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HOMICIDE, MANSLAUGHTER, MURDER. PECULIARITIES OF TRANSLATING INTO UKRAINIAN

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Being a very young independent country, Ukraine has been constantly trying to develop international relationships with many countries in different spheres of human activity. It should be noticed that jurisprudence is one of the most serious and peculiar one in frames of legal systems diversity (for example, essentials of Roman, Anglo-Saxon, Continental, Muslim etc. legal systems) and legal terms multiplicity according to domestic legislation of a definite country.

Systematic study has only recently begun in the field of legal translation, but many significant problems have already been identified and the research has certainly shown its practical applications with the help of comparative law, legal linguistics and legal data processing.

Each legal system has its own vocabulary. It is the translator's job to search for terms that often do not fully correspond to the meaning of the word in the source language, or which may not even exist in the target language. Nevertheless, using the appropriate word does not only depend on a good dictionary. It also depends on the translator's technical knowledge. For instance, a legal term under legal system A, understood as a systemic term, is transformed into another term under legal system B by finding a term that corresponds with the function of the legal term under legal system A [7, p. 35].

Problems in legal translation may crop up due to the specificity of legal language and the system-bound nature of legal terminology. While exploring legal terminology

we have to determine the unit of this terminological system. In this article we define *a term* as a word or a word combination belonging to the specific field of usage, either specially created or borrowed for determining a specific concept and based on a definition. In that way, “*a legal term* is a word or a word combination which stands for a general name of a legal concept, has a specific and definite meaning, and is often used in legislation and legal documents” [4, p. 37].

Contemporary language of law makes several requirements relating to legal terms that should be taken into consideration in the process of translating. The legal term should meet the following important requirements: satisfy the rules and norms of a corresponding language; be systematic; correspond to a certain definition oriented to a certain concept; be relatively independent of the context; be precise; be as concise as possible; be expressively neutral [5, p. 12].

Legal English reflects the mixture of languages that has produced the English language generally. However, modern legal English owes a particular debt to French and Latin. For a period of nearly 300 years, French was the language of legal proceedings, with the result that many words in current legal use have their roots in this period. These include *property, estate, lease, executor* and *tenant*.

During this period, Latin remained the language of formal records and statutes, but it never became the language of legal pleading or debate. Adopting words derived from Latin was the aim to make texts appear more sophisticated. Some legal words taken in this way are *adjacent, frustrate, inferior, legal, quiet* and *subscribe*. Some writers also started to use a Latin word order. This led to an ornate style, deliberately used to impress rather than inform.

English remained the spoken language of the majority of the population, but almost all writing was done in French or Latin. English was not used in legal matters. Only in 1356 when the Statute of Pleading was enacted, it was stated that all legal proceedings should be in English [5, p. 5–7].

There is a curious historical tendency in legal English to string together two or three words to convey what is usually a single legal concept.

Hence, a legal background contributes significantly to the translator’s and interpreter’s professional success, as such knowledge will be crucial for avoiding erroneous translations such as *вбивство*, corresponding to the English terms *homicide, manslaughter, murder*.

The Ukrainian legal system defines **homicide** as ‘the death of one person caused by another’ (it is included in article 115 of the Chapter 3 of the Ukrainian Criminal Code) generally. The similar general definition we can find in the English legal system.

These are the terms that will attempt to translate as precisely as possible by means of a perfunctory analysis of the Ukrainian and English legal systems.

In the English Law we can observe three main different terms and consequently, three different definitions. The term **homicide** (Latin *homicidium*, from *homo* human being + *caedere* to cut) defines an act of killing: 1) a person who kills another; 2) the killing of one human being by another); the term **manslaughter** defines the unlawful killing of a human being without malice; the term **murder** (partly from Old English “*morthor*”; partly from Old French “*murder*”, of Germanic origin) defines the crime of unlawfully and unjustifiably killing another under circumstances defined by statute (as with premeditation) [2, p. 87]. Hence, the term **homicide** has broader

meaning in the English legal system and differs from **murder** та **manslaughter**.

Therefore, the crime of **murder**, which carries the most severe punishments in the English legal system (life imprisonment), is considered a common law offense, being defined as the following: “Murder is when a man of sound memory, and the age of discretion, unlawfully kills within any county of the realm any reasonable creature in *rerum natura* under the king's peace, with malice aforethought, either expressed by the party or implied by law, so as the party wounded, or hurt etc. die of the wound or hurt, etc. within a year and a day after the same” [1 p. 243].

According to the Article 115 Of the Criminal Code of Ukraine, the term “*murder*” interpreted as “умисне протиправне заподіяння смерті іншій людині” [14] and punished for 10–15 years imprisonment or life imprisonment.

But under different conditions, the crime of homicide may be qualified as **manslaughter**, a crime resulting in a less severe sentence. A similar, but not the same, situation occurs in the Ukrainian legal system.

There are two types of **manslaughter**: voluntary and involuntary in English legal system. On the one hand, **voluntary manslaughter** occurs when the defendant avails him/herself of the three statutory defenses described in the 1957 Homicide Act: provocation, diminished responsibility and suicide pact. Other circumstances of such crimes: mistake, ignorance of the law, intoxication etc. On the other hand, the crime of involuntary manslaughter occurs when the agent has no intention of committing (*mens rea*) murder. Below are some examples: punching the victim, who falls and dies, threatening someone with a loaded firearm which fires accidentally.

The crime of **involuntary manslaughter** can be subdivided into two main categories: **constructive manslaughter** and **gross negligence manslaughter**.

Constructive manslaughter occurs when the agent practices unlawful and dangerous acts that can lead to physical harm or death. Evidently, the agent does not intend to cause death, which arises from unlawful and dangerous conduct. However, the agent did intend to perform the unlawful and dangerous act [1, p. 115].

Gross negligence manslaughter is described in as “... the negligence of the accused went beyond a mere matter of compensation between subjects and showed such disregard for the life and safety of others as to amount to a crime against the State and conduct deserving punishment” [1, p. 115].

There is only the one lexical unit associated with the crime of homicide (murder and manslaughter) in Ukrainian legislation, but according to CCU, we deal with clear features which classified different kinds of a given crime: (умисне вбивство, вчинене в стані сильного душевного хвилювання (Стаття 116), умисне вбивство матір'ю своєї новонародженої дитини (Стаття 117), умисне вбивство при перевищенні меж необхідної оборони або у разі перевищення заходів, необхідних для затримання злочинця (Стаття 118), вбивство через необережність (Стаття 119), доведення до самогубства (Стаття 120), умисне тяжке тілесне пошкодження (Стаття 121) [14]. In this connection we should bear in mind that the dividing line between the categories of **manslaughter** is not always clear, how can the translator overcome these obstacles. Perhaps a better solution (with the exception of the term's broader context) would be a translation based on definitions. Hence, the translator will convey the true sense of the word in the source language instead of

employing terms that the reader cannot understand.

Taking into consideration the aforesaid, we come to a conclusion that the process of a legal text translating into a foreign language is littered with a series of obstacles. A translator of legal texts needs to master “legal jargons” [2, p. 87]. Having sound knowledge of the country's legal system civil law is a prerequisite for getting good legal translations done.

Hence, a legal translator has not to improve his or her “legal language” only, but has a certain level of theoretical knowledge as for legal system of the country, which language is used for the translation.

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