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Translation studies: philosophical and law text

Бевз Н. В., Стрельченко Д. В. Перекладацькі практики: філософський і юридичний текст. Процес перекладу має давні традиції і має широке застосування протягом всієї історії. Дана робота націлена на спробу пролити світло на природу і розвиток перекладу юридичних і філософських текстів з метою надання аналізу проведеної роботи в цій галузі. В даний час існує величезна кількість досліджень правової та філософської спрямованості перекладу, і кожне з них розглядає переклад з різних сторін, так як кожна методологія дослідження фокусується на особливих аспектах мови. Дана робота - це спроба показати, що перекладацькі практики є досить складною областю з далекосяжними результатами.

Ключові слова: вид перекладу , текст, юридичний текст, філософський текст, переклад , перекладацькі практики.

Бевз Н. В., Стрельченко Д. В. Переводческие практики: философский и юридический текст. Процесс перевода имеет давние традиции и имеет широкое применение на протяжении всей истории. Данная работа нацелена на попытку пролить свет на природу и развитие перевода юридических и философских текстов с целью предоставления анализа проведенной работы в этой области. В настоящее время существует огромное количество исследований правовой и философской направленности перевода, и каждое из них рассматривает перевод с разных сторон, так как каждая методология исследования фокусируется на особых аспектах языка. Данная работа –это попытка показать, что переводческие практики являются достаточно сложной областью с далеко идущими результатами.

Ключевые слова : вид перевода , текст, юридический текст, философский текст, перевод, переводческие практики.

N. V. Bevz, D. V. Strelchenko. Translation studies: philosophical and law text. The process of translation has a long-standing tradition and has been widely practiced throughout history. This research deals with the attempting to shed some light on the nature and development of translation law and philosophical texts with a view to giving some indication of the kind of work that has been done so far. Nowadays we have an increasing importance of legal and philosophical translation studies and they should be researched from as many angles as possible, since each methodology has a unique focus and capacity to look at a different facet of language. This reserach is an attempt to demonstrate that translation studies is a vastly complex field with many far-reaching ramifications.

Key words: kind of translation, text, law text, philosophical text, translation, translation studies.

The activity of translation has a long-standing tradition and has been widely practiced throughout history, but in our rapidly changing world its role has become of paramount importance. Nowadays, knowledge in which cultural exchanges have been widening, has been increasingly expanding and international communication has been intensifying, the phenomenon of translation has become fundamental. Be it for scientific, medical, technological, commercial, philosophical, legal, cultural or literary purposes, today human communication depends heavily on translation and, consequently, interest in the field is also growing. Accordingly, the discussion, in the present study, proceeds primarily from the perspectives of “Hermeneutical translation Studies” and “Philosophical and Law texts”. One major goal is to show the interrelationships between linguistics and translation, and how they benefit from each other.

Furthermore, the focus of translation studies has been, recently, shifted away from linguistics to forms

of cultural studies. The present study, moreover, attempts to shed some light on the nature and development of the discipline of translation studies with a view to giving some indication of the kind of work that has been done so far. It is an attempt to demonstrate that translation studies is a vastly complex field with many far-reaching ramifications.

Central to reflections on the nature of translation, the task of the translator has always been the question of the translator’s responsibility towards the original. To what extent, scholars have been asking for hundreds of years, can the translator add to, omit from, or in any way alter the source text? Debates on this issue have given rise to much theorizing and are at the heart of the age-old free/literal translation paradigm. One of the main tool in translation studies has been hermeneutics.

Hermeneutics in its various historical forms from antiquity to modern times in general offered methodological help in solving interpretive problems that arise with certain kinds of texts: dreams, laws, poetry, religious texts. But in the early 19th century,

Friedrich Schleiermacher (1768–1834) wondered whether there could be a hermeneutics that was not a collection of pieces of ad hoc advice for the solution of specific problems with text interpretation but rather an "allgemeine Hermeneutik", a "general hermeneutics," which dealt with "art of understanding" as such, which pertained to the structure and function of understanding wherever it occurs. Following the universalism of Kant, he looked for "the universal conditions" of all understanding in language. "Allgemeine" can be translated as "general," but also as "common" to all, or "universal," so Schleiermacher, although he was a theologian concerned with the biblical text, was interested in a "universal hermeneutics." His project and lectures on it did not attract a great following, but posthumously in 1840 a volume of his writings on hermeneutics and criticism was published: *Hermeneutik und Kritik*. For theologians, however, the procedures of classical philology and what were called the "historical-critical method" remained adequate to their task [4].

The next stage in the development of a philosophical hermeneutics was the articulation of a radical hermeneutics of existential understanding. Heidegger (1889–1976) was influenced by the historically based life-philosophy of Dilthey, but he was in disagreement with making consciousness or the life-force the basis of his thought about interpretation. Instead, he chose "being" as his universal component. Being, as it occurs in the everyday existence of human beings, he said, is understanding. Understanding is the basic way for a human being to exist in the world. To "be" is to understand, it is to interpret the world in terms of one's own possibilities for being. In his *Being and Time*, Heidegger worked out the conditions for the possibility of human being in the world, and in this sense he offered a Kantian universalistic analysis.

Then a German philosopher, Hans-Georg Gadamer (1900–2002), who had been Heidegger's assistant for five years in Marburg, from 1923–1928. It was Gadamer who first used the term "philosophical hermeneutics" in reference to his philosophy, and indeed this appears in the German subtitle of *Truth and Method*, which was dropped in the English translation.

In modern times, considerations of the relationship between translation and original have often focused on principles of 'faithfulness' and 'accuracy'. While usually understood in widely diverse ways, faithfulness has assumed the status of an ethical responsibility, with translators in many countries required to take an oath to guarantee the accuracy and correctness of their work before being officially licensed to practice. Translators, thus, are expected to present their readers with an 'accurate' picture of the original, without any 'distortions', and without imposing their personal values, or those of their own culture, on the intellectual products of other nations. For a long time this valorization of the original did not disrupt the almost universally accepted precept of 'natural' translation. A translated text, it is often still emphasized, should read

like an original composition and not call attention to its translatedness – an effect that is usually created through 'free' translation strategies.

The concept of translation universals may be controversial but it has elicited a heated response from translation scholars, pushing research in new directions and providing evidence both for and against their existence. Therefore, the major contribution of research on translation universals is that it brings to light recurrent patterns likely to be found in translation. It is reasonable not to treat them as absolute laws but "general or law-like tendencies, or high probabilities of occurrence" [2:94]

After discussing the theories of translation philosophical texts that seem to demonstrate the fundamentals of the proper approach to translating philosophical texts, it is necessary to show how theories apply to actual translations of legal texts.

Translation studies elicit a number of questions, still unanswered, concerning their potential impact on legal translation. Suppose the universals exist. Should we be concerned about the simplification or disambiguation tendency in light of the strategic ambiguities and purposeful flexibility of legal language? One of the fundamental problems in legal translation is the incongruity of concepts between legal systems and the absence of universal knowledge structures, which are present in other types of specialised translation, e.g. in mathematics, biology, chemistry or technology. The importance of translation studies cannot be overlooked either since being a linguist or a lawyer does not suffice as neither can successfully substitute the routine and special competences of a translator.

To perform such a translation, a two-fold approach is necessary on the part of a translator. Firstly, he is obliged to decipher all of the meanings included in a source text through the detailed analysis of its contents. Such analysis will not only be of a linguistic nature, but it also necessitates some specialist legal knowledge of the text's contents if it is to be understood properly. This means that the translator must engage in the analysis of some of the legal bases of the text's meaning. The best way to do this is to either study the actual Acts and Regulations which govern the shape of a document, or find some other accessible information, or credible consultants through which any possible doubts can be dispelled. Following this, if the translator is sure about what each part of the source text exactly means, the next level of the translation can take place, namely seeking out the best vocabulary and linguistic structures with which to express the meanings included in the source text. There are three ways to do this:

- by retaining some cultural-specific elements, such as the names of institutions, the titles of officials, or actual legal regulations etc. In such circumstances, some translator's notes will be needed to explain the sense of ideas, particularly when the source information is left in the original language;

- by localizing common elements within the meaning that are different in form in the source and target language, such as different formats of dates, times, currencies, weights, measures, and more specific legal terms;

- and, most easily, by the equivalent translation of content that is similar in form and meaning in both cultures.

Secondly, our knowledge of legal translation is still limited. Increasing importance of legal translation should be researched from as many angles as possible, since each methodology has a unique focus and capacity to look at a different facet of language. The corpus-based approach is one such promising methodology, with a plethora of theoretical and practical applications. It opens up new perspectives on legal language and legal translation by prompting us to ask new research questions [3:375–388].

Comparative analyses that utilize comparative corpora, term databases, glossaries, websites, etc. are of great help when carrying out the work mentioned in points 2 and 3 above. Yet the translator should always bear in mind the most common rule of translation of such culturally-rooted texts, namely first be faithful to the source language culture's principles. There is a further level to be included in the process of translation, which relates to its recipient. The kind of

reception that the work receives is the final proof of how correct, or otherwise the translation is. Accordingly, obtaining such feedback information may be an additional factor of interest to the translator. "One problem for the translator can be in misunderstanding the deliberate intention to retain ambiguity which can lead to an attempt to make the term more precise and limit possible interpretations by the court. Translators have no authority to resolve ambiguities in source texts. However, this can be brought about inadvertently if translators do not have sufficient legal and linguistic expertise. [1:358–375]

Nowadays we have an increasing importance of legal translation studies and they should be researched from as many angles as possible, since each methodology has a unique focus and capacity to look at a different facet of language. They open up new perspectives on legal language and legal translation by prompting us to ask new research questions.

All in all, if representative and balanced parallel corpora are built in the future, the combination of quantitative and qualitative analysis of translation may lead to new data-driven generalizations on translation methods and contribute to the ongoing discussion within translation studies about the nature of the translation process itself.

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