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# THE ONTARIO ENGLISH-TAMIL LEGAL GLOSSARY: AN EMPOWERING SOCIOTERMINOLOGY ENDEAVOUR

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## Abstract

In this article, the idea of norm in language is compared to the notion of law in the application of justice, and how rules in both fields must be interpreted not in a rigid manner, but in a way that is appropriate to context. The case used to illustrate this principle of flexibility and adaptability is a community-based legal terminology and lexicography project developed with, by and for the Canadian-Tamil community of Ontario, Canada.

Keywords: Court interpreting; language standards; Canada; Tamil; socioterminology.

## *EL GLOSSARI DE TERMES JURÍDICS ANGLÈS-TÀMIL D'ONTARIO: UN PROJECTE SOCIOTERMINOLÒGIC APODERADOR*

### *Resum*

*En aquest article, comparem la noció de norma del camp de la lingüística amb la de llei en l'aplicació de la justícia, i com les regles de tots dos àmbits no han de ser interpretades d'una manera rígida sinó adequada al context. El cas que utilitzem per il·lustrar aquest principi de flexibilitat i adaptabilitat és un projecte lexicogràfic i de terminologia jurídica que s'ha dut a terme en el marc de la comunitat canadencotàmil d'Ontario (Canadà) i que s'ha desenvolupat amb la col·laboració d'aquesta mateixa comunitat, la qual, a més, és beneficiària i autora del projecte.*

*Paraules clau: interpretació als tribunals; normes lingüístiques; Canadà; tàmil; socioterminologia.*

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**Summary**

1 Introduction

2 Background

3 The Need for Court Interpreters in Ontario

4 The Right to a Court Interpreter

5 Lack of Court Interpreters in Canada

6 Language, Law and the Concept of Standards

7 Nomenclature

8 Conclusion

Bibliography

## 1 Introduction

Law is arguably the ultimate language profession. Whether it is through reading exegetically, inferring meaning hermeneutically, writing decisions authoritatively, delivering closing arguments convincingly, or delivering a verdict performatively, members of the legal profession execute their duties largely through their use or understanding of the law through language. Their work depends on how language is interpreted and understood, and how the non-linguistic is linguistically explained. Outside language, there is no human-made law; law *is* language.

Rather than an attempt to substantiate the significance of language in law, this paper aims at demonstrating that, while law has its own specialized language, serving justice means that the rules governing this specialized language require flexibility in their interpretation to serve the purpose for which they were intended. We do recognize that language professionals, such as translators, terminologists and, perhaps to a lesser degree, interpreters traditionally tend to rely on a more normative or even prescriptive approach when assessing the quality of their work and that of their peers. While the notion of quality, hence of assessment, in translation and interpreting is something about which we have written elsewhere (Fiola 2016), it bears repeating here that a normative approach in quality assessment, whether in pedagogy or in the practice of language professions, could contribute to impeding on textual functionality and communication effectiveness. Good language professionals know that speech that meets generally accepted language norms but not the needs of the receiver fails to achieve the intended communication goals (see, *inter alia*, Osimo 2014). To draw a parallel between language and law, one can imagine how a law applied to the letter may in fact violate principles of natural justice, hence defeat its own purpose.

Laws are interpreted in the context of the circumstances surrounding each case, and we would argue that guidelines governing bilingual legal terminology development may require to be abided by with the same degree of respect for what led to the rule, but with the understanding that a certain degree of flexibility and adaptability is warranted. To support our position, we will use the example of a terminology project whereby an English-Tamil legal glossary was developed to meet the needs of the State (in this case, the Province of Ontario, in Canada), its court system and population. First we will explain how this project came to be, then a description of the methodology and results will be presented. The reader should be reminded that the unorthodox methodology used in this terminology project was driven not by our pre-existing desire to shed light on a terminological process, but by the need to develop a Tamil-English legal terminology, hence the community-driven nature of this project and of the methodology used to bring it to fruition. We do hope that this need-based terminology project and the observations we were able to draw from it will be of some support to others who may want to launch into a similar project, or who may find our observations of some help in their own research for knowledge.

## 2 Background

Due to its two official languages, it is often said that Canada is a bilingual country. While official bilingualism means that French and English "have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and Government" (Canada 1985: 2(a)), Canada is not a country of bilinguals[1], and this means that the application of the Official Languages Act requires language mediation through translation and interpreting. While official, English and French coexist with multiple additional languages whose distribution depends greatly on whether they are Indigenous languages, spoken mainly in Northern Canada, or migration languages, which are spoken for the most part in Southern Canada, especially in and around major urban centres like Vancouver, Calgary, Edmonton, Winnipeg, Toronto, Ottawa, Montreal, Quebec City and Halifax. Therefore, translation and interpreting are key professions in Canada for their role in serving long-established immigrant groups like those who came decades ago from Italy, Portugal, and China, to name a few, as well as those seeking asylum or granted refuge through the Office of the United Nation High Commissioner for Refugees (UNHCR). The linguistic characteristics and needs of those migrating or seeking refuge in Canada changes from year to year, according to major global sociopolitical trends. For example, in 2016, Canada received 40,000 Syrian refugees; in 2017, Haitians who have been

1 In reality, 17.9% of the Canadian population can speak both official languages (Statistics Canada 2017).

living in the United States since the Haiti earthquake are coming to the Canada-US border, seeking asylum once again (Government of Canada 2017). The need for professional mediators varies according to the language combination and the setting. In this paper, we will not discuss English-French mediation, but instead a minority migrant language: Tamil.

## 3 The Need for Court Interpreters in Ontario

According to the 2016 Census, 21.1% of the Canadian population reported speaking a language other than French or English at home (Statistics Canada: s.d). In urban centres, that percentage is much higher, reaching up to 32% of the population in Toronto. Therefore, the potential need for language mediation, including for court interpreting, is significant. Language diversity abounds, bilinguals and multilinguals are less and less uncommon. However, the expansion of language mediation has not been able to keep pace with language diversification, and professional language mediators, most significantly interpreters, are increasingly rare, and those who work as language mediators while having the added benefit of being properly credentialed by a professional regulating body are even fewer. The lack of trained, competent and credentialed professional language mediators has impacts across the country, but it is in cities and the major conurbations of Vancouver, Calgary, Toronto, Ottawa and Montreal that the needs associated with language diversity are greatest and direst. To cite but a few examples, in 2011, with almost 200,000 Portuguese Canadians in the Toronto conurbation, there were only two accredited court interpreters; almost 500,000 Italians, and one interpreter; over 500,000 Chinese, and one Mandarin interpreter; none for Korean, Turkish, Cambodian or Tagalog. These languages are arguably spoken by fewer people in this area, but the absence of interpreters was highly problematic, at the time of the census. That same year, a magistrate in the suburban community of Scarborough declared that the situation had reached the point of being critical, due to a shortage of court interpreters capable of working in Tamil, Punjabi and Oromo, among other high-demand languages. The situation decried by such a prominent stakeholder was compounded by the fact that the justice system is required by law to provide competent court interpreters, in several circumstances, jurisdictions and tribunals. Whether they use interpreters when either defense or Crown witnesses do not fluently speak the language of the courts remains largely up to the tribunal to decide. However, as we shall see later, tribunals are required by law to provide interpreting services when requested by one of the parties to the case being heard. In Canada, the instances when a party can request an interpreter vary from jurisdiction to jurisdiction. For example, in Ontario, an accused or a lawyer may request interpreting services in any language in criminal and child protection cases, in French or English in all family, civil and Small Claims Court[2] matters, and in Sign Language (ASL or LSQ) in all court matters. It may also be provided in any language when it is ordered by the Court. In British Columbia, the conditions are the same, with the exception that individuals can request a court interpreter for motor vehicle infractions, or municipal by-law cases as well.

## 4 The Right to a Court Interpreter

The Ontario guidelines as well as those of other jurisdictions apply under the principles of language rights and accessibility rights as set out in the *Canadian Charter of Rights and Freedoms.* The *Charter* is a bill of rights enshrined in the Constitution of Canada, and language rights, among others, are set under Section 16-23 of the *Charter* (Canada 1982). In it, English and French are recognized as official languages, and have equal status. Regarding court services more specifically, the Charter states that both official languages may be used in Federal courts. It also states that cases involving tribunals are to provide French or English interpreting as needed. In addition, the Charter covers accessibility rights under the principles of equality, which prohibit discrimination based on race, gender, sexual orientation, mental or physical disability, and any difference that is immutable. It is this principle of immutability that explains why Sign Language interpreting services are provided in tribunals of all levels. However, since the inability to speak neither official language is not immutable, the right to interpreting for speakers of non-official languages is not covered by language provisions in the *Charter*, and the extent of speakers of non-official languages is limited to certain areas of public life. For example, other than in the case of certain Indigenous communities, speakers of non-official languages do not have access to public education in their language.

2 Small Claim Courts are tribunals where people can settle differences in cases worth anywhere up to $CAN 25,000.

Law and the application of justice are one specific sphere where there is no ambiguity regarding access to the mediation services of an interpreter when an individual speaks a non-official language. In 1994, the Supreme Court of Canada ruled that, under Section 14 of the Charter, the accused have the right to be present at their own trial, and that being present means that the accused are entitled to interpreting services that, while it may "not be perfect, […] must be **continuous**, **precise**, **impartial**, **competent** and **contemporaneous.**" [our emphasis] (Supreme Court of Canada 1994) This means that the interpreting must be complete and full, that when testifying, a witness cannot be asked to interpret, and that the interpreting needs not be simultaneous, but follow the original as soon as possible. Finally, the issue of competence does not refer to the interpreter's track record, but specifically to his or her ability to interpret in a specific case. (Immigration and Refugee Board of Canada s.d.)

The conditions listed in the decision of the Supreme Court of Canada may appear unusual, but since it flows from a lower court case that was appealed from a lower tribunal all the way to the Supreme Court, the conditions refer directly to the details of that case (Supreme Court of Canada 1994). In the province of Nova Scotia, a non-professional interpreter had provided a discontinuous, vague, partial, incompetent and delayed interpretation of the procedure, hence depriving the accused of his ability to be present at his own trial. In that case, Quoc Dung Tran, a man of Vietnamese origin, had been charged with sexual assault. Shortly after the assault was alleged to have happened, the complainant had described the event, giving a physical description of her two alleged assailants: she stated that they were of Asian origin, and that one of them was overweight and cleanshaven. Later on, the complainant identified Mr. Tran in a photo line-up. However, at trial, the accused appeared in court as a thin person with facial hair. Nevertheless, the complainant identified him in court as the man she had previously described as cleanshaven and overweight, but did agree upon being cross-examined that he did not meet the description she had given of him in her police statement. Because the court was using the very same Vietnamese interpreter that had been used when the accused was arrested, the defence called him to testify about the physical appearance of the accused at the time the events were alleged to have taken place. At trial, the interpreter-turned-witness should have interpreted what was being said, for the benefit of the accused. Instead, although he was instructed by the trial judge and by the defence counsel to provide a full interpretation of what was occurring, the interpreter answered in English and only provided a summary of his evidence in Vietnamese to the accused, and only at the end of his direct examination and his crossexamination. Parts of the exchange between other officers of the court appeared not to have been interpreted at all but, ultimately, the accused was convicted. He promptly appealed his conviction, in part on the grounds that the poor quality of the mediation services had deprived him of the right to be actually present at his trial[3]. After the Nova Scotia Court of Appeal upheld the conviction, it was appealed to the Supreme Court of Canada, which ruled that "failure to provide the accused with full and contemporaneous translation of all the evidence at trial constituted a breach of his right to an interpreter, as guaranteed by [Section] 14 of the *Canadian Charter of Rights and Freedoms*." Since then, being present at one's trial means that anyone who is not fluent in the language of the court is entitled to quality court interpretation services.

While that requirement to provide quality interpretation services is legislated, breathing life into that legislation put great demands on the legal system, and demand is greater than the offer of competent language mediators.

## 5 Lack of Court Interpreters in Canada

The lack of court interpreters is a complex problem at the base of which is the relatively small number of fluent bilingual speakers who have the language, specialized and technical skills to become court interpreters. Additionally, relatively poor compensation and the unpredictability of demand lead potential court interpreters to seek other, more lucrative and reliable forms of employment. This often puts tribunals in a position where they have to rely on the services of untrained or poorly-trained court interpreters to meet their legislative requirements regarding the language rights of the accused, which, unsurprisingly, has negative consequences on the operation of the justice system.

3 Contrary to section 650 of the *Criminal Code* of Canada (1985).

In 2008 a class-action lawsuit was filed against the Ministry of the Attorney General of Ontario, according to which the use of government-appointed court interpreters had led to mistrials or miscarriages of justice because of a lack of skills. In 2010, anticipating the unfavourable outcome of this high-profile class-action lawsuit, the Ministry of the Attorney General of Ontario launched a large scale re-accreditation initiative aimed at re-testing all of its interpreters, starting with the 24 most commonly used languages, representing 85% of the court cases requiring an interpreter. Of the 192 interpreters initially tested, 24% passed, 36% received conditional credentials[4], and 40% failed. All of these interpreters had been active in the court system, some of them for decades. Consequently, in certain language combinations, no accredited interpreters remained. The test includes several parts, but the two parts of the test that candidates failed the most frequently were simultaneous interpreting and terminology. Those who failed the simultaneous interpreting part could still interpret, for example for witnesses presenting evidence in a language other than that of the course, but not in cases requiring the whole trial to be simultaneously interpreted. However, the lack of familiarity with the proper legal terminology is not something that can be compensated for using another mode of interpreting. Among those 24 languages initially tested, the Tamil language was one that was already gravely underserved.

The Canadian Tamil community has its roots mainly in Sri Lanka, where it is a minority to the Sinhalese majority, and in the Tamil Nadu region of southern India. Tamil is an official language in Sri Lanka and Singapore, in Tamil Nadu and in the Union Territory of Puducherry. In 2007, it was estimated that there were 70 million Tamil speakers in the world.

Over the past decade, Sri Lanka has emerged from a 26-year war between the Tamil and the Sinhalese communities.

When it became public that no Tamil court interpreter had been fully accredited by the Ministry of the Attorney General of Ontario, training institutions, including Ryerson University, were compelled to help alleviate the situation. Because of time constraints, it was deemed impossible to offer a complete training program in simultaneous interpreting. However, as previously indicated, one of the most often identified problems with Tamil interpreters who had failed the accreditation test was their unfamiliarity with legal terminology. One of the reasons for this lack of familiarity with legal terminology is due to the absence of a reliable and centralized source of basic legal terminology for Tamil. In other languages, such as French and English, court interpreters in Ontario have access to a large number of resources, including to an online legal glossary of about 700 notions or concepts among the most widely used in the court system. Other non-official languages have access to online tools, including those developed by British Columbia[5]. Ontario Court Services and Ryerson University agreed that, although developing an English-Tamil glossary based on these concepts would not solve all issues related to the lack of competent interpreters, it would be a step in the right direction and a good foundation on which to build. The Ryerson Law Research Centre was able to secure a research grant from the Law Foundation of Ontario, a not-for-profit organization providing grants for research and community programming. Over the next few months, a small research team was created by the Law Research Centre, including Tamil speakers, interpreters and translators, and a first draft of the glossary was created. This first draft was to be the foundation for focus group discussions that were to include Tamil interpreters, translators and lawyers. The English list of concepts included in the English Online Legal Glossary (Ministry of the Attorney General of Ontario) was used as the basis for the nomenclature. During the grant-seeking process, other organizations that had expressed their support for the initiative had pointed out a number of terminological gaps that could also be filled by the same initiative. Those key terms, identified by front-line workers in those organizations, were later added to the nomenclature. Those paralegal terms relate especially to immigration, citizenship, permanent and temporary residence, but also to access to social services.

In drafting the nomenclature and in the initial discussions with members of the Tamil community, it became abundantly clear that the needs of the Tamil diaspora regarding a standardized source of legal terminology were strongly influenced by the nature of the legal system in which they were currently living, a system that

4 Conditionally accredited candidates did not achieve a score of 70% in each section of the test but did achieve more than 50% in each section (Ministry of the Attorney General of Ontario s.d.).

5 The Multilingual Legal Glossary (www.legalglossary.ca) is available in Chinese (simplified and traditional), Farsi, Korean, Punjabi, Russian, Spanish and Vietnamese, in addition to English.)

refers to concepts to which they had not been exposed in their Sri Lankan homeland. Using existing legal Tamil legal terminology was going to be useful inasmuch as the terms used in Sri Lanka and in Canada covered the same concepts[6]. It appeared, therefore, that a normative approach to this terminological endeavour may not be the most effective, or at the very least that the concept of *normaison*[7], which refers to the spontaneous nature of terminology building in a given community of users, could be more productive. According to this approach, usage needs to be taken into consideration to ensure effective term implementation, an idea which, in our opinion, offers interesting parallels with the interpretation and application of the law.

## 6 Language, Law and the Concept of Standards

Language much like law is socially constructed, conventional and evolving. Every day, new concepts enter languages, and they translate into new words or into new meaning to existing words. The same can be said of Law as a body of legislation: judges make decisions that shapes further interpretation of the law, and legislators introduce new laws aimed at changing the way certain activities or behaviours are limited or permitted. These changes regarding law occur over time. To illustrate this position, let us look at the notion of "murder".

In his *Institutes of the Lawes of England* (1628), Sir Edward Coke defined *murder* as:

> "when a man of sound memory and of the age of discretion, unlawfully killeth within any county of the realm any reasonable creature *in rerum natura* under the king's peace, with malice fore-thought, either expressed by the party, or implied by law, so as the party wounded, or hurt, etc. die of the wound, or hurt, etc. within a year and a day after the same." (P. 3, Ch. 7, P. 47)

Just over a century later, in his *Commentaries on the Laws of England*, English jurist Edward Blackstone (1765) further defined that same notion, making it slightly more implicit. In his commentaries, Blackstone specified that murder cannot be committed by "a lunatic or infant", unless they are aware of discerning good and evil. Then, unlawful killing is not to be confused with those killings that take place in self-defense or in the theater of war, or as capital punishment set by law. Whether capital punishment constitutes murder in the legal or moral sense is at the heart of debates in many jurisdictions still, as is the common understanding of what it means to die, whether or not as a consequence of a killing or of natural death. In the 18th century, life ended with the permanent interruption of cardiopulmonary functions. Nowadays, that idea of death has been extended to the irremediable cessation of all brain activity. Coke's and Blackstone's definitions of *murder* refer to the killing of a *reasonable creature*, in other words of a *human*, including "an alien, a Jew, or an outlaw". It excluded, however, unborn children, implying that human life starts after birth. Nowadays, in the United States of America, for example, following the Unborn Victims of Violence Act of 2004 (United States of America 2004), fetuses in utero are recognized as legal victims, albeit only on properties where the United States Federal Government has jurisdiction.

It should also be noted that, while the notion of murder implies the killing of a person by another person, in early common law, suicide was considered murder.

Finally, *malice aforethought* originally meant hurting with the intent to kill. Later, the courts broadened the requirement of premeditation, deliberation and true malice. Malice aforethought was deemed to exist if the perpetrator acted with at least one of the four states of mind (Wise 2002) of malice that is an intent to kill, an intent to inflict grievous bodily harm, reckless indifference, or intent to commit a dangerous felony.

As we can see, our understanding of that notion has evolved over time, and it continues to evolve: killing no longer means that cardiopulmonary arrest has occurred; cessation of all brain functions may also mark the end of life. Nowadays, lawful killing also includes medical aid in dying, or medically assisted suicide (although in most jurisdictions, it is still considered manslaughter). Suicide is no longer considered murder, and

6 We use the word *term* to refer to the headword of an entry, while the word *concept* refer to the *term* refers. In other words, a single concept may be associated with several *terms* in a single language, such as in synonyms, or in different languages, such as parallel lists of terms in a bilingual or multilingual glossary.

7 See Gaudin 1993: 173.

“malice aforethought” has led to define degrees of murder, such as manslaughter (voluntary or involuntary), constructive manslaughter, criminally negligent manslaughter, second degree murder, etc.

Therefore, if we accept the fact that laws evolve like language, it must be recognized that this evolution impacts our understanding of key concepts, that the framework within which a concept is understood is not immutable. While a prescriptive or normative approach is sometimes advisable, language, much like law, evolves over time and across space continuum, which makes the definition of a reference norm highly problematic: what is the norm, or correct, and what is outside that norm, or incorrect? If we look at language in general, and if we compare the varieties of English, of Spanish, of French, across borders, the validity of norms can easily be questioned and challenged. When we look at a language like French and how it is spoken in France and in Canada, for example, many differences come to mind. In France, the prevalence of English terms in everyday life and in areas of business and of technology is striking, whereas in Canada, any term that looks or sounds like English is frowned upon. For example, *courriel, clavardage, baladodiffusion* are used in Canada to express *email, chat,* and *podcast.* In France, *(e)mail, tchat,* and *podcast* are used almost without any transformations. However, other forms of anglicisms go much more easily unnoticed in Canadian French, as long as they don’t “look” English. One’s attutide towards one’s own language is shaped by its relative status on a given territory, and the geolinguistic or even geopolitical context guides those attitudes and choices. From this perspective, the context-driven nature of the legislative and terminological processes are not that dissimilar.

Therefore, given the context and target user for which the English-Tamil glossary was being developed, we felt it was inappropriate to take a normative approach where term candidates would be selected based on their congruency with a Sri Lankan reference norm; while those may meet morpholexical standards established in the Sri Lankan context, within the Canadian diaspora, they risked failing being acknowledged, recognized, understood and widely adopted by the very users for whom they were intended. A sociolinguistic approach to developing a relevant Tamil legal terminology for Canada – a socioterminological procedure to be exact – required instead to place the user at the core of the standardization process. Developing the English-Tamil legal glossary with Canadian users in mind meant that a Sri Lankan Tamil norm could be used as a starting point, but should not be referred to in order to overrule regional differences attributable to the Canadian legal and social context, hence the priority given to the principles of *normaison* in our project.

## 7 Nomenclature

In concrete terms, this is how our approach shaped the terminology project. Terms parsed from the English glossary were selected, and the nomenclature was further augmented with specialized terms frequently used by our partner settlement and immigration agencies. In addition, since we chose not to rely on the Sri Lankan norm, existing Tamil resources could not be used to define Tamil terms, for we wanted to avoid any definition that may be too closely related to a Sri Lankan context. Therefore, it was decided that existing English definitions were to be translated and adapted into Tamil for the Canadian context. Term candidates, on the other hand, were searched using existing Sri Lankan databases, paper resources and legal documents. However, in the validation phase, those were presented only as a series of possible terms without prejudice, alongside Canadian Tamil neologisms. Speaking of neology, where no term candidates were found in Tamil resources, new terms were coined according to morphological models taken from general and specialized language. Sometimes equivalent terms were readily identified and no alternative was offered, but in most cases more than one term candidate were suggested for each concept. Those term candidates were sometimes direct translations, direct loan words, and equivalent terms taken from legal documents. On very rare occasions, no term candidate was found at that stage of the project, but these terminological gaps were brought to the attention of the focus groups, who then suggested and discussed viable options.

Once the preliminary list of term candidates was completed, it was divided into sub-lists of around 50 concepts, for the sake of easier manageability. It is these lists that we used for our focus groups discussions, during which Tamil interpreters and translators worked individually on the preliminary validation of each term. Term candidates were assessed and validated based on their current usage or usability, and transparency. In situations where more than one term were suggested, participants were asked to critique the terms for their univocity and acceptability in legal and sociolinguistic contexts. Unnecessarily long terms were deemed

to have a lower level of acceptability and, when possible and appropriate, shorter terms were favoured. In certain cases, especially for terms with no direct equivalents in Tamil, participants were asked to consider coining a neologism, based on the criteria already listed.

In certain cases, both at the translation and term validation phases, questions arose regarding the meaning of a given term. For example, questions were raised regarding the difference between the following terms in family law: *joint, shared, sole* and *split custody*. While translating the definitions for those terms, we noted that there was no distinction between *split* and *joint custody*, although both terms were allowed to co-exist in the databases. In this case, the research team had access to legal assistance from legal experts in the Ryerson Law Research Centre, and to other terminologists, who could attempt to explain the nuances of the two terms by way of the French definitions and usage. In this specific case, there was no equivalent term in French for *split custody*, so we were able to develop a neologism not only for Tamil but also for French.

This approach enabled us to identify concepts for which there were more than one Tamil hyponym for a single English hypernym. In those cases, lexical ambiguity was allowed to persist in English, as our role was not to develop English but Tamil terminology, but a note was added in the English and the Tamil definitions, explaining the nuances in the Tamil terms as opposed to the general usage of the single English term. Those annotations were to be used as safeguards for language professionals, in order to avoid ambiguities.

As we had anticipated, on many occasions the normative, "official" equivalent term was disqualified, its low acceptability rating in the Canadian context being based on the fact that it was too closely associated to a distant or painful context[8], or simply too obscure or opaque, lacking clarity or transparency. It should be noted that such criteria had not been historically applied to English or French legal lexicon, given the tradition in the legal profession to continue to use Latin phrases such as *actus reus, amicus curiae, habeas corpus,* and many more. Those Latinisms were, for obvious reasons, not used as preferred Tamil terms but nevertheless listed under other possible equivalents.

Finally, once all terms were graded and validated by Tamil language users and language professionals alike, they were once again validated by bilingual Tamil-English law professionals, who were able to confirm the usability and validity of the Tamil terms in a Canadian legal context. After this last phase, the glossary was launched online, where it is still available free of charge, for the whole community. The TELG is an open, living document that can be updated, augmented, revised or reviewed.

## 8 Conclusion

The Tamil-English Legal Glossary is a project whose source can be found in the pressing needs of a diaspora community. It can be said that this research project without a doubt met its intended objective because, since the launch of the glossary, several Tamil interpreters have been accredited to work in the Ontario courts. However, the circumstances surrounding this terminology project meant that the approach was largely driven by the need of the community, and that the same project conducted in a different situation may have required a different approach. For example, we know that the English nomenclature was derived from prevalence and frequency of usage, in other words that those were key concepts which, due to their specific meaning in a legal context, required the use of a glossary to be perfectly and universally understood and used in the legal system. A large portion of those terms appear with their definitions in the legislation in which they are used, in Ontario Statutes and Regulations. Had the nomenclature been originally in Tamil, one can easily imagine that a number of concepts absent from the current list would have been included, and perhaps that some which are currently part of the nomenclature might have been left out. Defining the concepts in Tamil without the aid of translation might have also been more methodologically sound but, again, defining contexts taken from original Tamil sources could have been just as problematic as using translated definitions from the English and French, given the love-hate attitude of the diaspora vis-à-vis their former country.

Although the Tamil definitions were created based on the English nomenclature, the glossary is not a translation of the English-French Legal Glossary: it is a bilingual list of terms and definitions that take into consideration the specificities of the Ontario legal system and of its British tradition while being an

8 It bears repeating that this project involved work with a refugee population, for the most part.

attempt at serving more equitably Ontario's diasporic Tamil population, given the context that brought this refugee diaspora to Canada, and the context in which this diaspora currently lives. Empowering bilingual and bicultural users whose everyday lives involve negotiating differences between legal, cultural and linguistic systems led to the development of a bilingual glossary that is adapted to the needs of population and of a legal system that so desperately needed it.

This terminology endeavour aimed at gathering and developing legal Tamil terminology was based on the principles of socioterminology, on creating terms that would be reliable for the legal system, as well as being usable and understood by users. From the onset, we believed that a prescriptive or even normative approach to terminology was not the most productive solution to developing a coherent, useful and usable legal terminology. However, it remains unclear if a different approach would not have produced an equally or perhaps more effective tool.

Our functional approach to legal terminology development led us to produce a document that lives thanks to the involvement of the Tamil community of Ontario and which can now be used as a reference in the development of further resources for the Tamil community and other language and cultural groups in Canada and abroad.[9]

9 The research project at the origin of this paper was made possible thanks to a generous grant from the Law Foundation of Ontario (Canada) and the financial support of Ryerson University.

## Bibliography

Blackstone, William, Sir. *Commentaries on the Laws of England*, 4 volumes, first edition, Oxford: Clarendon Press. 1765-1769.

Canada. "Official Languages Act, R.S.C., 1985a, c.31 (4th supp.)", Justice Laws Website (17 January 2017).

Canada. *Constitutional Act of 1982*, *Part I, Canadian Charter of Rights and Freedoms*, http://laws-lois.justice.gc.ca/eng/const/page-15.html.

Canada. *Criminal Code*. 1985b. http://laws-lois.justice.gc.ca/eng/acts/C-46/

Coke, Edward. *Institutes of the Lawes of England* (1628).

Fiola, Marco A. «Pour une notion élargie de la qualité en pédagogie de la traduction». *Interdisciplinarity in Translation Studies: Theoretical Models, Creative Approaches and Applied Methods*. [Bern: Peter Lang], Ana María Rojo López and Nicolás Campos Plaza (eds.) (2016), 329-343.

Gaudin, François. *Pour une socioterminologie. Des problèmes sémantiques aux pratiques professionnelles*. Coll. "Publications de l'Université de Rouen". No. 182. Université de Rouen (1993).

—. "La socioterminologie", *Langages. La terminologie: Nature et enjeux.* Vol. 39. No. 157 (2005), 80-92.

Government of Canada. *MP Emmanuel Dubourg wraps up successful visit to Miami*. 2017.

Immigration and Refugee Board of Canada. *Guide to Proceedings before the Immigration Division – Chapter 6 – Language of Proceedings and Interpreter*, http://www.irb-cisr.gc.ca/Eng/BoaCom/references/LegJur/Pages/GuideIdSi06.aspx (last viewed January 31, 2017).

Ministry of the Attorney General of Ontario. *FAQ. Tests and Accreditation Models,* https://www.attorneygeneral.jus.gov.on.ca/english/courts/interpreters/new_tests_and_accreditation_model/faqs.php#2 (last viewed January 31, 2017).

—, *Glossary of Terms*, https://www.attorneygeneral.jus.gov.on.ca/english/glossary/ (last viewed January 31, 2017).

Osimo, Bruno. *Fundamentals of Translation*, 2014. Bruno Osimo Publisher.

Statistics Canada. "An increasingly diverse linguistic profile: Corrected data from the 2016 census", August 2017 http://www.statcan.gc.ca/daily-quotidien/170817/dq170817a-eng.htm (last viewed September 8, 2017).

Statistics Canada. "2016 Census: Immigrant Languages in Canada", 2017. http://www.statcan.gc.ca/pub/11-627-m/11-627-m2017025-eng.htm (last viewed September 8, 2017).

Supreme Court of Canada. R. v. Tran. 2 S.C.R. 951. 1994. *Judgments of the Supreme Court of Canada.* Web. October 6, 2016)

United States of America. *Unborn Victims of Violence Act,* 2004. https://www.congress.gov/108/plaws/publ212/PLAW-108publ212.pdf (last viewed January 31, 2017).

Wise, Edward. "Criminal Law", *Introduction to the Law of the United States,* [Kluwer Law International], David Clark and Tuğrul Ansay (eds.), 154 (2002).