خطر الغموض والأسهاب في الدستور العراقي

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The Danger of Ambiguity and Tautology in Iraqi Constitution
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Abstract

Constitution is a group of basic principles according to which a state is acknowledged to be ruled. Thus, every word in this document must have one definite meaning otherwise multi-interpretations lead to conflicts and struggles that constitution has already established to overcome. After the political changes happened in the country, Iraqis decided to reconstruct a new constitution to reform the fundamental doctrines that govern them. In this study, some pragmatic aspects are utilized to analyze the linguistic dead lock in constructing this important document. The aim of the study is to highlight the danger of the failure to control the maxims of manner and quantity in legal text in general and in constitution in particular taking the case of Iraq as an example. The analysis of the given examples comes up with two interrelated conclusions; some political crises are attributed to unsuccessful linguistic formulation of the ideas; therefore, extensive pragmatic analysis is an essential stage in constructing constitutions.

Key words: Constitution; Pragmatic aspects; Maxim of manner; Maxim of quantity; political crises

الخلاصة

الدستور هو مجموعة من القوانين الأساسية تنظم حياة الدولة لذا فأن كل كلمة في هذه الوثيقة يجب أن يكون لها معنى محدد وألا فأن التفسيرات المتعددة تقود الى صراعات وجد الدستور لتجنبها. بعد التغيرات السياسية التي حدثت في العراق قرر العراقيون صياغة دستور جديد يصلح في أطار المرحلة القادمة. في هذه الدراسة تم أستخدام بعض النواحي التداولية لتحليل بعض نصوص هذا الدستور والهدف من ذلك هو تسليط الضوء على خطر الفشل في أطاعة مقياس الحال والكم في النص القانوني معتمدين على الدستور العراقي الحالي كنموذج لهذا النوع من النصوص. وأخيرا فأن أهم ماتوصل اليه البحث هو أن بعض الأزمات السياسية في العراق ماهي الأ نتيجة لعدم التوفيق في الصياغة اللغوية للأفكار وعليه فأن أعتماد التحليل التداولي أمر جوهري في الصياغة اللغوية للدستور.

الكلمات الأفتتاحية: الدستور, مظاهر تداولية, مقياس الحال, مقياس الكم, أزمات سياسية

1. Introduction

In everyday life, the danger of language lies in some areas especially impoliteness and ambiguity. This danger is specified to people inside their small societies; homework, etc. The danger widens with the number of people who are affected by the problematic issues related to the gap between intention and interpretation and the nature of the case that the utterance or text deals with. Thus, language of religion, media and politics seem to be the most dangerous contexts.

The word danger is used here to refer to the consequences that the linguistic failure (conveying one intended meaning) may lead to. In political context, there are many kinds of problems with respect to the source of the problem. One of these sources is language. Language is the way of expressing self. Ideas are seen through language, therefore, what is seen is what is interpreted. Hence, in political context, it is very important to construct each word, each utterance and each paragraph in a way that it has one reading. When people disagree about the content of the texts or utterances in political issues, they disagree about the plans, the ideologies and details, but if they disagree about the language used to express the political affairs, non-political problems lead to political problems. This clearly reflects the role that language plays in our life in general.

2. Language and Iraqi Political Context

Language, in general, is either instrumental or symbolic. It is instrumental in the sense that it is used to express the ideas directly or to communicate with others. Symbolic, on the other hand, means that language is reflection of people`s ideologies. Arab political discourse often has been studied in relation to ideologies in the field of critical discourse analysis and in relation to effectiveness and persuasion in the field of rhetoric (Benmoun, and Bassionet, 2018).

The current Iraqi political context is considered as one of the most complex political contexts in the entire world. This study is related to this context after 2003 when the political context in Iraq is radically changed because of the invasion and the change of constitution and the political system. The interpretation of some texts in constitution or some political announcements has led to great problems or some of the most curial struggles in this constructing stage in the Iraqi political history. Most of these problems are created from the lack or extension in the information provided in the text. This leads to either a pragmatic ambiguity or violation of the maxims of quantity or manner. However, three kinds of danger are revealed: the danger of the existent crises, the danger of some expected crises and the danger of crisis of distrust in the reliability of the constitution.

3. Pragmatic Informativeness

Grice (1975) proposes that in any conversation, participants either obey or disobey a general principle of communication which emphasizes that their contribution must be as required, i.e., informative, true, relevant clear and brief. Being informative requires avoiding giving more or less information than is needed. The deviation of the maxim of quantity (be informative) goes in two directions;

a. More information: In this case two products are expected- implicature and redundancy.
b. Less information: Two products are expected- implicature and ambiguity.

Since implicature is out the scope of this study, a brief account about ambiguity and redundancy is presented.

Unlike some kinds of text such as notes and telegrams where the deviation of quantity maxim is something normal in the sense that it is required and necessary for the sake of speedy communication, legal texts, especially constitution must completely fulfill this maxim because being implicated, redundant or ambiguous are not only unacceptable but dangerous.

On the other hand, the deviation of the maxim of manner involves avoiding inserting some details that seem to be too unnecessary to the extent that they create implicature or ambiguity.

3.1. Ambiguity and Tautology

Generally speaking, the linguistic structural form (word, phrase, sentence, discourse and utterance) that has more than one meaning (conceptual, connotative, thematic, affective and meaning in use) results in ambiguity (Leech, 1974). According to Qiu Shude(1998), ambiguity can be word-formation ambiguity: which is mainly related to the internal structures of compounds and derivational words and the indefinite semantic relations among themselves; phonetic ambiguity which touches on ambiguity aroused by supra-segmental features of language such as, the stress, the tone, the intonation and the pitch, etc.; semantic ambiguity in which ambiguity is drawn forth by the way of converting lexical meanings and involving semantic relations among the sentence formation; pragmatic ambiguity which refers to vagueness attributed to the lack of information in the context, i.e., the

statement is not specific, and the context does not provide the information required to explain the statement (Walton 1982). Hence, pragmatic ambiguity is associated to using speech acts, references, flouting of maxims and presupposition.

Redundancy, on the other hand, has a negative connotation because it is viewed as a sort of repetition. But in the psychological sense, it naturally happens to ensure that the information in the massages are sent or received accurately (Horning, 1987:17). Horning (ibid. 18-9)   suggests that redundancy is seen also as overlap which results from repetition at three levels;

1. Grammatical level: Grammatical redundancy refers to repeating the grammatical information in the sentence, e.g. "The teachers were gathering their papers" wherein plurality is expressed in the noun 'the teachers', the verb 'were' and the pronoun 'their'.

2. Semantic level: Semantic redundancy occurs at three levels:

a. Lexicon: At this level, either of segments in the word covey the meaning.

b. Sentence: At this level, the same idea is expressed by different sentences.

c. Discourse: At this level, the same meaning is presented by different texts (longer than one sentence).

3. Pragmatic level: Pragmatic redundancy stands for the overlap between the messages contained in the language and the knowledge the receiver has about that message (prior knowledge).

Redundancy is more frequent in spoken discourse because this discourse is unprepared and more spontaneous (Christie, 2002, 158). Thus, preparing what is to say helps to avoid repetition at semantic and pragmatic levels. In the present study, it is supposed that the text is well-prepared and extensively-examined by some experts, therefore, redundancy is rarely noticed. The following figure is a representation of ambiguity and tautology:

Flouting manner maxim   Flout quantity maxim

Information

Unnecessary   Less   More

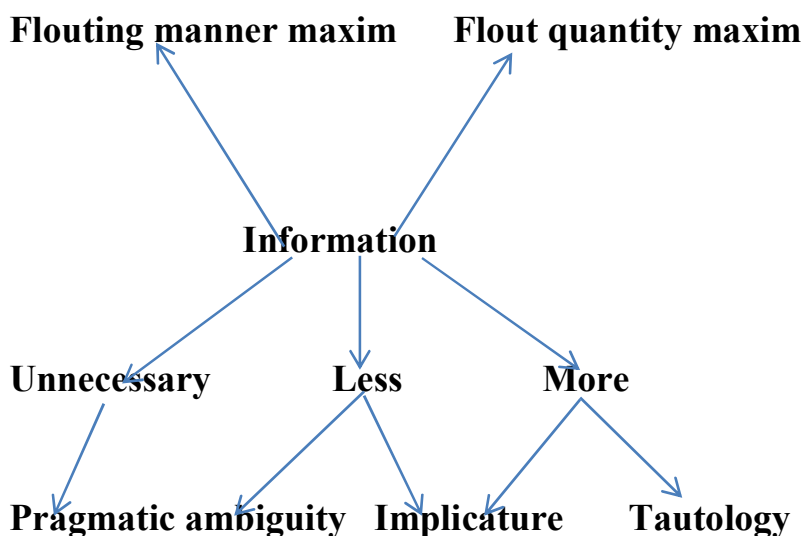**Pragmatic ambiguity   Implicature   Tautology**

Figure (1): Information and Ambiguity& Tautology

In fact, there is no agreement about the application of cooperative principle to legal texts. Hence, Marmor (2008: 428), for instance, suggests that cooperative exchanges of information and the enactment of a law is not a cooperative exchange of information but rather legislation is typically a form of strategic behavior. On the contrary, the legal text can be viewed as a cooperative activity in the sense that the producer of the language wishes to get a certain meaning across to an audience and the audience needs to grasp that meaning (Carston, 2012: 17). This study supports the second viewpoint through highlighting the effect of violating the maxims of cooperation on the audience. This effect manifests itself in the political problems created from the interpretation of some texts in the new Iraqi constitution.

4. Methodology

The study is an attempt to interpret some political problems, problematic issues and defective laws in terms of linguistic analysis, namely, in the area of ambiguity and tautology. As such, the analysis involves three axes: some political crises happened because of linguistic ambiguity in some items in the constituent; some expected problems that can be created for the same reason and some defective texts that need to a linguistic treatment to avoid the problem of distrust in the constituent or laws in general. The study is restricted to Iraqi political context after 2003. Finally, some linguistic recommendations [2] are presented to deal with the displayed problems and defects.

5. Analysis and Discussion

A. **Ambiguity**: For some political crises evoked from the linguistic ambiguity, some cases can be discussed below;

1. The Problem of Election

In 2010, the results of Iraqi election were 91 seats for Alliance of Al-wataniya led by Ayyad Alawi and 89 seats for Alliance of Dawlat Al-Qanoon led By Norri Almaliki. It is supposed that the president must order the leader of the alliance of Al-wataniya to construct the new government as the new chief minister. The problem is created when alliance of Dawlat Al-Qanoon goes to the court and asks them to interpret the text related to diagnosing the results of the elections.

The text 76 "the president must order the leader of the alliance which get the greatest number of votes to construct the new government". The court decided that the underlined words refer to alliance constructed after the elections. Thus, when the alliance of Dawlat Al-Qanoon is cooperated with other parties and becomes the greatest alliance, its leader is ordered to construct the new government. This led to a crisis in the country at that time. From a pragmatic point of view, the text above suffers of a pragmatic ambiguity. The composer of the text must disambiguate the text by adding the satisfactory information "like *after the election*" at the end. It can be considered a semantic ambiguity in the sense that the word "alliance" has more than one reading. Thus choosing another word like "accumulation" is more appropriate to vanish the misunderstanding. However, even if the court built the interpretation on a canonical tactic, the first reading (the first reading comes to one`s mind) is different from its interpretation and this is problematic (see figure1).

2. The Problem of Karkuk

Kakuk is one of the Iraqi governorates. It represents a homogeneous community in which a number of Iraqi minorities live. It is part of the land that Kurdistan and Baghdad disagree about its propriety. The series of political problems related to this issue is raised from the text 140 in the constituent which states "….to identify the will of its citizens". The interpretation of these words was the source of these problems because of the pragmatic ambiguity found in. There is no information about the will of the citizens by the composer; therefore, more than one reading are drawn forth. Thus, according to the legal convention the gap is bridged by consulting a similar or related law. Hence, going to text 119 which states "any governorate or more can be canton…" means that it is not possible for any governorate to be part of another canton, instead, it is possible to be an independent canton. In fact, it is not evident whether this ambiguity is intended or the composer himself does not notice it. However, the linguistic disambiguation of text only can solve the political problem created in this situation (see Table 1).

3. The Problem of President Deputy

The problem created from exploiting the items 69 and text138 in the constitution is attributed to the linguistic ambiguity in the text in which the law allows one deputy or more to the president. In fact, it is axiomatic that saying 'one or more deputy' means one or two. But depending on the linguistic analysis of the phrase, the word 'more' indicates nonfinite identities or any number more than one. The lack of information leads to more than one interpretation. Actually, it is decided to appoint three deputies for the president to end the conflict about this position. It is not reasonable in

any constitution to make the number of deputies of president open, but this linguistic gap is manipulated just to resolve the political struggle paving the way to a serious political crisis in 2014.

For some expected crises related to problematic texts, the examples below may illustrate the situation;

1. Item 2 of the basic principles mentions that "Islam is the basic source of law and laws must not be contracted with the bases of Islam" and the lack of information related to the words 'laws' and 'bases of Islam" may lead to a serious problem. Since the main source of the Iraqi laws is the west and some kinds of laws are determined by Islamic bases, most laws are illegal.

2. Item18, law 2 states "the governments in the capital and the canton are responsible of investing the petrol and the gas in the existent fields". In fact, the existence of the word 'existent' violates the maxim of quantity in the sense that more than the required information is added. But this addition opens the door to serious political problems to enter and increase the intention between Baghdad and Kurdistan. The disagreement here is about whether the government in the canton is able to have a complete control on the investment in the new fields or not.

3. Item 5 of the basic principles states "ascendancy is the source of law, and the people is source of legalizations". This means that the members of the parliament practice ascendancy not as a representative of the people who is the source of power but as the owner of this ascendancy. In fact, the violation of the maxim of quantity via using the term 'ascendancy' leads to a dangerous implicature which is the members of parliament have the right of ascendancy in addition to practicing as the people representatives.

B-**Tautology**: For some defective texts that may lead to lessen the validity and credibility of the political legal references, some examples may highlight the issue:

1. Item 2 states "Iraq is one united states". The tautology is an obvious example of deviating the maxim of quantity in which the implication is mainly nothing can describe the repeated word rather than itself. But the use of two words with the same meaning as different words with different meanings is defective because the intention and the interpretation will be always different. Actually, In texts like laws, every word must have meaning; therefore, tautology becomes very dangerous. The words 'one' and 'united' are supposed to be interpreted as different words carrying different meanings and the interpreter must recognize between them and the difference or the relation.

2. Item 1 of the basic principles states "the ruling system in republic of Iraq is republican, representational and parliamentary". It is clear that tautology is a significant feature in the text because 'republic of Iraq' and 'republican' are the same and representational and parliamentary are the same. It is very dangerous to try to find out the difference between them and inventing some assumptions that are not existent neither in the text nor in reality.

3. Item 9 states "it is not allowed to the members of military forces nominate themselves in the election nor to participate in the electoral campaign of the nominees from military forces".

The item consists of two parts, but the first cancels the second. This means that the second part violates the maxim of quantity and it is not required. In fact, this redundancy is hazardous because it, on one hand, complicates the processing of the text, on the other hand, it leads to extend the meaning of the law and its aim and function.

The following table presents some recommendations to deal with defective texts:

Table (1) The Recommendations of the Defective Texts

Original text	Modified text	Kind of deviation	Kind of recommendation
The president must order the leader of the alliance which get the greatest number of votes.... constructs the new government	The president must order the leader of the alliance which get the greatest number of votes after making the final agglomeration constructs the new government	Less information	Addition

To identify the will of its citizens**…..**	To identify the will of its citizens belongingness	Less information	Addition
Islam is the basic source of law **and laws must not be constructed with the bases of Islam**	Islam is the basic source of law	More information	Omission
The government in the capital and the canton are responsible of investing the petrol and the gas in the **existent** fields	The government in the capital and the canton are responsible of investing the petrol and the gas.	More information	Omission
Ascendancy is the source of law, and the people is source of legalizations	The people is the source of law and legalizations	More information	Addition
Iraq is **one** united state	Iraq is united state	More information	
The ruling system in republic of Iraq is **republican, representational** and parliamentary	The ruling system in republic of Iraq is parliamentary	More information	Omission
It is not allowed to the members of military forces to nominate themselves in the election **nor to participate in the electoral campaign of the nominees from military forces**	It is not allowed to the members of military forces nominate themselves in the election	More information	Omission

6. Conclusion

By applying a pragmatic analysis to some items in the new constitution of Iraq, it is clear that ambiguity and tautology play a vital role in creating serious political crises in the country. Additionally, there are some defective texts which are expected to make more severe ones. This verifies the hypothesis that constructing laws in general and constitution in particular needs a highly qualified linguistic examination. This involves the pragmatic aspects in addition to the syntactic, semantic and stylistic aspects. Moreover, the defective linguistic examination may lead to dangerous political crises. Additionally, the work shows clearly that although all legal texts must be written carefully, constitution requires more accuracy because its pragmatic construction may lead to problems related to the country, thus, heuristics, politics and language interact in a very dangerous operation which needs to be always precisely controlled.

End Notes

1. Constitution of 2005 and by the Committee was an elected constitutional writing emerged from the first National Assembly was elected Iraqi people under the law of the (The Transitional Administrative Law /TAL – 2004) and the UN Security Council resolution 1546.
2. The recommendations are taken from two references;

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