

A critical look at the Textual Side of Court Verdicts Through the Gricean lens



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Abstract: *This paper focuses on the specific linguistic manner that is invariably employed by the writers of court verdicts around the world. The researchers put forth an analysis of the language features adopted in writing judicial rulings through the Gricean Maxim of Manner. With a view to demystify the language of court judgements, this paper highlights the importance of employing the Gricean Maxim of Manner as a guiding principle for writing court verdicts in order to make these documents decipherable, particularly for a layman who is not equipped with specific knowledge of vocabulary and structure used in court verdicts. It is an attempt to clarify the language features of randomly selected court verdicts in juxtaposition with the Gricean Maxim of Manner, and to show how the violation of this maxim plagues these verdicts with unnecessary obscurity and prolixity of language expressions. The essential complexity of the text of these verdicts stems mainly from an excessive dependence on legalism, archaism, redundancy of expression and a baffling prolix sentence construction. As there seems to be a lack of serious attention given to the language of court verdicts, it is timely that the linguistic aspect of court judgements be investigated. The paper is based on the premise that a close compliance with the Gricean Maxim of Manner can help simplify the text of court verdicts making it easier to be understood by a layperson.*

Index terms: *court verdicts, obscurity and prolixity of expression, simplify, Maxim of Manner*

I. INTRODUCTION

Judicial rulings, or court verdicts, have an inseparable link with the society. People from all walks of life are somehow related to and affected by the decisions made by the judiciary of a country on the social and personal acts measured and defined through law. These court verdicts, in fact, carry a tremendously significant message to the society. This message is meant to create awareness among people regarding the acts that are perpetrated in breach of country's law and the consequences such acts can bring to the perpetrator. In short, court verdicts are supposed to be an integral source of people's enlightenment in the matters of law and justice. However, this enlightenment can take place only if the verdict, the court's message, is put across to the people in a manner that is decipherable not only for a lawyer but also for a layman. Unfortunately, the language used in writing court verdicts impedes the essential comprehension

of the ruling, especially for a layman. As the message of justice and law is not conveyed to most

people of that society, these judicial rulings predominantly fail to fulfill their function as a form of social discourse. The reason people are unable to understand these verdicts, and the message being conveyed to them through these rulings, is the language in which these judgments are scribed as well as the manner in which the message is presented.

The obscurity and complexity of legal language started to attract the attention of the researchers in early sixties. The most prominent names in the initial research of legalese were those of [6] Mellinkoff (1963), [2] Crystal and Davy (1969) and [4] Gustafsson (1975). The focus of their research was common characteristics of legalese such as syntax, style and use of terminology. In the research of legal language, the inclusion of discourse analysis and genre analysis came through [1] Bhatia (1993) and [10] Trosborg (1997). These two researchers concentrated on lexico-grammatical and rhetorical properties of legal language (Giannoni and Frade 2010: 8). Across the globe, there has been for a long time, a feeling, against the complexity and opaqueness of the language of legal documents. A tangible trend of moving away from the complex legalese could be marked in late nineties. In 1999, one example was set by the English court when it "carried out the implementation of new rules of civil procedure replacing some legal terms with their modern equivalents"[9] (Tiersma 2000: 220-227). Several countries such as South Africa, Canada and Australia moved towards 'plain language' in writing their legislative texts [11] (Williams 2004: 111). However, from a broader perspective, the desired effect of plain language movement was only reflected in regulating the language of certain monetary transactions specifically to simplify the language in which consumer rights were written. Therefore, in reality, the language of most legal documents remained unaffected by the plain language movement. Court verdicts belong to the category of legal documents which has arguably received the least amount of researchers' attention with regard to the simplification of language.

This paper brings forth Grice's maxim of manner as a tool that, if applied accurately, can go a long way in streamlining the language of court verdicts by focusing on the linguistic feature that result in ambiguity, prolixity and obscurity of expression.

II. OBJECTIVES

This paper aims at presenting Grice's maxim of manner as a befitting tool to deal with the convolution and complexity of court verdicts.

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Thus, after introducing the essential philosophical components of this maxim, we will go into the details of the lexical and syntactic features that place the text of judicial judgments beyond the language deciphering capability of a layperson.

III. GRICE'S MAXIM OF MANNER: A GUIDING PRINCIPLE FOR THE SIMPLIFICATION OF COURT VERDICTS

Paul Grice, a British philosopher, established arguably the first set of pragmatic principles for human discourse. Grice summed up his concept of successful human discourse in the form of 'Co-operative Principle' (1975). He laid down four maxims, namely maxims of Quality, Quantity, Relevance and Manner, as principles essential for a successful execution of human discourse. According to the Grice's maxim of manner, the communicator must avoid:

- Obscurity of expression
- Ambiguity of meaning
- Unnecessary prolixity

Thus, the main focus of Grice's maxim of manner is the way in which the message is delivered. The maxim demands the communicator, whether a speaker or a writer, to avoid use of such language that may create the elements of 'obscurity and ambiguity'. It also requires the communicator to maintain necessary brevity in communication and avoid any unnecessary prolixity of expression.

In the next section, we will see what language features afflict court verdicts with obscurity of expression, ambiguity and prolixity, and how Grice's maxim of manner can be a guiding principle for the process of demystifying the language of court verdicts.

IV. COURT VERDICTS: OBSCURITY, AMBIGUITY, PROLIXITY

Obscurity and unnecessary prolixity of expression are two main ailments court verdicts are suffering from. These two characteristics glaringly breach the Grice's maxim of manner as it demands avoidance of these features in speech (and writing) in order to allow the discourse to fulfill its desired function effectively. Ambiguity is another issue that the reader of these court verdicts faces owing to their convoluted writing style.

Certain lexical and syntactic features are predominantly responsible for this inherent convolution of the text of court verdicts. Here, we will discuss these lexical and syntactic characteristics of court verdicts with respect to the conditions required by the Grice's Maxim of Manner.

V. FEATURES ROUSING OBSCURITY AND AMBIGUOUSNESS

The maxim of manner emphasizes an absolute absence of the obscurity of expression as well as ambiguity of meaning in spoken (as well as written) discourse. In court verdicts, this condition of Grice's maxim of manner is violated mainly at word level. The lexical features that breach the maxim of manner include using archaic words and phrases, technical terms, redundant expressions and jargon.

A. Archaic expressions in court verdicts

Garner (2002:29) [3] points out at certain classes of frequently used legal words as fancy and vague words. Many other words, in his view, stem from euphemism and timid phraseology. He finds certain other words rising from 'empty dogmatism' and 'neologism'. Court verdicts claim a fair share of these type of words. In fact, court judgements teem with words that have a very low frequency of use and become obscure by the passage of time. Use of such words only adds to the obscurity of expression as most readers may have not come across these words in recent times. Some examples of archaism from the text of court verdicts are '*whereby, hereunder, thereof*' or the words such as '*hereinafter and aforesaid*' [11] (Williams 2004:112) which have a very low frequency of appearance in everyday English. If writers of these court verdicts keep the Grice's maxim of manner in front of them as a guiding principle, they would feel motivated to avoid these obscure expressions by using much more familiar words instead. The replacement of such words with more simplified and in-vogue terms has been suggested by many researchers. One of such suggestion came from [7] Rylance (1994: 183) who found this replacement essential as well as befitting when a word such as '*hereinafter*' is replaced with the word '*below*' or the word '*above*' taking place of '*hereinbefore*'.

Circumlocutions claim a tangible share in the archaism used in court verdicts. The use of circumlocutions result in 'unnecessary prolixity' at the level of words. For example, expressions such as '*in the event that, adequate number of, at the time when, during such time as*' can be easily avoided. Instead, simple and straight words like '*if, enough, when, while*' can be used correspondingly and would save the reader from being confounded [3]. (Garner 2002)

B. Plethora of technical terms

Use of technical terms or legal terms, called legal jargon, also hampers the understanding of court verdict readers and makes it difficult for them to have an accurate comprehension of the text. Pointing towards the technical words used in legal documents [5], Haigh (2004: xvi) emphasizes that a layman is conversant with some of these terms such as '*patent, share, loyalty*' while some others such as '*bailment, abatement*' only constitute a specific part of a lawyer's active vocabulary. He, however, points out that it is only the everyday meaning of these terms that a layman is conversant with, resulting in the possibility of the person putting the wrong meaning on these terms, whereas in fact, these words may carry a specific meaning in accordance with the legal context they are used in. This context-based meaning of these expressions is often quite different from its common meaning. Consequently, the common reader tends to become the victim of ambiguousness.

Legal terms, which also have a common meaning, are often used by judges in specific contexts in which these words convey special meaning which may be misunderstood by a common reader. For example, words such as '*party, action, attachment, consideration*' convey special meaning in line with the specific legal context they are used in.

Grice's maxim of manner expects a writer to avoid using such words which can cause ambiguity in the mind of the reader. Thus, keeping an eye to the Grice's maxim of manner could save the court verdicts from getting ambiguous for the readers.

C. Profusion of Foreign phrases and expressions

Court verdicts are also full of foreign phrases and expressions. Most of these foreign words and phrases originally belong to French or Latin. These words and phrases have been included in the court verdicts either directly or indirectly through transformation. Latin expressions such as '*bona fide, per se, quo warranto, prima facie*', etc. The Latin expression '*prima facie*' which means 'at first appearance or at first sight' tends to create a special 'cloud of ambiguousness' for a layman reader of court verdicts.

Avoidance of ambiguity and abstruseness is another essential feature of the Grice's maxim of manner. Therefore, a careful application of this maxim in verdict writing can help make this legal discourse more accessible and comprehensible to its readership.

D. Synonymous references

Another feature that obscures court verdicts, especially for a layman reader, is the act of pointing towards a single, specific, legal notion through a variety of synonymous expressions. In his general reference to the legal English, Haigh (2004:40) [5] furnished a list of such legal concepts which are referred to through synonyms. Some examples are words such as 'clause, breach, void' which are denoted with their synonyms 'provision, violation and ineffective' respectively. A great consensus, amongst legal writers, has also been developed that 'one term' should be fixed and used for 'one specific' legal concept in order to avoid confusion and mix-up on the part of the reader. If this consensus is carried into effect, it would rid the court verdicts of an undesirable tint of ambiguity and vagueness. This cherished goal can be achieved by the verdict writers if they pay heed to the Grice's maxim of manner while producing these legal documents.

VI. PROLIXITY OF EXPRESSION IN COURT VERDICTS

The second most important feature that concerns perhaps the entire readership of court verdicts is the prolixity of expression. In fact, it would not be unfair to say that the court verdicts are notorious for their wordiness and verbosity. The linguistic features responsible for this prolixity of expression in court verdicts are syntactical in nature. These features are summarized below:

A. Lengthy sentences

The sentence structure used in court verdicts is no less than a lexical labyrinth for a common reader. Most sentences, in court verdicts, contain multiple clauses that, one after the other, tend to baffle the reader and keep him from getting to the main point expressed. In addition, another feature of these lengthy sentences is prolonged noun phrases coupled with specific adaptation, numerous prepositional phrases and a plethora of coordinate and subordinated clauses. The

prolonged wordiness, these sentences are built with, is the main hindrance in the way of the essential comprehension of verdicts by the readers. Such sentence construction is in complete contrast with what has been emphasized by the Grice's maxim of manner, which is the avoidance of unnecessary prolixity. In case, where it becomes necessary to use lengthy sentences for the sake of clarity, the writers are advised to make use of 'tabulated sentences (Rylance 1994: 18).

B. Excessive Nominalization

Verdict writers tend not to use verbs. In fact, it is difficult to find verbs in verdict documents as they are often replaced by nouns that are derived from verbs. This transformation act is known as nominalization. It only adds to the prolixity of expression and makes it more complicated when a one-word verb is replaced with a noun that carries other linguistic elements with it such as prepositions and articles. Haigh (2004: 44) [5] calls nominalization a morphological process that needs to be avoided due to its tendency to give text a protracted and non-dynamic look. Some of the examples of nominalization are using expressions such as 'to be in the agreement' instead of 'to agree' or writing 'to be in opposition' for a simple verb 'to oppose'. Such a practice only results in unnecessary wordiness and complexity of expression which is the point of objection in the Grice's maxim of manner.

C. Passive voice construction

Court verdicts are the decisions made in relation with specific acts carried out by people as perpetrators. In other words, we can say that verdicts are decisions against actions as measured by the law. However, paradoxically, while pronouncing decisions regarding actions, court verdicts predominantly speak in passive voice. In words of [8] Schneidereit (2004:3) this is, "... *a matter of strategy which has the impeding of comprehension as a consequence.*" Therefore, in order to make court verdicts essentially understandable for the readers, the writers of these verdicts should avoid an excessive use of passive voice. This would most probably enhance the decipherability of court verdicts as a special type of social discourse. Making communication easy to understand and follow is the pivotal notion of the Grice's maxim of manner.

D. Redundancy

Redundancy or repetition of words has become 'part and parcel' of court verdicts. The main reason that breeds the element of redundancy in court verdicts is the writers' unwillingness to use anaphoric references, such as referring to nouns through personal pronouns. Use of pronouns and adjectives with a demonstrative function is quite common in other types of writings, but the same seems to be considered 'prohibited' in verdict writing. The repetition of nouns, for example, results in unnecessary prolixity of expression which is something a writer is encouraged to avoid in compliance with the Grice's maxim of manner.

VII. ANALYSIS RESULT

The above-given analysis of the textual side of selected court verdicts shows that these documents are invariably indecipherable for a layperson owing to the obscurity, ambiguity of meaning and prolixity of expression which stem from the use of certain lexical as well as syntactic features. The findings of this analysis show how court verdicts are written in complete violation of the Gricean Maxim of Manner which demands the writer/speaker to avoid obscurity, ambiguity and unnecessary prolixity in expression.

VIII. DISCUSSION

Several studies have been carried out so far that aimed at the simplification of the language of law. However, it is difficult to find research work dealing with the text of court verdicts in particular. The application of Gricean Cooperative Principle too has not gone beyond the court interactions.

Keeping in view the above-mentioned scenario, the present study has brought forth some novelty in this field; first by setting the sights on the text of court verdicts and then by the looking at these verdicts through the Gricean lens i.e. Maxim of Manner. The findings of the study help to build the hypothesis that the court verdicts can have a higher comprehensibility and a wider readership if they are written in close compliance with the Gricean Maxim of Manner that entails the writer in the language of clarity, precision and unambiguousness.

IX. CONCLUSION

Despite a huge resistance from its upholders, language of legal documents, in general, is facing change. However, the efforts to materialize the highly cherished goal of the simplification of legalese are not more than meagre at this point of time. Court verdicts, in particular, need a focused eye of linguists and discourse researchers if the message of law is to be made accessible to and decipherable for every member of the society.

As shown in this paper, compliance with the Grice's maxim of manner is conversely proportional to the use of language features that wrap the text of court verdicts in a cloud of obscurity and ambiguousness. Thus, if taken as a guiding principle in the process of verdict writing, Grice's maxim of manner proposes a pragmatic solution to the complexity and convolution that mar the efficacy of these rulings as a part of legal discourse. People have a right to know what affects their lives and by simplifying the message of law and justice, prevalently being written in a convoluted way by the courts, we can ensure that even a layman is not deprived of this right. Nevertheless, the task at hand is not as simple as it may look due to the deeply rooted linguistic traditions and ingrained legal intricacies which seem to necessitate the use of a special type of language in writing of legal documents – and court verdicts are no exception.

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