

**INVESTIGATING LEXICAL SIMPLIFICATION OF LATIN-BASED
LOAN TERMS IN ENGLISH-TO-FRENCH LEGAL
TRANSLATIONS: A CORPUS-BASED STUDY**

by

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Declaration

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I, the undersigned, hereby declare that this thesis, entitled

*INVESTIGATING LEXICAL SIMPLIFICATION OF LATIN-BASED LOAN
TERMS IN ENGLISH-TO-FRENCH LEGAL TRANSLATIONS: A CORPUS-
BASED STUDY*

is my own original work and has not been presented for a degree in any other university and that all the sources that I have used or quoted have been indicated and acknowledged by means of complete references.



Jean Providence NZABONIMPA

23rd November, 2009

Date

Dedication

To my Maker,
To my mother and late father,
To my brothers, sisters, and late brother Rugamba
To my children Arnold A. Berwa and Saro Ineza Nessa
To Béata Murekatete, my beloved wife.

Acknowledgement

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My heartfelt thanks go to my immediate family. I sacrificed part of the time I owed them for academic pursuit. Arnold, my son, and Nessa, my daughter, while you were/are busy playing with the shading exercise from kindergarten, struggling each to have his/her own desk, paper and colour pencil to write, I was a step ahead of you, setting an example. You witnessed unrivalled patience and love to your busy father. I trust you will remain focused. My beloved wife, Béata, I owe you all my success in this shared life of ours for your unflinching love.

May Almighty God bless you all.

List of Abbreviations

TS: Translation Studies

ST: source text

SL: source language

TT: target text

TL: target language

STE: source-text English

TTF: target-text French

NTF: non-translated French

CTS: Corpus-based Translation Studies

DTS: Descriptive Translation Studies

Abstract

This thesis investigates lexical simplification as a translation universal and how it is accounted for in the English-to-French legal translation of Latinisms. Within descriptive and functional approaches to translation, this thesis reveals that Latinisms are reproduced when they are accepted and not lexicalized in the target language or substituted by functional and semantic equivalents of the target language or system. It is posited that the lexical simplification of ST Latinisms as rendered by the English-to-French legal translator is dictated by system-specific, convention-specific, function-specific rather than translation-specific features. Of all corpus texts, source-text English uses the most Latinisms, but the French translators, unlike the non-translated French producers, tend to use Latinisms to a higher extent. Lexical simplification is hypothesized as viable when languages of similar sociolinguistic and lexical power and equal status render differently the lexical entities of the source text in simplified target text (compared to its non-translation similar text).

Key terms

Corpus-based Translation Studies; translation universal; functional approach; lexical simplification; loan term; legal translation; translation-specific; function-specific.

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CHAPTER 1: INTRODUCTION

1.1 Background to the study

Originally the sole province of corpus linguistics – a subfield of linguistics aiming at studying collections of texts for a particular linguistic purpose – corpora have now forged their way into Translation Studies (TS). With computer-based advancement, it is easy to store in and retrieve search items from computers through concordance software/programs. A corpus (plural, *corpora*) is a collection of authentic texts or utterances, principled and purposefully selected and ordered for examples and features subject to electronic or semi-electronic analysis and understanding of a particular linguistic or non linguistic factor (Olohan 2004:1; Zanettin et al. 2003:1; Shuttleworth and Cowie 1997:30; Laviosa 2002:6).

Corpus-based Translation Studies (CTS) has proved to be an exciting paradigm for translation research and practice and, ever since it was introduced in TS, it has gained momentum. This new research paradigm in translation addresses, among other things, the recurrent features of translated texts as opposed to source texts and originals produced in the target language. This testifies to the fact that translations are texts in their own right (Baker 1993:248). Therefore, with a more focused research approach, much can be revealed as to the generalizability and applicability of the recurrent features (universals) of translation, namely lexical simplification of Latin-based legal terms, which is the object of the present piece of research. Lexical simplification dealt with in a large-scale corpus, involving not only parallel corpora but also (bilingual) comparable corpora, can shed light on whether lexical simplification is truly a universal of translation.

In this study, translational behaviour and its underlying motives, whether functional or lexical equivalence to realise (non-) lexical simplification, are

described. Toury (1995:12,13) argues that the function of the translation as reflected in its textual-linguistic make-up and the source/target relationships dictates the strategies that should be used in order to produce an acceptable target text in the recipient system. This of course does not rule out the effect of translation process as an effort geared towards a mediated production of target texts as opposed to original texts produced in the same target language. That said, the specific nature and requirements of legal translation need to be taken into account.

English-to-French legal translation or legal translation of Latin-based loan terms in particular proves to be all the more difficult since the assignment involves a huge responsibility. It may bring about legal action against the practising translator should the latter fail to attend to the expected requirements. Necessary measures should therefore be taken to cater for legal translation requirements.

CTS came into being slightly over a decade ago to help investigate language use in translated texts. On this score, it was envisaged that language used in translation would inevitably benefit from corpus-based research and practice. The universals of translation, including but not limited to explicitation and simplification, can easily be investigated through CTS now that there are electronic corpus tools available which can help naturally retrieve them from a well-designed and constructed corpus. CTS makes it possible to study simplification in translated texts. The syntax, the style, and the lexis of translated texts are easily investigated and differences between translated texts and non-translated texts can also be examined. For example, Latin-based loan terms used in legal translations, the overall object of this research, can easily be measured against their source texts and their corresponding non-translated target-language texts in one particular language combination, English-to-French legal translation. The corpus approach in this study is limited to the English-to-French corpus and the comparable corpus of non-translated French. Since a comparable corpus comprises texts in the same language (Baker 1995:234) and

translation universals are dealt with in the target language, the study at hand does not include a comparable corpus of non-translated English. The latter is the source text. The comparable corpus of non-translated English would duplicate the source text.

1.2 Statement of the problem

A handful of translation universals, viz. explicitation, normalization, avoidance of repetitions, overrepresentation of target features, and simplification have been the focus of various scholarly articles and books. For example, it was found that simplification falls under syntactic, stylistic, and lexical types. But to date, no research has been conducted on Latin-based loan terms used in the ST so as to examine the translational behaviour and/or strategies to realise (non-) lexical simplification. The lexical type of simplification, as well as other translation universals, has not been investigated in large-scale studies involving many language families and combinations. English and French, though related languages, and especially in the text genre under consideration (i.e. legal), reveal interesting findings problematicizing the viability of lexical simplification in legal translation as per Nord's (2002) functionality principle. I will discuss Nord's theory in more detail in Chapter 2, section 2.4.1. If there are linguistic features and strategies accounting for and realizing lexical simplification, they might not be weighted on an equal footing. Some devices are more common than others, depending on the language combination and the prevailing translation pressures, constraints, and skopoi.

The domestication of source-text words or terms in simplified lexis can be seen as one of the devices that realise lexical simplification in the target text. As pointed out by Laviosa-Braithwaite (1997:2), lexical simplification is achieved through the use of superordinate terms when there is no equivalent hyponym, approximation of the source-text concepts, use of familiar synonyms, transfer of the functions of the source-texts words, use of circumlocutions, and use of paraphrase. This led Toury (1995:207-208) to state that translation entails

recurrent linguistic and structural forms which are rarely produced or perhaps never occur in texts originally produced in the target language. This is dictated by the presence of a source text which constitutes an extraneous target-language constraint non-existent in the natural patterning of the target language. Though translation-specific, lexical items occurring in translated texts have not been fully investigated (Toury 1995:206), recurrent features typical of translated texts have been pointed out and their *raison d'être* attributed to the translating activity, and not to structural discrepancies existing between the source language (SL) and the target language (TL). Laviosa (2002:43) elaborates that these universals are *“almost inevitable by-products of the process of mediating between two languages rather than being the result of the interference of one language with another.”* This cannot be taken for granted, hence the need for research.

CTS has not reached research saturation. More research is needed in different language combinations and text types. Research should be more specific to generate reliable and valid findings. Legal translation, which carries with it a huge responsibility, clearly deserves further attention. Many people may be victimized owing to poor legal translation. Mistranslation in legal texts can have serious consequences, including but not limited to fines, imprisonment, and even the death sentence. The translational choices or strategies pertaining to the syntax, style, grammar, and wording of legal translation are of cardinal importance to the parties concerned (i.e. lawyers and judges, plaintiff and defendant, as well as the translator and his/her client). The text is expected to sound natural especially for lawyers and judges, let alone other stakeholders. Despite the attempt to achieve 'plain language' in legal settings, legal texts are still awash with arcane and pompous jargon which, if unattended to, may cause problems. Part of the jargon are the Latinisms which should be translated or rendered accordingly. In like manner, both the translation scholar and the practising translator should inform the legal translator trainee about the possible solutions to handle Latin-based loan terms found in some Western languages, such as English and French. A

corpus-based investigation of this phenomenon deserves full attention in the move towards a clear and evidence-based description of lexical simplification.

Does simplification actually achieve its noble mandate, that of producing plain and simple legal language? Frankly speaking, Alcaraz and Hughes (2002:15) state that the opposite is often true, owing to a three-fold phenomenon. First, they posit that lawyers as well as judges are an offspring of an arcane tradition and pompous trade; they stick to the credo of their predecessors and to the language of their training and tend to perpetuate it in their professional service delivery. Second, from time immemorial the language of the law has been enshrined in the canonised texts of the past written by their predecessors and their contemporary counterparts cannot therefore do without such an impenetrable language. Lastly, and more importantly, they indicate that lawyers think their language is clear, thus guaranteeing legal certainty which helps eventually safeguard the interest of their clients. On this plane, failure to comply with the language typical of their trade can be equated to failure to understand and therefore to safeguard the interest of their clients. This applies to lawyers and judges as well as the legal translator, thus constituting a problem worth investigating.

1.3 Research objectives

This study was designed to contribute to the existing body of knowledge in CTS and translation universals. To address the problem outlined above, this piece of research seeks to describe the translational behaviour and its underlying motives, whether functional or lexical equivalence to realise (non-) lexical simplification. It specifically attempts:

- (i) to look into the patterns of lexical simplification as realized at the lexical level in translated legal French texts as opposed to their English originals and non-translated French;

- (ii) to investigate patterns of lexical simplification related to Latinisms as realised in simplified lexis resulting either from function-specificity and/or translation-specificity;
- (iii) to discover the extent to which the distribution of the occurrences of Latinisms correlates in English-to-French legal translations and non-translated French;
- (iv) to find out whether there are similarities and/or differences in the realisation of lexical simplification in English-to-French legal translations and non-translated French.

1.4 Research questions

This study seeks to answer the following research questions:

- (i) Do Latinisms (as realised through the use of superordinates, approximation of the source concept, use of common synonyms, transfer of the function of the source language word, use of circumlocutions, and use of paraphrase) occur to a lesser or greater extent in English originals than in their French legal translations and/or non-translated French?
- (ii) When, how and why do the function-specific and the translation-specific lexical simplification differ from each other?
- (iii) Do English and French legal texts correlate vis-à-vis the translator's functional choices and the distribution of instances of Latinisms in English legal texts, their French translations, and non-translated French?

- (iv) Are there any differences and/or similarities one can observe in the realisation of lexical simplification in the English-to-French legal texts and in non-translated French?

1.5 Context, significance and justification of the study

Lexical options are available to language users and the translator's lexical choices are dependent on his/her ideological stance or on the ideology he/she is commissioned to serve (Olohan 2004:148). Equally, from a translation-based universal point of view, lexical choices (including lexical simplification) are also translation-specific. Olohan (2004:151) also mentions that translator's style is also motivated by the reader's expectations, thus problematizing lexical simplification which may be dictated by other factors. Simplification as a translation universal is realised at the level of syntax, style and lexis from the source text to the target text and has been reviewed by various scholars (Baker 1993; Laviosa 2002:43:51; Laviosa-Braithwaite 1997; VERPER-R 103/2007:51-52). The existing literature, for example (Laviosa-Braithwaite 1997:2), reviews lexical simplification as operating under six principles resulting from the individual's semantic competence in her/his mother tongue. These include, according to Laviosa-Braithwaite (1997:2), the use of superordinates, approximation of the source concept, use of common synonyms, transfer of the function of the source language word, use of circumlocutions, and use of paraphrase. Lexical simplification as a translation universal has also been investigated and confirmed by the use of modern, colloquial and simple synonyms to render old, formal and affected words in source texts (Vanderauwera 1985:102-103 referred to in Laviosa-Braithwaite 1997:2).

The textual make-up of legal texts is not unusual for lawyers and lawmakers. They are all aware, according to Kussmaul (1995:55), that there are linguistic features which have become conventionalized as a result of (legal) text-type

conventions. Loan words (or Latinisms adopted in the English legal language) are used in the source text English to add an air of sophistication, especially for their prestige value (Baker 1992:25). While loan words are lost or repeated with explanation in the target text, Latinisms in English are loan words also present in the technical French lexicon. It can therefore be inferred that the informed French translator is not likely to go about translating Latinisms as he/she does for other culture-specific words when the loan words in question are used in the source text. It seems, however, that very few studies have been done to investigate legal texts from English to French in terms of the applicability and generalizability of lexical simplification.

Legal language constitutes a technical field of which minimum requirements have to be met, all the more because – it can be hypothesized – it is both system- and language-bound. This is however not unique as some other field-specific languages (religion, anthropology, cultural studies, etc.) have their own systems and registers. In this field, there exist constraints on why texts cannot easily be simplified without fear of breaking the traditions and practices of the legal system. Lexical simplification as a subconscious translational behaviour (Baker 1996:176 in Olohan 2004:91) is controversial in legal translation, since the latter also requires adherence to traditions characteristic of the language of the law. This happens especially when loan words are at stake and have to be transferred from source texts to target texts.

Despite all the efforts to make legal language more accessible, manifold factors have undermined the campaign and the age-old obscurity and pomposity still characterize legal language. Its leading features include terms of French origin, archaic diction and adverbial and prepositional phrases, redundancy, frequency of performative verbs, euphemisms, colloquialisms as well as Latinisms (Alcaraz and Hughes 2002:5-14). The language of the law is known for its pomposity, and legal translators, consciously or subconsciously, tend to achieve the same or nearly the same pomposity in the target texts. Under the dictates of traditions,

thought, and culture (Smith 1995:190 in Mikkelson 2004), mainly inherited from Latin, the legal translator renders not only the linguistic entities but also conforms to the underlying legal system (Beyer and Conradsen 1995:146 in Mikkelson 2004) and all that it entails, including but not limited to non-simplification of lexis in the translated legal texts.

It is common knowledge that any translation research may focus on one or more of the existing issues. At the core in TS are translated texts and/or their constituents, intertextual relationships, models and norms of translational behaviour or strategies (Toury 1995:1). For the research at hand, the focus lies on the constituents (i.e. Latin-based loan terms) of the translated French legal texts as well as on the translational behaviour and strategies adopted to achieve the desired function and effect. This study focuses on the lexical simplification of Latin-based loan terms in English-to-French legal translations. In it I seek to answer the above-mentioned research questions pertaining to translation universals, namely lexical simplification of Latin-based loan terms.

To the best of my knowledge, there is little research if any investigating lexical simplification, and Laviosa (2002:51) highlights the controversial issues and shaky bases concerning lexical simplification as a translation universal.

1.6 Spatial and temporal location of the study

In this study, I begin at the macro-level by locating my chosen texts in space and time. The parallel corpus consists of texts downloaded in 2008 from the International Criminal Tribunal for former Yugoslavia (ICTY) based in The Hague, The Netherlands, and the International Criminal Tribunal for Rwanda (ICTR) based in Arusha, Tanzania. Both institutions were established at the close of the 20th century and were operational as the 21st century unfolded. They both involve English as the source language and French as the target language. None of the text titles includes Latinisms.

1.7 Scope and limitations of the study

This study involves data from criminal procedures of international standing. It is not limited to a legal system of one particular country. The world over, there are at play manifold factors in the practice of criminal procedures. In this global village, there is no distance in the practice of the law as international criminal courts are set up to prosecute genocide and other crimes against humanity. My initial pilot study did not include non-translated French legal texts produced in a legal system or culture of a country (i.e. France), but in my thesis I included non-translated legal texts - criminal procedures - produced in other countries where French is spoken natively or as the language of habitual use. This allows the researcher to compare the lexical simplification of the Latin-based loan terms used in English-to-French legal translations with the usage of Latinisms in non-translated texts.

Apart from some texts labelled as French translation, most of the texts did not indicate clearly which texts were translations. For precision's sake, I did not want to delve into other technicalities and I contented myself with the four texts which clearly indicated that English was the source language, French the target. I compiled a parallel corpus of four French translations and their English originals. The corpus contains the following French translations and their English originals:

- *Directive relative à la commission d'office de conseil de la défense*
[Directive on the assignment of defence counsel]
- *Règlement de procédure et de preuve* [Rules of procedures and evidence]
- *Règlement portant régime de détention des personnes en attente de jugement ou d'appel devant le tribunal ou détenues sur l'ordre du tribunal,*
[Rules covering the detention of persons awaiting trial or appeal before the tribunal or otherwise detained on the authority of the tribunal] and

- *Directive pratique relative aux conditions formelles applicables au recours en appel contre un jugement [Practice directive relating to formal requirements for appeals against a judgement]*

Together they constitute a corpus of nearly seventy thousand words. The comparable corpus was downloaded from www.legifrance.gouv.fr, a website for the French law and related legal documents and from <http://popups.ulg.ac.be/federalisme/>; <http://www.famille.gouv.sn/documents/Code.Procedure.Penale.pdf> ; and http://www.enap.justice.fr/files/ CPP_part-arretes_7.pdf; As well, a comparable corpus of non- translated legal French texts (458,605 words) was downloaded. Equally, for triangulation purposes, and to avoid the bias that might stem from originally produced French legal texts, I included original texts from countries where French is the official language. I searched the World Wide Web and downloaded legal texts (criminal procedures) issued in the Democratic Republic of Congo (DRC), Senegal, and Haiti.

In any move towards corpus compilation, the aim is “*to study a language and to test given descriptions (or theories), the first step is to designate the boundaries of what may be included as examples of that language [...] [and to specify] the internal structure or hierarchies*” (Halverson 1998:4). That said, Halverson (1998:2) further elaborates that the selection of corpus texts should be grounded in an explicit description of the object of study. Thus, in the study at hand, the corpus had to be constructed primarily based on the existing universalizing theories which had to be discussed in light of functionality principle (Nord 1997; 2002). Not all legal texts could be included in the study at hand as it would require time and means beyond my reach. While legal texts of criminal proceedings could include a number of loan terms, it was assumed that English uses Latinisms in its legal lexicon and the study did not consequently deal with other possible non-Latin-based loan terms. Thus, it was somehow anticipated that the criminal proceedings texts to include in the corpus fulfilled the requirements for which the study was designed.

Within the confines of research in general, it is posited that the bigger the sample size, the more representative of the target population it is. But Halverson (1998:3) clearly and correctly, in my view, elaborates that what matters is not solely the corpus sample size but also what it is intended to represent. Thus a clear-cut delineation of the target population is of cardinal importance. To avoid the issues of native translations, I operated under the assumption that ICTR and ICTY translations could be regarded as professional translations and were therefore a worthy object of study (Halverson 1998:18).

In this study, the sample was expected to represent only the texts dealing with criminal procedures, not all legal subgenres. As some countries have their own and specific legal systems, it was deemed necessary for the parallel corpus to be limited to tribunals of international standing. I confined myself to ICTR and ICTY, both dealing with crimes somehow related. Since the selection had to cater for Latinisms used in legal language, I operated under the assumption that such texts would contain Latinisms, and the downloaded source texts proved me right.

1.8 Structure of the dissertation

Chapter 1 outlines and introduces CTS as a new paradigm geared towards the descriptive and empirical approaches to TS. In this chapter, the motives underlying this research are outlined and the problem stated and research questions formulated. The chapter ends by stating the significance and justification of the study as well as its scope and limitations.

Chapter 2 is a review of relevant literature and it mainly deals with CTS, foreignization and domestication, lexical simplification and an overview of other translation universals. As for lexical simplification, an overview of how it is realised and its controversial nature is discussed. The chapter further correlates lexical simplification with legal translation and current trends in legal translation with translational behaviour and strategies.

Chapter 3 is devoted to methodology and the sources of the corpus data. It provides a methodological and analytical framework to show the approach adopted to adequately address the research questions and the methods used to select texts and compile the corpus. The chapter also outlines the corpus tools for analysis and examines the issues of context and co-text to inform the interpretation of lexical items (i.e. Latinisms and their French translations) in the next chapter.

Chapter 4 is concerned with the analysis and interpretation of the data under investigation in this study. It provides an account of the instances of lexical simplification and discusses the findings in light of the pursued research questions and objectives; each question is dealt with separately.

Finally, Chapter 5 relates the findings from the study to the existing body of knowledge in CTS. This chapter concludes by pointing out the implications of the findings and by indicating other avenues worth investigating for further research.

CHAPTER 2: CURRENT DISCOURSE IN CORPUS-BASED TRANSLATION STUDIES

2.1 Introduction

Translation Studies has to date seen major developments resulting from an amalgamation of linguistic research and technological advancement. This combination has paved the way for studying languages/texts (i.e. corpora) through computer-aided tools. Corpora therefore constitute a remedy for a number of theoretical concerns that have plagued the discipline for a long while. With CTS, no one can object to considering translations as texts in their own right, useful resources for (trainee) translators and translation scholars. As it stands, the era of CTS is one where corpus users, whether researchers or professionals, can keep abreast of developments in the field, generating viable theories, and producing target texts that read as naturally as possible or at least conform to the required function the translation is expected to fulfil.

2.2 CTS as an effort geared to understanding translation

Translation Studies as an academic discipline has registered a number of major developments since the 1990s as a result of cross- and inter-disciplinary contributions as well as technological advancement. In the introductory part of her paper, Kenny (2005:154) succinctly points out the shift in translation from notions of equivalence and fidelity to source texts and authors towards a rethinking of translations as texts in their own right. Equally she regards translation as functional in the target-language environment, affecting the target readership, and bearing not only the thumbprint of the source texts but also of other natively produced texts in the target language. There is a shift in the sociolinguistic view of translation: no longer is translation a derivative activity of its original, but a product of target language and culture (Toury 1995:26).

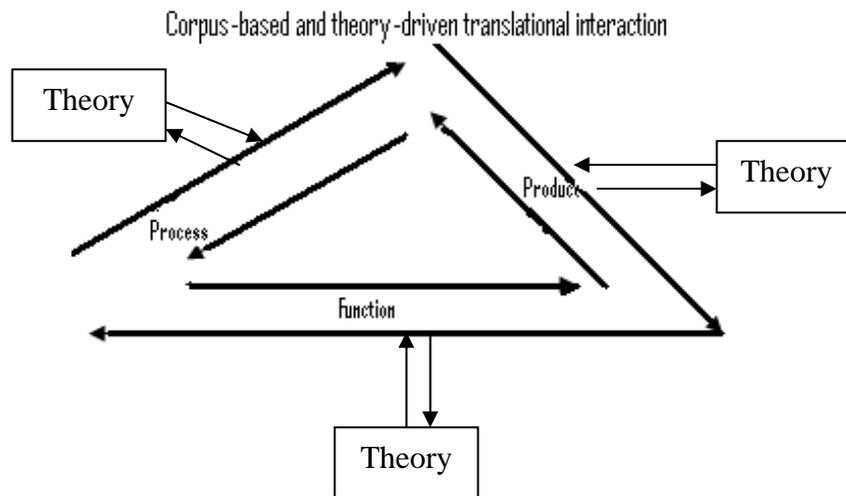
Mona Baker, a translation scholar, introduced corpora in TS almost two decades ago. TS borrowed corpus linguistics methodology and applied it to its object of study, namely translations as texts in their own right. This amalgamation brought about CTS. It is an invaluable resource to address theoretical, practical and applied translation issues and is now considered to be a coherent, composite, and rich paradigm, involved in theoretical, descriptive, and practical issues in the discipline (Laviosa 2002:22).

Within CTS, research addressing hypotheses and theoretical constructs, the empirical findings, and practical applications have been carried out (Laviosa 2002:22). It is in this vein that translation scholars (Baker 1993, 1995, 1996; Laviosa 2002) have elaborated on CTS as a stepping stone to investigate and elaborate fundamental theoretical issues and describe the nature of translation product, process, and use in real-life translation. The application of corpora in translation sheds light on the nature of translation and translational behaviour under socio-cultural and situational pressures underlying the translating activity. CTS uses a unique methodology which – borrowed from corpus linguistics – allows the unveiling of the distinctive features of translated texts (Laviosa 2002:23), thus permitting the elaboration of (predictive) autonomous discipline hypotheses and theories.

Clearly elaborating on Descriptive Translation Studies (DTS), Toury (1995:1) stipulates that well-defined and well-investigated corpora, or sets of problems are unrivalled measures of testing, refuting, and especially modifying and amending the theory that underlies translation research and practice. It is undeniable that the existing relationships within translation studies as a whole are reciprocal in nature (Toury 1995:1) to the extent that CTS in particular, or DTS at large, closely and inseparably interrelates, defines, refutes, and refines the existing hypotheses and theoretical models. In view of the CTS theoretical and methodological underpinnings, we are able to systematically describe translation

as a process, a product, and abide by its desired function, hence its interaction with translation theorizing (Laviosa 2002:10-11).

Simply put, this can be illustrated as follows:



Inspired by Holmes' basic map of TS and Toury's internal organization of DTS (1995:10-17), the above-proposed corpus-based and theory-driven triadic translation relationship can be matched up with and extrapolated to corpus-based approaches and translation theories, with functionalist approaches taking the lead.

On the one hand, when facing a translation task, one no doubt thinks of the pivotal element, i.e. the function that the product one's translation is expected to fulfil (cf. Nord 1997). Both the function and product are borne in mind at every stage of the translation process, in a looping manner. The existing theories step in to guide the process through the manipulation of the translation strategies deemed appropriate. Once the task is completed, the theorist or the critic revisits the translation theory that has guided the process all along up to the product in order to achieve the expected function. Flawed, the theory will be refined; tenable, the theory will be further confirmed. Interestingly, an objective and data-based way of refining the process would be through the investigation of translational corpora.

There are theories, on the other hand, that need further elaboration. With CTS, one investigates existing translations diachronically and/or synchronically to find out evidence to confirm or refute the theoretical assumptions. From the large-scale corpus data, one describes the product, objectively illuminates the translational behaviour (i.e. the strategies) that underlie the translational process, and thus uncovers the function. Glaringly clear, the process leads to the product, which in turn reflects the process the translator has gone through and the strategies he/she has used. The function justifies the process in its relation to the product, and vice-versa (Laviosa 2002:11). Or else, the other way round, the description of the process, product, and of the function generates theory. By and large, a number of theories can be generated and the underlying assumptions uncovered.

2.2.1 New era, new approach in TS

Computer-aided translation tools facilitate translation studies, (applied) translation research, and translating activity. In this regard, Zanettin et al. (2003:3) reiterate that natural language processing, language engineering and machine (-aided) translation have been spurred on by computational resources including but not limited to computer-readable corpora and corpus-based analysis programs.

At this particular juncture, the amalgamation of information technology and CTS in this new era constitutes an unrivalled advantage for optimal development of the discipline. The traditional manual exploitation of corpora, first linguistic in nature but now translational as far as this discipline is concerned, has gradually become outdated in this technology-driven society. Time expended on manually exploited corpora is huge, thus undermining the development of the discipline. Unlike manually exploited corpora, digitized corpora can be retrieved, analyzed, and described within a reasonable period of time.

2.2.2 Corpus tools and their application to TS

Held in digital form, instances of interest are easily retrieved from a corpus. The tools that can help in this respect include Wordsmith Tools, ParaConc, and MultiConcord, just to name a few. Corpus tools display [quantifiable] information about the texts but also the researcher carries out the analysis, selects patterns of interest, and interprets them [qualitatively] (Bosseaux in Kruger 2004:272). These programs accomplish many functions in extracting data from computer-readable corpora as discussed below.

The corpus tools earlier mentioned have a concordancing facility that helps extract data (e.g. keywords in contexts, collocations, etc.) from electronic corpora. When a search word/phrase is entered, the concordancer finds all instances of that word or phrase with its context in the corpus (Olohan 2004:63). This enables the researcher to investigate how words are positioned in the vicinity of the search word/term or phrase. In so doing, all instances of the search word/phrase are displayed, thus allowing a one-shot view of all occurrences of the search item.

Concordances are also sorted and this narrows the display to instances of interest. In this regard, the predicative or post-positioned items can be limited to the desired number, say one word on the right if the search word is generally an adjective. The language used can be well understood through its (immediate) co-text. With some concordancers, like Wordsmith Tools, co-text can be expanded in order to have a full understanding of the co-occurrences of the search item in context.

More importantly and interestingly, since translation involves two languages, bilingual concordancers are useful in handling parallel and bilingual comparable corpora. In this case, concordance lines appear in the source-text window and the corresponding translations in another window, usually below the source-text

window. Also important in concordance tools are the numbers of types, tokens, type-token ratio and frequency lists (Olohan 2004:80). Although mainly quantitative, corpora also accomplish a qualitative dimension worth considering in concordance lines. While concordancers display what is quantifiable, the analyst interprets the concordance line or the co-text qualitatively. Corpora are also resourceful for the practising translator and the translation scholar.

2.2.3 Corpora: the translator's and scholar's emporium

2.2.3.1 CTS and translation analysis

Corpus-based translation skills cannot be decoupled from translation-oriented text analysis. Corpora can shed light on the source text, help eschew erroneous translation, and ultimately make the translation more accurate and functional for the receptive audience. As a source of information and a starting point for translation to take place, the source text must be well understood prior to translating. Once digitized, source-text corpora illuminate the recurring features used by the source text author, thus guarding against misinterpretation of the source text. In so doing, the translator makes informed decisions and uses evidence-based translation strategies based on the feasibility and function of the translation (Nord 1997:62). Corpus tools enable the researcher to map the target text's segments onto the source text's counterparts (Laviosa 2002:13) to investigate relational similarities and/or differences existing between both texts and/or languages. In the next sections, I discuss CTS research that has been carried out in a number of areas, including how corpora can be used to study the idiosyncratic features of the author's and translator's style (Olohan 2004:180), CTS and translator training, CTS and translation practice, CTS and terminology, and finally, CTS and translation research.

2.2.3.2 CTS and the translator's style

Translators, like writers, have unconscious and distinctive stylistic features typical of their writing, which cannot be consciously manipulated (Olohan 2004:145). Olohan (2004:145) calls it *stylometry*, a technique to verify or prove/disprove an author's style. Corpora can serve as a springboard to investigate the style in the original texts and their translations. The length of sentences, the lexis, the syntactic patterning can be compared using parallel and/or comparable corpora. In that way, one learns about stylistic subtleties of competent writers and consequently improves his/her own style.

Suffice to note that corpora constitute the translator's emporium for stylistic improvement and professionally-rendered services. The translator can go through source-texts dealing with similar subjects and learn concepts, terms and phrases thereof, thus enhancing his/her understanding of the source text for optimal translation research or translation service delivery. Comparable corpora and monolingual corpora in the target language are resourceful in providing the translator with natural language subtleties without which the fluency of the target text becomes indigestible. As Tiayon (in Kruger 2004:119-132) points out and as further elaborated on in this dissertation, this applies more fruitfully in non-mother tongue translation.

The translator's visibility or invisibility is reflected in his/her style which, under all circumstances, is present in translation (Hermans in Olohan 2004:147). Referred to under a number of metaphors (*interventions through paratexts, translator's signature, translator's presence, translator's characteristic use of language, translator's thumbprint, translator's individual profile of language habits*) (Olohan 2004:147), the translator's style can be investigated through CTS. Two translations of the same text reveal each individual translator's style including type-token ratio, lexical range, and grammatical patterning. The corpus-based comparison of the translator's discursive presence between originals and their

translations (Bosseaux in Kruger 2004:260) is greatly worth considering. Viewed from natural text production (i.e. unaffected by translation pressures), corpus-based comparative model easily traces the translator's presence in his/her translation.

Convincingly, Olohan (2004:150) suggests that the translator's linguistic habits can fruitfully be investigated by analyzing his/her non-translations versus translations covering the same subject matter and time-span, hence CTS is also a useful resource for translator training.

2.2.3.3 CTS and translator training

To begin with, Zanettin et al. (2003:41) state that "*Learning to use corpora and corpus query tools can give future [and practising] translators the technical skills that were usually not associated with translation, but which seem to be more and more necessary, especially in technical translation*". Unlike the traditional teaching/learning of translation through prescriptive approaches, CTS is a hands-on descriptive approach, a thrilling and exciting training methodology worth exploring. But Zanettin et al. (2003:3) also point out that a number of TS departments at various universities train their translation students unaware of the kind of the translation jobs the would-be translators will embark on. For the multifaceted graduate profile, as Zanettin et al. further corroborate (2003:1-2), translator-training institutions can resort to corpora to accomplish a two-fold agenda: translation training and, albeit outside the scope of their agenda, second language teaching/learning.

In line with the advances of technology on the ground, comparable and parallel corpora as well as monolingual target-language corpora constitute the trainee translator's emporium for improved performance. In this vein, Olohan (2004:169), rightly regards CTS as an emporium for trainee translators to learn and develop evidence-based translation strategies and be aware of linguistic options when facing specific structures or lexical items. Comparable corpora, Olohan

(2004:172) ascertains, are largely useful to check terminology and collocates, find text-type-specific formulations, and validate translational intuitions. Armed with evidence-based strategies, the translator does in that way develop self-confidence – an important ingredient in quality service delivery – while finding and providing corpus-based solutions to translational difficulties. Although scholars (Dominic Stewart 2000b in Olohan 2004:174-175) believe that CTS undermines linguistic creativity in translation, Stewart at least recognizes and posits that corpus users' decisions are self-owned, not imposed in their translation practice.

2.2.3.4 CTS and translation practice

Apart from their being the resources for translation teaching/learning, translational corpora are equally resourceful for any practising translator. Native or not, no translator can claim full language competence and perfect performance, hence the need for translation resources. Olohan cogently sums up nearly all the purposes corpora can serve in translation practice:

The technical or specialized translator may use them to familiarize themselves with concepts from a specialized subject domain, to carry out terminological research [and management], to study previously employed translation strategies, and to review text-type and stylistic conventions. The literary translator may also make use of corpus techniques, for examples to locate literary devices and study an author's style. (Olohan (2004:176)

While experienced translators (trained before the advent of corpora) may have hardly had any idea about CTS, corpora can still constitute useful resources in addition to the traditional dictionaries and hard-copy documentation at their disposal. Corpora derive their usefulness from authenticity of information of language use and structures, easy updatability and searchability, as Bowker and

Pearson ascertain (in Olohan 2004:178). For this reason, corpora also constitute a never-ending terminological resource.

2.2.3.5 CTS and terminology

Bowker and Pearson (in Zanettin et al. 2003:35) explain that corpora can facilitate the acquisition of technical language, the learning and understanding of specialized terms and concepts, as well as the learning of collocations, grammatical patterns, and stylistic structures. In fact, corpora help the translator find the definition of and understand specific terms unavailable in specialized dictionaries or glossaries. The co-text in the concordance lines gives a clearer real-life definition of the terms in question.

More interestingly, glossaries and term banks can be compiled based on a domain-specific corpus (Olohan 2004:179), thus making translation work easier as time goes by. Olohan strongly emphasises the cardinal importance of corpora in translation while studying concordance lines for a term: the definition comes to surface, patterns of usage and phraseology can be uncovered. In like manner, bilingual glossaries and term banks can also be compiled based on a comparable and/or parallel corpus. In addition, the use of specialized corpus enhances the technical writing as exemplified through manifold corpus-attested collocations by Bowker and Pearson (in Olohan 2004:179-180).

Corpus-based approaches are also a stepping-stone and springboard for translation research, as discussed below.

2.2.3.6 CTS and translation research

The existing literature proves that the breakthrough of CTS has enabled research on manifold aspects of translation such as translation universals, translator training, and the translator's stylistic features. From the very onset of corpus-based approaches to translation, a growing list of scholars (Olohan and Baker

2000; Baker 2001; Dimitrova 2003; Nilsson 2002; Kruger 2004; Olohan 2002, 2004; Laviosa-Braithwaite 1997; Kenny 2005) have devoted part or whole of their work to translation universals. Corpora in TS are considered a springboard for further research on recurrent features typical of translated texts.

Corpus-based approaches to translation research have proven to be a process of continual quest and discovery (Laviosa in Kruger 2004:10). Corpus-based methodology, as Laviosa (in Kruger 2004:8) elaborates, ties in with discovery procedures ranging from observable translational phenomena to non-observable translation norms and behaviour underlying the translator's strategies and choices. CTS, the missing link between objective theory and practice, has proved to be a programme agenda for a fully-fledged theoretical, research, applied discipline.

2.2.4 Background to CTS and theoretical framework

A number of translation scholars (Baker 1993, 1995, 1996; Kruger 2004; Olohan 2004; Zanettin et al. 2003; Laviosa 2002) have introduced, mapped out the historical development of corpora in TS, thoroughly accounted for the merits and demerits of CTS, and more importantly, provided an insightful and resourceful ground for corpus-based research. For example, Kruger (2002) clearly and concisely delineates the development, typologies, and the underlying trends of CTS. First, she elaborates on the advent of corpus methodology in corpus linguistics as the springboard in linguistic investigation at large and in TS in particular. If corpus-based research has gained momentum, as Kruger (2002:71) unequivocally posits, it has derived its success from a four-fold conglomerate: data, description, theory, and methodology. The glamorous side of CTS is a three-fold contribution: theoretical, practical, and applied. It is guiding and inspiring for translation researchers as it highlights the principles, methodology, discoveries and practical applications of corpus-based research. Kruger (2002) and Olohan (2004) review the corpus techniques, namely their relevance to

reveal lexical variation, frequency lists, in short, the basic statistics of linguistic and non-linguistic nature.

With the above agenda in mind, Chesterman (in Olohan 2004:9-10) has devised three models of translation studies from which a translation researcher can choose. These are the comparative, process and causal models (Olohan 2004:9). Olohan further points out that, unlike the other models that are restrictive, the causal model is more fruitful and encompassing the others. To the above three models, Chesterman associates the interpretive, descriptive, explanatory and predictive hypotheses which need testing (Olohan 2004:9). At this juncture, it is worth noting that within a comparative model, both the interpretive and descriptive hypotheses can be formulated as they involve source and target texts. Although explanatory and predictive hypotheses are not viable in this model, they can be formulated within the causal model. Under this last model falls polysystem theory whereby a translation as a text in its own right can be investigated. Thanks to the introduction of corpus linguistics methods in TS, it can be said that both positions imply the use of parallel and comparable corpora as indicated in later sections.

2.2.5 CTS perspectives and trends

CTS can be reviewed under three periods, as delineated by Laviosa (forthcoming). First, the advent of CTS coincided with and gained momentum from Baker's (1993) corpus seeds when she for the first time discussed the rationale of understanding translations as texts in their own right. This period runs from 1993 to 1995; and it marks the embryonic stages of corpus-based approaches to translation. The second period of CTS development runs from 1996 to 1999 when other translation scholars (Baker 1996, 1999; Laviosa 1997; Laviosa-Braithwaite 1997) embraced the new paradigm. In this period, Laviosa (forthcoming) reiterates the magnitude of corpus-based approaches to translation and translating as shaped by the constraints, pressures, and motivations prevailing during the act of translating.

Baker (1993) maps out the developments the translated texts have gone through, first as derivative communicative acts, then as texts in their own right. She posits that translated texts are neither inferior nor superior to other communicative events. As Baker puts it (1993:235), corpora have revolutionised translation studies through access to large corpora of both original and translated texts and of the development of specific methods and tools for interrogating the corpora.

The systematic corpus-based description of translations interrelates with translation theory through verification, revision, or expression of existing assumptions (Laviosa 2002:11). Worth noting is that, as posited by Laviosa (2002:22), CTS has enriched Translation Studies with ideas, hypotheses and suggestions that have led scholars in the elaboration of theories and practical descriptive approaches. In like manner, we can predict what translations involve, how translators go about translating (particular) text genres (including their translational behaviour and strategies). Thus, the potential of corpora is to improve the translator's performance, inform the translation theorist, and boost translation for practical purposes through the investigation of translation patterns as opposed to their originals as well as the translator's behaviour-in-context. From the latter case, there is a need to communicate under the constraints of linguistic, cultural, social, political parameters, etc.

Equally important are the corpus techniques which unearth the statistical distribution of vocabulary and marked information structure in written texts (Baker 1995:228-229). For example, comparable corpora reveal patterns of texts originally written in language A, but nonexistent in the translation into the same language. The analysis conducted through corpus linguistic tools and techniques no longer aims at criticizing the translation but at understanding what actually happens in the process of translation (Baker 1996:175).

Excluded from the corpus linguist's data, translated texts have always been considered to be unrepresentative of the language under investigation. It is agreed amongst translation scholars that translated texts have their own patterning resulting from the natural and peculiar constraints under which they are produced (Baker 1998:282). Among these constraints, there is the production of a text in another language, the social and textual status of the translation.

Is there any function a translation as an act of communication cannot fulfil? Based on the different labels, translation has been negatively viewed (Lavoie 2003:121), yet an act of communication in its own right. Baker (1999) convincingly advocates for corpora as a rich fountain of information for translation strategies and translatorial behaviour. Of the major three types of corpora pointed out by Baker, comparable corpora are the most worthy of study because they avoid, according to Sinclair (in Baker 1999:282), the inevitable distortion introduced by the translations of a parallel corpus.

Each corpus, be it original or translational, is situationally, culturally, and linguistically produced to serve a particular agenda. There are manifold agendas including corpora for teaching/learning materials, corpora in computer-assisted translation, corpora for research on (new) patterns in source language and target language, corpora for comparability of patterns in two languages in order to make informed choices in translation (Baker 1999:287-288). In this article, Baker clearly delineates what can be done with corpora in theoretical and descriptive studies, including universals of translation.

2.2.6 CTS and translation universals

Kruger (2002) reviews, categorizes, and defines (2002:81-86) these features, i.e. translation universals, explicitation and simplification among others. Translation scholars (Baker 1996:175-176) further elaborate that the advent of CTS helps look into the kind of distinctive universal features typical of translated texts; these distinctive features have not been tested on a large scale. These universals of

translation include simplification, explicitation, normalisation or conservatism and levelling out (Baker 1996:176-177). Concerning simplification, Baker points out the features that realize simplification, and this is very resourceful for the corpus-based study of simplification.

Baker (1996:176-177) comes up with some guiding and inspiring CTS-research questions worth asking in corpus-based research. First, there are questions about the translator's preference for specific linguistic options independent of the style of the original author. Secondly, there are questions regarding the independence vis-à-vis general preferences of the source language and possibly the norms or poetics of a given sociolect. Lastly, there are questions about the possibility of explain translational preferences in terms of the social, cultural or ideological positions. The strengths of CTS include operational research hypotheses, large scale and electronic processing of texts, consistent evidence towards trends and exceptions, objective explanation of the object of study. In contrast, the weakness levelled against translation universals pertains to positivism (i.e. objectivity in the interpretation of the phenomena under consideration) to the detriment of constructivism (i.e. the making sense of the reality through the lens of intuition). This somehow casts doubts to the essence of translation universals, and this calls for further investigation.

Chen (in Kruger 2004:297) has shown that explicitation as well as other translation universals can be investigated without reference to the source text. This makes comparable corpora an invaluable benchmark for such a study. It is a useful reference as regards the formulation of research questions, the corpus design and the criteria for text selection, and the corpus processing with the use of concordancing programs.

Interestingly, in the section concerning the empirical findings, Laviosa (2002:43-51) looks into the universals of translation, simplification among others. She reviewed the study of what, more than two decades ago, Blum-Kulka and

Levenston (in Laviosa-Braithwaite 1997) had found out in Hebrew-English translations. Laviosa points out the five strategies used by translators and groups them under the following headings:

- lexical and cultural differences between the source and the target language;
- the translator's adherence to the source language; and
- the particular function of the translation.

In Laviosa-Braithwaite (1997), simplification is investigated, first, as falling under a three-fold (lexical, syntactic, and stylistic) level, secondly, as operating under six strategies. These strategies include:

- the use of superordinates in case of non-equivalent hyponym in the target language;
- approximation of the concept expressed in the source language text;
- use of common-level or familiar synonyms;
- transfer of all the functions of a source language word to its target language equivalent;
- use of circumlocutions in place of conceptual or technical terms; and
- use of paraphrase where there are cultural gaps between the source and the target language (Blum-Kulka and Levenston in Laviosa-Braithwaite 1997:2).

Apart from Laviosa-Braithwaite, a number of scholars have, partly or in full, investigated lexical simplification as a translational feature (Vanderauwera 1985; Klaudy 1996; Toury 1995).

2.2.7 Lexical items and their place in translation

Words or terms are not used in a vacuum; the prime reason being that they are not acquired from the vacuum either. According to Hoey (forthcoming) words are part and parcel of the collocational, colligational, semantic, pragmatic and textual contexts. This is more significant when it comes to translation. It is needless to

say that we do not translate words or terms in isolation but in context. Without context, few translators would venture undertaking translation assignments, more so legal translation. Word-in-context plays an important role in deciphering the meaning of a word. It actually conveys propositional, expressive, presupposed, or evoked meaning (Baker 1999:12-15). Hoey (forthcoming) convincingly argues, referring to Sinclair (1991), that sentences are not constructed from scratch but we construct them by selecting strings of inter-collocating word. And this collocational choice is contingent upon the sociolinguistic habits that have been established with the frequency of encounters with word-in-context. Thus, whenever we come across such a word, we tend to repeat its sociolinguistic context, termed *primings* in Hoey's terminology. But as time goes by, lexical attrition and semantic drift affect the primings of a word. According to Hoey (forthcoming), collocations drift in the course of an individual lifetime, thus drifting a word *"in meaning and/or function or in terms of the social context, genre and/or domain in which it typically occurs."*

A translator, working from English into French, may encounter loan words/terms in the SL and, nonexistent in his/her resource books (i.e. monolingual and bilingual dictionaries); such words/terms would be difficult to translate. The loan words in the SL (borrowed from a third language) are likely to fall out of the translator's mastery of language. The problem may lie originally in the non-lexicalisation of the concepts in the SL. They are still new words and therefore not ingrained in the SL culture, thus making it difficult to figure out what they mean. Such loan words can develop semantically regardless of their etymology and take on additional meanings not accounted for even in the original language.

As no one can venture to coin a word for a loan word for which he/she does not know the meaning, a number of translation strategies may come into play to meet this challenge. The loan word may be left out or transferred in the TL without any change at all. When the loan word is used as such in the TL, the translator should explain it according to the context. If for example somebody says: *He'd*

like to go on safari to photograph snakes and tigers, the translator must understand the loan term *safari* prior to translating. The word 'safari' is of Swahili origin. The English language has borrowed the term and the latter has been commonly used for some time as a loan word.

2.2.8 (Lexical) simplification as a translation universal

The existing literature documents explicitation and simplification, though in varying degrees to the detriment of the latter, far more than any other translation universals. A handful of universals have been identified; they include, as earlier stated explicitation, simplification, normalisation or conservatism, and levelling out.

Of all the existing literature on translation universals, explicitation is by far the most documented and researched (Olohan and Baker 2000:142). A growing list of scholars (Olohan and Baker 2000; Baker 2001; Dimitrova 2003; Nilsson 2002; Kruger 2004; Olohan 2002, 2004; Laviosa-Braithwaite 1997; Kenny 2005) have devoted part or whole of their research on explicitation within CTS. This has led me to considering research and case studies associated with simplification as the object of this study.

As an instance which shortens longer sentences, uses simple language and punctuation, simplification is not as widely investigated as explicitation. While elaborating on challenges that lie ahead, Baker (1996:182) briefly mentions Russian-French translators' simplified punctuation to make target texts easier to read. More focused than Baker in this respect is Laviosa-Braithwaite (1997) who investigates the simplification of English comparable corpora (ECC) of newspaper articles. Her research deals with the newspaper subcorpus of ECC articles from *The Guardian* and *The European*. It comprises two collections of translations and two non-translations. Laviosa-Braithwaite (1997:3) tested three hypotheses (i.e. lexical variety, the ratio of lexical to running words, and mean

sentence length) which confirmed consistent patterns of lexical simplification in translations versus non-translations. She further analyses list heads to find out the most frequent words in the translated English corpus (TEC) as opposed to non-translated English corpus (NON-TEC). While pending further evidence, she tentatively concludes that the frequency of the words most frequently used in the subcorpus of TEC is less varied than in NON-TEC subcorpus and noted a lexical impoverishment (i.e. lexical simplification). She pointed out the greater use of the present indicative of the verbs *to be* and *to have* in TEC (i.e. syntactic simplification) (Laviosa-Braithwaite 1997:5). The research so far conducted in CTS and translation universals has not addressed lexical simplification in legal translation.

2.2.9 Lexical simplification and legal translation

Each country has its own legal system, of course with similarities and differences due to historical, political reason, and gradual integration of legal systems through unions and regional communities. On close scrutiny, differences still abound and this, more often than not, is reflected in the language of the law. For example, in France they say *emprisonnement* (imprisonment) and *réclusion criminelle temporaire* or *perpétuelle* (sentenced to temporary or life imprisonment) to imply the gravity of the crime as referred to in Belgium respectively as *détention* (detention) and *réclusion* (imprisonment). Besides the lexical differences, there are also semantic differences worth considering. The difficulty becomes more and more evident while translating concepts which do not exist in the target language or SL loan terms which cannot be found in ordinary bilingual dictionaries and other translation resources. This becomes more problematic in legal translation involving SL loan terms nonexistent or simultaneously existing in both source and target legal systems.

Olohan (2004:148), rightly says that lexical options are available to language users and the translator's lexical choices are dependent on his/her ideological stance or the ideology he/she is commissioned to serve. It is also mentioned that

the translator's style is also motivated by the reader's expectations (Olohan 2004:151), thus somehow problematicizing lexical simplification which may be dictated by other factors. Unlike Baker (2001) who has used a fictional and biographical text corpus, the research at hand is about legal texts which, especially in the case of criminal procedures may vary depending on the legal system. This is therefore a concern because the original texts and their translations are produced respectively in English and French, both being world languages used in international legal settings.

2.2.10 Translation-in-context or translation-in-system

Olohan (2004:21) addresses the contextualized production of translation ranging from social, political to ideological contexts and effects. In other words, there is power at play worth attending to in translation. Regarding legal translation, it is however questionable whether these conflicting or converging forces can foreground the target text readership at the expense of the source text author, as posited by Olohan (2004:21). If so, to what extent? If not, why not? In addressing this issue, Ian Mason cautions corpus-based researchers that they should not lose sight of the rhetorical purposes which give rise to them and the influence of genre, discourse and textual purpose (Olohan 2004:22).

As a text under the dictates of the target language, a target text can be investigated independently of its original. This highlights the *raison d'être* of monolingual target corpora or comparable corpora, justifying the compilation of a bilingual English-French corpus and, for triangulation purposes, a comparable legal French corpus. This, as Kruger reiterates (2002:77), pertains to the fact that there is a shift in research questions with the advent of DTS: no longer about the degree of equivalence but about the translational relation between source texts and target texts and the essence of one type of translation and not the other. This gives rise to the compliance with norms and conventions applicable in the target language. This target-orientedness remains the key factor in DTS and the polysystems theory has come in to reinforce the contextual production of the

translation. A translated text produced in legal settings should reflect the practice and meet the translational requirements on the ground. Now what is missing that should ease the investigation of lexical simplification of Latinisms of English-to-French legal translations?

2.3 Legal systems and current trends in legal discourse

To begin with, let us consider the following statement:

There is a considerable disparity between the Anglo-American system of law and the systems in place in the so-called 'civil law countries' [...] However, translators moving between the two systems do not, in most cases, face the dilemma of absolute terminological asymmetry. (Alcaraz & Hughes 2002:47)

The foregoing implies to some extent the presence of relative terminological correspondence between Anglo-Saxon culture and language and other European cultures and languages. It is somehow the shared language, cultural, and system background that bails the translator out. But no one is supposed to take this linguistic or terminological correspondence for granted, especially when it comes to legal translation with its subtleties and complexities. When facing difficulties, Alcaraz and Hughes (2002:47) suggest the use of “satisfactory approximation” and posit that, with a good grounding in source legal systems and culture, the remaining challenge would be linguistic with all that it encompasses.

As stated in the citation above, there are two legal systems: the civil law or continental law system versus the common law system. The former rests on a written constitution which governs other ensuing codes (civil, penal, etc.) while the latter stands on ancient rules of precedent or case-law (known as *droit jurisprudentiel* in French). At present, with globalisation and internationalisation of systems being the order of the day, legal systems cannot go unaffected. More and more similarities are reflected in either major system as a result of global

contact between key players, i.e. USA, UK, Canada, Australia, New Zealand, and South Africa on the one hand, and the rest of the world on the other hand.

2.3.1 English legal system versus French legal system

English law system originates from case-law (i.e. common law), equity and statute law (Alcaraz & Hughes 2002). It goes back to medieval times during the Roman Empire and the Norman French dominion. As defined in the Oxford English Dictionary, common law is “*The unwritten law of England administered by the King’s courts, which purports to be derived from ancient and universal usage.*”

Unlike the common law known in the UK, France has a civil law system. This sharp difference stems from the origin and the practice typical of each country. The French legal system embodies two codified legal systems (judiciary and administrative) and this rigour is echoed in the language of the law. While many countries share both similarities and differences in terms of the language of the law, it is the differences that matter most for the legal translator as they are more likely to cause difficulties for one or all of the interested parties. For example, De Leo (1999) was requested to translate the Italian phrase *appropriazione indebita* into English and he rendered the phrase as *fraudulent conversion* which was rejected by the English magistrate who suggested *theft*. Later on this suggestion was rejected and instead they deemed De Leo’s translation as the most appropriate, though known to be a crime enshrined in the American criminal law. As De Leo puts it, the English magistrate turned down the translation known to be American. Had the magistrate realised the linguistic and legal pressures and constraints behind this, he would have been welcoming what the legal and professional translator had decided. This kind of lexical tension can also arise between English and French legal terms.

Legal translation is then problematic when it comes to lexical patterns, what Alcaraz and Hughes (2002:30-43) have referred to as lexical vagueness of legal

language. Should there be any difficulty in simplifying the lexis of the legal translation, it would actually be associated with audience's legal culture and system in which such lexical simplification would work.

2.3.2 Simplified language of the law or Plain Language Campaign

The language of the law can be labelled a complex linguistic quagmire. The reason is simple. This is a field which brings into play the language of professionals, the everyday language of lay witnesses ranging from doctors, surgeons, forensic pathologists, bankers, brokers, and so forth, depending on the facts of the case (Alcaraz and Hughes 2002:14). Acknowledging the intricacies, complexities, and inextricable nature of the language of the law for average users, stakeholders in the language of the law have attempted to make this language more accessible to all parties concerned. This came to be termed the 'Plain English Campaign' and was launched by pressure groups and lawyers. To simplify legal language, arcane vocabulary is replaced by accessible terms. *Claimant* replaces *plaintiff*, *statement of case* replaces *pleadings*, and the Latin term *affidavit* is replaced by the phrase *statement of truth* (Alcaraz & Hughes 2002:81). Of the principles guiding legal reformulation, the most important is *simplification* (Alcaraz & Hughes 2002:80). Although a new language of the law has emerged from the reformulation of the procedural rules in English civil law (Alcaraz & Hughes 2002:80), the lexical and pompous spirit of legal texts remains unchanged from the linguistic point of view. In the legal field, there are constraints on why texts cannot easily be simplified without fear of breaking the traditions and practices of the legal system.

Lexical simplification as a subconscious translational behaviour (Baker 1996:176 in Olohan 2004:91) is controversial in legal translation since the latter also requires adherence to traditions characteristic of the language of the law. Of late, controversial debates have been held as to why the language of the law is too pompous and obscure for lawyers' clients to understand (Alcaraz and Hughes (2002:2). The Plain English Campaign has had an effect on the legislature and

the judiciary and has paved the way for some clarity and simplicity to enter the language of the law. But despite all the efforts, manifold factors have undermined the campaign and the age-old obscurity and pomposity still characterize legal language. Its leading features include terms of French origin, archaic diction and adverbs and prepositional phrases, redundancy, frequency of performative verbs, euphemisms, colloquialisms as well as Latinisms (Alcaraz and Hughes 2002:5-14).

2.3.3 Lexical features of the language of the law

There are innumerable terms in the language of the law unknown to lay people. The arcane vocabulary contained in legal language originates or derives from the Roman law, hence its Latinisms in many languages and legal systems. The language of the law (or lexical items thereof) is known for its pomposity, and legal translators, consciously or subconsciously, tend to achieve the same or nearly the same pomposity in the target texts. Under the dictates of traditions, thought, and culture (Smith 1995:190 in Mikkelsen 2004), mainly inherited from Latin, the legal translator renders not only the linguistic entities but also conforms to the underlying legal system (Beyer and Conradsen 1995:146 in Mikkelsen 2004) and all that it entails, including but not limited to non-simplification of lexis in the translated legal texts. Bielsa (1993:4 in Mikkelsen 2004) justifies this legal language complexity by positing that *“there is no excuse for not being able to understand legal language, as ignorance of the law is no defense”*.

Latinisms in English legal texts

Latin, and Roman law, influenced English to such extent that Latinisms are still traceable in English legal language. As Latin was the lingua franca in the Middle Ages, the period when Latin was the language of written texts and intellectual exchanges, it is no wonder that we see Latin precepts and formulations in English. A number of Latin precepts are enshrined in the English legal language, let alone other Roman languages.

Consider:

Latin	English
<i>Nulla poena sine lege</i>	No punishment except in accordance with the law
<i>Onus probandi</i>	Burden of proof
<i>Mors civilis</i>	Civil death
<i>Restitutio in integrum</i>	Restoration to the original position

The above examples from Alcaraz and Hughes (2002:6) indicate that English lawgivers and legal practitioners make use, on countless occasions, of Latin phrases. To many of them, there is no reason to depart from the language of the law. Their old-fashioned and arcane vocabulary and formulations are “*less prone to semantic change and so have the advantage of clarity and certainty to those who understand them*” (Alcaraz and Hughes 2002:7). This gives rise to the question of who understands and who should not, as all people are candidates to appear to court as defendant, plaintiff, or witness. Alcaraz and Hughes (2002:15) posit in the first instances that lawyers as well as judges are an offspring of an arcane tradition and pompous trade; they stick to the credo of their predecessors, stick to the language of their training and tend to perpetuate it in their professional service delivery. Second, the language of the law, from time immemorial, is enshrined in the canon texts of the past by their predecessors and their contemporary counterparts cannot therefore do without such an impenetrable language. Lastly, and more importantly, they go on indicating that lawyers think their language (including Latinisms) is clear, thus guaranteeing legal certainty which helps eventually safeguard the interest of their clients. On this plane, failure to comply with the language typical of their trade can be equated to failure to understand and therefore to safeguard the interest of their clients.

2.3.4 Nature of lexical equivalence

Equivalence in translation – viewed from the various polysemous and synonymous dimensions accorded to it, respectively conflicting and complementary – cannot be achieved in its denotative sense at least in all translational instances. It is even unfortunate that equivalence does not – where present and possible – guarantee the right translation all the time and under all translational circumstances. Although an age-old notion in translation, equivalence has been regarded as a troubled notion all the more because it is impossible from a practical point of view (Shuttleworth and Cowie 1997:49). It is even more problematic to attain equivalence between ST loan terms in the target language.

Translational equivalence is neither always possible nor desired all the time. The functional precedence over lexical equivalence requirements should be observed when the client requires a translation to be done for a different readership to achieve a different function in the target language. Since translation cannot be achieved on a one-to-one basis owing to other features ranging from linguistic to non-linguistic, translation should be viewed as a human action with intentional, purposeful behaviour that takes place in a given situation (Nord 1997:11). It is in this respect that translators should be mindful of the sociocultural and linguistic context of translating (Hatim & Mason 1990:13). The result or the purpose of a translational action is perceived by addressees in the target situation and the purpose is therefore achieved in the target language, not the other way round. Despite the prerogatives accorded to the functional translator, there are culture-specific features, technically called *culturemes* by Vermeer (Nord 1997:34), which are too binding to easily shift, both linguistically and socio-culturally. Yet, as time goes by and culture being dynamic, culture-specificity keeps evolving towards universalization yet with some ingrained features remaining relatively untouched. These features (i.e. culture-specificity on a par with system-specificity) underlie disaffiliation vis-à-vis outsiders, thus making culture and

system a unique entity typical of a particular community. This relatively denies entire room for (lexical) equivalence at least in its denotative sense, especially in legal translation.

2.4 Current trends in legal translation

In legal translation, both the linguistic and the socio-cultural features matter (Alcaraz & Hughes 2002:153). Equally the legal translator is expected to be wary of the legal systems (source and target) at play. As Alcaraz and Hughes put it, the asymmetry may reside not only in language but also in the system.

Alcaraz and Hughes (2002:79) warn the translator against the intricacies of legal English as a resultant of the linguistic developments and changes in legal settings - *“Contemporary translators, in other words, will have to be up to speed with current terminology, but this will in no way exonerate them from responsibility for adequate knowledge of older texts.”* It is compelling to know older texts, and this implies knowledge of Latinisms and Norman French from which originate a number of terms still holding their sway in legal jargon. There is no excuse not to translate Latin-based terms – when they are used in the source legal text – as they may be vital in understanding legal texts. The legal translator is expected to keep a wary eye on these lexical items and be prepared to render them accordingly in the target language and system.

One word, purely technical, seldom causes trouble for the European language translator as there is conceptual overlap stemming from shared history (Alcaraz & Hughes 2002:155). This is therefore applicable to English-to-French legal translation. Worth considering is this cultural, linguistic, or conceptual overlap which sometimes engenders dilemma as to whether to translate the terms or to repeat them as such in the target.

“Some lexical units belonging to this group we are dealing with, such as *common law* or *estoppel*, may appear untranslated in the target language either because they are distinctive and very well known even to moderately cultivated jurists, or because they are extremely complex technically, so that it is easier to understand them conceptually than to translate them.” (Alcaraz & Hughes 2002:155).

2.4.1 Text function and legal translation

Text type has been for some time in the limelight of scholarly work. It has taken to mean “*each of the specific classes of texts characteristic of a given scientific community or professional group and distinguished from each other by certain features of vocabulary, form and style, which are wholly function-specific and conventional in nature.*” (Alcaraz & Hughes 2002:101). If the definition by Alcaraz and Hughes is to illuminate our pursued line of focus, the last chunk is more eloquent and self-evident. Be it the vocabulary, form or style, all derives from the function to achieve in the target language and the convention-based rules (some unwritten) to abide by.

Legal texts of the same genre or subgenre share most if not all the following features: a common lexical and syntactic arrangement as well as a common set of functional units and formal features (Alcaraz & Hughes 2002:102). In legal language – say criminal procedures – there is the use of the indefinite pronouns, impersonal forms of the verb, the hierarchical structure of the judiciary, language of Latin origin, just to name a few. Currently, it is acknowledged that the identification of the text genre as reflected in the formal and stylistic conventions of a particular ST leads to successful translation (Alcaraz & Hughes 2002:103). But more important is the text function.

The four text functions proposed in Nord’s translation-oriented model help translators identify specific translation problems (Nord 1997:40) and the degree of relationship – not equivalence – that should link the source text to the target

text. Text functions also underlie the differences that characterize texts, hence differences in approaches to translation depending on the function required of the TTs. Texts of *referential function* that refers to objects (real and abstract) and phenomena of the world cannot be handled the same way as the texts of *expressive function*. The more divergent are both the source culture and target culture in terms of their referential functions, the more divergent the translation approaches. Cultural divergence or absence of similar referential objects in SL and TL brings about translation problems of which the translator must be mindful to achieve the purpose of the translation. Since a source text with a particular function can be assigned to a similar or different function in the TL, it is important for the translator to be conversant with text functions and the translation methods and strategies appropriate to fulfilling the required TT purpose.

With this new trend, translation is viewed as a communication activity in which the function of the translated text in the target culture is given priority (VERPER-R 103/2007:9). Pragmatics and text linguistics fuel the new turn in translation and this has seen the text embedded in the wider sociocultural situation and system as the unit of translation. This has led to considering the *“translation as a translation when it functions as a text in the target culture. The function of the translation in the target culture determines which aspects of source text should be transferred to the translation”* (VERPER-R 103/2007:10). Producing the translation that will work as intended in the target culture is an important contribution of functionalism. Needless to say, it is no use producing a translation that will not function nor be acceptable in the target language and culture. It would be a waste of time, energy and resources.

The translation function resides in the relationship between TT and its audience and the relationship between ST and TT (Nord 1997:45-46) since the latter does not come ex nihilo. To sum up, Nord clearly delineates translations under the functional label: documentary translation and instrumental translation. The former preserves all the source culture features as if they were to inform the target

audience of the features specific to the source culture; this leads to different functions in both source and target audiences. The latter departs from the source text and conforms to the target culture and audience; this leads to achieving the same natural functions as in source text. Which type of translation – documentary or instrumental – best fits in legal translation of ST loan terms?

2.4.2 (Re-) foreignization or domestication of ST legal loan terms

The translation that reads naturally and easily is the most welcome in the Anglo-American culture (Venuti 1995), thus advocating for domestication to the detriment of foreignization. Domestication (or instrumental translation in Nord's typologies) has taken the lead in translating circles (Alcaraz & Hughes 2002:3) and translational practice has compelled good translators to implement fluent strategies (Venuti 1995:70). It would be a fault, according to Venuti (1995:70), to imitate the obscurity of the original. What is commendable for domestication translators is to attend to the conventions and idiomaticity of the target language. It is such a fluent translation that is acceptable in the dominant cultures, not because it is like an original written in the target language but because it assimilates ST to TL values (Venuti 1995:78). The strategy of fluency (Venuti 1995:77) has been associated not only with fidelity or faithfulness to the original but has also been used to imply unconstrained readability. Despite the canonization of fluency in translation, as implied in Alcaraz and Hughes (2002:3), strategies still oscillate between two poles, both domestication and foreignization (instrumental and documentary in Nord's terminology). They are both relevant in translation and can be resourceful to deal with ST loan terms.

There are practical examples of how legal and professional translators have tackled the problems of ST loan terms. The methods and strategies they have used in this respect can guide in the understanding of the translational behaviour and strategies for further universal-based theorizing and improved translational practice. This, from a functionalist point-of-view, leads to a three-phased

approach whereby the pragmatic level comes first to determine the intended function of the TT. Second, there comes the cultural level where the translator makes informed decisions about which ST elements to transfer as such and which ST elements to adapt to target culture. And finally, the linguistic level is the final stage to determine whether or not there are structural differences in syntax, style, and lexis (Nord 1997:66). Functional approaches “*help the practitioners observe and reflect on what they are doing, on the consequences that one or another decision may have for the communicative effect of the target text they are producing.*” (Nord 1997:118). For all translations they are producing, translators are expected to be in a position to justify their translational decisions with cogent, objective, and rational arguments. Whether this can be proved within legal translation is a matter of empirically examining factual evidence with objective corpus tools.

In a triadic relationship (ST author, client, and TT audience), the function-oriented translator - as the mediator - has a purpose which determines his/her translation methods and strategies to make the ST work in the target culture. No translator will be proud of failing to produce a translation that functions in receptive language. The translator has an obligation to attend to the functionality principle (Nord 2002:34) to make ST work in the target context. The more divergent the cultures, systems, and audiences, the more translation expectations the translators should take into account while translating. Yet, the translator as a key professional translation stakeholder will not slavishly, blindly and professionally attend to whatever target readers expect (Nord 1997:125). As further elaborated on by Nord, the translator has nonetheless the responsibility not to deceive his/her translation partners. It is this responsibility that Nord has termed *loyalty* and which makes the translator accountable towards his/her partners for his/her translational decisions. The loyalty principle is an interpersonal relationship (Nord 1997:125), not an intertextual relationship, which reduces the range of justifiable TT functions for one particular ST (Nord 1997:125-126). Based on culture, value systems, contextual situation, frequent discrepant levels of knowledge and

experience in the source and the target audiences (Nord 2002), functionalist approaches are gaining momentum in all spheres of translation as a practical and an academic discipline. This can be illuminated through the analysis and description of the strategies used by translators to deal with English-to-French Latin-based loan terms. On the whole, while some translators prefer domestication, some others resort to foreignization (or re-foreignization).

2.4.3 Strategies for ST loan terms in legal translation

To begin with, let's consider the following statement:

The translator is generally forced to work within the narrow confines of legislative and quasi-legislative tradition, drawing the appropriate vocabulary and sentence structure from target-language texts displaying equivalent conventions (codified statutes, judgements, densely worded pleadings, and so forth). (Alcaraz & Hughes 2002)

Lexical choice in legal translation is not straightforward. It is complex and unpredictable as the selection of the best, or the most appropriate, or the most natural, or effective term depends on context, traditional usage, genre and even subgenre (Alcaraz & Hughes 2002:178). The level of difficulty posed by legal translation stems from the nature of the language involved and the acceptability concern about the TT. For example, a TT with loan terms is visible to all as a translation and the fluency sought by (some) people remains a pipedream. Thus, this undermines the view that an acceptable TT should read fluently, with no linguistic features external to the SL (Venuti 1995:1). The difficulty can also depend on the nature of non-equivalence between the ST loan term and TT lexis and calls therefore for different strategies (Baker 1992:20). More importantly, besides non-equivalence, the genre, context, and purpose of translation will play their role in determining which strategies to use and which strategies to rule out (Baker 1992:20). Of the different non-equivalences presented by Baker (1992), there is one pertaining to the use of loan words in the ST, and this falls under our

pursued research questions and may dictate different approaches to overcome the difficulty.

Translating ST loan words/expressions can engender the problem of tension between accuracy and naturalness (Baker 1992:56). More interestingly, this is of paramount importance in legal translation; the tension would reside in the translator's attempt to produce an expression typical of the TL but also preserving by the same token the meaning of and effect produced by the ST (Baker 1992:56). What is actually acceptable in the TL will have been subjected to some translational shifts in meaning (also in effect), thus problematic in legal translation. Alcaraz and Hughes do not mince matters: "*The law may be an ass [...] but it must be allowed by the translator to bray in the appropriate tone*" (2002:179). This is more difficult in legal translation where each word (as embedded in its context and co-text) has a meaning to pay heed to.

2.4.3.1 Loan word plus explanation

According to Baker (1992), when loan words are used in the ST, they are translated with the use of loan word plus explanation when the word in question is a culture-specific item, a modern concept or a buzz word. It goes without saying that the nature of the ST loan word may be a cliché or an expression of habitual use established in a particular jargon. This may bring about translational concerns. For example, Latinisms used in ST English may not easily be rendered in French by using the loan word plus explanation. In so doing, it is not surprising that people will frown on the translation, all the more that both English and French languages may have in their respective lexicons such words, yet with different frequency and flexibility in their use.

2.4.3.2 Repetition

For ST loan terms, some other translation strategies come into play. Depending on the type of readership/audience the translator can firstly proceed as

envisaged in Baker (1992): loan word plus explanation or loan word on its own. In the latter case, it presupposes that the target readers are educated enough to know about the ST loan word or that the context and co-text can help decipher easily the meaning conveyed through the borrowed ST loan word. Repetition is also exposed to shortcomings. In a language like French with such rigour against anglicisms and unnecessary borrowing as regulated by the *Académie française* (The French Academy), no wonder that misunderstanding may arise, thus putting at stake the acceptability of the translation.

2.4.3.3 Substitution

Substitution as a translation strategy must also be considered when facing ST loan words. It is the replacement of SL words with their corresponding (semantically, culturally, and communicatively) TL words. Substitution is either effected through equivalent expressions or paraphrase. Paraphrase can bail the translator out while facing ST loan word when the latter is lexicalised in a different form (Baker 1992:37), when it has (a) related concept(s) to refer to in the target language and culture. Also interesting is what Baker (1992:31-32) calls cultural substitution, for it helps the readers identify themselves with the translation, thus easily accept it as a text in its own right, not a derivative or a second hand text. The problem that crops up with cultural substitution is that we may convey different meaning and therefore different effect in the TL, thus mistranslating the concept/message and missing desired effect and function.

2.4.3.4 Deletion

Deletion or omission, presumably as a last resort, can work in some contexts when the meaning conveyed by the ST loan term is not indispensable to understanding the message put across (Baker 1992:40). This would benefit the principle of *undisturbed reading* (LEKPER-Q 2006:51) on the proviso that the candidate for omission is not important to convey the message and the omission would allow capturing the undivided attention of the reader. The problem with

omission as a translation strategy is how to distinguish erroneous or unintended omission from the translator's intended omission resulting from his/her translational licence (Russell 1999:2).

2.5 When functional approaches meet legal translation

Some scholars (Garzone 1999) have resisted the use of functionalist approaches in legal translation, under the pretence that legal texts are not only so technical but also so special that functionalism – originally designed for general texts – cannot work in such texts. On close scrutiny, the functional ideal proposed by Nord (1997, 2002) in lieu of equivalence-based approaches reveals more than the foregoing argument levelled against functionalism in legal translation. As Nord further explains (1997:92-93):

1. The translator interprets the source-text sender's intention not only with regard to the sender's intention but also with regard to its compatibility with the target situation.
2. The target text should be composed in such a way that it fulfils functions in the target situation that are compatible with the sender's intention.
3. The text world of the translation should be selected according to the intended target-text function.
4. The code elements should be selected in such a way that the target-text effect corresponds to the intended target-text functions.

Unattended to, the above *skopos* (guiding set of instructions) can lead to translational failures, thus causing errors which constitute a nuisance in translation. Such errors, according to Nord (1997:73-76), are offences against pragmatic use of the target language, cultural features/concepts and situational traits, target-language conventions, and genre or systems-specific requirements. Needless to say, any translation is produced for a particular purpose and should therefore attend to translational requirements. This is crucial for a translation to

achieve a particular function and a desired effect. Otherwise, the translation will be frowned on, and the chances being higher for its unacceptability.

Bearing in mind the above scenario, Nord's functional approaches to translation should not be regarded as shortcomings. They are but deliberate and intelligent forms of both creativity and fidelity all the more that they are inevitable, different paths to follow to produce a TT based on their functional reading of the ST (Aveling 2002). The translator's lexical choices, as Garzone (2009, online) reiterates, are increasingly recipient-oriented, i.e. based not only on strictly linguistic criteria but also on extra-linguistic dimensions, topmost being the function of the TT.

While functional approaches to legal translation have been controversial, their advocates believe in its comprehensiveness and applicability to all text types under all circumstances. The major objection derives from the dethronement of the ST (as proclaimed by functional theories) yet inadmissible in legal text which view the ST as sacred (Garzone 2009, online).

2.6 Is there any gap to bridge?

It is obviously true that CTS has not addressed all translation universals in all text genres and all language combinations. Much should be done in this area, and according to Laviosa-Braithwaite (1997:3), "*the methodology [so far used, i.e. translations from one language into another, not the other way round] has limited the analysis to strategies specific to particular language combinations and has therefore prevented scholars from putting forward plausible suggestions as to whether simplification can be considered the result of the confrontation of two languages or a phenomenon linked to the nature of the process of translation itself.*" She further points out that the impact of simplification – whether lexical, syntactic or stylistic – strategies over entire texts has therefore not been directly assessed, hence the need for further CTS research.

When it comes to lexical strategies, scholars converge but do not describe and explain their lexical simplification findings consistently (Laviosa-Braithwaite 1997:3). However, Blum-Kulka and Levenston (in Laviosa-Braithwaite 1997) exemplify how the aim to achieve a more readable text necessitates the use of familiar target language words rather than less common synonyms such as archaic and scientific or Latin-based expressions. As Laviosa-Braithwaite (1997:3) points out, this lexical strategy is also observed in other studies by Vanderauwera and Klaudy. Yet, she acknowledges that the different types of research conducted so far in the area of lexical simplification is “*patchy and not always coherent*” (1997:3) and the rationale, research questions, data and methodology underlying these types of research have been different. Against this backdrop, Laviosa-Braithwaite concludes that, based on the evidence collected so far, simplification hypothesizing is still fuzzy and regards her paper as a source of ideas. What is not clear is the consideration of lexical simplification as a translation-specific feature, thus ruling out other parameters (culture-specificity, language-specificity, systems- or genre-specificity), yet somehow influential in the translation process.

More interestingly, Laviosa questions (lexical) simplification as a translation universal. There are, one can argue, some language-specific, culture-specific and translation-specific operations (Laviosa 2002:49, referring to Klaudy 1996:144). Now, worth considering is the lexical simplification resulting from the three-fold operations. Rules, norms, and idiosyncrasies are detailed to prove that translation is not produced in vacuum but “*as subject to constraints of several types and varying degree*” (Toury 1995:54). Toury looks into the general rules and idiosyncrasies and, between them, there is a norm-continuum. It is then premature to suggest that lexical simplification is a translation universal. If it is a universal, it also runs counter to the functionalist approaches to translation whereby target texts are produced in accordance with the translation *brief*.

Conclusion

In this chapter I investigated the existing literature in CTS, special focus being laid on the translation universals, topmost being the (lexical) simplification, the object of this study. In the course of this chapter, I also dealt with the theoretical framework underpinning the CTS from a functional point of view. I argued that translation universals are a worthy object of translation research. It has been argued that translated legal texts are problematic and controversial both among translators and lawmakers and lawyers, hence the sheer need to investigate legal translation through objective lens of corpus-based translation studies. But on-going research promises to shed more light on recurrent patterns of translation of ST loan words as well as the translational behaviour leading to such features. Legal translation is a very sensitive field and calls for informed translational choices, hence the importance of the research at hand to both translation theorists and trainee (practising) legal translators. Worth noting, lexical simplification of Latin-based loan terms of English-to-French legal translation has not been addressed. This gap needs bridging.

CHAPTER 3: ANALYTICAL FRAMEWORK AND METHODOLOGICAL PROCEDURES

3.1 Introduction

Legal translation critics, including lawyers and lawmakers as well as practising translators and theorizing scholars, are of the view that legal translation is not easy to handle owing to the jargon, system, and tradition which are specific to this age-old profession. Easily translatable or not, legal translation is a must in today's global village where bodies governing inter-state organizations and communities are to abide by the laws establishing such inter-governmental initiatives. More importantly, these laws are an assemblage of country-specific statutes and regulations – thus implying country-specific cultures and languages – geared towards the formulation of international law.

In this chapter, I look into the key tribunals of our time as regards criminal procedures vis-à-vis genocide and other serious crimes against humanity, the official languages used in these tribunals and the imprint of the law on such languages, and vice-versa. Given that this study falls in the area of CTS, the chapter also maps out the steps and procedures to use in order to examine the Latin-based loan terms used in STE and their translations in French. Such Latinisms are retrieved from the parallel corpus with the use of a terminology program (PTools), but also semi-manually with the use of a computer to retrieve possible terms of interest from the comparable corpus. The corpus output sheds light on the translation strategies used to realise (non-)lexical simplification when it comes to Latinisms, known to be typical of the language of the law. The strategies used by legal translators vary depending on a burgeoning list of constraints including context and co-text, hence the need to shed light on and gain insight from this dual input. Legal translators have used different strategies – whether simplifying the lexis or not – to make their translations work and produce the same effect in the target language and culture.

While the point of departure is corpus compilation, it is worth pointing out that a comparative study of English-to-French legal translation is done first at the macro-level and thereafter at micro-level. Each in turn, both parallel corpus components (ST and TT) and comparable corpus (NTF), have been produced under both the linguistic and non-linguistic dictates surrounding text production. The *tertium comparationis* retained for this study is entrenched in the linguistic culture and practice traceable in the language of the law: the thumbprint of Latinisms in English and their French translations. While the texts included in the parallel corpus are drawn from the texts of criminal procedures, the comparable corpus is compiled from the integral and/or excerpts of the codes of criminal procedures in force in France, Senegal, Democratic Republic of Congo, and Haiti.

As mentioned in Chapter 1, the parallel corpus comprises four English texts (*Directive on the assignment of defence counsel, Rules of procedures and evidence, Rules covering the detention of persons awaiting trial or appeal before the tribunal or otherwise detained on the authority of the tribunal, and Practice direction on formal requirements for appeals from judgement*) and their French translations (*Directive relative à la commission d'office de conseil de la défense, Règlement de procédure et de preuve, Règlement portant régime de détention des personnes en attente de jugement ou d'appel devant le tribunal ou détenues sur l'ordre du tribunal, and Directive pratique relative aux conditions formelles applicables au recours en appel contre un jugement*). The comparable corpus, huge in size, was downloaded from the websites earlier mentioned (see section 1.7).

3.2 Corpus compilation

As a set of ST English texts and their French translations, the parallel corpus is compiled based on the texts downloaded from the websites of the International Criminal Tribunal for Rwanda (ICTR) (<http://www.ictr.org/>) and the International Criminal Tribunal for former Yugoslavia (ICTY) (<http://www.icty.org>). The

comparable corpus is compiled from search engines where I retrieved relevant texts covering the criminal procedures. For the parallel corpus, I downloaded texts which were explicitly labelled English as ST and French as TT, thus avoiding the technicalities that might be involved to determine which is the source or target language. As Olohan (2004:25) opines, there is little or nothing to distinguish source language from target language more so when the translation was done in more than one language. The corpus being unidirectional in this study, it is supplemented with a comparable corpus comprising non-translated French as opposed to English-to-French translations. While the parallel (English-French) corpus might be relatively small (69,770 words), the comparable corpus is huge (458,605 words). In the latter case, I consider it an extreme case where possibilities are expected to be high; if not there would not be any chance to have them anywhere else. If texts of criminal procedures originally produced in French-speaking countries (France, Senegal, Democratic Republic of Congo, and Haiti) cannot reveal the writer's behaviour vis-à-vis Latin-based loan terms, chances are that such patterns would not be present in any other texts. In other words, the bigger the comparable corpus, the more representative and more likely to track similarities/differences in the approach translators handle Latin-based loan terms from English-to-French legal translations.

Baker (1995:234) reiterates that in a corpus consisting of texts in language B and another corpus consisting of translations in the same language B, corpus researchers should strive to cover a similar domain, register, time span, and comparable length. Unlike Baker's recommendations, I have intentionally failed in this study to attend to the latter criterion – comparable length. The underlying motive is to make sure that all possible sources (likely to contain Latinisms) are dealt with. If translators' behaviour vis-à-vis ST loan terms cannot be traceable in a relatively small parallel corpus, is it possible to track it in a relatively bigger comparable corpus? Presumably yes. The bigger the corpus, the higher the chances and the more representative the corpus is.

The comparable corpus is deemed important and insightful as it can reveal “*patterns which are either restricted to translated text or which occur with a significantly higher or lower frequency in translated text*” (Baker 1995:235). As Olohan puts it, this study merges “*the target-oriented approach of comparable corpus work with the possibilities offered by parallel corpus*” (2004:43). This methodological triangulation, as social scientists have termed it, helps to cover features of lexical simplification as realised through the use of superordinates, approximation of the source concept, use of common synonyms, transfer of the function of the source language word, use of circumlocutions, and use of paraphrase. The vital importance of merging/using both parallel and comparable corpus lies in the possibility of taking findings from the comparable corpus and test them in the parallel corpus and vice-versa (Olohan 2004:43-44).

3.3 Corpus processing

As the concordancing tool (ParaConc) that I had used in the pilot study of this piece of research was down, I tried to use Wmatrix – which is an excellent internet-based corpus analysis and comparison tool developed by Paul Rayson. Due to low and irregular internet connection, I gave it up and decided to look for another concordancing program, but in vain. I thought of using a translation memory – *WordFast* – the output of which would eventually be tiled with the use of another terminology management software – *PlusTools* (commonly known as *PTools* or *+Tools*). Both translation programs have been developed by Yves Champollion. With *+Tools*, I used the *find* facility of the computer to search for Latin-based terms/phrases and all instances of the term/phrase were displayed with highlights, thus offering the possibility to see the right and left co-text in two vertically tiled windows, as exemplified below.

Table 1: Example of PTools English-to-French bi-text output:

<i>DIRECTIVE ON THE ASSIGNMENT OF DEFENCE COUNSEL</i>	<i>DIRECTIVE RELATIVE A LA COMMISSION D'OFFICE DE CONSEIL DE LA DEFENSE</i>
<i>Document prepared by the Registrar and approved by the Tribunal on 9 January 1996 as amended 6 June 1997, 8 June 1998, 1 July 1999, 27 May 2003 and 15 May 2004</i>	<i>Document établi par le Greffier et approuvé par le Tribunal le 9 janvier 1996 et modifié les 6 juin 1997, 8 juin 1998, 1er juillet 1999, 27 mai 2003 et 15 mai 2004</i>
<i>DIRECTIVE ON THE ASSIGNMENT OF DEFENCE COUNSEL</i>	<i>DIRECTIVE RELATIVE À LA COMMISSION D'OFFICE DE CONSEIL DE LA DÉFENSE</i>
<i>PREAMBLE</i>	<i>PRÉAMBULE</i>
<i>The Registrar of the International Criminal Tribunal for Rwanda,</i>	<i>Le Greffier du Tribunal pénal international pour le Rwanda,</i>
<i>Considering the Statute of the Tribunal as adopted by the Security Council under Resolution 955 (1994) of 8 November 1994 and in particular Articles 17 and 20 thereof,</i>	<i>Considérant le Statut du Tribunal tel qu'adopté par le Conseil de sécurité aux termes de la résolution 955 (1994) du 8 novembre 1994, singulièrement en ses Articles 17 et 20,</i>
<i>Considering also the Rules of Procedure and Evidence as adopted pursuant to Article 14 of the Statute of the Tribunal on 29 June 1995, and in particular Rules 42, 45 and 55 thereof,</i>	<i>Considérant également le Règlement de procédure et de preuve tel qu'adopté le 29 juin 1995, conformément aux dispositions de l'Article 14 du Statut du Tribunal, singulièrement en ses Articles 42, 45, et 55,</i>

<p><i>Bearing in mind the Rules Covering the Detention of Persons Awaiting Trial or Appear Before the Tribunal or Otherwise Detained on the Authority of the Tribunal as adopted by the Tribunal on 9 January 1996, and in particular Rule 67 thereof, and</i></p>	<p><i>Ayant à l'esprit le Règlement portant régime de détention des personnes en attente de jugement ou d'appel devant le Tribunal ou autrement détenues sur l'ordre du Tribunal, tel qu'approuvé par le Tribunal le 9 janvier 1996, singulièrement en son Article 67, et</i></p>
<p><i>Bearing in mind also the host country agreement between the United Nations and the United Republic of Tanzania, signed at New York on 31 August 1995, and in particular Article XX thereof,</i></p>	<p><i>Ayant également à l'esprit l'Accord de siège entre l'Organisation des Nations Unies et la République-Unie de Tanzanie concernant le siège du Tribunal, signé à New York le 31 août 1995, singulièrement en son Article XX,</i></p>
<p><i>Issues this Directive, laying down the conditions and arrangements for the assignment of Defence Counsel as approved by the Tribunal at its Second Plenary Session on 9 January 1996, as amended on 6 June 1997, 8 June 1998, 1 July 1999, 27 May 2003 and 15 May 2004.</i></p>	<p><i>Emet la présente Directive fixant les conditions et modalités de la commission d'office de Conseil de la défense telle qu'approuvée par le Tribunal à sa deuxième session plénière, le 9 juin 1996 et modifiée les 6 juin 1997, 8 juin 1998, 1er juillet 1999, 27 mai 2003 et 15 mai 2004.</i></p>

To make the corpus processing easier, I first of all aligned the parallel corpus using *WordFast* which matches the ST accurately, paragraph by paragraph, sentence by sentence, chunk by chunk with their translations in the TT. With *WordFast*, the practice is to translate source text into the target text, while translations are being matched up and stored with their source chunks. But since the translation is complete, I have to enter English ST and their French translations in order to ensure that each chunk of the source text is traceable in

the target language. The WordFast output is easily captured with the use of *PlusTools*. I sorted the vertical tiles of both English ST and their corresponding French TT. PTools is user-friendly because it can be used as a word document without using the concordancing program, thus allowing the view of larger chunks of text and the location of the accurate match between ST and TT in the immediate co-text (Olohan 2004:26).

The combination of these translation programs is vital to achieve greater accuracy in sentence alignment (Olohan 2004:26). As it is commonly acknowledged that translation may constrain language use and production (Olohan 2004:28), thus TL translations being different from TL originally produced texts, I deem it worth including NTF. To detect translation-specific features, what scholars (Olohan 2004:29) have termed “translation effects”, as opposed to translation- or culture- or system-specific features, both French translations and NTF are semi-manually searched to see how both the translator and the writer (i.e. the non-translator) produce language of the same genre.

To bridge the gap felt as a result of the parallel corpus (i.e. texts infected by translationese, features deviating from TL conventions and the underlying language system or textual practice (Olohan 2004:29), I resort to NTF of the same text genre. Mason (Olohan 2004:30) evokes “spontaneously sourced texts” for evidence of norms of language behaviour as displayed between two languages into play. Olohan clearly puts it in these terms:

Analysis of source texts and their translations, on the other hand, provides us with information about translator behaviour, especially when compared with the data from spontaneously sourced texts.
(Olohan 2004:30)

Most scholars agree on the use of comparable corpora in order to control whether translation features are translation-specific, system-/culture-specific, idiosyncratic or a combination of two or more orientations. Kenny’s study on

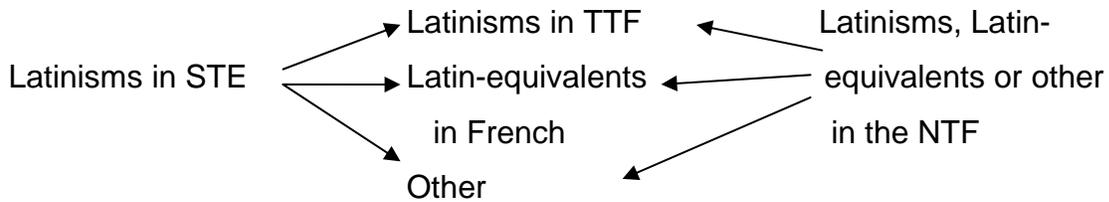
lexical creativity indicates that some translators are more inclined to opt for normal language features than others (Olohan 2004:31). An important insight in corpus analysis would be guided by the principle that brings together the systemic functional linguistics, sociocultural and socio-political contexts (Olohan 2004:33). As further elaborated, translators' linguistic choices should be investigated in the light of the social, cultural, ideological/political agenda to serve the intended function of the translation.

The source texts in English are aligned with their French translations through *WordFast*, and thereafter the corpus is tiled vertically with PTools. With this program, I capture Latinisms as loan words in English and their corresponding French translations, whether reproduced or otherwise translated. Unexpectedly but fortunately, all Latinisms in the source texts are in *italics*, thus saving me the trouble of tagging the corpus. The comparable corpus of NTF is searched semi-manually for patterns of Latinisms that may be related to the translated French. I enter the ST Latinism first and try to find whether or not it is used in the NTF, then I enter the corresponding word(s)/term(s) of the French translation to find out whether it is used in the originally produced French text. Found or not, the patterns of similarity/difference between both the NTF and the TTF versions are very insightful for the pursued research objectives.

3.4 Analytical framework

With the use of PTool bi-text, I compare the loan words in the STE with their corresponding renderings in the target language. Then I look into the guiding agenda behind the translational strategies. In case the translator has or has not translated the Latin-based loan expression, I investigate the underlying linguistic and non-linguistic reason and look into such translational strategies in the light of the functionality principle (Nord 2002), hence new light pertaining to (non-)lexical simplification. This may be attributed to the presence of source text pressures which constitute an extraneous target-language constraint which is non-existent

in the target-language natural patterning. I deal with French translations of Latinisms with their related words/terms or phrases in the NTF.



It is theoretically argued that parallel corpus output is insightful in terms of the translation process while the comparable corpus prioritizes the translation product (Stewart 2000a:210 in Olohan 2004:39). But both the process and the product of translation are actually intertwined as the former leads to the latter, and the latter results from factors prevailing in the translation process.

The use of a comparable corpus sheds more light on decisions made in the process of translation as reflected in translation context and product (Toury 1995:37). As a type of language in its own right, the language of translation is produced under contextual constraints and reception requirements. According to Baker (1999:285 cited in Olohan 2004:40), such production and reception constraints are social, cultural, ideological, and cognitive. It is all about “*the exposure and position of individual translators relative to the languages and cultures with which they work.*” (Olohan 2004:41).

Above all, besides what numerical data suggest, statistical techniques are also used to test the significance of the findings. The motive is to make valid and reliable inferences (Kruger 2000:207). On a par with the X^2 test, this is very important to examine to what extent the findings can be extrapolated to similar legal texts and genre. While Kruger (2000:208) has used X^2 to compare the densities of the relevant features in her thesis, I have also used X^2 to compare the use/translation of Latinisms in the STE and the TTF and between TTF and NTF, the parallel corpus and the comparable corpus respectively.

3.5 Theoretical framework

Since no one would deny the necessity of legal translation which has the same effect on the target audience as the original does on the source audience, the theoretical framework guiding this research is the functionality principle (Nord 2002:34). The corpus is examined through this lens, and the scope goes beyond the confines of equivalent terms between ST and TT. Somehow diverging or controversial in legal translation, functional approaches to translation require of translators to produce functional target texts contingent upon the type of receptive audience and the function they are required to serve. In this research, the aim is to describe the translational behaviour and its underlying factors, whether functional or lexical equivalence to realise (non-) lexical simplification. An appropriate (legal) translation is expected to have the same effect on the target audience as the original does on the source audience. This study describes the translational behaviour and its underlying factors, whether functional or lexical equivalence to realise (non-) lexical simplification.

As the guiding agenda, CTS can be succinctly defined as consisting of descriptive study of translations as they exist, particular language use in translation product, translational behaviour in translation process, uncovering what is probable and typical/unusual in translation, espousing qualitative and quantitative analysis in the description, and the application of the methodology to different types and contexts of translation (Olohan 2004:16).

3.6 The International Criminal Tribunals for Rwanda and former Yugoslavia

Following the grave violations of humanitarian law committed in Rwanda and in the former Yugoslavia, the United Nations Security Council established the International Criminal Tribunal for Rwanda (ICTR) by resolution 955 of 8 November 1994 and the International Criminal Tribunal for former Yugoslavia by

resolution 827 of 25 May 1993. Endowed with international status, and given their similar mandates to prosecute persons responsible for the 1994 genocide in Rwanda and the war crimes in the former Yugoslavia, both tribunals have been sampled as extreme examples expected to be the vehicle of the jargon of the international law, thus representative of the language of the law in criminal proceedings. More importantly, both tribunals use English and French as their official working languages, thus more likely incorporating linguistic features – Latin-based loan terms in English-to-French translation of criminal procedures.

3.7 The synopsis of the parallel corpus

The English-to-French parallel corpus comprises four texts downloaded from the International Criminal Tribunals for Rwanda and the former Yugoslavia. These are legal texts of criminal procedures. Not all types of legal texts are included, in light of the fact that some texts are not labelled original or translation. This corpus has 69,770 words.

3.8 The synopsis of the comparable corpus

The comparable corpus is a set of French-sourced texts (non-translated French texts). Given that the French criminal code is huge, let alone other criminal codes or criminal code excerpts, this makes the comparable corpus very large indeed (458,605 words).

3.9 Legal translation and the legal translator

Translation is an exercise of the mind analysing, interpreting, and rendering the source language into the target language; it is a confrontation of two languages and cultures through the translator's mind. It is not a straightforward exercise, and legal translation is even less straightforward. True, greater problems arise while rendering loan terms/words used in the ST. True, such ST loan terms when

they are communicatively and semantically cardinal can hinder the transmission of the ST message. The least that is anticipated is the fact that both English and French are endowed with world status, not confined for example to England or France, and serve the international community in a number of issues. That is why the language used at the tribunals reflects not only the cultural and linguistic realities on the ground in the above countries but also reflects the standardised language of international law, bringing together a global picture of the legal system and tradition, not of one country. This brings about a dual focus: the international law and the language of the law as channelled through English and French. On the one hand, the translator finds it possible to handle terms commonly accepted on the international scene without resorting, though useful, to footnotes, as recommended (De Leo 1999; Che Suh 2005). On the other hand, it is difficult to know whether French speakers are conversant with Latinisms as used in the ST or whether they would welcome a paraphrase or any other strategy deemed relevant to render the ST Latin-based loan term/word.

3.10 Text types and translation strategies

First of all, let's consider this statement:

While lawyers cannot expect translators to produce parallel texts that are identical in meaning, they do expect them to produce parallel texts that are identical in their legal effect. (Altay 2002).

With the text type and text conventions at hand, it is expected that both have their relative role to play in determining the translation strategies and by the same way the methodology to follow while dealing with types of texts. This might arguably apply to languages of similar cultural, political and sociolinguistic might. This text-type approach cannot, for pragmatic and cultural purposes, be fruitful all the time in all texts. Yet, on close scrutiny, based on her/his sociocultural and

linguistic knowledge of the legal French language, the chances are high that the informed legal translator may render, for example, ST Latinisms either by another corresponding French expression or reproduce them in the target language or adopt another approach based on the translational constraints and requirements. This is of cardinal importance whether this simplifies the target text or not.

At times, the translator has no other alternative but formal equivalence, as there is no way to go about translating Latinisms carrying the informative, expressive, and appellative functions usually traceable in legal texts. This proves the importance of taking into account the text typologies in a methodology section. Of course I do not analyse texts involved to determine which type of text I have to deal with but this is a guide to whoever reads this dissertation. Most legal translators, if not all, use the same or similar strategies. For example I expect to find in the legal French language and in its sociolinguistic dimension constraints which do not always allow certain constructions or structures. This is the work done by the *Académie française* (The French Academy) and it has been ingrained in French speaker's linguistic habits and practice. Under the dictates of the *Académie française* and the ingrained habits of the French speakers, any legal translator ought to expect the same or more strictness, especially because legal translation is at hand. While communication of facts such as presenting a paper, research findings, and so forth, requires content-based translation strategies, the translation strategies of appellative texts (texts appealing to the receiver in order to respond in a certain way, receiver-oriented) seeks to adapt the ST to TT culture so as to achieve or induce the desired effect from the receiver. Such appellative texts are adapted to the norms and conventions of the TT culture. It is a sensitive area of which this study should be mindful. The legal translator might compulsorily identify him/herself with the ST author so that the feeling and emotional cues from ST may not breach the expressive habits of the TT culture (Munday 2001: 75). Cultures dictate linguistic habits that differ from language to language, from legal system to legal system. It is in this context that the legal translator is expected to mediate without any linguistic bias to the extent

that all both source and target audiences find themselves understanding the legal text in the way appropriate to their respective language and culture. Otherwise, the verdict would differ as a result of emotional and expressive cues specific to either source or target language.

In legal translation, the predominant features to be preserved are the content, the register, and the effect. It is nevertheless noteworthy to point out, lending full weight to Munday's view (2000: 75) that text type is not enough, without fear of being mistaken, to determine the translation strategies, and the methodology as well. An expressive text can be read and translated for the sake of finding out how the ST culture handles the styles and metaphors. Such a translation is no longer an expressive text but an informative text, thus advocating for a different translation method. What was initially expected to be style-based translation now becomes content-based translation. Can this happen in a legal setting involving criminal procedures? More challenging is the determination of the translation method based on a legal text which, more often than not, is multifunctional. Expressive function as well as informative function might be present in a legal text, as it is mostly the case; and it would then be very risky and inextricable for the translator to determine the translation method solely on basis of text type.

Which function should come into play first? This is controversial and very subjective. Of course, the overriding function should come first but it is questionable on these grounds. Is there any indication showing the translator that the predominant function is the sole function needed in the TT? As borne out by translation-oriented source text analysis, there is no hint whatsoever that mirrors the function that is expected to come to the fore in the TT. Text type cannot therefore elicit the intended/expected function especially because translation brings into play a number of roles and players. The latter can privilege one or the other function, different from the function the text type suggests. This is insightful for methodological purposes.

Overlapping two languages and two cultures, legal translation, as any other translation, is “*purpose-driven, outcome-oriented human interaction*” (Munday 2001: 77). Participants in the translation process, i.e. the initiator, the commissioner, the ST producer, the TT producer, TT user and TT receiver (Munday 2001: 77) all constitute a benchmark from which to point out the purpose of the TT. They all have, each in turn, their own beliefs and conventions especially the purpose as to which the translation should be done. Undoubtedly, it is not the text type that guides the translation method; it is instead the TT culture and audience that greatly dictates the translation method that should be used. In this respect, the translator is an expert and is empowered to sift and find the relevant methods and apply a suitable functional method. More importantly, it is noteworthy to mention that translation strategies, without adhering to any extremes, all fall on a continuum and a sole method may undermine more than help the exercise. It is the translator’s duty to break the language barrier and pave the way for intercultural communication.

In need and as borne out by the translator’s knowledge and practice of both languages and cultures, unknown terms in the TT culture require, inter alia, explicitation and other relevant translational strategies to accurately render the ST. Translation is eventually carried out via cultural substitution, compensation, deletion, or repetition on proviso that the translator and his/her audience deem it acceptable in the receptive culture (LINPER-T 103/2006: 45, 53).

*Choosing an appropriate translation method for a particular text is determined by the initiator’s **brief** and the **function** that the translation is to fulfill in the target language and culture. (LINPER-T 103/2006: 49).*

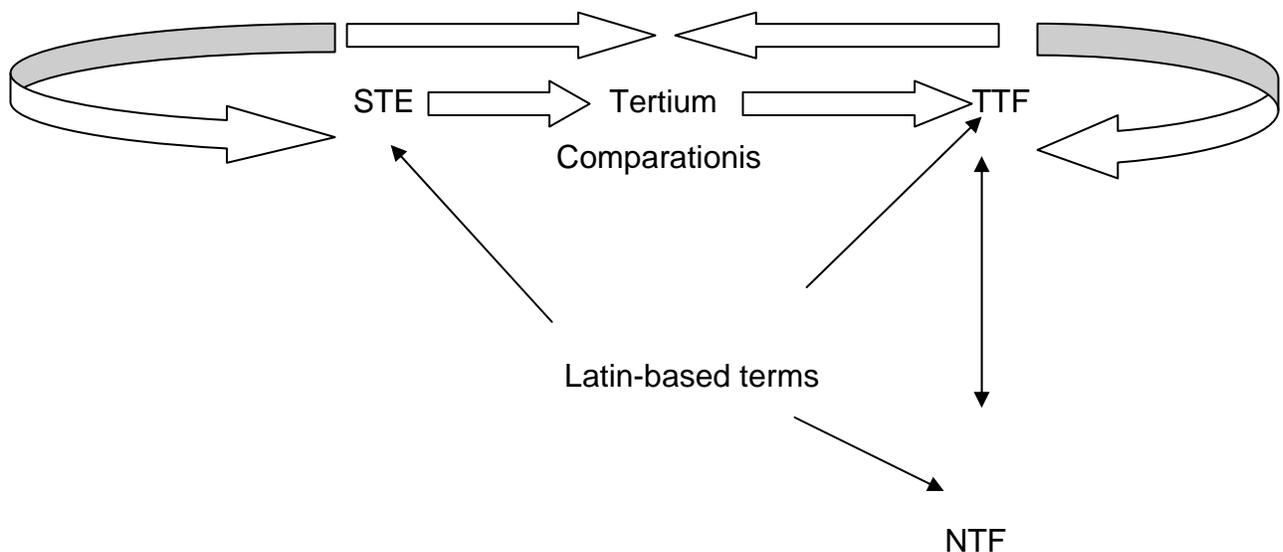
It is therefore possible to make a highly technical/scientific text accessible to laypeople and non-expert readers, thus shifting the translation function and methods regardless, to some extent, of the text type. Whether this applies to

legal translation or not, it is a question worth investigating as designed in this study.

3.11 Tertium comparationis

In his seminal translation work, Toury (1995:74-75) has proved that no descriptive study of the ST and its translation would be effected directly on all levels. Two different texts (source and target), Toury further opines, cannot be compared without delineating the invariant concept of the comparison. A number of options are available to the translation researcher who should make it clear that the items/concepts of interest in the pursued research are selected. It is worth noting that translational comparison must be source-oriented and not the other way round, implying therefore that the object of comparison is also source-based. In this study, the object of comparison or items of interest, termed *tertium comparationis* (TC) (Kruger & Wallmach 1997), are the Latin-based loan terms or Latinisms used in the English-to-French legal texts. Equally, such terms will be tracked in non-translated French texts compiled in the comparable corpus.

The *tertium comparationis* is illustrated as follows:



As Kruger and Wallmach (1997) have exemplified, the above approach to describing source texts as opposed and/or as compared to their translations would best apply by first comparing the source and its translation, i.e. STE and TTF. First, the parallel corpus is searched for possible Latinisms through the use of PTools. Once the patterns of comparison (concordance lines) of the two texts are put in the limelight, translational behaviour and strategies are examined and analysed in light of the lexical simplification under its different shades of realisation. The next step is to look into the comparable corpus and investigate the French translation and the non-translated French.

3.11.1 Instances of Latinisms in ST

A number of Latinisms are retrieved from the STE based on their spelling (i.e. italics) and/or as detected from the parallel corpus. ST Latinisms are vertically tiled against their frequency of occurrences. On the first sight this gives the idea of how often the Latinisms have been used by the legal translator. ST Latinisms are the benchmark against which to look into the rest of the Latinisms whether translated or not in TTF or in NTF.

3.11.2 Instances of Latinisms in the TT

When it comes to Latinisms in the translated French, it becomes easier. Either the Latinism in the TT has been translated straight from the source-text Latinisms or the translation of source-text Latinisms could easily be identified on a one-to-one comparison of chunks of the language. The occurrences of Latinisms are vertically tiled against their frequency of occurrences. Be they translated or rendered otherwise, they are equally tiled against their ST Latinisms. This section proves crucial as it involves the key translational components: ST and TT.

3.11.3 Instances of Latinisms in the non-translated legal French

After retrieving the Latin-based loan terms in the STE, I enter the search word in the computer for retrieval from the NTF. I enter the Latinisms one after one and copy the computer output for comparison with the translated French. Afterwards, I enter the Latin-equivalent term or phrase when the loan word of interest is of cardinal importance such that the translator could not leave it out without compromising the translation. In the first place, this is taken from the translated French to look into the non-translated French terms.

While the occurrences of the Latinisms used in the parallel corpus and in the comparable corpus differ, there is to some extent a relative line of convergence. This is exemplified in Chapter 4.

3.11.4 Concordances and computer retrieval of Latinisms

The PTools helps explore a number of lexical items and collocations in the parallel corpus by tiling the source text against the target text. The good thing is that PTool searches and provides source texts tiled out onto their target translations. It thus becomes easier to capture the translational strategies used, and to determine the constraints or conditions which have caused the translator to render this or that item as such in the target language. The lens through which to look into the translator's behaviour and strategies are the context and the co-text, as discussed in the following section.

3.12 Context and co-text

Context and co-text are key aspects to bear in mind in this study. They guide and underlie any assumptions I make. To address the issue of Latin-based loan terms used in the English-to-French legal texts, it is wise to know what to take into account while analysing the data. Context and co-text are vital as I cannot do

without them. Context is crucial in understanding the sentences and the words used in the text. Quoting Fillmore, Brown and Yule (1983) raise the question of the effect a sentence would have if the context is different. This physical context, which is called the *non-verbal environment of a text* or *context of situation and the wider context of culture* (Katan 2004:245) has an effect on the production/translation and/or interpretation of a particular text. Following Halliday (Hoey in Kruger & Wallmach, forthcoming), I can say that this context is coupled with co-text. The latter governs the use of words in their ante- or post-positions. If the interpretation of individual lexical items is constrained by the co-text (Brown & Yule 1983:47), I have so much more reason to expect the production/translation of a text to operate under the same constraints.

Nida (2001:13, 17) has eloquently said that words only have meaning in terms of the corresponding culture, and that different contexts bring about different registers. Registers are domain-specific and tailored to discourse participants and the linguistic tradition and conventions. For example, no one would use or improvise Latinisms when addressing lay people. This emphasizes the usefulness of functional or target-oriented approaches in translation. For bundles of linguistic and cultural features (Nida 2001:19) are or should be used with caution, guided by the principle of functionality. It would be strange to use loan terms when your readership cannot make head nor tail of what is meant. While analysing and comparing STE with TTF and French TT with NTF, heed will be taken of the language conventions, function, and the readership as well as the translatorial behaviour while facing such difficulties. Though not valued so much in other texts, the knowledge of the true meanings of words as inferred from the history of their development (Nida 2001:29) proves important to deal with Latin-based loan terms in the ST.

It is undoubtedly true that lexical items never appear alone; be it implicitly or explicitly, they keep company with other words. They all have *primings* in Hoey's terminology, though they might at times work without priming. For example, the

Latin-based loan terms have their collocational patterns without which the text would miss cohesion. These patterns are taken into account during the analysis. However, the collocational patterning of a word changes over time and language users tend to adapt themselves to new trends, few fields, if any, making an exception. Hoey (in Kruger & Wallmach, forthcoming) reiterates that collocational priming is not a permanent feature, it is time-bound and subject to fluctuations. In other words, there are diverse contextual constraints. Contexts which call for meticulous attention in translation are, according to Nida (2001:31-40), syntagmatic, paradigmatic, cultural, radical in semantic shifts to attract attention, source-text context, audience-based context, situational context advocating for a particular register, and content-based context. In varying degrees, all these contextual clues assist me in making sense of how translators tackle Latinisms in English-to-French legal translations.

Syntagmatically and/or paradigmatically, a word is explicitly or implicitly primed. Nida reports (2001:35) that various types of syntagmatic contexts represent the main medium through which people learn at least 95% of their active and passive vocabulary. As for Hoey (in Kruger & Wallmach, forthcoming), he has revealed that collocational priming is domain-sensitive, i.e. the use of a word may occur compulsorily in one particular text, say a legal text, while it may sound strange and unacceptable in the other domain, say a social research text. There are minimum requirements to meet for a word to make sense and for its correct usage. Collocational priming is domain-sensitive, thus knowledge of a word underlies knowledge of certain combinations it goes with in particular texts (Hoey in Kruger & Wallmach, forthcoming). While using a word, my focus lies on a number of aspects such as the register and the content; it is all about how it fits in the overall structure of the language – verbal or written. A word can, according to Hoey (in Kruger & Wallmach, forthcoming), keep or avoid company with other words in its vicinity or at higher level and it equally prefers or avoids some post- or ante-positioned places in the patterning.

It is undoubtedly true that Latinisms are not used anyhow; they require a tripartite dimension: tenor of discourse (participants), mode of discourse (register, verbal or written), and field of discourse (situational surrounding and topic) (Richards et al. 1985:260). This is the guiding agenda in mind while interpreting the language of the texts under consideration. While the context refers to the wider use of language ranging from the place and domain, the co-text refers to the immediate linguistic context surrounding the word of interest, on the left and/or on the right. While analysing the collocates of a word in this study, care is taken of what Hoey calls “disparate primings”. These primings may wreak havoc in translation when un-harmonized with the accepted structures of the language, thus leading to conflicting use and reception of a piece of translation. There are conscious and unconscious mechanisms that underlie linguistic primings: education, shared canon, and mass media (Hoey in Kruger & Wallmach, forthcoming).

Conclusion

In this chapter, I have reviewed the relevant methodology and the sources of the corpus data. I have provided a methodological and analytical framework to show the approach adopted to adequately address the research questions systematically. The methods used to select the texts and compile the corpus are presented. The chapter also outlines the corpus tools for analysis; the issue of context and co-text are reviewed to inform the interpretation of lexical items in the next chapter (i.e. Latinisms and their French translations).

CHAPTER 4: ANALYSIS AND INTERPRETATION OF THE DATA

4.1 Introduction

In this chapter, the focus is laid on the investigation/comparison whether English-to-French legal translations favour lexical simplification through its different realizations. Bearing in mind the research questions of this study, I endeavour to address the questions, one at a time. The set of questions is insightful in analyzing the generalizability and/or applicability of lexical simplification in legal translations. As indicated in Chapter 3, the analysis is conducted based on the English-to-French parallel corpus and a French comparable corpus. As earlier mentioned, findings from both corpora can illuminate each other and shed more light on the relationship between ST, TT and non-translated TT in terms of (non-) lexical simplification as a translation universal.

In this chapter, I look into the data with expectations to come across linguistic, system and cultural differences, large as well as small, between the English ST and its French legal translations as well as the non-translated French legal texts. The aim is to investigate the data and reviewing them in light of the reality on the ground in translation practice. This chapter presents and systematically discusses the data with a corollary objective to identify problematic features surrounding legal translation of ST loan words. Thus, it paves the way for the next and last chapter of this dissertation.

In analysing and discussing the data from both the parallel and comparable corpora, it is argued that legal translation cannot be achieved effectively and meaningfully without attending to the linguistic, the system, and the culture-specific dimension. It is also argued that the guiding functional approaches in legal translation must also be taken into account as the legal translator is briefed as to what type of translation is expected and for which readership it is required.

In this study, I analyze the data both quantitatively and qualitatively. The quantitative data analysis deals with the distribution of occurrences of Latin-based terms in both corpora (i.e. the parallel corpus and the comparable corpus). In so doing, I strive to locate where differences or similarities reside, whether or not resulting from the process and the function of the translation as well as the system/genre. In a looping manner, I use the findings from the parallel corpus to shed light on the translator's behavior while facing ST loan terms.

4.2 Interpretation of the corpus data

All the Latinisms investigated in this study foreshadow more occurrences in English source texts than in the French translations. Yet, on close scrutiny, English Latin-based terms/words that have their corresponding standard French terms/phrases are translated in standard French while, for other terms, it is reasonable to suggest that terms translated in standard French pave the way for lexical simplification. Very interestingly, when a term is transferred as such in the target language, it is so done for all instances it involves. In this regard, a one-to-one correspondence is noticeable between legal source-text English and legal target-text French, i.e. the frequency of the Latinisms *bis*, *mutatis mutandis* (with a slight difference here: 18 hits in English ST versus 17 French translations), *ter*, *pro rata temporis*, *ad litem*, *Non Bis in Idem*, *quater*, *Amicus curiae* are reproduced in the target language. On the same plane, unlike the above-mentioned translation strategy, when there is no attempt to translate the Latin-based terms, it is squarely so done with all occurrences of a particular term. It is suggested from this translational behaviour that, in the latter case, there are established, acceptable and 'common' or standard French terms and phrases to such an extent that no translator feels it appropriate to reproduce them. The possible underlying and motivating factors for the (non-) lexical simplification of Latinisms of English-to-French legal translations are investigated below.

Not all Latinisms retrieved from the source texts have corresponding Latinisms in the target texts. Of the 93 Latin occurrences in source-text English, only 65 are reproduced in the French translations (See Table 2, on the next page). Because translation is an act of communication requiring different translation strategies contingent upon the communicative function to achieve (Nord 1997:45), the results so displayed imply that legal translators tend to repeat the ST Latinisms into the target texts. Yet, constrained by the French usage, or rather the presence of equivalent terms or phrases more acceptable in the receptive language, the translator renders the Latinisms by their corresponding functional and semantic equivalents.

On the other hand, Latinisms translated in French include *proprio motu*, *in camera*, *inter alia*, *vice versa*, *inter partes*, *indicia*, and *ex officio*. They have standard corresponding French terms or phrases, this being somehow a breach of the legal tradition. This is delineated in the following sections which deal with each research question.

4.2.1 Research question 1

Do Latinisms (as realised through the use of superordinates, approximation of the source concept, use of common synonyms, transfer of the function of the source language word, use of circumlocutions, and use of paraphrase) occur to a lesser extent in English originals than in their French translations and/or non-translated French?

The first research question is addressed in this section. Here, I compare the frequency of occurrences of Latinisms in the STE, TTF and the NTF. As discussed in Chapter 3, it is obvious that there is a very weak correlation between the translation of Latinisms and lexical simplification. Thus said, this implies that the one-on-one reproduction of ST loan terms into the TT is indicative of a low proportion of lexical simplification while the translation of

Latinisms into the standard legal French is likely to advocate for lexical simplification.

Now, let's consider this table:

Table 2: Frequency of occurrences of the STE Latinisms versus TTF Latinisms

	Frequency of occurrences of Latinisms in the STE	Frequency of occurrences of Latinisms in the TTF
<i>Bis</i>	31	31
<i>mutatis mutandis</i>	18	17
<i>proprio motu</i>	11	0
<i>Ter</i>	7	7
<i>in camera</i>	5	0
<i>amicus curiae</i>	5	5
<i>inter alia</i>	3	0
<i>vice-versa</i>	3	0
<i>Pro Rata Temporis</i>	2	2
<i>inter partes</i>	2	0
<i>Indicia</i>	2	0
<i>Ad litem</i>	1	1
<i>Non Bis in Idem</i>	1	1
<i>ex officio</i>	1	0
<i>Quarter</i>	1	1
TOTAL	93	65

As it can be seen from the table above, all Latinisms used in the STE are not translated in French. Based on the total occurrences of Latinisms traceable both in the source and target languages, about one third of English-to-French legal translations are less likely to reproduce the Latin-based terms/expressions. It is therefore interesting to note that most legal French translators endeavour to render Latinisms with the corresponding French term/expression.

Instances of Latinisms indicate that most Latin-based loan terms in the English-to-French legal translations are more represented in the ST than in the TT. As translation of ST loan terms into standard French, as opposed to Latinisms or anglicisms, strongly suggests lexical simplification, it is implied that lexical simplification occurs to a lesser extent in TTF. Now what is the frequency of occurrences of Latinisms between TTF and NTF? While reviewing the different forms of lexical simplification, I will elaborate on this in the section below. But first let us examine how the NTF compares with the TTF in their use of Latinisms.

Table 3: Frequency of occurrences of the STE Latinisms versus NTF Latinisms

	Frequency of occurrences of Latinisms in the TTF	Frequency of occurrences of Latinisms in the NTF	Frequency of occurrences of Latin-equivalent French terms/phrases in the NTF
<i>Bis</i>	31	41	203 [<i>deuxième</i> (alinéa de l'article 40)]
<i>mutatis mutandis</i>	17	1	2 [<i>En toutes circonstances</i>]
<i>proprio motu</i>	-	-	304 [<i>d'office</i>] 4 [<i>de sa propre initiative</i>]
<i>Ter</i>	7	13	105 [<i>troisième</i> (alinéa de l'article 380-12)]
<i>in camera</i>	-	-	2 [<i>à huis clos</i>]
<i>amicus curiae</i>	5	-	-
<i>inter alia</i>	-	-	-
<i>vice-versa</i>	-	-	1 [<i>inversement</i>]
<i>Pro Rata Temporis</i>	2	-	-
<i>inter partes</i>	-	-	61 [<i>débat (contradictoire)</i>]
<i>Indicia</i>	-	-	30 [<i>indices</i>]
<i>Ad litem</i>	1	-	-
<i>Non Bis in Idem</i>	1	-	-
<i>ex officio</i>	-	-	-
<i>Quarter</i>	1	6	60 [<i>quatrième</i> (alinéa)]
TOTAL	65	61	768

It is glaringly evident that what is seen are the Latin-based ordinal numbers. While terms like *mutatis mutandis*, *amicus curiae*, *pro rata temporis*, *ad litem*, and *non bis in idem* are not used anywhere in the huge comparable corpus, ordinal numbers are used more often in the French translation than in the non-translated French. Though the difference of occurrence might be due to difference in the size of both texts, it is worth pointing out that Latin-based ordinal number (*bis*, *ter*, and *quater*) are common in legal French texts. Other Latinisms, which I can tentatively expect to have independent *content* (i.e. *content words*) and *renderings* in the standard legal French, are not used. Now let us examine the possibility of lexical simplification as realised through the use of the following translation strategies.

4.2.1.1 Superordinates, approximation or paraphrase

Meant to simplify the lexis of the target language, these translation strategies have not been used in the corpora under investigation. While translation strategies for lexical simplification include the use of superordinates when there is no specific hyponym for a particular ST term, the loan terms used in the English-to-French legal texts do have their target correspondences, be they Latin or other French structures. Again, the source concept may also be approximated in the TT when there is a target concept that resembles the source concept. It is worth noting that paraphrase as a strategy has not been used in the translation of ST Latinisms. Inasmuch as these above strategies are not used for lexical simplification, it is expected that some other strategies have been used.

4.2.1.2 Common synonyms

While Baker (1992) advocates for translation by cultural substitution while dealing with ST (Latin-based) loan terms, the study at hand points to a different strategy: translating by linguistic substitution or the use of common synonyms. Latinisms are translated not by other Latinisms in French but by their corresponding

linguistic expressions. Baker (1991:31) rightly puts it that non-equivalence at word level resorts to cultural substitution when dealing with culture-specific items. Notwithstanding this, however, Latinisms are neither English culture-specific nor French culture-specific. They are instead system- or genre-specific, not limited to one particular language but crosscutting languages that to a greater or lesser extent originate from Latin. In the following section, I look into ST Latinisms against their TT translation as rendered through the use of common synonyms as a translation strategy.

(i) Mutatis mutandis

Mutatis mutandis has 17 instances repeated in TTF and 1 instance rendered as *en fonction des circonstances*. The discussion goes below the illustration table.

Table 4: English-to-French legal bi-text containing *mutatis mutandis*

<p>(E)The provisions of Article 12 shall apply <i>mutatis mutandis</i> where there is dissatisfaction with the decision withdrawing the assignment of Counsel.</p>	<p>(E)Les dispositions de l'Article 12 ci-dessus S'appliquent <i>mutatis mutandis</i> en matière de recours contre la décision de retrait de la commission d'office d'un conseil.</p>
<p>(C)In the situations envisaged in paragraphs (A) and (B), the procedure for assignment of Counsel as set out in this Directive shall apply <i>mutatis mutandis</i> but shall be accelerated where necessary.</p>	<p>(C)Dans les cas prévus aux paragraphes A) et B) ci-dessus, la procédure de commission d'office de conseil telle que prévue par la présente Directive s'applique en fonction des circonstances, et éventuellement de manière accélérée.</p>
<p>[...] a Trial Chamber shall, following <i>mutatis mutandis</i> the procedure</p>	<p>[...] une Chambre de première instance rend conformément à la procédure</p>

<p>provided in Rule 10, issue a reasoned order requesting that court permanently to discontinue its proceedings.</p>	<p>visée à l'Article 10, mutatis mutandis, une ordonnance motivée invitant cette juridiction à mettre fin définitivement aux poursuites.</p>
<p>(B) Rules 18 (B) and (C) shall apply mutatis mutandis to the Vice-President.</p>	<p>B) Les dispositions prévues aux paragraphes B) et C) de l'Article 18 s'appliquent mutatis mutandis au Vice-Président.</p>
<p>(I) The provisions in Rules 55(B) to 59 shall apply mutatis mutandis to the execution of the order for the transfer and provisional detention of the suspect.</p>	<p>I) Les dispositions des Articles 55 B) à 59 s'appliquent mutatis mutandis à l'exécution de l'ordonnance de transfert et de placement en détention provisoire du suspect.</p>
<p>(L) Without prejudice to Sub-Rules (C) to (H), the Rules relating to the detention on remand of accused persons shall apply mutatis mutandis to the provisional detention of persons under this Rule.</p>	<p>L) Sans préjudice des paragraphes C) à H), les articles relatifs à la détention préventive de personnes mises en accusation s'appliquent mutatis mutandis à la détention provisoire de personnes conformément au présent article.</p>
<p>This provision is applicable mutatis mutandis to Counsel for the prosecution.</p>	<p>Cette disposition s'applique mutatis mutandis aux membres du Bureau du Procureur.</p>
<p>If leave to amend is granted, Rule 47 (G) and Rule 53 bis apply mutatis</p>	<p>Les dispositions de l'Article 47 G) et de l'Article 53 bis s'appliquent mutatis mutandis à l'acte d'accusation modifié,</p>

mutandis to the amended indictment.	dès lors que l'autorisation de modifier est donnée.
[...] the Trial Chamber or, where applicable, a Judge shall, mutatis mutandis, follow the procedures and apply the standards set out in Sub-Rules 47(E) and (F) [...].	[...] la Chambre de première instance ou, le cas échéant, le juge compétent suit la procédure définie aux paragraphes E) et F) de l'Article 47 mutatis mutandis, applique les normes qui y sont fixées [...].
These rights include those set forth in Article 20 of the Statute, and in Rules 42 and 43 mutatis mutandis, together with the right of the accused to remain silent, and to be cautioned that any statement he makes shall be recorded and may be used in evidence.	Au titre de ces droits figurent ceux qui sont énoncés à l'Article 20 du Statut et, mutatis mutandis, aux Articles 42 et 43 du Règlement, ainsi que le droit de conserver le silence et la mise en garde selon laquelle toute déclaration faite par l'accusé est enregistrée et peut être retenue contre lui.
The provisions of Section 2 of Part Five shall apply mutatis mutandis.	Les dispositions de la Section 2 du Chapitre V s'appliquent dans ce cas mutatis mutandis.
The provisions of paragraphs (C) and (H) shall apply mutatis mutandis.	Les dispositions des paragraphes C) et H) s'appliquent mutatis mutandis.
[...] (i) shall continue to have effect mutatis mutandis in any other proceedings before the Tribunal (the "second proceedings") unless and until they are rescinded, varied or	[...] i) continuent de s'appliquer mutatis mutandis dans toute autre affaire portée devant le Tribunal (la « deuxième affaire ») et ce, jusqu'à ce qu'elles soient annulées, modifiées ou

augmented in accordance with the procedure set out in this Rule;	renforcées selon la procédure exposée dans le présent article ;
(E) The Rules of Procedure and Evidence in Parts Four to Eight shall apply mutatis mutandis to proceedings under this Rule.	E) Les règles de procédure et de preuve énoncées aux chapitres quatre à huit du Règlement s'appliquent, mutatis mutandis, aux procédures visées au présent article.
(H) Paragraphs (B) to (G) apply mutatis mutandis to a person who knowingly and willingly makes a false statement [...].	H) Les paragraphes B) à G) s'appliquent mutatis mutandis à une personne qui fait sciemment et volontairement un faux témoignage [...].
The Rules of Procedure and Evidence that govern proceedings in the Trial Chambers shall apply mutatis mutandis to proceedings in the Appeals Chamber.	Les dispositions du Règlement en matière de procédure et de preuve devant les Chambres de première instance s'appliquent, mutatis mutandis, à la procédure devant la Chambre d'appel.
If leave is granted to vary the grounds of appeal then the varied grounds of appeal shall comply with the requirements of this Practice Direction mutatis mutandis.	Si l'autorisation de modifier les moyens d'appel est accordée, les conditions énoncées dans la présente Directive pratique s'appliquent, mutatis mutandis, aux moyens d'appel modifiés.
If a party is authorized to present additional evidence then the requirements of this Practice Direction apply mutatis mutandis.	Si une partie est autorisée à présenter des moyens de preuve supplémentaires, les conditions énoncées dans la présente Directive pratique s'appliquent mutatis mutandis.

While the Latin phrase *mutatis mutandis* has been reproduced in the target text, there is one instance where it is translated as indicated in the table above. The target translation of the phrase is an acknowledgement, as it can be implied, that legal translators have two choices to make: either translate the source phrase or repeat it as such in the TTF. For example, if the translation was rendered as « la procédure de commission d'office de conseil telle que prévue par la présente Directive s'applique *mutatis mutandis*, et éventuellement de manière accélérée » there would be no difference between both versions. But the fact that the translator translated that sole occurrence is a resultant of coincidence; otherwise he/she could have repeated the Latinisms as was the case for other ST occurrences of *mutatis mutandis*. In this case, the answer to our research question would be answered by saying that translating the Latinism *mutatis mutandis* by *en fonction des circonstances* leads to lexical simplification. But this sole instance cannot stand alone to justify lexical simplification as it can be implied that the translator did not intend to simplify the translation, if so he/she could have done so for other occurrences of *mutatis mutandis*.

(ii) Proprio motu

Proprio motu accounts for 11 instances in the parallel corpus. It is insightful to examine the vertically tiled translation of the Latinism *proprio motu* which has been translated first as *d'office*, second as *de sa propre initiative*. The discussion thereof comes after the table.

Table 5a: English-to-French legal bi-text containing *proprio motu*

<p>The Trial Chamber may order such referral <i>proprio motu</i> or at the request of the Prosecutor,</p>	<p>La Chambre de première instance peut ordonner ce renvoi <i>d'office</i> ou sur la demande du Procureur,</p>
<p>A Trial Chamber may, <i>proprio motu</i> or at the request of a party, order a medical, including psychiatric examination or a psychological examination of the accused.</p>	<p>Une Chambre de première instance peut, <i>d'office</i> ou à la demande d'une partie, ordonner un examen médical, y compris psychiatrique, ou un examen psychologique de l'accusé.</p>
<p>A Judge or a Chamber may, <i>proprio motu</i> or at the request of either party, or of the victim or witness concerned,</p>	<p>Un Juge ou une Chambre peut, <i>d'office</i> ou à la demande d'une des parties, de la victime, du témoin intéressé</p>
<p>A Chamber, <i>proprio motu</i> or at the request of a party, may warn a witness of the duty to tell the truth</p>	<p><i>D'office</i> ou à la demande d'une partie, la Chambre avertit le témoin de son obligation de dire la vérité</p>
<p>At the request of a party or <i>proprio motu</i>, a Trial Chamber, after hearing the parties, may decide to</p>	<p>Une Chambre de première instance peut, <i>d'office</i> ou à la demande d'une partie, et après audition des parties, décider de</p>
<p>In order to perform his or her functions, the Pre-Appeal Judge may <i>proprio motu</i>, where appropriate; hear the parties</p>	<p>Le juge de la mise en état en appel peut, si nécessaire, dans l'exercice de ses fonctions, entendre <i>d'office</i> les parties</p>

<p>If after the close of the case for the prosecution, the Trial Chamber finds that the evidence is insufficient to sustain a conviction on one or more counts charged in the indictment, the Trial Chamber, on motion of an accused filed within seven days after the close of the Prosecutor's case-in-chief, unless the Chamber orders otherwise, or <i>proprio motu</i>, shall order the entry of judgment of acquittal in respect of those counts.</p>	<p>Si, à l'issue de la présentation par le Procureur de ses moyens de preuve, la Chambre de première instance conclut que ceux-ci ne suffisent pas à justifier une condamnation pour un ou plusieurs des chefs visés dans l'acte d'accusation, elle prononce, sur requête de l'accusé déposée dans les sept jours suivant la fin de la présentation des moyens à charge, à moins que la Chambre n'en décide autrement, ou <i>d'office</i>, l'acquittement en ce qui concerne lesdits chefs.</p>
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Most of the occurrences of the terms *proprio motu* have as subjects the Trial Chamber or the Judge or the (concerned) party. It can actually be suggested that the writer finds it practical and acceptable to use Latinisms in English. Despite the common roots characterizing both English and French, the latter does not welcome the Latinisms, be they in translations nor in NTF. This is indicated in the bitext below where *proprio motu* is rendered by *d'office*. In a French dictionary the phrase *d'office* is explained as *par le devoir général de sa charge; sans l'avoir demandé soi-même*. Interesting to note is the correlational use of *at the request of* and *proprio motu* that can be translated by as *à la demande de ou de sa propre initiative/d'office*. The latter can be used interchangeably and the difference will lie in the sentence construction. For example, the first occurrence of *proprio motu* can be rendered as *d'office*.

Compare:

D'office ou à la demande d'une des parties, un juge ou une chambre de première instance peut délivrer les ordonnances.

A la demande d'une des parties ou de sa propre initiative, un juge ou une Chambre de première instance peut délivrer les ordonnances.

The above sentences make no difference and the translator uses either term interchangeably, presumably to diversify his/her style or to avoid monotonous structures.

Equally, the bi-text dealing with *proprio motu* which has been rendered as *de sa propre initiative* can help to understand strategies used by the translator, with evidence at hand. The reason why the translator has rendered the same Latinism with two different target expressions is worth considering.

Table 5b: English-to-French legal bi-text containing *proprio motu*

<p>At the request of either party or <i>proprio motu</i>, a Judge or a Trial Chamber may issue such orders,</p>	<p>A la demande d'une des parties ou <i>de sa propre initiative</i>, un juge ou une Chambre de première instance peut délivrer les ordonnances,</p>
<p>Upon request by the Prosecutor or <i>proprio motu</i>, after having heard the Prosecutor, the Trial Chamber may order a State or States to adopt provisional measures</p>	<p>A la demande du Procureur ou <i>de sa propre initiative</i>, le Procureur entendu, la Chambre de première instance peut ordonner à un ou plusieurs Etats d'adopter des mesures conservatoires</p>
<p>A Trial Chamber may <i>proprio motu</i> order either party to produce additional</p>	<p>La Chambre de première instance peut, <i>de sa propre initiative</i>, ordonner la production de moyens de preuve</p>

evidence. It may <i>itself</i> summon witnesses and order their attendance.	supplémentaires par l'une ou l'autre des parties. Elle peut <i>de sa propre initiative</i> citer des témoins à comparaître.
The Appeals Chamber may <i>proprio motu</i> exercise any of the functions of the Pre-Appeal Judge.	La Chambre d'appel peut, <i>de sa propre initiative</i> , exercer les fonctions du juge de la mise en état en appel.

(iii) In camera

The term *camera* means in a dark room or chamber, as inferred from modern Latin. This equals to saying *behind closed doors* and it is obvious that when the door is closed, darkness invades the room. You cannot enter nor see people inside. While both phrases (*in camera* and *behind closed doors*) in English are translated by the same French expression à *huis clos*, it is important to note that English has more options than French. It would sound strange to use the term *in camera* in French as this is not a common expression, neither in day-to-day French nor in standard legal French. Borrowing that phrase into French would be ambiguous as most people would interpret it as referring the device used to take photographs rather than the inner side inaccessible from the outside, hidden from the outside.

Table 6: English-to-French legal bi-text containing *in camera*

...such information or its source shall not be subject to disclosure or notification to the Parties but shall be made available by the Registrar to a Judge or a Trial Chamber <i>in camera</i> upon a request	...cette information ou sa source ne peut pas être communiquée ou notifiée aux Parties mais est mise par le Greffier à la disposition d'un Juge ou d'une Chambre de première instance à <i>huis clos</i> , sur demande
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<p>The Prosecutor may apply to the Trial Chamber sitting <i>in camera</i> to be relieved from the obligation to disclose pursuant to Sub-Rules (A) and (B).</p>	<p>Le Procureur peut demander à la Chambre de première instance siégeant à <i>huis clos</i> d'être dispensé de l'obligation de communication visée aux paragraphes A) et B).</p>
<p>The Prosecutor shall apply to the Chamber sitting <i>in camera</i> to be relieved from an obligation under the Rules to disclose information in the possession of the Prosecutor, if its disclosure may prejudice further or ongoing investigations, or for any other reason may be contrary to the public interest or affect the security interests of any State</p>	<p>Si le Procureur détient des informations dont la communication pourrait hypothéquer des enquêtes en cours ou ultérieures, ou pourrait, pour toute autre raison, être contraire à l'intérêt public ou porter atteinte à la sécurité d'un Etat, il peut demander à la Chambre de première instance, siégeant à <i>huis clos</i>, de le dispenser de les communiquer</p>
<p>Chamber may hold an <i>in camera</i> proceeding to determine whether to order notably:</p>	<p>Une Chambre peut tenir une audience à <i>huis clos</i> pour déterminer s'il y a lieu d'ordonner :</p>
<p>Before evidence of the victim's consent is admitted, the accused shall satisfy the Trial Chamber <i>in camera</i> that the evidence is relevant and credible;</p>	<p>Avant d'être admis à établir le consentement de la victime, l'accusé doit démontrer à la Chambre de première instance siégeant à <i>huis clos</i> que les moyens de preuve qu'il entend produire sont pertinents et crédibles;</p>

(iv) Inter alia

The Latinism *inter alia* is used three times in the parallel corpus and has been translated as *entre autres* as illustrated below.

Table 7: English-to-French legal bi-text containing *inter alia*

The statement shall indicate, <i>inter alia</i> , the name of the suspect or the accused,	L'état indique <i>entre autres</i> , le nom du suspect ou de l'accusé,
... should be the subject of an investigation by the Prosecutor considering, <i>inter alia</i> :	... devraient faire l'objet d'une enquête du Procureur tenant compte, <i>entre autres</i> :
...the President shall take into account, <i>inter alia</i> , the gravity of the crime or crimes for which the prisoner was convicted,	... le Président tient compte, <i>entre autres</i> , de la gravité de l'infraction commise,

It is glaringly obvious that the French translator has endeavoured to use common synonyms instead of Latinisms, though acceptable in this type of text. If the guiding ideology is the same between the English legal writer and the French legal translator, most ST Latinisms would have been repeated in the TT. On the assumption that each language has its own lexis, the French legal translator does not take English-to-French Latinisms for granted. In other words, English and French do not share the linguistic conventions as regards Latin-based terms or expressions.

(v) Vice-versa

Most French speakers believe that the Latin expression *vice-versa* is more common than the French word *inversement*. This kind of translation was more likely dictated by the desire to make French pure, and not by accuracy or naturalness. The translation does not achieve naturalness because the Latin term itself has a long-standing usage (since the 1600-1700) in the language that it has somehow become natural, as shown in the table below where the same sentence on different occasions appears three times in the corpus.

Table 8: English-to-French legal bi-text containing *vice-versa*

The masculine shall include the feminine and the singular the plural, and <i>vice-versa</i> .	L'emploi du masculin et du singulier comprend le féminin et le pluriel et <i>inversement</i> .
(B) The masculine shall include the feminine and the singular the plural, and <i>vice-versa</i> .	B) L'emploi du masculin et du singulier comprend le féminin et le pluriel et <i>inversement</i> .
(B) The masculine shall include the feminine and the singular the plural, and <i>vice-versa</i> .	L'emploi du masculin et du singulier comprend le féminin et le pluriel et <i>inversement</i> .

(vi) Inter partes

In the parallel corpus, two instances of the Latinism *inter partes* have been found in two identical occurrences ; and the discussion that goes below the table gives further details on the translation strategy used.

Table 9: English-to-French legal bi-text containing *inter partes*

<p>... another Judge of the same Trial Chamber, may decide, subsequent to an <i>inter partes</i> hearing and before the end of the period of detention,</p>	<p>... un autre juge appartenant à la même Chambre de première instance peut décider, à la suite d'un débat <i>contradictoire</i> et avant le terme de la période de détention,</p>
<p>... another Judge of the same Trial Chamber, may decide, subsequent to an <i>inter partes</i> hearing and before the end of the period of detention,</p>	<p>... un autre juge appartenant à la même Chambre de première instance peut décider, à la suite d'un débat <i>contradictoire</i> et avant le terme de la période de détention,</p>

Here, the translation of *inter partes* is a matter of stylistic idiosyncrasies and ideology. Whether the translator translates the ST Latin-based loan term, whether he/she translates the Latinism into standard French, both the subjective and the collective perceptions come into play. The subjective aspect is a result of the dual possibilities the translator has but prefers not to repeat the Latinisms into French. The collective may be brought to bear on the translational agenda to serve the bulk of the audience. It can easily be assumed that most legal French translators would be interested in pure French expressions rather than borrowing Latinisms. However, the instances of Latinisms as a thumbprint of legal language also constitute a sure way to make the legal translation more acceptable.

(vii) Indicia [singular *indicium*]

As regards the instances of the Latinism *indicia*, two instances have been also found, as illustrated in the following table.

Table 10: English-to-French legal bi-text containing *indicia*

... is based on sufficient facts for the crime and accused's participation in it, either on the basis of objective <i>indicia</i> or of lack of any material disagreement between the parties about the facts of the case.	... repose sur des faits suffisants pour établir le crime et la participation de l'accusé à sa commission, compte tenu soit d' <i>indices</i> objectifs, soit de l'absence de tout sérieux désaccord entre le Procureur et l'accusé sur les faits de la cause,
(ii) finds from the circumstances in which the statement was made and recorded that there are satisfactory <i>indicia</i> of its reliability.	ii) Estime que les circonstances dans lesquelles la déclaration a été faite et enregistrée présentent des <i>indices</i> suffisants de fiabilité.

What can be inferred from the parallel texts above is the close similarity between the ST Latinism and its corresponding French. This obviates the use of Latinisms in French. Both *indicia* and *indices* make no difference, semantically and communicatively, hence the choice by the translator to use the French term.

(viii) Ex officio

This Latinism has been used once throughout the parallel corpus.

Table 11: English-to-French legal bi-text containing *ex officio*

(D) The Vice-President, the Deputy Prosecutor and the Deputy Registrar may <i>ex officio</i> represent respectively, the President, the Prosecutor and the Registrar.	D) Le Vice-Président, le Procureur adjoint et le Greffier adjoint peuvent <i>d'office</i> , représenter respectivement, le Président, le Procureur et le Greffier.
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It is common knowledge that most French speakers would rarely come across the Latinism 'ex officio' unless the writer wants to be pedantic. The common synonyms are 'd'office' or 'de droit', the former being dictated by the context and usage. In so translating, the translator wants to produce what is acceptable and usually produced in French.

4.2.1.3 *The transfer of the function of the source language word*

The occurrences that advocate for the transfer of the function of the source language word are those with ordinal numerals *bis*, *ter*, and *quater*. They all serve the same purpose of ordering/structuring the information. As such, this function is preserved in the target text by reproducing the Latinisms as such in French. However, it is still arguable whether the function of the Latin-based terms repeated in the target language would make the lexis simpler than translating them. Throughout the English source texts, the Latin-based numbers (i.e. *bis* meaning *two*; *ter* meaning *three*; and *quater* meaning *four*) have all been transferred as such in French. This implies their long-standing acceptability to the target audience. While the translation in standard French would be *alinéa deux*, *trois* or *quatre*, there is a risk not to capture the heading it is associated with (e.g. Rule 12*bis*) as the Latinisms in question refer to paragraph, thus losing sight of an important functional and semantic feature.

Repetition as a translation strategy does not lead to lexical simplification, rather it makes the register more formal in the target language and highly educated people would be expected to be familiar with such ST loan terms reproduced in the TT. In other words, the repetition of the ST loan word in the TT does not contribute to lexical simplification. Thus, the focus in this section is laid on the ST loan terms that have been translated into standard French.

4.2.2 Research question 2

When, how and why do function-specific and translation-specific lexical simplification differ from each other?

To address the second research question, I cross-check the text genres and the acceptable terms or phrases in the target language. In this study, function-specific lexical simplification will be distinguished from translation-specific lexical simplification. Although it may be argued that both texts are of the same genre, it is obvious that they are different as they have been produced differently by different people (writers and translators) (Mutesayire 2005:131). As can be anticipated, Mutesayire further corroborates the fact that these writers and translators differ in their way of choosing words or phrases they use. This does undoubtedly have impact on the (non-)lexical simplification of Latinisms in English-to-French legal translations.

As stated in Chapter 3, the parallel corpus and comparable corpus are not of the same size, the reason being that the comparable corpus, huge in size, was downloaded as a whole, and there was no reason to make it short. More importantly, a comparable corpus that huge is representative and reliable for the study at hand. If the hypothesis by Baker (forthcoming, in Olohan 2004:151) is to hold true, it is expected that TTF will host much more fixed expressions, Latinisms in this case, than the NTF. This difference clearly indicates that STE

abound with loan terms whereas the TTF or NTF have fewer loan terms. This conspicuous difference between STE and TTF and NTF in terms of their use of Latinisms may be interpreted as having relating to the rigor and strictness associated with either language. English is an easygoing language while French is reported to be strict, and purists never allow anglicisms and other borrowings to enter their language in a disorderly manner.

A detailed account of the underlying reasons will enable us to shed more light on the when, how and why translators differ in their use of function-specific or translation-specific lexical simplification. Such analysis of the distribution of Latinisms in both the parallel corpus and the comparable corpus is a breakthrough in investigating whether the translator's behaviour vis-a-vis the ST Latinisms is a result of function or translation.

Lexical simplification is a subcomponent of simplification as a translation universal, despite the questions that may be raised as regards its generalisability and applicability in legal translation. Lexical simplification can occur as a result of functional requirements or translational constraints, i.e. it is therefore function-specific or translation-specific. But when, how and why do they differ from each other?

When translation is required to serve one particular purpose, the translator conforms to the translational instructions for his/her translation to be acceptable. Readership or target audience is of cardinal importance. This has brought about what is termed *reformulation* to make the source text more accessible to target readers/audience (LINPER-T 103/2006:45). This is a conscious process whereby the translator makes informed choices to simplify his lexis and other language structures. Unlike this function-specific lexical simplification, translation-specific lexical simplification is an unconscious process that leads to simpler lexis without the translator's knowledge or as a result of confronting ST and TT in real-life translation.

As indicated (LINPER-T 103/2006:45), making a translation more accessible to target readers involves a number of strategies. Regarding lexical simplification, such strategies include explanation of difficult concepts, use of examples to illustrate difficult concepts, use of simple vocabulary (more common synonyms), and repetition of certain lexical items (LINPER-T 103/2006:45). It is clear that the translator is aware from the very start that he/she has to make his vocabulary simpler so that readers can understand its meaning. He/she endeavours, step by step, to eliminate all difficult jargon, like the archaic Latinisms still existing in legal translation. When the translator fails to eliminate the complexity of the ST lexis, it is a failure to achieve function-specific lexical simplification. When the translator produces a TT in simple vocabulary, without being instructed to do so, this is as a translation-specific lexical simplification. For example, when the translator renders the following *vice-versa* by *inversement*,

The masculine shall include the feminine and the singular the plural, and <i>vice-versa</i> .	L'emploi du masculin et du singulier comprend le féminin et le pluriel et <i>inversement</i> .
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he/she wants to make the target text meets the conventions in the target language. Although the phrase *vice-versa* is also known in French, the standard equivalent is *inversement*. The reason is that the target text is intended for use by people from different backgrounds - lawyer, judges and lay people – with no anticipated background in Latin. In other words, lexical simplification in legal translation is more inspired and guided by the function. If it were not function-specific, the translator would have reproduced the ST loan term.

4.2.3 Research question 3

Do English and French legal texts correlate vis-à-vis the translator's functional choices and the distribution of instances of Latinisms in English legal texts, their French translations, and non-translated French?

In my corpus various Latinisms are repeated in French translations. These are *mutatis mutandis*, *Amicus curiae*, *Pro Rata Temporis*, *Ad litem*, and *Non Bis in Idem*. Of all these terms, *mutatis mutandis*, apart from the numerical *bis*, is the most used in English and repeated in French, with one exception where it is translated in standard French.

Mutatis mutandis has been substituted here by its corresponding functional French phrase, yet its repetition in the target text can also work. This proves that the translator is at leisure to choose reproduction or repetition of the Latinisms, and in the latter case, he/she would be embracing translation strategies that go along with the legal tradition and system.

Lack of a one-to-one correspondence between STE, TTF, NTF does not only constitute a deviation from a norm but also results from the interaction of elements within the source and the target texts, and the ideological motivations and orientations of translators (Olohan 2004:30). Consider the following table:

Table 12: Frequency of occurrences of Latinisms in the STE, TTF, and NTF

	STE	TTF	NTF
<i>Bis</i>	31	31	41
<i>mutatis mutandis</i>	18	17	1
<i>proprio motu</i>	11	0	0
<i>Ter</i>	7	7	13
<i>in camera</i>	5	0	0
<i>amicus curiae</i>	5	5	0
<i>inter alia</i>	3	0	0
<i>vice-versa</i>	3	0	0
<i>Pro Rata Temporis</i>	2	2	0
<i>inter partes</i>	2	0	0
<i>Indicia</i>	2	0	0
<i>Ad litem</i>	1	1	0
<i>Non Bis in Idem</i>	1	1	0
<i>ex officio</i>	1	0	0
<i>Quarter</i>	1	1	6
TOTAL	93	65	61

From the Latin-based ordinal numbers where correspondence is found in STE, TTF, and NTF, it can unanimously be hypothesized that both English and French legal texts tend to use the same structures and the same way.

Consider *bis* in the following:

- 1° *bis* Les volontaires servant en qualité de militaire dans la gendarmerie ;
- Chapitre Ier *Bis* : Des attributions du garde des sceaux, ministre de la justice.
- des agents de police judiciaire et des agents de police judiciaire adjoints mentionnés aux 1°, 1° *bis* et 1°ter de l'article 21 peuvent

- Les agents de police judiciaire adjoints mentionnés aux 1° *bis*, 1°*ter*, 1°*quater* et 2° de l'article 21 sont habilités à
- 7° *bis* Le délit prévu par l'article L. 126-3 du code
- Chapitre II *bis* : De la procédure de l'amende forfaitaire
- Titre XIII *bis* : De la procédure applicable aux infractions en matière sanitaire
- soit en application du présent titre, soit du titre XIV *bis*, cette obligation doit alors être exécutée
- Titre XIV *bis* : De l'aide au recouvrement des dommages et intérêts pour les victimes d'infractions.
- Article R50 *bis*

Consider *ter* in the following illustrations drawn from the NTF:

- Titre VII *ter* : Des modalités du placement sous surveillance électronique mobile à titre de mesure de sûreté
- Article 55 *ter*
- Article 127 *ter*
- Article 482 *ter*
- à l'article 6 *ter* de la loi n°83-634 du 13 juillet 1983 portant droits et obligations
- 1° *ter* Les adjoints de sécurité mentionnés à l'article 36 de la loi n°95-73 du 21 janvier 1995

Consider *quater* in the following structures :

- Les agents de police judiciaire mentionnés aux 1° *bis*, 1°*ter*, 1° *quater*
- Chapitre II *quater* : Dispositions applicables à certaines infractions au code de la route.
- Article R50 *quater*
- à l'alinéa premier de l'article R. 50 *quater*
- Article 482 *quater*
- 1° *quater* Les agents de surveillance de Paris ;

- Chapitre II *quater* : Dispositions applicables à certaines infractions au code de la route.

When the Latin-based ordinal numerals are not preceded by a cardinal number, they are not used. Instead their French synonyms are used as indicated in the sentence above.

Consider:

« Les *premier, troisième et cinquième* alinéas et, s'agissant des requêtes en nullité, le quatrième alinéa du présent article sont également applicables au témoin assisté. » [Emphasis is mine in the ordinal numbers]

After *bis, ter* and *quater* in the NTF they also use *quinquies* and *sexies*. This is a further proof that the Latin-based lexicon is still active in French. The instances of Latinisms as used in the NTF may not reveal the whole picture pertaining to translational behaviour, however. In combination with the latter, the occurrences of Latinisms in NTF might clarify whether the observed differences advocate for lexical simplification or not. The instances of Latinisms in STE and TTF are not extremely different but they allow us to pinpoint the key findings that indicate that legal translation is far from being simplified, unless otherwise instructed. While Latinisms seem more scattered across the STE, the TTF does not allow such occurrences. Overall, it is clear that the distribution of Latinisms across both the parallel corpus and the comparable corpus differs. Lexical simplification of ST Latinisms differs from English to French, with higher occurrences in the former than in the latter. Latinisms in STE are more prevalent in STE than TTF and NTF. Though at times chances are high to simplify the Latinisms by using common and simple French terms, more often the translator keeps the ST Latin-based loan terms, possibly in order to keep not only the spirit of the ST but also the pomposity of the text genre under consideration.

But there are noticeable discrepancies with other Latinisms. For example, English legal texts tend to use more Latin-based terms than both TTF and NTF. Where does this glaring difference come from? When we look into the conventions of both languages, we find out that English is more flexible and free to accommodate new and old structures than French. This might presumably be a contributing factor to the linguistic status English has achieved as a world language. But French is a strict language full of do's and don'ts as developed by the *Académie française* and as ingrained in the linguistic habits of its users. Interestingly, the TTF and the NTF also portray differences in their use of Latinisms.

4.2.4 Research question 4

Are there any differences and/or similarities one can observe in the realisation of lexical simplification in the English-to-French legal texts and in non-translated French?

Table 13: Occurrences of Latinisms in the NTF

Latinisms	Frequencies of Latinisms in the NTF
<i>Bis</i>	41
<i>mutatis mutandis</i>	1
<i>proprio motu</i>	0
<i>Ter</i>	13
<i>in camera</i>	0
<i>Amicus curiae</i>	0
<i>inter alia</i>	0
<i>vice-versa</i>	0
<i>Pro Rata Temporis</i>	0
<i>inter partes</i>	0
<i>Indicia</i>	0
<i>Ad litem</i>	0
<i>Non Bis in Idem</i>	0
<i>ex officio</i>	0
<i>Quater</i>	6
TOTAL	61

While differences can be noted between TTF and NTF, now it is a matter of looking into the features of the French legal translation in parallel corpus as opposed to other French non-translated texts. As can be seen from the table above, legal French translations tend to comply with their original English source texts. While the French translation has made use of a number of Latin-based loan terms of the ST, the non translated French seldom uses Latinisms.

However, it seems arguably genuine, that French sourced texts highly use these Latinisms (ordinal numbers: *bis*, *ter*, *quater*, *quinquies*, and *sixies*) more than the legal language of the French translation. Despite the point raised here, it should not be surprising that, should all these ordinal numbers be present in the ST, the translator would repeat them as such in the TTF.

The differences noticeable between both French legal translation and the NTF reside in their flexibility to accommodate and use Latinisms. Equally, the proximity to the language liable to obscure (with Latin-based terms) the translator from viewing other translation options, shows to the translator the options which prompt them into and limit them to borrowing the Latinisms rather than being creative and thoughtful enough and go beyond the term they know acceptable in the French legal lexicon. It would be said that French translations are produced under the influence and constraints of the source texts. This gives a frame from which the translator draws his choices. What is not clear is whether the French legal translator does not bear in mind the purism involved in French language as required by the *Académie française*. Notwithstanding that however, the table below clearly shows that NTF is typical of standard French while the French translation carries with it a number anglicisms, or rather Latinisms used in English as ST. This stems from the register required in the legal language as well as the linguistic contact in the mind of the translator.

Table 14: Frequency of occurrences of Latinisms in TTF and NTF

STE	TTF	NTF
<i>Bis</i>	bis (31)	bis (41)
<i>mutatis mutandis</i>	mutatis mutandis (17) en fonction des circonstances (1)	mutatis mutandis (1)
<i>proprio motu</i>	-	-
<i>Ter</i>	ter (7)	ter (13)
<i>in camera</i>	-	-
<i>amicus curiae</i>	amicus curiae (5)	-
<i>inter alia</i>	-	-
<i>vice-versa</i>	-	-
<i>Pro Rata Temporis</i>	<i>Pro Rata Temporis</i> (2)	-
<i>inter partes</i>	-	-
<i>Indicia</i>	-	-
<i>Ad litem</i>	Ad litem (1)	-
<i>Non Bis in Idem</i>	Non Bis in Idem (1)	-
<i>ex officio</i>	-	-
<i>Quarter</i>	quater (1)	quarter (6)
	-	quinquies (2)
	-	Sexies (1)
TOTAL	65	64

4.3 Discussion of the findings

As this study deals with ST loan words and their translation in the TT, I refer to statistical significance as used by Kruger (2000:208) to compare features of interest as opposed to the rest of the text. The features under consideration are the Latinisms and their translations can be compared with the rest of the TT in a contingency table and the X^2 formula applied to cells of the contingency table (Kruger 2000:208):

A (STE)	B (TTF)	A+B
C (Other STE words)	D (other TTF words)	C+D
A+C	B+D	A+B+C+D

(Adapted from Kruger 2000:208)

Now, let's consider the significance of the findings:

	STE	TTF	Totals
Latinisms	93	65	158
Other words	34353	35259	69612
TOTALS	34446	35324	69770

$$X^2 = \frac{69770(93 \cdot 35259 - 65 \cdot 34353)^2}{(158)(69612)(34446)(35324)}$$

$$X^2 = \frac{69770(3279087 - 2232945)^2}{133829273252107104}$$

$$X^2 = \frac{69770(1046142)^2}{133829273252107104}$$

$$X^2 = \frac{69770(1094413084164)}{133829273252107104}$$

$$X^2 = \frac{76357200882122280}{133829273252107104}$$

$$X^2 = 0.57^*$$

With $p \leq .05$, it is indicated that there is a positive level of significance. Most translators tend to use Latinisms, thus avoiding lexical simplification of ST Latinisms in English-to-French legal translations.

However, in view of the findings, it can be inferred that lexical simplification as a translation universal can apply to all language combinations only when the lexis at large or the patterns of interest of the languages involved differ. The Latinisms repeated in English-to-French legal translations do not result from the translation process per se but they are attributable to the historical specificity and legal systems and traditions of the languages under consideration, as implied in Laviosa (2002:46). Lexical simplification can be hypothesized as viable when languages of similar lexical might and equal status render differently the lexical entities of the source text in simplified target text (compared to its non-translation similar text). Therefore, contrary to what translation scholars (Baker 1993, 1996,; Laviosa 2002) claim, this study posits that simplification as a translation universal appears to be restricted to some lexical entities with the exception of Latin-based loan words in English-to-French legal translations. The findings also reveal that domestication of ST Latinisms is not common. Embedded in the tradition and legal practice, no deletion of ST Latinisms was found in the French translation. This refutes the assumption that Latinisms that cannot be expressed in the French legal target text are deleted.

As earlier stated, there is a strong correlation between Latinisms and non-lexical simplification, suggesting that Latinisms reproduced from English to French keep the spirit and the function of the terms. To this end, repetition of Latin-based terms from source to target language helps maintain the register or pomposity of

legal texts. In addition, the findings corroborate that the non-lexical simplification helps maintain the arcane and archaic vocabulary characteristic of legal texts. However, it is not surprising to come across this kind of translational behaviour while dealing with Latin-based loan terms. A dual scenario is at play. On the one hand, the translator renders into standard French the Latinisms of which corresponding phrases exist in standard French lexicon. This is the reason why translation strategies such as the use of superordinates, the approximation of the source word and paraphrases are not used. On the other hand, being aware of the historical and linguistic convergences between English and French and between both languages and Latin, the translator confidently borrows the ST Latinisms. This is done more as long as the text genre allows the register spiced with Latinisms in French.

Viewed from Klaudy's perspective, i.e. translational operations comprising language-specific, culture-specific, and translation-specific operations (Laviosa 2002:48-49), lexical simplification in English-to-French legal translations is clearly dependent more on language-specificity and culture-specificity than on translation-specificity, thus problematicizing its universality. It is in this vein that Olohan (2004:92) points out that universal-oriented explanations should be cognitive, i.e. the focus being on the subconscious phenomenon behind universals, not on the conscious social or cultural [or linguistic] factors. This, as equally noted by Laviosa (2002:50), has put translation scholars in an awkward position as to whether lexical simplification results from differences between source language and target language, cultural differences between source text and target text or from the subconscious translation process. Diverging somehow with scholars (Laviosa-Braithwaite 1997; Laviosa 1998b, c, 2002) who consider simplification a translation-specific universal, based on the findings of this small-scale corpus-based research, I find lexical simplification problematic in legal translation all the more that language- and culture-specificity as well as text genre and language conventions also come into play. Lexical simplification, controversial as it is (Laviosa 2002:43-51), is not necessarily a universal

translation-specific strategy easily traceable in legal texts, especially when loan words - Latinisms being a case in point - are used in English and reproduced in French. This is the overriding strategy in the corpus whereby Latinisms in the source texts outnumber the Latinisms in the target texts.

Though English and French have much in common or similar structures in legal terminology, it is obvious that difference is noticeable as a result of different legal and linguistic traditions and systems in view of the acceptable register in the target language. The comparison/analysis of the English legal ST and their French translations proves that the latter tend to use fewer Latinisms, yet possible to reproduce ST Latinisms in French translations. This is in line with Fawcett (1997:84) who posits that French is less ready to mix language levels than English. Large-scale corpus-based investigation of both legal language structures would be of insightful contribution accounting for differences in the frequency and distribution of Latinisms or loan words in English-to-French translations.

Nord (1997:57) elaborates that the translator may opt for reproduction of source text items depending on the translation purpose and text-type. With cogent examples, she further reiterates that some translation tasks call for some kinds of conventions to be repeated while others have to be adjusted to target-culture and language standards. Within functional approaches to translation, Latinisms are reproduced when they are accepted and not lexicalized in the historically-Latin-evolved target language, French being the case in point, or substituted by functional and semantic equivalents of the target language or system. The norm characterizing the translator's strategies is target-text functional and acceptable text production.

While Laurence Venuti (1995) pinpoints the translator's invisibility in Anglo-American translation market, legal translation is identified and the translator's imprint cannot go unnoticed. The fact that English and French are both world

languages accentuates the likelihood that Latinisms, already existing in their respective lexis, would be reproduced. Under the influence of the Roman Church and Empire as well as Latin as a communication medium, French, let alone English, is peppered with Latinisms. Yet, it sticks to its linguistic rigour of 'pure' French advocated for by the *Académie française*, hence some Latinisms rendered by their French functional equivalents. If function determines the textual make-up of the translation and governs the process of translating (Laviosa 2002:11), one can unequivocally say that the functionality principle has guided the behaviour of English-to-French translators of Latin-based loan terms/phrases used in criminal procedures.

Conclusion

This study proves the importance of functional approaches to translation whereby some kinds of conventions are reproduced whereas others should be adjusted to target-culture standards. Between the English legal language as a ST and the non translated French there is another language: French legal translation. The way French legal translators behave is quite different from other French legal writers. This is evidenced in the amount of Latinisms used in both versions of the same language.

CHAPTER 5: CONCLUSION

5.1 Research questions and findings

This study was designed to investigate (non-) lexical simplification of ST loan Latinisms in legal translation. While translation strategies differ from translator to translator, from text genre to text genre, the English-to-French legal translation dictates various approaches which are addressed through the research questions. In the first place, the study endeavoured to examine the correlation between STE loan Latinisms and their translations in French as well as the motives behind the strategies used to simplify or not the ST Latinisms. In the second place, the research questions dealt with function-specific and translation-specific on a par with similarities and/or differences in the realization of English-to-French lexical simplification.

At the beginning of this study, I had a couple of questions that I wanted answered in the end. The first research question was about whether Latinisms occur to a lesser or greater extent in legal English original texts than in their translations and/or in the non-translated French.

The findings of this study indicate that there are more Latinisms in STE than in the TTF and NTF. One can more safely use Latinisms in English than in French. The crux of it being that English users are more flexible – both conservative and progressive – to the extent that they keep the old jargon of the law, while French users are hesitant or unwilling to borrow terms (i.e. Latinisms) which are not pure French. However French translators tend to use Latinisms to some extent. The motives behind this linguistic behaviour pertain to the fact that they work under the constraints of the translational environment. The starting point is the ST, without which no one can expect a translation. In other words, however distanced from the ST the translational strategies are the translator produces the TT

bearing in mind the message conveyed in the ST. This message is linguistic, cultural, system-specific and field-sensitive.

Although the translator's invisibility has been to the fore in the Anglo-Saxon translation culture, it is worth noting that English-to-French legal translators cannot do without leaving their thumbprint. This is reflected in the fact that English-to-French legal translators tend to use Latinisms much more than their counterparts French-sourced text writers. This is a scenario which can be viewed from two stances. In the first place, the translator takes into consideration, consciously or unconsciously, the contact stemming from the linguistic, cultural and psychological aspects of the languages at play. The SL influences the TL. In the second place, the writer does not confront her linguistic competence and performance to any other SL. He/she is free to make use of his/her linguistic abilities and understanding as he/she pleases.

The second research question of this study pertains to the when, how and why function-specific and translation-specific lexical simplification differ from each other. This is crucial to determine the type of lexical simplification under consideration. The assumption here is that English-to-French legal translators tend to simplify the lexis of the ST Latinisms due to various reasons. The lexical simplification resulting from the mere contact of SL and TL should be considered a translation universal. But when it comes to lexical simplification that is dictated or required by the commissioner of the translation as specified in the translation brief, that is not a translation universal.

Nord (1997:57) elaborates that the translator may opt for reproduction of source text items depending on the translation purpose and text-type. With cogent examples, she further reiterates that some translation tasks call for some kinds of conventions to be repeated while others have to be adjusted to target-culture and language standards. Within functional approaches to translation, Latinisms are reproduced when they are accepted and not lexicalized in the historically-Latin-

evolved target language, French being the case in point, or substituted by functional and semantic equivalents of the target language or system. The norm characterizing the translator's strategies is target-text functional and acceptable text production.

The above interpretation is substantiated by the fact that translations are not always produced for the same purpose, the same audience, the same system or in same language. These components have a say to determine whether lexical simplification deserves or not to be considered a translation universal. This holds true in legal translation. Notwithstanding the efforts made to simplify the language of the law, the arcane vocabulary still characterizes this language. Thus said, this study has confirmed the assumption that the function of the translation in the receptive audience denies room for lexical simplification as a universal of translation. The same holds true for linguistic constraints traceable in French. Part of the don'ts in French is the non-use of loan terms, anglicisms as well as Latinisms in lieu of standard French terms. French as a linguistic system does not welcome foreign terms, and the lexical simplification in French translations does not necessarily result from the language contact of the translating activity. Also, the legal language as a system requiring a particular language typical of the profession dictates the reproduction of the same register/style in the target language. In this context, the findings confirm that lexical simplification does not imply a universal of translation.

The third question of this study addresses the correlations of English and French legal texts vis-à-vis the translator's functional choices and the distribution of instances of Latinisms in English legal texts, their French translations, and non-translated French. English and French legal texts do not have a one-to-one correspondence in their use of Latinisms, thus foreshadowing disparity in their use of loan terms. Instances of Latinisms in STE are the highest; instances of Latinisms in TTF are higher than those in NTF. This is a result of multiple factors. The English language is both conservative and progressive, thus justifying the

richness of its lexis comprising the old and new terms. On the other hand, French translation endeavours to maintain its standards, despite the constraints of the SL. By the same way, NTF uses the fewest Latinisms. Under no influence whatsoever, the NTF is produced in its sociolinguistic realm and does not reflect any extraneous influence. As above-mentioned, there is a strong correlation between the repetition of Latinisms in TTF and non-lexical simplification, suggesting that Latinisms reproduced in legal TTF keep the spirit and the function of the terms. To this end, repetition of Latin-based terms from source to target language helps maintain the style or pomposity of legal texts. Hence the confirmation of the first assumption that legal translator tends not to simplify the lexis, Latinisms being a case in point. In addition, the findings corroborate that the non-lexical simplification helps maintain the arcane and archaic vocabulary characteristic of legal texts.

The fourth question addresses possible differences and/or similarities one can observe in the realisation of lexical simplification in the English-to-French legal texts and in non-translated French. Throughout both the parallel and comparable corpora, differences are clear-cut. Lexical simplification is more dictated by the system/genre of the text and function of the translation as well as the linguistic constraints expected and existing in the French language. The reality is that the translator works from ST and it is his responsibility to understand the source language content/message and seeks the means and material to translate it in the TT. The SL influence is unavoidable, and this marks the difference. The difference also lies in their dissimilar compliance with genre conventions. Because of the presence of the STE, containing Latinisms, the TTF comprises both the influence of the genre as reflected in the SL and the constraints traceable in the TL. The style of the TTF has a strong influence inherited from Latin and it sticks somehow to its perpetuation, to a greater extent. Though the same historically-influenced linguistic inheritance is shared between English and French, the latter has come up with conventions unwelcoming loan lexis, hence lack of evidence of lexical simplification resulting from linguistic features of the

language concerned. It is posited that French is less ready to mix language levels than English (Fawcet 1997:84), despite the existence of some similarity between TTF and NTF.

With respect to similarity, the fact is that both TTF and NTF operate under the aegis of the same language system. Both the TTF and NTF producers are well aware of the language aspects to cater for in their production process. Such features include but are not limited to lexis, syntax, genre conventions, sociolinguistic, function of their respective texts as well as other binding parameters (conscious or unconscious).

In view of the findings, it can be concluded that lexical simplification as a translation universal apply to all language combinations only when the lexis at large or the patterns of interest of the languages involved differ. The Latinisms repeated in English-to-French legal translations do not result from translation process per se but they are attributable to the historical specificity and legal systems and traditions of the languages under consideration, as implied in Laviosa (2002:46). Lexical simplification can be hypothesized as viable when languages of similar sociolinguistic and lexical power and equal status render differently the lexical entities of the source text in simplified target text (compared to its non-translation similar text). The findings of this study gainsay the claims of translation scholars (Baker 1993, 1996, 1997; Laviosa 2002). They posit that simplification as a translation universal is restricted to some lexical entities with the exception of Latin-based loan words in English-to-French legal translations. The findings also revealed that domestication of ST Latinisms is not common, though with some grounds for further investigation. Embedded in the tradition and legal practice, no deletion of ST Latinisms was found in the French translation. This refutes the assumption that Latinisms which cannot be expressed in the French legal target text are deleted.

To put it in a nutshell, I have answered the above research questions based on the fact the translators have either reproduced the ST Latinisms or rendered them in their corresponding standard French. Reproduced in the TTF, Latinisms deny room for lexical simplification; rendered in standard French, they would imply lexical simplification resulting not from the translation process but from the linguistic requirements existing in the French language at large. This translational behaviour is brought about by the linguistic and genre constraints as well as the functionality principle. In legal translation, whether a brief is provided or not, what comes to mind first is a multi-layered audience bringing together knowledgeable and lay people to the legal setting. To this end, this might also be associated with the 'dilemma' of repetition and use of common synonyms in English-to-French legal translation. There is no proof whatsoever to regard lexical simplification as a translation universal in legal translation of Latinisms when the languages involved are of the same and equal sociolinguistic power. As it was stated earlier, most English-to-French translations of the legal texts involved in this study tend to keep the register typical of the language of the law, as reflected in the STE, but also they endeavour to bring in the flavour and lexicon of the French legal language.

5.2 Contribution of the study

The English-to-French legal translation of Latinisms advocates for more flexible understanding of translation at large and of legal translation in particular. As Moropa suggests in her thesis (2005:191) this study also advocates for an open-mindedness approach to (legal) translation, with no one sure way of handling translation difficulties (i.e. ST loan words) but a description of all that translation entails. While handling ST Latinisms in English-to-French legal translation, there is large room either to translate the Latinisms or borrow them as such and reproduce them in the TT, the former strategy having the higher probability of occurrences.

Besides the overall contribution of CTS, this study is also useful for translation trainees. They will understand how to face successfully the non equivalence caused ST loan words, on the one hand understanding the importance of making personal judgement, depending on the translation brief, to choose whether to simplify the lexis by translating loan words into corresponding standard TT words. Translation theory coupled with practice makes perfect.

With parallel and comparable corpora, the translator has at his disposal an important resource to resort to when the traditional references prove insufficient and unhelpful for context-sensitive words/terms. Translation scholars and practicing translators will understand the rationale of questioning the accepted claims as universals are not always universal. This has proved that English-to-French legal translation of Latinisms does not pave the way for lexical simplification, at least between languages sharing the same status. The problem may be posed when it comes to languages of less diffusion.

5.3 Recommendations for further study

While investigating lexical simplification of Latin-based loan terms of English-to-French legal translations, a couple of other topics worth investigating crossed my mind. The first is related to the possibility of lexical simplification between languages of different sociolinguistic status, i.e. less diffusion. Does lexical simplification between western languages and African languages hold in legal setting or other text genre? Equally important would be the study that investigates lexical simplification between an English-to-French parallel corpus and a French-to-English parallel corpus, besides a comparable corpus of both non-translated French and English. This would likely shed light on the understanding of text production in English and French as regards Latin-based loan terms.

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