

Aspects of Bilingual English – Croatian Lexicography in the Legal and Criminal Justice Field

Milica GAČIĆ, Zagreb, Croatia

Abstract

In compilation and production of modern bilingual dictionaries, possible orientation could be towards compiling ‘special language dictionaries’ not only terminology dictionaries, intended for productive use, covering English in the international use required by global language needs, but also including the most important specific expressions from the most important varieties of the English language. Different systems, contents and languages should be contrasted through analyses of relevant text corpora, which reveal not only lexical features, but also broader context characteristics and usage. Although corpora and contrasting of corpora could give some invaluable insights, they cannot fully substitute other lexicological procedures in producing bilingual dictionaries. Terms that do not fully correspond in contents have to be interpreted through lexicological procedures and applied in dictionaries.

1 Introduction

When speaking about modern specialised bilingual dictionaries a discussion could be conducted on several major aspects, among which the following could be pointed out:

- should dictionaries be ‘terminology dictionaries’ or ‘special language dictionaries’ of a certain field,
- should they be intended primarily for receptive or productive use,
- importance of the selection of a variety (the role of English in the international use), and
- issues of translatability when different systems and language types are contrasted.

Each of the mentioned issues will be explained below, but special attention will be given to the problems of translatability.

2 ‘Terminology dictionaries’ – ‘special language dictionaries’

Terminology works are very useful for specialists and in some rather narrow fields, but for broader use bilingual dictionaries are more appropriate. When preparing a bilingual dictionary of a specialised field, it is clear that specific terminology should be covered. But, for the not very highly proficient user, who is the most frequent dictionary user, other frequent words relevant in that field should be given as well, since sometimes they pose even greater problems than terminology. Their meaning can be restricted or modified in that field, or the most frequent meanings can differ considerably.

Easy compilation of relevant text corpora gives an excellent basis for the preparation of ‘specialised language dictionaries’ of a certain field. It is well known from analyses of numerous

general language corpora that the first 1,000 words in a language cover approximately 90% of any text in that language. Research into specialised field corpora also shows useful data, even when smaller corpora are used. So, for example, in an earlier analysis of the language of the Criminal Justice field (covering Criminal Law, Criminal Procedure, Criminal Investigation, Police Science and Criminology), it has been shown that the first 1,034 words even in a small 120,000 word corpus cover 87.58% of the text, the next 1,103 cover only 4.50% of the text, and the following 1,241 words cover 2.10% of the text [Gačić 1985].

The above mentioned data could be taken as a very important rationale and as arguments for the inclusion of the most frequent words in specialised dictionaries, which although belonging to general language should be included into specialised dictionaries since, they are essential for processing (reading and understanding) specialised texts.

3 Dictionaries intended primarily for ‘receptive’ or ‘productive’ use

It is generally considered that receptive use is $L_2 \rightarrow L_1$ direction of use, but it is not always the case since the L_2 speaker can also produce texts that could be presented or published and be a basis for discussion of L_1 speakers.

As a general rule we can say that the more a dictionary can satisfy the needs and requirements of productive use, the better it is, and that the ideal is to try to achieve it to the highest possible degree.

4 Importance of the selection of a variety (The role of English for the international use)

For the foreseeable time English will continue to play the role of lingua franca. The use of English as a global lingua franca requires intelligibility, setting and maintenance of standards and developing necessary lexicography.

In legal matters, countries with a common law basis differ from the countries with the Roman law basis, not to mention other countries with other legal sources. Even when they belong to the same cultural background they could differ considerably in using legislative terminology and the legislative practice among themselves. For example, within the USA itself the legal terminology is not harmonised. Changing legislation very often leads as well to changing terminology.

That is why, in the legal field, it is possible to speak about a sort of English dictionary for the international purposes and use, in which, beside the common core, all the most important varieties could be compiled with precise indications from which cultural milieu they have originated.

5 Translatability when different systems and language types are contrasted

The problem of translatability is high ranking in cases when language types are different, and these differences can be further enhanced by conceptual differences which could exist between the two fields such as, for example, are legal systems and their key concepts.

"Translatability, however, requires a discourse that allows the transposition of a foreign culture into one's own. Such a discourse has to negotiate the space between foreignness and familiarity, which is in the nature of a 'black box' that defies explanation. ... The mode of such a discourse is one of recursive looping (...) in which a dual correction occurs" [Iser 1995]

[...] both into the targeted system and as a further insight into the source system.

It is not necessary to accept that the symbol of the 'black box' 'defies explanation', although explanations are not simple and straightforward. Like a real 'black box' explanation requires expertise. In some cases full answers could be given, in some cases only partial ones (more or less satisfactory), and in rare cases there will be no answers at all. In such cases languages have several possibilities, from calques, neologisms etc. up to using an original term, like for example 'ombudsman', which is used in many languages to refer to that institution or officer.

The problem of translatability is not simply the problem of translinguistic equivalence or of subsuming under one's own frame of reference. It requires understanding of the functioning of both systems and requires skills of their explanation, interpretation and, if possible, translation depending on the situation and issue to be solved.

A bilingual dictionary in referring to the headword could give two types of information, information which enables translation and information which enables interpretation.

Translation is a performative approach, when the equivalent or near equivalent is given for elements which are the same or almost the same in the two languages (directly corresponding equivalents – that could be taken as presented). The more translation equivalents the dictionary is giving (under the condition of their correctness and adequacy) the better it satisfies the performative needs of its users.

Interpretation is an explanatory approach within the dictionary for those elements that differ in two cultures or two subject fields. It gives information on the meaning enabling the user's own finding of possible equivalents (contrastive elements), and determinants of the meaning. Interpretation gives a view of the subject matter or conception that enables apprehension.

To show the bridging of the space of the 'black box' and possible methodology of lexicological work and its lexicographic results, the analyses of the terms (shown in the Table 1 in descending order) referring to the Property Crime in the Criminal Code of the Republic of Croatia (English translation) and of Criminal Offences Against Property from the Texas Penal Code were undertaken.

The formal structure of the Croatian Criminal Code (consisting of 4,064 words) is simpler and mainly without references to other laws, while the structure of the Texas Penal Code (consisting

Croatian Criminal Code (N = 4,064)	Texas Penal Code (N = 20,714)		
article	77	property	246
criminal	61	person	208
imprisonment	47	offense	206
referred	47	section	169
punished	45	value	153
offense	40	service	127
paragraph	37	means	108
property	37	felony	98
years	28	actor	77
exceeding	27	device	76
fine	27	vehicle	74
months	23	telecommunications	73
perpetrator	23	class	71
gain	22	Sec	71
pecuniary	21	misdemeanor	70
person	21	degree	65
aim	18	subsection	65
paragraphs	16	computer	60
perpetration	16	owner	59
proceedings	16	commits	58
damage	15	state	52
instituted	13	amount	51
punishment	13	intent	50
considerable	12	chapter	49
inflicted	12	card	47

Table 1: Lists of the most frequent lexical words in the sections referring to property crime in the two codes

of 20,714 words) is complex and full of references to other laws. The results of the analysis (the first twenty-five lexical words in the two codes) are shown in Table 1. The most frequent words define the content of the analysed text (they are in a way, key-words).

In comparing the two frequency lists of the Croatian and Texan Criminal or Penal Codes (Table 1) among the first twenty-five lexical words, there are only three words that are common to both corpora: ‘offense’, ‘person’ and ‘property’. The space provided here and the aim of the paper do not allow for a detailed analysis of the contents of the two acts, but the frequency analyses of the terms used, show it to a certain degree.

We can see here that the compiling of corpora and their analysis is not the procedure which by itself could lead to a solution. Further interesting examples could be traced in the two published translations of the titles of Articles 90 – 97 of Chapter X of the Croatian Criminal Code referring to the Offences against the life and body (Criminal Offences against Life and Limb).

Croatian	Translation A	Translation B
1. Ubojstvo	Homicide	Murder
2. Teško ubojstvo	Felonious Homicide	Aggravated Murder
3. Ubojstvo na mah	Homicide in the Heat of the Moment	Manslaughter
4. edomorstvo	Infanticide	Infanticide
5. Usmr enje na zahtjev	Homicide on Request	Killing on Request
6. Prouzro enje smrti iz nehaja	Negligent Homicide	Negligent Homicide
7. Sudjelovanje u samoubojstvu	Aiding and Abetting Suicide	Participating in Suicide
8. Protupravni prekid trudno	Criminal Abortion	Unlawful Termination of Pregnancy.

Table 2: Variants in translation of offences against life and body

The analysis of the two translations [A Gačić 1999 and B the criminal code] show considerable differences in the approach (Table 2) and illustrate the dilemmas that not only a translator, but also a lexicographer could have.

To show the difference among the meanings of the terms we have to analyse definitions and the breakdown of fatal offences in various legislations (in this case of the English speaking world).

In Britain unlawful homicides (the death of a victim must occur within a year and a day) are divided into three types: murder (the most serious type of homicide, requiring an intention (malice aforethought) to kill or cause grievous bodily harm), voluntary manslaughter (there could be three partial defences: provocation, diminished responsibility and suicide pact) and involuntary manslaughter (manslaughter by an unlawful and dangerous act – constructive manslaughter and reckless (earlier: gross negligence manslaughter)).

In the Texas Penal Code a person commits criminal homicide if he intentionally, knowingly, recklessly, or with criminal negligence causes death of an individual. The types of criminal homicide are: murder, capital murder, manslaughter and criminally negligent homicide.

In Criminal Law by Johel Samaha criminal homicide is divided into murder and manslaughter. Murder is further divided into first-degree murder and second-degree murder. Manslaughter is divided into voluntary, involuntary and negligent homicide.

In the discussion paper on the Fatal Offences Against the Person (in Australia) four offences of unlawful homicide are mentioned: murder, manslaughter, causing death by intentional act, and causing death by a rash or negligence act. (In the Western Australian Criminal Code, the notion of wilful murder (including intention to kill) exists).

The necessity of the interpretation is clear when the above are compared with definitions given in the Croatian Criminal Code. The definitions of the above offences, although not presented here, were taken into consideration and their meaning contrasted with the definitions in the Croatian Criminal Code. Following that process possible right side dictionary solutions are indicated in italics.

UBOJSTVO (Art. 90) Whoever kills another person shall be punished by imprisonment for not less than five years.

homicide, criminal homicide, killing

TEŠKO UBOJSTVO (Art. 91) Imprisonment for not less than eight years or a long-term imprisonment shall be imposed on a person for

1. killing a child or a minor;
2. killing a female person knowing that she is pregnant;
3. killing another and by doing so intentionally endangering the life of one or more persons;
4. killing another in a very cruel or treacherous way;
5. killing from greed;
6. killing another in order to commit or to cover up another criminal offense;
7. killing another out of heedless vengeance or other base motives;
8. killing an official person at the time when such a person acts in the execution of his duty of protecting the constitutional order, safeguarding persons or property, discovering criminal offences, bringing in, arresting or preventing the escape of a perpetrator of a criminal offense, guarding persons deprived of liberty and keeping public order and peace.

murder, first-degree murder (AmE), capital murder (AmE), aggravated murder, felonious homicide, felony murder (AmE), wilful murder (AusE), intentional homicide

UBOJSTVO NA MAH (Art. 92) Whoever kills another on the spur of the moment, after being brought without his fault into a state of strong irritation or fright by another person's attack, maltreatment or serious insult, shall be punished by imprisonment for one to ten years.

homicide in the heat of the moment, killing on the spur of the moment, voluntary manslaughter, homicide under provocation, homicide in the heat of passion

The analysis of the three categories of the fatal offences in the Croatian Criminal Code shows that they do not completely fit into any of the categories used in the English speaking countries since they differ by definition. In translating those terms it is better to use neutral terms than the terms which are precisely defined in other legislations if they do not cover the same content.

6 Conclusion

To enable the most efficient (and productive use when necessary) modern bilingual dictionaries of a special field should give a common basis of English for the international use in that field (not only terminology) accompanied by the most important expressions used in different varieties of English. In most cases that would mean interpretation since the examples given show that direct translation is not possible, since the contents of the expressions do not correspond. The data

for such work should be compiled from different sources, but the most important and reliable are text corpora compiled for such purposes. We have to point out that it is very dangerous to use the term that is precisely defined in another legislation, but with a different content, since that could automatically imply sameness. Many features, as shown in the previous parts of the paper, differ considerably from the expected and from intuition.

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