

LEGAL TRANSLATION EXPLAINED

Enrique Alcaraz and Brian Hughes

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To refer to the work *Legal Translation Explained*, by Professors Alcaraz and Hughes, is to welcome one more indispensable study of these authors to be added to their already extensive research on the linguistics and translation of English legal discourse. Readers may be familiar with previous contributions by these authors dealing with the main features of the variety of languages such as English or Spanish used in Law and also with dictionaries that assist in the study of this academic and professional register. (Alcaraz 1994; Alcaraz et al. 2000; Alcaraz and Hughes 2001, 1993).

In the “Foreword”, the authors themselves state the aims of the book. Thus, Alcaraz and Hughes (2002: i) have set out to trace “the identification and solution of problems that actually arise in this area of specialised translation”. It is generally considered that one of the standard criteria upon which a given work may be assessed is precisely the fulfilment or non-fulfilment of the objectives being pursued. In this sense, then, the work under analysis may be regarded as simply excellent, as we shall try to show in this review.

In order to cover the objectives referred to above, the present work has to be inscribed in several contexts. Concretely, it may be said to contribute to the following areas of research: translation, approached from a discourse standpoint; Applied Linguistics, in particular, the branch of English for Specific Purposes (ESP), to which Professor Alcaraz has also contributed in some other works, most notably, Alcaraz (2000).

The work is structured into four different units or blocks, each of which is subsequently divided into two chapters. The authors have been particularly careful about this, as they have set out to outline the contents of the work in their “Foreword”, and relate them to its purposes. Thus, the areas focused upon are the following: first, the defining traits of legal English as a linguistic system; second, the central characteristics of the English legal system, both intrinsic and contrastive with regard to the ‘continental’ systems; third, the definition of the translation method to be followed, which relies upon the current research mainstream of genre studies and discourse approaches; and fourth, the exploration of the linguistic and stylistic resources available to the translator of legal texts.

Thanks to its arrangement, the work very successfully meets the diverse needs of the translator in a variety of ways. These include the necessary cultural information regarding the English legal system, together with translation theory, and most importantly, practice. Let us, therefore, review how these objectives can be mapped onto the structure of the contents of the book.

In Chapter One the main defining traits of legal English as a linguistic system are explained. The description draws on all the relevant fields of linguistic analysis and provides an accurate characterisation of the register, in terms of vocabulary, morphology and syntax. The authors deliberately choose a wide approach to the subject, which enables them to reflect the existing tensions produced by attempts to bring certain innovations and changes into such a conservative and fixed register as the language of the law, most importantly the so-called “Plain English Campaign”.

This leads in Chapter Two to the consideration of such a central issue within translation studies as the role of equivalence in translation. It must be stressed that one of the main merits of the work, namely, the focus on the translation of English legal texts from a practical standpoint, can be found throughout the work, even in topics that might sound purely theoretical. For example, equivalence is approached in terms of the *process* that the translator is likely to follow (and indeed is advised to follow). Moreover, some of the most relevant terms that the translator will often encounter in his work and which illustrate the theoretical areas being dealt with are introduced. In connection with this, the main distinctive characteristics of legal discourse are also highlighted: in the first place, the elusiveness of meaning, which may result in frequent instances of ambiguity; second, register; third, the connotative shades of meaning that even in a clearly scientific discipline certain words and expressions may be endowed with; and fourth, certain lexical phenomena to be found in this linguistic variety, such as polysemy, homonymy, relations of hyperonymy and hyponymy, synonyms and antonyms, cognates or false friends, and also syntactic ambiguity.

The issues and problems to be found by the translator are inserted within the theoretical aspects and disciplines of Linguistics, in so far as the latter provide the appropriate framework for understanding and dealing with them. In particular, a discourse approach to meaning, in which words are endowed with significance at the level of text, informs the analysis followed by the authors, in what is one of the book's most remarkable contributions. We say so because thanks to this approach one of the most difficult and yet obtrusively idiosyncratic areas of legal language, namely, its lexis, is introduced gradually, progressively and in a context-bound manner. This facilitates the process of learning for the reader, and at the same time, words are associated with particular areas of legal discourse.

The second major point of interest about this work is that it provides professional translators with the main defining traits of the English Legal System filling in the necessary technical and cultural background information that will enable them to understand the texts that they will work with in the future. Thus, in Chapter Three, Alcaraz and Hughes set out to explain in detail the relevant cultural setting for the English legal system, as they consider it to be a necessary prerequisite for the translation of English legal texts. Despite the intrinsically cultural scope of the main topic being covered in this Chapter, practical recommendations are offered to translators, dealing with aspects such as the translation of the names of institutions. An important feature is that all possible translations are discussed, and the authors are careful to note the different implications of any given possibility, as well as to refer to the factual contrasts between the legal systems involved. Those sections that look closely at the particular words associated with a concrete area or field will be found particularly helpful. This illustrates once more the soundness of the authors' determination to introduce the praxis of translation from the very beginning, as well as their clarity of exposition that may be found throughout.

The overall picture of the Anglo-American legal system is completed in Chapter Four, which seeks to account for the main features of both civil and criminal proceedings, and also the legal tasks generally undertaken by administrative, industrial and domestic courts. Alcaraz and Hughes then introduce the main terms connected with these areas, this introduction of specialised legal vocabulary in context of use being one of the main merits of the work. At the same time, they pin down the problems that may be encountered by the translator in the conveyance of these terms into a different language.

The work is enriched with the inclusion of specialised terms in their Spanish, German and French translations, which makes it equally interesting for readers whose mother tongue may be one of these languages. These terms are of particular interest since this area of translation deals with realities that remain stubbornly distinct, each rooted in its cultural background.

Indeed, the areas tackled in Chapters Three and Four are an important opportunity for the translator to deepen his/her knowledge of the cultures involved, and may indeed be said to illustrate the view of translation held by the authors. Hence, as they point out, no translator of any kind of text should undertake the task of conveying it into the target language without being familiar with the culture in which the text is produced and that in which it is received. If this is generally so, the authors illustrate that a knowledge of the cultural system is particularly important in the case of legal texts. It is also interesting to note that the recent reforms of the legal system are also introduced, both intrinsically, and most importantly, in so far as they may influence the work of the translator. This shows the authors' endeavour to update their work to include the most recent changes in the Anglo-American legal system.

In Chapters Five and Six the most important genres to be found in Legal English and the sort of problems raised by their translation are explained by Alcaraz and Hughes. Whereas Chapter Five concentrates on those genres which may be considered to be highly conventionalised, Chapter Six deals with genres that are more flexible in their configuration. All in all, this approach places the present work alongside the most updated and productive contemporary writers that study the field of translation research, namely, discourse trends. These insist upon categories such as genre, text or discourse, as a means of understanding the intricacies of the work to be translated and the influence of cultural factors on the work of translation.

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As noted above, and as the authors themselves remark, their decision to divide the discussion of the most important genres of legal English into two different chapters is by no means arbitrary. What the distinction made about genres depending on their degree of conventionalisation will show is that each of them will face the translator with particular, specific problems.

It has already been pointed out that the approach to translation based on *genre* is highly significant within the mainstream tendencies. More importantly, in their work Alcaraz and Hughes show that it is particularly relevant within the field of the translation of legal texts. This is partly so because of the highly conventionalised nature of the discourse of legal language, which makes it important for texts to be generally recognisable by a certain discourse community. At the same time, since translation is a paradigmatic instance of intercultural communication, the authors underline the fact that the translator will necessarily have to be familiar with the cultures involved. Thus, he will have to be aware of the whole range of contrasts regarding conventions, the different discourse communities being addressed, and all the other distinctive features characterising genres which may be attached to each of these cultures. Thus, even those genres that are shared by several cultures

may nevertheless be manifested differently in aspects regarding communicative functions, macrostructural organisations, etc. What is more, the translator may also have to deal with certain genres that may be found in the source culture, but not in the target culture, and viceversa, and decisions regarding this matter will have to be made. The authors accurately highlight how the translator must be sensitive to these cultural differences, and also familiar with those conventions of the target readership. As they note, the identification of the genre of the text to be translated becomes a matter of prime importance in the decisions to be made by the translator.

In Chapter Five the authors focus upon certain representative genres among those that they have regarded as more highly conventional; namely, university degrees and diplomas, certificates, statutes, law reports, and judgements, as far as written texts are concerned. The analysis of oral, legal and administrative genres, such as the examination of witnesses at a public hearing, or the counsels' closing speeches and the judge's summation of his/her sentence to the jury, are also included. What the choice of these text types shows is the authors' intention to include a very wide range of legal and administrative documents. The authors emphasise that their readers should first become familiar with those genres that are similar to Spanish or are less culture-specific and then progress to those that are further from Spanish, or more culture-specific. Moreover, the authors' careful analysis of the structural configuration of the genre of every text responds to their insistence that the translator should make a previous study of the texts to be translated, as a knowledge of their structure places considerable constraints on the translator's task.

Chapter Six, which, as has been previously mentioned, addresses those genres that do not have such a fixed, recognisable structural pattern, completes therefore the analysis of the most significant and representative legal and administrative documents. Under such category, the following texts are included: contracts, deeds and indentures, insurance policies, last wills and testaments, the power of attorney, the professional article. Finally, to complete this section, the presence of legal English in popular fiction is also traced. As in the previous chapter, a similar progression in a lowering scale in the degree of conventionalisation of each of the texts concerned can also be perceived. As the authors themselves remark, what has guided them in such a wide coverage are considerations of discourse features, context and audience, in accordance with the general discourse approach followed throughout the work which places it within the mainstream of contemporary translation studies.

In the last part of the work, the authors continue their explanatory approach to translation found throughout the work. In Chapters Seven and Eight the most significant problems that professional translators of legal and administrative texts

will be likely to find in their common practice are addressed. Once more within the mainstream of discourse and cognitive perspectives, translation is dealt with as a problem-solving process, which emphasises the central role of the translator as a cultural mediator, who is constantly taking decisions regarding both the linguistic and the sociocultural characteristics of the text. As noted above, while this may be said to be generally the case, it is even more important in the case of the translation of legal and administrative texts, which are deeply entrenched within the culture where they may be found.

Chapter Seven deals specifically with those aspects most closely related to the lexical level of linguistic analysis. Hence, the authors address the problems that the translator may encounter regarding each of the different types of lexical items, namely, purely technical vocabulary, semi-technical vocabulary, and those words of everyday speech that may nevertheless be found in legal texts and documents. The scope is, therefore, comprehensive and exhaustive.

Finally, Chapter Eight is concerned with those aspects of the translation of legal texts that correspond to those linguistic areas other than lexis, and essentially concentrates upon the techniques of translation that the translator of legal and administrative texts will find particularly helpful. Such proposals are inserted within the general discourse approach being followed and which endows the work with internal coherence and consistence. More concretely, the way in which current translation techniques may be applied to the solution of particular problems raised by this kind of texts is analysed. Among them, the following are explained in detail by the authors: transposition, expansion, modulation. Those syntactic and textual aspects specifically characteristic of legal and administrative texts are also tackled. Syntactic features include, for instance, those modifiers to be found in noun phrases or in verbal phrases. With regard to discourse aspects, reference is made to the importance of the thematisation of information or the achievement of coherence in legal discourse. In connection with the thematic structure, there is a discussion of the ways it may be coped with when contrasted with the syntactic peculiarities of each language in particular. As for the treatment of coherence, the main means by which it is achieved in discourse are discussed.

In synthesis, we should like to underline the fact that the work being reviewed here is remarkable and will be found extremely helpful by translators on account of the features described here and many more that readers will discover for themselves. As this review has attempted to show, the present work by Professors Alcaraz and Hughes must be regarded as an essential, indispensable reference work for translators of English legal discourse.

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