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## LEGAL DISCOURSE: PECULIARITIES AND FUNCTIONS

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*Abstract: In terms of linguistics, the study of text as a component of communication, including extralinguistic aspects, necessitates the introduction of a new term, "discourse".*

*This article highlights the differences between the concept of legal discourse and the concept of text in modern linguistics based on the views of world linguists.*

*Also, in the article, the features, functions, and important aspects of legal discourse are discussed.*

*Keywords: discourse, phenomenon, legal language, contracts, agreement, court order, interlocutors, witness, turn-taking system, tactics.*

In modern linguistics, the term "discourse" is used very widely. "Discourse is a coherent text with extralingual-pragmatic, sociocultural, psychological factors and is considered as a purposeful social action, considered as a component participating in the interaction of people and the mechanisms of their consciousness. Therefore, the term "discourse", unlike the term "text" is not applicable to ancient and other texts that have not been restored to life.

The concept of discourse as a linguistic term entered linguistics in the middle of the last century. In linguistics, it was initially understood as a connected and agreed consequence in a sentence or speech, but in modern linguistics it is interpreted as a complex communicative phenomenon.

Language and law is an interdisciplinary field of study that brings together researchers from various perspectives, particularly legal scholars interested in the role of language in the legal process, as well as discourse analysts and sociolinguists who have discovered legal settings to be ideal for studying various legal issues in spoken interaction. The discipline also has some overlap with related disciplines like legal anthropology and law and society studies, as well as study in forensic linguistics, which uses linguistic analysis to address legal or law enforcement issues, making language the main means that makes it possible for law to do its work. As the language and law are intertwined, legal discourse has been of interest to the scholars of both the language and the law.

Before we address the legal discourse and its peculiarities, it is important to emphasize on the term discourse itself, for its complex and multifaceted. The term 'discourse' has become widely used in a range of disciplines, including critical theory, sociology, linguistics, philosophy, social psychology, and many more, to the point that it is frequently left undefined, as if its use were common knowledge. It is commonly utilized in the analysis of both literary and non-literary texts, and it is frequently used to signify theoretical expertise in ambiguous and sometimes obfuscating ways. It has possibly the broadest range of conceivable meanings of any term in literary and cultural analysis. In terms of linguistics, the study of text as a component of communication, including extralinguistic aspects, necessitates the introduction of a new term, "discourse". Discourse has been thoroughly investigated by many scholars, including Michel Foucault, Mikhail Bakhtin, Emile Benveniste, Teun van Dijk, Roman Jakobson, Kubryakova and others, with every one of them bringing forward various explanations and implications of the term.

The father of discourse theory, Foucault regarded that discourse is "social", Bakhtin, in his own definition of discourse implies the similar message: "...once we understand that discourse is a social phenomenon - social throughout its entire range and in each and every of its features, from the sound image to the furthest reaches of abstract meaning". Another prominent scholar Van Dijk outlines the followings as the main assets of discourse:

- it must be "language in use";
- it must involve the communication of beliefs;
- it must be coupled with interaction, and
- it must justify itself to other discourses.

In other words, discourse must be authentic language, not invented one, in an interaction and communicate what the interlocutors think, believe, feel, want, etc. Discourse reflects the subjective psychology of a person and therefore cannot be separated from the speaking person. It is a communicative event that happens between speaker, listener (observer, etc.) in the process of communicative action in a defined time in a certain space. For example, the dialogue between the judge and the defendant.

Van Dijk believed that, alongside with many other disciplines, discourse analysis has contributed to the study of law in many of its object domains, including laws, legal actions, and legal documents. The interdisciplinary character of discourse and law and the difficulty of legal language for the non-lawyer or lay people, in their own turn, emerge the problem of studying legal discourse, its social, cultural and functional significance.

The above mentioned definitions of discourse makes us conclude that legal discourse refers to the language and communication used within the legal system. According to Kryk-Kastovsky (2006), the language of law has several pragmatic characteristics: firstly, the turn-taking system in court is similar to institutional settings. Lawyers initiate questioning, in contrast to everyday conversations, where both sides may ask questions and give answers. Secondly, legal discourse deals with the nature, functions and consequences of language use in negotiation of social order. Thirdly, counsels use various questioning forms and strategies, which are revealed in the control of discourse. So, under the general phrase "legal discourse," one might refer to the entirety of the study of legal phenomena, including written (like legislation), spoken (like courtroom interactions), and non-verbal (like physical evidence and courtroom setting). Any text or speech produced by legislator (e.g. constitution, decree), judge and other legally empowered institutions, or any text or speech occurred in a legislative, judicial, contractual or administrative context can be regarded as legal discourse. While examining the scope of legal discourse, Trosborg (1997) outlined not only legal documents, including legislation, common law, contracts, deeds, but also lawyer's speech, people talking about the law, legal language in textbooks, language of the courtroom (e.g. judge declaring the law, council/witness exchanges) as part of legal discourse.

The legal discourse has the following characteristics: stability, which means the stable state of legal discourse in legal processes; specificity, indicating that legal discourse is a definite phenomenon, existing in the real legal space. It can also be characterized by complex, detailed and specific language

Legal discourse contains several lexical features and functions. Initially, it is bound to one subject matter, law. It is characterized by numerous lexical, syntactic and semantic restrictions, e.g. the use of terminology, frequent occurrence of synonymy, jargons; formal tone, absence of emotiveness, higher frequency of certain grammar structures,

such as passive voice, complex sentences, compound predicate and formalized sentence patterns. Additionally, it is represented in a certain format (contracts, agreement, court order) and in the style of official documents. These peculiarities, at the same time, contribute to the complexity and obscurity of the legal language, which, in turn, cause numerous problems to interpreters and translators.

To comment on the functions of legal discourse, initially, it is important to point out regulatory function. It serves to establish and preserve the norms and values between the institutions and the public, agents and the clients and even within the agents of the institutions. Legal discourse carries out performative function, expressed in communicative practices that organize the world of law and its accompanying symbolic structures. Additionally, it has informative, interpretative and strategic functions, which fulfill the necessity of the creation of certain information flows in the institutional communicative space, choice of normatively determined communicative strategies and tactics of interaction and explaining the meaning of communicative actions of discourse participants and legal texts.

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