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Legal Discourse across Cultures and Systems

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Lawyers and linguists do not always find it easy to talk to each other. Lawyers have their terminology and linguists have theirs. In both cases, we are talking about sophisticated tools for describing their respective worlds: law and language. On the other hand, there is a clear understanding today among lawyers about how very important it is not only to master one's mother tongue, but also other languages, and that linguistics has a lot to contribute in terms of increasing understanding of the problems of polysemy in an internationalised world. As this anthology shows, there is also a considerable degree of awareness among language researchers internationally that not only are legal documents an important field of research, but also that linguistic knowledge is absolutely necessary to avoid some legal pitfalls. In philosophy of law, it has long been recognised that language theory can throw light on the peculiarities of legal norms, but it is probably only in the most recent years of increasing international collaboration and globalisation that questions of language have become a part of everyday life for most lawyers. Translating Danish legal terms to English and vice versa is not very easy, but even that recognition helps us comprehend the many different ways a text can be understood due to cultural differences.

The anthology has an almost invisible subtitle, “mediation, litigation, arbitration”, and all the articles in the book deal with various questions in relation to arbitration. We cover a lot of ground. In an introductory chapter, the editors describe the underlying project as “to investigate what happens to the same legislative genre when it is written, interpreted, and used across linguistic, socio-political, cultural and legal jurisdictional boundaries…”. An international research team investigated this question. Outside Europe they looked at Brazil, China, Hong Kong, India, Japan and Malysia, and in Europe at the Czech Republic, Denmark, Finland, France, Germany, Switzerland and the UK. The book was written by experts for experts.

The most important lesson for lawyers is probably that what seems to be the same text is susceptible to very different interpretations in other linguistic and cultural contexts. Among the contributions of a more general character is an article by two of the editors on “Interpretation across Legal Systems and Cultures” (pp. 127–144) and an article on the translation of arbitration terminology (Chroma, pp. 309–28). An article on Japan (Sato, pp. 53–74) contains interesting observations on the relationship between modern rules of arbitration and traditional mediation. An article on India (Dhanai, pp. 109–24) gives interesting insight into more traditional arbitration methods and a more pragmatic approach more related to the needs of business life than to traditional legal norms. Other articles are not nationally oriented, but deal with particular aspects connected with arbitration cases, e.g. the question of confidentiality and secrecy (To, pp. 75–108), where “confidentiality” does not mean the same everywhere. An article by Engberg and Heller touches on the well-known problem for lawyers that legal norms are often vague and therefore need clarification. This is of course what lawyers are for, but the article throws light from a linguistic point of view on this well-known phenomenon, which is not seen as a problem by lawyers, but more as the essence of law (pp. 145–169). The article examines German law and could with advantage be presented to lawyers in a linguistic form less weighed-down with linguistic terminology. The book’s articles illustrate differences between English and other languages. An article by Gotti gives good examples of the significance of different cultures with regard to procedure (p. 221), while an article on Brazil gives a good introduction to the endeavours being made to internationalise the lawyers in a country undergoing furious development (Frade, p. 275–291).

This reviewer is a lawyer and has read the many articles with the eyes of a lawyer. From this point of view, the book is a collection of articles that immediately catch and hold one’s interest by relating to general cultural questions, while other articles require prior knowledge even for someone interested in language. But the latter also demonstrate that a linguistic approach to legal documents can give a lawyer a lot to think about with

regard to clarity of expression and linguistic categorisation. There is good reason to congratulate the editors on such good results from the investigation undertaken. A future investigation could perhaps start from the question of how one can create a better dialogue between lawyers and linguists on the understanding of legal documents.

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