

Stylistics and ESP: A Lexico-grammatical Study of Legal Discourse

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Abstract—This paper is a stylistic investigation of the lexical and grammatical patterns in a selection of legal discourse. Employing linguistic theories derived from the postulations of Hutchinson and Waters, Dudley-Evans and St. John and Strevens on English for Specific Purposes (ESP) as well as Halliday's scale and category grammar as its theoretical and analytical framework, the study exemplifies the step by step procedure and the effectiveness of stylistic analysis in revealing the lexical and grammatical complexities of the language of law. Drawing on the relationship between stylistics and ESP, the research focuses on jargon, contextual collocations, tautology, pleonasm, archaisms, periodic and subordinate clause structures for which legal documents are well known. It observes that the need to avoid ambiguity and loopholes which may be exploited by opponents of the law – which in itself is the overriding concern of the drafters of legal documents – often paradoxically results in ambiguity itself. The study concludes that, stylistically, the language of law is at once necessary, artificial, generally inaccessible and redundant.

Index Terms—lexico-grammatical, jargon, pleonasm, periodic, collocations

I. INTRODUCTION: STYLISTICS, ESP AND REGISTERS

In the past few decades, there have been striking advances in the discipline of stylistics resulting inevitably in increasing focus on its interdisciplinary potential. Some of the fields which stylistics has partnered are discourse analysis, pragmatics, literary criticism, eco-criticism, error analysis and English for Specific Purposes (ESP). However, the relationship between stylistics and ESP has often been neglected by linguistic scholars. In its relationship with stylistics, ESP can safely be described as a systematic study of, and indeed a modern replacement for, register.

ESP can be defined as the study of registers or varieties of specialised English usage. It is a discipline in which linguists focus attention on the language of specific disciplines and how its main function as a means of communication is performed. Ike (2002) draws an analogy between it and the clothes we wear as well as the chameleon in the sense that the clothes and the chameleon change their colours to suit specific contexts and environments. According to him:

...language is not only comparable to the clothes we wear, of which there are different ones for different occasions, but also comparable to the animal, chameleon, which changes colour with every environment. Like the chameleon, with its innumerable colours, English does not only have regional, social and functional varieties; it also has varieties for specific purposes. Thus, English has a variety for law, engineering, business, journalism, science and technology, religion etc (p.7).

ESP studies the nature of communication in the various disciplines and professions. In doing this, it focuses attention on two concepts which are of interest to stylistics – registers and jargon. We shall return to these concepts presently. Hutchinson and Waters (1987, p.19) argue that 'ESP is an approach to language teaching in which all decisions as to content and method are based on the learner's reason for learning'. A few other scholars describe it as 'the teaching of English for any purpose that could be specified'. Others describe it more precisely as 'the teaching of English used in academic studies or the teaching of English for vocational or professional purposes'.

In almost all definitions of ESP, scholars seem to be agreed that ESP studies varieties of English which are – though standard for the most part – in slight contrast to general English. This can be seen in especially the definitions of ESP proffered by scholars such as Hutchinson and Waters (1987), Strevens (1988) and Dudley-Evans and St. John (1998). These definitions tend to identify the nature of ESP in terms of absolute (essential) and variable (non essential) characteristics. Strevens (1988, pp.1-2), for instance, makes a distinction between four absolute and two variable characteristics as follows:

Absolutes

ESP consists of English language teaching which is:

- i) designed to meet specified needs of the learner;
- ii) related in content (ie in its themes and topics) to particular disciplines, occupations and activities;
- iii) centred on the language appropriate to those activities in syntax, lexis, discourse, semantics, etc; and
- iv) in contrast with General English.

Variables

ESP may be, but is not necessarily:

- i) restricted as to the language skills to be learned (eg reading only); and

ii) not taught according to any pre-ordained methodology.

In spite of this definition, the debate about the nature of ESP became quite considerable despite the fact that the approach had been in use by then for over three decades. At the 1997 conference on ESP in Japan, Dudley-Evans offered a modified definition based on *Stevens*'s. This was later revised and published by Dudley-Evans and St John (1998, pp.4-5) as follows:

Absolutes

ESP:

- i) is defined to meet specific needs of the learner;
- ii) makes use of the underlying methodology and activities of the discipline it serves; and
- iii) is centred on the language (grammar, lexis, register), skills, discourse and genres appropriate to these activities.

Variables

- i) ESP may be related to or designed for specific disciplines;
- ii) ESP may use, in specific teaching situations, a different methodology from that of general English;
- iii) ESP is likely to be designed for adult learners, either at a tertiary level institution or in a professional work situation. It could, however, be for learners at secondary school level;
- iv) ESP is generally designed for intermediate or advanced students; and
- v) Most ESP courses assume some basic knowledge of the language system, but it can be used with beginners.

Having already referred to the definition of Hutchinson and Waters (1987), the study considers it fairly accurate to state that a common position in all these definitions is that ESP is slightly different from general English. In fact, Anthony (1997) notes that it is not clear where ESP courses end and general English courses begin because a good many non-specialist ESL teachers and researchers employ an ESP approach since their syllabi are based on analysis of learner needs and their own personal specialist knowledge of English usage for real communication.

Another significant point which emerges from these definitions of ESP and which is germane to this study is the emphasis on grammar, register and jargon. It is significant because these are the chief concerns of stylistics as a discipline. We have noted elsewhere a crucial definition of stylistics by Wikipedia thus:

Stylistics is the study of varieties of language whose properties position that language in context. For example the language of advertising, law, politics, religion, individual authors etc or the language of a period in time, all belong in a particular situation. In other words, they all have 'place'.

and now observe that this definition applies also to ESP, the operative words here being 'language in context' 'law' and 'particular situation.' Both stylistics and ESP study language in context, that is, language as it relates to a profession, a discipline or a situation, and this includes the language of law. They are both interested in language in context at the level of grammar (syntax), register (lexis), discourse, semantics and even genre. In stylistics, these concerns are often grouped under the Neo-Firthian/Hallidayan stylistic concepts of register, province or field of discourse. Crystal and Davy (1986, p.71) argue that these are:

the features of language which identify an utterance with those variables in an extra-linguistic context which are defined with reference to the kind of occupational or professional activity being engaged in....The occupational role of the language-user, in other words, imposes certain restraints on what may be spoken or written...Clear examples of provinces would be the 'language of' (shorthand for 'distinctive set of linguistic features used in') public worship, advertising, science or law....

The term 'registers' itself has attracted some measure of controversy both in stylistics and ESP. It refers to a form of the language considered to be appropriate to a particular social situation or a particular kind of subject matter. Based on the classical concept of decorum, it can be further defined as 'a particular usage required by politeness or decency'. According to Crystal (1987):

Literature reflects the whole of human experience, and authors thus find themselves drawing on all varieties of language (or even on different languages) as part of their expression (Russell, 1996, p.33).

Russell (1996) herself argues for instance that 'a single work of Eliot or Joyce may draw on the registers of commerce, nursery rhyme, religion, philosophy, psychology, demotic speech and popular song'. She goes on to posit that:

the technical register embraces the terminology of thousands of occupations from the making of false teeth through the programming of computers to the building of ships; the scientific register includes the terminology of professions as diverse as nuclear physicist and professor of environmental science, astronomer, and forensic surgeon (Russell, 1996,p.46).

In the words of Yule (2007, pp.210-211):

A register is a conventional way of using language that is appropriate in a specific context, which may be identified as situational (eg in church), occupational (e.g. among lawyers) or topical (eg talking about language). We can recognize specific features that occur in the religious register..., the legal register...and even the linguistic register....

He also goes on to state that one of the defining features of a register is the use of jargon. Jargon itself is a concept which is of major interest to stylistic and ESP scholars and the study will return to it presently. Simpson (2007) refers to the Hallidayan conception of register and points out that:

a *register*...is defined according to the *use* to which language is being put. In other words, a register shows, through a regular, fixed pattern of vocabulary and grammar, what a speaker or writer is doing with language at a given moment. Registers are often discussed in terms of three features of context known as *field*, *tenor* and *mode* (p.104).

Simpson proceeds to illustrate this with two short pieces of discourse which relate to the field of chemistry:

A quantity of copper sulphate crystals was dissolved in a beaker containing 200ml of H₂O. The aqueous solution was then heated.

(1) I was just sayin', Jimmy, that me and my mate Will were putting some copper sulphate stuff into a jug of water the other day. It was bloody great fun.

and observes that if we specify that the language event should take the form of written interaction between a student and a lecturer then these parameters will strongly constrain the sort of text type that is anticipated. Consequently, only the first sentence above is appropriate to the demands of the language of chemistry. Its vocabulary and grammar confirm its field of discourse/province/register as that of science (chemistry). The same can be said of any discourse on legal language. This phenomenon is of great interest to stylistics and ESP.

Leech (1969, p.9) describes register as the role of the communication and adds:

The **ROLE** of a piece of language is the place it has in the manifold patterns of human activities and institutions. Types of language which can be more obviously pigeon-holed as performing different roles are legal English, scientific English, liturgical English, advertising English, the English of journalism, all corresponding to public institutions which we acknowledge and identify with little difficulty. All these varieties of English may be comprehended in the notion of REGISTER....

Registers then, like dialects, are often seen as different 'Englishes' because they are often distinguished by special features of semantics, vocabulary, grammar and sometimes phonology. As Leech goes on to observe, the 'Englishes' of different roles are most clearly differentiated by special vocabulary: legal English by 'fossilized' forms like 'hereinafter' in addition to an extensive technical vocabulary.

Wales (2011) proffers perhaps one of the most elaborate and significant postulations on the concept of register when she refers to it as a concept employed in linguistic anthropology, sociolinguistics and stylistics to refer to a variety of language defined according to the situation. She opines:

It is part of the communicative competence of every speaker that he or she will constantly switch usages, select certain features of sound, grammar, lexis, etc., in different situations of everyday life....All these uses of language serve or index different social roles....The codification of the significant linguistic features which determine overall the style of the register was much to the fore in Britain in the 1960s, particularly Michael Halliday and later systemic linguists.

and then goes on to add:

it is probably easiest to see registers as particular situational configurations of linguistic resources quite specifically contextually determined....Register is thus a useful flexible concept: we can appreciate genres for their shared elements; but no two registers will ever be identical (pp.361-363)

This Hallidayan view of the notion of register is also inherent in the opinion of Coupland (2007, pp.12-13) who points out that:

Register is language organized in relation to 'what use is being made of language'. Halliday treats register, or 'language according to use', as a plane of semantic organization, which can be specified through the concepts of *field*, *mode* and *tenor*. So a particular register or way of speaking...will have distinctive semantic qualities, reflecting speakers' choices from the whole meaning potential of the language.... Register or style, in Halliday's conception, is the semantic organization of linguistic choices taking account of communicative purposes and circumstances.

Thus, register is as much about the 'what' of language use, such as what is discussed and in what terms, as it is about the 'how' of language use. There is no act of speaking without a register or style dimension at work within it. Greenbaum and Nelson (2009, p.4), on their part, describe registers as 'varieties of language associated with specific uses and communicative purposes,' whereas Matthews (2007,p.339) writes of it as 'a set of features of speech or writing characteristic of a particular type of linguistic activity or a particular group when engaging in it...'. Finally, Leech (2008, p.13) argues that the register scale:

handles various registers or roles of linguistic activity within society, distinguishing, for example, spoken language from written language; the language of respect from the language of condescension; the language of advertising from the language of science.

From these definitions, it is clear that the concerns of both stylistics and ESP not only overlap but also merge imperceptibly into each other especially when the discourse is on the context and purpose of linguistic communication. The special relationship between stylistics and ESP is further clarified in spite of the differences in their origins.

II. THE ORIGIN AND TYPES OF ESP

Despite the convergence in the modern concerns and approaches of ESP and stylistics especially with regard to the varieties of English and jargon, their respective histories present quite a different scenario. Stylistics, it has been noted elsewhere, traces its origin from three classical Greek disciplines namely rhetoric, poetics and dialectics through the Middle Ages to the European Romantic and French traditions of 'Explication de Texte' and then through the French

‘stylus’ – a writing instrument. ESP, on the hand, has a more recent history which is often divided into three watersheds. These three watersheds include a Brave New World, revolution in linguistics and renewed focus on learning psychology.

The first of these phases in the development of ESP is the aftermath of World War II and the resulting expansion in the linguistic and cultural influence of the United States of America. Hutchinson and Waters (1987) suggest that two key historical periods are crucial to the development and expansion of ESP. According to them:

...the Second World War brought with it an age of enormous and unprecedented expansion in scientific, technical and economic activity on an international scale. For various reasons, most notably the economic power of United States in the post-war world, the role [of international language] fell to English (p.6).

Secondly, the Oil Crisis of the early 1970s resulted in a great deal of the money and technology flowing into the oil-rich countries. The language of this knowledge was English. The consequence of this was the inevitable pressure which was exerted on the language teaching profession to deliver the goods. Thus, whereas English had previously decided its own destiny, it now became subject to the wishes, needs and demands of people other than language teachers (Hutchinson and Waters, 1987, p.7).

The third factor was the revolution in linguistics. This revolution occurred in the sense that whereas traditional linguistic scholarship was basically prescriptive and descriptive of the theoretical aspects of language, those who pioneered the revolution in linguistics began to focus on the ways in which language is used in real communication rather than on how it ought to be used. For instance, they discovered that spoken and written English are different in several respects. In other words, given the particular context in which English is used, the variant of English will change. This idea was developed. If language varies in different contexts and situations, then modifying language teaching to meet the needs of learners in specific contexts would be a natural consequence. Consequently, the late 1960s and the early 1970s witnessed several attempts to describe English for Science and Technology (EST). According to Hutchinson and Waters (1987), Ewer and Latorre, Swales, Selinker and Trimble were the prominent pioneer descriptive EST Scholars. Others include Balogun (1979) and Okunnuga (1979). It is this consideration therefore which makes it possible for the language of specific disciplines such as law, despite its arcaneness, to attract the interest of ESP scholars.

The last factor which influenced the rise of ESP has more to do with psychology than with linguistics. Rather than simply focus on the method of language delivery, there was renewed focus on the way in which learners acquire language and the differences in the ways language is acquired. Learners were seen to employ different learning strategies, employ different skills, enter with different learning schemata, and be motivated by various needs and interests. Therefore, focus on the needs of the learners became as important as the methods employed in the teaching of language. Planning specific courses to better meet those individual needs was the natural result of this phenomenon. The slogan thus became learner-centred or learning-centred.

Apart from the difference in history between ESP and stylistics, there is also a slight divergence in their formal subdivisions or types. Unlike stylistics which is often formally divided into such types as literary, linguistic, formalist, cognitive, feminist, functional, critical, pragmatic and pedagogical stylistics, ESP types are slightly more situational. But like discourse analysis, ESP and modern stylistics focus a great deal of attention on contextual variation in language use. The main types of ESP identified by Carter (1983) include:

i) English as a restricted language exemplified by the language of air traffic controllers, waiters, communication and social media such as text messaging, facebook, twitter etc because, as argued by Mackay and Mountford (1978):

the repertoire required...is strictly limited and can be accurately determined situationally, as might be the linguistic needs of a dining-room waiter or air-hostess...Knowing a restricted ‘language’ would not allow the speaker to communicate effectively in a novel situation, or in contexts outside the vocational environment (pp.4-5);

ii) English for Academic and Occupational Purposes which in English Language Teaching, combines the two subdivisions – EAP and EOP – of each major branch of ESP such as English for Science and Technology (EST), English for Business and Economics (EBE) and English for Social Studies (ESS). Legal discourse is often classified under the EOP sub-division of English for Social Studies although others see it as belonging under English as a restricted language; and

iii) English with specific topics, which, to Carter (1983), represents a slight shift in emphasis from purpose to topic in the sense that this type of ESP is uniquely concerned with anticipated future English needs of, for example, scientists requiring English for postgraduate reading studies, attending conferences or working in foreign institutions.

It is clear from the above that ESP, like stylistics, focuses on situational/contextual uses of language, but – in the case of ESP – in professional settings. Both disciplines investigate the ability to communicate successfully or otherwise, stylistics being generally so whereas ESP is occupationally or professionally restricted. Both also study the use of everyday English in formal and informal communication. Therefore, both disciplines pay attention to specialised language use such as register, and, in addition, jargon. Since the language of legal documents is suffused with jargon, this study examines the concept of jargon in some detail in the next section.

III. JARGON IN ESP AND STYLISTICS

Jargon refers to a set of specialised words and phrases or other linguistic terminology peculiar to a trade, profession or occupation. The name itself is derived from an Old French word which means ‘the twittering (or warbling) of birds’.

In English, it now has at least three principal meanings. First, it means the technical vocabulary of a science, trade or other hermetic group. This is jargon in its useful, positive sense. In this sense, it is considered essential and indispensable. Second, it also refers to language which is conspicuous for its pretentious syntax and vocabulary, that is, circumlocution and periphrasis. This sense of the term is considered pejorative. Third, jargon can also mean a medley of more than one language or gibberish. Although this sense of the term is now rare, it reflects more than the others the original meaning of the word. Significantly, in informal English, the term 'jargon' is mostly used pejoratively despite definition one above.

Stylistically, that the jargon of definition two above has often overshadowed its use in a more positive sense is unfortunate for occupations such as law, medicine and engineering. In order to solve this problem, a distinction has often been made by ESP and stylistic scholars between what they refer to as 'true jargon' and 'pseudo (popular) jargon'. With this in mind, Ike (2002) for instance argues that there are three main types of jargon namely, true jargon, popular jargon and specialised vocabularies. He elaborates:

True jargon consists of technical words or vocabulary freely used and generally well understood among members of a particular profession. These are mostly of Latin, Greek or French origin. They constitute the larger percentage of technical words in the professions and are made up of single morphemes with or without affixes (p.8).

Concerning popular jargon, Ike observes as follows:

This is so called because it is what most people recognize as jargon in the real sense. On the surface, popular jargon mostly applies to a style of writing embodying long winded and involved expressions, sometimes used for their own sake. It represents a style of writing that is at once verbose, pompous, and overdosed with clichés and hackneyed expressions that mostly add little or nothing to the general meaning of what is written but rather tend to obscure the real meaning to a point of incomprehensibility (p.8).

Finally, he defines specialised vocabulary as 'words or phrases in the profession which embody technical as well as general meanings...words that have different meanings in general English from the meaning in the technical sense' (p.12).

Ike is obviously alluding here to such examples in legal style of referring to a child as a 'minor' thus converting this general English expression to an example of legal 'jargon'. Russell (1996) points out that jargon in its real sense can range from slangy expressions to the dignified terminology of the law and other learned professions. She also refers to it as 'specialized vocabulary used when expert talks to expert' and states that it is often used for two main reasons as follows:

i) It is a kind of shorthand. Much quicker to refer to a *lien* than to 'a right to retain another person's property pending discharge of a debt'...; and

ii) It is more exact than everyday language; being drawn largely from 'dead' Latin and Greek, it does not change as living English does, altering its connotations or acquiring new meanings (pp.46-47)

This kind of jargon, however unintelligible to the layman, is never obscure as long as it is used in its proper context. But when it is employed by experts to laymen who do not understand it, it is both a form of bad manners and, like pseudo-jargon, a barrier to communication. Pseudo-jargon itself, according to Russell, 'is used in imitation of jargon proper' and 'seeks to impress with learned-sounding abstractions, and the result is a terminology that nobody, not even its users, can clearly understand' (p.47). In this kind of jargon for instance, a speaker or writer prefers 'he resides' to 'he lives'; 'surplus emoluments' to 'extra money'; 'predicated upon the availability of' rather than 'because of' or 'depends on'. Yule (2007, pp.210-211) links the concepts of register and jargon closely and states as follows:

One of the defining features of a register is the use of jargon, which is special technical vocabulary associated with a specific area of work or interest. In social terms, jargon helps to create and maintain connections among those who see themselves as 'insiders' in some way and to exclude 'outsiders'. This exclusive effect of specialized jargon...often leads to complaints about what may seem like 'jargonitis'.

Another stylistic scholar, Wales (2011), refers to the concept of jargon in the sense of easy semantic shift from bird noises to unintelligible human language, and then to a register or variety of language which non-users fail to understand because of the kind of specialised vocabulary used. In her opinion:

Different professions and disciplines have of necessity evolved their own terminologies for specialised needs, from science to stylistics, marketing to the internet; and jargon can be used quite neutrally to describe these. What is often objected to, however, is the (sometimes willful) manipulation of jargon for obfuscation, pomposity or mere verbosity... (p.242).

This distinction between true jargon and pseudo jargon is also implicit in the contentions of Crystal and Davy (1986, p.210) when they opine as follows:

It is usual to regard as technical terms only those words which appear to have a very precise reference, and often what are believed to be less exact items are classified under such headings as 'argot', 'slang', 'cant' and 'jargon'.

as well as in what Matthews (2007,p.208) refers to as 'the ordinary sense of technical or pseudo-technical vocabulary.' Orwell's complaints about the 'lack of precision...mixture of vagueness and sheer incompetence ... characteristic of modern English prose' featuring 'dying metaphors, pretentious diction and meaningless words' refers obviously to popular jargon. According to Orwell (1981):

Bad writers, and especially scientific, political and sociological writers, are nearly always haunted by the notion that Latin or Greek words are grander than Saxon ones, and unnecessary words like *expedite*, *ameliorate*, *predict*, *extraneous*, *deracinated*, *clandestine*, *sub-aqueous* and hundreds of others constantly gain ground from their Anglo-Saxon opposite numbers....The result, in general, is an increase in slovenliness and vagueness (pp.737-738).

From the foregoing therefore, it is fairly certain that jargon, whether 'true' or 'pseudo-', is, for stylistics and ESP, of special importance in the consideration of the language of specific disciplines such as law. Sometimes, the boundary between both types of jargon appears blurred, but legal discourse is often criticized for being replete with them. In the following sections, the study exemplifies this with the lexical and grammatical features of legal language.

IV. THE LANGUAGE OF LEGAL DOCUMENTS

Almost every aspect of human existence is circumscribed by legal restrictions, most of which are codified in the form of legal documents. Law itself is composed of the entire fixed body of principles which regulate conduct and are enforceable in the courts. It is therefore a composite process of activities including the drawing up of statutes to the contracting of agreements between individuals all of which are recorded in a written form. Since it is through such documents that rights are conferred and obligations imposed on us – tasks which are often complicated – we need to be able to read them. As such, these laws need to be able to withstand the scrutiny and tests of any individuals curious about these obligations. There must be no loopholes in their drafting. As Crystal and Davy (1986, p.193) point out:

Whoever composes a legal document must take the greatest pains to ensure that it says exactly what he wants it to say and at the same time gives no opportunities for misinterpretation.... when a document is under scrutiny in a court of law, attention will be paid only to what, as a piece of natural language, it appears actually to declare ...and if the composer happens to have used language which can be taken to mean something other than he intended, he has failed in his job.

As they go on to observe, of all the uses of language, legal discourse as reflected in its documents is perhaps the least communicative in that it is designed not so much to enlighten language users at large as it is to allow one expert to register information for scrutiny by another. Legal writers, who are driven by the need to eschew ambiguity as much as possible, are pulled precisely in the same direction. The result is obfuscation and inaccessibility to the general public. Russell (1996, p.180) observes that lawyers 'write in "bad" -- that is, clumsy and obscure English,' but nevertheless admits that:

The use of jargon in legal documents is usually justified on the grounds of convenience and brevity: lawyers know exactly what they mean by their technical terms; spelling them out so that laymen could understand them would consume large amounts of time, energy, and space (p.184).

V. LEXICAL FEATURES

The vocabulary of legal discourse can be said to conform to the following three basic principles, cast mnemonically as three p's namely, 'precision', 'preservation' and 'prestige'. Its arcaneness and essential inaccessibility result from a reluctance to experiment with new words and thereby risk instability and ambiguity of meaning with the possible consequence of invalidation of agreements and contracts. As we have observed earlier, legal jargon, being drawn largely from 'dead' languages such as Latin, Old French and sometimes classical Greek, is preferred by the drafters of legal documents because it does not alter its connotations or acquire new meanings. Agreements, contracts, treaties and seals rendered in such words remain valid for decades. Also, lawyers, in their quest for precision of terminology, frequently have recourse to established, arcane words – often in groups of two or three synonyms to make up for any perceived imprecision – because they are sometimes more exact than everyday language.

Another motivation for legal jargon in legal documents is prestige. Its use fosters a feeling of prestige and the maintenance of professional connections among lawyers thus allowing one 'learned gentleman' to communicate exclusively with another as an 'insider', and exclude 'outsiders'. Let us consider some lexical examples with their origins and meaning. They are classified into true jargon, pseudo-jargon, synonyms/pleonasm/tautologies and contextual specialised vocabulary.

A. True Jargon

1. addendum (Latin) an addition; something added
2. affidavit (Latin) a written declaration made upon oath
3. alias (Latin) an assumed name
4. alibi (Latin) the excuse of being elsewhere when a crime was committed
5. arson (Old French; Latin) a crime of willfully setting fire to property for purposes of mischief
6. assault (Old French; Latin) an intentional or reckless act which results in immediate and unlawful violence to another
7. bail (Old French; Latin) money for temporary release of a suspect who must appear in court or it is forfeited
8. battery (Old French; Latin) unlawful physical violence against a person
9. defendant (Old French; Latin) a person against whom a court action is brought

10. equity (Old French; Latin) decisions based on principles of natural justice and fair conduct
11. exhibit (Latin) a document or object produced as evidence in court
12. felony (Old French; Latin) a (serious) crime
13. fiduciary (Latin) trustee; a person who acts on behalf of another in relation to his beneficiary
14. homicide (Old French; Latin) the killing of a human being by another person
15. libel (Old French; Latin) a written offensive material considered injurious or defamatory of another person
16. lien (Old French; Latin) right to retain possession of another's property pending the discharge of a debt
17. litigate (Latin) to bring a lawsuit
18. manslaughter (Old English) the accidental killing of another human being
19. murder (Old English; Latin) the unlawful and willful killing of another human being
20. perjury (Old French; Latin) the offence of giving false evidence under oath in court
21. plaintiff (Old French) a person who brings a civil action
22. proviso (Latin) a clause containing a condition; a condition
23. quash (Old French; Latin) to make void or invalid; cancel
24. res (Latin) matter; issue or object
25. slander (Old French; Latin) a spoken offensive material considered injurious or defamatory of another person
26. subpoena (Latin) under penalty; a writ issued by a court requiring a person to appear in court
27. tort (Old French; Latin) a wrong arising from an act of commission or omission without regard to a contract
28. treason (Old French; Latin) betrayal of, or crime against, one's country
29. trespass (Old French; Latin) to intrude or encroach on another person's private property, privacy and rights
30. writ (Old English) a sealed document ordering a person to do, or refrain from doing, some specified act

As can be seen above, the majority of technical diction of law derives either directly or ultimately from Latin. As we have observed already, being drawn from this 'dead' language as well as Old French ensures precision and stability in meaning for these lexical items. Significantly, a good many of them like 'manslaughter', 'murder', 'quash' and 'trespass' have passed somewhat into general English possibly on account of their being (at least in the case of the first two) native English words. But more fundamentally, these items are examples of true jargon because they do not have exact English equivalents. It is decidedly more convenient and precise to refer to 'lien' than to 'a right to retain another person's property pending discharge of a debt'. Similarly, what single word equivalents can there be in English for words like 'assault', 'fiduciary', 'res', 'tort' and 'treason'? As Russell (1996) points out, 'the definition of *tort*, for example, takes up twelve words in the *Concise Oxford Dictionary*, and still gives us only the most general and therefore vague notion of what it means...' (p.184).

Morphologically also, most of these lexical items have no affixes reinforcing their ease of pronunciation. This is why the drafters of legal documents turn to them again and again. In their syllabic structure, however, there is noticeable variety with words of two and three syllables predominating.

monosyllables	dissyllables	trisyllables	polysyllables
bail	alias	addendum	affidavit
lien	arson	alibi	fiduciary
quash	assault	defendant	
res	battery	equity	
tort	libel	exhibit	
writ	murder	felony	
	plaintiff	homicide	
	slander	litigate	
	treason	manslaughter	
	trespass	perjury	
		proviso	
		subpoena	

This confirms the contention that true jargon consists of lexical items which are morpho-phonemically less complex, and it also refutes the view that the native English word is always shorter than the borrowed Latinate word. The words 'murder' and 'manslaughter' are longer than 'res' and 'tort' for instance. Significantly also, with the exception of the item 'quash' which is a verb, virtually all the lexical items in legal jargon appear to be nouns. This, not surprisingly, is because naming and conceptualization are two of the most important linguistic phenomena in the legal profession. This is not to say, however, that other word classes such as verbs and adverbs do not exist. They do exist, as will be seen presently, but they are totally swamped by the nominals.

B. Pseudo-jargon

Some of the lexical items in legal jargon have crossed over into popular, especially journalistic, usage. These have been so often used in the media reportage that they tend to cliché. These are classified here as popular (pseudo-) jargon because they are 'much sought after'. Here is a list of ten of the most popular of these expressions.

1. ab initio (Latin) from the start
2. amicus curiae (Latin) friend of the court; a person who is not directly involved in a case but advises the court

3. *ex parte* (Latin) motion or injunction on behalf of one party only in a court case
4. *habeas corpus* (Latin) you have the body; an order for a detainee to be brought to court
5. *interlocutory injunction* (from Latin) a provisional pronouncement in the course of court proceedings
6. *locus standi* (Latin) a place for standing; the right of a party to appear and be heard in court
7. *mens rea* (Latin) guilty mind; a criminal intention or knowledge that an act is wrong
8. *pari passu* (Latin) with equal speed or progress; the right of creditors to receive assets equally from the source
9. *prima facie* (Latin) at first sight; evidence as it seems at first
10. *sub judice* (Latin) under judicial consideration; a rule which makes it an offence to make comments which might prejudice a case in court

Here again, the list indicates a predominance of words of Latin origin together with those of Old French in the lexicon of law. Note also that here, unlike true jargon, the expressions are all compounds which may perhaps account for their ‘popularity’ in the prestige-besotted media and among legal correspondents. They are frequently deployed more for purposes of bombast than for the registration of information. Readers of modern newspapers will be familiar with the following;

- a) The evidence of the witness was *ab initio* fraught with inconsistencies.
- b) The Chief Justice condemned the indiscriminate granting of *ex parte* motions by judges in the High Courts.
- c) The trial judge ruled that Fawehinmi lacked *locus standi* to institute the action.

These expressions have perfect general English equivalents such as *from the start*, *friend of the court*, *one sided*, *bring-to-court order*, *temporary/provisional*, *right of action*, *criminal intention*, *equally/hand in hand*, *at first sight* and *still under judicial consideration* respectively. And these are effective substitutes for the popular jargon expressions. Their persistent use in the media as well as in some legal contexts is largely superfluous. Lexical items such as ‘*pari passu*’ and ‘*prima facie*’ are often employed in facetious contexts and serve the bombastic needs of the modern journalist or prestige-seeking expert. But they are seldom desirable in serious academic contexts.

C. Synonyms, Pleonasms and Tautologies

In this subsection, we focus attention on the tendency of lawyers to use synonyms or near synonyms, words which merely repeat each other’s meaning without any elaboration. These words are often used in pairs or in sets of three even though only one would be sufficient. Here are some examples some of which are adapted from Levine in Russell (1996) and Crystal and Davy (1986).

1. able and willing
2. assault and battery
3. discharged and acquitted
4. made and signed
5. null and void
6. rules and regulations
7. terms and conditions
8. covenants, conditions and agreements
9. heirs, successors and assigns
10. leave, surrender and yield up
11. rest, residue and remainder
12. retain, repossess and enjoy

As we have already observed, the pleonastic and tautological meanings of these sets of expressions arise from the desire of the legal expert to ensure precision and make legal documents as watertight as possible. There is often the feeling of doubt as to whether on its own, each lexical item in the set is sufficient to prevent any loophole in the document. Crystal and Davy (1986) suggest that:

Draftsmen got into the habit of using these pairs at a time when there were in the language both native English and borrowed French terms for the same referent. In this situation there was often a certain amount of doubt as to whether such ‘synonyms’ meant exactly the same thing and there developed a tendency to write in each alternative and rely on inclusiveness as a compensation for lack of precision (p.208).

But paradoxically, this kind of inclusiveness has its limitations. In reality, coordinating items which mean the same thing brings very little additional information, except at the stylistic level, to the discourse. Expressions such as ‘discharged’ (freed; released) and ‘acquitted’ (freed; released) or ‘null’ (not valid) and ‘void’ (not valid; not binding), according to some legal experts, contain pairs which, as in the first, express not only freedom and release for an accused person but also the foreclosure of the possibility of the accused being arraigned for the same charges in future. In the second, the invalidation achieved by the word, ‘null’ is reinforced by the total ‘emptying’ (void) of all the related phenomena to the entity which is made ‘null’. As in the case of some of the items of the previous subsections, some of the expressions here such as ‘able and willing’, ‘rules and regulations’ and ‘terms and conditions’ have made their way into general English.

D. Contextual Specialised Vocabulary

In this category are lexical items which, though not necessarily restricted to legal contexts, seem highly formal in effect when they are employed in legal contexts. They consist of some general English expressions mostly nouns, verbs and adverbs which have been appropriated by lawyers and made, through formal usage, to appear like jargon. These include:

NOUNS: contempt, custody, declaration, minor, stipulation, termination.

VERBS: accept, agree, constitute, deem, depose, exercise, issue, observe, require, specify, state, take.

ADVERBS: herein, hereinafter, hereinbefore, hereinto, hereof, hereto, heretofore, hereunder, hereupon, therein, thereafter, thereto, thereof, thereto, theretofore, thereunder, therewith.

These expressions often do no more than reinforce the esoteric quality of legal discourse as well as bestowing prestige more than they are capable in everyday usage. We see this frequently when a court of law:

holds someone in *contempt*

remands in/grants *custody*

makes a *declaration*

takes or *accepts* a plea

and recognize that to 'hold in contempt' for instance in legal usage, which may result in a jail term, is slightly different from the use of the item 'contempt' (scorn) in general English. But the difference between the meaning of the word 'depose' in law (to give a written testimony) and in general English (to remove from office or position) seems to be total despite the inherent implication of 'putting down' common to both uses. The 'here-' and 'there-' combinations above may not be common in general English but it is obvious that they are stylistic reversals of normal general English phrases such as:

in here, in after here, into here, upon here

in there, to there, under there etc.

which are much too long and less prestigious for the legal expert. Thus, in essence, these are general English expressions which the legal profession takes over and converts into technical terms by using them in a special way.

The general principles behind the lexical items in legal discourse is, as we have observed, precision, preservation and prestige. This is made possible by the plethora of loan words from Latin and Old French co-existing with their native Anglo-Saxon counterparts. But of the three principles, only the last two can be said to be effective with any degree of certainty. The jury is still out, as it were, on the degree to which the lexicon of legal discourse achieves precision.

VI. GRAMMATICAL FEATURES

The peculiar grammatical features of legal documents consist chiefly in the awkward piling and placing of subordinate clauses and phrases (avoiding anaphoric links between sentences), excessive repetition, a preference for periodic (anticipatory constituents) sentence structures and the constant use of passive verbs. Let us consider the following examples, two of which are adapted from Russell (1996).

[1.6.1] If, after the confirmation of an order made by a local authority under the last preceding section, the owner or occupier of, or any person interested in, any private dwelling which is or will be within a smoke control area as a result of the order, not being a new dwelling, incurs expenditure on adaptations in or in connection with the dwelling to avoid contravention of the last preceding section, the local authority shall repay to him seven-tenths of that expenditure and may, if they think fit, also repay to him the whole or any part of the remainder of that expenditure....

[1.6.2] Subject to the provisions of this section a child shall not, except under and in accordance with the provisions of a licence granted and in force hereunder, take part in any entertainment in connection with which any charge, whether for admission or not, is made to any of the audience; and every person who causes or procures a child, or being his parent or guardian allows him, to take part in an entertainment in contravention of this section, shall, on conviction by a court of summary, jurisdiction, be liable to a fine not exceeding five pounds, or, in the case of second or subsequent offence, not exceeding twenty pounds.

[1.6.3] Should the Hirer fail to pay in full any instalment within fourteen days after the same shall have become payable or should the Hirer die or be made bankrupt or should the goods be seized under any distress of the Hirer for rent or other obligation or the Hirer do or suffer anything....

[1.6.4] You are hereby commanded that within eight days after the service of this writ on you, inclusive of the day of such service, you do cause appearance to be entered for you in an action at the suit of the plaintiff and take notice that in default of your so doing the plaintiff may proceed therein and judgment may be given in your absence.

[1.6.5] Upon going through the motion paper filed ex parte, in court on 20th January 1998 and the accompanying affidavit deposed to by one...in the law office of...on behalf of the applicants and after hearing...of...caused for the applicants, it is hereby ordered as follows....

In all the texts above, there is a preference for 'chainlike', periodic structures resulting from restrictions on the use of pronouns, excessive repetition and the use of passive verbs. The aim here also is to avoid ambiguity. The legal draftsman tries to anticipate every condition or loophole that may stem from ambiguous constructions and writes them in. But this paradoxically results in ambiguity as it interferes with intelligibility and communication. All the texts above consist of just one sentence each with text [1.6.3] lacking in predication. [1.6.1] for instance, is divided into a complex beta (subordinate conditional adverbial) clause:

If, after...contravention of the last preceding section
and an alpha (main) clause:
the local authority...expenditure

The beta clause in turn consists of minor periodic, anticipatory, constituent clauses and phrases including even an embedded 'minor' main clause as follows:

1. if...the owner of occupier...dwelling (conditional clause)
2. after the confirmation...section (adverbial phrase)
3. the owner or occupier of...incurs...section (minor main clause)
4. which is or will be...new dwelling (relative clause)

Note that all these qualifying clauses and phrases are governed by the major *if*-conditional clause, but they result in the reader having to store several bits of information in his memory in anticipation of the arrival of the alpha (main) clause which contains the main statement itself further interrupted by another subordinate qualifying clause: '...if they think fit'. The entire sentence has the systemic structure: ASPACC as follows:

Adjunct:	If, after...section
Subject:	the local authority
Predicator:	shall repay/may...repay
Adjunct (rankshifted):	if they...fit
Complement:	to him/to him
Complement:	seven tenths...expenditure/the whole...expenditure

The subordinate clause introduced by 'if' is interrupted by the lengthy adverbial phrase 'after the confirmation...', then by the relative clause 'which is...' then by two other phrases 'as a result of' and 'not being'. This makes it difficult to easily grasp the relationship between the beta clauses as well as that between them and the alpha clause.

We see a similar phenomenon in [1.6.2] which consists of a compound sentence with two alpha clauses having two major parts as follows:

1. Subject to the provisions ...audience
2. and every person...pounds

Each of these alpha clauses contains several smaller qualifying clauses and phrases such as:

1. Subject to...section (adverbial phrase)
2. a child...audience (main clause one)
3. except...thereunder (conditional adverbial phrase)
4. whether for...not (adverbial phrase)
5. and every person...a fine (main clause two)
6. who causes...section (embedded relative clause)
7. or being his parent...guardian (adverbial phrase)
8. on conviction...jurisdiction (adverbial phrase)
9. in the case...offence (adverbial phrase)
10. not exceeding...twenty pounds (adverbial phrase)

The structure of the whole sentence is ASPAA linker SPAC as follows:

Adjunct:	Subject...section
Subject:	a child
Predicator:	shall...part
Adjunct:	except...thereunder
Adjunct:	in any...audience
linker:	and
Subject:	every person...section
Predicator:	shall be
Adjunct:	on conviction...jurisdiction
Complement:	liable to...pounds

The extract in [1.6.3] illustrates the avoidance of anaphoric links by legal documents resulting in unnecessarily repetitive structures. Impersonal, neuter nouns like 'hirer' are repeated as many times as possible rather than being replaced by a pronoun such as 'he' or 'she', or even a nominal such as 'the man' or 'the woman' in the fear that it could be exploited by other lawyers. Note that the repetition of the expression '(should) the Hirer', while avoiding (grammatical) anaphora, paradoxically produces (rhetorical) anaphora in the following:

Should the Hirer fail...
Should the Hirer die...
Should the goods be seized...
the Hirer do or suffer...

Again, this extract illustrates the periodic (anticipatory) adverbial conditional clause structure devoid of the main clause.

Texts [1.6.4] and [1.6.5] continue this syntactic overloading peculiar to legal documents. The former consists of subordinated elements while the latter contains coordinated constituents. [1.6.4] has the passive structure SPA thus:

Subject: You

Predicator: are

Adjunct: hereby...absence

while [1.6.5], replete with verbs in the passive voice, is structured: ASPA as follows:

Adjunct: Upon...applicants

Subject: it

Predicator: is ordered

Adjunct: hereby...follows

Remarkably, the final adjunct of [1.6.4] and the initial adjunct of [1.6.5] consist of numerous minor clauses and phrases such as:

- 1) ...that you...plaintiff (noun clause)
- 2) ...that the plaintiff...absence (noun clause)
- 3) ...within...days (adverbial phrase)
- 4) ...after the...service (adverbial phrase)
- 5) ...in default...doing (adverbial phrase)
- 6) ...upon...ex parte (adverbial phrase)
- 7) ...in court...of (adverbial phrase)
- 8) ...on behalf...applicants (adverbial phrase)

Finally, we note the impersonal passive constructions in the following:

You are hereby commanded	(We/I hereby command you)
cause appearance to be entered...	(cause them to enter appearance)
judgment may be given...	(We/I may give judgment)
affidavit deposed to by one	(affidavit that one...deposed to)
it is hereby ordered...	(We/I hereby order...)

which, as we have observed, reinforce the formal and impersonal tenor of the language of judicial proceedings.

VII. CONCLUSION

In studying the language of professions such as law, ESP and stylistics are remarkably similar in their approaches. Despite the slight variation in goals, the results of stylistics being meant for experts in the field whereas those of ESP are targeted at non experts, their contribution to linguistic theory is similar. As the study has demonstrated, research in ESP and stylistics reveals that in lexis and grammar, the drafters of legal documents are guided by the principles of precision, preservation and prestige. The desire to avoid ambiguity results in the preference for established jargon made up of items from Latin and Old French which provide stability of meaning. Also, the desire for precision leads legal experts to employ pleonastic and tautological synonyms where just one of the items would suffice. Lexically also, legal documents deploy ordinary general English expressions in extraordinary ways.

At the grammatical level, legal documents employ sentences which are complicated by a myriad of qualifying subordinate clauses and phrases as well as excessive repetition. This makes the structures jerky and unwieldy and often unintelligible to the general public. Here again, the overriding concern is the avoidance of ambiguity in order to frustrate the possibility of loopholes which may be exploited by other lawyers or judges. On the face of it then this makes the complexities of the language appear like a necessary evil. However, since humanity at large does not employ language in such artificial ways, the result is linguistic inaccessibility and redundancy. Consequently, it can be argued that in making the lexis and grammar of legal discourse not easily accessible to vast sections of the populace in pursuit of precision, preservation and prestige, the drafters of legal documents paradoxically end up with the very ambiguity they wish to avoid.

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