

LANGUAGE USE WITHIN THE TEXT OF UNITED NATIONS RULES FOR THE PROTECTION OF JUVENILES DEPRIVED OF THEIR LIBERTY

Tatyana Shoustikova¹, Yana Chernysh^{2*}

¹Prof. Dr., Peoples' Friendship University of Russia - RUDN University (RUSSIA)

²Ms. Yana Chernysh, Peoples' Friendship University of Russia - RUDN University (RUSSIA)
lf.law9@gmail.com

*Corresponding Author

Abstract

The paper has chosen the text of the Rules as the research subject due to the internationally significant status of this artefact of the contemporary verbal legislation that aims to support minors in detention conditions. This phenomenon has become rather common at the age of unscheduled migration that spreads globally. However, the language use issues with regard to the minors in the detention facilities have not become subject to the analysis so far.

The paper aims to explore the conceptual macrostructure of the text under study, and to compare the perceptions of target audiences with regard to the verbal representation and interpretation of the text under study. The paper considers a number of research questions, including trends in existing academic research on the issues under study, features of the text under study as a sample of legislation discourse genre, structure of the text under study from the angle of Cognitive Linguistics, stakeholders' perceptions with regard to representation and interpretation of the text under study. The research materials combine academic literature on the topic, the text of United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and results of the surveys of lawyers and social workers who deal with the document under study.

The methodology of the study rested on the qualitative approach, combined theoretical and empirical analysis.

The research findings provide practical information for legal specialists and social workers who deal with the issues under study, bears relevance for language professionals who engage in drafting and polishing the texts of multilingual legislation, enhances the current methodological background for interdisciplinary discourse studies.

Keywords: language, discourse studies, language rights.

1 INTRODUCTION

The children and youth's rights has become one of the topical issues in the international agenda for the Civilization development in the Third Millennium research focuses. It seems obvious as children and youth represent the human capital for sustainable development.

However, the contemporary society faces diverse challenges due to globalization, migration, urbanization, ambiguity of values and human identity, social unrest and lack of human financial stability and safety (Atabekova, 2017). These factors cause situations when individuals become part of alleged illegal activities and get deprived of their liberty. Children are not an exception. Their status in the respective settings is regulated by international Legislation (UN Rules...1990), regional and national administrative-legal norms.

Traditionally scholars explore in detail the legal aspects related to the protection of children's rights within the mentioned situation (Desai, 2020), underline the importance of language support for children in the respective contexts with reference to international, regional and national legislations (Rap, Liefwaard, 2017).

However, researchers specify that there is a need for conceptual clarification of the landmark international legislation on the topic under study due to new emerging contexts and varied language interpretations (Zermatten, 2017).

The above confirms the present research relevance.

The analysis of academic sources through the search in Google Scholar, Academia.edu, and other digital databases confirms the language of the international legislation on the children and youth's protection within the context of their deprivation of liberty has not become subject to scientific investigation so far. This confirms the research novelty.

The research goal is two-fold, namely to explore the conceptual macrostructure of the text under study, and to compare the perceptions of target audiences with regard to the verbal representation and interpretation of the text under study

The above goal addressed a number of *research questions*, namely the following:

- Is there academic research on the issues under study?
- What are features of the text under study as a sample of legislation discourse genre?
- What is the structure of the text under study from the angle of Cognitive Linguistics?
- What are stakeholders' perceptions with regard to representation and interpretation of the text under study?

2 METHODOLOGY

The research materials combine academic literature on the topic, the text of United Nations Rules for the Protection of Juveniles Deprived of their Liberty, and results of the surveys of lawyers and social workers who deal with the document under study.

The methodology of the study rested on the qualitative approach, combined theoretical and empirical investigation, followed the tradition of interdisciplinary discourse studies (Atabekova, 2019).

The stages of the study included analysis of relevant literature, textual analysis of the Text of United Nations Rules for the Protection of Juveniles Deprived of their Liberty and its empirical structuring on semiotics grounds, as well as the data from the focus-group- based discussion with the external participants to the empirical analysis.

The focus group included Moscow based lawyers who worked with the concrete cases of juveniles' detention (N=20), legal specialists who worked within education and training settings (N=20), and social service representatives who cooperate with parents and state authorities (N=20). The factors that were mentioned by all the members of each subgroup were taken into consideration. to structure the qualitative interpretation of the obtained data.

3 RESULTS AND DISCUSSION

The analysis made it possible to consider major trends in academic research with regard to the topic under study, laid grounds for the description of thematic and structural features of the Rules as a legal genre, provided major features of the Rules cognitive-semantic structure. Further the respective data was offered for consideration to the focus groups members.

3.1 Academic Research on the Issues under Study

The topic has become subject to research since the document adoption by the UNO General Assembly (Detrick, 1996, Tobin, 2001, Crawshaw, Holmström, 2008) and is still in the focus of research Scholars consider international perspective (Monahan, 2003) and national preventive mechanism to foster child friendly juvenile justice (Goldson, Muncie, 2012, Stanchevska, 2018).

There are latest developments on the topic with regard to the balance between international and regional law (Abdulraheem-Mustapha, 2020, Chaturvedi, 2019).

The legal aspects are explored by researchers with regard to different continents, including Europe (Allen, 2009), Africa (Kiessl, 2001), Australia (Lelliott, 2018), and specific countries, as well. Just to set a number of

examples to support the above statement, we can mention Slovenia (Filipčič, & Prelic, 2011), Serbia (Milić, & Dimovski, 2019), the Federation of Bosnia and Herzegovina (Simovića, & Simovićb, 2018), India (Mishra, 2018), Ethiopia (Yeshiwendim, 2018).

However, recently scholars pay specific attention to children's rights concept in modern social and humanitarian discourse (Chernaya, 2018).

However, the authors of this paper have not found consistent publications of the language use with regard to the text under study.

3.2 Features of the Text under Study as a Sample of Legislation Genre

Scholars consider the genre of legal rules are defined as "a form of a normative legal act that establishes procedural rules that determine the procedure for carrying out any kind of activity (Shirinkina 2018). The communicative goal of the text is to verbalize the behavioural rules for persons who are part to legal relations in a specific domain.

Scholars mention that the legal rules text is united by one mega topic that is subject to regulations. The verbal form that denotes this topic appears in the document title. The following text introduces taxonomic numbering of the concepts that map the domain of sub-topics through respective sections (parts) of the document. The nomination of the basic topic category goes through the following articles, can be repeated (in our case it is the concept of detention and the respective verbal unit), replaced with concepts that are in hyponymic relations with the mega topic as hypernym (Rules – mega topic - hypernym, fundamental perspectives, scope and application, etc, hyponyms to this concept).

The text is characterized by semantic integrity due to the hierarchical structure of mega topic Rules, its macro topics that cover Fundamental perspectives, Scope and application of the rules, Juveniles under arrest or awaiting trial, The management of juvenile facilities, and Personnel. The above macro topics are further concretized through interconnected micro topics that refer to different aspects o the same macro topic.

The text of Rules is characterized by the predominance of extended sentences and a careful use of complex sentences whose object, attributive, adverbial clauses provide clarifications, specify conditions, etc.

The modality of the text is set by the modal verb should (196 times of the form use) and shall (15 times of the form use), which emphasizes the recommendatory nature, taking into account the peculiarities of national legislations and various possible interpretation contexts. At the same time, the use of Present Simple as an alternative to modal verbs in the forms of the text predicates emphasizes the universality of the description.

3.3 Structure of the Text under Study from the Angle of Cognitive Linguistics

The structure of the text under study from the point of cognitive semiotics is expected to identify major slots, the concepts that form their respective frames and constitute units that introduce distinctive feature of these concepts.

The text of the Rules was subject to the coding-based content analysis. It revealed that the text structure in terms of cognitive semiotics consistently specifies major slots, their frames and constitutive unites. However, there is no solid balance among these slots. The table below (Fig.1) confirms that some slots identify major features, while others provide a detailed presentation of those units that form the respective concepts and frames.

Figure 1. Frames, slots, concepts, and their constitutive units patterns in the Rules text

| Frame Slots | Concepts that build the frames | Constitutive units that form the concepts |
|-------------------------------------|--|---|
| <i>Fundamental perspectives</i> | legal status of the document its purpose, implementation into the national legislations of the Member States | |
| <i>Scope and application of the</i> | core definitions and concepts, | however in the same section the |

| | | |
|---|--|---|
| rules | including a juvenile, the deprivation of liberty, detention facilities | text goes beyond the definition and specifies the list of juveniles' rights that are subject to guarantees in the detention (art 13), instruments to ensure these rights (art 14) |
| Juveniles under arrest or awaiting trial | status of an innocent person during the detention period, the requirements for the types of rights to be ensured | |
| The management of juvenile facilities | A. Records | the types of records, their processing procedure, their confidentiality and storage. |
| | B. Admission, registration, movement and transfer | procedures with regard to identification, physical conditions, information of the minors about rules, information to parents/guardians about minors' state, move, etc., requirements to treatment |
| | C. Classification and placement | not fully in line with the content as the respective articles describe conditions, including care, treatment, staff obligations, the procedure of detention in different types of detention facilities (open, closed, small-scale ones). |
| | D. Physical environment and accommodation | the content of the article mostly complies with the heading. The articles focus on the design and structure of the detention facilities, requirements to dorms and bedding, sanitary installations, issues of clothing, food issues. |
| | E. Education, vocational training and work | the text complies with the heading, The topics cover types of education, specific mention of "the education of juveniles of foreign origin or with particular cultural or ethnic needs" (art 38) . library, opportunities for work under the existing standards, provided that there is adequate remuneration for it. |
| | F. Recreation | cover the respective right, forms of activities, facilities, time, etc. |
| | G. Religion | the right to attend the service, to have the communication with |

| | | |
|---------------------|---|--|
| | | the qualified representative of the religious community |
| | H. Medical care | described in detail , including the procedure, goals, quality, prevention programs |
| | I. Notification of illness, injury and death | the procedure in line with the heading |
| | J. Contacts with the wider community | the right to information and communication with the family, its members visits, |
| | K. Limitations of physical restraint and the use of force | cases when they can be used and the protocol of actions |
| | L. Disciplinary procedures | the goals, respect to human dignity, types of sanctions |
| | M. Inspection and complaints | specifies the rights to address their complaints and needs, |
| | N. Return to the community | rights upon the return, services to be provided, authorities |
| V. Personnel | requirements to the personnel under the labor legislation in force, the functions of the administration, director | under the labor legislation in force, functions of divers staff and administration |

The above structure reveals the multilayer phenomenon of the cognitive semantic structure of the Rules as an example of a text within core international legislation.

The concept of language with regards to juveniles' rights seems to be a subject to specific comment. The word *language* appears three times in the text of two articles.

First the concept is mentioned in the section *Fundamental perspectives*. Article 6 states that "The Rules should be made readily available to juvenile justice personnel in their *national languages*" Those who are not fluent in the language spoken by the personnel of the detention facility should have the right to the services of an interpreter free of charge whenever necessary". Specific attention is drawn to medical examinations and disciplinary proceedings.

This statement goes in line with the core international legislation (Declaration of Human rights, etc.). Further the concept of language rights appear in the *B.Admission* subtheme of section *IV. The management of juvenile facilities*. Article 24 states that " On admission, all juveniles shall be given a copy of the rules governing the detention facility and a written description of their rights and obligations in a language they can understand, For those juveniles who are illiterate or who cannot understand the language in the written form, the information should be conveyed in a manner enabling full comprehension".

This approach goes in line with the general trend to include the consideration of language rights in the broader discussion on human rights (see, for instance, Lasierra, 2018).

3.4 Stakeholders' Perceptions with Regard to Representation and Interpretation of the Text under Study

The focus group members were introduced the above findings regarding the language specifics and the structure of the text from the angle of Cognitive Linguistics. Their perceptions of the empirical material were rather different. The lawyers who worked with the concrete cases of juveniles' detention said they did not need any schemes or comment on language use, the text itself was OK for them to check the compliance

with the international legislation both at the level of national expertise and with regard to a particular case, inspection, etc.

The legal specialists and social service representatives who worked within educational settings mentioned the use of the proposed schematic analysis of the text frame slots, concepts and constitutive units as they provided comprehensive and concrete data on the stakeholders' list, the scope and areas of required activities. The above mentioned legal specialists also mentioned the importance of identified language features with regard to training legal writing technics.

The structure of the text under study from the point of cognitive semiotics is expected to identify major slots, the concepts that form their respective frames and constitute units that introduce distinctive features of these concepts. This approach relevance gets additional confirmation on a new empirical material of the visualization role in information rendering, processing and reformulating. Earlier similar findings were obtained with regard to legal interpretation in general (Atabekova, 2016)

The research data confirms the thesis on the relevance of the development of discourse and concepts with regard modernization of the UN Standards and Norms on Juvenile Justice in line with scientific progress and law (Wright, 2018).

The present research findings cast new light on the textual, thematic, and layout features of the legal rules and a genre of the legal discourse. Moreover the research data makes it possible to show specifics of the international document with regard to the mentioned genre.

Moreover, the data confirms that the issues of international discourse on juvenile justice should embrace the opinions and ideas of lawyers and social workers' community (Pollack, 2010), consider welfare grounds (Haydon, 2018).

The work with the focus group members confirms that diverse audiences are ready to get additional information on the specifics of language use within legislation texts.

Furthermore, the research methodology has proved its relevance supported the previous data with regard to a new legal genre

CONCLUSION

The research findings made it possible to identify major slots, their frames and concepts that the international community views as the discursive cornerstones of legal provisions. This data lays interdisciplinary background (legal-linguistic) for further implementation of the Rules into national legislations.

The obtained data makes it possible to draft recommendations on language use when the mentioned process is under way in particular UNO member States. They are addressed to representatives of those national legislative and executive bodies that deal with child protection themes, among other issues.

The text of the rules as a text of legal genre should clearly indicate the legal situation regulated by the document and its individual components through multilevel specification. The text of the level of international law is distinguished by a multi-level hierarchical compositional structure.

Therefore, those who deal with the text within practical and educational legal contexts are recommended to keep in mind the content structure and not just the text liner interpretation.

Moreover there should be clearly expressed the hierarchy of slots, frames, concepts and their constitutive units. It contributes to comprehensive vision of the document and its further development in terms of legislation and language issues.

ACKNOWLEDGEMENT

The publication has been prepared with support of the RUDN University program under 5-100 Russian Academic Excellence Project, research project number 090512 -1- 274

REFERENCE LIST

Abdulraheem-Mustapha, M. A. (2020). International and Regional Legal Framework on Child Justice Administration. In *Child Justice Administration in Africa* (pp. 129-154). Palgrave Macmillan, Cham.

- Adopted by General Assembly resolution 45/113 of 14 December 1990
<https://www.ohchr.org/EN/ProfessionalInterest/Pages/JuvenilesDeprivedOfLiberty.aspx>
- Allen, R. (2009). Custodial establishments for juveniles in Europe. In *Reforming Juvenile Justice* (pp. 205-214). Springer, New York, NY.
- Assembly, U. G. United Nations Rules for the Protection of Juveniles Deprived of Their Liberty ("The Havana Rules"): resolution/adopted by the General Assembly., 2 April 1991. A/RES/45/113.
- Atabekova, A. (2019). Discourse Studies to Protect Minors against Violence in Sport: Towards Discourse Studies Novelty. *Proceedings of INTCESS 2019- 6th International Conference on Education and Social Sciences*, 4-6 February 2019- Dubai, U.A.E., 1185-1189.
- Atabekova, A. (2017). Minors in Migration Crisis: Challenges and Solutions to protection from abuse and exploitation. *Abstracts & Proceedings of SOCIOINT 2017- 4th International Conference on Education, Social Sciences and Humanities*, 10-12 July 2017- Dubai, UAE, 1189-1193
- Atabekova, A. (2016). Visualization in Legal Translation: A Tool for Knowledge Representation and Interpretation, *INTED2016 Proceedings*, Spain, 4942-4946.
- Chaturvedi, H. K. (2019). Child Protection: Challenges and Impediments before Access to Criminal Justice. *Journal of the Gujarat Research Society*, 21(8), 111-120.
- Chernaya, A. V. (2018). Childrens rights concept in modern social and humanitarian discourse. *Journal of Social Studies Education Research*, 9(4), 140-167.
- Crawshaw, R., & Holmström, L. (2008). 9. United Nations Rules for the Protection of Juveniles Deprived of Their Liberty. In *Essential Texts on Human Rights for the Police* (pp. 467-482). Brill Nijhoff.
- Desai, M. (2020). Children in Conflict with Law and Need for Child Protection Services. In *Rights-based Integrated Child Protection Service Delivery Systems* (pp. 331-361). Springer, Singapore.
- Detrick, S. (1996). The Theme Day of the Committee on the Rights of the Child on the Administration of Juvenile Justice. *International Journal of Child Rights*, 4, 95.
- Filipčič, K., & Prelic, D. (2011). Deprivation of liberty of juvenile offenders in Slovenia. *The Prison Journal*, 91(4), 448-466.
- Goldson, B., & Muncie, J. (2012). Towards a global 'child friendly' juvenile justice?. *International Journal of Law, Crime and Justice*, 40(1), 47-64.
- Haydon, D. (2018). Children Deprived of Their Liberty on 'Welfare' Grounds: A Critical Perspective. In *Human Rights and Incarceration* (pp. 25-52). Palgrave Macmillan, Cham.
- Kiessl, H. (2001). United Nations standards and norms in the area of juvenile justice in theory and practice: An empirical study on the use and application of UN rules for the protection of juveniles deprived of their liberty in South African practice. Edition iuscrim.
- Lasierra, F. G. (2018). The Deprivation of Liberty by the Police. *International Parameters and the Jurisprudence of the European Court of Human Rights*. In *The Police and International Human Rights Law* (pp. 103-123). Springer, Cham.
- Lelliott, J. (2018). Protecting the rights of children accused of migrant smuggling: lessons from the Australian context. *Australian Journal of Human Rights*, 24(1), 1-19.
- Milić, I., & Dimovski, D. (2019, May). Legal Organization of the work of the persons deprived of liberty in Serbia. In *Proceedings of the International Scientific Conference " Social Changes in the Global World"* (Vol. 1, No. 5, pp. 293-303).
- Mishra, N. K. (2018). *Juvenile Justice System in India: A Study With Reference To Juvenile Justice (Care and Protection) Act, 2015* (Doctoral dissertation, Department of Law, School for Legal Studies, Babasaheb Bhimrao Ambedkar University).
- Monahan, G. (2003). An International Perspective on the Rights of Juvenile Offenders or" Children Living in Exceptionally Difficult Conditions". *Substance Use & Misuse*, 38(10), 1531-1538.
- Pollack, D. (2010). International Legal Note: Opening juvenile proceedings to the public and the media: An international social work perspective. *International Social Work*, 53(6), 836-841.

- Rap, S., & Liefwaard, T. (2017). Right to Information: Towards an Effective Legal Position for Children Deprived of Liberty. Leiden Child Law Research Paper, 2.
- Shirinkina, M. (2018) Композиционно-тематическая организация регламентирующих документов (на материале делового жанра «правила»). *Litera*, 4, 227-236. DOI: 10.25136/2409-8698.2018.4.28253. URL: http://e-notabene.ru/fil/article_28253.html
- Simović, M. N., & Simović, M. M. (2018). Legal Frame for Criminal Proceedings Against Juveniles in the Federation of Bosnia and Herzegovina. *Sociology*, 8(3), 123-137.
- Stanchevska, A. (2018). The Police and the Subcommittee on Prevention of Torture of the United Nations. National Preventive Mechanisms. In *The Police and International Human Rights Law* (pp. 321-330). Springer, Cham.
- Tobin, J. W. (2001). Time to remove the shackles: The legality of restraints on children deprived of their liberty under international law. *International Journal of Child Rights*, 9, 213.
- United Nations rules for the protection of juveniles deprived of their liberty (1990).
- Wright, A. (2018). Extended Adolescent Development in International Juvenile Justice: Modernizing the UN Standards and Norms with Scientific Progress and Law. Available at SSRN 3302404.
- Yeshiwendim, T. (2018). Juvenile crime and juvenile delinquency administration in Addis Ababa: the case of yeka sub city (Doctoral dissertation, AAU).
- Zermatten, J. (2017). Children deprived of their liberty: an obsession for the CRC Committee. *Today's Children are Tomorrow's Parents*.