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Intralingual and intersemiotic translation for accessibility in educational and social environments – focus on legal language

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Abstract: Over the years, what is normally referred to as visual law has increasingly developed and some scholars have been tentatively experimenting with legally binding comics, although in very limited numbers. This article posits itself as part of that tradition, while taking the issue a step forward, further developing the academic discussion around the notion of accessibility in legal language and emphasising the importance that different forms of translation can assume in this context. The article thus discusses the impact that intralingual and intersemiotic translation can have in both "educational" and more "social" contexts, finally providing two brief examples of how these forms of translation can render legal discourse more accessible and

understandable to a great variety of receivers, regardless of their age, level of education, cultural origin, etc.

Keywords: visual law, intralingual translation, intersemiotic translation, graphic art, comic contracts.

LA TRADUZIONE INTRALINGUISTICA E INTERSEMIOTICA COME STRUMENTO PER OTTENERE UNA MAGGIORE ACCESSIBILITÀ IN AMBIENTI EDUCATIVI E SOCIALI – FOCUS SUL LINGUAGGIO GIURIDICO

Sinossi: Nel corso degli anni si è sviluppato sempre di più quello che normalmente viene definito diritto visivo e alcuni studiosi hanno sperimentato, seppur in numero molto limitato, il fumetto giuridicamente vincolante. Questo articolo si colloca quindi all'interno di questa tradizione, sviluppando tuttavia ulteriormente il dibattito accademico sulla nozione di accessibilità del linguaggio giuridico e sottolineando l'importanza che diverse forme di traduzione possono assumere in questo contesto. L'articolo discute quindi l'impatto che la traduzione intralinguistica e intersemiotica può avere in contesti tanto "educativi" quanto "sociali", fornendo infine due brevi esempi di come queste forme di traduzione possano rendere il discorso giuridico più accessibile e comprensibile a una grande varietà di destinatari, indipendentemente dalla loro età, livello di istruzione, origine culturale, ecc.

Parole chiave: diritto visivo, traduzione intralinguistica, traduzione intersemiotica, arte grafica, fumetti giuridicamente vincolanti.

1. Introduction: The universal value of accessibility

This article aims at emphasising the pivotal role that different forms of translation (intralingual and intersemiotic in particular) can play in terms of accessibility, exploring potential strategies to help various types of readers in their approach to legal discourse, be they students (who are approaching legal language either as part of their training to become specialised translators or as part of their curriculum in university degrees in Law) or the general public. In order to be as systematic as possible, the article addresses didactic issues in the second

section, while the social repercussions of the translation strategies discussed here are analysed in the third section.[1]

Clearly, the concept of accessibility adopted in this article, transcends the definition typically given to the word in educational and digital settings, as exemplified, for example, by the US Congress' 1998 Amendment to the Rehabilitation Act of 1973, the 2013 Strategic Plan for Improving Management of Section 508, and the European Union's European Accessibility Act of 2019. Even though, as Nina Reviers states (2016), media accessibility policies are still unequally diversified across different European countries, there is no doubt that the issue has triggered a considerable amount of interest at different levels of society, in the attempt to improve access to mainstream goods and services and encourage full and effective equal participation in social life.

Similarly, the focus on cognitive disabilities and the effects that visual language can have on people with different kinds of disorders has been the focus of research in the field of cognitive sciences (Cohn *et al*. 2016). As such, the methodologies that educators can exploit in teaching environments have been the subject of numerous academic studies (Zager *et al*. 2011; Schiff and Joshi 2016; Hughes and Talbott 2017), engendering innumerable publications on the subject. As a result, in the limited space of this article, it is impossible to trace the various stages of the vibrant discussion on the subject and its numerous outcomes.

Nonetheless, this work builds on this literature, applying, however, the notion of accessibility to contexts where disability is perceived as a tile of a larger mosaic, focusing in particular on the possible needs of any non-specialist receiver, in an effort to find strategies that might lead to a higher degree of comprehensibility and, consequently, a more systematic distribution of knowledge within society.

Indeed, if it is true that this article deals with forms of intralingual and intersemiotic translations centred on the identification of target receivers deemed "different" from the ideal readers of the (highly specialised) source texts, it takes into account not only receivers with physical or cognitive disabilities, but also receivers who are nonetheless characterised by different needs if compared to those for whom the source texts were created (i.e., highly specialised professionals). These would include, for instance, young learners,

[1] This article further develops the preliminary results discussed by the author in *Specialized Languages and Graphic Art* (Peter Lang, 2023).

students, learners of a foreign language, speakers whose native tongue is not the language utilised in the drafting of specific texts and, ultimately, ordinary receivers whose needs are determined not only by the historical period or the geographical context in which they live, but also by idiosyncrasies affecting more directly their personal sphere.

Indubitably, everyone needs to be familiar with the technical and specialised features of specialised languages. If this is so, it is not just because, as analysed in depth elsewhere (Canepari 2013), they have infiltrated much of our popular culture, in terms of television series, internet videos, blogs, etc., but also, and more importantly, because the ever-increasing specialisation of our societies demands that everyone willing to operate as members of the social order should have at least a rudimentary mastery of these languages. This is particularly true in relation to legal language, whose presence in everybody's life is evident and whose specialisation, throughout history, has sometimes been exploited to exercise control over the population and create a society based on an unequal distribution of knowledge and power (Coke 1832: xxxix; Pease 2012: 7).

This is why this article argues that accessibility should be viewed as a much broader concept affecting every person, partly in accordance with Greco's definition of "human right", according to which accessibility

> "has the potential to impact on a number of human rights for all individuals. For example, it affects the quality of life of the elderly, migrants and linguistic minorities, serving to grant access to culture, information and communication." (2016: 12)

This notion, however, seems excessively limited and ideologically tinged. This is due, in part, to the fact that it primarily refers to multimedia products and, more importantly, to the fact that, despite claims that accessibility is a tool for universal human rights and "not only of persons with disabilities" (Greco 2017: 94), it nonetheless addresses specific sectors of society which could be defined as "minorities", thus encouraging a binary vision of society, maintaining and enforcing hierarchies like "central" vs. "marginal," "majority" vs. "minority," and "normal" vs. "abnormal".

Clearly, as Rizzo suggests (2019), the notion of accessibility, even in the sense described above, can be used to good effect in research focusing on disadvantaged Others. However, accessibility should be seen as a genuinely universal concept that addresses every citizen, and

not only "minorities". Indeed, as suggested throughout the twentieth century by scholars such as Lacan (1966, 1972), Foucault (1972, 1975, 1976), and Derrida (1967a, 1967b) among others, since identity is linguistically created, anyone is bound to be perceived, at one stage or another, as the Other, and it is precisely this identification of Otherness that still points to a division of society according to which a group is assigned to the inferior side of the dichotomy "Subject/I" vs "Object/the Other".

It is actually this division, which is identified, in this article, as a consequence of society's specialisation and which has frequently been the subject of study on the part of the foremost scholars of the 20th century, notably by Foucault, who recognised specialised discourse as a crucial component of the Western episteme and its violence (Foucault 1976: 101).

This article, on the contrary, views accessibility as a truly universal notion and, while acknowledging the variety of circumstances with which intralingual and intersemiotic translators may be confronted, it centres on a wider audience, given that, within the context of specialised discourse, texts requiring a higher level of accessibility may well be intended for readers who are constructed as Subjects, i.e., non-impaired, middle- or upper-class, educated native professionals from highly industrialised nations. Certainly, a higher level of accessibility in the area of specialised communication appears crucial in the modern day and age – characterised by significant migratory patterns that frequently require non-native speakers to decipher written and/or spoken texts. However, this need has long been recognised at every level of society, since the challenges posed by specialised discourse, legal language in particular, are not limited to non-native speakers.

Given these premises, the important role that the study of graphic art and the intralingual and intersemiotic translation processes it entails might play in the search for new tools that can render legal discourse more accessible appears evident, and points to the creation of a society where all members can make autonomous choices, thereby gaining more control over their lives.

Clearly, this does not imply that all potential receivers can benefit from the same types of adaptation. This is the reason why Skopos theory (Vermeer 1984, 1996; Nord 1991, 1997; Kussmaul 1995), with its focus on the function the final product is supposed to perform, and the central role played by the addressee in its specification,

can become a valuable tool, despite the criticisms it has attracted over the years (see for instance Newmark 2000).

Certainly, by visually remediating (and remediatising) highly specialised texts, the translation forms on which this study focuses might be seen as an expression of the "reform" described by Jay Bolter and Richard Grusin (2000: 56), according to which, during the process, reality itself is transformed. In fact, just as verbal language constructs, at least in part, the reality it is supposed to describe, visual language – in both traditional and new media – also aids in the construction of that same reality, while determining the way in which we experience it. As such, it appears evident that the examples of remediation discussed here in terms of translation bring about changes in the everyday reality of human beings and can thus be compared to those remediations that, as Bolter and Grusin suggest, also entail "reform in a social or political sense" (ivi: 60).

Indeed, by further exploring the relationship between "word" and "world", these forms of translation can be seen as political in their attempt to generate not only more accessible texts but also a more accessible reality.

With this in mind, this article offers both a brief example of how intralingual and intersemiotic translation might be fruitfully exploited in educational settings and, building on that, how they could be exploited to achieve a higher degree of accessibility in environments that might be defined as more "social", pointing to new paths in the construction of legally binding texts which could lead to the creation of a more "literate" – and, consequently, more autonomous – readership.

2. The potential of comic art in ELP arenas

The advantages of using images and visual products in the educational field are by now widely established (Mayer 1989; Hassett and Schieble 2007; Clark and Lyons 2011), since – as neuroscientific research has demonstrated – "substantial gains in learning can be attained by the intelligent use of visual and verbal multimodal learning" (Fadel 2008: 12). Moreover, given that communicating information in both verbal and visual formats can relate more easily to "the specific perceptual and cognitive strengths of different individuals" (Pashler *et al*. 2008: 109), and that comics readers are able to understand complex ideas even

without a thorough understanding of the disciplinary language (Allen and Ingulsrud 2003, Sabin 2016) the adoption of these intersemiotic products can make complex pieces of information more accessible to a variety of learners.

This is the reason why comics have been widely accepted as effective teaching tools for both native and non-native learners, especially in specialised arenas such as the legal field on which this article focuses.

What follows is therefore based on some of the courses focused on legal language that I held at the University of Parma during the academic years 2021/2022 and 2022/2023.[2]

Besides the many activities they could organise by exploiting already published comics such as *Daredevil* and others (Canepari, 2023), teachers – by building on the foundation laid out in publications like *The Illustrated Guide to Criminal Law* (2018) – could easily create simple graphic narratives in order to help students understand the meaning and effects of various legal notions and test their actual comprehension. The example presented here, for instance, focuses on the different levels of culpability and the notion of liability and was intended to offer students a specific context of situation in which they could see the various characters interact. Contrary to other works, where images are frequently used as a mere complement to the verbal tex, the kind of representation illustrated in figure 1, enabled students to assess the scenario depicted much more easily so as to determine the role played by the various actants. For instance, the panels below were used after an explanation of the various levels of culpability (from murder one to accidental death), the introduction of the notion of *mens rea* and a discussion of the notion of responsibility. Students were presented with several graphic narratives similar to the one represented in figure 1, in which the information given differed slightly, and were asked to identify, on each occasion, the level of culpability and responsibility of the restaurant and the punishment they were likely to face.

[2] The 30-hour courses were held during the second semester and extended from February till May for a total of 30 hours of lessons *in presentia*. The attending students – second-year undergraduates reading modern foreign languages and possessing an initial B2++ level of English – were, in both academic years, approximately 120, and during the courses they were required to add 110 hours of individual study.

Figure 1. "The different levels of culpability", by Paolo Tagliaferri and Michela Canepari (2023).[3]

Students were thus confronted with brief graphic narratives which are, *per se*, more engaging than merely descriptive texts, and which, as such, serve both informative and interpersonal functions, connecting with readers also on an emotive level, thus becoming more relatable.

Additionally, as readers can see, contrary to some of the didactic products already on the market, as well as many comics, where the text is written in a style and a font that hinder its complete accessibility, the verbal text is here typeset using the Century Gothic font (which is often perceived as being more intelligible than the typeface specifically created for dyslexic students) and aligned to the left, while the line spacing is increased, to make it more user-friendly for students with dyslexia and visual impairments. Moreover, the background colour of the speech balloons is different from white (which also helps the text to be more readable), and important words are highlighted in bold while other colours are used to catch the students' attention and aid them in deciphering the story (Daloiso 2017).

Naturally, this was not a task intended specifically for students with visual or learning disabilities. However, the strategies adopted, together with the presence of images, made the text simpler to grasp for all students, taking into account the needs of different groups.

[3] For a full-colour view of the graphic narrative, please consult https://tinyurl.com/38xec7ez.

Furthermore, in order to improve text accessibility and render the turn-taking system immediately clear, speech balloons of different shapes and colours have been adopted, while the brief narrative – where verbal language is reduced to a minimum – resorts to what is commonly known as "eye dialect" (Krapp 1926), which is simpler to understand, especially for receivers who are not native English speakers, since it reproduces the pronunciation of words orthographically rather than resorting to their standard spelling ("cof" vs "cough").

Additionally, to emphasise the urgency of the situation, the panels in the second column of the first grid are cut diagonally to suggest how quickly the ambulance is hurrying the patient to the hospital in a visual and immediate way.

Moreover, this kind of work could also be easily animated in a simple digital edition like the one that was created on this occasion,[4] where the individual panels are shown in a video sequence and a voiceover was added, together with different voices identifying the various characters. This made the final product even more engaging and provided additional support for students who could only read with difficulty because of their impairment.

Naturally, the activities that could be prepared by exploiting the potentials of translation are innumerable. For instance, another activity which has demonstrated to be extremely useful during my courses was to ask learners to translate intralingually documents drafted in "legalese" so as to render them into plain English. This translation effort certainly responds to the needs of students who, precisely because they do not master the language of the discipline yet, need extra support and various forms of scaffolding.[5] However, this is the same kind of effort that should normally be adopted to address different types of receivers, since also the general, native, educated public often feels the need for more understandable communications within the legal field. For this reason, this discussion is developed in the following section, which is specifically dedicated to "social" issues.

[4] For a view of the animated story, please consult https://tinyurl.com/2fy5d9z8.
[5] This is particularly true when students approaching legal language are – as in the case discussed here – non-specialists who wish to learn the language in order to work as specialised translators.

3. Exploiting comics in "social" arenas

That legal language should be one of the primary specialised discourses in need of a more accessible format comes as no surprise, which is why the various plain English movements, that strongly advocate the adoption of intralingual procedures with a view to making legal language more understandable, matured precisely in this field as a reaction to the obscurity, ambiguity, redundancy, and verbosity typical of "legalese". Clearly, this is neither the time nor the place to revisit the development of such movements over time, nor would it be appropriate, given the objectives of this article, to engage in a lengthy discussion of the characteristics of legal language. However, suffice it to say that many of the traits that have been described as typical of legal discourse (Cortelazzo 1994; Gotti 2005) are the focus of plain English movements, which argue that the many passive forms, binomials, impersonal constructions, and words of classical or French origins typical of legal language should be subjected to intralingual translation and replaced by forms which are more quickly and easily decodable for non-specialists.

This section thus aims at demonstrating how a legal deed could be easily translated intralingually and intersemiotically while retaining its binding nature, in order to create a text which, by adapting to the various learning styles that might characterise different receivers, and developing a narrative where a plainer language works in synergy with visual language, could actually become an effective means to offer the members of a given society a fuller understanding of their surroundings and their role in them.

What follows is therefore a brief "Deed of Amendment", a textual typology that falls under the second group of legal genres identified by Enrique Varo and Brian Hughes (2002: 102), that is to say legal texts in private law establishing legal arrangements among private individuals, namely what Peter Tiersma (1999: 139) would call "operative legal documents". As illustrated below, the source text is first translated intralingually and then, taking the translation effort a step further, intersemiotically, in order to originate what could be considered a "Comic Deed".

The original text reads as follows:

> "The present Deed is made the tenth day of January 2001 between the Mayor of Brighton and Hove of Civic Centre Brighton BN3 2LS

(hereinafter called "the Council") of the one part and Theo Mills and Eva Mills both of 26 Furness Road Eastbourne (hereinafter called "the Purchasers") of the other part.

WHEREAS:

1) By a Transfer dated 27 May 1999 and made between the parties hereto the property known as 26 Furness Road Eastbourne (hereinafter called "the Property") was transferred to the Purchasers as therein contained.

2) The said Transfer contains a plan purporting to delineate the property transferred.

3) The said plan does not correctly delineate the property transferred and the plan annexed hereto and marked "plan No. 2" signed by the parties hereto and dated the tenth day of January 2001 correctly delineates the property.

NOW THIS DEED WITNESSETH:

The said Transfer shall at all times be read and construed as if the plan therein referred to was the said plan No. 2 and not the plan originally annexed thereto but in all other respects the parties hereto confirm the said Transfer.

IN WITNESS whereof the Council has caused its Common Seal to be hereunto affixed and the Purchasers have set their hands and seals the day and year first above written." (adapted from Cutts 2013: 232)[6]

As readers can easily recognise, this particular text already presents stylistic elements that make it relatively more intelligible in comparison to other legal documents compiled in the past, when various paragraphs were conflated into one and no punctuation was utilised. Indeed, in this case, the presence of clearly marked headings which are typographically isolated can be observed, thus facilitating the reading process. Moreover, the presence of numbered paragraphs certainly makes it easier to organise and decode the flow of information, also indicating a chronological order which finally suggests the causal chain of the events described in the respective points. Nonetheless, even in this instance, it is possible to identify a number of linguistic choices

[6] During this adaptation only the names of the buyers, the gender of the Mayor and the location originally indicated in the source text have been changed.

confirming that, as Tiersma states (1999: 141), typically, the genres of operational legal texts, while being specifically intended for clients and directly affecting their interests, are written in a highly formal, formulaic language and are prevalently characterised by legalese, while being encased in a very rigorous structure. Many of these elements, however, could be easily translated into a plainer variety of legal language to improve the text's readability.

3.1. Translating the text intralingually

Naturally, the first step for any intralingual translator (whether students or professional translators) is the analysis of the structural, morphosyntactic, and lexical features that define the source text, such as: the presence of words of French origin ("purchaser"), passive forms ("This deed is made"; "the property was transferred"), archaic forms ("hereinafter"; "hereto"; "therein"; "whereof") and the use of the deontic "shall" ("The said Transfer shall at all times…"), together with the use of capital letters.

Furthermore, translators have obviously to identify the text's prescriptive or descriptive nature, in addition to the illocutionary and perlocutionary acts it is intended to accomplish. Once the analysis has been completed, intralingual translators can decide which strategies and procedures might be more effective and apply them to the text under survey, bearing in mind that legally authoritative writings have legal ramifications that could have a significant impact on people's lives.

As a result, wordy expressions can be condensed through the exploitation of deixis, transforming for example "the present" into "this", while the polysemous verb "made" – which appears to be ambiguous – could be replaced with "signed". Moreover, passive tenses could be transformed into active forms, thus resulting, for example, in "the Mayor of Brighton and Hove… and Theo Mills and Eva Mills...signed this deed", which makes the segment more comprehensible. Moreover, the word "purchasers", which derives from the Old French *porchaceor*, could be substituted by the noun of German origin "buyers", which average English-speaking receivers would find much easier to process, whereas the archaism "hereinafter" could be either replaced by the plainer "below"/"from now on" or simply

omitted, its meaning being easily inferable from the co-text in which it appears.

Furthermore, redundant expressions can be reduced by omitting some elements ("of the one part" and "of the other part" could be eliminated and the sentence reduced to "the Mayor" and "Theo Mills and Eva Mills"), while the term "whereas", which introduces the recital clause, could either be translated into its plain English counterpart as "since" or similar, or be omitted altogether without changing the meaning of the text. Indeed, since "whereas clauses" are not binding, this omission procedure has no effect on the source text's illocutionary and perlocutionary force, and although it removes a genre-typical element, it makes the text more understandable, given the different meaning the word often carries in everyday English, where it denotes an opposition and might be replaced by conjunctions such as "even though" or "while".

From a structural perspective, however, the conflation of paragraphs is disregarded in the following section, where readers are confronted with a numbered list consisting of three different bullet points. Although the same structure could also be maintained in the target text, it is certainly possible to transform the passive form used in the first short paragraph into an active form (thus resulting in "A transfer dated…transferred the property…") and render the text more concise and easier to decode through omissions and substitutions, so that the archaic word "therein" is eliminated. Furthermore, the expression "a plan purporting to delineate the property transferred" could be, if not omitted entirely, at least simplified, resulting in: "a plan that aimed to show the property".

Also the following point can be made more comprehensible, first of all by presenting it as two separate sentences. Moreover, the first part, by adopting not only omissions, but also expansion procedures, could be rendered as: "The transfer contained plan 1, which showed the property incorrectly". In fact, although the final number of words remains unchanged, the use of a simple relative clause will produce a text which is certainly more easily decodable. Naturally, the sentence might be also translated as: "The plan included in the transfer showed the property incorrectly"), which, while being slightly longer (10 words rather than 8), also presents a passive form that might be more difficult to decode.

The second part of the original sentence, which was introduced by the paratactic "and" ("and the plan annexed hereto…"), can thus be

represented also typographically as an independent unit, thereby making it easier to understand. In addition, the sentence can be placed more clearly in a relation of opposition to the previous one and rendered more succinct through the elimination of the word of Latin origin "annexed" and the word "hereto" which, while being of Germanic origin, is an archaism and might therefore create difficulties for the general public. Through the application of condensation procedures, the target segment could therefore read as follows: "On the contrary, on 10 January 2001 the parties signed plan 2 (attached to this deed) that shows the property correctly", or simply "On 10 January 2001 the parties…"

Also the expression "Now This Deed Witnesseth", an evident legacy of legalese drafting due to the presence of the archaic form "witnesseth", can be either omitted or translated into the more ordinary and plainer expression: "This deed testifies that" or "According to/in line with this deed", followed by a translation of the following sentence, which could be simplified as follows: "The transfer is to be read as if plan 2 had been originally attached to it". The second part of the sentence, introduced by the conjunction "but", can be maintained as an independent sentence from which the archaic "hereto" is omitted.

Finally, the highly elaborated and verbose sentence concluding the document, which bears the marks of legalese phraseology, can certainly be made more accessible and expressed in plainer language through procedures of omissions and substitutions. Indeed, the expression "In witness whereof" – a translation of the Latin phrase *in cujus rei testimonium* – can be omitted and, together with the following part of the sentence, simply translated as "signed".

The final target text could therefore read as follows:

> "On 10 January 2001 the Mayor of Brighton and Hove of Civic Centre Brighton BN3 2LS ("the Council") and Theo Mills and Eva Mills both of 26 Furness Road Eastbourne ("the buyers").
>
> Since:
>
> 1) On 27 May 1999 the Council transferred the property known as 26 Furness Road Eastbourne ("the Property") to the buyers.
>
> 2) The Transfer contained a plan (Plan 1) that aimed to show the property.
>
> 3) Plan 1 showed the property incorrectly.

4) On 10 January 2001 the parties signed Plan 2 (attached to this deed) that shows the property correctly.

According to this deed:

The transfer is to be read as if Plan 2 had been originally attached to it. In all other respects the parties confirm the Transfer described above.

The parties signed this deed on 10 January 2001.

The Council's authorised officer _____ The buyers" _____

As readers can appreciate, the target text is shorter (140 words rather than the 215 of the source text), despite the fact that some of the elements which could quite easily be omitted ("Since", "According to this deed") have been maintained and despite the adoption of addition and expansion procedures aimed at rendering the final document more comprehensible. As a result, the target text already appears more approachable.

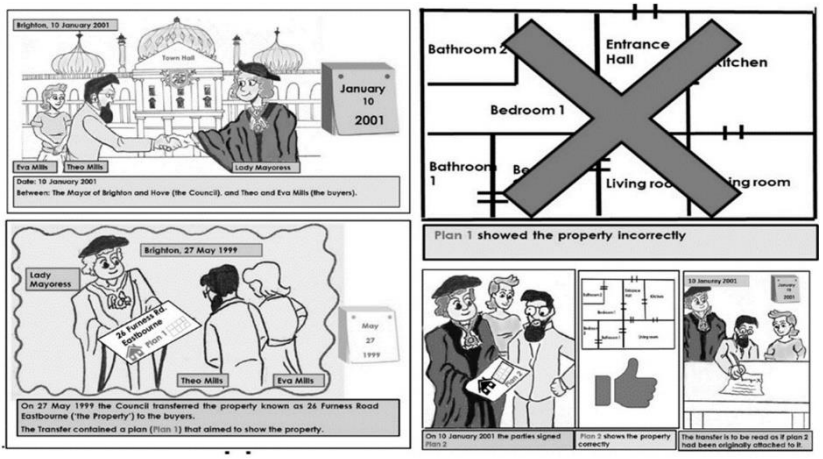
3.2 Translating the text intersemiotically

However, by taking the translation effort a step further, and with a view to rendering the source text accessible to an even wider readership, intersemiotic translation strategies could be adopted, thus turning the verbal text into a graphic narrative which, by combining the visual and a plainer verbal language, might create a legal document actually within reach of the majority of the general public.

As a result, the text above could be translated intersemiotically as follows:

Figure 2. "Deed of Amendment", by Paolo Tagliaferri and Michela Canepari (2023).[7]

[7] For a full-colour view of the comic Deed, please consult https://tinyurl.com/3tk5tuer.



As readers can see, the short comic story (which turns the parties into the characters of a graphic narrative that develops in a specific geographical and temporal setting, thereby providing various contextualizing clues), is totally transparent. By faithfully rendering what is expressed verbally in the source text, the Comic Deed becomes understandable even without resorting to verbal language, in contrast to earlier efforts in this field, where the visuals frequently offered only partial pieces of information. This is why, despite the presence of verbal plain language in the captions, the text can be considered an actual Comic Deed and not a "Visual Deed", which are defined as legal texts "that incorporate legal design, plain language, and other UX elements to facilitate positive, proactive relationships based on trust and understanding between partners" (Deborah do Camo, Dotted & Crossed webpage, comment posted March 8, 2021). As a result, the finished product might be considered "similar" (Tymoczko 2007) enough to the original to be regarded as binding (and therefore enforceable), while also being clearer. The verbal language of the deed, which was previously translated intralingually, is inserted in the brief captions provided and positioned strategically beneath the panels that visually portray them, in order to ensure that the deed would be regarded as binding. Indeed, as former Chief Justice of Australia, Robert French, has confirmed, comic contracts are legally binding if their pictorial meaning is clear and users can interpret them in a legal setting (Deborah do Camo, Dotted & Crossed webpage, comment posted March 8, 2021). Thus, the presence of a simple verbal text – or, in the case of receivers of low literacy, an "oral explanation" (French 2017: 270) of the visual

and verbal text itself – would make the final product binding since, as French maintains, "There is no reason in principle why pictorial contracts explained orally or supplemented textually or contextually could not be enforceable in the same way as any other contract" (ivi: 271).

In the example provided above, as readers can see, the verbal text is once again aligned to the left to keep the spacing between words constant, whereas the background of the captions is shown in a colour different from white, thus making the text easier for readers with dyslexia. Similarly, the font chosen ("Century Gothic") assists dyslexic or visually impaired readers in the reading process.

Furthermore, in order to provide readers with an additional aid, strategic terms are highlighted in bold, while other elements are given emphasis through the strategic use of the colour red (this is for instance the case of the cross, which suggests how the plan should be dismissed as incorrect).

As we can see, the short comic story sometimes provides the information in more than one mode, for instance contextualising the situation both verbally and visually. Indeed, the Lady Mayoress, who represents one of the parties, is identified both by the caption and by the sable-furred scarlet robe, the chain of office (i.e., "Civic regalia") and the tricorn hat she is wearing. Furthermore, the Town Hall – which is identified as such by both verbal language and the type of architecture that reproduces the actual Town Hall of Brighton and Hove – has been represented in the background, so as to further emphasise the role of the character on the right. The geographical context (Brighton, UK) is equally identified both verbally and visually, since the stylised representation of the domes and the minarets of the famous Royal Pavilion which, given its uniqueness, immediately identifies Brighton as the site, and is indeed exploited in the Brighton and Hove City Council logo. Finally, to place greater emphasis on the official nature of the moment, and to further identify the building as the site of the town's administrative centre, the coat of arms of the city, through a procedure of addition, is reproduced on the façade. In this instance, only the dolphins which appear on the actual coat of arms have been reproduced, and the colour blue is used to replicate the original crest and activate a reference to the sea, clearly associated with the city, which has served as a seaside resort throughout history.

In the panel above, the idea that the scene is set in the past is indicated both through the use of verbal language, the calendar (which

in both this and the previous panel is coloured in such way to create a strong sense of cohesion with the captions and the rest of the scene), the sinusoidal outline of the panel itself and the sepia colour used for the whole scene. With the adoption of cropping and blow-up techniques, the following panel shows the enlargement of the original plan which was attached to the deed represented in its entirety in the document the Mayoress is holding, where a property and its plan are visually represented. Since this plan, according to the present deed, is to be ignored, a red cross is drawn to indicate its removal. On the contrary, in the following panel, the icon of the "thumb up" (equally emphasised through the colour green, which is normally used with the positive meaning of "ok", "you can go") – which through the new media and network services has come to represent universally positive feedback – is inserted, so as to indicate that plan 2, which is equally enlarged and presents minor variations in the allocation of rooms in comparison to plan 1, is the one to be considered and accepted as correct. The short story ends, just like the source text, with the parties signing the new deed.

To create a stronger sense of cohesion, the colours of the characters' clothes have been maintained unchanged, and light and soft colours have been chosen in order to highlight the red robe of the Mayoress and, with it, her institutional role, thus drawing receivers' attention to the relevant information.

As readers can see, the entire target text is slightly longer than the original due to the intralingual translation and the graphic depiction of the scenes, both of which take up more space than the brief paragraphs that comprised the original text. Yet, many receivers could profit from them. Certainly, the text, thus modified, is better suited to meet the needs of readers with learning difficulties. However, as this article has emphasised throughout, in its current form, this deed would undoubtedly be understood by a wide range of readers.

4. Conclusion

As seen above, in this article emphasis has been placed on the role that intralingual and intersemiotic translation can play in different types of contexts. As far as learning environments are concerned, the comparative analysis of the results obtained by students during their

final exams in the academic years 2018/2019 and 2019/2020,[8] when no intersemiotic mediation was adopted during the courses, clearly demonstrates the positive impact that the exploitation of graphic aids has had on students' assimilation of legal notions and lexis. Indeed, during these years, the percentage of students who passed the exam with a grade higher than 24/30[9] was 40%, whereas during the following years the percentage raised to 57%, with various distinctions.

As far as more social repercussions are concerned, the discussion developed above strongly suggests the fundamental role intralingual and intersemiotic translation can have in the development of documents which, despite being specialised, can prove accessible to most receivers, giving them greater control over their daily lives. Indeed, the underlying argument, as stated in the Introduction, is that a graphic representation and the application of both intralingual and intersemiotic strategies can facilitate the comprehension of various types of text, thus fostering a higher awareness on the part of the receivers and, as a result, their increased involvement in the various processes that have a significant impact on their lives, thus transforming them from passive recipients of other people's choices and decisions, into committed and active participants.

Furthermore, the article demonstrates how the target texts thus created could be made more accessible to readers with learning and cognitive disorders, as well as to readers who are visually impaired, by adopting simple expedients like the choice of particular fonts, the alignment of the text on the left, the strategic use of colours, etc. Naturally, as suggested above, this does not mean that the same forms of adaptation can be considered valid and helpful for every potential receiver. For instance, when adapting a text for students, intralingual amplification strategies, such as the insertion of footnotes, might be

[8] Also in these years, the 30-hour courses were held during the second semester and extended from February till May for a total of 30 hours of lessons *in presentia*. The attending students – second-year undergraduates reading modern foreign languages and possessing an initial B2++ level of English – were, in both academic years, approximately 120, and during the courses they were required to add 110 hours of individual study.

[9]The Italian grading system is based on the following scale, roughly translated into percentages: from 28/30 to 30/30 (excellent, 90% to 100%), from 24/30 to 27/30 (good, 80% to 89%), from 21/30 to 23/30 (satisfactory, 70% to 79%), from 18/30 to 20/30 (low pass mark, 60% to 69%). The final grade represents the average obtained by summing the mark obtained during the written test (focused on reading, Use of English and translation exercises) and the more theoretical oral examination.

deemed a helpful and unobtrusive strategy, allowing an explanation of notions and individual lexical items without encumbering the main body of the text. However, when adapting the same text for dyslexic receivers or other receivers who need auditory reading, this strategy might create additional difficulties, since it not only interrupts the reading flow, thus disrupting the process of decodification, but since text-to-speech software reads all of the text on a page before it moves on to the next page, when a sentence spans from one page to the next, the text-to-speech stops to read the not-yet-read text which might be placed in the margins or the footer (Nick Bird, The APA Blog, comment posted on January 17, 2019). Similarly, illustrations might be extremely useful, but naturally, for people who have a visual impairment, the information conveyed by the images and the reduced verbal text in the speech balloons might not be readily available (which is why I decided to transform the graphic narrative into a "read aloud" video). Obviously, then, an analysis of the community of ideal target receivers and their needs becomes essential.

Yet, generally speaking, as a result of the strategies adopted, the examples selected in this study typically exhibit improved inclusivity and accessibility throughout both in learning and social environments and, if approved by the relevant authorities, might represent a significant change in the lives of various types of receivers.

It goes without saying that, despite the use of diverse strategies, translators must ensure that the nature of the text is maintained since, for example, changing a prescriptive and binding source text into a text that is neither of the two can significantly affect its validity. Yet, given that, as also Maria Tymoczko implies, in language, perfect synonymity is frequently a mirage, the exploitation of these translation procedures illustrates that "equivalence in translation theory and practice can only be a useful concept when it is understood as a form of similarity" (2007: 32).

As this article maintains, then, intersemiotic translation (and the procedures of intralingual translation it often entails) have the potential to further the debate between legal and plain language, opening up highly stimulating opportunities to communicate both "legally" and "comprehensibly", ultimately pointing, in the legal domain, to different modes of interaction between specialists and non-specialists.

Naturally, due to space constraints, this article was in no position to conduct a thorough examination of the many issues involved in this process, especially in consideration of the various genres and subgenres that belong to the legal macro-category, which might be

characterised by specific lexical, morphosyntactic and textual features. However, despite the work which obviously still needs to be conducted in this area, this article can hopefully act as a steppingstone for future research.

Based on the research conducted by the author among both specialist and non-specialist students,[10] in educational settings, for instance, there is the need for more manuals and textbooks which translate intersemiotically the main notions which will form the building blocks of the students' knowledge.

Similarly, on the basis of interviews the author has held with lawyers, judges and bank managers over the years,[11] in more social environments, as this article suggests, there is a strong need to create more 'visual texts' which could make contracts, deeds, etc. more comprehensible to the general public. Furthermore, with a view to rendering legal language more accessible, the implementation of binding oral explanations of comic contracts, deeds, etc., should be further investigated, since, as Robert Franch states, "There is no reason in principle why pictorial contracts explained orally or supplemented textually or contextually could not be enforceable in the same way as any other contract" (French 2017: 271).

Finally, since the attention has been mainly focused on contracts, a deeper investigation into the possibility of translating intersemiotically other genres and sub-genres is needed.

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[10] This research was based on a series of questionnaires and surveys students from Courses in Foreign Modern Languages and Law were asked to fill.

[11] Let us not forget that, due to its interdisciplinary nature (Kristiansen 2007: 156; Kristiansen 2011: 38-9), the language of Business, Finance and Economics is often interwined with legal language (Kristiansen and Simonnæs 2018: 157).

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The translation of an Italian *procura alle liti* into English: word-by-word rendering or functional translation?

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Abstract
Ad hoc corpora are considered effective to deliver native-like technical (and legal) translation. This paper explores how the translation of a system-specific document such as an Italian *procura alle liti* (power of attorney to appear in court) can be addressed. Translating this legal document may be problematic due to the fact that it is not recurrent in the common law system, which contemplates other types of special powers of attorney (PoAs). This paper explores whether and to what extent a corpus-based translation is possible when L2 parallel texts are difficult to find in native contexts. To this aim, a translation project with technical translators and lawyers is carried out. The participants compose an *ad hoc* corpus which they consult as a language reference tool. The paper findings report that the translators' corpus-based translation is mostly a word-by-word rendering of the source text, which may

sound unnatural to an expert of the field. The lawyers' translation partly deviates from source words but addresses the communicative function of the source text. The paper highlights the need for a balance between the two strategies, for example by focusing on textual functionality and/or paraphrasing, although at the cost of a reduced formulaicity.

Keywords: corpus-based translations; legal translations; functional translations; legal documents; special power of attorney for a court case

TRADUZIONE DI UNA PROCURA ALLE LITI: RESA LETTERALE O FUNZIONALE?

Riassunto

I corpora specialistici sono considerati efficaci nelle traduzioni tecniche (e legali). Il presente articolo esplora come affrontare la traduzione di una procura alle liti, che è un documento giuridico altamente caratterizzante il sistema giuridico italiano. La traduzione di tale atto giuridico può risultare problematica in quanto non ricorrente nel common law, che contempla altre tipologie di procure speciali. Si esplora quindi se e fino a che punto una traduzione basata sui corpora sia fattibile quando i testi paralleli nella lingua di arrivo sono difficili da trovare in contesti nativi. A tal fine, si realizza un progetto di traduzione con traduttori tecnici ed avvocati. I partecipanti compongono un corpus ad hoc che consultano come strumento di riferimento linguistico. I risultati dell'articolo dimostrano che la traduzione basata sul corpus dei traduttori è principalmente una resa parola per parola del testo di partenza, la quale può sembrare innaturale ad un esperto del settore. La traduzione degli avvocati si discosta in parte dal testo di partenza, ma ne affronta in miglior modo la funzione comunicativa. Il contributo evidenzia la necessità di trovare un equilibrio tra le due strategie, ad esempio concentrandosi sulla funzionalità testuale e/o sulla parafrasi, anche se a costo di una ridotta formulaicità.

Parole chiave: traduzione basata sui corpora; traduzione giuridica; traduzione funzionale; documenti giuridici; procura alle liti

1 Introduction

Legal discourse is characterised by Latinisms, long sentences, syntactic discontinuity, preponderance of passive forms, formulae and formulaic expressions (Tiersma 1999; Coulthard and Johnsons 2010; Williams 2011), which must be tackled consistently in the translation

process. As a matter of fact, legal language is hallmarked by lexico-structural items (Weber 2001: 16) which make it unique and different from other technical languages. For example, the literature suggests that before engaging in the translation of legal texts, translators should have a good grasp of comparative law (Orozco-Jutorán and Sánchez-Gijón 2011: 25; Giampieri 2016: 445). As claimed by Šarčević (1997), in fact, "the source legal system cannot be simply transposed into the target legal system" (Šarčević 1997: 13).

The absence of an exact correspondence between legal concepts of different legal systems is one of the most common challenges of comparative law (Rene and Brierley 1985: 14; Scott 2019: 52) and, hence, of the legal translator's profession. Also, translating into an L2 (second language) has become very common; in particular, court-related documents are increasingly translated into the translators' second language (Vigier Moreno 2011: 325; Vigier Moreno and Pérez-Macías 2022: 75). Therefore, legal translators may be confronted not only with the challenges of addressing a foreign language, but also of assessing degrees of equivalences (Prieto and Orozco 2015: 112). In these cases, "equivalence" does not necessarily imply a one-to-one correspondence (Harvey 2000: 358). Correspondence (or equivalence), in fact, must occur at both word and legal system level. Therefore, it may be interpreted as "acceptability", depending on word functions (Harvey 2000: 358) and on the communicative situation (Vigier Moreno and Sanchez 2017). In some contexts, a strict relationship between words of the source and target text is not possible due to gaps in the source and target cultures, or because of the different terminological or lexical development of the two languages (Nord 2002: 32). In legal texts, such discrepancies are particularly evident due to differences between the source and target legal system (Scott 2019: 52).

Given the complexity of the language of the law and in light of the differences among legal systems, scholars tend to propose a "functional adaptation" of the source text (Garzone 1999 and 2000; Harvey 2002; El-Farahaty 2016: 479). According to Nord (2002: 32), a functional translation puts emphasis on the translation functions needed in the target text and, in particular, "in the context of the recipient culture" (Nord 2002: 32-34). Therefore, a functionally translated text relies on the communicative functions of words. Šarčević (1997) (also quoted in Harvey 2002: 180) defines the quality of legal translation on the basis of the equivalent legal effects produced by the source and target texts. In practice, according to this

perspective, target texts should not necessarily follow the exact wording of the source text, as long as the source text intentions (and communicative functions) are transferred (Nord 2002: 42). This, of course, occurs at the cost of accuracy, as legal formulae may be lost in the process of translation.

1.1 Corpora for legal translations

An effective way of dealing with and finding equivalences in legal translation is by using corpora (Scott 2012; Vigier Moreno 2016). Corpora allow users to notice collocations, recurrent linguistic patterns, word usages in context and word frequencies (Jensen, Mousten and Laursen 2012: 30; Vigier Moreno 2016: 108). They help deliver fine-grained translations, which mirror the language and style of authentic texts in an L2 (Vigier Moreno 2016: 105).

Amongst the various types of corpora available (i.e., online, offline, monolingual, parallel, comparable, etc. Krüger 2012; Gallego-Hernández 2015), DIY (do-it-yourself) databases are considered particularly effective for legal translations (Giampieri 2019). They are composed by users and serve specific purposes. The terminology they contain is *ad hoc* (Gallego-Hernández 2015: 375-376) and highly targeted, because they are built on the basis of users' specific needs (Varantola 2002), and/or of particular translation projects (Varantola 2003). The literature argues that legal DIY corpora do not need to be large to be representative of their genres (Biel 2010; Giampieri 2019), as legal discourse is very repetitive (Bhatia, Langton and Lung 2004: 207; Biel 2010: 6). For example, powers of attorney (PoAs) are considered highly formulaic and standardized (Giordano 2019: 125). At the same time, however, they are also "locally adapted and drafted to suit specific, local realities" (ibid.).

Given the specificity of PoAs, consulting an *ad hoc* corpus is useful, irrespective of the amount of technical preparation it entails. As a matter of fact, the corpus compilation process is generally perceived as daunting and time-consuming (Varantola 2002: 181; Zanettin 2002: 245; Krüger 2012: 514). Also, corpus consultation skills must be developed to search for terms properly and eschew wrong interpretations or inappropriate translation options (Krüger 2012; Gallego-Hernábdez 2015: 380). These disadvantages are generally largely compensated for by several benefits. For example, corpora increase the translators' confidence (Zanettin 2002: 245;

Vigier Moreno 2016: 111 and 2019: 94; Giampieri 2019: 5), because they expose users to instances of "naturally occurring language" (Sinclair 1991: 171). *Ad hoc* corpora are highly employable in the long run, for instance by in-house translators or for specific topics or genres (Wilkinson 2006). For these reasons, it is generally accepted that the efforts of using DIY corpora do not seem so strenuous *vis-à-vis* their benefits (Zanettin 2002: 245).

1.2 The research question

This paper addresses the corpus-based translation of an Italian *procura alle liti* (power of attorney to appear in court) into English. It explores whether it is possible to retrieve parallel texts from the Internet and use them to compose DIY corpora. The paper investigates discrepancies between the source and target legal systems; how they are reflected in parallel texts and, hence, in English/Italian PoAs. Also, the paper discusses possible challenges due to the difficulties of a word-by-word translation, as the language and formulae of parallel target texts may differ from the ones of the source text.

Therefore, the research questions that this paper wishes to address are the following: how is it possible to tackle the translation of an Italian *procura alle liti* when source and target reference documents differ greatly? How can legal translation be carried out when target parallel texts are difficult to find?

To this aim, this article describes a translation project carried out with four participants: two professional translators with sound knowledge of legal language and two lawyers with advanced knowledge of English. The participants' first language was Italian and they worked in two separate groups: the translators in the first, and the lawyers in the second. They were firstly introduced to the foundations of corpus compilation and analysis. They were given some time to practice the newly acquired skills, then they translated a *procura alle liti* (power of attorney to appear in court) from Italian into English via corpus consultation.

The translation observation study proposed in this paper is qualitative and tentative.

2 The Italian power of attorney to appear in court

Before describing the translation project, a few words should be devoted to the challenges posed by a *procura alle liti*. It is an important dispute-related document on the basis of which lawyers can represent clients in a court (art. 83 of the Italian code of civil procedure). Without this special power of attorney, there is no possibility for claimants/plaintiffs to start a legal proceedings, save for very few exceptions (e.g. divorce, but only in given circumstances, according to Italian Law No. 55 of 6 May 2015).

Apparently, no such document is envisaged at common law. The following sections shed light on this aspect. For the purposes of this translation observation study, the British and North-American legal systems are focused on.

2.1 Discrepancies between the source and target legal system

In Great Britain, there is currently no Act addressing powers of attorney to appear in court. The "Agents, appointees, attorneys, deputies and third parties: staff guide" (in short "Staff guide" 2013) quotes that "A PoA can be granted under: The Power of Attorney Act 1971 (...); The Enduring Power of Attorney Act 1985 (...); The Mental Capacity Act 2005. (...)" (Staff guide 2013: 7). Nevertheless, none of the above-mentioned Acts addresses powers of attorney for court cases. Moreover, the Acts do not provide for litigation, disputes or, more broadly, for any court-related situation.

Different is the situation in the United States of America, where a Uniform Power of Attorney Act is adopted in many states. Each Act envisages several possible scenarios, amongst which litigation in court is addressed. In particular, an attorney-in-fact can represent a client before any court in case of disputes, for example to:

> Demand, receive, and obtain by litigation or otherwise, money or any other thing of value to which the principal is, may become, or claims to be entitled;
> (...)
> Prosecute, defend, submit to arbitration, settle, and propose or accept a compromise with respect to, a claim existing in favor of or against the principal or intervene in litigation relating to the claim.

(Uniform Statutory Form Power of Attorney, California, Chapter 2: 4550)

> Assert and prosecute before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, cross-complaint, or offset, and defend against an individual, a legal entity, or government, including suits to recover property or other thing of value, to recover damages sustained by the principal, to eliminate or modify tax liability, or to seek an injunction, specific performance, or other relief.

(Uniform Statutory Form Power of Attorney, California, Chapter 2: 4559)

Therefore, it is apparent that Uniform Power of Attorney Acts address PoAs issued in court-related cases. However, a closer look at the subject matters dealt with by the Uniform Power of Attorney Acts reveals that they establish the granting of powers to an *agent* (hence, not necessarily an attorney-at-law) to perform court-related and, mostly, non-court-related acts on the principal's behalf[i]. For example, *The People's Law Dictionary* describes a "power of attorney" as "a written document signed by a person giving another person the power to act in conducting the signer's business, including signing papers, checks, title documents, contracts, handling bank accounts and other activities in the name of the person granting the power". A similar description is provided on the uslegal.com portal, quoting that "specific types of power of attorneys include: Health Care Power of Attorney, Power of Attorney for Care and Custody of Children, Power of Attorney for Real Estate matters and Power of Attorney for the Sale of a Motor Vehicle[ii]". As can be seen, no court-related situation is mentioned. By contrast, the subject matters addressed seem very different from the one of an Italian *procura alle liti*, which focuses only on a court-related representation.

Also, by analysing the *American Notice of Entry of Appearance as Attorney or Accredited Representative*, issued by the US Citizenship and Immigration Services, it is evident that attorneys-in-fact are entitled to represent their clients, but only as far as immigration matters are concerned[iii]. Furthermore, *American Contracts for Legal Services*, or *Attorney-Client Representation Agreements* are mostly non court-related and mainly deal with the attorney's fee or compensation scheme[iv].

In light of these observations, it can be claimed that neither in the UK, nor in the USA is a special power of attorney to appear in court actually prepared (and necessary) for court cases (see also

Giampieri 2018: 17). Therefore, due to such divergences, finding parallel documents can be difficult, if not impossible.

2.2 Discrepancies in the content of source texts vs parallel target texts

As already mentioned, in order to deal with specific source terminology and deliver accurate translations, a translator needs representative parallel target documents. Therefore, the document retrieval process plays a key role. If powers of attorney to appear in court are searched for in North American websites, unfortunately no similar documents can be found for the reasons stated above. In addition, the LawInsider and Onecle legal document databases do not provide any example of such specific PoAs.

The challenges posed by the lack of reference materials is also reported and analysed by Scott (2019). In these cases, she posits that "the translator has to hunt down the correct, consistent, approved or authoritative terms, legal instruments and other documents, or authority to be incorporated in their translation" (Scott 2019: 66). As it is evident, in the case in question there are evident discrepancies between the source and target legal systems and between source and parallel target texts. Therefore, if confronted with the translation of a *procura alle liti*, translators should search for authoritative parallel documents most likely in non-English-speaking contexts.

3 Methodology: the case study

The lawyers' and translators' corpus-driven training was carried out over a three-hour online session via the Zoom platform. The training was administered by the author of this paper: a lecturer of legal English, court interpreter and legal translator. The lesson was divided into two parts and organised in the following manner: in the first part, the participants were firstly introduced to document retrieval from the Internet (i.e., they were explained how to carry out Google advanced searches to source parallel texts); they were then told how to convert the retrieved documents into text files, and how to upload them to the AntConc freeware software solution (Anthony 2023). Finally, they

were explained how to consult the corpus by using the AntConc software interface. AntConc is an offline concordancer, i.e., it is a software solution which generates concordances from an offline corpus. It also lists collocations and shows word usages in contexts. In this way, it helps notice formulaic expressions and recurrent patterns of language. The participants were taught how to deal with simple and multiple word searches; collocational searches; use of the asterisk as a wildcard character, and lemmatisation.

The first part of the lesson was 1 ½ hour long. During the second part of the lesson, the participants were divided into two groups and worked in separate virtual rooms. They were prompted to retrieve parallel texts from the Internet, compose their corpus and carry out a corpus-based translation. The lecturer was always available to give advice on some technical aspects or issues regarding the document retrieval and/or the corpus consultation process. The participants could either submit their corpus-based translations at the end of the lesson, or after a few days from the lesson.

3.1 Document retrieval

This section describes the document retrieval process that the participants carried out during the online lesson. To start with, the participants were informed that the Proz.com translators' forum suggests "power of attorney to appear in court" as the English translation of the Italian *procura alle liti*[v]. Hence, the words entered on Google search string were "power of attorney to appear in court". For the reasons previously mentioned, no domain restriction was applied. Therefore, powers of attorney to appear in court were not necessarily sourced from British or North-American websites. After this initial procedure, the two groups worked separately in two virtual rooms: one with the translators and the other one with the lawyers. The information that follows was provided orally by the participants after the document retrieval process was over.

The documents retrieved from the Internet were carefully assessed by the participants and, if considered well-written and representative of the genre, they were downloaded and converted into text documents. The procedure adopted by the participants was, hence, the following: the search string "power of attorney to appear in court" was googled. Relevant documents (either in doc, pdf or html format) were downloaded and saved in a folder. Then, they were converted

into txt files (either manually or by resorting to online converters). After converting all the documents into text files, they were uploaded to AntConc. The document reliability and representativeness were determined on the basis of the institution or body issuing them (such as embassies, chambers of commerce and law firms). For example, powers of attorney found in embassies' websites were considered reliable from both a legal and language perspective. Also, their representativeness was assessed on the basis of their similarity with the Italian *procura alle liti* in terms of content and formulae. More details on document retrieval and conversion is described in Giampieri (2019), as well as in Vigier Moreno (2019: 98).

At the end of the retrieval process, 17 documents were collected by the translators (3,838 word types; 20,587 tokens) and 19 by the lawyers (2,577 word types; 18,974 tokens). For the purpose of the translation project, both corpora were considered satisfactory. The literature, in fact, reports that an offline corpus composed of at least 10 documents per genre suffices (Williams 1999: 516; Giampieri 2019). Both corpora were submitted to the lecturer after the lesson was over.

After composing the corpora, corpus analysis took place. Each group continued working separately, although the lecturer was always available for technical assistance. As mentioned, the software used was the AntConc freeware concordancer (Anthony 2023). While translating, each group was asked to keep a log of the word queried in the corpus, of the relevant results or hits obtained, and of the overall search process carried out. The log was to be submitted together with the corpus-assisted translation at the end of the lesson, or within a few days from it. The next sections report and comment on the participants' corpus-based translations.

3.2 The source text and the target texts

An extract of the Italian power of attorney is reported in Table 1 below.

Table 1. The *procura alle liti* (power of attorney to appear in court) (source text)

Delego a rappresentarmi e difendermi in ogni fase e grado del presente giudizio e in tutti gli atti conseguenti nel procedimento di esecuzione e di opposizione, l'Avv. …., conferendo alla stessa ogni

ampia facoltà di legge ivi compreso di nominare sostituti processuali, di riassumere il processo ove venisse sospeso o interrotto, di chiamare terzi in causa per qualsiasi titolo e di proporre domande riconvenzionali, transigere e conciliare la lite, di rinunciare ed accettare la rinuncia agli atti del giudizio, di nominare periti, di riscuotere somme, eleggendo domicilio presso il suo studio in (città).

The corresponding translations by the lawyers and the translators are reported in Table 2 below.

Table 2. The translations of the *procura alle liti* (power of attorney to appear in court) by the lawyers and the translators

Lawyers' corpus-based translation	Translators' corpus-based translation
I appoint …. to represent me during every phase and judgement of the present Trial and all other proceedings relative to the aforesaid case included the execution phase, hereby GIVING AND GRANTING unto my said attorney-at-law full power and authority to do and perform any and every act and thing whatsoever requisite or necessary or proper to be done in and about the premises as fully to all intents and purposes as I might or could lawfully do if personally present, with power of substitution and revocation, and hereby ratifying and confirming all that my said attorney-at-law shall lawfully do or cause to done under and by virtue of these presents. To receive any notice, whether in writing or verbally communicated to my	I delegate Ms …., lawyer, to represent and defend me in any stage of the trial and in all of the acts resulting from enforcement and objection proceedings. I grant him/her full power and authority, including the power to appoint legal representatives, resume the trial in case it is suspended, ask for the intervention of third parties for whatsoever reason, file counterclaims, settle the suit, waive and accept waivers of the proceedings, appoint experts, collect money. I will take up domicile in the lawyer's office address in (city).

attorney-at-law law firm of (city), which will then constitute as notice to me.	

In the following sections, the translations carried out by the lawyers and the translators are analysed and commented thoroughly.

3.3 Analysis of the translations

In this section, a detailed analysis of the translators and lawyers' different translation strategies is accounted for. This section also tries to outline the reasons why the target texts may differ. To this aim, the source text is divided into different parts. Table 3 below reports the first.

Table 3. Analysis of the source text and of the related translations (first part)

Source text	Target text (lawyers)	Target text (translators)
1) Delego a rappresentarmi e difendermi in ogni fase e grado del presente giudizio	I appoint …. to represent me during every phase and judgement of the present Trial	I delegate Ms …., lawyer, to represent and defend me in any stage of the trial

As far as the first paragraph of the power of attorney is concerned (i.e., *delego a rappresentarmi e difendermi in ogni fase e grado del presente giudizio*), it is quite evident that both translations are similar. It can only be noticed that the verb "delegate", proposed by the translators, is a literal translation of the Italian *delego*. The verb chosen by the lawyers, i.e., "appoint", is more appropriate (see Mason and Atkins 2007: 25). In both DIY corpora, for example, "delegate" occurs 3 times (lawyers' corpus) and 5 times (translators' corpus), whereas "appoint" is used 36 and 23 times in each respective corpus.

Also, targeted web searches confirm that "appoint" is more recurrent than "delegate" (Google search string: *"delegate|appoint * lawyer|attorney|solicitor" site:.gov* and *"delegate|appoint **

lawyer|attorney|solicitor" site:.gov.uk). Table 4 below reports the second paragraph of the Italian *procura alle liti*.

Table 4. Analysis of the source text and of the related translations (second part)

Source text	Target text (lawyers)	Target text (translators)
2) e in tutti gli atti conseguenti nel procedimento di esecuzione e di opposizione,	and all other proceedings relative to the aforesaid case including the execution phase,	and in all of the acts resulting from enforcement and objection proceedings.

In Table 4 above it can be noted that the lawyers' target words deviate from the source words, since not all source terms and phrases are present in the target text (i.e., *procedimento (…) di opposizione*). This was probably due to a lack of corpus evidence, as no renderings of *procedimento di esecuzione* or *opposizione* can be sourced from both corpora. The lawyers, however, proposed "execution" as a calque of *esecuzione*. Hence, they wrote "all other proceedings (…) including the execution phase" to generally translate *tutti gli atti conseguenti nel procedimento di esecuzione e di opposizione*. It could be stated that the communicative function of the source text is somehow maintained, as "all other proceedings including" would, to some extent, comprehend *procedimento di esecuzione e di opposizione*. *The People's Law Dictionary* explains "execution" as "the act of getting an officer of the court to take possession of the property of a losing party in a lawsuit (judgment debtor) on behalf of the winner (judgment creditor), sell it and use the proceeds to pay the judgment", which is adherent to the Italian definition of *procedimento di esecuzione* (Art. 483 of the Italian Civil Code). For these reasons, the lawyers' translation was consistent, although they specifically omitted the translation of *(procedimento) di opposizione*. By contrast, the translators proposed word-by-word rendering. To do so, they resorted to external sources, such as the multilingual Eur-Lex platform (this piece of information was reported in the translators' log file). Hence, to render the Italian *procedimento di esecuzione e di opposizione*, they accessed the online multilingual Eur-Lex platform and, on their own initiative, proposed "enforcement and objection proceedings". This phrase, however, is not found in any legal English dictionary and/or

on any domain (Google search query: *"enforcement and objection proceedings"*).

Table 5. Analysis of the source text and of the related translations (third part)

Source text	Target text (lawyers)	Target text (translators)
3) l'Avv. ...., conferendo alla stessa ogni ampia facoltà di legge	, hereby GIVING AND GRANTING unto my said attorney-at-law full power and authority	I grant him/her full power and authority,

The third paragraph of the PoA is rendered quite in the same way by both groups of participants. However, the verb phrase "I grant", proposed by the translators, is only mentioned once in their corpus and it is not present in the lawyers' corpus. By contrast, the formula "hereby giving and granting", chosen by the lawyers, is used four times in their corpus and three times in the translators'. These data are confirmed by targeted Internet searches. For example, by querying "I grant (…) power and authority" and "giving and granting (…) power and authority" in the Onecle database, no hits are found in the first case, whereas a few hits are obtained in the second one (sample search query: *"giving and granting * power and authority" site:.onecle.com*). The same occurs if the LawInsider platform is queried. Therefore, the lawyers' terms are apparently slightly more frequent. Table 6 reports the fourth and fifth paragraphs of the PoA.

Table 6. Analysis of the source text and of the related translations (fourth and fifth parts)

Source text	Target text (lawyers)	Target text (translators)
4) ivi compreso di nominare sostituti processuali, di riassumere il processo ove venisse sospeso o interrotto,	to do and perform any and every act and thing whatsoever requisite or necessary or proper to be done in and about the premises as fully to all intents and purposes as I might or could	including the power to appoint legal representatives, resume the trial in case it is suspended,
5) di chiamare terzi in causa per		ask for the intervention of third

qualsiasi titolo e di proporre domande riconvenzionali, transigere e conciliare la lite, di rinunciare ed accettare la rinuncia agli atti del giudizio, di nominare periti, di riscuotere somme,	lawfully do if personally present, with power of substitution and revocation, and hereby ratifying and confirming all that my said attorney-at-law shall lawfully do or cause to done under and by virtue of these presents.	parties for whatsoever reason, file counterclaims, settle the suit, waive and accept waivers of the proceedings, appoint experts, collect money.

It is remarkable that the source content of sections 4) and 5) are actually neglected by the lawyers, who include other corpus-driven formulae. The translators' version, by contrast, is more adherent to the source text words. It may, nonetheless, be debatable as the formulae proposed are not always coherent with the context. For example, *chiamare terzi in causa* is rendered as "ask for the intervention of third parties", as the translators found "intervention of third parties" in the corpus. By reading the concordance more carefully, however, it is noted that "intervention" is not the right target term, as the concordance reads: "authorize the said Attorney to (…) withdraw as a consequence of intervention of third parties". Therefore, the target context is different from the source one. In this respect, an equivalent of *chiamare terzi in causa* is "to summon third parties". In the Casemine US case-law database, for example, it is possible to read "it says that the court 'may' summon third parties and 'may' notify interested persons to appear" and "the scope of an arbitrator's authority to summon third parties to appear and provide evidence at arbitration" (search query: *"to third parties"/1*). Therefore, although the translators tried to render the words appropriately, misinterpretation of the source/target words occurred. The lawyers, as can be seen from Table 6 above, do not translate the source text, but propose entire different words and phrases. They probably found them relevant as they frequently occurred in their corpus. For example, the expressions "do and perform", "as I might or could (lawfully) do", "hereby ratifying and confirming", and "do or cause to be done" are particularly recurrent in the lawyers' corpus. Nonetheless, these parts are redundant and deviate from the source text. Table 7 sheds light on the last paragraph of the PoA.

Table 7. Analysis of the source text and of the related translations (sixth part)

Source text	Target text (lawyers)	Target text (translators)
6)eleggendo domicilio presso il suo studio in (città).	To receive any notice, whether in writing or verbally communicated, at my attorney-at-law law firm of (city), which will then constitute as notice to me.	I will take up domicile in the lawyer's office address in (city).

The lawyer's rendering of *eleggere domicilio* (i.e., "serve as notice to me") is found once in the lawyers' corpus, but it is not present in the translators' corpus. The exact opposite occurs to the phrase "take up domicile". However, if the phrase "as notice to me" is searched for in targeted web domains, it is possible to notice that it is used in a large number of documents (search query: *"as notice to me" site:.gov*), where the verbs "constitute" or "serve" precede it. In addition, the phrase "as notice to" clearly brings to the fore a client-attorney relationship (sample phrase: "and consent that an Order served upon my attorney of my suspension shall serve as actual notice to me"). On the contrary, the formula "take up domicile" is mentioned much fewer times in targeted domains (search syntax: *"take up domicile" site:.gov*) and the phrases obtained do not refer to any client-attorney relationship (results phrase: "testamentary declaration of United States domicile evidences a lack of intent to take up domicile in Ethiopia").

To confirm this, searches in the Casemine portal are carried out. If the phrases "as notice to" and "power of attorney" are queried, the following interesting phrase is obtained: "with a broad power of attorney, registered notice to the attorney or accountant may also serve as notice to the taxpayer". In the same line, it is also possible to read "a taxpayer may also designate the address of his representative as that to which any deficiency notice should be sent". Therefore, it can be inferred that "notice to the attorney may/shall serve as notice to" and/or "designate the address of (my attorney) as that to which any notice should be sent" express the same meaning of the source phrase *eleggere domicilio presso il suo studio*. By contrast, the expression

"take up domicile" is mentioned only in a context unrelated to a power of attorney (Casemine sample phrase: "to establish a residence or to take up domicile in the State of Nevada"). The same conclusions are drawn if the Onecle database is consulted (search queries: *"serve|constitute as notice to" site:.onecle.com* and *"take up domicile" site:.onecle.com*). In the first case, a few hits are obtained (e.g., "this letter will serve as notice to you"), whereas in the second, no results are found.

3.4 Results

As far as the two corpora are concerned, it is evident that the translations differ substantially in content and length. In particular, as highlighted in the tables above, the translators tried to remain as adherent as possible to the source text. Also, they performed online searches when confronted with expressions or formulae they could not find in the corpus. It can be noticed that the translators mainly provided a word-by-word rendering of the source text, at the risk, however, of proposing unnaturally sounding language or wrong rendering (e.g. "ask for the intervention of third parties" to translate *di chiamare terzi in causa*). The translators naturally focussed on each individual word, perhaps without considering the overall discourse function (Harvey 2000).

The consequence the translators would face, should their translation be proposed to a client, is that of proposing a text which is not naturally sounding and, if read by a native speaker of the target language or a competent lawyer in the target legal system, may sound awkward in some part.

As regards the lawyers, it is apparent that they decided to deviate from the source text to propose a document more adherent to the style and contents of the powers of attorney composing the corpus. As a matter of fact, they wrote formulae which are not present in the source text, such as "to be done in and about the premises as fully to all intents and purposes as I might or could lawfully do if personally present", and "hereby ratifying and confirming all that my said attorney-at-law shall lawfully do or cause to done under and by virtue of these presents" (see Table 6 above). These phrases are evidently redundant. Therefore, they are non-adherent to the source text wording. Also, the lawyers omitted the translation of some portions of the source text (see Table 4 and Table 6). Therefore, in the lawyers'

work, the translation intent shifted from "equivalence" to "acceptability" (Harvey 2000: 358), as they tried to tackle the specific communicative situation (Vigier Moreno and Sanchez 2017), although too broadly.

The consequence the lawyers would face, should they submit their translation to a client, is that they would propose a text which is not completely adherent to the source text, but presents some "inventive" parts. Therefore, their translation might be rejected.

In light of these results, a right balance between word-by-word rendering and "creative" translations should be found.

4 Discussion

The paper raised questions concerning the difficulties encountered when dealing with different legal systems and with legal documents which are almost non-existent in the target language and legal system. It was aimed at exploring the quality of a corpus-based translation of an Italian *procura alle liti* (power of attorney to appear in court), when no target language documents are available, due to differences in legal traditions.

As discussed, the translators performed the task by addressing individual words and by consulting the web to tackle concepts or words which were not present in the corpus. The lawyers apparently focused on the communicative function of the text as a whole, and delivered a translation which deviated from the source text, sometimes with substantial omissions. However, the functional aspects of the source text were rendered (albeit not mirroring the exact wording of the source text). This occurred at the cost of accuracy, as many legal formulae were lost in the process of translation.

In light of the two approaches followed, it could be argued that a right balance should be found between the two translation strategies. For example, a functional translation (Garzone 1999 and 2000; Nord 2002) as well as paraphrasing (Šarčević 1997: 231ff) could be considered as valid alternatives to the strict rendering of the source words (at the cost of sounding unnatural) and copycatting parallel target phrases (at the cost of adding unrelated parts or omitting others). This could be particularly useful when legal principles differ and no equivalences are found. For instance, the phrase "to receive any notice (…) to my attorney-at-law law firm of (city), which will

then constitute as notice to me" was considered more adherent than "I will take up domicile in the lawyer's office address in (city)" to render *eleggendo domicilio presso il suo studio*. The lawyers' word choice, in fact, was more recurrent in targeted domains and in the case-law. In this way, the functional aspect of the source text was addressed. Another example of paraphrasing or using a functional approach, was translating *tutti gli atti conseguenti nel procedimento di esecuzione e di opposizione* as "all other proceedings (…) including the execution phase". Given that lawyers did not probably find any rendering of *procedimento di opposizione*, they decided to resort to vagueness (i.e., "all other proceedings including") as a strategy. In this way, the communicative intent of the source text was somehow conveyed.

Finally, this study highlights the fact that other *ad hoc* resources must be consulted when DIY corpora are particularly small and/or the subject-matter is challenging due to discrepancies in the legal systems or traditions. Such additional language tools could be, for example, monolingual dictionaries, the case-law and targeted domains via advanced search techniques.

5 Conclusions

The intent of this paper was to highlight how, owing to different legal systems and traditions (Rene and Brierley 1985), legal translations are sometimes difficult to tackle and native parallel texts are hard to find. In these cases, users should resort to reliable non-native texts. The aim of this paper was also to shed light on the importance of delivering functional translations and of paraphrasing (Šarčević 1997: 231ff) when the source and target legal systems are different, as well as when discrepancies between the source and target texts do not allow word-by-word rendering. In this respect, this paper presented different approaches in translating a system-specific document, and showed that keeping the original functional communication can sometimes be opted for instead of a literal translation. This strategy, however, can be followed provided that neither omissions of source phrases occur, nor redundant target phrases are proposed. Also, it should be reminded that this approach may inevitably lead to reduced formulaicity, as specific language conventions may remain unaddressed (Mauranen 2007: 97). Therefore, translators should try to find the right balance between the need for precision and authenticity. In addition, if corpora

are particularly small, consulting referenced materials, such as the case-law or targeted domains could be helpful.

In answering the first research question ("how is it possible to tackle the translation of an Italian *procura alle liti* when source and target reference documents differ greatly?"), this paper showed that it is possible, as long as translators do not focus their translation work on exact words, but on the general meaning and functionality of the phrases and, hence, of the text as a whole. In addressing the second question ("how can legal translation be carried out when target parallel texts are difficult to find?"), the paper highlighted that retrieving reliable (i.e., institutional) documents written by non-native speakers of the L2 can be an acceptable solution. In addition and in support of the document collection process, authoritative L2 native speaker contents could be accessed, such as case-law platforms and/or contract and agreement databases.

The limits of this paper lie in the reduced size of the corpora. Further research could explore whether a similar study could be carried out with subject matters whose parallel target texts are more accessible.

So far, academic papers focusing on corpus-based translations of *procura alle liti* have not been carried out. Therefore, this paper presents fresh insights into the field of translation studies. Hopefully, this initial analysis will be followed by further or similar investigations in the same field and/or in other genres. For example, native speakers of English could be prompted to translate another power of attorney for a court case by consulting an *ad hoc* corpus. It would be interesting to verify to what extent their translation solutions differ from those proposed by the translators and lawyers of the present study.

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Agents, appointees, attorneys, deputies and third parties: staff guide https://www.gov.uk/government/publications/procedures-for-dealing-with-agents-appointees-attorneys-deputies-and-third-parties

Agents, appointees, attorneys, deputies and third parties: staff guide – Part 4 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/226771/Part-04_Attorney.pdf

Casemine: https://www.casemine.com

Compleat Lexical Tutor platform: https://www.lextutor.ca/conc/eng/

Eur-Lex: https://eur-lex.europa.eu

Law Insider contract database: https://www.lawinsider.com/

Onecle Business contracts: https://www.onecle.com/

Proz Translators' forum: http://www.proz.com

Uniform Statutory Form Power of Attorney – California https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PROB&division=4.5.&title=&part=3.&chapter=2.&article=

US Citizenship and Immigration Services: https://www.uscis.gov/g-28

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The right to the environment? Article 4(1) of the Polish Environmental Protection Law Act from a combined comparative law and Polish-English legal translation perspective[1]

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Abstract: A human right to the environment is increasingly recognised in both domestic and international law. Also in Polish legal scholarship, there is a discussion over the possibility of deriving a right to the environment from the Constitution or ordinary statutes, including Article 4(1) of the Environmental Protection Law Act. The existing English translations of its opening words, and specifically the term *powszechne korzystanie ze środowiska*, appear to mirror the legal controversy. Compared to Poland, the major common law jurisdictions, i.e. England and the USA, show multiple differences in respect of the public's enjoyment of the environment. In addition to a distinct legal *mentalité*, grounded on a case-by-case approach, negative freedoms and

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remedies thinking, both jurisdictions are characterised by considerable private ownership of natural resources like rivers and forests. In view of this legal and translation problem, the present paper seeks to employ comparative law methodology to establish an acceptable English translation equivalent of the term *powszechne korzystanie ze środowiska*. The analysis is also an attempt to go beyond the ways in which the use of comparative law in legal translation is typically perceived, i.e., beyond functionalism, beyond microcomparison and beyond conceptual analysis.

Keywords: comparative law, legal translation, functional method, right to the environment in Poland, powszechne korzystanie ze środowiska

PRAWO DO ŚRODOWISKA? ARTYKUŁ 4 UST. 1 USTAWY – PRAWO OCHRONY ŚRODOWISKA Z PERSPEKTYWY ŁĄCZĄCEJ PRAWO PORÓWNAWCZE I POLSKO-ANGIELSKIE TŁUMACZENIE PRAWNICZE

Streszczenie: Prawo człowieka do środowiska zdobywa coraz szersze uznanie w krajowych i międzynarodowych systemach prawnych. Również w polskiej nauce prawa toczy się dyskusja na temat możliwości wyprowadzenia prawa do środowiska z Konstytucji bądź ustaw zwykłych, w tym z art. 4 ust. 1 Ustawy – Prawo ochrony środowiska. Wydaje się, że sposób przełożenia początkowych słów tego przepisu – w szczególności terminu „powszechne korzystanie ze środowiska" – w istniejących tłumaczeniach ustawy na język angielski odzwierciedla wspomniane kontrowersje prawne. W zakresie problematyki korzystania przez obywateli ze środowiska między Polską a Anglią i Stanami Zjednoczonymi, jako najważniejszymi systemami prawnymi *common law*, występuje wiele różnic. Oprócz odmiennej mentalności prawnej, zorientowanej na fakty konkretnych spraw, wolności negatywne i dostępne środki ochrony prawnej, systemy te charakteryzują się wysokim udziałem własności prywatnej zasobów naturalnych takich, jak rzeki i lasy. W kontekście powyższego problemu prawno-tłumaczeniowego niniejszy artykuł ma na celu wykorzystanie metod prawnoporównawczych do ustalenia akceptowalnego angielskiego ekwiwalentu tłumaczeniowego terminu „powszechne korzystanie ze środowiska". Przeprowadzona analiza stanowi również próbę wyjścia poza typowe sposoby zastosowania prawa porównawczego w tłumaczeniu prawniczym, tj. poza metodę funkcjonalną, mikrokomparatystykę i analizę pojęciową.

Słowa kluczowe: prawo porównawcze, komparatystyka prawnicza, tłumaczenie prawnicze, metoda funkcjonalna, prawo do środowiska w Polsce, powszechne korzystanie ze środowiska

1. Introduction

As exemplified by the 2021 Human Rights Council Resolution 48/13[2], a human right to the environment is increasingly recognised, although not without difficulties, in both domestic and international law (Cima 2022). Also in Polish legal scholarship, there is an ongoing discussion over the possibility of deriving some kind of right to the environment from the Constitution (Rakoczy 2013; Zaborniak 2017: 202–50) or ordinary statutes (Radecki 2011: 74–80), including Article 4(1) of the Polish Environmental Protection Law Act (hereinafter: the Act) (Trzewik 2016). Both constitutional (Działocha and Łukaszczuk 2016; Danecka and Radecki 2021: 253–54) and statutory (Mikosz 2019) grounds for such a right are, however, questionable.

This legal controversy is mirrored by the existing English translations of the opening words of Article 4(1) of the Act, presented in the table below.

[2] https://linkmn.gr/bg7J6b (accessed 28 March 2023).

Table 1. Existing translations of the opening words of Article 4(1) of the Act (emphasis added).

Source text	**Translation 1**	**Translation 2**
Art. 4. 1. *Powszechne korzystanie ze środowiska przysługuje z mocy ustawy każdemu* i obejmuje korzystanie ze środowiska, bez użycia instalacji, w celu zaspokojenia potrzeb osobistych oraz gospodarstwa domowego, w tym wypoczynku oraz uprawiania sportu […]	Article 4. 1. *Common use of the environment is permitted pursuant to this Act to anyone*, and extends to utilisation of the environment, without using an installation, with a view to satisfying personal and household needs, including rest and the practice of sports […]	Article 4 1. *By law, every person shall have the right of general use of the environment*, including the use of the environment, without availing of an installation, for the purpose of satisfying their personal and household needs, including rest and sports […]

Source: Wolters Kluwer's LEX database (Translation 1), European Commission's Joint Research Centre[3] (Translation 2).

As can be observed, not only did the translators use different translation equivalents to represent the legal term *powszechne korzystanie ze środowiska*, but apparently, they also had different ideas about what legal concept this term actually represents. In view of these conflicting translations, a question arises about how the term *powszechne korzystanie ze środowiska* should actually be translated into English. The present paper seeks to answer this question by taking advantage of comparative law methodology. To the author's knowledge, the English translation of this term has not been analysed in legal translation literature to date, and thus, such an analysis would be potentially useful for both legal translators and lawyers. The analysis will be partially guided by Šarčević's (1997: 235–62) method of establishing acceptable equivalents, but an attempt will be made to go beyond the ways in which comparative law is typically utilised in translation studies. An additional goal of this research is, therefore, to provide new insights into the practical use of comparative law for legal translation purposes.

[3] https://linkmn.gr/Oo623b (accessed 28 March 2023).

With these goals in mind, the following section provides a brief outline of the role of comparative law as perceived in legal translation literature and indicates some areas where legal translation could go beyond the traditional approaches. Section 3 contains an analysis focused on the main translation problem, which corresponds to the three levels of comparative law research (macro-, meso- and microcomparison). On the basis of this analysis, a proposal for a translation equivalent of the term *powszechne korzystanie ze środowiska* has been put forward in Section 4. The Conclusions section reflects on the translation procedure applied, focusing on the potential of using more varied comparative law methodology in legal translation.

2. The use of comparative law in legal translation

The confrontation of the laws and languages of different legal systems that occurs in the process of legal translation has naturally sparked interest in comparative law among translation scholars. However, it seems that the potential of comparative law has not yet been fully utilised in legal translation studies and practice.

2.1 The relationship between comparative law and legal translation

While simple definitions of comparative law are obviously incomplete (Samuel 2014: 10–13), it could generally be said that the term 'comparative law' denotes 'an academic field of legal knowledge that studies law comparatively as a normative phenomenon of organised human communities'. In other words, it is 'a shorthand for various ways to study and explain the differences and similarities between (broadly understood) legal systems' (Husa 2022: 1) or 'the hermeneutic explication and mediation of different forms of legal experience within a descriptive and critical metalanguage' (Legrand 1997: 122–23).

Legal translation is, in turn, broadly defined as 'the translation of texts used in law and legal settings' (Cao 2007: 12) or 'translation of texts for legal purposes and in legal settings' (Engberg 2002: 375). It

involves intercultural communication that is effected across different languages, cultures and legal systems (Biel and Goźdź-Roszkowski 2015: 250). There are a variety of genres subject to legal translation, and each of them may require specific knowledge and skills (Goźdź-Roszkowski 2016; Matulewska 2007: 158–59). Particularly rigorous demands and immense responsibility are associated with translations that have legal force equal to that of the source text (Cao 2007: 80)[4]. Notwithstanding the multiple factors of the communicative situation of legal translation, which obviously shape its outcome (Kierzkowska 2002: 72–85), a legal translator's general goal can arguably be described as an attempt to convey the legal sense of the source text (source term) by means of the target text (target term) (cf. Kielar 1977: 152; Šarčević 1997: 235). Achieving this goal should enable them to meet the duty of loyalty that a specialised translator owes to their communication partners (Nord 2006). This is also where comparative law is likely to prove useful.

The relationship between legal translation and comparative law has been recognised for decades, with some authors even saying that 'legal translation and comparative law are, and must be, the very same thing' (Schroth 1986: 53) or that 'translating legal texts is comparative law in practice' (de Groot 1987). Some crucial points of contact between these fields include the debate on legal transplants (Watson 1974; Kahn-Freund 1974) – which is due to the fact that the reception of law naturally entails translation efforts (Sacco 1991: 11–20; Graziadei 2019: 456–57) – as well as the use of comparative law for translation purposes (Jopek-Bosiacka 2019: 246–49; Soriano-Barabino 2016), the latter being the main focus of this paper. Nevertheless, as aptly noted by several authors (Doczekalska 2013: 70; Dullion 2015: 99; Pommer 2006: 154–55; Soriano-Barabino 2016: 19–20), the goals of comparative law and legal translation are different. Also the models of comparative law research (see e.g. de Cruz 1999: 235–39; Eberle 2011; Kischel 2019: 194–200; Legrand 2022: 389–419; Örücü 2006) clearly show that comparative law is not the same as legal translation. A legal translator is unlikely to carry out an analysis on a scale comparable to the scale of comparative law research for every problematic term in the source text (Kusik 2022: 19), and indeed the fact that comparative legal analyses may be too time-consuming for

[4] The present paper concerns a legislative text that, depending on the intended use, may be translated for merely informative purposes (e.g. the translations quoted in the introduction) or for official purposes, e.g. if needed in legal proceedings.

practical translation work has been pointed out by some scholars (Bestué 2019: 158; Biel 2008: 22; Šarčević 1997: 237). As Kischel (2019: 12) aptly notes, even if comparative law can be helpful in legal translation, solving translation problems 'remains the translator's task'. Therefore, while legal translation and comparative law have clear connections, they remain separate fields. It seems that a legal translator can benefit from comparative law by tapping into the knowledge base it offers (Dullion 2015) and/or by adapting some elements of comparative law methodology for translation purposes. An example of such borrowing is the concept of 'functional equivalent', as redefined by Šarčević (1997: 235–49) for legal translation purposes.

2.2 References to comparative law in legal translation literature

The translation of legal terminology is pointed out as the part of legal translation in which comparative law is particularly relevant (Engberg 2017: 7; de Groot and van Laer 2006: 66; Prieto Ramos 2021: 177). Accordingly, Šarčević's model of conceptual analysis, which directly refers to the functional method of comparative law, has become highly influential in legal translation studies (e.g. Chromá 2014: 286–87; Klabal 2020: 56–59; Kozanecka, Matulewska and Trzaskawka 2017: 87, 94, 104–5; Matulewska 2017: 20; Soriano-Barabino 2016: 159).

Three trends could be observed in the current legal translation literature referring to comparative law. Firstly, in methodological terms, legal translation literature seems to be dominated by the influence of the functional method of comparative law. This is illustrated by, for instance, the popularity of Šarčević's approach and references to the classic textbook by Zweigert and Kötz (1998), a basic lecture on the functional method (Gordley 2012: 107), in major publications on the interactions between legal translation and comparative law (Pommer 2006: 107–8; Soriano-Barabino 2016: 15–17). Secondly, as regards the levels of comparative analysis applicable to legal translation, a number of authors emphasise the relevance of microcomparison (Engberg 2020: 274; Jopek-Bosiacka 2013: 120; Kęsicka 2014; Klabal 2020: 55–56). Thirdly, another observation that could be made is that some authors assume that legal concepts are the

primary object of research in comparative law (Bajčić 2017: 113; Engberg 2017: 8, 2020: 279; Klabal 2020: 55–56). Such an assumption might result in the label of 'comparative law' being attached to linguistically oriented analyses that largely draw on dictionary definitions and bear little resemblance to actual comparative law practice (see e.g. Monjean-Decaudin and Popineau-Lauvray 2019). These 'traditional' approaches will be challenged in the following three subsections.

2.3 Beyond functional comparative law

The functional method dates back to the interwar period (Van Hoecke 2015: 9), and its well-known exposition by Zweigert and Kötz (1998) was originally published in 1971 (Gordley 2012: 107). Although this method has gained a hegemonic position in comparative law (Monateri 2021: 4), the field has not been at a standstill since the 1970s, and plenty of new literature on its goals, methodology and subject matter has been published in the last few decades (cf. Samuel 2014: 3, 16). This has been accompanied by a change in the field's focus, mentality and spirit (Husa 2015: 3). These developments seem to have gone largely unnoticed in legal translation studies.

Influential as it may be, the functional method is only one of a number of methods of comparative law. These include, in particular, the approaches that directly challenge functionalism, described as postmodern, critical (Husa 2015: 134–35; Kischel 2019: 97–101; Siems 2019: 115–46) or hermeneutical (Samuel 2014: 108–20), as well as the structural method (Samuel 2014: 96–107), socio-legal methods and numerical methods (Siems 2019: 147–228). Some elements of the alternative approaches have been mentioned by few translation scholars (Engberg 2017; Pommer 2008; Skytioti 2021).

2.4 Beyond microcomparison

The terms 'microcomparison' and 'macrocomparison' refer to the levels (Van Hoecke 2015: 21) or scales of comparative law research

(Zweigert and Kötz 1998: 4–5). A number of comparatists argue that there is no clear dichotomy or polarisation between them (Husa 2015: 103–4; Kischel 2019: 10; Samuel 2014: 50; Siems 2019: 48; Zweigert and Kötz 1998: 5). It is because in order to grasp the functioning of particular rules or institutions within the entire legal system, it may be necessary to learn something about the history and general legal doctrines of that system. Conversely, a macrocomparative project may require the study of particular norms or cases so as to understand how the general features of the legal system translate into practice (Husa 2015: 103–4). Unsurprisingly, an intermediate level of analysis – mesocomparison – has been distinguished by some authors (Örücü 2006: 31; Romano 2016; Siems 2019: 14).

In this connection, Bajčić (2017: 114, 135) might be right in saying that also legal translation requires analysis at both macrocomparative and microcomparative levels. One can go even further and suggest that the translator should proceed fluently from one level of analysis to another.

2.5 Beyond conceptual analysis

For a comparatist, concepts are only one of the possible objects of study. In other words, the objects of comparison in comparative law may or may not take the form of legal concepts and institutions (Doczekalska 2013: 70). It should also be noted that mere rules and concepts say very little about a given legal system, as they are only the surface manifestations of legal cultures, which fail to reveal the deep structures of a legal system (Legrand 1996: 55–56). As Dullion (2015: 96) aptly notes, it is the translator who enters the field of comparative law at the level of concepts and through the door of terminology. Notably, the world of law may look different through a comparatist's eyes.

Therefore, without ignoring the significance of conceptual analysis, it might be useful for the translator to realise that conceptual structures are only one of the possible perspectives of law. Contemporary comparative law may open translators' eyes to the wealth of law and its broader cognitive structure (legal *mentalité*). This is the way to 'explicate how a community thinks about the law and why it thinks about the law in the way it does' (Legrand 1996: 60).

3. *Powszechne korzystanie ze środowiska* in a comparative perspective

The analysis outlined below does not make a claim to being an exercise of/in comparative law (cf. Galli 2021: 5; Soriano-Barabino 2016: 19). It is rather intended to utilise certain elements of comparative law in order to gain an informed basis for translation decisions.

3.1 Macrocomparative analysis: Polish, English and American law and *mentalité*

The Polish legal system is considered to belong to the civil law tradition (Morawski 2014: 70), and except for the communist period, it has been strongly influenced by both French and German law (Gondek 2006: 548). It also has certain distinguishing features. For instance, when it comes to legal mentality, Poles have been described as being in a way closer to the British, as they intuitively find it easier to understand that legal rules stem from specific human actions and behaviour rather than the other way round – which is sometimes too easily labelled as lack of respect for law and its institutions (Cichocki 2010: 60). This attitude may be contrasted with hyperpositivism in legal thinking – a remnant of the socialist legal tradition (Mańko 2013).

The English legal system is the root system of the common law tradition, which has dominated the English-speaking world, including the United States (Mattila 2006: 221–40). However, apart from the English common law foundations, American law has been under other influences, such as the civil law in Louisiana and Puerto Rico, German law in the 19th century and continental philosophical ideas from the French and Scottish Enlightenment. The written Constitution and judicial review of legislation differ the United States from 'purer' common law systems, and it has therefore been even described as a mixed legal system *sui generis* (Michaels 2006: 73).

Common law and civil law are two very influential legal traditions (Merryman and Pérez-Perdono 2007: 1–5), which actually reflect two modes of experiencing the world (Legrand 1996). Despite mutual influences, there has been little convergence between them, and they are characterised by different epistemological attitudes to law. In

the common law mentality, law is rather a matter of argumentation, dialectics, reasonableness and practicality (Samuel 2013: 157). Common law jurists refrain from deriving a rule which goes beyond what is necessary to resolve a particular case. This is completely different from the approach instinctively taken by a civil lawyer – namely, to find a general rule to cover all future cases (Kischel 2019: 230). As opposed to the common law tradition, a fundamental assumption in civil law systems is the separation of law-making and application of law (Morawski 2014: 69–70). A crucial concept in the common law tradition – an alternative to the continental concept of subjective right – is that of rights as negative freedoms, which is related to the idea of non-intervention in the personal sphere of a legal subject (Hanev 2013: 29–30). As it was put in Kingdom of Spain v. Christie, Manson & Woods Ltd. [1986] 1 W.L.R. 1120:

> 'In the pragmatic way in which English law has developed, a man's legal rights are in fact those which are protected by a cause of action. It is not in accordance […] with the principles of English law to analyse rights as being something separate from the remedy given to the individual'.

3.2 Mesocomparative analysis: environmental law in Poland, England and the USA

The core of Polish environmental law was for the first time comprehensively regulated in the Act on the Protection and Shaping of the Environment of 1980, replaced in 2001 by the currently applicable Act. The foundations for environmental law have been laid in the constitutions. As amended in 1976, the Constitution of the Polish People's Republic contained two innovative provisions directly concerning environmental protection (Ciechanowicz McLean 2015: 36–37), including Article 71, which provided for the 'right to benefit from the natural environment' (*prawo do korzystania z wartości środowiska naturalnego*)[5]. This provision has no equivalent in the Constitution of the Republic of Poland of 1997, which, however, refers to the environment in as many as five Articles (5, 31, 68, 74 and 86).

[5] Full translation available at http://libr.sejm.gov.pl/tek01/txt/kpol/e1976.html (accessed 20 March 2023).

Działocha and Łukaszczuk (2016) emphasise that it was a conscious decision of the constitutional legislature not to provide for such a right, and Radecki (2011: 74–80) attributes its lack to liberal thinking, according to which the environment is not at the state's disposal, so the state cannot fully guarantee its quality. On the other hand, according to Ciechanowicz-McLean (2015: 37), this right is just not so unequivocally expressed, and Zaborniak (2017: 202–4) argues that the environment should be considered a public good, so it can be inferred that a citizen has a right to use environmental resources guaranteed by the Constitution.

The UK's environmental law (which, despite the significant impact of devolution, can still be considered a single model) is composed of a mixture of international, regional and national regulations (Bell 2019: 352, 356–58). Historically, the legislative regulation of environmental issues proceeded reactively by way of 'quick-fix' pragmatism rather than in line with any overarching environmental policy, giving rise to a complex environmental infrastructure (Bell 2019: 352–53) described as a 'fragmented accretion of common law, statutes, agencies, procedures and policies' (Carter and Lowe 1995, cited in Bell 2019: 353). These traditional pragmatic, flexible and decentralised approaches have been changed and reshaped under the influence of EU law. The UK has no basis for entrenched and legally enforceable substantive environmental norms or values which could shape national environmental infrastructure by means of clearly identifiable rights. While there is something that could be described as 'a weak constitutional basis for environmental rights', and it is worth noting the procedural rights under the Aarhus Convention, the transposed EU legislation and the impact of the 'greening' of human rights, it is still much more difficult to identify in the UK's system substantive environmental rights (Bell 2019: 354–56).

The approach to environmental law in the USA can be described as a system striving for balance in respect of the allocation of powers between the state and federal legislatures, between the constitutional rights of individuals and the need to limit them to protect the environment, and between trying to ensure the smooth operation of administrative agencies and the conflicting priorities and needs they are faced with. In enacting environmental legislation, Congress can invoke the constitutional Supremacy Clause, Commerce Power and Property Clause. It can also use its spending power to encourage states and private entities to adopt certain environmental measures. A critical

element of modern environmental regulation is the system of expert agencies, and federal environmental law usually takes the form of framework statutes that set out goals and processes to guide them (Salzman 2019: 375–77). The just compensation provisions of the U.S. Constitution, which prevent the federal and state governments from 'taking' private property without just compensation, act as a constraint on environmental regulation (Salzman 2019: 377).

3.3 Microcomparative analysis: the use of selected elements of the environment in Poland, England and the USA

Article 4 is located in Part 2 of the Act, entitled 'Definitions and general principles'. Paragraph (1), which is the primary focus of the present analysis, refers to such ways of using the environment that do not involve installations and are intended to satisfy individual and household needs. The other two paragraphs of this Article refer to the ways of using the environment that exceed the scope of *powszechne korzystanie ze środowiska*, including those for which a permit may be required.

It is controversial whether Article 4 actually lays down any general principles of environmental law. Górski (2009: 47) claims that this provision defines the legal forms of using the environment. According to Korzeniowski (2020: 166–69), Article 4(1) provides for a general principle of environmental law. While Mikosz (2019: 93–95) acknowledges that paragraph (1) might be read as expressing such a principle, he is highly critical of this provision, pointing to its defective taxonomy, poor drafting and inconsistency with the Water Law Act (Mikosz 2019: 86–90). In his opinion, the existence of Article 4 in the legal system is rather pointless, and it does not provide for any subjective right (2019: 100). A contrary view is taken by Trzewik (2016) and Zaborniak (2017), who argue that Article 4(1) embodies a right to *powszechne korzystanie ze środowiska*. Trzcińska (2018: 405–6) claims that *korzystanie ze środowiska* is a separate legal category peculiar to environmental law – a kind of ownership of the environment distinct from the Civil Code sense of ownership.

A search in the LEX database shows that there is little case law concerning Article 4(1)[6]. The most important ruling to date is probably that of the Supreme Administrative Court in II OSK 1747/15, where the Court examined a city council resolution restricting access to a park for people with dogs. In particular, the Court held that Article 4(1) could not be a source of legal interest based on which it would be possible to lodge a complaint with an administrative court. The Court also noted that *powszechne korzystanie ze środowiska* does not mean an unlimited right to use the environment in any place whatsoever. According to the Court, it is not superior to other rights and does not give one the right to enter either public or private areas.

According to the methodology proposed by Šarčević (1997: 236), an analysis of the source concept should be followed by an attempt at finding 'a concept or institution of the target legal system having the same function as a particular concept of the source legal system'. A challenge in the case of *powszechne korzystanie ze środowiska* is the unclear meaning and function of the source concept as well as conflicting views on it expressed in legal scholarship. However, for the purposes of further analysis, it may be provisionally assumed that at a general level, the concept of *powszechne korzystanie ze środowiska* concerns the general public's ability to use or access some environmental resources. Since the environment consists of multiple elements (see the definition in Article 3(39) of the Act), only two of them, namely rivers and forests, have been chosen for the present analysis in order to limit its scope. The choice of resources typically used for recreation (Article 4(1) refers to sport and rest) should be representative in showing whether citizens' access to the environment is somehow guaranteed or protected in the legal systems of England and the USA. As a supplementary context note, it might be worth adding that in Poland, pursuant to Article 211 of the Water Law Act, inland flowing waters belong to the State Treasury and are considered public waters[7]. Also, 80.7% of Polish forests are public, the country's forest cover being approx. 30% (Kubica 2022: 17–19).

In England, it is generally assumed that the owner of land adjacent to a watercourse (the so-called riparian landowner) owns the land up to the centre of the watercourse. If a watercourse runs through

[6] See e.g. judgments of the Provincial Administrative Courts in Kraków (II SA/Kr 490/14), Wrocław (II SA/Wr 405/14) and Gdańsk (II SA/Gd 601/19).

[7] In addition, landowners are prohibited from fencing their properties at a distance of less than 1.5 metres from the river bank (Article 232 of the Water Law Act).

a plot of land, it is assumed that the landowner owns the respective stretch of the watercourse (Environment Agency 2014: 4, 7). Riparian owners have certain duties to other riparian owners, the community and the environment, for instance not to obstruct the water flow and to maintain the bed, banks and greenery. Access to the watercourse must be provided to the risk management authority (Environment Agency 2014: 7–9, 19). The tidal reaches of many rivers have public rights of navigation, but there is no public right of navigation on the majority of non-tidal watercourses. The public can use some rivers and canals administered by navigation authorities, the Environmental Agency or private companies (Environment Agency 2014: 29). There is an ongoing dispute between paddlers, landowners and anglers concerning access to rivers (CanoeTrail), with the British Canoeing organisation campaigning for a 'public right of navigation' (British Canoeing). The government's current position is to increase access to rivers by establishing Voluntary Access Arrangements (Angling Trust).

There seems to be no general right protecting access to forests either – even though the forest cover in England is only 10%, and approx. 84% of forests belong to private owners (Forest Research 2022: 8–9). Following public agitation for greater access to countryside areas (Anderson 2007: 244), the Countryside and Rights of Way Act 2000 was adopted. Under Section 2(1) of the Act, 'Any person is entitled […] to enter and remain on any access land for the purposes of open-air recreation' subject to certain restrictions. In this way, the Act establishes a partial 'right to roam' over certain landscapes ('access land'), irrespective of their ownership status, without the risk of trespassing. It does not, however, extend to private forests (Right to Roam Campaign). It is actually the little freehold public forest estate, the majority of which is dedicated as access land, that represents over 40% of accessible woodland in England (Independent Panel on Forestry 2012: 8–9, 24).

In the United States, under the public trust doctrine defined by the U.S. Supreme Court in Illinois Central R.R. Co. v. Illinois, 146 U.S. 387 (1892), states hold navigable waters and underlying lands in trust for the public for the purposes of commerce, navigation and fisheries (Walston 2017). The doctrine has been extended by some courts to recreational uses[8] and environmental protection (Ausness 1986: 409–15). Beds of non-navigable rivers are generally owned by private owners (American Whitewater), who enjoy water rights under the

[8] See e.g. Bor. of Neptune City v. Bor. of Avon-By-The-Sea 61 N.J. 296 (1972).

riparian doctrine or the doctrine of prior appropriation, depending on the state (Smolen, Mittelstet and Harjo 2012: 1–3). Practical problems in the application of the public trust doctrine arise from the ownership of the land adjacent to rivers, as the laws in particular states vary in respect of access to river banks. For instance, under the Wisconsin Supreme Court case law, the public must meet the 'keep your feet wet' test, which means that a public river must be accessed via a public access point – unless the property owner permits otherwise (Conrad 2007).

With the forest cover of around 35%, which differs significantly across states (Goeking, Nelson and Meneguzzo 2019), 31% of forests in the USA belong to the federal government and 9% to states. 38% of forests are considered family forests, owned by individuals, families, trusts and estates (Forest Service U.S. Department of Agriculture). The United States has had a strong and long-established tradition of unrestricted access to public lands for recreational purposes (McCool and Stankey 2001: 392–93), and it is mainly these publicly owned lands that Americans rely on for recreational opportunities (Anderson 2007: 255). Numerous trails on public lands enable hikes through national parks, forests and wilderness areas, even though many are on remote lands accessible to serious hikers only. The United States takes a strict position on public access rights in private lands. The landowner's right to exclude is regarded as essential to property ownership and has been zealously protected. Therefore, there is generally little support in the U.S. common law for public access to private land, and legislative adjustments to property rights are very unlikely due to the constitutional 'takings clause' (Anderson 2007: 241–51).

The above analysis indicates that English and American legal systems do not seek to establish any overarching rights to the environment, and hence, there are no identifiable functional equivalents of the concept of *powszechne korzystanie ze środowiska*. A few factors can account for this. First of all, it turns out that at a more particular level, the three jurisdictions analysed face considerably different problems, which generally renders function-based comparison ineffective[9]. In both England and the United States, the debate is centred around permissible interference with private ownership of land, which

[9] An important assumption of the functional method of comparative law, on which, as stated before, Šarčević's approach is based, is the existence of the same problems in the legal systems compared (Gordley 2012: 118–19).

can be an obstacle to the public's access to environmental resources. Their legal systems take slightly different approaches in this respect, which is demonstrated by the perceptions of the 'right to roam'. In Poland, forests and rivers are publicly owned to a much greater extent, so the problem of access to private land to enjoy these resources is limited. The concept behind *powszechne korzystanie ze środowiska*, even if one acknowledges that it enshrines a certain right, does not extend to private property and is rather declaratory of the public's possibility of using various state-owned natural resources. Hence, it turns out to be a rather theoretical, abstract notion, which, on the one hand, is typical in its character of civil law thinking and, on the other hand, might, to some extent, be a legal survival of the former communist system (cf. Mańko 2013)[10].

4. Establishing a translation equivalent of *powszechne korzystanie ze środowiska*

Although the foregoing inquiry has not provided any potential natural (functional) equivalents to be juxtaposed with the Polish source term *powszechne korzystanie ze środowiska* as part of a conceptual analysis, its findings may provide guidelines for the creation of an alternative equivalent or a descriptive paraphrase (Šarčević 1997: 252–63). In particular, they highlight the deficiencies of the existing equivalents presented in Table 1 in the introductory section. It was definitely risky for one of the translators to use the noun 'right', as the legislature clearly avoided the corresponding Polish noun *prawo*, and it is controversial among Polish legal scholars whether Article 4(1) embodies any subjective right. Moreover, by common law standards, the word 'right' implies actionability, which is rather questionable in the case of this provision. Also, the use of the adjectives 'common' and 'general' might be problematic. The former does not necessarily refer to the general public and may, in addition, misleadingly denote frequency, whereas the latter, although in one of its meanings, it may refer to the general public, still seems to be too ambiguous.

[10] See the preamble to the Act on the Protection and Shaping of the Environment of 1980 and Article 71 of the Constitution of the Polish People's Republic, as amended in 1976.

Some hints for establishing a more acceptable translation equivalent might be provided by the English and American literature and materials reviewed in the course of the analysis. It has been observed that when the availability of natural resources to citizens is mentioned, the words 'use', 'access', 'public' and 'the public' are commonplace[11]. Based on these linguistic hints and the entire analysis, a proposal could be made to translate the term *powszechne korzystanie ze środowiska* as 'public use[12] of the environment', which seems to be a grammatically acceptable and semantically motivated source-language oriented equivalent (Šarčević 1997: 259). It could be classified as a phraseological neologism or a neutral term – an existing (yet very rare[13]) phrase from ordinary language on which a technical meaning is conferred by the translator (Šarčević 1997: 255). In the context of Article 4(1), it could be followed by the phrase '…is permitted to everyone' (in line with the LEX translation), which seems to be a grammatically acceptable solution (cf. Seggos 2019: 123)[14].

5. Conclusions

The above analysis, allowing for its limited extent, may serve as an example of how comparative law can be applied in legal translation and how legal translators may go beyond the traditional approaches to the use of comparative law in legal translation. The analysis began with a general overview of the respective legal systems and gradually focused in on their specific aspects related to the translation problem at hand,

[11] For example 'public access' (Independent Panel on Forestry 2012: 11, 22, 53, 64; Kenlan 2016), 'the public can use' (Environment Agency 2014: 29), 'allowing the public to have access' (Section 5(2) of the Crown Estate Act of 1961), 'public use', 'the public's use', 'the public is allowed to roam', 'the public's ability to use' (Anderson 2007: 241–48), 'public use and access' and 'public access to, and use of' (McCool and Stankey 2001: 393, 396)

[12] When it comes to the choice between the nouns 'access' and 'use', the whole structure of Article 4, which contains two other types of *korzystanie ze środowiska*, needs to be taken into account. Because these other types go beyond mere access, the noun 'use' will be more appropriate to ensure consistency.

[13] See e.g. a document of the City and Guilds of London Institute at https://linkmn.gr/OmM9JO (accessed 25 March 2023).

[14] Also see e.g. Missisquoi National Wildlife Refuge Laws and Regulations at https://linkmn.gr/bg7DZb and a document of the Surrey County Council at https://linkmn.gr/bj62Db (accessed 25 March 2023).

following a top-down approach – from macrocomparison to mesocomparison to microcomparison. There are actually no strict dividing lines between these levels, but starting from a bigger picture arguably gives the translator a better overview of the legal systems concerned. This can help one identify the relevant legal issues in the target legal system and enhances their contextual understanding of particular legal institutions in relation to other institutions, debates or themes. Furthermore, the analysis was not – at least initially – focused on legal concepts. Such an approach allows a translator to go beyond their language-oriented perspective and keep their eyes open to the real-world operation of law (law in action) and its facets as a social and cultural phenomenon. This is, of course, not to say that the translator should ignore the linguistic features of the analysed materials, as they are equally crucial in formulating translation equivalents, which is the translator's ultimate task.

The popular functional approach turned out to be of restricted use due to its inherent limitations. One of the other comparative law methods that proved helpful in the course of the analysis was the structural method, which shows that individual elements of the legal system, like norms or rights, make little sense in isolation from their systemic structure (Samuel 2014: 106). They are like individual playing cards, which gain their meaning only within the whole pack (Izorche 2001, cited by Samuel 2014: 106). While in Šarčević's (1997: 242–44) methodology, structural analysis is invoked when the acceptability of a functional equivalent is being determined, it could be argued that the structural method should be applied much earlier in the process of solving a translation problem. An important contribution to legal translation can also be made by the hermeneutical method (see Samuel 2014: 108–20), which promotes deep understanding of the underlying legal cultures and highlights differences between legal systems. Furthermore, a useful notion that legal translators can borrow from Kischel's (2019: 188) 'contextual comparative law' is the need to consider not only 'law in action' and 'law in books' but also 'law in debate', which refers to the diversity of opinions among legal scholars on particular legal issues – a phenomenon well illustrated by the debate over *powszechne korzystanie ze środowiska* in Polish legal scholarship.

Finally, it needs to be emphasised that a legal translator is free to take advantage of various comparative law approaches and can be eclectic in their methodological choices (Engberg 2020: 276). This is actually in line with the contemporary developments in comparative law, where it has been said that a comparative lawyer has a 'pluralist toolbox' of methods at their disposal (Van Hoecke 2015: 28–29).

Although comparative law is not a substitute for legal translation's own methodology, it seems that legal translators should become more familiar with the comparative law toolbox and perhaps experiment with new tools borrowed from there by adapting them for legal translation purposes.

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The new development and characteristics of Chinese forensic linguistics in the past two decades[1]

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Abstract: Forensic Linguistics as a discipline has gone through more than 30 years of development in China, which can be divided into the brewing period, the establishment and development period, and the comprehensive improvement period. In the past decade, the study of forensic linguistics has mainly focused on the theoretical research of forensic linguistics, the application of legislative and judicial language, the translation and teaching of legal language. This paper will use the literature review method, supplemented by CNKI visual analysis function and bibliometric visual analysis of

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VOSviewer software, aiming to summarize the development status and characteristics of Chinese forensic linguistics in the past 20 years, combined with the current research characteristics and hot spots of the times, and make a prospect for the future development direction of forensic linguistics, in order to provide literature reference for the current theoretical development and application practice of forensic linguistics, so as to better guide the future development of the discipline.

Key Words: Legal Language Study; Forensic Linguistics; Application of Legal Language; Legal Translation; Legal English Teaching

近二十年中国法律语言学的新发展与新特点

摘 要: 法律语言学在我国历经了三十多年的发展，以十年左右为分界线，可以分为酝酿时期、创立发展时期、全面提高时期。学者们将法律语言学的起源和发展状况以论文、专著、译著、教材、研讨会等形式呈现出来，促进了未来法律语言学的发展。近十年来，法律语言学的研究主要集中在法律语言学理论研究、立法及司法语言应用研究、法律语言翻译研究和法律语言教学研究等四个方面。文章将运用文献综述法，同时辅以知网可视化分析功能和 VOSviewer 软件的文献计量视觉分析，旨在概括、总结过去二十多年中国法律语言学的发展状况及特点，结合当下研究特色与时代热点，对法律语言学未来的发展方向做出展望，以期为当下法律语言学的理论发展与应用实践提供文献参考，以更好地指导未来的学科发展。

关键词：法律语言研究；法律语言学；法律语言应用；法律翻译；法律英语教学

1. Introduction

The study of forensic linguistics abroad started in the 1960s[2], and after more than 30 years of study and development in this field, the International Association of Forensic Linguistics (IAFL) was officially established in 1993, signifying that Forensic Linguistics[3] became an independent discipline abroad. "Forensic Linguistics" elaborated in this paper refers to the "Forensic Linguistics" of IAFL, namely, Forensic Linguistics in its broadest sense. In China, the study of contemporary forensic linguistics[4] originated in the 1980s, nearly 20 years later than in Europe and America. Nonetheless, the study of Chinese forensic linguistics developed rapidly. In the early stage, Chinese teachers and legal scholars of universities and colleges began to pay attention to the study of legal texts. Later, foreign language scholars introduced the western research results of forensic linguistics to China. From then on, there was a thriving trend in the study of Chinese forensic linguistics. A close correlation and continuity between the study of Chinese forensic linguistics and that of forensic linguistics abroad existed. In particular, foreign forensic linguistics classics translated and introduced by foreign language scholars inspired and enriched the domestic study of forensic linguistics, which made it not only relate to the study abroad but have its own characteristics. However, although relevant studies in legal language have been in full blossom since the twentieth century, it is necessary to review and classify the current study of forensic linguistics in China. Thus, this paper intends to review the development of Chinese forensic linguistics with a focus on its past two-decade study and probe

[2] This paper focuses on the study of Chinese forensic linguistics, so details about the study of forensic linguistics abroad will not be pursued here.

[3] In this paper, forensic linguistics is discussed from the perspective of a discipline,

that it be understood in a broad sense as "法律语言学." The author adopts the translation of "法律语言学," which does not mean the exclusion of the use of "legal linguistics" representing "法律语言学." It is not the focus of this paper and needs no further elaboration.

[4] This paper is based on the study of contemporary forensic linguistics and does not dabble in the study of ancient forensic linguistics.

into its future development trend[5].

2. Development Periods of Forensic Linguistics

In China, the development of forensic Linguistics as a discipline can be divided into three stages, namely, the brewing period, the establishment and development period, and the comprehensive improvement period.

2.1 The Brewing Period of Forensic Linguistics (prior to 1994)

Since a gradual progress was made in developing democracy and the rule of law in China, and awareness of law interacted with linguistic theories, foreshadowing the emergence of forensic linguistics. After the reform and opening up, exchanges between China and foreign countries gradually increased, with Chinese scholars actively learning from advanced concepts and theories abroad, beginning to have access to forensic linguistics. However, Chinese forensic linguistics at that time was still in the brewing period, having no systemic theories and framework.

2.2 The Establishment and Development Period of Forensic Linguistics (1994-2006)

After the founding of IAFL (International Association of Forensic Linguistics), the period between 1994 and 2006 was the establishment and development period for Chinese forensic linguistics. Scholars in this period were mostly engaged in basic research, and the results were mainly an introduction to forensic linguistics from a macro perspective.

Dr. Wu Weiping (1994) of the Chinese University of Hong Kong wrote a paper named "Forensic Linguistics: Conference,

[5] As the author is a scholar and researcher of the foreign language community, the discussion in this paper about the development trend of forensic linguistics study is mainly based on the field of foreign language research.

Organization and Journal" in Chinese, which was published in *Linguistics Abroad* in 1994, introducing the concepts and theories of forensic linguistics to China for the first time. In his paper, to China's legal and linguistic communities, he introduced the origins and development of international forensic linguistics from a macro perspective, outlined its academic conferences, research organizations and academic journals, and analyzed its latest trends. This paper expands forensic linguists' research perspectives abroad, opening up new horizons for the study of forensic linguistics. In 1994, *Forensic Linguistics* started publication, which later changed its name to *The International Journal of Speech, Language and the Law.* In June 2002, "The First Academic Seminar on Language and Law" was held in Beijing. In the 1990s, the study of Chinese forensic linguistics developed by leaps and bounds: Yu Zhichun edited the textbook *Forensic Linguistics* in 1990; Sun Yihua and Zhou Guangran complied *Forensic Linguistics* in 1997; Wang Jie edited the textbook *Forensic Linguistics Course Book* in 1997; Li Zhenyu published the monograph *Preliminary Exploration of Forensic Linguistics* in 1998; Chen Jiong published the monograph *Introduction to Forensic Linguistics* in 1998. Chinese forensic linguistics, as a discipline, began to take shape (Zou Yuhua, 2020:1). According to Li Zhenyu (2011:3; 2012:71), prior to 1998, most research focused on Chinese legal language. Nevertheless, this research marked Chinese forensic linguistics became a relatively independent science, entering a new stage, during which the study of legal language enabled Chinese scholars to gradually learn about and be familiar with forensic linguistics.

After 1999, English legal language studies gradually became emerging (Li Zhenyu, 2011:3), which broadened the research field of forensic linguistics. Under the exchange of Chinese and foreign legal languages, legal linguistic treatises with Western linguistic colors have been produced, and the differences in Chinese and foreign legal linguistic research are distinguished from the perspective of comparison. Some scholars in the field of foreign languages began to write books to introduce, compare, and localize the study of legal linguistics. For instance, Wu Weiping's *Language and the Law: Linguistic Research in the Legal Field* (2002), Liao Meizhen's *A Study on Courtroom Questions, Responses and Their Interaction* (2003), Du Jinbang's *Forensic Linguistics* (a, 2004) and so forth (Zou Yuhua, 2020:1). Liu

Weiming's (2003) monograph *Forensic Linguistics Research* took forensic linguistics as the main context and combined the research on Chinese forensic linguistics to conduct a comprehensive and macro comparative study of foreign and domestic forensic linguistics. In the same year, his paper "On the Chinese Translated Terms of Forensic Linguistics" (2003), starting from the Chinese translation of "forensic linguistics", actually explored the origin of forensic linguistics abroad, the general situation when it was introduced into China, the difficulties encountered by the Chinese translation and the essential attributes of forensic linguistics, enabling the academic community to further understand "forensic linguistics". Especially after 2003, the study of legal language has shown a strong momentum of development, and the number of publications has soared (Zhang Falian & Jiang Yujing, 2023:31). In 2003, Professor Liao Meizhen transcribed recordings of court trials, forming a corpus of more than 900,000 words, and revealed the significance of questions and responses in a trial by analyzing their interaction. *A Study on Courtroom Questions, Responses and Their Interaction* not only revealed China's court trial situation at that time but also broadened Chinese scholars' research vision of forensic linguistics. In the same year, Liao Meizhen introduced the research of foreign legal language in "Review of Forensic Linguistics Study Abroad", focusing on the countries that implemented the common law system after the 1970s, and conducted a comprehensive review according to the typical development process (i.e. three levels) of legal language as an object, legal language as a process, and legal language as a tool, which enabled us to clarify the development and research context of forensic linguistics abroad. With the development of China's legal system, the study of trial language gradually became the focus of the research on the application of legal language. Again in 2004, Du Jinbang's book *Forensic Linguistics,* which is by far the most comprehensive and latest work on forensic linguistics in China, put many factors involved in this field in order and elaborated on thinking and outlook of future development of this field[6] (Liu Weiming, 2014).

It is clear from the aforementioned works and papers on forensic linguistics that, during the establishment period, from

[6] Liu Weiming. 2014. An Overview of Forensic Linguistics Research in China [DB/OL]. http://www.flrchina.com/002/0032.htm. (Last access at 31/05/2023.)

preliminary research to gradually deeper research, on the original theoretical basis and continuous integration of their own views and insights, scholars formed their distinctive systems and research methods. During this time, scholars explored forensic linguistics theories and comparatively studied Chinese and foreign legal languages, laying the groundwork for the future development of forensic linguistics.

In June 2006, the legal scholar Li Zhenyu's *New Theories of Forensic Linguistics* offered a comprehensive review of the theory and practice of forensic linguistics. This book not only summarized the establishment period but also looked forward to the future and proposed a new development direction for forensic linguistics.

In July 2000, the China Association of Forensic Linguistics (CAFL) was formally established. Since then, the legal language community in China has had its own national academic organization and a specialized platform for expressing academic views. At the same time, scholars in China gradually realized that the development of forensic linguistics required a collision of ideas and exchanges. Therefore, academic conferences and seminars on forensic linguistics have been held continuously in China and gradually attracted attention. Take the 4th National Symposium on Forensic Linguistics and the Annual Conference of China Association of Forensic Linguistics in 2006 as an example, participants of which included foreign language scholars, Chinese scholars, legal scholars and practitioners. Conference topics included the following four aspects: theoretical research on forensic linguistics, application of legislative and judicial language, and study of the translation and teaching of legal language, which indicated the development trend and direction of Chinese forensic linguistics.

2.3 The Comprehensive Improvement Period of Forensic Linguistics (2006-2020)

With greater exchanges between the legal language communities at home and abroad, the number of scholars studying forensic linguistics in China has gradually increased, and the research field of legal language has also been expanded. Domestic forensic linguists have gradually begun undertaking monographic studies based on the

theoretical research in forensic linguistics conducted during the establishment and development period, with a particular emphasis on the studies of theories of forensic linguistics, the application of legislative and judicial language, and the translation and teaching of legal language. Relevant papers, monographs, translations, textbooks and academic conferences laid the foundation for the comprehensive improvement of forensic linguistics and marked the end of the establishment and development period. Since 2007, forensic linguistics has entered a period of comprehensive improvement, during which the research on forensic linguistics can be described as "a hundred flowers blossom and a hundred schools of thought contend."

2.3.1 Theoretical Research on Forensic Linguistics

Based on the theoretical research results achieved during the establishment and development period, scholars have developed the theoretical research in the new period by integrating their fresh ideas and discoveries, constantly enriching the theoretical systems and broadening the theoretical research field. Du Jinbang established a linguistic model of the information structure of legal discourse, filling the research gap in the information structure of legal discourse. In 2009, by analyzing the function of questions and responses during a trial, Du Jinbang (2009:360) studied how courtroom litigators achieved the goal of communication. This paper is an example of the study of oral legal discourse. After a series of papers on legal discourse was released, Du Jinbang's monograph *On Legal Discourse Information* was published in 2015, in which he proposed the Discourse Information Theory (DIT), which was an innovation in the theoretical research of forensic linguistics and provided theoretical support for the construction of legal language discipline. Theoretical work in this area was further enriched during this period by the doctoral dissertations of students specializing in forensic linguistics at Guangdong University of Foreign Studies. In his article, "The New Research Field of International Forensic Linguistics", from the perspectives of the global background resources of asylum seekers, the responsibilities and missions of linguists and eleven guiding principles, Liu Weiming (2007) examined the causes and development of the new research field of international forensic

linguistics. *Research on the Legal Culture of Legal Language* written by Liu Suzhen (2007) combined Chinese cultural elements and studied the legal cultural symbol system of legal language, emphasizing that legal language is, in essence, the meaning and value system of a nation. Dong Xiaobo (2007) elaborated on the uncertainty in legislative language from the perspective of the philosophy of law, which was conducive to people's correct understanding of the causes and values of the ambiguity in China's legislative language during the transition period and its influence on the construction of the rule of law. Zhang Qing and Duan Min (2019) analyzed legal discourse from the perspectives of research subjects, research objects and research methods and proved that the system of legal discourse is a special kind of discourse system.

As a discipline formed by the intersection of linguistics and law, the research methods of forensic linguistics can certainly adopt the research methods of law and linguistics. Nevertheless, forensic linguistics has its unique research methods as an independent discipline. In 2011, Du Jinbang published an article in "Chinese Social Sciences Today", proposing that discourse information analysis is a new approach to language analysis. The tree information structure of legal discourse provided a new method for forensic linguistics research. In 2016, Du Jinbang and Ge Yunfeng published a monograph named *On Methodology of Forensic Linguistics*, which systematically, deeply and comprehensively discussed the research methods of forensic linguistics and proposed a systematic methodology of forensic linguistics. Theoretical and applied research methods were also discussed. Research methods should be selected according to different research contents, tasks, objectives, characteristics and so forth. It is generally believed that semantic analysis and critical discourse analysis are relatively mature research methods of forensic linguistics (Zou Yuhua, 2020).

Since 2010, an increasing number of scholars have joined in the theoretical research of forensic linguistics, and more and more books and textbooks related to forensic linguistics have been published; for instance, *Legal English* (2016) edited by Yang Dexiang, *Study on Legal English Linguistics* (2016) edited by Zhu Jie, *Forensic Linguistics* (2017) edited by Pan Qingyun, *Legal English* (2017) edited by Chen Jing, etc.

2.3.2 Applied Research in Forensic Linguistics

In the 1990s, forensic linguistics research in China mainly focused on theoretical research, supplemented by applied research, whereas since the 21st century, with theory guiding practice, applied research in forensic linguistics has been developing by leaps and bounds. As the research results of forensic linguistics have gradually been accepted and recognized by the legal community, more and more legal scholars and students have become interested in the research of forensic linguistics. We discovered that "applied research in forensic linguistics" received greater attention from legal researchers for the following reasons: (1) Combined with judicial practice. Law is an applied discipline. The combination of the applied research of legal language and legal practice produces research results of novelty and dual perspective that hold strong attraction. (2) A lower research threshold. Theoretical research of legal language requires a background in interdisciplinary research such as linguistics, which is a "high threshold" for law researchers. And characteristics of applied research, such as "strong practicality" and "great fit," lower the threshold of legal language research to a certain extent.

The applied research of forensic linguistics in legislation and judicature is the requirement for building democracy and the legal system and the policy needed for law-based governance. Hu Zhiguo (2007) was the judge of the Research Office of the People's Court of Qingpu District in Shanghai. In his article "The System of People's Assessors Needs to be Perfected—from the Perspective of Legal Language", combined with relevant laws and regulations and from the aspects of pragmatics, meaning, legal terminology, etc., he elaborated on questions about people's assessors' function and power, the scope of trial, labor remuneration and exemption from service, etc., indicating that the people's assessor system still needed to be improved. Tian Lizhi (2007) of Shandong University Law School pointed out in the article "On the Contextual Constraints of Legislative Language: Starting from the Use of Language in China's 2004 Constitutional Amendment" that actual contextual factors affect the use, selection and adjustment of legislative language, and analyzes the role of contextual factors through examples of language adjustment in the 2004 constitutional amendment. Wang Yongjie (2007) of East China University of Political Science and Law wrote "From Solitary Language to Dialogue: The Aesthetic of Procedural Justice in the Language of Legal Publicity". In this article, he proposed that legal publicity had a rational communication process

from solitary language to dialogue, that the purpose, idea and way of legal publicity would undergo new changes, and that it was necessary to fundamentally establish a legal publicity mode with dialogue at its core, and only in this way could procedural justice be achieved. Zhang Jianjun and Chen Yuxiu (2017) of Law School of Huazhong University of Science and Technology discussed the controversial theoretical issue of professionalism and popularization of legislative language in their article "Professionalism and Popularization of Legislative Language" and proposed the applicable aspects and characteristics of these two kinds of language selection tendencies. Chinese scholars Lv Wentao and Yao Shuangyun (2018) wrote "Vocabulary Regulation and the Simplicity of Legal Language", which analyzed the practical application of the rule of simplicity in China's national legislative language from the aspect of vocabulary use and revealed the differences between legislative language and general language accordingly. Meanwhile, scholars with dual backgrounds in law and linguistics likewise paid much attention to the applied research of forensic linguistics. For example, in "A Study on the Language Norms of Statements of Defense", Zhang Qing (2010) stressed the significance of studying the norms of language use and the art of rhetoric of defense statements. Structures and contents of statements of defense enjoyed their own characteristics in that there were differences in the defenders, facts of a case and personal styles. However, as a type of writing and rhetorical device, structures and contents of defense statements shared basic consistency. Li Li and Zhao Hongfang (2009) studied legal discourse in their book *An Empirical Study of Legal Language* from the characteristics of courtroom discourse, the right of courtroom speech and its realization, the language of the disadvantaged in court, courtroom discourse strategies, etc.

In addition, plenty of research achievements have been made in judgement documents, courtroom language and other areas of forensic linguistics. Yang Bin (2017) in his paper "An Analysis on Written Judgement in the view of Linguistic Eco-ethics" pointed out that there were many serious language problems in the implementation process of law. Many people in the field of law had a relatively weak consciousness of linguistic eco-ethics, and there were obvious problems in the appropriateness of the elements of style of a considerable number of written judgments. Under this situation, knowledge of legislation and the spirit of law could not be well spread to common people. To improve the ecological environment in the field of law, we should first improve the use of language. Zhan Wangzhen, Zhang He and Ding Yongcai

(2019), in "Research on the Standardization of Judges' Court Discourse in the Context of Judicial Reform", put forward some institutional measures to standardize the court discourse of judges in Gansu province in China according to the features of their court discourse.

It is worth mentioning that after Du Jinbang put forward the DIT, the doctoral dissertations on forensic linguistics from Guangdong University of Foreign Studies carried forward the applied research of DIT. For instance, Xu Youping's *Realization of Persuasion in Chinese Court Conciliation: The Discourse Information Approach* (2011), Ge Yunfeng's *Resolution of Conflict of Interest in Chinese Civil Court Hearings: A Perspective of Discourse Information Theory* (2013), Li Yuekai's *The Study of Testimonial Verification Modes: Mappings and Integration of Courtroom Discourse Information* (2013), Zhang Shaomin's *A Study on Authorship Attribution for Chinese Texts Based on Discourse Information Analysis* (2014), Guan Xin's *A Study of Forensic Speaker Recognition Based on Discourse Information Analysis* (2015), Sun Bo's *A Study on Automatic Inquiry of Chinese Judicial Discourse Information* (2016), Wang Hong's *Research on the Mechanism of Automatic Representation of Legal Discourse Information* (2019), etc. The development of applied research in forensic linguistics is best shown by these dissertations.

2.3.3 Study on Legal Translation

The study on the translation of legal language is closely related to the application of legislative and judicial language. The translation of legal provisions and judicial documents and court interpreting are all important research topics.

With the establishment of the Master of Translation and Interpreting (MTI) program at universities and colleges, especially with legal translation as a distinctive direction, more and more scholars paid attention to legal translation. For example, in "Speech Acts and Court Interpreting", starting from the theories of speech acts, Zhao Junfeng (2007) pointed out that there were different "felicity conditions" from which courtroom speech acts took shape, and accurately understanding these conditions and constitutive rules for the speech acts would assist interpreters in properly meeting with the challenges of court interpretation. Xiao Yunshu (2007) took the translation of "intellectual

property" as an example to study the translation norms of legal terms. It is the obligation and responsibility of legal workers and translators or interpreters to strive to standardize the translation of legal terms. In "A Comment on Similar Phrases of Chinese Legal Provisions", Huang Yongping (2007) analyzed various problems in the translation of similar phrases in Chinese legislative documents, with examples of several main mistranslation and pointed out that translators must be familiar with the legal interpretation rules in English-speaking countries, so as to avoid making logical or semantic mistakes when translating similar phrases. Xiang Hong (2007) studied the linguistic features of structures and styles of judicial documents and emphasized the strong applicability of the purpose-oriented functional translation theory, which was conducive to achieving the communicative purpose of accuracy when translating judicial documents. Qu Wensheng (2012) discussed the problems of the translation of Chinese legal terms and their causes and proposed that the standardization of the translation of Chinese legal terms should be revised and updated. Zhang Qing (2018) also discovered that the English translation of the names of Chinese laws and regulations lacked a unified standard, which confused readers from other countries, and put forward some advice to address these problems. Cheng Le's (2017) paper found that two intra-semiotic subjective links were identified within the process of formulation, interpretation, translation and reception of legal terms, and analyzed the five translation principles of legal terms within the semiotic interpretation from Semantic Triangle Model and Translation Triangle Model as well as its corresponding three elements—namely, Representation, Reference and Interpretation. Zhang Luping (2017) analyzes the problems encountered in court interpretation and the translation strategies from the aspects of contextual relationship, language structure, and dynamic adaptation from the perspective of adaptation theory and drug case interpretation records, and summarizes the principles that interpreters should follow. Zhang Falian (2020) summarizes the difficulties of machine translation technology in legal translation, and attempts to explore the combination of machine translation and human translation in legal translation.

Textbooks on legal translation have sprung up like mushrooms after a rain, for example, Zhang Falian's *Legal English Translation* (2009), Xia Dengjun's *Techniques of the Legal English Translation*

(2008), Teng Chao and Kong Feiyan's *English-Chinese Legal Translation: Theory and Practice* (2008), etc. Zhang Falian's book analyzed the translation of legal words, legal culture, legislative texts, foreign-related business contracts, charging documents and notarial deeds from the perspective of the characteristics of legal language and the principles of legal translation. In addition to legal translation, there are books on legal interpreting. For example, *Course of Legal Interpreting* (2006) edited by Du Biyu. Besides, there are some translations about legal translation, such as *Translating Law* by Deborah Cao (2008), one of the series of textbooks for MTI students.

2.3.4 Study on Legal Language Teaching

Du Jinbang believed that the study of the discourse information structure, especially the tree information structure of legal discourse, provided the supporting theories and tools for information analysis, and emphasized the importance of cultivating students' awareness of the macro-structure and information of discourse in legal English teaching, including the teaching of listening, speaking, reading, writing, and translation, etc. (Du Jinbang 2007). Based on the situation of English teaching in China, Zhang Luping (2007) explored China's legal English teaching model from a theoretical and practical perspective of English immersion by analyzing law and English, indicating that legal English teaching still had a long way to go to cultivating compound talents.

The development of the times has seen the increasing importance of legal foreign languages and more and more textbooks on legal languages. Zhang Falian[7] can be regarded as a leading figure in the teaching field of legal English. He has not only published relevant papers but also compiled a series of legal English textbooks. He has been making great efforts in the development of legal English. In addition, there are other textbooks, such as Du Jinbang's (2004) *A Core Course of English for Law, Reference Book*, one of the series of textbooks on legal English, Sha Lijin's (2010) *Legal English*, one of the series of English textbooks for graduate students, Qi Jun's (2011) *Legal*

[7] See http://wgyxy.cupl.edu.cn/info/1150/3140.htm (Last access time: 2021-02-21).

English Textbook, Tong Luming's *Course Book for Practical Legal English* (2006) and *Course Book for Legal English Texts* (2009), Liu Hanxia's *Legal English* (2004), one of the series of textbooks for law major at universities in the 21st century, etc. There have been numerous textbooks on legal English published in recent years, for instance, *Legal English* (2010), a nationally planned textbook for the "Eleventh Five-year Plan," and so forth[8]. Due to the increasing demand for legal English in society, more and more students majoring in law and English have participated in legal English tests. Therefore, the National Legal English Certificate Examination Advisory Committee compiled *A Coursebook on Legal Reading in English* (2010), one of the excellent series of textbooks on legal English for national colleges and universities and designated books for the national examination of Legal English Certificate (LEC), and other textbooks.

Besides publishing papers, works, translations and textbooks, domestic scholars have actively held and participated in academic seminars on forensic linguistics. The following table provides a review of national academic seminars on forensic linguistics since 2008:

Time	Name	Location
2008	The 5th National Conference on Forensic Linguistics	Guangdong University of Foreign Studies
2010	The 6th National Conference on Forensic Linguistics	Southwest University of Political Science and Law
2012	The 7th National Conference on Forensic Linguistics	Zhongyuan University of Technology
2014	The 8th National Conference on Forensic Linguistics	Northwest University of Political Science and Law

[8] See the official website: https://www.lectest.com (Last access time: 2021-02-21).

2016	The 9th National Conference on Forensic Linguistics	Guangdong University of Foreign Studies
2018	The 10th National Conference on Forensic Linguistics and the Annual Conference of the Professional Committee of Forensic Linguistics of China Association for Comparative Studies of English and Chinese	China University of Political Science and Law
2020	The 11th National Conference on Forensic Linguistics and the Annual Conference of the Professional Committee of Forensic Linguistics of China Association for Comparative Studies of English and Chinese	East China University of Political Science and Law
2022	The 12th National Conference on Forensic Linguistics and the Annual Conference of the Professional Committee of Forensic Linguistics of China Association for Comparative Studies of English and Chinese	Guangdong University of Foreign Studies

Table 1 A review of national academic seminars on forensic linguistics since 2008

Due to the COVID-19, the 11th and 12th National Conference on Forensic Linguistics was held online respectively at East China University of Political Science and Law, and Guangdong University of Foreign Studies. And the 13th Conference will be held again in China University of Political Science and Law in Beijing.

Another phenomenon that is worth mentioning is that more and more young scholars have introduced Chinese forensic linguistics research to the international community and continuously made China's voice heard in the international academic arena, so as to let the world learn about the status of Chinese forensic linguistics research. In addition to senior scholars such as Du Jinbang, Liao Meizheng, Liu Weiming and other professors who have expressed their academic

views at international academic conferences and journals of forensic linguistics, a group of young and middle-aged scholars, such as Zhang Falian, Qu Wensheng, Yuan Chuanyou, Cheng Le, Wang Zhenhua, Ge Yunfeng, Dong Xiaobo and so forth, have gradually emerged in the field of international legal language research as up-and-coming figures. Take Cheng Le [9], a well-known professor from Zhejiang University Guanghua Law School in the international legal language community, for example. He not only serves as the vice president and secretary general of many international academic organizations of legal and language research but also as the chief or deputy editor of multiple international academic journals on law and language, such as the chief editor of *Social Semiotics* and *International Journal of Legal Discourse* (Emerging Sources Citation Index), and the deputy editor of *International Journal for the Semiotics of Law* (Emerging Sources Citation Index) and *International Journal of Semiotics and Visual Rhetorics* and *Language and Law*. In recent years, he has published more than 50 papers in SSCI, A&HCI, Legal Journal Index, and other authoritative international journals. Another example is Ge Yunfeng[10], a professor at Shandong Normal University School of Foreign Languages and a rising star in the academic study of forensic linguistics in recent years. He has published papers in authoritative international academic journals or publications, for example, in *Pragmatics*, *Journal of Pragmatics*, etc., discussing China's civil trial discourse and the structure and rhetoric of judgement documents, which allowed the international academic community to learn more about Chinese forensic linguistics research.

2.4 Summary: A Brief Bibliometric Visual Analysis of Publications on Chinese Forensic Linguistics (2000-present)

To corroborate our previous analysis regarding Chinese forensic linguistics study, we have adopted bibliometric visual analysis of VOSviewer software based on literature in the China National

[9] See: https://person.zju.edu.cn/en/chengle (Last access time: 2023-05-30).
[10] See: http://www.sfl.sdnu.edu.cn/info/1225/1877.htm (Last access time: 2021-02-20).

Knowledge Infrastructure (CNKI) from 2000-present.

The key topic for retrieval in this analysis was as follows: “TS = (((((((((topic ='法律语言' or title ='法律语言') OR (topic ='法律语言学' or title ='法律语言学')) OR (topic ='法律语言研究' or title ='法律语言研究')) OR (topic ='法律语言应用' or title ='法律语言应用')) OR (topic ='法律语言教学' or title ='法律语言教学')) OR (topic ='法律翻译' or title ='法律翻译')) OR (topic ='法律英语' or title ='法律英语')) OR (topic ='法律语言' or title ='法律语言')) OR (topic ='司法语言' or title ='司法语言')) OR (topic ='立法语言' or title ='立法语言')) AND (time-span: Between ('2000-01-01','2023-05-29')); document types (article or review). All the data were downloaded on May 29, 2023. After eliminating literature not relevant to the subject, 3,264 documents were obtained as the research data for this analysis.

2.4.1 Annual Publications Analysis

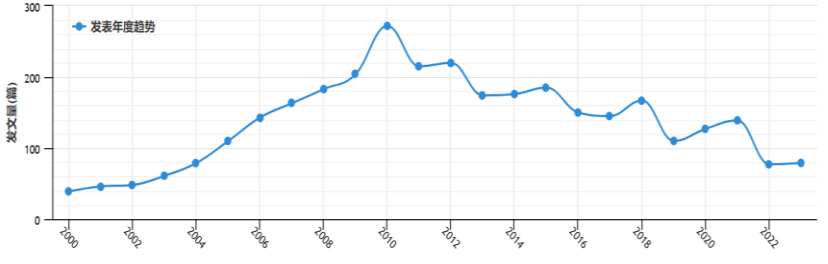

Fig. 1. Trends in the count of publications of Chinese forensic linguistics from 2000-present.

The annual publication for the 3,264 documents included in this analysis is shown in Fig. 1. The number of published papers had an overall fluctuating upward trend over the last 20 years, which reflects the development of this research field, and the number of publications rose after 2003 and peaked in 2010, supporting our previous analysis. In 2010, there was a publication volume of 272 articles. During this period, scholars’ research fields have become more extensive, and their research topics have become more diverse. The number of literature publications after 2010 declined and gradually stabilized. According to

the prediction of the bibliometric software, the number of published papers in 2023 will be 77, which shows that the research of Chinese forensic linguistics has fallen into a bottleneck period, and the future development needs to find new breakthrough points.

2.4.2 Discipline Analysis

The distribution of literature in Chinese forensic linguistics study is very diverse. Figure 2 shows the top 30 in numerical order of source disciplines. “Foreign Language and Literature”, “Jurisprudence and Legal History” rank in the top 2, and the amount of literature they contain accounts for more than 70% of the top 30 disciplines. It can be seen that the research of Chinese legal linguistics has attracted the common attention of social science circles such as linguistics, legal circles, translation circles and foreign language circles.

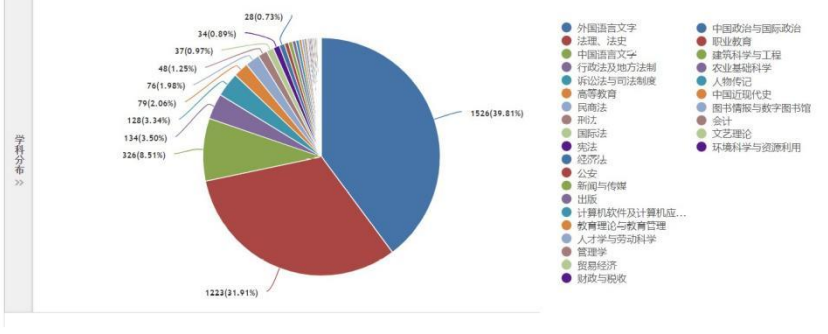

Fig. 2 Distribution of disciplines

2.4.3 Research Subject Analysis

Keywords are the core summary of a paper. Co-occurrence analysis of keywords may help the reader to understand the developmental history and research focus of a research field and predict future trends in this field. In this analysis, the co-occurrence map of 8,159 keywords was obtained (Fig. 3). A connection means that two keywords appear in the same paper. Keywords with high frequency were: 法律英语(legal

English) (738 times),法律语言(legal language or forensic linguistics) (393 times), 法律翻译 (legal translation) (343 times), 翻译 (translation) (213 times), and 立法语言(legislative language) (178 times) (Fig. 4). The number of links indicates the degree of association between keywords, whereas the frequency indicates popular words in this domain. We also counted the first keyword listed in each literature as the main theme word for quantitative ranking. Figure 5 shows the top 20 main theme words, with the top 5 being: 法律英语 (legal English) (689 times), 法律语言(legal language or forensic linguistics) (266 times), 法律翻译 (legal translation) (209 times), 法律英语教学 (legal English teaching) (156 times), and 立法语言 (legislative language) (149 times). The top words of the main theme words are roughly the same as the top words of the keywords co-occurrence, which means these keywords are the hot topics in Chinese forensic linguistics research over the past 20 years.

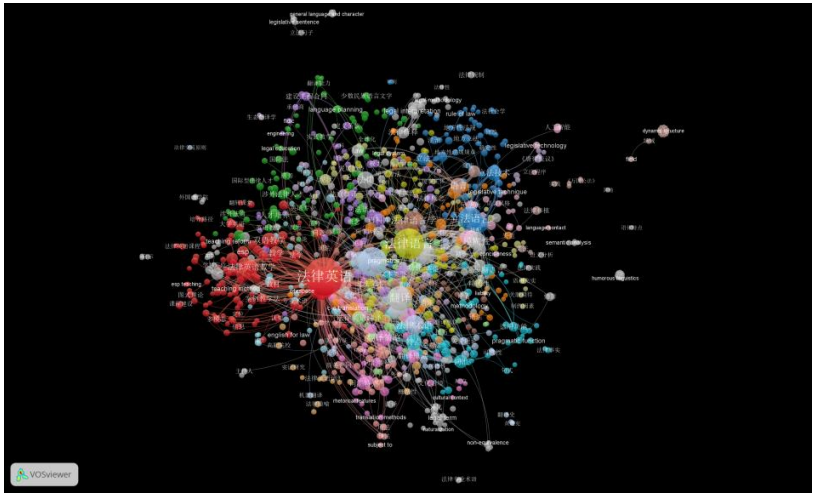

Fig. 3 The keyword co-occurrence network map.

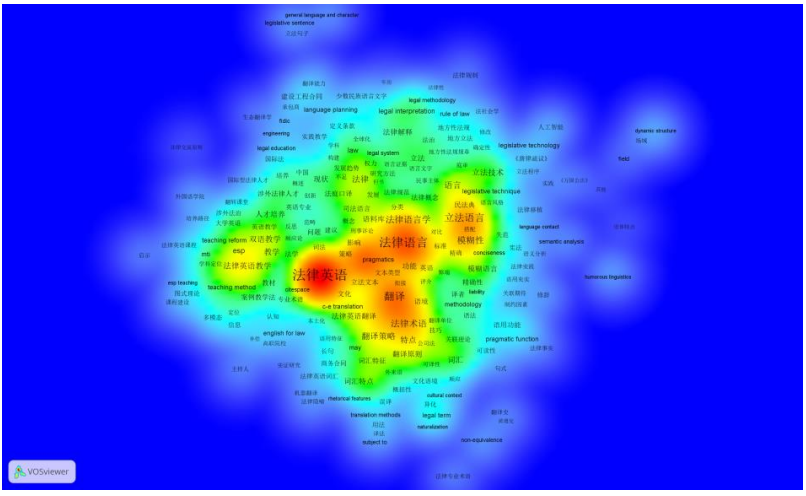

Fig. 4 Density visualization of keyword co-occurrence.

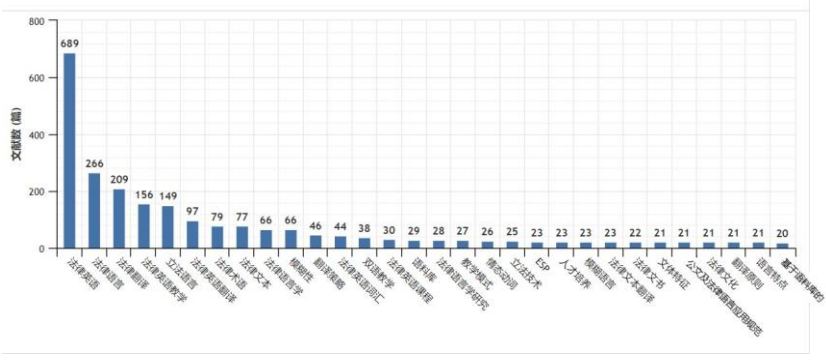

Fig. 5 Sub-distribution of major themes.

We also used VOSviewer software to perform cluster analysis on all keywords in this field, resulting in a total of 35 clusters. The circles of different colors in Figure 3 represent different clusters. Sorted by the number of keywords covered by the cluster, the top three clusters can be considered as the three main research interests in this field. Cluster 1 contains 95 keywords, mainly focusing on the topic of 法律英语教学(legal English teaching). The high-frequency keywords within the cluster include:法律英语教学 (legal English teaching), 法律英语课程 (legal English courses), 法律与英语(law and English),

法律人才 (legal talents), 法律专业英语 (legal professional English), 教学改革(teaching reform), etc. Cluster 2 contains 85 keywords, mainly focusing on the topic of legal English application. The high-frequency keywords within the cluster include: foreign-related law, foreign-related legal talents, language policy, international communication, international law, minority languages (少数民族语言), etc. Cluster 3 contains 64 keywords, mainly focusing on the topic of legislative language analysis, and the high-frequency keywords in the cluster include: legislative language, legislative intent, criminal law determination, criminal law norms, ambiguous legal language, local regulations, etc. Through the above analysis, it can be found that the focus of Chinese forensic linguistics research is more inclined to linguistic practice, and it has a high research interest in the reform and innovation of legal language teaching, and is also keen to analyze the basic role of legal language in foreign-related rule of law practice, and explore how to regulate legislative language or analyze judicial discourse.

2.5 The Future Development of Forensic Linguistics

In addition to putting more emphasis on the combination of theory and practice, the future development of Chinese forensic linguistics will present the characteristics of diversity, multidisciplinary integration and being more extensive and in-depth, which is the requirement of the times and the goal that forensic linguists need to strive for together. Specifically, the study of forensic linguistics will be more prominent in the following aspects.

2.5.1 Forensic Linguistics Will Make Technological Breakthroughs with the Help of Corpus Technology and Artificial Intelligence.

Legal language research has advanced significantly in recent years with the work of Gu Yueguo, Du Jinbang, Liao Meizhen, Song Beiping and others to build a legal language corpus. In January 2006, Dr. Song Beiping established the Institute for the Application of Legal Language at Beijing College of Politics and Law. And an expert consultation

meeting on the standardization of the Chinese legal language was held. At this meeting, experts from the Ministry of Education, Ministry of Justice, China Law Society, Peking University, and China University of Political Science and Law had a discussion together, highlighting how a legal language corpus would form the basis for legal language research and serve as a tool for standardizing the legal language. Under the guidance of a steering committee composed of nine experts from the three disciplines of law, linguistics, and forensic linguistics, the construction of the Chinese legal corpus began. And the first forensic linguistics corpus was established in 2008, aiming to standardize the understanding and use of legal language. The development prospect of legal corpora is rather promising. As for the establishment and development of legal language corpora, nowadays, there are some authoritative, practical and effective corpora, such as Parallel Corpus of China's Law Document (PCCLD) and China Judgments Online. Many scholars are also studying the construction and application of corpora. Corpus technology can realize quantitative and empirical research, providing authentic, reliable, systematic and comprehensive original data for forensic linguistics research. Furthermore, as artificial intelligence develops, especially with ChatGPT emerging, ground-breaking results in forensic linguistics will certainly be achieved with the help of artificial intelligence technology.

2.5.2 Forensic Linguistics Will Integrate Legal Culture to Promote People-To-People Exchanges.

Legal culture is legal activities' wisdom crystallization in the development of human civilization, the cultural basis for the existence and development of legal phenomena in society, and the macro context for the formation and evolution of legal language. We believe that studies of Chinese and western legal language and culture and their contrastive study provide one of the future development directions for legal language. Zhang Falian's book *A Comparative Study of Chinese and Western Legal Language and Culture* (2017) comprehensively and systematically expounds the comparison of Chinese and western legal language and culture. Based on interdisciplinary research, and from a dynamic research perspective that combines linguistics and law, of

Chinese and western legal language and culture, a comparative framework and an analysis paradigm are systematically constructed, and vertical and horizontal research are innovatively integrated, and integration of point and sphere of comparison is strengthened, reflecting the changes of the times and the academic advancement.

Another textbook on legal culture is *Anglo-American Legal Culture Course* (2018), edited by Zhang Falian and Jiang Fang. It is a textbook for legal English majors in universities and colleges across the country and also a designated textbook for the national examination of LEC. The comparative study of Chinese and western legal language and culture enjoys great theoretical value and practical significance.

2.5.3 The Study Mode of Forensic Linguistics Will Tend to Become "Forensic Linguistics + Non-English Languages."

With the expansion of the research field and scope of forensic linguistics, legal French, legal German, legal Russian and other "non-English" legal languages will continue to develop. With the promotion and development of the Belt and Road Initiative, the scope of cooperation between China and foreign countries has been expanding, and the fields of cooperation have become broader, which brings forward higher requirements for the development of legal foreign languages. Guided by theories of forensic linguistics and taking language as the bridge, the cooperation between China and countries along the Belt and Road will be better promoted, facilitating the signing of bilateral documents. Therefore, multilingual forensic linguistics is a direction for future development.

2.5.4 The Study Mode of Forensic Linguistics Will Tend to Become "Professional Field + Legal Foreign Languages."

As the MTI program has gained in popularity in society in recent years, more and more attention has been paid to legal translation in foreign language teaching, and the teaching model and curriculum construction have constantly been improved. Theory and practice are more closely combined, and more and more applied research is based on systematic

linguistic theories. *Sea-related Legal English Translation* (2015), edited by Ren Dongsheng and Bai Jiayu, is a graduate textbook for MTI and JM (Juris Master) students. The book discusses professional knowledge related to the law of the sea, international maritime law, sea-related international commercial law and maritime law. China's Belt and Road Initiative mentioned above also involves many fields, such as banking and other financial projects, railways and other transportation projects, and hydropower and other infrastructure projects, all of which require protection of laws. Thus, it can be seen that one of the future development trends of forensic linguistics is to be guaranteed by professional legal knowledge in a certain field based on linguistic theories and the bridge of communication—language.

3. Conclusion

Since the brewing period beginning in the 1980s, the study of forensic linguistics has gone through the establishment and development period and the improvement period. More than thirty years of development have seen that the ranks of scholars studying forensic linguistics have gradually expanded and their academic level has become higher. From the initial focus on the theoretical system to later gradually paying attention to specific and in-depth monographic studies, the disciplinary system of forensic linguistics is becoming more and more complete. The fourth plenary session of the 18th CPC Central Committee stressed that "Law-based governance and law-based exercise of state power begin with compliance with the Constitution", which marked the beginning of fully advancing the rule of law and ushered in a new era of developing law-based governance and modernizing governance in China. With the implementation of the Belt and Road Initiative, the development of foreign-related legal services can not be achieved without the study of legal language, which has put forward new challenges, expectations and requirements for theoretical thinking and practice of forensic linguistics.

Due to the endless emergence of forensic linguistic research results, limited by the author's ability, it is inevitable that for one thing cited, ten thousand may have been left out -- the list is far from being complete, but at least it has laid a preliminary foundation for sorting out

the research context of modern legal linguistics in China.

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