Legal Translator as a Communicator

Borja Albi, Anabel and Fernando Prieto Ramos (eds): *Legal Translation in Context. Professional Issues and Prospects: Series New Trends in Translation Studies*, 2013, Peter Lang, Oxford, Vol. 4, 315 pp

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Legal Translation in Context. Professional Issues and Prospects, edited by Anabel Borja Albi from Jaume I University (Spain) and Fernando Prieto Ramos from the University of Geneva, both practising sworn translators, offers an insightful overview of professional practices in the public and private sectors. As such, the book falls within the emerging track of research in Translation Studies, namely—workplace studies, and is a valuable contribution to the field. The book is a fruit of a two-year international project run at the University of Geneva's Faculty of Translation and Interpreting.

Although, due to the growing autonomy of the field of Legal Translation Studies and intense research activity, there are increasingly more publications on legal translation, this book stands out because it approaches legal translation from the perspective of translators and their employers (and/or commissioners of translation assignments) rather than from the usual perspective of the product of their work—a source or target text. Moreover, given the growing interest in legal translators' work under the EU directive on the right to interpretation and translation in criminal proceedings (2010/64/EU), this collection of papers could not be better timed with its overview of qualifications, on-the-job training and quality assurance procedures in various institutional and noninstitutional settings.

The book comprises an introduction on the state of affairs in legal translation and 14 papers organized into three parts: (1) Legal translation in the private sector, (2) Legal translation for national public institutions, and (3) Legal translation at international organizations. A few papers are co-authored to enable a comparative overview of practices.

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Part 1 opens with a paper by Jan Engberg of Aarhus University entitled “Comparative Law for Translation: The Key to Successful Mediation between Legal Systems”. Engberg, who is a proponent of the functional approach to legal translation as “a form of conveying knowledge” (p. 21), demonstrates how interests and needs vary for comparative lawyers, terminologists and translators, being driven by different practical aspects. He calls for a better integration of research findings and increased communication between the fields as well as for the re-orientation towards the communicative aspects of legal concepts (and legal translation as such). Such emphasis on cross-systemic communication adequately sets the scene for the remaining papers.

The second paper “Certified Translators in Europe and the Americas: Accreditation Practices and Challenges” co-authored by Francisco Vigier, Perla Klein and Nancy Festinger offers a comparative perspective on the selection procedure from three continents (although Europe is better represented than other continents), covering countries such as: the UK, Spain, Germany, Greece, Argentina, and the USA. It accounts for accreditation practices which vary from long-standing regulation (Argentina), self-regulation (the UK) to unregulated activity with regulated access (Spain). What is particularly valuable is a focus on recent changes in accreditation. For example, the paper reports that since 2009 candidates for sworn translators in Spain are required to pass a very difficult exam before the Spanish Ministry of Foreign Affairs with an extremely low pass rate, i.e. circa 2 % in 2009 (28 out of 1,244 candidates) (p. 32). For comparison, a similar sworn translator examination held in Poland has a pass rate at ca. 25 %, and is generally regarded as difficult. The Spanish developments were intended to tighten the certification system by eliminating the automatic accreditation of graduates with a Translation Studies degree (p. 32). A different rationale is reported for introducing ministerial exams in Greece in 2008 (not effective yet)—namely, the goal was to open up the profession and improve access for private citizens to official translations which were provided only by lawyers and notaries. The authors also discuss some accreditation-related controversies, including the Greek (controversial) proposal to fix the number of certified translators per province.

The next paper “Freelance Translation for Multinational Corporations and Law Firms” by Anabel Borja Albi discusses practical issues faced by freelancers providing legal translation directly to multinational corporations and law firms. Freelance translators, who work on their own, do not enjoy resources, feedback and collaborative learning available to in-house translators. As Borja Albi argues, what can improve the quality of their work is a thorough practical knowledge of legal genre conventions. She sees legal genres as “the communication units of the legal community” and “a synthesis of situations and prototypical discursive expressions” (p. 65). Such knowledge can improve translators’ textual competence by improving their skills of “mimicry, their ability to match the style, tone, etc. of the ST” (p. 65). This nicely matches the opening paper by Engberg, focusing on the communicative aspects of legal translation. Borja Albi also discusses a freelance translator database of textual resources and, in line with recent trends, points out to the need to extract not only terminological glossaries, but also phraseological ones (p. 71), which I note with satisfaction.

“Challenges of the Freelance Legal Translator: Lifelong Learning, Ethics and Other Key Professional Issues” by João Esteves-Ferreira somewhat briefly discusses various aspects of freelance translators, focusing in particular on their ethics, formal/informal networks and business practices.

Part 2 contains papers on the provision of legal translation for national public institutions. The first paper co-authored by Juan Miguel Ortega Herráez, Cynthia Giambruno and Erik Hertog, entitled “Translating for Domestic Courts in Multicultural Regions: Issues and New Developments in Europe and the United States of America”, is a comprehensive comparative overview of translation for domestic criminal courts in two continents, based on the findings of a few research projects. As the authors interestingly note, most attention is given to court interpreting, in particular in the US, due to the critical importance of oral testimony in court proceedings. In contrast to European courts, written documents “share the stage rather than dominate it” (p. 119). The final part of the paper discusses future developments and initiatives in the European Union brought about by the Member States’ transposition of the Directive on translation and interpreting in criminal proceedings aiming at improving a defendant’s right to a fair trial and a better regulation of the profession. The authors predict that the European initiatives may strengthen the role of legal translation and interpreting in criminal cases.

“Translating for the Police, Prosecutors and Courts: The Case of English Letters of Request” by Leo Hickey is a practically-oriented paper concerning the English into Spanish translation of letters rogatory, the recipients of which are, as Hickey notes, ‘ideal’ readers with some legal background. The study contains a detailed source text contextualisation and a discussion of translation procedures and term-level problems and an interesting discussion of various styles to be found in letters rogatory (formal/diplomatic style, police style, legal style and standard English).

The next paper entitled “Translating for Government Departments: The Case of the Spanish Ministry of Foreign Affairs and Co-Operation” by Ramón Garrido Nombela concentrates on in-house translators working in the area of diplomacy and international relations in the Spanish Ministry of Foreign Affairs and Co-operation, the translation service of which goes back to the 16th century. It starts with an overview of institutional translation, raising attention to such characteristics as: anonymity of the translators and ‘dilution of their efforts into teamwork’ (p. 144), high intertextuality of texts which requires ‘respect for past translations’ (p. 145), and conventional structure and stylistic neutrality of texts. The paper also presents basic translation workflows, specifying translation directions, types of documents and roles, and quality assurance procedures.

“Translating vs Co-Drafting Law in Multilingual Countries: Beyond the Canadian Odyssey” was authored by a renowned professor of Legal Translation Studies Jean-Claude Gémard. Emphasising the communicative role of legal translation, Gémard notes that it “has been a permanent activity and a key issue in the dialogue among nations at both levels: private and public” and exemplifies it with the case study of Canadian pioneering experience in the translation of bilingual national law. The Canadian experience is a quest for the ‘spirit’ rather than the ‘letter’ of the law (p. 156); it evolved from literal equivalence in the early days of

the British colonisation, through functional equivalence to co-drafting and the equal treatment of the drafting languages, English and French.

Part 3 discusses legal translation at international organisations, such as the EU, the UN, Interpol and the International Criminal Court. It opens with a paper by Susan Šarčević and Colin Robertson—“The Work of Lawyer–Linguists in the EU Institutions”. The authors investigate the profile of EU lawyer-linguists, an interdisciplinary profession which requires a background in law and languages. Lawyer-linguists are “drafting technicians who address the quality of the texts and language efficiency” and work towards ensuring the uniform interpretation and application of EU law in all the Member States (p. 201). Their work varies depending on the institution which employs them: those who work in the Court of Justice of the EU translate judgments and other documents, those who work in the European Commission, the Council of the European Union and the European Parliament mainly revise draft legislative instruments which are translated by translation service while lawyer-linguists at the European Central Bank both prepare, translate and revise documents, as well as act as legal advisers (p. 183).

The next paper “Legal Translation at the United Nations” by Xingmin Zhao and Deborah Cao addresses translation processes at another supranational organisation—the United Nations. The authors discuss the scope of legal translation at the UN, major text types, as well as the recruitment and on-the-job training of translators (e.g. mentoring and coaching). The final section, which presents a case study of ILC documents, investigates translation difficulties, such as a diversity of topics, their multilingual and multicultural dimensions, and imperfect terminological harmonisation.

In one of my favourite papers of the volume, Alexandra Tomić and Ana Beltrán Montoliu extensively explore translation processes in yet another international institution—the International Criminal Court. The paper is well-illustrated with real-life examples and challenges facing translators at the ICC. Challenges are related to the multilingual nature of the Court, the hybrid nature of the judicial system and the subject matter of proceedings (war crimes). The multilingual nature of the Court is quite complex: in addition to the Court’s working languages and other official languages, there are the so called situation languages, which are the languages of witnesses, suspects or the accused (e.g. Swahili, Lingala or Lendu, p. 230). At present the Court’s translation service is expected to accommodate as many as 45 languages (p. 233). In many cases these are languages of limited diffusion and less standardised languages which have not been used in international settings before. The authors discuss problems encountered with translation into Acholi, a language with few written materials and no legal terminology (e.g. no term for ‘victim’), and present the Court’s procedure for sourcing translations and standardising terminology in such languages (pp. 234–236). Another issue raised by the authors are culture-specific words, such as ethnic slurs with their rich historical connotations or terminology related to sexual violence and emotions, the accurate rendering of which may be next to impossible in another culture.

A very practically-oriented paper “Legal Translation at INTERPOL” by Muriel Millet, Head of the French Language Department at the International Criminal Police Organisation, again stresses that as a communication tool, legal translation

facilitates cooperation between member countries. INTERPOL has four working languages (Arabic, English, French and Spanish) and its priority areas include: corruption, drugs and organised crime, financial and high-tech crime, fugitives, public safety and terrorism, trafficking in human beings. Interestingly, a translator's daily workload is 5–6 pages of 300 words (p. 245); this is rather low, given that a freelancer's standard output is ca. 10 pages. Until 2009, 60 % of the translators' workload was notices, such as the red notice to arrest a wanted person. Because of staff problems, this was changed and notices are published in their original languages only, except for Arabic, which is translated into English. The most interesting part of the paper is the one which discusses the use of translation techniques. The author raises attention to the problem of identifying functional equivalents of criminal terms that would be capable of ensuring that an offence is punishable both in the requesting and the requester countries. Overall, wherever possible, the author recommends the functional approach to translation, i.e. a translation which is not only accurate but also natural and has a similar function: "the translation must give the impression of being an original document, written by a specialist of the subject matter. In other words, translators must produce a text in the target language that serves the same purpose as that in the source language" (p. 255). The author also points out major translation issues due to financial reasons, such as a trend toward monolingualism with an unequal treatment of languages and a growing number of self-revised documents.

In his paper "Legal Translation at the World Trade Organization" Fernando Prieto Ramos discusses the function of legal translation as a tool of ensuring reliable communication in the WTO, the objective of which is to reduce obstacles to international trade. He raises attention to peculiar sensitive areas, such as negotiations and trade dispute settlements. Negotiation documents are especially demanding of translators as they "reflect delicate balances as a result of several layers of compromise-building between different groupings with initial conflicting views" (p. 268–269). Likewise, dispute settlement documents tend to be complex, sensitive and ambiguous. The author provides a detailed analysis of handling them, e.g., co-ordination between revisers, a cautious use of translation memories, different translation output measures (p. 277). In the concluding lines of the paper, Prieto Ramos comments on the major challenge faced by the WTO translation service—namely, "maintaining a satisfactory balance between translation quantity and quality". This concern seems to be recurrent in the papers devoted to institutional translation.

Last, but not least, Olivier Pasteur's paper "Technology at the Service of Specialized Translators at International Organizations" discusses the use of CAT tools and other technology, focusing on WTO's Translation Support Section. The tools include mainly translation memories, termbases, multilingual text corpora, widgets, and automatic referencing tools. The author also discusses (successful) attempts to integrate machine translation into the translation workflow, which might be one of the major future developments facing the profession.

What I particularly like about this book is the strong emphasis on communicative aspects of legal translation and on the legal translator's role as a cross-cultural communicator, mediator and information broker. To sum up, the book offers an

excellent overview of professional practices in a single volume, contrasting numerous perspectives: national versus international, noninstitutional versus institutional, private versus public, individual versus teamwork, and attesting to how diverse and complex the field of legal translation is. The main asset of the book lies in its ‘insider’ perspective: most authors are professionals working in the field and have a practical knowledge and first-hand experience with translation. Thus, the book has a strong practical focus. On a critical note, or rather as a suggestion for further research, it would be interesting to supplement the discussion with empirical data from workplace studies.

I would like to conclude with a quote by Muriel Millet:

Our profession has evolved because we can now access the information we need almost instantly. In this regard, increased harmonization has been achieved in legal translation due to growing interaction between the different legal systems. The tools we have today have enabled us to make significant headway in productivity gains, but let us make no mistake: a promising future still lies ahead for translation as a communication tool, as no system will ever be capable of replacing the force and the magic of words. (p. 261)

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