

**Fakhri, Ahmed (2014): *Fatwas and Court Judgments. A Genre Analysis of Arabic Legal Opinion*.** Columbus: The Ohio State University Press. ISBN 978-0-8142-1244-8, 157 pages.

The task of judgment writing is one of the most important linguistic operations in nearly every legal system and, consequently, court judgments constitute a fruitful subject in legal and linguistic research. Whereas the existing body of legal and linguistic research already accounts for quite a few studies focusing on court decisions in the continental and common law traditions, the corresponding Arabic texts have remained under-explored.

With his book focusing on fatwas and court judgments as two culturally significant legal genres in Arabic discourse, Ahmed Fakhri aims at filling this research gap by shedding light on the linguistic features distinctive of the two types of legal opinion as well as on their socio-cultural context in the Muslim world. In his analysis, Fakhri employs a genre analysis approach well suited for the purposes of the qualitative study, and noting the importance of social, cultural and psychological factors in linguistic endeavors, he strives to combine textual analysis with the description of contextual factors to allow for a deeper understanding of the genres and of the explanatory aspects influencing their realization.

The book comprises a short introduction to the topic (pp. 1–4) and five chapters: A description of the purpose and rationale of the study (Chapter 1), a discussion of the theoretical framework (Chapter 2), observations as regards the rhetorical structure in fatwas and court judgments (Chapter 3), an analysis of the linguistic features used in the texts (Chapter 4), and conclusions and considerations for future research (Chapter 5).

In Chapter 1, the starting point and the detailed goals of the analysis are outlined very clearly. With the help of a material corpus consisting of 25 fatwas based on *sharii'a* law and written by muftis, i. e. the Islamic jurisconsults, and 25 secular court judgments rendered by the Moroccan Supreme Court, Fakhri seeks to investigate similarities and differences in the rhetorical moves and linguistic features characteristic of these two genres. Moreover, he aims at analysing the dependency of those moves and features on the functions of the texts, the discourse participants, and the sociocultural and institutional environment in which these legal opinions are produced (p. 6). Emphasizing this broad perspective justly chosen by the author, the nature of legal texts in reflecting the Muslim culture and Arabic language variation caused by sociolinguistic factors are also elaborated upon.

The theoretical framework of genre analysis and the method adopted in the study are at the heart of Chapter 2. Drawing on existing research on genre analysis, in particular the Swales approach (Swales 1990), Fakhri discusses the concepts of genre, move and discourse community and stresses the role of purpose in the conceptualization of genre. As the texts to be analysed are embedded in an institutional context, background information is provided regarding *iftaa*, i. e. the Islamic institution of issuing the fatwas (pp. 31–35), and the Moroccan judiciary (pp. 35–38). After this short but interesting overview, the data gathered for the analysis is presented. It is notable that although the legal opinions share a similar content (commercial and business relations), the fatwas chosen have been issued by different muftis, whereas the court judgments have been rendered by two Chambers (Commerce Chamber and Social Chamber) of the Moroccan Supreme Court. However, as far as the procedure of contrastive analysis is concerned, the comparability of the data is deemed to exist due to shared properties of the texts: the overall purpose of providing a legal opinion, the fact that the texts deal with legal matters, and the similar topic.

Chapter 3 of the book is devoted to the description of rhetorical patterns discovered in the different moves in fatwas and court judgments. The contrastive analysis reveals great differences in the structure of the two genres: in contrast to the Moroccan Supreme Court judgments influenced by the French model and containing four moves – history of the case, petitioner’s claims, opinion of the court, and decision – the fatwas exhibit two obligatory moves, i. e. answering the question and providing evidence for the answer, with variable supplementary moves with informative and/or evaluative functions. Furthermore, as regards the relevance of the content, the fatwas are observed to contain digressions which are absent in the court judgments. The higher degree of structural variability in the fatwas is ascribed by the author to the diversity of scholarly backgrounds of the muftis and the variability of complex topics discussed. In the same vein, the digressions are explained with the nonbinding nature of fatwas, the different roles taken by muftis in society (jurisconsult, teacher, moral counsellor), and their varied rhetorical expertise.

In Chapter 4, the author presents his findings on linguistic properties of the two genres. The analysis has not been carried out per move as might have been expected on the basis of the previous chapter; instead, an overall view of the language in the genres is given. The focus hereby is on features identified as the main elements that serve to achieve the discourse goals of the texts: syntax, formulaic language, and citations. Reflecting French judicial decisions, the single-sentence court judgments are characterized by a high level of syntactic complexity, thus bearing resemblance to judgments in many Western legal systems. In contrast to this discovery, the fatwas exhibit a more varied syntax as a result of their many discourse functions; the multifunctionality of language usage supporting the muftis’ nonbinding opinion. Highly interesting from the point of view of LSP phraseology, in particular legal phraseology, is the section concerned with formulaic expressions especially important in constructing legal texts. Although the author does not delve deeper into phraseology, he demonstrates through the use of concrete examples that the court judgments following the rigorous French structure have a higher frequency of linguistic formulas than the fatwas. Finally, citations as the main device for binding the texts to the source of law and providing authoritative support for the opinion given are discovered to be varied in nature in the court judgments referring to relevant Codes (e. g. simple identification of the statutes, direct and indirect quotes), but consistent in the fatwas relying mainly on direct quotes from the Quran and hadith to enhance their persuasiveness.

Chapter 5 contains the conclusions of the explorations conducted into the two Arabic legal genres and gives an account of the contextual elements influencing the way these texts are drawn up. Highlighting the necessity to move beyond the textual surface when conducting genre analysis, Fakhri elaborates further on the adoption of the French model in the court judgments and the impact of “rhetorical borrowing” (p. 101) on the Arabic language as well as on the institution of *iftaa* and the sociocultural climate in the Muslim community. He focuses on several aspects of the Arab culture the Western reader may be unfamiliar with, including the tensions surrounding *iftaa*, women’s access to the genres analysed, and the notion of “fatwa shopping” (p. 122). At the end of the chapter, questions still in need of answers are formulated in view of future research, for which this book undoubtedly serves as a source of inspiration.

As can be deduced from the content briefly described above, *Fatwas and Court Judgments* is a highly informative book for both legal practitioners and (legal) linguists, and a valuable contribution to legal and linguistic research on court decisions. It shows how genre analysis as a method can be useful in studying legal texts, but simultaneously also underlines the impor-

tance of shifting the focus from textual features to the non-linguistic factors in the sociocultural context in which the texts are produced to achieve “[...] a higher explanatory analysis of discursive rhetorical properties of texts [...]” (p. 126). Indeed, the strength of the book lies in the acknowledgement of the dependency of genres on their cultural context. Written in a clear and concise manner, the book provides insights not only into the language of the text genres analysed, but also into complex discursive practices, religious traditions and ideologies in the Muslim world. With that said, I recommend this book to everyone interested in the diverse processes of legal decision-making around the world and the comparative analysis of legal texts, especially judicial decisions.

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### **Bibliography**

Swales, John (1990): *Genre Analysis: English in Academic and Research Settings*. Cambridge: CUP.

*Dr. Emilia Lindroos*  
*Faculty of Law*  
*University of Lapland*  
*emilia.lindroos@ulapland.fi*