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Legal and LSP Linguistics and Translation: Asian Languages' Perspectives

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Abstract
This essay opens the Special Issue of the International Journal for the Semiotics of Law dedicated to Asian Languages, entitled "Legal and LSP Linguistics and Translation: Asian Languages' Perspectives". It focuses on revealing the principal issues discussed in the volume, by positioning the contributors' works into the general theoretical semiotic perspectives which shape legal languages, legal translation and public discourse over languages spoken in Asia. This volume of the International Journal for the Semiotics of Law is composed of nine articles which may be grouped into four categories of problems. The first group in general refers to problems connected with legal communication both from interlingual and intralingual perspectives. Thus it encompasses four papers dealing with legal translation as well as communication in legal and political settings (Cao in Int J Semiot Law 32(1):1–16, 2018; Mannoni in Int J Semiot Law 32(1), 2018; Koptseva and Sitnikova in Int J Semiot Law 32(1):1–28, 2018; Alwazna in Int J Semiot Law 32(1):1–20, 2018). The second theme focuses on legal interpretation problems in Hong Kong (Leung in Int J Semiot Law 32(1):1–22, 2017) and is an important contribution due to the fact that the right to the interpreter and to communication in a language one understands in court proceedings is one of human rights nowadays and as the real life cases indicate is one of the rights which may be easily abused and no one apart from the victim and the interpreter actually may realise that that human right is not properly observed. Furthermore, the consequences of such abuse may have dire consequences for legal communication participants. The next paper, constituting a separate, third theme, is devoted to teaching legal translation and developing legal translators' competences from the very beginning (Halimi in Int J Semiot Law 32(1):1–8, 2018). The last category encompasses three papers devoted to the semiotic analysis of words and images aimed at achieving a specific persuasive result or proper understanding of similar but not identical concepts which may frequently be considered universal despite vital differences resulting from different historical, social or political evolution of societies and states (Xu in Int J Semiot Law 32(1):1–9, 2018; Abbas and Kadim in Int J Semiot Law 32(1):1–20, 2018; Haider and Olimy in Int J Semiot Law 32(1):1–32, 2018).

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1 New Research, Old Problems

The problem of providing equivalents between languages belonging to different language families has bothered translators for ages. There is no denying the fact that the less isomorphic the languages are, the more difficult it is to find equivalents for culture and system bound terminology. Many scholars and translators strived to provide successful translations of legal texts for the purpose of communicating laws, legal systems, legal ethics and legal philosophy. Nevertheless in the majority of cases the best they achieved was the conveyance of the average semantic and pragmatic content of the source text by linguistic means of the target language. Many of the translators actually admitted their failure to provide sufficiently equivalent texts due to the need to make foreign law comprehensible for foreign readership and acceptable for the authorities. Cicero in his essay *De optimo genere oratorum*, admitted that he acted himself *Nec converti ut interpres, sed ut orator*—not as an interpreter but as an orator [1]. The analysis of his translations of Greek words indicates that he resorted to the far fetching manipulation changing the rhetorical power of his texts to match the political standards and philosophy of the superiority of the Romans over the Greeks [2]. Saint–Jerome of Stridon, several centuries after Cicero, still faced the same dilemma. The patron saint of translators, St Jerome on the one hand claimed that: *non verbum de verbo, sed sensum, exprimere de* sensu "Render the sense rather than the words of the text" but on the other hand admitted that there are passages in the holy Bible in which even the word order is important and did translator is obliged to keep it the same in the target language [3]. Centuries later the problems remain the same. Nietzsche said that "To use the same words is not a sufficient guarantee of understanding; one must use the same words for the same genus of inward experience; ultimately one must have one's experiences in common" [4]. And Umberto Eco claimed that "Translation is the art of failure" [5]. Several papers in this volume discuss the issues related to the limits of translation, the limits of understanding following concepts, cultures, systems and mentality. The conclusions drawn by the authors clearly indicate that there is no one universal solution to the problem that has bothered translators for ages. Nevertheless the contemporary world without interlingual communication cannot develop especially in the face of widespread migration and globalisation. Therefore the efforts undertaken by scholars to make participants to the process of interlingual communication more sensitive to language differences and the lack of one-to-one equivalents are needed to overcome stereotypes concerning the feasibility of translation and to realise that interlingual communication is always a sort of approximation of the pragmatic and semantic meanings of source texts.

The first paper written by Deborah Cao titled "Desperately Seeking 'Justice' in Classical Chinese: On the Meanings of *Yi*" is devoted to the problem of translating the English term *justice* into Chinese. The author investigates potential equivalents in classical Chinese taking into account the meanings modelled by law, philosophy and idioms. The potential equivalent in classical Chinese is the term *yi* which may sometimes be encountered in translations. The author stresses that

translation has always involved some sort of text manipulation and has never been absolutely objective. Discussing the translation of the Qing Code by Sir George Staunton, she quotes the translator himself who admitted to interfere with the text in order to make it comprehensible for the English readership. Cao investigates a wide range of sources including the following classical Chinese ones: "(1) ancient Chinese philosophical writings, including the major works of Confucianism, Legalism and Mohism in pre-imperial China; (2) major imperial codes, i.e., the Tang Code and Qing Code; and (3) Chinese idioms" [6]. Having examined the contexts in which the term in question occurs, Cao reveals the semantic and pragmatic meanings of *yi* and draws a conclusion that in order to avoid translation errors and mistakes one needs to analyse the meanings of terms from various perspectives. It is due to the fact that the Chinese term does not have a one-to-one equivalent in the English language and sometimes it may mean *justice*, *righteousness*, *friendship and justice*, *greater good*, et cetera. At the same time having carried out diachronic research she concludes that the meaning of *yi* has remained context sensitive since Antiquity to contemporary times. Therefore neither *justice*, which is a fundamental concept for Anglo-Saxon and European legal systems, nor *yi* which is deeply rooted in Chinese legal culture, can be treated as equivalents though in some contexts the translator may decide that they are sufficiently equivalent to be used as such.

Michelle Mannoni who is the author of the paper titled "Hefa Quanyi: Understanding and Translating Chinese 'Lawful Rights and Interests'" discusses similar problems in reference to the crucial Chinese legal phrase that is to say *hefa quanyi* and its translation into English and Italian. This phrase may be translated as *a lawful or the legitimate rights and interests*. Similarly as Cao, he analyses the meaning of the phrase from a diachronic perspective taking into account the texts of the Constitution of China and other legal Chinese texts in which the phrase may be found. The author points out that equivalents used in Italian and English for that phrase are usually far from acceptable. "At the semiotic level, the impossibility for *quanyi* to be the semantic and legal equivalent of 'rights and interests' can be explained with a notable linguistic theory, the so called Sapir-Whorf hypothesis" [7]. The author thus concludes:

> the Chinese conservative attitude was especially suspect toward new and Western legal concepts. Whilst in Western countries influenced by the Greek culture and strongly shaped on a natural-law theory, rights are thought to be naturally pertaining to individuals by virtue of natural law, the allegedly equivalent concept of *quan*-power was not deemed to be inherent by virtue of human nature, endowed by nature or God, but was given uniquely to the ruler—and not to ordinary people—by heaven. Thus, *quan* is not inherently present in Chinese human beings, but it is granted to them by the ultimate authority, i.e. the Chinese Communist Party, whose power goes well beyond statutory laws. By taking this into account, if we assume that *quan* and *yi* still have today at least some of their traditional connotation of power and negativelyconnoted profit, it is understandable why *hefa* is needed in the phrase. The very presence of *hefa* sets limitations to their extent, and pre-

> vents people's *quan* and *yi* to go beyond the limits imposed by the ultimate authority and to undermine its *quan*, which is necessarily unlimited. [7]

Natalia Koptseva and Alexandra Sitnikova in the paper "The Historical Basis for the Understanding of a State in Modern Russia: A Case Study Based on Analysis of Components in the Concept of a State, Established Between the Fifteenth and Sixteenth Centuries" provide another diachronic analysis of the meaning of a law-related concept, that is to say the concept of the state in Russia and how the meaning of the term has been affected since fifteenth century—the epoch of Tsar Ivan the Terrible. The term, as used nowadays, seems to be a general clause having no precise definition despite numerous scientific efforts undertaken to formulate it. The authors deal with the concept of state from the semiotic and historical perspectives pointing out that it is "a specific national and cultural phenomenon" [8] which is deeply embedded in history, culture, politics, philosophy and religion. The analysis carried out by the authors reveals that the concept of state, which is understood as a hierarchical structure with the leader of the state who is almost omnipotent, is still present in the Russian language which is due to the fact that "there can be no equality between tsars, those close to the tsars, and subjects. This is obvious, because the Tsar is not only human, but is also chosen by God" [8]. Even nowadays, when the concept of the democratic state is widespread in Europe, the mental concept of the state in Russia is deeply rooted in fifteenth and sixteenth century models with the tsar being replaced by the president as the leader of the state. Without the semiotic insight into the history of the Russian statehood and the historical development of the concept of the state, one may clearly fall into a trap of associating the term with the concept of state known in his or her native country.

The paper titled "Translation and Legal Terminology: Techniques for Coping with the Untranslatability of Legal Terms between Arabic and English" by Rafat Y. Alwazna focuses on the concept of untranslatability of legal terminology. The author analyses the West Germanic language that is English and one of the Semitic languages that is Arabic. As those languages belong to different language families the problems of untranslatability are more frequent. The additional problem is the fact that the legal systems of the Arab countries (Islamic law) and Anglo-Saxon countries (common law and equity) are completely different as well. At the same time there is a need for English-Arabic legal dictionaries and lexicons. Alwazna points out that one of the problems is conceptual asymmetry and incongruency. However, the problems may be overcome if the proper technique of providing equivalents is applied in the course of translation. In order to choose the best technique, the translator should apply legal, cultural and linguistic criteria. The domain knowledge of the translator is essential as far as a legal criterion is concerned as the in-depth knowledge of legal differences between Islamic Law and Common Law is crucial for effective legal translation. "Cultural criteria are of utmost significance in picking up the appropriate strategy(s) for a particular translation project. This is due to the fact that problems of legal terminology often arise on account of the differences in legal systems and legal cultures to which both the source legal text and target legal text belong"

[9]. Finally, the linguistic criterion encompasses lexical and syntactic choices of the translator. The acceptable legal translation is the one which provides effective legal communication.

2 Effective Legal Communication and Human Rights Observance

Legal translation and interpretation more and more frequently is the issue of utmost importance as far as the observance of human rights is concerned. It should be stressed here that the oppressiveness of being involved in criminal trial is even greater when the person involved does not communicate in the language of the court. More and more studies are devoted to consequences of erroneous court interpretations with the so-called Melbourne case of 1992 being one of the most infamous examples [10].

The Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 in article 5 specifies that:

> 2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him. [11]

and in article 6 referring to a right to a fair trial it is stated that:

> 1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
> 2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
> 3. Everyone charged with a criminal offence has the following minimum rights: (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him; (b) to have adequate time and facilities for the preparation of his defence; (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require; (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him; (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court. [11]

It is vital to pay attention to two issues raised by the Convention. First of all, the interpreter must be appointed for the person who does not speak the language of the court and secondly, the interpreter must be able to communicate in a language which the foreigner understands, and the verb *understand* is crucial here [12] as it is a prerequisite for the process of communication to take place and be effective.

Ester Leung in her paper "The Jurisprudence and Administration of Legal Interpreting in Hong Kong (1966–2016)" discusses a very important issue related to one of human rights that is to say a right to an interpreter in Hong Kong. Analysing the status quo of interpretation in bilingual settings of Hong Kong she focuses on languages other than the two official ones in Hong Kong which are Chinese and English. Her research reveals that the services of interpreters of the following minority languages have been requested: Tamil, Vietnamese, Mongolian, Punjabi, Urdu, Swahili, Sinhalese, Lithuanian, Korean, and Japanese. Apart from that interpreters are needed for various Chinese dialects. As Hong Kong has a tradition for interpretation especially in court proceedings involving immigrants, there are also reports concerning mistranslation problems resulting from not sufficient command of a foreign language of an interpreter or the foreigner speaking some dialect divergent from the official language making it difficult for the interpreter to understand the source text message properly. Additionally, "As pointed out by Berg-Seligson, Gurung, Hale, Leung and Gibbons and Leung [13–18], the differences between languages and cultures, though not insurmountable, pose challenges to interpreters, especially when they experience the time pressures and stress of the courtroom environment" [19]. The quality of interpretation services has increased significantly in Hong Kong. However, there are still problems of quality of services provided by full-time interpreters, part-time interpreters and freelancers. The more widespread a given language is, the better chances for finding a qualified interpreter. At the same time there are not enough highly-qualified interpreters for languages of lesser dissemination as mostly the so-called community interpreters, that is to say persons having a given minority language background but no interpretation qualifications, may be found.

3 Teaching Legal Translation

Only one of the papers in this volume touches upon the issue of educating future translators of legal texts. It is the paper written by Sonia Asmahène Halimi titled "Rethinking the English–Arabic Legal Translation Course: Restructuring for Specific Competence Acquisition". The author focuses on the earliest stage of an English-Arabic legal translation course paying special attention to the problem of concept processing. The analysis of the meaning of terms must take into account the following areas (a) legal systems; (b) branches of law; and (c) genre-based phraseology [20–23]. There is no denying the fact that

> Developing subject-area competence in translation involves dealing with the linguistic aspects of the text in terms of its type, genre, domain concepts, terminology, phraseology and discursive conventions. It also requires knowledge

> of extratextual constraints related to legal systems, branches of law and the target community in order to guarantee meaning relevance, terminological consistency and stylistic appropriateness. The high level of complexity in legal texts and lack of legal background among most students reaffirm the need to introduce techniques and methods to enhance thematic knowledge in the early stages of their training. [24]

The course which is proposed by the author is compliant with the state-of-the-art in the field of legal translation as it aims at giving the future translator the analysis skills that he or she will be able to adjust to a particular translative situation. One must agree that it is the only reasonable solution as meanings of terms are modelled constantly by legislators and societies, therefore one cannot expect that the pairs of equivalents once learnt by heart will be good throughout 3 or 4 decades of the average professional life of the translator. The meanings of terms which denote concepts evolve due to political, social, technological, geographical, historical, economic and many more factors [25]. Therefore, the translator needs competences that are going to enable him or her to solve the problems by establishing proper meanings at a given moment of time and making proper translational decisions in specific communicative circumstances. Fernando Prieto Ramos [26] has proposed the parametric methodology for legal translation competence development which is based on the establishment of translation *skopos*, macro-contextualization on the basis of established *skopos*, source text analysis, target text production involving the transfer of meanings and revision. Halimi bases the translation teaching course on the parametric approach of Ramos. The choice of parameters is definitely proper and consequently the selection of problem-solving tasks incorporated as an integral element of legal translation courses may significantly increase the competences that the future legal translator should possess.

4 Words and Pictures as Tools of Manipulation

Youping Xu from Guandong University of Foreign Studies ("Scolding "Brothers" and Caring "Friends": Discursive Construction of the Identity of Mediation Helpers in China") discusses the mediation models in China with special attention paid to the importance of persons who are not professional mediators in Chinese dispute resolution tradition. Such persons are usually family members neighbours, community leaders or friends. The methodology applied by the author includes the identity framework elaborated by Bucholtz and Hall [27, 28]. The research material consisted in 10 episodes of Chinese TV divorce mediation programs. The author's findings indicated that the language used by the mediation helpers enables them to function either as scolding elder brothers or caring friends depending on the persuasive force of each type of identity assumed by them.

> It is found that such social factors as the way Chinese tend to establish relational ties through kinship or special relationships propel mediation helpers to seek common ground with parties and emphasize the sameness between them. Besides, due to cultural factors such as Confucius teaching of being deferent

> to elder brothers and honoring friends' experiences, mediation helpers often highlight their authority and power in offering suggestions. [29]

Thus, it may be concluded that in intralingual communication people are willing to resort to pragmatically persuasive language exploiting their position to achieve the communication goals which are most desirable from the perspective of culture, tradition and custom. It is essential to realise that such non-professional mediators are far from being impartial. What is more, their objectivity may be affected by their personal attitudes toward the parties requiring mediation services. As they are not trained, they need to rely on intuition and the social status they have in a given community. In some instances, especially when they adopt the identity of the scolding brother, they may offend one of the parties as a result of which such a person may feel he or she has lost his or her face. The issue in question definitely deserves more attention of scholars. It would be extremely interesting to compare the strategies adopted by professional and non-professional mediators in order to juxtapose their effectiveness from various perspectives, with impartiality and effectiveness of mediation being definitely of utmost interest.

Ahmad S. Haider and Saleh Olimy in their paper "The Representation of Laji'een (Refugees) and Muhajireen (Migrants) in the Headlines of Jordan News Agency (PETRA)" discuss the power of manipulation of media via linguistics means. The authors have analysed headlines of articles dealing with the problem of migration of people from 2012 till 2016 in Jordan. The analysis reveals the shift in semiotic perspectives. Initially in 2012, the people fleeing from their countries from various reasons are perceived as refugees who should be provided with shelter, but with the flow of time the language changes and they are perceived as migrants. To put it in other words, initially the issue of providing assistance is raised, then the issue of assisting the country which provides help is raised (the end of 2012, and in 2013 and 2014), and next with the increased flow of refugees and the financial strain on government budgets the calling for assistance to share the burden is observed in 2015. Finally, the next linguistic shift may be observed when the language focuses on funding and the need to solve the problem of migrants. The Jordan News Agency (PETRA) headlines have emphasised the difference in the financial situation of Jordan and European countries as well since 2016.

> In 2016, the headlines have changed the focus to Europe due to migration of the refugees. It's a motivation for the national news agency of Jordan to highlight the suffering of Europe because of the refugees bearing in mind that the European countries have the financial capacity to deal with the problem when compared to Jordan that is already suffering. [30]

The authors stress that media are very powerful nowadays and they have incredible persuasive force. One cannot disagree as media undoubtedly create ideologies, shape them [31] and actively create worldviews. They may be an incredible tool of manipulation. They can contribute to the creation of stereotypes and prejudice. They can stigmatize certain types of behaviour and can create that way deviant communities which are not socially acceptable [32]. A similar role is assumed nowadays by social media. That important aspect should be analysed from the semiotic perspective as

the new phenomenon which is called cyberbullying may be observed as a result of the rapid development of the Internet and social media which give access to large numbers of people and enable to provide anonymity. The semiotic analysis should take into account not only words and their meanings but also emoticons and pictures which also convey messages sometimes in a more persuasive way than words.

The issue of the persuasive force of images is the topic of the paper written by Ali Haif Abbas and Enas Naji Kadim. In their essay "Crimes of Terrorism on Innocent Iraqis from (2014) to (2016): A Semiotic Study" they deal with the problem of the impact of terrorist organizations and their activities on innocent Iraqis who are not involved in them. The methodology incorporated by the authors included visual-semiotics apparatus, especially the approach of Barthes [33], applied to the analysis of 13 iconic photographs published in the media from 2014 till 2016 in which the effects of terrorist attacks on innocent Iraqis were portrayed. The semiotic analysis carried out in the paper of the selected iconic photographs provides a valuable connotative and denotative insight into the effects of terrorism on the citizens of Iraq. The conclusions are that all people no matter of their religion or ethnic origin (Sunnis, Shia, Christians, Kurds, Turkmen, and Yazidis) are affected severely. The tragic fate of people is enhanced by showing the victims who are children—the pain, suffering and death of children arouses strong emotions and media is definitely using it to make their messages more convincing and persuasive. The emotions in fact are the third important aspect uncovered in the course of the visual-semiotic analysis. As the authors conclude at the end of their paper:

> Emotions of death, pain, suffering, confusion, anger, and sadness. All the people in the photographs are unhappy and miserable. Everything in the photographs is full of desperation and pessimism. This creates strong negative reaction to everyone sees these sad and painful photographs which in turn ignite strong emotional response by the viewer. Theme of weakness and confusion can also be noticed in the photographs. Most people in the photographs are powerless, cannot understand why all of this brutality and barbarity is happening to them. [34].

In that case media strive to arise emotions such as sorrow, compassion, grief, etc.

5 Concluding Remarks

This volume clearly indicates the wide array of topics that are of interest to scholars dealing with various aspects of semiotic analysis of communication both verbal and visual. As far as verbal communication is concerned the issue of precise and effective communication in legal settings is extremely important for communication participants. The problem of untranslatability, which has bothered translators for centuries, seems to have been resolved to a large extent as the techniques of providing equivalents for non-equivalent terminology or partially equivalent terminology have been elaborated and are more and more well-known and applied in translators' daily practice. There is much more to be done in respect to the education of professional interpreters and translators though. So far no comprehensive methodology for legal

translation teaching has been written. Nevertheless, we can observe the emergence of some important principles and good practices in this respect including the parametric methodologies and translation competence approach. The more is done in reference to training and educating translators and interpreters, the better chances that the human right to communicate in a language a person understands in legal settings is going to be observed and the services offered to persons who need an interlingual mediator (a translator or interpreter) are going to be of sufficient quality.

The semiotic analyses of text and images in public domain including media, law and politics is gaining more and more importance nowadays as the issues such as linguistic manipulation, persuasiveness, stereotyping and bullying become widespread nowadays. A better insight into the phenomena may help prevent negative consequences of language and image abuse.

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