

Language and the Law: international outlooks.

**Krzysztof Kredens and Stanisław
Goźdz-Roszkowski (eds) (2007)**

Peter Lang. 436pp

Reviewed by Dr Marianne

This edited collection of papers is aptly described by the editors as an eclectic volume, ranging over various legal systems, various dimensions of a legal system, and garnering together authors from a wide range of interests and points of view within those legal systems. From an analysis of nineteenth century Romanian civil building contracts (Costache), to the legal fiction of creating ‘authentic originals’ out of what are in reality translated copies (Gotti; Šarčević; Doczekalska; Yankova and Carvalho), to an analysis of the texts that suicide bombers leave behind (Blackwell, Meijs and Shapero), this book has something for everyone.

On the one hand this eclectic accretion of papers is interesting. On the other hand, it is difficult to guess who the target audience might be for such a volume. The editors could have maintained diversity yet edited out several papers which have little connection to the dominant themes (translation and language in legal contexts) or are in need of significant revision. For example, Steele’s paper (425–36) describing a *potential* academic course on the language of the law seems like it was added as an afterthought and Cheng and Sin’s paper (325–56) requires serious revision to bring it up to the standard of writing of the other articles.

As noted above, it is difficult to specify a target audience for this book. The majority of the articles draw on or relate to issues of translation as an activity

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and aspect of the European Union. Thus lawyers, translators and linguists with an interest in that context would be attracted to many of the articles. However, a number of articles relate more to criminal justice issues and would likely be of interest to criminal lawyers, police and legal studies students, applied linguists and so on. Although the book will engage readers with diverse interests (such as myself), its eclecticism at times borders on chaos, which makes it difficult to read as a connected, coherent volume.

The book is divided into eight topics or themes and in the review that follows I maintain the divisions used by the editors (in spite of several of these divisions lacking a real justification).

Part 1, 'Multilingualism', contains three separate papers connected in their focus on the concept of multilingualism in the European Union (EU). The gradual accretion of countries (Member States) to the EU, and the EU's foundational position that the official languages of a country have guaranteed equal rights, has resulted in the production of official EU documents (such as legal instruments and legislation) in 23 language versions, all of which are (legally) considered to be authentic 'originals' (not translations). Thus even though the reality is that when a new country joins the EU, it must translate existing EU texts into its official language(s), the legal status of this newly translated text is that it is an equivalent original and identical with all other language versions of that text. This 'legal fiction' is a common thread woven into all three papers in this section (and indeed reappears in other parts); however, the three authors approach it from different angles. Gotti (21–33) provides a broader discussion of aspects and implications of language and its interconnectedness with social, cultural and contextual factors. He neatly raises the reality hurdles which the EU's position on the status of languages faces (e.g. the reality that some terms do not have equivalents in all social or cultural contexts). Šarčević's paper (35–56) takes a closer look at how the processes of physically drafting texts can be improved (therefore improving the final authentic versions of the text) and Doczekalska's paper (57–66) logically follows this by also considering the production of subsequently translated texts (i.e. new Member States' translation of existing EU texts into their official language(s)), and their uses in legal proceedings.

This is a very interesting section and it contains the kinds of articles which will engage readers with different academic backgrounds (e.g. sociolinguists, sociocultural theorists, historians, translators and so on) according to their background and in addition to the authors' foci. Thus for me (a reader with a strong sociocultural background) the issues Gotti raises add intriguingly to both Šarčević's and Doczekalska's discussion of the 'legal fiction' (that a translation is not a translation in some contexts) and how such a fiction can work.

Part 2, 'Legal Translation and Interpreting', collects together an interesting assortment of papers which, as in Part 1, will attract readers with different academic backgrounds differently. The four papers all have as their central theme the issue of translation in legal settings; however, they all tackle different aspects. Morris (123–42) reveals the predominating attitude of judges (and others in the judicial system) toward the complexities of and need for translation in court through her review of judicial literature (case reports etc.). Anyone who is bothered by the idea that '...courts tend to appoint interpreters for the benefit of the court rather than the welfare of the defendant' (134) should read Morris' paper. It contains several other jaw-droppingly worrying revelations about our systems of 'justice' and their taken-for-granted linguistic hegemonic practices (for connected but different views on courtroom translation see also Heffer's paper [145–179]).

Both Yankova (97–108) and Carvalho's papers (109–21) focus more narrowly on the difficulty of finding 'equivalent' terms when translating from one language to another (and incidentally explaining a comment about the quality of courtroom transcription from Morris' paper: '...beautiful spasms of Welsh ... followed by the interpreter's precise, though sometimes stumbling, English' [quoted in Morris 131]). Kjær (69–95) takes a step back from the details of specific issues in translation and argues that current models of research on translation are not adequate to meet the peculiar context of EU legal translation, and therefore a new research model and approach is urgently required. Related to these papers, though, perhaps strangely, not included in this section, is Chovanec's article (211–25) about the translation of tobacco health warnings (on cigarette packets) from the EU-mandated set of warnings into each EU member state's national languages. The article neatly outlines a way of analysing the linguistic content, then identifies the differences in translation and argues the potential interpretive effects of these differences. Although looking at a different issue in translation to Yankova and Carvalho, it seems to me to be a complimentary paper to the general themes in Part 2 (and indeed Part 1) and could logically have been included there.

Part 3, 'Legal and Courtroom Discourse', has some odd bedfellows and I suspect is more likely to attract diverse specialist readers, rather than the casual browser. For an all too short paper on a comparative analysis of nineteenth century Romanian civil building contracts see Costache (201–209). If, on the other hand, you are interested in a demonstration of why a Linguistic ('theoretical linguistics' as opposed to pragmatic, applied linguistics) analysis of the legal use of *shall* will not capture the meanings and force of the term, see Witzak-Plisiecka (181–99). Alternately, Ruiz's paper (227–37) will interest those readers who have lived through (or are yet to) various countries'

tortuous progress toward legislatively recognising same-sex unions. Ruiz provides a clear and concise description of Spain's legislative reforms in terms of changes to language, which allowed for same-sex *marriage* (emphasis for the benefit of readers whose country capitulated under pressure from right wing and religious voters, and settled for 'civil union' rights for same-sex couples, rather than marriage [e.g., New Zealand]). As Ruiz points out, despite the magnitude of disruption to the fabric of social life which 'gay marriage' is said to threaten, the process of homosexual couples being allowed to marry, and the changes necessary to make it allowable at law were (linguistically) remarkably simple.

Lastly in this section is a detailed but concise introduction to analysing 'judgement' in court, revealing the relation (or tensions) between factual evidence and subjective judgement in courtroom discourse. Heffer's paper (145–79) will attract lawyers, legal studies students and corpus and applied linguists. What makes this paper particularly relevant and important for forensic and applied linguists is Heffer's discussion of the strengths and weaknesses in his methodology, which in turn reinforces the need and call for multiple strategies and methodological paradigms in researching courtroom events.

Part 4, 'Statutory Interpretation', contains just two papers which read like opposite poles. Wagner (241–65) seems to take the view that judges are 'naturally linguists' (241), and linguistic '...indeterminacy constitutes a relevant part of legal communication. It is like a dynamic game which aims to find a balance between social reality and law' (242). However, Wyrembak (267–76) reveals the more fraught side of judges' distinct lack of (applied) linguistic ability in their attempts to define the word 'reveal'. Although Wyrembak's Polish Supreme Court judges can 'naturally' disagree about what 'reveal' means, they show their lack of applied linguistic knowledge by being unable to see why and exactly how they differ (or at least in so far as Wyrembak discusses). Wyrembak's is an all too short article which highlights the need for research into how judges make the (linguistic) decisions they do. Readers of Wagner's paper should ideally have some fluency in French as the frequent, un-translated quotes left me wondering if a key detail of her 'map' was not available to me.

Part 5, 'Police Interviews', contains two papers which ought to be read by anyone interested in the criminal justice system; particularly in the role of the police in that system. Both Heydon (279–303) and Fadden (306–22) analyse and consider aspects of police interviews using a discourse analysis framework. Although both authors adopt existing models for understanding and discussing police interviews, they explore features which are relatively new to researchers. Heydon considers deviations from 'normal' police institutional behaviour in terms of displaying a personal interest in a young person's story. Fadden argues that the discourse features (and therefore presentation of self) in police

interviews of Canadian aboriginals are different from those of non-aboriginals. These differences are important because of the potentially negative inferences juries may make of the discourse features aboriginal interviewees use. Both authors have written interesting and thought-provoking papers. However, they are both outsiders looking in, and this is apparent in some of their oversights. For example, Fadden makes no mention of each suspect's previous encounters (or not) with the police – familiarity with the criminal justice system surely influences a suspect's participation in police interviews (at least, in my 10 years' experience of policing it did). Being 'outsiders' does not diminish the importance of their projects: it simply reinforces their calls (and Heffer's) for further research.

Part 6, 'Contrastive Studies', is a rather tenuous section. As noted earlier, I would like to have seen the editors do more active editing of this collection. Both the Cheng and Sin paper and the Matulewska paper require revision to be brought up to the standards set by the other papers. Moreover, it is debatable whether these two papers really justify a section on their own, or could logically have been incorporated in Part 2 or 3. Matulewska (357–68), for example, compares Wills and Testaments in Polish with their equivalents in the US and England. Through an interesting contrast of testaments in Polish and English, this paper surely adds to discussion of the difficulties of translation in parts 1, 2 and 3, and its inclusion there would assist readers looking for 'translation' related topics.

Both papers in Part 7, 'The Semantics of Trade Names', although perhaps targeted at a legal audience, will appeal to linguists as much as lawyers. Creech's paper (371–78) adds to the increasingly complex picture of translation in the EU in terms of both translation as an issue in itself, and the court's willingness to examine a trademark's meaning in *all* the national or official languages of the member states of the EU as they are arguably required to do (again, couldn't this have been included in the translation sections?). Hotta's paper (379–92) coherently outlines a pragmatic method, readily usable by lawyers and judges, for the '...good first approximation [of] a systematic analysis of the distinctiveness of trademarks' (392). In an interesting application of Grice's conversational maxims and cognitive load theory, Hotta describes a method for analysing why 'McDog' burgers should be considered an infringement of the McDonald's trade mark, but McMullen burgers should not (my examples). Although Hotta admits that his model will not capture all cases, I leave it to the lawyers to chew over his assumptions.

With the exception of Steele's paper (425–36), which I earlier suggested is an odd inclusion in this book, the two papers in Part 8, 'Forensic Linguistics', by Blackwell, Meijs and Shapero (395–410) and Cooper (411–23) are thought-provoking and are an interesting eclectic addition to the other papers. Blackwell,

Meijs and Shapero argue that martyrdom texts deserve a genre of their own and that as a genre such texts are a serious challenge for linguists to analyse. Through an analysis of existing martyrdom and other suicide texts they argue that, in terms of martyrdom texts, 'The mere presence of significant lexical and stylistic differences between two texts does not make it safe to conclude that they have different authors ... [And] conversely, similarities between the texts may be due to universal ... formulaic expressions and so are not a secure basis for inferring common authorship' (408). Given the growing complexity of forensic linguists' understanding of 'authorship analysis' (see, for example, Grant 2007), Blackwell, Meijs and Shapero's observations raise valid, important and urgent questions about such analyses.

Cooper's paper (411–23), despite reporting on what is a work in progress, is an intriguing and refreshingly honest paper which is well worth reading. Like Heffer's paper, Cooper's provides a lot of methodological detail and honesty: the difficulty of analysing and coding personal texts, and the inferences which might be drawn from such analyses will interest applied linguists, linguists and lawyers. Whereas Blackwell, Meijs and Shapero argue for the possibility of differences in an individual's writing 'style' when the genre of their writing changes (for example), Cooper suggests that people may well maintain an identifiable consistency in their writing 'style' over time. Both articles are well worth reading.

By the end of this book, readers who were looking for 'new ideas' to research or engage with will certainly have had a smorgasbord put before them. However, readers who were looking for a coherent, connected collection of papers around an internationally focused theme in 'language and the law' will be disappointed. Despite the eclecticism which garnered together these 23 papers, the variability in authorial style and academic rigor, and the editor's decisions about thematic divisions, the book would yet be a valuable addition to university libraries.

References

- Grant, T. (2007) Quantifying evidence in forensic authorship analysis. *International Journal of Speech, Language and the Law* 14(1): 1–25.