



LEGAL LANGUAGE BETWEEN PRECISION AND AMBIGUITY: AN ANALYTICAL STUDY OF THE CONSTRUCTION OF LEGAL TEXTS

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Abstract:

Legal language represents a central tool in the formulation of legislation, contracts, and judicial rulings. It embodies the requirement of precision to ensure clarity of meaning, while at the same time it may involve a certain degree of ambiguity-sometimes intentionally-to allow for interpretation and adaptation to different cases. This analytical study aims to explore the balance between precision and ambiguity in the construction of legal texts by examining the linguistic and stylistic features that characterize legal discourse and their impact on achieving justice and ensuring legal certainty. The study also addresses the challenges faced by legislators and legal translators in drafting texts that preserve clarity without undermining the flexibility required for practical application.

Key words: Legal language, precision, ambiguity, drafting, interpretation, translation.

Introduction:

Legal language serves as the medium through which the legislator conveys legislative intent to those subject to the law. Since a legal text is presumed to be clear and precise, any ambiguity within it may open the door to multiple interpretations, thereby undermining the addressees' legal certainty and affecting the principle of the rule of law.

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However, the pursuit of excessive precision may lead to rigidity, whereas a degree of ambiguity can introduce the flexibility needed for the law to keep pace with the evolution of social relations.

Hence arises the central question:

How can a balance be achieved between the precision and clarity required by legal certainty, and the flexibility demanded by practical reality in the drafting of legal texts?

CHAPTER ONE: THE THEORETICAL FRAMEWORK OF LEGAL LANGUAGE

Section One: Definition and Features of Legal Language

Legal language may be defined as a specialized system of terminology and syntax designed to express binding legal norms with precision. It serves a functional purpose distinguished by key features: its prescriptive and mandatory nature, which conveys commands and prohibitions rather than mere statements; its precision, ensuring stability in legal relations and transactions; and its neutrality, marked by the avoidance of emotional or literary expression. The formal and rigid structure of legal texts further reflects their normative purpose. Collectively, these traits make legal language an essential tool for regulating social relations and guaranteeing legal certainty (Attar, 1970, p. 9)

Section Two: Functions of Legal Language in Legislative Drafting

1. The Regulatory Function

Legal language functions as a normative instrument that structures social relations by formulating general and abstract rules governing behavior. Through expressions such as “shall” and “shall not”, it prescribes conduct rather than describing facts. For example, the rule “a contract is the law of the parties” creates a binding norm defining the parties’ obligations. Thus, the regulatory function lies in establishing enforceable standards that promote social order and stability. (Cornu, 1990, p. 22)



2. The Interpretative Function

This function involves clarifying and defining the meaning of legal provisions to eliminate ambiguity. Because legislation sometimes employs broad or indeterminate terms, interpretation—whether legislative, judicial, or doctrinal—determines their exact scope. The goal is to ensure consistent application and preserve legal certainty.

Example: When a statute prohibits “dangerous games,” interpretation determines what qualifies as “dangerous” according to the circumstances.(Saadi, 2015, p. 122)

3. The Communicative Function

The communicative role of legal language is to convey legal intent or information clearly so that it produces the intended legal effects. In contracts, it expresses the parties’ mutual consent and obligations. In legislation, it connects the lawmaker with its addressees—judges, lawyers, and citizens—by transmitting the content of legal norms in a comprehensible and authoritative manner.(Cornu, 1990, p. 23)

CHAPTER TWO: THE CHALLENGE OF PRECISION AND AMBIGUITY IN LEGAL DISCOURSE

Section One: Manifestations of Precision in Legal Drafting

1. Precision as an Essential Element of Legal Formulation

Accuracy represents a core attribute that should permeate all legal drafting, as it functions as the primary safeguard ensuring both clarity and stability within the legal order. Law does more than regulate social relations-it also establishes predictability and legal certainty, enabling individuals to understand its content and foresee its consequences. Consequently, legislators endeavor to employ unambiguous terminology and carefully chosen expressions that shield the text from vagueness and interpretive confusion.(Al-Bakri, 1989, p. 85)

2. Mechanisms for Attaining Precision

Precision in legal drafting manifests through various techniques and structural features that preserve clarity and consistency while precluding interpretive conflict. These mechanisms include (Legal Drafting: Fundamentals and Basic Principles, 2023):

_Terminological clarity: Employing legally defined terms whose meanings are firmly rooted in legislation or jurisprudence, leaving minimal scope for arbitrary interpretation.

_Consistency of language: Maintaining uniform terminology throughout the text and avoiding unnecessary synonymy, since linguistic variation may imply a difference in legal meaning.

_Exactness of expression: Formulating provisions in direct and concrete language, avoiding excessive generality or indeterminate wording that might invite conflicting readings.

_Economy of style: Ensuring conciseness without omitting essential meaning; each provision should serve a distinct legislative function.

_Logical arrangement: Structuring the text coherently-through preambles, general rules, exceptions, and sanctions-to facilitate comprehension and application.

Careful use of restrictive or exceptional clauses: Employing formulations such as “unless otherwise provided by law” or “except as otherwise prescribed,” to delimit the scope of a rule and prevent ambiguity.

_Technical terminology: Utilizing specialized legal expressions like “offer,” “acceptance,” or “nullity,” that convey a precise juridical sense.

_Formal register: Preferring a solemn and standardized legal style over colloquial or literary phrasing.

Internal coherence: Ensuring that individual provisions harmonize conceptually and logically, avoiding contradictions within the legal framework.



_Structured organization: Dividing the legal instrument into clear articles, sections, and chapters to reinforce readability and systematic logic.

3. The Role of Precision in Judicial Interpretation

The judiciary, as the authority entrusted with applying the law, depends on the clarity and precision of legal texts to uncover the legislator's true intent. The more explicit the provision, the lesser the need for interpretive intervention, reinforcing the maxim that "where the text is clear, there is no room for interpretation."

Precision is thus a foundational condition for the realization of justice and the preservation of legal certainty. Its importance may be articulated through the following dimensions(Aid, 2023, p. 701):

_Ensuring judicial accuracy: Clear and precise drafting minimizes interpretive errors and promotes decisions consistent with legislative intent.

_Guaranteeing equality before the law: Uniform and disciplined application of clear provisions ensures consistent treatment of all litigants.

_Promoting legal certainty: Precise norms provide stability in rights and obligations, enabling individuals to act with confidence in the predictability of judicial outcomes.

_Preventing contradictory jurisprudence: Ambiguous language often leads to divergent judicial interpretations; precision fosters coherence and stability in case law.

_Protecting individual rights and freedoms: Ambiguity may lead to misapplication or infringement; clarity ensures that justice operates within the bounds of the rule of law.

_Enhancing public confidence in justice: Judgments based on clear, well-interpreted legal texts reinforce trust in the judiciary as the guarantor of fairness and legality.

In conclusion, precision in legal drafting and application transcends technical drafting concerns—it constitutes a

cornerstone of justice, equality, the protection of rights, and the consolidation of public trust in the legal system.

Section Two: Manifestations and Causes of Ambiguity

1. Concept of Ambiguity in Legal Language

Ambiguity refers to the absence of clarity in a legal text whereby its meaning admits more than one plausible interpretation or fails to specify the legislator's intent with precision. It does not simply denote difficulty of comprehension but rather the potential for divergent understandings that may produce differing legal effects. Ambiguity must be distinguished from generality, which is often deliberate to preserve flexibility, whereas ambiguity hinders the accurate determination of legislative intent.(Bakr, 1999., p. 121)

2. Manifestations of Ambiguity in Legal Texts

Ambiguity in legal drafting may appear through various forms, including(Refa'i, 2008, p. 167):

_Lexical multiplicity: when a term carries more than one meaning, e.g., “contract” as a general agreement or a specific type such as a sale contract.

_Complex or lengthy structure: convoluted sentences that obscure comprehension.

_Vague formulations: the use of indeterminate expressions like “public interest” or “public order” without defining their scope or criteria.

3. Causes of Ambiguity

Several factors contribute to ambiguity in legal texts(Al-Fatlawi, 2017, p. 100):

_ Linguistic indeterminacy: natural language allows polysemy and semantic overlap.

Political and social compromise: legislators may intentionally adopt vague wording to accommodate conflicting interests.



_ Intentional flexibility: deliberate openness to interpretation to ensure adaptability to evolving circumstances.

Deficient drafting techniques: lack of linguistic or technical expertise among drafters.

_ Undefined general terms: expressions such as “public security” or “public order” used without precise delimitation.

_ Terminological inconsistency: employing legal terms without a uniform or established meaning in doctrine or statute.

_ Structural over complexity: excessively long provisions, multiple cross-references, or numerous exceptions that obscure meaning.

Drafting haste: inadequate preparation leading to inconsistencies or imprecision.

CHAPTER THREE: THE CONSEQUENCES OF AMBIGUITY IN LEGAL TEXTS

Section One: The Impact of Ambiguity on Judicial Application

1. Divergent Judicial Interpretations

Ambiguous provisions hinder the judge’s ability to identify the legislator’s true intent, leading to multiple possible readings of the same rule. This interpretative divergence often produces inconsistent judgments in similar cases, thereby compromising the uniform application of the law and generating uncertainty among litigants(Mahmoud, 2020, p. 52).

2. Expansion of Judicial Discretion

Ambiguity inevitably broadens the judge’s interpretative authority, transforming his role from a mere applier of the law into a quasi-legislative actor. While such discretion may enrich legal development, it also blurs the boundary between legislative and judicial powers, raising concerns about adherence to the principle of separation of powers(Al-Fatlawi, 2017, p. 100).

3. Procedural Delays

Where ambiguity is pronounced, courts must engage in extensive interpretative effort-consulting preparatory works,

doctrinal commentary, and comparative legislation-to determine legislative intent. This additional analytical burden often delays adjudication and conflicts with the requirement to render justice within a reasonable time.

4. Undermining Legal Certainty

Inconsistent rulings arising from ambiguous texts weaken public confidence in the judiciary. The unpredictability of outcomes erodes the principle of legal certainty, a foundational element of the rule of law, and diminishes the stability of the legal system(Omar & Khamoosh , 2019, p. 348).

Section Two: The Impact of Ambiguity on the Legal Certainty of Law's Addressees

1. Undermining Legal Certainty

The principle of legal certainty requires that legal norms be clear and foreseeable so that individuals can understand the consequences of their actions. Ambiguity impedes this understanding, leaving persons uncertain as to whether their conduct is lawful and exposing them to potential sanctions without intent. Such uncertainty contravenes the maxim nulla poena sine lege certa-no penalty without a clearly defined rule(Khaled Rouchou, 2019, p. 20).

2. Erosion of Voluntary Compliance

Clarity in legislation fosters voluntary compliance grounded in conviction. When provisions are ambiguous, individuals obey the law mainly out of fear of punishment rather than genuine understanding of their obligations. This weakens the moral and educational function of the law, reducing it to a coercive mechanism instead of a rational guide to behavior(Majhouda, 1989, p. 19).

3. Economic Consequences of Ambiguity

A predictable and transparent legal framework is vital for economic stability. Ambiguous rules deter investment by



creating uncertainty about rights and obligations, impeding rational economic decision-making and increasing perceived risk. Accordingly, economic legislation generally aims for the utmost precision to ensure investor confidence and promote sustainable growth(Ghalem, 2022, p. 111).

4. Ambiguity and Social Inequality

Ambiguous laws tend to amplify social disparities. Those with access to legal expertise or financial resources can better interpret and navigate unclear provisions, whereas ordinary citizens remain vulnerable to misinterpretation and legal error. Consequently, ambiguity undermines the principle of equality before the law and deepens existing social divisions(Aouad, 2021, p. 260).

Section Three: Ambiguity as a Driver of Interpretation and Legal Development

1. Ambiguity as a Tool for the Adaptability of Legal Norms

Although ambiguity is often viewed as undesirable, it may serve a constructive role by allowing legal provisions to remain responsive to evolving realities(El-Din, p. 47). Drafting that incorporates a measured degree of openness enables judges to interpret legal rules in accordance with contemporary social and economic conditions, thereby maintaining the dynamism and relevance of the legal order.

2. The Interpretive Value of Ambiguity in Upholding Constitutional Principles

In certain instances, constitutional framers intentionally employ broad or indeterminate language when articulating foundational values such as “human dignity” or “the public interest.” By doing so, they delegate to the judiciary and legal scholars the responsibility of progressively shaping these concepts through interpretation and practice. In this way, ambiguity functions as a mechanism that safeguards the enduring

spirit of the constitution and ensures its capacity to evolve alongside societal change.

It follows that ambiguity within legal discourse exerts a profound and ambivalent influence on the legal system. While it may compromise predictability and judicial consistency, it simultaneously provides a source of interpretive flexibility that allows the law to adjust to shifting social contexts. Thus, ambiguity should neither be condemned as an inherent flaw nor exalted as an intrinsic virtue; rather, it constitutes a dual-faceted phenomenon whose impact depends upon the degree of interpretive discipline exercised by both the legislator and the judiciary (Keyes & Carol, 2017, p. 315).

CHAPTER FOUR: MECHANISMS FOR BALANCING PRECISION AND FLEXIBILITY

Section One: The Legislator's Role in Improving Legislative Drafting

The legislator's role in enhancing legal drafting becomes evident through a focus on the following elements (Mahmoud, 2020, pp. 49-50):

1. Linguistic and Technical Competence of Legislators

Comprehensive training in the art and technique of legislative drafting is essential to minimize ambiguity and reinforce textual precision. A legislator who masters both the legal framework and the linguistic structure of the law is better positioned to formulate provisions that preserve clarity while allowing for interpretive adaptability. Consequently, numerous contemporary parliaments rely on the expertise of legal linguists and technical advisers throughout the legislative process to ensure that each provision reflects both accuracy and balance.

2. Simplification of Legal Language

A major avenue toward reducing ambiguity lies in simplifying legislative language without undermining its legal rigor. Comparative studies reveal that the closer the legislative style is to the linguistic habits of its intended audience, the more



effective the law becomes in achieving compliance and understanding. This orientation toward clarity and accessibility is exemplified in many jurisdictions by the Plain Language Movement, which advocates for drafting that is both precise and readily comprehensible to non-specialists.

3. Standardization of Legislative Drafting Practices

Establishing uniform drafting standards serves as a safeguard against inconsistency and interpretive uncertainty. Such standards often require legislators to define legal terms explicitly, maintain terminological uniformity, and structure legal texts in a coherent format-divided systematically into numbered chapters, sections, and articles. Consistency in form and terminology not only enhances clarity but also strengthens the interpretive integrity of the legal system as a whole.

4. Preliminary Review of Draft Legislation

Submitting legislative drafts to pre-enactment scrutiny by specialized bodies-such as Councils of State, legislative review commissions, or linguistic academies-constitutes an effective means of refining legal texts. This stage enables experts to identify and eliminate potential ambiguities, ensure internal coherence, and enhance precision before the law is formally promulgated. Such preventive mechanisms elevate the quality and reliability of legislative instruments, reducing the likelihood of interpretive disputes after enactment.

Section Two: The Role of the Judiciary and Legal Scholarship in Interpreting Legal Provisions

1. Judicial Interpretation as an Instrument of Equilibrium

When legislative drafting cannot simultaneously achieve full precision and interpretive flexibility, the judiciary assumes a corrective and complementary role through interpretation. Courts, particularly constitutional tribunals, intervene to bridge legislative gaps and elucidate ambiguous provisions, thereby preserving the coherence and functionality of the legal system. In

this capacity, judicial interpretation operates as a balancing mechanism that reconciles the rigidity of the text with the dynamism of evolving social and legal realities(Jallab, 2024, p. 566).

2. The Contribution of Legal Doctrine

Legal scholarship extends beyond mere commentary or exegesis of statutes; it serves as an intellectual compass that directs both the judiciary and the legislature toward interpretations aligned with the underlying aims of the law. Throughout the development of legal thought, jurists and scholars have played a formative role in refining legal terminology, conceptualizing new principles, and dispelling interpretive obscurity. Thus, doctrine acts as a mediating force between textual rigidity and the need for adaptability, ensuring that the law evolves coherently within its normative framework.(Miloud & Larbi Bacha , 2023, p. 81)

3. Judicial Precedent as a Vehicle of Flexibility

Through the progressive accumulation of decisions, judicial precedent emerges as a stabilizing source that harmonizes interpretation and reinforces legal certainty. Precedents ensure coherence across judgments and contribute to the predictability of legal outcomes. In this sense, ambiguity within legal texts may function as a catalyst for legal evolution, provided that judicial reasoning remains consistent and grounded in established interpretive principles. Hence, precedent transforms interpretive discretion into an instrument of controlled flexibility, enabling the legal system to adapt while maintaining its structural integrity.(Aïcha, 2025, p. 234)

Section Three: Balancing Precision and Flexibility as a Legislative Strategy

1. Rigid and Flexible Norms

In legislative practice, lawmakers often distinguish between two primary categories of legal norms.



Rigid provisions are those that leave no room for interpretation-such as penal rules that define offenses and their corresponding sanctions.

Flexible provisions, by contrast, are designed to allow interpretive latitude, particularly in the domain of broad constitutional principles and evolving social concepts.

The distinction between definitive and flexible legal texts embodies a deliberate legislative approach aimed at reconciling the need for precision with the necessity of adaptability. Definitive provisions are drafted with linguistic rigor to ensure clarity, predictability, and legal certainty, particularly in fundamental areas where ambiguity could undermine justice and uniformity. In contrast, flexible provisions are intentionally phrased in broad or open-ended terms to accommodate social, economic, and moral developments, allowing the judiciary and legal scholarship to interpret the law contextually and sustain its relevance over time. The coexistence of both types of legislative drafting thus represents a conscious strategy to minimize detrimental ambiguity while safeguarding the law's capacity for evolution and practical effectiveness(Al-Fatlawi, 2017, pp. 133-136)

2. Striking a Middle Path

Achieving equilibrium does not entail the eradication of ambiguity, but rather its measured regulation according to the requirements of each legal field.

Areas that demand absolute certainty-such as criminal or fiscal law-must be governed by precise, unequivocal formulations. Conversely, domains characterized by continual evolution, such as administrative or economic regulation, may justifiably accommodate a degree of interpretive flexibility(Al-Fatlawi, 2017, p. 137).

When does ambiguity become an intentional device in legal language?

Ambiguity in legal discourse is not invariably a drafting flaw; it may constitute a deliberate and strategic device employed to

fulfill particular legislative purposes. This phenomenon is often referred to as “constructive ambiguity” or “intentional legislative indeterminacy.”

Intentional ambiguity typically serves the following functions(Fisch, 2018, p. 751):

a. Accommodating Social Evolution

The legislator may resort to open-ended expressions—such as public order or good morals—to ensure that provisions retain adaptability and remain responsive to social, moral, and economic transformations without constant legislative revision.

b. Enabling Judicial Interpretation

At times, the legislature intentionally refrains from exhaustive definition, thereby entrusting courts and legal scholarship with the authority to interpret provisions contextually and to bridge legislative lacunae in light of concrete cases.

c. Ensuring Normative Comprehensiveness

Broad and inclusive terminology may be used to guarantee that statutory provisions encompass future and unforeseen scenarios, preventing obsolescence and preserving the law’s practical relevance.

d. Reconciling Divergent Interests

Ambiguity can operate as an instrument of political or normative compromise, allowing legislative consensus among conflicting stakeholders by deferring precise interpretation to subsequent judicial or doctrinal clarification.

e. Preserving Legislative Flexibility

In the case of enduring or foundational legislation, excessive precision may be deliberately avoided to prevent rigidity and to ensure that provisions remain capable of accommodating future developments.

In conclusion, ambiguity in legislation may be intentional and functional, serving not as a symptom of imprecision but as a mechanism of adaptability and inclusiveness. When judiciously employed, it enables the law to evolve alongside societal



progress while preserving the interpretive role of the judiciary and legal doctrine.

Conclusion

The preceding analysis reveals that clarity and ambiguity represent two interdependent yet contrasting dimensions of legal language. Clarity safeguards the stability of legal relations and the foreseeability of their effects, while ambiguity introduces a measure of flexibility that enables legal norms to evolve alongside societal and institutional change. The central challenge, therefore, lies in harmonizing these dimensions-avoiding a level of precision so rigid that it stifles legal development, and preventing ambiguity from eroding confidence in the law through uncertainty.

Legal drafting thus operates in a delicate equilibrium: precision ensures the durability of legal norms, whereas ambiguity allows for interpretive adaptability. When this balance is disrupted, practical consequences follow-overly precise drafting risks legislative inflexibility, while excessive vagueness undermines legal certainty and weakens trust in judicial outcomes.

The path toward equilibrium requires a measured approach, achieved through:

- Enhancing the linguistic and technical skills of drafters.
- Simplifying legislative language without diminishing its authoritative force.
- Allowing interpretive intervention by courts and legal scholarship to resolve indeterminacies.
- Tailoring drafting policies to the specificities of each legal domain.

Ultimately, the strength of a legal system rests on its capacity to unite clarity with adaptability-to formulate rules that are both comprehensible and capable of evolution. Such a synthesis ensures not only the effective protection of rights and freedoms but also the enduring legitimacy and predictability of the legal order.

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