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Studying the dynamics of understanding and legal neologisms within a linguistically diverse judicial space: The case of motherhood in Belgium

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Abstract

In this paper, we report on a study of legal neologisms, i.e. specialized denominations prior to their potential adoption into the formal rule of law. In our study, we found conceptual asymmetry related to the subcategorization of ‘motherhood’ in the French and Dutch language communities within the shared judicial space of Belgium’s Federal Law. The conceptual asymmetry results in a so-called ‘translation asymmetry’, in the sense that legal neologisms in one language do not have a direct equivalent in the other language. We will discuss examples of conceptual and translation asymmetry and reflect on possible implications for translation.

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1. Introduction

In this paper, we report on a study of legal neologisms, i.e. specialized denominations prior to their potential adoption into the formal rule of law. One of the aims of the study is to find out whether different language communities within a shared judicial space – i.e. Belgium’s Federal Law – agree to the same legal concepts when discussing a common subject.

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The topic chosen for this research is the legal issue of ‘motherhood’, of which the classical definition has been challenged – both from a legal and conceptual point of view – as a consequence of scientific (biotechnological) and societal developments. Our research is driven by the following two questions:

1. Do different (yet legally equal) language communities within one judicial space conceptualize common legal issues differently in the preparatory legislative process?
2. Do we find evidence of culture-specific denominations of conceptual phenomena that are shared by both language communities in the preparatory legislative process?

In order to examine these questions, we studied a set of legal neologisms (Section 2.2) related to types of ‘mother’ and ‘motherhood’ in a bilingual (French-Dutch), comparable text corpus of Belgian law proposals since this is the only legislative level in Belgium where both language communities meet and confront their proposals. Proposals made by French speakers are drafted in French and proposals made by Dutch speakers are drafted in Dutch. How conceptualization is influenced by the drafting language can be observed at this stage. However, all Belgians have access to the content of all proposals since all proposals are translated.

We will first explain the context in which our research has to be situated (Section 2). Next, we will discuss how we managed to observe differences in the conceptualization of common legal issues in French and Dutch documents that are part of the preparatory legislative process (Section 3). After that, we focus on the study of culture-specific legal neologisms that designate a set of shared conceptual phenomena appearing in proposals originally drafted in either Dutch or French (Section 4). In the section that follows, we will discuss how the results of our descriptive study can be visualized in a model to be used by translators of Belgian law proposals (Section 5). In our conclusion, we will summarize our observations and give possible suggestions for future research (Section 6).

2. Research context

2.1. *The (socio)cognitive perspective in terminology*

The research presented in this article falls within the theoretical scope of cognitive approaches in descriptive terminology, which have emphasized that understanding terms and conceptualization cannot be separated from the cognitive, linguistic and situational (sociocommunicative) contexts in which they arise and are constantly refined in a process of (re)negotiation (Temmerman, 2016).

By doing so, such approaches to terminology have underlined the dynamic aspects of language and cognition, which is reflected in the use of intra- and interlingual variation in special language (Cabr , 1995; Temmerman, 2000; Faber, 2009). The constructivist view of cognition, stating that knowledge is a human and social construction (Barsalou, 2010), motivates a shift from clearly delineated concepts in traditional terminology theory (Felber, 1981) to prototypically-structured units of understanding in sociocognitive terminology (Temmerman, 2000).

By perceiving conceptual phenomena as units of understanding (which are constantly under discussion), Temmerman (2000) puts emphasis on understanding the world (by an individual and by groups of language users) as opposed to assigning universal meaning to it.

We shall argue that in the context of the research presented in this article – which involves a study of legal neologisms – it makes sense to talk about (prototypically-structured) units of understanding instead of concepts. In order to do this, we first need to explain what we mean by legal neologisms and why we believe these types of linguistic units to be valid for studying the dynamics of understanding.

2.2. *Case study: Legal neologisms in Belgian law proposals*

First of all, we explicitly use the term ‘legal neologism’ to indicate that our study does not focus on legal terms. Legal terms are designations of concepts that have worked their way through a legislative process and became part of the formal rule of law as a result of a parliamentary adoption (i.e. enactment). In the Belgian Civil Code, ‘moeder’/‘m re’ (mother) is the person who gave birth to a child and whose name is indicated in the birth certificate

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