ON JURILINGUISTICS: THE PRINCIPLES AND APPLICATIONS OF RESEARCH ON LANGUAGE AND LAW *

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1 Introduction to the monographic section

The essential medium for the existence of the law is language. Law finds form through language, which shapes it and constitutes the tool through which its different nuances are expressed. Law and language are, then, essentially inextricably interlinked. In a world of multilingual societies, in which the concepts of borders and territories are increasingly relativised, the discussion on the way in which legal relations between citizens are established is of key importance. What is more, the population movements entailed by different migratory processes, both economic and academic, as well as of refugees and asylum seekers, make clear the need to ensure the rights of those who lack normalised linguistic access to public services.

This Issue 68 of the *Revista de Llengua i Dret*, *Journal of Language and Law* includes a section of monographs on the epistemic relations between the law and language within the dynamic paradigm of jurilinguistics. The term for jurilinguistics is taken from the Canadian translating tradition (Gémar, 1982), consecrated in France by the work *Linguistique juridique* by Gérard Cornu (2005). Jurilinguistics may be said to have arisen as a discipline under the influence, in Canada, of studies on legal translation (Gémar, 2011) and, in France, of the work of Cornu, whose core theme is the study of legal language (Cacciaguidi-Fahy, 2008: 312). Gémar and Kasirer (2005: 7) define jurilinguistics as the application of a linguistic treatment to all forms of legal texts. This open view of jurilinguistics as a frame of reference allows for a movable, 'under construction' conception of the relationships between law and language, with an increasingly broad range of subject matters, as shown by the contributions listed in this monographic section.

In addition to the study of language and legal translation, jurilinguistics research goes beyond the analysis conducted by Cornu (2005: 333) on the legal discourse as a set of acts realizing the law, since it analyses not just its performative nature, but also the interactions that take place during court hearings, as well as the acts arising from police investigations. This analysis is equally situated within the paradigm of public service interpreting[1] with regard to the study of relations between public services and non-native-speaker users.

This monographic section presents the results of nine research projects in jurilinguistics. Although the articles by Jan Engberg, Maria Font and Marco A. Fiola focus on the now-classic subject of terminological equivalence in legal translation and the role played therein by the translator's competencies in comparative

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1 The term used in the original version of this article is *interpretació en medi social*, adapted from the Francophone tradition of interpreting in public services for non-native speakers in a migratory context. Commonly used in Quebec, the term is also employed in Francophone Europe, alongside others such as *interpretation-mediation* and *community interpreting* (Jiménez-Salcedo, 2014: 5).

law, the viewpoint adopted is unquestionably innovative. According to Engberg, terminological corpora should not be regarded as carved in stone: instead, translators must be able to establish dynamic equivalences among their working languages, to which end they need to activate competencies in comparative law. The author highlights the thin line dividing legal translation from comparative law, but notes the diverging objectives pursued by professionals in the two fields. This would explain why the monolithic conception of legal terminology that may be held by the jurist is of no use to the translator, accustomed to deconstructing pairings of terms lacking complete equivalence. For her part, Maria Font analyses the establishment of a specific European legal language which is different from any national legal languages, and does so on the basis of an analysis of the terms employed in EU regulations, instruments that are directly applied in Member States without being transposed (and hence without being adapted to domestic law) by their national parliaments. On the subject of terminological equivalences, Marco A. Fiola presents a case study on the creation of an English > Tamil glossary of Canadian law, arising from the training needs of interpreters using this language pair in the courts of Ontario. The article studies the issue of equivalences, not so much in terms of the legal systems of both languages, but instead with regard to the difficulty of adapting into Tamil terms that are rooted in a common law system like that of the province of Ontario.

In her analysis of new research horizons in the field of legal translation, Lucja Biel transcends the division between legal translation as a linguistic activity and legal translation as an exercise in comparing legal systems. The author underlines the need to adopt a transdisciplinary focus combining translation studies, comparative law and linguistics. She also advocates a multidimensional approach, since analysis of the translation process needs to take into account the outcomes (the translations carried out), the procedures (how the translations are carried out), the participants and the contexts of textual production and receipt. This places us in a context of qualitative study applicable both to translation as well as public service interpreting. In this context, there is a need to analyse not only the habitual parameters of legal translation—principally the intersystemic dimension (moving between legal systems) and the intrasystemic one (moving between languages within a single system)—but also to consider issues associated with the sociology and ethnography of translation, which are key to a global understanding of the phenomena.

Juan Jiménez-Salcedo's contribution deals with a semiologic aspect of legal language: the rules on conventions for the use of distinguishing capitalization and their application in legal and administrative writings in the Catalan language. The author bases his work on the complex treatment of capitalization in legal language, given that it is assigned an important range of functions and has been the object of regulation ever since the normalisation of Catalan as the language of the public administration. The article analyses sources on conventions, not just those specific to the legal field, but those regarded as more general as they come from language normalisation bodies, to show how a convention-related element such as the use of capital letters can affect the formal creation of written law.

Three articles analyse matters associated with public service interpreting. Eloísa Monteoliva looks at standby interpreting in police interviews, that is, the intermittent and selective use of interpreting when users make use of linguistic repertoires regarded as transparent or, put another way, those featuring a certain degree of intercomprehension between the parties involved in dialogue-based interaction. Mariana Orozco, for her part, offers an annotated corpus of court interpreting work, with an emphasis on textual problems, similar to those that can be found in the field of legal translation, for example with regard to the common equivalence between the terms of different legal systems in Spanish, English, French and Romanian. Lastly, the article by Melissa Wallace and Carlos Iván Hernández outlines the linguistic and administrative barriers faced by asylum seekers and refugees reaching the USA, as well as the scant room for manoeuvre given by the normative context for the involvement of interpreters. The text underscores the need for suitable intervention protocols and training models for the linguistic mediators working with this type of user.

From a jurilinguistics stance will also contribute to afford higher visibility to deontological aspects of the translator's profession in the legal field. In her contribution, Juliette Rose Scott analyses perceptions of the skills and professional development of those working in this context. In her text, the author summarises the problems associated with the recognition of legal translators, as well as the need for the profession itself to use suitable self-designation terms.

2 Jurilinguistics as a critical review of the relations between language and law

The purpose of jurilinguistics, as presented in some of this monograph's articles, is also to critically analyse the relations that can be established between language and the law. Thus, Marco A. Fiola's article goes beyond the classical disquisitions on the problems of terminological equivalence in judicial interpreting, since, in the case study he proposes, the aim is not to provide an equivalent in the legal Tamil of Sri Lanka and hence in that country's legal system, of a common law term employed in Ontario's law, but rather delocalise the Tamil target term to embrace the context of the Canadian province. This process does not entail the creation of a simple corpus of equivalences, but is instead proposing a veritable normalisation of legal Tamil within a foreign legal system. So it is that jurilinguistics contributes not only to establishing transfer mechanisms between languages, but also to proposing the normalisation of a specific legal terminology for a non-native-speaking population.

Normalisation is also a requirement within the immense corpus of European law, as Maria Font's article attests. In this case, we are not dealing with a problem of transfer between two languages and two legal systems. Here, the problem is considerably more complex, as it stems from a legal system—Europe's—that is still under construction, which governs the relations between states within a multinational and multi-legal system, and which must be substantiated in the Union's twenty-four languages without allowing, with regard to the specific field of the regulations, the use of domestic law terms to infect the sense given to them in European law. It is not, here, a case of finding an equivalent in the target legal system, but rather of maintaining a stable terminological corpus between twenty-four languages and, horizontally, across the enormous output of regulations from the Union's institutions. This paradox forces us to debate the normal parameters of translation and calls on us to evolve towards a more dynamic jurilinguistics paradigm in which the dialogue between jurists and language professionals is not just important, but necessary.

Jan Engberg, for his part, shows how professionals on the two sides of the legal spectrum enjoy differing relationships with competencies in comparative law: whilst the jurist specialising in comparative law needs to analyse terms in order to provide a response to a legal problem raised by a case, translators need to call not only upon their knowledge of comparative law, but also on their capacity for linguistic analysis to deconstruct the elements of a term and offer an equivalent—generally an imperfect one, but one that is perfectly functional for their target text. Despite the dialogue between language and the law, jurilinguistics cannot fully adopt the techniques of legal reasoning, since these are not wholly productive within the real context of translation.

Eloísa Monteoliva reviews the concept of interpreting technique as applied to a specific legal area, that of the police. Her case study does not deal with liaison interpreting, as it is often the case in studies of police and court interpreting, but it is rather based on a dynamic conception of the language, able to regard the non-native speaker as a speaker with different degrees of understanding of procedural language, which makes the involvement of the interpreter necessary, albeit on an intermittent basis.

In her article, Mariana Orozco also provides a critical review of the material conditions of interpreting. One aspect she emphasises is that of the untranslated acts of speaking, which are of interest not only from the strict standpoint of analysing quality in court interpreting, but also in terms of the defenselessness caused by non-simultaneous and non-complete interpreting. The author usefully analyses in her work those times that an interpreter should speak and does not, but it should be borne in mind that, in other instances, no interpreter is even convened, since at some stages speakers of foreign languages do not interact with the court, as if the accused has no right to understand everything that is happening around them during the proceedings. This matter needs to be developed by the jurisprudence in Spain, above and beyond what may be suggested in the literature on court interpreting. In Mariana Orozco's article, the hypothesis of defenselessness for defendants speaking languages other than that of the court, which may be derived from the *modus operandi* of the courts with regard to language management, is not formulated on the basis of theoretical assumptions, but on the exhaustive analysis of an annotated corpus of real interpreting work. Elaborating further on that same problem of lack of a proper defence, Wallace and Hernández describe the lack of clear protocols for the engagement of interpreters in asylum-seeking processes. Other issues are the problems of non-specific training of interpreters and the lack of guarantees offered by proceedings that do not fall within the parameters

of criminal justice, and which therefore do not ensure the presence of either legal representation or effective linguistic assistance.

3 Conclusion

This monographic section of Issue 68 of the *Revista de Llengua i Dret*, *Journal of Language and Law* represents a contribution to studies on the relations between language and the law from the standpoint of jurilinguistics. The section's contributions reflect a stable interdisciplinary framework for relations between language and law, relations that have been promoted by this journal ever since the publication of its very first issue. The monograph's articles highlight these relations, taking into account parameters such as translation, interpreting, training, professional self-perception, theoretical research and the creation of terminology, whilst also reflecting some of the new trends in the field and offering a critical review of existing paradigms. In short, the contributions published make clear the importance of jurilinguistics as a broad, dynamic paradigm which can provide the basis for discussion of the relations between language and the law.

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