

ENCODING ACCURACY IN THAI COURT JUDGMENTS¹

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ความแม่นยำเป็นประเด็นที่นำไปสู่ความน่าเชื่อถือของภาษาในวงการกฎหมาย การศึกษานี้มีวัตถุประสงค์เพื่อมุ่งค้นหาเครื่องมือทางภาษาที่แสดงความแม่นยำในภาษากฎหมาย โดยใช้ข้อมูลคำพิพากษาจาก 3 ศาลของไทย ได้แก่ ศาลฎีกา ศาลปกครองสูงสุด และศาลรัฐธรรมนูญ ข้อค้นพบจากภาษากฎหมายยังถูกนำไปเปรียบเทียบกับอีก 3 ทำเนียบภาษา ได้แก่ ภาษาวิชาการ ภาษาสื่อ และภาษาการเมือง ผลการศึกษาพบว่าภาษากฎหมายใช้เครื่องมือทางภาษาหลัก 2 ประเภทในการแสดงความแม่นยำ กล่าวคือ การแสดงแหล่งที่มาของหลักฐาน และการอ้างอิงทางกฎหมาย ซึ่งลักษณะ

ดังกล่าวมีความโดดเด่นมากในภาษากฎหมายเมื่อเปรียบเทียบกับทำเนียบภาษาอื่น

ABSTRACT

Accuracy is an issue that points to the reliability of language used in legal circles. The objective of the present study is to investigate linguistic devices denoting accuracy in Thai legal discourse. Data was gathered from judgments in three Thai courts: the Supreme Court, the Supreme Administrative Court and the Constitutional Court. Findings from Thai legal language were also compared to those from three registers: academic, media and political. The results show that Thai legal language employs two major linguistic devices in order to express accuracy: mention of the sources of evidence and legal citations. The use of the two devices is significantly present in legal language when compared with other registers.

Introduction

The language of legal circles is said to be one of the most significant registers in many societies. At least two register-specific characteristics of legal language have been reported by both legal and linguistic scholars: preservation and precision. In the case of preservation, American law contains specific terminology borrowed from various traditional languages such as Latin (*addendum*, *exhibit*), Old French (*battery*, *equity*), Old English and Middle English (*manslaughter*, *writ*, *hereafter*, *thereabout*, *forthwith*, *thenceforth*) (Tiersma 1999, Bivins 2008, Feng 2012 and Ufot 2013). In Thai, the Thai legal system has been influenced by Western countries. Accordingly, Thai legal language contains

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both legal terminology and written styles adopted and modified from English legal language (Kraivichien 1968). Consequently, Thai legal language includes difficult vocabulary and complex sentence structures which create trouble even for lawyers and legal students in terms of comprehension.

When it comes to precision, Sobel (1991:21) suggested that the use of language lacking in preciseness or clarity is a bad writing characteristic in legal discourse. Avoiding the use of pronouns is suggested as another strategy to reduce the ambiguity of a text. The use of complex sentences—sentences containing many outnumber simple sentences in the Thai Civil Code. Similarly, Rungrojsuwan (2014) reported that a significant number of relative clauses and adverbial clauses are used in Thai legal language, when compared to other registers. Moreover, Rungrojsuwan (2012) proposed four linguistic devices for precision in Thai legal texts: total repetition, the use of reference markers, partial repetition and the use of alternative words to refer to the stated information.

Apart from two main characteristics, it can be said that legal language is generally used to control the behaviour of members of a particular society and can be found in the form of legislation, court judgments, language used in court and other types of legal document. Accordingly, the contents of legal texts have to be reliable in terms of accuracy. How can language in the legal context prove itself to be accurate is the question posed in this study. In an environment where fact and information from two opponents are pulled together for judges to make their final judgment, what kind of linguistic devices signify the accuracy of the information? The term

‘accuracy’ in this study refers, then, to a marking system to ensure the correctness of a piece of information or evidence used in the process of court judgment. In other words, it is believed that in a legal discourse, linguistic devices will be used in such a way as to make readers believe that the information stated in the discourse is true. Accuracy is the characteristic that shows that a language user possesses the correct information and that such information can later be retrievable. Piyapasuntra (2014) has worked on the reliability of academic language and has found that academic authors traditionally use ‘in-text-citation’—a reference to a particular source of information—to help support the case that the previously mentioned statements are true or reliable. In academic circles, the name(s) of author/s, year of publication and page/s where the information is used are held to be the marking system for accuracy. In legal circles, however, such a marking system has not yet been reported. Hence the question arises in this study, what kinds of linguistic device are used in order to express accuracy in Thai legal discourse. Therefore, the objective of this study is to examine linguistic styles denoting accuracy in Thai legal language.

Data for analysis in this study was randomly elicited from online documented judgments from three Thai courts: the Supreme Court, the Supreme Administrative Court and the Constitutional Court. The total length of the data was 98,650 words. The analysis is divided into two parts: qualitative and quantitative. For the qualitative analysis, linguistic devices illustrating accuracy are classified and supporting examples are presented. For more concrete evidence, a quantitative study is also employed. In doing this, findings from Thai legal language will be

compared with data from three other three—academic language (academic papers), media language (news) and political language (speeches of Thai Prime Ministers) quantitatively appraising occurrences of the particular linguistic devices. In terms of measurement, the occurrences of linguistic devices is calculated based on 1,000 words of text length.

Linguistic devices denoting accuracy in Thai legal language: a qualitative classification

From the investigation of data from Thai court judgments, it was found that accuracy is marked by the assertion of two exact types of information: sources of evidence and legal citation.

Sources of evidence used in Thai court judgments

In legal language, it is important that language users describe information in great detail because it will be used as evidence for the judgment. So, specific numbers are the most obvious device that indicates the accuracy of information. As sources of evidence, specific numbers in legal discourse are found to be of three types: quantity, date and exact piece of evidence.

Specific numbers denoting quantity for accuracy

In the data of Thai legal language, specific numbers are found to be used variously such as in, amounts of money and numbers of people as shown in example (1) - (3).

(1) ‘...รายที่เสนอราคาสูงสุดแสดงผลงานที่มีส่วน
ราชการเป็นคู่สัญญาจ้างทำความสะอาดวงเงิน
554,700 บาท...’

(...the party offering the highest price
had a cleaning project from a
government institution in the amount
of 554,700 Baht...)

(2) ‘...ผู้มีสิทธิเสนอราคาจ้างต้องมีผลงานในวงเงิน
ไม่น้อยกว่า 227,398 บาท...’

(...a party who can participate in the
bidding for hiring must have worked
previously in a project worth, at least,
227,398 Baht ...)

(3) ‘...นายอานันท์ ปันยารชุน เป็นประธาน
กรรมการ และมีกรรมการอื่นอีก 17 คน
ประกอบด้วย...’

(...Mr. Anand Panyarachun was the
committee chair and the other
17 members were...)

From the above examples, it can be seen that numbers used in the text are not approximations such as 500,000, 220,000 or 10, but rather exact numbers such as, 554,700, 227,398 and 17, respectively.

Specific Numbers Denoting Date for Accuracy

In legal discourse, specific numbers are usually used to illustrate the occurrence of events. These include dates and years as shown.

(4) ‘...ผู้ฟ้องคดีทั้งสามฟ้องว่า เมื่อเดือนธันวาคม
2536 ผู้ถูกฟ้องคดีที่ 1 ได้ออกกฎกระทรวง...’

(...all the three complainants
indicated that in December 1993, the
first defendant had issued a
ministerial regulation...)

- (5) ‘...เมื่อครบกำหนดห้าปี คือประมาณ ปี พ.ศ. 2541 ผู้ถูกฟ้องคดีที่ 1 ได้ออก กฎกระทรวง...’
 (...After the due date of five years, which was around the year 1998, the first defendant had issued a ministerial regulation...)
- (6) ‘...พรรคการเมืองผู้ถูกร้องเป็นพรรคการเมืองที่อยู่ในหลักเกณฑ์ที่ต้องจัดทำรายงานการดำเนินงานกิจการของพรรคในรอบปี พ.ศ. 2550 แจ้งต่อ ผู้ร้อง ภายในวันที่ 31 มีนาคม 2551...’
 (...the complaining political party is a political party under compulsion to declare its annual operation for the year 2007 by March 31, 2008...)
- (7) ‘...เริ่มชำระงวดแรกในวันที่ 29 มกราคม 2538 งวดต่อไปทุกวันที่ 29 ของเดือน กำหนดชำระ ให้เสร็จสิ้นภายใน 15 ปี...’
 (...the first instalment should be paid on January 29, 1995. The next instalments will be on each 29th day of every month. All payments shall be finalized within 15 years...)

Special numbers denoting specific pieces of evidence for accuracy

It was found that documentary evidence is regularly used in court. In order to refer to this kind of evidence, issued numbers of documents and dates are usually provided as in the following examples.

- (8) ‘...ประเด็นที่สอง ผู้ถูกฟ้องคดีจัดทำถนนเข้า ออกที่ดินให้แก่ผู้ฟ้องคดีไม่ตรงตามรูปแบบใน หนังสือ ที่ มท 5506/2566³ ลงวันที่ 20 ธันวาคม 2531...’
 (...As for the second point, the defendant did not construct the road to the complainant’s land correctly in accordance with the plan mentioned in the document from the Ministry of the Interior no. 5506/2566 dated December 20, 1988...)
- (9) ‘...เทศบาลนครนนทบุรีมีหนังสือ ค่วนที่สุด⁴ ที่ 52008/1269 ลงวันที่ 14 มีนาคม 2550 ถึงผู้ อุทธรณ์แจ้งว่าได้พิจารณาคำคัดค้านของผู้ อุทธรณ์แล้วเห็นว่า...’
 (...Nonthaburi Municipality dispatched an extremely-urgent document no. 52008/1269 dated March 14, 2007 to the complainant saying that the defending document of the complainant had been considered...)
- (10) ‘...ผู้ฟ้องคดีทั้งสามได้รับความเดือดร้อนหรือเสียหายจากการที่ผู้ถูกฟ้องคดีออกคำสั่งที่ 35/2544 ลงวันที่ 31 กรกฎาคม 2544 ลงโทษ พักใช้ใบอนุญาตประกอบวิชาชีพวิศวกรรม เลขที่ 2.4112 ของผู้ฟ้องคดีที่ 1 และเลขที่ 10548 ของผู้ฟ้องคดีที่ 2 เป็นเวลาสามเดือน...’

³ Note that the regular numbering system for Thai governmental documents consists of 3 basic parts: 1) no. (use the word ‘ที่’), 2) organization and 3) number, such as, ที่ มท 5505/2566. In some cases the organization’s name might not be identified, such as in, ที่ 52008/1269.

⁴ In some cases, the degree of urgency—“urgent” (ด่วน), “very urgent” (ด่วนมาก) and “extremely urgent” (ด่วนที่สุด) may be identified.

(...the three complainants have had some difficulty or suffered damage according to the order no. 35/2544 on July 31, 2001 issued by the defendant ordering a three-month temporary suspension of the License to Practise Medicine no. 4112—of the first complainant—and no. 10548—owned by the second complainant...)

(11) ‘...ต่อมาผู้ถูกฟ้องคดีที่ 1 มีหนังสือลับ ค่วนที่สุด ที่ มท 0819.6/078 ลงวันที่ 16 ธันวาคม 2548 ถึงผู้ฟ้องคดีแจ้งผลการพิจารณา ร้องเรียนดังกล่าว...’

(...later on, the first defendant sent the confidential and extremely-urgent document from the Ministry of the Interior no. 0819.6/078 dated December 16, 2005 to the complainant giving notice of the results of the consideration of the said complaint...)

Moreover, it was found that sometimes the evidence might not be only in the form of document such as the case of the address in example (12).

(12) ‘...หากไม่ชำระ ให้ยึดห้องชุดเลขที่ 302/379 ชั้นที่ 10 อาคารเลขที่บ้านสวน 8 (รุ่นพิเศษ) ชื่ออาคารชุด บ้านสวนชื่อดังตรง 1 ทะเบียนอาคารชุดเลขที่ 12/2537 ตั้งอยู่บนที่ดินโฉนดเลขที่ 242463 ตำบลวังทองกลาง อำเภอบางกะปิ กรุงเทพมหานคร...’
(...If the defender does not pay, (the court is asked to decide that) the apartment no.302/379 Floor10 of

Baan Suan 8 (Premium), Baan Suan Suu Trong 1, Registration no. 12/2537, located on the land title deed no.242463, Wang Thong Lang Sub-district, Bang Kapi District, Bangkok shall be taken over (by the complainant)...

Therefore, the accuracy of Thai legal language can be viewed primarily as the use of specific numbers to illustrate sources of evidence in various types including the number of entities involved in a particular case, the date the events occurred and written-documentary evidences. In doing this, the exact numbers are identified so that the parties or other readers can trace back to the right sources. Consequently, judgments from courts and judges are considered reliable.

Legal citation used in Thai court judgments

In addition to the use of specific numbers to show sources of evidence—the number of entities, date and written-documents—in the process of a judgment, it is most necessary for judges to refer to particular legislation or articles related to a case as a part of their consideration. Although it may contain accurate evidence, a particular judgment will not be valid, acceptable or reliable without the citation of law. Accordingly, texts containing particular types of law or legal articles can frequently be found in court judgments. From the data referring to Thai legal language, it is found that Thai legal citation can be done in two styles: (1) the title of legislation and articles and their contents and (2) only the title of legislation or articles without the contents.

⁵ In addition to the degree of urgency, the degree of confidence—“confidential” (ลับ), “very confidential” (ลับมาก) and “extremely confidential” (ลับที่สุด) can be identified.

The citation of legislation's titles, articles and their contents

The written style of Thai legal language is very formal and rigid so that the citing of particular legislation together with its article/s and statement/s can be found when the particular article is raised for the first time in the judgment, as shown below.

- (13) ‘...พิจารณาแล้วเห็นว่า มาตรา 9 วรรคหนึ่ง
(1) แห่งพระราชบัญญัติจัดตั้งศาลปกครอง
และวิธีพิจารณาคดีปกครอง พ.ศ. 2542
บัญญัติให้...’
(...it is considered that Article 9
paragraph 1 (1) of the Act on
Establishment of Administrative
Courts and Administrative
Procedure stipulates that...)
- (14) ‘...พิจารณาแล้วเห็นว่า รัฐธรรมนูญแห่ง
ราชอาณาจักรไทย พุทธศักราช 2550
มาตรา 182 วรรคหนึ่ง บัญญัติว่า “ความ
เป็นรัฐมนตรีสิ้นสุดลง...’
(...it is considered that Article 182
paragraph 1 of the Thai Constitution
2007 establishes that the status of a
minister shall be terminated...)

It can be observed that the full-detailed citation is mentioned in Thai legal discourse when the judges start considering a particular issue or problem in relation to particular legislation. The availability of legal text in the discourse helps parties or readers to follow the argument in the discourse much more easily.

The citation of the titles of legislation and/or articles without the contents

In the second type of citation, only the particular legislation and/or its article/s

without any statement are/is mentioned. The citation is done in prepositional phrase format starting with the preposition ‘ตาม’ (in accordance with...). Moreover, this prepositional-phrase citation usually occurs after the judgment statement, as shown below.

- (15) ‘...การฟ้องขอให้เพิกถอนคำสั่งดังกล่าวในคดี
นี้ จึงไม่อยู่ในอำนาจพิจารณาพิพากษาของ
ศาลปกครองสูงสุดตามมาตรา 11 (2) แห่ง
พระราชบัญญัติเดียวกัน...’
(...so the withdrawal of the order
submitted by the complainant in this
case is not under the competency of
the Supreme Administrative Court in
accordance with Article 11(2) of the
same act...)
- (16) ‘...ถ้ามิได้ตกลงกันไว้เป็นอย่างอื่น กฎหมาย
ได้ให้อำนาจในการดำเนินการเวนคืน โดย
อาศัยอำนาจตามพระราชบัญญัติว่าด้วย
การเวนคืนอสังหาริมทรัพย์ 2530...’
(...Unless otherwise agreed, the
expropriation can be done in
accordance with “the Immovable
Property Expropriation Act
1987”...)

It is obvious that judges cannot consider anything without legislative information. In other words, the citation of legal articles is a back-up strategy that supports the judges in making a judgment accurate.

The significance of linguistic devices used for accuracy in Thai legal language: a quantitative analysis

In order to test whether the aforementioned linguistic devices—including the specifying of sources of

evidence and legal citation—are typical in Thai legal language or not, data from three other registers in Thai, namely, academic language (research article and thesis), media language (news) and political language (speeches of former Thai prime ministers), are explored and compared with legal language. These three registers have been selected because of their similarity to legal language since languages used in academic, media and political circles seem to have a significant impact on society. For example, a court judgment can reduce social tension during some political crises, comments of some academics can be used as guidance leading to some social solution, in-depth information from media can reveal illegal activities and words from politicians can build up people's hopes and lead the country to a better or worse future.

Qualitatively, the identification of sources of evidence can be found in the three registers as shown below.

- (17) ‘...ด้านการสมรส ตารางที่ 4.4 แสดงถึงการมีสิทธิที่จะตัดสินใจเรื่องการเลือกคู่สมรสพบว่า กว่า 2 ใน 3 คิดเป็น ร้อยละ 69.50 มีสิทธิในการเลือกคู่สมรสด้วยตนเอง...’
[Academic Language]
(...For marriage, Table 4.4 illustrates the right to have one's own decision in marriage. It has been found that more than two-thirds of the participants, which is about 69.50%, have their own right to choose their spouses...)

- (18) ‘...วันนี้ (23 พ.ค.) เมื่อเวลา 18.30 น. พ.ต.ท. วันชัย สืบจากศรี พงส.พนพ. สน. บึงกุ่ม ได้รับแจ้งเหตุมีรถยนต์พุ่งชน ป้อมจราจร และป้ายรถเมล์ ที่ปากซอยเสรี

ไทย 18/1 แขวงและเขตบึงกุ่ม กทม....’

[Media Language]

(...Today (May 23) at 6.30 p.m., Pol.Lt.Col.Wanchai Seubchaksri, Inquiry Official, Senior Professional Level, Bungkum Police Office, was informed of an accident where a car ran into a police box and a bus stop at the entrance of Soi Seri Thai 18/1 Bungkum Subdistrict, Bungkum District, Bangkok...)

- (19) ‘...โครงการที่รัฐบาลได้ดำเนินการคือ ต้นกล้าอาชีพ ซึ่งจนถึงขณะนี้ปรากฏว่ามีผู้ผ่านการอบรมแล้วกว่า 200,000 คนทั่วประเทศ และได้สร้างงานกว่า 140,000 คน รวมทั้งอีก 20,000 คนที่เป็นโครงการที่เป็นการชะลอการเลิกจ้าง...’ [Political Language]
(...The government launched a project called “Ton Kla Archeep”. Up until now, more than 200,000 people have been trained. This project has generated more than 140,000 jobs and 20,000 other employees in the prolonged discharge project...)

It can be seen that numbers are denoted in the three registers in terms of statistics, time, space and approximation. However, the use of numbers to denote legal citations cannot be found in the three registers. This is specifically found in the legal language. It should be noted that citation can be found in the academic register in different formats—names of authors, year of publication and page numbers—as shown in example (20)

- (20) ‘...เพื่อเป็นการส่งเสริมการใช้บริการและเข้าถึงผู้ใช้บริการให้มากที่สุด
(เย็นอุทิศ สัมฤทธิ์, 2541 : 110-115)

บรรณารักษ์จึงต้องให้ความสำคัญในเรื่อง
การประชาสัมพันธ์แก่กลุ่มเป้าหมายให้
ชัดเจน...

(...In order to promote use and to
reach as many users as possible
(Yenruedee Sachukorn, 1997 : 110-
115), librarians should pay more
attention to target-specific public
relations ...)

Quantitatively, in terms of measurement,
the occurrence of sources of evidence (2.1)
and legal citation (2.2) are counted and
calculated on the basis of 1,000 words of

text. According to the analysis, the results
can be seen in Table 1.

From Table 1, it is evident that legal
language has a specific style for
expressing accuracy especially the use of
legal citation which is not found in any
other registers. The number of occurrence
of sources of evidence and legal citation is
13 times—5.8 and 7.2, respectively—for a
1,000 words of text which is significantly
high, when compared to other registers. It
should also be noted that legal citation is a
specific use of reference that can only be
found in the legal register.

Table 1: The occurrence of linguistic devices denoting accuracy in Thai legal language, academic
language, media language and political language.
(Based on 1,000 words of text)

Linguistic devices denoting accuracy	Legal	Academic	Media	Political
Sources of evidence	5.8	0.3	5.77	1.4
Legal citation	7.2	0	0	0

From Table 1, it is evident that legal language has a specific style for expressing accuracy especially the use of legal citation which is not found in any other registers. The number of occurrence of sources of evidence and legal citation is 13 times—5.8 and 7.2, respectively—for a 1,000 words of text which is significantly high, when compared to other registers. It should also be noted that legal citation is a specific use of reference that can only be found in the legal register.

Conclusion

This paper views ‘accuracy’ as another important characteristic of legal language. This is because accuracy of information in legal texts is the basis for reliability of information applied by both ordinary people and legal-related agents. The main question to be answered in this study is that what kinds of linguistic device are used in order to illustrate “accuracy” in Thai legal discourse? Data consisted of court judgments from three Thai major courts: The Supreme Court, The Supreme Administrative Court and The Constitutional Court.

The results show that legal language marks “accuracy” through the use of specific numbers denoting the sources of evidence and the specific formats of legal citation. This kind of information can be traced back by readers in order to prove the correctness of information. Specific numbers are used to refer to different types of sources of information, including the number of entities, dates of occurrence of events and particular pieces of evidence. This evidence is very important and necessary in the process of court consideration. Thus, the information has to be exact and accurate. In addition to numbers, it has been found that legal discourse contains the citation of

legislative information such as article/s and law/s. In relation to its purpose, the citation can be either (1) title/s of legislation/s and/or article/s plus its/their detailed statement/s or (2) title/s of legislation/s and/or article/s. When using these devices, readers of the text will feel that the information or evidence raised is not only accurate but also solid and reliable.

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