

**Heikki E.S. Mattila, Comparative Legal Linguistics - Language of Law, Latin and Modern Lingua Francas, 2nd edition, Ashgate, Farnham, 2013.**

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**On the interest of different perspectives on law**

Contemporary interdisciplinary academic movements have the highly inspiring capacity to propose new perspectives on typical disciplinary objects of study. Light is shed from new angles, thus interrupting the restrictive and constraining function of discipline as a principle of control, allowing features previously considered as subaltern to gain importance. Along these lines, law is profitably analysed from the point of view of the language used to express it. This viewpoint, adopted in the book under review here, is both instructive and thought provoking. Not only it allows the emergence of the cultural background, but also yields historical understanding. The ambitious undertaking of Mattila's seminal book is twofold: to tackle the law through language and to study the language as an inherent constituent of law. More specifically, the study of language as a cognitive model for *comparative* law proves particularly useful. The legal linguist makes use of comparative law in order to understand the system of concepts standing in the background of legal terms, and conversely the comparative lawyer needs notions of linguistics and of theory of translation, since every comparative legal study is based on an act of translation. Moreover, language and comparative law share the difficult task of enabling communication, of filling the unbridgeable gap between different laws expressed in different languages. The recently established discipline of Comparative Legal Linguistics has surely a compelling and appealing project to fulfil.

**General Information and Overview of the Content**

Heikki E.S. Mattila is a Finnish lawyer and Professor Emeritus of Legal Linguistics at the University of Lapland, Finland, and is also Docent of Comparative Law at the University of Helsinki. This second English edition is a fully revised and an enlarged version of the first one, appeared in 2006. Beside an entirely novel chapter on Legal Spanish, the references are thoroughly updated, new examples are added, and information concerning recent developments in the discipline is integrated in corresponding theoretical chapters. The

improved publication of this work confirms its position as *the* fundamental book in legal linguistics, unmissable reference for everyone interested in the field.

In the first part, the author introduces the concepts of legal language, “a functional variant of natural language” (p.1), and of legal linguistics, a discipline that “examines the development, characteristics, and usage of legal language [...] in the light of observations made by linguistics” (p.11). Through a presentation of the scope of concern, a reconstruction of the story of the discipline and the designation of some points of interest, this part sets the general framework of *jurilinguistique* (as legal linguistics is called in the French version of the volume, cfr. Heikki E.S. Mattila, *Jurilinguistique Comparée - Langage du droit, latin et langues modernes*, French text by Jean-Claude Génar, Éditions Yvon Blais, Cowansville 2012).

Part two develops a fundamental study of legal language as a language for special purposes (LSP). In chapter 2, concerning the functions of legal language, Mattila identifies the achievement of justice as the most spectacular one, and very optimistically equates it with the production of legal effects through language (formalized or not) as acknowledged in speech act theory. The second analysed purpose of legal language is the transmission of legal messages: language allows the law to exist. By lending the law its very existence, language at the same time constrains the law's subsistence to the structural limits of communication. In this section the author explores the very material restraints that may cause interference in legal interaction. In the third place, the linguistic devices that enhance the authority of the law are detailed. The jurist is used to thinking about authority as an inherent characteristic of law, without further specification required. Mattila succeeds at showing how language participates in affirming and reinforcing legal authority. For example, easily memorisable legal formulations, rituals that express the sacred character of law, phrases expressing the humility of those seeking justice and respectful body language are all linguistic contributions to the reinforcement of the authority of the law. Later the author tackles the question of the linguistic policy - the legal rules on the use of language - and presents as an example the Finnish official bilingualism and the historical reasons thereof. Lastly the cultural task of legal language is examined through the cases of Greek and Norwegian bilingualisms. The histories of these two countries bear witness to how the language of the law forms part of the general linguistic culture. In both cases the two variants of the legal language

convey different values or display more closeness to a certain part of the respective national histories. Interestingly, they provide two different examples of coexistence, namely highly pitched, as is the case between Demotic and Katharevousa Greek, or rather peaceful, as could be described the relation between *nynorsk* and *bokmål* Norwegian.

Chapter 3 examines the special characteristics of legal language in comparison with ordinary language, such as its striving for accuracy and precision, its abstract and hypothetical character, its impersonality and attempted neutrality. Examples are drawn from multitudinous languages. Legal orders are conceived by Mattila as having a systemic character, and the relations between elements which form the bigger structure as detectable through a linguistic study and in particular through the study of references. The author displays his strong practical orientation when exposing the problems that referencing may cause, as well as when analysing the structure of legal text, and when considering the advantages and disadvantages of abbreviations. The concluding part of the chapter focuses on the obscurity of legal language and on the possible strategies to overcome it, as campaigned by the Plain English Movement and, at the European level, the Clear Writing Campaign.

Legal terminology is scrutinized in chapter 4, where, after a somewhat simplified and unquestioning outline of legal families (pp. 138-139), the author introduces definitional tools. He distinguishes between *concept*, “mental representation of an object” (p.140<sup>1</sup>) and *term*, “technical designation of a concept” (p.141<sup>2</sup>), and identifies the former as an object of study of legal science, and the latter as the primary object of research of legal linguistics (p.15). The chapter also expatiates on polysemy, synonymy, and on the formation of legal terms, offering as examples an intriguing illustration of the lexical borrowing from Dutch in Indonesia and an introduction to the challenges of multilingualism faced by the European Union, such as the issue of producing terminological equivalents.

The third part of the book contains a presentation of the major

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<sup>1</sup> Another definition can be found in Heikki E.S. MATTILA, *Legal Vocabulary*, in: Lawrence M. SOLAN, Peter M. TIERSMA (eds.), *The Oxford Handbook of Language and Law*, Oxford, Oxford University Press, 2012, pp. 27 – 28, where he defined *concepts* as “abstract figures created by the human mind, that is entities formed by features which are peculiar to a matter or thing”.

<sup>2</sup> See also the definition of *term* proposed in Heikki E.S. MATTILA, *Legal Vocabulary*, *op. cit.*, note 1, *ibid.*: “external [...] linguistic expression of a concept belonging to the notional system of a specialized language”.

legal languages. The history of the main European legal systems is told through the history of their legal languages. This perspective is both captivating and informative, and language proves to be a very well suited pretext to re-examine the evolution of major European legal systems and their circulation. For instance, the history of legal Latin turns out to be a reconstruction of the development of European legal epistemology and of the relation between civil and canon law. The heritage of Latin in modern legal languages makes the common roots evident, but proves also the different influences: A comparative survey revealed that the content of Anglo-American legal Latin dictionaries is three-quarters different to those of continental Europe (p.193-195). The structure of the following chapters, concerning legal German, legal French, legal Spanish and legal English is similar. They all start with a historical overview, followed by a presentation the salient characteristics of each legal language - constantly supported by various linguistic evidence, such as telling words and excerpts of original texts-, and end with an assessment of the various languages' position in the contemporary world. The reader gets acquainted with the lexical richness and abstract character of legal German (*Verordnungsfolgenabschätzung*, which has now been split up, cfr. p. 222), with the style of French judicial decisions (*attendu que* and *considérant que*, p.259), with the "cultural revolution" entailed in the structure of *Las Siete Partidas* (see excerpt, p.277-278). Prominence is given to the dynamic aspect and the continuous variations of the languages studied. Reciprocal receptions and influences intertwine legal languages in highly complex patterns, as is well illustrated by the history of legal English: Latin, dominant during the eleventh and twelfth centuries, was then ousted by French, that in turn was used to draft the Statute of Pleading of 1362 which proscribed that judges were to use English, while court minutes could still be prepared in Latin (pp. 306-313). For a long time the legal profession in Britain has been trilingual, and the continuous interaction of those languages clearly left traces in the contemporary vocabulary of English law. Beside the links between languages, Mattila also stresses the ramification and (dis)homogeneity of each language due to its use in different national legal systems and at international scale.

The book closes with relatively short conclusions on lexical comprehension and research needs. The issues of rivalry for international predominance, of influence and borrowings are sketched, and the main problems of legal translation are addressed. Jurilinguistic research, understood as a combination of legal-

institutional and linguistic analysis, is regarded as the way to attempt to overcome misunderstandings and to perfect the theory of legal translation.

The final alphabetical and systematic bibliographies provide possibly the most thorough collection of titles appeared on the subject, proving once more the encyclopaedic character of this volume.

### **Commenting considerations**

This book deserves certainly to be held in high esteem, being a seminal work in the by now established discipline of legal linguistic. It manages the hard task of being general and introductory, therefore suited for undergraduate students, and at the same time it provides a large quantity of information that may be of interest for more specialized scholars too.

Nonetheless, the reader should be warned of the risks of being bewildered by the data overload, and of closing the book having become more cultivated and informed, but not wiser. One is sometimes left with the impression that the remarkable amount of notions gathered is not always processed, elaborated and interpreted. The very pragmatic attitude of the author does not leave much space for inductive analysis on the basis of the extended knowledge presented. On the whole, this book does not focus much on theoretical aspects of the subject matter, and the author neither explicitly places his conception of legal language within the broad and complex discipline of linguistics, nor within the much disputed field of comparative law. Still, throughout the text it emerges from between the lines that the author shares a certain conception of the interrelatedness of law, language and culture (see, for example, the references to legal translation at p. 16 and p. 359, or the parts on Finnish, Greek and Norwegian bilingualism) and of the connection existing between the technical surface level and deeper epistemic level of legal language.

What this book certainly provides is substantial material to the cause of interdisciplinarity, proposing a substantially new way of writing about law: the cultivated author moves elegantly between legal histories, legal cultures, legal languages. With such an enriched understanding of legal contexts, he abundantly demonstrates the interest of the linguistic perspective on law.

### **Bionote**

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