

## What legal translation is about?

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### Résumé :

Il est vrai que le texte juridique est sans le moindre doute un des plus marqués sur le plan culturel. Il comporte toute la complexité d'une société. Cette communication vise à analyser les principales difficultés de la traduction juridique en essayant de proposer des solutions tangibles aux problèmes qui peuvent entraver le travail de tout traducteur soucieux de bien accomplir sa mission lors du passage d'un système juridique à un autre. La tâche est de plus en plus ardue, quand les systèmes présentent de grandes différences qui tiennent à des écarts culturels non négligeables.

**Keywords:** Legal translation, legal document , ambiguity, fidelity, right Interpretation.

Many claims have been made about the definition of legal translation, it has been described as a category in its own (Weston 1991, Gémar Garzone 2000) and as "The ultimate linguistic challenge" combining the inventiveness of literary translation with terminological precision of technical translation (Cairus & Mckean 1995, Gémar , Pelage 2000).

But how about the special status for legal translation ? There 's no doubt that a difficulty can be established between different translation genres ,according to the translation experience , and the nature of the task , so , each new challenge involves a combination of the background with the right comprehension as well as the interpretation of the translator .

This is why there is an accepted idea about scientific subjects for non scientists which is considered as an easy task, however , in this field Joseph remarks : "It is not unusual for specialists in a particular discipline to believe that other disciplines are better founded , less subjects to sceptical doubts and speculative changes than their own" (Gémar 1995) .

Legal translation requires more time and skills than other types of assignments .Every misunderstanding in the meaning will be disastrous, since we are dealing with two different law systems, such as the English system represented by the common law, and the Algerian law system.

### 1) What is considered as a legal document?

The first definition would be that a contract is a legal document, a correspondence with the lawyer is a legal document, a correspondence with the legal authorities is a legal document, a judgement is a legal document, an appeal to the court is also a legal document.

We all know that the hallmark of legal discourse is that it is not restricted to specialists, but (at least in theory ) intended for the lay citizen .(1)

It is not false that in some cases the lawyer acts as an intermediary or surrogate addressee "Le conseiller juridique" (2) in some western countries.

This complex communicative situation which is about unique special purpose communication (3) may explain the language of the law.

People rarely complain that they cannot understand the language of biology or genetics, but are always looking for a better comprehension of the law language.

The ambitious adage used in all western societies "Ignorance of the law is no excuse" "nul n'est censé ignorer la loi" has no equivalent in most special purpose ,which is generally

restricted to communication among special lists (Sarsevic 1997 )(4) nevertheless , there are cases of documents dealing with the law ,or even stating the law in which first person singular is prominent , for instance wills and notary ‘s document in French language.

In this field Sarsevic focuses on parallel texts of statutory instruments treaties and judicial opinions. But showing that the claim that “unlike other areas of special purpose translation, the main goal of legal translators cannot be to produce a text with the same meaning as the message of the source text”, is valid for parallel texts which are intended to produce equal legal effects.

Another definition of what constitutes a legal text would cover documents which are , or may become a part of judicial process , for instance , contracts , wills, courts documents , witness statement , and expert reports which are bread and butter activities for lawyers and legal translators.(5)

## 2) The nature of legal discourse:

One should say , to the best of my knowledge ,that the special status of legal translation derives from the prescriptive nature of legal discourse , in this way , Sarsevic divides legal documents into prescriptive and descriptive texts ,plus hybrid texts which contain both functions (Eg : Judicial decisions ,Appeals and petitions ) .

Anyway, when one focuses on prescriptive document, he may overlook the expressive or persuasive function which occurs in a form of discourse founded on rhetoric as a situation of communication between lawyer and layperson.

However one should also keep in mind that there is many examples concerning persuasive communication between lawyers eg: the explanatory parts of a judicial decision or a scholarly article explaining why a charge is needed (or was misguided) (6) .In such cases, the aim is not to prescribe or describe but to convince which is indeed a common function in professional communication.

For this reason the function of a document depends not on its inherent nature but on the communication situation .A statute is prescriptive in the eyes of the citizen compelled to abide by it (7) , but merely informative to the person with an interest in it ,eg: Person looking for a company law with a view to setting up a business .

### 2-1 A System-bound discipline.

Among the most striking epistemological features of law its lack of a common knowledge basis or what we call (Universal operative referents ) for legal translation , this results in the intrinsic obstacle of finding for culture bound terms .,particularly those related to concepts , procedures, institutions and personnel (Weston 2001, Harvey 2000) .

According to what is mentioned above the linguistics boundaries between the English law and the Arabic law are a big obstacles for the right comprehension and the right interpretation, from this perspective one can select some **examples:**

Remanded in custody	الحبس المؤقت
Combination of offences	تعدد الجرائم
Commutation of sentence	تخفيف العقوبة
False accusation	وشاية كاذبة
Denial of Justice	الامتناع عن الحكم
Court of Criminal Appeal	غرفة التحقيق
Misappropriation of funds	اختلاس أموال عمومية
To be given three months suspended (prison) sentence	حكم بالسجن بثلاثة أشهر موقوفة النفاذ

## 2-2 Fidelity

During the Roman Empire, fidelity was decreed that “the formal correspondence between source and target text was essential to preserve the meaning of both biblical and legal documents (8)

Similarly translators were instructed to adhere scrupulously to the original text, a tendency which lasted until the twentieth century, when the rise in national language consciousness in bilingual or multilingual countries such as Switzerland, Belgium and Canada, results in greater respect for the genius of the target language.

This is why specialists in legal translation define actually fidelity as achieving an equivalent impact on target reader, which may justify substantial changes to the original text to respect the stylistic conventions of the target legal culture .

Thus, the translator becomes a text producer rather than a bilingual typist keeping the same idea, The United Nations instructions for translators stipulate that “fidelity to the original text must be the first consideration”

## 2-3 Ambiguity and the right interpretation.

The language of the law is another big problem , since it is both the object studied and the mean of analysis (9) ,the language is not simply a medium but “The raw material” to be worked on, nevertheless , we may have some situations when ambiguity can be deliberate in legal documents .

It can be used in a contract in order to reach a compromise or to create uncertainties which one of the parties will subsequently seek to exploit.

In some international treaties, ambiguity leads to the question of interpretation, if decoding a text is a problematic for the lawyer, it is even more so for the translator, it is generally said that the translator must avoid “interpreting” the ambiguity since this is a task for trained lawyers.

This is why translators are engaged in a dynamic relationship with both sender and receiver where they will inevitably have to tackle question of interpretation (10)

## Conclusion:

One should ask firstly, do we have to be a lawyer to translate a legal text? The answer to this question could be negative; we just have to be a good translator accustomed to deal with some concepts and terminology in the legal field, especially when we know that the legal translation stands at the crossroads of three areas of inquiry (legal theory-language theory and translation theory).

Secondly, legal text meaning always shifts depending on the language in which it is expressed, and in some cases depending on the reader himself.

Thirdly, one should mention that every legal translation is a challenge for the translator because of the nature of the text ,the different obstacles ,the difference in concepts and means of expression from one culture into another , let alone the very heavy point in this transfer which is the responsibility of the translator in the accomplishment of his mission .

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