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Metaphor and metonymy in legal texts

Legal discourse has been studied so far by numerous linguists and legal experts. Linguistic studies have predominantly focused on stylistic elements of the legal register, such as morphological and syntactic features. Until recently the figurative nature of legal register and its great potential were completely disregarded by linguists. While legal experts realised the importance and power of metaphor and metonymy decades ago, linguists have been slow to follow. The aim of this paper is a contrastive analysis of conceptual metaphors and metonymies in the legislation systems of Bosnia and Herzegovina, the UK and the US. The metaphors and metonymies used in the analysis are collected from Higher Education Acts from these three countries.

Key words: metaphor; metonymy; legal register; contrastive analysis; cognitive linguistics.

1. Introduction: Cognitive science and law

In the last couple of decades, cognitive sciences have made a considerable contribution to almost all areas of research and work. George Lakoff, Mark Johnson, Steven Winters and many others who build on their work stress that cognitive linguistics can contribute significantly not only to the study of law, but also to the development of legal systems. However, it seems that this potential has so far been underused. Mark Johnson (2007: 845) states:

The primary business of the cognitive sciences is to study empirically how the mind works. Therefore, cognitive science ought to give us insight into the nature of legal concepts and legal reasoning. Even though the “cognitive science



of law” is a very recent development, its potential for transforming legal theory is substantial.

Lakoff (1990: 3) points out that the objectivist view, based on abstract moral and legal principles, which has traditionally dominated the law, should be replaced by the experientialist view, in which our conceptual system is based on our everyday interactions with our social and physical environment. According to Johnson (2007: 848) three of the most important aspects of human cognition that could influence the law are: radially structured categories organised around the prototype, image schemas and conceptual metaphors. He also criticises the objectivist view of fixed, rigid and clearly bounded categories as useless in law. This view should be replaced by the cognitive view in which categories are flexible and have the potential to grow and change. Johnson (2007: 852) also says that we should think of ethical and legal concepts as having radial structures. These concepts are grounded in our shared bodily social, cultural, moral, economic and legal principles. According to him, one of the most important issues of the legal system today is how law can preserve its integrity over time, while managing to address the newly emerging circumstances that continually arise throughout our history. He believes that one answer is through metaphoric reasoning and its capability for allowing innovative and imaginative thought.

2. Aim of the paper

The aim of this paper is a contrastive analysis of conceptual metaphors and metonymies in the legislation systems of Bosnia and Herzegovina, the UK and the US. We believe that differences and similarities in the use of conceptual metaphors and metonymies are largely dependent on their level of generality. We expect that higher-level, more generic metaphors and metonymies, such as, for example, ABSTRACT ENTITY IS A PHYSICAL STRUCTURE or SPECIFIC FOR GENERIC are less likely to show both language and register variation than more specific, lower-level metaphors and metonymies, such as, FACE FOR PERSON.

3. Description of the corpus

While compiling the corpus, we found out that the acts from different countries varied in size considerably. While the US acts were the longest (178,000 and 311,000 words respectively), and the UK acts were somewhat shorter (46,000 and 15,200 words respectively), the Higher Education Act of Bosnia and Herzegovina (the state-level act) had only 9,300 words and we considered it insufficient for the



analysis. Therefore we decided to include the Higher Education Act of the Republic of Srpska and some cantonal acts to expand the corpus size.

As Bosnia and Herzegovina [B&H] is a decentralized country comprising two autonomous entities (the Federation of Bosnia and Herzegovina the Republic of Srpska [RS]) and one district (Brčko District), there exist, in addition to the state-level act (Higher Education Act of Bosnia and Herzegovina), separate higher education acts for the RS, Brčko District and for each of the ten cantons of the Federation. Thus, the B&H corpus consisted of the state-level act, the RS act and three selected cantonal acts, each one composed in one of the country's three official languages (Bosnian, Croatian or Serbian).

However, expanding the corpus with the acts from the Republic of Srpska and the cantonal acts did not give the desired results. With the exception of the Higher Education Act of Sarajevo Canton, all other acts turned out to be only slightly modified versions of the state-level act. Still, all were included in order to see if there are any significant differences between the three languages used in the legislation of Bosnia and Herzegovina.

The final corpus for the study consisted of the following higher education acts from Bosnia and Herzegovina, the UK and the US:

1. Zakon o visokom obrazovanju Bosne i Hercegovine (Higher Education Act of Bosnia and Herzegovina). The text used is written in the Bosnian language and has 9,300 words.
2. Zakon o visokom obrazovanju Kantona Sarajevo (Higher Education Act of Sarajevo Canton). The text used is written in the Bosnian language and has 30,000 words.
3. Zakon o visokom obrazovanju Republike Srpske (Higher Education Act of the Republic of Srpska). The text used is written in the Serbian language and has 14,000 words.
4. Zakon o visokom obrazovanju u Hercegovačko-neretvanskoj županiji (Higher Education Act of Herzegovina-Neretva Canton). The text used is written in the Croatian language and has 12,500 words.
5. Zakon o visokom obrazovanju Tuzlanskog kantona (Higher Education Act of Tuzla Canton). The text used is written in the Bosnian language and has 13,900 words.
6. UK Higher Education Act 2004. The text has 15,200 words.
7. UK Further and Higher Education Act 1992. The text has 46,000 words.
8. US Higher Education Opportunity Act. The text has 178,000 words.
9. US Higher Education Act 1965. The text has 311,000 words.



4. Methodology

Our contrastive analysis will be based on Barcelona (2001: 136-137), who identifies the following factors in contrastive analysis of conceptual metaphors: (1) existence of metaphor X in language A and its absence in language B. This is the maximum possible contrast; (2) existence of the same metaphor in both languages. Here we can have different situations: (2a) The source and the target domain of the metaphor are the same, but the elaborations and specifications of the source or the target domain are not the same, and (2b) the source and the target domain are the same, but the languages differ with respect to the linguistic expressions manifesting the metaphor.

5. Results and discussion

5.1. *Existence of metaphor/metonymy X*

5.1.1. *Existence of the same metaphor/metonymy across all languages and legal systems analysed*

Ontological metaphors with CONTAINER as the source domain proved to be very productive in all the higher education acts included in the analysis, and they were the same in all three legal systems and all languages analysed.

The conceptual metaphor LEGAL DOCUMENTS ARE CONTAINERS is found in higher education acts in Bosnia and Herzegovina, the UK and the US. Terms and conditions are inside the legal documents, and so are the persons, things, companies, entities, actions and cases to which they apply.

- (1) *Akademsko osoblje uživa slobodu unutar zakona, ...* (1) (B&H)
academic staff enjoy-3SG freedom inside law
'Academic staff enjoys freedom within the law'
- (2) *Nothing in the 1992 Act or the 1994 Act, ..., applies to...* (6) (UK)
- (3) *Except as otherwise provided in this Act or the amendments...* (8) (US)

All cases (including their participants and actions) to which a legal document does not apply are outside the container. However, the examples showing what is outside the container (legal documents) are not as numerous as the previous group:



- (4)... *zvanja izvan ovog Zakona, odnosno Pravilnika.* (1) (B&H)
 titles outside this Act or Regulations
 ‘titles outside this Act or the Regulations’

Many other abstract entities are metaphorically seen as containers. We found numerous examples of metaphors such as: HIGHER EDUCATION IS A CONTAINER, SCIENTIFIC /PROFESSIONAL FIELD IS A CONTAINER, TIME PERIOD IS A CONTAINER, BUDGET IS A CONTAINER, and GEOGRAPHIC AREAS ARE CONTAINERS.

No significant differences have been found in the use of metaphors with CONTAINER as the source domain in these three legislation systems. Their use is mainly reduced to what is inside the container, leading to a higher usage of metaphorical expressions with the prepositions *in*, *within* and *inside* than those with *out of* or *outside*.

In the three legal systems analysed, RIGHT is seen as the property you *have*, *not have*, *possess*, *give*, *transfer*, *acquire*, *provide*, *hold* or *use*. The metaphorical expressions used are the same in all these legal acts. They all exemplify the conceptual metaphor RIGHT IS AN OBJECT.

- (5) ... *da su stekli pravo upisa* ... (2) (B&H)
 that AUX-3PL acquired right enrolment-GEN
 ‘that they have acquired the right to enrolment’
- (6) ... *koji nosiocu daje pravo da se prijavi* ... (1) (B&H)
 which bearer-DAT give right to REFL apply
 ‘which gives the bearer the right to apply’
- (7) Any property, *right* or liability *held or used*, ... *shall be transferred to the transferee* (or to one or other of the transferees) or *retained by the transferor authority*... (7) (UK)
- (8) ... *shall be deemed to have a contractual right*,... (9) (US)
- (9) ... the transferee *acquires a legally enforceable right* to receive payment... (9) (US)

Another abstract entity which is conceptualised as an object is education. However, in the metaphor EDUCATION IS AN OBJECT, the focus is changed from possessing, using and transferring to offering, providing, needing and wanting. While RIGHT is seen as property, EDUCATION is seen as a kind of merchandise. Students (or the community) need or want education, educational institutions offer it, and students must be able to afford it. Most metaphorical expressions focus on the qual-



ity of higher education and its assessment.

- (10) ... *način osiguravanja kvaliteta u oblasti*
manner ensuring-GEN quality-GEN in area-LOC
visokog obrazovanja. (1) (B&H)
high-GEN education-GEN
‘the manner of ensuring quality in the area of higher education’
- (11) ... *obim potreba za obrazovanjem* ... (2) (B&H)
scope need-GEN PL for education-INSTR
‘the scope of need for education’
- (12) ... *secure that provision is made for assessing the quality of education provided in institutions within the further education sector...* (7) (UK)
- (13) *Programs to provide students with disabilities with a quality higher education.* (8) (US)

In the analysed higher education acts, a community and a legal system are seen as a complex structure consisting of parts. All parts should be in harmony and work in coordination with one another so that the entire system functions efficiently. According to Johnson (2007: 861), our interaction with physical objects forms experiential basis for our perception of abstract entities as physical structure. While observing physical structures, we perceive their part-whole relationships and form a cognitive representation of functions and logical relationships between them. This is why we find the metaphor **LEGAL SYSTEM IS A PHYSICAL STRUCTURE** in all three legal systems. Different parts of the legal system are connected and adjusted, and all members of the community have to harmonise their functioning by conforming to the law.

- (14) *Visokoškolska ustanova utvrđuje, u skladu sa zakonom,*
higher-education institution determines in harmony with law
kriterijume ... (3) (B&H)
criteria
‘An institution of higher education determines, in accordance with law, the criteria...’
- (15) ... *te se može reći da je Zakon usklađen sa odredbama*
and REFL can say that AUX Act adjusted with provisions-INSTR
člana 14. Evropske konvencije. (1) (B&H)
article-GEN 14th European-GEN convention-GEN.
‘... and we can say that the Act complies with the provisions of Article 14 of European Convention’



- (16) ... *in accordance with* such directions as he may give from time to time,...
(7) (UK)
- (17) *Instruments of government and articles of government shall comply with the requirements of Schedule 4 to this Act, and ...* (7) (UK)
- (18) *The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.* (9) (US)

The metonymy which is the same in higher education acts in Bosnia and Herzegovina, the UK and the US is SPECIFIC FOR GENERIC, where a noun denoting one person or thing is used to stand for the entire class.

- (19) *Univerzitetom rukovodi rektor*, (1) (B&H)
university-INSTR manages Rector
'A University is managed by the Rector, ...'
- (20) *A complaint falls within this subsection if it is made by ...* (7) (UK)
- (21) *An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if...* (9) (US)

5.1.2. *The metaphor/metonymy is the same, but the languages differ with respect to the linguistic expressions motivated by or manifesting the metaphor/metonymy*

Numerous examples of the metaphor LEGAL DOCUMENTS ARE INSTRUMENTS have been found in all three legal systems and all languages. The source and the target are the same but the linguistic expression of this metaphor is different in different languages.

In the legislation of Bosnia and Herzegovina, the nouns *Act*, *Statutes*, and other nouns denoting documents are often used in the instrumental case. They are seen as instruments used to perform legal actions: to define rights and duties, establish institutions, to specify how higher education is organised, or to determine the duties of the management board.

- (22) *Visokoškolska ustanova će statutom odrediti*
higher-education institution AUX Statutes-INSTR determine
službeni jezik... (4) (B&H)
official language



‘The institution of higher education will select the official language by the Statutes ...’

- (23) *Postupak akreditacije uređuje se **pravilnikom** o procedure accreditation define REFL regulations-INSTR about **akreditaciji** (4) (B&H) accreditation*
‘Accreditation procedure is defined by the regulations on accreditation ...’

Documents are called instruments in the UK and the US legislations:

- (24) ... *“**original instrument of termination**” means the agreement or notice referred to in sub-paragraph (1) ... (6) (UK)*
- (25) ... *that the note or **other written instrument** may contain such reasonable provisions... (9) (US)*
- (26) *The Corporation shall have the power to enter into contracts, to execute **instruments**,... (9) (US)*

As these examples show, the metaphor LEGAL DOCUMENTS ARE INSTRUMENTS is conventionalised in all three legislation systems, but using different linguistic expressions. In Bosnia and Herzegovina this metaphor is expressed using the Instrumental case as a grammatical category expressing the instrument, while in the UK and the US it is expressed using the lexeme *instrument* to refer to a legal document.

5.1.3. *The source and the target domain of the metaphor are the same, but the elaborations and specifications of the source or the target domain are different*

The orientational metaphor CONTROL IS UP, LACK OF CONTROL IS DOWN is very productive in all analysed higher education acts.

- (27) *Nadzor nad **provodenjem ovog zakona** ... (5) (B&H)*
supervision over enforcement this-GEN Act-GEN
‘Supervision over the enforcement of this Act...’

- (28) ... ***pod uvjetima** iz stava (2) ovog člana ... (2) (B&H)*
under conditions-INSTR from paragraph-GEN (2) this-GEN article-GEN

‘...under conditions specified in Paragraph (2) of this Article...’

- (29) *In exercising their functions **under sections 2 and 3 of this Act**,... (7) (UK)*



- (30) ... *to have effective control over the company* ... (7) (UK)
 (31) ... *the programs under subchapter IV of this chapter* ... (9) (US)
 (32) ... *authorize any Federal control over any aspect of any private, religious, or home school;* ... (9) (US)

However, in UK and US legislations, a legal document is seen as being above, and therefore in control, (*under sections 2 and 3 of this Act, under subchapter IV of this chapter*) while in B&H the circumstances, terms and conditions are seen as being above, and in control of the situation. In Bosnian legislation we find expressions *pod (jednakim, određenim...) uvjetima* ‘under (equal, specified...) conditions,’ but not **pod članom 2 ovog zakona* ‘under Article 2 of this Act’ or **pod ovim zakonom* ‘under this Act.’

5.2. The maximum possible contrast: existence of metaphor/metonymy X in language A and its absence in language B

The metonymy FACE FOR PERSON is found in the legislation in Bosnia and Herzegovina, but not in higher education acts in the UK and the US. This metonymy is register-specific in Bosnia and Herzegovina, found only in legal and police communication and reports. It is motivated by the fact that we identify persons by their faces. Personal documents, such as passports, and ID cards, usually have a photo of the owner’s face. This metonymy is also found in Russian legal system, and was probably borrowed from Russian legislation during the socialist era in the Balkans.

- (33) *Strani državljanin i lice bez državljanstva* ... (5)
 foreign citizen and face without citizenship-GEN
 ‘A foreign citizen and a person without citizenship ...’

However, this metonymy is not found in the Croatian texts of B&H legislation:

- (34) *Strani državljanin i osoba bez državljanstva* ... (4)
 foreign citizen and person without citizenship-GEN
 ‘A foreign citizen and a person without citizenship ...’

FACE FOR PERSON metonymy is often combined with the metaphor COMPANY/INSTITUTION IS A PERSON.

- (35) *Visokoškolska ustanova ima status pravnog lica.* (5)
 higher-education institution has status legal-GEN face-GEN
 ‘An institution of higher education has the status of a legal person’

In the texts written in Croatian, only the metaphor is used, without the metonymy:



- (36) *Visokoškolska ustanova ima status pravne osobe.* (4)
higher-education institution has status legal-GEN person-GEN
'An institution of higher education has the status of a legal person'

The UK legislation has a double metonymy CROWN FOR THE MONARCH, MONARCH FOR THE INSTITUTION WHICH is not found in the US and B&H legislations due to extralinguistic factors.

- (37) *The Director and his staff are not to be regarded as servants or agents of the Crown.* (6)

In the US legislation we find numerous examples of the metonymy STATE FOR STATE AUTHORITY. State is a geographical unit, but in these examples it is used to stand for state authorities. We did not find these examples in the UK and B&H legislation. Again, the reasons for this difference are extralinguistic – the political organisation of the US and the special position of the state as a federal unit.

- (38) *Any teacher preparation program from which the **State** has withdrawn the **State's** approval, or terminated the **State's** financial support, due to the low performance of the program based upon the **State** assessment described in subsection (a)...* (9)

6. Conclusion

Since higher education acts mainly deal with abstract entities such as education, legal systems, scientific fields and rights, the largest number of metaphors found in the corpora in all three legislation systems are ontological metaphors in which these entities are seen as containers, objects and physical structures.

When comparing Bosnian, Croatian and Serbian texts of higher education acts in Bosnia and Herzegovina the only difference we found was the use of FACE FOR PERSON metonymy in Bosnian and Serbian texts, while this metonymy was absent in the Croatian text. The use of metaphors and other metonymies was the same.

Our study shows that metaphors which can be stated at a more generic level, where the source domain is a generic image-schema, such as CONTAINER, OBJECT and PHYSICAL STRUCTURE, tend to show less variation across languages. Moreover, they are highly conventionalised across speech communities, and are not limited only to the use in legal register. These metaphors have the same source and target domains, the same linguistic expressions are used and have the same elaboration in all acts. The same applies to metonymies. The metonymy SPECIFIC FOR GENERIC, which is also more general, has the same use in all higher education acts.



On the other hand, the biggest differences were found in the use of specific-level metonymies, such as FACE FOR PERSON, CROWN FOR MONARCH, MONARCH FOR INSTITUTION and STATE FOR GOVERNMENT. Most of these metonymies are register-specific, used only in the legal register.

Between these two poles, we have examples of metaphors which exist in all languages and legal systems analysed, but differ in elaboration or metaphorical expressions which exemplify them. Most of these expressions are register-specific legal terms, formulaic expressions and clichés frequently repeated in legal acts.

References

- Barcelona, Antonio (2001). On the systematic contrastive analysis of conceptual metaphors: case studies and proposed methodology. Pütz, Martin, Susanne Niemeyer, René Dirven, eds., *Applied Cognitive Linguistics II: Language Pedagogy*. Berlin – New York: Mouton de Gruyter, 117–146.
- Johnson, Mark (2007). Mind, metaphor, law. *Mercer Law Review* 58: 845–868.
- Radden, Günter, Zoltán Kövecses (1999). Towards a theory of metonymy. Panther, Klaus-Uwe, Günter Radden, eds. *Metonymy in Language and Thought*. Amsterdam – Philadelphia: John Benjamins, 17–59.
- Lakoff, George (1990). *Cognitive Science and the Law*. <http://georgelakoff.files.wordpress.com/2011/04/cognitive-science-and-the-law-lakoff-1990s.pdf> (retrieved September 23, 2012).
- Lakoff, George, Mark Johnson (1980). *Metaphors We Live By*. Chicago: University of Chicago Press.
- Winter, Steven L. (2001). *A Clearing in the Forest: Law, Life, and Mind*. Chicago – London: University of Chicago Press.
- Winter, Steven L. (2007). Re-embodiment of law. *Mercer Law Review* 58.3: 869–897.
- Winter, Steven L. (2008). What is the color of law. Gibbs, Jr., Raymond W., ed. *The Cambridge Handbook of Metaphor and Thought*. Cambridge: Cambridge University Press, 363–380.

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METAFORE I METONIMIJE U PRAVNOM DISKURSU

Pravnim diskursom do sada su se bavili brojni lingvisti i pravni stručnjaci. Lingvistička proučavanja uglavnom su se bavila stilskim elementima pravnog registra, kao što su morfološke i sintaktičke osobine. Donedavno su lingvisti potpuno zanemarivali velik potencijal figurativnog jezika u pravnom registru. Dok su pravni eksperti još prije više desetljeća uvidjeli značaj i moć metafore i metonimije, lingvisti su zaostajali za njima. Cilj je ovoga rada kontrastivna analiza konceptualnih metafora i metonimija u zakonodavstvu Bosne i Hercegovine, Velike Britanije i Sjedinjenih Država. U analizi su korištene metafore i metonimije prikupljene iz zakona o visokom obrazovanju u te tri države.

Ključne riječi: metafora; metonimija; pravni registar; kontrastivna analiza; kognitivna lingvistika.