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The Role of Translation in Legal Proceedings

Tarcisius Niwagaba

Humanities Education Kampala International University Uganda

Email: tarcisius.niwagaba@kiu.ac.ug

ABSTRACT

Translation plays an indispensable role in the global legal landscape, where linguistic accuracy is crucial for the administration of justice. As legal systems interact more frequently due to globalization, the demand for high-quality legal translation continues to rise. This paper examines the historical evolution, complexities, and contemporary challenges of legal translation. It highlights the disparities among legal systems, the nuanced difficulties in rendering legal terminology, and the pivotal responsibilities of legal translators as cultural and legal mediators. The discussion also delves into the risks posed by translation errors, the growing influence of technology, and the emergence of hybrid legal-linguistic spaces, particularly in politically sensitive regions. Through case studies and critical analysis, the paper underscores the profound impact that translation quality has on the fairness of trials, the legitimacy of legal decisions, and the protection of individual rights. Ultimately, the study advocates for standardized best practices and enhanced training to uphold the integrity of legal proceedings across multilingual and multicultural contexts.

Keywords: Legal translation, courtroom interpretation, legal systems, judicial fairness, linguistic accuracy, cultural mediation, translation error.

INTRODUCTION

Translation occupies a pivotal and undeniably vital role in the realm of legal proceedings, not just in one country, but across the entire globe and throughout various jurisdictions around the world. Various irregularities and significant challenges frequently emerge regarding courtroom translation decisions. These challenges may include inadequate interpretation skills that fail to convey the true meaning of legal terms, inappropriate or misleading language choices that can alter the outcomes of critical cases, and astoundingly unfamiliar terms that can baffle those involved in the proceedings. Additionally, systematic biases, as well as incomplete or partially rendered translations, can generate confusion and lead to grave misunderstandings among all parties involved in the legal process. These pervasive issues have the potential to cast substantial doubt on the integrity and reliability of the entire justice system. When translation errors occur, they can severely undermine public trust and confidence in legal institutions that are meant to uphold justice and ensure that all individuals receive fair treatment under the law. Translators in this context bear an immense and heavy burden of responsibility, as the crucial and often life-altering decisions made in court settings can significantly impact individuals' lives, influence their futures, and determine overall legal outcomes that resonate far beyond the courtroom. This situation notably emphasizes the undeniable, critical need for uncompromising accuracy and utmost clarity in translation processes. It is essential to ensure that fair trials, just verdicts, and the unwavering protection of every individual's rights are effectively achieved and maintained in the pursuit of justice. Consequently, every effort must be made to refine translation practices and enhance the skills of those responsible for interpreting legal discourse [1, 2].

Historical Context of Legal Translation

Owing to the globalization of legal, economic, and political relations, legal translation has become a specialized discipline. Historically, legal translation existed prior to the formal emergence of the translation profession, tracing back to the ancient Egyptian and Mesopotamian empires. Roman law was translated into the languages of peoples placed under the empire's control. One early translation of the Roman Code was into Chinese during the Mongol rule of the 13th century. The international diffusion of codified law systems stimulated legal translation throughout the world. The British empire played a fundamental role in the dissemination of law and legal systems, contributing to the emergence of legal translation, serving both the needs of the British Empire and those of newly independent states, following decolonization. Currently, legal discourse and legal terminology have internationalized, especially in commercial law, largely due to preoccupations with harmonizing legislation. International organizations such as the European Union, the United Nations, and the World Trade Organization shape the institutional framework of legal translation. A rich network of academic institutions has been founded in which legal translation occupies a fundamental place [3, 4].

Types of Legal Documents

Legal translation is a complex undertaking that requires extensive knowledge of the law, the legal system, and legal concepts. It is relevant in both national and international levels, and it is also crucial in international crime where the relevant legal systems are often different. For example, in a murder trial that takes place in Rome, the story of the crime may need to be presented to a judge in Paris for some similar or related ongoing case. Quite often, the documents of Asian countries are not translated, resulting in the lack of relevant information when studying international issues. Consequently, various types of legal documents are produced on a daily basis, each with its own objectives. Legal documents include legislative texts such as acts and bills, administrative documents such as death certificates and licenses, documents related to civil law which are issued between private individuals, company contracts, reports, certificates, affidavits, judgments, and judicial briefs. Crucially, legal documents vary from one legal system to another. Documents such as treaties, laws, court judgments, and contracts form the backbone of international relations. Additionally, a host of other documents are used on a daily basis during the trial procedure [5, 6].

Challenges in Legal Translation

Legal translation and interpretation are particularly challenging, partly because the translator is often required to serve as mediator between two or more culturally different societies. Language use is intimately connected with cultural, institutional, and political settings that comprise the "house" of translation and sets its limits. Refusal to comply with such requirements creates a climate of suspicion that casts a shadow over the proceedings. The practice of translation often depicts a one-sided process through which court translators make defendants' words "understandable" to judges only, thereby reinforcing the already disproportionate power of the judiciary and eroding the principle of due process. Assistance is offered to those unable to understand or speak the language of the proceedings and who risk being 'liable to suffer further disadvantages'. The judicial system provides every defendant the opportunity and facilities necessary for the translation of the proceedings. Numerous problems in legal translation are due to huge disparities between legal systems, cultures and languages. The approaches on translating legal texts, particularly with a focus on the problematic of equivalence and lexical difficulties, are also discussed. Translating English into Arabic lexis is especially difficult and challenging because the two languages derive their legal terminology from totally different legal systems with different sources of Law, ideological orientation and socio-economic principles. The differences in legal concepts, legal system, culture and linguistic structure add to the difficulties of legal translation. Legal discourse is considered an 'invisible' discourse because the conventions that underlie and give structure to it are unstated, which makes it more difficult to translate than technical texts where features, style and structure are well defined. The major difficulty, however, lies in the absence of an equivalent concept, in either the form of terminology or the substantive notion behind the terminology, because of the huge differences between legal systems, social and cultural activities of the two peoples and the method in articulating these activities [7, 8].

The Role of Professional Translators

A professional legal translator must be fluent in both the source and target languages, and well-acquainted with legal terminology, documentation, and cultural nuances. This role demands a dual expertise in law and linguistics to effectively navigate different languages and legal systems. Legal translation education is supported by various conferences and academic programs in response to growing demand for skilled professionals adept in complex legal interpretations. A knowledgeable legal translator

can help mitigate communication issues in contracts and international legal contexts, where errors can have severe implications. The Frigalment Importing Co. case highlights the necessity for professional translation, showcasing the risks associated with inadequate translation efforts. Legal practitioners engage with varying legal regimes, cultures, and international entities, necessitating a keen understanding of domestic values. This requirement mirrors challenges in intercultural communication and often calls for a collaborative, cross-cultural approach. Legal translators must be proficient in at least two languages and their respective legal systems, alongside having a comprehensive grasp of international legal issues. For effectiveness, they need to balance legal knowledge with translation expertise, often showcasing a deeper understanding of the legal functions in the target language's country. The best legal translators merge the skills of a comparative jurist with those of a linguist for optimal results [9, 10].

Technology in Legal Translation

Automated or machine translation intended for the general public is used, on occasion, in the corporate environment as an 'easy' and very fast solution for translation needs. Users are often unaware that by typing a few lines of a contract into the tool they are breaching their non-disclosure obligations. Two other electronic tools can be found both on lawyers' desks and on those of legal translators. Voice recognition software such as Dragon NaturallySpeaking (Legal) allows users to dictate text to their computer on the fly and has potential benefits for health as well as streamlining document production processes. The use of machine translation for law library purposes was one of the first applications to be studied. Far less academic research is available on proprietary systems developed by translation agencies that are marketed as a cost-reduction measure at the discovery/disclosure stage of a case. An ambiguous machine translation can present the opportunity for two plausible, but completely opposite, conclusions, which may cause difficulties in case prosecution. Stakeholders see Google Translate and bespoke automated systems as a threat likely to erode employment levels and fees. It is essential to match the aims and capabilities of electronic tools with their use. The job market for newly qualified lawyers is highly competitive, with more law graduates than available jobs in many countries. Technologies such as contract drafting software, web-based advice, and artificial intelligence applied to case research may worsen the situation. The role of the legal translator is predominantly little known and misconstrued [11, 12].

Case Studies

The ongoing investigation in Jerusalem's criminal trial court unveils the complex dynamics in which translators operate, taking on hybrid roles that intricately blend both dominant and local ideologies. This fusion brings forth an important and pressing question regarding the profound impact of court-appointed translation on the legal process. Some informants express skepticism and concerns, observing that judges often seem to focus more on non-verbal cues and body language rather than the actual spoken or written words. This tendency raises serious doubts about the relevance and effectiveness of translation services within the courtroom. The practices observed appear to be predominantly one-sided, rendering the language used in court predominantly comprehensible primarily to judges and legal practitioners. This one-sided communication dynamic ultimately reinforces judicial authority while simultaneously undermining the fundamental principles of due process that are so essential to a fair trial. Within this contemporary setting of Jerusalem's courts, a significant concept known as a 'third space' of translation emerges. In this space, the intersecting realms of language, law, and physical space operate under the weight of various sovereigntist ideologies. Moreover, the intricate narrative of translator Ali offers pivotal insights into translation's ethno-political role in areas affected by conflict. His experiences highlight the various linguistic challenges translators often face, which include navigating governing laws related to evidence, the complexities involved in transcription processes, and the issues surrounding funding for translation services. In this delicate and multifaceted context, translation continues to play a crucial role in shaping notions of power and justice, ultimately influencing the trajectory of legal proceedings and the experiences of individuals involved in the system [13, 14].

The Impact of Translation Errors

Every translation involves a degree of error; a translator can at best strive to reproduce only an approximation of the original text. All human speech and writing are inherently ambiguous; when all possible meanings of a word, utterance or text are combined into one, redundancy is created. The translator's task is to find a solution that best reproduces the net intended meaning of a text or utterance by choosing one of these possible meanings and omitting the others. In translation, these inevitable omissive errors are particularly effective when they consistently reduce the quantity of information rather than alter what is already present. When translation involves primary data such as witness statements or

oral evidence, flaws which render a translation less than fully faithful to the original potentially undermine the fairness of a trial. The extent to which courts can tolerate less than precise presentation of primary evidence in the form of witness testimony varies widely across jurisdictions and between judicial cultures. Both adversarial and inquisitorial systems are, however, required to address this problem: English judges routinely use interpreters and expert witnesses to expose the errors of interpreting and to explain why the interpreter's evidence cannot be relied upon in a particular instance. Palestinian/Israeli courts are compelled to introduce interpreting and translation into their proceedings without any accompanying guidance on how best to deal with the practical consequences of admitting a mediated oral testimony or written translation into evidence. Open sources reveal the conclusions of criminal cases where interpretation and translation have played a significant role and shed some light on the complexities that emerge when the founding principles of a single justice system are confronted with the need to translate and interpret [15, 16].

Best Practices for Legal Translation

A comprehensive and well-rounded set of skills is absolutely essential for practising legal translation effectively in today's complex legal landscape. Despite the apparent scarcity of appropriate translation requests arising from the relatively infrequent client meetings aimed at planning deposition or interview sessions, the demand for high-quality legal translations remains critical. Legal translators require not only expertise in translation techniques but also full proficiency in law to make sound legal-linguistic decisions that can significantly impact client outcomes. A sound grasp of relevant legal specialisms, encompassing both practical and theoretical knowledge, is absolutely critical for success in this field. Ideally, translators should exclusively translate into their mother tongue, possessing a high level of competence in the specific legal writing style pertinent to the target-language jurisdiction. The ideal skill set for legal translators encompasses an extensive depth of knowledge regarding the target legal system, including drafting capabilities and a foundational understanding of comparative law and its various methods. In practice, however, achieving such a comprehensive suite of skills can be realistically challenging and is arguably unattainable for many professionals in this specialized domain. While striving towards this goal is essential, the variety of legal systems and the intricacies involved often create barriers that make it difficult to secure such a complete and polished proficiency [17, 18].

Future Trends in Legal Translation

Legal translators must possess subject expertise, competence in translation and law, and preferably translate only into their mother tongue. They require practical and theoretical knowledge of relevant legal specialisms and familiarity with legal writing styles. Extensive knowledge of legal systems, drafting skills, and an understanding of comparative law comprise an ideal skill set, though this is often unattainable in practice. Legal translation also involves translating legislation, regulations, and agreements using English as a common language, with legal English playing a crucial role in international commerce. Automated or machine translation designed for the general public is employed in the corporate environment as a fast solution for translation needs. Users often remain unaware that inputting contract details into such tools can breach non-disclosure obligations. Voice recognition software, such as Dragon NaturallySpeaking, permits users to dictate text, streamlining document production. Machine translation has been investigated for law library purposes and cost-reduction measures at the discovery stage. Ambiguous machine translations may cause difficulties in legal proceedings. Some stakeholders consider Google Translate and similar automated systems as threats that potentially erode employment levels and reduce fees. It is essential to match electronic tools to their intended use, taking into account the aims and capabilities of each. The legal job market is highly competitive, with more law graduates than available positions in many countries. Advancements like contract drafting software, web-based advice, and AI-driven case research could influence future employment prospects. The role of legal translators remains little known and often misunderstood [19, 20].

CONCLUSION

The role of translation in legal proceedings is not merely technical it is foundational to the equitable administration of justice. Inaccurate or culturally insensitive translations can distort legal meanings, disadvantage non-native speakers, and undermine the credibility of entire judicial systems. As globalization continues to reshape legal interaction, the need for professional legal translators who possess deep linguistic, legal, and cultural expertise has never been more critical. Technology offers both solutions and new risks, emphasizing the need for human oversight and contextual understanding. Case studies from regions such as Jerusalem reveal that translation is not neutral; it is embedded in power dynamics and ideologies. Therefore, best practices in legal translation must include rigorous training,

ongoing certification, and systemic support to ensure fairness in multilingual legal contexts. Strengthening translation standards will contribute significantly to safeguarding human rights and upholding the rule of law in increasingly diverse societies.

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