

# Chapter Three

## STYLISTIC FEATURES OF THE LEGAL DISCOURSE

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### Abstract

*Every profession, every occupation, for example architecture, journalism, medicine, sports, has its specialised language features. These features may be viewed at the phonological, semantic, syntactic, lexical and graphological levels, among others. The language features identified with certain professions are most of the time incomprehensible to the 'uninitiated'. Particularly intriguing, however, in the language of professions, are those features that have crystallised more or less into rules of discourse. These rules come out as what could be distinguished as professional register. The aim of this paper is to highlight the professional register of legal discourse. However, we shall be limiting our analysis to such stylistic features as are manifested in the lexical, the syntactic and the graphological peculiarities of the legal language.*

### Lexical and Syntactic Peculiarities of the Legal Discourse

Most of the words in legal discourse are technical on count of the fact that they belong uniquely and solely to the field of law. The range of legal technical words is, however, as wide as the spheres touched on by law. Examples of these items are 'malicious act', 'situate', 'conditions precedent', 'deemed', 'encumbrances', 'indemnity', 'larceny', 'deponent', 'decree nisi', 'moots', 'plaintiff', 'defendant', etc.

Legal lexemes are also made up of foreign words. Writing on the history of legal language, Crystal and Davy (195) observe that "during... its development legal English has had to rub shoulders with, and sometimes give way to both French and Latin". French borrowings into legal English lived on from the period when Anglo-Norman was the language of the courts. Furthermore, Latin was formerly the language used for official documents. However, an attempt was made in Britain in 1730, through Parliament, to abolish Latin expressions in legal proceedings but they had to be restored when, according to Blackstone (cited in Williams 1969:65), certain technical terms were "not capable of an English dress with any degree of seriousness". And so, till today, legal discourse unavoidably and pervasively embodies many Latin and French terms (medieval and modern) in their original forms. Examples of these terms are:

#### Latin

'res ipsa loquitur'  
'mala fides'  
'in loco parentis'  
'habeas corpus'  
'ratio decidendi'

#### French

'emblems'  
'laches'  
'tort'  
'un autre droit'  
'commission rogatoire'

'fieri facias'	'retour san protêt'
'suppressio veri'	'pour autre vie'
'de jure'	'fêmmе sole'
'animus furandi'	'a fortiori'
'ex parte'	'a posteriori'

Another characteristic of legal discourse is that it contains many abbreviations. Some technical words, foreign words and abbreviations are illustrated in the following extract cited in Williams (70 - 71):

*Semble* the phrase 'carcase or portion of a carcase' in this statute does not include a sausage - see *per Tripe L.J., Obiter*, in *sage v Onions (C.A.)*; *contra*, *Ham V. Eggs (Div. Ct)*; *aliter* if the sausage meat is not yet minced.

The meanings of the italicized words and abbreviations are as follows

<i>semble</i> (Law -French)	==	it seems (that) perstatement by L.J. Lord Justice.
<i>Obiter</i> (dictum Latin)	==	a weak or not completely satisfactory authority for a proposition.
V.	==	Versus.
C.A.	==	Court of Appeal.
<i>Contra</i>	==	an authority contradicting what one has first said.
<i>Div. Ct.</i>	==	Divisional court.
<i>aliter</i>	==	otherwise.

If de-technicalised and de-abbreviated, the extract from Williams would read:

It seems (that) the phrase 'carcase or portion of a carcase' in this statute does not include a sausage - see the statement by Lord Justice Tripe on the weak/not completely satisfactory authority in *Sage versus Onions* at the Court of Appeal, contradicting *Ham versus Eggs* at the Divisional Court, otherwise, if the sausage meat is not yet minced.

The underlined portion of the following text also instantiates the use of abbreviations in legal texts:

"What constitutes intolerant behaviour has been eloquently laid down in *ADESINA V. ADESINA (1977) 8 CC. H.C.J. 1893 at 1905* and I cannot improve on it".

In the extract, "8CC. H.C.J. 1893 at 1905" means volume eight of the cyclostyled copy of the High court Judgment which begins from page 1893 but of which page 1905 is being referred to in the present context.

Legal discourse has peculiar word-forming (i.e. morphological) characteristics. For example,

nominalizers ‘-or’ and ‘-ee’ are sometimes used to make nouns out of verbs. This may be illustrated by the following:

Assign refers to assignor: (a person from whom a property or a right is legally transferred)

Or

assignee: (a person to whom a property or a right is legally transferred)

transfer refers to transferor: (a person from whom a property or the deed drawn from it is conveyed)

Or

transferee (a person to whom a property or the deed drawn from it is conveyed)

mortgage refers to mortgagor: (a debtor who gives his property in a mortgage)

Or

mortgagee (a creditor who receives a mortgage)

The ‘-or’ and ‘-ee’ suffixes which designate **one who gives** and **one who receives**, respectively, are exploited more in legal English than in ordinary language use. For example, in everyday English, the following asterisked lexemes are not used:

inspector	*inspectee
survivor	*survivee
*appointor	appointee

Sometimes, also, new words are formed by stringing together adverbials of place and prepositions to create adverbials that are unique to legal discourse. The following examples of such compounding pervade legal texts:

thereto	therewith	hereby
thereat	thereunder	hereof
thereon	thereupon	hereunder
therein	thereafter	hereinafter
thereof	herein	hereinbefore
therefor	hereon	whereof
therefrom	hereto	wherein

Through these adverbials, precise references are obtained in legal discourse.

Nominals abound in legal language and many times the legal discourse contains an almost monotonous repetition of these nouns. The preponderant use of nominals accounts for the dearth of referential pronouns as in the following texts (a) and (b):

\* **A. And the Vendor FURTHER COVENANTS** to execute further documents if required under the LAND USE ACT or any legislation whatsoever for *the Purchaser* and to make available to *the Purchaser* such documents in possession of *the Vendor* which

shall be essential to give added protection to the title of *the purchaser*.

- \* **B. COMPANY'S RIGHTS AFTER A FIRE:** On the happening of any destruction or damage in respect of which a claim is or may be made under this Policy, *the Company* and every person authorised by *the Company* may, without thereby incurring any liability and without diminishing the right of *the Company* to rely upon any Conditions of this policy, enter, take or keep possession of the building or premises where the destruction or damage has happened, and may take possession of or require to be delivered to them any of the property hereby insured and may keep possession of and deal with such property for all reasonable purposes and in any reasonable manner. This Condition shall be evidence of the leave and licence of the Insured to *the Company* so to do. If the Insured or anyone acting on his behalf shall not comply with the requirement of *the Company* or shall hinder or obstruct *the Company* in doing any of the above-mentioned acts, then all benefit under this policy shall be forfeited. The Insured shall not in any case be entitled to abandon any property to *the Company* whether taken possession of by *the Company* or not.

In (a), 'the Vendor' and 'the Purchaser' are repeated two and three times respectively. However, the second use of 'the Purchaser' may conveniently be substituted with 'him' while the second use of 'the Vendor' may be substituted with 'his'. In (b), 'the company' is repeated eight times. With the type of informative title of the text, 'the company' ought not to have occurred more than three or four times in the entire excerpt if referential pronouns have been used.

On the tedious repetition of nouns in legal discourse, Crystal and Davy (202) affirm that:

... it is not simply that referential pronouns are avoided only where their use could raise genuine confusion; they seem to be eschewed as a species. And in environments in which even the most bizarre misreading would be unlikely to find an undesirable meaning, the lexical item is solemnly repeated.

Another remarkable feature of legal discourse is the frequent severance of the auxiliary from the main verb as instantiated by the following texts:

- \* (a) ... the vendor if called upon to do so *will* at the request of the purchaser or any person deriving title under him, *do* all lawful assurances ...
- \* (b) The Insured *shall* within fourteen days of the loss or damage coming to his knowledge and at his own expense *deliver* to the company a claim in writing containing as particular an account as may be reasonably practicable.

A further distinctive feature of the legal discourse is the use of the modal auxiliary ‘shall’ not just as a marker of the future tense but also as an imperative marker. It represents a type of binding sequel of a legal decision. Thus, the use of ‘shall’ in the following texts makes everything expressed in them compulsory, final and without any alternative:

- (a) The above shall be the order(s) of this court
- (b) The Respondent shall pay to the Petitioner the costs of this Petition assessed at ₦2,000.00 only. (Two thousand naira).
- (c) 162. (1) There shall be for each State of the Federation a Governor.  
       (2) The Governor of a State shall be the Chief Executive of that State.  
 163. A person shall be qualified for election to the office of Governor if -  
       (a) he is a citizen of Nigeria by birth; and  
       (b) he has attained the age of 35 years.

In legal discourse, words are also generally arranged in special ways. These words do not produce new words, but they augment and strengthen one another. They are usually so all-embracing and unambiguous that there can be no exceptions to the specific meaning intended. No room is left for misinterpretation. The types of collocations that may be identified include the following italicized stretches of language arranged under synonyms or near synonyms; and antonyms and finally, alternatives:

- (a) synonyms or near synonyms:  
       1. *Situate, lying and being* at Ogodo Village  
       2. ... all that *piece* and *parcel* of land  
       3. ... has broken down irretrievably whereby to the *degree extent* or *scope* that no reasonable person can expect the parties ...  
       4. *total* and *absolute*
- (b) antonyms  
       1. *directly* or *indirectly*  
       2. *proximately* or *remotely*  
       3. *whether accidental* or *otherwise*
- (c) alternatives  
       1. *belonging to, held in trust by, or in the custody or control of*  
       2. *being carried in or upon or entering or getting on to* or *alighting from*  
       3. without interruption and disturbances from the Vendor or persons claiming *by, through, under* or *in trust* for him or from him and encumbrances customary or otherwise...

The syntactic characteristic of certain legal texts is the inversion of the word order which makes the arrangement both striking and peculiar. The italicized groups in the following texts are cases in point:

- (a) It is hereby declared and agreed that Insurance cover provided will not be operative while the building is not occupied by any tenant unless there is a guard looking after the premises *night and day*.
- (b) (i) No benefits shall be payable under this policy in respect of ...  
(ii) Death injury or disablement wholly or in part caused by or traceable to  
(g) *childbirth or pregnancy*
- (c) The company will indemnify the Insured in the event of accident caused by or arising out of the use of the Motor Vehicle on a Road against all sums including claimants costs and expenses which the Insured shall become legally liable to pay in respect of *death or bodily injury* to any person.

Usually, words are not arranged in the manner indicated above rather they would normally be uttered as:

- a.) *day and night*
- b.) *pregnancy or childbirth*
- c.) *bodily injury or death*

It, however, seems the irregular collocates in legal discourse are significant. They are used as foregrounding devices, thereby drawing attention to the latter items. If they are put in the regular order, the client would gloss over, and miss the important points being emphasized. Phrase (a) comes from the Houseowners Comprehensive Policy. It is not unusual to have a night guard but the irregular arrangement of 'night and day', emphasizes the necessity for a day guard as basic to the contract. Phrase (b) is from the Personal Accident Policy. Usually, risks, dangers, accidents are associated more with childbirth than with pregnancy. Reversing the order to read 'childbirth or pregnancy' calls attention to the possibility of accidents during pregnancy. In phrase (c.) from the Motor Vehicle (Third Party) Policy, the focus is more on 'bodily injury' than on 'death' because of the general tendency to associate death rather than bodily injury with accident.

### **GRAPHOLOGICAL PECULIARITIES OF THE LEGAL DISCOURSE**

In legal documents, gothic writing (a type of print with thick black letters) and various levels of bold prints are employed to draw special attention to (i.e. to foreground) certain words and phrases especially those which, most of the times, open and introduce main paragraphs. An example is:

We the people of the Federal Republic of Nigeria

**HAVING** firmly and solemnly resolved:

**TO LIVE** in unity and harmony as one indivisible and indissoluble Sovereign Nation under God dedicated to the promotion of inter-African solidarity, world peace, international co-operation and understanding:

**AND TO PROVIDE** for a constitution for the purpose of promoting the good government and welfare of all persons in our country on the principles of Freedom, Equality and Justice, and for the purpose of consolidating the Unity of our people:

**DO HEREBY MAKE, ENACT AND GIVE TO OURSELVES** the following Constitution:

Examples of other words and phrases with gothic-type faces include the following:

We  
This  
Whereas  
Now this Policy Witnesseth  
The Company agrees

Capitalisation of initial letters or whole lexical items in legal discourse marks out or emphasizes key words which conspicuously point out significant references. Special references may be made to the subject matter e.g. Condition, Constitution, Personal Accident Policy, Will, LAND USE ACT, Contract, Hire Purchase, Agreement, Assignment, Oath. Conspicuous references may also be to persons or parties or places or things involved or being named e.g. the Insured, the Vendor, the Purchaser, the Petitioner, the Respondent, the Registrar, the Court, WITNESS, the Company, Table of Benefits.

#### **Other uses of capitalised items**

- (i) specific relationships - BETWEEN, ONE PART, OTHER PART
- (ii) specific places - DATED AT ILOBU
- (iii) specific actions - TAKE NOTICE, SIGNED SEALED AND DELIVERED
- (iv) specific argumentation - WHEREAS, IN WITNESS WHEREOF.

The following text contains a lot of capitalised items:

- \* **Whereas** the Insured by Proposal and Declaration which shall be the basis of this Contract and is deemed to be incorporated herein has applied to the Company for the Insurance hereinafter specified and has paid or agreed to pay the Premium as consideration for such insurance in respect of occurrences as hereinafter specified happening during the period of Insurance.
  
- \* **Now therefore this Policy witnesseth** that if the Insured Person shall sustain bodily injury by Accident resulting in and being - independently of all other clauses - the exclusive direct and immediate cause of the DEATH INJURY OR DISABLEMENT OF THE

## INSURED PERSON

\* **Then** subject as hereinafter provided and upon proof of title to its satisfaction the Company shall pay to the Insured or the Executors or Administrators of the Insured such sum as according to the Table of Benefits shall be payable in respect of the event which happen

In written legal discourse, foreign words are written in italics as in:

- (i) An infant shall not enter an appearance except by his guardian *ad litem*.
- (ii) The payment shall be done by the Registrar, and any interest payable by the bank shall accrue *pro tanto* to the benefit of the party who, at the end of the action, is entitled to the money originally paid into Court.
- (iii) ... the Court may, on the *ex parte* application of any person shown to be duly authorised to make the application on behalf of the foreign court or tribunal, and on production of the *commission regatoire*, or letter of request or such other evidence ...
- (iv) An application for a writ of *habeas corpus ad testificandum* or of *habeas corpus ad respondendum* shall be made on affidavit.
- (v) No person shall be permitted to appeal in *forma pauperis* except by leave of the trial or the appellate court, and then only on grounds of law; but if so permitted, the provisions of this Order shall apply *mutatis mutandis* to all proceedings on the appeal.

In legal discourse, word or paragraph spacing is employed to graphetically heighten the visual effect of texts. It should however be noted that in certain instances and for whatever motive, legal texts are printed in nearly unreadable letters and are piled together with hardly any spacing between both words and lines.

Legal documents, proceedings, judgements, reports, oaths, etc. usually employ long statements or sentences yoked together, either broken by commas or semi-colons or completely unbroken. The following texts (a) - (f) are cases in point.

- \* (a) If the plaintiff, being bound by these rules or an order of Court or a Judge in Chambers to file a statement of claim, does not file it within the time allowed for that purpose, the defendant may, at the expiration of that time, apply to the Court or a Judge in Chambers to dismiss the action with costs, for want of prosecution; and on hearing that application the Court or Judge may, if no statement of claim has been filed, order the action to be dismissed accordingly, or may make such other order on such terms as the Court or



Judge thinks just.

\* (b) Take notice that the defendant in this case proposes to adduce in evidence the several documents hereunder specified, and that the same may be inspected by the plaintiff, his legal practitioner or agent at ..... on ..... between the hours of ..... and the plaintiff is hereby required within six days of the service hereof, to admit that such of the said documents as are specified to be original were respectively written, signed or executed as they purport respectively to have been; that such as are specified as copies are true copies; and that such documents as are stated to have been served, sent, or delivered, were so served, sent or delivered respectively; saving all just exceptions to the admissibility of all such documents as evidence in this case.

\* (c) OATH OF OFFICE OF PRESIDENT

I, ..... do solemnly swear that I will be faithful and bear true allegiance to the Federal Republic of Nigeria; that as President of the Federal Republic of Nigeria, I will discharge my duties to the best of my ability, faithfully and in accordance with the Constitution of the Federal Republic of Nigeria and the law, and always in the interest of the sovereignty, integrity, solidarity, well-being and prosperity of the Federal Republic of Nigeria; that I will strive to preserve the Fundamental Objectives and Directive Principles of State Policy contained in the Constitution of the Federal Republic of Nigeria; that I will not allow my personal interest to influence my official conduct or my official decisions; that I will to the best of my ability preserve, protect and defend the Constitution of the Federal Republic of Nigeria; that I will abide by the Code of Conduct contained in the Fifth Schedule to the Constitution of the Federal Republic of Nigeria; that in all circumstances, I will do right to all manner of people, according to law, without fear or favour, affection or ill-will; that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me as President of the Federal Republic of Nigeria, except as may be required for the due discharge of my duties as President; and that I will devote myself to the service and well-being of the people of Nigeria.  
So help me God.

\* (d) Now this guarantee witness as follows:

The receiver and the surety hereby jointly and severally covenant with the Governor of Kwara State and his successors that the receiver shall and will from time to time duly account for what he has already received since the date of the said order appointing him and shall hereafter receive or for what since the date of the said Order appointing him he has or shall hereafter be or become liable to pay or account for as such receiver (and manager) as aforesaid including as well every sum of money or other property so received during the period for which he has been appointed as also every sum of money

or other property so received in respect of any extended period for which he may be appointed and shall and will pay or deliver every such sum or property as Court or Judge thereof may direct.

- \* (e) No admission offer promise payment or indemnity shall be made or given by or on behalf of the Insured without the written consent of the Company which shall be entitled if it so desires to take over and conduct in the name of the Insured defence or settlement of any claim or to prosecute in the name of the Insured for its own benefit any claim for indemnity or damages or otherwise and shall have full discretion in the conduct of any proceedings or in the settlement of any claim and the Insured shall give all such information and assistance as the Company may require.

Texts (a) and (b) and twenty (20) out of the twenty-one (21) typed lines of the oath of the office of President in text (c) each contains one single sentence respectively, broken by commas and semicolons. Texts (d) and (e) are made up of clauses which lack all punctuation marks except the final full stops.

### **Conclusion**

This chapter has examined at three linguistic levels, the style of the legal discourse. These are the lexical, the syntactic, and the graphological. Identified as the peculiar stylistic features of the legal discourse are the pervasiveness of technical words, Latin and French terms, the use of abbreviations, peculiar word-forming nominalizers ‘-or’, and ‘-ee’ as well as adverbials of place strung to prepositions. Other peculiarities include an almost monotonous repetition of nominals, a frequent severance of the auxiliary from the main verb, a special use of ‘shall’ as an imperative marker, special arrangement or inversion of words, the use of the gothic print, capitalisation, italicisation, unusual spacing and long, winding statements. These unique characteristics clearly mark out the style of legal discourse as distinct from other discourse genres.

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*The Gateway Insurance Company Limited*

Burglary policy

Fire Insurance policy

Houseowners Comprehensive policy

Motor vehicle policy

Personal Accident policy.

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*The long-standing neglect of indigenous languages has resulted in the popular belief that they are incapable of imparting a modern education, including science and technology.*