

Mayoral, R. (2005). The lure of legal language. *The Journal of Specialised Translation*, 3, 2-5.
<https://doi.org/10.26034/cm.jostrans.2005.798>

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The lure of legal language: an interview with Roberto Mayoral

Roberto Mayoral is a Senior Lecturer at the Department of Translation and Interpreting of the Universidad de Granada, Spain, and has been Head of the Faculty of Translation and Interpreting. A specialist in English-Spanish official sworn translation and translation theory, his recent publications include *La Traducción de la variación lingüística* (1999), *Aspectos epistemológicos de la traducción* (2000) and *Translating Official Documents* (2003).

1) In an interview in 1999, you noted that in Granada, the legal and economic field was one of two biggest areas in non-literary translation-wise. Is it still the case and does this apply to the whole of Spain?

Yes, I think so. It is the result of both market demands and the students' expectations as well. Nevertheless, student demand seems disproportionately enhanced by excessive expectations about job opportunities in official sworn translating.

2) Is the notion of legal language ambiguous and what would you say it covers?

The notion of legal translation derives from the notion of the legal document and the latter –at least partially– from that of legal terminology and language. In my opinion, this kind of derivation is hasty as those distinctions which originate at the level of concepts/language do not necessarily apply to other levels such as documents or translation. Currently, the concept of legal translation includes the translation of documents with some kind of legal content and the translation of documents in keeping with legal process. This covers texts (legislative, contracts, treaties, courts, commercial...) and ways of translating (with legal effect, without legal effect, informative) which may be completely different. The problem grows even worse when different scholars of legal translation choose only one of them as a prototype and describe problems and offer solutions which are not applicable to the other cases which might also be considered under the common denomination of legal translation. I consider the notion of legal translation more a hinderance than a help for communication and understanding among practitioners and scholars.

3) How is globalisation affecting legal translation?

I do not think major changes have occurred recently. Some aspects of

legal communication –such as commerce- are mostly held in English as the lingua franca, but this is only true for the corporate parties directly involved in the transaction. Whenever a commercial document needs to be understood by other parties, such as judges or personal investors, translation is still necessary most of the time.

Another aspect of globalisation is the increasing circulation of multilingual forms and documents –e.g. EU certificates and documents. This will cause a decrease in the need to translate these kinds of documents if not its total disappearance.

Interlingual communication can be tackled in two main ways: by means of translation and interpretation or by means of foreign language learning and use. Any loss for translation and interpretation caused by an increased use of foreign languages or a lingua franca is more than compensated by the heavily growing need for specialised communication. We must also bear in mind that globalisation is easily achieved when there is only one conceptual system (industrial production) but it is hard to achieve when communication is produced between more than one conceptual system, involving culture-bound concepts, as is the case with communication between different legal systems.

4) As far back as 1988 in an article published in *Meta*, you were attempting to "synthesise non-linguistic aspects" of translation. These aspects are now essential in translation theory, but twenty years later, what would you say they consist of?

I think that this view –the constraints posed for translation by an image-bound text and the interrelationship between image and text in a message- is still valid, and I am glad that my contribution has been useful for subsequent authors. The kind of messages we were thinking about when writing that paper were movies, songs, comic books and advertising. The present profile of communication is much richer and major revolutionary developments have taken place since then: computer and multimedia products, DVD and an overall digitalization of communication products. The general approach is still valid but the constraints imposed on translation by its digital support currently need our main attention.

5) What is the role of risk analysis in the translation process, particularly as regards legal translation?

A great amount of considerations contribute to choicemaking when translating a text or a particular segment of that text: contents of the original text, communicative efficiency, style, translation brief, profit considerations, creativity... and quite often these considerations clash. Another consideration is the risk that a particular translation solution compared to others poses for any of the parties involved in the document or even for the translator. We can find different degrees of conservatism

in the way translators translate; conservatism in translating favours literalism and discourages interpretation of meaning, commentary and explanation. Conservatism in legal translation facilitates comparisons of the original and the translated texts but hinders comprehension and style. Conservatism minimizes risks in translating even when other possible virtues of the translated text are adversely affected by it.

I think that legal translators constantly assess risks in choosing translation options, consciously or automatically. I dare say that one of the facets of the legal translator is that of being an actuary.

6) Legal language is said to evolve towards a greater degree of transparency. Would you say that this trend is true and that 'legalese' is fading out?

Plain legal language is an unstoppable trend, as the relationship between the administration and its subjects becomes more democratic and the relationship between professionals and their clients follows more market considerations than social class barriers. As an example, the introduction of the jury in Spanish court rooms has given a powerful boost to the introduction of plain legal language.

What may be true for the courts is not yet as true when other areas of legal translation are considered. On top of that, the special language of some trades is not the only reason for the lack of transparency present in many legal texts. The fact that many legal documents are written by non-native speakers of the language –translators included- and by untrained writers poses a major threat to the transparency of legal texts, mainly in commerce.

7) What should in your view the essential features of a legal translation course be?

Knowledge of both legal systems and concepts should be a prerequisite. If lacking, it should be provided within the course.

Knowledge of archaic and formal varieties of the original language is a must. Many of our current students lack it.

Work with defective language and the possible influence of foreign languages upon the original text should be included.

Practical work in the course should be based on real documents.

Assessment of the quality of the work should be based on professional criteria and not on linguistic-philological criteria.

Typology of documents should be a central element of the content of the course.

Self-confidence of the translator within a legal environment should be built up. The student should be familiar with the legal world and its agents.

Students should be given the resources for finding new specialised information.

8) How do you deal with legal training in a multilingual and multiinstitutional country such as Spain?

Currently, legal and commercial businesses are overwhelmingly conducted in the Spanish language and English. The presence of other Spanish languages can be found mainly in the activity of regional administrations (Catalonia, Basque Country, Galicia) and the schools for translators and interpreters satisfactorily provide for the professionals needed. In different ways and to different degrees, all the schools in those communities cater for training in translation and interpreting to and from their vernacular languages. The dissimilarity between regional legal systems and the central system is minimal, at least as far as the translator is concerned.

9) Do think that legal translation should be taught alongside other areas of specialism or even in conjunction with literary translation?

It depends on the kind of course we are thinking about. Training of specialised translators can be achieved in different ways (undergraduate vs. postgraduate studies) and the students can have different backgrounds (a legal background or others). We cannot afford to ignore any of these paths if we want to cope with the needs of society and the expectations of the would-be translators.

Otherwise, I always found the translation of literary texts a very useful element in the training of any kind of translator. And I also think that training in legal translation is beneficial for any kind of translator.

We should also bear in mind that, currently, most professional translators are compelled to translate any kind of texts to make a living and that very few of them can indulge in specialising in legal translation exclusively.

10) What gives you most satisfaction in your role as an academic?

The privilege of being useful to others. My students' recognition, if any.