

DIFFICULTIES AND SOME PROBLEMS IN TRANSLATING LEGAL DOCUMENTS

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Translation of legal documents bears its own inherent difficulties. First we should note that this type of translation is burdened with both intricacies of literary translations and technicalities of scientific translations. A deep understanding of the original is essential but on the other hand we must grapple with intraspecific terminology concerning the choice of either translation or transliteration. We must be careful not to alter meaning through a thoughtless turn of phrase or a whimsical reorganization of sentence structure. So the translation of documents requires the flare of the literary and the accuracy of scientific translation.

What was postulated in the past and what topical nowadays is the rule that translators should observe in their language expression reproduced as much as possible the agency of their original. Terminology was one of the issues the translators paid special attention to and their sensitivity to word choice paved the way for most modern terminology. Terms in legal documents are a common phenomenon and they are approached as such in translations. A preference is given to the literary way of translating because the content of the original should be represented fully into the receptor language text. There is a link between translation rules of the past and those of the present but nowadays “translation” is a composition of more complex points than previously. In our field of research, e.g. legal documents, the phenomenon of translation can be viewed from different angles concerning Translation Theory as a whole. The translation of given document is also based on the original text. The translators cannot interpret freely, which means to add comments and explanations.

Nowadays “translation” is a composition of many things (some of them were pointed in the past), but the main aim of every translator is to keep the translation equivalent to the original.

Another feature that is of great importance for the translator is that the actual process of translating can be described as a complex use of language as:

1. Translation is a social phenomenon. It cannot exist outside a social community and it is within society that it fulfils certain social functions.

2. Translation is a cultural phenomenon. It can be viewed as a medium of cross-cultural fertilization, which allows sharing cultural heritage on a massive scale.

The original document and its translation are texts, which as other types of texts should meet seven standards of textuality:

1. *cohesion* – “the way in which the linguistic items of which a text is composed are meaning - fully connected to each other in a sequence on the basis of the grammatical rules of the language”;

2. *coherence* – “the way in which the things the text is about are mutually accessible and relevant”;

3. *intentionality* – “producer's intention to produce a cohesive and coherent text that will attain whatever goal he / she has planned it should attain”;

4. *acceptability* - “the receiver`s wish that the text should be cohesive and coherent and be of relevance to him / her”;

5. *informativity* – “the extent to which the occurrences of the presented text are expected”;

6. *situationality* – these are “the factors which make a text relevant to a situation of occurrence”;

7. *intertextuality* – “the way in which the use of a certain text depends on knowledge of other texts”. Any text is connected to some other texts produced before. (McGuire, S.B. Translation Studies, New York, 1989, p.14)

Translations are not made in a vacuum; they function in a given culture at a given time. We can speak of cultural embeddedness of text because every text is produced under given circumstances that rest on a specific cultural presupposition and this text is produced at a given time, with specific purpose directed towards specific audience to fulfill certain functions. That is why before we start translating a text we try to analyze it in terms of these variables /parametres/. Cultural dissimilarities then spring from the remoteness between the sender and the receiver. The two main parametres along which the text varies are space and time. Therefore they are of paramount importance and this is the measure of the cultural difference between the source and the receptor.

As we approach cultural boundaries transferred texts become increasingly difficult to understand until we give up a translation. And at this point we know that we have moved from one culture to another.

So, when we need a translation of a particular document, we have to do with different cultures. It is translation that bridges the cultural gap between the sender and the receiver in our case.

Culture is viewed as totality of knowledge, proficiency and perception and it is discussed in terms of its immediate connection with behaviour or action and its dependence on norms whether those of social behaviour or those accepted in language use.

The main cultural concern of translation theory, which is typical for all public documents, is the so-called “realia” (it comes from Latin “realis”. meaning “object”). Realia are words and combinations of words denoting objects and concepts characteristic of the way of life, the culture, and the

social and historical development of one nation and thus alien to another, since they express local and all historical colour, which does not have exact equivalence in any other languages.

Translation in its strict sense is not applicable to “realia”. The choice of realia depends on:

1. the generic specification of the text;
2. the significance of the realia;
3. the nature of the realia;
4. the distinguishing characteristics of the source language and the receptor language;
5. the reader.

In some legal documents as High School diplomas sometimes realia are terms and they are approached as such (FE: diplomas and certificates from technical schools and universities). But also in some peculiar situations we may employ transcription in a combination with a “footnote” to explain realia. The difference between transcription and substitution provides the nearest local equivalent. The translator should also consider the peculiarity of the source and the receptor texts but realia are only one of the issues a translator should be sensitive to.

Another important feature which a translator should pay attention to is the style. Style is a key notion for a translator. When he first reads a text getting ready to translate it, he draws some conclusions in regards to the style of the text. Later on he tries to reproduce the original message in such a way as to secure the stylistic or pragmatic effect for the reader as well. In translation of documents the regulations of the specific style should be observed. Sentences in various certificates and diplomas are short and contain maximum information, they follow simpler grammatical principles than those characteristic for the literary style.

The so-called “standards” are closely related to the stylistic aspects of textuality. They have been proposed in order to answer a number of key questions which the reader will need to ask about a text:

1. How do the clauses hold together? (*cohesion*)
2. How do the propositions hold together? (*coherence*)
3. Why did the writer produce this? (*intentionality*)
4. How does the reader take it? (*acceptability*)
5. What does it tell us? (*informativity*)
6. What is the text for? (*relevance*)
7. What other texts does this one resemble? (*intertextuality*)

There also exists a translation strategy in translation of documents that one should keep to.

Firstly, the translator should have an idea of the breadth and scope of the subject. They need works in the field, originals and translations- this is

perhaps the only way to deal with rendering those words, phrases and concept, which have intraspecific meaning. Sometimes a specialist in the field is needed to estimate the quality of the translation, with which the translator is working. The elements that are of great importance for the translator are anachronisms, awkward phraseology, and inconsistencies. Is the translated text comprehensible, does it flow? Are the terms comparable to those which are most commonly used in that area of concentration? The translator must begin to develop their own tools for discrimination between the over-general and the precise, the vague and the specific. Special dictionaries and glossaries are necessary for this purpose. Specific references for the unknown notions are put in footnotes, or for personal clarifications. This information must be at translator's fingertips. Each term may carry a different meaning in varying contexts; every possible variation should be checked and rechecked.

There are some rules, which are very important for the process of translating public documents:

First, search for the standard translation, if one exists.

By standard translation it is meant the accepted equivalent in the two languages of a technical term.

Second, if the best translation seems either to be anachronistic or to miss a nuance, the solution is to add the original in parentheses.

Third, if something is standard in one language, but not in the other, either do not translate or indicate to the reader the existence of this intellectual difference between the two linguistics cultures.

Fourth, if a term, which does have a standard translation, is used in the original in a markedly different way which is understandable in the original context; do not translate with the standard term.

Fifth, if a term has different cognitive ranges in the two languages and is of great importance for both – the original and the translated text, the translator ought to indicate that, either by a note or by a parenthetical use of the original term.

Sixth, if a term has different cognitive ranges within both languages but parallel between the languages, the safest way is literal translation, preferably by use of cognates if they exist.

As we can see from the above practical tips there are many difficulties concerning the translation of documents. The translators themselves have many things to deal with but their main task is to be an informed, indeed a very well-informed reader of the original text.

Another problem of the translator of legal documents is that of equivalency and adequacy.

Equivalence is seen as a scale and we can talk about adequate, literal and free translations. In most general terms free translation is a translation in

which more attention is paid to producing a naturally reading receptor text than to preserving the source wording intact. Free translation is the one which is made on a level higher than it is necessary to convey the content unchanged while observing receptor language norms. Free translation is not typical of the process of translating legal documents because of the specific details that have to be reproduced exactly into the receptor text.

Literal translation is a translation on a level lower than is literally required. So, the best choice for the translator will be the adequate translation. It is a translation executed on the necessary and sufficient level.

Another important feature that should be represented in the translation is informativity. It can be reached only by formal and logical presenting of the data included in a given document. Everything should be ordered in a specific way, the good design is of great importance for achieving the general effect-clarity. The translator should prefer adequate translation when they render texts belonging to the style of the official and public documents. Terms typical of this branch of stylistics are rarely open to interpretation because misinterpreting a single term influences the quality and precision of a translation which also should be reader-orientated. It should give the reader an accurate impression of what the source text is like. The translator's task is precisely to render the original document; particular emphasis must be given to the fact that the translator has to replace all the variations contained in the target text by their equivalents.

And last but not least, it is extremely important to gain actual work experience in a variety of jobs, or to be exposed to the textual results of that experience through books and articles, conversations with people who work in the field, etc. The more experience a translator has of a given profession or workplace or job-related jargon, the better able they will be to translate texts in that field. For example, when I was given a legal document to be translated, in order to be sure in the correct and adequate translation, I consulted a lawyer, regarding the specialized terms.

Some translators specialize in that field – legal translations – in order not a difficulty or a problem to come up.

Everything mentioned above leads to the conclusion that there is a list of rules, careful observance, which directs translators to the ideal translation that concerns neither the literal, nor the free, but the adequate one. There is a clear tendency for “unification” of the translations of some public documents. The tendency for standardization of translations is of help for the general integrity of our country and suggests better opportunities to everyone who wishes to rely abroad on the facts set out in a document emanating from the authorities of their own country.

At last I would like to say that it is difficult to translate legal documents because that job is not like translating literary texts where there

are no rules, no laws and there cannot be an absolute right or an absolute wrong. With specialized terminology there cannot be errors, missing or omitted words.

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