

جوانب ترجمة اللغة القانونية من الانكليزية الى العربية: تحليل تقابلي نصي

Aspects of Translating Legal Register from English into Arabic: A Contrastive Textual Analysis

الاستاذ الدكتور رحيم جلوب الكعبي

المدرس المساعد مازن عبد الجبار رجه

College of Arts-Dept. of Translation University of Anbar College of Arts-Dept. of Translation

(الجامعة المستنصرية-كلية الآداب-قسم الترجمة)

(جامعة الانبار-كلية الآداب-قسم الترجمة)

Raheem_alkaabi@uomustansiriyah.edu.iq

mazin69@uoanbar.edu.iq

Abstract

This study tries to investigate the linguistic and textual aspects of translating legal register from English into Arabic and to explore the similarities and differences between them by analyzing English and Arabic legal texts in terms of their morphological, syntactic, semantic, stylistic, and pragmatic features. In this respect, translators deal with legal register as a special case in terms of using sound terminology and paying attention to the cultural differences between source language and target language. A textual analysis involves all about the text and its textuality or texture by making a concrete comparison to reveal the difficulties that may pose an obstacle in front of the translators and language's users to understand how the legal register in both English and Arabic can be used in the situational context of the text which is usually particular one and deals with a specialized domain of language. Registers generally are the varieties or variation that arise in association with

language use and its context. Legal language or legal register is a specialized domain which requires that translators and language users should care about its layout, formality, style, and archaic expressions to achieve its particular communicative purposes. Legal register is commonly used by those who are interested in law and legal institutions.

Keywords: legal register, textual-contrastive analysis, specialized domain, terminology, context of situation.

المستخلص

تبحث هذه الدراسة الجوانب اللغوية والنصية لترجمة اللغة القانونية من الانكليزية الى العربية وتحاول ان تستكشف اوجه التشابه والاختلاف بينهما من خلال تحليل النصوص القانونية الانكليزية والعربية فيما يتعلق بالخصائص التركيبية والصرفية والدالية والاسلوبية والتداولية. وفي هذا السياق، يتعامل المترجمون مع اللغة القانونية كحالة خاصة فيما يتعلق بالاستخدام السليم للمصطلح القانوني والاهتمام بالاختلافات الثقافية بين اللغة المصدر واللغة الهدف. ويشتمل التحليل النصي على كل ما يتعلق بالنص والبناء النصي كله من خلال انجاز مقارنة واضحة للكشف عن الصعوبات التي ربما تشكل عائقا امام المترجمون و مستخدمي اللغة لفهم كيفية استخدام اللغة القانونية في الانكليزية والعربية في أطار المضمون السياقي للنص والذي يكون عادة ذو طبيعة خاصة ويتعامل مع مجال تخصصي في اللغة. ويمثل الاستخدام الخاص للغة التنوعات التي تنشأ بالاقتران مع استخدام اللغة وسياقها. ان اللغة القانونية هي مجال تخصصي تتطلب من المترجمين ومستخدمي اللغة الاعتناء بنمطها وشكلها واللغة الرسمية الخاصة بها والاسلوب والتعبير القديمة المتداولة لإتمام اغراضها التواصلية. وتستخدم اللغة القانونية عادة من قبل الاشخاص المهتمين بالقانون والمؤسسات القانونية.

الكلمات المفتاحية: اللغة القانونية، تحليل نصي- تقابلي، المجال الخاص، المصطلح، السياق

1.Introduction

In contrastive linguistic studies which are branch of Linguistics and sometimes are called (contrastive linguistics), a comparison is held between two languages or more in terms of their similarities and differences (Ke, 2019, p. 4) . By comparison or

contrast, we can get a broad knowledge about how to analyse two different languages to know what distinguishes one from another. This knowledge of analysis involves several levels of language whether textual, lexical, phonological, grammatical or pragmatic. So, what concerned us in this study is the textual contrastive analysis among other analyses to be used in analysing the legal register in English and Arabic. According to Ping Ke (ibid, p. 135) a text can be defined as "a piece of structured spoken or written language. It may be of considerable length, e.g. a webpage, a fairy tale, a sermon, a novel, etc.; or it may consist of only one word, e.g. "Danger" as a warning sign outside a power substation". In this respect, one of the basic characteristics of a text is that it is impossible to be fully understood in separation of referring to the situational context in which it can be occurred (ibid). However, legal register is a specialized field which most commonly used for particular purposes and domains keeping its own situational context within technical or legal usage (Biber, 2009, p. 6). In this sense, legal register is not required only an extent of knowledge about language in general, but should have a unique acquaintance and awareness of the legal system and its lawful instruments and procedures.

1.2 Problem of the study

The problem of the present study lies in certain areas of investigation regarding the difficulties of translating legal register and analysing its textual and linguistic in English and Arabic as well as ways of making textual contrastive analysis between them which these areas usually involve legal formality, terminology, modality, culture-specific items and other lexical and grammatical characteristics. Seemingly, Arabic legal language or register is more difficult and ramified than English one as it mostly contains rules and laws that restrict its procedures that are closely related to the Islamic doctrine or *Shari'a* whether in its linguistic usage or in its real applications.

Therefore; the facets of the textual contrastive analysis are due to cover these contrastive matters in the course of this study.

1.3 Aims of the study

The study aims at:

1. Envisaging the aspects of textual contrastive analysis of legal register in English and Arabic to know about their similarities and differences.
2. Examining to what extent this textual contrastive analysis can serve as a linguistic instrument to achieve a comparison between English and Arabic legal register.
3. Discussing thoroughly linguistic macro and micro levels that are closely associated with English and Arabic.
4. Exploring appropriate uses of the legal register in English and Arabic and ways of analysing them within the areas of applications whether in contracts, documents lawsuits and so on.
5. Recognizing the nature of the legal language or register through its formality, modality, culture and terminology.

1.4 Hypotheses of the study

The present study hypothesizes the following:

1. Textual contrastive analysis of legal register in English and Arabic may reveal the strong and weak points regarding different uses of this register.

2.Comparing English and Arabic aspects of using legal register may lead to get more knowledge about their specific meanings, collocations, syntactic and lexical features as well as its terminological and formal vocabulary.

1.5 Procedures of the study

To achieve the aims of this study, the following procedures will be followed:

- 1.Providing a theoretical background about the topic to investigate most of its linguistic features with different levels of language.
- 2.Considering thoroughly all definitions , expressions, data analysis, discussion results, comparisons that are closely associated to the area of investigation.
- 3.Supplying contrastive examples to be data of the study on legal register that are related to its usage and application.
- 4.Analysing data is due to be conducted on a scientific approaching within the area of contrastive linguistic and textual contrastive analysis.

1.6 Limits of the study

The present study will be limited to investigate the textual contrastive analysis of legal text in English and Arabic.

1.7 Data of analysis

A set of legal texts are collected as data for this present study to be analysed in the course of this investigation.

1.8 Significance of the study

This present study will be of a primary significance for those who are interested in contrastive studies between two languages or more regarding their similarities and differences, areas of difficulty, micro and macro linguistic levels of two languages and other lexical, grammatical, morphological and pragmatic features. Furthermore, the contrastive analysis usually provide a milestone for getting a sufficient extent of knowledge about a certain area of investigation.

2.Theoretical background

According to (Crystal, 2008, p. 481) a text is "a pre-theoretical term used in Linguistics and Phonetics to refer to a stretch of language recorded for the purpose of analysis and description. In this context, texts can refer to groups of written or oral materials and according to oral or spoken materials they have been transcribed in one way or another, such as conversations, dialogues, rituals, monologues, etc. (ibid, pp. 481 – 482) . Halliday and (Halliday, 1976, p. 1) refer to the term 'Text' as a word that is used in language and Linguistics to mean any related piece of words whether written or spoken that is used to express a certain idea, topic or story of whatever extension. They add that a text is a text when it constitutes a unified whole and could be recognized as an associated unit through language use. Therefore; a text is a core element of any linguistic process whatever length it is and, thus, any textual analysis should be based on a text as being a group of sequential related and coherent sentences that reflecting a set of jointly relevant intentions. A text as a whole unit displays characteristics which serve a specific situational context and define the text as a symbol of an identified text-type (Munday, 2009, p. 231) .

However, what is important in this area of study is the relationship between technical or specialized register (i.e., legal, medical or military one) and textual coherence which is according to Colina (Colina, 2015, p. 241) is a specific field of a particular situational context and terminological language that is different from a

general one. Biber and Conrad (Biber, 2009, pp. 6 – 7) state that the depiction of a register involves three basic components: "the situational context, the linguistic features and the functional relationship between the first two components". They add that registers can be used to depict and analyse all varieties of a certain text of any kind as they are in its natural framework more technical and specialized (ibid). Rogers (Rogers, 2015, p. 22) calls for simplifying any kind of register of specific domain ,i.e., legal or medical and then to be directed to lay people or primary readers and the text used therein is like a means to get an end such as doing a meal of food or designing a piece of furniture.

Based on what aforementioned, one can put that a systemic and functional investigation of the legal register between two languages, i.e., English and Arabic reveals that each one of them has its own legal language or register which is based on specific rules related to the nature of each language and its linguistic system, though Arabic legal register is more specific than English as it is constructed on Islamic nature which requires a specialized language such as using the terms of mirage, dowry, the will, alimony, divorce, inheritance and so on (Biber, 2009, p. 12) (Rogers, 2015, p. 23) (El-Farahaty, 2015) . However, what is important to be referred to within textual contrastive analysis is the macro linguistics which is according to Coulthard (Coulthard, 1977, p. 3) " it sometimes known as 'broad' or 'human' linguistics, takes as its goal the achievement of a scientific understanding of how people use language in text whether written or spoken and to communicate with each other".

2.1 Literature review

There are a set of contrastive studies, books, papers and other academic publications that have been conducted through time to deal with the topic of textual contrastive analysis in several areas of study which among these special areas is

legal register in English and Arabic. Halliday and Hassan (1976) talked about text and textual analysis in their book "Cohesion in English". Crystal (2008) in his "Dictionary of Linguistics and Phonetics" elaborately talked about text, textual features, textuality, textual analysis between languages and the relationship between linguistic levels in relation to the analysis types of texts and its varieties which is in other sense means the registers. Ping Ki (2019) in his book "Contrastive Linguistics" also dealt with the textual contrastive analysis within the scope of contrastive linguistics. A number of papers also has been published all over the world which are interested in the contrastive studies, namely textual contrastive analysis of specialized fields such as legal language or register, medical register, medical register and so on. There are also Arabic authors who investigated this kind of language, its situational context, its terminology, its formality, modality and its archaic words. Al-Farhaty (2015) is one of well-known Arab authors who wrote about legal language or register, genre and style. His book entitled "Arabic-English-Arabic Translation" is one of the references to be

reviewed in literatures.

2.2 Definitions of the related notions

In contrastive studies, there are several notions or concepts which need to be defined within the field of contrastive linguistics. These notions give concrete and useful extent of knowledge about the selected topic of the present study. Notions like textuality, textual meaning, text analysis, text linguistics, discourse analysis, contrastive analysis, cohesion and coherence are closely related topics to the textual contrastive analysis. These notions can be reviewed and defined within the area of this study as follows:

2.2.1 Textuality: De Beaugrande and Dressler (De Beaugrande, 1981, pp. 45 – 49) identified seven defining features of a text within its textuality and the whole meaning each of these characteristics which can be categorized into : informativity which involves a good extent of information regarding the readership, situationality which refers to the existence of the socio-culture context in an actual place and time, intentionality which refers to the accomplishment of the writer's plans and intentions, intertextuality involves the relationship with other texts that have the same features with it, and the last two characteristics are coherence and cohesion.

2.2.2 Textual meaning: Crystal (Crystal, 2008, pp. 481 – 482) defines the notion of the textual meaning which "is sometimes used in semantics as part of a classification of types of meaning, referring to those factors affecting the interpretation of a sentence which derive from the rest of the text in which the sentence occurs".

2.2.3 Text analysis: It can be defined in its relation to the discourse analysis as some linguists are still use the notion "text analysis" to indicate to the investigation of written discourse and the concept "discourse analysis is used to speak about the investigation of spoken or oral discourse (Ke, 2019, p. 135) .

2.2.4 Text linguistics: According to Enkvist (Enkvist, 1984, p. 10) "Text linguistics is the study of linguistic devices of cohesion, coherence and discourse structures within text. It is also concerned with the processes involved in the production and interpretation of texts".

2.2.5 Textual contrastive analysis: According to Ping Ki (Ke, 2019, p. 133) textual contrastive analysis can be used to investigate, inspect, contrast and compare how the texts are formed and used in various languages and cultures all over the world by adopting written and spoken discourse methods. For instance, textual contrastive analysis between English and Arabic reveals that they are different in word order

(English word order is Subject+Verb+Object+Complement, whereas Arabic word order is (فعل+فاعل+مفعول به), while Chinese and English have the same word order (Subject+ Verb+ Object) , but they are different in that Chinese does not have the same system of using definite and indefinite articles, i.e., a, an, the.

2.3 Macrolinguistics and microlinguistics

Individuals communicate with each other by using conventional means of language whether in written or spoken discourse, though, there are unconventional means of communication such as facial expressions, gestures, implicature devices, language sings and other similar devices which are called "the body language" and that play a clear role in any paralinguistic communicative function (ibid,p.134). Macro linguistics is originated and developed to keep language as "a dynamic, social and interactive phenomenon—whether between speaker and listener, or between writer and author" (Crystal, 2008, p. 116). He is also argued that "meaning is conveyed not only by single sentences but by more complex exchanges, in which the participants and expectations, the knowledge they share about each other and about the world and the situation in which they interact, play a crucial point" (ibid). This macro linguistics occasionally known as "broad" or "human" linguistics. Macro linguistics' basic focus is realization of a scientific conceptualization of how individuals use language to be communicated with each other (Coulthard, 1977, p. 3) .

It is the main interest of macro linguistics to raise enquiry about what else is demanded for making communication successful in addition to the competence of knowledge code (Ke, 2019, p. 134) Crystal (Crystal, 2008, p. 292) for his part, defines Macrolinguistics as "a term used by some linguists in the 1950s to identify an extremely broad conception of the subject of linguistic enquiry. In a Macrolinguistics approach, Linguistics is seen in its overall relation to Phonetic and extralinguistic experience". In this context. Macrolinguistics is categorized into three major sub—

levels: Pre-linguistics (concerned with Phonetics), Microlinguistics (mostly interested in Phonology, Syntax and Morphology) and Metalinguistics (concerned itself with the relation between language and communicative event or behavior involving what so called presently Sociolinguistics) (ibid) . Microlinguistics, from other hand, is a notion subdivided from Macrolinguistics which involves basic areas of linguistics particularly Syntax, Phonology and Morphology that are viewed to form a thorophly identified field of investigation in differentiation from both Metalinguistics and Pre-linguistics (Crystal, 2008, p. 305) .

According to (Ke, 2019, p. 134), Macrolinguistics is categorized in the following three functions:

1. Concentrating on communicative competence instead of linguistic one (referring to Chomsky's competence).
2. Trying to depict linguistic behaviors and events through metalinguistic settings.
3. Looking for linguistic units regulating larger units than the individual sentence.

(De Beaugrande, 1981, pp. 100 – 102)

2.4 Text and discourse

Basically, the relationship between the text and discourse (i.e., legal discourse and other kinds of discourses and text-types) is part and parcel as a discourse is the study of language through use. In this context, any discourse whether written or spoken has its textual features that can be analysed by its own through cohesive and coherent devices (Van Dijk, 1980, p. 29) (Ke, 2019, p. 135) . According to Van Dijk (ibid) " the difference between text and discourse lies in that the former is a theoretical conception related to a language user's competence while the latter is a

notion realistically perceived in relation to the user's performance". In this sense, a text is viewed from its syntactic forms or functions it provides in a communicative event or act such as warning, giving instructions or implementing transaction and so on. What is important on the syntactic or structural level is that how the study of the text and its coherent and cohesive devices can contribute in constituting larger sentences or suprasentential (among sentences) units. By functional level, it means how the text is studied to highlight how individuals are functioning language in use (Ping Ke, *ibid*).

However, the two notions "text analysis" and "discourse analysis" are in one way or another used confusingly. The following are the three approaches to use these two notions:

1. A set of linguists have proposed that the 'text analysis' is used to refer to the European traditions and that 'discourse analysis' is concerned itself to British-American traditions in order to achieve the same task.
2. Some linguists see the two notions as part and parcel, thinking that 'text analysis' is concerned with linguistic forms and actions in order to probe in which situational contexts they are suitable, whereas 'discourse analysis' mostly interested in communicative events and acts to construct formal linguistic closely related to the situational variants.
3. There are other linguists who still see that the notion 'text analysis' is used to indicate the written discourse, whereas the notion of 'discourse analysis' is used to refer to the spoken or oral language.

2.5 Contrastive analysis of textual cohesion

The concept of cohesion is closely related to the text. According to Halliday and Hassan (Halliday, 1976, p. 4), cohesion is a semantic concept that refers to the meaning lexical relations that emerge within the text and that identify it as a linguistic unit consisting of a set of related sentences. For his part, Ping Ke (Ke, 2019, p. 135), refers to the cohesion as a basic means of textual analysis that is used to make textual ties within a text binding together and to identify the linguistic characteristics that cause the sequential sentences keep coherent with each other. Cohesion is a significant semantic process to specify the entity of a text (ibid).

2.5.1 Semantic cohesion

Semantic cohesion is conducted via the semantic relations or cohesive devices between different forms in any type of a text. Halliday and Hasan categorize five semantic relations to be involved in a text, i.e., "reference, substitution, ellipsis, conjunction and lexical relations (or lexical cohesion)" (ibid).

2.5.1.1 Reference

In Semantics, reference is the relationship between lexemes and the objects they refer to. It is also the connection between language expressions and its categories. For instance, the word "sea" and any sea (referent) in the external world. Reference is usually equivalent to a denotative meaning (lexical meaning or meaning exists in a dictionary) and with the referential meaning, i.e., the connection between lexemes and what stand for. It is also indicating a person or an object in the real word, and the defined name of a person or an object is referred to as 'referent' (Ke, 2019, p. 80) (Aziz, 2000, pp. 18 – 19) . Reference is of two types: exophoric reference (a reference that associated with things or persons in the real world) and endophoric reference (a reference we refer to within the elements of a text or inside it)

Examples are:

e.g. The name of Barak Obama refers to a specific or defined person in the real world. (The referent is the US Former President)

e.g. The White House refers to a specific object in the external world. (The referent is the headquarter of the US Administration).

Thus, the name of Barak Obama and White House are referents in the real world.

2.5.1.2 Substitution

Substitution refers to the expressions that replaced by previous ones (Ping Ke 2019,p.142, Halliday and Hassan 1976, p.88).

e.g. Will he arrive in time?

I think so.

2.5.1.3 Ellipsis

According to Halliday and Hassan, Ellipsis means "that there is something left unsaid" (ibid, p. 143). For his part, Ping Ke (ibid,p.143) states that Ellipsis in English is usually referred to as something anaphoric and could in certain cases be cataphoric.

e.g. A. Have you been to London?

b. Never.

2.5.1.4 Conjunction

This cohesive device is used to refer to extra expressions within a text that are related to it. These expressions involves addition utterances, contrast words, cause

and effect linkers, time and sequence temporal adverbs (ibid, p. 144) . Words like *and, furthermore, moreover, besides and in addition to* are called 'additives'. Others such as *because, so, and however* are called 'causals', as well as words like *then, after, before and lastly* are referred to as temporals and sequence and so on (ibid).

However, it is important to refer that the other concept related to the text the 'coherence' is a vital semantic notion in making the text and its relation devices more coherent as well. According to Crystal (Crystal, 2008, p. 85), coherence is used to refer to functional and communicative acts of language and its discourse whether in written or spoken texts.

3. Analysis procedures

Aspects of textual contrastive analysis of legal register in English and Arabic and ways of translating them from English into Arabic can be showed in the following English and Arabic Examples which are reviewed to make textual contrastive analysis between English and Arabic regarding translating legal register:

English text: *This contract is designed to meet the special requirements of the two contracting parties. The first party is the institution and the second party is the client for whom the whole work is assigned to be accomplished within three months period. The former is required to pay for the latter all the costs immediately after the work expiration.*

Arabic text: تم تصميم هذا العقد ليلبي الرغبات الخاصة للطرفين المتعاقدين حيث يمثل الطرف الاول المؤسسة ويمثل الطرف الثاني المتعاقد الموكل اليه انجاز العمل بأكمله في غضون ثلاثة اشهر. ويكون الطرف الاول ملزما بدفع كافة المستحقات للطرف الثاني بعد انتهاء مدة العمل .

In English text, the structural form is passive voice as it is an usual formula used in English legal discourse which represents the variety of the register of a specialized domain of language. The language used is a formal one and the sentences are written to be coherent with each other whether in referring to the anaphoric or cataphoric references. The substitution cohesive device is used to avoid repetitions and to keep the text coherent.

In Arabic text, the text is written in an active voice as it is an usual formula used in Arabic discourse because in Arabic passive voice is of restricted usage and may destroy the utterance in terms of its rhetoric and style. There is no full substitution used in Arabic in such cases. In Arabic text the word *حيث* is used to refer to the ellipted 'where' in the English text. According to Arabic terminological and metaphorical register, the words like *الرغبات، الموكل اليه، المستحقات* are used to cohere the text.

English text: *When divorce is decided between the husband and his wife, the judge of the personal status court shall decide a temporal alimony for the wife paid by the husband. The verdict will be effective and enforceable therein.*

Arabic text: *للقاضي ان يقرر الزام الزوج بدفع النفقة الشرعية الموجبة لزوجته عند حصول الطلاق بينهما .
ويعد هذا القرار نافذا بموجب ذلك.*

In English text, the language is used if also formal as it is the nature of the legal texts whether in English or in Arabic, The use of modality is clear through the sentences which gives the text its formality. The use of speech acts also apparent in this text such as the use of the verb 'decide', which provide the illocutionary act to the high authority and power the judge enjoy with to issue his enforceable verdicts. The text is coherent and the cohesive ties are related to its situational context. The use of archaic words is also clear such as the use of 'therein'.

In Arabic text, the use of future modality such as 'shall' and 'will' are substituted by obligation style as there is no use of future tense in Arabic. This obligation use expresses the high authority the judge and the court enjoy with. The use of the culture-specific items is also present through the expression النفقة الشرعية which refers to the rules of the Islamic Shari'a and to come sequentially in this sense.

English text: The GATT Convention provides that the contracting countries shall comply to its provisions duly and fully and that any violation to its internal regulations considers a violation to its whole entity.

Arabic text: تنص اتفاقية التجارة الحرة على امتثال الدول المتعاقدة لأحكامها على نحو وافي وكما ينبغي وان
اي انتهاك للوائحها الداخلية يعد انتهاكا لكيانها كليا

In Arabic text, the formal legal register is apparent in referring to the full name of the convention اتفاقية التجارة الحرة instead of naming it الكاث The GAAT as a transliterated utterance or Arabized it. The metaphorical style is mostly used in Arabic versions of the official language of the conventions, treaties, protocols and agreements. The cohesive ties among the sentences are related to its textual situational context. The use of terminology is also effective in such text-type.

Conclusion

Based on what aforementioned, it can be concluded that a text is seen a text if its cohesive devices and semantic ties are related to the whole sentences to be more coherent. The textual contrastive analysis reveals many similar or different aspects of two languages or more in terms of their morphology, syntax, semantics, pragmatics, phonology and phonetics as well as discourse analysis. The macrolinguistic and microlinguistic levels of language largely contribute in revealing contrast aspects of these languages. The relationship between text and discourse is part and parcel and complementary one. The characteristics of the legal register such as formality,

modality, terminological and metaphorical language as well as its archaic words play an important role in constituting its functional and communicative nature. In textual contrastive analysis one can envisage that any process of such kind may draw a wide image of the subject per se and get a concrete knowledge in relation to its linguistic and social framework as language in its own a social phenomenon. The study recommends more investigation about textual contrastive studies and analyses to know more about languages and their cultures as such kind of analyses reveal what closely related to the languages' culture-specific items.

However, the most important findings the researcher has come out with are related to the following areas:

- 1.The textual contrastive analysis of legal register in English and Arabic is an effective means to investigate many aspects of the nature of legal discourse that is used in certain texts of specialized domains which provide a basic ground for further investigation in this linguistic field of study.
- 2.In contrastive studies, one can find a wide area for investigation and get a broad knowledge as this field of research within Contrastive Linguistics provide a fertile ground for understanding the nature of the human languages and their cultures and scientific systems.
3. The linguists usually tend to investigate these areas of analysis for their importance in enriching languages with a wide extent of knowledge in terms of making comparisons or contrasts to know about the aspects of developing them as languages tend for renewal and change to interpret their dynamic and social nature.
- 4.In this context and based on what investigated earlier in the course of this study, the research concluded that each language has its linguistic system which differs from

other language's one and thus, there is no two languages identical in their linguistic levels.

5. In holding a comparison between English and Arabic legal register in terms of its textual contrastive analysis, the researcher found that English language tends to use terminological register, metaphorical layout and formal settings in addition to using archaic words and modality more than Arabic legal register.

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