Academic Journal of Modern Philology

ISSN 2299–7164
Vol. 26 (2025)
Special Issue
173–185

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Linguistic Vulnerability in the Legal Context

Abstract

Issues related to communication within legal contexts often remain largely invisible or overlooked by the general public. Although this subject tends to attract limited attention outside academic and professional spheres, it, nonetheless, holds considerable potential as a critical area of inquiry. Communication continues to constitute one of the principal shortcomings of the judicial system, insofar as the inability to understand legal processes often exacerbates a sense of vulnerability. This article aims to shed light on the role of interpretation in legal proceedings through the lens of 'linguistic vulnerability', a notion that can be applied to situations in which laypersons suddenly confronted with some form of legal institution lack familiarity with the legal profession's governing language and norms and, therefore, are perplexed and at a disadvantage. Our analysis focuses particularly on the terminological dimension of linguistic vulnerability within courtroom settings. We seek to examine scenarios in which individuals may be exposed to situations of linguistic incomprehension, potentially hindering their effective access to justice. The examples selected from the French context highlight the essential role of legal language in securing access to justice. Moreover, they underscore the need to protect individuals from linguistic vulnerability within judicial procedures.

Keywords: linguistic vulnerability, legal language, juritraductological approach, courtroom discourse, access to justice

doi: 10.34616/ajmp.2025.26.13

1. Introduction

"We are not all vulnerable in the same way." – said Seneca (Book III, chap. 10). This quote illustrates the current reality of the notion of vulnerability in linguistic and legal matters. Vulnerability factors are numerous and taking them into account tends to increase the protection of people who need it (i.e.: the right to interpretation and translation in criminal proceedings in the EU). As Sylvie Monjean-Decaudin (2022: 19) notes, all who live, travel or work abroad must become aware of their linguistic, legal and

translation vulnerability, because all, as soon as they pass through the borders of their home nations, are exposed to unforeseen linguistic and legal situations.

The issues related to communication in a legal context remain rather invisible to the general public. This subject, which receives limited interest outside of academic and professional circles, has the potential to play a significant role in understanding how the justice system operates. In particular, communication, especially concerning precise legal terminology, remains one of the main weaknesses of the judicial system. Lack of proper understanding can lead to feelings of helplessness and vulnerability to misinterpretations.

The aim of this paper is to examine the phenomenon of "linguistic vulnerability" in the legal context, with a particular focus on terminological issues. The term *linguistic vulnerability* here refers to situations where individuals are particularly exposed to misunderstandings of legal messages, which can lead to difficulties in legal defence or a complete understanding of their rights. This paper focuses on how legal language – especially its specialized terminology – can exclude those unfamiliar with the law, placing them at a disadvantage in legal proceedings. We will analyze specific examples of difficulties associated with legal terminology that lead to linguistic exclusion and explore measures that can be taken to bridge this understanding gap and improve communication within the legal system.

To guide our reflection, we notably relied on excerpts from the following judicial reporters: Rouchon-Borie (2018), Durand-Souffland, Robert-Diard (2018), as well as from attorney, Périer (2017, 2019). This article focuses on French examples that highlight the role of legal language in ensuring access to justice and the need to protect individuals from linguistic vulnerability within the judicial context.

2. Vulnerability *vs*. Fragility

Vulnerability is polysemic, vague and subjective term because it can be applied to multiple contexts. It appeared in medical literature at the beginning of the 1970s, and began to spread from the 1980s in English articles, then spread massively in the 1990s, in French translation. The social sciences use the term to describe poverty and social justice (Brodiez-Dolino 2015, 2016), in relation to the labor market and employment. The popularity of the term *vulnerability* comes from many causes: from the need to replace old, worn-out terms, such as *social exclusion*, or from a simple need to add a little freshness to scientific analyses.

The phenomenon of this concept lies in its ease of extension to other areas. The word *vulnerability* in English is a loanword from French, where the word *vulnérabilité* is used. It derives from the Latin *vulnerabilitas*, which comes from the adjective *vulnerabilis*, meaning 'easily wounded'. According to the dictionary *Trésor de la Langue Française informatisé* (TLFi: *s. v.* "vulnérable"), the French adjective *vulnérable* means: "1) from the year 1676, 'which can be injured, or able to be hurt' (Pomey, p. 1004); 2) from the year 1807, 'which can be easily reached, influenced, attacked'; 3) from the year 1817, 'capable of being (emotionally) wounded or hurt, who can be injured, affected (morally)'; 4) from the year 1847, 'which gives rise to or, are open to criticism' (Balzac, *loc. cit.*)".

The noun *vulnerability* is synonymous with *fragility*. In a general sense, vulnerability can be understood as "the likelihood of seeing one's situation or living conditions deteriorate or decline, regardless of one's level of wealth, in the face of life's fluctuations" (Pain 2012: 35).

The choice of the term in this paper comes from a recovery of the literal and figurative meaning and refers to the vulnerability of people and human life. Thus, this capacity to be hurt which we call *vulnerability* can also be conceived as the fact of being subject to linguistic or legal constraints. However, the philosopher Jean-Louis Chrétien prefers the word *fragility* to that of *vulnerability*. He explains it this way:

> Fragile is what can break. (...) One can break from within, and not by a shock or aggression coming from elsewhere. This is a significant difference from vulnerability, often confused with fragility, and very fashionable today, because vulnerable is what can be wounded, which implies an attack coming from the outside. Only the living, in the broadest sense, since it can be said of a tree, is capable of being wounded, whereas "fragile" can describe inanimate beings. (...) What is common, however, to both terms "fragile" and "vulnerable" is that they designate a possibility inscribed in the very constitution of the being in question, and which never ceases to belong to it, even if it has not been actualized or takes a very long time to do so. (2017: 8–9)[1]

Fragility ('weakness, frailty') has no precise scientific meaning. The term appeared in medical literature in the 1980s as a descriptor of a 'social state of isolation'. The meaning that doctors have given it comes from ordinary language: i.e. that can be broken or destroyed easily, lacking strength or endurance; be delicate or frail (Pain 2012: 36). This makes it difficult to identify people who are affected by it and to detect the risk factors that characterize it.

3. Justice and its Language

Complex, dense and dry, legal language can seem too hermetic for laypersons, or even become a source of vulnerability. This language uses terms unknown to the common language familiar to non-jurists. Like a foreign language, the *lingua juridica* remains a subject that is difficult to understand for those who are not part of the legal profession. These outsiders are usually persons whose contact with legal language is incidental: as spectators, witnesses, the ones brought in by administrative procedures. They are citizens who generally have little direct contact with the laws and even with the contracts to which they are a party. It is therefore up to lawyers to adapt their language in a legal context with interlocutors in order to communicate. More and more lawyers are becoming aware of this and putting more emphasis on communicating attaching importance to communication with non-lawyers.

Criticisms of legal language are, however, not new. The major fault or main flaw that has always been underlined is its opacity for laypersons. Michel de Montaigne (1533–1592) was already looking at it with a critical eye, emphasizing its obscurity:

1 Original:"Est fragile ce qui peut se briser. (…) On peut se briser de soi-même, et non par un choc ou une agression venant d'ailleurs. C'est une différence notable au regard de la vulnérabilité, souvent confondue avec la fragilité, et aujourd'hui très à la mode, car est vulnérable ce qui peut être blessé, ce qui suppose une atteinte venant de l'extérieur. Seul le vivant, au sens le plus large, puisqu'on peut le dire d'un arbre, est au demeurant susceptible d'être blessé alors que le « fragile » peut qualifier des êtres inanimés. (…) Est commun toutefois à ces deux termes de « fragile » et de « vulnérable » qu'ils désignent une possibilité inscrite dans la constitution propre de l'être en question et qui ne cesse de lui appartenir, quand bien même elle ne serait pas passée à l'acte ou mettrait très longtemps à le faire."

> Why does our common language, so easy for all other uses, become obscure, and unintelligible in wills and contracts? and why is a man who clearly expresses himself in whatever else he speaks or writes unable to find any way of declaring himself in such things that does not fall into doubt and contradiction? ([1580] 1965: Livre III, Chapitre 13 "De l'expérience", 1066)[2]

De Montaigne concedes that he often detected problems of interpretation even when the reading of the law seems to have been clear to other jurists. This harsh criticism of the atomization of opinions is summed up in Seneca's maxim: *Confusum est quidquid usque in pulverem sectum est*[3] (Seneca, *Epist. 89*).

With regard to legal language, through the centuries, literature bears the satirical testimony springing from the pens of great writers. It is enough to recall, in this context, what Jean Racine (1669) wrote:

> It is a language which is more foreign to me than to anyone, and I have only used a few barbaric words that I may have learned in the course of a trial that neither my judges nor I have ever heard well. ([1669] 2015: 4)[4]

And Sade (1795):

> Everything that is barbaric has preserved the idiom of barbarism. It seems that we must necessarily speak only the language of our cruel ancestors, whenever we imitate their atrocious customs. See the style of the judgments, the monitories, the summons, the lettres-de-cachet; fortunately it is impossible to kill or imprison a man, in good French. ([1795] 2011: letter XXXVI)[5]

In short, regardless of language or geographical space, the criticism remains the same.

One of the conclusions of this research is that the use of plain language can help people understand the law more easily. The plain language movement has been successful in raising the public and law professionals' awareness of the importance of transparent communication and establishing guidelines for simplifying linguistic features, explaining terminology and expressing concepts more explicitly (Asprey 2010; Adler 2012).

4. Linguistic Vulnerability

Linguistic vulnerability in the legal context is linked to the use of legal jargon. There is a gap in understanding between legal professionals and laypersons which occurs through the use of two distinct linguistic registers. This jargon has specific concepts, designated by special terminology, in a form of its own. Thus, the term *conclure* ('draw conclusion') does not necessarily mean for a lawyer 'mettre un

2 Original: "Pourquoy est-ce que nostre langage commun, si aisé à tout autre usage, devient obscur et non intelligible en contrat et testament ?"

3 Eng.: Whatsoever is sliced into very powder is confused.

4 Original: "C'est une langue qui m'est plus étrangère qu'à personne, et je n'en ai employé que quelques mots barbares que je puis avoir appris dans le cours d'un procès que ni mes juges ni moi n'avons jamais bien entendu."

5 Original: "Tout ce qui est barbare a conservé l'idiome de la barbarie. Il semble que nous ne devions nécessairement parler que la langue de nos cruels ancêtres, chaque fois que nous imitons leurs atroces coutumes. Voyez le style des arrêts, des monitoires, des assignations, des lettres-de-cachet ; il est heureusement impossible de tuer ou d'enfermer un homme, en bon français."

terme' ('to put an end') and the phrase "le contrat sera résilié" ('the contract will be terminated') is not legally equivalent to that of "le contrat prendra fin" ('the contract will end') (which is in theory, more widely inclusive). Legal terms are basically very common terms, but there are words to which lawyers give meanings that often differ to their usual meaning. The banal *assiette* ('plate') could be used in the sense of 'base de calcul de l'impôt' ('location for the purposes of taxation') for example, or the verb *citer* ('summon to appear') being applied instead of *convoquer* ('summon') in criminal matters, or *traduire* ('render') being used in the sense of 'déférer une personne devant une autorité judiciaire afin qu'elle soit poursuivie ou jugée' ('bring a person before a judicial authority so that he may be prosecuted or judged'). "The different way in which these words are applied clearly shows the different way of understanding reality" (Turpin 2002: 57)[6].

The use of acronyms is also one of the characteristics of legal jargon. Lexicalized acronyms, or acronyms, whether with linked or disjointed pronunciation, are completely opaque to non-professionals. For example, from French law, *GAV* for "garde à vue" ('custody'), *OQTF* for "obligation de quitter le territoire français" ('obligation to leave French territory'), *JAF* for "juge aux affaires familiales" ('judge in custody family affairs'), *TGI* for "tribunal de grande instance" ('high court'), *ORTC* for "ordonnance de renvoi devant le tribunal correctionnel" ('order of referral to the criminal court'), *OPJ* for "officier de police judiciaire" ('judicial police officer'), *CPPV* for "convocation par procès verbal" ('summons by verbal process'), etc.[7].

This proliferation of acronyms contributes considerably to the opacity of legal language. However, "les gens de robe" ('legal practitioners') cultivate their jargon with a certain pleasure. This jargon is also nourished by the inclusion of Latin expressions:

(1) – My dear colleague, I am not telling you that *contra non valentem agere non currit praescriptio*!
– But, anyway, Master, you don't need to think about it, *infans conceptus pro nato habetur*!
– Mr. President, I'll stop you right now: *nemo auditur propriam turpitudinem allegans*.
– In any case, *fraus omnia corrumpit*, right? (Périer 2019: 19)[8].

Legal terms such as *anatocisme* ('anatocism'), *usucapion* ('usucapion'), or *estoppel* ('estoppel') are not the main problem in legal discourse. They are very technical and their meaning, generally very precise, is unsuspected, not obvious to non-specialists. The greatest difficulty for those outside the legal profession is the employment of expressions that are in common use, but which have very particular meanings in the legal field. We hear that this or that person is going to *porter plainte* ('file a complaint') when he or she is simply going to refer the matter to the administrative court or the industrial tribunal, or that the court of appeal has rendered a *jugement* ('judgment') when it demands an *arrêt* ('decision by the Cour de cassation') (Nizou-Lesaffre 2001: 7). Legal language is not well understood by laypersons,

6 Original: "La manière différente dont sont motivés ces signes montre bien la manière différente d'appréhender le réel."

7 We have borrowed many of our examples from the work of Bertrand Périer (2019).

8 Original: "- Mon cher confrère, je ne vous apprends pas que *contra non valentem agere non currit praescriptio* !, - Mais enfin Maître, vous n'y pensez pas, *infans conceptus pro nato habetur* !, - Monsieur le Président, je vous arrête tout de suite : *nemo auditur propriam turpitudinem allegans*., - De toute façon, *fraus omnia corrumpit*, n'est-ce pas ?"

who experience a "sentiment d'étrangeté" ('feeling of strangeness') (Sourioux, Lerat 1975: 13), hence, communication comes up against a "écran linguistique" ('linguistic screen') (Cornu [1990] (2005: 12).

5. Vulnerability and Criminal Justice

In court, we see real misfortunes:

> There is the court where those who have "done something stupid" come one after the other. Drunk driving, police officers attacked because they don't understand why we ran this stop sign, small scams, cars scratched out of revenge... And behind this "nonsense", so many unforgettable lines, slices of life, little dramas and moments of ordinary madness. And then there is the Assises, when everything changed, when violence became a monstrosity, and, day after day, the crime was recounted. (Rouchon-Borie 2018: cover)[9]

The main issue in a hearing is what falls into the ear of the court and what falls from the mouth of the judge. To speak is to act in the legal domain (performative function of language – *cf*. Austin 1962). This reminds us that speech "est un sport de combat" ('is a combat sport') (Périer 2017) and law, litigation, is always "combat communicationnel" ('communicational combat').

When the verdict is announced, the accused is: either declared guilty and sentenced, or declared not guilty and remains free. With the power of words alone, lawyers try to save innocent people, repair ruined lives, and act on broken destinies. Words can tip the course of a trial, they can change everything (Sobieszewska 2016: 190). Words allow self-defence:

> (2) – But explain to me, since he was dying, in the hospital, as you keep telling us, how was he able to sign the checks?
> – Well, he wasn't dying all the time, Mr. President. (Rouchon-Borie 2018: 72)[10]

Linguistic vulnerability in the legal context is linked to specific concepts, designated by special terminology, in its own form. Bertrand Périer (2019: 17), lawyer at the Council of State and the Court of Cassation, describes his experience as follows:

> (3) Here's an audience. The judge, to the lawyer, in a tone which is not that of a question but that of an invitation:
> – Master, are you testifying?
> The lawyer responds: – Mr. President, I am present.
> The judge continues: – Well, but then by observations.
> ***

9 Original: "Il y a le tribunal où se succèdent ceux qui ont "fait une bêtise". Conduites en état d'ivresse, policiers agressés parce qu'ils ne comprennent pas pourquoi on a grillé ce stop, petites arnaques, voitures rayées par vengeance... Et derrière ces "bêtises", autant de répliques inoubliables, de tranches de vie, de petits drames et de moments de folie ordinaire. Et puis il y a les Assises, quand tout a basculé, que la violence est devenue monstruosité et que jour après jour se raconte le crime."

10 Original: "- Mais expliquez-moi, puisqu'il était mourant, à l'hôpital, comme vous nous le répétez, comment a-t-il pu signer les chèques ?
– Ben c'est qu'il n'était pas mourant tout le temps monsieur le Président."

> Let's say you are the customer, a layperson, sitting at the back of the room: you have understood nothing about this abstruse dialogue. It's normal. Better yet: it's made for that. Don't panic, I'll help you decipher the scene. (Périer 2019: 17)[11]

Let us think of the despair of litigants confronted with such exchanges. It is very likely that they would misunderstand the meaning and scope of these words. The lawyer therefore delivers the "translation":

> (4) The judge means: –You have already developed your arguments in a written document that you sent to me, you can simply submit your file containing the documents on which you rely [contracts, letters, etc.] without pleading. I don't have time to hear you, and in any case I just need to read your submission to make my decision. So "you can drop it off" and everyone will have saved time.
> The lawyer: –You are putting me in difficulty because my client is in the room [hence the term "body present"]. I have to plead, he wouldn't understand that I'm just submitting a file.
> The judge: – Okay, be quick.
> ["by observations" means that the judge does not want the lawyer to argue the case in its entirety, but wants him/her to focus on the essential points] (Périer 2019: 17–18)][12]

Béatrice Turpin describes jargon as:

> (…) conniving language (…) sometimes deliberately cryptic, aiming to exclude the uninitiated, not to be understood by them, but always also to express an experience shared by peers: talk about a practice, report the content of experience; also say the subject who organizes this practice, and precisely organizes it from a linguistic point of view. (2002: 53)[13]

Here is an example which immediately highlights the major flaw that has always been criticized in the language of law, its opacity for the layperson. Marcel, 93 years old, the oldest accused in France, when he appeared for murder, in 2014, before the Marne Assize Court, in Reims:

> (5) The President: – Can you hear me?

11 Original: "Voici une audience. Le juge, à l'avocat, sur un ton qui n'est pas celui d'une question mais celui d'une invitation: – Maître, vous déposez ? L'avocat répond : – Monsieur le président, je suis corps présent. Le juge enchaîne : – Bon, mais alors par observations. *** Admettons que vous soyez le client, profane, assis au fond de la salle : vous n'avez rien compris à ce dialogue abscons. C'est normal. Mieux encore : c'est fait pour. Pas de panique, je vous aide à décrypter la scene."

12 Original: "Le juge veut dire : – Vous avez déjà développé vos arguments dans un document écrit que vous m'avez adressé, vous pouvez vous contenter de déposer votre dossier contenant les pièces sur lesquelles vous vous appuyez [contrats, courriers, etc.] sans plaider. Je n'ai pas le temps de vous entendre, et de toute façon il me suffit de vous lire pour prendre ma décision. Donc « vous déposez » et, tout le monde aura gagné du temps.
L'avocat : – Vous me mettez en difficulté car mon client est dans la salle [d'où le terme « corps présent »]. Je suis obligé de plaider, il ne comprendrait pas que je ne fasse que remettre un dossier.
Le juge : – D'accord, faites vite. [« par observations » signifie que le juge ne veut pas que l'avocat plaide le dossier dans son intégralité, mais souhaite qu'il se focalise sur les points essentiels]."

13 Original: "(...) langage de connivence (...) parfois volontairement cryptique, visant à exclure le non initié, à ne pas être compris de lui, mais toujours aussi à dire une expérience partagée par des pairs : parler d'une pratique, rendre compte d'un contenu d'expérience ; dire aussi le sujet qui organise cette pratique, et l'organise justement du point de vue linguistique."

> Marcel: – I hear you talking but I understand nothing of what you say. (Durand-Souffland & Robert-Diard 2018: 35)[14]

We are dealing here with a double vulnerability: the first is due to age, while the second is due to legal jargon. Faced with communication difficulties, Marcel, undoubtedly feels excluded:

> (6) (…) a very young general advocate demands eighteen years in prison against Marcel. The court and the jurors pronounced ten. Marcel doesn't hear. His lawyer repeats it in his ear. "Oh, in ten years I'll be dead!", he exclaims. (Durand-Souffland & Robert-Diard 2018: 35)[15]

It is true that legal reasoning uses specific concepts, identified by specific terminology. But making one's self incomprehensible to the people is not a neutral attitude. According to Christian Wettinck (1981), lawyers often use their language for purposes other than the precision and clarity that are its justification. It is about creating a strong emotion of fear in others:

> To presently pay to my applicant in the hands of me, Bailiff of Justice, bearer of the documents against good and valid receipt, the sums indicated below plus the cost hereof. And given the failure to pay such a request and choice of address as above, I have, Bailiff of the above-mentioned and undersigned, given summons to the above-mentioned person prequalified being and speaking as stated above.
>
> To appear ...
>
> For:
>
> To hear oneself condemned... (Wettinck 1981: 149–150)[16]

In this case, we cannot be surprised that many of those assigned imagine themselves already condemned. Misunderstood or misinterpreted legal discourse can be the cause of a human tragedy. Let us recall, for example, the Huriez affair where a child committed suicide following the arrest of his mother:

> She had been sentenced twice in absentia to a 4-month prison sentence for a bad check for 75 French francs. The investigation which followed revealed that she had understood nothing about the summons of a bailiff nor the meaning of the first judgment. (Troisfontaines 1981: 157)[17]

14 Original: "Le president : – Vous m'entendez ? Marcel : – Je vous entends causer mais je comprends rien à ce que vous dites."

15 Original: "(...) une très jeune avocate générale requiert dix-huit ans de prison contre Marcel. La cour et les jurés en prononcent dix. Marcel n'entend pas. Son avocat le lui répète à l'oreille. « Oh, dans dix ans, je serai mort ! » s'exclame-t-il."

16 Original: "De présentement payer à ma requérante en mains de moi, Huissier de Justice, porteur des pièces contre bonne et valable quittance, les sommes ci-après indiquées plus le coût des présentes. Et vu le défaut de paiement à pareilles requête et élection de domicile que dessus, j'ai Huissier de Justice susdit et soussigné, donné citation au sommé ci-dessus préqualifié étant et parlant comme il est dit ci-dessus.
A comparaître ...
Pour:
S'entendre condamner ..."

17 Original: "Celle-ci avait été condamnée à deux reprises par défaut à une peine de 4 mois d'emprisonnement ferme pour un chèque sans provision de 75 francs français. L'enquête qui suivit révéla qu'elle n'avait rien compris à l'assignation d'huissier pas plus qu'à la signification du premier jugement."

Such situations clearly illustrate the need to listen to the voices that are raised in favor of abandoning certain practices that are far too widespread within the Palais. We must learn to identify people at risk in order to protect them.

6. The Vulnerability of Translation

In her book *Traité de juritraductologie*, Sylvie Monjean-Decaudin (2022) introduces the concept of "vulnerability of translation," which refers to the risks associated with translating legal texts, particularly in the context of globalization and cross-border legal proceedings. The vulnerability of translation "rests on the fact that the criteria which determine a good translation are not intangible in court, their assessment is left to the discretion of the judge, in the case per case" (2022: 27). Monjean-Decaudin emphasizes that individuals who are unfamiliar with a foreign language may be exposed to procedural inequalities, and incorrect translations can lead to serious legal consequences. Legal translations face particular challenges due to differences between legal systems, which may result in interpretative errors. The author argues that legal translators must consider not only linguistic (or cultural), but also legal aspects of texts to ensure accuracy and fairness. In the international context, translation becomes a key tool in ensuring equality in judicial proceedings. Monjean-Decaudin advocates for the development of juritranslatology as an interdisciplinary field that combines law and linguistics in order to minimize the risk of translation errors and enhance fairness in legal processes.

In legal translation, to establish the correct correspondence, the translator must first find out what an object or notion is called in the target language. However, when the two legal systems do not entirely coincide, the risk of error consists of making an object appear different from what the term designates in the source text. For example, the French system of offenses is based on a ternary distinction set out by the very first article of the Penal Code: Article 111-11 which provides that "criminal offenses are classified, according to their seriousness, into crimes, misdemeanors and contraventions."

Some countries use a different classification of offenses. It is therefore important to distinguish between these different types of offense because the seriousness of the facts determines the court before which the suspect must appear.

In Spain, criminal law does not differentiate between crimes and misdemeanors. During the last reform of the Penal Code in 2015 (*cf.* Ley Orgánica 1/2015), the division of criminal offenses between *delitos* offenses ('criminal') and *faltas* infractions ('faults') was even removed, the latter being either reintegrated into misdemeanors or decriminalized and transformed into administrative offenses *infracciones* ('violations'). There is now only one overall category of criminal offenses, "misdemeanors" ('intentional or reckless actions and omissions punishable by law') (Código penal: art. 10).

In the Netherlands, criminal law only recognizes the distinction between a *misdrijf* offense ('criminal') and an *overtreding* infraction ('offence') (*cf.* Groot 1987). There is no difference between crime and misdemeanor. This has consequences for translation: the Dutch term *misdrijf* is often translated as "crime *or* misdemeanor" or as "crime *and* misdemeanor" (Beldjerd & Héroguel 2020: 235). As Groot states:

> In legal translation, linguistic skills are not at the forefront. The central place is occupied by the ability to compare the legal content of the terms of one language (of one legal system) with the legal

> content of the terms of the other language (of the other legal system). We can also formulate this thesis in a different way – or shorter: when translating legal texts, comparative law occupies a central place. (1987: 17, as cited in Beldjerd & Héroguel 2020: 235)[18]

The opacity of words that make the law is one of the reasons why translators face difficulty in translation and the translation is likely to be vulnerable. For this reason, without necessarily being legal practitioners, translators must be familiar with at least two legal systems to be able to move from one linguistic and legal system to another. They must be initiates because legal practitioners use a technical language specific to their profession, in the same way that doctors use medical terms, chemists use chemical formulas. Each discipline has its own language and is forced to use terms that are only intelligible to the incorporated specialists.

The existence of laypersons (non-graduates in law or translation) in the profession has its origins in a conception according to which translational competence is based solely on mastery of the foreign language. Laypersons believe that it is enough to know two languages to be able to translate. It is, in the words of Ladmiral, "the archaic fantasy (or projection) of (linguistic) omnipotence which is still attached to the very ancient and more or less mythical image of the polyglot" (2006: 57)[19]. Philosopher and historian of law, Michel Villey, reminds us that the mastery of forms of discourse, at the crossroads of law and linguistics, is fundamental to understanding and translating the law:

> The law in effect only appears to us in the form of speech (whether it concerns the speeches of laws, judges, jurists, doctrine) and speeches subject to the laws of a language. All that is said by jurists, and the legislator finds himself regulated, conditioned, channeled by this language. And it is not enough to say that language is their instrument, unless we add that this instrument, like all techniques, dominates them. Language is a servant-mistress. And in truth, language is of itself, knowledge; It consists of vocabulary, its syntax is a way to think about the world, to discover the structure of the world; of our science, our language constitutes the first half. (1974: 1)[20]

In law, the transition from one language to another does not offer translators clear paths; on the contrary, it can prove very complicated. By guiding translators through the obscurity of a language that is not their own and a legal system that they do not know, translators are often confronted with constraints leading them to introduce more or less significant transformations in the target text.

Laypersons always need an intermediary so that they can understand the content of the communicated messages. On the other hand, translators (or interpreters) in the legal context cannot stop

18 Original: "Dans la traduction juridique, ce ne sont pas les compétences linguistiques qui sont en avant. La place centrale est occupée par la capacité à comparer le contenu juridique des termes d'une langue (d'un système juridique) avec le contenu juridique des termes de l'autre langue (de l'autre système juridique). Nous pouvons également formuler cette thèse de manière différente – ou plus courte : en traduisant des textes juridiques, le droit comparé occupe une place centrale."

19 Original: "(…) le fantasme archaïque (ou la projection) de toute-puissance (linguistique) qui est encore attaché à l'image, fort ancienne et plus ou moins mythique, du polyglotte."

20 Original: "Le droit en effet, ne nous apparaît que sous les espèces de discours (qu'il s'agisse des discours des lois, des juges, des juristes, de la doctrine) et de discours assujettis aux lois d'un langage. Tout ce que profèrent les juristes et le législateur se trouve réglé, conditionné, canalisé par ce langage. Et ce n'est pas assez de dire que le langage est leur instrument, à moins d'ajouter que cet instrument, comme toutes les techniques, les domine. La langue est une servante-maîtresse. Et en vérité, le langage est de lui-même connaissance ; son vocabulaire, sa syntaxe sont une façon de penser le monde, de découper la structure du monde ; de notre science, notre langage constitue la première moitié."

at words. It is not only necessary to move from one language to another, from one system to another. They must also be sensitive to the cultural differences between the languages they translate, because to translate is to immerse oneself in the culture of a country and transcribe another vision of the world. Here is an example:

> (7) – Well, we would like to understand anyway – he [the president] leans against the back of the seat. This car story *c'est du flan* ['is nonsense'], right?
> – *Du flan* It was a Spanish interpreter who let the question slip. She places a hand over her mouth.
> – You are right ma'am, we are not going to move from the metaphors of sewing to those of gastronomy, even if, well, *flan*, when it comes to gastronomy... well, anyway, if I replace *flan* with lie, that makes it easier for you the job?
> – She nods her head. (Rouchon-Boire 2018: 66)[21]

In French, the expression "c'est du flan" means 'it's not serious, or it's not true', while in Spanish, *flan* is a culinary specialty (which is also true in French). Vulnerability in the legal context can be caused by the interaction between people and their wider environment. Everyone is vulnerable depending on the circumstances in which they find themselves. It is therefore necessary to accentuate the need to protect the most vulnerable people.

In legal translation, it is necessary to consider not only the linguistic and legal aspects but also a deep understanding of the cultural context in which the terminology is used. Without this understanding, translations can become a source of errors that have real legal consequences.

7. Conclusion

Any approach tending to make justice easier to understand for those for whom it is done, is an appreciable concern. There are also several methods to make legal information more intelligible, starting with work on discourse. It is first necessary to replace very technical terminology or notions expressed in legal Latin, with terms from, for example, current French, in a word, to popularize it. Lawyers must learn to speak the same language as their interlocutors. This is all the more so since the increasing media coverage of trials leads everyone to hear these terms without mastering their meaning. Language that potentially addresses all citizens is only clear to a group of professionals. It thus becomes an instrument of power which puts citizens in the position of being speakers wishing to acquire a foreign language.

In conclusion, the findings of this research underscore the pervasive issue of linguistic vulnerability within the legal field, which transcends linguistic and geographical boundaries. The complexities and opacity inherent in legal jargon create significant communication barriers between legal professionals and non-professionals, often resulting in the marginalization of laypersons within legal proceedings.

21 Original: "– Bon on voudrait comprendre quand même – il [le président] se cale contre le dossier du siège. Cette histoire de bagnole, là, c'est du flan non ?
-Du flan ? C'est interprète espagnole qui a laissé échapper la question. Elle pose une main devant sa bouche.
-Vous avez raison madame, on ne va pas passer des métaphores de la couture à celles de la gastronomie, même si, bon, le flan, en matière de gastronomie... bon enfin, si je remplace flan par mensonge, ça vous facilite le boulot ?
-Elle fait oui de la tête."

The adoption of plain language, championed by the plain language movement, emerges as a pivotal strategy for mitigating this issue, as it facilitates clearer and more transparent communication, thus enhancing public understanding of legal processes. Moreover, legal translation, often marked by the challenges of navigating disparate legal systems and linguistic nuances, further highlights the necessity for specialized knowledge in bridging the gap between legal cultures. As this study has demonstrated, legal terminology, when used without consideration for its accessibility, can function as an instrument of power, further entrenching inequalities in the legal system. Therefore, ensuring that legal discourse is intelligible and accessible to all individuals, irrespective of their professional background or linguistic competence, is essential not only for ensuring fair access to justice but also for safeguarding the rights of vulnerable groups. The protection of these individuals, particularly in contexts of legal translation and communication, remains a critical priority for fostering equity and transparency within legal systems globally.

References

Adler, Mark (2012) "The Plain Language Movement." [In:] Lawrence M. Solan, Peter M. Tiersma (eds.) *The Oxford Handbook of Language and Law*. Oxford: Oxford University Press; 67–83.

Asprey, Michèle M. (2010) *Plain Language for Lawyers. A Practical Guide to Clear Communication*. 5th ed. Sydney: The Federation Press.

Austin, John Langshaw (1962) *How to Do Things with Words*. Cambridge: Harvard University Press.

Beldjerd, Hanaa, Armand Héroguel (2020) "Traduction et réponse judiciaire en matière de ciminalité organisée." [In:] Giuditta Caliendo, Corinne Oster (eds.) *Traduire la criminalité. Perspectives traductologiques et discursives*. Villeneuve d'Ascq: Presses Universitaires du Septentrion; 227–243.

Brodiez-Dolino, Axelle (2015) "La vulnérabilité, nouvelle catégorie de l'action publique." [In:] *Informations sociales*. Vol. 2(188); 10–18.

Chrétien, Jean-Louis (2017) *Fragilité*. Paris: Les Éditions de Minuit.

Cornu, Gérard ([1990] 2005) *Linguistique juridique*. Paris: Editions Montchrestien.

Durand-Souffland, Stéphane, Pascale Robert-Diard (2018) *Jours de crimes*. Paris: l'Iconoclaste.

Groot, Gérard-Réné (de) (1987) *Recht en vertalen*. Deventer: Kluwer.

Ladmiral, Jean-Réné (2006) "D'une « langue » l'autre : la médiation traductive." [In:] *Cahiers de l'Ecole*. Vol. 4; 56–62.

Monjean-Decaudin, Sylvie (2022) *Traité de juritraductologie. Épistémologie et méthodologie de la traduction juridique*. Villeneuve d'Ascq: Presses Universitaires du Septentrion.

Montaigne, Michel (de) ([1580] 1965) *Essais*. Texte établi et annoté par Pierre Villey, revu par V.-L. Saulnier. Tome II. Paris : Gallimard, coll. "Bibliothèque de la Pléiade".

Nizou-Lesaffre, Alain (2001) *Dictionnaire des termes juridiques*. Paris: De Vecchi.

Pain, Benoît (2012) "Fragilité et vulnérabilité. De la « bientraitance » ou de la philosophie du soin ?" [In:] *L'Enseignement philosophique*. Vol. 2 (62e Année); Éditions Association des professeurs de philosophie de l'enseignement public; 35–45.

Périer, Bertrand (2017) *La parole est un sport de combat*. Paris: Éditions JC Lattès.

Périer, Bertrand (2019) *Sur le bout de la langue. Le plaisir du mot juste*. Paris: Éditions JC Lattès.

Racine, Jean ([1669] 2015) *Les Plaideurs*. Théâtre classique; Vol. 4. Retrieved from: https://www.theatre-classique.fr/pages/pdf/RACINE_PLAIDEURS69.pdf on 22 September 2023.

Rouchon-Borie, Dimitri (2018) *Au tribunal : assises, tribunal correctionnel : chroniques judiciaires*. Paris: La manufacture de livres.

Sade, de Donatien Alphonse François ([1795] 2011) "Aline et Valcour ou Le roman philosophique." [In:] Michel Delon (ed.) *Œuvres*. Vol. 1; Paris: Gallimard; 395–1109.

Seneca [Sénèque], *De la colère*. Book III, chap. 10. [In:] *Bibliotheca Classica Selecta*. Retrieved from: http://bcs.fltr.ucl.ac.be/SEN/ira3.html on 20 September 2023.

Sobieszewska, Marta (2016) "La raison et les passions dans le discours juridictionnel." [In:] Anna Elżbieta Krzyżanowska, Katarzyna Wołowska (eds.) *Les émotions et les valeurs dans la communication II. Entrer dans l'univers du discours*. Berlin: Peter Lang Verlag; 187–197.

Sourioux, Jean-Louis, Pierre Lerat (1975) *Le langage du droit*. Paris: Presses Universitaires de France.

Troisfontaines, Paul (1981) "Le langage judiciaire ?" [In:] *Annales de la Faculté de droit, d'économie et de sciences sociales de Liège*. Vol. 2; 153–185.

Turpin, Béatrice (2002) "Le jargon, figure du multiple." [In:] *La linguistique*. Vol. 1/38; 53–68.

Villey, Michel (1974) "Le langage du droit." [In:] *Archives du philosophie du droit*. Vol. XIX. Paris: Sirey.

Wettinck, Christian (1981) "La Justice : service public ?" [In:] *Annales de la Faculté de droit, d'économie et de sciences sociales de Liège*. Vol. 2; 141–152.

Internet Sources

Brodiez-Dolino, Axelle (2016) "Le concept de vulnérabilité." [In:] *La vie des Idées*. Collège de France. Retrieved from: https://laviedesidees.fr/Le-concept-de-vulnerabilite on 14 October 2023.

Ley Orgánica 1/2015, de 30 de marzo, por la que se modifica la Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal. Retrieved from: https://www.boe.es/buscar/doc.php?id=BOE-A-2015-3439 on 22 September 2023.

Trésor de la Langue Française informatisé [TLFi]. Retrieved from: http://atilf.atilf.fr/tlf.htm on 22 September 2023.

Received: 14.10.2023
Reviewed: 10.06.2024
Accepted: 30.08.2024