

CHAPTER SEVEN

CONCLUSION

7.0 Introduction

This chapter summarises the present research by firstly discussing the importance of the research, the general findings and the implications of the study and provides suggestions for further research in the area. It starts with an overview of the purpose of the study, indicating the research that was carried out and followed by the communicative purposes of the ILR. This chapter then proceeds with the findings of the results of this study and pedagogical implications of this study. This chapter also discusses the importance of genre analysis and why it is crucial to understand the ILR not only for students of law and ESP teachers but especially for professionals in various industrial, management and bureaucratic institutions who although are not legal experts are nevertheless required to be able to read, understand, interpret, translate and sometimes write legal documents as part of their daily professional activities. The chapter then ends with the limitations of this study and suggest some future studies that might be undertaken in this area.

As has been mentioned in Chapter One, understanding the discourse features of a particular genre can greatly help one to read and understand the genre better. The purpose of this study is to define the genre of the *Industrial Law Reports (ILR)* through its discourse structures and linguistic features. This study has examined the structures of the ILR and the linguistic features associated with it. The research questions in this study are:

- Question 1: What are the **communicative purposes** of the Industrial Law Reports?
- Question 2: What is the **generic structure** of the Industrial Law Reports?
- Question 3: What are the **obligatory** and **optional** moves in the Industrial Law Reports?
- Question 4: What are the salient **linguistic features** of the Industrial Law Reports?

Twenty ILR dismissal cases were chosen for the study on the structures of the ILR and ten cases were analysed for the linguistic features that are found in the cases. Bhatia's (1993) study on legal cases is used as a reference in studying the discourse structures of the ILR. As for the linguistic features, some of the common linguistic features that are normally associated with legal cases such as lengthy sentences, nouns, noun phrases, complex prepositional phrase, binomials and multinomial expressions and the use of tense and verbs are identified. Besides, the rhetorical organization and linguistic features, the study also looked at the communicative purposes of the ILR which are important criteria in studying the genre of the particular discourse community.

7.6 The Communicative Purposes of ILR

A genre is not only defined by the frequency of its moves and sub-moves, but also by the purpose it serves its discourse community. The communicative purpose of the ILR was determined in the study before the genre was analysed for its structure and linguistic features. The ILR is a source of information and knowledge on matters related to industrial relations to its discourse community. Its main role is in disseminating information to its members; novices and professionals cannot be denied. The ILR provides its members with the latest cases, trends and processes in industrial relations. All awards and decisions of trade disputes are reported in the ILR. As

reading is an integral part of their work for these professionals, the ILR is referred to as a resource for these professionals to know more about the ILR cases, whether the judgment is justified or unjustified, how the judgment/decisions are derived, what merits a dismissal, what procedures to follow, what is compensation of backwages and so on.

The second communicative purpose of the ILR is that it is a source of reference for proceeding with a case. The ILR provides a guide to its discourse members on whether to proceed with a case. No two cases are alike but the legal materials of the case can recur and this generally means the cases are judged along the same manner thus, the management, the lawyers or even the claimant can know whether the case they have in hand is worth pursuing or that they can resort to an amicable settlement.

The third communicative purpose of the ILR is that cases reported in the ILR are used as a reference to certain points of law. The rule of ratio-decidenti applies in cases of similar nature and thus it is very important to refer and read the ILR as arguments and line of reasoning can be presented with reference to previous cases and decisions which had been awarded.

The final communicative purpose of the ILR is that it serves as a good guide in writing up the charges of a dismissal. In charging an employee, the management has to be attentive to the right legal terms and words that can be used to denote the charge/s to make it more conclusive. Besides that, the ILR also guides not only the management but the employees as well on the proper punishment to be meted out after a domestic inquiry.

On the whole, the ILR as a source of information, reference and guidance appears to be the major feature of the ILR's communicative purposes. These communicative purposes of the ILR indicate the role of the ILR in its discourse community. The needs and goals of the discourse community are reflected in the way the ILR is written and read.

7.7 The Rhetorical Structure of the ILR

The purpose of the moves analysis was to enhance our knowledge of what constitutes the rhetorical structure of the ILR. As has been mentioned earlier, the communicative purpose/s of the discourse community influences the rhetorical structure of the genre, specifically, the rhetorical moves. The way one discipline uses a genre is not the same as the way a different discipline uses a similar genre. Each type of genre has its own moves or organizational patterns. These patterns or moves help to define the discourse features of the genre and help to promote the needs and goals of the discourse community. Besides the major moves, genre can be further defined by the frequency of the sub-moves and also through the occurrence of the obligatory and optional moves of the particular genre.

The moves analysis of this study was to determine the moves found in the ILR. The ILR cases were divided into four different sections and analyzed for the moves. Frequency of occurrences was highlighted and the pattern of obligatory and optional moves was also noted. The cyclical nature of some moves was also found to be a common occurrence in the ILR.

This brief explanation of the ILR and the procedures of the moves analysis as mentioned above are conducted for this study. The next section summarises the main findings of the moves analysis of the ILR which are needed to answer Questions 2 and 3 of the research questions.

7.8 Findings of the Moves Analysis of the ILR

The moves analysis provided some insights into how the goals and aims of a discourse community may have affected the rhetorical structure of the ILR. In examining the results of the moves analysis of the ILR, four major moves were found. They are 'Identifying the case', 'Summary of the case', 'Pronouncing Judgment' and 'Giving of Award'.

The first move, 'Identifying the case' is found in all twenty cases indicating the importance of this particular move. As readers, it is important to know the parties of the dispute which is given at the beginning of the case. In this move, it begins with the identification of the two disputing parties which are the employer and the employee, followed by the name of the Court, the venue the case was tried, the name of the President or Chairman of the case, the Award number and the date the case was heard. This first move is found in all twenty cases making it an obligatory move.

The second move in the ILR is 'Summary of the Case.' In this particular move, the headnote is given before the summary of the case. Even though in legal cases, the headnote is of no authority, it is of paramount importance in the ILR to determine the relevance of the case from the headnote and also the summary. In 'summary of the case,' the legally-material facts of the case are given clearly. The two disputing parties

have each their allegations and evidences to dispute and counter each other's claims. The summaries are given in a summarized form. The need for further reading of the ILR is determined here. Readers and professionals only need to proceed to the other sections when there is a need for further reference or decisions of the court. Thus, if the cases they have at hand are similar to previous cases of the ILR, they can move on to the other sections of the ILR to understand the case better. Again this is an obligatory move as all twenty cases studied have this move.

The third move in the ILR is 'Pronouncing Judgment.' In any legal cases, no case is complete without a judgment delivered. However, unlike other legal cases, the judgment given in the ILR is in abbreviated form. It is signaled by the word 'Held' followed by the argument of the President/Chairman of the Court on the issues of the charges. At the end of the argument is the decision of the Court. The decision is either 'Just Dismissal' or 'Unjust Dismissal'. In cases of 'Unjust Dismissal' this is followed by an award. The award can be in terms of compensation of backwages or reinstatement. A point of interest that should be mentioned here is that all the arguments and judgments are given in abbreviated form. The format of simplicity and brevity helps to speed up the reading by either the management, union or the worker in referring to the ILR thereby assisting them in making a decision more quickly. As the judgment in any legal case is very important, this move is an obligatory move and found in all the twenty cases.

The last move that was found in the ILR is the Giving of Award move. This is the most important part of the ILR. This move consists of additional moves and the recycling of some earlier moves. The gist of the ILR is found in this move. All the details of the

case, from the charges to the evidence to the witnesses are contained in this award move. Whereas earlier moves 1 – 3 are quite straightforward, this move has several sub-moves. As it has been mentioned by the specialist informant, the reading and understanding of this move is important as it will enable the person to understand how cases are interpreted and decisions on awards or nonawards made.

Move 4 Step 1 begins with the introduction to the case by briefly introducing the disputing parties or a history of the claimant's employment or both. Out of the twenty cases studied, nineteen cases contain either one of these. Only one case (Case 6) was referred by the minister as it was an *ex parte* hearing that had been prolonged/postponed several times.

Move 4 Step 2 is 'Stating the Issues of the Dispute/Allegation of Dismissal'. This move presents the reasons as to how the dispute arises from the viewpoints of both the employee and the employer. The issues of the disputes are crucial to understanding why the dispute arose in the first place. It is an obligatory sub-move as it is found in all twenty cases.

Move 4 Step 3 is 'Providing the Evidence to support or dispute the Allegation'. The Chairman or the President of the Court normally refers to previous cases, awards, laws or the rule of *ratio-decidenti* to support his arguments in arriving at the decision of the case. From the analyses, it is evident that the rule of *ratio-decidenti* is applied in the ILR as most all the cases has reference to either one of the references mentioned above. The way cases are structured are generally similar in the legal genre, ones need to be

well-versed with the law and cases of similar nature that they can use to help them in the process of dealing with the ILR.

The last sub-move in Move 4 Step 4 is 'Pronouncing Judgment'. This final move in the Award section of the ILR delivers the decision of the President or Chairman of the Court. A verdict of 'Just Dismissal' or 'Unjust Dismissal' is delivered. In cases of 'Unjust Dismissal', the decision is followed by an award which is either compensation of backwages or reinstatement or both.

The analyses of the ILR appear to show that the generic structure of the ILR is similar to legal cases. From the study, a model of the rhetorical structures of the ILR can be given as follows:

Move 1 Identifying the case

Move 2 Summary of the case

Move 3 Pronouncing judgment

Move 4 Giving of award

Step 1 Introducing the claimant and his employment history/ Introducing the case

Step 2 Stating the issue of the dispute/Allegation(s) of dismissal

Step 2a Claimant's version/Company's version

Step 2b Company's version/Claimant's version

Step 3 Providing the evidence to support or dispute the allegation

Step 3a Reference to previous cases and laws to support the chairman's argument

Step 3b Deriving ratio-decidenti

Step 4 Pronouncing judgment/Giving of award

All the four moves can be said to be obligatory and on the whole are standardised with possible variations in the steps found in Move 4.

7.9 The Linguistic Features of ILR

Legal language is unique with regards to its lexical features and discourse structures. It is also renowned for its complexity, obscurity, archaic expressions, redundancy and technical vocabulary which often cause problems in comprehension especially for the lay audience.

In this study, it was expected that the linguistic features of the ILR will be similar to other texts of a legal nature. The findings illustrate that this is indeed true. The ILR does share similar linguistic features to other legal texts such as discussed below.

7.10 Findings of the Linguistic Features of the ILR

In this study, some of the common linguistic features that the ILR shares with legal genres are nouns and noun phrases, sentence length, complex prepositional phrases, binomials and multinomial expressions, tenses and verbs of contention.

7.5.1 Nouns/Noun Phrases

The use of nouns and noun phrases are evident in Moves 1 and 2. In move 1, proper nouns are evident throughout the ten cases as it is the move of identifying the case. The use of proper nouns here is to indicate the name of the parties of the dispute, the venue the case is tried and the name of the Chairman/President who heard the case. In move

2, nouns and noun phrases are commonly used in the headnote and the dismissal charges. Nouns or noun phrases are used to describe the type of case, for example,

11. *Termination of services* – By words or conduct – Whether words uttered tantamount to termination of services (C.1)

12. *Performance – Poor performance* – Allegation of inability to supply labour force – Whether substantiated (C.2)

The charges on the hand are found in the subordinate clauses.

7.5.2 Sentence Length

One obvious feature of the ILR is its sentence length which like any legal cases has sentences which are above average in length. A typical sentence in written scientific English (Barber, 1962) normally has 27.6 words whereas in the ILR the length of the sentences may vary from 47 to 74 words in a sentence. Lengthy sentences are typical in the cases analysed in this study.

7.5.3 Complex Prepositional Phrases

A common linguistic features in Move 2 is the use of complex prepositional phrase that is noun + prepositional phrase + noun. Examples of complex prepositional phrase found in this move are ‘pursuant to a show cause letter’, ‘pursuant to its employment rules’ and ‘pursuant to allegations’ ‘in support of’, ‘within the purview of’, ‘for the purpose of’, ‘in lieu of’, ‘in respect of’, and ‘with respect to’. This feature which are common in legal cases is also found in the other moves of the ILR.

7.5.4 Binomials and Multinomials

Since legal writings try to be all inclusive, the use of binomials and multinomial expressions are also one of the common linguistic features in the ILR. As illustrated in Chapter Six, the use of these binomials and multinomial expressions are evident in this study. Examples of binomials and multinomials are:

1. 'or' – forced **or** induced
threat **or** duress
dismissed without just cause **or** excuse

2. 'and' – rambling **and** confusing
cogent **and** convincing
produced **and** tendered
convincing **and** compelling
adequate **and** reasonable
machinery **and** equipment
oral **and** documentary
stocks **and** vouchers,
briefed, counseled **and** warned
inefficiencies, incompetence **and** unsatisfactory.

7.5.5 Verbs of Contention and the Use of the Past Tense

In the analysis of the ILR, certain moves can be easily identified by the use of the verbs in them. Move 2 and Move 4 can be easily distinguished because verbs of contention and verbs of arguments are used considerably throughout these two moves. Examples of the verbs of contention are *contended, submitted, alleged, claimed, disputed, denied* to illustrate a few. The use of these verbs are repeated again in Move 4 Step 2 when both disputing parties state the issues/allegations of dismissal.

In addition to the use of the verbs, certain moves can be distinguished by the tense. Since the ILR is a report, the simple past tense is prominent in Move 2 and Move 4 Steps 1 – 3. In Move 2, which is a summary of the case, the past tense is used significantly and this is also found in Move 4 Steps 1 to 3. The use of present tense is indicated in Move 4 Step 4 Giving of Award when the Chairman is going to make his decision on the case.

Even though the ILR is not as legalese as other texts, the use of specialized and technical words peculiar to legal terms and legal contexts are quite prevalent. Words related to dismissals are also prominently found in the texts. Some of the examples include:

1. compensation
2. natural justice
3. reinstatement
4. statutory

5. termination
6. domestic inquiry
7. insubordination
8. retrenched

Besides these words, Latin words are also commonly used in the reports indicating the need to know this specialised vocabulary to be able to understand the genre well. The examples are as follows:

1. ratio-decidenti
2. inter alia
3. bone fide
4. ex parte
5. in lieu of
6. ex gratia
7. mala fide

In summary, common linguistic features of the ILR can be listed as frequent use of nouns and noun phrases, sentence length, complex prepositional phrases, binomials and multinomial expressions, verbs of contentions and the use of the past tense. Most of the linguistic features found in the ILR have characteristics similar to other legal registers further making the ILR identifiable as one of them.

7.11 Implications of the Study

Since there is a dearth of information on legal genres in the country and a lack of research on legal genres, it is hoped that this study has contributed to a better understanding of what actually constitutes the rhetorical structure and linguistic features of the ILR. A knowledge of the ILR genre and an awareness of the discourse conventions can help a reader, writer or learner understand the text better and to function more effectively within the genre knowing which discourse characteristics are vital and which are optional.

As a genre analysis is “an insightful and thick description of academic and professional texts” (Bhatia, 1993, p. 11), it allows one to understand why the rules and conventions of a particular discourse community most often reflect the language and the shape of the rhetoric that are characteristics of that genre. This study of genre analysis is important to the professionals and people involved in industrial relations as understanding the details and knowing how industrial dispute cases are written, read, interpreted and awarded make understanding the text or case better. This knowledge and understanding can help guide them towards taking an appropriate course of action or decision that will help in reducing the number of disputes between employer and employees and in referring the cases to the Industrial Court. Using mediation to resolve disputes is becoming more and more popular and many legal cases can be settled out of court. An awareness of practices can help towards raising the numbers of disputes settled through mediation instead of going to court which is normally more time consuming and affects as well as exposes personal lives.

It is also hoped that some of the findings will prove to be applicable to the development of a range of teaching materials in legal texts or in the area in professional discourse and that they add to the body of knowledge about the nature of texts. The discourse structures and language analyses should also shed light on how legal cases are read, interpreted and written. The findings may be able to raise the level of understanding and reading of legal reports as they are of vital importance for reference of court's decisions. They form an important form of reference as courts of law normally follow precedents set by previous cases.

7.7 Pedagogical Implications

It is hoped that the findings can assist ESP practitioners gain an insight into what constitutes an ILR, thus helping to develop the curricula for ESP. Genre analysis is a powerful pedagogic tool for ESP teachers and is beneficial for students as knowledge of the generic features of any type of genre provides insight into the working of the genre. Understanding the structural patterns of the target genre by working the structural moves and the strategies the writers use to achieve their communicative purpose and being able to identify the occurrence of obligatory and optional moves and the sequence in which these moves occur provides the opportunity for students to understand the specialist culture and at the same time allowing teachers to be able to teach these genres more effectively. Providing students with a model of the ILR and encouraging them to use it as a guide in writing and reading can be done in a class of students learning about English for Law.

The pedagogical value of this study is that it can help uncover the conventions and rules that typify this particular genre. This knowledge has to be learnt if one desires an adequate command over any specialist use of language. According to Tickoo (1986, p. 49) ‘the fact remains that unfamiliarity with the subject disciplines as well as with the linguistic conventions that are specifically associated with them impose difficulties in the processing and understanding of such texts’. The rules employed by members of a discourse community are generally not articulated and the knowledge is tacit. As a result, newcomer in a particular discourse community often face problems in reading, understanding and identifying the social and linguistic conceptions employed by the others.

According to Bhatia (1977) to understand the discursive practices of the disciplines or the profession is first of all to acquire knowledge of the code. We cannot assume that a person who has linguistic competence is able to naturally acquire knowledge of the code. There are fundamental differences in the use of everyday language and specialist language. Furthermore one also needs to acquire generic competence or at least some genre knowledge in the profession in order to participate in a specialist communicative event. This study has revealed the communicative purposes, rhetorical structures and linguistic features of ILR which can be further exploited by teachers, students or professionals in their quests towards understanding and reading the ILR. Berkenkotter and Huckin (1993, p. 476) state that to know the discursive practices in their profession is vital as “understanding the genres of written communication in one’s field is ... essential to professional success”.

For teachers to be effective ESP practitioners, they need to be well-versed in the requirements of the disciplines and to understand the discursive practices of the professions. This knowledge requires the teacher to know the repertoire of genres used in a profession and the occasions when they are used. In this respect, teachers play an important role in acquiring genre knowledge and then imparting that knowledge to the students.

Research in the study of a variety of academic and professional genres (Bhatia, 1983a, 1992, 1993) indicates that although there can be large areas of overlap in the use of lexico-grammatical resources across various professional contexts, there certainly are specific uses of lexico-grammatical features which carry typically genre-specific values in specialized contexts. This is illustrated in the linguistic features of the ILR and although it shares similar characteristics with legal genre there are some specific features that set it apart from other genres. The reasons and explanations given for the use of these linguistic features can further raise the learners' awareness of the rationale of the text-genre that they are required to read, understand or even to write.

7.8 Research Implications

The data in this study has been confined to only dismissal cases of the ILR. It has focused on a small set of data and has not looked at other cases that are found in the ILR. The cases have not been examined for various other characteristics such as the use of qualifications that could provide further insights into this genre.

It would also be valuable to compare the other nature of ILR cases like retrenchment, interpretation of collective agreement and awards, complaints of non-compliance and trade disputes. Such studies will bring our understanding of the ILR to an even higher realm.

More research needs to be carried out on legal genres and other genres of legal nature so that comparisons can be made across genres to discern similarities and differences. The present study has limited itself to the ILR to come up with an accurate description and analysis of its organization and lexicogrammatical features, to find out what sets this genre apart from all others. This knowledge is useful and beneficial to those interested to know more about industrial relations so that they can function better and effectively in their professions.

A lot of measures can be done to improve the present backlog of cases at the Industrial Court. Professionals and human resource management need to develop the ability to read and understand ILR better so that unnecessary case/matters are not brought to the Industrial Court and can be resolved at their level outside the court. Since it is obvious, reference to a case and the rule of ratio-decidenti are used in deciding dismissal cases, this knowledge is essential to stop the waste of company's/claimant's time or the unnecessary waiting for the case to be heard, or even before anything take place if they are well-versed and up to date in their area.

This study has focused on the structure and linguistic features of the ILR. Other research areas pertaining to the ILR are to be encouraged, for example, an ethnographic research of the community of ILR users, a comparison of the ILR across nations and cultures, and comparing and contrasting the ILR with other legal genres.

An aspect that this study did not consider was the use of computer analysis in analyzing the data. Corpus linguistics in the analysis of the data could confirm further our findings that are verified by the computer rather than relying upon individual intuition and preference of the genre. Key words and concordance can be used to teach not only students and teachers but professionals on how certain words are used in the report. For beginners, this knowledge will be useful as they can get to familiarize themselves with the language of their discourse community.

7.9 Conclusion

This study was undertaken to discover the genre of the Industrial Law Report (ILR) through its discourse structures and linguistic features. Genre Analysis is deemed to be the most appropriate method because it not only allows for a thick description of language in use but it combines the socio-cultural as well as cognitive aspects of text construction and linguistic interpretations that are crucial in studying the genre.