Legal Register

A PAPER BY

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1.1 Introduction

This paper is intended to give an overview of legal register . Legal register will be dealt with in terms of historical development , i . e . , the stages of evolution through which it goes to get the way that it is now . In this paper , a distinction is made blw register and other concepts like dialect , and jargon . In addition , the linguistic features of this variety are introduced as well as its types whether they are written or spoken . This paper will be ended with the legal texts which will be explained in terms of historical development , creation structure and language .

1.2 Historical Development

Legal register is said to be a story of Celtic nomads , Anglo – Saxon mercenaries , Latin – speaking missionaries , Scandinavian raiders and Norman invaders , all of whom left their mark not only on England , but on legal register .

Tiersma (1999 : 2) states that there are no remnants of the legal register of the original Celtic inhabitants of England , although there are some indications that it is poetic and not comprehensible for ordinary people .

Anglo – Saxons , for their part , developed a type of legal register , remnants of which have survived until today such as ' guilt ' , ' manslaughter ' , ' oath ' , ' right ' , ' steal ' , ' swear ' , ' thief ' , ' witness ' , etc . besides vocabulary , They left another characteristic , that is , alliteration , like ' to have ' and ' to hold ' , ' rest ' , ' residue ' , and ' remainder ' (ibid : 2)

As for Christian missionaries , they re-introduced Latin . It was the language not only of the church , but of education and learning . The Latin terms entering legal register included words like ' clerk ' , ' cleric ' or ' clergy ' (ibid . : 3) .

A later influence on legal register is Scandinavian in origin . The most important legal word which is taken from Vikings is the word ' law ' itself . (ibid.)

Having conquered England in 1066 , Normans used French as a written legal register . Around 1275 , statutes in French began to appear . By the end of the 13th century , French became the language of the royal courts (ibid .) . It became known as ' Law French ' . It provided a large amount of technical vocabulary including such words as ' appeal ' , ' bailiff ' , ' bar ' , ' claim ' , ' complaint ' , ' justice ' , ' sentence ' , ' verdict ' , etc . (ibid . : 4) .

By the 17th century , law French was reduced to around 1000 words , forcing lawyers to add English words to their French texts . In 1730 , parliament finally abolished the use of Latin and French in legal proceedings .

1.3   The concept of Register

The term register refers to a ' use- related variety ' (Halliday et al . , 1964 :77) a 'useful abstraction linking variation of language to variations of social context …' ,(Gregory and Carroll , 1978 : 64) , a ' variation in language use ' (Chilton ,1978 : 114) , a ' functional notion dependent on contexts of situation ' (Peng,1987 : 261), ' functional variety of language ' (Dittmar , 1976 : 110),a ' situational variation' (Cheschire , 1992 : 324) .

Halliday et al . , (1964 : 88) state that there are differences among registers which are partly a matter of lexis : a wrestling commentator would use ' forearm smash ' , and they are partly a matter of grammar : sentences in a church sermon tend to be longer and more complex than those of sport commentaries .

They further divide the notion of register into three categories : field , tenor , and mode because types of linguistic situation differ from one another in three respects : first , what is actually taking place (field) ; secondly , who is taking part (tenor) ; and thirdly , what part the language is playing (mode) (Halliday et al . , 1964 : 90 – 2 ; halliday , 1978 : 31)

The term ' register ' is sometimes confused with other concepts like dialect , and jargon . Halliday and Hasan (1985) distinguish between register and dialect .

First , a dialect is a variety according to user , or what one speaks habitually ; It is Determined by who you are geographically . A register is a variety according to use or what you speak at a time ; It is determined by what you are doing . Dialects are saying the same thing differently and they tend to differ in phonetics, phonology, vocabulary and grammar , but not in semantics . Registers , on the other hand , are saying different things ; they tend to differ in semantics , grammar, and vocabulary, but rarely in phonology (ibid . : 43) .

Wilson (2000 , cited in Sidam , 2003 : 14) distinguishes jargon from register . The jargon of any discipline is totally meaningless , Indistinguishable , elliptical , and mystiful , but register is meaningful for both its users and ordinary native speakers .

1.4 Legal Register

Legal register is a term used to cover types of texts that vary in purpose : acts , resolutions , conventions , protocols , contracts , … etc . It can be particularly used in the courtroom , among lawyers , in legal textbooks and in legal provisions .

It includes many different activities , according to Crystal and Davy (1969 : 193) , ranging from drafting statutes to contracting agreements between individuals , and each activity is connected with imposing obligations and giving rights .

It can be expressed in both writing , e . g . , In the language of legal document , and speech , e . g . , the conventional formulas used in a court of law (Brooks , 1973 : 15) . It shares with science – in Crystal's words – a concern for coherence and precision ; and it shares with religion a respect for ritual and historical tradition (crystal , 2000 : 374) .

1.5 Linguistic Features of Legal Register

The linguistic features of legal register given by crystal and davy (1969) , Danet (1980 , 1985) , Mellinkoff (1963) , Tiersma (1999) , are numerous . The most outstanding features fall into three categories : lexical , syntactic , and

discoursal .

1.5.1 Lexical Features

1- The use of technical terms such as 'real property' , 'forfeiture' , and 'fee simple' .

2- The use of common terms with uncommon meanings . The term ' assignment ' , for example , in law does not mean ' something assigned , a task or duty ' , but ' the transference of a right , interest or title ' .

3- Archaic expressions of Latin , French , or old English origin such as 'herewith' , 'thereunder' , and 'whereto' .

4- The use of doublets . They are also called ' word pairs ' , such as 'cease and desist' , 'will and bequeath' .

5- The use of peculiar prepositional phrases such as ' as to ' .

1.5.2 Syntactic Features

1- Nominalizations

They are nouns derived from verbs , e . g . , the noun ' injury ' is derived from the verb ' injure ' . They are used to obscure the actor (e . g . , the injury occurred at 5 : 30) , and to get the law to be stsated as generally and objectively as possible .

2- Passivization

Lawyers use passives for strategic reasons : to de-emphasize or obscure who the actor is . Passives are therefore impersonal giving them an aura of objectivity and authoritativeness .

3- Negation

The frequent use of negation in legal register may result from the tendency to regulate by prohibition . Markers of negation in legal register are numerous such as ' not ' , ' never ' , ' unless ' , ' except ' , and the prefix ' un ' .

4- Lengthy and Complex Sentences

Legal register is characterized by long sentences which may come as a result of having embeddings .

5- Binominal Expressions

They are sequences of two words belonging to the same form class which are suntactically coordinated and semantically related . Example : ' signed and delivered ' , ' act or omission ' .

6- Do and Shall

Do , in legal register , is used to show that something is performative as in (The people of California do enact …) . Shall , in legal register , is not used to indicate the future , but the imposition of obligation .

1.5.3 Discoursal Features

Lexical repetition in legal register is frequently used which may result from the avoidance of pronouns , and the little use of synonyms , and general terms . The grammatical cohesive devices are used very low especially anaphora , ellipsis, substitution , and conjunction .

1.6 Types of Legal Register

Danet (1985) classifies legal register according to two criteria : (1) the mode of language used – written , spoken – composed , or spoken – spontaneous , and (2) the degree of formality of the style used – frozen , formal , consultative , and casual (ibid . : 277) .

Frozen written types include various kinds of documents like contracts , leases , and wills , whereas formal written types include statutes , lawyer's briefs , and appellate opinions . Frozen spoken – composed types include marriage ceremonies , witnesse's oaths , and verdicts , while formal spoken – composed types are Lawyer's examinations of witnesses in trials , expert witnesse's testimony, but the testimony of witnesses is subsumed under the consultative style . Consultative spoken – spontaneous types include lawyer – client interaction , whereas casual spoken – spontaneous types are lobby conferences , lawyer – lawyer conversation . These types are listed in the table below .

Bhatia (1987) draws a distinction between the spoken and written medium in studying legal register , and distinguishes the types in terms of setting in which they occur .

Under the spoken medium , three types are listed : (1) the pedagogic settings which include law lectures , and moots , (2) the academic settings which include college – colleague interaction which may take place either in a seminar or a conference , (3) the professional settings which include two types : lawyer – client consultation which occurs outside the courtroom , and counsil – witness examination which takes place inside the courtroom (ibid . : 228) .

Under the written medium four types are listed : (1) the pedagogic setting which includes the law textbooks , (2) the academic setting in which the journals are the most widely used type of the written legal register , (3) the juridical setting which includes judgements and legal cases , (4) legislative setting which includes documents like contracts , agreements , rules and regulations . (ibid . : 230) .

1.7   The Legal Text

The term refers to the text which creates , modifies , or terminates the rights and obligations of individuals or institutions . The legal text includes documents , such as constitutions , contracts , deeds , statutes , and wills (Tiersma , 2003 : 1) .

1.7.1   The Development of the Legal Text

Legal texts are subdivided into two types:private and public texts . As for the private texts , three major stages are identified in the progression from oral to the authoritative written texts :

1- Early legal texts are evidentiary rather than performative because their performance does not consist of the writing or signing of a document . The transaction is performed orally in front of witnesses .

2- Legal texts should be evidenced by writing ; the performance of the legal act consists of the writing and signing of the document . The transaction is performed by means of the text .

3- The third stage is the parol evidence rule . At this stage , the text becomes the transaction .

Regarding the evolution of public texts , they are developed in the same way as that of private ones . At the first stage , law refers to what the king ' has ordained ' , but at the second stage , law refers to what parliament ' have established ' , and finally law refers to what the king and parliament have enacted by means of the statutes .

1.7.2 The Creation of Legal Texts

Legal texts tend to be created and executed in very formal ways . The text of the will itself , for example , is quite formal in the sense that most wills follow a rigid structural format and are written in legalese .

The situation is different with contracts which can be oral and relatively informal .

In the area of public law , statutes are enacted with great solemnity and according to established procedures .

1.7.3 The Structure and Language of Legal Texts

The most salient feature of the structure of legal texts is that they are highly formulaic . A statute , normally , has some or all of the following elements : Long title , enactment clause , substantive provisions , exceptions or provisos , and short title or citation .

As for the features of legal texts , they are the same features used to describe legal register such as technical terms , archaic vocabulary , impersonal const , ructions , nominalizations , passive constructions , negation , long and complex sentences , etc . Collectively , these features are often called legalese .

(Tiersma , 2003 : 1 – 19) .

1.8 Conclusions

1- Legal register is developed naturally under the influence of diverse languages and cultures , as will as the complexity of the legal system and the shift from oral to written communication . Yet , legal register has the effect of enabling lawyers to retain their monopoly on providing legal services .

2- Legal register covers a wide range of activities , from statutes to agreements between individuals , whereby obligations are imposed , and rights are given .

3- Legal register has its own linguistic features whether they are lexical, syntactic, or discoursal . under each feature , a number of sub – features are listed .

4- Types of legal register are numerous . The number of types available in Danet's classification (1980) are about (20) types , whereas in Bhatia's classification (1987) the number is amounted to (12) types .

5- The legal text defined as " the text which creates , modifies , or terminates the rights and obligations of individuals or institutions " underwent many stages of evolution influenced by requirements of society and people , as well as the complex legal system and the political conflict .

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