in these settings. Coulthard and Johnson [5] added the evidential dimension, showing how linguistic analysis of authorship, transcription and comprehension can be presented in court. Their work is important for discourse theory because it treats legal language as a site of unequal access to institutional power rather than as a neutral technical register. Conley and O'Barr [4] reached a similar conclusion through the study of witness narratives.

The interpretive problems of legal texts were analysed by Hart [8] in general jurisprudential terms and by Solan from the standpoint of linguistics. Hart introduced the notion of open texture, arguing that every general rule has a core of settled application and a border zone where the rule neither clearly applies nor clearly fails to apply. Solan examined how judges actually reason about words, and he found that courts often use linguistic arguments in a selective way, choosing the canon of construction that supports the preferred outcome.

Šarčević [11] and Cao [3] transferred the same problem to translation, showing that legal concepts are bound to national systems and that full equivalence between them is rarely available.

METHODOLOGY

The research is descriptive and analytical. Legal texts of several genres were examined, including statutory provisions, standard contractual clauses and judicial decisions in English. The genre framework of Bhatia [2] was used to describe move structure, and speech act theory in the version of Austin [1] was used to account for the performative force of normative formulas. Lexical and syntactic features were observed in a corpus-assisted way, that is, recurrent formulas were identified by their frequency and then interpreted functionally. The data on courtroom interaction and on comprehension were taken from the forensic linguistic literature [5; 6]. Comparative material on legal translation was used to test the conclusions against multilingual practice [3; 11].

DISCUSSION AND RESULTS

The analysis shows that the specificity of legal discourse is not located in any single feature. It arises from the combination of a conservative lexicon, a highly qualified syntax, a fixed genre repertoire and a performative pragmatic function. These four dimensions support one another, and each of them can be explained by the same institutional need. A legal text must remain valid and interpretable over long periods of time, and it must survive hostile reading by opponents in future disputes.

At the lexical level legal discourse preserves units that have disappeared from ordinary usage. Archaic adverbs such as *hereinafter*, *thereof* and *aforesaid* function as internal pointers within the document and save the drafter from repeating long descriptions. Latin and French borrowings such as *bona fide*, *force majeure*, *estoppel* and *tort* carry technical content that has no exact equivalent in everyday vocabulary [10]. A further characteristic group consists of ordinary words with a special legal meaning. The nouns *consideration*, *party*, *action* and *instrument* mean something quite different inside a legal text, and this hidden polysemy is a frequent source of misunderstanding for lay readers. Binomial expressions such as *terms and conditions* or *null and void* also belong to this layer, and their origin lies in the bilingual practice of medieval English courts.

At the syntactic level three features stand out. The first is the

length and internal complexity of the sentence, since a single provision often contains the operative rule together with all its conditions and exceptions. The second is nominalisation, which converts processes into abstract entities and removes the human agent from the text. The third is the conditional frame introduced by *if*, *where*, *unless* or *provided that*, which specifies the factual situation to which the rule applies [2]. Legal drafting also avoids pronominal anaphora and prefers the full repetition of nominal groups. Ordinary writing treats such repetition as a fault of style, but in a legal text it removes the risk of an ambiguous reference [14].

The pragmatic core of legal discourse is performativity. A statutory provision does not describe the world, it changes the normative situation of those who fall under it. The formulas the parties hereby agree, this Act shall come into force and the court hereby orders create obligations by the very fact of their utterance [1]. Deontic modality is the main grammatical resource of this function. The auxiliary *shall* expresses obligation, *may* expresses permission or discretion, and *must* not expresses prohibition. The distribution of these markers reveals the normative architecture of the document, and drafting manuals therefore treat the choice between them as a substantive rather than a stylistic decision [9].

Legal discourse is organised into a stable system of genres, and each genre has its own move structure and its own degree of formal rigidity. Normative genres such as constitutions, codes, statutes and contracts state rules for indefinite future application. Procedural and decision genres such as pleadings, indictments and judgments apply rules to a particular set of facts, and they combine narrative, argumentative and normative passages. Informative genres such as legal opinions and notices mediate between professional and lay audiences. A judgment illustrates this internal complexity well, since it moves from the statement of facts to the reconstruction of the parties arguments, then to the identification of the applicable rule and finally to the operative order [2; 14].

The institutional setting of legal discourse produces a marked communicative asymmetry. In courtroom examination the professional participant controls the sequence of turns, selects the form of the question and decides when a topic is closed. Lay witnesses answer in narrative style, while the procedure rewards short and fragmented answers to closed questions [4]. Jury instructions show the same asymmetry in written form, because empirical studies of comprehension demonstrate that jurors often fail to understand the very

instructions on which their verdict depends [6]. Forensic linguistics uses these findings both for expert testimony and for the reform of institutional wording [5].

Interpretation is the point at which the features described above become practically visible. Because a legal rule is formulated in general terms, its application to new facts is never fully determined in advance [8]. The analysis distinguishes two different linguistic sources of interpretive difficulty. Ambiguity means that a form has two separate readings, as in the classic disputes over the scope of a modifier or over the reference of the conjunction *or*. Vagueness means that a term has a clear core and an indeterminate border, as with *reasonable*, *vehicle* or *dwelling*. Courts respond to these difficulties with canons of construction, with the ordinary meaning argument and with purposive reasoning, and the choice among them is itself a rhetorical act.

Legal translation confirms the systemic character of legal discourse. The translator works not between two languages only but between two legal systems, and a term acquires its content from the system in which it operates. The English consideration, the Uzbek institutional vocabulary of contract law and the continental notion of cause cannot be matched by simple substitution. Practice therefore relies on functional equivalence, on descriptive paraphrase and, in multilingual jurisdictions, on the parallel drafting of equally authentic versions [3; 11]. These solutions demonstrate that the features of legal discourse are motivated by institutional function, since the same functions reappear in every system while the linguistic forms differ.

CONCLUSION

The study of legal discourse shows that its distinctive features form a coherent system rather than a list of curiosities. The conservative lexicon secures continuity of meaning, the qualified syntax secures completeness of the rule, the genre repertoire secures institutional recognisability, and performative formulas secure legal force. All four dimensions serve the same purpose, which is to make a text function reliably in future acts of interpretation. The proposed three-level model, moving from formal features through institutional function to interpretive practice, allows these dimensions to be analysed together instead of separately. Two directions of further research appear especially productive. The first is the comparative study of legal genres in English and in Uzbek, including the language of recently codified legislation. The

second is the empirical study of comprehension, since the effectiveness of plain language reform can be measured only by testing real readers.

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