



Legal English in Court Resolutions: A Stylistic Analysis

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Abstract: An analysis of legal documents has been a growing field of interest, not only for discourse analysts, but also for language practitioners because of the rich semantic implication that can offer. Since the legal system of a country is considered an important aspect in the development of the society and politics, there is therefore a need to understand the language of law in terms of cohesion. With that in place, the researcher deemed it necessary to focus on the textual analysis of legal discourse found in the court resolutions drafted by two previous Supreme Court justices. Specifically, the paper focuses on subordinate clauses which is said to be an instrument in maintaining the traditional structure of legalistic sentences. The study adopted Quirk et al.'s (1985) classification of subordinate clauses and in order to investigate if the structure used by the two justices adheres to the nature of legal texts by employing nominal clauses, which is a structure used mostly in legal documents. Results reveal that the resolutions demonstrate an adherence to the traditional practice of legal drafters by being objective and detached, as shown in the preference for nominal and relative clauses. Pedagogically, this paper can help in materials development for undergraduate law students in the discursive realities and negotiations in legal English.

Keywords: stylistics; legal text; subordinate clause; nominal clause

1. INTRODUCTION

1.1 Background of the study

Conducting studies that focuses on the analysis of legal documents has been gaining popularity among linguistic scholars, as seen in the studies of Garner (1986), Coulthard and Johnson (2007) and Stanojevic (2011). One possible reason for this phenomenon is that legal language may provide behavioral mode or

standard to measure people's daily actions for governing a country and that it demonstrates the place of English in a country's legal system (Madrurnio, 2013). Gocić (2012) meanwhile believes that legalese and the way they are written highly depend on language; hence, Ashipu and Umokoro (2014) emphasize that studies of this nature explicate the semantic implication, make it understandable for the



layman, and contribute to the field of English for Specific Purposes and Stylistics.

Legal documents commonly used for linguistic analysis come in various forms such as court proceedings that feature the discourse among the participants in a particular court case (e.g. lawyers, plaintiff) and affidavits or legal narratives which usually are drafted by lawyers. One interesting document which could be subject for linguistic analysis is the judicial ruling or court decision. Practically, the stakeholders of legal cases are concerned with the content of court decisions (Hiltunen, 2012). Linguistically speaking, court decisions “evaluate the meanings of disputed terms in two different ways—in terms of definitions and in terms of how far the word strays from the prototypical use of the word—and that different approaches to word meaning can have serious jurisprudential ramifications” (Solan, 2002, p. 1069).

1.2 Stylistic analysis in legal documents

Stylistic analysis, generally known as the investigation of the artistic principles underlying a language choice of a writer, is also applicable in analysing legal documents. Gocic (2012) and Ashipu and Umokoro (2014) stress that legal documents are stylistically analysed since these are forms of writing which have distinct register in which drafters meticulously form. In this regard, Leech and Short (2000) suggest a checklist of linguistic and stylistic categories for various text types: lexical categories, grammatical categories, figures of speech, and cohesion and context.

Overall, it is the researchers’ interest to focus on the analysis of grammar analysis specifically clause types. This curiosity is backed by the general notion that legal documents are naturally complex in nature in which sentence structures are far distinct from lay people and that the use of these structures reflect a drafter’s linguistic style to express a certain meaning. Greenbaum and Nelson (2009) claim that knowledge of grammar is a help in the interpretation of literary as well as non-literary

text since the interpretation would sometimes rely heavily on grammatical analysis. Adopting Leech and Short’s (2000) stylistic categories, the current study focuses on the clause types that two former Philippine Supreme Court justices employed in two of their court resolutions.

2.0 METHODOLOGY

The data of the current study were rulings accessed from the online database of the Supreme Court of the Philippines. Specifically, two resolutions of two former justices were randomly chosen and used for stylistic analysis.

The first is Justice Isagani Cruz (JIC), often referred to as the “16th member of the high court”, who was known for his consistent erudite handling of issues on law and justice. The second judge, Judge Artemio Panganiban (JAP) was honored with the title of “21st Century’s Renaissance Jurist”. He is the 21st Supreme Court Chief Justice of the Philippines, and similar to Judge Cruz, he has had several responsibilities in different government and corporate agencies. The court resolutions analysed were cases tried in 1986 and 1988 by JIC and in 1996 and 2004 by JAP. Parsing was conducted to properly classify the clause types in the four court resolutions using Quirk et al.’s (1985) as framework. Consequently, stylistic analysis was then conducted using Halliday and Hasan (1976). For the validity of the linguistic analysis, an inter-rater’s help was sought. The said inter-rater is a PhD in Applied Linguistics holder in the same university where the researcher is affiliated. Discrepancies were dealt with accordingly, which consequently led to 99% agreement on the classification of text types.

3.0 RESULTS

3.1. Physical description of the court resolutions

In analyzing the textual structure of certain texts, the physical structure may be necessarily described in order to illustrate the overall complexity of the data. Table 1 shows the physical differences of the study’s data. As

can be seen, JAP's resolution is lengthier than that of JIC's. In the same way, JAP's sentences are more complex with the employment of more words per sentence. Tiersma (2000) states that there are legalese sentences that can easily be broken down into more digestible pieces with no loss in content; hence, there is a developing notion that complexity in sentences may be unnecessary.

Table 1. Physical description of the corpus

Categories	Cruz	Panganiban
Case	Publication of laws in newspapers	Property registration
Words per sentence	21.74	33.24
Total no. of sentences	76	73
Total no. of words	2206	2668

3.2 Subordinate clauses in the court resolutions

The two Filipino justices also show differences in their use of subordinate clauses. This is seen in Table 2. Based on the frequency count, there were 268 subordinate clauses in almost 150 sentences in the two resolutions. Overall, the nominal clause is the most recurrently used type of clause; and this is followed by adverbial clause and relative clause, respectively. Individually, JIC has more subordinate clauses than JAP despite a shorter resolution. More specifically, both justices more nominal clauses, but JIC has more adverbial clauses than relative clauses while JAP employed more relative clauses than adverbial clauses. It was also observed that while JAP has a longer resolution, JIC has more subordinate clauses.

What can be deduced from the data is that the dominant use of nominal clauses may be apparent in legal documents such as court resolutions because it is the type of clause attached to matrix clauses in order to adhere to the norm of legal documents in terms of complex structure (Hiltunen, 2012). Additionally, it is

possible that the prevalence of nominal clauses in the resolution could be taken into account by the justices' expression of detachment from the text and perhaps, to appear unbiased, a practice done by drafters of legal documents (source). Meanwhile, the use of relative clause is also considered to be an index of structural complexity in language, thus, its utilization in the two resolutions (Rafajlovičová, 2011).

Table 2. Overall use of subordinate clauses

	Nominal	Adverbial	Relative	Comparative	Total
JIC	81	41	22	0	144
JAP	57	27	40	0	124
Total	138	68	58	0	268

3.3 Classification of subordinate clauses in the court resolutions

Subordinate clauses may also be sub-categorized based on several linguistic functions which may provide insights on the way how the justices use language in their court resolutions. The study found that more than half of the subordinate clauses are nominal clause types. Specifically, the *that*-clause type is the most frequently clause used in the two court resolutions with close to 30% of the total number of clauses. JIC was observed to have employed majority of these types of clauses which may imply stylistic differences for both drafters.

3.3.1 Nominal clause

Nominalization is the process by which verb forms function as nouns (i.e. subject, appositive, object, and compliment). According to, (Menghini, 2008), a prominent nominal fixture in the resolutions is *that*-clauses. Based on the data, it would be noticed that this type of clause is typically positioned after a transitive verb thereby functioning as a direct object. As mentioned in a number of studies (e.g. Belloti,

2002, as cited in Menghini, 2008) on the language of legal text, it is through this structure that drafters are able to insert as many and detailed information as possible, a norm in legalese, and this perhaps justify why the two drafters made use of *that*-clauses in their resolutions. Primarily, it is through *that*-clauses that sentences are lengthened vis-à-vis complexity. As for the position of these clauses, could be rationalized by . This deduction can be seen in the extracts below.

JIC [2] ...as when the decrees themselves declared that they were to become effective immediately upon their approval.

JIC [12], the petitioners suggest that there should be no distinction between laws of general applicability

JAP [58] Petitioner argues that *res judicata* did not apply in the instant case because of the ruling of this Court...

JAP [64] Respondent Court declared that “identity of causes of action between Case No. B-46 and Case No. B-526...

Another noticeable aspect of the textual structure in the two resolutions that support the standardization of legalistic texts pertaining to complexity is the consecutive subordinate clauses found in a sentence. These are considered sentences with heavy nominal constituents which make sentences appear quite complex and lacking immediate clarity. An example is seen below.

JIC [25] The reason is *that such omission would offend due process* insofar as it would deny the public knowledge of the laws that are supposed to govern the legislature could validly provide *that a law be effective* immediately upon its approval notwithstanding the lack of publication (or after an unreasonably short period after publication), it is not unlikely *that persons not aware of it would be prejudiced* as a result and they would be so not because of a failure to comply with but simply because they did not know of its existence.

There are other forms of clausal nominalization in achieving demonstration of objectivity and perhaps masking the identity of the drafters. Another form found in the resolutions is the gerund (i.e. verb+ing). Some extracts are found below.

JIC [56] Undoubtedly, newspapers of general circulation could better perform the function of *communicating*.

JIC [73] Laws must come out in the open in the clear light of the sun instead of *skulking* in the shadows with their dard, deep secrets.

JAP [4] as a member of the Court on October 10, 1995...*for the writing* of the herein Decision.

JAP [43] All of the requisites of *res judicata* are present which prevent private respondent from relitigating the same issue...

Hiltunen (2012) claims that the dominance of nominal clauses in legal text is expected and this could possibly justify the use of gerunds and infinitives of the two justices. As for the grammatical function of these clauses, it can be observed that most gerunds function as object of prepositions. Meanwhile, nominal infinitive clauses function variedly as subject complement, direct object and adjective modifier. Extracts from both resolutions are found below.

JIC [64] Our task is merely *to interpret and apply the law* as conceived and approved by the political departments of the government in accordance with the prescribed procedure.

JIC [66] This is a matter, however, that we do not need *to examine at this time*.

Nominal clauses in the form of *wh*-interrogative were also used by the two justices. This clausal structure functions as direct objective. Similar to other nominalized clauses, these clauses were possibly used for the purpose of objectivity. Examples are below.

JIC [53] One reserved his vote and another merely acknowledged the need for due

publication without indicating where it should be made.

JAP [26] Besides, the heirs of Apolonio Diaz cannot pretend to convey *what did not belong to them*.

3.3.2 Relative clause

Null-relative clauses are relative clauses whose relative pronoun is omitted from the clause; however, meaning is retained regardless of the omission. This type of clause is also a frequently used type of clause used in the resolutions of the two justices. Extracts [38] by JIC and [1] from JAP show instances when the two justices made use of the null-relative clause in their resolutions. The use of this type of clause maybe due to the linguistic and semantic knowledge of the drafters that the relative pronoun may be omitted without sacrificing the intended semantic message. The extracts below show parts of the resolutions that demonstrate how relative pronouns are omitted in relative clauses.

JIC [37] Covered by thus rule are presidential decrees and executive orders (*that are promulgated*) by the President in the exercise of...

JAP [1] Does the judgment in a land registration case (*which is denying the application which was filed in court in 1957...*)

If we try to restructure sentence [38], that is with the overt complementizer *which*, the sentence would have been

JIC [38a] Neither is publication required of the so-called letters of instructions *which are issued by administrative superiors...*

As can be seen, the semantics of the sentence did not change. Hence, the speaker has the preference to either omit or not the relativizer. There are instances, however, where the relativizer cannot be omitted, as in the following sentence:

JAP [41] In its Decision of September 6, 1994, the respondent Court upheld herein

private respondent's contention ... was improper since the earlier application in Case No. B-46 had been denied, *which denial*, as previously affirmed by the respondent Court in CA-G.R. No. 28938-R, *constituted res judicata...*

At this point, it seems necessary to interpret this linguistic phenomenon through Quirk et al's (1985) syntactic function of adjectives. According to Quirk et al, the three functions of adjectives are attributive, predicative and post-positive. With the position of the *v+ed* and *v+ing* after the null-relativizer, it may be safe to assume that the said structure may function as a post-positive modifier.

Overt relative clauses are also frequent in the resolutions. According to Quirk et al. (1985), this type of clause is commonly introduced by relative pronouns with the function of modifying a noun phrase. In the court resolutions analyzed, it could be deduced that the two justices employed a number of overt relative clauses, as evident in JIC's [12] and JAP's [15] and [41]. Relative clauses are said to be grammatically optional (Quirk, et al, 1985) but like any non-restrictive item, it is semantically obligatory; hence, it could be possible that while the justices have the choice to omit the relativizers, it was still in their practice that relative clauses are overtly included in their drafts for the purpose of clarity.

JIC [1] Due process was invoked by the petitioners... the disclosure of a number of presidential decrees *which they claimed had not been published as required by law*.

JIC [27] One can think of many non-penal measures, like a law on prescription, *which must also be communicated to the persons they may affect before they can begin to operate*.

JAP [15] The Director of Lands opposed the application on the grounds *that the applicants did not possess sufficient title to the land sought to be registered...*



3.3.3 Adverb clause

Legal documents are known to also contain adverbial constructions in the form of pronominal adverbials such as *herein* and *wherefore* (Tiersma, 2000) which was apparently present in the data (e.g. JIC [76], JAP [11]). However, it is not as frequently employed in high court resolutions compared to nominal clauses. This finding is in consonance to previous studies which found that only a few adverbial clauses employed in certain legal documents. It may be true that the use of adverbial clauses of the justices could be to ensure the exactness of meaning and avoid possible ambiguities, but its scarcity, similar to what Janulevičienė and Rackevičienė's (2011) contention, may be linked to the preference of the justices to remain objective and impersonal.

JIC [76] *WHEREFORE*, it is hereby declared that all laws as above defined shall immediately upon their approval, or as soon thereafter as possible, be published in full in the Official Gazette, to become effective only after fifteen days from their publication, or on another date specified by the legislature, in accordance with Article 2 of the Civil Code.

Based on the data, it was seen that there are instances that narrative is used as strategy in order to relay information on justification of adjudicative acts and laws to be communicated (Fludernik & Alber, 2010). This claim is perhaps the reason why the two justices employed clause of time in their resolutions. It can be seen in the extracts (i.e. JIC 37, JIC 52, JAP 3) that the justices narrated past situations that are considered valuable in reaching a particular decision.

JIC [37]...promulgated by the President in the exercise of legislative powers *whenever the same are validly delegated* by the legislature...

JAP [4] *After careful deliberation on the submission of the parties*, this case was assigned to the undersigned ponente...

Examples of other adverbial clauses used in the data are clauses of purpose (JIC 71) and clause of reason (JIC 45).

JIC [71] Although they have delegated the power of legislation, they retain the authority *to review the work of their delegates and to ratify or reject it* according to their lights, through their freedom of expression and their right of suffrage.

JIC [45] We agree that publication must be in full or it is no publication at all *since its purpose is to inform the public* of the contents of the laws.

Based on the discussion, it can be inferred that the two Supreme Court justices wrote resolutions that appear to abide by the tradition of how legal texts are constructed. The presence of subordinate conjunctions in majority of the sentences thereby forming complex and compound-complex sentences could be an indication of the justices' aim to comply with the standards of legal texts. In this regard, no deviations were found in terms of the dominance of nominal clauses and relative clauses of the said justices. As previous literature (e.g. Tiersma, 2000) on legal text has posited, there is inevitability of presence of clauses that extend the length of the sentences since the goal of the legal text drafters is to express legal statements with clarity. What appears to be an interesting finding in the study is the seemingly non-compliance of in the aspect of overall sentence-length of the two resolutions.

4.0 CONCLUSION

The study aimed to stylistically analyze legal documents in the Philippines, specifically Supreme Court resolutions written by two higher court justices. Specifically, it analyzed the resolutions on a textual level with focus on subordinate clauses using the framework of Quirk et al. (1985). Three major subordinate clause types were found in the resolutions namely: nominal clauses, relative clauses and adverbial clauses.



Several matters were revealed in the study including a few limitations that consequently yields several suggestions for future research. Firstly, Justice Isagani Cruz and Justice Artemio Panganiban demonstrated their adherence to the traditional practice of legal drafters by being objective and detached from the resolutions the drafter as evident in their preference for nominal and relative clauses. However, the two texts are just two of the plethora of resolutions they have written which may also be subject for more valid generalization. Meanwhile, it was observed that the resolutions were not as complex as other legal texts in previous literature as evident in the physical description of the texts and the use of subordinate clauses. It can be deduced that this practice is a response to the Plain English movement. In addition, the study showed that there could be two considerations in the use of a clause type in resolutions. One is the preservation of the tradition of the language of legal discourse, and the distance and position the drafters want to convey in the text. Little evidence was seen that the use of clause is attributed to the nature of the case being decided upon.

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