

A CONTRASTIVE ANALYSIS OF WRITTEN AND SPOKEN FORMS OF LEGAL LANGUAGE

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Abstract: Legalese, the specialized language of legal professionals, is known for its complexity and formality. This paper explores the similarities and differences between its written and spoken forms. Through a qualitative comparative analysis of legal documents and courtroom transcripts, this study identifies key features that distinguish the two modalities while also highlighting common linguistic characteristics. The findings reveal that although both forms share terminological precision and formal structures, spoken legalese tends to be more interactive and adaptive, whereas written legalese is rigid and static. These differences have implications for legal communication, interpretation, and access to justice.

Keywords: Legalese, legal discourse, terminology, linguistics.

Annotatsiya: Yuridik sohaga xos bo'lgan maxsus til – legalese (yuridik soha tili) – murakkabligi va rasmiyligi bilan tanilgan. Ushbu maqola uning yozma va og'zaki shakllarini solishtirishga qaratilgan. Yuridik hujjatlar va sud zalidagi nutqlarni sifat jihatdan taqqoslab tahlil qilish orqali, har ikki shaklni farqlovchi va o'xshatib turuvchi xususiyatlar aniqlanadi. Tadqiqot shuni ko'rsatadiki, har ikkala shakl ham aniqlik va rasmiylikni saqlagan holda, og'zaki tilda interaktivlik kuchli, yozma tilda esa qat'iy tuzilganlik ustun turadi. Ushbu farqlar yuridik muloqot, qonunni talqin qilish va adolatga kirish imkoniyatlariga ta'sir qiladi.

Kalit so'zlar: Huquqiy til, huquqiy diskurs, terminologiya, tilshunoslik.

Introduction

Legal discourse, whether written or spoken, operates within a unique linguistic framework often referred to as legalese. This specialized register includes technical vocabulary, complex syntax, and a formal tone, all aimed at achieving clarity, precision, and legal authority. While much research has focused on written legal texts, comparatively less attention has been given to the oral manifestations of legal language. This study aims to fill that gap by examining how legalese functions in both written and spoken forms.

The objective is to explore the similarities and differences between written and spoken legalese, especially in how each serves the legal system's needs for clarity, accuracy, and authority. Understanding these differences is crucial not only for legal professionals but also for improving access to legal processes for non-experts.

Methods

Three methods were used: data collection, analytical framework, limitations.

The first method that we used was data collection which includes two primary data: written legalese (legal documents, including contracts, statutes, and judicial opinions) and spoken legalese (transcripts from courtroom proceedings, including trial dialogues, judicial instructions, and oral arguments).



Analytical framework analysis was conducted using a qualitative comparative method, focusing on: lexical density, use of legal jargon, sentence complexity, degree of interactivity, use of rhetorical strategies.

The study is limited to English-language legal discourse and does not cover cross-linguistic or cultural variations. Additionally, spoken data is derived from formal courtroom settings, excluding informal or private legal discussions.

Results

Similarities. Both spoken and written forms of English legal language share specialized features that distinguish them from ordinary discourse. They both rely heavily on terms of art—technical words with precise legal meanings (Mellinkoff, 1963, p. 16). Over time, lawyers created a collection of specialized words used exclusively within legal contexts, both in speech and writing. These legal terms, often called legalese or terms of art, carry specific meanings, though defining them with complete precision can be difficult since law reflects social life, which constantly evolves along with accepted norms. Consequently, the meaning of a particular term may shift as society changes. Examples of such specialized legal terms include negligence, negotiable instrument, and special appearance. However, these meanings may vary slightly across jurisdictions due to differing legal systems (Tiersma, 1999, p. 109).

Legal English in both modes preserves archaic vocabulary of Old English, French, and Latin origin, giving it a formal and ritualistic tone comparable to religious language (Tiersma, 1999, p. 101). Both spoken and written forms of legal language tend to favor certain modal verbs over others. Among them, *shall* is the most distinctive and frequently used in legal contexts. This formality extends to the use of modal verbs such as *shall*, which indicates obligation rather than futurity, and *complex*. Unlike in everyday language, where *shall* typically indicates the future and is mainly used with the first person, in legal usage it conveys obligation or declaration. Depending on the situation, it could often be replaced with *will* or *must*, though *shall* lends a sense of formality and gravity to legal texts and speech. Conversely, the archaic use of *do*, as in *I do appoint*, may confuse those unfamiliar with legal language. In ordinary speech, *do* serves to emphasize, whereas in legal settings, it functions as a conventional or formulaic expression. (Gibbons, 2003, p. 85).

Both forms strive for maximum precision through redundancy and avoidance of ambiguity—seen in the repetition of full names instead of pronouns, use of synonymous pairs like *null and void* or *cease and desist* (Gibbons, 2003, p. 43), and multinominal phrases like *advice and consent* (Bhatia, 1994, p. 143). By listing every possible scenario, lawyers strive to ensure that the documents or statements they prepare account for all situations their clients might face. (Gibbons, 2003, p. 171).

Finally, both written and spoken legalese use ordinary words with specialized meanings, such as *action* (lawsuit) or *motion* (formal court request), which can confuse non-lawyers (Tiersma, 1999, p. 111). Overall, despite mode differences, both forms share complexity, formality, and a pursuit of unambiguous precision.

1. Lexical precision: Both written and spoken legalese prioritize exact terms like “hereinafter,” “notwithstanding,” or “tortious.”
2. Formal tone: Both forms maintain a high degree of formality and authority.



3. Use of latinisms: Terms such as *habeas corpus*, *mens rea*, and *prima facie* appear in both modalities.
4. Use of modals. Both written and spoken legalese use modal verbs.
5. Structure and logic: Both rely on logical sequencing and hierarchical structuring of arguments.

Differences. Although spoken and written legal language share a common vocabulary, they differ significantly in structure, purpose, and delivery. Written legalese tends to be more formal, complex, and precise, while spoken legal discourse is generally simpler and more spontaneous.

One key distinction lies in the inclusion of explicit definitions in written documents. Legal writers often provide “declaratory definitions” within sections such as Recitals or Definitions to clarify specific terms for that document, prioritizing precision over general dictionary meanings (Tiersma, 1999, p. 117).

The planned and revised nature of written legal language leads to a deliberate use of formal and lexically dense expressions. Written legal texts employ numerous content words and complex noun phrases, while spoken legal communication tends to rely more on structure words and shorter utterances (Gibbons, 2003, p. 20). Additionally, written legalese frequently uses passive constructions to convey authority and impersonality—for example, “It is ordered, adjudged and decreed” instead of “I order” (Tiersma, 1999, p. 76).

Spoken legal discourse is inherently contextual, drawing on shared situational knowledge, gestures, and tone for meaning. In contrast, written legal language is highly decontextualized, depending solely on textual references or other documents. Because writing cannot convey intonation or body language, it compensates through specific grammatical and lexical choices (Gibbons, 2003, p.23). This decontextualization compels legal drafters to make documents self-contained and unambiguous.

Written legal sentences are often long and syntactically complex, embedding vast amounts of information to ensure completeness and prevent misinterpretation (Tiersma, 1999, p. 57). In contrast, oral legal communication—such as courtroom exchanges—tends to be less formal, uses shorter sentences, and may even incorporate colloquial expressions, although technical terminology remains integral (Tiersma, 1999, p. 136).

Feature	written legalese	spoken legalese
Interactivity	Non-interactive, static	Interactive, adaptive
Sentence complexity	Long, embedded clauses	Shorter, often fragmented
Use of clarifications	Rare, reader is assumed to infer meaning	Common, especially in judge-layperson interactions
Redundancy	High, for legal certainty	Lower, due to conversational efficiency
Pace and delivery	Fixed	Subject to time constraints and spontaneity

Discussion



The findings confirm that while written and spoken legalese share core features of legal language—namely precision, formal tone, and specialized terminology—they diverge significantly in form and function. Written legalese serves as a permanent record, and thus leans heavily on clarity through redundancy, complex structures, and exhaustive detail. In contrast, spoken legalese is constrained by time and the need for audience engagement, leading to a more pragmatic, adaptive style.

These differences have important implications:

In legal education law students and professionals must be trained to code-switch between written and spoken legal registers. In courtroom communication judges and lawyers need to adjust spoken legalese for layperson comprehension. Simplifying spoken legalese without losing legal accuracy could improve public understanding.

Conclusion

Written and spoken legalese are unified by their commitment to precision and legal authority but diverge in their structural and interactive characteristics. Understanding these distinctions is essential for effective legal communication and for bridging the gap between legal professionals and the public. Future research could explore how digital communication (e.g., emails, chat-based legal advice) is influencing legal language across modalities.

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