WHY LEGAL GRAMMARS ARE NOT, BUT SHOULD BE, WRITTEN ON GENRE-BASED CORPORA?

reviewed by **Łucja BIEL,** PhD,
Institute of Applied Linguistics, University of Warsaw
ul. Dobra 55, 00-312 Warsaw
l.biel@uw.edu.pl

The Grammatical Structure of Legal English is an attempt at describing the grammar of legal English in a systematic way. Its structure, style and terminology mirror typical pre-corpus era descriptive grammars, such as Quirk *et al*. (1985), on a much more modest scale. As such, it is an ambitious project since, as the authors stress, there is no similar book that presents the grammar of legal English in one place and is readily available to a broad audience. Although legal English is relatively well-researched both as regards its grammatical and conceptual structure, this research is scattered across many sources. Secondly, the authors observe that most publications on legal English deal with its terminological rather than grammatical features (2010, 21). Therefore, the book focuses on structural aspects of legal English.

It is clear that the authors have an impressive knowledge of legal English; however, the book disappoints with small errors – namely, careless Polish adaptation of the book, an incomplete bibliography, lack of rigour and the perfunctory treatment of some key generic aspects of legal English, as well as methodological issues in research design.

As already mentioned, the structure in general follows the format of a descriptive grammar, starting with lexis, moving to word classes, clause elements and ending with sentence types. Chapter 2, entitled *Lexical features of legal English vocabulary*, discusses word formation processes, such as derivation, clipping, blending, as well as other features, e.g. loanwords, collocations and abbreviations. The next section, which covers nearly half of the book, is Chapter 5, entitled *Word classes*. It explores parts of speech but also grammatical categories, such as tense, aspect, mood, subjunctive, causatives, passive voice and non-finite verb forms. The third major section is Chapter 7, *Types of sentences*, which is in fact devoted mainly to coordination at phrase level, addressing the coordination of clauses in 9 lines only. Compared to it, other types of clauses, such as subordinate clauses and non-finite clauses, are discussed perfunctorily, even though they seem to be more prominent in legal language. It applies, for example, to the conditional clauses (if-then), which realise the fundamental mental scenario of reasoning, prestructuring legal experts' knowledge (cf. Kjær 2000). Other genre-specific

features of legal language which require a more exhaustive treatment include nominalisations (6 lines only) (cf. Garner 1995 or Gotti 2005), deontic modals (e.g. the distinction between the deontic and performative *shall*, cf. Garzone 2001) and structural aspects of multi-word terms. Despite the authors' focus on grammatical features rather than terminology, a grammar of legal English may not be complete without discussing multi-word terms, which comprise a substantial portion of legal language and are a source of difficulty and ambiguity in translation, mainly due to the preference of English for synthetic compact constructions which require explicitation in languages that prefer analytical structures (e.g. Polish). The authors occasionally discuss some aspects of terms, e.g. alliteration (hardly ever a translation problem) or etymology, but do not deal with their structural and textual aspects, which is a curious omission.

The book is advertised by the publisher on its website as a basic textbook for legal translators, lawyers and novice sworn translators that is "an introduction into the grammatical structure of the English language of the law with systematic description of linguistic and translation phenomena". The authors themselves describe their book as "designed to help linguists involved in translating legal text and lawyers who want to learn and read and interpret English legal texts" (2010, 13). Does the book live up to these promises? In my opinion the book is best suited for novice translators who are not familiar with legal texts. In general, the book describes typical structures and is lavishly illustrated with examples. It contains subsections which may help novice translators deal with the notoriously convoluted syntax of legal English. These subsections include split infinitives and a structural analysis of a complex sentence (2010, 133-135), although the authors could have accounted for dangling complements, such as *an auditor for the time being of the company*, as well. The discussion of structural aspects is occasionally (rather than systematically) supplemented with basic translation advice; for example, how to deal with 'coordinated structures' (2010, 157), which are better known in the literature as litanies of synonyms or doublets/triplets. While the authors tend to enlist typical structural combinations with examples, experienced readers would appreciate a more in-depth discussion of both translation problems and functional aspects of constructions, that is, how they affect the meaning, what the rationale is behind their use (e.g. the passive voice), and how the constructions and their frequency differ across legal genres and varieties of legal English.

Another shortcoming is lack of clarity and rigour in how the book is organised into sections and subsections. For example, despite there being separate chapters on grammar and syntax, types of sentences are discussed in another chapter together with phrases ('coordination') while some grammatical aspects (tense, passive voice) are discussed under word classes. An appendix contains a short section entitled 'Long sentences', which clearly belongs to one of the earlier chapters. Similarly, despite a separate chapter on morphology, affixes (subsection 'Nouns ending in *–er/-or* and *–ee*') and derivation are discussed under lexical features. It should also be noted that the book is written in a rather hermetic language packed with linguistic terminology, such as exophoric/cataphoric reference, adjuncts/subjuncts, and substantivized, which may be an obstacle to some readers (do lawyers really need to know it to be able to interpret legal texts?).

In respect of the bibliography, a project aiming at describing the grammar of legal English should acknowledge and review major sources and provide references for

further reading. Yet this is not the case: the bibliography relies heavily on Czech, Slovak and Polish authors and fails to mention seminal English-language sources, such as Crystal and Davy (1969), Hiltunen (1990), Garner (1995), Alcaraz and Hughes (2002), Mattila (2006), to mention a few.

The book ends with a handful of exercises, some of which are accompanied with a key and therefore are well-suited for self-study. The exercises are mainly terminological/lexical (provide a synonym, antonym, collocation; add a negative prefix), intertwined with quite a few theoretically-oriented tasks typical of academic textbooks (identify determiners and comment on their use, comment on the peculiarities of word order, point out some characteristic features of legal English). There are also rather unusual translation exercises, where readers are asked to translate Polish sentences into English; however, the Polish sentences seem to be a back translation – not always correct and painfully literal – of the English sentences provided in the key. The pedagogical rationale behind using back translation in this case is unclear to me. The back-translated sentences are stylistically unnatural and terminologically flawed; and as such, they pose a danger that novice translators, for whom this book seems to be best suited, may mistake them for correct legal Polish. For example, the reader is asked to translate:

- Wszyscy więźniowie mogą zostać zwolnieni za kaucją jeśli nie popełnili przestępstwa zagrożonego karą śmierci, gdy jest na to dowód pewny.

and may consult the key to find:

- All prisoners shall be bailable unless for capital offences when the proof is evident.

The main problem with the Polish sentence is that it would be considered an unacceptable legal translation as it uses non-legal variants of terms, e.g. *zwolnienie za kaucją* should be *zwolnienie za poręczeniem majątkowym* (although *bail* has a slightly different meaning in English criminal law)*, więźniowie* should be *aresztowani, osadzeni* (and a singular form would be more natural in Polish); *gdy jest na to dowód pewny* versus *zebrane dowody wskazują na duże prawdopodobieństwo, że oskarżony popełnił przestępstwo* (which is a quote from the Polish Code of Criminal Procedure, Article 249 (1), and can be adopted as needed). This sentence also contains a punctuation error, i.e. a missing obligatory comma before *jeśli*, which is perhaps a minor error (although repeated), but is representative of a lack of attention to detail in the Polish adaptation of the book. Non-legal variants may also be identified in *Ta umowa została sporządzona w 5 kopiach* instead of *Umowa została sporządzona w 5 egzemplarzach* (as in a similar back translation exercise on page 237) and *zmieniona przez umowę na piśmie*, which should read *zmieniona pisemnym aneksem.* Another mistranslated example is *Nie można nikogo zmuszać do świadczenia przeciwko samemu sobie* (key: *No one shall be compelled to give evidence against himself*), where after a moment's thought one may associate 'świadczenie', untypical in this context, with what is known in Polish criminal law as *prawo do odmowy złożenia zeznań* or more specifically *prawo do uchylenia się od odpowiedzi na pytanie, jeżeli narażałaby ona na odpowiedzialność za przestępstwo.*

Apart from the back translations, terminological errors may be found throughout the book where English examples are occasionally (without a clear pattern) accompanied by Polish translation. Below are a few fairly basic errors found in the book:

- *personal property* translated as *własność osobista* instead of *majątek ruchomy* (UK English);
- *claimant* translated as *roszczący sobie prawo* although it is a standard UK term for *powód*;
- *appellant* translated as *odwołujący się* instead of *skarżący*;
- *suspended sentence* translated colloquially as *wyrok z zawieszeniem* instead of the legal term *warunkowe zawieszenie wykonania kary*.

Another type of error connected with the Polish adaptation concerns editing units in EU legal instruments, which are partly inconsistent with those required in the guidelines for EU translators. I refer in particular to *indent,* which in legal Polish is not *myślnik* but *tiret*. This error is likely to have been caused by relying on the old version of the EU style guide, *Wskazówki dla tłumaczy aktów prawnych Wspólnot Europejskich UKIE 2001* (as listed in the bibliography) instead of the latest version of *Vademecum tłumacza*, the authority for EU translators, published by the Directorate General for Translation in 2012.

However, my major reservation concerns methodological aspects of corpus design. The authors emphasise that they make use of "various materials, with a special focus on criminal law" (2000, 13). Although the publisher promises that the book is "illustrated with examples from different English-language jurisdictions", the authors themselves admit that most of the material comes from American sources, to reveal next that wherever possible they provide examples from a single legal instrument, *The Texas Code of Criminal Procedure*, which functions as a corpus for statistical calculations (2010, 13). A corpus comprising one text is methodologically flawed as regards its representativeness, balance and comparability, which are critical criteria of corpus design and reliable statistics. The Texas Code is not representative of legal English either in terms of jurisdiction (a single state statute cannot be a good representative even of US legal English) or in terms of genres (the language of legislation, a constitutive genre, is unique and differs significantly from the language of lower ranking genres, such as contracts or pleadings). It is a well-known claim in corpus linguistics that generalisations made about language are representative of the language sample researched, not of the entire language; therefore, statistical results are in fact representative of the language of Texas criminal procedure and not of legal English in general. The choice of a single legal instrument for corpus analysis does raise an eyebrow given that it would not be time-consuming to compose a small representative and balanced corpus of texts across jurisdictions and/or genres or to use one of the legal corpora compiled by other researchers (cf. Goźdź-Roszkowski 2011). Recent research shows significant variation of legal language across genres and a number of authors emphasise the need to write legal grammars with the use of genre-based corpora. Take for example Bhatia *et al*., who, even though they are in general sceptical about the

applicability of corpora to researching legal language, argue that developing grammars of legal genres without corpora is 'tedious, inaccurate and incomplete' (2004, 212).

Another methodological issue is the comparative corpus which serves as reference for statistics. The comparative corpus is not discussed properly; we first learn that it is 'a comparable sample of literary text' (2010, 49) to find out on page 86 that it is Helen Fielding's *Bridget Jones: The Edge of Reason.* The rationale for comparing US legislative language to a single UK popular novel, which is not an actual instance of language use and is inevitably marked by the author's idiosyncratic style, is not given. It is also unclear why legislative language is compared to literary language rather than to everyday or specialised English. It would be statistically accurate and valid to use one of the large English-language corpora, i.e. the Corpus of Contemporary American English (400+ million words).

Thirdly, there are also some inconsistencies in statistical measures and the authors provide occurrences per text (p. 87) or per page (p. 61).

To sum up, *The Grammatical Structure of Legal English* may be a good reference book for novice translators. However, to improve its value, the authors may consider eliminating some of the shortcomings described above and to extend the discussion of the grammar of legal English in various directions, and in particular to account for how grammar differs qualitatively and quantitatively across legal genres and jurisdictions.

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