SOCIAL SCIENCES & HUMANITIES

Code-Switching and Code-Mixing in the Practice of Judgement Writing in Malaysia

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ABSTRACT

This study explores the use of code-switching and code-mixing in the practice of writing the grounds of judgement in the Malaysian Judicial System. As these grounds of judgement are official documents published for the public interest, a lack of lexical accuracies for the important terms and phrases may lead to poor linguistic representation of the legal text. Thus, thirty-two samples of grounds of judgement written in the national language from 2015 to 2021 were extracted from The Current Law Journal and analysed according to Appel and Muysken and Malik's theories on code-switching and code-mixing in terms of the frequency used in the legal text. Findings revealed extensive use of intra-over inter-sentential code-switching in the form of insertion, alternation, and congruent lexicalisation of code-mixing. These were driven by the absence of specific legal terms in the national language, the lack of registral competence among the writers as well as the functions of the legal terms to serve the pragmatic contexts of the text, emphasise a point or highlight the semantic significance of the terms, and reflect the identity of the writers. The present study shows limited linguistic corpus on legal terms in the national language; therefore, language experts should intensify their efforts to expand the corpus and increase awareness of the terms through language courses for legal practitioners.

Keywords: Applied linguistics, code-mixing, code-switching, grounds of judgement, judgement writing

INTRODUCTION

The Malaysian Courts have always recognised the importance of Bahasa Melayu as the national language since the use of the English language is only allowed if the prosecution or defence representatives have asked for 'a leave of court' to conduct the proceeding in English (Federal Constitution, art. 152(4); National Language Act 1963/67, s. 8; Muslim et al., 2011). Nevertheless, this is only permitted after considering the interests of justice to provide a fair trial to both parties involved (e.g., public prosecutor v the accused, or plaintiff v defendant). Even as early as 1990, the Chief Judge of Malaya, Hashim Yeop A. Sani, had instructed all Judges and Judicial Commissioners to present him with at least one verdict in the national language to get some insights on the issues concerning the use of the national language in the court (Chief Judge of Malaya's Circular No. 3, 1990, as cited in Dato' Seri Anwar Ibrahim v Tun Dr Mahathir Mohamad, 2010). It suggests that all written and oral submissions presented by the defence counsels and deputy public prosecutors, as well as the judgement writing of the Court, should be in Bahasa Melayu.

Nevertheless, the use of Bahasa Melayu as the court language stipulated in the constitution and acts lacks equivalent terms (Abu Bakar, 2015). Legal practitioners and language experts need to address this linguistic challenge mutually and respectively. For example, the freedom of exemption in The National Language Act 1963/67 has prompted most civil legal practitioners to opt for English in their proceedings (Abu Bakar, 2015; Powell, 2020; Rozman, 2018). Many court documents, such as legal contracts, agreements, and affidavits, were drafted in English (Rozman, 2018). The main reasons for the option of the English language were the absence of appropriate and accurate legal terms in the national language corpus and some issues of terminological translations such as missing terms, lack of technical knowledge, and multiple meanings of English words (Abu Bakar, 2021; Powell, 2020). Even though there are written rules regarding the language used in proceedings, there are also unwritten rules for their choice of language in selected situations (Powell, 2020; Rozman, 2018).

Since language plays an imperative role in delivering an accurate message in this field, the use of Bahasa Melayu in the courtroom still faces challenging linguistic demands as its use is mixed with the English language (Abu Bakar, 2015; Othman et al., 2019; Rozman, 2018). A notable example is the common practice of code-switching and code-mixing between Bahasa Melayu and English in the Bahasa Melayu "grounds of judgement" (i.e., reasons of judgements). The concern is that legal practitioners often perceive the changes of some terms through code-switching or code-mixing as a sign of proficiency rather than deficiency (Abu Bakar, 2015; Powell, 2020). They view that the law should operate in the language most easily understood by them and the public, thus allowing flexibility of code-mixing in the lexico-grammatical

aspects of the language. Common Law most likely influences this in the Malaysian legal system, where English is the language used in the legal precedents (Rozman, 2018). Therefore, to a certain extent, the use of the English language is still necessary when there are cases or circumstances requiring references to such laws. Hence, while analysing the corpus, it is also important to consider the factors for the code changes of lexical and phrasal terms in the practice of judgement writing in Malaysia.

Muysken (1995) mentioned that code-switching is the alternative linguistic technique commonly used by bilinguals of two or more languages to make meaningful communication. Thus, the use of code-switching and code-mixing often occurs in situations where the aim is to address any insufficient or unsuspecting circumstances to facilitate the delivery of information. In legal situations, the use of code-switching and code-mixing is common when judges ascribe specific meanings to words or when lawyers need to use the right words to effectuate the wishes of their clients (Hyatt, 2018; Othman et al., 2019). The selection of words or terms used is imperative to ensure that the most suitable words are used in the given context. In some situations, commonly recognisable words may take on different connotations or new meanings when used in the courtroom (e.g., grounds of judgement, trial, and soon on). These specialised meanings of words in law are distinctly known as "terms of art". These distinct words are often foreign or unavailable in other languages apart from

English or in languages where the specific terms have been coined (Hyatt, 2018). In this case, Bahasa Melayu may not have the precise terms for specific references to be used in the legal context because most of the legal references are in English (Rozman, 2018). Hence, there seems to be a need to use the language with precision to avoid confusion, as literal substitution of one word with another may result in poor evaluation and misunderstanding of the intended message.

Due to the current limitation of Bahasa Melayu in the legal field, such as in the writing of the grounds of judgement of a case, it is inevitable to apply code-switching and code-mixing of the adequate terms from Bahasa Melayu to English to ensure that the accurate message is delivered to the recipients. It can be one of the ways that people in this field can communicate efficiently and effectively. As these grounds of judgements, categorised as official documents, are published for the public interest, there is a need to analyse the types of code-switching and code-mixing used in these documents. The findings will provide insights on the measures that the legal practitioners can take to improve these official documents for public reference. The results will also serve as a guideline for future researchers and language experts to expand the existing corpus so that the use of Bahasa Melayu in the Malaysian Judicial System could further be strengthened. Thus, the present study sought to answer the following research questions (RQs) on code-switching, code-mixing, and their

functions: (i) What are the frequencies of the types of code-switching and code-mixing in the selected grounds of judgements? (ii) How frequently are the functions of code-switching and code-mixing used in writing of the grounds judgement?

LITERATURE REVIEW

Code-switching is a common practice in bilingual interactions whereby speakers mix words, phrases, and sentences of two or more languages, dialects, or speech styles (Bokamba, 1989; Hymes, 1974; Mujahid et al., 2020; Ononye, 2018). The switching between these units occurs within one speech event involving alternation and interchange of more than one language (Milroy & Muysken, 1995) while retaining the syntactic rules of either language (Mujahid et al., 2020; Ononye, 2018; Poplack, 1980). Muysken (1995) and Muthusamy (2010) posited that code-switching demands a high level of bilingual competence, thus explaining the code-switcher's ability to produce comprehensible and grammatically sound utterances containing linguistic units of various languages.

Code-switching is interrelated to code-mixing in which the latter is a more subtle form of language alternation in which the fundamental distinction of code-switching is still open to discussion. Some scholars did not differentiate the two concepts. For instance, Clyne (1991) did not distinguish between code-switching and code-mixing, claiming that both concepts refer to the same acts of using L2 after L1 alternately. Similarly, Muysken (2000) and Ononye

(2018) described code-mixing as using linguistic units of two languages in the same sentences, a definition akin to code-switching. Li (1998) elaborated that code-mixing is the admixture of linguistic units on the phonological, lexical, grammatical, and orthographical levels. However, other scholars attempted to distinguish code-mixing from code-switching by proposing that code-mixing is a natural communication phenomenon that functions much deeper (Kachru, 1978; Maschler, 1998). Nevertheless, both concepts function under the language alternation principle, fluidly using the elements of several languages in a single utterance (Mujahid et al., 2020).

The switching of language units can occur in three instances: inter-sentential, intra-sentential, and tag-switching. Inter-sentential code-switching refers to switching units at the sentence-based level (Appel & Muysken, 2005) and the clausal level (Romaine, 1989). Meanwhile, intra-sentential code-switching refers to the language switching at the word or phrasal level (Romaine, 1989). Finally, tag-switching refers to inserting tag or interjection components from one language to another (Muysken, 2000). Muysken mentioned that three distinctive processes occur during language mixing. The first process refers to insertion, which is the process of embedding units from one language to another. Secondly, it is alternation, which is the process of a true switching in grammar and lexicon from one language to another. The third process is congruent lexicalisation, which refers to

interchanging lexicons from two languages with similar grammatical structures.

Bilingual speakers utilise Code-switching and mixing for different purposes. Appel and Muysken (2005) explained that switching has several functions: referential, directive, integrative, expressive, phatic, metalinguistic, and poetic. Referential function refers to switching when speakers use units from another language because they lack knowledge of the main language. Directive function refers to the action of excluding other interlocutors by switching to a language they do not understand (similarly, to include others by switching to the language they understand). Meanwhile, expressive function refers to switching as a form of identity, whereas phatic function refers to switching to change the tone of discourse. Metalinguistic function refers to the use of one language to make comments regarding another language. Finally, poetic function refers to switching for puns, jokes, and other word-play purposes.

Similarly, Malik (1994) proposed a model categorising code-switching into distinctive functions. The functions include lack of facility, lack of registral competence, the reflection of the mood of the speaker, amplification and emphasis of a point, stress on the semantic significance, a reflection of the identity with a group, an act to addressing different audiences, the attraction of attention, and finally, an act to serve the pragmatic contexts and habitual expression. However, due to the specific examination of legal grounds of judgements, the present study employed only five functions by Appel and Muysken (2005) and six functions by Malik (1994).

The elements of code-switching and code-mixing discussed by Appel and Muysken (2005) and Malik (1994) are central to several bilingualism studies. For example, Wibowo et al. (2017) found that the occurrence of intra-sentential code-switching was demonstrated in a formal speech by the Indonesian president. Furthermore, they identified that the code-switching used in this situation was for emphasis. In comparison, within the Malaysian political sphere, it was found that both inter-sentential and intra-sentential levels of code-switching were used in the country's parliamentary debate (Khalil & Firdaus, 2018). Similarly, this study found that code-switching was also used for emphasis. However, several other functions were also observed, such as the speaker's mood, lack of equivalent terminology, habitual expression, and pragmatic reasons.

Since code-switching and code-mixing occur among bilingual and multilingual speakers, it is only natural that these practices are widespread in the Malaysian context. The occurrences of code-switching and code-mixing with English are often observed, especially in Malaysia as the *de facto* second language. For instance, when speakers of the same ethnic group converse, their mother tongue becomes the dominant language, with English and Bahasa Melayu as the embedding languages (Muthusamy, 2010). Within the general social sphere, it was found that Malaysians usually code-switch to show identity in a

group (Hadei et al., 2016; Stapa & Khan, 2016). Consequently, they code-switch to express their emotions to provide further elaboration, clarification and emphasis when interacting with people within their group (Stapa & Khan, 2016). Similarly, in the education setting, it was also observed that code-switching was used to show identity in a group, although other findings like emphasising and amplifying points, lack of registral competence, and mood of the speakers were also reported (Azlan & Narasuman, 2013). Meanwhile, in the business context, it was observed that code-switching was an established practice since the 1990s, whereby employees ranging from shop floor level, middle level, and the administrative level practised code-switching between Bahasa Melayu, English, and Chinese/Indian languages (Morais, 1995).

Within the context of legal discourse, several studies looked into the interaction between language and the laws (Haynes, 2017; Oxburgh et al., 2015). It was also found that studies on the written judicial decision have specifically been gaining traction from numerous researchers (Bavelas & Coates, 2001; Charalambous, 2015; MacMartin & Wood, 2005). However, in the Malaysian context, limited studies were published on the use of Bahasa Melayu in the Malaysian Judicial System. These studies only highlighted the inconsistent patterns in the language demonstrated through code-switching and code-mixing of Bahasa Melayu and English without addressing their linguistic properties (Powell, 2020;

Rozman, 2018). The direction of the studies was also focused on finding the flaws in the constitution and acts, but the reasons behind the language choice were not examined in detail. As a result, recommendations were given from a legal standpoint without any concrete or significant data. A relevant study by Razali and Sulong (2016) discusses the practice of judgement writing and its application in the Shariah Court of Malaysia. However, this study only explored the history of the judgement writing practice, its significance, and its implementation by only addressing the general issues in the language used.

Despite the lack of focus on the linguistic aspects of studies of the Malaysian legal discourse, a limited number of studies have emerged to address this gap. A study by Ibrahim and Awang (2011) investigated Malaysian judicial opinions in civil trials on the use of modal verbs and language markers to express the stance and attitude of the judges. Meanwhile, Othman et al. (2019) analysed the discursive strategies adopted by the judges to reformulate the description of a rape crime. Nonetheless, both studies only focused on using the English language in the Malaysian legal discourse. Outside Malaysia, the occurrences of code-switching and code-mixing in the legal context were observed by Silaban and Marpaung (2020). This study was conducted in the context of a talk show program involving Indonesian lawyers in which code-switching and code-mixing were utilised because of the foreign language's and for inclusivity to accommodate viewers from diverse

linguistic backgrounds. In this sense, the findings closely followed Malik's (1994) model in terms of the component of showing identity with a group and pragmatic reasons, respectively. Based on these studies, it was revealed that code-switching and code-mixing in the legal context in Malaysia is evidently an understudied area. Studies of these concepts within the Malaysian context have thus far focused on the social and educational fields. Therefore, the present study sought to fill the scarcity of studies by providing empirical data concerning code-switching and code-mixing in the legal context in Malaysia.

METHODOLOGY

The grounds of judgement (or reasons of judgements) are the reasoning the judge gives in support of a judgement or order (Lake v Lake, 1955). In the present study, thirty-two (32) grounds of judgement written in the national language from 2015 to 2021 were extracted from The Current Law Journal for further analysis. The selection of the samples employed criterion sampling, one of the types of purposive sampling in a quantitative study. Criterion sampling was chosen as it relies on the evaluation of the research experts to select a sample with a specific purpose in mind. In selecting the sample, researchers were the language experts who selected samples with several predefined criteria as; (i) grounds of judgements from 2015 to 2021, (ii) grounds of judgement written in Bahasa Melayu, (iii) judgements of a civil or criminal case, (iv) grounds of judgements that use code-switching and code-mixing.

These samples extracted within the last six (6) years were selected to study the use of code-switching and code-mixing. The period reflects the implementation of Bahasa Melayu as the language of the court, which is 58 to 64 years after *Merdeka* Day and 52 to 58 years after the National Act Language 1963/67 came into force (Federal Constitution, art. 152(4); National Language Act 1963/67, s. 8; Muslim et al., 2011). Then, as most higher court cases use English in their proceedings, only samples written in Bahasa Melayu (ii) were listed from the timeframe (Abu Bakar, 2021). The list was then narrowed down to judgements of a civil or a criminal case (iii) to exclude Syariah cases (i.e., Islamic system of law) from the samples where Bahasa Melayu is predominantly used in the proceedings (Razali & Sulong, 2016). Finally, samples with code-switching and code-mixing were selected to specify where the types of code-switching and code-mixing could be identified and how they were used in the practice of judgement writing in Malaysia for further analysis.

Two main variables were studied in the present study. Two linguistic constructs, respectively, represented each variable. The first variable was represented by i) Types of code-switching (i.e., inter-sentential, intra-sentential, and tag-switching) and ii) Types of code-mixing (i.e., alternation, insertion, and congruent lexicalisation). Both variables correspond to each other in that the inter-sentential structure is tantamount to the alternation structure. At the same time, the intra-sentential and tag-switching structures are commensurate with the role of insertion and congruent lexicalisation. The difference is that the former operates at a higher level

(i.e., sentential and clausal levels) while the latter operates at a lower level (i.e., phrasal and lexical levels). In addition, code-switching and code-mixing types could be assigned with the nominal measurement value for statistical analysis. It could also be reassigned to the ordinal measurement scale for further analyses to explore its relational role with the second variable.

Two function-oriented models operationally defined the second variable of the present study: i) Five (5) Functions by Appel and Muysken (2005) and ii) Six (6) Functions by Malik (1994). Table 1 summarises the two types and two function models and their operational definitions for reference during the codification.

Table 1

Operational definitions of variable 1 (types) and variable 2 (functions) of code- switching and code-mixing

Operational Definitions of Variable 1 (i.e., Types of Code-Switching and Code-Mixing)		
Operational levels	**Types of code-switching**	**Types of code-mixing**
Sentence or Clause Levels	Inter-Sentential	Alternation
Phrasal or Lexical Levels	Intra-Sentential	Congruent Lexicalisation
	Tag-switching	Insertion

Operational Definitions of Variable 2 (i.e., Functions of Code-Switching and Code-Mixing)	
Five (5) Functions by Appel and Muysken (2005)	**Six (6) Functions by Malik (1994)**
Referential function: The absence of legal terms in Bahasa Melayu or lack of register/writers are not aware of the existence of such words in Bahasa Melayu	**Lack of facility** (the absence of specific legal terms in Bahasa Melayu—e.g., *prima facie* (the case at first sight), *mens rea* (criminal intent/ guilty of mind)
Directive function: To differentiate various roles/doers (e.g., Court, Judge, Plaintiff, Defendant)	**Lack of registral competence** (the lack of register among the writers - the way a speaker uses language differently in different circumstances) Register: the style of language, grammar, and words used for e, e.g., informal register/ academic register, lingo.
Expressive function: To describe the qualities of doers or the elements presented. e.g., *Mahkamah* (the Court), *yang tertuduh* (the accused), *saksi* (the witness), *bukti* (evidence)	**Semantic significance** (the importance of meaning)
Phatic function: (Emotion) To show emotion that helps to amplify a point, pity, anger, stress on the verdict/actions, and others.	**To show identity with a group** (identity as the Judge, the one that delivers the verdict, the one that upholds the law)
Metalinguistic function: Myers-Scotton (1979) asserted that speakers sometimes switch code to comment on another language (To emphasise the importance of meaning)	**To amplify and emphasise a point** (to highlight a point) **Pragmatic reasons** (to serve the context of the text)

A template of an excel spreadsheet was created and customised for coding analyses. The customised features have several columns for lines extracted from the grounds of judgements, its page number for reference, drop-down lists of the types of code-switching, types of code-mixing, and their functions by Appel and Muysken (2005), as well as functions by Malik (1994). Finally, the last column was created for additional remarks (i.e., definitions based on http://prpm.dbp.gov.my—Pusat Rujukan Persuratan Melayu, explanation, and other examples for a clearer understanding of the code-switched words to guide the researchers in the coding process). The customised spreadsheet was used as the analysis tool for copying the lines from the ground of judgements which contain the units of code-switched constituents (i.e., code-switched words/ phrases/ clauses/ sentences) and pasting them onto the customised excel spreadsheet. Each unit was highlighted in bold to differentiate it from the words in Bahasa Melayu along the same lines. Then, the analysis was done by identifying and then coding (i.e., selecting from the dropdown lists) the types of code-switching (i.e., inter-sentential, intra-sentential, and tag-switching) and types of code-mixing (i.e., insertion, congruent lexicalisation, and alternation) in the spreadsheet. After that, the functions of the identified codes were also determined and annotated with additional remarks in the following columns to give further insights into each code-switching and code-mixing category and their relevant functions.

Another researcher was assigned as the second coder to re-code eight (8) or 25% of the selected samples to ensure intercoder reliability. The percentage was in line with a previous inter-rater reliability done by Connor (1990), who reanalysed 40 scripts from 150 sample essays in her study on rhetorical linguistic features, representing approximately 25% of the total sample. In their study, Lehman and Sułkowski (2020) also successfully established inter-rater reliability between the principal and secondary coders. Statistically, a dichotomous variable is analysed with phi correlation coefficient (φ). In contrast, a variable with more than two sub-levels/ subcategories is analysed with Cramer's V correlation coefficient (V) within a range of 0 to 1.0 to measure the association and consistency of codifications between the principal and secondary coders. It is important to note that despite having three subcategories, only two subcategories of the types of code-switching were found in the eight re-coded grounds of judgement, hence the statistical application of the phi correlation. As for the other variables (i.e., types of code-mixing and the other two function models), Cramer's V correlations were employed. Correlational analyses showed that there were strong correlations between coders for the analyses of the types of code-switching (φ > = 0.99, p < .05), the types of code-mixing (V >= 0.99, p < .05), the functions by Malik (1994; V > = 0.811, p < .05) and moderate correlation for the analysis of functions by Appel and Muysken (2005; V >= .342, p < .05).

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Once the coding process was completed, Statistical Package for Social Sciences (SPSS) was used to carry out two statistical tests: Chi-square ($\chi 2$) and Contingency Correlation Coefficient (C). The former was carried out to analyse the variables assigned to the nominal measurement scale (i.e., types of code-switching, code-mixing, and two function models). The latter was used to analyse the variables reassigned to the ordinal scale of measurement (i.e., types of code-switching and code-mixing from the lowest to highest textual structure) against the nominal scale of measurements (i.e., two function models). It was done to explore how the reassigned ordinal types of code-switching and mixing and the two existing nominal function models interacted with each other.

RESULTS AND DISCUSSION

Overall Analysis of Lexical Density

Table 2 shows that 448 units of code-switched constituents were identified in the affected lines of the 32 samples of the grounds of judgements against the total number of words, 9015. The number of units of the code-switched constituents was divided by the total number of units for the words in all samples to generate the total percentage for the code-switched constituents. From the above, the code-switched/mixed constituents occur at 0.05% (i.e., rounded up from 0.0497%) from the total number of words in the affected lines of the grounds of judgements.

Table 2

Number of units of the code-switched constituents against the total number of words

Items	Number of units	Percentage
Code-Switched Constituents	448	0.0497%
Total number of words in the affected lines of all 32 samples	9015	100.00%

Research Question 1: What are the frequencies of the types of Code-Switching and Code-Mixing used in the selected grounds of judgements?

Table 3

Observed frequency counts and chi-square for types of code-switching

	Observed N	Expected N	Test statistics for types of code-switching		
Inter-sentential	16	224.0	Chi-Square		386.286
Intra-sentential	432	224.0	df		1
Tag-switching	0	0	Asymp. (2-tailed)	Sig.	.000
Total	**448**				

Based on Table 3, it was found that the frequency of intra-sentential code-switching occurrences (432) differed from the frequencies of inter-sentential code-switching occurrences (16). Tag-switching (0) is nowhere to be found in the analysis. These intra-sentential frequencies were also significantly different from inter-sentential code-switching, χ^2 (df=1, N = 448) = 386.286, p < .01. It can be concluded from the above findings that code-switching is more frequently used at the intra-sentential level (i.e., phrasal, and lexical levels) than the inter-sentential level (i.e., sentence or clause-based levels) when delivering the grounds of judgement.

Table 4

Observed frequency counts and chi-square for types of code-mixing

	Observed N	Expected N	Test statistics for types of code-mixing		
Alternation	16	149.3	Chi-Square		774.835
Insertion	427	149.3	df		2
Congruent Lexicalisations	5	149.3	Asymp. (2-tailed)	Sig.	.000
Total	**448**				

Table 4 shows that there were differences in the frequency of insertion occurrences (427), alternation occurrences (16), and congruent occurrences (5) in all the 32 grounds of judgements. These differences were also found to be significant from one another, $\chi2$ (df=2, N = 448) = 774.835, p < .01.

It can be concluded that code-mixing is applied more commonly at the insertion level (i.e., phrases, words) than alternation level (i.e., clauses and sentences) and congruent lexicalisation (i.e., two adjacent words with similar grammatical structures). The former part of the conclusion also agrees with the previous conclusion derived from Table 2 that code-switching and mixing are more frequently present at lexical and phrasal levels than clausal and sentential levels in the delivery of the grounds of judgements. For illustration, some example words/phrases of intra-sentential code-switching (=insertion of the code-mixing) include '...*kes **prima facie**...*', and '...*bersifat penafian semata-mata dan **afterthought**.*'

Research Question 2: How frequently are the functions of code-switching and code-mixing used in writing the grounds of judgement?

Table 5

Observed frequency counts and chi-square for functions by Appel and Muysken (2005)

	Observed N	Expected N	Test statistics for types of functions		
Referential Function	206	89.6	Chi-Square		279.679
Directive Function	8	89.6	df		3
Expressive Function	66	89.6	Asymp. (2-tailed)	Sig.	.000
Phatic Function	38	89.6			
Metalinguistic Function	130	89.6			
Total	**448**				

Table 5 shows the analysis based on Appel and Muysken's (2005). Functions, it was found that there were differences in the frequency of referential function occurrences (206), metalinguistic function (130), expressive functions (66), phatic function (38) and directive function (8) on all the grounds of judgements. These differences were also found to be significant from one another, $\chi2$ (*df*=4, N = 448) = 276.679, $p < .01$.

For contextual illustration, constituents such as '...*membuktikan kes **prima facie** terhadap tertuduh*.', and '...*sedangkan HMS telahpun **functus officio** ...*' were utilised to reflect the referential function. As for metalinguistic function, examples entailed constituents such as '...*dan keseriusan jenayah itu sendiri (**gravity of the offence**).*', and '...*telah dijumpai berdekatan (**close proximity**) dengan dadah*.'. Examples such as '...*mengenakan hukuman yang bersifat **deterrent**...*', and '...*bukanlah bermakna Mahkamah ini **trivialise** keseriusan jenayah*

yang dilakukan...' were minimally used to indicate the directive function.

Thus, it can be concluded that Bahasa Melayu lacks sufficient or equivalent words/ phrases to represent legal concepts. It resulted in the highest presence of code-switching for the referential

function to accommodate the appropriate legal situations. Similar is the case for the metalinguistic function, which is the second most important function in legal judgements when the writers code-switched into the English language to comment on the words/ phrases in Bahasa Melayu to emphasise the importance of their meaning. On the contrary, the judgements were also found to be lacking in using code-switched/mixed constituents to exert power or positions due to the least application of words or phrases for directive function.

Analysis of Malik's function (1994) in Table 6 revealed that there were differences in the frequency counts of 'Lack of Registral Competence' (132), 'To Amplify

Table 6

Observed frequency counts and chi-square for functions by Malik (1994)

	Observed N	Expected N	Test statistics for types of functions		
Lack of [legal] facility	68	74.7	Chi-Square		113.402
Lack of registral competence	132	74.7	df		4
Semantic significance	83	74.7	Asymp. (2-tailed)	Sig.	.000
To show identity with a group	7	74.7			
To amplify and emphasize a point	94	74.7			
Pragmatic reasons	64	74.7			
Total	**448**				

and Emphasise a Point' (94), 'Semantic Significance' (83), 'Lack of [legal] facility' (68), 'Pragmatic Reasons' (64) and 'To show identity with a group' (7) occurrences in all the grounds of judgements. These differences were also found to be significant from one function to the other functions, $\chi2(df{=}5, N = 448) = 113.402, p < .01$.

Therefore, it is concluded that lack of registral competence is the most important function used to indicate that there is a significant lack of equivalent words from Bahasa Melayu (e.g., '*tiada keperluan untuk **independent corroboration** bagi kes*', '*…telah menggunakan **double presumption** yang menyalahi undang-undang.*') to be presented in the legal grounds of judgement. Findings also show a significant need to use code-switching/mixing to amplify or highlight a point (e.g., ...*wujudnya **overwhelming evidence** yang menjustifikasikan dapatan.*', '...*mengikut tafsiran **whims and fancies** pihak-pihak.*') in the delivered grounds of judgement. Finally, contrary to the common expectation, code-switching or mixing in the grounds of judgement was applied the least to differentiate identities between relevant court parties (i.e., the roles of the plaintiff, defendant, the Judge).

To find out if certain types are associated with certain functions of code-switching or mixing, contingency correlation coefficient analysis was done, as shown in Table 7. Based on significant findings from the previous analysis for each respective type and function, only one type (i.e., code-mixing) and one function (Appel & Muysken, 2005) were employed herein as the findings should be reflective of the other type and function counterparts. It was found that there was a significant correlation between Types of Code-switching and Functions by Appel and Muysken (2005), ($C{=}0.221, p < .01$).

Table 7
Contingency correlation coefficient between types (code-switching) and functions (Appel & Muysken, 2005)

		Functions (Appel & Muysken, 2005)						Symmetric measures	
		Referential	Directive	Expressive	Phatic	Metalinguistic	Total		
Types of Code-Switching	Inter-sentential	1	1	7	4	3	16	Contingency coefficient	.221
	Intra-sentential	205	7	59	34	127	432	Asymp. Sig. (2-tailed)	.000
		206	8	66	38	130	448		

Further investigation revealed that intra-sentential code-switching was associated with referential and metalinguistic functions more than the phatic and directive functions.

CONCLUSION

This study examined the frequency of use of code-switching and code-mixing in the practice of judgement writing in the Malaysian Judicial System. From the above findings, it can be concluded that code-switching and code-mixing are markedly used in the legal field in Malaysia. Therefore, it concurred with Rozman (2018) and Powell (2020) about the visible occurrence of code-switching and code-mixing in the formal legal context. Furthermore, Silaban and Marpaung (2020) also consented by demonstrating the legal application of code-switching and code-mixing in the spoken discourse. Hence, the present study's findings complemented Silaban and Marpaung (2020) by concluding about the significant use of code-switching and code-mixing in the written discourse of a legal text.

Furthermore, the present study also concludes that although code-switching is frequently exhibited on the grounds of judgements, the code changes more frequently at the intra-sentential level than at the inter-sentential level. Tag-switching, on the other hand, is not a common type of code-switching in this context. Like code-switching, code-mixing is most commonly applied as insertion rather than as alternation or congruent lexicalisation. Nonetheless, the latter's use is not foreign on the grounds of judgements.

Since language is needed with precision to avoid confusion, errors, or serious misunderstanding, there is flexibility in the language used and its grammatical aspects. Code-switching and code-mixing between Bahasa Melayu and English were used predominantly on these grounds of judgements due to the lack of sufficient or equivalent words or phrases in Bahasa Melayu to represent legal concepts. The lack of registral competence is the notable reason for using English words or phrases on these grounds of judgement. Such changes were also encouraged to provide more context to the audience and emphasise significant points in the judgement. It is supported by Khalil and Firdaus (2018) on the importance of code-switching in emphasising important ideas in a text. There are also other circumstances where the changes are applied to reflect the identities of the relevant parties in the courts.

Although code-switching and code-mixing serve as an alternative competence for bilinguals to engage in a social and professional situation, selecting words or phrases is intentional and imperative in this field. Hence, there is an immediate need to expand the corpus to provide enough context for legal practitioners' reference in writing their legal discourse. The findings of this present study provided information in the form of concrete data by fulfilling the gaps identified earlier in the previous studies (Razali & Sulong, 2016; Silaban & Marpaung, 2020). Therefore, this information can be used by language experts and legal practitioners to develop possible strategies to increase awareness of the terms in Bahasa Melayu, such as through specialised language courses for legal practitioners. Through the results of this study and the efforts of relevant parties, it is hoped that the use of Bahasa Melayu could be further strengthened in the Malaysian Judicial System.

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