

Heikki E. S. Mattila (ed.): *The Development of Legal Language. Papers from an international symposium held at the University of Lapland, September 13–15, 2000.* Helsinki: Kauppakaari. Finnish Lawyers' Publishing, 2002

Introduction

Language is central to the law and language in legal contexts can take on a variety of forms and appear in an array of contexts. Legal language is bound to legal relationships and social conditions in general and has deep national roots, despite increasing globalization. Different legal systems, different legal languages, and different types and genres of legal texts coalesce into a complex, demanding, and fascinating area of research. Both linguistic researchers and jurists have made important contributions to the exploration of the field.

The Development of Legal Language. Papers from an international symposium held at the University of Lapland, September 13–15, 2000 (193 p.) provides a new contribution to the discipline. Edited by Heikki E. S. Mattila, Senior Research Fellow at the Academy of Finland, the volume contains nine papers from a symposium that was part of a series of scholarly conferences arranged by the Comparative Legal Linguistics Project, which is funded by the Academy of Finland. In addition to the nine articles, the book contains the editor's summary "Towards the Science of Legal Linguistics," as well as the foreword (Mattila), opening statements (Jyränki), welcome from the faculty of law (Linnakangas), and the list of authors.

The ten scholarly texts are grouped under four thematic subject areas: "Underlying Factors," "Interaction and Transformation of Legal Languages," "Consequences of Legal Bilingualism," and "Conclusion." In my review, I will first summarize the scholarly texts in the four subject areas. Thereafter, I will address certain points of discussion based on the volume as a whole. Finally, I discuss the conceivable readership of the book.

The thematic papers

The "Underlying Factors" section begins with Christer Laurén's contribution "Iconism and Special Language." Laurén's thesis is that the use of language in scholarly contexts reflects, in the texts as a whole, various models for producing and structuring knowledge. Legal texts may thus be compared synchronically with texts that represent other professional fields and diachronically with legal texts from different eras. Laurén's arguments in support of his thesis are based in part on medieval Swedish provincial laws and modern legal texts.

The second contribution in this subject area is Pia Letto-Vanamo's paper "Legal Systems and Legal Languages." Letto-Vanamo constructs diachronic perspectives on relationships between different legal systems and languages used for legal purposes. Latin was the common and only language for Roman-canonical law (*ius commune*). Other legal systems that use different languages have since emerged; eventually, a new common European law (*ius commune Europaeum*) may be created. Letto-Vanamo differentiates between two main groups in relation to legal systems and languages in modern Europe:

"We have one legal family, based on Roman Law, the civil law (*ius commune*) family, and the other, which is outside Roman Law, the common law family. One could also say that the European languages belong to two families just as the legal systems do: the Roman family and the non-Roman family." (p. 22)

Letto-Vanamo then sheds light on the correlation between legal systems and language, relying primarily on Swedish and Finnish legal terminology in relation to English and German conditions.

The first contribution under the thematic subject area of "Interaction and Transformation of Legal Languages" is "The Roman Heritage in German Legal Language" by Rainer Arntz. He addresses the relationship between German as a legal language compared to Latin and Romance languages, primarily Italian, in legal contexts. Arntz emphasizes that he is not comparing languages only, but also legal systems, although it can be difficult to strictly maintain the boundary between the two quantities.

After an introductory discussion of the possibilities and difficulties inherent in comparing legal systems and legal languages, Arntz provides an overview of the sway of Latin over legal German from ancient to modern times. Focus is on lexical influence, which occurs primarily through loan translations of terms of Latin origin. The author then addresses German law in relation to Romance legal systems in Switzerland and South Tirol, where German and French and/or Italian are legal languages on an entirely equal footing with German. With particular focus on the situation in South Tirol, Arntz notes and exemplifies a number of difficulties caused by differences in the legal systems, particularly in connection with translation.

In a paper titled "Legal English – How It Developed and Why It Is Not Appropriate for International Commercial Contracts," Barbara J. Beveridge begins with a brief description of the common law system. She also discusses various definitions of the term *common law*:

"(It must be noted that today the term *common law* has a number of different meanings: it can mean the system of law used by English-

speaking countries or former British colonies; it can mean the law handed down by what were called the common law courts as opposed to the courts of equity; it is also used to mean the same as *case law*, i.e., judge-made law, as opposed to statutory law.)” (p. 58)

The author then provides an outline of English legal vocabulary, which is strongly influenced by Latin and French, and a description of contract law in a common law system. Against that background, Beveridge argues that the widespread use of English legal terminology is problematical in connection with international commercial contracts, primarily because English legal language was developed in a common law system, while many international contracts do not belong in such a system.

In the third paper in this section, Pascale Berteloot discusses “Legal French in France and in the European Communities.” The focus is thus on two varieties of legal French.

After having described the status of French in EC law, Berteloot explores legal and other reasons for the differences between the two varieties of legal French. Among the non-legal reasons, Berteloot notes that legal Community texts in French are often written by people whose native language is not French. Secondly, many EC texts announce legal rules that will not constitute legislation on the national level, but only administrative rules. The varying circumstances result in differences between the two varieties of legal French with respect to terminology, text structure and style, and expression. Finally, Berteloot underlines the need for further research in the field.

Aino Piehl also constructs a comparative perspective in “The Influence of EC Legislation on Finnish Legal Language: How to Assess it?” The paper was inspired by the discussion that has continued since Finland joined the European Union in 1995 concerning the potential influence of Finnish EU texts on Finnish in Finland. The central question in Piehl’s study is whether Finnish EU texts are impacting the readability of Finnish statutes and if so, how.

Piehl emphasizes that a variety of factors have an impact on the readability of texts, including syntactic and lexical properties. The paper reports a pilot study of sentence length, counted in number of words per sentence and number of clauses per sentence, in two EU directives and two Finnish laws, all from 1999. The directives proved to have longer sentences and more clauses per sentence than the two laws. The results are also discussed in relation to earlier research on statutory language and in relation to instructions for EU texts.

The first paper in the “Consequences of Legal Bilingualism” section is Louis Beaudoin’s “Legal Translation in Canada.” The author begins with a history of English/French legal translation in Canada. Beaudoin states that such translation

entails tremendous difficulties. He then gives examples of “[...] a few of the most glaring problems posed by the translation of legal texts from one legal system to another (from common law to Romano-Germanic law) and from one language to another (from English to French)” (p. 119). The primary focus of the paper is on lexical problems, but syntactic difficulties are also addressed.

English and French as legal languages in Canada have a relatively long history; that of Catalan as a legal language in Spain is considerably shorter. In “Promoting Legal Catalan,” Marta Xirinachs Codina first provides an overview of the linguistic situation in Spain, which has four official languages: Spanish, Catalan, Galician, and Basque. Spanish is the official language for the entire country, while Catalan, Galician, and Basque enjoy official status in their respective regions. Catalan was made an official language alongside Spanish (Castilian) in Catalonia in 1979. An active effort to develop Catalan in legal contexts has been in progress ever since. Xirinachs Codina reports on language education for civil servants, informational programs, and various forms of language planning, such as drafting of document templates and terminological work.

In the third and last contribution in this subject area, Sten Palmgren addresses the matter of “Legal Swedish and Legal Finnish.” Palmgren begins with a brief overview of the linguistic situation when Finland was part of the Kingdom of Sweden (until 1809) and during Finland’s era as a Grand Duchy of Russia (1809–1917). He then focuses on the situation after Finland became an independent nation in 1917.

According to the Constitution of Finland, Finnish and Swedish are both accorded the status of national languages in Finland. Among the consequences of this duality are that all legislation is written in both Finnish and Swedish. In the vast majority of cases, the Swedish-language version is a translation from Finnish, but the Finnish and Swedish versions enjoy equal legal status.

Palmgren then discusses the evolution of Swedish as a legal language in Finland since the 1960s, shedding light on a variety of opportunities and problems in the effort to produce accurate and comprehensible Swedish-language legal texts. Despite certain aggravating circumstances, Palmgren believes that Swedish has a practical future as a legal language in Finland: “[...] it seems that the Swedish legal texts have survived amazingly well and that they are living texts which are used in practice. The credit for that goes to the skilful translators, but also to the legal draftsmen” (p. 160).

The summary paper

In the final contribution, “Towards the Science of Legal Linguistics,” which is the only paper under the thematic subject area “Conclusion,” Heikki E. S. Mattila

provides a review of earlier research on legal language and of current research on the subject and its various aspects.

Mattila begins by stating that research on legal language has a relatively short history from the more theoretical perspective, but a very long one from the more practical perspective, particularly with respect to the use of rhetorical instruments in courts and legal translation. He then provides a succinct review of research on legal language in the 20th century.

In the review, Mattila first discusses various designations for the field of research. *Linguistique juridique* (or *jurilinguistique*) is commonly used in French, and *Rechtslinguistik* in German. Russian and Polish also have corresponding terms to the English designation “legal linguistics,” but Spanish does not. Interestingly, “legal linguistics” is rarely used in English. In English-language research, the area of research is frequently called *language and law*. Mattila then provides a review of research in the field with emphasis on the nature of research conducted by linguists and jurists.

The following section of the paper addresses the subjects of inquiry in research that may be designated *legal linguistics* and the relationship between legal linguistics and neighboring disciplines. The latter include linguistic disciplines like syntactic and lexicological research, as well as non-linguistic disciplines, such as legal science and sociology. Mattila then addresses the relationship between legal linguistics and legal science, which is characterized by a fundamental difference:

“The discipline of legal linguistics differs from the science of law as far as the object of research is concerned. In legal science, the interest is concentrated on the abstract entities, legal concepts, which can be found in the background of legal terms. The science of law systematizes the legal order through legal concepts. Legal terms are names of concepts needed by legal science. However, the main interest of this science is not concentrated on the terms but on the concepts themselves. In legal linguistics, on the contrary, the terms as such become the focus of attention.” (p. 179)

The two disciplines thus apply different perspectives, but Mattila emphasizes that they should for that very reason be seen as complementary, rather than competitive.

Finally, Mattila discusses “The Importance of Juridico-linguistic Knowledge” (p. 185). Beyond the fact that legal linguistics can underpin jurisprudence, it may also contribute to the advancement of linguistics as such. Moreover, knowledge about language in general and language in legal contexts in particular is important to working lawyers, as language is the lawyer’s most indispensable tool in his or her work. In light of the burgeoning number of legal translations,

there is also greater need for knowledge about different varieties of legal terminology. More lexicographical and terminological work in the field is needed, both within single languages and between two or more languages.

Assessment

As a whole, the symposium volume *The Development of Legal Language* offers stimulating reading. I believe that both readers who are already acquainted with the field of research and those who are not will find intriguing information and rewarding opinions. The book is well worth reading for several reasons.

First, the points of departure of the authors as jurists (Beaudoin, Beveridge, Letto-Vanamo, Mattila, and Palmgren) and linguists (Arntz, Berteloot, Laurén, Piehl, and Xirinachs Codina) provide complementary perspectives on the varieties of legal language they discuss. Some of the authors (Beaudoin, Beveridge, Palmgren, Piehl, Xirinachs Codina) are also working translators and language experts, which adds further nuance to their treatment of their respective subjects.

Secondly, the editor's concluding paper provides a superb summary of legal linguistics as an area of research. The paper is a somewhat modified and expanded version of part 3 of the first chapter (pp 9–30) of Mattila's comprehensive and penetrating monograph *Vertaileva oikeuslingvistiikka* (Comparative Legal Linguistics, 739 pp), published in the summer of 2002. I understand that the author is currently working on a revised and abridged edition of the book in French (approximately 400 pp), which will probably be published in 2004. While awaiting the French edition, this paper makes at least a portion of this important work available to those who cannot read Finnish.

I find Mattila's exploration of the relationships between legal linguistics and neighboring areas of research especially interesting. The account and discussion of how the field is designated in different languages is also enlightening. It is to be hoped that equivalents to the English term *legal linguistics* will be introduced and used more often in the Nordic countries. The Finnish compound *oikeuslingvistiikka* (Mattila 2002: 11) could easily gain Danish, Norwegian, and Swedish equivalents: *retslingvistik*, *rettslingvistikk*, and *rättslingvistik*. The Danish term *retslingvistik* seems to be the most firmly established of the three. For example, one of the elective courses in the PhD study program "Communication, Culture, and Social Analysis" at the Copenhagen Business School is *retslingvistik* (chapter 3, paragraph 7).

Thirdly, this volume offers useful summaries of areas in which considerable and internationally acknowledged research has already been done. Three examples are Beaudoin's account of legal translation in Canada, Beveridge's summary of lexical properties in legal English, and Arntz's description of the

Romance-Latin legacy in German legal language. Yet another merit is that many of the authors of the papers in the book present fresh perspectives on their subjects. Two examples are Beveridge's discussion of why English is not an appropriate language for international contract law and Arntz's comparisons of languages and legal cultures in Switzerland and South Tirol.

On a fourth note, some of the contributions to the volume provide incisive summaries of research on legal language in the Nordic countries, which is more or less known outside of the Nordic region. This applies primarily to Palmgren's paper on legal Swedish and legal Finnish in Finland and Letto-Vanamo's discussion of aspects of Finnish legal terminology from a comparative perspective.

Fifthly, the book presents research in areas that have thus far garnered limited attention. I am referring mainly to Berteloot's study of legal French in France and in the European Communities, Piehl's study of Finnish in national legislation and EC legislation, and Xirinachs Codina's account of efforts to develop Catalan as a legal language. Laurén's discussion of legal texts from the synchronic and diachronic perspectives may also be placed in this group of contributions.

I have presented five reasons why *The Development of Legal Language* offers interesting reading. Naturally, there are certain particulars in the papers to which the reader may object concerning the writer's treatment of the subject at hand. I shall limit myself here to three examples.

In the concluding paper, Mattila provides the following description of linguistic studies of legal language and legal texts:

"It is characteristic of researchers who have a linguistic background that they apply quantitative methods in their studies, normally by means of computers. A typical research object is formed by the occurrences of different terms and other words, prefixes and suffixes, and so forth in legal language. Another important topic is the intelligibility and legibility of legal texts from a layman's point of view. The theory of text linguistics often forms the starting point of these studies." (p. 173)

I believe the description of the use of quantitative methods by linguists and their orientation towards lexical studies can be modified somewhat. Such studies do exist, of course, but other methods and orientations are common. Noteworthy in this context are the doctoral dissertations of Fredrickson (1995) and Engberg (1997). Both researchers studied court documents. Fredrickson's material consisted of Swedish and American documents and Engberg's of Danish and German documents. Both apply a textual perspective, albeit from different theoretical foundations, while evincing very little interest in the distinguishing lexical characteristics of their material.

In her paper, Letto-Vanamo discusses the etymologies of the Swedish legal terms (and their underlying concepts) *nämnd*, *nämndeman*, *ting*, and *tingsrätt* (pp 28–29). Based on the list of references, it seems that Letto-Vanamo’s primary sources for the etymologies were Hellquist, *Svensk etymologisk ordbok I–II* (1980, which is a reprint of the second edition from 1939) and Tamm, *Etymologisk svensk ordbok I* (1890–1905). A more expected source would have been *Svenska Akademiens ordbok* (SAOB). SAOB is the most comprehensive dictionary of the Modern Swedish era (dating from circa 1520) and often provides exhaustive information about the Old Swedish era (circa 1200–1520). One serious drawback is that SAOB is not complete; the letter *S* was finished as recently as 2002. Nevertheless, it is somewhat surprising that Letto-Vanamo did not consult SAOB regarding *nämnd* and *nämndeman*.

In his introduction to the paper on legal French in France and within the European Communities, Berteloot gives the following information about the first Danish referendum on the Treaty on European Union, better known as the Maastricht Treaty:

“It is generally thought that one of the reasons why the Danes first rejected the Treaty on European Union by referendum is the lack of clarity and transparency of European legislation in general and of that Treaty in particular.” (p. 82 footnote 3)

One or more references that support this description would have been valuable, particularly for readers who did not have the opportunity to follow the Danish debate in question.

Finally, I will discuss the conceivable readership of the volume. Symposium volumes achieve varying distribution outside the circles of those who attended the symposium and the arrangers. It is to be hoped that this volume will garner a wider audience, as I believe it is worthy of such and may be of interest to several target groups.

The volume would be a rich source of knowledge for students. It may be of interest to students of language for special purposes (LSP) or legal translation, as well as law students. The book would very likely also interest university teachers and researchers, whether or not they are specialists in the field. Linguists and jurists may find various contributions to the book both useful and a pleasure to read. The volume would also be rewarding reading for practitioners, i.e., people who work with legal language in their professions: translators and interpreters as well as professionally active lawyers.

In summary, *The Development of Legal Language* offers to several categories of readers fascinating reading on a number of aspects of legal language.

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