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Linguistic Difficulties for Translators and Interpreters: The Case of Forensic Law and Science Documents

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ABSTRACT

Forensic Science (or Forensics) holds various fields of science (Psychology, Pathology, Odontology, Toxicology, Digital Forensics, to cite a few) involved in solving crimes and offences at any stage in criminal proceedings and researches. On the other hand, Forensic Law is a legal branch that involves issues related to forensic techniques in a justice system (being thus linked to Criminology, Criminal Law, and Civil Law). The intersection of Science and Law contributes to finding out the truth of a case, either criminal or civil, and they both have undergone dramatic progress in recent years. The aforementioned intersection provides specialists with a considerable amount of documents, either electronic or paperback...and they often need to be translated or interpreted into other languages. The high level of technical terms, complex nouns and phraseology, hamper their translation, interpreting, and proofreading services. This paper, will provide the reader with the main linguistic features of Forensic Science and Law Discourse, matched with source texts and target texts. By means of the use of original Forensic documents, translators and interpreters will be provided with techniques and strategies for facing their translation and proofreading.

Keywords: Forensic Science; Forensic Law; Linguistic difficulties; Translation; Proofreading .

1. Introduction

As recently stated and highlighted throughout the 1st International Conference on Translational Forensics (Caparica, 2017), forensic sciences and technology (Forensics) are of utmost importance for court cases (civil and criminal law). Owing to this, the amount of research and casework documents is becoming increasingly demanded among researchers, laboratory workers, and legal professionals. Undoubtedly, Forensics is at the crossroads for Science, Technology and Law.

By considering human migration, and international cooperation, the noteworthy amount of relevant available sources –both scientific and legal– requires the intervention of highly skilled translators, interpreters and proofreaders. This is partly because many of the key documents do present both scientific and legal linguistic features. Consequently, the professional translator may deal with “hybrid documents” of a mixed nature. These text genres entail two-fold difficulties:

on the one hand, they describe scientific procedures and techniques, on the other they must show the reader that they comply with all rules and legislations in force.

In this paper, several documents related to forensic science and law discourse, will be selected for identifying their linguistic difficulties and the applicable translation techniques. Our final goal is to generate a corpus selective list, see whether they entail translation difficulties and provide the target reader with all the solutions available.

1.1. Specialized Translation: Techniques

Specialized translation (science, technology, law, business) differs from general translation (newspaper, advertisement) by providing linguistic solutions to highly specialized texts and documents. As it has been previously researched [1, 2, 3, 4], the task of specialized translators is hence challenging, and problems will emerge during the translation process, since the list of required skills is noteworthy:

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- linguistic skills
- translation skills
- thematic area knowledge
- parallel documentation knowledge
- computer sciences for translators and proof-readers.

Due to the difficulties encountered by translation professionals, many scholars suggested translation techniques aimed at providing them with linguistic instruments for their professional task. Below is the overall list coined by Hurtado Albir [5], and Molina and Hurtado Albir [6].

Classification of translation techniques:

Adaptation: To replace a source text cultural element with one from the target culture. Baseball (E) ⇒ Fútbol (Sp).

Amplification: To introduce details that are not formulated in the ST: information, explicative paraphrasing, (A) Ramadan ⇒ Ramadan, the Muslim month of fasting (E).

Borrowing: To take a word or expression straight from another language. Pure borrowing: Lobby (E) ⇒ Lobby (Sp), Naturalized borrowing: Meeting (E) ⇒ Mitin (Sp).

Calque: Literal translation of a foreign word or phrase; it can be lexical or structural. École normale (F) ⇒ Normal School (E).

Compensation: To introduce an element of information or stylistic effect in another place in the target text because it cannot be reflected in the same place as in the original text. I was seeking thee, Flathead (E) ⇒ En vérité, c'est bien toi que je cherche, O Tête-Plate (F).

Description: To replace a term or expression with a description of its form or/and function. Panettone (I) ⇒ The traditional Italian cake eaten on New Year's Eve (E).

Discursive creation: To establish a temporary equivalence that is totally unpredictable out of context. Rumble fish (E) ⇒ La ley de la calle (Sp).

Established equivalent: To use a term or expression recognized (by dictionaries or language in use) as an equivalent. They are as like as two peas (E) ⇒ Se parecen como dos gotas de agua (Sp).

Generalization: To use a more general or neutral term. Guichet, fenêtre, devanture (F) for window (E).

Linguistic amplification: To add linguistic elements. This is often used in consecutive interpreting and dubbing. No way (E) ⇒ De ninguna de las maneras (Sp).

Linguistic compression: To synthesize linguistic elements in the TT. This is frequently used in simultaneous interpreting and in sub-titling. Yes, so what? (E) ⇒ ¿Y? (Sp).

Literal translation: To translate a word or an expression word for word. She is reading (E) ⇒ Ella está leyendo (Sp).

Modulation: To change the point of view, focus or cognitive category in relation to the source text. Estás embarazada (Sp) ⇒ You are going to have a child (E).

Particularization: To use a more precise or concrete term. Window (E) ⇒ Guichet, fenêtre, devanture (F).

Reduction: To suppress a ST information item in the TT. Ramadan, the Muslim month of fasting (Sp) ⇒ Ramadan (A).

Substitution (linguistic, paralinguistic): To change linguistic elements for paralinguistic elements (intonation, gestures) or vice versa. To put one's hand on the heart (A) ⇒ Thank you (E).

Transposition: To change a grammatical category. He will soon be back (E) ⇒ No tardará en venir (Sp).

Variation: Introduction or change of dialectal indicators, changes of tones.

2. Material and Method

The corpus analyzed consisted of hybrid documents linked to Forensics that entails translation difficulties due to its hybrid (scientific and legal) nature. The documents researched (or text genres) amounted to 15, as follows below:

- 5 Death Certificates.
- 5 Advanced Medical Directives (also known as Living Wills).
- 5 Informed Consents (to Surgery/Special Procedure).

Death Certificates (or Certificates of Death) are documents stating the particulars on an individual who has just deceased. The structure follows a table format, stating data such as the name (first, middle and last) of the deceased (also called "decedent"), the date and place of death, her/his sex and age, her/his occupation, and the cause of death. A doctor certifies the cause of death, although other relevant figures appear in this forensic document:

- the informant (in charge of reporting the death),
- the coroner (responsible for confirming and certifying the death within the premises of a jurisdiction),
- the registrar (or officer who certifies that the document issued is a true copy of the original entry).

As far as the Advanced Medical Directive is concerned, it states the decisions of an individual regarding his consent (or refusal) to medical treatment. The document presents alternative naming (Living Will, Advance Directive, Advance Decision, Advance Decision to Refuse Treatment (ADRT) o Advance Health Care Directive). The format follows a four-fold structure, by combining the following sub-documents:

- Advanced Medical Directive execution
- Medical Treatment
- Power of Attorney for Health Care
- Organ and Tissue Donation.

The relevant figures interacting throughout the document are also diverse:

- the person executing the document (the granter)
- the healthcare providers and the doctors (who shall be in agreement on the diagnosis of a terminal condition of the granter)
- the healthcare agent ("the agent") who shall make health care decisions based on the details given in the Directive.

The Informed Consent (to Surgery/Special Procedure) is a multi-page document that provides the patient with the information needed so that s/he may give or refuse her/his

consent to the surgery or special procedure recommended by the doctors. The involved parties are three: the patient (giving or refusing consent to the recommended surgery/special procedure) or her/his legal representative; the doctors assisting the patient (and recommending the operation or procedure); the practitioner (who is performing the procedure or administering the medical treatment). There could also appear an interpreter providing language assistance for foreign citizens.

The document sections may include the following:

- a) The consent to the surgery or procedure described therein, along with its benefits, risks and adverse reactions
- b) The physician certification
- c) The consent to blood transfusion
- d) The interpreter's statement, if applicable.

Our research methods made full use of the translation techniques coined by Hurtado (and Molina Hurtado).

The texts listed above were thoroughly analyzed in search of translation difficulties. Then, the translation difficulties were selected and solved by using the translation techniques described hereby. Subsequently, the results of the study were structured presenting the difficulties' solutions by means of illustrative examples selected from the corpus.

3. Results

After the analysis of the corpus, multiple linguistic elements that could represent a "troublesome item" for translators and interpreters were identified. The list was shaped as stated below:

- Adaptation: "First Name, Middle Name and Last Name" [in the three text genres] for "Primer nombre de pila, Segundo nombre de pila y Apellido".
- Amplification [text: Advanced Medical Directive]: "Pain" for "Malestar y dolor", "Being of sound mind" for "Estando en pleno uso de mis facultades mentales"; [text: Informed Consent]: "the undersigned" for "el abajo firmante" or "el signatario del documento"; [text: Death Certificate and Informed Consent]: "Physician's Certificate" for "Informe Pericial del Facultativo".
- Borrowing: "Test" [in the three text genres] for "Test"; "Doctor" for "Doctor".
- Calque and Literal translation [text: Informed consent]: "the operation or procedure" for "la operación/intervención o procedimiento", "adverse reactions" for "reacciones adversas".
- Compensation: "Date and Place" [in the three text genres] should be replaced by "Lugar y Fecha"; [text: Advanced Medical Directive]: "for the purpose of transplant only" for "con el fin único del trasplante de los mismos".
- Description: [in the three text genres]: "print name" for "en letras mayúsculas/con letra de imprenta/con letra de molde".
- Established equivalent [text: Death Certificate]:

"Qualification" for "En calidad de", "Registration Number" for "Número de Colegiado", "Marital status" for "Estado civil", "Occupation" for "Profesión", "Informant" for "Declarante", "true copy" for "copia fiel", "in a register in my custody" for "que obra en mi poder"; [text: Advanced Medical Directive and Informed Consent]: "Sections" for "Cláusulas"; [text: Informed Consent]: "member" for "extremidad"; [text: Advanced Medical Directive]: "Advanced Medical Directive": "Declaración de Voluntades Anticipadas" (which is also a form or Particularization), "firm and settled decisions" for "la expresión formal de mi voluntad", "in my best interests" for "en mi (propio) bien".

- Generalization [text: Death Certificate]: "Certified copy of an entry" for "Certificado de Defunción".
- Modulation [text: Death Certificate]: "Deceased/Decedent" for "Causante".
- Particularization [text: Informed Consent]: "terms and conditions" for "cláusulas", "foregoing" for "el presente (documento)"; [text: Death Certificate]: "the particulars above" for "la información consignada anteriormente".
- Reduction [text: Informed Consent]: "Warranty or guarantee" for "Garantía", "but are not limited to" for "entre otras"; [text: Advanced Medical Directive]: "Cannot be cured" for "Irreversible", "Under undue influence, duress or menace" for "sin coacción (alguna)", "Where I am unable to communicate my wishes" for "Que no pueda expresar mi voluntad"; text: Death Certificate]: "Maiden surname of woman who has married" for "Apellido de soltera", "the employment followed by the deceased" for "el empleo del fallecido/causante".
- Transposition [text: Informed Consent]: "The hospital maintains" for "El mantenimiento del hospital".

4. Discussion

Within the forensic corpus analyzed, a considerable amount of binomial and trinomial expressions has been perceived, usually placed within legal documents. Examples of these are the following: "You authorize and consent" (text: Informed consent), "accurately and completely" (Informed Consent), "being of sound and disposing mind, memory and understanding" (Advanced Medical Directive), "operation or procedure" (Informed Consent), "terms and conditions" (Informed Consent), "disease or condition" (Death Certificate), "to the best of my knowledge and belief" (Death Certificate), "firm and settled decisions" (Advanced Medical Directive), to cite a few.

Obviously, interpreting techniques, such as Substitution, Linguistic Amplification, and Linguistic Compression were not detected within the corpus. Additionally, Variation would be necessary when the translator receives a translation brief requiring her/him to perform a translation for a different Spanish-speaking country. Discursive creation, a common technique for literary and audiovisual translation,

was not required for our goals. Nevertheless, “dynamic translation” was required when a lack of exact equivalences was identified. As an example, “Registrar” is not “Registrador” (used for “Registrador de la Propiedad”), is a type of civil or public servant in charge of a Civil Registry, therefore, they are talking about a “Responsable/Jefe del Registro” in Spain; “the Physician” is not “el Físico”, but “El Médico/Especialista”.

Euphemisms were also tagged in the researched corpus:

- “Condition” with the meaning of “Disease/Illness”: Enfermedad, Patología
 - “To die” would become “fallecer” in Spanish.
- Meanwhile, the term “Death” (from a “Death Certificate”) has multiple translations into Spanish:
- “(Certificado/Certificación de) Defunción” for the document’s name
 - “(Causa del) Óbito” for the cause (“death caused by”)
 - “Acta” or “Partida” for the document’s Register number.

The “Informed Consent” makes full use of variety when dealing with the biomedical specialist, herein called “physician”, “doctor”, “practitioner” and “medical practitioner”. Nonetheless, there are linguistic alternatives in Spanish language: “especialista”, “medico”, and “facultativo”.

In order to summarize the translation techniques identified within our corpus, several tables (Table 1, Table 2, Table 3, and Table 4 for overall results) were designed to illustrate the results of our research, as stated below. A cross was inserted when a translation technique proved useful within each text.

Firstly, Table 1 will show the translation techniques identified within the corpus of Death Certificates.

Table 1. Corpus Translation Techniques: Death Certificates .

Translation Techniques	Death Certificates
Adaptation	X
Amplification	X
Borrowing	X
Calque and Literal Translation	
Compensation	X
Description	X
Discursive Creation	
Established Equivalent	X
Generalization	X
Linguistic Amplification	
Linguistic Compression	
Modulation	X
Particularization	X
Reduction	X
Substitution	
Transposition	
Variation	

Secondly, Table 2 will summarize the translation techniques identified within the corpus of Advanced Medical Directives.

Table 2. Corpus Translation Techniques: Advanced Medical Directives .

Translation Techniques	Advanced Medical Directives
Adaptation	X
Amplification	X
Borrowing	X
Calque and Literal Translation	
Compensation	X
Description	X
Discursive Creation	
Established Equivalent	X
Generalization	
Linguistic Amplification	
Linguistic Compression	
Modulation	
Particularization	
Reduction	X
Substitution	
Transposition	
Variation	

Thirdly, Table 3 will illustrate the translation techniques identified within the corpus of Informed Consents.

Table 3. Corpus Translation Techniques: Informed Consents.

Translation Techniques	Informed Consents
Adaptation	X
Amplification	X
Borrowing	X
Calque and Literal Translation	X
Compensation	X
Description	X
Discursive Creation	
Established Equivalent	X
Generalization	
Linguistic Amplification	
Linguistic Compression	
Modulation	
Particularization	X
Reduction	X
Substitution	
Transposition	X
Variation	

Table 4. Corpus Translation Techniques: Overall Results.

Translation Techniques	Death Certificates	Advanced Medical Directives	Informed Consents
Adaptation	X	X	X
Amplification	X	X	X
Borrowing	X	X	X
Calque and Literal Translation			X
Compensation	X	X	X
Description	X	X	X
Discursive Creation			
Established Equivalent	X	X	X
Generalization	X		
Linguistic Amplification			
Linguistic Compression			
Modulation	X		
Particularization	X		X
Reduction	X	X	X
Substitution			
Transposition			X
Variation			

Lastly, Table 4 will show the comparison of the translation techniques identified within Death Certificates, Advanced Medical Directives, and Informed Consents.

5. Concluding Remarks

Both Death Certificates and Informed Consent allowed us to use 10 translation techniques, whereas Advanced Medical Directives needed 7 techniques. The Informed Consent was the document with an increased usage of binomials and trinomials. Since it entails a large amount of legal phraseology, this was a foreseeable feature. Nevertheless, Death Certificates and Advanced Medical Directives also made full use of these grammatical expressions. Hence, either binomials plus trinomials could be balanced by looking for a cultural (established) equivalent, or they could undergo reduction (“last will and testament” for “testament”). Translation assessment is a troublesome task, although there are several techniques that could be used when facing the translation task. Euphemisms could be translated into other euphemisms (established equivalent: “deceased” for “causante”) or be transferred by means of Calques and Literal Translations (“difunto”). Borrowings (“testar” from “to test”) do not always work, since “the doctor” sometimes means “el doctor”, but other times it refers to “the physician”. Compensation is advisable for non-

literal translations, but not for “calqued translations”. Adaptation is affordable when the target culture holds a cultural equivalent. Amplification is a useful technique for translating simple technoelects into complex terminology. It is recommended that translators draw on Descriptions for items (“coroner”) with the lack of lexical equivalent in the target culture. Indeed, Established Equivalents fit when each culture utters differently the surrounding reality. Generalization may be used when translators find a more general (target) term. Translating cultures often requires the use of Modulation. Particularization is always a kind of “itemation” with the aim of providing the target reader with more specific terms. The translator often compensates the number of words by resorting to words’ Reduction. Finally, Transposition is compulsory when the grammatical category of a term requires replacement for an alternative category. Overall, when a professional translator opts for a technical term, s/he should be coherent to her/his translation, especially when dealing with the translation of document’s headings.

Translators and interpreters should also work hand in hand with other (scientific and legal) experts. When translating a court text, the judge or magistrate would provide relevant data. If the translator faces the translation of a forensic text, the forensic scientist or technician would supply her/him with the information required.

Undoubtedly, the use of parallel documentation is a ‘must’ for the translator’s desk (they often provide us with established or dynamic equivalents) and the document’s dossier should always be enlarged and updated. Bearing in mind that forensic documentation is complex, groundbreaking, and highly relevant, translators and interpreters must make full use of the wide variety of techniques researched herein. Skilled translators and interpreters, who shall persistently actualize their knowledge, must face the discursive hybrid intersection of Forensic Science and Law, always challenging and enthralling, that requires likewise hybrid translation skills and abilities.

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