

Examining the Language of Law in Historical Texts

Asuma Mariita Nchaga

Public Administration Kampala International University, Uganda

ABSTRACT

The language of law has played a pivotal role in shaping societies, institutions, and justice systems across time. This study critically examines the evolution and function of legal language within historical legal texts, tracing its development from early jurisprudential codes to modern legal frameworks. Drawing from a range of linguistic, hermeneutic, and legal-philosophical approaches, the paper explores how legal terminology, structures, and interpretive practices have transformed in tandem with shifts in political authority, cultural context, and societal needs. Special emphasis is placed on the intersection of language, power, and accessibility, revealing how legal language has often both empowered and excluded. By analyzing selected legal documents from various epochs, including Roman law, medieval European codices, and early modern statutory texts, this paper evaluates how legal meaning is constructed and understood. It also highlights contemporary challenges in legal interpretation arising from ambiguities, translation issues, and the specialized nature of legal discourse. The study advocates for a re-evaluation of the linguistic practices of legal professionals to promote inclusivity, precision, and transparency in legal communication.

Keywords: Legal language, legal history, historical legal texts, hermeneutics, legal terminology, law and linguistics, interpretation.

INTRODUCTION

Language is a tool for communication, and every profession develops its specialized language. For instance, priests have their terminology, and literary writers use unique expressions. In legal contexts, this specialized language is known as legal language, which includes written legal documents and verbal discourse regarding legal matters. Legal language, like statutes, constitutes the law and comprises specific words, phrases, and structures that align with both natural language and legal principles. Every language system has its laws, governing rules, and structures that must be adhered to, whether in common spoken languages like Latin, Greek, and Arabic, or more niche domains such as legal, technical, or diplomatic languages. Thus, legal language not only respects general language laws but also incorporates specific terminologies that evolve through legal professionals and legislators. Awareness of language's significance influences how individuals choose their words based on context. For example, judge's use legally defined terms during court proceedings, while politicians select language designed to resonate with audiences at public events. Despite the situational differences, the core message remains unchanged. However, issues may arise when legal wording is too brief or ambiguous. To address these challenges, it is beneficial to engage in hermeneutic methods of interpreting legal texts and reasoning to clarify meaning and intention [1, 2].

Historical Overview of Legal Language

The language of law (LL) is multifaceted, yet few scholars analyze it from diverse perspectives. A foundational framework includes key areas of study: 1. Legal-linguistic theories addressing concepts, types of verbs in law, and issues like reliability and validity in legal language, including translations. 2. Descriptions of various legal languages and jargon from jurisdictions such as China, Japan, and the USA, focusing on statutes and legal discourse. Issues include misuse of terminology, text incompleteness, vagueness, predictions of court rulings, and intercultural communication in law. Legal languages also

encompass Latin, Arabic, Hebrew, Cantonese, Mandarin, and Vietnamese, alongside official state languages. However, literature on LL is sparse, particularly concerning Vietnam's context. Although studies exist, many foreign theories do not apply directly. LLs must maintain clarity, as vagueness can compromise their protective function. 3. Notably, attention should be directed towards the limitations of LLs in non-linear expressions. Legal-linguistic challenges, including prescriptive characteristics and the methodology of law bills, require extensive exploration. Failure to address these issues may impact state efficiency, investment appeal, and fairness under the law. Additionally, the integration of different complexities in legal texts signals a need to assess societal influences on LL, as seen in linguistic intersections. Examples illustrate that legal terms can vary significantly across contexts. The self-translation of legal dialogues remains a vital concern, yet precise translations are still elusive [3, 4].

The Evolution of Legal Terminology

Legal terminology reflects the changes of the modern legal system and social relations through the legitimate use of terms in the context of modern law. The emergence and evolution of legal terminology, both in the universal and national cultural traditions, are inextricably linked to the changes in laws and legal phenomena. The interrelation of legal phenomena and processes with concepts and terms, as well as the analysis of the legal terminology system evolution in connection with legal phenomena and definitions, has always existed. Their mutual dependence and interrelation are most clearly illustrated by the examination of terms and concepts emerging in the legal industry contemporaneously with and reflecting each stage's changes. In the Old Russians' laws, the designation of terms and concepts was restricted to purely substantive ones that were the phenomena of criminal law. The legal terminology is at its early stage of development and reflects the legal phenomena and processes of that time. By state formation and incorporation of new concepts in the area of law, terminology emerged to designate the legal phenomena and processes in succession, inheritance law, property law, etc. In the law of that time, concepts themselves emerged and could not be assigned prior designations. Hence, the necessity of inheritance law as a new area of law was generated by the need to describe the hereditary relations and inheritance ownership that existed among persons. The special terminology was coined to designate the new kinds of law and phenomena under its regulation in succession, inheritance, property law, and testamentary succession. This was the second stage in the development of legal terminology and its system. The Moscow, Russian, and imperial estates' legal terminology reflects the substantial changes and transformation of the terminology system corresponding to the changes in the law. The examination of the emergence, development, and changes of the essential legal phenomena and processes in customs, state formation, the evolution of the law, and legal practice is prior and a prerequisite to the legal terminology history and linguistics evolution [5, 6].

Key Historical Texts in Legal Language

The legal dimension is strongly characterized by a mode of expression that is constructed according to its own rules and does not coincide with those of everyday language: this is why lawyers and judges, once the briefings are over, often express themselves in a language that is quite incomprehensible to the clients and litigants. The consequences can be catastrophic, especially in litigious societies where, out of mere ignorance, deserving torts or defendants can easily be lost. The characteristics of this complex "language", called "Legalese", are extremely well-known but deserve to be broadened to a wider culture in a world of inter-channel communication. Giving an overview of this legal language, to familiarize the clients with its main traits, is indispensable to allow them not to be yet again deprived of the chances of obtaining justice. Although the legal dimension is salient in all cultures, it is only in Western European culture that it became literate around the 12th century AD. However, until the 17th century, almost all legal concepts were dialectically discussed in the Latin question-and-answer Scholastic discourse. Only after this period did vernacular legal languages emerge, coinciding with the contemporary progress of monarchy, Parliament, and modern philosophy. The inseparable connection between law and State, unnoticed before, induced the need to formalize the legal language according to the emerging democracy of literate vernaculars. Thus, long debates on how to construct this formal language in compliance with the unavoidable figures of rhetoric (considered to be badly mixing form and substance) began to arise. The tension between the classical and modern idioms was expressive of this debate. A great "classic" simplicity had already been attempted to be achieved by Renaissance Humanists. As the birth of a National grammar characteristically put an end to this "classicism", so the impossibility of a "modern" good vernacular codification arose. Vanished the figures in the name of a corrupted mythology, docility supplanted "classical" crispness. In turn, this mutated expressivity of legal language polarizes into logic-symbolic and formalist inspiration codes now irreversibly destined to modern anti-rhetoricism, catastrophically not foreseen [7, 8].

Language and Interpretation in Legal Contexts

Legal language is the use of law-related language. A legal language can consist of one or more vocabulary, phrases, structures, notions, interpretations, or some condition. Many regulations and court decisions have indicated how a legal language should be, but even these language rules cannot avoid vague terms, imprecise definitions, negligence, unintelligibility, non-uniformity, or other ambiguities. Those imprecise uses of legal language cause legal uncertainty, particularly when a regulation is not precise enough to settle legal issues. Owing to the importance of legal language's use to settle legal issues comprehensively and precisely, this paper offers a theory to assess and improve the quality of legal language. First, a scope on what legal language refers to in this paper is presented. Second, a complete explanation of how the theories of language provide some instruments to assess whether a legal language functions well or not is delivered. Finally, this paper presents prior research and offers post-research works to help the Indonesian legal apparatus properly use the legal language in their written texts. The language of law is a set of prescribed rules regarding the use of language in law. The law is a system of rules and guidelines. The law consists of written law and unwritten law. The written law consists of legislation, formal decisions, opinions, and contracts. The unwritten law consists of customary law, societies, and judicial law. The language of law is also varied, from general language to legal language. Even at the level of general language, English is not the national language for all countries. Therefore, the meanings of the general terms will be context-based and language-based. They depend not only on where and when they are used but also on who they are intended for. Because the language of law is also not universal, there are numerous policies on the language of law. Both of these factors make the language of law changeable. This sort of variation may affect the interpretation, application, and enforcement of the laws [9, 10].

The Impact of Language on Legal Outcomes

Probabilistic Legal Interpretative Semiotics: How to Bring to the Surface the Contingency of the Meaning of Legal Texts? Law functions as a social norming and prescriptive system defined by its law-making mechanisms and implementation procedures. The Indonesian legal system mandates that all laws be in writing and published to be binding, highlighting that "Laws come into effect upon being officially promulgated." As prescriptive texts, law texts should ideally outline obligations and authorities. However, both Societal Law and Statutory Law sometimes contain statements that lack clear obligations or authorities, raising questions about their meaning and the purpose of their inclusion. This inconsistency suggests that certain law sentences are controversial or indeterminate in their meaning. Exploring these complexities in semiotic terms provides insights into why such meanings can be elusive. Legal language must adhere to widely recognized linguistic norms and terminologies understood by jurists and legislative authorities in Indonesia. It emerges as a product of legal doctrines and political decisions, leading to potential impacts on social practices dictated by legal regimes. Ambiguities arise from convoluted legal terms, lack of clarity in writing styles, such as passive forms, and the usage of unrecognized terms, complicating legal interpretation. The concluding sections will explore these issues further, questioning the efficacy and clarity of legal language in practice [11, 12].

Comparative Analysis of Legal Language

Legal language, especially as used to draft laws and other legal documents, merits closer study. Undoubtedly, a systematized oral and written language of law should be laid down to avoid misunderstanding between lawmakers and their addressees. Based on Morris's semiotics, the concern needs to be focused on contextual aspects where legal language performs. Therefore, a framework in the form of an ideal model for the language of law is proposed. Attempting to apply this model, a comparative analysis of the language of four laws, which form the Indonesian national reformation discourse, will be elaborated. Considering that the Indonesian language is the product of a stratified society in terms of its structure, the possibility of status, tone, and the form of legal language variation will be examined. The comparative analysis applies Smits's model of the syntactic variation based on the speaker's education, a model proposing the distinction of language variety based on forms of utterances, and another model based on information elaboration. Despite the above confusions, legal language must obey the laws of language, referring to grammar, syntactic, semantics, and pragmatics aspects. Nevertheless, legal language acknowledges the existence of certain specific terminologies introduced by jurists or legislative power holders whose meanings are different from those recognized by linguistic power holders. Some problems do emerge, however, due to the obscurity and convolutedness of language, causing imprecision and ambiguity of legal language. Consequently, an understanding of a law in general or a legal decision in particular may differ from an addressee's view, which results in legal conflict or deviation from its purpose. Yes, there is an EPISTEMIC consequence, but it is more a frustration of the common person

than of a legislator's intent. Consequently, civil law, which adheres to privacy, unwritten law, needs a monument describing event-stated law. The monument should be free of unknown terms; therefore, normal people can comprehend it. Courts have formed their decisions based on the erratic changes of judges' discretion, causing civil law conflicts. Hence, public (written) law, such as Islamic and customary laws, can only survive [13, 14].

The Role of Language in Legal Education

The task of carrying out legal education in institutions of higher education is to study law, which is a social science discipline, and at the same time, a supporting discipline of pure science. The study of law as a science requires legal reasoning. Proper reasoning can be achieved if students have a good command of legal language as a tool of legal communication in writing and verbal texts. This requires mastery of the language and the language laws used as legal language. Problems arise when the language rules applied in legal texts differ from the laws of language commonly practiced in study groups, researchers, and pure science practitioners. A justice philosophy evaluation is conducted on the legal texts of laws of a region in Indonesia, as an effort to form an understanding of the provisions of the language used as legal language. As a result, many problems arise, including elusive, convoluted, and ambiguous terms in legal language texts. This observation is supported by the results of environmental sampling in the form of writing tasks and legal studies produced by law students of a higher education institution in online and offline classes. In other words, some terms in laws are not recognized as Indonesian language terms, nor do they comply with the laws of the language. This is classified as a misappropriation of language laws. Law students who study law as a discipline of social science, both written and verbal texts, and comprehending or creating knowledge must use the common usage of the language. Failure to attend to the language laws in writing legal texts can have serious implications. This misunderstanding of the proper judiciousness (interpretation, expression) may lead to the difference uninterpretable between the meaning of what is down in law texts and what was intended by the drafters. Consequently, legal certainty is difficult to achieve, as law as a static parameter of jurisprudence in a society can no longer be realized. Observations were intended as an attempt to answer the question of how such problems arise as one form of injustice that occurs. Some states condition their laws to be in a legal language that is different from the common language. They use a language for the sake of clarity, conciseness, and precision. These cultures, apart from transcendental rationale, include sociological and anthropological reasoning as civilization development stages. The remedy offered takes the form of the use of a hermeneutic method in law to have the text interpretation expound its meaning in depth and legal reasoning as diligence to openly review, design, and edit a legal text [15, 16].

Modern Challenges in Legal Language

Right after the 1945 Constitution was declared, it was realized that Indonesia is a country of law. Development of State regulations, both at the Central and Regional Government levels, depends heavily on the presence of Laws and Regulations. A good order of the State is achieved due to the execution of good Laws and Regulations. As a consequence, Laws and Regulations as determined in the 1945 Constitution of the Republic of Indonesia should be based on the laws of language universally. Such laws must be referred to in legislation, so that the legislative products can be held accountable and accountability can be pursued through law. These mechanisms are, at the same time, aimed at imposing the oppressive and discriminatory clauses on society. To highlight some, the problems of legal language can come from several factors, including, but not limited to, the meanings, uses of words, and discourse characteristics or speech acts. The problems from these factors can be investigated in the language of law, and hence, the nature of language law that would be found can explain the nature of the "Modern Challenge" that needs to be dealt with in the context of making a good Law or regulation. It cannot be avoided that the language is used to express thoughts, which in turn might affect people's minds. It is common sense that the utterances or utterance acts of a law or regulation could have a particular effect on the addressees as the receivers of the implicatures. The misunderstanding of ideals in text (language) would lead to wrongful actions, or, on the contrary, multiple interpretations with consequent injustice and human suffering. Then, with these contents, it is no wonder that laws or regulations are no longer neutral. These conditions will impact the fullness of the purposes, objectives, and ideals of law. However, and regrettably, this very important consideration is often overlooked. Hence, there emerges what is called legislative issues or problems of legal language [17, 18].

Future Directions in Legal Language Studies

Recently, research into the language of law has seen some revival, driven in large part by the linguists' imperative to contribute to real-world issues. Dickensian vapourings about lawyers' incomprehensible lawyerese are not enough, nor fit the vocabulary expected. Important as legal language is, it should truly

be in practice, or at least empirical, rather than esoteric; in the substantive linguistic sphere, rather than confining itself to its formal aspects or producing endless situational-impact papers adducing linguistic evidence from a small number of high-profile cases. Mostly from Germany, Austria, and Switzerland, this is probably the first international publication with a focus on legal language that asks these questions explicitly. The book is devoted to a number of discursive practices in legal contexts, from legislative practice through contract drafting, legal counselling, and court proceedings. Some essays include a combination of two practices, and one essay sets out on journalism and law. This breadth is a commendable strength, and the editors are to be congratulated for their feat of securing contributions that cover both different jurisdictions and academics and practitioners from both the common and civil law traditions. However, it may also dilute the book's contribution. The further question is whether some of the uncomfortable contexts of legal language use have been eschewed or omitted. The absence of contributions on areas such as asylum law or immigration law, or language rights, minorities, or the entanglement of law, language, and power, as discussed in some of the literature, is somewhat puzzling. Also left unaddressed are perhaps the pressing questions of multilingualism, a legal and practical characteristic of the EU and Switzerland, amongst others. With its multilingualism come issues such as the identity of norms in multiple languages, translating administrative and judicial acts, or the drafting of model clauses in international contracts in different national legal cultures and languages. Similarly omitted are matters relating to people with disabilities and multilingual interpretation issues in both accommodating them and hindering or limiting access to, and enjoyment of, rights [19, 20].

CONCLUSION

Legal language is not a static construct but a dynamic, evolving tool that reflects the socio-political and cultural contexts of its time. Historical legal texts reveal that legal discourse has long been shaped by the needs of power structures, intellectual traditions, and communicative practices unique to each era. The study of such texts offers profound insights into the ways meaning is embedded, contested, and negotiated within legal systems. However, the complexity and exclusivity of legal language also underscore ongoing challenges in access to justice and equitable legal interpretation. By applying multidisciplinary frameworks spanning linguistics, legal theory, and historical analysis, this paper underscores the importance of clearer, more accessible legal communication. Future directions should include the standardization of interpretive practices, the incorporation of multilingual sensitivities, and the reformation of legal education to ensure that legal texts serve their ultimate function: delivering justice effectively and understandably across cultures and generations.

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