FUNCTIONS OF LEGAL LANGUAGE

Ammar BOUKRIKA

University of Jijel

Abstract

Legal language is one of the most well-known languages for special purposes. It is the vehicle of a social science: law. It has been notorious for its being 'complex' and 'pompous' as Melinkoff (1963) describes it. Like other languages, legal language serves as a medium of communication. However, most of the communication achieved through legal language usually takes place in legal settings only. Moreover, legal language is singularized for its being the sole language being able to perform some particular functions. The present paper aims to shed light on the different functions performed by legal language, giving examples from different legal cultures and laws to explain each function. The paper scrutinises five different functions of legal language, namely its serving as a means of legal communication, its role in achieving justice, how and why it preserves the linguistic and cultural heritage of nations, singularizes legal thinking, and strengthens the lawyers' team spirit.

KEYWORDS: legal language, functions, legal communication, normative language, legal order

ملخص

اللغة القانونية هي إحدى لغات الاختصاص ، وهي تتسم أكثر ما تتسم بتعقدها، فهي ليست سهلة المنال ويصعب على غير المختصين فهمها والتحرير بها بكفاءة. وهي فوق ذلك تؤدي مجموعة من الوظائف، بعضها تشترك فيه مع باقي لغات الاختصاص الأخرى ومع اللغة العامة، والبعض الآخر تنفرد به. وكان الهدف من وراء تحرير هذا المقال هو التطرق إلى هاته الوظائف. فبعد أن مهدنا للمقال بمقدمة، خصصنا مبحثا عرفنا فيه باللغة القانونية، ثم تلاه المبحث الجوهري في المقال والذي رصدنا فيه خمس وظائف جوهرية تؤديها اللغة القانونية وهي: كون اللغة القانونية أداة اتصال، وظيفتها في تحقيق العدالة، وظيفتها في تمتين سلطة القانون، وكذا وظيفتها في الحفاظ على التراث اللساني والثقافي للأمم، وما تؤديه من دور في طبع الفكر القانوني بطابع خاص متميز، وأخيرا وظيفتها في تعزيز الروح المهنية لدى القانونيين. واختتمنا المقال بخاتمة.

الكلمات المفتاحية: اللغة القانونية – الوظائف – الاتصال القانوني- اللغة التقعيدية – النظام القانوني

Functions of Legal Language

1. Introduction

Research on legal language is by no means new. There have been a plenty of scholarly writings that focused on legal terminology. There has also been recently some interest in style and legal drafting. As a matter of fact, legal language has many areas worth investigating. In this paper, I am going to underline the various functions assumed by this language. Central to my study is a valuable work by Hekki-Mattela entitled Comparative Legal Linguistics (2006, whose English translation was realised by Christopher Goddard). The study is mainly descriptive, giving examples mainly from European languages as there is no interesting literature on the Arabic legal language.

2. What Is Legal Language?

The adjective 'legal' in the expression legal language refers to a specific type of language with its own features and components. Evidently, legal language is a natural, not an artificial language. The Catalan linguist Carles Ducarte thinks of legal language as a functional variant of natural language, with its own domain of use and particular linguistic norms.[1]

As to the linguistic norms, the use of legal language is governed by some peculiar rules that do not apply to general language. These rules do not apply to other special languages (the language of medicine, physics, economics, sociology, etc…) either. This does not mean, however, that legal language uses a vocabulary and a grammar of its own, nor that it is entirely independent from general language. By contrast, legal language is based on general language, for many of ordinary words are used in it and the grammar it uses is that of general language. However, legal language differs from general language in that it uses these items differently. Scores of the ordinary words that are used in a legal context acquire a technical (specialised) meaning. Legal language uses the same tenses, modals, and voices (active, passive) as general language, but in situations other than those in which general language uses them. For instance, the way sentences are structured in legal languages shows how grammar is used differently from general language. Besides, legal language is used normally to convey a special kind of knowledge: law. This makes, in fact, of legal language as one of the languages for special purposes (LSP).

The domain of use of legal language is to some extent a matter of controversy among legal linguists and legal translation theorists. While Sarcevic[2] believes that legal language is used only in special-purpose communication, Cao[3] uses the term in a boarder sense, drawing a distinction between the language of law, language about law, and language used in other legal situations. In so doing, Cao believes that legal language may also include those communications in which the participants are not professional lawyers, and in which general language is used in particular legal contexts (e.g. the statement delivered by a witness in a court). The following remarks by Heikki Mattila obviously consolidate Cao's view:

> Legal language is often characterised as a technical language or "technolect," which is to say a language used by a specialist profession. That is accurate, but only with certain reservations. True, legal language is, first and foremost, used by lawyers. Nevertheless, in the courts and still more in the government are professionals who are not lawyers properly so called (jury- members, lay judges, and administrators). At the same time, it seems natural to say that a citizen who, for example, writes his own will following a model form (as often occurs in the Nordic countries) is using legal language.[4]

Heikki Mattila went on defending his attitude, saying that the target messages transmitted in legal language often consists of the whole population, certain layers of the population, or a number of particular citizens, and this is by contrast with most other languages for special purposes. He concludes that legal language is not used solely in internal communication within the legal profession.

I think that the controversy over the domain of use of legal language is due to the fact that law affects, directly or indirectly, most areas of social life. Those who think of legal language as a medium transmitting laws (and, in general, instruments of regulatory nature) restrict its domain of use, while those who think of it as a medium transmitting laws and regulatory instruments and also as a means to communicate in different legal settings broaden its domain of use. It is remarkable that the concept of legal language has been referred to in the literature by different terms: the language of the law[5], langage du droit[6], langage juridique[7], lenguage de la ley[8]. Legalese is a derogatory term that is now used by some writers, most of whom believe in the necessity of simplifying the language of law. In the present paper, I am using the terms legal language or language of law in a broader sense, that is, to refer to the language used in different legal settings, whether in lawyer-to-lawyer communication or in lawyer-to-non-lawyer communication.

3. Functions of Legal Language

It goes without saying that general communication relies directly on the use of language to perform many functions. Legal communication is no exception; it uses legal language as a means to achieve its aims in different legal settings. However, being a language whose words are often

vested with the power of law, legal language does not only have the sole function of communicating. In this section, I am going to underline the use of this language as a means of legal communication, its prime role in achieving justice and in strengthening the authority of law, how it preserves the linguistic and cultural heritage of nations, the way in which it singularises legal thinking, and finally how and why it strengthens the lawyers' team spirit.

3.1. A Means of Legal Communication

Since legal language can be regarded as the language used in different legal settings, be it to convey the substance of laws and regulatory instruments or to talk about law and to communicate inside and sometimes outside legal circles, we can then talk about two main elements here: First, legal language's function in transmitting the various forms of legal messages, and second, legal speech acts and legal semiotic acts.

3.1.1. Transmission of Legal Messages

Laws and the matters related to them are omnipresent in our social life. Their vehicle is legal language. It is thanks to this language that the legislator can express legal rules, thus conferring rights and imposing obligations, and lawyers and other law practitioners can draft legal documents ranging from wills and contracts to judgements and administrative decisions, to briefs and pleadings of advocate, etc…It is also thanks to this language that people become familiar with the content of such instruments. The content of laws and regulatory instruments can be explained via scholarly works, that is, doctrinal texts that aim to acquaint both novice lawyers and non-lawyers with the intricacies of laws and other related instruments such as court decisions. Doctrinal texts are the best legal source that renders legal knowledge much more evident (often, the public's understanding of legal instruments is ensured via a lawyer). Legal communication sometimes takes place between lawyers and non-lawyers. For instance, a judge addressing a witness will likely use legal style in his message while this witness will likely respond using ordinary style. The administrative machinery of various courts and official institutions relies in its functioning on different sorts of correspondence whose message is more or less drafted in legal, often administrative style. At the international level, the conventions and treaties signed between countries or members of international organisations (e.g. the United Nations) and supranational organisations (e.g. the European Union) often contain messages either of legislative (traités-lois) or contractual (traités-contrats) nature, using legal language to prescribe the duties and responsibilities of each member state towards the community, on the one hand, and to define its scope of rights and privileges, on the other. Thus, communication here takes place at the international or supranational levels, not internally, with the receivers being either legal persons, or natural persons acting collectively as legal persons.

3.1.2. Legal Speech Acts and Legal Semiotic Acts

According to the original works by language philosophers John L. Austin[9] and John Searle[10], language is used not only to transmit messages or to influence people's behaviour, but through it, acts can also be realised. This holds true for law and religion. As put by Searle:

> Speaking a language is engaging in a rule-governed form of behaviour
> or to put it more briskly, talking is performing acts according to rules[11]

J.L. Austin made a distinction between 'constative utterances', which describe or report things and events, and 'performative utterances', which perform actions merely by virtue of being made. Constative utterances (e.g. He is intelligent) differ from performative utterances (e.g. I sentence you to life in prison) in that they may be either true or false. Depending on the felicity of the act (its success or actual performance), performative utterances can either be felicitous or infelicitous. When, for instance, a marriage ceremony is performed by an unauthorised person, the performative utterance in question is said to be infelicitous 'not happy.'

Austin proposed a classification of speech acts, which was later developed by Searle. Searle reclassified Austin's categories, distinguishing between directives, declarations, representatives, commisives and expressives. Nevertheless, both of Austin's and Searle's classifications were criticised as inadequate in a legal context. According to Habermas[12], the two classifications disregarded the normative aspects of legal speech acts. For instance, Searle did not distinguish between legally binding normative acts and simple imperatives, i.e. acts of volition without the force of law. Lawyers and legal linguists recognised the relevance of the speech act theory for legal discourse. For example, Sourieux[13] included a brief introductory chapter on signs in the language of law in his textbook Introduction au droit. Danet[14], basing her work on Searle's classification, made a distinction between five categories of speech acts related to legal discourse, or to put it more plainly, five categories of legal speech acts:

1- Representatives, which are utterances that commit the speaker to something being the case or assert the truth of a proposition, including testifying, swearing, asserting, claiming and stating.
2- Commissives, which commit the speaker to do something in the future, such as in contracts, marriage ceremoniesm and wills.
3- Expressives, which express the speakers' psychological state about or attitude to a proposition, including apologising, excusing, condemning, deploring, forgiving and blaming.
4- Declaratives, whose successful performance brings about a correspondence between their propositional content and reality, including marriage ceremony, bills of sale, receipts, appointments, and nominations; and the legislative stipulation of rights and of definitions of concepts: lawyers' objections, sentences, and appellate opinions, indictments, confessions, pleas of guilty/not guilty, and verdicts. There is a sub-category of representative declarations for certain institutional situations, e.g. a judge making factual claims, requiring claims to be issued with the force of declaration, and this would require the speaker to have certain authorities. This would cover marriage ceremony, bills of sale, appointment or nominations, legislative stipulation of rights and definition of concepts, indictments, confessions, pleas of guilty/ not guilty, and verdicts.
5- Directives, which are future-oriented speech acts, seeking to change the world, to get someone to do something, most prominent in legislation that imposes obligations.

Legal rules consist normally of a prescriptive (normative) content and a descriptive one. It is the realisation of legal speech acts which renders the prescription applicable.

However, legal language not only contains speech acts, for some of its acts are semiotic. In fact, semiotic acts were more common than speech acts in the distant past. Heikki Mattila[15] gives an example from the oldest Roman Law: the manicipation, which was an important sign of transfer at that time. The transfer in question involved a symbolic exchange, in which five witnesses were present, with the acquirer placing his hand on the person (slave), animal, or good comprising the object of the act. The words having been pronounced (rituals), the acquirer would place a coin on the plate of the scales of the weightman (libripens) to symbolise the selling price. These gestures were semiotic means used at that time in the communication process of trading.

Semiotic acts are still in extensive use today. A meeting's chairman strikes the gavel to hold the attention of the audience or to confirm a decision, and negotiators shake hands on concluding an agreement. Many routine contracts are performed semiotically, not verbally. For example, a customer in a shop who is in a hurry may simply hand over the items picked up and gives the money at the shop's till or his credit card without uttering a single word. The handing over of a receipt by the assistant to the customer is an acknowledgement on his part that the sale contract has been concluded. As we clearly see from the examples cited, the language (words) is replaced by signs. Interestingly, an Italian professor refers to these contractual situations as 'silent law'[16]. Heikki Mattila does not fail to remark that a semiotic act (shaking the head, for instance) can replace in certain other cases a speech act, as with a sick or handicapped person.

It is noteworthy that some legal instruments, such as wills and contracts, contain both speech acts and semiotic acts: the preamble and terms of a contract are expressed verbally, using words and expressions; the signature of the parties to this contract is a semiotic act as it does not include any language statement.

3.2. Achieving Justice

Legal language performs to a large extent a fundamental function in societies: achieving justice. It is due to this language that laws are created and norms are posited, the result of which is an entire system of justice with its own institutions. That is why legal philosophers commonly agree that legal language is a normative language[17].

3.2.1. Establishing Legal Order

As Haikki Mattila correctly puts it:

> Speech acts are of fundamental importance from the standpoint of legal order[18]

Law can exist only in language; that is, it is a metaphysical phenomenon. As a result, it is only through language that legal relationships can be changed or altered. To reach this target, a language must be performative, and fortunately, legal language is. Conversely, it is the legal order in place that turns laws expressed verbally or a signed document into a real speech act. In other words, the words and signatures and seals apposed to documents can be vested with the power of law only in the existence of an established system of justice.

Through legal speech acts, rights and obligations can be created. Legal effects can be reached by simply uttering certain words, for instance, 'You are fined 1000$' as regularly pronounced in court proceedings, rendering justice to the offended and punishing the offender.

Law embodies the ideals and standards people have and seek to realise in concepts like equity, justice, rights, liberty, equal protection and the general welfare that enter the body of law. According to Jenkins[19], law has a normative existence that is embodied in the ideals and principles that people cherish, the purposes and the aspirations they pursue, and the notions they hold. I think that people are usually convinced that the sacred words they read in a statutory provision or a will can create legal order which is supposed to be above everybody and immune to any violation, and they have to feel satisfied even if this provision or instrument happens to contain an obligation to be imposed on them.

3.2.2. Strengthening the Authority of Law

Before starting to talk about the role played by legal language in strengthening the authority of law, I would like to shed some light on the function of law itself. First of all, any promulgated law or drafted legal instrument is meant to be respected by the persons concerned. As a norm, laws aim to guide the behaviour of citizens and to regulate human relations at the society level, while contracts regulate the behaviour of only the parties involved, through the creation of rights and duties. As for penal judgements, not only do they aim to correct the behaviour of the offender in the future, but they also deter those individuals with criminal tendencies. In this regard, legal language can be qualified as an instrument of social management and control, which the competent authorities use. It plays a main part in consolidating social structures and the legal order and in delivering judgments on the basis of law. In doing so, legal language asserts the authority of law through some means. When legal language is used, it is important to guarantee that citizens are able to comprehend what legal rules mean and that these citizens are committed to observing them through fear of sanctions. To keep people remembering the content of legal rules, some mnemonics are used. One of these mnemonics is the concise, often rhythmic character of legal language. Heikki Mattila[20] mentions that in the Middle Ages, some laws were drawn up in poetic or, at least, rhythmic form. The ordinary citizen can obviously notice the solemnity of legal language in the various legal instruments he comes across in his life. Such solemnity, as the examples in the following subsections will demonstrate, gives legal substance (law) an authoritative character.

3.2.2.1. Preserving the Sacred Character of Law

There was a common belief among people in the distant past that sanctions imposed by laws against offenders were to be complemented by divine sanctions. Law has been sacred throughout history because any contempt for it is thought to be contempt for God Himself. Every one knows that Prophet Moses received the Ten Commandments directly from God. This creates a feeling within people that the administration of justice is carried out under the protection of the Most High[21].

Legal language, with its linguistic and semiotic resources, has always heightened the sacred character of law. The use of highly solemn expressions in the preambles of constitutions and domestic legislation indicates that the legislator has been empowered by God to enact and act. The promulgation of the decree of 13 Aug 1956 (6 Moharem 1376) which brought into force Tunisia's Code of Personal Status is an example of the use of solemn language:

> Praise be to God!
> We, Mohamed Lamin Pasha Bey, Holder of the Kingdom of Tunisia;
> Having regard to the decree dated 25 May 1876 (30 Rabia II, 1293).[22]

Though many nations abandoned the use of solemn language to indicate the sacred character of their laws, this tradition is still in existence today. The preamble of the Federal Constitution of the Swiss Confederation begins as follows: ' Au Nom de Dieu Tout-Puissant[23]. The long and official title given to Queen Elizabeth II on her accession to the throne used solemn language to reinforce her power and remind the citizen in the Realm that she is ruling on behalf of God:

> Her Majesty Elizabeth the Second, by the Grace of God, of Great Britain, Ireland and the British Dominions beyond the Seas Queen, Defender of the Faith, Duchess of Edinburgh, Countess of Merioneth, Baroness Greenwich, Duke of Lancaster, Lord of Mann, Duke of Normandy, Sovereign of the Most Honourable Order of the Garter, Sovereign of the Most Honourable Order of the Bath, Sovereign of the Most Ancient and Most Noble Order of the Thistle, Sovereign of the Most Illustrious Order of Saint Patrick, Sovereign of the Most Distinguished Order of Saint Michael and Saint George, Sovereign of the Most Excellent Order of the British Empire, Sovereign of the Distinguished Service Order, Sovereign of the Imperial Service Order, Sovereign of the Most Exalted Order of the Star of India, Sovereign of the Most Eminent Order of the Indian Empire, Sovereign of the Order of British India, Sovereign of the Indian Order of Merit, Sovereign of the Order of Burma, Sovereign of the Royal Order of Victoria and Albert, Sovereign of the Royal Family Order of King Edward VII, Sovereign of the Order of Mercy, Sovereign of the Order of Merit, Sovereign of the Order of the Companions of Honour, Sovereign of the Royal Victorian Order, Sovereign of the Most Venerable Order of the Hospital of St John of Jerusalem.[24]

Still in courts, the presence of God is more than clear in legal proceedings. The formulas of oath taking, where personal commitment is strengthened by Eternity, are still manifest, even in secular countries. Zmigrodzka[25], quoted by Heikki Mattila[26], mentions that a Polish study that analysed the language of some 200 wills, from the 16th century to the beginning of the 20th century, shows that the wills, instead of bearing a title, involved a religious declaration right at their beginning. A highly popular opening was 'In the name of the Father and of the Son and of the Holy-Spirit, Amen'.

3.2.2.2. Subordinating the People to the Authorities

Since some people have a tendency to violate legal rules prescribing values whose aim is to regulate social relations and human conduct, the authorities need some mechanisms to reinforce laws. These mechanisms usually take the form of sanctions. Not only do sanctions correct the behaviour of the offender and deter people with a tendency to criminality as I have already

stated, but they also create some sort of subordination in which the authorities appear to be supreme and the people appear to be subject to them. The language of law is a means to achieve this. Having the character of a language of power, legal language is normally categorical. For instance, the language of statutes contains no justifications why the citizen or the party concerned has to do or not to do something, nor reasons when and where he is legally authorised to do or not to do something. On the contrary, it uses a firm language, full of solemn expressions and authoritative statements. The language of judgements and court decisions uses argumentation, but to convince fellows of the legal profession, however, not the ordinary citizens concerned with the case.

The use of phrases expressing the humility of people seeking justice and the use of body language are also an aspect that shows how people are subject to their authorities. When a citizen addresses a judge or an authority, or even when he sends a document to a court or public office, he usually lards his message with ritual compliments. The use of these compliments is indicative of the inferiority of the citizen in relation to the public authorities. For example, the parties in England are traditionally required to address judges in a strictly defined way depending on the type of the court in question, hence the common use of these forms of address: My Lord, Your Lordship, Your Honour, Your Worship etc…

To subordinate the citizen, the authorities use not only linguistic means, but also semiotic ones. The presence of symbols of justice in courts like the scales, the sword, the lictor's fasces, the axe, and the blindfold altogether connote the supremacy of the judiciary, which is constitutionally and legally empowered to administer justice. The signs indicating the beginning and end of sittings, such as the ringing of the churches' bells and fanfares in the Western world, and the special clothing of judges and counsels (e.g. wig, gown) in most countries and the solemnity of the building where the court sits (termed in many countries 'palace') are also semiotic tools that arouse respect for the law and authorities among citizens.

It follows then that the language of law helps with the subordination of the people to the authorities through the linguistic and semiotic tools it offers to the user, who is usually the authorities or a public official vested with the power to exercise some functions (judge, lawyer, administrator, notary etc…)

3.3. Preserving the Linguistic and Cultural Heritage of Nations

Human culture has many sources and constituents. Justice forms part of it. This means that the language of law is part of a nation's general linguistic culture. Very often, legal language has been accused of being too much archaic and ossified. In their scathing criticism of 'legalese', supporters and activists of the Plain English movement in the Anglo-Saxon world complained of its wide use of old terminology, complex and very long sentences, and archaic style, which most of the time results in documents difficult to comprehend. From the standpoint of the layman, this is absolutely true. But this is just the seamy side of the issue. Legal language had to get ossified because this has always been crucial for the stability of legislation. Many laws, especially civil ones, could remain in force, if not centuries, thanks to the conservative nature of legal language. Besides, lawyers have long formed a separate profession. Such ossification has still more positive effects. Heikki Matilla[27] regards ossified legal language as a 'kind of linguistic museum that enables archaeology of language'. According to this author, legal language shows which languages were previously used in official contexts in a given country. The extensive use of Latin expressions and terms in the legal language of many European languages demonstrates that Latin was the official language of these countries. Also, the presence of French in legal English, even still today, is a testimony of its being the legal language of England in the past (the Middle Ages). Consequently, the archaic character of legal language, besides symbolising the uninterrupted continuity of a country's culture, links, in Heikki Mattila's words, the present to the wonderful, ancestral past. Heikki Mattila[28] goes as far as to say that legal language is given the function of strengthening national feelings of dignity and consolidating identity.

The impact legal language has always left on general language is quite significant. According to Heikki Mattila[29], the rules and orthography of the written language were often set by the language of public offices and courts of law in the Middle Ages and at the beginning of modern times. He also cites the example of France, where the royal chancellery and the parlements significantly contributed to the establishment of the grammar and vocabulary of the French language. It is also obvious that the language of many laws affects general language: many newly coined legal terms gain popular usage, though sometimes semantically distorted, by being used repeatedly in thousands of documents used by public offices and the general public alike. Not only is general language a recipient of legal terms; its style also comes under the influence of the style of legislative drafting. Jésus Prieto de Pedro[30] interprets the prescription in which the Spanish constitution provided that the languages of Spain form a cultural patrimony as aiming to forbid the deterioration of the patrimony by counting on administrative and judicial language.

3.4. Singularising Legal Thinking

Legal thinking is normally abstract and subject to the tenets of logic and legal philosophy. According to Steven Stark[31], the language of law determines the way lawyers view the world. Consequently, legal thinking differs from general and literary thinking. Ordinary people feel compassion on hearing the story of a life-worn individual. Lawyers, however, when considering the individual's case, see only abstract fact situations to be subsumed under general rules. In this regard, Stark [32] cites a case that clearly exemplifies this lawyerly blindness. In Rummel V. Estelle, the Supreme Court upheld a life sentence that was issued against a man who, in three thefts, had taken less than $250. Lawyers, who considered only abstract rules and not the personal consequences of their argument, found the court's upholding fair. This justifies why legal language is devoid of emotions and metaphorical devices. More plainly, a lawyer can not write in the same way as a novelist or an ordinary citizen, who usually involve their sentiments and emotions. The use of such a language has often led the general public to accuse lawyers of lacking human sentiments and sympathy and of being harsh in deciding the fate of people. Lawyers use a language which ensures the functioning of legal reasoning, the result of which is the delivery of judgements and the issuance of decisions on the basis of legal rules. Thanks to very long, complex sentences, a key feature of most legal languages, lawyers can properly relate concepts to each other and link facts to rules in the process of their legal reasoning.

3.5. Strengthening the Lawyers' Team Spirit

It goes without saying that each profession characterises itself by using forms of speech of its own. This kind of language use is intended for communication within the profession. It is used, however, as a means of enabling the experts in this profession to monopolise information and to keep the intruders away from the profession. This holds even much truer for legal language. While legal language angers the outsiders due to its incomprehensibility, it strengthens group cohesion. Through legal usage, lawyers, as most specialist groups do, develop a feeling of solidarity among themselves, consolidating their professional identity and immunising legal circles. Through the use of this language, lawyers also express their commitment to the values and traditions of their profession. G. Gopen[33] says that lawyers fear that they will seem unprofessional and even incompetent if they write simply. They believe that the shroud of mystery will maintain and increase the public dependence on lawyers.

Financially speaking, I think that it is not in the interest of lawyers to simplify their language. The use of accessible style in legal documents drafting will enable ordinary citizens to draw up themselves at least some of the documents (supposedly unofficial ones) instead of charging a lawyer of doing so. Thus, to gain more money and enjoy a larger number of clients, it is in the lawyers' interest to preserve a style which is inaccessible to the public. Doing so consolidates further the legal profession and keeps the intruders at bay.

4. Conclusion

The present paper shows that legal language performs a number of functions which many other languages for special purposes can hardly perform. This is due to the fact that it is the vehicle of law, a phenomenon which affects the different aspects of our life in a way or another. The fact that legal language is a crucial instrument for a stable society where human relations are properly related and order is adequately maintained should incite the authorities in different countries and under different legal systems to care about legal language by promoting apparently two opposite policies: On the one hand, to uphold the role of legal language in achieving justice, strengthening the authority of law, and preserving the linguistic and cultural heritage, including the ossified and archaic character of legal language itself, because this is part of preserving the national culture and identity; on the other, to strive to make legal language comprehensible for ordinary citizens and acquaint them with a language towards which they have long held a feeling of fear. To strike a balance between these two opposite approaches will not be an easy task at all, but I think it is worth trying.

End notes

[1] Prieto de Pedro (1991: 131/132)
[2] Sarcevic (1997)
[3] Cao (2007)
[4] Heikki Mattila (2006:3)
[5] Mellinkoff (1963)
[6] Cornu (1990)
[7] Gémar (1988/1995)
[8] Ituralda Sesara (1989)
[9] Austin (1962)
[10] John Searle (1969)
[11] ibid
[12] Habermas (1981)
[13] Sourieux (1990)
[14] Danet (1984: 457-461)
[15] Heikki Mattila (2006)
[16] ibid (p 33)
[17] Cao (2007:13)
[18] Haikki Mattila (2006:31)
[19] (Jenkins 1980)
[20] Haikki Mattila (2006)
[21] ibid
[22] (Quoted in Heikki Mattila 2006: 46)
[23] ibid
[24] (From Wikipedia, the electronic encyclopedia, Title of the Queen, visited on 25 January 2010)
[25] Zmigrodzka (1997)
[26] Heikki Mattila (2006:47)
[27] ibid (p 59)
[28] ibid
[29] ibid
[30] Jésus Prieto de Pedro (1991:148)
[31] Steven Stark (1984)
[32] ibid
[33] G. Gopen (1987)

References

- Austin, J.L. How to Do Things with Words, Oxford, Clarendon Press. 1962
- Cao, D. Translating Law, Clevedon, Multilingual Matters. 2007
- Cornu, G. Linguistique juridique, Paris, Montchrestien. 1990
- Danet, B. "Language in the Legal Process", in *Law and Society Review*, n° 14. 1980
- Gémar, J-Cl. "la traduction juridique, art ou technique d'interprétation", in *Meta*, Vol. 33, n°2. 1988
- Gémar, J.C. Traduire ou l'art d'interpréter, Tome 2: application, Canada, Presses de l'université du Québec. 1995
- Gopen, G. O. "The State of Legal Writing: Res Ipsa loquitun" in *Michigan Law Review*, Vol. 86, n° 2. 1987
- Habermas, J. On the Pragmatics of Communication, Cambridge, The MIT Press. 1989
- Itturalde, S.V. lengyaje Legal y Sistema, Madrid, Editorial Tecnos, in Sarcevic, S New Approach to Legal Translation, Kluwer Law International. 1989
- Jenkins, I. Social Order and the Limits of the Law: A Theoretical Essay, Princeton, NJ, Princeton University Press. 1980
- Mattela, H. Comparative Legal linguistics, translated by Christopher Goddard, Hampshire, Ashgate. 2006
- Mellinkoff, D. The Language of the Law, Boston; Little, Brown and Company. 1963
- Prieto de Pedro, J. Lenguas, Lenguaje derecho, Madrid, Editorial Civitan. 1991
- Sarcevic, S. New Approach to Legal Translation, Kluwer Law International. 1997
- Searle, J. Speech Acts: An Essay in the Philosophy of Language, Cambridge, Cambridge University Press. 1969
- Stark, S. "Why Lawyers Can't Write", in *Harvard Law Review*, n° 97. 1984