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RESEARCH PAPER

Forensic Linguistics: A Forensic Stylistic Analysis of Legalese of Banking Courts in Pakistan

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ABSTRACT

Language of law is a register. Register used in banking courts has its own features. This study highlights the stylistic features of the legalese in Pakistan. Forensic linguistics helps to understand language used in legal contexts .Population of the study is legalese of banks but it is delimited to the banking case judgments, writ petitions and criminal appeals as the sample. Data has been collected from online websites of banking courts. Corpus linguistics is used as research methodology. Data analysis is done with Antconc software version 3.5.8for windows. Theoretical background is Leech and Short model (1981). The findings show complexity and an unusual usage of grammatical categories. This complexity leads to the problem of incomprehensibility and fraudulent practices. This can be simplified to help the users. A forensic linguist can provide assistance to the professionals. The pedagogical solution of this problem is need of the hour for the public at large.

KEYWORDS Corpus Linguistics, Forensic Linguistics, Forensic Stylistics, Legal English

Introduction

Every country has its own set of laws for the smooth progress of the country. Laws are significant in the society as they provide standards to the general public. These are the guidelines for the citizens about their conduct in the society without which there would be chaos and destruction. In case of any dispute citizens can consult these laws to get the solution of their issues. A rightful implication of laws makes the system of the country effective as the fear of punishment keeps the masses alert and they try to follows rules in a better way. In case of violation of these laws in any field, end users have the right of appeal in the court of law to settle their disputes and make the right decision on the basis of facts and figures.

Banks are the backbone of a country which are considered to be the part and parcel of a country's economy. Banking sector in Pakistan has grown to a great extent. Banks are helping tools to expand the economic activities in the country. This rapid increase in the banking sector is due to a fast growing technological development in Pakistan. Banking sector being the backbone of the country has become beneficial where every organization and individual is linked with the banking services offered to their valuable customers. In this 21st century, Pakistan has a large number of different banks working and facilitating their customers. A number of private, public, foreign, domestic, conventional and Islamic banks are operating in Pakistan. There are two main bases operating in Pakistan i.e. conventional banks and Islamic banks. Islamic banking has grown globally at very fast pace (Shams din, Ahsan & Haque, 2017). Monetary progression and extension of banking industry needs customer oriented services due to an increased rivalry and an active membership of private segmented banks. Banks are

executing diverse tasks to provide a range of products and service for different fragments of the economy. (Ahmad, Rehman & Safwan, 2010).

Literature Review

English as the Language of Law (Legalese) in Pakistan

English language is an important lingua franca (Crystal& Davy.1969). English language has the dominate role in today's world and business world is no exception. All legal documents are written in legal English which is the language used by the officials and professionals in legal process such as the police, lawyers and judges. Constitutions, legal policies, documents and agreements are written in legal English language. Court rooms, legal proceedings, judgments, case files, FIRs, legal summons, or any kind of legal documents are written in legal English language. This language of law has many legal terms which are not easy to understand. Only legal professionals can understand these particular terms.

Legal English is a register used specifically in legal writings. (Zhansheng Feng, 2012). It has its specific terms, structure, jargons, style, abbreviations, codes, references to the articles and ordinance. English is considered as the sub language as it is different from the ordinary language. This legal language is different from the Standard English. It has its unique style of writing. Legal language or legal English has its unique characteristics and features which makes it distinguished from the Standard English. Following are some of the unique features of legal English all over the world:

- *i.* The lexical items are usually derived from archaic old English , Latin and French.
- *ii.* Legal terms have particular meaning in the context of law which is different from Standard English.
- iii. An inadequate use of punctuation in the legal texts.
- iv. In Legal English there is a frequent use of the doublets and triplets words.
- v. There is an unusual sequence of the words order in the legal texts.
- vi. Pro-forms are used in legal English is usually uncommon in Standard English.
- vii. Pronominal words like hitherto, hereto, thereof, whereof, thereat, therein, whereat, thereafter are repeatedly used.
- viii. Legal English has some business or legal names which end at "er, ee, or".
- *ix*. Use of phrasal verbs in the texts and they are used in the quasi- technical sense.
- *x*. Impersonal style of writing in which the writer of the document shows objectivity.
- *xi*. Long list of words in definitions that are according to the law.
- xii. Distinct features at the graphological level. (Zhansheng Feng, 2012).

Forensic Linguistics and Forensic stylistics

Forensic Linguistics is the use of linguistics to legal matters. It is the scientific investigation of the legal language that is used in the courtrooms or in the legal documents. (Coulthard, Johnson & Wright, 2016). Forensic linguistics is the logical investigation of legal language as connected to forensic setting (Olsson & Luchjenbroers, 2013). Forensic Linguistics is the line between language, wrongdoing and law, where law incorporates law authorization, legal issues, enactment, question or procedures in law,

and even debate which just conceivably include some infringement of the law or some need to look for a legitimate cure (Olsson & Luchjenbroers, 2013). Forensic linguistics is used to untie legal mysteries and reach a reasonable judgment. (Olsson & Luchjenbroers, 2013). Forensic stylistics is the branch of forensic linguistics. Forensic linguistics is the exploration of language that relates to the law, either as proof or as legal speech (Kingston & Stalker, 2006). Language as proof contains the acknowledgement of authorship and elucidation of meaning. Forensic linguistics studied widespread dealings, including those of happening in prisons and within the police stations. An evolving feature of forensic linguistics is the elucidation of legal vocabulary. (Coulthard& Kredens, 2011). The purpose of forensic stylistics is the prudent and a systematic analysis of legal language (Kingston & Stalker, 2006). This analysis can be used by the different professionals as well as common users.

Forensic Stylistics Analysis of Legal Documents

Verdonk (2002) defines stylistics as the investigation of style that can be characterizes as the examination of distinctive expression in language and the portrayal of its purpose and impact. Stylistics is a branch of applied linguistics related with the style of text, this text may or may not be a literary text (Bradford, 2013). Forensic stylistics deals with the translation and examination of different writings or spoken language in legal context (Richard, 2005). It is a technique used for the understanding of literary style in which the chief importance is given to the language. Language is important as different structures, patterns and level forms the linguistic structures and these are the significant aspects for the functioning of the material. (Bradford, 2013). Legal language is significant in light of the fact that the different structures, patterns and levels that establish linguistic structure are a significant list of the function of the content (Simpson, 2004). Forensic stylistics is the study of style and how this style can be varied in different contexts. Through it linguistic interpretation of texts is possible that attempts to build up standards fit for representing the specific decisions made by people. (Kang &Yu, 2011). The different domains of forensic stylistic study would be politics, religion, law and even advertisements. It enables to establish principles that help in making choices by particular people or group of people regarding the use of language (Simpson, 2004). Forensic analysts utilize linguistic models, theories and systems as their systematic instruments so as to portray and clarify a content that fills in as it does, and how meaning originates from the words.(Nørgaard, Busse & Montoro, 2010).

Material and Methods

A mixed method approach is used in the present study where data is analyzed both quantitatively and qualitatively. Firstly, the qualitative stylistic analysis has been done. Secondly, the data has been analyzed quantitatively using Antconc 3.5.8 for windows by Anthony (2011). for the corpus analysis of the data. The present study focuses on the stylistic analysis of the corpus based data of legal text. The quantitative and qualitative analysis of the data has been done by using Leech and Short (1981) model of stylistic categories. The analysis of the data has been done by using AntConc3.5.8 version for windows created by Anthony (2004,2005,2011) for analysis of corpus based data.

Corpus Linguistics as Methodology

Corpus is the collection of written texts and this text can be of any kind, either written or spoken which is stored on computer and can be used to analyze how language is used. (Cambridge dictionary). Corpus linguistics is a procedure that can be adjusted to theoretical way to deal with language (Thompson and Hunston, 2007). Corpus linguistics is an entire framework of strategies and standards of how to apply corpora in language studies and instructing/learning, it unquestionably has a hypothetical status.

However hypothetical status isn't hypothesis in itself they presume that corpus linguistics is a methodology (McEnery, Xiao, & Tono, 2006). Teubert (2005) additionally remarks on the assorted variety of strategies, and states that corpus linguistics isn't in itself a technique, it is a wide range of strategies that are utilized in preparing and scrutinizing corpus information. It is fairly an emphasis on working just with genuine language information taken from the conversation in a principled way and gathered into a corpus. (McEnery, Xiao, & Tono2006).

Research Instrument for data analysis

Antconc software is a corpus tool which was designed for the learners in classrooms. (Anthony, 2004,2005, 2011) It is an application which is suitable for the persons and educational institutions which they can afford easily within limited budget and it can be operated on both Linux and windows.

AntConc Software for Windows 3.5.8. (Anthony, 2004, 2005, 2011) is used for the quantitative analysis of the data. Antconc is a software that is used free of cost for the analysis of the data and for the checking of the concordance of the data. AntConc is a freeware, multiplatform device for doing corpus phonetics research and information driven learning. The software can be downloaded free of cost from the homepage of Laurence Anthony AntConc. (Anthony, 2004).

Population and the Sample

In Pakistan, the criminal appeal cases are heard and analyzed according to the Code of Criminal Procedure, 1898 as amended by Act 2 of 1997. Part VII of the Code of Criminal Procedure, 1898 is dedicated to Appeal, Reference and Revision. All legal documents are the population of the study. The sample is randomly selected from online sources consisting of Pdf files.

Data Collection Procedure

The researcher used the following steps for data collection:

- 1. Reading the case judgments texts thoroughly.
- 2. Identifying the levels of stylistic analysis in the data.
- 3. Analyzing data qualitatively by adding examples of different stylistic levels and features.
- 4. Analyzing data quantitatively by applying and evaluating the data into the Antconc software 3.5.8 version for corpus analysis.

Mode of Data Collection

The data consisted of the pdf files downloaded from the Google. Total seventy five pdf files were downloaded which were available online. These seventy five files consisted of twenty five each of BCJ, WP and Crl.app cases respectively.

Theoretical Framework

Leech and Short (1981) model of stylistic categories has been used as the theoretical frame work of the study. Three sets of legal documents have been analyzed including banking case judgments, writ petitions and criminal appeals.

Data Analysis and Findings

The data analysis of the study was done on following levels:

- 1. Lexical level
- 2. Syntactical level

3. Graphological level

The data has been analyzed both quantitatively and qualitatively using Leech and Short model of stylistic categories (1981) and using AntConc software. All the three types of files of BCJ, WP and Crl.app were different from each other even though they were having legal context. BCJs have more frequent use of stylistic features than the WP and Crl.app cases. The total number of all the sample data is calculated by putting text files of the sample pdf files. Pdf files were converted using Windows notepad tool. Then the numbers were allotted to each text file as text file 1, 2, 3, 25 for each types of text separately. The source from where these files have been downloaded were also given in the form of web links.(Appendix A.) The lexical categories have been analyzed individually in chapter 4 data analysis.

Findings At Lexical level

Lexical items are the total number of words or vocabulary items used in any text. The lexical categories used in the sample data are as under:

- i. Use of Proper Nouns and Pronouns
- ii. Use of Technical Terms
- iii. Use of Foreign Words
- iv. Use of Legal Vocabulary
- v. Use of Adverbs
- vi. Use of Synonymous Vocabulary
- vii. Formal Expression

Findings at Syntactic Level

The most important part of any text is its syntax. At this level grammatical categories, sentence types and structure have been analyzed. The list below shows the categories analyzed syntactically using AntConc software.3.5.8 for windows version.

- a. Nouning of Words.
- b. Subjectivity.
- c. Sentence complexity.
- d. Inclusion of Prepositional Phrases
- e. Use of "If" sentences
- f. Passive voice sentences

Findings at Graphological level

Graphology is the term used for the handwriting analysis. It is the investigation of the physical qualities and writing patterns which enable the individuals to recognize the writer, demonstrating the mental state at the time of composing, or assessing personality characteristics. This includes the design and layout, capitalization, punctuation, use of abbreviations, italicization, Use of Boldface and underlined words, Use of Punctuation, Use of Quotation marks, Use of hyphen, En Dash and Em Dash, Use of Foreign words, Use of legal vocabulary.

Design and layout

Physical appearance of the legal text is known as the layout design. It includes paragraph spacing, indentation, and capitalization, underlined, bold and italicized. The sample had the same layout.

Use of capitalized words

The sample legal texts are rich in capitalized words. The heading of the document is mostly in capitalized words, as under:

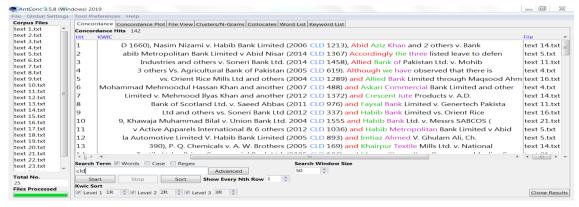
Stereo. H C J D A 38. Judgment Sheet IN THE LAHORE HIGH COURT LAHORE JUDICIAL DEPARTMENT Case No: COS No.128/2012 Gulistan Textile Mills Versus Askari Bank Ltd., etc. Ltd. JUDGMENT

The picture above shows the use of capital letters There are some other instances where initial letters are capital as names of places, name of banks, name of appellants, name of respondents, names of judges, names of institutions or organizations, occupations, petitions, writ petition no., ordinances and laws etc. found in the sample texts.

Use of Abbreviations

The sample texts have an abundant use of abbreviations to make the text precise and shorter for the purpose of conciseness and brevity. Use of abbreviations has made the file shorter and it is the space saving graphological part in the texts.

- i. CMA: Civil Miscellaneous Appeal
- ii. CLD: Common law Division
- iii. FIO: Financial Institutions Ordinance(Recovery of Finance)
- iv. PLD: Pakistan Legal Decisions
- v. SCMR: Supreme Court Monthly Review
- vi. PPC: Pakistan Penal Code
- vii. C.P: Company Petition
- viii. CPC: Code of Civil Procedure / Civil Procedure Code



Italicization

The calligraphic font style which is used in the text and it is the special and important part of the legal texts which are used for giving stress and highlighting some points with reference to some ordinance or law. This feature includes the italicization of

words, phrases, sentences and paragraphs. Italicization of the legal texts includes following features:

- i. Observations of the judges in the cases are printed in italics font style and purpose is to lay stress
- ii. References to the ordinances or laws are being italicized to make the legal text more authentic and law relevant.
- iii. Sub-heading in the legal text are presented in italics for the purpose of the distinction from the rest of the text.

Right of the Banks

The case of the Banks is that the Sugar Mills pledged bags

The use of foreign words and terms

Legal texts are good source of foreign words and terms and these words have also been presented as italicized form. Few examples of these are *Nemo Dat Quod Non Habet Rule*, *Ultra vires*, *Inter se*, *Per se etc*.

Use of Boldface and underlined words

The words that are darkened then the other words are known as the boldface word. This style is often used to lay stress. The sample legal texts are enriched with the bold text font.

a. Case number of the judgment sheets has been found at the top left corner of the document:

RFA.No.395 of 2005

HBL Vs.WRSM Trading Company etc.

JUDGMENT SHEET

IN THE LAHORE HIGH COURT AT LAHORE (JUDICIAL DEPARTMENT)

b. Name of the judges in the judgment sheets has been presented in boldface and underlined also.

Examples

JAWAD HASSAN, J:- Through this Intra Court Appeal, the Appellant, namely the National Bank of Pakistan (NBP), has called in question judgment rendered in Constitutional

c. Case references in the judgment sheets that were published in different law journals or monthly law reviews has been boldfaced and underlined.

Use of Punctuation

In any written document punctuation plays a pivotal role. It helps in reading the document aptly and contextual interpretation can be done with the help of it. Due to the use of punctuation, it is easy to make correct use of the language. Lawyers understand the importance of punctuation and use some punctuation parts in drafting legal documents. Following are some of the punctuation aspects have been observed in the sample files:

Use of Quotation marks

a. As references or wordings of the ordinance, act or law.

8. The Bank of Punjab has been created under the Bank of Punjab Act, 1989 (hereinafter referred to as "The Act, 1989"). It is also correct that the Government of Punjab according to Section 7 of The Act, 1989 may hold up to 80% of the shares issued by the Bank. Section 10 of The Act, 1989 provides that the Board of the Bank shall consist of the following Director as under:

• "The Present appointed by the Government under Section 11;

• Four Directors elected in special meeting by the share holders for a term of three years; and

Use of Parentheses

Parenthesis or brackets are such punctuation marks that are used in pairs and put in sentences to add some additional information beside the main text. All legal texts in the sample have the parentheses more commonly than the other forms of texts. It is used in different situations. These are as follows:

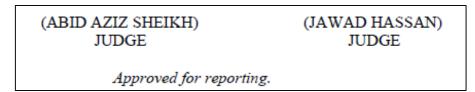
Six Directors appointed by the Government."

- a. It is used to add some extra or additional information relevant with the case.
 - 2. Brief facts of the case are that appellant-bank filed a suit, under Section 9 of the Financial Institutions (Recovery of Finances) Ordinance, 2001 (FIO, 2001) for recovery of
- b. It is also used to shed out some confusion by giving some extra information Naturally, each of them (allegedly) enjoy an independent financial relationship with the plaintiff (as this is not a case of consortium financing).

On 18.08.1979, the Bank (Nationalization) (Amendment) Ordinance, 1979 (the "1979 Amendment") was enacted to amend Section 9, whereby further functions of overseeing foreign

c. It is used to give some reference of the previous case relevant to the current case.

the cases reported as Soneri Bank Limited v Compass Tading Corporation (Private) Limited (2012 CLD 1302), Muhammad Yasin Pakistan Kuwait Investment Company (Pvt) Limited v Active Apparels International & 6 others (2012 CLD 1036) and Habib Metropolitan Bank Limited v Abid Nisar (2014 CLD 1367)



Use of full stop, comma, colon, semicolon etc.

It has been observed that all the legal formal documents of the sample are rich with the punctuating marks and mostly the sentence length is longer than the other form of texts. There is a great use of comma, colon, semicolon etc. are found in a high frequency in the sample data.

Use of Hyphen, En Dash and Em Dash

The legal documents in the sample has the hyphen to connect compound words. It has been observed that legal documents makers used en dash also. En dash is little bit larger than hyphen and it is used to connect number range and pair of words that are contrasting to each other. Em dash is less frequently used in legal documents. It is the largest in size than other dashes.

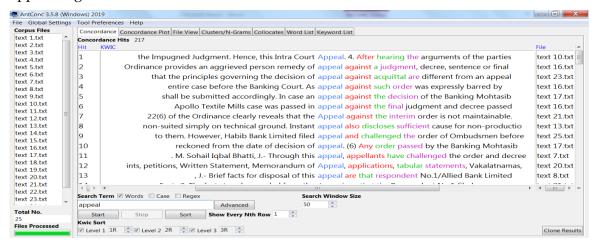
Examples of Hyphen: text-books, non-actionable, set-out, over-emphasized, head-note

Use of Foreign words

Every genre has its particular vocabulary and words. Besides these, there are some foreign words that have been used taken from Latin and French. The sample has also some foreign words. These foreign words are mostly used in the text in italics such as *Nemo Dat Quod Non Habet Rule*, *Ultra vires*, *Inter se*, *Per se etc*.

Use of legal vocabulary

The legal texts are enriched with the technical or legal terms that are typical of the law. The use of legal vocabulary makes the document unique and even more difficult for the common persons to understand such as acquit, appellant, respondents, allegation, appeal, argument,



Conclusion

The present study aimed at analyzing the stylistic features of legal text especially written documents at different levels. The analysis was done at lexical, syntactical, grammatical and graphological levels using Antonc software version 3.5.8 for windows. The present analysis was based on the stylistic categories model proposed by Leech and Short(1981). Lexical level was mainly concerned with the use of nouns, verbs, adverbs,

having legal vocabulary. Grammatical level, was mainly concerned with the use of different types of sentences uses; complex sentences structures, use of noun phrases, phrasal verbs and word classes. Figure of speech included the grammatical and lexical categories, phonological patterns and troops. Cohesion and context level and graphological features suggested by Leech and Short (1981).

All these categories were found in abundance in banking court documents used in Pakistan. The sample data has been analyzed both qualitatively and quantitatively. Quantitatively it has been analyzed that which category is most common in any of the three types of cases. The following aspects are found in the sample data.

At graphological level all legal documents are unique and different. Its layout is different along with the frequent use of capitalization, boldface, italicized words, underlining, punctuation, em dashes, en dashes, commas and parenthesis. The layout and the presentation of the legal documents make it unique and different. It has been observed that in all the three types of legal documents, i-e BCJ, WP and CRL app, graphological features are starkly different from everyday layout. Legal documents are highly punctuated which breaks the cohesion and misleads the reader.

The use of abbreviated legal terms are greater in BJC as compared to WP and Crl.app cases. As mentioned in the table 1. The table 2 consisted of technical terms that were mostly found in the banking cases and here again the frequency was greater than other types of case. Only the term FIR has more frequency in criminal appeal cases as FIR was registered in police station for criminal act. Other features like italicization, bold highlighted and underlined word, use of quotation marks, parenthesis, punctuation and use of hyphens were found in all three types of documents

Table 1
A Comparative description of the use of abbreviated legal terms at the lexical level the features of legal English

100000100 01 100011 211011011						
Sr.no	List of abbreviations	BCJ	WP	Crl.App		
1	BCD	22	0	0		
2	FIR	7	5	266		
3	FIA	16	0	6		
4	PPCBL	11	0	0		
5	ACE	3	0	0		
6	SECP	3	0	0		
7	PIAC	1	3	0		
8	SDO	1	0	0		
9	ETO	1	0	0		
10	BWP	30	0	0		
11	DF	48	0	0		
12	FIORA	19	0	0		
·	· · · · · · · · · · · · · · · · · · ·	·	· · · · · · · · · · · · · · · · · · ·	<u></u>		

At the lexical level the features of legal English also unique and distinctive. As discussed earlier, Legal English has its own unique and specific vocabulary. Legal documents are rich in the use distinctive legal terms like the ordinance's allusion and legal terms. In the legal text, there is a use of foreign words and expressions that becomes the vital part of the legal documents.

All the three types of documents have the use of proper nouns. In all the three types of legal documents, use of foreign words and archaic words has observed. The foreign words, phrases and terms are used in the legal texts but the archaic words like hereto, hereby, hereafter, herein, thereof, thereto create difficulty of comprehension. The

BJC have more frequency of archaic words than WP and CRL app cases. This use of foreign words and expressions has made the legal texts difficult to comprehend.

The archaic words used in the sample text along with the frequency has been shown in following table.

Table 2
The comparison of frequency of archaic and technical terms in the banking legal language

	Frequency			
Words	ВЈС	Criminal Appeal	Writ Petition	
hereto	1	Null	Null	
hereby	8	10	3	
hereafter	1	Null	1	
herein	10	2	1	
Thereon	5	2	Null	
thereof	28	Null	6	
thereto	12	1	2	
whatsoever	9	3	2	

All the legal documents in the sample were replete with legal terms like respondents, allegation, attorney, case, complaint, complainant, constitution, guilty etc. these were found in all the three types of legal text. There was a frequent use of adverb "any" observed in the sample texts. Other lexical features like the use of synonymous words were observed. The use of formal expressions using the words 'will" or "shall" has also been observed.

At the syntactic level, again all the three types of legal documents have the specific legal characters which make it distinct from other genres like formal writing style, lack of subjectivity, unusual long and complex sentences, passive voice structures, use of conditional sentences, prepositional phrases and frequent references to the ordinances or act's which make them more authentic and factual but difficult for a common man. Nominalization of words has been observed in the sample text and it has been observed that BJC has more frequency than WP and Crl.app cases.

Conclusion

After the thorough analysis of the sample texts, the researcher has observed that legal documents have unique and distinctive features which were not present in other scripts of genres in written form. Multiple items found in these texts at graphological, lexical and syntactical levels call forth the help of professionals to comprehend them. BJC has more typical features which make them more compact than WP and criminal appeal cases. This more alarming because these judgments are for the end users involved in banking courts if they cannot understand the message how they can be benefitted by the court of law. It has become a need of the hour that a public awareness may be created among all prospective end users to know the basics of the legal language used in our courts generally and in banking courts especially.

Recommendations

The present study presented a stylistic analysis of the legal case judgments in Pakistan. The research was done only on three different types of legal documents which were the legal case judgments of Lahore High Court of Pakistan. These case judgments were banking cases, Writ petition and Criminal appeal cases. The other researchers can work on other legal genres. It would be beneficial for the learners, teachers and researchers in their real life as they would be able to understand the terms used in legal texts. They would have a broader view of the legalities and legal language. The present

study is delimited to the three types of legal documents. It would be an initiative and will lead other researchers to do research of other types of documents related with other laws or matters such as on labor laws related cases, industrial law cases, trade unions cases, family law cases etc.

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