



ETHICAL CONSIDERATIONS

Like members of other professions, translators have an extraordinary responsibility to their clients. Like doctors and lawyers, translators can bestow enormous benefits or inflict incalculable harm upon the people they serve. Their responsibility is particularly grave, since in the majority of cases the translator is the sole arbiter of meaning. Under normal conditions, even in a legal setting, no one else is monitoring the process, and both client and attorney are totally dependent upon the translator's words.

Lack of precision in the use of language can have disastrous consequences in a legal context. Inaccurate translations cause more serious problems than no translations at all; people have been deprived of their rightful property, even of their freedom because of a translator's carelessness. Consider the following actual case:

A man walking home from work tripped over a length of pipe a local industry had discarded and left lying across the sidewalk where it became covered with snow during the afternoon. In making his statement in Spanish, the man, permanently disabled as a result of the injury, explained "Tropecé y me caí," which the translator rendered, rather vaguely, "I slipped and fell." The insurance company eagerly seized upon the word "slipped" and used it to make its entire case: the man had not *tripped* over the pipe, but had *slipped* on the snowy sidewalk; the company, therefore, was not liable. The man, unable to work and unable to collect anything from the negligent industry, eventually lost his home.

In this case, the real *desliz*, we can all agree, was the translator's.

There have probably been countless cases like this one. It is chilling to consider that countless others go undiscovered because no one realizes that a translation error has been made. After all, who is going to discover it? It could only be detected by someone who knows both languages, and in most cases this is the translator himself. *The importance of cross-checking an important translation cannot be overemphasized. Having a second, fully competent translator with experience in a legal setting check each translation is the only safeguard against errors that can have grave consequences for all concerned.*

Few laymen have the practicing attorney's extraordinary sensitivity to language. This sensitivity is acquired through years of experience and stems from a direct understanding of the legal implications of all aspects of language. There is no substitute for this knowledge, and the serious translator will want to consult frequently with members of the legal profession to ascertain exactly which word, phrase or formula is most suitable in a given context. Mere fluency in two languages is not sufficient preparation for legal translation. A person may have a very extensive vocabulary in both English and Spanish, for example, and still be totally unaware of the special or restricted meanings of words in legal parlance. It is especially dangerous to take familiar-looking words at face value and give them a conventional or "common-sense" translation; the results can be comical — or very serious.

How many of the following can you translate *accurately* without doing any special research?

(I.) TRANSLATE INTO ENGLISH: (ANSWERS FOLLOW.)

- a. Hurto de menor cuantía
- b. Violación
- c. Rapto
- d. Exposiciones deshonestas
- e. Las actas del registro civil
- f. El registro demográfico
- g. Las disposiciones de la ley vigente
- h. Los ingresos, rentas o sueldos percibidos
- i. Bienes inmuebles

Answers



(II.) TRANSLATE INTO SPANISH: (ANSWERS FOLLOW.)

- a. Rights allowed to remain dormant
- b. Commercial paper
- c. Beneficial owner
- d. The judicial authority, however, will not entertain the complaint...



Learn to be extremely skeptical of familiar-looking words; their meaning in a legal context may be *totally different from their every day meaning*. This meaning cannot be improvised; by the very nature of the law, legal language has developed in a very long, very conservative tradition which allows very little flexibility. It will be necessary for you to use specialized dictionaries (see Appendix), dictionaries of legal terminology, in order to find proper equivalents for many terms. Do not be content with your translation of a new term until you have found a way of verifying it. Do not hesitate to ask others for help, but be absolutely sure that the people you ask are really qualified to answer authoritatively. Mere fluency is no guarantee of the specialized knowledge needed for legal translating. Under no circumstances should you guess about the meaning of a word. The most valuable words in a translator's vocabulary are "*I don't know what this means.*" *An inaccurate translation can cause for more problems than no translation.*

The translator, then has an *ethical* responsibility to be as accurate as is humanly possible; this implies a duty on his part to develop effective research skills and to use them conscientiously.

CODE OF ETHICAL PRACTICES

The following code of ethics has been adopted by the American Translators Association as a guide to all members of the profession. Study the points carefully and consider which of them have special application to the translator in a law office or legal services agency.

IT SHALL BE THE DUTY OF EVERY TRANSLATOR

1. To translate with the greatest fidelity and accuracy he can command, endeavoring always to give his readers and audience the impression they would have if they could read or hear the original.
2. To maintain professional discretion and in particular to respect the rights of his client or employer by divulging nothing he may have learned in his professional capacity that is harmful to their interests; and to derive no personal profit or advantage from any confidential information he may have acquired in his professional capacity.
3. To accept no assignment for which he knows himself to be less than well qualified in either language or understanding of the subject, except with the prior knowledge of his client or employer; and to refuse any assignment which he believes he cannot properly complete within the time allowed.
4. To share professional knowledge with colleagues on a reciprocal basis.
5. To refrain from any action likely to discredit the profession, and in particular to abstain from engaging in unfair competition.
6. To seek or accept no work on terms that are humiliating to him or the profession.
7. To refuse any assignment that he believes to be intended for illegal or dishonest purposes, or against the public interest.
8. To be loyal to his colleagues and to his profession and to agree to settle professional differences by arbitration whenever possible.

CARE OF PERSONAL DOCUMENTS

Many of the documents a legal translator handles contain personal information of a sensitive nature. It is vitally important that great discretion be exercised in caring for such documents. Birth certificates, adoption papers, divorce proceedings and the like contain sensi-

tive information that should under no conditions be divulged. It is particularly important that such documents be cared for in an orderly way. The original document should in most cases be retained by the client rather than the translator, who can work with a photocopy. It is literally impossible for natives of some countries to replace original documents should these be lost.

Documents and copies of them should be kept under lock and key and not removed from the premises. Follow scrupulously the procedures used in your office for recording and filing documents.

The translator's obligation to respect confidentiality is as binding as that of the psychologist, priest or physician. Be sure that you do not unintentionally violate this obligation by carelessly leaving photocopies of documents around for others to see. Destroy your scrap paper and put your translations away as soon as you finish them; do not take them home with you. Do not discuss the contents of documents with colleagues.

It is so easy to make copies of papers that we tend to become very casual about the process. Take a moment to think of the possible consequences of having extra copies of documents like adoption papers, immigration papers professional credentials, etc., fall into the hands of unscrupulous persons. Be sure you can account for each and every copy of a personal document given to you to translate. Do not make extra copies of documents unless absolutely necessary and do not retain extra copies of any document without the *explicit* permission of the client.

CERTIFIED TRANSLATIONS

A certified translation is one that ends with a pledge written by the translator or other individual qualified to certify stating that the translation is a faithful rendition of the original; the pledge is signed in the presence of a notary, who affixes a seal. A sample pledge or oath might read as follows:

This is to certify that the (above/attached) translation of (here identify the type of document, name of individual, date, identification numbers, etc.) is a faithful and accurate rendition of the original (Spanish).

Signed

(Title)

(Institution)

Note that different types of documents require different types of certification. Some require the use of specific adjectives in the oath —patents, for example, must stipulate that the translation is "literal" (if it were really "literal," it would probably be a terrible translation!). Professional credentials, such as the transcripts of physicians, pharmacists, etc., can only be certified by certain individuals— the faculty of university foreign language departments, for example. A routine pledge that might be affixed to a translation of a birth certificate, etc., might read "This is a true and accurate translation of the attached photocopy of an original document." The document should be identified in the pledge in order to prevent the pledge being removed and affixed to a falsified document.

"TRANSLATION AGAINST MISUNDERSTANDING"

The distinguished translator Gyorgy Radó, editor of *Babel* magazine, has written an eloquent statement of the mission of the translator which, if we read between the lines, has special significance for the translator working with the Hispanic community in a legal environment. Although the quotation is rather long, it may serve to remind us of the important trust that rests with an interpreter or translator:

"The word understanding is not only the name for a psychological process; it is also an historical notion. Ever since men of different tongues have been meeting each other, translating has been the basic guarantee of understanding...

"There is a French saying, 'Tout comprendre c'est tout pardonner.' To understand, to forgive, to live in peace. Translation eliminates misunderstanding; consequently it is an antidote to the passion called hatred.

"I quote the Bible: '... let us go down, and there confound their language, that they may not understand one another's speech,' so said the Lord. And in this way the Tower of Babel represents the symbol of the confusion of languages, a source of wars, revenge and hatred, becoming hereditary through the generations.

"And again in the Bible, the proclamation of love as a religion was followed by Whitsuntide when '... there appeared unto them parting asunder, like as of fire; and it sat on each one of them. And they were all filled with the Holy Spirit and began to speak with other tongues, as the Spirit gave them utterance.'

"Whether we believe this as a fact or regard it as a symbol, the beginning of our era represents a change in the course of human history.

"At the same time that national languages began to acquire respectability in Europe, European culture began to extend to the Americas and Siberia; but the European style of war extended there too. Wars were caused by the lust to possess; their spiritual background was misunderstanding, and misunderstanding can be dissipated by translation.

"That is why, at the beginning of modern history, translation from biblical languages satisfied national ambitions, but no longer in the XVIII century. Translation from one modern language into another had to begin.

"It began slowly. Its first valuable achievements are noticeable in the XIX century, but only in our age did it become significantly extensive, chiefly after World War II . . . I make bold to say that beside the fear of atomic devastation, the continuous growth of translation is connected with the fact that in 31 years no large-scale war has broken out. Fear of the atom has a military character, but translation affects minds and souls; it dissipates misunderstanding. The translator's task is a noble one."

Excerpt from Dr. Radó's address, "Translation Against Misunderstanding" in *Translating, a Profession*, Proceedings of the International Federation of Translators (FIT), Edited by Paul A. Horguelin, Quebec, 1978.