

Stylistic Analysis of the ‘Muslim Family Laws Ordinance 1961’

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Abstract

Stylistics is the scientific study and interpretation of the texts in relation to their linguistic and tonal styles. It analyzes the texts through different stylistic features/levels i.e. graph logical, semantic and syntactic. These features/levels distinguish a standard writing from the substandard one. In this paper The Muslim Family Laws Ordinance 1961 of the Islamic Republic of Pakistan has stylistically been analyzed on different linguistic, textual and contextual levels. The thorough and careful analysis of the said ordinance shows that it has been formed and composed of according to the nature of the legal and constitutional writings. In it, numerical recurrence has been used for the numbering of various sections and subsections. The analysis also shows that different stylistic techniques such as font style, paragraph formation, logical connection between different words and sentences, section wise

division etc. have also been employed in the composition and the formation process of the said ordinance. This is going to be the first attempt in its nature as no work has been done before. It can be very helpful for the practitioners of law in their legal practice and the Muslim community to understand its matrimonial rights. It can also prove helpful for the researchers of linguistics in general and of stylistics in particular in proper understanding of the legal compositions.

Keywords: Muslim Family Ordinance 1961, Stylistic Explanation of the Sections, Function of the Judicial Language, Analysis of the Muslim Family Ordinance 1961

1. Introduction

Pakistan is an Islamic Republic. Its laws and institutions are formed in accordance with the spirit of Islam. In Islam, family is considered to be the main institution. A family in an Islamic system is formed through marriage the system. The marriage is held through '**Nikkah**' between male and female partners. To run the system of marriages, the government of the Islamic Republic of Pakistan has promulgated the Muslim Family Laws Ordinance in 1961.

The said ordinance consists of a concise but comprehensive written text. It is comprised of thirteen sections and thirteen paragraphs. Sections 12 and 13 have been excluded from the ordinance in 1981. It has various aspects that invite the interest of the researchers for stylistic analysis such as the language of the ordinance, meaning of different loan words, specific terms, font style, paragraph formation, logical connection between different words and phrases, section wise division of the text etc. So, keeping these aspects in view, the text of the Muslim Family Laws Ordinance 1961 has been selected as a sample for the research and analyzed through various stylistic devices.

Through the analysis of the said ordinance '**Arbitrary Council**', '**Chairman**', '**Succession**', '**Nikkah Nama**' (Performa for the registration of a marriage), '**Talaq**' (divorce), '**Dissolution of Marriage**', '**Polygamy**', '**Maintenance**' etc have been found as special terms.

The layout and paragraph development in Muslim Family Laws Ordinance 1961 relates the Muslim laws for the wedded Muslim partners concerning their rights and duties. This ordinance intends to render a comprehensive knowledge about the '**Nikkah**', '**Dower**', '**Dowry**' and '**Guardianship**'. This ordinance consists of thirteen sections and has many technical judicial terms. The ordinance is mandatory in its nature. Its violation is liable to penalty and punishment. Its procedure in the court covers '**civil legal formalities**' instead of the '**criminal procedures**'

2. Definition of Key Terms

Cohesion:

It refers to the grammatical aspects of writing.

Context:

It refers to the features that precede and follow different words, passages or events and fix their meanings.

Etymology:

It refers to the origin and development of words.

Fiqh:

It refers to the Islamic Jurisprudence which regards ‘Sharia’ as a divine law.

Graphology:

It refers to the scientific study of handwriting.

Holy Qur’an:

It refers to the sacred book of Islam which has been revealed by ALLAH Almighty on the Holy Prophet Muhammad (P.B.U.H).

Lexis:

It refers to the vocabulary of a language.

Linguistics:

It refers to the scientific study of a language.

Nikkah:

It refers to an Arabic term which means ‘**Contract**’. In Islam, it is used for a marriage bond between a bride and groom.

NikkahNama:

It refers to a specific form which is used for the registration of marriages.

Nikkah Registrar:

It refers to a person who registers the marriages.

Ordinance:

It refers to the orders, rules or statutes issued by an authority.

Pragmatics:

It refers to that branch of knowledge which deals with things in sensible and practical ways.

Rhetoric:

It refers to the art of writing or speaking effectively.

Semantics:

It refers to the scientific study of the meaning of words.

Shafi:

It refers to the school of thought based on the teachings of a noted scholar of Islam, Al-Shafi.

Sharia:

It refers to Islamic Jurisprudence which is based on the teachings of the Holy Qur'an and the Holy Prophet Muhammad (P.B.U.H).

Syntax:

It refers to the arrangement of different words into meaningful sentences.

Talaq:

It refers to an Arabic word that means **'to repudiate'**. Under Islamic Law, it refers to a form of **'divorce'** through which a husband repudiates his marriage saying 'talaq' three times to his wife.

3. Review of Related Literature

No considerable work has been found on this specific topic except the work of Munir, (2011) who analyzed the Muslim Family Laws Ordinance 1961 with special focus on **'Talaq'** and regarded the said ordinance as very **"confusing"** and **"controversial"**. He also added that the Muslim Family Laws Ordinance 1961 was against the injunctions of Islam and it was misinterpreted by judiciary.

Similarly, Abrar and Langryal (2014), who made a critical comparison between The Muslim Family Laws and The Pakistani Muslim Family Laws Ordinance 1961 and found that Pakistani Muslim Family Law Ordinance 1961 did not provide a complete set of codes to follow marriages, divorce and dowry matters. They said that the problems concerning the said matters were usually solved by taking help from Fiqah and Shafi and suggested that this ordinance should be refined.

4. Data Analysis

4.1 Linguistic Description

Linguistic description refers to the classification and explanation of various linguistic features of a given text. The linguistic features are exposed by different style markers which are linguistic items that only appear least or most frequently in a text, representing a particular variety or literary genre (Dong 2006). The linguistic description of the Muslim Family Laws Ordinance 1961 has been given hereunder;

4.1.1 Graph logical Factors

The term graphology will be used here in its broadest sense to refer to the visual medium of a language. It describes the general resources of a language's written system, including punctuation, spelling, typography, alphabet and paragraph structure, but it can also be extended to incorporate any significant pictorial and iconic devices which supplement this system.

Graph logical aspects have made the text of the ordinance readable, productive and helpful in common social affairs. Its consecutive sections, headings and subheadings such as Baluchistan Amendments show its application all over the Muslim community excluding Ahmedi religious sect in Pakistan. Its division in different paragraphs makes it clear and comprehensive.

The ordinance is very well organized. Graph logically organized units play a very significant role in making the ordinance outstandingly unified. Capital and bold letters have been used in the headings to facilitate the practitioners in understanding the different topics prescribed in the ordinance.

The Numeric signs (1) (2) (3) etc. have been used for different subsections for the easy access of the legal practitioners and reference use in the courts of law.

4.1.2 Lexical Factors

(a) Most of the words, technical terms and definitions in the text of the ordinance seem to originate from the **Holy Qur'an** and **Sunnah** which have larger scope and wide range of social benefits for humanity.

(b) High percentage of hard words, affirmatives, commanding words. The use of '**shall**' reflects its obligatory nature the use of the word 'if' shows that pre conditions occur substantially in the ordinance for example,

If the wife be pregnant at the time "Talaq" shall not be effective until the period mentioned in sub section (3) or the pregnancy which ever be later ends. This sentence shows clearly the condition of pregnancy of expiry of the period of three month whichever ends later.

Most of the words in the ordinance are hard words (having at least three syllables;

Table of hard words

Permission	Recoverable	Application	conviction
Arbitration	Imprisonment		
Decision	Terminated	Immediately	
Maintenance			

The above stated table of hard words enhances the importance of ordinance and narrates that the language of law is quite unique, formal and technical. Another point to be mentioned with lexical point of view is that most of the words used in the ordinance are affirmative, commanding and defining which means that they are not informal rather they are absolute in nature. Their execution is mandatory and indispensable. Some of the words used in the ordinance are thoroughly different and unique in nature and cannot be found in English dictionary.

These words take their origin from the Holy Qur'an and Sunnah, such as 'Talaq' and 'Nikkah'. The use of words like 'Application', 'Permission', 'Registration', 'Council', 'Collector', 'Court' etc shows that some intense kind of formalities are required in the procedure of ordinance.

4.1.3 Use of Loan Words

Many loaned words have been used in the Muslim Family Laws Ordinance 1961. Such as **Mutatis Mutandis**. It is a Latin word which means that ‘all necessary changes have been made’. Similarly, the word **Propositus** is also a Latin word which means ‘a person from whom descent is to be treated’. Likewise the very word **Talaq** has been borrowed from Arabic language which means ‘divorce’. In the same way, **NikkahNama** has been borrowed from Urdu language referring to the ‘form used for marriage registration’.

4.1.4 Use of Adjectives

Many adjectives have been used in the said ordinance. Such as;

Simple imprisonment	Federal Government
Nikah Registrar	Provincial Government
Sub-section	Balochistan Amendment
Period Mentioned	Punjab Amendment
Arbitration Council	Union Council
Muslim Marriages	

Proper use of these adjectives makes the ordinance attractive, fascinating, readable and meaningful.

4.1.5 Paragraphing

A paragraph usually contains a certain type of information having several lines and sentences in a specific sequence. The first sentence of a paragraph starts with a new line and a capital letter. Seven or eleven spaces are left in the beginning of the line of each paragraph and every new sentence is written down after leaving two strokes. Each new line is enumerated through round bracketed numeric signs or alphabets such as (1) (2) or (a) (b).

The ordinance has been divided into various paragraphs to make every aspect of the family laws clear and explicit. Section (1) consists of three subsections and each subsection is a paragraph in itself. Every paragraph of the ordinance starts with a capital letter fulfilling the requirements of a good paragraph. Section (2) has been presented with two subsections (a) and (b).

Both of the sections have the qualities of comprehensive paragraph writing. In the same way, the portion of Baluchistan amendments forms the longest part of the ordinance. It consists of six consecutive paragraphs. Similarly, the rest of the ordinance has also been classified into a number of short and long paragraphs.

4.1.6 Semantic Factors

Another useful device which is used for stylistic analysis is ‘**rhetoric**’ which deviates the

writing from standard norms. It denotes the relationship between signifiers, like words, phrases, signs and symbols. Semantics is the study of denotative meaning and has a deep link with other fields of lexicology, syntax, pragmatics, etymology etc. The problem of understanding the meaning has been a core issue of many formal enquiries over a long period of time, particularly with respect to formal semantics. The branch of semantics confers the idea that what the text under discussion means.

A semantic analysis is concerned with meaning and the semanticist gives a sentence, a true value that specifies either the particular sentence is true or false. In the ordinance, the words like 'maintenance', 'Talaq', 'Registration of Marriage' etc. inform the readers about the fact that a Muslim community in Pakistan is responsible to comply with restrictions and rules prescribed in this ordinance

Most of the words in the ordinance have plain meanings that are easily understandable to the human mind. The Latin phrase **mutatis mutandis** confers the meaning of 'necessary changes have been made' and the Latin word **propositus** means 'a person from whom descent is to be treated'.

4.1.7 Length and Numbering

This ordinance consists of eight pages and thirteen sections and at the bottom of every page fifteen numeric signs from 1 to 15 have been used for reference and further details. Most of the references have been given at the bottom of page 4.

4.1.8 Punctuation

Punctuations are used in writing to divide and categorize the phrases, clauses and sentences. Among the commonly used punctuations include full stops, commas, colons, semicolons, quotation marks and brackets etc.

In the said ordinance punctuation marks have frequently but properly been used. Frequent use of brackets makes the sections more explicit, understandable and visible. Use of quotation marks around the words such as "Arbitration council", "Chairman", "Prescribed", "Talaq", "Ward", "Union Council" etc, shows that these words need a special concentration for their understanding.

Frequent use of commas in every section suggests that the language of the ordinance is highly formal, persistent and requires a careful attention from its practitioners. The change of a full stop into a comma modifies its meaning as in section 9 of the Punjab amendment. Here, in the ordinance, the replacement of a full stop by a comma shows that a possible amendment has been made in the section.

4.1.9 Syntactic Factors

1) In linguistics, the study of the rules that govern the ways in which words combine to form phrases, clauses and sentences is called syntax. Syntax is one of the major components of grammar. Syntax is used in the construction of sentences as stylistics is used in the analysis of literary styles.

According to Leech and Short (1981), the average length of a sentence is 17.6. But here in the ordinance, the average length of a sentence is 35 which show that the language of ordinance is highly formal. It consists of 13 sentences as a whole. Sections 12 and 13 have been omitted by the ordinance of 1981. Every section or subsection, however long, consists of one sentence only, although it may have some compound and complex sentences. Commas and colons have also been used for further details. The use of complex and compound sentences can better show the logical relationship in this ordinance which provides a wide range of information necessary for the understanding of law. Every sentence is commanding in its nature, having the element of “**shall**” which means every Muslim of Pakistan will abide by the ordinance otherwise will be punished and fined. Section 1(1) consists comparatively of short sentences and only enlightens the name of the ordinance i.e. the Muslim Family Laws Ordinance 1961. Section 1 (2) is also comprised of a simple sentence and shows its application and extent in Pakistan. Sections 2(a) and 2(b) capturing the word '*mean*' narrate the meaning of different technical terms used in the ordinance. The sentences used in section 1 and section (2) are comparatively less complex and more informative about its functionary body such as its '**Chairman and arbitrary council**'. Sentences used in section (3) are comparatively lengthy, compound and complex which make the ordinance more distinguished from others writings and narrate that the provision of this ordinance over rides all other laws repugnant to it.

Section 4 consists of a long sentence having more than 50 words and adds a new mode of succession which is quite different from the earlier one which states that the children of a dead person, at the time of the opening of a succession, are not entitled to the dead father's or mother's property, but according to the ordinance of 1961, such children as a son or a daughter, if any, living at the time of the opening of the succession shall per stripes receive a share equivalent to the share which such son or daughter as the case may be, would have received, if alive.

Section 5 consists of one simple sentence and informs about the registration of marriages. Before the promulgation of this ordinance, the registration of marriages was not necessary. But through the enforcement of the said ordinance, the registration of marriages was made compulsory and the union council was given the authority to grant a license to one or more persons to be called '**Nikah Registrar**'. In the same way, the rest of the sections are lengthy and helpful in increasing the degree of a formal language.

4.1.10 Grammatical Factors

The ordinance has been written in present tense. The use of present tense tends to indicate the effective quality of judicial language in the ordinance and makes it comprehensive and easy to understand without transferring into any other form of the tense.

4.2 Textual Analysis of the Muslim Family Laws Ordinance 1961

A text refers to any stretch of a language. It can be in spoken, printed or written forms. Textual analysis analyzes different textual factors which present the meaning of the whole text. The text of the Muslim Family Laws Ordinance 1961 is a unified whole. Its paragraphs

have beautifully been developed using different cohesive devices.

4.2.1 Layout and Paragraph Development

Muslim Family Laws Ordinance 1961 gives a detailed explanation and information about matrimonial laws. It provides a comprehensive guidance to the Muslim families engaged in marriage contracts. First paragraph describes the name and application of the ordinance while section (2) throws light on the definition of different terms.

4.2.2 Cohesive Devices

Lexical cohesive items like “**where**”, “**if**”, “**and**”, “**or**” etc. have been used in the said ordinance to create a cohesive link in the text. Section 9(1) can be quoted here as an example.

If any husband fails to maintain his wife, or where there are more wives than one, and fails to maintain them equitably, the wife or all or any of the wives may in addition to seeking any other legal remedy available apply to the chairman who shall constitute an arbitration council to determine the matter, and the arbitrary council may issue a certificate specifying the amount which shall be paid as maintenance by the husband.

4.3 Contextual Factors

Context includes background environment, framework, setting, or a situation surrounding an event or occurrence. It also involves words and sentences that occur before or after a word or a sentence and imbue it with a particular meaning. It surrounds circumstances under which a document is created including its function, purpose, use, time, the creator, and the recipient. Context is indispensable in every judicial language. Context seems to come from the co-text which involves the before and after setting of a text. Context includes social, cultural, traditional and religious factors. In the text of the said ordinance, context seems to be exposed by different situations and enhances the value of judicial commandments.

4.3.1 Setting and Situation

The Muslim Family law ordinance was recommended by a commission on family and marriage laws. Its proclamation was made by the then president of the Islamic Republic of Pakistan on the 7th day of October 1958. The problem of quarrels after marriage and matters of succession were getting adverse day by day. So keeping in view the above stated issues, this ordinance was issued and published. The registration of a marriage on Nikkah Nama was first time declared mandatory in Pakistan through this ordinance. In the same way, an equal share for children from dead father’s property was first time determined.

5. Conclusion

It is important to point out that Muslim Family Laws Ordinance 1961 consists of a significant and comprehensive text. It has various stylistic features which have not been highlighted ever before this venture. That is why a stylistic analysis has been made of the Muslim Family Laws Ordinance 1961 to make it more prominent and readable among the members of the literary community and honorable practitioners. This ordinance has been judged and interpreted stylistically keeping in view its importance for the members of the Muslim

community using different levels of applied linguistics. The analysis of stylistics in this ordinance provides a methodology of analysis which involves different aspects of graphology, syntax, lexicology and grammar. The work is purely stylistic and the above mentioned levels provide a comprehensive guidance for the coming analysts and researcher

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