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INTRODUCTION



Translating legal terminology and phraseology: between inter-systemic incongruity and multilingual harmonization

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ABSTRACT

As central aspects of legal translation practice and research, legal terminology and phraseology are a prominent area of inquiry in Legal Translation Studies (LTS). This introductory paper reviews the varying conditions and challenges of dealing with conceptual incongruity in inter-systemic legal translation, on the one hand, and the implications of ensuring harmonization and consistency in multilingual legal texts through institutional translation, on the other. These endeavors are compounded by the significant hybridity and polysemy of legal terminology, as multiple intersections co-exist between legal orders, legal fields and other specialized domains, and between legal and general language. As illustrated by this special issue, corpus-based methodologies have proven particularly fruitful approaches to investigating these issues. They support the description of terminological and phraseological features of legal genres, as well as the acceptability analysis required to make translation decisions and to elaborate lexicographical resources in line with legal and institutional translators' needs.

KEYWORDS

Legal terminology; legal phraseology; legal translation; legal lexicography; institutional translation; incongruity; harmonization

1. Introduction

As in other areas of specialized translation, terminology and phraseology are key features of legal discourses, and central aspects of professional practice and research in legal translation. However, as opposed to other areas of knowledge that are built around universally-shared concepts and scientific evidence, legal terms express the multiple ways of structuring abstract legal knowledge across languages and jurisdictions (e.g., Šarčević, 1985; Terral, 2004). These knowledge structures tend to be diverse at the national level, as they reflect divergent legal traditions and culture-bound singularities, but they also co-exist with international legal concepts developed as a common framework for multinational cooperation or supranational integration.

The differences in legal traditions and concepts result in problems of asymmetry and incongruity that are characteristic of legal translation between legal systems and a recurrent subject of methodological inquiry in Legal Translation Studies (LTS)

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(e.g., Biel, 2009; Sandrini, 1999). Terminological solutions to these issues are crucially determined by the communicative priorities in each situation of inter-systemic legal translation. By contrast, in translation within multilingual legal systems such as international institutional settings, as a rule, inter-linguistic concordance and intra-linguistic consistency are paramount in designating concepts and institutions of the shared legal framework (e.g., Prieto Ramos, 2014a, p. 314; Robertson, 2015, p. 41). These national and international contexts of legal translation are not detached from each other, but rather interact to a lesser or a greater extent. For example, references to national legal concepts and institutions are frequent in compliance monitoring procedures at the international level (e.g., Peruzzo, 2019; Prieto Ramos, 2014b). Simultaneously, transposition processes and adherence to global innovations and model regulations in cross-border exchanges can lead to legal transplants in national jurisdictions (e.g., Peruzzo, 2012; Temmerman, 2018), or underpin the spread of hybrid legal notions that facilitate multinational business and digitalization (e.g., Bestué Salinas, 2013; Engberg, 2012).

Multiple intersections occur not only between legal orders, but also between legal fields and other specialized domains, and between legal discourses and general language usage. These connections contribute to legal terminological hybridity and polysemy (e.g., Bajčić, 2011; Chromá, 2011). Law develops through a complex network of legal branches that encompass virtually every aspect of life, social interaction and government, from fundamental rights to business and technical regulations. Financial law is one of many examples of interdisciplinarity. It is grounded in a myriad of concepts of private and public law about legal personality, liability, banking, market norms and financial instruments, among other aspects, which are also found in the realm of financial theories. Last but not least, these interconnected networks of legal knowledge and concepts are far from stable, but rather are ‘in a constant state of flux, being redefined by lawmakers, judges or scholars’ (Sandrini, 1996, p. 345).

The multi-faceted and dynamic nature of legal terminology and phraseology conditions translation decision-making and lexicographical work. It reinforces the need for, and relevance of, legal translation expertise in ensuring reliable communication in private and public legal settings; and calls for tailored approaches to the development of lexicographical resources (e.g., Chromá, 2014; Šarčević, 1989). Accordingly, legal translators are critical users of these resources and play an active role in adapting terminological tools to their needs (Dullion & Prieto Ramos, 2018).

Approaches to the above dimensions of legal terminology and phraseology have gained in methodological sophistication in LTS in recent years. They have benefited from advances in terminology management and corpus analysis tools in particular (e.g., Biel, 2018; Goźdz-Roszkowski & Pontrandolfo, 2017). The papers included in this special issue illustrate state-of-the-art research in this field, most of which was presented at the 2018 Transius International Conference on Legal and Institutional Translation at the University of Geneva’s Faculty of Translation and Interpreting. The selected studies showcase the abovementioned distinction between inter-systemic and intra-systemic legal translation settings (as outlined in Sections 2 and 3), and the diversity of perspectives and methods for addressing characteristic challenges in each context.

2. Dealing with inter-systemic conceptual incongruity

As rightly summarized by Terral (2004, p. 882), terminological work for translation between legal systems inevitably focuses on the comparative analysis of legal notions, rather than on the search for pre-established denominative correspondences. Comparative law thus emerges as a useful tool to unveil legal incongruity (e.g., Pozzo, 2015; Sandrini, 1996) and inform decision-making in the light of the communicative ‘coordinates’ of each legal translation (Prieto Ramos, 2014b: 124). There is general consensus in the field about the relevance of comparative legal and discursive analysis in this endeavor.

One of the most influential approaches to conceptual incongruity in legal translation, that of Šarčević (1997), is applied in the first paper, by *Vilemini Sosoni* and *John O’Shea*, for the analysis of Greek-English translations of property law terms in notarial deeds. To this end, the authors first examine the differences between the concept of property in the Greek civil law system and the English common law system, and between the formal requirements for property transfers in both systems. This comparison, the first of its kind in Greek-English translation studies, exemplifies the relevance of exploring legal notions through primary legal sources in order to grasp their legal nuances for translation purposes. In this case, the notion of ownership in Greece contrasts with the rights and obligations of ‘owners’ in England and Wales as holders and users of the property. In the first system, notarial sale contracts are mandatory for the formal transfer of property. The resulting deeds are increasingly translated for English owners of property in Greece. The parallel corpus analyzed in this study is composed of 20 notarial deeds and their translations (for English nationals) by five qualified legal translators. The authors discuss the English renderings and translation strategies for the ten property law terms most frequently used in the original texts. In line with Šarčević’s approach, ‘partial equivalence’ was identified in five cases and ‘non-equivalence’ in the other five. Diverse functional and alternative renderings were employed for the first group of terms, whereas descriptive paraphrases and literal renderings prevailed in dealing with the second group. The procedures applied were generally justified in context, but not always consistently – even within the same texts.

The disparities between the source and the target legal traditions are more marked in the second paper, by *Michele Mannoni*. He examines the challenges of cognitive reception of the Chinese concept of *yuān* (冤) and its transfer into legal English as a conceptual metaphor (‘injustice’, ‘wrong’ or ‘tort’, among other possible translations), as opposed to its non-figurative meaning in general language usage (literally, ‘bent’). The study illustrates the intricacies of accessing the source language text ‘through target language knowledge structures’ (as expressed by Biel, 2009, p. 187) when these structures are very distant from the source culture, and how the transfer process can be particularly complex in the case of polysemic terms with metaphorical and non-metaphorical uses. Based on the notion of cognitive equivalence (Al-Zoubi et al., 2007), and by means of etymological reconstruction and corpus analysis, Mannoni maps the conceptual metaphors expressed by *yuān* and its collocates in a large online corpus in Chinese (zhTenTen11) to then discuss the presence or absence of the same metaphors in a corpus of English translations of the term (enTenTen15). The detailed comparison of uses reveals semantic similarities and differences between Chinese law and common law in

English. Depending on the context, some differences call for compensation strategies by the translator in order to reflect legal nuances in the target language.

The first two studies also show that legal lexicographical resources are often not adapted to the needs of legal translators. Bilingual legal dictionaries, in particular, have been traditionally regarded in the field as resources of limited reliability due to insufficient contextualization and comparative legal information for translation decision-making (e.g., Biel, 2008; De Groot & van Laer, 2008). This also applies to terminological resources for professional court interpreting, as highlighted by *Francisco J. Vigier Moreno* in the third article of the special issue. He describes how the data obtained from a corpus of transcripts of 55 criminal proceedings in the TIPp project (*Traducción e Interpretación en Procesos Penales* or ‘Translation and Interpreting in Criminal Proceedings’) (see Arumí Ribas & Vargas-Urpí, 2018) served as the basis to create materials for court interpreters and help them improve interpreting quality standards according to Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings. More specifically, the study explains the quantitative and qualitative criteria (i.e., frequency and procedural relevance) applied to select 33 terms for the creation of translation-oriented terminological records (Prieto Ramos & Orozco Jutorán, 2015) tailored to the needs of language professionals for inter-systemic legal terminology transfer. The record for the Spanish-English reformulation of the term *letrado de la administración de justicia* is used to illustrate the process of elaborating this kind of resource, including the comparative legal analysis and the acceptability analysis required to make contextualized translation recommendations.

3. Managing legal terminology and phraseology in international institutional settings

As noted in the introduction, inter-linguistic concordance and intra-linguistic consistency are generally considered priority aims of institutional terminology management in international legal settings. The first aim derives from the need for accuracy and ‘fidelity to the single instrument’ (Šarčević, 1997, p. 215) in multilingual legal orders, and often leads to a ‘preference for surface-level similarity’ (Koskinen, 2000, p. 54). Consistency is a condition to preserve semantic univocity for the sake of uniform interpretation, predictability and legal certainty. As a result, ‘standardization may be regarded as one of the defining features of institutional translation’ (Svoboda et al., 2017, p. 3). In the context of EU institutional translation, for example, Stefaniak underlines the relevance of consistency as a primary criterion for adequacy: ‘[v]arious translations of the same term, especially in legal acts, may mislead the reader to think that these terms denote different concepts and make it difficult to interpret legislation’ (Stefaniak, 2017, p. 116).

In the case of new concepts emerging from international relations, the process of terminology standardization is normally led by the language of negotiation and original texts (i.e., English in most instances) (e.g., Drohla, 2008; Prieto Ramos, 2020). In confronting the importation of such terms into various target languages, translators play a crucial role as agents of terminological innovation and harmonization, especially in areas where the institutions are considered authoritative references (Prieto Ramos & Morales Moreno, 2019). These processes, however, are not free from variation and instability, particularly in the early stages of lexical importation (e.g., Bertaccini et al.,

2010; Deferrari, 1996). *Camille Biros, Caroline Rossi and Aurélien Talbot* address these issues in their paper on the standardization of climate change terminology in the French versions of the Synthesis Reports of all five Assessment Reports issued by the International Panel on Climate Change (IPCC) since 1990 and translated from English by the language services of the World Meteorological Organization. The diachronic analysis of translations of the key terms ‘vulnerability’ and ‘resilience’ reveals a gradual shift from multiple renderings of these terms in French to standardized literal translations. The study shows the thematic diversity of international law and, more particularly, the evolving nature of international environment law and the terminological instability of negotiations, legal instruments and lexicographical resources in this field (see also Krimpas & Karadimou, 2018). The authors discuss the ideological implications of the prevailing role and impact of English in terms of conceptual uniformization and potential loss of culture-specific connotations in literal translations. They contend that, despite the relevance of multilingual harmonization and univocity in institutional legal translation, further diversity and attention to such connotations could contribute to striking a better balance between the global and the local, especially when dealing with a ‘dynamic, sensitive and continually changing issue’ (Loupaki, 2018, p. 24).

The standardization of international legal discourses also crystalizes through phraseological conventions that serve the purposes of the shared legal framework and may differ from phraseological features of analogous legal genres in a same language in national legal settings. Corpus-based comparative studies of these features at national and supra-national levels have produced a fruitful line of research in LTS, particularly with regard to the description of EU varieties of legal languages or Eurolects (e.g., Biel, 2014; Mori, 2018). Comparable corpora of translated and non-translated legal texts have proven useful to identify patterns of formulaicity of institutional varieties of translated legal languages, and the degree to which these patterns match or diverge from those of national language varieties, and thus affect idiomaticity or the ‘textual fit’ (as defined by Chesterman, 2004, p. 6). The following two papers of the special issue are situated within this research trend. In the first one, *Francesca L. Seracini* focuses on EU labor law legislation translated from English into Italian. She compares the most frequent collocations found in a corpus of English-Italian translations of 31 EU directives and regulations with those of a monolingual reference corpus of 69 Italian labor laws. The analysis finds a high degree of variation in translations of multi-word terms from English, as well as several patterns of EU ‘translationese’ in Italian, including untypical collocations in the target language and significant interferences from the source texts in the form of calques. The author relates these instances of divergence to contextual and strategic factors in EU legislative translation, particularly the abovementioned search for formal concordance between language versions, which often prevails over naturalness.

Gianluca Pontrandolfo also finds signs of source language interference in his contrastive study on the use of complex prepositions in judgments of the Spanish Supreme Court and judgments of the Court of Justice of the European Union (CJEU), which are translated from French. As part of the *Justicia Clara* (‘JustClar’) project, phraseological units were scrutinized in a monolingual comparable corpus of over one million words with a view to assessing the degree of clarity of each variety of judicial Spanish. The qualitative data obtained are in line with Mauranen’s (2006, p. 97) hypothesis of untypical collocations in translated texts, which is also corroborated in several languages

in the *Eurolect Observatory Project* on EU legislative translation from English (Mori, 2018). In the case of the CJEU, however, the original language of judgments is French or, rather, hybrid ‘Court French’ (see McAuliffe, 2011; Trklja, 2018). In the JustClar corpus, complex prepositions (which are listed in the article’s appendix) stand out among overrepresented phraseological units in CJEU judgments. The author provides several examples of untypical patterns that clearly point to the influence of the French versions of these texts.

Given the organization-specific variations of terminological and phraseological conventions, institutional translators must resort to translation precedents and other internal resources (e.g., terminological databases, glossaries and guidelines) as priority sources for terminological research in international organizations. However, these resources do not always provide all the necessary information for translation decision-making, especially with regard to national system-specific legal concepts. As in other scenarios of legal translation, primary legal sources and legal scholarly works become pivotal in the search for reliable legal meaning. This is one of the aspects explored in the contribution by this *guest editor* in the framework of the LETRINT project (‘Legal Translation in International Institutional Settings’). Based on a survey about the use and perceptions of terminological resources among 234 participants from 12 international organizations, the paper presents a correlative analysis of translator profile features (including legal translation frequency, thematic specializations and backgrounds) and relevance and reliability ratings of sources used for legal translation, as opposed to information-mining patterns for translation in general. The findings suggest three levels of legal specialization among translation services (the CJEU and international courts, the EU law-making institutions, and the United Nations and other intergovernmental organizations). They also confirm several hypotheses about the use of sources for legal terminological research as a marker of specialized translation competence, such as the higher reliability of primary legal sources compared to institutional terminological resources. The scores assigned to some of these resources can be associated to quality gaps requiring further examination.

4. Final remarks

The broad array of translation contexts, languages, legal systems and branches, genres and themes covered by this special issue attests to the vast scope and dynamism of research on legal terminology and phraseology within LTS. As captured by the contributions, terminological decision-making encapsulates the role and intricacies of legal translation itself in each setting. Whether the priority is conveying national legal concepts for specific purposes in a different legal system, or ensuring reliable law-making and implementation in multilingual legal orders, contrastive legal and discursive analysis lies at the core of methodologies to achieve quality in translation products and lexicographical resources.

The state-of-the-art research presented in this special issue clusters around four major themes: (1) translation-oriented descriptions of terminological features of national and international legal genres; (2) comparative legal analysis and translation strategies applied to bridge legal asymmetries; (3) constraints to and implications of managing

multilingual legal terminology and phraseology in institutional translation; and (4) innovations and assessments of lexicographical resources in light of translators' needs in each context.

From the perspective of research methodology, the volume reflects the prominence of corpus-based approaches in the field. In particular, as noted by Chesterman (2004, p. 6) for translation studies more broadly, the selected papers demonstrate the relevance of parallel corpora for analyzing inter-linguistic correspondences or equivalence relations, as well as the suitability of comparable corpora for examining naturalness and formulaicity in translations as opposed to non-translated texts. The practical orientation of these data-driven studies contributes to their applicability and potential impact on translation and terminological work. The insights provided will hopefully also inspire further research in this fascinating area, as the multi-faceted and evolving nature of legal terminology ensures its central place in LTS.

Disclosure statement

No potential conflict of interest was reported by the author(s).

Notes on contributor

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