

Linguistic justice

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VALORIZATION ADDENDUM

1. Relevance: what is the social and/or economic relevance of your research results in addition to the scientific relevance?

This is the first study to examine an interplay between the language, translation, and interpreting at international criminal tribunals adjudicating on ethnic crimes examining the concept of linguistic justice asking whether the parties to the proceedings have been addressed by international criminal tribunals in a language that they understand. It is an interdisciplinary study that makes conceptual and substantive contributions both to translation and interpretation studies and practice, and to the legal studies and practice.

Conceptual relevance of the present study to both the legal and translation and interpretation studies and practice lies in the fact that the present study is, perhaps, the first of its kind to consider the local context in the delivery of language services and, by extension, the delivery of legal truths. Local audiences were the first and the most important audiences to ICTY conduct and they are the first and the most important posterity to legal truths established because the purpose of the entire legal exercise that was ICTY and subsequently established international criminal tribunals was for local audiences to take their legal truths as a starting point to recovering their societies. Conceptual relevance to the legal studies and practice is in series of arguments to rethink the existing legal rules and regulations incumbent on the parties to the proceedings and resultant relationships when in contact with language professionals alone and when in contact with non-legal clients through the assistance of language professionals because the current ones are full of lacunae.

Substantially, most topics that have been broached by the present study are entirely under-researched. This includes the impact of 1999 Annan Reforms to the recruitment at the UN, including recruitment of language professionals, the relevance of philosophy of hate that led to perpetration of ethnic crimes anchored in language, the linguistic equality of arms between the parties at international criminal tribunals, the relevance of ethnicity- and nationality-based recruitment of language professionals at international criminal tribunals adjudicating on ethnic crimes, and the relevance of checks and balances on language professionals' tasks, production, and resultant relationship with their legal and non-legal clients. Because these topics are under-researched, some aspects that should have been codified in the rules and regulations for the purposes of ICTY and subsequently established international criminal tribunals have completely fallen through the cracks, namely: non-codification of the languages of the situation countries in the laws, non-prosecution of speech atrocity crimes, non-codification of victims' language-related rights in the context of at international criminal tribunals adjudicating on ethnic crimes, incomplete codification of defendants' language-related rights with effect on proper translation and interpretation, and, last but not the least, improper designation of language-related terminology. The relevance of the present study is in detailing these lacunae and providing concrete examples to detail the consequences.

2. Target groups: to who, in addition to the academic community, are your research results of interest and why?

In the first place, the present study addresses both practicing and theoretical legal and language professionals who practice both in the situation countries and in the international criminal tribunals. Since some of the underlying aspects of the present study point that these categories cannot be said to be in healthy, productive, or respectful communication, the present study is unique in almost shouting that they cannot afford to not-communicate since the lack of that communication bears detrimentally on their working status and on their work product which should be of paramount interest to both.

In addition, research results of the present study should garner immediate action of the courts, rather than *ad nauseam* academic debates. This is because research results clearly point to a series of undelivered linguistic justices at ICTY and subsequently established international criminal tribunals amply documented throughout the study. Whereas some ICTY and subsequently established international criminal tribunals' practices stem from sloppy lacunae in the rules and regulations pointing to a lack of communication between

the two types of professionals, some legal practices are in contradiction to the current international rules and regulations on the right to information and communication and on the right to translation and interpretation of and to persons under criminal investigation.

The present study also addresses situation country associations of professional translators and interpreters, academic institutions producing such cadre, and policymakers pointing that they have been completely overpowered by the UN and international criminal tribunals, asking them to reconsider their relationships with the UN and international criminal tribunals, and pointing to the ways how they can make themselves genuinely equal partners in that contact. Here, although the UN should have known better when recruiting language staff from the situation countries by merely enforcing their own internal rules and regulations, ultimately, it is the fault of the situation country agents that UN keeps on recruiting mostly unqualified language staff.

Finally, the present study addresses legal institutions, policymakers, and legal professionals from the situation countries calling them to rethink their position when in contact with the UN pointing to a series of instances where they have made themselves unequal partner, passive recipient of UN rules and regulations and practices, and mindless enforcers of UN policies which, essentially, have very little to do with the actual (set of) problem(s) the UN is trying to sort out in the first place. Here, although the UN should have known better when recruiting legal staff from the situation countries by merely respecting their internal rules and regulations, ultimately, it is the fault of the situation country governments that their resources, working priorities, and operational requirements have not been implemented.

3. Activities: into which concrete activities will your results be translated and shaped?

International rules and regulations incumbent on judges, prosecutors, defense attorneys, investigators, defendants, and victims and witnesses that have been clearly named in the present study must be revised to include a proviso on their contact with language professionals. Conversely, international rules and regulations incumbent on language professionals must be revised to include a proviso on their contact with non-legal clients.

Since there are no international rules and regulations incumbent on language professionals working in international criminal tribunals, those that are institution made must be revised to define translation and interpreting in legal context as a product that simply must front all operational information relevant for the work of legal professionals. Such rules and regulations must be also revised in view of actual tasks, roles, and legal safeguards pertaining to language professionals either as suggested in the presents study or, at least, as those that stem from language professionals' education, working experience, and on-job training.

As to the latter, international and institution-made rules and regulations incumbent on language professionals working in international criminal tribunals must include all categories of language professionals working in the said institutions, must refrain from defining language professionals as anything but a facilitator of communication between legal professionals and their clients, must clearly define all their tasks as revolving around translation, interpretation, and transcription, and must prescribe legal penalties for breaches just like they do for other categories of professionals working at international criminal tribunals.

Since majority of issues broached by the present study has to do with international criminal tribunals' refraining from recruiting professionals from the situation countries, it is suggested the judges panels, investigation, and, by extension, trial teams include one situation country professional for every two internationally recruited professionals. This will facilitate eradication of the institution of Language Assistants who simply cannot be used as is at the international criminal tribunals. In turn, this will save enormous costs that are currently being dispensed on unnecessary translation.

Finally, although entirely out of scope of the present study, since it has bearing on linguistic delivery of services, it must be pointed that the outreach programs and information departments of international criminal tribunals must learn to address the audiences in the situation countries the way that those audiences understand, preempting and cutting at the root of denialism, not in the way that is institutionally practiced.

4. Innovation: to what degree can your results be called innovative in respect to the existing range of products, services, processes, activities, and commercial activities?

The present study was descriptive and analytical, and, as such, cautionary. During the preparations for this study, topical ideas revolved around technological innovations of how much did ICTY and subsequently established international criminal tribunals add to the current technological innovations in the field of translational and interpretation studies and practices. However, soon, all the research pointed that these institutions were barely coping with work. One thing led to another and, inevitably, the research conducted for the purposes of the present painted a consistent picture of no use of current technological advancements in translational and interpretation practices, of underuse of the existing UN and institutional resources, of lack of communication between the language-services deliverers and language-services recipients, of heavy handedness and immaturity in managerial and practicing approach to languages, translation, interpretation, and transcription, and to resultant shameful absence of any linguistic justice to anyone. All these are amply documented throughout the study, including the ways how they could have been overcome. However, the study has shown that even in the present conditions, some innovations could still be made both by legal and language professionals.

As to legal professionals, the study has recommended some innovative solutions to commonly encountered problems in approach to official languages, linguistic variances of defendants trumping those of their victims, the uncompleted process of consolidation between Civil Law and Common Law terminology, etc. in the last chapter, in addition to measures under point 3 of this Addendum. Since the speech atrocity crimes and underlying philosophy of hate have never been prosecuted by the ICTY, for example, it may be suggested as an innovation that the parties appearing before international criminal tribunals, especially those adjudicating on ethnic crimes, before the beginning of the trial make a habit of submitting to judges an independent brief authored by the interdisciplinary group of academic on the historical development of ethnic aspects conflict, including the philosophy of hate anchored in language, as an introduction to the case. ICTY, for example, did not charge any individual for speech atrocity crimes, authors of all those books mentioned in the study that have motivated the ethnic crimes could not have and should not have possibly be prosecuted, so this measure would, at least, acknowledge the philosophy of hate that motivated the commission of ethnic crimes putting it in a context of continuum, not a vacuum.

As to the language professionals, the study has recommended some innovative solutions to commonly encountered problems in recruitment, selection, production outputs, and checks and balances to the conduct of language professionals approach, etc. throughout the study and in the last chapter, in addition to measures under point 3 of this Addendum.

5. Schedule & Implementation: how will this/these plan(s) for valorization be shaped? What is the schedule, are there risks involved, what market opportunities are there and what are the costs involved?

It is unfortunate the present thesis is published after the ICTY has been closed and at the time when the functioning international criminal tribunals are wrapping up their activities caught in different stages of completion strategy. In the same time, this is very auspicious because the practice has shown that the UN does not like being motioned or criticized during delivery of services. In that sense, it is believed the UN and other actors might accept the proposals advanced by the present study because the points of contention are moot but could be applied to future international criminal tribunals.

In that sense, all the recommendations of the present study, including the activities under points 2 and 3 of this Addendum, can be carried out at the initial stages of planning the next ICC-independent international criminal tribunals. Recommendations and activities that might be applicable to the ICC could start at the next meeting of the parties to the Rome Agreement. It could be safely assumed that there are no associated risks as the recommendations and activities are result- and merit-based catering to the least expensive, the most effective, and the most practical delivery of language services to international and situation country clients. Market opportunities are plentiful and untapped. Recommended measures and activities would lead to recruitment of educated professionals which, in turn, would engage in results- and merit-based, service-, and equity-oriented provision of language services guaranteed to cut existing costs immensely by streamlining and redefining the existing processes and activities and pushing the amateurs out the way.