

Synonymy and Polysemy in a Bilingual Law Dictionary

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Abstract

This paper focuses on issues of synonymy and polysemy in the language of law, and the treatment of these issues in the “Czech-English Law Dictionary with Explanations”. The introduction outlines the context of legal translation in the Czech Republic and its potential impact upon special bilingual lexicography. Then, the traditional understanding of what a *term* is and its application to legal terminology is mentioned. Legal terminology is dealt with in the third part; three different levels of vocabulary used in legal texts are outlined and their relevance to dictionary making is explained. Synonyms in the language of law are considered with respect to their intension and distribution, and an example is given to show that most expressions or phrases which are interchangeable synonyms in general language should be treated carefully both in legal translation and in preparing a bilingual law dictionary. Finally, polysemy in legal terminology is discussed and examples are given to illustrate its possible lexicographical solution.

1 Introduction

Bilingual law dictionaries, in a comparative perspective of two languages and two legal systems, traditionally focus on one meaning of the word “terminology”, as defined, for example by Sager (1990: 3), as the vocabulary of a special subject-field, i.e. law. The “Czech-English Law Dictionary with Explanations” was written in order to help, in particular, those translating legal texts between the Czech language and law on the one hand and the English language and the Anglo-American system of law on the other. In the course of making the Dictionary many legal, linguistic and lexicographical issues were encountered that had to be tackled in a manner helpful to the envisaged users and also acceptable to the publisher.

Bilingual translation of legal texts is a complex process which can be successful only if the translator possesses not only a perfect knowledge of both the source and target languages (SL and TL respectively) but has also a sufficient understanding of both the source and target legal systems.¹ Naturally, a bilingual law dictionary cannot substitute for comparative legal

¹ The latter seems to be quite a challenging requirement for legal translators in the Czech Republic as most of such translators have “only” a university degree in linguistics and not an academic legal background.

studies, and the range of potential users is quite wide but we may identify two categories: those using the dictionary for 'production' (e.g. translators, lawyers drafting a legal document, or students writing legal essays in a language other than their mother tongue); and those using the dictionary for 'reception' in order to understand law contained in a text which is written in a language other than their mother tongue. The choice of headwords, examples of their use, and their equivalents should be clear, precise and free from legal confusion so that the dictionary can serve both categories of users.

2 What is a term?

Many pages have been written on what a term is, how to distinguish a term from a non-term, and what specificity can be traced in terminography compared with any other lexicographical project (see, for example, Niedobity 1982, Picht and Draskau 1985, Sager 1990 or Pearson 1998, as well as Poštolková 1983, 1984 and Machová 1995 for the Czech language). The International Organization for Standardization has also played a crucial role in developing the theory of terminology and safeguarding the practice of term-formation. However, their attention has focused on the terminology of science and technology rather than on humanities or law. There are several books dealing with the language of law (see, for example, Mellinkoff 1963, Goodrich 1990, Solan 1993, Gibbons 1994, or Tiersma 1999) but they mostly concentrate on reasons why legal language may be difficult for non-lawyers to understand (legal hermeneutics and pragmatics) rather than on defining what words may be assigned to the lexical category of legal terminology.²

With respect to the reasons for which users turn to a bilingual law dictionary, a primary motivation for both above-mentioned groups of users may be to look for a relevant translational equivalent for a SL legal concept in the TL; another reason may be to search for larger units such as phrases, clauses or even sentences creating certain patterns typical of various branches of law. Thus we may reasonably assume that a bilingual law dictionary should not be reduced to terminography (although terminology will be primarily represented by headwords) but should cover a more extensive portion of the language of law including larger lexical or syntactic units (phrasemes, clauses or whole sentence patterns).

3 Legal terminology

Riley (1995: 73-79) distinguishes three types of lexical units in the legal language in her study of the vocabulary of English law:

- (1) "Pure" legal terminology: Czech *cese* (E. 'assignment'), English *estoppel* (C. 'překážka uplatnění žalobního nároku') or *detinue* (C. 'zabrání cizí věci') all fall into this category. It comprises a relatively scarce group of words or phrases that are not used outside of law unless stylistically marked.³

² Legislation seems to be linguistically the best elaborated type of text but all works to date have focussed primarily on discourse and pragmatics rather than on vocabulary itself (cf., for example, Bhatia 1987, Bowers 1989, Williams 2005).

³ A limited vocabulary of legal Latin both in Czech and English may be assigned to this group as well.

- (2) Legal terminology found in everyday speech: these are words with a related legal meaning, such as Czech *pozemek*, *nedbalost* and their English counterparts, ‘land’ and ‘negligence’, respectively (their semantic quality and distribution is identical in both Czech and English).
- (3) Everyday words which are assigned a special connotation in a given legal context; this often happens when a word or phrase regularly and primarily used in common speech becomes a part of the subject-matter of a statute, thus acquiring new dimensions, either expanding or narrowing the original meaning.⁴

Newmark (1988: 160) suggests that, generally, terminology makes up 5-10% of a text, while our recent survey (Chromá, forthcoming) showed that the percentage of terms appearing in legal texts seems to be higher. We studied five different examples of legislation dealing with arbitration (four of these were written in English and one was a Czech statute) and the percentage of terms ranged between 20 and 29.⁵

4 Synonymy in terminology

Generally, synonyms are two or more words (in the same language) having the same general sense, but each of them either possessing a meaning, or meanings which is, or are, not shared by the other word or words, or having different shades of meaning or implications appropriate to different contexts (OED, 2002). Obviously, one SL expression may have more than one TL equivalent even in law, where linguistic accuracy, precision and exactness are crucial.

As Filipec and Čermák (1985: 133) emphasise, two aspects should be considered: (a) the intension (as the internal content of a notion or the sum of the attributes contained within it) which can be identical or variant; and (b) the distribution of synonyms. Where synonyms are identical with respect to both intension and distribution, full (or ‘exact’) synonymy occurs; in all other cases there will be partial synonymy. The latter situation prevails in occurrence. Should we admit the existence of full synonymy in the lexis of law it would always be confined to a particular legal (and linguistic) context;⁶ only exceptionally are there synonyms which may be used interchangeably in most legal contexts, such as *causal link*, *causal nexus* or *causal connection* in English and their Czech equivalents ‘příčinná souvislost’, ‘kauzální nexus’ and ‘příčinný vztah’. Even if we find legal terms that have identical meaning (i.e. intension), their distribution will differ – for example they may be used in different branches of law. A simple example from the “Czech-English Law Dictionary with Explanations” may be provided here: the Czech *zákon* may be translated as ‘act’, ‘law’, ‘statute’ or even ‘legislation’. The countable noun ‘a law’ is a universal equivalent which may be used both in law

⁴ For example, the Housing Act 2004, a new British law, newly defines what kinds of premises may be termed a *flat*, thus narrowing the widely accepted meaning of the word for the purpose of that Act.

⁵ We may reasonably assume that the relatively high percentage may be also on account of a high degree of repetitiveness of terms in legislative provisions in order to avoid anaphoric expressions which may be quite ambiguous for legal interpretation.

⁶ Cf. Foxley and Gwei (1989: 113) “a pair of words may be synonymous in one context but not in another”.

(‘the law in force’) and other areas (‘the laws of nature’). A ‘statute’ is a written law or a law passed by a legislative body denoting the normative document as such. This term would never occur in the title of a particular law – such a function is performed by the term ‘act’ (for example the Family Law Act, 1995). Finally, when speaking about laws generally, the uncountable noun ‘legislation’ may be used (generic singular). Although the four equivalents for the Czech *zákon* are synonyms their distribution differs contextually: ‘statute’ and countable ‘law’ may be used interchangeably if a written law is being discussed (not mentioning its title); ‘act’ is the only one from the selection that may occur in the title; and ‘statute’, ‘law’ or ‘legislation’ may be used indiscriminately if a legal regulation in a written form is under consideration. Example 1 shows for illustration a shortened version of an actual entry in the Dictionary.

[1]

zákon (*n*) law (*count*); statute a common law term designating a written law; act in the title of a law; piece of legislation; [...], **neplatný** ~ invalid law, [...] **prováděcí** ~ implementing law / statute, [...], **regressní ~ poškození na zdraví** recourse law damage to health; regulating the demanding of pecuniary compensation from s.o., i.e. the insurance company has a right of recourse against the one who caused the damage, meanwhile the insured was paid, [...], ~ **k nápravě chyb** validating law / statute curing past errors and omissions thus making valid what was invalid, [...], ~ **s komentářem** annotated law, a law with annotations / commentary, [...], **na základě ~ a k jeho provedení** by virtue of / under the law and for the implementation thereof, [...], **být povinen ze ~a** be legally bound, be bound by law / statute, [...], **pokud ~ nestanoví jinak** except when otherwise provided by law / statute, ~ **č. 58 / 1969 Sb., o odpovědnosti za škodu způsobenou rozhodnutím orgánu státu nebo jeho nesprávným úředním postupem plný název zákona** Act No.58 / 1969 Sb. to regulate the liability for damage caused due to / as a result of the decision of a state authority, or maladministration thereof, [...]

One more type of synonymy deserves mentioning, namely that of prescriptive terms (introduced and defined by legislation; see Riggs 1989 below) and their descriptive ‘counterparts’ (used by legal professionals in their everyday communication, with usage spread also among the wider non-legal public). For example, the law providing for obligatory insurance of a car driver’s liability for damage caused to another driver’s car is called in Czech *Zákon o pojištění odpovědnosti z provozu vozidla* (E. ‘Act regulating insurance against liability arising from the operation of a vehicle’); lawyers in their everyday usage reduced this terminological phrase to *povinné ručení* (E. ‘compulsory liability’), expressing the substance of the obligation. Due to their different distribution the two terms will never be full synonyms no matter how close they may be in their term-to-concept relationship.

5 Polysemy in terminology

Both homonymy and polysemy represent quite difficult problems in legal translation, since the effect of polysemy is in principle the same as that of homonymy – the representation of two or more meanings by a single form, thus requiring different equivalents in the target language. The traditional understanding of homonymy, as opposed to polysemy, is that homonyms have no common etymological roots or basis whereas polysemes have developed

from one common form and have acquired different or modified meanings through their devolution. We maintain Poštolková's assumption (1983: 24, 27), that terminological homonyms are the same terms used in different branches of science (for example, *líčení* /'trial'/ in criminal proceedings and *líčení* /'make-up'/ in the art of visagistes). Therefore we argue that pure homonymy within one legal system exists neither in legal Czech nor in legal English. The problem which lawyers as well as translators dealing with Czech and Anglo-American law are exposed to is rather extensive polysemy resulting from a general tendency in the languages to assign new meanings to existing vocabulary. For the purposes of translational lexicography, Čermák (1995: 244) mentions a special type, namely *contrastive* (or *translational* or *bilingual*) polysemy.

Riggs (1982: 160), (1993: 207), explaining the substance of polysemy chooses the term *valence* to denote the type of term-to-concept relationship: when a word has one and only one meaning it may be termed univalent (or monosemic), and when it has two or more meanings it may be termed multivalent (polysemic or polysemous); a multivalent term that has only one meaning within a given discourse community may be termed unequivocal, whereas when it has several meanings in such a community, it is properly termed equivocal. For example, the Czech term *likvidace* is an unequivocal polyseme – it may be used in many fields of science; however, the legal term *likvidace* is confined to company law (*likvidace společnosti*) and succession law (*likvidace dědictví*), with one equivalent in legal English, i.e. 'liquidation' ('liquidation of company' and 'liquidation of inheritance' respectively). The Czech term *náprava* is an equivocal polyseme since it has more than one meaning in Czech law, reflected in its English equivalents 'remedy' (in the meaning of legal redress) and 'correction' (when speaking about the rehabilitation of offenders). Descriptive terminology recognises that a polyseme may be in context used unambiguously (which can easily be evidenced in legal jargon, or legalese). Authors may use an equivocal term unambiguously if they supply contextual clues to show which of its possible meanings is intended (Riggs, 1989: 96). Prescriptive terms (such as those used in statutes) are either defined by the respective statute, or their precise meaning is implied in a wider legal context because they have been defined in earlier laws and have become part of the terminology.

Two examples of Czech polysemous terms may illustrate the above assumptions, namely *právo* and *věc*:

(1) *Právo* may be translated either as uncountable 'law' if the *system* of law is meant, or a 'right', where a justifiable *claim* is concerned. The two meanings may be distinguished by qualifying adjectives, *objektivní právo* (law) and *subjektivní právo* (a right). However, the qualifying adjectives are not a usual part of the terms; they are used primarily in texts relating to the theory of law, or where the correct meaning is not suggested by a wider (textual) context, or should be made more precise or accurate.

[2]

právo 1 **objektivní** law as a system or set of rules (*uncount*); [...], **dědictví** ~ Law of Succession, Law of Inheritance, [...], **oběanské** ~ **hmotné** Civil Substantive Law, **oběanské** ~ **procesní** Civil Procedure, [...], **předmět** ~a object / purpose / subject-matter of law, [...]

právo 2 **subjektivní** right of / to do st.; interest in st., primarily to property, title to st., primarily

property; entitlement to st. / to do st., usually granted upon meeting a legal requirement; privilege to do st., a special legal right or exception to a duty; power; [...], **hlasovací** ~ voting right / power / privilege, right to vote, [...], **osobnostní** ~ **právo na ochranu osobnosti** right to the protection of personal rights i.e. personal security, live, limb, body, health, reputation, personal liberty, the right to have one's person protected, [...], **vlastnické** ~ title to property; proprietary / property right, right in property, right of ownership, [...], **zástavní** ~ security interest, a right to have transactions / dealings secured, [...], **s meněmi** ~y underprivileged, [...]

(2) *Věc* should be translated according to the branch of law involved: the context of procedural law (both civil and criminal) determines that the English equivalent of *case* or *dispute* be used. Thus, the Czech phrase *nápad věcí* will be translated into legal English as *case load*. In property law, the Czech *věc* will be translated as *a thing* or uncountable noun *property*; its attributive derivative *věcný* in the binominal term *věcná práva* will be translated as *rights in things* or *property / proprietary rights*.

[3]

věc 1 thing; property (*uncount*); chose tangible or intangible thing – common law term, chattel movable or transferable property; item as a part of a whole not necessarily separated, article particular thing, product thing distributed commercially; [...]

věc 2 case brought into court for decision, suit the state of facts juridically considered; litigation civil contentious case; prosecution criminal case; lawsuit any case brought before court, dispute; merit *usu. pl.*, elements or grounds of a claim; cause ground for legal action; [...]

6 Conclusion

Since most translators of legal texts are linguists by education and have either no or a limited legal background, a bilingual law dictionary should be made in the most legally instructive manner as possible. Synonymy and polysemy in both the source and target languages may cause significant difficulties for the precise and accurate transfer of legal information from one language and legal culture to another. Synonymy and polysemy in bilingual legal lexicography should be taken into consideration in (a) the selecting and structuring of individual headwords and (b) the processing of individual entries. Nuances in meaning between or among terminological synonyms in the source language which serve as different headwords should be made sufficiently clear either through glosses or explanations in the source language directly attached to the headword, or through equivalents in the target language glossed or explained in the target language, or through a combination of both approaches. A polysemantic legal expression in the source language should preferably be treated in such a manner that each meaning forms one headword for a separate entry visually distinguished, for example by a subscript numeral, and the headword should be followed by an explanation of the meaning in the source language. Examples of the usage of headwords should be representative of the meaning and should, among other things, reflect the frequency of their occurrence.

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