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Directive and Commissive Speech Acts in the Iraqi Constitution (2005)

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Abstract

Legislative language is a specialised language and must be precise, clear, and comprehensive. It is famous for its odd or unique meanings. Because of the oddness of these meanings, this kind of language is difficult to understand by laymen and even by educated people. The present paper provides a qualitative and quantitative analysis of directive and commissive speech acts that are employed by the Iraqi Constitution (2005). It aims at identifying their use, contribution and function. The analysis of data is based on Searle's classification of speech acts (1979). The conclusions show that commissive speech acts are more frequent than directives ones because in commissives the speaker, the Constitution, commits itself for future actions, gives guarantees and promises, whereas in directives, the Constitution itself gives orders and pledges to become laws.

Keywords: Iraqi Constitution, Pragmatics, Speech Acts.

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أفعال الكلام التوجيهية والالزامية في الدستور العراقي (2005)

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المخلص: اللغة التشريعية هي لغة متخصصة ، ويجب أن تكون دقيقة و واضحة وشاملة . تعرف هذه اللغة بخصائصها اللغوية الغريبة غير المألوفة . حيث أن غرابة هذه الخصائص تجعل اللغة التشريعية صعبة الفهم ليس بالنسبة للناس العاديينفحسب بل وحتى اصحاب الاختصاص. تُقدم هذه الدراسة تحليلاً كميّاً و نوعياً للأفعال الكلامية الإلزامية و التوجيهية المستخدمة في الدستور العراقي (2005) . تهدف هذه الدراسة الى تمييز ومعرفة دور و وظيفة الأفعال الكلامية الإلزامية و التوجيهية المستخدمة في الدستور العراقي (2005) . تبنت هذه الرسالة أنموذج سيرل للأفعال الكلامية (1979) . وقد أظهرت الاستنتاجات ان الافعال الكلامية الإلزامية اكثر شيوعاً من الأفعال الكلامية التوجيهية ، ذلك لان في الأفعال الكلامية الإلزامية يلزم المتكلم (الدستور العراقي) نفسه بأفعال مستقبلية ، إعطاء الوعود و الضمانات . بينما في الأفعال الكلامية التوجيهية يوجه المتكلم الأوامر والتعليمات فتصبح قوانين .

1. Introduction

Maley (1994:11) defines legal language as “a medium, process and product in the various fields of the law where legal texts, spoken or written, are generated in the service of regulating social behaviour”. It is said that the language of the constitution is difficult to be understood by lay people. This difficulty is attributed to the fact that the legal language of the constitution consists of some lexical verbs that are said to be ambiguous and some other verbs have an implied and additionally conveyed meaning. Thus, the present study will investigate and identify the directive and commissive speech acts used by the constitutional makers, which make the structure of the Iraqi Constitution difficult and hard to be understood by lay people.

2. Literature Review

2.1 Pragmatics

Pragmatics is a field of linguistics that studies the meaning of words in their context. The main focus of pragmatics is on a person's ability to deduce meanings from specific types of speech in order to understand what a speaker is referring to and the relationship between new information and previous events. It also supports understanding of the speech by drawing on earlier knowledge of the topic and the

speaker (Charles,1998:18). According to Levinson (1983:6), "Pragmatics is the study of such ties between language and contexts that are grammaticalized, or delivered in the structure of a language". He also states that Pragmatics is the study of invisible meaning that is based on the use of language in a systematic way.

2.2 Speech Acts

Speech acts theory is one of the most important aspects of pragmatics. It was founded by the British philosopher John Austin, who said that "in saying anything, we are doing something" (Austin,1962:12). He believes that when we try to convey the intended meaning, we not only produce grammatical forms and words, but we also perform actions with these expressions. The verbs that are utilized to express the speech act intended by the speaker are called performative verbs (Crystal,1985:285).

According to Tragoutt and Pratt (1980:229), various frameworks for describing language use in context have been presented. The "speech act theory" considers an utterance to be an act performed by a speaker in a context with respect to an addressee.

2.2.1 Types of Speech Acts

On any given occasion, the process of making an utterance will be comprised of three related events. they are locutionary, illocutionary, and perlocutionary acts:

2.2.1.1 Locutionary Act

Locutionary speech act is essentially comparable to saying certain utterance with specific context and reference, which is again roughly equivalent to meaning in the conventional sense (Austin, 1962: 108). Cutting (2002: 16) explains that locutionary act is what is uttered. Yule (1996:48) proposes that the locutionary act is the act of making meaningful utterances. For example:

- (1) It's very dark in this room.
- (2) The box is so heavy.

The above two statements describe the actual situation. The first statement is about the light in the room, while the second is about the weight of the box.

2.2.1.2. Illocutionary Act

The expressive force of a speech, such as promising, apologizing, or offering, is used to perform the illocutionary act (Yule, 1996:48). This is also known as the act of doing something in order to say something. The illocutionary act is the most important degree of action in a speech act since it is determined by the force intended by the speakers. The true description of the interaction state may be illocutionary act. For example:

- (3) It's very dark in this room.
- (4) The box is so heavy.

According to the examples above, the first statement is a request to turn on the light, while the second sentence is a request to pull up the box.

2.2.1.3 Perlocutionary Act

A perlocutionary act is the act performed by a speaker when producing an utterance that has an influence on the hearer and others. The act of offering someone is also known as a perlocutionary act. The influence of a speech on the ideas or conduct of another person is referred to as a perlocutionary act. A perlocutionary act is special to the conditions of issuance, and so is not generally performed just by speaking that particular utterance, and comprises all of the effects, intentional or unintentional, frequently undetermined, that any particular word in a particular occasion causes. (Yule, 1996:48). For example:

(5) It is very dark in this room.

(6) The box is so heavy.

Based on the example, the first line is said by someone while turning on the light, and the second sentence is said by someone while pulling up the box.

2.2.2 Classification of Speech Acts

One basic categorization system classifies speech acts into five kinds of general functions: declarations, representations, expressives, directions, and commissives. (Yule 2006:53)

1. **Declarations:** the types of speech acts that, via their utterance, change the world, as in (*You are fired and we find the defendant innocent*). In order to utter a declaration truly, the speaker must have a unique institutional position in a specific situation. The speaker uses words to change the world when he or she employs a declaration.
2. **Representatives:** those types of speech acts in which the speaker expresses whether or not they think something to be true. Factual statements, claims, conclusions, and descriptions, as in (*He is handsome*) in which the speaker presents the world as he or she believes it. The speaker uses representative speech acts to make words suit/fit the world (of belief).
3. **Expressives:** those kinds of speech acts in which the speaker expresses how he or she feels. They can reflect psychological emotions such as pleasure, pain, likes, dislikes, joy, or sadness, for example (*congratulations and I'm so sorry*). They can be produced by whatever either the speaker or the listener does, but they are about the speaker's experience. The speaker uses an expressive speech act to make words meet the world (of feeling).
4. **Directives:** the types of speech acts used by speakers to order others to do something. They express the speaker's wants and needs. They are orders, requests, and suggestions as in (*Could you pass me a pencil, please? and give a cup of coffee*) They may be both positive and negative. When directive speech acts is said, the speaker tries to make the world suit the words (via the hearer).
5. **Commissives:** the types of speech acts used by speakers to commit themselves to a future action. They convey what the speaker intends. They include promises, threats, refusals, and commitments as in (*we'll be back and I'll pay for you*). They can be delivered by the speaker alone or by the speaker as part of a group. When

utilizing a commissive, the speaker manages to make the world fit to the words (through the speaker).

These five general functions of speech acts, with their key features are summarized in following table:

Type of Speech Act	Direction of Fit	S=Speaker X=Situation
<i>Commissives</i>	<i>Make the world fit words</i>	<i>S wants X</i>
<i>Declaratives</i>	<i>Words change the world</i>	<i>S causes X</i>
<i>Directives</i>	<i>Make the world fit words</i>	<i>S wants X</i>
<i>Assertives</i>	<i>Make words fit the world</i>	<i>S believes X</i>
<i>Expressives</i>	<i>Make words fit the world</i>	<i>S feels X</i>

Figure (2.1) the Five General Functions of Speech Acts (Searle 1979)

3. Research Methodology

In the current paper, the researcher utilizes both the qualitative and qualitative approaches. The current research analyses pragmatically the Declarations and Commissives Speech Acts that occur in the Iraqi constitution (2005) . First, the data will be analysed quantitatively by counting each example related to the pragmatic aspects we want to investigate, after that each aspect will be described qualitatively. Before the analysis the researcher downloaded the official Arabic version of the Iraqi constitution (2005), and saved electronically.

For data collection in this study, the researcher gets the Arabic version of the Iraqi Constitution (2005) , and reads it many times to identify the Directives and Commissives Speech Acts employed in the Iraqi Constitution(2005) , and how the constitution drafters used them to make the legal document brief, clear, and coherent.

After collecting data, the researcher follows certain steps to analyse the obtained data as classifying the directive and commissive speech acts and their function that exist in the Iraqi Constitution (2005) according to Searle’s classification (1979).

4. Data Analysis

Before going to the specifics of analysis of speech acts. The below table is provided to show the distribution of directive and commissive speech acts that are found in the Iraqi Constitution (2005):

<i>Types</i>	<i>Frequency</i>	<i>Percentage</i>
<i>Directives</i>	63	44.06%
<i>Commissives</i>	80	55.94 %
<i>Total</i>	143	100 %

Table (4.1) Directives and Commissives Speech Acts *and their frequency*

4.1 Directives Speech Acts

Arabic legal language uses many lexical verbs to express needs. The frequency of the lexical verbs that are used as directives in the constitution are presented in table (4.2) below:

Form	Frequency	Percentage
لا يجوز	27	42.85 %
يُحظر	10	15.87 %
يشترط	9	14.28 %
يجوز	8	12.69 %
يحق	4	6.34 %
يحترم	3	4.76 %
لا يُمنح	1	1.58 %
يُمنع	1	1.58 %
Total	63	100 %

Table (4.2) Directives Speech Acts *and their frequency*

As shown in table (4.2), the verb (لا يجوز), (**may not**) is the most frequent lexical verb. Its number of occurrences is (27), which constitute (42.85 %) of the total number of directives speech acts, for example :

الوطن " إلى العودة من حرمانه أو ابعاده، أو العراقي، نفي " **لايجوز** (7)

" **No** Iraqi **may** be exiled, displaced, or deprived from returning to the homeland".

(Article 44, second)

In example (7) , the lexical verb (يجوز), (**may**) is employed by the constitution makers with the particle (لا) to refer to the prohibition of Iraqis from being exiled, displaced, or deprived from returning to the homeland.

The verb (يحظر) is the next frequent lexical verb this verb also indicates prohibition, its frequency is (10), representing (15. 87%) of the total number, as in the following example:

المسلحة. القوات اطار خارج عسكرية ميليشيات تكوين " **يحظر** (8)

"The formation of military militias outside the framework of the armed forces is **prohibited**".

(Article 9, first, b)

In the example above, it is noticed that the verb (يحظر) is used to tell that making military militias outside the framework of the armed forces is prohibited.

The verb (يشترط) ,is used in Arabic legal language to indicates obligation , the equivalent to "**must**" and "**shall**" in English . It scores (9) occurrences , representing (14.28%) of the total number of the lexical verbs , for example :

الاهلية كامل عراقياً يكون ان النواب مجلس لعضوية المرشح في " **يشترط** (9)

"A candidate to the Council of Representatives **must** be a fully qualified Iraqi"

(Article 49, second)

In example (3) the verb (يشترط) is used by the constiitution writers to perform the obligation that the candidate to the Council of Representatives must be a fully qualified Iraqi to be accepted.

The lexical verbs (يجوز) and (يحق) are employed in Arabic legal language to indicate permission. The verb (يجوز) is used (8) times, representing (12.69%), whereas the verb (يحق) is used (4) times only , representing (6.34%) of the total number of the lexical verbs . For example:

بقانون " والضرورة الحاجة حسب أخرى مستقلة هيئات استحداث) " **يجوز** 10

"Other independent commissions may be established by law, according to need and necessity".

(Article 108)

Here, in example (10) the verb (يجوز) grants the permission to establish independent commissions according to need and necessity .

The verb (يحق) in example (11) below indicates giving permission to the owners to do what they like in their property but within the limits of law .

" القانون حدود في بها والتصرف واستغلالها بها الانتفاع للمالك ويحق مصونة الخاصة) " الملكية 11)
" Private property is protected. The owner **shall have the right to** benefit, exploit and dispose of private property within the limits of the law".

(Article 23, first)

The verbs (يُحرم) and (يُمنع) scored the least occurrence among other verbs where the verb (يُحرم) scores (3) times ,representing (4.76%) , (يُمنع) scores only once,representing (1.58%) of the total number of lexical verbs used in directives speech acts . See examples (12) and (13):

والاطفال، بالنساء الاتجار ويحرم، "الرقيق" العبيد وتجارة والعبودية، "السخرة" القسري العمل) "يُحرم 12)
". بالجنس والاتجار

"Forced labor, slavery, slave trade, trafficking in women or children, and sex trade **shall be prohibited**".

(Article 37, third)

In example (13), the verb (يُحرم) is used by the constitution writers to indicate that forced labor, slavery, slave trade, trafficking in women or children, and sex trade are prohibited.

وإنتاج واستخدام وتطوير انتشار بمنع الخاصة الدولية العراق التزامات وتنفيذ العراقية الحكومة) "تحتزم 14)
معدات من واستخدامها وتصنيعها وإنتاجها بتطويرها يتصل ما ويمنع والبيولوجية والكيميائية النووية الاسلحة للاتصال". وأنظمة وتكنولوجيا ومواد

"The Iraqi Government shall respect and implement Iraq's international obligations regarding the non-proliferation, non-development, non-production, and non-use of nuclear, chemical, and biological weapons, and shall prohibit associated equipment, materiel, technologies, and delivery systems for use in the development, manufacture, production".

(Article 9, first,e)

In example (14) the constitution makers used the verb (يُمنع) to perform that developing, manufacturing, producing nuclear ,chemical, and biological weapons is prohibited.

4.2 Commissive Speech Acts

They are kinds of speech acts that are used by speakers to commit themselves to a future action. They convey what the speaker intends, they include promises, threats, refusals, and commitments, as in table (4.3) below:

Form	Frequency	Percentage
يُنظم	38	47.5 %
تكفل	19	23.75 %
يضمن	7	8.75 %
يلزم	6	7.5 %
يؤسس	5	6.25 %
تحرص	3	3.75 %

تحافظ	2	2.5 %
Total	80	100 %

Table (4.3) Commissives Speech Acts and their frequency

As shown in table (4.3), the present verb (يُنظِم), (**shall regulate**) is the most frequent among other verbs, which scores (38) occurrences, representing (47.5%) almost half of the total verbs, for example :

"العراقي الشعب مكونات إلى يرمز بما الوطني ونشيدته وشعاره العراق علم بقانون (يُنظِم)15"

"The flag, national anthem, and emblem of Iraq **shall be regulated** by law in a way that symbolizes the components of the Iraqi people".

(Article 12,first)

In example (15) the constitution writers used the verb (يُنظِم), (**shall be regulated**) to give promises that the flag, national anthem, and emblem of Iraq shall symbolize all components of the Iraqi people.

"بقانون ذلك ويُنظِم عادل، تعويض مقابل العامة المنفعة لأغراض إلا الملكية نزع (لايجوز)16"

"Expropriation is not permissible except for the purposes of public benefit in return for just compensation, and this **shall be regulated** by law".

(Article 23, second)

Here, in example (16) the verb (يُنظِم), (**shall be regulated**) is also used to give promises and to oblige that expropriation is not permissible except for the purposes of public benefit in return for just compensation.

The verb (تكفل), (**guarantee**) is employed by the constitution writers to indicate guarantees of rights of people as in the following example :

والمحافظات، الاقاليم بين العراقية الاموال ورؤوس والبضائع العاملة للأيدي الانتقال حرية الدولة (تكفل)17"

"The State shall **guarantee** freedom of movement of Iraqi manpower, goods, and capital between regions and governorates, and this **shall be regulated** by law".

(Article 24)

In the above example, the two verbs (تكفل),(**guarantee**) and (يُنظِم),(**shall be regulated**) are used in one article ,where (تكفل) is used to pledge the government to guarantee the movement of Iraqi manpower and goods among different Iraqis cities and regions , while (يُنظِم) , state that this guarantees must be a law to be followed .

The present verb (يضمن), (**guarantee**), scores (7) occurrences , representing (8.75%) of the total number of commissives, and it is used to indicate guarantees and pledges. See the following example:

الحقوق كامل ويضمن كما العراقي، الشعب لغالبية الاسلامية الهوية على الحفاظ الدستور هذا (يضمن)18"

"المنذائين والصابئة والأيزديين كالمسيحيين الدينية والممارسة العقيدة حرية في الافراد الدينية لجميع

"This Constitution **guarantees** the Islamic identity of the majority of the Iraqi people and **guarantees** the full religious rights to freedom of religious belief and practice of all individuals such as Christians, Yazidis, and Mandaean Sabbeans".

(Article 2, Second)

In example (18), the verb (يضمن) is employed twice and indicates guarantee in both, where in the first one emphasizes the identity of Islamic religion and to protect it as the majority of the Iraqi people. The second is also used to guarantee the full religious rights of other people like, Christians, Yazidis, and Mandaic Sabbeans.

Other verbs like (يلتزم), (commit) and (يؤسس), (shall establish) are also used by the constitution writers to express commitments, pledges and guarantees. Where the first scores (6) times, with (7.5%), the second scores (5) times, representing (6.25%) of the total number. See the following examples:

وصيانة بتأكيد الدولة وتلتزم وحضارية، دينية كيانات العراق في الدينية والمقامات المقدسة "العتبات(19) فيه" بحرية الشعائر ممارسة وضمن حرمتها،

"The holy shrines and religious sites in Iraq are religious and civilizational entities. The State is **committed** to assuring and maintaining their sanctity, and to guaranteeing the free practice of rituals in them".

(Article 10)

In the above example in the previous page the verb (تلتزم),(commit) is employed to indicate commitment that the state must protect the holy shrines and religious sites and assure their sanctity, because they are religious and civilizational entities.

بما فيها الاتحادية العامة الوظيفة شؤون تنظيم يتولى الاتحادي العامة الخدمة مجلس يسمى مجلس يؤسس(20) والترقية، التعيين

"A council named the Federal Public Service Council **shall be established** and shall regulate the affairs of the federal public service, including appointments and promotions, and its formation and competencies shall be regulated by law".

(Article 107)

In example (20) the verb (يؤسس), (shall establish) is used by the constitution writers to impose the governments to establish a council called the federal public service council and that council shall manage and regulate the affairs of the federal public service, including appointments and promotions, and its formation and competencies.

The verb (تُحافظ), (preserve) is the least frequent among other verbs, where it scores (2) occurrences, representing (2.5%) of the total number. As in the following example:

"الديمقراطي ونظامه وسيادته واستقلاله وسلامته العراق وحدة على الاتحادية السلطات) "تُحافظ(21)

"The federal authorities shall **preserve** the unity, integrity, independence, and sovereignty of Iraq and its federal democratic system".

In the example above, the verb (تُحافظ), (preserve) is used by the constitution writers to commit the Iraqi authorities to preserve the unity, integrity, independence, and sovereignty of Iraq and its federal democratic system.

5. Findings

Commissive speech acts score (55.94 %) of the total number used in the Iraqi constitution (2005). This is expected Because in using Commissives the speaker (the constitution) commit itself and gives guarantees and promises. Directives speech acts, scores (44.05 %) of the total number used in the constitution.

6. Conclusion

Commissive speech acts are more frequent than directive speech acts, because in using commissives the speaker (the constitution) commits itself and gives guarantees and promises, whereas in using directives the constitution itself gives orders and pledges to be as laws.

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