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Research Article

An Inventory of the Problems Related to Translating and Revising Legal Texts Issued by an African Court: A Case Study

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ABSTRACT

The aim of this paper is to make an inventory of the problems that translators encounter when they translate the documents issued by a specific African human rights court. More specifically translating at the ACHPR requires the knowledge of legal language and familiarity with a particular type of legal texts as well as competence in human rights conventions and charters and general translation skills. In an attempt to address these issues, this paper adopts a threefold approach, namely a historical approach recalling some legal systems and traditions upheld by courts, a theoretical approach throwing light on some key concepts and a lexical approach that makes it possible to extract legal terms from texts issued by the court and match them with their equivalents in the target language. The result of this research work is that legal translation is a specialised area due to the legal terms and systems involved in it. Unlike other specialised areas where the link between the signifier and the signified is fixed, in legal translation, the signified may be inflected due to differences between legal systems. Finding an equivalent for a legal term in another legal system or in a target language may beat times difficult and even impossible.

Introduction

This paper seeks to address a crucial problem facing both translators and courts when it comes to translating legal documents. The problem is the apparent inaptness of many translators to meet the expectations of their prospective employers towards the end of the recruitment process. While employers, i.e. courts, complain about the short-listed candidates' inability to use proper legal language and demonstrate sufficient legal background knowledge, translators may argue that they are translators or linguists not lawyers. However, is it enough to jump to the conclusion that all legal translators should therefore be lawyers? This conclusion seems to be a lopsided view of the problem because a lawyer knows one legal system most of the time while legal translation extends across several legal systems and demands the knowledge of legal language. In the following quotation, Cao (2007: 9) proposes a definition of legal language that can take us farther in this discussion.

> Legal language is a type of register, that is, a variety of language appropriate to different occasions and situations of use, and in this case, a variety of language appropriate to the legal situations of use. Legal texts refer to the texts produced or used for legal purposes in legal settings.

This quotation identifies both legal language and legal texts, which are equally important in this discussion. Indeed, the African Court on Human and Peoples' Rights (ACHPR) is a court that receives applications and makes rulings which are part of a particular type of legal texts. Indeed, there are different types of legal texts. The typology of legal texts will be presented at

a later stage. At this stage, it needs to be stated that the way a piece of legislation is drafted in Parliament, for example, is different from the way a court ruling is written. Therefore, stylistics is an issue of paramount importance in translation as a whole, especially in legal translation.

In defining the term legal translation, Sarcevic is more restrictive regarding the type of people who use legal language. "Legal translation is a special-purpose communication between specialists, excluding communication between lawyers and non-lawyers." (1997, p. 9) It can be deducted from this quotation that only lawyers know and use legal language.

So far law, language and translation are the main issues raised. On these same issues, Pozzo makes the following remark which introduces the notion of comparative law.

> Law is essentially and inseparably interwoven with language. In turn, law and language are both cultural phenomena that can be conceived only if their contexts are taken into account. There are virtually no contemporary legal philosophers who would not hold both of these assumptions as having a sound basis. However, for comparative law as a field of study, the role of language is an eternal obstacle and a challenge. In fact, legal translation has always been regarded as one of the essential questions of comparative law
>
> (Pozzo 2012 in Jaakko 2018: 275)

Indeed, legal translation is the domain of comparative law because the translator transfers a message from a legal system to another legal system while trying to find codes and concepts which are similar to the source language ones. This is definitely a complex task given that legal systems are not the same. In addition, the context in which the codes and concepts are used is also important. In the case of the ACHPR, the context is that of human rights. Therefore, the knowledge of human rights principles and charters is important in this discussion.

Against this background of comparative law, legal language, human rights and legal text types, this paper will attempt to list the skills and competences that a translator needs to develop in order to effectively work for a court such as the ACHPR.

Problem Statement and Methodology

Problem statement

The translation of legal texts is both complex and challenging because of the legal terminology and phraseology as well as of the legal culture and traditions reflected in these texts. To adequately translate legal texts, it is not enough to be a translator. This is understandably so because a few years ago the African Court on Human and People's Rights (ACHPR) whose headquarters is in Arusha, Tanzania, called for applications for two posts of English and French revisers. Subsequently three Anglophone and three Francophone translators were shortlisted but none of them met the expectations of the Examining Board. Thereafter, other African translators living in Africa and overseas also took the test but failed.

Consequently, it became clear that legal translators are expected to demonstrate specific skills which are most probably related not only to their general translation competence but also to their knowledge of legal terminology and experience. That is the issue this paper attempts to discuss using the following methodology.

Methodology

The methodology of this paper is threefold. Firstly, a historical approach is adopted by recalling the origins of legal traditions such as the Civil System, Common Law and Equity. Secondly, a theoretical approach is explored in a bid to shed light on key concepts such as legal translation and typology of legal texts. Thirdly, this paper takes a lexical approach by extracting from legal texts translated by the Court a short list of legal phraseology and terms.

Results

- Legal translation is specialised translation because of the legal terms and phraseology that legal texts contain.
- Legal translation is complex because a concept may exist in both source language(SL) and target language (TL) however its content may be different in both languages and finding an equivalent for a legal term in another legal system or language becomes a challenge.

- There are several legal systems, e.g. Common Law and Civil Law, which make the translation of legal texts even more difficult because the legal provisions and institutions therein are not the same. This poses a problem when it comes to finding suitable equivalents for terms, concepts and procedures which do not exist in the other legal system.
- There are several types of legal texts and translation, including translation of legislative texts as well as judicial texts produced by judicial officers, legal scholarly texts produced by academic lawyers or legal scholars, and private legal texts. In the human rights court under review, judicial texts are the ones that are commonly issued and translated.
- The knowledge of the specialised area of the court, i.e. human rights, is equally important to adequately translate its texts.
- Translating and revising this court's documents require the knowledge of English grammar and the ability to apply it in context.

Discussion

- Legal translation is specialised translation because of the legal terms and phraseology that legal texts contain.

Legal texts do contain terms and a phraseology which are particularly related to law. The table below contains legal terms and phrases extracted from a text that was given by the ACHPR to shortlisted candidates for the position of "English Reviser". A comment on several aspects of the content of the table will be made thereafter.

Table 1: Legal terms and phrases extracted from Application N° 009/2017 dated 4 July 2019

	French	**English**	**Page numbers and paragraphs + remarks**
1	Af Affaire Dans la présente affaire	Matter In the instant case	Cover page Para. 30
2	Ap application En en application de	Pursuant to	(Para. 24)
3	Arrêt	Judgement	cover page
4	Compétence	Jurisdiction	p. 6
5	Compte tenu de… Compte tenu des circonstances de l'espèce	In view of the above circumstances	Para. 37
6	Conformément à (en) conformité avec	Pursuant to In accordance with	Para. 10 Para. 23 Para. 15
7	Conclure La Cour conclut que	Hold The Court holds that	Para. 20
8	Décider La Cour décide	Rule The Court rules	Para. 37
9	Défendeur	Respondent	Para. 2
10	Demander	Pray	Para. 16

	(le défendeur demande à la Cour)	(the applicant prays the Court ...)	
11	Déposer une réponse	File aresponse	Para. 14
12	(est) Devenu partie à la Charte	Acceded to the Charter	Para. 2
13	Dispositif	Operative part	P. 10
14	Dispositions	Provisions	Para. 5
15	Dommages et intérêts	Damages	Para. 16
16	Dossier	Case file	Para. 26
17	Faits de la cause	Facts of the matter	p. 2
18	Fidèle assurant lui-même sa défense	Fidèle self-represented	Page following the table of contents
19	Frais de procédure	Proceduralcosts	p. 10, para. 17 vi
20	Greffe	Registry	Para. 9
21	Greffier	Registrar	Page following the table of contents
22	Honorariesd'avocats	Lawyers fees	Para. 17 vii
23	Infraction	Offence	Para. 5
24	Juge	Justice	
25	Juge Thérèse n'a pas siégé dans l'affaire	Justice Thérèse did not hear the Application	Page following the table of contents
26	Juridictions nationales	Domestic courts	Para. 17 vi
27	Mesures demandées par les parties	Prayers of the parties	p. 5
28	Motif Par ces motifs	 For thesereasons	 Para. 38
29	Notification	Notice	Para. 8
30	Ordonnance	Order	Para. 2
31	Parquet	Office of the prosecutor	Para. 27
32	Preuve Des preuves plus concrètes sont requises	 More substantiationisrequired	 Para. 31
33	Prévoir	Provide	Para. 7
34	Procédure	Proceedings	Para. 17
35	Recevabilité	Admissibility	p. 7
36	Recours	Remedies	Para. 7

	Exercer des recours Introduire un recours Epuiser les recours internes	To pursue remedies To submit an appeal To exhaust local remedies	Para. 29 Para. 32 Para. 34
37	Requérant	Applicant	p. 1
38	Requête (La) requête a été déposée Introduire une requête	Application The application was filed To file an application	cover page para. 8 para. 23.6
39	Saisir la Cour	To access the Court	Para. 20 i
40	Signifiée au défendeur	Served on the respondent	Para. 8
41	Statuer La Cour statue sur la recevabilité des requêtes	The Court shall rule on the admissibility of cases	Para. 22
42	Termes (aux termes de)	Pursuant to	Para. 22
43	Titre (à titre de réparation)	In terms of reparation	Para. 17
44	Vertu (en vertu de) En vertu de l'article 3 En vertu de l'article 3 (1) du Protocole, la Cour a compétence pour connaître de toutes les affaires et de tous les différends dont elle est saisie…	- Pursuant to - Under - In terms of - As per In terms of Article 3 (1) of the Protocol, the jurisdiction of the Court shall extend to all cases and disputes submitted to it …	Para. 5, 7,13 Para. 9 Para. 19 Para. 20 i Para. 19
45	Vu Au vu de ce qui précède	- - In view of the aforesaid - Based on the foregoing	Para. 21 Para. 35

It is obvious that the terms, phrases and phraseology contained in the table are not part of the vocabulary used in everyday English. Let us examine some features of the text.

Modality: note the use of the modal shall for example. This modal is used deontically and expresses the power of the Court to make a ruling in the sentence "*The Court shall rule on the admissibility of cases."* Shall is quite often used in court decisions and legal matters not to express the future tense but to express power, obligation and force.

Phraseology: examples of legal phraseology are abundant in the table and include the following: "in the instant case, pursuant to, in view of the above circumstances, in accordance with, Justice *Therèse* did not hear the application, prayers of the parties, to pursue remedies, to submit an appeal, to file an application."

Language register: language register is normally lexical and grammatical in nature. The language register of the text is of high level. Indeed, grammatical aspects in the text are equally convincing as shown in the following example: "In terms of Article 3 (1) of the Protocol, the jurisdiction of the Court shall extend to all cases and disputes submitted to it."Another rhetorical aspect which adds flavour to the language register is a series of phrases such as *pursuant to, under, in terms of and as per*, which are used interchangeably in the text.

Terms and concepts: legal terms and concepts such as "jurisdiction, damage, registry, offence, justice, order, case, judgement, to hold (which means to conclude in ordinary language), to rule, to respond and respondent (i.e. a person accused of something), to pray (i.e. to ask in ordinary language), operative part, provisions (of law), damages, procedural costs", etc." used in the text have technical meanings.

As comparative lawyers have pointed out:

> Until then and still today in the French experience, the legal vocabulary was a specialised technical vocabulary just because it attributed sectoral meanings to a certain number of words. In most cases these words were taken from the common vocabulary, especially from Latin, to which particular meanings were attributed. (Gambaro & Sacco, 2002, p. 247)

The point is that ordinary words are found in legal texts but they have technical meanings. An example of ordinary word with technical meaning is *compétence* which cannot be translated as it is translated in literary or general translation.

At this stage, it is important for every translator to demonstrate their competence in the area of terminology which studies both terms and concepts. How should a translator deal with terminological issues before and after their recruitment? In other words, when a translator comes across new terms in a document, how does s/he handle their translation? The first thing to do is to search for the terms in a corpus (it can be hundreds or thousands of pages published by the court online). This search can be carried out in the source language alone or in both source language and target language. Then, s/he (i.e. the translator) is likely to find many occurrences of the terms in the corpus. Every single sentence in which a particular term is found should be copied and pasted on a blank page. At the end of this exercise, up to one hundred occurrences of the same term may be found, copied and pasted on a blank page. Thereafter, the translator has to go through all the sentences containing the term under investigation on the blank page and should come up with a definition of the same. Obviously this definition shall be based on the information generated by the corpus. This information provides the semantic area of the concept in the context of the corpus. The next thing to do is to search for an equivalent for the term in the target language. At this stage, the translator can consult the translated version of the corpus if it is available. In case there is no translation available, it is better to refer to bilingual terminology databases specialised in the field of law. The problem, in Africa, is that institutional terminology databases are hard to come by in workplaces. Translators' research tools include Linguee, Termium, online legal dictionaries and others. It is also advisable to ask bilingual judges what they think about the equivalent of a particular term in the target language. This is a cognitive approach to translation problems.

In view of the aforesaid, it is obvious that legal terms and phrases permeate legal texts and their translation from a source language (SL) to a target language (TL) may be complex.

- Legal translation is complex because a concept may exist in both source language (SL) and target language (TL) however its content may be different in both languages, and finding an equivalent for a legal term in another legal system or language becomes a challenge.

Let us take, for example, the word *jurisprudence* which exists in both English and French however it has different meanings in both languages. According to *Le Petit Larousse Illustré* (1997, p. 578), it means « *Ensemble des décisions des tribunaux, qui constitue une source du droit*. » In other words, it is the set of the tribunals' decisions which constitute a source of law. However, the Oxford Advanced Learner's Dictionary (1995, p. 644) defines the same word as "The science or philosophy of law." There is obviously a noticeable difference between these two definitions.

The same remark applies to the above-mentioned word *compétence* which means jurisdiction in the table above while in general vocabulary, the same word (*competence*) is used in both French and English with the same meaning in both languages.

On this same issue of linguistic equivalence between legal terms, Bocquet has indicated that:

> La traduction technique est généralement définie, par tous ceux qui admettent son existence, comme le passage d'un signifiant linguistique à un autre signifiant linguistique, dont le contenu, le signifié, est strictement le même, ou en tout cas affirmé comme étant strictement le même. La traduction juridique, au contraire, a pour principale caractéristique de nécessiter l'inflexion du signifié au moment de la traduction, parce que le signifié est fluctuant vu la nature même des différences institutionnelles, ce qui constitue le principal problème de la traduction juridique. (See Cao, 2007, p. 9)

Indeed, legal systems are different from one country to another and the contents of legal concepts as well as the provisions of the law are quite often not the same. Kerby (1982) has discussed this issue in a paper titled *La traduction juridique, un cas d'espèce.* In commenting the right to inheritance under Common Law, on the one hand, and Civil Law, on the other hand, in Canada, Kerby has explained in the paper that under Civil Law, when a testator dies, his/her heirs are automatically informed about his/her assets and liabilities. They may be requested to pay for the liabilities. However, in order to protect them, the law gives them a chance to choose one of the following three alternatives: accept the inheritance as it is, accept it after an inventory or refuse. The point is that these notions of acceptance, acceptance after an inventory or refusal are unknown under Common Law. Indeed, Common Law envisages an inheritance as a transfer of property but it is not transferred directly to the heirs. The property (i.e. the Estate) goes through a *personal representative* also called Executor if appointed by the will or Administrator if appointed by the Court. The *personal representative* is the one who is called upon to distribute to the heirs the balance or the rest of the asset after settling all debts. For one thing, the heirs are never held accountable for the liabilities. Under these conditions, how can a translator translate the concepts of *acceptance, acceptance after an inventory and refusal* into a target language where Civil Law is in force?

> En droit civil, la succession est envisagée comme la continuation de la personne du défunt par ses héritiers et légataires. Ils sont automatiquement saisis de la succession, c'est-à-dire de l'ensemble du patrimoine du défunt, comprenant l'actif et le passif. L'héritier peut donc être tenu de payer le passif. Pour le protéger, la loi prévoit qu'il peut, en face d'une succession qui lui échoit, choisir entre trois positions : accepter purement ou simplement, accepter sous bénéfice d'inventaire ou refuser. Ces notions d'acceptation pure et simple, d'acceptation sous bénéfice d'inventaire ou de refus d'une succession sont inconnues dans les droits de *Common law*. En effet la *Common law* envisage la succession comme une transmission de biens, mais pas une transmission directe aux héritiers et légataires. La succession (*ESTATE*) passe d'abord entre les mains d'un *personalrepresentative* qui s'appelle *EXECUTOR* s'il est désigné par testament ou *ADMINISTRATOR* s'il est désigné parle tribunal. C'est ce *personalrepresentative* qui sera chargé, après avoir réglé les dettes de la succession, de remettre le solde éventuel de l'actif aux héritiers et légataires, qui ne sont jamais tenus de payer le passif. Dans ces conditions, les notions d'acceptation ou refus de succession n'ont pas de sens.Kerby(1982) http://www.cslf.gouv.qc.ca/bibliotheque-virtuelle/publication-html/?tx_iggcpplus_pi4%5bfile%5d=publications/pubf104/f104p1ch1.html#table

As indicated earlier, it is not easy to find a suitable equivalent for a legal term in another legal system. Kerby has drawn in the same paper the conclusion that there are three types of terms in law.

> En résumé, dans la traduction juridique de l'anglais au français, on trouve trois sortes de termes : ceux qui ont un équivalent sémantique français (*offer* et offre); ceux qui n'ont pas d'équivalent exact en français, mais pour lesquels on peut trouver un équivalent fonctionnel (*mortgage* et hypothèque) et ceux qui sont carrément intraduisibles (*Common law, Equity*). Ce sont les termes intraduisibles qui causeront le plus de souci,

> mais ils stimuleront l'imagination créatrice, en contraignant le traducteur à créer un terme français, car l'utilisation de périphrases décrivant la situation juridique à traduire alourdit inutilement le texte français. Ce qui explique pourquoi la traduction française de textes juridiques anglais, même s'ils sont destinés à des francophones régis par la *Common law*, est très difficile; car on se trouve en présence de nombreux termes qui n'ont pas d'équivalent en français. (Ibid)

As mentioned above, according to Kerby, in legal translation, there are three types of terms, namely those that have a semantic equivalent in French (e.g. offer and *offre*); those that do not have an exact equivalent in French but for which a functional equivalent can be found; and those that are untranslatable (e.g. Common Law and Equity). Indeed, the reference to Common Law and Equity shows that there are several legal systems.

- There are several legal systems, e.g. Common Law and Civil Law, which make the translation of legal texts even more difficult because the legal provisions and institutions are not the same. This poses a problem when it comes to finding suitable equivalents for terms, concepts and procedures which do not exist in another legal system or in the target language community.

In discussing this issue in an African context, it is important to recall that most African countries are former colonies of Great Britain, France and Spain from where the Common Law and Civil Law were imported to Africa. This section of the paper provides an historical background to the traditions of Common Law, Equity and Civil Law.

Indeed, Kerby (Ibid) indicates that the origin of Civil Law dates back to the Roman law. It was drafted in European universities on the basis of publications compiled by Justinian from 12th century and renewed last century thanks to a coding system, while the Common Law was born in England from the Norman Conquest in 1066. Royal courts of Westminster replaced local courts and developed the Common Law, i.e. judge-made law or *Stare decisis et non quietamovere* which translates as "to stand by decisions and not to disturb settled matters."According to this system, the decisions rendered by the royal courts in England became a source of law. In England, there was another legal tradition called Equity.

> Dans un troisième sens, *Common law* désigne le droit découlant des décisions des tribunaux ordinaires par opposition au droit découlant des décisions de la juridiction du chancelier, qui s'appelle *EQUITY*. Signalons tout de suite que cette opposition *Common law/Equity* n'existe pas dans le système civiliste. (Ibid)

The Equity system came about to correct the unjust decisions taken by some of the royal courts. Actually when people started complaining to the King about some of the unjust court decisions, he referred them to the Chancellor who was a clergyman. The Chancellor came up with the Equity system which had its own rules and institutions. Eventually the Common Law system and the Equity system merged.

Suffice it to say that the different legal systems in Europe influenced the legal traditions and institutions in Africa. Therefore, translating law under these conditions becomes a complex endeavour because of the differences in concepts, procedures, institutions and conceptions upheld by each legal system. Actually the complexity of legal translation extends to a wide variety of types of legal texts.

- There are several types of legal translation, including translation of legislative texts, e.g. domestic statutes and subordinate laws, international treaties and multilingual laws, as well as judicial texts produced by judicial officers, legal scholarly texts produced by academic lawyers or legal scholars, and private legal texts, e.g. contracts, leases, wills, etc. In the human rights court under review, judicial texts are the ones that are regularly issued and translated.

Several authors including Cao, Sarcevic, Bocquet, Sparer, Gémar, Garzone and Harvey have described the typology of legal texts and translation. In *Translating Law* by Debora Cao, Sarcevic distinguishes the following types of legal translation.

> Firstly, there is legal translation for normative purpose. It refers to the production of equally authentic legal texts in bilingual and multilingual jurisdictions of domestic laws and international legal instruments and other laws. They are the translation of the law. Often such

> bilingual or multilingual texts are first drafted in one language and then translated into another language or languages. They may also be drafted simultaneously in both or all languages. In either case, the different language texts have equal legal force and one is not superior to another irrespective of their original status. Such legal texts in different languages are regarded as authoritative once they go through the authentication process in the manner prescribed by law. By virtue of this process, such texts are not mere translations of law, but the law itself (Sarcevic 1997: 20).

In this quotation, it is clear that this first type of translation is legally binding in the sense that both the translation and the original texts have equal legal force. However, the other types of legal translation do not enjoy the same treatment though they are also important in legal settings.

> Secondly, there is legal translation for informative purpose, with constative or descriptive functions. This includes the translation of statutes, court decisions, scholarly works and other types of legal documents if the translation is intended to provide information to the target readers. This is most often found in monolingual jurisdictions. Such translations are different from the first category where the translated law is legally binding. In this second category, the SL is the only legally enforceable language while the TL is not. (Ibid)

Sarcevic distinguishes a third category of legal translation that serves general or judicial purpose.

> Thirdly, there is legal translation for general legal or judicial purpose. Such translations are primarily for information, and are mostly descriptive. This type of translated document may be used in court proceedings as part of documentary evidence. Original SL texts of this type may include legal documents such as statements of claims or pleadings, contracts and agreements, and ordinary texts such as business or personal correspondence, records and certificates, witness statements and expert reports, among many others. (Ibid)

Having noted that, it needs to be mentioned that translation at the ACHPR falls into the second category because translators translate most of the time court decisions as well as applications and appeals coming from individuals, NGOs and states seeking redress in the field of human and people's rights.

Bocquet (2008) has also classified legal texts in *La traduction juridique : fondement et méthode*. Commenting on this book, Greenstein (2009:132) says that it contains four main chapters. Chapter 1 presents the author's classification of legal texts which comprise three categories, i.e. normative texts (constitutions, laws, decrees, etc.), judicial texts made up of court rulings and police records, and doctrinal texts that present the content of the rules of law.

> Le chapitre 1, « Problématique de la traduction juridique », présente les trois catégories de textes juridiques, selon la taxonomie de l'auteur. La première est constituée de textes normatifs (constitutions, lois, ordonnances, décrets, arrêtés, règlements, contrats), qui fonctionnent sur le mode performatif. La deuxième est composée de textes « juridictionnels » (arrêts, décisions de l'administration, constats d'huissier ou de la police). La troisième et dernière catégorie regroupe les textes qui exposent le contenu des règles de droit, à savoir la doctrine. Le mode, descriptif, rapporte le contenu des deux autres catégories de textes.

As a result, both Sarcevic and Boquet have identified three types of legal texts which serve different purposes. In the next section, the structure or format of court decisions is going to be examined.

Indeed, this court's rulings have a similar format. In the first part, mention is made of the parties (i.e. the Applicant and the Respondent)as well as of the subject of the application, the procedure before the Court (i.e. the exchange of files between the Court and the parties), the prayers of the parties (i.e. their demands), the jurisdiction of the Court (i.e. whether or not it is competent to hear the case and make a ruling), the admissibility (i.e. whether or not the case is valid and can be heard) and the costs (i.e. whether one of the parties must pay a sum of money to the other); thereafter, there is an operative part in which the Court makes its final ruling.

It is important that the translator wishing to work for the ACHPR knows how a court ruling is formatted and learns how to write in the target language each of the above-mentioned items appropriately. Most of the time there is a particular phraseology that is used while dealing with each item of the ruling. It is also an exercise of stylistics that needs to be done again and again before taking the test. This particular aspect of the test is normally taken into account by a lecture aiming to develop translators'writing skills in schools of translators.

In addition to aspects pertaining to phraseology, terminology and stylistics, human rights issues are another aspect of the ACHPR that is equally important for a translator.

- The knowledge of the specialised area of the court, i.e. human rights, is equally important to adequately translate its texts.

In the initial part of the Court ruling in the Application N° 009/2017, the following paragraph appears immediately after the composition of the Court:

> Pursuant to Articles 22 of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (hereinafter referred to as "the Protocol") and Rule 8(2) of the Rules of Court (hereinafter referred to as "the Rules"), Justice M-Thérèse... did not hear the Application.

This is an indication that the Court refers to human rights charters and conventions, especially the African Charter on Human and People's Rights, in making its rulings. Actually, Article 22 of the Protocol reads:

> 1. All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.
> 2. States shall have the duty, individually or collectively, to ensure the exercise of the right to development. (ACHPR, 1981: 7)

As indicated above, this Court's decisions are always "pursuant" to the Protocol to the African Charter on Human and Peoples' Rights as well as to the African Union Constitutive Act, the Universal Declaration of Human Rights and other international human rights conventions. This calls for an in-depth knowledge and understanding of these legal documents by prospective translators wishing to work with the ACHPR.

Last but not least, the knowledge of English grammar and the ability to apply it in the context of the work of a court is also an asset.

- Translating and revising this court's documents require the knowledge of English grammar and the ability to apply it in context.

Regarding the test that was organised for revisers by the ACHPR, it should be noted that there were actually three tasks including the above-mentioned legal translation. The other two tasks were a general translation exercise and the revision of a legal text written in English. The table below contains the salient words and sentences that needed to be corrected in the revision text.

Table 2: Words, phrases and sentences to be corrected as part of the revision exercise

	Phrases and sentences to be revised	Proposed revision	Remarks
Title	The Applicants' Reply to the Respondent's Response to the Application	The Applicant's Reply to the Respondent	Original title is too cumbersome -- Stylistics
Para-			

graph			
34	Regarding the procedure, the Applicant maintains that he filed the **submissions on reparations** on 25 July 2013 and that in any event, the Respondent **has** in the past **benefitted** from extensions of time granted by the Court without the Applicant **having had** a chance to make observations on the same.	Submissions for reparations .... and that in any event ... the Respondent **had** in the past benefitted ...without the Applicant having a chance to make **any** observations....	Grammatical mistakes (regarding the use of the preposition on instead of for, simple past instead of past perfect, present participle + had instead of mere present participle, and the missing preposition any)
35	It is up to the Respondent State which referred to the said cases to produce the documents and **...** is in a position to do so since they are **a product** of national institutions.	....and it is in a position to do so since they are products of	Plural form instead of singular form
36	Litigation before the African Court on this matter is also a natural consequence of this state of affairs **consolidated** by the decision of the Court of Appeal**, and** it can also be said that it is the result of the shortcoming of the Respondent State, as pointed out by the Court in its **judgment** of 14 June 2013.	.....this state of affairs reinforced by the decision of the Court of Appeal. It can also be said that .....**judgement** of 14 June 2013	Improper use of lexical item "consolidated" instead of "reinforced" Poor sentence structure Wrong spelling of the word judgement
37	This is particularly where such a structure is involved in carrying out political and electoral campaigns at different levels and in all the regions, as this can only lead to considerable stress, especially as it **was** full time work which **prevented** the Applicant from carrying out any other professional activity.		Sequence of tenses There is a mixture of present and past tenses, which is quite confusing.
39	Regarding the Attorney's fees for the litigation before the Court, the Applicant submits that the expenses must be imputed **on** the Respondent State ...	...imputed to	Grammatical mistake (use of wrong preposition)
41	The Applicant stated that the position of the Respondent which maintains that **the law as it currently is in Tanzania prohibits independent candidates for electoral positions**, highlights the need for the Court to draw up a precise calendar to ensure that the Respondent State complies with the **judgment** of the Court.	...the law prohibits independent candidates **from vying** for electoral positions ... judgement of the Court.	There are words missing in the sentence syntax Wrong spelling of the word judgement

As indicated above, the goal of this revision exercise is to assess candidates' mastery of English grammar. Indeed, it needs to be pointed out that the title of the text seems to be cumbersome and wordy. Instead of saying "*The Applicants' Reply to the Respondent's Response to the Application*", it should normally read: "*The Applicants' Reply to the Respondent."*

Paragraph 34 of the text reads: "Regarding the procedure, the Applicant maintains that he filed the **submissions on reparations** on 25 July 2013 and that in any event, the Respondent **has** in the past **benefitted** from extensions of time granted by the Court without the Applicant **having had** a chance to make observations on the same."

Comment: there are grammatical mistakes in this sentence regarding the use of the preposition **on** instead of **for**. Instead of the present perfect, the past perfect should be used. Instead of the present participle + had, it is possible to use the present participle alone. It is also possible to add "**any**" to the sentence.

Then, the whole sentence would read: *"Regarding the procedure, the Applicant maintains that he filed the Submissions for reparations .... and that in any event ... the Respondent **had** in the past **benefitted** ...without the Applicant **having** a chance to make **any** observations....*

The rest of the comments can be found in the last two columns of the table.

Conclusion

As indicated above, the purpose of this paper is to discuss the problems that make it difficult for translators to adequately translate legal documents, especially documents issued by the ACHPR, and to suggest some solutions. Translation in the context of a court such as the ACHPR requires several skills including general translation competence as well as the knowledge of legal language and comparative law, familiarity with human rights conventions and charters, aptitude in stylistics as well as in English grammar, and terminology.

It is obvious that the type of texts translated in this court as well as its specialised area of focus and cultural aspects come into play.

Unlike other specialised translations, in legal translation, the link between a signifier and the signified is not fixed because the signified is the subject of variations. It all depends on the differences between the legal systems. Legal terms are also complex, especially in the perspective of comparative terminology. Some terms exist in both source language and target language but they do not have the same meaning in both languages.

There are three kinds of terms, namely those which have their equivalents in the target language, those which do not have any equivalents but for which some equivalents can be found and those which are untranslatable because they refer to concepts which are non-existent in another legal system.

This paper is just a reflexion on the problems related to legal translation and is a contribution to the solution. There are probably other aspects of the issue which may not have been explored. The complexity of the issue discussed tends to suggest that there is a need to make further investigations into the matter and to come up with appropriate methods and principles to translate different types of legal texts. Finally, though legal translation is complex and constitutes a challenge, it is not an impossible task. It is an area that requires continuing studies and attention.

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