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Uncertainty in the Cognitive Processing of a Legal Scenario: A Process Study of Student Translators

Abstract

This article describes a process oriented case study of student translators' translation of a legal text from Danish into English. Generally, when students are asked to translate a complex legal text their reaction to some degree demonstrates lack of confidence in their ability to perform successfully both as students and after graduation. On the basis of a think-aloud experiment involving four groups of students we focus on how they handle uncertainty in the translation process, and explore whether it is possible to point to factors that are likely to make students go about the task of legal translation with more confidence. Two parameters are focused on: the students' access to tentative translation equivalents both at the syntactic and lexical levels and the nature of reflection or argumentation performed to support their final choices. The ultimate purpose of this study is pedagogical in that we hope to be able to point to focusing points that will help students in their learning process.

1. Introduction

When students are required to translate a complex legal text, their reaction to some degree demonstrates lack of confidence in their own ability to perform successfully both as students and after graduation. They know that they have to have extensive knowledge about legal scenarios, but they find it difficult to differentiate between knowledge that they either possess or need to acquire.

The primary goal of legal translation training and hence of the underlying curriculum planning is therefore to help students develop cognitive strategies that will allow them to reconstruct the context of any

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legal text in such a way that they feel relatively confident in their translational choices.

One way would be to expose the students to the entire curriculum of the law degrees of two (or more) legal systems. For reasons of time and money that is obviously not possible. An alternative choice, with a more social constructivist approach, would be to leave it to the students themselves to recognize their own information needs, as suggested e.g. by Kastberg (2002) in an article dealing with similar problems in technical translation. In our view, that is not feasible either. Studies of student translations at Copenhagen Business School (CBS) in fact show that quite often students may not even recognise that they have information needs in the first place, cf. Faber and Hjort-Pedersen (2004). One reason is that when they try to deduce utterance meaning, the students bring the wrong context to bear, but firmly believe that they have understood the source text correctly, cf. also e.g. Kussmaul (1995) and Colina (2003).

Example (1) serves to illustrate this point:

(1)   Nothing in this clause shall confer any right on the Buyer to return the goods.

This is a simple, straightforward sentence, but a good number of the students that we have asked to translate it turned the world upside-down in that they surprisingly opted for a Danish translation where 'right' became 'duty', as illustrated by (1a)

(1a) Intet i denne bestemmelse pålægger køber pligt til at tilbagelevere varerne.

      [Nothing in this clause shall impose any duty on the Buyer to return the goods] (*our back-translation)*

This is rather puzzling because the students would probably never in a non-translation context confuse the meaning of 'duty' with that of 'right'. Example (1) was one of several provisions in a contract designed to safeguard the interests of the stronger party, i.e. the seller. We believe that what happened was that the students, being consumers themselves, consciously or unconsciously relied on their knowledge of the interests of consumers rather than those of sellers. And somehow this knowledge interfered with their cognitive processing of (1).

The complexities and vagueness of legal language both at the linguistic and the conceptual levels, which makes it notoriously difficult to understand for non-experts, have been analysed and described over several decades cf. e.g. Sarcevic (1997), Kjær (2000) and Chromá (2005). So there is good reason why one of the main focus areas of the plain language movement has been and still is language use in the legal domain. And the production of legal texts is generally understood to require years of intensive training, which is why it is not usually undertaken by non-experts. Faced with the task of translating a legal text a Danish student LSP translator is therefore in a situation in which he or she is a non-expert in two respects, i.e. both as a non-expert reader and as a non-expert writer of a legal text. Add to this that the translator has to mediate between two different legal systems, and it is little wonder that student translations in this domain are often defective.

2.   Conceptualisation and mental scenes

In line with Fillmore (1977), we assume that the establishment of some kind of mental scene is a necessary part of text comprehension in general. In Fillmore's words (1977: 61)

> … what happens when one comprehends a text is that one mentally creates a kind of world; the properties of this world may depend quite a bit on the individual interpreter's own private experiences – a reality which should account for part of the fact that different people construct different interpretations of the same text.

Apart from the same text resulting in different mental world creations by different readers, it also follows that mental world creation on the basis of texts can be easy or difficult depending on the contextual knowledge available to the reader of the particular text, cf. example (1).

2.1. A generalized conceptualisation model

It seems safe to assume that in the process of creating a fully developed mental scene from any text, the reader is helped by knowledge of the usual or prototypical course of events, the typical players in the scene, and the typical 'geography' and time frame of the events taking place. Apart from knowledge of the scene, however, there is also the knowledge of the linguistic frame (in Fillmore's terminology) that will facilitate the process of creating the scene.

Lundquist (2000: 109) presents a so-called generalized event model that allows the incorporation of the three different levels of text under-standing (the linguistic level of lexicon and sentence, the text level and the world knowledge level) into one whole in order to be able to de-scribe how a process of mapping knowledge from one level to another may compensate for the lack of knowledge at any particular level.

The model (Lundquist 2000: 110) is reproduced in Figure 1.

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+-------------------------------------------------------+
|            WORLD  KNOWLEDGE                           |
|            SCRIPTS WITH ROLES                         |
|   +-----------------------------------------------+   |
|   |          TEXT KNOWLEDGE                       |   |
|   |        STORIES WITH ACTANTS                   |   |
|   |   +---------------------------------------+   |   |
|   |   |      LINGUISTIC KNOWLEDGE             |   |   |
|   |   |      SENTENCES WITH CASES            |   |   |
|   |   |              and                     |   |   |
|   |   |         LEXICON WITH                 |   |   |
|   |   |      VERBS WITH VALENCY              |   |   |
|   |   |              and                     |   |   |
|   |   | NOUNS WITH AGENTIVE + TELIC EVENTS   |   |   |
|   |   +---------------------------------------+   |   |
|   |                                               |   |
|   +-----------------------------------------------+   |
|                                                       |
+-------------------------------------------------------+
```
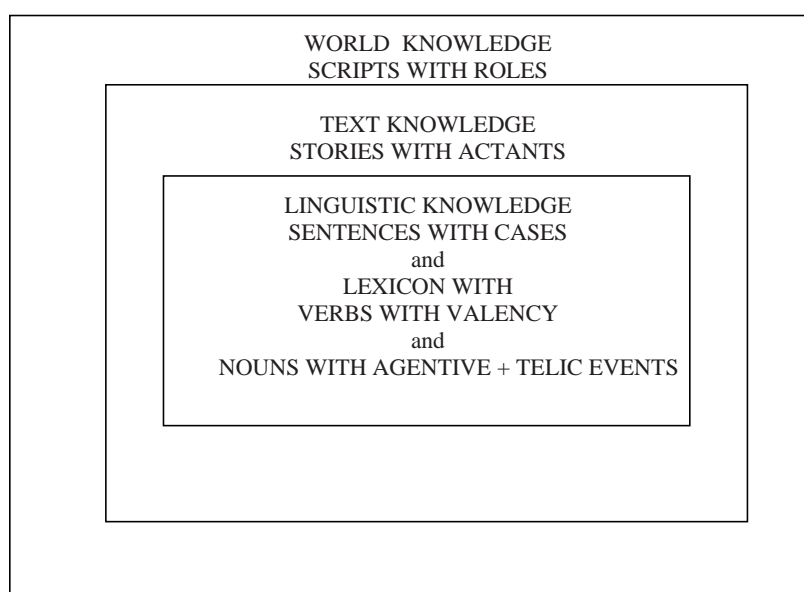
Figure 1. The generalized event model

The model illustrates how different readers may draw on different sources of knowledge to supplement a lack of knowledge in some part of their knowledge frame. The model thus predicts that even where they do not have expert knowledge of the situation described in the text, our translator students should ideally be able to arrive at a sufficient level of understanding for their purpose and provide an acceptable translation by relying on other areas of knowledge available to them such as their world knowledge or linguistic knowledge or a combination of both.

2.2. Conceptualisation and legal texts

In the case of legal texts, the construction of mental scenes will thus differ according to the level of specialized domain knowledge available to the reader, meaning that legal experts may be expected to create more highly developed scenes than non-experts as a result of their expert knowledge.

The effect of legal knowledge, i.e. knowledge of legal rules, on the way in which a legal text is understood is discussed by Kjær (2000). She assumes that when experts ascribe meaning to a legal text which applies rules (e.g. judgments) they will draw on general knowledge of rules applied and interrelations of legal concepts even where such rules or concepts are not stated or made explicit in the text.

> My assumption is that he [the expert reader] intuitively interprets the words of the text as lexical representations of rule fragments. Or more precisely, he understands the words as signals to him to infer relevant rule knowledge (Kjær 2000: 149).

As legal translators are not reading for the same purposes as legal experts, we assume that the conceptualisation work they have to undertake and the scenes that they need to construct will be at a level of understanding adequate for their particular purpose and therefore on the whole less developed than those of expert readers.

In fact, in the case of legal texts some of the linguistic features that are characteristic of legal language and which may to some extent function as clues to expert readers may well be the very factors that obstruct the students' understanding of the text, and, consequently, their ability to develop the mental scenes. This is because these features tend to blur the picture of the players, the roles that are being played, what sort of interaction between players is taking place, and when and where events are taking place.

The students' own reaction to these complexities ranges from comments on the highly demanding nature of legal translations to expressions of total lack of confidence in their own ability to produce professional legal translations both as students and after graduation. Is there a way to remedy this situation?

3.   Aim

To try to gain more insight into how students respond to the challenges of understanding and translating legal texts between, in our case, Danish and English, we decided to carry out a think-aloud experiment with eight MA students of ESP working in pairs.

We were primarily interested in shedding light on the following questions:

- How can differences in operational certainty of student translators with the same limited background knowledge be explained?
- Are there any particular factors that are likely to make student translators go about the task with more confidence in the process of translating a complicated legal text?

In our analyses we decided to focus on two parameters:

- the students' access to tentative translation equivalents both at the syntactic and the lexical level; and
- the nature of reflection or argumentation performed to support the choices they end up making.

The underlying assumption was that the more successful the students were in conceptualising appropriate mental scenarios, the more they would be able to exploit syntactical and lexical possibilities in the target language to cope with any uncertainty in the translation process. It should be mentioned that we will not here be concerned with any quality assessment of the target texts produced by the students.

4.   Set-up of the experiment and methodology

It was important for us to 'force' the students to discuss meaning, and therefore we presented them with a text that was fairly difficult, but at the same time represented a genre they were familiar with. Eight students working in pairs were asked to think aloud during their processing of a Danish text of a total of 265 words, a section of which they were asked to translate. The time frame given for the task was 90 minutes. The students' verbalisations of their comprehension and translation process were video-recorded and logged in the logging programme

Translog (Jakobsen 1999). Dictionaries, both general and legal were provided, and the students had access to the Internet.

The reason for choosing dialogue protocols was first of all that, as we were interested in the meaning processing undertaken by students, we thought informants' verbalisation of their thoughts would be facilitated by the dialogue more than if they were asked to think aloud on an individual basis. As part of a pair, informants would have to negotiate explicitly their understanding of the parts of text that proved difficult, and they would have to justify their interpretations and preferences to their partner; see House (2000), Haastrup (1989) Jääskeläinen (2000). We are aware that when informants are working in pairs, their dialogue protocols are probably even less close to the actual cognitive processes of informants working alone, one of the reasons being that while one person is speaking it is not socially acceptable for a dialogue partner to interrupt by verbalising his or her own cognitive processing. It also turned out that for several of the pairs it was the verbalisations of one of the individuals that dominated the protocol, which may be due to a general personality factor. However, as the students at CBS often produce translations in groups and are used to working in this way, we thought it might promote their feeling of confidence, a factor which may be important in persuading them to participate in the experiment.

To establish a *tertium comparationis* for our analysis purposes, we asked an experienced translator and teacher of legal translation to think aloud while processing the Danish text, but without translating it. The purpose of this exercise was to record the cues that a semi-jurist processed during the text comprehension phase, and generally to compare the approach taken with that of our student informants as well as with our own understanding of the text.

5.   The source text

The text to be translated was an extract of a Danish law report containing a quotation from the judgment being reported. As background information we provided the students with a larger part of the law report. The background text is linguistically fairly condensed and contains detailed information about the proceedings in the lower court leading up to the appeal stage described in the text to be translated.

The full text, not surprisingly, contains a number of the linguistic features that are often said to be characteristic of legal texts. The characteristic features are generally agreed to include

- the use of script roles, the names of the parties in the real world being replaced by legal terms in the text, e.g. claimant, defendant and appellant. In this way the identification of the parties may be hampered;
- the use of legal terminology referring to different stages in the course of events or to specific types of action, e.g. trial and appeal stages, which may give quick information to the expert about the where and when of events, and the type of interaction undertaken by the actants in the scene, but which may represent another layer of processing to the lay reader;
- the use of passive constructions and nominals blurring the picture of who the actants are.

The following is part of the text that we asked the students to translate together with our close translation. For ease of reference we have underlined the mentioned features:

> […] retsplejelovens § 248 <u>findes dog ikke at udelukke</u>, at byretten <u>som sket har tilladt</u> <u>fremsættelse af afvisningspåstand</u> grundet på <u>indsigelse mod værnetinget</u>.

> […] however, section 248 of the Danish Administration of Justice Act <u>is found not to prevent</u> the City Court from <u>allowing,</u> <u>as was done here,</u> <u>the submission of a motion for the dismissal of the case</u> based on an <u>objection to the jurisdiction</u>.

The blurring features in this case are a passive construction with no actant expressly mentioned, a relational adverbial referring to a place 'here', and two nominal constructions again with no actant expressly mentioned.

6.   The processing of the full text by an experienced translator

As mentioned above, to provide a *tertium* for our analyses we asked an experienced translator and teacher of legal translation to think aloud

while processing the meaning of both the background text and the text to be translated. We tape-recorded her monologue, and her observations are assumed to represent the mental scenario that would serve a professional translator's purpose. What she does is that she – so to speak – transforms a longer text (265 words) into sequentially ordered scenes by focusing in particular on six elements, namely the ***actants*** involved in the event taking place, the ***acts*** performed, the ***timing*** of this act, and ***the purpose, authority*** or ***cause*** of the act*.* The scenes that she establishes, which illustrate the chronology of events and the issues of the case, can be summarised as follows:

Scene 1: The claimant (a company) brings an action for damages in the City Court (the lower court).

Scene 2: The defendant (another company) asks the City Court for a dismissal of the claimant's action on the ground of lack of jurisdiction.

Scene 3: In its reply the claimant requests that the City Court should not allow the defendant to ask for the dismissal of the case, because the defendant's motion was not made at the right time and place (i.e. the court should deny the request for formal reasons).

Scene 4: The City Court then hears the issue of the dismissal of the action separately, but does not find for the defendant, i.e. the defendant is not granted its request to have the proceedings dismissed.

Scene 5: This decision is subsequently appealed by the defendant to the High Court.

Scene 6: The High Court considers the question whether the City Court was right in allowing the defendant to make its request for dismissal of the proceedings.

Scenes 1 to 5 represent the background text and scene 6 the first part of the text to be translated.

To illustrate the establishment of the first scene by our experienced translator we reproduce (our translation) of her think-aloud protocol. She starts out by focusing on two of the **actants** in the story, i.e. the claimant and the defendant. The identity of the actants is not altogether crystal clear from the text:

> I was a little puzzled to begin with (about the way in which the parties
> to the case are presented in the text) […] – the claimant is Columbus
> and the defendant that's PC Express –

She goes on to determine the various **acts** performed by these actants:

> the claimant claims a certain amount plus interest […]

So the focus of our translator is here on the parties and their identity in the real word, i.e. who is who, what are their roles in the legal scenario, what act is performed, and the purpose of this act.

In scene 2 she proceeds to the defendant's reaction to the claimant's claim. Her focus here is that there is both a primary and an alternative request to the City Court, and she identifies the **cause** given to support the primary request.

> – the defendant is against – no that's not it – the defendant wants to
> have the case dismissed because the Copenhagen City Court is not the
> proper venue – alternatively – if the Court is not willing to dismiss –
> the defendant wants the Court not to award the claimant damages –
> yes – […]

In scene 3 she focuses again on the claimant and the claimant's next steps, as well as on the **timing**, and the **authority** supporting the claimant's argumentation

> – and what is the claimant's reaction afterwards – to what the defend-
> ant is trying to achieve – the claimant wants the court to reject the de-
> fendant's motion for dismissal because – on formal grounds – it was
> not included in the statement of defence – and if this argument is not
> successful – then the claimant argues alternatively that the proper ven-
> ue is in fact the claimant's home court […]

In scene 4, she shifts her focus to the city court as the **actant** and the city court's **act,** i.e. its reaction

> the City Court then does not allow the defendant's claim for dismissal
> […] so the City Court agrees with the claimant

In scene 5 she comments briefly on the next step taken by the defendant, and the **timing** of the **act** performed. And she introduces a new **actant** – the High Court.

> and now for the part of the text to be translated […] the decision is
> subsequently appealed to the High Court […]

And finally in scene 6 she focuses on who plays the role of appellant in the appeal case and identifies the acts performed by the High Court, i.e. that the High Court finds that acts performed in scenes 2 and 4, respectively were OK.

> this is the High Court's reasoning – it is important to realise that what follows is the High Court's comments on the City Court accepting the making of a claim for dismissal […] well let's have another go – the City Court does not allow the claim for dismissal – the City Court thinks that the City Court is the proper venue – this decision is appealed […] it is OK that the appellant makes the motion for dismissal you can do that […] we need to specify who the appellant is – the claimant has claimed dismissal unsuccessfully – so it's the defendant's claim that is the issue

7.   Analysis of student processing

In our discussion of the students' development of mental scenarios in respect of the source text we will be drawing on the three general levels (world, text and linguistic knowledge of Lundquist's model (figure 1)) as well as on the scene construction undertaken by our experienced translator. We will be pointing to uncertainty phenomena on the basis of what the students actually say in the protocols, e.g. when they refer to lack of knowledge in the case of (some) questions, postpone a problem, and use expressions of uncertainty and frustration. For the purpose of this discussion we have adopted a number of translation processing categories suggested by Tirkkonnen-Condit (2000), i.e. automatic solution, postponement, tentative solution, positive or negative evaluation.

Before proceeding to the actual analyses, we want to comment on some of the categories used. In a dialogue, questions may be a way of making cooperative suggestions for the target text and not necessarily an expression of uncertainty. Therefore, the question-form has in some cases been determined as expressions of uncertainty; in others, based on the flow of the dialogue, it has been classified as either negotiation or uncertainty.

Similarly, tentative solutions might be taken to represent uncertainty, but again the dialogue form is likely to promote the use of suggestions to elicit the fellow student's agreement. So our situation differs from studies where one informant solves a problem on her own. For the same reason we have no category solution, as the processing of the in-

dividual translation units in the majority of cases is by way of a <u>tentative solution</u> followed by a <u>negative or positive evaluation</u>, according to which the <u>tentative solution</u> is either rejected or retained as the translation choice of the group.

With respect to the category <u>postponement</u>, Tirkkonnen-Condit points out that tolerance of a situation in which a decision is pending is a strategy often needed in professional translation. But in our case it could also be a way of moving on from an unsolved disagreement, and if the students did not return to the element postponed we take it to mean that they were uncertain about what to do to solve the problem.

The language of the protocols was Danish, but they are here reproduced in English. In our transcripts of the four protocols, we have applied the following conventions inspired by Collins and Mees (1998)

1. Punctuation has been omitted. Capital letters are restricted to proper names, titles, etc.
2. The dash – indicates a pause.
3. […] indicates that irrelevant parts of speech have been left out in the transcript.

Moreover, the coding system used in the transcriptions of the protocols is as follows:

*   Italics is used where the text represents our translation of the students' Danish dialogue.
*   Italics plus 'inverted commas' is used where the text represents the students' own translation of textual segments.
*   Italics plus **bold type** is used where the students' dialogue focuses on the Danish terms and phrases.

7.1. The student protocols

In the following we will concentrate on the protocols of three of the groups as two groups performed in fairly similar ways.

Our analyses of the student protocols show that

*   there is very little in the sentence to be translated that the students are certain about;
*   only with one translation segment – 'retsplejelovens § 248'

(section 248 of the Danish Administration Act) – is there an automatic-solution response from all groups;

- they use dictionaries and the Internet very frequently, even for non-specialised words;

- generally speaking, their confidence is limited.

What distinguishes them is on the one hand the way they conceptualise and create scenes of the story told in the text, and on the other the basis on which they make translation choices.

7.1.1. Group A

The students in group A verbalise observations about their conceptualisation, and they seem to derive some confidence from this conceptualisation in their translational choices. They focus consciously on the background text before embarking on the actual translation, and they succeed in establishing the various scenes during this process. This is illustrated by a few examples from their dialogue:

> *let's talk about what it is they sort of want here*
>
> *anyway it has been appealed – the judgment that is – to the High Court* [scene 5 established] (textual knowledge)
>
> *But I don't understand – the defendants – they want the case to be dismissed* [scene 2 established] (textual knowledge)
>
> *and it is the claimant then – he wants the court to reject the motion for dismissal – he doesn't want it to be dismissed* [scene 3 established] (textual knowledge)
>
> *but it isn't dismissed is it – the City Court does not allow the defendant's motion for dismissal – so it must still be –*
>
> *he is not allowed to have it dismissed* [scene 4 established] (textual knowledge)

This successful scene construction seems to form a solid basis for exploring and arguing confidently for or against various syntactic and lexical possibilities in the translation process. One example is the passive *'findes dog ikke at'* (is found not to), where their construction of scene 6 allows them to manoeuvre syntactically in that they convert the passive into the active voice by introducing the proper actant – *the court*.

> *we could rephrase it somewhat so that it is easier to translate – right*

> *yes*
>
> *so for instance – that the court does not find that s 248 prevents the City Court –* [scene 6] (textual knowledge)
>
> *should we put in the court first – that is – 'the Danish High Court does not'* [tentative solution] − *'find' – is it okay to use 'find'* [negotiation/uncertainty] (dictionary consulted) *'that section – of the Administration of Justice Act'* [automatic] (linguistic knowledge*) – that makes it easier* [argumentation based on the actant of scene 6]
>
> *yes* [positive evaluation]

The students also seem confident about their argumentation for alternative syntactic possibilities in connection with their translation of e.g. the nominalisation 'fremsættelse af afvisningspåstand' (submission of claim), where they use their construction of scene 6 as a platform:

> *we might need a subject or something here – yes*
>
> *so – 'the defendant' – he was the one – who goes for the motion for dismissal* [argumentation based on scene 2] (textual knowledge)
>
> *could we perhaps write 'allowing the defendant's motion for dismissal'* [tentative solution] [negotiation/uncertainty]
>
> *uhm – yes* [positive evaluation]

Then follows a long discussion of the meaning of the nominalisation 'indsigelse mod værnetinget' (objection to jurisdiction) and a translation of the Danish word 'værneting', which they cannot really decide on. But again their prior establishment of scene 2 allows them a certain freedom to manoeuvre, albeit in a different manner. This time they have confidence in opting for a paraphrasing strategy to get round the problem of translating 'indsigelse':

> *maybe we could avoid* **'indsigelse'** (objection) *and write because of the wrong venue or some other word for it – it must mean the same thing – it is what he has based his motion on* [argumentation based on scene 2] (linguistic knowledge) (textual knowledge)

They consult a dictionary to find a translation of their own Danish paraphrase '*wrong venue*' and find the English word '*improper*':

> *yes this might be possible –'improper venue' – let's do that – we are avoiding the problem in that way – 'based on improper venue'* [tentative solution] *– doesn't that mean the same thing* [negotiation/uncertainty] – w*hen you object to the venue it is because you think it is the*

> *wrong venue* [positive evaluation] [argumentation] (linguistic knowl-
> edge) (textual knowledge)

This argumentation again seems to lend them some sort of confidence in their choice:

> y*es let's do that*
>
> *yes*
>
> *otherwise we won't get anywhere*
>
> *but I do think that it's possible to do that* [positive evaluation]

7.1.2. Group B

The group B students verbalise some observations about their concep-tualisation, but this process does not seem successful enough to give them confidence. To begin with, they read the background information but do not discuss it. They work solely on the basis of the text to be translated, and uncertainty prevails as illustrated e.g. by this discussion of the passive 'findes' (is found):

> *ok – if one does not find, can we then think of […] –*
>
> *if something in the Danish Administration Act is found not to –* [scene 6 not established].
>
> *it means that the Danish Administration of Justice Act does not ex-clude* [tentative solution] –
>
> *yes that's right* [positive evaluation] –
>
> *no you cannot say that* [negative evaluation] –
>
> *why don't we just start that way we can always change it* [tentative so-lution] [postponement] –
>
> *it does not sound very good though* [negative evaluation] [no argu-mentation]

Another problem has to do with time relations. Thus the relational ad-verbial phrase 'som sket' (as was the case here) bothers them:

> *what does it mean – is it some kind of judgment that they've got –*
>
> *yes well maybe an earlier judgment.[…]*
>
> *I'm not sure I understand the Danish text either* [scene 4 (a) not esta-blished].

On the verge of total despair, they suddenly remember that the sentence they are working with in isolation relates to the background text and the remainder of the text to be translated:

> *try looking at this part again* (background text) – *so there has been – it says here that the City Court's decision is then appealed to the High Court – so the City Court has […]*

Drawing on textual knowledge, they are able to do some scene creation

> *it is the City Court which has decided the matter isn't it* [scene 4 in part] – *and the decision is then appealed to the High Court* [scene 5] *which says that the Administration of Justice Act section – ahh well, well – now we are at the level of the High Court – there is this decision or we have a decision reached by the City Court* [scene 4] – *mmm – and in respect of this decision the High Court says because it has been appealed* [scene 5] *[.…] that section 248 of the Administration of Justice Act does not exclude that the City Court has previously decided – mmmm* [scene 6 in part] (textual knowledge)

However, the scenes that they try to invoke do not consolidate in their minds, and they do not make the students' uncertainty go away

> *no – I'm at a dead end here* [uncertainty] – *maybe we should just type a line of dots and go on to the next sentence and look at it again later* [postponement].

Unlike group a, these students are apparently not able to exploit syntactic possibilities for their translation of the nominalisation 'fremsættelse af afvisningspåstand' (submission of claim). They discuss possible translations of individual words and finally settle on a translation without being able to present arguments in favour of the choice they make:

> *'reject' 'dismiss' – no that is not it either* [negative evaluation] [no argumentation] *[…]* –

> *God this is not easy* [uncertainty] *[…]* –

> *'plea of inadmissibility'[…]. I know that **'fremsætte en påstand'** is 'to submit a claim'* (linguistic knowledge) *[…] I think that **'afvisningspåstand'** is 'dismissal of claim'* [tentative solution] [no argumentation].

And they are not confident that they have landed on their feet:

> *which one do we choose –*

> *no – I don't know* [uncertainty] –

*what do you say – has allowed the submission of dismissal of claim
based on '**indsigelse mod værnetinget**'* [tentative solution] [no argu-
mentation].

7.1.3. Group C

The group C students verbalise very little about any conceptualisation,
they operate almost exclusively at the level of words and phrases and
provide very limited argumentation. However, there is also very little
expression of uncertainty. Almost no signs of scene construction are
found prior to the translation process. These students just briefly dis-
cuss who the actants are:

> *I don't understand '**sagsøger**'* (the claimant)

> *I don't understand either – isn't it '**sagsøgte**'* (the defendant) who's ….
> (unfinished sentence) [no scene construction]

In the actual translation process there are very vague attempts at some
scene construction, but apparently the students do not find their ob-
servations important, at some stage they even say so, i.e. in connec-
tion with their translation of the nominal 'fremsættelse af afvisningspå-
stand' (submission of claim for dismissal).

> *Is this the defendant's statement of defence*

> *No it's just the court's remarks I think*

> *I think it's just a remark*

> *I don't think it's important*

The scene partly established is consequently not relied on in their argu-
mentation, and the students seem not to be concerned with the who's,
what's and when's described. As opposed to group B, their limited
scene construction does not seem to worry them very much. Apart from
one segment they seem unconcerned as long as they can find words and
phrases in English in the dictionaries or on the Internet.

Otherwise, much of their discussion has to do with whether they can
leave out source text elements in their translation. The first example has
to do with the passive 'findes dog ikke at' (is found not to), which in fact
indicates that some actant (here: the High Court) is making a decision:

> *Is that '**findes**' really necessary?* [negotiation/uncertainty]

*I was thinking the same thing – **I don't think it's really important in this context***

Would it change the meaning if we simply say that 'this section does not exclude'? [negotiation/uncertainty]

No I don't think so – because [unfinished sentence] *we can always look at it again*

So why don't we just write 'does not exclude' [tentative solution] [no argumentation]

Ok [positive evaluation]

They have similar deliberations about the segment 'som sket' (as was the case here):

*That **'som sket'** – well* '**som sket har tilladt'** (as was the case here has allowed) *– can we leave out **'som sket'** and just translate* '**har tilladt'** [tentative solution] [negotiation/uncertainty]

Well yes it's just like *'findes'* (is found) – right – whether it changes the meaning if you just ignore it

I will just put brackets around '*som sket'* – then maybe we can look at it again [postponement] [no argumentation]

In this case, however, they seem rather worried about their reductionist strategy, because they revert to 'som sket' again after a period of time, and this time they manage to present arguments based on linguistic knowledge of verb tense, which seems to convince them:

*We haven't done anything about this **'som sket'***

Okay let's think

*Argh it is annoying this **'som sket'** really annoying*

Le*t's see – it's something that's happened* [no scene construction] (linguistic knowledge)

*This **'som sket'** – isn't it somehow implicit in 'has allowed'* [negotiation/uncertainty] –

Yes in a way they have done, it is – it somehow happened [argumentation] (linguistic knowledge) –

Yes –

Let's just say that – shall we [positive evaluation]

8. Conclusion

Such a small case study as the present will, of course, only provide limited data, since only eight students in all were involved. But what the study did show was that the students differed a good deal in their use of conceptualisation of the 'textual story' as a factor to help them make decisions about meaning and translation.

The data seem to indicate that it is in fact possible to trace a correlation between the ability to create mental scenes of the story told by a legal text and certainty in the development of arguments to support choices actually made in the translation process. This is illustrated by the protocol of group A where the successful scene creation allows the students to feel confident in their attempts to support their argumentation while drawing on the different knowledge levels available to them. Thus group A is alone in having the confidence to perform what Pym (2005) refers to as high-risk management e.g. through explicitation of agents in their translation.

However, our initial assumption that success in conceptualising appropriate mental scenarios would enable the students to exploit syntactical and lexical possibilities in the target language, thereby reducing their level of uncertainty, was not unambiguously supported, since the absence of explicit attempts at scene creation does not automatically mean that a higher degree of uncertainty is expressed, as demonstrated by the protocol of group C. What differentiates groups A and C is rather that group C produces only limited argumentation to support their translational choices. In fact the highest degree of uncertainty combined with limited argumentation is found in group B where there are many attempts, though unsuccessful, at establishing a mental scenario to support the translation choices. And it seems that in this case the blurred picture of scenes 1–6 has a negative bearing on their confidence in what they do.

In a wider perspective, however, we believe that the process of making explicit observations about the textual actants and other (legally important) elements in the text will allow students to establish mental scenarios of the story told by the legal text. The real advantage of such a procedure is the likelihood that the students will be able to add elements from their textual knowledge to their world or legal knowledge in such a way that they will have expanded their knowledge base for use in fu-

ture translation situations of a similar nature. Here it should be added that we are of course aware that the learning profiles and learning strategies of individual students differ, and that what works for one type of learner may not fit another's learning mindset.

Still, by focusing their textual comprehension strategies on the focal points of particularly *actants* and the sort of *acts* that actants are able to perform in a given legal context, as well as the ***time, purpose, authority*** or ***cause*** of the legal event we think that students may develop useful cognitive strategies without having to go through the legal expert's full process of mastering legal rules.

Apart from the obvious necessity of obtaining a scientifically sounder base for drawing conclusions we believe that this case study merits further research. Thus, additional and individual think-aloud sessions, preferably combined with retrospective interviews and logging of the actual translation process in Translog, could be a way ahead in developing a process-oriented pedagogical approach to help legal student translators prioritize their focusing points, thereby hopefully strengthening their confidence in their ability to do what they are supposed to do after graduation – produce legal translations.

Bibliography

Chromá, M. 2005: Indeterminacy in criminal legislation: a translator's perspective. In Bhatia, V./Engberg, J./Gotti, M./Heller, D. (eds.), *Vagueness in Normative Texts.* Bern: Peter Lang, 379-411.

Colina, Sonia 2003: Towards an empirically-based translation pedagogy. In Baer, Brian James/Koby, Geoffrey S. (eds.), *Beyond the Ivory Tower. Rethinking translation pedagogy*. Amsterdam/Philadelphia: John Benjains Publishing Company, 29-59.

Collins, Beverly/Mees, Inger 1998: *Working with the phonetics of English and Dutch*. Leiden: Brill.

Faber, Dorrit/Hjort-Pedersen, Mette 2004: *Aspects of legal language understanding and translation – A discussion.* 14th European Symposium on Language for Special Purposes (LSP 2003) 18th – 22nd August 2003: Communication, Culture, Knowledge. University of Surrey.

Fillmore, Charles 1977: Scenes-and-frames semantics, Linguistic Structures Processing. In Zampolli, Antonio (ed.), *Fundamental Studies in Computer Science,* No. 59, Amsterdam: North Holland Publishing, 55-88.

Haastrup, Kirsten 1991: *Lexical Inferencing Procedures.* Gunter Narr Verlag, Tübingen.

House, Juliane 2000: Consciousness and the strategic use of aids. In Tirkkonen-Condit, Sonja/Jääskeläinen, Rita (eds.), *Tapping and mapping the processes of translation and interpreting Outlooks on empirical research.* Amsterdam/Philadelphia: Benjamins, 149-162.

Jakobsen, Arnt Lykke 1999: Logging target text production with Translog. In Hansen, Gyde (ed.), *Probing the process in translation*. Copenhagen: Samfundslitteratur, 9-20.

Jääskeläinen, Riita 2000: Focus on Methodolody in think-aloud studies on translating. In Tirkkonen-Condit, Sonja/Jääskeläinen, Rita (eds.), *Tapping and mapping the processes of translation and interpreting. Outlooks on empirical research.* Amsterdam/Philadelphia: Benjamins, 71-82.

Kastberg, Peter 2002: Information and Documentation Management in the Training of Technical Translators – As opposed to Teaching Technical Science. In *LSP & Professional Communication*. Volume 2, Number 2, 57-65.

Kjær, Anne Lise 2000: On the structure of legal knowledge: The importance of having legal rules for the understanding of legal texts. In Lundquist, L,/Jarvella, R. (eds.), *Language, Text and Knowledge. Mental Models of Expert Communication.* Berlin/New York: Mouton de Gruyter, 127-161.

Kussmaul, Paul 1995: *Training the translator*. Amsterdam/Philadelphia: Benjamins.

Lundquist, Lita 2000: Knowledge, events and anaphors in texts for specific purposes. (2000). In Lundquist, Lita/Jarvella, Robert (eds.), *Language, Text, and Knowledge Mental Models of Expert Communication.* Berlin/New York: Mouton de Gruyter, 97-125.

Pym, Anthony 2005: Explaining Explicitation. In Károly, K./Fóris, Á. (eds.), *New Trends in Translation Studies.* Budapest: Akadémiai Kiadó, 29-43.

Sarcevic, S. 1997: *New Approaches to Legal Translation*. The Hague: Kluwer Law International.

Tirkkonen-Condit, Sonja 2000: Uncertainty in Translation Processes. In Tirkkonen-Condit, Sonja/Jääskeläinen, Rita (eds.), *Tapping and mapping the processes of translation and interpreting Outlooks on empirical research.* Amsterdam/Philadelphia: Benjamins, 123-142.