

Identity in Cross-Linguistic Legal Syntax

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Introduction

In this paper, a legal syntagm to be referred to as the legal Siamese twins for the purpose of the article, as identity in cross-linguistic syntax of the English, Portuguese, Ukrainian, and Russian languages will be approached and described from a point of view of the 'small' syntax. In the beginning, the idea of the legal syntagmatic identity will be introduced in the first section by differentiating between the macro- and micro-cosmopolitanism approaches to arrive at trans-lingualism in the context of legal syntax. The second section will generally focus on the classification of the four notional types of the syntagm and corresponding syntagmatic relations. Further, in the third chapter among the three typical syntagmatic relations a particular emphasis will be laid upon the coordinate relations that are of specific interest in connection with the legal Siamese twins and currently remain fallen out in the contrastive studies of the legal syntactical context in the English, Portuguese, Ukrainian and Russian languages contrasted. In the end, the conclusions of the research conducted will underline the trans-lingual similarities and differences in the English, Portuguese and Ukrainian legal contexts of the key differentiating features between the legal Siamese twins as the syntagmatic identity and the idiom.

1 The Legal Syntagmatic Identity in Cross-Cultural and Linguistic Development

Broadly speaking, identity may be found central to the self-concept in itself while legal syntax also finds its niche when it comes to the analysis of the newly arising and well-established terminological sets within the set linguistic paradigms of a language under focus. The area of cultural development and that of legal domain both relating to the particulars of a people, on the one hand, merely take a while to spot the similarities traceable beyond the borders of the existing national, linguistic, gender phenomena embodied in the structurally tailored language and speech patterns. On the other hand, trans-culture in cross-linguistic studies looks to overcome the restraints imposed by local mindsets including linguistic, social, political and ethical determinants. It persistently drives to broadened views and opportunities to open up new horizons. Consequently, being part of multi-culture it approaches cosmopolitanism at large to be further viewed through the mirror of micro-cosmopolitanism. As far as deeper understanding of the legal context is required to join the verbalized linguistic structures in the relevant languages where a number of languages are at play, "micro-cosmopolitanism provides a conceptual framework for better articulating and understanding the relationship between the

local and the global, the particular and the universal, the self and the other at the core of contemporary thinking on translation” (Cronin 2006, 13) in order to “at once reconnect the opposing poles that binary systems are so anxious to uphold” (Cronin 2006, 15). Therefore, dynamic complexity of legal syntax from a cross-linguistic footing leaves much room for research with view to multi-cultural in general and transcultural scholastic studies, in particular. Interconnectedness of legal concepts will definitely arise based on the self-concept associated with any people or language, however, with due respect to local and global dimensions.

At the same time, where respective legal structures in the English, Portuguese, Ukrainian and Russian languages fall under analysis, a micro-cosmopolitan approach may apply as one that operates from below and a macro-cosmopolitan approach comes in effect where the deal is for potential interconnectedness of concepts by exercising its power from above.

1.1 Legal Syntagmatic Identity in Cross-Culture

From a linguistic point of view, a set of specifically arranged phonemes, words, or phrases that are in a sequential relationship to one another and form a linguistic unit makes a syntagm. Further, where it falls into some terminological field/domain, such syntagm with a combination of its relevant elements may create some certain coherent notion. Thus, in this paper, the smallest syntactic unit based on the English, Portuguese, and Ukrainian terms relating to law (law of obligations) and at the same time viewed as one inseparable whole in notion will stand for a legal syntagmatic identity. Moreover, some terminological syntagms found in the area of law of obligations in the Ukrainian, English and Portuguese languages may envelope into elementary and non-elementary syntactic units and further acquire a relevant status.

In this respect, what is meant by legal syntagmatic identity in cross-cultural syntax is a legal terminological set as the smallest syntactic unit in the English, Portuguese and Ukrainian languages, which provides integrity and interconnectedness at cross-cultural linguistic levels. In other words, of special value arises the legal terminological syntagm as a unique binding found in the contrasted languages to reveal its obvious legal and linguistic features through the syntagmatic relations by means of bridging syntax and semantics.

1.2 Syntagmatic Relations in Cross-Lingual Legal Syntax

Given the fact that syntagmatic relations within the legally bound terms are immediate linear relations between legal terminological units in a segmental sequence, the legal syntagmatic identity in the English, Portuguese, and Ukrainian languages stands for the combination of at least two single terms or terminological sets one of which is modified by the other. Hence, we arrive at the four main notional syntagms in the cross-lingual legal syntax:

- (i) Predicative – that comes to the combination of a subject and a predicate to be analysed as a whole in the contrasted languages, e.g. *The agreement is entered into and signed* (EN); *você pode duplicar* (PT); *Сторони домовилися* (UA);
- (ii) Objective – that comes to the combination of a verb and its object in the contrasted languages, e.g. *to transfer funds* (EN), *transferir dinheiro* (PT); *переказати/переказувати кошти* (UA);
- (iii) Attributive – that stands for the combination of a noun and its attribute(s) in the contrasted languages, e.g. *valid and binding contract* (EN); *contrato válido e vinculante* (PT); *дійсний і чинний договір* (UA);
- (iv) Adverbial – that is formed by a modified notional word, such as a verb/adjective/adverb with its adverbial modifier in the contrasted languages, e.g. *provisions duly anticipated by the law* (EN); *nos casos devidamente admitidos na lei* (PT); *у випадках, належним чином передбаченим законодавством* (UA).

Any of the legal syntagms as legal syntagmatic identities in cross-lingual syntax is based on the syntagmatic relations manifested in speech, respectively. Thus, where we speak of predicative syntagmatic relations we deal with the predicative syntagms in the contrasted languages. Where objective, attributive or adverbial notional syntagms are under focus of study, subordinate syntagmatic relations arise in legal syntax. However, it is required to mention another type of the syntagmatic relations – coordinate, where the legal syntagmatic identity comes to the foreground in the three contrasted languages. These are the relations to be further unfolded in the next section.

2 The Legal Siamese Twins

The contrasted languages demonstrate that legal contexts, legal documents, in particular, may be full of certain series of words/terms used in the form of doublets and triplets in place of merely one word/term for reasons of legal tradition. As Rupert Haigh stresses in *Oxford Handbook of Legal Correspondence*, “[t]he writing used in legal correspondence usually has a different purpose. [...] The main aims of legal correspondence in all cases are clarity and accuracy. However, the style of correspondence will differ slightly according to whom the correspondence is being written for” (2010, 30). Thus, quite often some terms of art that may not always be familiar to the layperson, will be used in the legal context as such that cannot be replaced by other words. At the same time such terms of art will be common and ordinary enough to the lawyer. For instance, in English some legal texts include (i) *null and void* – Contract Law, (ii) *all and sundry* – Contract Law, (iii) *give, devise, and bequeath* – Inheritance Law, etc.

Thus, speaking of the smallest syntactic unit in the legal context and syntagmatic relations in between, we closely approximate the issue of the legal syntagmatic identity – so called legal Siamese twins in translation. These are English, Portuguese, Ukrainian, and Russian legal sets that are not subject to

modification/alteration/change in any way, including parsing, as far as such are perceived an entire whole, and which is why are considered integral.

As regards the term Siamese twins, the English linguistics goes back to the beginning of the twentieth century (please see the works by Henry W. Fowler), when it was first used as a linguistics term. H. W. Fowler, a recognized lexicographer, introduces the term in *A Dictionary of Modern English Usage* (1926). Surprisingly as it may seem but the term derives from a regular word to denote cojoined twins who were born in Siam and became world famous after they had travelled to the United States, married two sisters and brought up lots of children together as one family (for more detail on history of the Siamese twin brothers please see publication in *The Daily Mail* dated as of 7 November 2014).

However, in linguistics a few other similar terms develop with a time and appear later:

- (i) Irreversible binominals – unconditional two-component construction not subject to change (please see works by V.S. Lean [1820-99]; Logan P. Smith 1925; F. Seiler 1922; J. Casares 1950, etc.);
- (ii) Binominals – deriving from Mathematics ‘binom’, ‘a two-component element’ (Bhatia et al. 2003; Cao 2007; S. Lodej 2012);
- (iii) Binomial pairs – inseparably bound units, and as Marian Cox describes them in *Cambridge Checkpoint English Coursebook 9*, “[a] binomial pair is an extreme form of collocation (i.e. words appearing habitually together) consisting of two adjectives, verbs or nouns, e.g. ‘safe and sound’. These pairs of synonyms either begin with the same letter and/or repeat the same vowel sound (alliteration or assonance/rhyme)” (2014, 17);
- (iv) Freezes – fixed set expressions, from *to freeze* ‘to fix, to make it solid, to finalize’ (see works by M. Landsberg 1995; William E. Cooper and Gayle V. Klouda 1995; Waugh and Newfield 1992).

According to *The Online Dictionary of Language Terminology*, the term ‘Siamese twins’ is defined as: (1) a group of words that is always used together as an idiomatic expression or collocation [...]; (2) [p]airs of words linked by **and** or **or** that are used to convey a single meaning. The very source pays special attention to the order of such words, for if reversed, the so called twins will lose their idiomatic meaning: “[f]or example, we always say **back and forth**, never **forth and back**”. The dictionary article also provides the etymology, explaining that the term was coined by Henry Fowler so that he would have an entry heading under which the above mentioned linguistic phenomenon could be described.

Given the fact that H. W. Fowler was the first to introduce the term to the linguistic world, it may look reasonable enough to follow his terminology for the doubled pairs and see how a couple of selected legal examples can fit into trans-lingualism to become finally rooted in the legal syntax.

Therefore, legal Siamese twins in the English, Portuguese, and Ukrainian languages, are composed of the two key terms at the least, which are strictly ordered and fixed in speech, definitely recognizable in the context of agreement/or legal paper/translation/or in the course of interpreting. Moreover, of special focus should be the order of the structural binding in the English, Portuguese, and Ukrainian languages, because it may never be reversed. Some of these legal Siamese twins are set expressions presently used not only in legal context but also in everyday life. For instance, (i) (EN) *sink or swim* and its correlates: (UA) *або пан, або пропав*; (ES) *irse a pique o nadar, hundirse o salvarse*; (ii) (EN) *due and payable* and its correlates: (PT) *devido e exigíveis/vencido e exigível* ‘that must be paid’; (iii) (EN) *heads or tails* and its correlates in other languages: (PT) *cara ou coroa*, (RU) *орел или решка*; (iv) (EN) *give or take* and its correlates: (PT) *mais ou menos*, (UA) *приблизно*, (ES) *tómelo o déjelo, acéptelo o rechácelo*.

See the below sentences in the three languages to contrast the Siamese twins in legal (business) context:

(EN) *Expected every twenty-eight days, **give or take**, for the next five years.*

(PT) *Espera-o cada vinte-oito dias, **mais ou menos**. Durante os próximos cinco anos.*

(RU) *Следует ожидать (поставки) каждые 28 дней, **где-то так**, в течении следующих пяти лет.*

The Siamese twins in law are generally paired or grouped together in a conjoint pattern by either **and** or **or**; the order of the words/terms cannot be inversed. In majority of cases the Siamese twins as the syntagmatic identity are rhythmic or alliterative. Moreover, as we can see from the structurally tailored patterns in the English, Portuguese, Ukrainian and Russian languages, legal Siamese twins clearly demonstrate a logical consistence and inseparability in the coherent speech. In addition, their peculiarity lies with the impossibility to reverse the order of the legal terms or key elements.

At the same time it is also true that in most cases the meaning/notion of the legal Siamese twins may surpass the meaning/notion of the constituent words/terms in the contrasted languages. Nevertheless, none of them can be omitted or substituted with another word/term in legal syntax.

The mentioned similarities of the legal Siamese twins in cross-cultural legal context are traced irrespective of the language. Next, such resemblances in the contrasted languages are features of the coordinate syntagmatic relations embodied with the help of linking conjunctions **and/or** in the English language, and **e/ou** in Portuguese, respectively. In order to move further we may look at some models of the legal Siamese twins in the English and Portuguese languages, which refer to construction of agreements and contracts and occur in legal translation/interpreting.

Model A:

- (EN) *deem and consider* – (RU) *полагать и рассматривать*, from *deem* (v) ‘to consider or judge something in a particular way’ and *consider* (v) ‘to spend time thinking about a possibility or making a decision’;
- (EN) *cease and desist* – (RU) *прекратить продолжение противоправных действий*, from *cease* (v) ‘stop something’ and *desist* (v) ‘to stop doing something, especially something that someone else does not want you to do’;
- (PT) *parar e renunciar* – (RU) прекращать, останавливать, from *parar* ‘stop doing something’ and *renunciar* ‘cancel, call back, terminate’.

Compare the Siamese twins in the legal context:

- (EN) They're gonna take this case from you and demand you *cease and desist*.
- (PT) Eles vão retirar-lhe este caso e exigem que *pare e renuncie*.
- (RU) Они заберут у тебя это дело и будут требовать отказа от него (букв. будут требовать, чтобы ты отказался от него).

Model B:

- (EN) *due and payable* – (RU) с наступившим сроком погашения; срочный к платежу и подлежащий оплате, from *due* (adj.) ‘expected to happen, arrive, etc. at a particular time’ and *payable* (adj.) ‘that can be paid’;
- (EN) *final and conclusive* – (RU) заключительный, from *final* (adj.) ‘last’ and *conclusive* (adj.) ‘proving that something is true, or ending any doubt’;
- (PT) *devido e exigível/vencido e exigível* – (RU) подлежащий уплате.

Compare the above mentioned Siamese twins in the legal context provided:

- (EN) The securitised assets backing the issue have characteristics that demonstrate capacity to produce funds to service any payments *due and payable* on the securities.
- (PT) Os activos titularizados, que garantem a emissão, possuem características que asseguram a sua capacidade para gerar fluxos de fundos suficientes para realizar os pagamentos *devidos e exigíveis* sobre os valores mobiliários.
- (RU) Секьюритизированным активам, которые поддерживают выпуск ценных бумаг, свойственна способность привлечения средств, с целью обслуживания любых платежей по ценным бумагам, *срок погашения которых наступил*.

Model C:

- (EN) *goods and chattels* – (RU) движимое имущество; все личные вещи, from *goods* (n, pl) – (RU) товар, вещи, and *chattels* (n, pl) – (RU) вещи, личная собственность, движимое имущество’;
- (EN) *liens and encumbrances* – (RU) права третьих лиц, from *lien* (n) – (RU) право третьего лица; право удержания до уплаты долга, and *encumbrance* (n) – (RU) право удержания; обременение;

(PT) *bens e objetos habituais* – (RU) движимое имущество, from a substantivized adjective *bens* – (RU) добро, and *objetos habituais* – (RU) предметы обихода.

Compare the given Siamese twins in the legal context:

(EN) 'personal or household effects' shall mean dead specimens, parts and derivatives thereof, that are the belongings of a private individual and that form, or are intended to form, part of his normal *goods and chattels*.

(PT) «Objectos pessoais ou de uso doméstico»: espécimes mortos, suas partes ou produtos derivados, que sejam propriedade de um particular e que constituam ou se destinem a constituir parte dos seus *bens e objetos habituais*.

(RU) 'личные вещи или такие, относящиеся к ведению хозяйства' обозначают вещи, утратившую ценность для других, а также их комплектующие и подобное, соответственно, и являются собственностью частного лица, и составляют, или будут составлять в будущем, *часть движимого имущества* такого лица.

Conclusions

To sum up the described above, the legal Siamese twins as legal syntagmatic identity revealed through coordinate syntagmatic relations are characterized by the phenomenon of lexical parallelism. What is meant here is the part of speech of the 'first twin' would determine that of the second, in which time the inseparability of the so called twins can be underlined.

Overall, the following models in English, Portuguese, Ukrainian and Russian languages are distinguished:

- (a) Legal Siamese expressed by verbs: V + V;
- (b) Legal Siamese expressed by adjectives/participles I,II: Adj. + Adj., PP + PP;
- (c) Legal Siamese expressed by nouns or nominal sets: N + N, N + modified N.

Despite the fact the enlisted above models shed some light on specifics of the coordinate relations between the words/terms constituents of the legal Siamese twins as syntagmatic integrity in cross-lingual syntax, in the future more specifics may be discovered and studied, for such a classification may hardly be stated exhaustive.

Further, the English, Portuguese, Ukrainian and Russian legal Siamese twins in majority of cases prove that one of the legal twins is much more frequently used in the doublet rather than independently.

Furthermore, despite the mentioned similarities, the divergent semasiological peculiarities of the English, Portuguese, Ukrainian and Russian legal Siamese twins should not be ignored as opposed to idioms:

- The outdated meaning of one of the key terms may hardly be found to be used separately in everyday speech;

- Double, in some cases even triple, pairing of the legal Siamese twins, may result in the ultimate meaning that will absolutely coincide with the separate meanings/notions of one another;

- Hypero-hyponimic relations between the key terms with some legal Siamese twins in English, Portuguese, Ukrainian and Russian languages are clearly visible;

- Constituents of the legal Siamese twins demonstrate synonymy/antonymy in relation to one another. When dealing with synonymy, the effect of tautology is produced. This is to stress the meaning of the terms in the legal context by means of repeating it with another term. With alliteration or similar-sounding words/terms that often rhyme, the structure of the legal Siamese twins in the contrasted languages enables the reader/listener to easily memorize the provided information and subconsciously focus on relevant importance of the message.

In addition, the key point irrespective of the language is that the Siamese twins in cross-cultural context can be quite effective in legalese, where the aim is to persuade, and as explained by M. Cox, it “can be partly achieved through the appeal of familiarity” (Cox 2014, 18), on the one hand, as well as with the repetition and emphasis on the meaning, on the other.

The legal Siamese twins in cross-lingual syntax, when occurring as a pair, are also known as binomials, however, the structure of the legal Siamese may include three words/terms occurring together. In this case they are referred to as trinomials, or legal triplets, which encourages for more in-depth study and analysis of the Siamese twins legalese, making more room for perspective ways of research.

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Summary

Identity in Cross-Linguistic Legal Syntax

The present article focuses on the legal Siamese twins as syntagmatic identity in cross-cultural and lingual context in the English, Portuguese, Ukrainian, and Russian languages. In order to correlate the terms and notions in cross-lingual environment specific peculiarities in relation to structure and meaning of the legal Siamese twins

in the specified languages are described which highlight the relationship between the local and the global, the particular and the universal.

The above is based on the known classification of the syntagms in the legal cross-cultural context – predicative syntagms, objective syntagms, attributive and adverbial syntagms, and the syntagmatic relations existing between the constituents of the syntagm. The emphasis is laid particularly upon coordinate relations that unfold in the legal Siamese twins in the cross-lingual syntax. Of special value is the conclusion that the legal Siamese twins should not be confused with collocations, set expressions and idioms.

About the Author

Oksana Chaika, born in Ukraine, holds a PhD in Linguistics and Bachelor's degree in Law, and also holds a DAPLE certificate (Diploma avançado de português língua estrangeira) issued by Centre for Evaluation of Portuguese as a Foreign Language; Level C1 of the Portuguese language (advanced). In employment, Oksana Chaika is Head of the Chair for Foreign Languages and Translation at the Academy of advocacy of Ukraine (Kyiv) and a legal counsellor for *UkrSibbank*, *BNP Paribas* (France).

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