

LEGAL LANGUAGE AND TECHNOLOGY: ENHANCING THE DELIVERY OF LINGUISTIC MESSAGES?

Isabella-Alice MATIEȘ-VERBUNCU

University of Craiova

Abstract: While law requires language, legal experts need to communicate through words which are fundamental devices for delivering linguistic messages. Communication in this area represents the key for a successful outcome of any legal proceeding or particular case. Over the years, we have witnessed as technology has reached one of its greatest potential of development. The phenomenon of humanity evolution arises while technology innovates and legalists make use of science and IT to improve the quality of their work. But when do we know there is enough technology and how to maintain the balance in favour of humans instead of machines?

Keywords: legal, law, technology, communication, balance

1. Introduction

When dealing with legal language, communication represents a fundamental element which helps both specialists and non-specialists to operate legal proceedings of all kind. But, as technology innovates and a great technological improvement can be seen in this area, legal people are starting to ask questions about how to cope with this great amount of development. Technology is transforming the information landscape and is changing the workplace. At the same time, law companies make use of new technology advancements in order to satisfy client demands and enhance relations between clients and legal specialists.

2. The importance of language in communication

Language and communication are different from each other, yet one needs the other and at the same time exists separately.

In communication, people exchange information or messages through various means. It could be verbally, non-verbal actions, graphical and written representations like maps, charts, drawings or infographics, or through signals and signs.

Language, on the other hand, plays an essential role in the communication process. People around the world use a specific language to communicate, exhibiting the fact that language and communication are intertwined, which is a reason why some people fail to see the difference between the two.

Language may be defined as a means of communication among the members of a society, its role being essential in the process of building human relationships. From the words we speak to the points and topics we articulate, language functions as a means of transport language and helps public to understand and agree with our statements or arguments. Our everyday life actions are guided by ideas, concepts

which are available in different situations and together lead to a healthy communication. The significance of communication between people equates the significance of language – the most important means of communication. In this respect, language is of crucial importance in the individual development of humans. The need to communicate triggers both the occurrence and the development of a language and this need arises and becomes stronger and stronger when one has someone else to communicate with, for example, when there is a society.

Communication takes place not only orally, but also in writing. We may conclude language is a perpetual phenomenon as it embodies a plurality of aspects when it comes to study it.

3. Language used for special purposes

While law requires language, legal experts need to communicate through words which are fundamental devices for delivering linguistic messages. Communication in this area represents the key for a successful outcome of any legal proceeding or particular case.

As Peter Tiersma said, "legal language means the distinct manner of speaking and writing that has been developed by just about any legal system throughout the world." (Tiersma, P., 2008, *Dimensions of Forensic Linguistics*, as cited in Gibbons, J., Turel., Ed. John Benjamins Publishing: Netherlands, p.8).

"The legal system contains its own domain of use and particular linguistic norms which makes it different from ordinary language: phraseology, vocabulary, hierarchy of terms and meanings." (Heikki, M. 1988. *Comparative Legal Linguistics*. Hampshire: Ashgate, p.5)

Legal language possesses some specific morphosyntactic, semantic or pragmatic features. "Even if legal language is considered a language for specific purposes, its origins are based on common language, so vocabulary and grammar seem to be the same as in the case of the second one." (ibid:5)

To achieve a language for specific purposes, legalists have developed a language which may be difficult to understand by common people. "This could represent an issue as legal language isn't used only by judges or lawyers, but also by ordinary citizens who follow a model in writing their will or a certain legal document." (ibid:5)

Language and law have a great influence one upon each other, as the legal system controls the complexion of legal language and legal language does the same with the legal system. The speech of lawyers is conditioned not by the law alone, but also by the prevailing language of their environment.

A particular feature of legal language it is known to be a various range of uses, as it governs all areas of social life and it can be combined with language from any and every domain through intertextuality.

"As a whole, language and law represents a field in which the research, principles, and methods of the discipline of linguistics are applied to legal contexts that deal with various areas of language and the law such as: statutory language, courtroom discourse, translation, and interpretation in multilingual contexts, language and the criminal justice system, including police interviews, undercover sting operations, courtroom testimony, and confessions, language evidence in civil cases such as trademarks, contracts, copyright, discrimination, and product warning labels; and other legal cases in which language is often the primary evidence, such as authorship analysis and speaker identification."

(<http://www.oxfordbibliographies.com/view/document/obo-9780199772810/obo-9780199772810-0020.xml>)

Law identifies with language in many ways and both together form what is called the area of legal linguistics, a multiplural social entity which manifests in non-

linguistic ways, but at the same time it has the characteristics of a profoundly linguistic institution. Language functions as a tool to encode laws, while law mediates its issues through language. "The language of the law is therefore of genuine importance, particularly for people concerned with addressing language issues and problems in the real world—that is, Applied Linguists."

(<https://www.cambridge.org/core/journals/annual-review-of-appliedlinguistics/article/language-and-the-law/6D78A6A4594CF756FF119A9B84CAA516>)

4. From words to technology

Over the years, we have witnessed as technology has reached one of its greatest potential of development. The birth of the Internet has totally reboosted and made notable change in our lives.

For the last few years, millions of people across the world, who share common interests, are able to communicate with each other and exchange ideas. Not only are they able to do this due to the various technological advances, but also because they share a common language.

When we talk about legal area, the phenomenon of humanity evolution arises while technology innovates and legalists make use of science and IT to improve the quality of their work.

Even the field of law is an area which is deeply rooted in tradition, legal specialists have found methods to introduce technology into their everyday processes. Technological devices make lawyers' work easier, as they can use mobile devices to communicate, devices as computers or laptops to work from office and even store files devices in order to ensure safe file storage. Technology has made a great improvement in law firms, influencing and reshaping client demands. A large amount of paperwork in the office has been replaced by printers and now lawyers can be easily found by clients by using the email or through mobile devices.

"When clients are in need of lawyers, there are several documents that get shared between the two parties requiring signatures. Since client confidentiality is a priority, law practices need a safe method of sharing sensitive information. "An outsourced IT managed services provider can help build secure portals, shared spaces, and program document management software for law firms that enable the safe sharing of documents."

(<https://www.keeran.ca/blog/when-technology-and-the-legal-field-converge>.)

Evolution of technology has made a great difference in each aspect of legal profession and changed it from its roots. Starting with presentations, court reporting or electronic case management systems, everything is now designed to let legal professionals spend less time on administrative things and travel expenses, and focus more on client cases. It is not a novelty for anyone that in legal area and everyday legal life, dealing with documents and using language are essential elements. To facilitate work in legal department and law firms, were introduced tools and methods which follow new technology advancements like speech recognition, digital dictation solutions and video remote interpreting. "At the In same time, the effectiveness of these methods allow non-English-speaking individuals involved in a suit to communicate effectively, accurately, and instantly."

(<https://legal-technology.net/en/legal-technology-meets-legal-technology/>)

Legal research is definitely improved by the use of digital documentation. We can remark a great change in the way in which lawyers work in the present, when simply talking about searching files and find the specific information they need.

Nowadays, technology advancements like using machine learning capabilities and semantic algorithms are capable of processing systems and extracting entities or relationships from legal contracts.

As a fact, we can ascertain that technological translation is gradually gaining ground in the legal technology area and legal language is moving fast forward to a new level of development. Wrong use of communication between legal parts can generate changings of the entire legal proceeding and put it at risk. For example, considering the case of clients who have to perform legal transactions, like signing a contract, or making a deposition and they are or a word can change the whole meaning of the intended communication.

Because in the legal field, accurately and qualitative interpreting services are essential and even critical, law firms have made an important step by introducing a cost-effective solution for multi-lingual interpretation needs, which offers access to professional video interpreters within minutes and eliminates the need for travel or advance scheduling. Technology facilitates communication between both involved parts without being necessary to fly over a client's house in another country or to house an interpreter in your house. "Also using the telephone to conduct language interpreting may be possible, but just think of how much is lost in the non-verbal communication cues between parties."

https://www.execlangser.com/blog/How-Technology-Changes-the-Game-for-Legal-Interpreting_AE1.html).

Law firms have replaced traditional paper invoices with electronic billing and even developed websites or blogs in order to promote their legal activities in cyberspace. At the same time, a change has been made in the way in which documents are handled, nowadays being possible to replace traditional file-stores with databases for tracking, searching, editing or archiving documents.

"The use of new technologies in law firms echoes what is happening in the wider business economy where the emergence of new technologies, processes and automation has brought exciting change and vast consumer and business benefit but also a new modern work structure. Colloquially referred to as the gig economy, it encompasses a way of working where temporary positions are prevalent, freelance work is the norm and organisations contract with individuals on a short term basis."(<https://www.law.ox.ac.uk/research-and-subject-groups/research-collection-law-and-technology/blog/2017/02/role-technology>)

In the courtroom, documents have reached another level and now the procedure of filling documents electronically with the court has become a common and very used one. Each courtroom nowadays is equipped with digital technology like built-in monitors in order to facilitate the use of trial presentation software.

"Attorneys will be able to use virtual reality headsets put juries and judges directly into a scenario. Juries will be able to inspect a crime scene for themselves or to experience an event first-hand. Imagine how useful this tech would be for a lawyer trying to prove unsafe living conditions. She would actually be able to transport a jury into a cramped workspace or a dangerous factory floor. She would be able to show them code violations as they appeared in the real world instead of having to rely on images on schematics." (<https://one-400.com/how-the-latest-tech-will-shake-up-the-legal-field/>)

Technology is used now more than ever before by all legal specialists, from lawyers to paralegals and other people dealing with the legal field. Digitalization complete their daily tasks and enable legal proceedings, starting with applications specific to their practice area and ending with using tools useful in video conferences and other electronic devices

Technology has made a big change of the way we live and work. There are many advantages using technology in court. We no longer see the traditional lawyer surrounded by tons of paper, we can see the lawyer surrounded by computers and printers. At the same time, lawyers can save now time by using technology when doing legal research.

“Legal tech is now bringing this concept to consumers of legal solutions, from arbitration to understanding legal documents. A field that has traditionally required people to rely heavily on expensive lawyers to navigate the complexity of the ever-changing legal system is now making it easier for regular people to get the advice and understanding they need, at a small percentage of the cost.”(<https://observer.com/2016/12/legal-tech-settle-your-case-online/>)

By embracing cutting-edge technology, e-discovery and case processing times are shorted and client inquiries can be addressed quicker. Technologies which are applicable to any formatted document enable a completely defensible document review strategy.

5. Maintaining the balance

Otherwise using technology in the legal area has its advantages, we can't disregard how important is to maintain the balance between communication and the first one.

It is properly needed to underline the points which differentiates both of them, as technology has its barriers on one hand, while human capacity can't be limited or replicated by an algorithm.

Addressing such concerns serves as a good starting point for an examination of advanced legal technology.

Humans present two important abilities, cognition and judgement. In performing legal duties, these qualities are useful in order to understand language and apply experience to advice clients.

The subtle nuances of communication and situational circumstances must be beyond the capacity of a machine.

Computers, in spite of their development, may function as obstacles to the development of legal area, as they are not able to use judgement and to understand language like human beings do.

“Judgement represents human ability to apply experience and counsel clients during legal proceedings and machines can't perform all aspects of human intelligence, so this may be one of the lacks of using technology in favour of legal language as a means of communication.”

(<http://www.legalexecutiveinstitute.com/legal-technology-barriers-understanding-language-and-exercising-judgement/>)

Each company and research institution is working on a particular task, sometimes very narrow tasks, rather than attempting to construct a generalized intelligence. Over the years, the machines have undertaken increasingly complex tasks.

Technology analyzes the source materials and identifies the relevant clause elements, determining which terms in the agreement are standard, optional or deal specific. In the end, by examining the principal deal terms in a large body of precedent, technology is finally capable to predict the best deal structure and proposes a draft agreement.

Another challenge in using technology is understanding human communications, both written and oral. Language is subtle and nuanced, and the

meaning of a sentence can be changed using a negation or can be subtly adjusted using a complex vocabulary.

"To underline this fact, we can say that in legal language, differences between terms like *in sui generis* (*unique*) and *ejusdem generis* (of the same kind) are well known, but in natural language, we have to face linguistic phenomena like polysemy, synonymy, hyponymy and hypernymy, where the meaning of words is changed by their context."

(<http://www.legalexecutiveinstitute.com/legal-technology-barriers-understanding-language-and-exercising-judgement/>)

We have to understand that machine learning is very algorithmic and deterministic. Unfortunately, programmers also have cognitive biases and work off of existing data. We have to be aware that the output is only as good as the input given. For instance, if we have contracts that are written with male pronouns, and we translate those contracts across the board, we might unintentionally be building gender bias into our algorithms(<https://observer.com/2016/12/legal-tech-settle-your-case-online/>)

In the end, we have to admit that a high level of uncertainty can be seen in using new technologies. Without careful consideration, there could be a considerable loss of individual rights.

"Unfortunately, programmers also have cognitive biases and work off of existing data. We have to be aware that the output is only as good as the input given. For instance, if we have contracts that are written with male pronouns, and we translate those contracts across the board, we might unintentionally be building gender bias into our algorithms."(<https://observer.com/2016/12/legal-tech-settle-your-case-online/>)

Some of the problems encountered most often are also based on using some of the legal programs by the companies, the results being based on judicial decisions and frequently they uncovered some racial and gender effects in judicial opinions.

6. Conclusions

As the world continues to move at light speed, we'll continue to watch technologies stay one step ahead. As we push technology (and technology pushes us) toward solutions, we may ultimately determine that there are no right answers for all situations. We will discover, with the help of computers, a quantum theory of law that will allow us to assess probabilities rather than certainties. Even if new technologies are exciting, we can't forget that legal field is an industry built on people and human needs. Issues and expectations can't be fulfilled or judged by technology devices, but by human specialists.

Definitely, technology is needed by legal men and without it, legalists wouldn't be so efficient, productive or successful doing their work, but they must not forget one important thing: technology can't supply abilities specific to humans, like judgement or understanding language and that is the main reason to maintain balance in favour of humans instead of machines on our way to enhancing the delivery of linguistic messages.

References

1. Heikki, M. 2006. *Comparative Legal Linguistics*. Hampshire: Ashgate, p.5
2. McElroy, W. D. 1999. *A Manual of Style*, 12th ed. Chicago: The University of Chicago
3. Tiersma, P., 2008, *Dimensions of Forensic Linguistics*, as cited in Gibbons, J., Turel., Ed. John Benjamins Publishing: Netherlands, p.8

Webography

1. <http://www.legalexecutiveinstitute.com/legal-technology-barriers-understanding-language-and-exercising-judgement/> [accessed May 2009].
2. <https://legal-technology.net/en/legal-technology-meets-legal-technology/> [accessed May 2009]
3. <https://www.keeran.ca/blog/when-technology-and-the-legal-field-converge> [accessed May 2009].
4. <https://observer.com/2016/12/legal-tech-settle-your-case-online/> [accessed May 2009].
5. <https://www.cambridge.org/core/journals/annual-review-of-applied-linguistics/article/language-and-the-law/6D78A6A4594CF756FF119A9B84CAA516> [accessed May 2009]
6. <https://medium.com/groklearning/6-ways-technology-is-changing-law-6cc3f386754c> [accessed May 2009].
7. <http://www.oxfordbibliographies.com/view/document/obo-9780199772810/obo-9780199772810-0020.xml> [accessed May 2009].
8. <https://www.law.ox.ac.uk/research-and-subject-groups/research-collection-law-and-technology/blog/2017/02/role-technology> [accessed May 2009].
9. <https://one-400.com/how-the-latest-tech-will-shake-up-the-legal-field/> [accessed May 2009].