



INTERNATIONAL
ISSUE

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CHINESE-ENGLISH LEGAL TRANSLATION: ADAPTATION AND SELECTION

Lin Wei (林巍)

Translation is instrumental in transferring content through languages, but we must recognize that all translation is done under a certain set of conditions. In legal translation, the conditions are somewhat different from those in "normal" translation — there are specified relations as well as particular choices to be made. When professionals translate, they actually engage in a process of adaptation and selection.

Language, Law and Selective Context

The relationship between language and law is intrinsically close. It is said that language constructs law (Gibbons, 1994). For example, the basic concepts regarding the rights and obligations of a member of a community are deeply embedded in the fabric of language itself, and existed before there were codified laws. Language is the medium, process, and product in various arenas of law where legal texts, spoken or written, are generated in the service of regulating social behavior. Furthermore, concepts such as "guilt" and "murder" are available to us only

through the medium of language. There is, then, a very important sense in which language constructs the law.

In all societies, law is formulated, interpreted, and enforced, and these different processes are expressed primarily through language. As Jean-Claude Gémard states: "Language does not escape with impunity the clash of legal languages and systems" (Maley, 1994).

In linguistic studies, language has been studied from the approach of semiotics and from the functional-systemic model developed by M.A.K. Halliday (Halliday, 1978; 1985a). Semiotics is the study of signs through which meaning is communicated; these signs may be linguistic or non-linguistic, or a mixture of both. In a

given society, signs are not free-floating, but found in characteristic configurations in social situations. Linguistically, meanings constitute a discourse type (a register or genre) seen in lexicon, grammar, textual organization, and the structural shape of a given text

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THE FIT WORLD CONGRESS IN SHANGHAI

Alexander Raïnof

The XVIIIth World Congress of the Fédération Internationale des Traducteurs, or FIT, the International Federation of Translators, was held in Shanghai, China, from August 4 through August 7, 2008. TAC, the Translators Association of China, comprising some 65,000 members, hosted the event, which is held every three years in a different venue. In TAC's invitation, they described the World Congress as "one of the most prestigious and influential international gatherings of the global translation community. It attracts translators, interpreters, linguists,

terminologists, and educators, as well as leading players in the industry from around the world."

The theme was "Translation and Cultural Diversity," and the congress took place in the magnificent Shanghai International Convention Center in Pudong, the new business section of Shanghai by the shores of the Huangpu River. The Huangpu, a wide waterway that flows through the middle of Shanghai, is only sixty-eight miles long from its source in Dianshan Lake to its junction with the Yangzi River,

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MESSAGE FROM THE CHAIR

I am pleased to report that fall has been a productive and fruitful time for NAJIT. We are expanding our network with other organizations, connecting members to new services, and heartily advocating for our colleagues from Iraq and Afghanistan. The passionate involvement of our members continues to move NAJIT in a positive direction.

I recently traveled to Washington, D.C. to meet with the American Red Cross and the National Virtual Translation Center, to work on developing a national network of trained volunteer interpreters and translators who can be mobilized in times of disaster. I toured the Disaster Operations Center at the Red Cross headquarters, and discussed ways of expanding and improving the Disaster Relief Appeal from 2006. In August, you received a call for volunteers via Cybernews. The overwhelming membership response was heartwarming. I would like to sincerely thank all the volunteers for their generosity. If you are interested in volunteering in times of crisis, please see NAJIT's website for more information. We will continue to work closely with the Red Cross and the NVTC to advance language assistance services in the event of disastrous occurrences in the United States.

The NAJIT Board of Directors once again attended the Federal Interagency working group on Limited English Proficiency Conference. The working group's mission is to build awareness of the need to ensure that limited-English-proficient persons have meaningful access to important federal and federally assisted programs. The conference provided a unique opportunity for NAJIT to share resources and information on issues and initiatives.

Responses to our recent membership survey made it clear that NAJIT members want additional insurance programs endorsed by our organization. In working toward that goal, we have recently made available a new

best-in-class disability insurance program for all NAJIT members, including part-time independent contractors. This program will be posted on the website soon. I encourage you to check our website frequently for updates.

Our advocacy committee continues to closely monitor pending legislation on a state and national level in order to ensure that our voices are being heard. Among several other initiatives, NAJIT played an active role in supporting Amendment 50 to the recently passed Defense Authorization Act of 2009. This legislation will lead to the Defense and State Departments jointly establishing and operating a temporary program to secure employment as interpreters, translators, and cultural awareness instructors for Iraqi nationals who have worked for the United States government in Iraq. Thank you to the advocacy committee, Daniel Sherr, and all our members who helped to promote this important amendment.

Looking forward, NAJIT will continue to reach out and establish relationships with organizations on the national and international levels. Dr. Alexander Rainof represented both NAJIT and SSTI at the FIT conference in China and will be representing NAJIT at the forthcoming Translation Summit (date to be announced). In addition to our recent work with non-governmental organizations such as the Red Cross and the Brennan Center for Justice, we continue to strengthen connections with various governmental agencies.

All these activities are made possible by the generous contributions of volunteer time and energy put forth by so many of our members. Please do not hesitate to contact me, headquarters, or committee chairs if you are interested in continuing the advancement of our organization.

Isabel Framer,
Chair, Board of Directors

NAJIT occasionally makes its member information available to organizations or persons offering information, products, or services of potential interest to members. Each decision is carefully reviewed and authorization is given with discretion. If you do not wish to have your contact information given out for this purpose, please let headquarters know and we will adjust our records accordingly.

TRAINING INTERPRETERS IN MEXICAN INDIAN LANGUAGES: A MULTI-NATIONAL PROBLEM

Georganne Weller

There is a desperate need, both in the United States and in Mexico, for interpreters in Mexican and Guatemalan indigenous languages. It has become only too obvious from the number of articles in newspapers and journals, and from testimonies by fellow court interpreters, that both countries are inadequately prepared to fulfill this need. Both sides of the U.S.-Mexican border need interpreters who are bilingual in an indigenous language and English or Spanish, who can be used in relay interpreting scenarios. There is a terrible backlog in the state courts of the U.S. judicial system due to a lack of qualified interpreters of these languages, including in the "otherwise qualified" category. With the U.S. legal system struggling to identify interpreters to answer their needs, and since historically, the Mexican government has done little in this area, both countries have come to realize that there is a critical need for interpreter training in indigenous languages.

My concern with this cause stems from being a long-standing conference and court interpreter myself. But more importantly, I am currently the director of language policy at the National Institute for Indigenous Languages (INALI, for its designation in Spanish, *Instituto Nacional de Lenguas Indígenas*), where we have a special unit for training and certifying interpreters of Spanish and the Indian languages of Mexico, established by Clause XI, Article 13 of the *Ley General de Derechos Lingüísticos para los Pueblos Indígenas*, known as the Linguistic Rights of Indigenous Peoples' Act.

The National Institute of Indigenous Languages was established on March 13, 2003, as part of the Linguistic Rights of Indigenous Peoples' Act and began operations in 2005. Under Article 10, Chapter II of the Act, federal authorities involved in the administration of justice are responsible for providing speakers of Mexican indigenous languages with public defenders and interpreters who have knowledge of these languages and cultures. While this obligation does not necessarily extend to justice or the use of interpreters outside its borders, the Mexican government is called upon to establish policies, actions and measures to protect and preserve the use of national languages and cultures for migrating populations within and outside Mexican national territory. (The linguistic rights of Mexican migrants, many of whom speak Indian languages, are mentioned in Clause XIII, Article 13 of the Act.)

As the federal agency in charge of implementing the Linguistic Rights of Indigenous Peoples' Act, it is incumbent upon INALI to establish standards and formulate programs to certify and accredit bilingual technicians and professionals, including interpreters and translators, to participate in the Mexican judicial system.

Mexico's Linguistic Diversity

One of the pillars of Mexican cultural heritage is her linguistic diversity, yet this rich diversity also presents pragmatic problems

when it comes to designing and applying language policies to train and certify interpreters in indigenous languages.

In addition to the responsibility that INALI has under the Act, Article 20 directs us, in collaboration with other prominent institutions in the country, such as the National Institute of Anthropology and History (INAH) and the National Institute of Statistics, Geography and Informatics (INEGI), to publish a Catalogue of Mexican National Indian Languages. Such a catalogue was published in the Official Gazette (*Diario Oficial de la Federación*) on January 14th of this year. (It can be found online at: www.inali.gov.mx.)

As the language policymaking organ of the Mexican government, INALI has codified the following language structure for official government purposes, including the next national census in 2010: there are **11 language families in Mexico** (Algica, Yuto-nahua, Cochimi-yumana, Seri, Oto-mangue, Maya, Totonaco-tepehua, Tarasca, Mixe-Zoque, Chontal de Oaxaca and Huave). These families are broken down into **68 language groups** (previously known as languages), and **364 variants** of the 68 groups. The 364 variants are so different, according to their speakers, as to require different textbooks and national treatment, including different training programs for translators and interpreters.

For several years INALI and other municipal, state, and federal bodies have fielded requests from the U.S. for interpreters in several indigenous languages. Even before the establishment of INALI, the main question one needed to ask in these cases was "What variant of Mixtec [or any other language] does this person speak?" The variant can now be identified if it is known where the person is from, with reference to the 152 detailed linguistic maps in the Catalogue. If an interpreter speaks a different variant of that language group, there may not be enough mutual intelligibility for accurate and complete communication to take place. Therefore, it is essential for any public and private agency seeking an interpreter to provide sources in Mexico with as much basic information as possible regarding the geographic origin of the speaker in need of an interpreter.

The most critical shortcomings we face are:

- a lack of qualified interpreters and translators of Mexican indigenous languages throughout the legal system in both countries;
- a lack of bilingual candidates at the technical and professional levels;
- a lack of specialized training and certification programs for judiciary interpreters and translators;
- the difficulty of vetting speakers of indigenous languages in order to gauge their proficiency in the native languages and

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- their aptitude for grasping Western legal concepts;
- insufficient coordination among different branches of government to form a solid body of professional interpreters and translators able to cover the widespread linguistic diversity represented by the Mexican indigenous languages.

Referring Mexican interpreters to the U.S. is also complicated by the fact that judicial proceedings are radically different in Mexico, and usefulness for the U.S. legal process would require that the interpreter receive further training in the legal procedures of the United States.

The Multi-National Nature of the Problem

Over the years, Mexico did not respond to a growing need for properly qualified interpreters within its own borders, and it is only recently, with the founding of INALI, that there is a governmental agency charged with certifying interpreters for the justice and public health sectors. With as many as 364 linguistic variants of indigenous languages, the task is clearly overwhelming. As the country of origin of these language groups, Mexico also has the moral obligation to assist the receiving country by offering assistance whenever possible to the U.S. court system.

In two ways the task is easier on the U.S. side: 1) court interpretation is institutionalized with rules, regulations, and remuneration; and 2) there is no requirement that "exotic" language interpreters be federally certified. What there has not been, to date, is a way to expedite visas or cover expenses for Mexican interpreters to travel to the U.S. to actively participate in the U.S. judicial process. On the Mexican side, until a certification process is in place, there is no roster of qualified interpreters who could possibly be sent to the U.S., nor is there any way to transport them from remote areas or procure visas for them, since they usually don't meet the legal and economic criteria for a regular visa. Fortunately, in a practical sense, there is less linguistic diversity of Mexican indigenous languages in the U.S. than in Mexico, since migration takes place from certain areas only and not from all regions of Mexico. However, the number of migrating communities is on the rise.

The INALI Operational Model

INALI now has an operational model for certification and accreditation for Mexican indigenous languages, which in late 2007 was pilot-tested in the state of Guerrero at a training course in the Amuzgo, Mixtec, Náhuatl and Tlapanec languages. It is a three-tiered service model consisting of the following:

- a system of standardization and certification in language proficiency in the indigenous language (normally the mother tongue) to measure knowledge, skills, and language ability, no matter how acquired or learned;
- a program of academic recognition for self-taught learners or for knowledge acquired at the workplace, in an effort not to exclude individuals with little or no formal schooling;
- educational programs and training in the indigenous languages, so as to provide the tools necessary to perform well on the job as well as to offer opportunities in keeping with community needs.

This model is based on justice in a multicultural nation, a state of law that recognizes diversity, and a multilingual approach. The basic principles are that the model be inclusive, voluntary, flexible, impartial, participatory, transparent, objective, and with free access.

Pilot Project in the State of Guerrero

The pilot project was held on Thursday-Friday-Saturdays for eight hours each day, over a two-month span. The course included classroom and workshop sessions covering subjects such as strategies for reading and understanding legal texts; compilation of personal glossaries; linguistic and cultural diversity in the State of Guerrero and Mexico in general; theory and techniques of translation and interpretation; linguistic rights; the role of the interpreter in the judiciary process; ethical considerations, and many others. The main purpose of the project was to see if it would be possible, in a short period of time, to professionalize speakers of the four Indian languages native to the state. Students ranged from *campesinos* and bilingual teachers to civil servants and law students, all with limited practical experience. In addition, we hoped to get some idea of what adjustments would have to be made in the project design before taking it to other states where qualified interpreters were also needed.

The teachers of the theoretical courses were linguists and anthropologists, and the practical workshops were given by the author of the present article for non-language-specific techniques. The coordinators of each language group had at least five years of experience working as free-lance court interpreters in the state, but no formal training.

It was very difficult to work with students from such diverse academic backgrounds and levels of linguistic competence. While great progress was made in making students aware of the responsibility they must shoulder and the skills they would need in the courtroom, it was impossible to bring them to a professional level in such a short time. However, the pilot project was certainly a step in the right direction and laid the groundwork for courses to follow. More detailed observations will be available in the future.

Closing Thoughts

Through opportunities at professional conferences in the U.S., such as at ATA and NAJIT events, we have been able to meet with many colleagues who share the same concerns about access to justice on both sides of the border for speakers of Mexican indigenous languages involved in criminal cases or in need of other services. We have only seen the tip of the iceberg. We have to solidify the certification process for court interpreters in Mexico, and find a way to get them to the United States to perform professional duties in the host country as part of the administration of justice. Hopefully, by late 2009 a roster of certified interpreters and their contact information will be available through INALI. Meanwhile, we will continue to serve as a bridge for finding the right language brokers, and if we can determine the variant spoken, we are only too willing to be of assistance. In view of the previously mentioned hurdles, we need to consider the potential of telephone interpret-

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OBSERVATIONS IN A MEXICAN COURTROOM

Lesley M. Walker

In recent years we've read and heard much about judicial reform in Latin America, and since I'll be spending two years in Mexico State on family business, I decided to observe the transition here in my municipality, Atizapan de Zaragoza. It's a town of about half a million inhabitants, located north of Mexico City. The local *juzgado penal* is small brown two-story building on a busy street, just in front of a strip mall.

When I approached, I saw attorneys and non-attorneys walking freely in and out of the open double doors of the courthouse. A security guard was standing nearby, and I started to approach him, expecting to be asked for identification or what my business was, but he just smiled and greeted me with a *buenas tardes*. I headed inside and took stock of the different offices located on the first floor: the *oficialía de partes*, the *defensoría del pueblo*, the *juzgado de cuantía menor*, and the *centro de mediación y conciliación*. I opted for the *juzgado de cuantía menor*, where I would feel most comfortable asking questions. As I walked towards the counter where the public is received, I saw a woman standing in the doorway of what looked to be some sort of chambers, buttoning up what looked to be a judge's robe. She asked, "¿Ya le atienden?" I answered no, and she motioned for me to walk through the swinging door into the employees only area. It turned out that, indeed, she was the judge, and she answered all my questions thoroughly, with the utmost formality, informing me that all her office's hearings are public and that anyone was welcome to observe. She told me that a hearing was about to begin — if I wanted to watch, I had to enter before the doors were closed and would not be able to leave until the hearing was over.

I walked up the wide staircase to the second floor and waited on a bench for the courtroom doors to open. The judge followed not too far behind and entered a glass-protected hallway beside the courtroom (I couldn't help but wonder if it was bulletproof). When the courtroom opened, I took my seat in one of the theater-style chairs installed for the public. I had walked around the building, talked to a judge, and now entered a courtroom without ever having passed through a metal detector or undergone a minimal security check.

The room was small and clean and looked like a miniature version of the courtrooms in California where I've worked. A bar with a swinging door separated the public from officers of the court, and there was a table for the defense, another for the *Ministerio Público* and the *parte lesionada*, and a witness stand against the left wall. The judge's bench was two steps higher than the rest of the room. To the right of the bench against the right wall was a small desk with a computer. Several women were sitting at the tiny desk, typing and discussing what they'd pulled up

on the computer screen. The dress code appeared to be business-casual — black pants and button-up shirts, but no jackets. One of them kept arranging paperwork and pencils on the judge's desk, checking the microphones (there was one at every table), and coming in and out of a side room connected to the glass-protected hallway that the judge had passed through. One person in the room appeared to be a defendant, a small, dark woman wearing a work uniform and looking stressed out. A defense attorney, a young man wearing an expensive-looking suit, was sitting at the defense table. One of the clerks saw a woman in the audience fumbling with a cell phone, and told her to please put it on silent, or better yet turn it off, because if it rang, the judge, well... She opened her eyes wide as if to say that she'd seen it happen and it wasn't pleasant.

Finally the judge entered and announced that the *Ministerio Público* was running about twenty minutes late. Sitting and waiting, only to find out I'd be sitting and waiting some more — so reminiscent of California courtrooms! The judge said, "Por inasistencia, puedo diferir la audiencia," and she asked the parties if they preferred to reschedule or wait longer. The defendant explained that she'd already asked for time off work and that she'd rather wait. Everyone was instructed to leave the courtroom.

From experience I knew that twenty minutes of court time can turn into hours. I left to do an errand and, when I returned, the courtroom doors were closed. They probably had started the hearing.

I went back downstairs to the office of the *juzgado de cuantía menor*, where a pleasant-looking gentleman at a desk behind the counter told me that the hearing had already been held and concluded, but he checked a notebook and told me I was welcome to come back for a Monday hearing at 10 am, or really any day of the week at 10 am. He was so congenial that I decided to chat him up on the transition to oral trials. He told me that every state in Mexico was required to make the complete transition to oral trials by 2016. All criminal trials in Mexico State are now being conducted orally, he said. There are no juries, and the use of a jury is not only not part of the requirements for 2016, it simply has not been *abordado* as part of the judicial reform. There are videocameras taping every party (*actor*) in the courtroom: one on the judge, one on the witness stand, one on the defense table, one on the prosecution table, and one on the public area. Anyone requesting a record of the proceedings must provide a blank compact disk and later receives a copy of the video recording. There are no court reporters and no verbatim written record of courtroom proceedings. Each of the three women sitting at the clerk's table in the courtroom is either a *secretaria de acuerdos*, a *técnico judicial*, or an *archivista*

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ing, a far from perfect solution, but one that shouldn't be overlooked in light of the many logistical problems.

The switchboard number at INALI is 011-52-55-5004-2100 (when dialing from the United States), and the director of the interpretation certification program is Genaro Cerna, 011-52-55-5004-2107. While the program is not directly under me in the

language policy area, I will be only too glad to help and can be reached at 011-52-55-5004-2106. We need to work together, and please view this article as an invitation to do so. ▲

[This article first appeared as a post on the NAJIT listserve. The author is Director of Language Policy, National Institute for Indigenous Languages (INALI) Mexico City, Mexico. E-mail: georganne.weller@inali.gob.mx]

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judicial. The gentleman who was politely answering my questions is called a *notificador*—he's responsible for notifying anyone in his jurisdiction wanted for an appearance or anyone who has been summoned in this or another jurisdiction.

Nearly a month later, I finally found time to return to the *juzgado penal* to catch another hearing at the *juzgado de cuantía menor*. The same *notificador* was at the counter and told me an *audiencia principal* was about to start—I was welcome to go upstairs and take a seat. After I waited in the courtroom for about an hour, the judge came in with two other people who appeared to be touring the facilities. When they left, we were all asked to stand while the *jueza licenciada/abogada* took the bench. She gave us permission to sit down and apologized for the late start—the two visitors had been from the *comisión de derechos humanos*. They had been discussing the new principle of *publicidad* and the judge was showing them around the *sala de oralidad*. The judge then asked the *licenciado secretario judicial* at the clerk's desk to announce the courtroom rules. On the record, he stated the names of all those present and walked their identifications (presumably their *credenciales de elector*) over to the bench. The parties were called and the *secretario* announced that the case was about *el delito de daños a los bienes ocasionados por culpa en agravio de...* from *Apartado 309* of the state penal code. Then loudly sounding her gavel, the judge announced, "*Declaro aperturada esta diligencia.*"

She then inquired of each side, the defense attorney and defendant (a young woman) and the *Ministerio Público* and the *parte lesionada*, if they had by chance come to any agreement about an out-of-court settlement. The defense attorney stated that they could not agree on the amount of *restitución* to be paid. The judge then inquired if they were interested in making an appointment at the office of *conciliación*. The *parte lesionada* and *Ministerio Público* whispered to each other, and the *M.P.* told the judge that his client did not have time for the three meetings that would have to be scheduled. The judge reminded all parties that *conciliación* was an option open to them up until the sentence is pronounced.

Next the *secretario judicial* read off a list of *evidencias*, which the judge said were all admitted during the *audiencia preliminar*. The evidence consisted of *declaraciones* by various people as well as letters of *carácter* in support of the defendant.

Then the judge explained the principle of *concentración* under the new penal system: *las pruebas se desahogan en una sola audiencia*. She will have to *diferir la audiencia* because one of the main witnesses was not present—either he was not subpoenaed by the *notificador* of the neighboring municipality or failed to appear. A

new date was set for the *desahogo de pruebas* and the judge promised that a *fallo definitivo* would be issued that day. The judge also announced that the missing witness will be fined if he or she didn't show up at the next hearing, and all witnesses present were *apercibidos* that they will also be fined if they don't appear at the next court date.

The defense attorney had five more *cartas de conducta* to submit as evidence on behalf of his client. He showed them to the *M.P.* and then handed them to the *secretario judicial* to give to the judge. (Notice I have made no mention of a bailiff or other courtroom paperwork mover—there is neither. The *secretario judicial* gets up and down from his desk to transport all documents between parties). The *M.P.* objected to the letters because they were intended to be private correspondence and should be ruled *nulas*; the judge admitted them but stated that the objection would be noted and considered at sentencing.

Next the judge asked the *secretario judicial* to prepare the *actas mínimas*, instructing him to note that the hearing will be continued because the principle of *concentración* has to be respected. All parties sat quietly for ten minutes while the *secretario* prepared and printed the *actas mínimas*. The judge signed them and then the *secretario* approached the *parte lesionada*, the defendant, and two witnesses to sign as well, upon which he returned their identification cards, which had been left on the judge's desk during the hearing.

Finally, with an authoritative pound of the gavel, the judge announced the hearing terminated and left the bench. As I waited around to see if there was anything else to observe, the *M.P.* came over to introduce himself. I explained who I was and my interest in observing the transition to *juicios orales*—he corrected me, saying that the trials are actually called *juicios predominantemente orales* because the only hearings open to the public are the *audiencia preliminar* and the *audiencia principal*. The rest is done behind closed doors, just as in the previous system. He invited me to attend another *audiencia principal* or *desahogo de pruebas* the following morning. He said they typically start around 9:30 a.m. and go until 6 p.m., with the judge issuing a final ruling and sentence before the day is over. I'll have to do some schedule rearranging before I can observe an all-day hearing, but I hope to return. I assured the prosecutor that he'd be seeing more of me. ▲

[The author holds an MA in translation & interpretation from Monterey Institute of International Studies and a double BA in Spanish and Latin American Studies from Tulane University. She is a California certified court interpreter.]

CHINESE-ENGLISH LEGAL TRANSLATION *continued from page 1*

identified with the specific genre. There is a relationship between discourse type and social situation. In the Hallidayan model, this relationship derives from the values or components of the social situation: its field (the nature and purpose of the activity), tenor (nature and speech roles of the participants) and mode (type of channel for communication). These are very broad, general categories of context.

In translation studies, the context can be seen as a "translational eco-environment," the comprising worlds of both source and target languages, in all their linguistic, communicative, cultural and social aspects (Hu Gengshen, 2003). Working in a "selective context," a translator is confronted with many choices within as well as outside the legal system.

There is a discrepancy between daily language and legal language, especially in Chinese-English legal translation. One has to admit that despite efforts at simplification and clarification, the gap between legal discourse and everyday discourse is still very wide.

While current legal discourse retains its identity as a highly specialized and distinctive discourse type or genre of English, legal discourses of the legal systems of England, Canada, the United States of America, Australia and New Zealand, derived from the English common law system, are manifestly similar. There is not one legal discourse, but a set of related legal discourses. Each has a characteristic flavor, and each differs according to the situation in which it is used.

First we have judicial discourse, the spoken or written language of judicial decisions, which is reasonably flexible and varied, but nonetheless contains recognizable legal meanings in predictable patterns of lexicon and grammar. These judicial decisions, collected in reports, make up what is known in the English-derived common law system as case law (Maley, 1994).

Then we have the courtroom discourse used by judges, counsel, court officials, witnesses, and other participants. This is interactive language, peppered with ritual courtesies and modes of address, perhaps the closest approximation to everyday speech of all public legal discourses. We also have the language of legal documents: contracts, regulations, deeds, wills, Acts of Parliament, or statutes, quintessentially legal and formal. And finally we have the discourse of legal consultation, between lawyer and lawyer, or lawyer and client (Maley, 1994).

The language of the law is not one homogeneous discourse type, but a set of related and overlapping discourse types, and a range of different theoretical models have been applied to each.

In general, there are two main aspects of the law – legal codes, and legal procedures. A legal code is not designed to cover a single instance of human behaviour, but rather a range of related behaviors in a delimited range of situations. These aspects of the law are reflected in legal language and consequently in legal translation, thereby contributing to the selective context (Maley, 1994).

Linguistic issues sometimes require solutions informed by both social and cultural contexts. Therefore, "a given source text can be rendered into a variety of target texts so as to be adaptive to the needs of different reading groups; for example, different translations of the Bible can be adaptive to different audiences in order to enjoy a wide readership" (Fang, 1999). Peter Newmark also points

out that "Translation theory is concerned with choices and decisions, not with mechanics of either the source language... or the target language text" (Newmark, 1982).

In the translation process, a translator constantly makes decisions within a selective context in order to achieve "certainty" and "accuracy." For instance, the process of achieving relative "equivalence" in legal language involves a series of multi-dimensional choices, as seen in the following examples.

Adaptive Selections

As the renowned translation scholar Nida points out: "A translator must engage in thousands of decisions involving both selection and arrangement to fit another culture, a different language, diverse editors and publishers, and finally a reading audience" (Nida, 1993).

"A translator, perhaps more than any other practitioner of a profession, is continually faced with choices; for instance, when he has to translate words denoting quality, the words of mental world (adjectives, adverbs, adjectival nouns, e.g. "good," "well," "goodness"), rather than objects or events. In making his choice, he is intuitively or consciously following a theory of translation, just as any teacher of grammar teaches a theory of linguistics" (Newmark, 2004).

Words of Authority: 應 (ying)

The Chinese 應 (ying) can be translated differently, as "may," "shall," "must" and so on. The translation will vary, depending on the context.

The text of a statute has as its central task the identification and empowerment of rights and duties. There are two chief ways of doing this – by saying what must be done and what may be done, what are called in law "mandatory or directory" and "discretionary or permissive" rules. Linguistically, this is achieved by modals "may," "shall," and "must," which carry the meanings of permission, order and prohibition (Kurzon 1986).

Typical examples are:

"This Act may be cited as the Interpretation Act 1978."

"This Act shall come into force on 1st January 1979."

The first is permissive and the second sentence is mandatory. For centuries the distinction between what must be done and what may be done has been expressed by "must" and "shall" as opposed to "may." Although this may be clear to the English speaker, it presents a challenge to the Chinese translator who needs to convey the legislative intent.

In translating the sentence "法律應設定各種行政處罰" (*fa lü ying she ding ge zhong xing zheng chu fa*), several choices can be made. However, considering the discretionary nature of the context, the best translation would be "different types of administrative penalty may be created by law."

In the sentence "限制人身自由的行政處罰, 只應由法律設定" (*xian zhi ren shen zi you de xing zheng chu fa, zhi ying you fa lu she ding*), "ying" is of a mandatory nature, thus it should be translated as "administrative penalty involving restriction of freedom of person shall only be created by law."

> continues on next page

CHINESE-ENGLISH LEGAL TRANSLATION continued from page 7

In the sentence “沒有法定依據或者不遵守法定程序的，行政處罰無效” (*mei you fa ding yi ju huo zhe bu zun shou fa ding cheng xue de, xing zheng chu fa wu xiao*), “ying” is omitted, but the sentence has a strong mandatory nature, so it should be translated as “administrative penalty that is not imposed in accordance with law or in compliance with legal procedures shall be invalid.”

In the sentence “廠長應依靠職工群眾履行本法規定的企業的各項義務” (*chang zhang ying yi kao zhi gong qun zhong lu xing ben fa gui ding de qi ye de ge xiang yi wu*), “ying” seems to be non-mandatory. However, considering the content, which stipulates the company's obligations, this should be translated as “the factory director must rely on the staff and workers to fulfill the obligations of the enterprise as prescribed by this law.”

Various Crimes- 罪 (*zui*)

The Chinese 罪 (*zui*) is essentially equivalent to “crime” in English. However, linguistically, these two terms are quite different.

By definition, a “crime” is an act (or sometimes a failure to act) deemed by law to be a public wrong and punishable by the state in criminal proceedings. However, a given type of conduct may be declared by law to be criminal or be made criminal at one time and cease to be criminal at another, without a change in its characteristics. In general, conduct is criminalized if it threatens the security or well-being or good order of society (Walker, 1980; Martin, 2003). However, this definition may not directly be matched in Chinese.

According to American law, the Chinese expressions 重罪 (*zhong zui*) 輕罪 (*qing zui*), should not be translated as “heavy crime” and “light crime,” but as “felonies” and “misdemeanors.” Likewise, the Chinese 罪 (*zui*) may be translated differently in different contexts.

In English, the word “crime” seldom occurs in conjunction with the specific offence (except, for example in phrases such as “the crime of _____”); instead, crimes are divided into different kinds of offences, such as 盜竊罪 (*dao qie zui*) – theft; 傷害罪 (*shang hai zui*) – wounding; 偽證罪 (*wei zheng zui*) – forgery; 重婚罪 (*chong hun zui*) – bigamy; 叛國罪 (*pan guo zui*) – treason; 謀殺罪 (*mou sha zui*) – murder; 謀殺以外之殺人罪 (*mou sha yi wai zhi sha ren zui*) – manslaughter; 暴力脅迫人身罪 (*bao li xie po ren shen zui*) – assault; 毆打罪 (*ou da zui*) – battery; 嚴重傷害身體罪 (*yan zhong shang hai shen ti zui*) – grievous bodily harm; 誘拐罪 (*you guai zui*) – abduction; 搶劫罪 (*qiang jie zui*) – robbery; 夜間入室盜竊罪 (*ye jian ru shi dao qie zui*) – burglary; 敲詐勒索 (*qiao zha le suo*) – blackmail; 銷贓罪 (*xiao zang zui*) – handling stolen goods; 雞奸罪 (*ji jian zui*) – buggery; 猥褻罪 (*wei xie zui*) – indecency; 製造恐怖罪 (*zhi zao kong bu zui*) – terrorism; 煽動叛亂罪 (*shan dong pan luan zui*) – sedition; 共謀罪 (*gong mou zui*) – conspiracy, and so on.

In the above examples, none of the English versions include the word “crime.” However, when translating from English to Chinese, the word “crime” should not be omitted.

Capacity, competence and competency: 能力 (*neng li*)

The Chinese 能力 has several possible translations into English, the most common being “capacity,” “competence,” or “competency.”

In law, capacity is an attribute of a person or entity having legal personality, denoting ability to bear and exercise rights or to be affected by legal duties or liabilities. A person may have full legal capacity or capacity that is qualified in certain respects. Capacity or incapacity may be determined by different rules in different parts of the legal system; capacity must be considered both actively and passively. Active capacity is concerned with one's ability to have and exercise rights and to enter into and undertake legal transactions. Active capacity is distinct from power. A person of full legal age has the legal capacity to make contracts; but, if acting in a particular role, such as an agent or trustee, his power to make particular kinds of contracts may be restricted by the terms of his agency, trust deed or the law.

In Chinese, 能力 (*neng li*) is translated as “capacity” in the following examples:

行為能力 (*xing wei neng li*) – capacity to act; 能力的法律抵觸 (*neng li de fa lv di chu*) – conflict of laws relating to capacity; 能力工資制 (*neng li gong zi zhi*) – wage system based on ability; 能力審查 (*neng li shen cha*) – capability survey; 能力說 (*neng li shuo*) – capacity theory or burden theory, and so on.

“Competence” may be defined as the authority of a court to deal with specific kinds of matters. It may also be distinguished from or be synonymous with jurisdiction. In other words, it is a basic or mental ability to do something; or a qualification, especially to testify.

In this sense, the Chinese 能力 (*neng li*) may be used as “competence,” such as 能力標準 (*neng li biao zhun*) – criterion of competence; 見證能力 (*jian zheng neng li*) – competence of a witness; 在這一事件中，顯示出了他很強的法律專業能力 (*zai zhe yi shi jian zhong, xian shi chu le ta hen qiang de fa lv zhuan ye neng li*) – “In this event, he showed great professional competence in law.”

However, in certain cases, “capacity” and “competence” may be interchangeably used, such as 能力罰 (*neng li fa*) – “capacity penalty” or “competence penalty.”

The concept of “competency” is not synonymous with “competence,” but refers to a defendant's mental capacity to stand trial. In other words, to be competent is to demonstrate the mental ability to understand problems and make decisions, to understand the proceedings, to consult meaningfully with counsel, and to assist in one's own defense. For example, “據調查，該被告沒有在法庭上自我辯護的能力” (*ju diao cha, gai bei gao mei you zai fa ting shang zi wo bian hu de neng li*) – “It is said that he is not competent to [assist in his own] defense in court.”

Kill, murder, manslaughter, assassinate, execute, massacre — 殺人 (*sha ren*)

In translating the Chinese 殺人 (*sha ren*), the English words most commonly used are “kill,” “murder” or “manslaughter,” which are not terms of art, since their meanings vary. Words with fixed and definite meanings are one of the most distinctive features of legal discourse. However, the degree of technicality in legal discourse generally, and legislative discourse in particular, depends greatly on the subject matter.

For example, “他說，他在夜晚開車中無意識地殺死了那孩子” (*ta shuo, ta zai ye wan kai che zhong wu yi shi di sha si le na hai zi*)

– “He said that he killed the child unintentionally while driving at night.”

“Massacre” is the killing of a large number of people at the same time in a violent and cruel way. For instance, the translation of “士兵大規模屠殺青年學生” (*shi bing da gui mo tu sha qing nian xue sheng*) could be “The young students were massacred by the soldiers;” “日本兵大批謀殺了南京市民” (*ri ben bing da pi mou sha le nan jing shi min*) – “The Japanese soldiers murdered the citizens of Nanjing by the hundreds and thousands;” “他謀殺了他有錢的叔叔” (*ta mou sha le ta you qian de shu shu*) – “He murdered his rich uncle.”

In most jurisdictions, “murder” and “manslaughter” are types of homicide; the terms “murder” and “manslaughter” are thus hyponyms of the superordinate, or general term, “homicide.” In some jurisdictions, further distinctions are possible, particularly among types of manslaughter. The way these crimes are distinguished and defined may differ from one jurisdiction to another and have certainly changed from one era to another. (Maley, 1985)

“Manslaughter” is a homicide that does not amount to murder, but is nevertheless neither lawful nor accidental. It is the killing of a person by someone who may intend to hurt or injure them but who does not intend to kill them. Therefore, “那個強姦犯用剃刀將受害者殘忍地殺害了” (*na ge qiang jian fa yong ti diao jiang shou hai zhe can ren di sha hai le*) – “The rapist committed manslaughter [by killing] his victim with a razor.”

“Assassinate” is a special form of murder, the killing of a well-

known person. Therefore, “就是否存在暗殺那位著名作家的陰謀為題進行了一次現場直播的辯論會” (*jiu shi fou cun zai an sha na wei zhu ming zuo jia de yin mou wei ti jin xing le yi ci xian chang zhi bo de bian lun hui*) could be translated as “a televised debate on whether there had been a conspiracy to assassinate the famous writer.”

“Execute” means to carry out a sentence of death imposed by a court. Therefore, the sentence “那個銀行搶劫犯被處以絞刑” (*na ge yin hang qiang jie fan bei chu yi jiao xing*), in which “sha” is replaced by its paraphrase “chu yi jiao xing.” In this case, the translation is “The bank robber was executed on the gallows.”

Abolish, abrogate, annul, rescind, revoke, repeal:

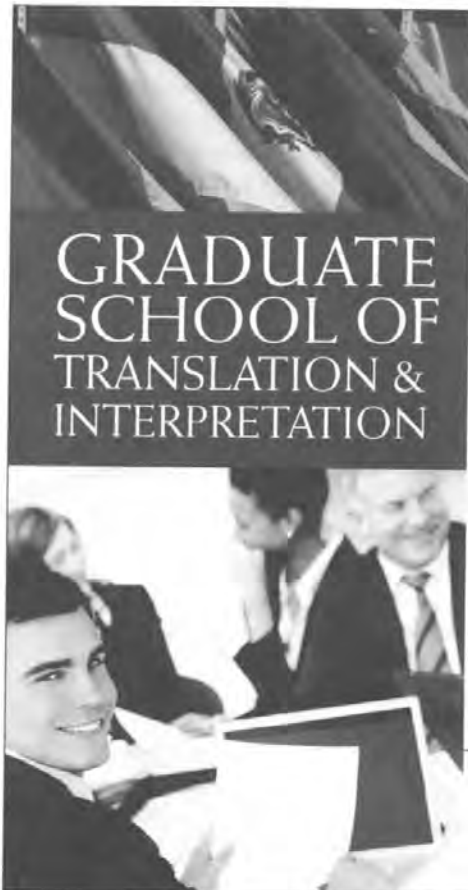
取消 (*qu xiao*) or 解除 (*jie chu*)

In Chinese legal documents, “取消” (*qu xiao*) and “解除” (*jie chu*) may be variously translated into English as: abolish, abrogate, annul, rescind, revoke or repeal.

“Abolish” means “to do away with wholly. It applies particularly to things of a permanent nature, such as institutions, usages, customs, as the abolition of slavery” (Black’s Law Dictionary, 1991). Thus “舊的會計制度已被取消” (*jiu de kuai ji zhi du yi bei qu xiao*) is translated as “The old accounting system has been abolished.”

“Abrogate” is “to annul or repeal an order or rule issued by a subordinate authority; to repeal a former law by legislative act, or by usage” (Black’s Law Dictionary, 1991). In this way, the sentence “政府應取消他們的一些特權” (*zheng fu ying qu xiao ta men de yi*

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CHINESE-ENGLISH LEGAL TRANSLATION *continued from page 9*
xie te quan) could be translated as "The government should abrogate their specific privileges."

However, "to annul is either to end something existing or to declare that it never really existed" (Hayakawa, 1968). Therefore, the similar word 解除 may not be translated in the same way as "abolish" or "abrogate," but as "annul," such as "他們已經解除了婚姻" (*ta men yi jing jie chu le hun yin*). They have annulled the marriage."

In translating texts relating to taxation, it is better to use "rescind," which means "to make void by the same or by a superior authority" (Merriam Webster's Dictionary of Law, 1996). Therefore, the sentence "大會決定取消該項農業稅" (*da hui jue ding qu xiao gai xiang nong ye shui*) may be translated as "Congress has decided to rescind the agricultural tax."

However, the same 取消 (*qu xiao*) may be translated as "revoke," as in "理事會決意要取消該項章程" (*li shi hui jue yi yao qu xiao gai xiang zhang cheng*) – "The board of management wishes to revoke the charter" since here it means "to annul or make void by recalling or taking back" (Black's Law Dictionary, 1991); or as "repeal," in the sense of "to abrogate an existing law by legislative act" (Black's Law Dictionary, 1991). Therefore, the sentence "立法會取消了對於該項議案的修訂" (*li fa hui qu xiao le dui gai xiang yi an de xiu ding*) should be translated as "The legislative council has repealed the amendment to the bill."

The outside choice 結合 (*jie he*)

In translating Chinese terms, sometimes one may have to choose an equivalent outside the "normal range." For example, the Chinese 結合 (*jie he*) may have many equivalents, such as to be united, to form an alliance, integrate with, to associate, combine with, link with, marry/marriage, binding, coalition, cohesion, connection, joint, union, incorporation, coalescence, coupling, juncture, concrescence, nexus, valence, merging, consolidation, and so on.

However, in the following sentence, none of the above options is appropriate: "為了懲罰犯罪，保護人民，根據憲法，結合我國同犯罪作鬥爭的具體經驗及實際情況，特制定本法" (*wei le cheng fa fan zui, bao hu ren min, gen ju xian fa, jie he wo guo tong fan zui zuo dou zheng de ju ti jing yan ji shi ji qing kuang, te zhi ding ben fa*) – "In order to punish crimes and protect the people, this law is enacted on the basis of the constitution and in light of the concrete experiences and actual circumstances in China's fight against crime."

The Chinese word "*jie he*" here is not the normal meaning of "combine" as it usually appears, but to "take reference," "to learn the lesson." Therefore, in this case, the choice has to be made not on a linguistic basis, but on a socio-cultural basis.

The mixed use of "corporation," "company" and "firm" 公司 (*gong si*)

In translating the Chinese word 公司 (*gong si*) into English, three terms are commonly used, often interchangeably. However, in the English-speaking world, these three words are distinctive from one another.

Corporation refers to "in common law, the technical term for an entity having a legal personality as a corporation. The word

company could refer to a partnership or other unincorporated association of persons." (Garner, 1995) A company is "a body corporate; a body corporate with shared capital" (Dukelow, 1991). And a firm: "Traditionally, this term referred to a partnership, as opposed to a company; but today it is frequently used in reference to a company" (Garner, 1999).

Thus, the following Chinese expressions may be translated differently:

"本法原則適用於全民所有制交通運輸、郵電、地質、勘探、建築安裝等公司" (*ben fa de yuan ze shi yong yu quan min suo you zhi jiao tong yun shu, you dian, di zhi, kan tan, jian zhu an zhuang deng gong si*) – "The principle of this Law shall be applicable to a corporation owned by the people in communications and transportation, the postal and telecommunications service, geological exploration, construction and installation," and so on.

合營企業的形式為有限責任公司 (*he ying qi ye de xing shi wei you xian ze ren gong si*) – "An equity joint venture shall take the form of a limited liability company."

上市公司必須按照法律、行政法規的規定，定期公開其財務狀況和經營情況 (*shang shi gong si bi xu an zhao fa lv, xing zheng fa gui de gui ding, ding qi gong kai qi cai zheng zhuang tai he jing ying qing kuang*) – "A listed firm must, in compliance with the administrative rules and regulations, regularly disclose its financial and business status."

Conclusion

Surely, if the theory of "adaptation and selection" is to become a new theory in legal translation studies, more practice is needed. As Newmark points out, "In a narrow sense, translation theory is concerned with the translation method appropriately used for a certain type of text, and it is therefore dependent on a functional theory of language. However, in a wide sense, translation theory is the body of knowledge that we have about translating, extending from general principles to guidelines, suggestions and hints" (Newmark, 2004).

However, as has been discussed above, the essence of translation is which choices are made from among different options.

Translation theory can be used operationally to review all the options (in particular, sensitizing the translator to those he had not been aware of), and then make decisions – the teeth of the theory, thus being a frame of reference for translation and translation criticism. Theory can first be applied to complete texts, where it has most relevance, then, in descending level, to paragraphs, sentences, clauses, word groups (in particular, collocations), words – familiar alternative words, cultural and institutional terms, proper names, 'non-equivalent words,' neologisms and key conceptual terms – morphemes and punctuation marks. Note that metaphor, perhaps the most significant translation problem, may occur at all levels – from word to text, at which level it becomes an allegory or a fantasy (Newmark, 2004).

In practice, as the above discussion of Chinese-English legal translation demonstrates, the selection procedure may vary from case to case. However, one should always consider the different available options.

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THE FIT WORLD CONGRESS IN SHANGHAI *continued from page 1*
 a short seventeen miles downstream from the city. Although not very long, the Huangpu is of paramount commercial importance to the area, with busy traffic of barges laden with all manner of merchandise. Day and night, an array of gaily-illuminated pleasure and cruise boats, often sporting large dragon heads at their bows, float by, bringing a world of wonder and magic to the city.

Many of the delegates at the congress chose to stay at the Oriental Riverside Hotel, a five-star facility built as part of the Shanghai International Convention Center, with spacious rooms facing the Huangpu River. One of the more spectacular attractions of the hotel was a large round swimming pool located under a huge glass dome at the very top of the hotel, with a splendid view of the entire city. Pudong, the new financial district where the congress took place, was nothing but marshland eighteen years ago. It now boasts a skyline consisting of over three hundred skyscrapers displaying some of the most original architecture to be seen anywhere. On the opposite side of the river one can see the Bund, the old, venerable, and elegant financial district of Shanghai, at one point the third most important financial district in the world. The two financial districts, the old and the new, divided and yet united by the swiftly flowing waters of the Huangpu, form an extended simile of past, future, and the passage of time.

The Chinese government clearly accorded a great deal of importance to hosting the FIT Congress. It was the only international congress allowed in China in the two months preceding the Olympics, with the FIT Congress ending the day before the Olympics were to start in Beijing. Security surrounding the 1,500 participants in the congress was extremely tight. Not only was everyone thoroughly checked coming into the hotel and the congress center, but those carrying water bottles, which many did because it was very hot and humid in Shanghai, had to take a hefty swig from their bottle in front of the security staff before being admitted, in order to reassure the authorities that one was carrying water to quench thirst rather than transporting liquid with nefarious intent. Considering the weather conditions, no one seemed to mind complying with this official request. Symptomatic also of the government's security concerns were the two police boats displaying highly visible lights, framing at both bow and stern the twin dragon quadruple-deck ship, where over five hundred FIT delegates took a dinner cruise on the Huangpu. (In the

chilling words of one Norwegian delegate, the two police boats were a perfect target for someone with a rocket-launcher and evil design.) Additional proof of the Chinese government's high regard for the FIT delegates was the high-ranking official who opened the congress, Mr. Wu Jianmin, a polished gentleman who had begun his career as an interpreter and had been appointed Chinese ambassador to France before occupying the position he now holds as President of the International Exhibitions Bureau. He addressed the participants in his welcoming speech in all three official languages, Chinese, English and French, with a high level of fluency in all three, although his French was better than his English.

English was the language used by most presenters and modera-

tors. This created some problems for the listeners since many of the delegates, in particular those from China, were at times difficult to understand. The papers in general were both varied and interesting. I represented both NAJIT (as former chair of the board of directors) and SSTI (as former president and current member of the board). My paper was titled "Translation and Interpretation, the Law, and Language Barriers in the United States of America." It was well received and has been published in the congress proceedings. (A CD of the proceedings costs only \$14.00 and can be ordered from the home page of the congress at: www.fit2008.org/E_fit2008/index.htm)

It is sad to report that of the 1,500 participants at the FIT World Congress, only 3% (a total of 45 people) were from the U.S. Of these, only a dozen gave papers. It is likely that our sustained economic crisis in the United States has caused money

to become scarce for conference participation and travel. Probably, many people who might otherwise have participated from the U.S. were unable to secure funding for an expensive congress held far away. The rather high \$400 registration fee, by the way, was gracefully waived by TAC for the NAJIT representative.

At the conclusion of the congress, a sumptuous banquet was held for all the delegates in a vast hall at the Congress Center, where participants were treated to a feast of exotic foods from many parts of China and entertained with a wonderful show of dancing, singing and acrobatics. The venue for the next FIT World Congress, three years hence, was announced: it will take place in San Francisco. See you there in 2011. ▲



Video interviews from FIT Congress in Shanghai: www.china.org.cn/video/2008-07/30/content_16102243.htm

A LEXICOGRAPHER'S LAIR

CONFESSIONS OF A REFORMED LUDDITE

Dennis McKenna

For a few years in the early 19th century, disgruntled textile workers brandishing hammers and mallets ran amok through northern English factory towns, attacking the mechanized looms they considered a threat to their livelihood. The outraged workers claimed a certain King Ludd (or Captain Ludd) as their leader. Ned Ludd was an obscure figure who had supposedly broken two knitting machines near Leicester some thirty years earlier. During the heyday of the Luddite movement (1811-1816), the Industrial Revolution was already in full swing and those opposed to mechanization ended up on the wrong side of history. Today, the term Luddite generally refers to anyone against or resistant to technological change.

While not exactly a Luddite myself, I'll admit to being resistant to change. My camera bag still holds my trusty Leica (German-made, circa 1960), which I hardly ever use now that I have a digital camera. My car has manual door locks and roll-up windows. When I bought my condo I ruled out a programmable thermostat for the heating and air conditioning, preferring the old-fashioned kind where you point the lever to the desired temperature. And when it comes to reference books, I hold true to my preferences. I'll always cherish the ten-volume Oxford English Dictionary I inherited from my father and when I sit at my desk I find it reassuring to see the two fat volumes of Maria Moliner's Spanish dictionary.

But I recently turned fifty, an age when many men (and women, for that matter) experience a mid-life crisis, and it occurred to me to take a second look at how I do things. Maybe I was getting a little stale. I should open myself up to new tools. What followed were adventures with new technology in the field of words.

Good Things Come in Small Packages

My first foray into laborsaving technology was an electronic dictionary resembling a brushed metal cigarette case from the Jazz Age. The Casio EW-S3000 Ex-Word is a 5 3/4" by 4" by 3/4" device with a *qwerty* keyboard and a fold-up screen. It boasts a complete version of the Oxford Spanish Dictionary 3rd Edition, the Oxford Advanced Learner's Dictionary 7th Edition, the Oxford Thesaurus of English 2nd Edition, The Larousse Gran Diccionario de la Lengua Española and the Oxford multilingual Word and Phrasebank. Courthouse colleagues peddling (praising?—or were they really selling it?) the Casio had approached me in the past and my eyes had always glazed over. Now I took a look.

The first thing about the little gizmo is that it feels good in your hand. It has a solid metal case and secure hinges. The keys, large and easy to see, spring back smoothly. In fact, in overall appearance, design and feel, it is a sleek machine, like an old pocket watch or, dare I say, a fine German camera. But like most of us, I already have an ample selection of dictionaries, so the Casio Ex-Word would have to offer some really compelling features to justify the

extra outlay.

Here's one such feature: when you turn the little bugger on, there's no delay in booting up or shutting down. One of my pet peeves is how long it takes for a computer to come to life or turn in for the night. But this little piece of Japanese ingenuity starts instantly and the cursor is always where you want it, in the word entry box. Separate buttons allow you to switch instantly between dictionaries without having to re-enter your search word. You can search for expressions by phrase, context, or by inclusion of a word. You can even search for words you don't know how to spell, since the device can intuit bad spelling. One of my favorite functions is that it remembers previous searches, so you can always go back and retrieve information later on. I periodically review the words I've looked up and that memory function helps immensely to retain new vocabulary.

The Ex-Word's screen is very clear and easy to read with three different font sizes (which is called "zoom" function) and it also can be backlit at the touch of a button for low-light situations.

All these features make the Casio not only extremely useful, but also highly addictive. I find myself consulting it at stop lights, on the elevator, on the train, and, yes, even while interpreting. The other day the terms "rooster comb" and "wattle" came up in a cockfighting case (!) and I didn't miss a beat finding the correct terms (*cresta and barba*).

The only downside I see to the Casio is that it might be too addictive for some word lovers. It may also prove annoying to colleagues if you use the device constantly in casual conversation and turn into a detestable smarty-pants, 24/7. This phenomenon has been recognized with iPhone users who exasperate their partners or drinking buddies by fact-checking every little detail that comes up in conversation. However, after acquiring my Casio Ex-Word, I developed a new appreciation for technology and became much more willing to try new things. This willingness to experiment led to my next encounter.

Better Living Through the Internet

Flush from my first incursion into the world of high tech dictionaries, I began searching for other delights. The next item to come to my attention was a new automated reference, www.Visualthesaurus.com. In case you are an Information Age neophyte like me, this is a subscription website featuring an interactive dictionary and thesaurus that, as they explain, produces "word maps that blossom with meanings and branch to related words."

The idea, according to the good people at Visualthesaurus.com, is that most people's minds are stimulated to higher levels of creativity and learning by visuals and graphics more than by words on a dusty page. A traditional thesaurus lists words in text

> continues on next page

CONFESSIONS OF A REFORMED LUDDITE *continued from page 13*
format, so wading through the information is rather like reading a book. In contrast to this old-fashioned format, Visualthesaurus.com provides a graphic representation of the different synonyms for each word. The main entry is displayed in caps at the center, and the various synonyms branch out from there, rather like the three-dimensional depictions of complex molecules we used to see in high school chemistry class.



[This is a sample word map from the home page, using the word "search"]

Most of the users who have posted their opinions on various web pages seem to be younger folks who rave about the design and patterns formed by the key words with their outstretched "spokes" of meaning.

But interesting graphics are not all Visualthesaurus.com has to offer. It also has an audio component so the user can hear the words pronounced in both British and American English. You can "roll over" (pass your mouse over) the meanings and see sample sentences using the term. Additionally, the program features multiple columns, rather like blogs, on various word-related subjects. One is on lexicographers, another about teaching, another about writing for business, and so on. All are interesting, well-researched pieces that appeal to the language-minded among us.

Feeling confident, I decided to sign up for the fourteen day free trial with "full refund, no questions asked, of the \$19.95 annual fee."

As I prepared to sign up, I noticed that the home page recommends you not only add Visualthesaurus.com to your browser's toolbar, but also include a link from your own blogs and web pages. The company has a program offering a 10% commission for all new subscriptions that you send its way on the web. Up until this point, my contact with the web was limited to email and word searches on Google, so all the web talk made me apprehensive. But I was determined to beat the middle-aged doldrums. While other men my age bought sports cars, I would race around the Internet.

To my chagrin, the program loads very slowly and, perhaps because I am one of those people who keeps an old computer until the ink wears off the keyboard, my computer kept crashing whenever I opened the application. This is apparently because

the program requires a good deal of memory to run the graphics, making it run incredibly slowly on older computers. (Memo to self: get a new computer and a cable modem.)

Ten days after signing up, my email inbox was full of messages. They contained subjects like "isobar," "peignoir," "bibliopole" and "connoisseur" — the words of the day, a service which I vaguely remembered having signed up for with Visualthesaurus.com. Desirous of getting the full benefit of my subscription, I decided not to erase any until I had a chance to read them. There are now a slew of them in my inbox and I'm having difficulty finding my regular mail.

But perhaps the decisive factor for me with regards to my subscription is that there are many other web-based services that offer free access to synonyms, not the least of which is Roget's Thesaurus, the gold standard of thesauri. To my mind, reference works like Roget's display synonyms in a more useful fashion because they use a more traditional format. With Visualthesaurus.com, it can be difficult to tell if the words around the wagon wheel are nouns, verbs, adjectives or adverbs, or maybe all of the above. To know for sure you must consult the color key to decipher the color coding system that identifies the various parts of speech. And even the entire massive thesaurus on which Visualthesaurus.com is based, George A. Miller's Wordnet, is available on the Internet in a faster, more streamlined version (without the fancy graphics), providing exactly the same information without the hassle and expense of a subscription.

And so, after two weeks of Visualthesaurus.com, I decided to end my trial subscription. But I won't shut the door to new technology. I love my Casio ExWord and use it constantly. I would even consider signing up again for Visualthesaurus.com once I get a faster internet connection and more computer memory. Even to me, bibliophile that I am, it is obvious that electronic dictionaries and new language-related technologies are becoming increasingly easier to use and relevant to our lives. Now I'm eager to update my home computer system and take advantage of what's out there on the web.

It has been said that the Industrial Revolution, which so battered the Luddites of yore, produced greater change in the space of two hundred years than had occurred in all of human history up to that point. Back then it was mechanized looms, the bane of the Luddites, that provoked a battle to change the way goods were produced. Today the new transformation is driven by widespread access to information. This latest revolution is led by PCs, smartphones and other handheld devices we use to access the Web, among other functions. Although reluctant at first to embrace the tools of the Information Age, I recognize the error of my ways. Now I'm willing to be a part of the future, which most likely will be more about bytes than books.

But I'll still keep my paper dictionaries, even if, like my camera gathering dust at the back of the closet, I'm only holding on for old times' sake. ▲

REFERENCES:

www.visualthesaurus.com

www.Dictionary.com

Roget's Thesaurus (1911 Edition):

http://humanities.uchicago.edu/orgs/ARTFL/forms_unrest/ROGET.html

TEST YOUR GRASP OF IDIOMATIC ENGLISH

Interpreters' grasp of idiomatic English is often challenged at high speeds in situations where they least expect it. Colloquial equivalents are not easy to access at a moment's notice for language that is picturesque, informal or culture-based. Test your facility with the following expressions compiled by **Dagoberto Orrantia** for an idioms workshop he conducted on April 26, 2008 in El Paso.

Equivalence in Simile



as fit as a fiddle
as flat as a pancake
as free as a bird
as fresh as a daisy
as gentle as a lamb
as good as gold
as good as new
as green as grass
as happy as a clam
as stiff as a poker

Color in Idioms

blue blood
blue chip stock
blue collar worker
blue law
blue movie
blue nose
to blue-pencil
blue ribbon
to catch red-handed
red herring
red ink
red-letter



red light district
redneck
red tape
white bread
white collar crime
white elephant
white knight
white paper
white slave trade
to whitewash



Sports Idioms

You're not even in the ballpark.
He was way out in left field on that one.
I just call balls and strikes, Mr. Pym.
I got off base, your Honor.
I'll go to bat for you.
Don't jump the gun; we'll get to that subject.
The prosecutor fired questions hard and inside.
They're going to play hardball if we go to trial.
The government lawyer lobbed a soft ball.
They keep moving the goalposts on us.
Mr. Agosto's attorney is not here, but I'll be pinch-hitting for him.
Are you going to play chicken and see who goes first?



Losers are toast.
You want to play rough? All right, you're in contempt again.
I wanted to touch base with you.
We called their bluff; they challenged us to sue them and here we are.

(For answers in Spanish, see the following page.)

WEBSITES OF INTEREST

Indigenous Languages of Mexico

www.inali.gob.mx

The go-to site for information on Mexico's indigenous languages. In Spanish only. **Catálogo de las lenguas indígenas nacionales de México.** El Instituto Nacional de Lenguas Indígenas es un organismo académico que participa en la mejora de las condiciones lingüísticas de la Nación Mexicana y tiene por objeto preservar, fortalecer, desarrollar y promover las lenguas indígenas; así como proponer políticas públicas que protejan y procuren su uso cotidiano en todos los ámbitos de la vida, dentro de sus respectivos territorios originarios y áreas de influencia.

www.visualthesaurus.com

Your editor's favorite on-line language reference. Available by subscription, but a reasonable annual fee that is well worth it. Recently redesigned. Its editor is a lexicographer who used to work with Oxford. "We see the Visual Thesaurus web site as a home for people who are passionate about words and language, a place where those who love words can explore the English language and participate in educated discussions with writers, linguists, and other creative people."

✿ Suggested answers for idioms in Spanish

Similes

as fit a fiddle/ *rebotante de salud*
 as flat as a pancake/ *liso como una tabla*
 as free as a bird/ *libre como el viento*
 as fresh as a daisy/ *fresco como una lechuga*
 as gentle as a lamb/ *suave como la seda*
 as good as new/ *como nuevo*
 as green as grass/ *verde como la esperanza*
 as happy as a clam/ *feliz como una lombriz*
 as stiff as a poker/ *tieso como una escoba*

Color

blue blood/ *sangre azul*
 blue collar worker/ *obrero*
 blue ribbon/ *primer premio, de élite, selecto, máximo*
 blue movie/ *una película subida de tono*
 bluenose/ *puritano*
 to blue-pencil/ *censurar*
 to catch red-handed/ *atrapar con las manos en la masa*
 red herring/ *pista falsa*
 red ink/ *deficit presupuestario*
 red letter/ *muy especial, memorable*
 red light district/ *zona de tolerancia, zona roja, barrio chino*
 redneck/ *sureño reaccionario de la clase baja rural*
 red tape/ *papeleo*
 white bread/ *el americano medio*
 white collar crime/ *delito de cuello blanco*
 white elephant/ *elefante blanco*
 white knight/ *caballero blanco*
 white paper/ *libro blanco*
 white slave trade/ *trata de blancas*
 white trash/ *basura blanca*
 to whitewash/ *tapar, encubrir*

Sports Expressions

You're not even in the ballpark./ *Ni siquiera se aproxima.*
 He was way out in left field on that one./ *Estaba totalmente equivocado.*
 I just call balls and strikes, Mr. Pym./ *Yo sólo soy el árbitro, Sr. Pym.*
 I got off base, your Honor./ *Me fui por la tangente, Su Señoría.*
 I'll go to bat for you./ *Yo te echo una mano./ Te echo un capote./ Te echo un cable.*
 Don't jump the gun, we'll get to that subject./ *No se adelante, ya llegaremos a ese tema.*
 The prosecutor fired questions hard and inside./ *El fiscal lanzaba preguntas peliagudas.*
 They're going to play hardball if we go to trial./ *Serán despiadados si vamos a juicio.*
 The government lawyer lobbed a softball./ *El abogado del gobierno le tiró un globito.*
 They keep moving the goalposts on us./ *Nos siguen moviendo la portería.*
 Mr Agosto's attorney is not here, but I'll be pinch-hitting for him./ *El abogado del Sr. Agosto no está aquí, pero yo batearé de emergente.*
 Are you going to play chicken and see who goes first?/ *¿Quieres ver quién es más gallito y ver quién cede primero?*
 You want to play rough? All right, you're in contempt again./ *¿Quiere jugar rudo? Muy bien, está en desacato de nuevo.*
 Losers are toast./ *El que pierde está frito.*
 I wanted to touch base with you./ *Quería comunicarme contigo.*
 We called their bluff; they challenged us to sue them and here we are./ *Les cogimos la palabra. Nos desafiaron a que los demandáramos y aquí estamos.*

A brief bibliography on idioms for further reading:

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ITEMS OF INTEREST

A presentation on the status of legal and court interpreting in the European Union and the efforts to harmonize standards, which took place at the EU DG Interpretation Universities' Conference.

<http://webstream.ec.europa.eu/scic/scic/univ2008/day1en-4.wmv> [Thanks to Jonathan Hamilton Sanders.]

Helpful links and resources to continuing education presentations such as Katty Kauffman's course, *Latin America: A New System of Criminal Justice* at <http://www.ojd.state.or.us/osca/cpsd/interpreter/Resources.htm>

NEW: The Supreme Court of Ohio has published a videotape on the role of interpreters in the legal system. It can be viewed at:

http://www.sconet.state.oh.us/Judicial_and_Court_Services/interpreter_svcs/interpreterVideo.asp

Guantánamo Interpreters' Abilities are Questioned

www.thestar.com/News/World/article/517406

Anthony Barkow, executive director of the Center on the Administration of Criminal Law at New York University, described the quality of interpretation at a pretrial hearing as "ridiculous." "I've never experienced a situation where it was so obvious that no one understood what was being said," said Barkow, a former federal prosecutor, who is observing the 9/11 proceedings at Guantánamo for Human Rights First, a New York-based advocacy group.

Team Position Paper Convinces Court

After many discussion and lost battles, staff interpreters in El Paso, Texas are now authorized to work in teams in trials where the defendant needs an interpreter. NAJIT position papers were used as a reference. [Thanks to Rosa Alva Garcia.]

"Court Interpreting: Linguistic Presence v. Linguistic Absence" by Elena M. de Jongh was published in the *Florida Bar Journal*, Vol., 82, No.7. It is available on line.

"Whistle-Blowing and Language Professionals: The Case of Postville and Professor Erik Camayd-Freixas," by Eileen B. Hennessy was published in the *Translation Journal*, Volume 12, No. 4, October 2008. <http://translationjournal.net/journal/>

For regularly updated information on meetings, conventions and other events, go to www.najit.org and click on "Calendar of Current and Future Events."

Save the Date

NAJIT's 30th Year Conference Celebration

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More information to come in the next issue of *Proteus*.



photos by Bobak Ha'Eri (2008),
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CALL FOR NOMINATIONS

The annual meeting of the association will be held on Saturday, May 16, 2009, at the DoubleTree Paradise Valley Resort in Scottsdale, Arizona, during the 30th Annual Conference. The terms of directors Isabel Framer and Rosemary Dann are expiring. Two directors will be elected for two-year terms. Members are invited to recommend potential candidates to the Nominations Committee:

- Susan Castellanos Bilodeau, Chair
- Jeck Jenard Navarrete
- Sabine Michael

The NAJIT bylaws, Article IV, Section II – Eligibility, read as follows:

"Any Active Member who attains two years of continuous membership as an Active Member in good standing as of the return date specified on the 'Call for Nominations' shall be eligible for nomination to the Board of Directors."

1. Friday, December 5, 2008 has been established as the return date for all nominations.
2. Members may nominate themselves or may be nominated by fellow members. Please note, however, that the Nominations Committee has the responsibility of proposing the names of candidates for the election to the members, taking into account the need to ensure, to the extent possible, a balanced slate as far as language, geographical location and professional activity are concerned. Only active members who meet the criteria above — who have been active members continuously in good standing since December 5, 2006 — may be nominated to the board of directors. Members uncertain as to their status may verify the facts with headquarters.
3. All nominations must include a short biography and statement explaining why the nominee should be on the board of directors. This information must be limited to one page.

Please e-mail all nominations to the Nominations Committee at:

2009nominations@najit.org

VOTER ELIGIBILITY: Members of NAJIT as of the record date of Wednesday, April 1, 2009 will be eligible to vote by mail ballot or in person at this election.

Please contact headquarters with any questions on voting eligibility or the nominations process. ▲

MEMBERSHIP BENEFITS



NAJIT's activities are supported by membership dues and member donations. While there are no formal requirements for joining other than an interest in legal interpretation and/or translation, most of our members hold professional credentials such as federal and/or state court interpreter certification, national judiciary interpreter and translator certification by NAJIT, interpreter certification by RID (Registry of Interpreters for the Deaf), translator certification by ATA (American Translators Association), approval by the U.S. Department of State (for escort, seminar, or conference interpreting), and/or other credentialing by government agencies or international organizations.

Anyone who shares NAJIT's interests and objectives is welcome to join. Our membership categories are: Active, Associate, Corporate, Corporate Sponsor, Organizational, and Student. Please refer to our website for a full description of the membership categories and fees, www.najit.org.

The benefits of membership are many. When you join, you will enjoy, among other things:

- Full listing in NAJIT's *On-line Membership Directory*
- Subscription to *Proteus*, NAJIT's quarterly newsletter dedicated to court interpretation and legal translation
- Subscription to *CyberNews*, NAJIT's automatic e-mail updates on training opportunities, meetings, and other matters of professional interest
- NAJIT position papers on topics of critical interest to the profession
- Electronic access to NAJIT publications, including archived materials available at the Members' Portal
- Right to use the NAJIT logo on your business card
- Reduced-rates for language-specific interpreting and translation skills-building workshops, including preparation courses for certification tests
- Access to required continuing education sessions at reduced rates
- Membership registration rates for NAJIT conferences and for regional and local workshops
- Right to vote and hold office (active members only)
- Opportunities for committee membership and participation in NAJIT special projects
- Opportunity to chair committees and to be actively involved in NAJIT decision-making and long-term planning
- Participation in NAJIT's lively and informative members' listserve, where members share expertise, information, and resources. Through this e-mail discussion list, members exchange terminology, discuss transcription and translation standards, and confer on ethical and professional dilemmas and association matters.
- Active involvement in state and national legislative matters and issues affecting the community of interpreters and translators
- Opportunity to present at NAJIT conferences, workshops and training events
- Networking and collegial relationships
- Participation in a national and international network of professionals
- Access to employment opportunities posted on the website and in special bulletins



Dues may be deductible as an ordinary and necessary business expense to the extent permitted under the IRS Code.



PROTEUS

THE NEWSLETTER OF THE NATIONAL ASSOCIATION OF JUDICIARY INTERPRETERS AND TRANSLATORS

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☐ U.S. Department of State: ☐ Consecutive ☐ Seminar ☐ Conference

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I am an ☐ interpreter ☐ translator ☐ freelance instructor
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☐ Check here if you have ever been a NAJIT member. ☐ Check here if you do NOT wish to receive e-mails from NAJIT.
☐ Check here if you do NOT wish to be listed in the NAJIT on-line directory. (Student and associate members are not listed in the NAJIT on-line directory.)
☐ Check here if you do NOT wish to have your contact information made available to those offering information, products or services of potential interest to members.

I certify that the above information is correct and accurate to the best of my knowledge and belief. I agree to abide by the NAJIT Code of Ethics and Professional Responsibilities.

Applicant's signature _____ Date _____

PAYMENT SCHEDULE

	Active	Associate	Student	Corporate Sponsor	Corporate	Organizational (nonprofit)
Dues	\$105	\$85	\$40	\$300	\$160	\$115
Suggested voluntary contribution to SSTI	\$35	\$25	\$10	\$100	\$100	\$65
TOTAL	\$140	\$110	\$50	\$400	\$260	\$180

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Contributions or gifts to NAJIT are not deductible as charitable contributions for federal income tax purposes. However, dues payments may be deductible by members as ordinary and necessary business expenses to the extent permitted under IRS Code. Contributions to the Society for the Study of Translation and Interpretation (SSTI), a 501(c)3 educational organization, are fully tax-deductible to the extent allowed by law.