



**Translation styles in selected eThekweni Municipal By-Laws: A case study of
English and isiZulu language combination**

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PLAGIARISM DECLARATION

I hereby declare that this work, submitted for a Doctor of Philosophy in Language Practice at the University of Technology, is entirely my own work. All the sources used in this thesis have been acknowledged through a reference list. I therefore have not breached any copyright laws.

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ABSTRACT

Recent research in translation studies has emphasised the function of the text as the focus of translation analysis. The implication of this for legal translation is that the expected effects of the target text determine the strategies adopted in the translation process. Given that legal terminology presents various levels of challenges to translators, it would be advantageous for legal translation analysis to adopt a more specific approach, and for translator training to incorporate more specialised knowledge. It is within this context that this study sought to investigate the terminological challenges of legal translation and provide a platform to further investigate the implications for legal translation and social justice in general, particularly in a country such as South Africa where the field of legal translation is 'under-researched' and 'has received little, if any, attention in translation theory and at tertiary institutions' (Cornelius 2011: 123). The study draws from the Descriptive Translation Studies' (DTS) sub-branches, namely, the process-oriented approach, product-oriented approach and function-oriented approach. This is because of the relations that exist between these approaches in translation. In this regard, Toury (1995) argues that there is no point in conducting a product-oriented study if questions relating to the determining force of its intended function, and to the choices made by the translator governed by the norms of establishing a product, are not considered. In advancing his argument, Toury contends that it is the function of the translation through its linguistic make-up and/or relationships that connect it to the original, which yield and govern the strategies which are adopted during the production of the translation that would result in a translation process as a whole. The study adopted a qualitative case study design approach to gain a deeper understanding of the translation decisions made by translators within a particular context, in light of the translation challenges that they encounter when translating legal texts. The study used a thematic analysis method to analyse translation styles employed by translators in the translation of eThekweni Municipality By-Laws. The translation styles were identified and exemplified in the framework of three broad categories: legal terms - technical terms, polysemous words and word strings/legal synonyms; linguistic terms - modal verbs, archaic adverbs, collocations, ambiguous/vague words, long sentences and passive voice, and culture-specific terms/expressions. Norms were also identified

that are at play during the translation act. Data was accessed from the eThekweni Municipality website. It consisted of eight pieces of legislation in English and their translations. The findings of the study reveal that the main challenges encountered by the translators of the selected legal texts were both linguistic and socio-cultural in nature. As a result, the translators adopt various translation styles such as borrowing, adaptation, naturalisation, paraphrasing, and functional equivalents to render the source texts in the target language. These styles produced translations are generally acceptable in the isiZulu language and culture, even though a few of the translations led to meaning shifts in the target language. The norms that were operational during the translation process shaped translators' decision-making with respect to the translation styles they adopted in the translation. This is consistent with Toury's (1995) assertion that norms determine the translation strategies that a translator adopts. In other words, they serve as a guide in the translation process regarding strategies used.

Keywords: translation styles, Descriptive Translation Studies, legal system, Legal Translation Studies

ACRONYMS AND ABBREVIATIONS

CAT	Computer-assisted translation tools
DTS	Descriptive Translation Studies
LLD	Language of limited diffusion
LTS	Legal Translation Studies
MT	Machine translation
PanSALB	Pan South African Language Board
SL	Source Language
ST	Source Text
TL	Target Language
TS	Translation Studies
TT	Target Text

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CHAPTER 1: INTRODUCTION

1.1 Background of the study

Legal texts are normative and authoritative, thus legally binding. Translated legal texts, therefore, become automatically binding if their function is “to impose duty and to confer power” Biel (2014: 334). Cao (2007) distinguishes between different types of communicative functions of legal texts, which are discussed in detail in 2.2. For this study, the focus was limited to the normative function of eThekweni Municipality By-Laws. These are authoritative in the sense that they “establish legal facts or create rights and obligations” (Cao 2007: 10). Biel (2014: 335) goes on to argue that ‘the legal consequence of translation is that after the authentication procedure, translations become equally authentic and original’. This means that from a legal point of view, the original text and its translated version are equally valid.

Šarčević (1997) highlights that authoritative translations provide mechanisms through which the law can function in various languages since they are vested with legal authority. She claims further that the lack of terminology stems from legal concepts that are often legal system-bound. Echoing this view, Cao (2007) argues that the translation of legal concepts is the reason why translators frequently encounter challenges when translating legal texts. In advancing her argument, Cao (2007) claims that the difficulty of translating legal language is because of the inherent features of law and the language it uses, which is coupled with intercultural and interlingual communication differences. She goes on to say that legal translation is complicated further because of the systematic differences in law. As a result, many legal words are not lexicalised in another language, which causes both legal and linguistic challenges. Echoing this view, Burukina (2012) identifies another challenge where a legal translator is required to specialise in translating from and into particular languages that have not been developed in respect of the legal terminology. In this regard, Cornelius (2011) proposes that a legal translator must develop a legal knowledge structure over and above a firm grounding in language and translation theory. She goes on to say that this kind of knowledge will be essential in enabling a translator to produce the same legal force in the translated text.

1.2 Site of the study

The eThekweni Municipality is situated on the east coast of South Africa in the KwaZulu-Natal (KZN) province (eThekweni Municipality n.d.). It is approximately 2 556 km² in land size and borders three provincial districts, namely Ugu, iLembe and uMgungundlovu (eThekweni Municipality n.d.). eThekweni, formerly known as Durban, saw the arrival of the Nguni people, followed by the European colonialists in the 1400s. Over five decades, eThekweni has developed and expanded to become one of the most renowned cities in the country, boasting topographical hills, subtropical weather and the busiest port in the country. The ushering in of the new political dispensation in 1994 changed the status and outlook of eThekweni. It was enlarged to become Durban Metropolitan by including large areas such as the north, south and west of the city, which resulted in further expansion in 2000. It is the economic hub of the KZN Province and a major tourism centre. It consists of 3.9 million residents, with 50.3% accounting for females and 49.7% males (eThekweni Municipality n.d.). The eThekweni Municipality's language policy was adopted in 2009. Regarding the languages spoken in the province of KZN, isiZulu accounts for 80.9%, English at 13.6%, isiXhosa spoken by 2.3% and Afrikaans spoken by 1.5%. The language policy is in line with the Constitution of the Republic of South Africa, which provides for 12 official languages and recognises the historically diminished use and status of the indigenous languages of the people of South Africa (eThekweni Municipality n.d.). Consequently, isiZulu and English became the official languages for the eThekweni Municipality, which is used in official communication and in all organs of the Municipality (eThekweni Municipality n.d.).

1.3 Rationale of the study

The translation of legal texts, as manifested in the literature consulted, has been a cause for concern because of the translation challenges associated with such texts. Legal texts are characterised by complex and unique vocabulary, as Cao (2007) observes, which confronts the translator with a world often very different from the one to be created in the translated text. I observed these trends in the translation of legal texts when I worked as a translator at Parliament and KZN Legislature, respectively, where I translated parliamentary debates and Bills into isiZulu. I observed that there were factors under which I produced those translations that made me translate the way I did. These included constraints presented by the legal terms in the parliamentary debates and Bills, which

were culture and system-bound and often archaic. I was not a legal translator, nor did I have a legal background to understand how those legal terms were used in the source text, which would determine how I rendered them into isiZulu. I also observed that there were institutional constraints under which I was producing translations. As a translator at the time, I was expected to translate certain terms in a particular way as required by the legislature. I, however, realised that it was linguistic preferences as those terms did not result in any shifts in meanings; it was for stylistic purposes. Also, as a cultural mediator and someone who occupied a position in the target system, I had to consider the cultural importance assigned to some cultural concepts in the source text and how these were to be rendered into the target language. Ultimately, since I preserved the meaning of the original Bill, I had to produce a translation that would be acceptable to the target audience. These observations informed my decision to do this study because I wanted to determine how and why these factors influence the way a translator translates legal texts. It is important to point out that various studies, which I have discussed in detail in this present study, have been conducted on the subject. However, these studies do not take the South African context into consideration, where African languages do not enjoy the status of English and Afrikaans as the languages of law, even though the former were awarded the same status as the latter post-1994.

1.4 Statement of the problem

Research indicates that legal translation has been understudied and has not been given “sufficient attention in South African scholarly work in general and in translation theory in particular” (Cornelius 2011: 128). She goes on to say that, given that African languages have been marginalised in the legal field in South Africa, legal translation from and into African languages has been very limited. While there is an increased demand for legal translation in African languages in South Africa, some studies hint at the lack of professional legal translators with English language proficiency and legal background, as legal translation is a highly specialised translation act requiring specialised knowledge. This in-depth investigation of styles employed by translators when translating legal texts into isiZulu will help by contributing to the development of a very specific and challenging form of translation. Its uniqueness and peculiarity are exemplified by the fact that, amongst others, the translator is not only translating legal terms between two legal languages, but also translating between two legal systems (Šarčević 1997).

1.5 Research questions

The study sought to answer the following research questions:

1.5.1 Main research question

What translation styles are employed in the translations of legal text in the context of the English and isiZulu language combination?

1.5.2 Sub-questions

- What are the challenges associated with the translation of legal texts from English into isiZulu?
- What are the applicable translation styles [strategies] used in translating legal texts from English into isiZulu?
- Which norms influence the translators' actions during the translation of legal texts into isiZulu?
- How do translators' styles [strategies] influence the acceptability of the target text in the target culture?

1.6 Aim of the study

This study aimed to investigate the translation styles employed by translators to translate legal texts from English into isiZulu at the eThekweni Municipality.

1.7 Objectives of the study

To achieve the aim of the study, the following specific objectives were targeted:

- Identify the challenges to the translation of legal texts from English into isiZulu.
- Identify the translation styles used in the translation of legal texts from English into isiZulu.
- Identify norms in operation during the translation of legal texts from English into isiZulu.
- Establish the implications of such translation styles on the acceptability of the target text in the target language.

1.8 Brief literature review and theoretical framework

1.8.1 Legal texts in translation

Cao (2007) observes that it is generally challenging to fathom legal texts as compared with other professional domains. She attributes this to such factors as legal lexicon, syntax, difference in legal systems, linguistic differences and cultural differences, which she refers to as sources of difficulty. Regarding legal lexicon, Cao asserts that owing to peculiarities in legal vocabulary, they do not always have equivalents in another language. In respect of syntax, legal texts contain long and complex sentences. Concerning differences in legal systems, she posits that legal language is tied to a legal system of a particular nation and, as such, many legal terms do not have equivalents in another language. Furthermore, regarding linguistic differences, she contends that legal texts are dependent on the special regulations of legal translation, and these are not visible in legal texts. Consequently, this creates an obstacle to the comprehensibility of legal texts. In terms of cultural differences, she asserts that legal texts are mostly culture-specific. (Cao 2007). Translators are not merely translating the meaning from one language to another, but also account for culture. In this regard, it can be said that for a legal translator to produce legal translation successfully, they must be familiar with both the culture and legal systems in both languages, be proficient in both languages and have a legal background, which includes familiarity with legal terminology.

In this regard, Cao (2007) argues that the challenge of translating legal language is due to inherent features of law and the language it uses, which is coupled with the intercultural and interlingual communication differences. She goes on to say that legal translation is complicated further because of the systematic differences in law. As a result, many legal words do not find ready equivalents in another language, which causes both linguistic and legal complications.

1.8.2 Legal translation in African languages

De Schrywer and Gauton (2004) argue that the single biggest problem that translators experience when translating from international languages, such as English, into so-called minor languages such as Zulu, is a lack of terminology in the majority of specialist subject fields. This argument is particularly relevant in the South African context, where African languages have been neglected in the legal domain (Cornelius 2011). It must be recalled

that pre-1994, only two languages were granted official status, namely English and Afrikaans. Consequently, legislation was exclusively published in these two languages. However, in the new dispensation, all 12 languages were granted official status. As such, all African languages were included. This sentiment is shared by Ralarala (2016) in his submission that in 1994, the nine African languages were granted equal status along with Afrikaans and English. He, however, laments the exclusion of African languages and contends that African languages continue to play second fiddle to English and Afrikaans. He contends that, “the South African language scenario demands special consideration to gain a sense of the linguistic complexity produced by having 12 official languages” (Ralarala 2014: 377). This view is shared by Brock-Utne (2003) when he argues that English and Afrikaans are still almost dominant in the law and legal system of South Africa, which leads to the alienation of the legal system by the bulk of South African society. In advancing his argument, Brock-Utne contends that whilst Black South Africans could use their mother tongue in their homelands, those who found themselves with legal matters to settle within the so-called white South Africa, their proceedings were conducted in either English or Afrikaans (Brock-Utne 2003). For example, Bills are brought for discussion in two languages and one of those must be English. In the end, the president signs only one Bill, not the translations (Cornelius 2011). Cornelius goes further and suggests that if African languages could be used by taking turns, their development may be promoted, which could see a tremendous contribution “to the development of legal terminology in these languages” (Cornelius 2011: 134).

1.8.3 The translator’s style

The notion of style has been investigated by various scholars (Baker 2000; Munday 2008; Malmkjær 2003; Saldanha 2011), who studied the systematic patterns of choices made by translators during the translation process. Baker (2000) defines style as “a kind of thumb-print that is expressed in a range of linguistic – and non-linguistic – features, which might include the (literary) translator’s choice of the type of material to translate, where applicable, and his or her consistent use of specific strategies, including the use of prefaces or afterwords, footnotes and glossing in the body of the text, etc” (Baker 2000: 245). She argues that these are not just a once-off intervention but repeated patterns that are observable in the translation. Baker’s view on style finds expression, on the one hand, in Munday’s (2008) assertion that the patterning of choices emphasises the repeated

patterns associated with the translator's style. Malmkjær (2003), on the other hand, has studied the notion of style within the framework of translational stylistics, where she focuses on the translation style instead of the translator's style. This is revealed by her reference to linguistic items and structures that occur consistently and regularly in the text. In this regard, Saldanha (2011: 27) contends that Malmkjær "sees style as a way of responding to the source text". This claim gives credence to the view that Malmkjær's notion of style focuses on the translation style. For Saldanha (2011), the translator's style is purely viewed as the result of choices determined by the subjective reading of the text, when the objective is to reproduce the style of the text.

1.8.4 Descriptive translation studies (DTS)

Studies indicate that, over time, there has been a gradual shift from prescriptive theories to DTS. In contrast to prescriptive theorists who theorise on translation, Kruger and Wallmach contend that:

Descriptive theorists commence with a practical examination of a corpus of texts and then attempt to determine which norms and constraints are operational on these texts in a specific culture at a specific historical moment (Kruger and Wallmach 1999: 278).

As a result of this shift, they adopted a functional and target-oriented approach that focuses on the translation of how it is produced in practice rather than prescribing how it is supposed to be done. This study will, therefore, be situated within DTS, as it is concerned with the adoption of a framework for comparative analysis of eThekweni Municipality's source and target texts (by-laws) and the description of translation styles used in the study.

To highlight the descriptive approach used in this study, it becomes necessary to briefly explain DTS. DTS refers to descriptive approaches to the study of translation, distinct from prescriptive approaches, which prevailed in translation studies before the 1980s. Prescriptive approaches determined how translation should be done and "evaluate translations as good or bad according to a fixed theory of what constitutes equivalence between two texts" (Kruger and Wallmach 1997: 120). However, many scholars (Christiane Nord, Theo Herman, Katharina Reiss and Hans J. Vermeer) raised shortcomings of the notion of equivalence because "it is not possible to view a translated

text as a mirror-image of its original as is required by equivalence-based prescriptive theories, since translation always involves a degree of subjectivity and reformulation' (Kruger and Wallmach 1997: 120–121). In this regard, they argue that 'the Descriptive Translation Studies go beyond the notion of equivalence and takes into account the socio-cultural conditions under which translations are produced to function in the receiving culture as acts of communication' (Kruger and Wallmach 1997: 121).

1.9 Brief presentation of the research design

1.9.1 Research design and methodology

This study followed a qualitative design located within the constructivism and interpretivism approaches. As such, this study used a case study method based on the eThekweni Municipal By-Laws translations. The study dealt with qualitative data, as this provided me with a detailed analysis, such as thematic analysis of the selected pieces of legislation. As such, the qualitative design adopted was the appropriate approach to study that kind of data.

1.9.2 Data collection method and sampling

Data for this study were extracted from selected pieces of legislation (by-laws) which were collected from the eThekweni Municipality official website, as these do not need any special permission because they are for public consumption. The study adopted convenience sampling. Saldanha and O'Brien's (2013) view on convenience sampling is that it is carried out by selecting texts or other types of research outputs that are most easily accessible, for example, taking a sample of text from websites. In this regard, Golzar and Tajik (2022: 73) point out that convenience sampling means that the researchers make use of 'a sample which is readily available and they have access to it, it can apply to almost any researcher'. Sampling comprised 16 pieces of legislation, that is, eight original (English) source texts (ST) and their isiZulu translations (TT). These are: Retail Markets By-Law 2014, Informal Trading By-Law 2014, Film By-Law 2018, Public Transport By-Law 2014, Cemeteries and Crematoria By-Law 2015, Water By-Law 2014, Child Care Facilities By-Law 2015 and Museum By-Law 2015. These were selected on the basis that they were translated internally by eThekweni Municipal Language Unit translators. It is important to mention that these by-laws are authentic because they were passed and approved by the Executive Council of the municipality.

1.9.3 Trustworthiness

Trustworthiness refers to the credibility and thoroughness of the study. It can be classified into four categories: namely credibility, dependability, confirmability and transferability. Adherence to these criteria, as put forward by Lincoln and Guba (1985), can strengthen the trustworthiness of research findings, which gives rise to the credibility of the research findings.

1.10 Scope of the study

This study was limited to the investigation of translation styles adopted in the translation of the eThekweni Municipality By-Laws into isiZulu, as dictated by the theoretical framework within which this study is located. In other words, the study describes the translation styles used by translators to identify challenges they encountered, operational norms, and their effects on the target system.

1.11 Outline of chapters

This study is organised into six chapters as follows:

Chapter 1 provides the background of the study, the site of study, the rationale of the study, the aim of the study, the research questions of the study, the objectives of the study, a brief literature and theoretical framework overview, research design and the scope of the study.

Chapter 2 reviews existing literature on the turns in translation theories in light of the emergence of legal translation and legal translation as a discipline within translation studies.

Chapter 3 provides a theoretical framework, DTS, an overview within which this study is located, its origins and how it has been applied to legal translation.

Chapter 4 provides a detailed account of the analytical framework and different methodological processes used in this study.

Chapter 5 presents data analysis and research findings from the analysis of data. Chapter 6 provides a summary of the study, the contribution of the study, and suggestions for future studies.

CHAPTER 2: LITERATURE REVIEW

2.1 Introduction

This chapter provides an overview of the literature reviewed, which is significant to this study. The chapter focuses on legal translation and, as such, a detailed account of the main issues will be provided, which include the history and development of legal translation; the conceptualisation of legal translation; challenges of legal translation and how to overcome these; style in legal translation and legal translation in South Africa.

2.2 History and development of legal translation

Van Gerwen (2019) maintains that the history of legal translation has received little attention from translation studies scholars and legal historians. Against this backdrop, Šarčević (1997) provides some insights into how legal translation developed over time. Šarčević (1997: 24) claims that “the first known codified rule on the translation of legislative texts is Emperor Justinian’s directive outlined in the *Corpus Juris Civilis*”. This directive led to the dominance of Latin in legal instruments, and documents were recorded in this language (Šarčević 1997). This means, therefore, to preserve the letter of the law in the Middle Ages, the directive explicitly demanded that translations be reproduced in Latin word-for-word, which, in essence, was a strict literal translation. This means that source text words were supposed to be translated into the target language using a literal method, and the grammatical form and word order of the source text were supposed to remain the same.

A predominant approach to translation was therefore a linguistic one, which re-emerged in the mid-twentieth century underpinned by a ‘*strict literal*’ approach to translation (Šarčević 1997: 24). This came into existence in the nineteenth and early twentieth century (Garzone 2000). Linguistic approaches have been used in translation studies to refer to theoretical paradigms that describe translation and interpreting as a linguistic phenomenon, informed mainly by linguistic theories (Saldanha 2009). The emergence of linguistic approaches gave rise to the notion of equivalence, such as Catford’s (1965) concept of textual equivalence and formal correspondence and Nida’s (1964) concept of formal equivalence. These scholars have described translation in terms of equivalence. As Šarčević (1997) argues, this means that translators were expected to produce a translation that is as close to the ST, which meant that both the TT and the ST would

have the same function. It is for this reason that the prescriptive nature of linguistic approaches has been criticised by scholars who have argued that “they differ in their capacity to provide detailed procedures for analysis and evaluation” (House 1977: 133). This sentiment is shared by Baker and Saldanha (2009), who argue that linguistic approaches do not advance translation studies as an empirical discipline, which aims to describe what translation is instead of what it should be. When literal translation was a dominant factor in legal translation in the nineteenth and twentieth centuries, all translated statutes were supposed to have the same legal force. As such, over time, there was a gradual shift to a new perspective, which brought about the need to define a new criterion of the notion of equivalence that is specific to legal translation, which gave rise to the emergence of legal equivalence (Garzone 2000).

Jurilinguistics also received recognition as an approach to translation, especially legal translation, in the late 1970s and early 1980s with the works of the Canadian translation scholar, Gémard (Prieto Ramos 2014). Jurilinguistics is taken from a Canadian translation tradition and, in the words of Jiménez-Salcedo and Moreno-Rivero (2017: 1), ‘consecrated’ in France by the work *Linguistique juridique* by Gérard. They go on to say that jurilinguistics is said to have emerged as a discipline under the influence of studies in legal translation, and whose core theme is the study of languages. Echoing this view, Prieto Ramos (2014) states that “jurilinguistics is often used to refer to studies on both legal language and legal translation” (Prieto Ramos 2014: 267). Prieto Ramos goes further and states that this is mainly because the term originated from the Canadian tradition, owing to the linguistic rights and the quality of Canadian French language legal texts, a concern that led to increased linguistic awareness since the 1960s. This gave rise to the development of a system that was tailor-made for the co-drafting of Canadian law (Prieto Ramos 2014). Based on the views of Jiménez-Salcedo and Moreno-Rivero (2017) and Prieto Ramos (2014), jurilinguistics is synonymous with legal translation studies (LTS), which brings forth the notion of an interdisciplinary approach to legal translation as LTS is the major interdiscipline within translation studies (Prieto Ramos 2014). The last two decades have seen the emergence of LTS as a distinctive discipline within TS. According to Prieto Ramos (2014), LTS got into a critical phase in the mid-90s because of various intersecting elements. During this period, three monographs that were dedicated entirely on legal translation approaches by the proponents of the LTS such as (Bocquet 1994 which was later developed in 2008), Gémard (1995) and Šarčević (1997)

later followed by Alcaraz and Hughes (2002) and Cao (2007) were written over the course of the decade (Prieto Ramos 2014). He goes further and argues that this time can be viewed as a stimulus for the “development of shared conceptualisations in LTS and the formation of a global LTS community” (Prieto Ramos 2014: 269). Another landmark of that period was the international conference *Legal Translation: History, Theory/ies, Practice*, which was hosted by the University of Geneva in February 2000. Since the 2000s, there has been a growing array of researchers who have continuously amplified interdiscipline by employing intercultural approaches to different fields of law. In recent years, scholarly work in LTS has intensified and has reached areas where the effect of previous academic breakthroughs have been inadequate thus far (Prieto Ramos 2014). In this regard, Ruano (2019) observes that this development has been significant over this period, during which LTS has quickly transitioned from being a kind of translation, within the TS, that is studied occasionally to its current disciplinary phase of a well-established entity, and “has grown significantly with the expansion of the subject field” (Prieto Ramos 2014: 268). As such, descriptive legal translation is viewed as helping in the TT re-orientation, which is currently in progress in LTS, as is the case with TS (Ruano 2019).

The 1970s saw the emergence of comparative approaches to translation studies. According to Kosler (2011), these approaches, which are associated with the comparison of texts and the comparison of translations with their originals, are as old as translation itself. The approaches drew significantly from comparative literature and contrastive linguistics as translation scholars began to apply a comparative approach to identify the differences and similarities in their translations and originals (Kosler 2011). In this respect, Toury (1995), as a scholar who applied this approach to his studies, asserts that a comparison may be made between translations and original texts to identify cultural differences between language pairs, the correlation between the ST and TT segments, strategies used, and norms that were operational during the translation process. Kosler (2011) observes that the comparison between translations and originals has since remained a central practice within TS, even though these approaches became a subject of scrutiny since the inception of a more descriptively oriented approach within TS (Kosler 2011). Regarding legal translation, since the translation involves translating between two languages, cultures and legal systems that are not identical, legal translation scholars

have, in recent times, viewed the comparative approach to legal translation as a necessity to provide an adequate legal translation (Doczekalska 2013).

The 1970s also saw the emergence of functional approaches to translation, which focused not only on the subject matter but also on the function of texts in translation (Šarčević 1997). This shift to the function of a text led translation scholars to turn their attention away from linguistic approaches to translation (Šarčević 1997). Accordingly, Garzone (2000) asserts that:

At the time, a radical change in perspective has occurred in translation theory: with the emergence of approaches centred on communicative and pragmatic factors, growing emphasis is now placed on translation as a communicative and cultural action, leaving behind all approaches focusing exclusively on linguistic aspects (Garzone 2000:1).

This gave translators leeway to be creative and create a text that would be acceptable to the target culture. This means that a translator was no longer viewed as a passive mediator but a cross-cultural agent whose decision-making increasingly leaned towards target-orientedness. Thus, the choices of the translator would also be informed by extra-linguistic considerations, in particular the function of the translated text in the target culture (Garzone 2000). In other words, the translator could now deviate from the prescriptive approaches which obliged him/her to produce a target text in reference to a source text that would be acceptable to the target reader.

The functional approach was, in essence, developed in dissatisfaction with equivalence-based prescriptive theories that restricted legal translators to the fidelity principle for the purposes of preserving the letter of the law. Bound by this principle, legal translators were required to produce a translation that resembles the form and substance of the source text (Šarčević 1997). This resulted in the function of the target text being the same as that of the source text, thereby not accounting for target receivers for whom the translation was intended. This shift means that the source text was no longer viewed as the only standard against which a translation should be judged, as the translation's adequacy to communicative purpose in the target culture was more important (Nord 1997). This line of thought led to the view that the same text could be translated differently for different target audiences. This view gave rise to the shift in emphasis to the purpose of the translation, hence the development of Skopos theory by Vermeer, which is functional.

Nord (1997: 28) views *Skopos* as “the purpose of the target text”. Within the framework of Skopos theory, the purpose is the main principle that determines any translation process. She puts forward three types of function in the translation discipline: a general function intended by a translator in the translational activity, a communicative function intended by the target text in the target system and the function intended by a particular translation strategy. This means that most translational activities provide for an array of functions which may be interrelated. In such a case, a translator should be able to account for his/her choice of a particular purpose given in a translational setting (Nord 1997). To illustrate this point, the same legal text may have both normative and informative functions. As mentioned before, normative texts are authoritative in nature in that they “establish legal facts or create rights and obligations”, as Cao (2007: 10) puts it, while informative texts are produced to provide information to the target reader. It is, therefore, incumbent on the legal translator to decide what the purpose of a legal text in question is and translate it in a manner that fulfils the function the text is intended for.

Descriptive translation studies emerged from the functionalist turn. This was the result of efforts by scholars such as Toury, Hermans and Lambert, amongst others, under the influence of Even-Zohar’s Polysystems Theory “in reaction to the linguistic and equivalence-based theories” (Kruger and Wallmach 1999: 278). This approach is discussed in detail in Chapter 3 of this study.

Cultural approaches to translation emerged in the 1980s and 1990s, known as the cultural turn. This was in response to the inadequacies of linguistic-oriented approaches (Marinetti 2011). Cultural approaches viewed translation as an act of cultural transfer for effective communication between cultures (Bassnett 2007, Pommer 2008). These approaches were viewed as cross-cutting as they cut across many traditional disciplines, including legal translation (Bassnett 2007). In this regard, law is seen as “an expression of culture, and is expressed in language” (Cao 2007: 31). Echoing this view, Pommer (2008: 17) argues that “law is a cultural domain occupying an important place among the cultural practices within the society”. As such, legal translation involves cultural transfer. In this regard, Doczekalska (2013) argues that:

The cultural transfer is observed especially when legal texts are translated, since legal translation is performed between languages which are deeply rooted in the legal culture and legal system of a particular country (Doczekalska 2013: 64).

In recent years, LTS have highlighted the connection between law, language and culture in balancing power relations globally, given that language is embedded in culture in both communication and translation settings (Burduşel 2019). For Katan (2012), some scholars understand intercultural communication and translation as equating language-based functional equivalence. It is in this context, in recent times, that legal translation scholars have adopted integrated approaches to legal translation.

A technological shift in translation studies emerged in the 1990s when translation as a commercial business became a global business (Hartley 2009). In this regard, several technology-related industries recognised the demand for the translation of their products in the international markets, and they searched for ways to improve capacity in translation, which led to the adoption of technological approaches (Doherty 2016). This saw an increased availability and affordability of computer-assisted translation tools (CAT tools), which brought about this shift in technology in the present-day translation industry (Doherty 2016). As such, CAT tools provided a platform for proper translation and enabled translators to create their own collections of stored translations for later re-use in their work. Machine translation (MT) started to develop in the 1930s, but it was only in the 1950s that it enjoyed a more public showcase as a limited, controlled but arguably automated translation process (Doherty 2016: 953). However, in the 1980s and 1990s, MT enjoyed significant success, having seen an increased combination of the accessibility of computing capacities, linguistic data, and the increasing demand for computerisation. In recent years, it has made inroads into translation technology research and development (Doherty 2016).

While most of the theories discussed above deal with one or more aspects of legal translation, DTS in my view is the one that offers a comprehensive approach to the study of all aspects of legal translation, and provides a suitable framework for legal translation “as it goes beyond the sole concern of equivalence and takes into account the socio-cultural conditions influencing the translator’s activity, thereby offering clear insights into the mechanism that allows translations to function in the receiving culture” (Suh 2005: 6). In this respect, Ruano (2019) argues that:

Descriptive studies based on the observation of actual legal translation practices certainly might prove to be useful in replacing subjective ideas about legal translation with more knowledge about the workings of language and translation

practices in the legal domain, and acknowledging and emphasising the importance of target audiences and cultural contexts in the study and practice of legal translation (Ruano 2019: 36).

2.3 The concept of legal translation

Cao (2007: 10) defines legal translation as “the rendering of legal texts from SL to TL” (SL refers to source language, while TL refers to target language). However, Cornelius (2011) argues that this definition seems very superficial and inadequate when referring to legal texts, as it appears to just distinguish between legal translation and other types of translation. As a result, she provides the following all-encompassing definition:

Legal translation is the rendering of parallel texts, which are equal in legal effect, from SL to TL, taking into consideration the authority, function and legal status of the translated texts, as well as the legal system and cultural setting within which the translated text will be read and/or used. (Cornelius 2011: 127–128).

In this regard, I share Cornelius’ view because a translator is not only transferring the meaning of legal terms between languages, but also the legal system and culture within which a legal text is produced. While Cao (2011) herself does give a detailed account of legal translation in respect of legal systems and cultural constraints under which legal translation is produced, her definition is devoid of these very important aspects, which, in my view, are central to the definition of legal translation. At this point, it is important to mention the difference between legal translation and other forms of translation. Legal translation deviates from other forms of translation because it is a specialised area of translational activity whose focal point is the translation of legal texts (Cao 2007). The reason for this is that legal translation involves legal language, which not only belongs to a specific register appropriate to legal contexts, but is also replete with archaic words, Latin expressions and pompous syntactic constructions (Burukina 2012). This view is shared by El-Farahaty (2016: 476), who states that “legal discourse is characterised by its legalese and mixing between styles and registers makes the task of the translator unusually challenging”. This view finds expression in AlSaeed and Abdulwahab's (2023) assertion that legal language is distinguished by characteristics such as the use of Latin terms, precision, economy of expression, clarity, and cultural dependency. In this regard, Akpaca (2020) and Sofyan and Rosa (2021) contend that legal translation is a specialised domain because of the legal systems involved and their highly specialised vocabulary.

Alshaikh (2022) shares the same view and goes further to distinguish two ways in which legal translation differs from other forms of translation, namely the legal system and the terms associated with it. In distinguishing legal translation from other forms of translation, Cowen (1980) makes a comparison between legal translation and translation of poetry. He observes that translating poetry is more of an independent act of recreation where the translator is doing his/her thing freely, whereas with legal translation, the translator is expected to conform to the principle of fidelity, where there is little or no room for freedom. Similarly, Garzone (2000) notes that it is the distinctive quality of legal translation that separates it from other forms of translation. She notes that legal translation falls within the category of translation where the translator is under socio-cultural and linguistic constraints, which include the formulaic nature of legal language, the fact that legal discourse is culturally mediated, and very strict stylistic conventions regarding register. It is also characterised by very complex syntax, with long and convoluted sentences devoid of punctuation, passive voice and conditionals (Burukina 2012). There is, however, a reason for these long and convoluted sentences in law. There may be changing conditions, requiring the details to be entrenched in the articles with subordinate clauses of the legal instrument. This is intentionally done so that there will be no room for misinterpretation (Aysegul 2020). Regarding passives, Bulatović (2013) notes that the passive voice has several rules as to when it is justified and when it serves no other function other than to give the text the appearance of a legal text. For example, she observes that many passives are used at the beginning of a long clause to introduce many more specific rules. It can be seen that this characterisation of legal translation requires specialised knowledge.

Since legal translation involves translating legal texts, as indicated in the definition of legal translation above, it becomes necessary to define legal texts and shed more light on what they entail. Cao (2007: 78) defines legal texts as “texts produced or used for legal purposes in legal settings”. She goes on to distinguish legal texts into four variants, which include legislative texts such as by-laws, provincial and national legislation; judicial texts such as those texts written by judicial officers and other officials as part of legal proceedings; legal academic articles written by legal scholars; and private legal texts such as lease agreements (Cao 2007). However, the focus of this study is on the first category

– legislative texts, as the study examines the translation of by-laws at the eThekwin Municipality.

Šarčević (1997) mentions that legal translation scholars (Katherina Reiss, Sager Juan and Juan Weber Harmut) have made a significant contribution to general translation theory. Reiss, on the one hand, proposed a typology that is not only based on subject matter but, more importantly, on the function of a particular text type. Weber, on the other hand, proposed the establishment of special-purpose texts where these would be classified according to Halliday's functional categories, such as instrumental, regulatory, interactional, personal, heuristic and imaginative, while Sager proposed interrogative and directive functions as secondary communication functions (Šarčević 1997). She also identifies two primary functions of legal texts, which are regulatory (normative) and informative–prescriptive and descriptive and classifies legal texts into three groups according to their functions: primary prescriptive, such as laws, regulations and codes; primary descriptive, such as judicial decisions; and purely descriptive, such as scholarly works written by legal scholars. This classification is relevant to this study as it focuses on the translation of municipal by-laws, which are normative as they guide the behaviour of individuals. This means that translated legislation becomes automatically binding if its function is normative, as they are equally authentic. In other words, translated legal texts are authoritative. In this regard, Biel (2014) asserts that the legal implication is that after the translation has been authenticated, that is, publication in the official government documentation, originals and their translations are equally authentic. In this regard, Gotti (2016: 7) shares the same view when he states that the challenge of translating legal texts is not only because of the culture embedded in it, “but also because of a need for a formal correspondence between equally authoritative versions of the same text”.

The focus of this study is limited to the normative function of the translated by-laws, which have the same legal force as English versions in that they “establish facts or create rights and obligations”, (Cao 2007: 10), on the part of citizens. In terms of normative function, this means that legal texts prescribe the human conduct and outlines rules and regulations necessary to control behaviour within a given legal setting. In this regard, Kocbek (2008) compares the legal translation normative function with that of Nord's notion of instrumental translation, as it implies producing domestic and international legislation translations in bilingual and multilingual countries where both the original text

and its translation have the same legal effect. Regarding informative legal texts, these are descriptive in nature as they are produced to provide information to the target readers. These include the translation of legislation, court decisions and scholarly works, among others. The difference between regulatory (normative) and informative legal texts is that the former is legally binding, whereas for the latter, only the source language is legally enforceable, while the target language is not. An example is when a particular legal text is translated from English into isiZulu for informative purposes for the benefit of isiZulu speakers who cannot read English.

In translating legal texts, a legal translator is not just translating legal terms between two languages, but also translating legal systems from one language into another (Šarčević 1997). This would mean that a text to be translated or being translated is rooted in a specific legal system and functions within that particular field of law (Stolze 2013). It can be concluded that different legal systems were created against the backdrop of different cultures to meet the requirements of different nations (Nadrag, Buzarna-Tihenea and Stan 2012). In this regard, Scott (2017) states that the translator's problems are more compounded as s/he has to navigate between source and legal systems and their respective concepts. As a result, concepts of the legal system cannot be merely translated into another legal system, as system-bound terms denote concepts distinctive to the legal tradition of a specific system (Doczekalska 2009). It is in this context that Gotti (2016) advises that a legal translator should undertake a process of conceptual analysis where s/he would be able to assess and identify the important dissimilarities between source and target legal systems embedded in the text. This view is echoed by Kocbek (2008) in her assertion that to avoid such legal translation challenges, translators should have a good grasp of both the source and the target culture's legal systems. However, I would argue that the translator should also undertake linguistic and referential levels to determine whether or not a concept in one language can be rendered as a concept in another language.

In translating municipal by-laws, Cao (2007) distinguishes between two kinds of situations in which the translation of municipal by-laws takes place: the first is bilingual and multilingual countries where two or more languages have been granted official legal language status. The second kind is found in any monolingual country where legislation is translated into foreign languages for informative purposes. The focus of this study falls

within the first category as the by-laws, which constitute the data, are drafted in English and then translated into isiZulu to meet the bilingual needs of the eThekweni Municipality. These by-laws are developed and drafted in English by a legal expert who is usually in the legal unit of the municipality. The municipality may also choose to use an independent legal expert. It is important to note that this method of drafting legislation is different from what takes place in other countries like Canada, Japan and China, to mention just a few, which are bilingual countries where co-drafting methodologies are adopted. For this reason, a legal translator assumes drafting responsibilities working with a lawyer to produce legislation in two official languages, which requires translators to undergo training in law (Šarčević 1997).

The eThekweni Municipality implemented its language policy in the same year as Hadebe's study in 2009, which could mean that it was implemented while the study was continuing or after the study was completed. The eThekweni Municipality's language policy was adopted in 2009. In terms of the languages spoken in KZN, isiZulu accounts for 80.9%, English at 13.6%, isiXhosa spoken by 2.3% and Afrikaans spoken by 1.5% (eThekweni Municipality, n.d.). This was consistent with the Constitution of the Republic of South Africa, which provides for 12 official languages and recognises the historically diminished use and status of the indigenous languages of the people of South Africa (eThekweni Municipality, n.d.). As a result, isiZulu and English became the official languages for the eThekweni Municipality that would be used in official communication and in all departments of the Municipality.

It is for this reason that the eThekweni Municipality established a language unit for the translation of by-laws from English into isiZulu. It is important to note that in this context, all language versions, isiZulu and English in this case, are equally authentic legal instruments. This means that they both enjoy equal legal force. As Cao (2007: 85) puts it, 'in this type of translation, as the law written in different languages is binding on the citizens concerned with equal legal force, the purpose of such translations is normative.' This assertion is echoed by Doczekalska (2009: 116) in her use of the phrase 'legal multilingualism', referring to the translation of laws in multilingual jurisdictions. Legal multilingualism, as she puts it, 'is based on the principle of equal authenticity of all language versions of a legal act.' As mentioned earlier in the study, this means that both the original and its translation have the same legal effect. Frade (2014: 210) looks at a

legal text from a pragmatic point of view in which a document that enacts rules that are promulgated by the legislature is a speech act with the illocutionary force of enacting. This means that the enactment of the law brings into force the norms that legislatures enforce to regulate social behaviour through utterances of linguistic material.

Furthermore, while a legal translator is translating from the source legal system into the target legal system, s/he is also transferring the culture embedded in the source language into the target language. In this regard, Pommer (2008) asserts that:

Law as a socio-cultural phenomenon is always linked to the culture of a particular society and jurisdiction. Consequently, national legal systems are deeply rooted in a specific legal tradition and legal culture (Pommer 2008: 18).

This sentiment is shared by Šarčević (1997) in her assertion that the culture of the country influences its legislation. It is for this reason that Cheng, Kui Sin and Wagner (2014) advise that a prospective legal translator should possess a firm societal knowledge of both the source and target languages. This sentiment is shared by Janulevičienė and Rackevičienė (2012), who posit that legal translation requires both language skills and sufficient knowledge of SL and TL cultures, as legal terms *nominate* concepts that are inherently tied to the cultural and legal systems of a particular country. These skills and knowledge enable the legal translator, as a mediator between legal cultures, to effectively communicate legal information across barriers of legal traditions and language (Pommer 2008). The implication thereof is that a legal translator must consider the intended function of the target text and the factors forming the socio-cultural setting in which it is produced (Šarčević 1997).

In her concluding remarks on intercultural transfer, Pommer (2008) contends that today's international legal setting is faced with legal multilingualism as increased legal interaction takes place at an international level. As a result, communicating law needs to be viewed as a mixture of principles of producing meanings and how these are navigable across legal cultures. In this regard, as pointed out by Cheng, Kui Sin and Wagner (2014), the transfer of culture is essential because it addresses the intrinsic value of the cultural concept under consideration.

It must be noted that South Africa is a multicultural society and, as such, it has a diverse cultural history which presents a translation dilemma. As noted by Kocbek (2008),

communicative settings within a multicultural context are affected by different aspects of the cultures involved. This will undoubtedly have implications for the country's legal system as it is entrenched in a particular cultural system. This translation dilemma underscores the need for specialised skills and knowledge on the part of the legal translator, as it has been demonstrated that legal translation involves different languages, legal systems, and cultural settings (Cornelius 2011).

2.4 Challenges of legal translation

Gotti (2016) argues that the challenges of translating legal text are due to the complexity of legal language. In advancing his argument, he states that “the complexity of the interlinguistic rendering of a legal text is particularly because the translation from one language to another is generally bijural, due to the differences in the source and the target legal and linguistic systems” (Gotti 2016: 6). As a result, legal translation is primarily evaluated according to its adequacy as opposed to its communicative purpose, he contends. In this regard, Alcaraz and Hughes (2002) posit that challenges that arise during translation are most likely to be not just linguistic but socio-cultural as well. This sentiment is shared by William and Chestermann (2002), who assert that socio-cultural factors that surround a translator relate to norms, translation conventions, history, beliefs and the stature of the languages involved. These factors affect the choices a translator makes in terms of how s/he produces a translation. This means that translators of legal texts need to continuously familiarise themselves with legal terminology in both the source and target systems (Alcaraz and Hughes 2002). In this regard, they identify sources of problems in translating legal texts as being: problems in the translation of one-word technical terms; problems in the translation of multiple-word technical terms; problems in the translation of semi-technical vocabulary; problems in the translation of everyday vocabulary; problems in the translation of collocations; and translation of functional vocabulary in legal English.

Sabtaningsih (2018: 40) defines a technical term as “a word that has a specific meaning within a specific field of expertise”. She goes on to say that translating technical terms can be challenging and can become one of the major factors that influence the translation activity. These tend to have one-on-one correspondence and often overlay concepts in the target culture and, as a result, they seldom pose serious problems to the translator

(Alcaraz and Hughes 2002). This sentiment is echoed by Orts (2007), who asserts that technical terms have one meaning, which means they have one-to-one correspondence. This implies that once the meaning has been assigned and mastered, there is no question about what it refers to and no ambiguity. In such a case, the challenge for a translator is to decide whether or not to translate the technical term, that is, to leave the term in English. For example, in isiZulu, a translator may decide to add a prefix *i-* to the untranslated word, as in *i-electromagnetic field*. However, a translator has the option to paraphrase the technical term by explaining it in the target language.

Also, there are multi-word technical terms which include words whose precise meaning may differ depending on the context, 'though the overall field of reference, or 'system of reference', as Šarčević (1997) calls it, remains the legal one. Šarčević (1997:230) asserts that "reference has to do with the relationship which holds between an expression and what the expression stands for on particular occasions of its utterance". This means that the meaning of a linguistic sign, which terminologists refer to as *concept*, is the object it refers to and it also refers to relationships, acts, and procedures. Cao (2007) defines a concept as "a unit of thought that combines within itself the properties and relationships of things" (Cao 2007: 54). It is important to note that when ordinary events, objects and concepts enter the domain of law, they often undergo significant changes (Rotman 1995). It is in this context that a legal translator needs to uncover the occurrence of terms that have meaning only in a legal context, although they may belong to everyday language. For example, in the multi-word technical term *court proceedings*, the word *proceedings* has an everyday meaning, but the field of reference remains the legal one, which should be taken into consideration when a translator translates the term into another language. Confusion may arise when a legal meaning has been assigned to a term that does not resemble the object it refers to in the general language of everyday vocabulary (Alcaraz and Hughes 2002).

There are also semi-technical terms referred to as polysemous terms. Hemel (2023:1069) describes polysemy as 'the existence of multiple related meanings for the same word or phrase'. He asserts that removing a legal term from its general meaning may also enable the litigation of cases where one-on-one correspondence of terms would have yielded problematic legal results. These may have one meaning or more than one meaning in everyday vocabulary and another in the field of law, and they tend to be contextually

dependent, as their meaning is determined by the context in which they are used (Cao 2007). This sentiment is shared by Orts (2007), who uses the phrase ‘bifurcation of meanings’ by semi-technical terms to explain that one meaning of such a term comes from the context of general language usage, while the other comes from a context of legal language usage. For example, the word *damages* means *physical harm or injury* (general meaning) and in law it means *a sum of money paid to an individual as compensation for injury or loss*. In this regard, Alcaraz and Hughes (2002) warn translators to be particularly cautious when selecting from the various options available. For Matulewska (2016), the problem of misunderstanding the ST often arises from the translator’s inability to identify semantic relations within and between languages. She goes on to say that when providing translations, it is vital to ascertain semantic relations so that the translator can differentiate between objects of a legal setting. For example, while the word *execute* in general usage means *to put an action into effect*, it could mean different things in legal vocabulary: *to kill a person as a legal penalty; to impose a legal judgement; to perform the term of the contract; to enter into an agreement or contract by signing*.

For this reason, Alcaraz and Hughes (2002) suggest that legal translators should be aware of the stylistic and contextual constraints, as the meaning of the original is close to the ordinary sense of the terms.

Regarding functional vocabulary, also known as archaic adverbs, Alcaraz and Hughes (2002: 165) refer to these as “terms used to interrelate the major linguistic elements or blocks of meaningful words in a text”. Legal language, as such, has its own functional vocabulary, such as in the adverbs *herewith*, *hereinafter*, *forthwith* and *hereby*, just to mention a few. Archaic adverbs are also referred to as pronominal adverbs, which are mostly used in legal discourse. Archaic verbs are used to help maintain the decorum of legal English and the correctness of the content to avoid misinterpretation (Ghebaichi 2016). As previously mentioned at the beginning of this section, English legal vocabulary is considerably loaded with archaic terms. In this regard, Mahdi and Husain (2012) point out that such a use is essentially advocated to give a precise reference to the legal documents or parts thereof. Therefore, translators need to decipher these to understand them and provide acceptable translations in the TL.

With respect to collocations, Baker (2011: 47) defines collocation as the “tendency of certain words to co-occur regularly in a given language”. Alcaraz and Hughes (2002: 167) refer to ‘legal collocation’ to mean “particular lexical combinations found with some regularity in legal texts”. These play a huge role in whether translated legal texts are accepted or rejected by the target audience, as Scott (2017) argues. In this regard, El-Farahaty (2016) cautions the translator that s/he should consider TL collocational preferences and then reconcile these with the transfer of meaning of the collocation.

Cao (2007), in contrast, explains some differences in respect of law, lexical features and problems which she argues are a source of legal translation difficulty. As has been mentioned before, legal language is tied to a national legal system and is system-bound. This presents a major challenge to a legal translator as legal systems are specific to the jurisdictions where they have been constructed, as Cao (2007) puts it. This view is shared by Šarčević (1997) when she states that because of the differences in historical and cultural development, the elements of the source legal system cannot just be transposed into the target legal system. As a result, a conspicuous major challenge to the translator is the differences between the SL and TL legal systems. In echoing Cao’s view, Botezat (2012) asserts that:

Legal systems have their own history, organising principles, patterns of reasoning and have been designed to answer the needs of a particular nation. This inevitably leads to incongruity of legal concepts between national systems (Botezat 2012: 641).

In this regard, Rotman (1995) argues that difficulties increase when the translation is from a foreign language which differs greatly from the system of the TL, unlike legal translation in a monolingual country, as translation is used only for informative purposes. In contrast, with the normative function of a legal text, the translator is more restricted by terms of existing and binding law. Therefore, a translator is expected to conform to the rules of the source legal system.

Cao (2007) also cites linguistic differences as another source of legal translation difficulty, as legal texts possess special language that is subject to special grammatical and pragmatic rules. To emphasise this point, she claims that linguistic differences often

appear in translation owing to the differences that can be observed in different legal cultures in the field of law. She concludes that this difficulty is a result of varying legal histories, cultures and systems. Another source of difficulty is cultural differences. As mentioned before, the translator not only translates from one language into another, but also transfers culture, as language and culture are inextricably tied together. In translating cultural concepts, Baker (2011: 18) has this to say about culture-specific concepts: “The source language word may express a concept which is totally unknown in the target language.” For example, as cited in Cornelius (2011), the concept of *jury*, which is the judicial system used in the United States of America, may present challenges for a legal translator translating into an African language, in this case, isiZulu. This is because the translation is done in a society in which it is not a jury that reaches a verdict but a judge or magistrate, and there may be no equivalent for *jury* in the target language. These culture-specific concepts indicate that there is interconnectedness between law and cultural systems in which these operate (Cornelius 2011). It is therefore essential for a translator to take that into account when translating legal texts so that s/he can overcome whatever cultural barriers may arise between SL and TL.

Cao (2007) goes further to identify some pertinent lexical features and problems in legal translation. These include the translation of legal concepts, words associated with the legal profession, words associated with the courts, words associated with areas of law and institutions, ordinary versus legal meaning, legal synonyms, ambiguity and vagueness.

The challenge of translating legal concepts stems chiefly from the extensive use of legal concepts, which are often system-bound, as mentioned before. In this regard, Cao (2007) proposes that a legal concept is three-dimensional, namely linguistic, referential and conceptual. This has implications for a legal translator in that s/he must ascertain if a concept can be translated between languages. It is important to mention that in the translation process, words from different languages do not always have an exact equivalent in all three dimensions, which poses a serious threat to the translator. In this regard, translators are reminded that legal concepts are not identical; therefore, searching for an exact equivalent when translating legal concepts may prove to be a futile exercise.

Furthermore, there are words associated with courts that are exclusive to the legal profession. For example, in South Africa, there are terms like lawyers, attorneys, advocates and conveyancers. The challenge for a translator is to find an equivalent for attorney, advocate and conveyancer as these words do not have direct equivalents in isiZulu. Using a general word or superordinate *a term* may lead to confusion, as there is a difference in terms of their jurisdictions and functions. In such cases, a translator would need to determine in which jurisdiction the words in question are referring to and only then provide an appropriate translation.

Similarly, court hierarchies are not structured the same in different countries. For example, in South Africa, the court hierarchy is structured as follows: the Constitutional Court, the Supreme Court of Appeals, the High Court and the Magistrate's Court. There are tribunals which fall within the ambit of both administrative and judicial functions, as Baboolal-Frank (2015) reports. In this case, how does a translator translate *tribunal* into isiZulu? In translating *tribunal*, the translator would need to take into consideration the definition of the word, which “refers to panels and bodies that exercise administrative or quasi-judicial functions with limited or special jurisdiction” (Cao 2007: 64).

Moreover, legal terms are said to be synonymous if they have several meanings and some may even resemble one another but have different meanings in law. In such instances, translators are advised to be wary of such concepts so as not to confuse them. For example, in English, there are several words that are related to law: *legislation, Act, enactment and statutory*. The main challenge in this scenario is the implication that each word may convey a different legal meaning, and should there be litigation, courts may be required to interpret these terms individually and provide different meanings of the terms concerned.

According to Cao (2007), ambiguity and vagueness are indistinguishable but are also relative and may sometimes overlap. In this regard, Triebel (2009) asserts that ambiguity occurs when a word or a phrase consists of different, inconsistent meanings. Vagueness, in contrast, is when borderline cases exist in the use of the term. In this regard, Cao (2007: 74) asserts that ‘a concept is vague if there can be no clear fact of matter whether it applies or not’. This sentiment is echoed by Ghebaichi (2016), by stating that legal translation poses a challenge to translators because of the nature of the legal language

terminology and the ambiguous nature of its meaning. This line of thought can be observed in Gotti's (2016) assertion that using a certain term in the place of another may bring about ambiguity. Modal verbs are classic examples of this vagueness. Modal verbs are commonly used to express different functions in the English language. However, in legal instruments, they are used to express obligations, give permission or express prohibition (AlRabia 2018). In the context of legal language, the word *shall* fulfils the role of expressing prohibition (Cooper 2011). Cooper goes on to comment that there is consensus that *shall* should not be used in legislation to refer to future action. In this regard, Triebel (2009) also comments on the ambiguity of *shall* in respect of the role that it fulfils. He holds the view that the word *shall* fulfils the role of expressing obligation in legal language. However, he argues that there is an authority that *shall* necessarily implies futurity, which makes it ambiguous. This sentiment is shared by Mahdi and Husain (2022) when they point out that the polysemous character of *shall* is its most dangerous drawback, as it poses a level of difficulty in both the interpretation of the clause containing it and in the translation of such clauses. The speaker usually makes such conclusions based on certain knowledge about the situation (Pelíšková 2006). In this regard, Ghafil (2022) notes that *must* is used interchangeably with *shall* as a way to express obligation and commitment, but differs in that *must* does not necessarily need a subject motivating action. The modal *shall*, conversely, be commonly used to denote an obligation that has a direct impact on human beings. As with *shall*, the modal *must* have many instances of ambiguous interpretations. To avoid this ambiguous nature of *must*, Boginskaya (2022) distinguishes between deontic and epistemic modalities. She advises that in legal language, the modal *must* should always be used as a deontic modal, which does not create ambiguity as deontic modals are exclusively used to express obligation, whereas epistemic modals express the speaker's opinion towards a proposition that the sentence expresses. With respect to the modals *may/can*, both are used to express permission. The difference is that *may* refers to permission granted by the speaker, whereas *can* refers to a general and impersonal sense (AlRabia 2018). In other words, the modal *may* signal power relations among people, while *can* is impersonal and conveys that the information is possible or permissible (Pelíšková 2006). Concerning the modal *must not*, the modal *must*, which expresses obligation in legal terms as indicated above, takes a negation form by adding *not* to express prohibition. The explication of the modal *must* above indicates that it shares a lot of features with *shall*. In relation to the modal *will not*,

as with *shall*, the modal *will* has several different meanings. It can be used to refer to the future action; it can be used to express habitual activity; it can be used to make predictions, and it can be used instead of the simple present tense (Pelíšková 2006). To express prohibition, it takes a negation form by adding *not*, as has already been demonstrated with *will* above. As has been seen with *shall*, the modal *will* fulfil multiple functions, which become the source of confusion in interpreting the law and translation of legal texts. Therefore, the use of modal verbs in legal translation can pose challenges to translators because of the modals' ambiguous interpretation regarding what they express. It should be noted that the legal functions fulfilled by modal verbs to express obligations, permissions and prohibitions, as used across the by-laws under examination, are imposed both on humans and non-humans.

Regarding vagueness, the word *property* is vague in that it may mean personal belongings or real property. It is important to point out that ambiguous and vague words and phrases are constantly litigated because of their linguistic uncertainty. In such a case, translators are advised to recognise and appreciate ambiguity and vagueness that may take place, intentionally or unintentionally, in the source text. Translators are advised to convey and keep them in translations, as many lawyers use both of these because of their adaptability in situations where complete precision cannot be realised (Triebe 2009). The foregoing discussion laid bare unique challenges for a legal translator and nuances in meaning that have to be carefully considered before translating. Below, some translation strategies that are used to overcome the translation challenges described above will be discussed.

Recent research in translation studies has emphasised the function of the text as the focus of translation analysis. The implication of this for legal translation is that the expected effects of the target text determine the strategies adopted in the translation process. Given that legal terminology presents various levels of challenges to translators, it would be advantageous for legal translation analysis to have a more specific approach – a functionalist approach which requires translators to produce new texts that conform to the expectations of the target audience with the intended function. This assertion is informed by the generalisation that the translation strategy required to overcome these challenges is based primarily on the function of the text, as Šarčević (1997) argues.

In this regard, legal translation scholars have noted that legal translators often encounter translation problems when translating legal texts with specific reference to linguistic and cultural issues. They have argued that linguistic differences prevalent between two languages are workable, as most translation requires grammatical transformation. However, as has been noted before, the legal translator not only translates from one language into another but also translates from one legal system into another. The implication for this is that a linguistic item carries a legal concept that is exclusive to the source language's legal system. In the same vein, translating from one language into another also involves cultural transfer. This means that culture-specific terms may permeate the source language that are specific to the source language culture and may not be unknown in the target culture (Alwazna 2014).

Consequently, most translation scholars and lawyers emphasise the need for legal translation to achieve equal effect and meaning as well as preserving the original intent of the legal text. It is for this reason that they propose an SL-oriented strategy as it seeks to preserve the semantic content of the SL legal term, hence literalness, which requires the translator to preserve the letter of the law. The scholars, however, seem to be divided on this stance, as some argue that literal translation always presents awkwardness in the TL (Sofyan and Rosa 2021). This argument proves Bobrova, Lebedev and Pinkovetskaia's (2020: 322) assertion that, "literal translation may lead to a distortion of the original meaning inherent in the source text". In this regard, they suggest a TL-oriented strategy which is functional in nature – functionality, which requires the translator to produce a translation that satisfies the cultural expectations of the target receivers (Šarčević 1997). In circumstances where the difficulty is brought by the culturally mediated nature of the legal discourse, which brings about differences in concepts between legal systems, Garzone (2000) proposes legal transposition to overcome this challenge.

In this regard, legal translation scholars (Alcaraz and Hughes 2002, Alwazna 2014, Baker 2000, Šarčević 1997) have put forward more translation strategies to deal with legal translation. These include functional equivalents when it is not possible to find an exactly corresponding concept in the TL; calque where there is no synonymic equivalent and in that way the translator fills the semantic gap in the TT; borrowing which is very commonly used in instances when there is no immediate equivalent in the target culture; neologism

where a translator can coin a term from an existing word and assign it to a new meaning in TL; lexical expansion which involves adding extra detail or supplementary information to the TT; description by definition and explanation which entails defining and explaining terms in the TL; the use of neutral terms if there is no adequate functional equivalent; transposition used to substitute one grammatical category with another; and modulation which involves changes to semantic categories. These choices made by the translator to overcome translation challenges are not exhaustive; they highlight some choices that are commonly used in legal translation.

2.5 Legal translation in South Africa

This section focuses on legal translation in South Africa. The discussion of the history of South African languages is deemed indispensable, given that these languages did not have the same status as English and Afrikaans until the new political dispensation in 1994. This means they were not used in official documents and legislation, as is the case currently.

2.5.1 The linguistic situation of South Africa

The matter of language in the South African context has always been a challenge. This challenge dates as far back as the 1890s, when Afrikaner grouping became visible internationally with the outbreak of the Boer Wars, which was spearheaded by the Boers and the English (De Kadt 2005). Snail (2011) claims that after English became the only official language in South Africa, following the Anglo-Afrikaner War, which broke out in 1899, Dutch played second fiddle to English. In the 20s, English and Dutch became the official languages, followed by Afrikaans in 1925. It was only after the Afrikaners succeeded in using Afrikaans to build the national identity that they used their language in South Africa to implement their policies (Snail 2011). The year 1961 saw the new Constitution declaring English and Afrikaans as the new official languages, which excluded Dutch. The elevation of Afrikaans as one of the official languages in South Africa brought about a change regarding the medium of instruction. For example, the University of Potchestroom (currently known as the University of North West), the University of Pretoria, the University of Port Elizabeth and the University of Stellenbosch used Afrikaans and English as the medium of instruction (Snail 2011). As a result, African

languages were marginalised until 1994 when they were given the same status as English and Afrikaans. In this regard, Snail (2011) argues that the National Party, after it came to power in 1948, attempted to deter the effects of English in black schools, and South African English speakers were drawn closer to the African. It should be noted that since both Afrikaans and English were official languages, official documents, including legislation, were drawn up in English and then translated into Afrikaans.

Regarding African languages, these languages are grouped into Nguni languages: isiZulu, isiXhosa, siSwati, isiNdebele and Sesotho languages: Sesotho, Setswana, Sepedi and Xitsonga and Tshivenda. Nguni languages are claimed to have crossed the Limpopo River around 1200 from Cameroon. Accordingly, these languages were dialects of one language and European missionaries developed a written form out of these dialects (Ditsele 2013).

In 1993, the Interim Constitution, which served as a prelude for the language clause in the 1996 Constitution, was established and guaranteed a wide range of rights to all formerly marginalised African languages – isiZulu, isiXhosa, siSwati, isiNdebele, Sesotho, Setswana, Sepedi, Xitsonga and Tshivenda (Mbata 2021). This means that these languages were granted equal status to English and Afrikaans. It should be noted that the Pan South African Language Board (PanSALB) was established in terms of the Constitution to be the vanguard of these languages and the development thereof. The adoption of 12 official languages had huge implications for translation in South Africa, as all official documents had to be translated into all languages at the national level, and into the official languages of each province at the provincial level.

2.5.2 The context of legal translation in South Africa

De Schrywer and Gauton (2004) attribute translation challenges of translating technical texts from and into African languages to the lack of terminology in African languages, as previously mentioned in 2.3. This lack of terminology is generally a result of the fact that legal concepts are usually the product of a national legal system, which is often system-bound (Šarčević 1997). A legal system is described as “the nature and content of the law, and the structures and methods whereby it is legislated and adjudicated upon and administered within a given jurisdiction” (Tetley 2000: 682). It is, however, important to

note that South Africa has a mixed legal system compared to countries such as Switzerland, Belgium and Finland that have one legal system. The phrase 'mixed legal system' refers to a legal framework within which legislation in force is derived from more than one legal tradition. For example, South African law is derived from three legal traditions, namely civil law, which is based on Dutch law, common law inherited from British law and customary law based on African Customary law. This development is alluded to by Akpaca (2020) when he posits that legal traditions and institutions in Africa have been influenced by different legal systems in Europe. This creates a problem because more than one legal system is at play when translating legal texts (Šarčević 1997). This is because legal terms have meaning only in the context of a particular legal system. Šarčević goes on to argue that in such situations, the source and target language systems differ, which poses a threat that the text or part thereof may be interpreted according to the conflicting legal systems.

In this respect, it should be noted that in the South African context, legal translation has been under-researched in the country (Cornelius 2011). She laments the dearth of legal translation research in South Africa, as she could hardly find any information on South African literature regarding legal translation, and this is exactly what this study is attempting, namely, to fill this gap. Ralarala (2016) argues that in spite of the indigenous language being awarded official status as English and Afrikaans, they are still not utilised in the public domain. This view is shared by Brock-Utne (2003), who argues that 'a near monopoly of English and Afrikaans in the law and legal system of South Africa still exists, which leads to the alienation of the legal system by the bulk of the South African society'. Brock-Utne (2003) says that even though Black South Africans were permitted to use indigenous African languages in the former Bantustans, their legal matters were still settled in either English or Afrikaans. This undoubtedly created enormous obstacles for the speakers of these languages, which, in turn, impacted social justice.

I submit that the transformation brought about by the implementation of the National Language Policy Framework (2003) prompted Parliament and provincial legislatures to employ language practitioners to translate parliamentary debates and speeches, including Bills and Acts, from mainly English into African languages. Municipalities also established language units with the responsibility to translate by-laws and council minutes into local languages and interpret in council sittings and public engagements. The

Department of Justice and Constitutional Development also followed suit with the employment of legislative language practitioners. The requirement in this case is for the language practitioners to have a legal background, which poses a challenge, as most South African language practitioners do not receive legal training and, therefore, do not have any legal background. It is in this regard that Cornelius (2011) asserts that institutions of higher learning may have to redesign their curricula and qualifications to meet this market demand by providing suitable, qualified and competent legal translators in all the South African languages. This view highlights the need for translators to undergo training in law in general, as Cornelius (2011) notes. This would be a step in the right direction because translators are in a position to promote and develop African languages, thus assisting in elevating the status of these languages that were marginalised for the longest time.

Even though English remains the dominant language of official business in South Africa (Snail 2011), there are visible strides, such as the establishment of provincial and national language bodies that are responsible for the development of African languages. These language bodies are also updating their language resources regularly. In this respect, it is my view that the provincial and national language bodies have taken this task upon themselves and are constantly developing terminologies of African languages. Terminology development has been incorporated into the syllabus in some higher education institutions, such as the Durban University of Technology and North West University. It is important to mention that there has been a huge demand for translating official documents from English to African languages, as well as interpreting government proceedings from English into African languages. Finally, South African Sign Language has been formally recognised by the government, as is being executed with Khoisan languages.

2.6 Translation styles and strategies

Translation scholars provide different views on the notion of translator's style in translation (Baker (2000); Huang and Chu (2014); Saldanha (2011); Munday (2008); Ralarala (2016). A common feature of these scholars when defining the translator's style is their focus on consistent and recurring patterns of choice and consistent use of strategies. However, it is important to note that the notion of style and strategy could be quite

confusing in terms of the translation process. There are generally two groups of scholars who hold different views on the notion of style and strategy. The first group view style as “an umbrella term that can be incorporated into literary criticism, narratology, pragmatics, sociolinguistics, etc., and, as such, these have their own interpretations of the notion of style” (Huang 2015: 17). It should be noted that Baker in her corpus-based study on the translations style of two British translators, disregards these aspects of style and focuses only on the textual features. Huang (2015) has done the same in his study of Goldblatt’s style in translating Chinese novels. In the second group, some scholars believe that these concepts are the same. In this regard, the scholars (Munday 2008, Ralarala 2016, Saldanha 2011) use style and strategy interchangeably in their discussion of style, which implies that these are the same. In his explanation of style, Ralarala (2016: 152) posits that:

When a translator is making translation decisions and committing to specific translation choices and ‘strategies [styles]’, translators select those terms and expressions which they believe most likely to elicit the desired response.

This sameness of style and strategy is subtly echoed in Munday’s (2008:6) evaluation of style and its relation to the ideological context when he defines style as “characteristic linguistic choices”. This view is echoed by Saldanha (2011: 28) in her study on the translator’s style. She refers to style as “consistent and distinctive patterns of choice”, but immediately thereafter, she refers to style as “consistent and distinctive strategies”. It should be noted that Saldanha’s use of the phrase ‘consistent and distinctive strategies’ is consistent with Baker’s use of the phrase ‘consistent use of specific strategies’ in the definition of style. After all, Saldanha was investigating the different methodological approaches adopted in the previous studies, including Baker’s (2000), and testing the definition of style that she proposed. Moreover, Saldanha (2011), in her work, refers to strategies when she refers to Munday’s (2008) work on the translations of specific translators. In this instance, the patterns revealed were compared with the translations with reference corpora to see whether the strategies used by each translator respond to idiomatic preferences of the target language or are unusual uses. In light of these scholars’ views on the translation styles and strategies, it is my submission that the interchangeable use of style and strategy by translation scholars implies that the two notions are the same, as they both entail making translation choices that shape the

translation process and translation product. For these reasons, the term *style* is used in this study to refer to strategies of translation.

2.6.1 Style in translation studies

Baker (2000) posits that every translator has his or her own style in all of their translations. This means the translator's individual profile of linguistic habits is compared to those of other translators. In this regard, she suggests that emphasis should be put on the patterning or recurring patterns or distinctive patterns of linguistic behaviour that relate to the translator's outputs when identifying his or her translation style. Baker (2000: 245) views style as a "kind of thumb-print that is expressed in a range of linguistic – and non-linguistic – features". She further postulates that style can be considered as the 'consistent use of strategies of specific strategies, including the use of prefaces or afterwords, footnotes, glossing in the body of the text' (Baker 2000: 245).

Studies on the notion of style have been well documented (Baker 2000, Boase-Beier 2006, Huang and Chu 2014, Malmkjær 2003, Munday 2008). Boase-Beier (2006) notes that the notion of style has often been referred to from the earliest works on translation. In their analysis of the corpus, these scholars have examined the systematic patterns of choices, that is, among others, the recurring patterns of the individual translator's linguistic choices. Baker argues that these are not just a once-off intervention but repeated patterns that are observable in the translation. Baker (2000), on the one hand, underscores the notion of style as a matter of patterning, which involves describing recurring patterns of linguistic choices rather than individual or once-off intervention. This line of thought indicates that style is the result of purposeful choices. This sentiment is echoed by Munday (2008:28) when he contends "that patterning of choices emphasises the repeated patterns associated with style, which is not a once-off occurrence, and the linguistic choices available to the author (a translator as the author of the target text) within a particular language". Similarly, Malmkjær (2003) understands style as a matter of certain items and structures in the text that are consistent and which regularly occur as offered by the language. Her focus however is on the notion of translational stylistics which she describes as "explaining, given the source text, the translation has been shaped in such a way that it comes to mean what it does" (Malmkjær 2003: 3). This means that she is not necessarily concerned with regularities of behaviour, as Malmkjær's

focus is mainly on the style of the translation, rather than the translator's style (Saldanha 2011). This view is shared by Saldanha (2011: 27) when pointing out that Malmkjær "sees style as a way of responding to the source text". Although Malmkjær's focus is not on the style of the translator, she, however, compares some translations of the author's stories by one particular translator and focuses on how these translations differ from others. It seems then that the identification of these "consistent and distinctive strategies is at least the preliminary step in translational stylistics" (Saldanha 2011: 28).

Saldanha (2011) builds on the methodology that was put forward by Baker (2000). Saldanha's focus is on the analysis of the stylistic traits that can be associated with the translator. She defines style as "a way of translating which distinguishes one translator's work from that of others, and is felt to be recognisable across a range of translations by the same translator" (Saldanha 2011: 28). She asserts that this definition presupposes that the most important feature of an individual style is what is generally referred to as *prominence*, which can be viewed as "consistent and distinctive patterns of choice" (Saldanha 2011:28). In reading a translated text, one observes certain distinct language elements, as Saldanha (2011) argues.

In this regard, it is important to mention that Ralarala (2016) provides empirical evidence on some challenges of linguistic choices made by translators and the implications thereof in support of the claims by various scholars (Ralarala 2016; Munday 2008; Saldanha 2011). Ralarala examined selected cases at a local police station in the Western Cape, where both English and isiXhosa are official languages of the province. He discovered that during the statement-taking session, there was linguistic incompetency on the part of what he calls the *transpreter* – a police officer who was taking statements – in both spoken and written forms, as evidenced by omission and addition strategies [styles]. This 'highlights the complexity of accurately accessing the complainant's intended meaning' (Ralarala 2016: 157). Such omissions and additions have the potential to weaken the case. In this regard, it is my view that the TT is influenced by the translator's linguistic choices during the translational activity. It can therefore be concluded that in translation, the translator's style may unavoidably undergo several changes owing to the different cultures of the two languages concerned. As a result, these changes may influence the target reader's viewpoint of the ST either negatively or positively, as Uqba and Abdulla (2019) point out.

While great strides have been taken in the research of the notion of style, it should be noted that the focus has been on the investigation of translation styles of literary works, which is very different from legal translation in respect of very specific translation challenges associated with legal translation. It is for this reason that this study seeks to investigate translation styles used in the translation of legal texts from English into isiZulu.

2.7 Conclusion

This chapter explored some of the main issues regarding legal translation that have been debated by various legal translation scholars as well as lawyers, as they are responsible for drafting legislative instruments and interpreting law. It provided a detailed account of the conceptualisation of legal translation, the history and development of legal translation, the challenges of legal translation and the strategies of legal translation. The chapter also highlighted the context of legal translation in South Africa, with an overview of the linguistic situation and the agents involved in legal translation. Finally, the chapter has shed light on the concept of style in translation studies and its implications for legal translation. The next chapter focuses on the theoretical framework of the study.

CHAPTER 3: THEORETICAL FRAMEWORK

3.1 Introduction

This chapter provides a theoretical overview of Descriptive Translation Studies, which is the theoretical framework adopted for the study. I adopted DTS for this study because the theory offers the tools that allow for the study of translation phenomena by focusing on choices made by translators and the factors that influence those choices. I therefore apply the theory in this study to examine the stylistic choices of the translators of legal texts at the eThekweni Municipality and the norms that influenced their decisions. The chapter presents the development of DTS as a translation theory, its conceptualisation, criticisms of the theory, and its application to legal translation.

3.2 Descriptive translation studies

Descriptive translation studies (DTS) emerged in the 1970s and 1980s from a group of scholars, including Toury, Hermans and Lambert, under the influence of Even-Zohar's Polysystems Theory. They were not satisfied with predominantly prescriptive approaches to translation (Hermans 1985, Inggs 2008, Naudé 2006, Rosa 2010). They were initially preoccupied with the study of translated literature but later became interested in other fields (Schjoldager 1994).

Descriptive translation studies were developed to explain not only translation strategies in the translated texts, but also how translations function in the target system (Naudé 2006). Toury (1995) asserts that in the 1970s, translation studies were still heavily marked by the source text-orientedness. They were mainly preoccupied with protecting the rights of the source text at the expense of those of the TL. For this reason, he argues that translations were essentially viewed as texts that represented those texts that existed at a time in a language and culture other than that of the target system. In advancing his argument, Toury posits that at a later stage, most translation scholars, while still viewing the SL as a yardstick for a translation act within the translation studies framework, integrated more target-oriented considerations into their reasoning. Interestingly, this coincided with the introduction of the second paradigm, which was strongly target-oriented, called *Skopos* theory. This theory sheds some light on ways in which changes of scholarly spirit take place. The realisation of the target-oriented thinking to translation was brought about by the belief that the position which translators occupy, the functions

they are designed to have in the target culture, and the translation strategies employed during the translation constitute an orderly structure. In other words, the target-orientedness of the translation is based on the premise that translated texts' position and function are mostly decided by considerations emanating from the culture that would host them (Toury 1995).

The most salient point is that "something is missing in the target culture which should rather be there" as Toury (1995: 22) observes. As such, translation is viewed as a means to close that gap. The position of the translation in the target culture does not, therefore, mirror that of the original. Accordingly, the most relevant position is "the one that translation was designed to occupy when it first came into being" (Toury 1995: 25), as this is the only position that guides the translation process and choices made. In this regard, Toury (1995: 8) posits that "one of the objectives of DTS is to confront the position or function a certain translation has occupied in the host culture with that which it was intended to have". Hence, his view that translations are "facts of target culture" (Toury 1995: 17). In this regard, it must be recalled that this study draws from DTS product-oriented, product-oriented and function-oriented approaches with the idea that the function and position of the translation determines the form of the translation (the textual linguistic make-up and the relations that tie it to the original translation) which governs translation strategies used when producing a translation, and hence the relationship that hold the source text and the target text together. (Toury 1995: 7). Based on the foregoing assertion, it is this interrelatedness that will be guiding this present study. This view on DTS is more relevant in legal translation, as previously mentioned in 2.3, scholars have contributed, in recent years, to the field of translation studies by proposing a text typology that is based on both the subject matter and the function of a particular text type, such as a legal text (Šarčević 1997).

3.2.1 Conceptualisation of descriptive translation studies

Descriptive translation scholars have acknowledged that Toury's contribution towards DTS is pivotal in translation studies because he aims to promote descriptive studies (Rosa 2010). Toury contributed to DTS by establishing a three-phase methodology in order to study translations as facts of the target culture and he focused on norms that govern translators' choices among others. Toury (1995) argues that "no empirical science may make a claim for completeness, hence be regarded as (relatively)

autonomous discipline, unless it has developed a descriptive branch” (Toury 1982: 23). In reaction to earlier prescriptive approaches, Toury views DTS as having the objective of producing a systematic description of ‘what translation is in a particular place and/or point in time, and hence what it may be expected to be under one or another set of specifiable conditions’ (Toury 1995: 27). In this regard, Rosa (2016) posits that scholars following DTS want to understand and describe regularities by considering the product, process, and function when investigating translation.

In respect of Toury’s view that translations are facts of target cultures, Rosa (2016) argues that:

The context of framing a translation is that of the target culture and, as such, the target text must always be interpreted as a result of the constraints and influences of such target context (Rosa 2016: 11).

In advancing his view on the target-oriented approach, Toury proposes the notion of assumed translation, which means that a translation will refer to any target text that is deemed as such within the target system (Toury 1982). He further posits that the concept of assumed translation presupposes three postulates: the assumption that there is a text in another language and culture; the assumption that assumed translation came into existence through the transfer of some source text features to the target text; and the assumption that as a target text is regarded as a translation, there must be a relationship between it and its assumed original translation, the function they share and what is regarded to have been culturally and linguistically transferred (Toury 1995: 29-30). This sentiment is echoed by House (1977), who asserts that a translation is in principle regarded as a translation if, in the context of the culture within which it exists, it is presumed to be a translation. In this respect, Toury introduces the notion of translation equivalence, which, according to him, is different from the traditional concept of translation equivalence (Munday, Ramos Pintos and Blakesley 2022). Toury argues that treating a text as a translation of another text implies the assumption of an equivalence of sorts (Toury 1995). He is, however, quick to clarify that translation equivalence is never a relationship between the original and the translation but a functional-relational concept (House 1977). In other words, equivalence is presumed to exist between a TT and an ST (Munday, Ramos Pintos and Blakesley 2022).

Toury goes even further and presents his three-phase methodology in order to study translations as facts of the target culture. Toury (1995) proposes a three-phased methodology where he (1) situates the text within the target culture system – looking at the significance and acceptability of the translated text; (2) compares the ST and TT for shifts – identifying relationships between coupled pairs of ST and TT segments; and (3) attempts generalisations about translation strategies used and norms at play during the translation process (Toury 1995: 36–39,102). In this regard, Rosa (2010: 14) argues that:

The translator plays the role of socio-historical agent, whose negotiation of contextual constraints or motivations, as well as the function of the prospective target text, is predominantly revealed by the shifts adopted in translation, which, for this reason, become one of the most important sources for the study of translational norms.

In terms of legal translation, as with any other form of translation, the translation takes place between two cultures. Thus, situating a text within the target culture system will gauge the tolerance for cultural differences. Furthermore, identifying possible shifts in meanings in coupled pairs of the ST and TT, and making generalisations on translation strategies used in the translation of the legal texts.

3.2.1.1 Norms in descriptive translation studies

For Toury (1995), norms convey much of the principles and beliefs shared by a community as instructions that specify what is into guidelines suitable for real-life circumstances, where instructions prescribe what is forbidden and permitted in terms of human behaviour. In this regard, he argues that instructions are necessary to guide people who belong to a specific cultural group in their behaviour, “as long as a distinction is retained between what is culturally appropriate and what is inappropriate” (Toury 1995: 63). As such, norms involve sanctions that can be either negative or positive. As a result, norms serve as a gauge to assess occurrences of behaviour and their results (Toury 1995). Toury (1995) views translation as a socio-cultural activity, as it is produced under socio-cultural factors that guide the translation since norms are specific to a culture and society. Regarding their potency, Toury (1995) puts them between the two extremes: rules and idiosyncrasies, where norms occupy the central part of the continuum because of their intersubjective nature. Accordingly, these socio-cultural constraints form a graded

continuum that reflects their proximity to either end of the scale, which makes some of them more rule-like and others idiosyncratic. As such, all socio-cultural factors constraining behaviour are variations of norms, and can be redefined in terms of norms (Toury 1995).

Taking their cue from Toury's (1995) notion of norms, in investigating conditions under which various translations were produced and received, researchers have noticed regularities and patterns in translations produced by individual translators (Baker and Saldanha 2019). A very important concept in this context was that of translation norms. Baker and Saldanha (2019) go on to say that this investigation proved to be very useful because it linked the personal and the social dimensions of translating. It is in this context that DTS aims to reconstruct the norms that are operational during the translation process (Munday, Ramos Pinto and Blakesley 2022). Norms in legal translation determine a specific set of intended actions that individuals ought to adhere to, including translators who may be influenced by norms in operation during the translation process. For example, when the legislation is enacted, it brings into effect the norms that legislatures enforce to regulate social behaviour, which, in turn, affect how the translator produces the target text owing to constraints under which s/he operates.

Studies on the notion of norms in the form of their regulative function, as Hermans (1999) notes, have been debated and well documented. Toury defines norms as:

The translation of general values or ideas shared by a community – as to what is right and wrong, adequate and inadequate – into performance instructions appropriate for and applicable to particular situations, specifying what is prescribed and forbidden as well as what is tolerated in a certain behavioural dimension (Toury 2000: 169).

Toury's view on the notion of norms finds expression in Schäffner's (1999) assertion that norms are conventional and developed during ongoing social interactions between social agents, and are shared by members of the community, and they regulate their behaviour.

In other words, norms regulate human behaviour and determine what is acceptable or appropriate. This means that norms entail a supposition of what a particular community regards as proper. What can be concluded from the postulations above is that norms act as constraints on the community in terms of what can be done and what must not be

done. Translators belong to the community, and the translation is a social activity. Therefore, the same constraints should apply to translators, as they have to carry out a translational activity that has a bearing on norms. These norms are viewed as a 'guide' in the translation act in respect of strategies and methods used (Schäffner 1999). Norms can influence all kinds of translation throughout the translation process, as they can be observed in every aspect of the translation product, as Toury (1995) notes. This means that norms govern the translator's translation choices at every stage of the translation activity. In this regard, Toury echoes Schäffner's sentiment in his assertion that humans acquire norms during their socialisation.

Toury (1995) distinguishes between initial, preliminary and operational norms. Initial norms govern a translator's decision between two extreme ends: subjecting the translator either to the source text with its textual relations and the norms operating in it or to the linguistic norms active in the target language. In a case where a translator adopts the first instance, the translation will tend to conform to the source text norms and through them, to those of the source language and culture. This will result in what Toury (1995) calls 'adequacy'. If the translator adopts the second stance, the translation will tend to subscribe to the norms of the target language, and this will result in what is referred to as 'acceptability' (Toury 1995: 80). Regarding preliminary norms, these have to do with the existence and actual nature of the translation policy in a particular language or culture. Toury refers to translation policy as factors that govern the choice of text type to be translated into a target language/culture at a particular time. Factors regarding the directness of translation involve some tolerance for translating from languages other than the source language. Operational norms, conversely, direct the actual decision made during the act of translation. They influence the way linguistic material is distributed in a text and the actual verbal formulation of the text. As a result, they, directly or indirectly, govern the relationship between target and source texts or segments thereof. In respect of matricial norms, these govern the very existence of TL material, which is intended as a replacement of corresponding SL material, its location in the text and the text's segmentation into chapters, stanzas, and passages. The norms may also determine the extent to which omissions, additions, changes of location and manipulations of the segments are referred to in the translation itself or paratexts surrounding them. Finally, textual-linguistic norms govern the selection of the linguistic material for the formulation of the target text or the replacement of the original material. Textual-linguistic norms may

be more or less general in that they can apply to translation as such, or to one text type and/or mode of translation only (Toury 1995). This implies that if a translator is translating a text from English into isiZulu and s/he is influenced by factors of the English text, such as the source text and the source culture, then s/he would have been influenced by initial norms. A translator may also be influenced by a translation policy in terms of the choice of text type to be translated into a target system. The translator would have been influenced by preliminary norms. Similarly, a translator could be influenced by factors of the English source text, such as the distribution of linguistic features and how these have been used to convey the meaning in a translated text, thus indicating the relationship between the segments of the source and target texts. As such, a translator would have been influenced by operational norms. Furthermore, a translator may be influenced by such factors as the completeness of translation, whereby the translator adopts omission or addition strategies, or even changes the distribution of linguistic features in the text. In such instances, a translator would have been influenced by matricial norms. Also, a translator may be influenced by the source text features, such as lexical items and phrases, where, during the translation process, there may be a change of grammatical category of a lexical item or phrase structure. The translator would have been influenced by textual-linguistic norms.

Based on the presentation and argumentation on the translational norms by Toury, Hermans and Schäffner, Chesterman (1993) puts forward two norms: expectancy and professional norms. Expectancy norms refer to what the target language community expects a translation to be like in terms of grammaticality, acceptability, appropriateness, style, and textuality. Regarding professional norms, these regulate the translation process itself, and they can be further divided into three types: accountability norm, communication norm and relation norm. Accountability norm, as an ethical norm, deals with professional standards of integrity and thoroughness of the translator. Communication norms, as a social norm, require a translator to ensure adequate communication between the parties involved in the translation process. Finally, the relation norm, as a linguistic norm, concerns itself with the relationship between the source text and the target text.

In view of the foregoing explanation of translational norms, it is evident that norms are established by what the target audience expects a translation to be. It is also clear that

norms govern the translation process at all levels, from the decision to translate a particular text to linguistic choices made by translators, which will then determine the actual linguistic makeup of the translation (Zanettin 2014). Ultimately, the target receivers alone decide what is and what is not to be regarded as a translation (Alhussein, 2020). As mentioned, norms can influence any kind of translation. Legal translation is no exception. Legal texts are normative, as has been demonstrated in 2.3. As a result, these texts present legal-specific challenges to legal translators. This is because the language used in those texts is specialist language with specialist vocabulary and terminology that tends to be conceptually ambiguous or even incoherent (Kościałkowska-Okońska 2011). To this end, she advises that the binding norm for the translator would be to provide a solution that would redress the imbalance between the two language systems and form a meaningful and adequate linguistic and contextual relation. What this implies is that if a translator is faced with translating a text, s/he has to make sure that s/he identifies tendencies of translation behaviour and then attempts to draw some generalisations about decision-making with regard to the translation strategies adopted and the norms governing the translation. This is relevant to legal translation in the sense that legal texts are normative, as mentioned in 3.2. This means that legal texts are imbued with legal norms that are embedded therein. As such, when a translator is translating a legal text, s/he is operating under socio-cultural and linguistic constraints. Consequently, s/he must consider the purpose of the target text and the factors that make up the socio-cultural setting in which the translation is produced.

In this regard, it is important to mention that descriptive theorists attempted to determine which norms and constraints operate on translated texts in a specific culture at a specific historical moment (Kruger and Wallmach 1997). I argue that it is thus important to explore these norms as they may direct isiZulu translators in the translation of eThekweni Municipal By-Laws, and attempt to predict translational norms operating on the texts at the time of their production.

3.3 Criticisms of descriptive translation studies

While DTS has played a major role in the development of translation studies, scholars such as Alhussein (2020), Inggs (2008), Pym (2010) and Rosa (2010) have criticised the overemphasis placed on target-orientedness. They further argue that DTS fails to elaborate on translational behaviour. Alhussein (2020:8) claims that “the recognition of

translational status by the target-cultural system does not alone qualify as solid criteria for determining the operative and empirical functionality of translation''. The proponents of DTS should take into consideration that there is interaction between the source text and target text during the translation process, which reduces translation to one aspect and discourages research into other directions (Alhussein 2020). Scholars who level criticism against the target-orientedness of DTS argue that the translation is initiated by the source system. Consequently, both the source system and target system should be considered in analysing the dynamics of the cultural dimensions of these two systems. This sentiment is shared by Kruger and Wallmach (1997: 123) in their assertion that "to carry out a meaningful comparative analysis between source text and target text, it makes sense to describe source text in the source system first''. In advancing this argument, Pym (2010) asserts that the target-side focus cannot explain all relations, especially the case of translation in postcolonial frames, or wherever power asymmetries are so great that the source side simply cannot be wished away. In terms of legal translation, Ruano (2019) contends that one of the major criticisms levelled against DTS offers partial, fixed and static snapshots of realities which are dynamic as legal language is constantly changing.

Recent studies have revealed that DTS, as a target-oriented approach, was developed precisely to counteract equivalence-based theories, which were source text-oriented and disregarded the target system for which the translation was intended. Translation in general has traditionally been dominated by prescriptive approaches. Since the beginning of the 1970s, research within the framework of translation studies has changed its stance from such approaches to more descriptive ones, as mentioned above. Consequently, this school of thought enables researchers to draw on DTS to inform their analysis of translated texts, which are used as a way to investigate the translation process and the function thereof (Suh 2005). It is therefore my view that while DTS has been criticised, the target-orientedness of DTS has paved the way for the consideration of translation as a social activity, which would, in turn, enable translators to consider the cultural stance they take during the translation process as well as their socio-cultural interventions, given that the earlier prescriptive approaches to translation disregarded the target system in the translation process. As a result, DTS provides an adequate framework for this particular study as it is consistent with a descriptive and target-oriented paradigm within which this

study is located. The subsequent section reviews the application of DTS in translation by different legal translation scholars.

3.4 Descriptive translation studies and legal translation

This section focuses on the application of Toury's DTS model on legal texts. Studies that are discussed below investigate specific linguistic features in respect of legal translation, such as modal verbs, speech acts, nouns, archaic words and passive voice, to mention a few. They are based on DTS, which is used to study the translation styles adopted in these studies below.

Various scholars have applied Toury's DTS in their research, such as Alharbi and BinMasad (2023), AlRabia (2018), AlSaeed and Abdulwahab (2023), Angi (2020), Bulatović (2013), El-Farahaty (2016), Frențiu (2020), Gandin (2010), Ghafil (2022), and Khalaf, Moindjie and Subramaniam (2023). In their descriptive analysis of selected corpora, they investigated how these linguistic features function and are represented in the target culture regarding legal translation. The studies discussed below are significant in that they highlight the role of the initial norms when translators have to produce a translation that is acceptable to the target system. The initial norms guide the translation process regarding the translation styles used, considering that the translator is required to choose between two extremes: adhering to the source text norms that will result in adequate translation, and subscribing to target text norms that will determine acceptable translation.

Angi (2020) conducted a study to analyse and describe features of lease agreements, such as impersonal usage, archaic words, passive voice and length of the sentences. Angi applied DTS to study the strategies of translating lease agreements from Turkish into English. In the study, she uses the concept of initial norms to show that the translator was subjected to the linguistic norms active in the target language, as linguistic units of the corpus show that plain language is used instead of legal language, which Angi (2020: 2) calls 'quasi-legal language'. Quasi-legal language enables the translator to make translation choices that allow him/her to produce a translation that is easily comprehended by the target audience, which makes the translation acceptable.

El-Farahaty (2016) investigated common difficulties and procedures in the translation of legal terms from English into Arabic, with specific reference to culture-specific and

system-based terms, archaic terms, specialised terms, doublets and triplets. El-Farahaty also applied DTS to study the strategies of translating culture-specific and system-based terms, archaic terms, specialised terms, doublets and triplets from English into Arabic. In the study, she uses the concept of initial norms to show that the translator was subjected to both the source text norms and the linguistic norms active in the target language. In the first instance, the translator provided a translation of doublets and triplets with the same number of words in the target text, even if these resulted in redundancy, instead of translating these into one element in the target text, as they convey the same meaning. In the second instance, the translator used translation styles that produce a translation which is acceptable to the target culture.

AlRabia (2018) investigates the similarities and differences between English and Arabic by analysing the modal verbs of the legal language of both English and Arabic individually. The focus of the study is on deontic modality and its indication in legal language: obligation, permission, and prohibition. AlRabia applied DTS to study the strategies of translating modal verbs from English into Arabic. In the study, she uses the concept of initial norms to show that the translator was subjected to both source text norms and linguistic norms of the target text because of the similarities and differences between English modals and those of Arabic. In terms of the similarities, the translator adopts translation styles that will produce an acceptable translation as s/he is subjected to the linguistic norms of the target text. Regarding the differences, a translator may be tempted to adhere to the source text norms owing to the semantic differences or the expression of prohibition and obligation. Another significant difference is that Arabic uses prepositions to impose obligations and grant permission, which could easily sway the unsuspecting translator to adhere to the source text norms.

Ghafil (2022) investigates the role of modal verbs in both Arabic and English texts. It is important to mention that, again, this study is similar to that of AlRabia (2018). Ghafil applied DTS to study the strategies of translating modals from English into Arabic. In this study, he uses the concept of initial norms to show that the translator adhered to the linguistic norms of the target text, in spite of the fact that the realisation of modals in Arabic can be achieved by prepositional phrases and adjectives. This approach is quite different from AlRabia's study, which could be attributed to the translator's proficiency in both languages and familiarity with the Arabic culture.

Alharbi and BinMasad's (2023) study aimed to identify the equivalence of legal terms and their translations and the procedures used to translate the terms. This study, although investigating translation from Arabic to English, is similar to El-Farahaty's (2016) as it also looks at the difficulties and procedures of translating religious and culture-specific terms, archaic terms and doublets from English into Arabic. Alharbi and BinMasad applied DTS to study the strategies of translating religious and culture-specific terms, archaic terms and doublets from Arabic into English. As previously mentioned in Farahaty's study, they use the concept of initial norms to show that the translator was subjected to both the source text norms and the linguistic norms active in the target language. In the first instance, the translator provided a translation of doublets into the same number of words in the target text, even if these resulted in redundancy, instead of translating these into one element in the target text, as they convey the same meaning. In the second instance, the translator used translation styles that produce a translation that is acceptable to the target culture. At the same time, the translator opted to combine translation styles to translate religious and culture-specific terms to produce acceptable translations that will resonate with the target culture.

AlSaeed and Abdulwahab (2023) investigate the applicability of a functional or dynamic approach to legal translation, specifically in translating legal contracts by different translators. AlSaeed and Abdulwahab applied DTS to study the strategies of translating different linguistic units, such as idiomatic expressions, passives, culture-specific terms, doublets, and collocations, to mention just a few from English to Arabic. In this study, they use the concept of initial norms to show that translators were subjected to the source text norms owing to the translation styles they employed.

Gandin (2010) examines specific functional terms and expressions such as archaic verbs, prepositional phrases and performative verbs and their corresponding Italian translations. Gandin applied DTS to study the strategies of translating archaic verbs, prepositional phrases and performative verbs from English into Italian. In this study, she uses the concept of initial norms to show that the translator has adopted translation styles which indicate that s/he was subjected to both the source text norms and target text norms, respectively.

Frențiu (2020) examines legal collocations to identify translation styles applied. Frențiu applied DTS to study the strategies of translating legal collocations from English into Romanian. In this study, she uses the concept of initial norms to show that the translator employed translation styles that indicate that s/he was subjected to the target text norms, as translation styles employed did not display a significant variety.

Khalaf, Moindjie and Subramaniam's (2023) study aims to analyse the translation of speech acts from Arabic into English in Palestinian divorce contracts. The speech acts identified were analysed in terms of representatives, directives, commissives, expressives and declarations to describe legal phenomena relating to the meaning loss resulting from translation, which hinders conveying the intended illocutionary force of ST speech acts. These categories in terms of which the illocutionary force of speech acts are explained serve different purposes as follows: 1) representatives category (utterances commit the speaker to the truth of the expressed proposition; 2) directives category (utterances seek to force the hearer to act in a particular way); 3) commissives category (expresses the illocutionary acts which pledge the speaker to a certain action in future; and 4) declarations category (the word changes the reality). Khalaf, Moindjie and Subramaniam (2023) applied DTS to study the strategies of translating speech acts from Arabic into English. They used the concept of initial norms to show that some translators were subjected to the source text norms, which is revealed by the failure to achieve the force of the speech act because of the translation styles they adopted, while others were subjected to the linguistic norms of the target text, thus producing an acceptable translation.

Ghebaichi (2016) analyses the translation of archaic adverbs from English into Arabic. Ghebaichi applied DTS to study the strategies of translating modals from English into Arabic. In this study, she uses the concept of initial norms to show that the translator, in the translation of archaic adverbs, subscribed to the target text norms, which resulted in acceptable translation.

It is important to mention that the present study takes a similar position of analysing and describing linguistic features in legal translation, as it investigates the translation styles of linguistic features in the selected eThekwini By-Laws employed by translators when translating these by-laws from English into isiZulu.

3.5 Conclusion

This chapter provided a theoretical overview of legal translation with a specific focus on DTS, a brief account of the DTS origin and its development and an explanation thereof. The role of the norms in translation was also discussed, as DTS seeks to predict translational behaviour, which leads to the establishment of translational rules or norms. It also looked at the criticism often levelled against DTS. Finally, a review of how the DTS model is applied to legal translation was provided. The next chapter focuses on research methods and the analytical framework upon which this present study is based.

CHAPTER 4: RESEARCH METHODOLOGY

4.1 Introduction

Saldanha and O'Brien (2013: 13) define research methodology as “a general approach to studying a phenomenon”. In other words, it involves studying how research is to be carried out. This chapter explains different methodological processes used in this study: research paradigm, research design, data collection method, data analysis method, limitations and trustworthiness and ethical considerations.

4.2 Research paradigm

For Denzin and Lincoln (2000), paradigm or interpretive framework entails ‘the net that contains the researcher’s epistemological, ontological and methodological premises’. In this regard, they argue that ‘all research is interpretive; it is guided by a researcher’s set of beliefs and feelings about the world and how it should be understood and studied’ (Denzin and Lincoln (2000: 22). This sentiment is echoed by Saldanha and O'Brien (2014) in their assertion that appreciating different ways of seeing the world not only helps in deciding on what research approach to undertake, but also helps researchers to question their own underlying assumptions, thereby strengthening their research. Given that this study adopted a qualitative design, constructivism and interpretivism were adopted as the appropriate paradigms for the study.

Bryman (2012: 33) views constructivism as “an ontological position that asserts that prosocial phenomena and their meanings are continually being accomplished by social actors”. This school of thought finds expression in Creswell’s (2009) assertion that these meanings are negotiated socially and historically, and are formed through interactions with others. This means that individuals construct the meaning of a particular situation, which is shaped in interactions with other individuals. In this respect, Bryman (2012) argues that the collective behaviour and categories are produced through interactions and are also under constant modification. He goes on to say that constructivism suggests that categories or ideas that individuals use to help them understand the natural and social world are, in fact, social products. As such, these categories or ideas are intrinsic, but their meaning is constructed through interactions.

Constructivism presupposes that a number of multiple realities exist, which are shaped by cultural, social, and historical factors (Chen, Shek and Bu 2011). These realities manifest themselves in diverse human experiences, including an individual's knowledge, perceptions, and interpretations. Thus, constructivist researchers question how social reality is constructed and what is constructed reality, as Chen, Shek and Bu (2011) point out.

Interpretivism is an epistemological position that emphasises knowledge gathering that rests on the understandings and interpretations of social phenomena. In this regard, researchers examine the social world from the participant's standpoint (Saldanha and O'Brien 2014). In recent years, interpretivism has developed its own traditions, such as hermeneutics and phenomenology. However, it is important to mention that this study is not essentially based on these traditions; some of its aspects explored are supported by the principles thereof. For Prasad (2005), these explanatory traditions emerged from a scholarly position that takes human perception as the first step for acquiring knowledge about the social world. As such, interpretive inquirers aim to find and understand how individuals discern, observe, and experience the social world around them (Chen, Shek and Bu 2011). This means that researchers involved in the research process socially construct knowledge by experiencing the natural setting.

From the perspective of the constructivism and interpretivism paradigms, it can be concluded that these two theories of knowledge and reality can be integrated to provide mechanisms by which social forms that individuals create in their contexts can be explained. It was for this reason that these approaches were adopted in this study, as the purpose was to explore translators' reality construct when they translated bylaws for the target system, and how they interpreted its meaning in their circumstances.

4.3 Research design

According to Creswell (2009), a research design is a plan that spans from the suppositions to the methods of data collection and data analysis. Creswell goes on to say that this plan entails a decision as to which design should be adopted to investigate a topic. Accordingly, these assumptions; investigative procedures, data collection methods; analysis of data; and the interpretation of results should culminate in this decision. In this respect, this present study adopts a qualitative research approach. Creswell (2009: 22)

views the qualitative research approach as 'a means for exploring and understanding the meaning individuals or groups ascribe to social or human problems'. In this regard, Creswell asserts that the research process involves data commonly collected from the participant's environment, analysis of data empirically starting from particular to general themes, and interpretation by the researcher on the meaning of the data.

Denzin and Lincoln (2000) also assert that qualitative research involves an explanatory, observational approach to the world, which means that researchers, within the framework of qualitative research, study things in their natural settings in pursuit of comprehending or explaining circumstances regarding meanings people bring to them. They further state that qualitative research includes the study and collection of different empirical materials, such as case studies, personal experiences, interviews, artefacts and cultural texts that explain practice and challenging times and meanings in individuals' lives. As such, it allows qualitative researchers to locate a diverse range of interrelated explanatory practices. In this regard, Dörnyei (2007) highlights the fact that its emergent nature is another important dimension of qualitative research. This means that no element of the research design is predicted, which makes the study unrestricted and allows it to adapt to new details that may emerge during investigation. Dörnyei (2007: 37) further identifies another important aspect of this emergent nature, which is that 'ideally, qualitative researchers enter a research process with a completely open mind and without setting out to test preconceived hypotheses'. Consequently, the research focus is delimited and investigative concepts are defined during the research.

In light of Creswell's definition of the research design, Yin (2003) contends that it is much more than a work plan. He asserts that research design also helps to avoid the situation in which the evidence does not address the initial research questions, hence it deals with logical problems. This suggests that research design is more than just a plan. He goes on to state that case studies should include five important components of a research design: a study's research questions; its propositions, if any; its unit(s) of analysis; the logic linking the data to propositions; and the criteria for interpreting the findings. According to him, this means that the completed research design should indicate (i) what data should be collected which speaks to a study's research questions, its propositions and unit(s) of analysis, and (ii) it should also tell the researcher what should be done after

the data have been collected which speaks to the logic linking the data to the propositions and the criteria for interpreting the findings.

This study dealt with qualitative data, providing the researcher with a detailed analysis, such as thematic analysis of the selected pieces of legislation. Therefore, the qualitative design adopted is the appropriate approach to study that kind of data. This study adopts a case study based on the translation of eThekweni Municipal By-Laws to identify translators' handling of specific translation challenges and translation styles employed to overcome these challenges. A detailed explanation is provided in the ensuing section.

4.3.1 Case study

Gillham (2000) attempted to, first, define *case* as:

A study of a unit of human activity embedded in the real world, which can only be studied or understood in context; which exists in the here and now; and that emerges with its context so that precise boundaries are difficult to draw Gillham (, 2000: 1).

He further says that a case can be an individual, a group, an organisation or a large-scale community, and all these constitute single cases. However, a researcher can also investigate multiple cases. In this respect, he defines a case study as:

One which studies the case to answer specific research questions, and which seeks a range of different kinds of evidence; evidence which is there in the case setting; and which has to be abstracted and collated to get the best possible answers to the research question (Gillham 2000: 1).

As such, evidence is the primary concern in case studies. Gillham (2000) posits that since the case study researcher can gather all evidence of the study, it will differ in terms of trustworthiness. A case study is also understood to be an overarching design which entails various sub-procedures such as interviews, observations and surveys. In this regard, Susam-Sarajeva (2009) argues that if a definition of case can be attempted in relation to the above, then it is an element of translation or interpreting-related undertaking, product and person in a real-life situation. Therefore, the issue in the case study research is not about the individual case but about the issue with the individual case

(Susam-Sarajeva 2009). She argues that the issue with the individual case is generalisability, which means that what is true about one individual case may not be true about the other. This is the case because there are many elements that are specific to that individual case (Gillian 2000). She goes on to say that case study design allows a researcher to investigate a case or cases over time through comprehensive data collection, which involves a multitude of sources of information and then reports a case description and case-based themes.

Similarly, Yin (2003: 9) views a case study as “an empirical inquiry that investigates contemporary phenomenon within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident”. This means that an investigator would adopt a case study as they deliberately attempted to explore settings, believing that they may be relevant to their phenomenon of study (Yin 2003). He contends that, since the phenomenon and context may not always be distinguishable in real life, it becomes necessary to provide a further definition that will characterise the case study, namely:

A case study is an empirical inquiry that investigates contemporary phenomena within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident (Yin 2003: 13).

This means that the case study is an all-encompassing strategy that takes into account the logic of design, data collection methods, and specific data analysis methods.

4.4 Data collection and sampling

This study employed an internet-based research method where data were extracted from selected pieces of legislation (by-laws). Data was collected from the eThekweni Municipality official website, as these are in the realm of the public sphere. Thus, the researcher needs no special permission to access the data. The main advantage of the internet-based research method is that data can be collected and assembled immediately (Bryan 2010). He refers to documents that appear on the internet as *virtual documents*. Because there are unlimited possibilities with the internet as a source of documents, he proposes what he refers to as *Scott's criteria* which entails, first, *authenticity* as anyone can set up the website; second, *credibility* where there could be distortions; third,

representativeness where there is constant influx of the internet which makes it doubtful whether it could be known how representative websites are on a certain topic; and finally, *meaning* whereby web lingo is used that may be difficult to comprehend. It is important to mention that not all the bylaws were published on the official website, thereby ensuring their authenticity and credibility. The study adopts purposive sampling.

According to Saldanha and O'Brien (2014), purposive sampling refers to a sample based on pre-established critical parameters. Sampling comprises eight pieces of legislation in English and their translations outlined in Table 4.1 below. In a qualitative study of this nature, eight pieces of legislation are adequate to provide the kind of data needed to address the aims and objectives of this study. The table below indicates the by-laws that were chosen on the basis that they are the only fully fledged by-laws that were translated. Some of the translated by-laws are just amendment translations of the same by-laws. In a qualitative study of this nature, eight pieces of legislation are adequate to provide the kind of data needed to address the aims and objectives of this study. The table below indicates the by-laws that were chosen on the basis that they are the only fully fledged by-laws that were translated in the sense that they were adopted by the municipal council and came into effect in the years stipulated on them.

Table 4.1: Sample of by-laws

English text	isiZulu text	Size of the texts (English/isiZulu) in words	Author/Year
Cemeteries and Crematoria By-Law	<i>Umthetho KaMasipala Wezamangcwaba Nokulothisa</i>	9 927/6 652	eThekwini Municipality/2015
Child Care Facilities By-Law	<i>uMthetho Kamasipala Wezindawo Zokunakekela Izingane</i>	7 469/5 580	eThekwini Municipality/2015
Film By-Law	<i>Uthetho Kamasipala Wezamafilemu</i>	4 966/3 532	eThekwini Municipality/2018

English text	isiZulu text	Size of the texts (English/isiZulu) in words	Author/Year
Informal Trading By-Law	<i>Umthetho KaMasipala Wezohwebo Olusakhula</i>	7 850/5 653	eThekwini Municipality/2014
Museum By-Law	<i>Umthetho KaMasipala Wezigcinimagugu</i>	2 583/1 812	eThekwini Municipality/2015
Public Transport By-Law	<i>Umthetho KaMasipala Wezokuthutha Zomphakathi</i>	9 380/6 383	eThekwini Municipality/2014
Retail By-Law	<i>Umthetho KaMasipala Wezimakethe Zokudayisa</i>	4 476/3 126	eThekwini Municipality/2014
Water Supply By- Law	<i>uMthetho Kamasipala Wasethekweni Wokuhlinzeka Ngamanzi</i>	21 658/14 275	eThekwini Municipality/2014
		68 309/47 013	
Total		115 322	

The sample consists of 68 309 words of English by-laws and 47013 words of isiZulu by-laws, totalling 115 322 words. It is important to mention that these by-laws are authentic because they were passed and approved by the Executive Council of the municipality.

4.5 Data analysis

This study used thematic analysis as its method of analysis to study the selected sample. This method of analysis is used to identify what is common in terms of the way a topic is written about and to attempt to understand what is common (Braun and Clarke 2012). Bryman (2012: 578) defines theme as:

A category identified by the analyst through his/her data that relates to his/her research focus; builds on codes identified in scripts and/or field notes; and provides the researcher with a basis for a theoretical understanding of his/her data that can make a theoretical contribution to the literature relating to the research focus.

In this regard, Braun and Clarke (2012: 2) view thematic analysis as “a method for systematically identifying, organising, and offering insights into patterns of meanings across datasets. They go on to say that there are many patterns that could be observed across any dataset; therefore, the purpose of analysis is to identify those relevant to answering a particular research question.

Thematic analysis is also known for its flexibility. First, it provides the researcher with a focal point through which to analyse meaning across the dataset, or conduct a comprehensive study of one particular aspect of a phenomenon. Second, it can be conducted in different ways: inductive versus deductive approach; an experimental versus a critical orientation to data; and an essentialist versus a constructionist theoretical perspective. This means that where the researcher locates their qualitative research approach on each of the three aforementioned continua carries a particular set of assumptions, and delimits what can and cannot be written or said regarding data, and how data should be interpreted. As a result, any researcher conducting thematic analysis should decide on what form of thematic analysis they are using (Braun and Clarke 2012). It is against this background that this analysis follows an inductive approach because the categories were derived from data, as these were not previously established or, in the words of Saldanha and O'Brien (2014: 189), ‘predetermined’. Braun and Clarke (2012: 3) define the inductive approach as a bottom-up approach and it is driven by what is in the data”. This means that, as stated above, codes and themes are derived from data, as these were not previously established.

In this regard, the following themes were generated from the data to answer the research questions explored in this study:

- Modal verbs
- Technical terms
- Archaic adverbs
- Culture-bound concept/expressions
- Collocations

- Doublets/legal synonyms
- Ambiguous/vague terms
- Polysemous terms
- Long sentence
- Passives

Thematic analysis was therefore conducted to identify, organise, and analyse in detail the linguistic features that appear in the texts under investigation. It is important to mention that Braun and Clarke's (2012) familiarising with data phase was followed by the development of an analytical strategy for this analysis. An elucidation of the analysis process is provided in detail in the subsequent chapter.

4.6 Trustworthiness

Simply put, trustworthiness refers to the credibility and thoroughness of the study. Lincoln and Guba (1985) assert that the trustworthiness of the study is vital when assessing its worth. Trustworthiness includes establishing credibility, dependability, confirmability and transferability. In addressing credibility, the researcher is attempting to ascertain that the findings of the study are believable, trustworthy and accurate. To allow transferability, the researcher provides sufficient detail on whether the findings of the study can justifiably be applied to other settings and contexts. Meeting the dependability criteria means that the findings of the study are consistent and sustainable over time. Last, to achieve conformability, a researcher must strive to demonstrate that the research findings of the study are objective and not influenced by their bias and beliefs (Alele and Malau-Adulu 2023). In light of the foregoing discussion, it can be concluded that when researchers adhere to the criteria of Lincoln and Guba, they can strengthen the trustworthiness of their research findings. This will undoubtedly affect the credibility of their research findings. In this study, credibility was achieved through checking the authenticity of the bylaws, which informed the trustworthiness of the findings. The bylaws are authentic because they were adopted by the Council. Transferability in this study was ensured by providing a detailed presentation of the data, which will make it easier for future researchers to make transferability judgments of the criteria to other contexts. Dependability was addressed by ensuring that categories or themes were clearly defined and distinguished from one another to avoid ambiguity that would inadvertently affect the credibility of the findings.

Finally, regarding confirmability, it is hoped that the detailed presentation of data will provide a means by which confirmability can be checked, as I was not able to conduct a confirmability audit.

4.7 Ethical considerations

For Creswell (2009), it is important to engage in ethical practices and to anticipate what ethical issues could come up throughout the research project. In this regard, he points out that questions related to ethics are discernible in such issues as personal disclosure, authenticity and credibility of the research report, the role of the researchers in cross-cultural contexts and issues of personal privacy through internet data collection. However, regarding the ethics of using data from the internet, I would argue that the internet is in the public domain and freely available. As such, ethical considerations do not apply to this study. In this regard, Hewson, Yule, Laurent and Vogel (2003) argue that data that have been intentionally and willingly made public in the internet public domain do not need informed consent.

4.8 Conclusion

This chapter defines the research methodology that guides this research study. A brief discussion on the different methodological processes used in this study, such as research paradigm, research design, data collection method, data analysis method, limitations, trustworthiness and ethical considerations was provided. Further, a convenience sampling strategy was employed as the data is readily available and accessible to the researcher without requiring permission. Thematic analysis was explained in detail, which was used to analyse the 16 pieces of eThekweni Municipality By-Laws.

CHAPTER 5: PRESENTATION OF DATA AND ANALYSIS

5.1 Introduction

The chapter focuses on the analysis of the data that was collected for the study. The aim of the chapter is therefore to present, analyse, interpret and discuss the data. The chapter starts with a presentation of the analysis of the data (see 5.2) under which I discuss the translations of the Cemeteries and Crematoria By-Law (see 5.2.1), the Child Care Facilities By-Law (see 5.2.2), the Film By-Law (see 5.2.3), the Informal Trading By-Law (see 5.2.4), the Museum By-Law (see 5.2.5), the Public Transport By-Law (see 5.2.6), the Retail By-Law (see 5.2.7), and the Water Supply By-Law (see 5.2.8). The chapter ends with a discussion of the findings of the study and their implications for DTS (see 5.3).

5.2 Findings of the study

Thematic analysis was used to identify patterns across data relevant to answering the research questions. The analysis of data in this study is premised on the translation styles employed by translators in the translation of selected eThekweni Municipal By-Laws from English into isiZulu and the norms at work during the translational activity. The translation styles analysed were grouped in the following three broad categories: legal terms, which include technical terms, polysemous words and word strings/legal synonyms; linguistic terms, which included modal verbs, archaic/pronominal adverbs, collocations, ambiguous/vague words, long sentences and passive voice; and culture-specific terms/expressions, which include concepts that are related to social customs and religious beliefs. These categories were the focus of the analysis of the By-laws presented in this chapter.

The terms that are categorised as legal terms in this study are technical terms, polysemous terms and legal synonyms. El-Farahaty (2016: 478) defines legal terms as 'specialised legal terms which have fixed legal meanings and cannot be replaced by other words'. This sentiment is echoed by Cao (2007) in her assertion that a major source of difficulty in translating legal terms stems from the differences in legal systems and culture. Consequently, many legal terms in one language do have equivalents in another language. She refers to this as a 'non-equivalence problem'. In dealing with this challenge, literature reveals that scholars have adopted different translation styles, such

as adopting Šarčević's (1997) functional equivalence, borrowing and paraphrasing, to mention just a few. As previously mentioned in the second chapter of this thesis (see section 2.3), when translating legal terms, translators not only transfer legal meaning from one language to another but also culture and legal effect. Linguistic terms are words that describe the language structure and components of a language. The terms categorised as linguistic terms in this study include modal verbs, archaic adverbs, collocations, ambiguous/vague terms, long sentences and passives. In the translation of linguistic terms, the translator adopted functional equivalents, paraphrasing, transposition, omission, specific words, simplification, source text analysis, preservation, naturalisation and neutral/less expressive words translation styles to translate these terms into isiZulu. Culture-specific concepts refer to "those source language words which express concepts totally unknown in the target culture" (Baker 2011: 21). Terms categorised as culture-specific concepts in this study include concepts that are related to social customs and religious beliefs. In the analysis below, I presented the analysis of each by-law's examples and their translations one after the other. In other words, I presented the source text of each By-law, followed by the target text, then a back translation of the target text into the source text in order to better understand the translator's choices.

5.2.1 Cemeteries and Crematoria By-law

This By-law came into effect in 2015 to provide for the establishment, control and maintenance of public and private cemeteries and crematoria within the area of jurisdiction of the eThekweni Municipality (eThekweni Municipality: Cemeteries and Crematoria By-law, 2015). For the analysis of the translation of this By-law, I focused on the following categories: technical terms, polysemous terms, legal synonyms, modals, archaic adverbs, vague/ambiguous terms, long sentences, passives, collocations and culture-specific concepts/expressions.

5.2.1.1 Translation of technical terms

Example 1 (a)

Source text

This By-law is called the Cemeteries and Crematoria By-law, 2015, and takes effect on the date of publication thereof in the *Provincial Gazette* or as otherwise indicated in the notice thereto (p. 38).

Target text

Le Mithetho kaMasipala ibizwa ngokuthi iMithetho kaMasipala Yezamangcwaba Nokulothisa, ka 2015, futhi izoqala ukusebenza ngosuku eyoshicilelwa ngalo kwiGazethi yeSifundazwe noma kanjengoba kubalulwe esizisweni sawo (p. 38)

Back translation

These Municipal Laws are called Cemeteries and Burning Bodies to Ashes 2015 and they will start working on the date of publication in the Provincial **Gazette** or as indicated in its notice.

In the translation of *gazette* as *igazethi* in Example 1 (a), the translator adopted naturalisation as a translation style. Naturalisation is when the word in the target text undergoes phonological and morphological changes to “suit the language they are adopted into” (Dlamini 2021: 79). The term *igazethi* is naturalised from the English word *gazette* by giving the word isiZulu phonological and morphological structures. This is done by adding the isiZulu prefix ‘i’ which is commonly used in most naturalised nouns in isiZulu. Naturalisation is often used as a translation strategy when there is no natural equivalent for a source text word in the target language, and this could be the reason why the translator in this case opted for this style in translating the term. It is, however, worth mentioning that there is another phrase, *umqulu kahulumeni*, loosely translated as a *government voluminous document* that is also used as an equivalent for *gazette* in isiZulu. This paraphrase is very common among different homogenous groups of isiZulu-speaking readership, for example, isiZulu-speaking individuals that share similar backgrounds, such as age, education, professional experience, etc. and those that are literate. However, among those literate individuals who can read and write, one finds another group that can only write and read in isiZulu and cannot read or write in English. In this regard, the translation of *gazette* as *igazethi* could pose a problem of understanding to those who are not exposed to English.

Example 1(b)

Source text

An application by a person for approval to establish or extend a cemetery or crematorium must be made in writing, addressed to the authorised official, and must be accompanied by-

the nature of the **title** under which the proprietor will hold or holds the land on which the cemetery is to be established (p. 12-13).

Target text

Isicelo sanoma imuphi umuntu sokwakha noma sokunweba amangcwaba noma indawo yokulothisa kufanele sibhalwe phansi sibhekiswe esisebenzini esigunyaziwe, futhi siphelezwe –

uhlobo lwetayitela umnikazi anikwa ngaphansi kwalo umhlaba okuzokwakhiwa kuwo amangcwaba noma osetshenziswa njengamangcwaba (p. 12-13).

Back translation

Any application for anyone to build or extend the cemetery or a facility where bodies are burnt to ashes must be made in writing and addressed to an authorised worker and accompanied by –

The nature of the **title** under which the owner was given the land on which the cemetery will be built or used as cemeteries.

In the translation of the *title* as *itayitela* in Example 1(b), the translator again used naturalisation as the translation style. As explained in Example 1 (a), the noun has taken the phonological and morphological structures of isiZulu by the addition of the prefix 'i'. It could also be argued in this case that the translator chose this translation style because of the absence of a natural equivalent of the term in isiZulu. However, this translation is unlikely to cause the type of problem of understanding discussed in the previous example because *itayitela* is widely used among isiZulu speakers to refer to 'title', which implies that the translation would fit into the target system without appearing foreign.

Example 1(c)

Source text

An application by a person for approval to establish or extend a cemetery or crematorium must be made in writing, addressed to the authorised official, and must be accompanied by-

the nature of the title under which the proprietor will hold or holds the land on which the cemetery is to be established or which is being used as a cemetery, and whether such land is subject to any **mortgage** or trust (p.12-13)

Target text

Isicelo sanoma imuphi umuntu sokwakha noma sokunweba amangcwaba noma indawo yokulothisa kufanele sibhalwe phansi sibhekiswe esisebenzini esigunyaziwe, futhi siphelezwe –

*uhlobo lwetayitela umnikazi anikwa ngaphansi kwalo umhlaba okuzokwakhiwa kuwo amangcwaba noma osetshenziswa njengamangcwaba, nokuthi ngabe lowo mhlaba **usakweletwa yini ebhange** noma ungaphansi kwesikhwama esithize* (p.12-13)

Back translation

An application by anyone for building or extending the cemeteries or a facility where bodies are burnt to ashes must be made in writing and addressed to an authorised worker and be accompanied by –

The nature of the title the owner is given under the land on which the cemetery is used as the cemetery, and whether that land's **outstanding debt has been settled with the bank** or is under a particular fund.

When translating the technical term *mortgage*, the translator translated it using paraphrasing as a translation style. Paraphrasing is used when the term expressed by the source text is not lexicalised at all in the target text (Baker 2011). It is based on the “amplification or explanation of a segment of a text” (Newmark 1988: 90). The term *mortgage* was translated as *usakweletwa yini ebhange*, which means *whether the outstanding debt has been settled with the bank*, as shown in Example 1(c). Mortgage refers to a “loan obtained through the conveyance of property as security” (Oxford University Press 2010). To avoid the distortion of interlingual incongruency, the translator provided a short explanation of the term, which is also commonly used in isiZulu to refer to any form of a loan from the bank. It is important to highlight that the term *mortgage* can also be translated as *imalimboleko* in isiZulu, which means *money that is borrowed*, a translation that is very common among isiZulu speakers. *Imalimboleko* is used in different contexts in isiZulu.

It is used in the context of home loans, vehicle finance, business loans, and personal loans. It is, however, always qualified depending on the context in which it is used. For example, in the case of the term *mortgage*, the word *imalimboleko* would be qualified with *yokuthenga umuzi*, as in *imalimboleko yokuthenga umuzi*, which means ‘a loan to purchase a house’, as *mortgage* is generally associated with the word *bond*, which is more common than the term *mortgage*. This could be the reason why the translator opted for a paraphrase rather than a functional equivalent. It is important to note that the translation of *mortgage*, as *it is still owing from the bank*, conveys the intended meaning of the By-law, given that it is not lexicalised in isiZulu. The translator in this case attempted to explain the term in very simple and general terms that the ordinary target readers identify with, because if a person has a mortgage, it simply means they still owe the bank.

Example 1(d)

Source text

“**leased** grave” means any piece of land within a public cemetery laid out or demarcated as a single grave, in respect of which any person has purchased the exclusive right to use over a stipulated period, for burial purposes in terms of this By-law (p. 8)

Target text

*ithuna **eliqashisiwe** kusho indawo esemangcwabeni omphakathi ebekwe noma eklanywe njengethuna elilodwa, umuntu athenge ilungelo lokuba ayisebenzise isikhathi esithile esinqunyiwe, ukuze ayisebenzisele ukungcwaba ngokwale Mithetho kaMasipala (p. 8).*

Back translation

'leased grave' means the area in the public cemetery laid out or demarcated as a single grave, where a person bought the right to use it over a stipulated period, for burial purposes in terms of this Municipal Law.

In the translation *leased* in Example 1 (d), the translator adopted functional equivalence as a translation style. According to Šarčević (1997), a functional equivalent is a term specifying a concept of the target legal system that has the same function as that of the source legal system. The term *leased* was translated as *-qashiwe* in Example 1 (d), which means *lease* or *rent*. It must be noted that the naturalised word *ukurenta* is also used along with *ukuqasha* in isiZulu as they have the same meaning. It is naturalised from the word *rent* and it is related to *lease* in that it is a synonym. The word *ukurenta* is also common among different isiZulu-speaking homogenous groups. Even those who cannot read or write English know the word, except for illiterate elders, by hearing it within their communities because of the rental market boom across the Province of KwaZulu-Natal, whether in urban areas or rural areas, as people move even to rural areas for work purposes. The translator translated the term in such a way that it will be acceptable in the target culture.

Example 1(e)

Source text

In the event of failure by a **lessee** to renew a certificate in terms of subsection (7), the Municipality may at any time repossess and use the private grave site or plot to which that certificate related (p. 22).

Target text

Uma isiqashi sihluleka ukuvuselela isitifiketi saso ngokwesigatshana (7) uMasipala nganoma isiphi isikhathi angalidla futhi alisebenzise lelo thuna elinesitifiketi (p. 23).

Back translation

If the **lessee** fails to renew their certificate in terms of subsection (7), the Municipality may at any time repossess it and use that grave with the certificate.

In translating the term *lessee* as *isiqashi* in Example 1 (e), the translator adopted functional equivalence as a translation style. The functional equivalent employed by the translator in the translation of *lessee* resulted in what the target readership would expect in the target text. It is important to mention that the isiZulu word *-qash-* is the stem from which different forms of the word come, as indicated in both examples above. As already pointed out above, functional equivalents should have the same function in the target text as their source text counterparts. In the case of the above example, the translator provided a functional equivalent in isiZulu that expresses equal meaning as that of the ST and, at the same time, transfers the meaning as naturally as possible, which is the key requirement of functional equivalence. By so doing, the translator produced a translation that is acceptable in the target system.

Example 1 (f)

Source text

Every proprietor of a private cemetery or crematorium, the establishment or continued use of which has been authorised by the Municipality, must—

render an annual return to the authorised official on or before the 31st day of March each year containing a detailed list of the names and addresses of all **trustees**, committee members or persons controlling the cemetery or cemeteries concerned (p. 14-15).

Target text

Bonke abanikazi bamangcwaba noma izindawo zokulothisa okungezona ezikaMasipala, ukwakhiwa noma ukuqhubeka kokusetshenziswa kwabo okugunyazwe nguMasipala, kufanele—

*Anike isisebenzi esigunyaziwe imininingwane enamagama kanye namakheli abo bonke **abasingathi**, amalungu ekomidi kanye/noma abantu abalawula lawo mangcwaba noma indawo yokulothisa, engakadluli umhlaka 31 Mashi wonyaka nonyaka* (p. 14-15).

Back translation

All owners of cemeteries or facilities where bodies are burnt to ashes that do not belong to the Municipality, the construction or their continued use authorised by the Municipality, must-

Provide the authorised worker with details containing their names and addresses to **those who manage**, committee members and /or persons controlling those cemeteries or crematoria, before 31 March of each year.

In translating the term *trustees* as *abasingathi* in Example 1 (f), loosely translated as *those who manage*, the translator adopted a neologism as the translation style. Neologism in the context of legal translation refers to the creation of new terms and assigning a legal meaning to terms from ordinary language (Šarčević, 1997). These new terms “suddenly fill one of innumerable gaps in a language’s resources for handling human thought and feeling at some level of formality” (Newmark 1988: 122). *Trustees* refer to “individuals or members of a board given powers of administration of property in trust with a legal obligation to administer it solely for the purposes specified” (Oxford South African Concise Dictionary, 2010). The translator created a word from general language and assigned legal meaning to it, thus avoiding a lengthy paraphrase that may lead to confusion.

However, the word *abasingathi* is vague in that it could refer to *handlers of anything* other than *property in trust*. Consequently, the neologism may result in a shift in meaning as opposed to the paraphrase.

5.2.1.2 Translation of polysemous terms

Example 2 (a)

Source text

Every service, ceremony or funeral in connection with a cremation is subject to the general control of the authorised official while within the cemetery, and a person attending any such service, ceremony or funeral must not wilfully disregard a lawful and reasonable **order** of the authorised official while within the cemetery (p. 31).

Target text

Selokhu kwathi nhlo, inkonzo eqondene nokulothisa yenziwa ngaphansi kokulawulwa isisebenzi esigunyaziwe esisemangcwabeni, futhi umuntu owethamele leyo nkonzo yomngcwabo akufanele ashaye indiva imiyalelo efanele ekhishwe isisebenzi esigunyaziwe sasemangcwabeni (p. 32).

Back translation

Since the beginning of time, service related to burning bodies to ashes is done under the control of the authorised worker in the cemetery, and the person attending the funeral service must not disregard a reasonable **order** issued by an authorised cemetery worker.

In translating a polysemous term in Example 2(a), the translator employed functional equivalence as a translation style. Hemel (2023: 1069) describes polysemy as ‘the existence of multiple related meanings for the same word or phrase’. The term *order* has the following multiple meanings:

1. The way things are arranged according to a particular pattern.
2. An authoritative instruction.
3. To request something to be made, supplied or served.
4. When someone wants to get people’s attention

In translating the word *order* as *umyalo*, the translator used an isiZulu functional equivalent. The use of *umyalo* disambiguates the source text word by providing its proper context. This was made possible by the fact that the translator did not use a loan word to avoid the ambiguity exhibited by this term, as demonstrated in the definitions above. The use of a functional equivalent in this case translates to resonating well with the discursive pattern of the target audience.

Example 2 (b)

Source text

An interment is not permitted in any cemetery except upon producing to the Supervisor a burial order issued in terms of the Regulations, **save** in cases where otherwise provided for in the Births and Deaths Registration Act (p. 18).

Target text

*Isidumbu asivumelekile kunoma imaphi amangcwaba ngaphandle kokukhipha kunikwe uSuphavayzwa umyalelo wokungcwaba okhishwe ngokoMthethonqubo, **ngaphandle** kwezimo ezihlinzekelwe eMthethweni Wokubhaliswa Kokuzala Nokufa Kwabantu* (p. 18).

Back translation

The body is not allowed in any cemeteries without producing to the Supervisor a burial order issued in terms of the Regulation, **except** for cases that are provided for in the Births and Deaths Registration Act.

In the translation of the term *save* as *ngaphandle*, the translator adopted functional equivalence as a translation style by replacing the original term with its isiZulu functional equivalent. The adoption of this translation style produces a translation that would fit in the target culture because the translator managed to provide a legal meaning of this term as compared to that of everyday language. In doing so, the translator provided the context

in which the term has been used, hence provided a translation that fits in the target culture.

Example 2 (c)

Source text

The laws mentioned in the first and second columns of the **Schedule** to this By-law are hereby repealed to the extent set out in the third column of the said Schedule (p. 37).

Target text

*Imithetho egagulwe kwikhalamu yokuqala neyesibili ye**Sheduli** ekule Mithetho kaMasipala ngalokhu iyachithwa njengoba kubekile kwikhalamu yesithathu yale **Sheduli** (p. 38).*

Back translation

The laws mentioned in the first and second columns of the **Schedule** to this Municipal Law are hereby repealed as set out in the third column of this Schedule.

In translating the term *schedule* in Example 2 (c), the translator used naturalisation as a translation style. The word *schedule* has five different meanings.

1. A plan indicating the time and sequence of events finished on schedule.
2. A written or printed inventory.
3. A list of items to be addressed.
4. An appendix to a legislative document.

The translation of *schedule* as *isheduli* results in a very conspicuous shift in meaning owing to its ambiguous nature. This ambiguity would pose a translation challenge because the terms *schedule*, *appendix* and *annexure* are more often used interchangeably in isiZulu as *isijobelelo* and yet they carry individual meanings. One could argue that the translator may have employed naturalisation to avoid this confusion and, in the process, unwittingly produced a translation that appears foreign to the target readership.

5.2.1.3 Translation of legal synonyms

Example 3 (a)

Source text

Notwithstanding the provisions of subsections (1) and (7) of section 26 of this By-law, the rights acquired by any person under a lease with the Municipality and the tariff relating to **fees** in respect of such lease applicable prior to this By-law coming into effect must be preserved (p. 20).

Target text

*Ngale kwezihlinzeko zesigatshana (1) no (7) zesigaba 26 salo Mthetho kaMasipala, amalungelo anikezwe noma imuphi umuntu ngaphansi kokuqashiselana noMasipala kanye namatharifu ahambisana **nezimali ezibizwayo** maqondana nalokho kuqashiselana ayesebenza ngaphambi kokuqala ukusebenza kwale Mithetho kaMasipala kufanele agcinwe (p. 21).*

Back translation

Notwithstanding the provisions of subsections (1) and (7) of section 6 of this Municipal Law, the rights given to anyone under a lease with the Municipality and tariffs associated with **monies charged** in respect of such lease are valid before the coming into effect of these Municipal Laws, and must be kept.

In translating the legal synonyms *fees and charges* in Example 3 (a) above, the translator used paraphrasing as a translation style, as they render *fees* as *izimali ezibizwayo*, which means ‘monies charged’. The translator’s choice in this could be because the word ‘fees’ and the word ‘charges’ are perceived in Zulu culture just as money that is paid for a purchase or service, as isiZulu does not differentiate the two terms, as is the case in English. This explanation includes both words as conveying the same meaning. This translation could, however, lead to ambiguity because it is open to different interpretations, as it is not clear what is being charged for, even though the source text provides the context. One could, however, contend that this ambiguity is mitigated by the context of the entire text. Also, by using the word *ezibizwayo* (charged), the translator

disregarded the commonly used word *ezikhokhwayo*, which means ‘paid’ as in ‘money paid’.

The word *ezibizwayo* is equivalent to the word *cost* in isiZulu in another context. For example, one could say: *How much did this shirt cost you?* This can be translated as *Ngabe likubize malini leli hembe?* It is important to point out that these forms come from the stem *-biz-*. Now, the word *likubize* in the example sentence above conveys a different meaning from the word *ezibizwayo*, as this refers to fees charged specifically for sets of services the municipality provides to its consumers, as compared to the asking price for a shirt, hence the accepted translation *ezikhokhwayo*. However, it could be argued that the words *ezibizwayo*, meaning *charged* and *ezikhokhwayo*, meaning *paid*, as indicated above, could be used as isiZulu legal synonyms in the context of law, as the reader would know that *ezibizwayo* refers to (*fees*) *charged* for services provided by the municipality and not *the asking price* for a shirt.

Example 3 (b)

Source text

Offences and **penalties** (p. 37).

Target text

Amacala **nezinhlawulo** (p. 38).

Back translation

Offences and **finer**

Regarding the synonym *penalties* in Example 3 (b), the translator employed a superordinate word, which is a more general word, as a translation style. Baker (2011: 26) argues that this translation “works equally well in most, if not all, languages since the hierarchical structure of semantic fields is not language-specific”. There is no specific word in isiZulu for the English superordinate *penalties*, hence the translator opted to use a more general word, *izinhlawulo*. The translation of *penalties* as *izinhlawulo* was translated in a manner that is acceptable to the target readership.

Example 3 (c)

Source text

Any person who contravenes or fails to comply with any provision of this By-law is is guilty of an offence and liable on conviction to a **fine** not exceeding R500.00 in the case of first conviction or, in the case of second or subsequent conviction for the same offence, a fine not exceeding R2,000.00 or, in default of payment of any fine imposed in either case, to imprisonment for a period not exceeding six (6) months (p. 37).

Target text

*Noma yimuphi umuntu owephula noma owehluleka ukuthobela izihlinzeko zale Mithetho kaMasipala uyoba necala futhi akhokhe **nenhlawulo** engeqile ku R500.00 uma elahlwa icala okokuqala, kanti uma eselahlwa amacala afanayo okwesibili noma ngaphezulu, uyohlawuliswa imali engeqile ku R2,000.00 noma, uma ehluleka ukukhokha leyo nhlawulo anikwe yona, uyovalelwa ejele isikhathi esingekho ngaphezu kwezinyanga eziyisithupha (6) (p. 38).*

Back translation

Any person who breaks or fails to comply with provisions of this Municipal Law will be found guilty of an offence and will be liable to pay the **fine** not exceeding R500 if he s/he is convicted for the first time and if s/he is convicted with the same offences for the second time or above, s/he will be fined an amount not exceeding R2,000.00, or if s/he fails to pay that penalty given to her or him, s/he will be imprisoned for a period not exceeding six months (6)

In the translation of *fine* as *inhlawulo* in Example 3 (c), the translator adopted hyponymy (specific word) as a translation style. As languages generally have superordinates but lack hyponyms, specific words are used by individual languages to make only those distinctions in meaning which seem to be applicable to their specific environments (Baker 2011). This results in a shift in meaning as the word *fine* is a specific word which refers to a type of penalty and *penalty* is a general word. The translator used these terms

interchangeably because isiZulu does not make a distinction as English does, as Cao (2007) contends, which is why the translator provided such a translation.

Example 3 (d)

Source text

Subject to the Constitution and applicable national and provincial laws, any–

- (a) power, excluding a power referred to in section 160(2) of the Constitution;
- (b) **function**; or
- (c) **duty** (p. 36).

Target text

Kuncike kuMthethosisekelo kanye nemithetho kazwelonke neyesifundazwe esebenzayo, noma yimaphi –

- (a) amandla, ngaphandle kwamandla okukhulunywe ngawo esigabeni 160(2) soMthethosisekelo;*
- (b) **umsebenzi**; noma*
- (c) **ijoka** (p. 36).*

Back translation

Depending on the Constitution and applicable national and provincial laws, any–

- (a) power, excluding power mentioned in section 160(2) of the Constitution;
- (b) **function**; or
- (c) **responsibility**.

In the translation of legal synonyms in Example 3 (d), the translator adopted functional equivalence as a translation style. It is important to note that the translator used a metaphor to translate *duty* as *ijoka*. The literal meaning of *ijoka* is *yoke*, which is used on oxen. The yoke obliges the ox to complete its task at hand, whether to pull the ploughing implement or undertake any other similar task. The use of the word *ijoka* by the translator accentuates this distinctive meaning of the word, which differs from *umsebenzi*. The translator, therefore, knows quite well that this word will resonate very well with isiZulu-speaking audience, thus enabling them to understand the word in the context in which it has been used in the target text. In isiZulu, the terms are commonly used to convey the same meaning. The translator therefore translated them as *umsebenzi* and *ijoka* (which mean responsibility) respectively in Example 3 (d), which are functional equivalents as they fulfil the same role as their ST counterparts. In doing so, the translator successfully managed to provide a translation that is acceptable to the target system. It must be noted that the word *umsebenzi* in isiZulu is generic. It could refer to *work* and *a customary practice, such as slaughtering for the departed*. It is therefore important that the translator uses the word in question in its proper context, as the translator did in the example above.

Example 3 (e)

Source text

WHEREAS there is a need for the Municipality to **control and regulate** the establishment and use of cemeteries and crematoria within its area of jurisdiction (p. 2).

Target text

NJENGOBA kunesidingo sokuba uMasipala **alawule** ukwakhiwa nokusetshenziswa kwamangcwaba nezindawo zokulothisa ezingaphansi kwemingcele yakhe (p. 2).

Back translation

WHEREAS there is a need for the Municipality to **control** the construction and use of the cemetery and facilities where bodies are burnt to ashes within its borders

In translating the legal synonyms *control* and *regulate* as *alawule* in example 3 (e), the translator rendered these into one word *alawule*, which refers to both words in English. This then results in a shift in meaning according to Cao's (2007) contention that each word carries its own individual meaning. It must be noted that many languages do not make the same distinctions as English does, and there may be no separate words for these different English words (Cao 2007). This is the case in point regarding isiZulu. In this regard, it can be argued that due to the absence of another synonym in isiZulu, as demonstrated in the example mentioned above, the translator produced a translation that is acceptable in the target system.

5.2.1.4 Translation of modals

Example 4 (a)

Source text

Any registration certificate which was validly issued by a competent authority in terms of any other law prior to this By-law taking effect, and which has not been withdrawn or cancelled, **shall be** deemed to have been issued in terms of this By-law (p. 12).

Target text

Noma isiphi isitifiketi sokubhalisa esikhishwe ngokusemthethweni yisikhungo esifanele ngakwanona imiphi eminye imithetho ngaphambi kokuqala ukusebenza kwale Mithetho kaMasipala, futhi esingazange sihoxiswe noma sikhanselwe, siyothathwa ngokuthi sikhishwe ngokwale Mithetho kaMasipala (p. 12).

Back translation

Any registration certificate legally issued by the relevant institution in terms of any other laws before these Municipal Laws start working, and which has not been withdrawn or cancelled, **shall be** regarded as having been issued in terms of these Municipal Laws.

In the translation of the source text modal verbs, the translator opted to use functional equivalents to translate them into isiZulu. The modal verb *shall* in Example 4 (a) in the sentence:

...**shall be** deemed to have been issued in terms of this By-law

has been used to express obligation on the part of the recipient. It has been translated as -yo- in isiZulu, as can be seen in the sentence:

... **shall be** regarded as having been issued in terms of these Municipal Laws

to impose the issuing thereof. It is important to point out that, unlike English, where a modal is separated from the verb it goes with, in isiZulu it is infused with a verb as indicated in the example above. Modal verb *shall* is used to express obligation in legal text and, as such, the isiZulu modal -yo-/zo- serves the same function. However, it must be noted that -yo-/zo- is also ambiguous as it expresses future action. It is therefore left to the reader to disambiguate the isiZulu modal by putting it in the context in which it is used, that is, in the legal context. In this context, the reader would know that the modal is used to express obligation. It is important to highlight that there is another variety -za- that could be used instead of the commonly used -yo-/zo-, which, in my view, is a linguistic preference as it is spoken by some section of the isiZulu-speaking community, which is not surprising as it is a linguistic fact that isiZulu and isiXhosa are Nguni languages. I would go further and argue that this variety could be influenced by isiXhosa's modal verb -za ku-, which fulfils the same function as that of isiZulu. It can therefore be argued that the section of the isiZulu-speaking community who uses this modal may be exposed to the isiXhosa-speaking community.

Example 4 (b)

Source text

A person who wants to make a booking for a burial **must** make a request to that effect either in person or through an authorised representative at the nearest Municipal office designated by the authorised official for that purpose (p. 18).

Target text

*Umuntu ofuna ukubekisela ukungcwaba **kufanele enze** isicelo salokho ngokwakhe noma ngokuthumela oqokwe nguye ngokuya ehhovisi likaMasipala eliseduze elinesisebenzi esigunyaziwe ukuba senze lokho (p. 17).*

Back translation

A person who wants to book a burial **must make** a request thereof personally or send someone and appoint them him/her to go to the nearest Municipal office, which consists of an authorised worker to do that.

As with *shall*, the modal *must* be in Example 4 (b) the sentence:

*A person who wants to make a booking for a burial **must** make a request to that effect...*

It is context-dependent, which may pose a challenge to an unsuspecting translator. However, in isiZulu, the modal verb *must* was replaced with the isiZulu modal *-fanele/-mele* as indicated in the sentence:

*Umuntu ofuna ukubekisela ukungcwaba **kufanele enze** isicelo salokho*

to express obligation on the person who wants to make a booking as intended by its source text counterpart. As has been observed with *shall*, the modal *must* fulfil the same role as *shall* in respect of obligation and the difference between them was drawn. Therefore, based on the isiZulu modal's *-fanele/-mele* role, that of expressing logical necessity, it should not be difficult to conclude in which context it has been used in a legal context. It is interesting to note that the translator translated *must* as *kumele* in other by-laws. As I previously argued in Example 1 (a), this is a linguistic preference. As a result, the translator produced a translation that aligns with the expectations of the target readership.

Example 4 (c)

Source text

The Municipality **may**, in the manner prescribed in the Regulations, **establish and operate** such number of cemeteries and crematoria as it may deem appropriate within or outside its area of jurisdiction (p. 15).

Target text

*uMasipala ngendlela ebekwe kule mithethonqubo, **angakha futhi asebenzise** inqwaba yamangcwaba nezindawo zokulothisa, njengoba engabona kufanelekile endaweni engaphansi kwemingcele yakhe* (p. 15).

Back translation

The Municipality, in the manner prescribed in the Regulation, **may construct and use** several cemeteries and facilities where bodies are burnt to ashes, as it deems appropriate, in areas under its borders.

The modal *may* be in Example 4 (c) in the sentence:

...its predecessors may do so on expiry of the initial period of 10 years

expresses permission which comes from the position of authority. It is replaced by the isiZulu modal *-nga-* as shown in the sentence:

*...leyo eyandulela le **singenza** njalo uma sekuphele iminyaka eyishumi yokuqala*

which is also incorporated into the accompanying verb and fulfils the same function as the ST modal, as shown in Example 4 (c). It is important to mention that the isiZulu verb *-enza-* cannot be further broken down. Therefore, any word that is attached to it will take the form of the verb, hence the vowel *-e-* on the isiZulu modal *-nge-*. The translator rendered this modal verb into isiZulu in such a manner that it fits in the target system.

Example 4 (d)

Source text

Provided that the authorised official must only give his or her consent on the production to him or her of a certificate from the Head of Health that he or she is satisfied that the opening of the grave and the exhumation **can be** carried out without danger to public health (p. 19).

Target text

Ngaphansi kokuthi isisebenzi esigunyaziwe kufanele sinikeze imvume yaso emva kokuba sesinikwe isitifiketi esifanele seNhloko yezeMpilo sokuthi igculisekile ukuthi ukuvulwa kwethuna nokumbiwa kwesidumbu kungenziwa ngaphandle kokubeka impilo yomphakathi engcupheni (p. 20).

Back translation

Under the fact that an authorised worker must give his or her consent after s/he has been given an appropriate certificate by the Head of Health that s/he is satisfied that the opening of the grave and the digging of bodies **can be** done without risking the public health

The same applies to the modal *can* in Example 4 (d) in the sentence:

*...the exhumation **can** be carried out without danger to public health.*

It also fulfils the same function where the Head of Health permits any person who requires to exhume any human remains. Again, the modal *-nga-* is incorporated into the word *kungenziwa* in the sentence:

...nokumbiwa kwesidumbu kungenziwa ngaphandle kokubeka impilo yomphakathi engcupheni.

It is important to note that in the translation of *may/can*, the isiZulu modal verb *-nga-* has been used consistently, as data indicates. The modal verb *-nga-* in isiZulu is used to express permission in legal texts, as it comes from the position of power rather than

simply conveying that the information is possible or permitted. As such, the modal *can* has been translated according to the expectations of the target audience.

Example 4 (e)

Source text

The right to use a private grave **must not be** transferred without the approval of the authorised official: Provided that any person dissatisfied with any decision of the authorised official may lodge an appeal against such decision to the municipal manager in terms of section 62 of the Systems Act (p. 21).

Target text

*Ilungelo lokusebenzisa amathuna kanjalo **akufanele** lidluliselwe komunye umuntu ngaphandle kokuvuma kwesisebenzi esigunyaziwe: Uma kukhona noma imuphi umuntu ongagculisekile ngesinqumo sesisebenzi esigunyaziwe angafaka isikhalo ngaleso sinqumo kwiMenenja kaMasipala ngokwesigaba 62 se Systems Act (p. 22).*

Back translation

The right to use graves **must not be** transferred to another person without approval of the authorised worker: If there is any person dissatisfied with the decision of the authorised worker may lodge an appeal against that decision to the Municipal Manager in terms of section 62 of the System Act.

The modal *must* in Example 4 (e) takes the negation form to express prohibition by adding the adverb *not* as indicated in the sentence:

*The right to use a private grave **must not** be transferred without the approval of the authorised official...*

In translating the modal verb *must not*, the translator translated it as *akufanele* in isiZulu, as shown in the sentence:

*Ilungelo lokusebenzisa amathuna kanjalo **akufanele** lidluliselwe komunye umuntu ngaphandle kokuvuma kwesisebenzi esigunyaziwe...*

which fulfils the same function as its ST counterpart to prohibit the transfer of the right to use a private grave. Consequently, the translator was able to convey the meaning as intended by the source text, thus producing a translation that meets the expectations of the target readership.

5.2.1.5 Translation of archaic/pronominal adverbs

Example 5 (a)

Source text

The objects of this By-law are to –
provide for matters connected **therewith** (p. 10-11).

Target text

*Izinhloso zalo Mthetho kaMasipala –
ukuhlinzekela izindaba eziqondene **nalokhu** (p. 11).*

Back translation

The objects of this Municipal Law –
are to provide matters connected **with that**.

In the translation of the archaic adverb *therewith*, the translator used functional equivalence as a translation style. In rendering the archaic adverb *therewith* in the sentence:

*The objects of this By-law are to –
provide for matters connected **therewith***

as **nalokhu** into isiZulu as indicated in the sentence:

*Izinhloso zalo Mthetho kaMasipala –
ukuhlinzekela izindaba eziqondene **nalokhu***

The translator used a functional equivalent, **nalokhu**, to render it into isiZulu, which fulfils the same function as the source text's archaic adverb. In doing so, the translator was able to produce a translation that is acceptable in the target culture.

Example 5 (b)

Source text

The Municipality may grant or refuse an application for the establishment of a proposed private cemetery or crematorium, or the continued use **thereof** (p. 13).

Target text

uMasipala angavuma noma enqabe noma isiphi isicelo sokwakhiwa kamangcwaba noma indawo yokulothisa okungeyona ekamasipala, noma ukuqhubeka nokusetshenziswa kwazo (p. 14).

Back translation

The Municipality may grant or refuse any application for the building of a cemetery or facility where bodies are burnt to ashes that does not belong to the Municipality, or the continued use **of those facilities**.

In the translation of the archaic adverb *thereof*, the translator used functional equivalence as a translation style. In translating the archaic adverb *thereof* in the sentence:

...or the continued use thereof.

as **kwazo** in isiZulu *means that of* in the sentence:

...noma ukuqhubeka nokusetshenziswa kwazo.

The translator used a functional equivalent, *kwazo*, which means *those of*, to render it into isiZulu, which fulfils the same function as the source text archaic adverb (as mentioned in Example 5 (c)). However, it is important to point out that the translation *thereof* as *kwazo* in Example 5 (b) results in a shift in meaning because of the grammatical error in the translation. The archaic adverb *kwazo* refers to *a private cemetery* or *crematorium*, but still, there is no agreement between the archaic adverb *kwazo* (*thereof*) and *private cemetery* or *crematorium* (*amangcwaba* and *indawo yokulothisa*) as the suffix -zo in the word *kwazo* represents plural. Even if the translator used the singular indicative -so instead of -zo, there would still be a shift in meaning because the translator would have confused *a private cemetery* or *crematorium* to which the archaic adverb *kwazo* refers with *application* translated as *isicelo*, which agrees with *kwazo* in isiZulu. As

indicated above, the translator made a grammatical error in translating *thereof* as *kwazo*, which results in a shift in meaning.

Example 5 (c)

Source text

If the whereabouts of the lessee or grantee are unknown to the Municipality or if the lessee or grantee fails to execute the necessary work, within the period stipulated in the **aforesaid** notice referred to in subsection (2), the Municipality may itself carry out such maintenance, repair, renovation or removal as it may consider necessary and recover the cost thereof from the lessee or grantee (p. 26).

Target text

*Uma uMasipala engamazi ukuthi lowo oqashiselwe ukuphi nendawo, noma uma lowo oqashiselwe ehluleka ukwenza lowo msebenzi ofanele, ngesikhathi anqunyelwe sona kuleso saziso **okukhulunywe ngaso** esigatshaneni (2), uMasipala ngokwakhe angawenza lowo msebenzi wokunakekela, ukulungisa, ukuvuselela noma ukususa akubona kufanele kwenziwe bese ebiza izindleko zalokho kulowo oqashiselwe (p. 26).*

Back translation

If the Municipality does not know the whereabouts of the lessee, or the lessee fails to execute the necessary work, in the period stipulated in the notice that was **mentioned before** in the subsection (2), the Municipality can carry out that care work, repairs, revival or removal it may consider necessary and charge costs thereof from the lessee.

In translating the archaic adverb *aforesaid*, the translator used paraphrasing as a translation style. Given that the archaic adverb *aforesaid* is not lexicalised in isiZulu, in Example 5 (c), the translator provided a paraphrase.

In the translation of the *aforesaid* in the sentence:

*...within the period stipulated in the **aforesaid** notice referred to in subsection (2)*

as **okukhulunywe ngaso**, meaning *that which was talked about* in the sentence:

...ngesikhathi anqunyelwe sona kuleso saziso **okukhulunywe ngaso**
esigatshaneni (2)

The translator paraphrased the archaic adverb *aforesaid* as *okukhulunywe ngaso*, which is acceptable in the target system.

Example 5 (d)

Source text

A grave must not be less than 1.80 m in depth and human remains interred **therein** must not be nearer than 1.25 m to the surface of the ground.

Target text

*Ithuna akufanele libe ngaphansi kuka 1.80 m ukushona phansi kanti isidumbu esifakwe **phakathi** kufanele singabi seduze ngo 1.25 m ukusuka ngaphezulu komhlaba.*

Back translation

A grave must not be less than 1.80 m in depth and the body put **inside** must not be nearer than 1.25 m from the surface of the ground.

In translating the archaic adverb *therein*, the translator used transposition as a translation style. Alcaraz and Hughes (2002: 181) define transposition as “the substitution of one grammatical category for another, on the basis that both may be fairly said to possess the same semantic weight or equivalent semantic density”. In this instance, the grammatical change can be observed when the adverb *therein* in English changed to the preposition *phakathi* in isiZulu.

In rendering the archaic adverb *therein* in the sentence:

... human remains interred **therein** must not be nearer than 1.25 m to the surface
of the ground

as **phakathi** into isiZulu as indicated in the sentence:

...isidumbu esifakwe **phakathi** kufanele singabi seduze ngo 1.25 m ukusuka
ngaphezulu komhlaba.

The translator successfully produced a translation that fits in well with the target system.

Example 5 (e)

Source text

The laws mentioned in the first and second columns of the Schedule to this By-law are **hereby** repealed to the extent set out in the third column of the said Schedule (p. 37)

Target text

*Imithetho egagulwe kwikhalamu yokuqala neyesibili yeSheduli ekule Mithetho kaMasipala **ngalokhu** iyachithwa njengoba kubekile kwikhalamu yesithathu yale Sheduli (p. 38).*

Back translation

The laws mentioned in the first and second columns of the Schedule to this Municipal Law are **by this** disposed off as set out in the third column of this Schedule.

In translating the archaic adverb *hereby* in Example 5 (e), the translator used functional equivalence as a translation style. In translating it into the sentence:

*...to this By-law are **hereby** repealed to the extent set out in the third column of the said Schedule.*

as *by this* in the sentence:

*...ekule Mithetho kaMasipala **ngalokhu** iyachithwa njengoba kubekile kwikhalamu yesithathu yale Sheduli.*

The translator used a functional equivalent **ngalokhu**, which means **by this** to render it into isiZulu and as such, produced a translation that is acceptable to the target audience.

5.2.1.6 Translation of ambiguous/vague terms

Example 6

Source text

All **vehicles** lawfully within the cemetery must proceed at a speed not exceeding 15 km/h therein, and it is prohibited for any **vehicle** to pass in proximity to any point where a funeral service is being conducted (p. 25).

Target text

*Zonke **izimoto** ezisemangcwabeni ngokusemthethweni kufanele zihambe ngejubane elingekho ngaphezu kuka 15 km/h, futhi akuvumelekile ukuba imoto yedlule eduze nalapho kwenziwa khona inkozo yokungcwaba* (p. 26).

Back translation

All **cars** lawfully within the cemetery must proceed at a speed not exceeding 15 km/h, and it is prohibited for a car to pass in close proximity to where a funeral service is conducted.

When translating the vague term *vehicle* in the example above, the translator used hyponymy (specific word) as a translation style. The word *vehicles* is vague, therefore, to avoid this vagueness, the translator used the specific word *izimoto*. The term *vehicles* may be interpreted differently as to what may refer to a *vehicle*: a car, a bus, a truck, a van, a tractor or, a payloador, etc. It can be argued that the translator may have used the word *imoto* in view of the fact that it is a common practice at the cemetery to allow only small cars to drive therein, owing to the space restriction. As a result, the translator produced a translation that the target readership can identify with.

5.2.1.7 Translation of long sentences

Example 7

Source text

Any person who **in any part of the cemetery buries a dead body in the existing vault** must, at his or her own costs, open that vault and after putting the coffin in with that body, unless the coffin closes in an airtight way, causes the coffin to close wholly and permanently in a way that is airtight in a separate place or receptacle which must be constructed by suitable bricks or other material jointed by cement and in a way that will prevent, as much as possible, **the escape of fumes from the inside of that receptacle and which must be left undisturbed at all time** (p. 18)

Target text

*Noma imuphi umuntu kunoma **iyiphi ingxenye yamathuna engcwaba isidumbu somuntu kwivolthi evele ikhona**, kufanele ngezindleko zakhe lowo muntu, avule leyo volthi bese kuthi emva kokufaka ibhokisi elinaleso sidumbu, ngaphandle uma lelo bhokisi livaleka ngci ngokushesha lingangenisi moya, adale ukuba lonke ibhokisi livaleleke ngci unomphelo endaweni eseceleni noma egunjini okufanele yakhiwe ngezitini ezifanele noma ngenye impahla ehlanganiswe ngosimende futhi nangendlela ezogwema kangangoba kungenzeka ukuba **kuphume isisi ngaphakathi kulelo gumbi futhi okufanele lihlale lingaphazamisekile ngaso sonke isikhathi** (p. 19).*

Back translation

Any person who **in any part of the cemetery buries a dead body in the existing vault** must, at his or her own costs, open that vault and after putting the coffin in with that body, unless the coffin closes immediately in a way that it does not allow the air to get in, causes the coffin to completely close wholly and permanently in a separate place or room which must be constructed by suitable bricks or other material jointed by cement and in a way that will prevent, as much as possible, **the**

escape of fumes from the inside of that room and which must remain undisturbed at all time.

After the analysis of the source text above, before the translation, the translator managed to identify the main parts of the sentence and their function in the sentence, and thus produced a translation that is acceptable in the target system. This enabled the translator to insert these main parts of the sentence in their correct syntactic positions to comply with the syntactic organisation and the rules of the word order of the target language.

The translator analysed the source text sentence as follows:

Basic sentence: Any person must open such vault and cause the coffin to be wholly and permanently enclosed in a separate cell or receptacle

Qualification 1: who in any part of a cemetery buries human remains in an existing vault;

Qualification 2: at such person's own cost,

Qualification 3: after the deposit of the coffin containing such remains, respectively,

Qualification 4: unless the coffin is hermetically sealed immediately and the conjunctive phrase is used as far as practicable,

Qualification 5: which must be constructed of good brickwork or other suitable material properly jointed in cement and in such a manner as to prevent, as far as practicable, the **escape of noxious gas from the interior of the cell or receptacle, which must be left permanently undisturbed.**

Following this analysis, the translation of the provision into isiZulu is demonstrated below:

Basic sentence: *Noma yimuphi umuntu kufanele avule leyo volthi adale ukuba lonke ibhokisi livaleleke ngci unomphelo endaweni eseceleni noma ejunjini;*

Qualification 1: *kunoma iyiphi ingxenye yamathuna engcwaba isidumbu somuntu kwivolthi evele ikhona,*

Qualification 2: *ngezindleko zakhe lowo muntu,*

Qualification 3: *emva kokufaka ibhokisi elinaleso sidumbu,*

Qualification 4: *ngaphandle uma lelo bhokisi livaleka ngci ngokushesha lingangenisi moya,*

Qualification 5: *okufanele yakhiwe ngezitini ezifanele noma ngenye impahla ehlanganiswe ngosimende futhi nangendlela ezogwema kangangoba kungenzeka ukuba kuphume isisi ngaphakathi kulelo gumbi futhi okufanele lihlale lingaphazamisekile ngaso sonke isikhathi.*

In translating a long legal sentence in the above example, the translator focused on the main clause, which is further elaborated with clauses and qualifications. Therefore, the translator undertook a thorough analysis of the original sentence structure before embarking on the translation. For Cornelius (2011), this kind of analysis helps the translator to determine the source text's intended meaning and to approach the translation act in a systematic way. This approach allowed the translator to determine challenging linguistic elements for which equivalents must be found. After identifying the basic sentence from qualifications, the translator then started translating, starting with the basic sentence and continuing with translating individual qualifications. These qualifications must be given their correct grammatical role in the basic sentence, to conform with the rules of the word order of the target language (Cornelius 2011).

As a result, analysis of the source text enabled the translator to produce a translation that adheres to the syntactical organisation and word order rules of isiZulu. It is important to mention that the translator also needed to attend to problematic linguistic features in the long sentence for which equivalents had to be found.

In the translation of *vault* as *ivolthi*, the translator adopted naturalisation as a translation style. This resulted in the translator borrowing the source text word *vault* and naturalising it and rendering it as *ivolthi* in isiZulu to preserve the meaning of the original, as this word is not assigned a direct equivalent in isiZulu. The translation of *vault* as *ivolthi* may result in a shift in meaning because some sections of isiZulu-speaking individuals may not even know what *ivolthi* is referring to, as they are not exposed to English, especially in the context of burial. Even those who may have an idea of what a *vault* refers to, but in the banking context, I could argue that some among them may not link it to the burial *vault*. However, as I previously explained (see 5.2.1.1), there may be a homogenous group of isiZulu-speaking readership that is educated, middle-class and live in suburbs, but who do not need By-laws to be translated for them, who may know what the cemetery vault is. I could argue that ordinary isiZulu speakers of eThekweni Municipality may not have seen a grave vault. Instead, they are familiar with an excavated area called *indlu* inside

the grave, which literally means *house*. This excavated area is the size of the coffin on the floor inside the main grave. After the coffin has been put in this excavated area, it is covered with chopped wood that is put closely together in such a way that the coffin is almost invisible before it is buried in the ground.

In the translation of the phrase *noxious gas* as *isisi*, which means *fumes or smoke*, the translator adopted simplification as a translation style. Simplification “is the tendency to simplify language used in translation” (Dlamini 2021: 102). The translator used the word *isisi* because usually most gases take the form of fumes or smoke. As a result, the translator avoided a long explanation, which may result in interlingual incongruence, clumsiness and convoluted sentence construction, thus resulting in a shift in meaning. In so doing, the translator was able to produce a translation that is acceptable to the target system.

5.2.1.8 Translation of passives

Example 8 (a)

Source text

Notwithstanding the provisions of subsection (1), **the application of this By-law may be extended by consent** to any area within the boundaries of the Municipality which falls under the jurisdiction of a tribal authority (p. 12).

Target text

Ngale kwezihlinzeko zesigatshana (1), ukusebenza kwale Mithetho kaMasipala kunganwetshwelwa kunoma iyiphi indawo engaphansi kwemingcele kaMasipala engaphansi kwesandla seNkosi (p. 11).

Back translation

In terms of these provisions (1), **the application of these Municipal Laws may be extended** in any place within the boundaries of the Municipality under the jurisdiction of the Chief.

Regarding the translation of the passive voice, the translator opted to use preservation as a translation style. Preservation is used to preserve and maintain the source text word/phrase in the target text. The translation of the passive voice, *the application of this*

By-law may be extended by consent as ukusebenza kwale Mithetho kaMasipala kunganwetshwelwa in Example 8 (a) results in a shift in meaning. This is a result of the translator omitting the agent *consent* in the translation. This omission opens the clause to misinterpretation because it is not clear *by to whom* the application is extended. The by-law, however, is very clear as to *by whom* the application may be extended to avoid this uncertainty. Furthermore, the translator in translating the word *extended* as *kunganetshwelwa* used an ill-formed verb, which means *extended which* may lead to confusion. As such, the translation results in a shift in meaning.

Example 8 (b)

Source text

Except for vaults which existed before the promulgation of this By-law, the use and maintenance of which must be carried out as set out in subsection (2), **the building of vaults in cemeteries is not allowed** (p. 19).

Target text

*Ngaphandle kwamavolthi ayevele ekhona ngaphambi kokushawa kwaleMithetho kaMasipala, ukusetshenziswa nokugcinwa kwawo esesimweni okufanele kwenzeke njengoba kubekwe esigatshaneni (2), **ukwakhiwa kwamavolthi emangcwabeni akuvumelekile*** (p. 19).

Back translation

Except for vaults which existed before the enactment of these Municipal Laws, the use and keeping of them in good condition must be carried out as set out in subsection (2), **building of vaults at the cemetery is not allowed.**

In the translation of the passive in Example 8 (b), the translator still preserved the passive construction, but it must be noted that the verb took a perfect extension *-ile-* to take the form of the present perfect tense and used the impersonal subject concord *-ku-*. The agent is also not known in this case, which means the focus is on what is not allowed. In this regard, the translation was produced in such a manner that it is acceptable to the target system.

5.2.1.9 Translation of collocations

Example 9 (a)

Source text

Any rights accrued or obligations incurred under any of the by-laws repealed in terms of subsection 1, **remain in force**, as if those by-laws had not been repealed (p. 37).

Target text

*Wonke amalungelo noma izibopho ezitholakele ngokwanoma imuphi uMthetho kaMasipala ochithwayo ngokwesigatshana 1, **kuyohlale kusebenza** ngokugcwele, kube sengathi leyo Mithetho kaMasipala ayizange ichithwe* (p. 38).

Back translation

All rights or obligations received in terms of any Municipal Law repealed in terms of subsection 1, **will remain working**, as if those Municipal Laws had not been repealed.

In translating the collocation *remain in force* in Example 9 (a), the translator used functional equivalence as a translation style. In replacing the source text collocation *remain in force* with a more typical functional equivalent *kuyohlale kusebenza*, which means *it will remain working* isiZulu collocation, the translator rendered it in a manner that greatly enhances the acceptability and readability of isiZulu and conveys a similar meaning as English does.

Example 9 (b)

Source text

Repeal of laws and savings (p. 37).

Target text

***Ukuchithwa kwemithetho** nokunye okuphathelene nayo* (p. 38).

Back translation

Disposal of laws and other related matters.

In the translation of the collocation *repeal of laws* in Example 9 (b), the translator also adopted functional equivalence as a translation style. When translating the source text collocation *repeal of laws* as *ukuchithwa kwemithetho* isiZulu collocation, the translator produced a translation that is acceptable in the target text as it conveys a similar meaning as its source text counterpart.

5.2.1.10 Translation of concepts that are related to social customs and religious beliefs.

Example 10 (a)

Source text

The Municipality may provide buildings, walls of remembrance, niches or other facilities for the deposit and preservation of the ashes of **cremated** bodies for definite periods (p. 33).

Target text

UMasipala angaba namabhilidi, izindonga zesikhumbuzo, amanishi noma ezinye izindawo zokufaka nokugcina imilotha yezidumbu ezilothisiwe isikhathi esithile (p. 34).

Back translation

The Municipality may have buildings, walls of remembrance, niches or other facilities for putting and keeping ashes of the bodies that have been **burnt to ashes** for definite periods.

In the translation of the culture-specific concept *cremated*, the translator used less expressive words or neutral words as a translation style. The translator used the neutral or less expressive word *ezilothisiwe* to refer to *cremation* in Example 10 (a), as it has not

been a Zulu cultural practice to cremate bodies until recently. The translator could have opted to use the common word *ukushisa*, which means *burn or incinerate*, but it is a very strong word to be associated with burial in isiZulu culture because of the respect that is given to the deceased. Besides, it is a common belief in the isiZulu culture that the deceased cannot be cremated, as it conflicts with the belief that they must be buried so that they become *idlozi*, which means an *ancestor*. However, in urban areas, where space is becoming more and more scarce, there has been a shift towards the idea of cremation. It must, however, be noted that this shift does not apply in the rural areas, as there is plenty of land under the tribal authority jurisdictions and these communities still hold a very strong view on cremation. This includes the middle-class that still have homesteads in the rural areas and prefer to be buried in their land of birth, as they migrated to urban areas for work purposes.

Example 10 (b)

Source text

All public cemeteries and **crematoria** must be open to the public at a time determined by the Municipality (p. 16).

Target text

*Wonke amangcwaba **nendawo yokulothisa** yomphakathi kufanele kuvulelwe umphakathi ngezikhathi ezinqunywe nguMasipala* (p. 17).

Back translation

All public cemeteries and **facilities where bodies are burnt to ashes** must be opened to the public at the times determined by the Municipality.

In the translation of the term *crematoria*, the translator used paraphrasing as a translation style. The term *crematoria* was paraphrased as *indawo yokulothisa* in Example 10 (b). As mentioned in the analysis of Example 10 (a) above, the term *crematorium* is associated with incineration of the deceased, which conflicts with isiZulu cultural practices, where there is a traditional belief that the deceased cannot be incinerated as they will not become *idlozi*. In this instance as well, it can be argued that evolving views on culture could be the reason for this shift towards using crematoria as well as modern practices.

It is important to highlight that the paraphrase translation style used to translate the term *crematoria* was used as a less expressive or neutral expression. By so doing, the translator produced a translation that not only meets the expectations of the target culture, but also a translation that most of the isiZulu-speaking readership identifies with.

Example 10 (c)

Source text

A **dead body** must not be removed from a coffin for incineration and a coffin must not be opened in the crematorium except when required by the authorised official or as permitted in terms of any provision of this By-law (p. 33).

Target text

Isidumbu somuntu ongasekho akufanele sikhishwe ebhokisini ukuze silothiswe futhi ibhokisi akufanele livulwe endaweni yokulothisa ngaphandle uma kuceleisisebenzi esigunyaziwe noma lapho kuvuma khona izihlinzeko zale Mithetho kaMasipala (p. 34).

Back translation

The body of the person *who is no more* must not be removed from the coffin for it to be burnt into ashes and the coffin must not be opened in the facility where bodies are burnt into ashes, except when asked by an authorised worker or when permitted in terms of the provisions of these Municipal Laws.

Again, the translator adopted a neutral or less expressive expression as a translation style to translate the phrase *dead body* into *isidumbu somuntu ongasekho* as shown in Example 10 (c). The translator could have opted for the word *isidumbu somuntu ofileyo*, which conveys the same meaning, but because of the cultural constraints when it comes to the deceased, the translator used the neutral word *ongasekho* in the phrase *isidumbu somuntu ongasekho*, which means *who is no more*. Also, the word *-file-* in isiZulu meaning *dead* is associated with the death of an animal or someone who was a menace to society, hence the use of *ongasekho*. The translator, therefore, adopted neutral/less expressive words to try to avoid imposing the source culture on the isiZulu readership. It

is important to point out that there is another variety of *umufi*, which means *the deceased*. This variety is equally used to refer to the *deceased*, as it is also less expressive or neutral, but it is mostly used to avoid mentioning the name of the deceased because of the respect that is afforded to them. As with the rendering of cultural terms/expressions from English into isiZulu in the examples above, the translator sought to provide a translation that is culturally acceptable to the target readership.

Example 11

Source text

If any such lessee or grantee neglects to attend to any grave or **memorial work** erected thereon, the Municipality may issue a notice calling upon him or her, within a stipulated period, to maintain such grave in proper order (p. 25).

Target text

*Uma lowo oqashiselwe ehluleka ukunakekela noma iliphi ithuna noma **amatshe esikhumbuzo** afakwe lapho, uMasipala angakhipha isaziso acele, ngesikhathi esithile esinqunyiwe ukuba kugcinwe esimweni esifanele* (p. 26).

Back translation

If such a person who has been leased fails to take care of any grave or **memorial stones** put there, the Municipality may issue a notice and ask, within a stipulated time, to maintain these in proper order.

In rendering the phrase *memorial work* into isiZulu as *amatshe esikhumbuzo*, as indicated in Example 11, the translator substituted a culture-specific expression with a target language expression. This translation style involves replacing a culture-specific concept or expression with a target language concept or expression. The concept or expression in question “may not have a propositional meaning but may have a similar impact on the target reader” (Baker 2011: 31), which is the case in point in the example above. In the above example, the translation of the phrase *memorial work* as *amatshe esikhumbuzo* conveys what is typical and familiar in isiZulu cultural practices, and what isiZulu-speaking people can identify with. According to the definition of the eThekweni Municipality:

Cemeteries and Crematoria By-law, 2015, *memorial work* means *any tombstone, railing, fence, monument, tablet, memorial inscription, kerbing or other work erected or which may be erected on any grave or plot*. It can be seen that the word *tombstone*, which is typically referred to as *itshe* in isiZulu – meaning *stone* – forms part of the definition of *memorial work* above. It could be argued that, given that the translator occupies the position in the target system, they translated *memorial work* as *itshe lesikhumbuzo* because they know that it is a common practice in the isiZulu-speaking world to erect just a tombstone on the grave.

5.2.2 Child Care Facilities By-law

This By-law was adopted by the Council in 2015 to regulate certain services provided at child care facilities; to provide for the safety and medical care of children in child care facilities (eThekweni Municipality: The Child Care Facilities By-law, 2015).

In the analysis of the translation of this By-law, I explored technical terms, modals, archaic adverbs and collocations.

5.2.2.1 Translation of technical terms

Example 12

Source text

A health compliance certificate is issued in respect of specific approved premises, which means that a health compliance certificate–
may not be bequeathed by the health compliance certificate holder to any heir or **legatee** (p. 12).

Target text

*Isitifiketi sokuthobela ezempilo sikhishwa siqondane nendawo evunyiwe. Lokhu kusho ukuthi isitifiketi esithobela ezempilo–
asikwazi ukuthi sabiwe njengefa ngonesitifiketi esithobela ezempilo kunoma iyiphi indlalifa noma **ozothola ifa** (p. 11).*

Back translation

A health compliance certificate is issued in respect of the approved area, which means a health compliance certificate—

cannot be allocated as legacy by someone who possesses a health compliance certificate to any heir or someone who will **receive heritage**

In translating the term *legatee* as *ozothola ifa* in Example 12, the translator adopted paraphrasing as a translation style. Legatee means *a person who receives a legacy or heritage* (Oxford South African Concise Dictionary, 2010). In this regard, the translator produced a translation that is acceptable in the target system. It must be noted that in this example, there exist legal synonyms, *heir* and *legatee*. I provided my analysis of these terms here instead of duplicating the same data from the same By-law. In the translation of the term *heir* in Example 12, the translator employed a functional equivalent to translate it into isiZulu. The translator rendered *heir* as *indlalifa*, which has the same function in the target text. It is important to point out that this is a very rare case where isiZulu has a legal synonym, which makes a distinction in English. This highlights the translator's ability to provide a distinction between these two terms to avoid confusion. The translator captured this distinction very well by paraphrasing *legatee* and providing a functional equivalent of *heir* as indicated above. The term *heir* refers to “a person legally entitled to the property or rank of another on that person's death” (Oxford South African Concise Dictionary, 2010). Common sense tells us that the *legatee*, the person receiving a legacy or inheritance, is nominated in the will, whereas the *heir* does not have to be in the will because they have a legal right to the inheritance. As with the term *heir*, the translator produced a translation that meets the expectations of the target culture.

5.2.2.2 Translation of modals

Example 13 (a)

Source text

A gate **will** only **be** regarded as self-locking for subsection (2) if it cannot be readily opened by an unauthorised person. In this regard, a gate which closes by means of a latch only, with no other means of securing the gate, **will not be** regarded as self-locking (p. 17).

Target text

*Isango liyothathwa kuphela njengelizikhiya lona ukwenzela isigatshana uma lingeke livulwe noma ikanjani ngumuntu ongagunyaziwe. Kulokhu, isango elivalwa ngenkintsho kuphela, kungekho okunye okubamba isango, **angeke** lithathwe njengelizikhiyayo (p. 18).*

Back translation

The gate **will** be regarded as self-locking for the purposes of subsection (2) if it cannot be opened by an authorised person. In this regard, the gate, which is closed by the holder only when there is nothing that is holding the gate, **will not be** regarded as self-locking.

In the translation of the modal verb *will* as -yo- in Example 13 (a), the translator adopted function equivalence as a translation style to translate it into isiZulu. The modal *will* be in the sentence:

*A gate **will** only **be** regarded as self-locking for the purposes of subsection (2) if it cannot be readily opened by an unauthorised person*

has been used to express certainty. It has been translated as -yo- in isiZulu, as indicated in the sentence:

Isango liyothathwa kuphela njengelizikhiya lona ukwenzela isigatshana (2) uma lingeke livulwe noma ikanjani ngumuntu ongagunyaziwe.

As it has been observed with the modal *shall*, the modal *will* uses the same functional equivalent -yo- in isiZulu. It must be recalled that there is another variety -za- that could be used instead of the commonly used -yo-/zo- for which I argued (see 5.2.1.4) that it is a linguistic preference. The same goes for the modal *will* as well.

In the translation of *will not* in the same example above, the modal *will* takes a negation form by adding the adverb *not* to express prohibition, as indicated in the sentence:

*In this regard, a gate which closes by means of a latch only, with no other means of securing the gate, **will not** be regarded as self-locking*

Therefore, the translator replaced *will not* with the isiZulu modal *angeke* as indicated in the sentence:

*Kulokhu, isango elivalwa ngenkintsho kuphela, kungekho okunye okubamba isango, **angeke** lithathwe njengelizikhiyayo.*

It is important to mention that the translator also used the variety *ngeke*, which is even more common than *angeke* among isiZulu speakers in other By-laws, which is a linguistic preference, as I previously pointed out (see 5.2.1.4). In this regard, the translator provided a translation that is acceptable in the target system.

Example 13 (b)

Source text

The Municipality **may**, in any case where reasons to its satisfaction are given, **extend** the period stated in subsection (1) by not more than a further 12 months (p. 9)

Target text

UMasipala **angakwazi** ukuthi, kunoma yiluphi udaba lapho kunezizathu eziwenelisayo ezibekwe kuwo, **welule** isikhathi esibekwe esigatshaneni (1) ngesikhathi esingekho ngaphezulu kwezinye izinyanga eziyi-12 (p. 9).

Back translation

The Municipality **may**, in any matter where there are reasons to its satisfaction that were put to them, **extend** the period stated in subsection (1) by a period not more than 12 months.

The modal in Example 13 (b) has been consistently translated using a functional equivalent that functions the same way as that of the source text modal, which results in the acceptability of the translation in the target system (as discussed in 5.2.1.4).

Example 13 (c)

Source text

Application for a health compliance certificate in terms of this by-law **must be** made to the Municipality in writing by completing and submitting an application form as determined (p. 9).

Target text

*Isicelo sokuthola isitifiketi sokuthobela ezempilo ngokwalo Mthetho kaMasipala **kumele** sifakwe kuMasipala ngokumubhalela nokugcwalisa kanye nokuthumela ifomu elifanele lokufaka isicelo* (p. 9).

Back translation

Application for a health compliance certificate in terms of this Municipal law **must be** made in writing by completing and submitting an applicable application form.

The modal *must* in Example 13 (c) has been consistently translated using a functional equivalent which fulfils the same function as that of the source text modal, resulting in the acceptability of the translation in the target system (as discussed in 5.2.1.4).

Example 13 (d)

Source text

The cancellation of a health compliance certificate **shall take effect** on the date specified in the cancellation notice issued by the Municipality, which date shall not be less than 60 days after the date upon which the notice of cancellation was given (p. 11).

Target text

*Ukukhanselwa kwesitifiketi sokuthobela ezempilo kuyiqala **ukusebenza** ngalolo suku olubhalwe esazisweni esikhishwe nguMasipala, kanti lolo suku angeke lube ngaphansi kwezinsuku eziyi 60 kusukela osukwini okwakhishwa ngalo isaziso sokukhansela (p. 11).*

Back translation

The cancellation of a health compliance certificate **shall start working** on the date specified, which is written on the notice issued by the Municipality, and that date shall not be less than 60 days from the date on which the notice of cancellation was issued.

The modal *shall* in Example 13 (d) has been consistently translated using a functional equivalent which has the same function as that of the original text, which results in the acceptability of the translation in the target system (as discussed in 5.2.1.4).

Example 13 (e)

Source text

The children **must not have** access to a kitchen contemplated in subsections (1), (2) or 3, or to any storage space or storage facility contemplated in subsection (4) (p. 15).

Target text

*Izingane **akufanele** zingene ekhishini elibalulwe ezigabeni (1), (2) noma (3), noma ekhosombeni lokubeka noma endaweni yokugcina impahla ebalulwe esigabeni (4) (p. 16).*

Back translation

The children **must not** go to the kitchen mentioned in subsections (1), (2), or (3), or to a space for putting things or a storage facility mentioned in subsection (4)

The modal *must not* in Example 13 (e) has been consistently translated using a functional equivalent which has the same function as that of the English modal, which results in the acceptability of the translation in the target system (as discussed in 5.2.1.4).

5.2.2.3 Translation of archaic adverbs

Example 14 (a)

Source text

and to provide for matters incidental **thereto** (p. 2).

Target text

*kanye nokuhlinzekela izinto ezihambisana **nalokho*** (p. 2).

Back translation

and to provide matters incidental **to that**.

In translating the adverb *thereto*, the translator used functional equivalence as a translation style. When translating the archaic adverb *thereto* in the sentence:

*and to provide for matters incidental **thereto***

as *nalokho* in isiZulu in the sentence:

*kanye nokuhlinzekela izinto ezihambisana **nalokho**.*

The translator used a functional equivalent, **nalokho**, which means **to** translate it into isiZulu, which has the same function as that of the original text's archaic adverb. As a result, the translator provided a translation that the target readership can identify with.

Example 14 (b)

Source text

The laws mentioned in the first and second columns of the Schedule to this By-law are **hereby** repealed to the extent set out in the third column of the said Schedule (p. 29).

Target text

*Imithetho egagulwe kwikhalamu yokuqala neyesibili yeSheduli ekule Mithetho kaMasipala **ngalokhu** iyachithwa njengoba kubekile kwikhalamu yesithathu yale Sheduli* (p. 30).

Back translation

The laws mentioned in the first and second columns of the Schedule to this Municipal Law are **by this** disposed off as set out in the third column of this Schedule.

The archaic adverb *hereby* in Example 14 (b) has been consistently translated using a functional equivalent which conveys the same meaning as the source text archaic adverb, resulting in the acceptability of the translation in the target system (as discussed in 5.2.1.5).

5.2.2.4 Translation of collocations

Example 15 (a)

Source text

Any rights accrued or obligations incurred under any of the By-laws repealed in terms of subsection 2, **remain in force**, as if those By-laws had not been repealed (p. 30).

Target text

*Wonke amalungelo noma izibopho ezitholakele ngokwanoma imuphi uMthetho kaMasipala ochithwayo ngokwesigatshana 2, **kuyohlale kusebenza**, kube sengathi leyo Mithetho kaMasipala ayizange ichithwe (p. 30).*

Back translation

All rights or obligations received in terms of any Municipal Law repealed in terms of subsection 2, **will remain working**, as if those Municipal Laws had not been disposed of

The collocation *remain in force* in Example 15 (a) has been consistently translated using a functional equivalent which conveys a similar meaning as the source text collocation, which results in the acceptability of the translation in the target system (as discussed in 5.2.1.9).

Example 15 (b)

Source text

Repeal of laws and savings (p. 29).

Target text

Ukuchithwa kwemithetho nokunye okuphathelene nayo (p. 30).

Back translation

Disposal of laws and other related matters.

The collocation *repeal of laws* in Example 15 (b) has been consistently translated using a functional equivalent, which provides the same meaning as the source text collocation,

resulting in the acceptability of the translation in the target system (as discussed in 5.2.1.9).

Example 15 ©

Source text

A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may **appeal against that decision**.

Target text

*Umuntu omalungelo akhe achashazelwe yisinqumo somsebenzi ogunyaziwe ngokulandela lo Mthetho KaMasipala **angafaka isicelo sokuphikisana naleso sinqumo**.*

Back translation

A person whose rights are tainted by a decision taken by an authorised worker, following this Municipal Law, **may lodge an application to oppose such a decision**.

In translating the collocation *appeal against that decision* as *-faka isicelo sokuphikisana naleso sinqumo* in Example 15 (c), the translator used functional equivalence as a translation style. It must be noted that the word *application* is implied in the collocation, as the word *appeal* involves an application to a higher authority for the reversal of the decision. Therefore, by replacing the word *appeal* with the phrase *angafaka isicelo* in the translation, the translator provided a translation that is typical and acceptable to the target readership.

5.2.3 Film By-law

This By-law came into effect in 2018 to facilitate and regulate filming within the eThekweni municipal area (eThekweni Municipality: Film By-law, 2018).

In the analysis of the translation of this By-law, I interrogated the following categories: polysemous terms, legal synonyms, modals and archaic adverbs.

5.2.3.1 Translation of polysemous terms

Example 16

Source text

The Municipality shall not be liable for **damages** or compensation arising from filming or film-related activities conducted by the production company or anything lawfully done in good faith by the Municipality (p. 15).

Target text

*UMasipala angeke **athwale izindleko zokulimala** noma zokunxephezela kwanoma yini engenzeka ngesikhathi kuqoshwa ifilimu noma kwenziwa imisebenzi ephathelene nezamafilimu okwenziwa yinkampani eqophayo kanye nanoma yini enye eyenziwe ngokusemthethweni noma ngesihe nguMasipala (p. 16).*

Back translation

The municipality will not be **responsible for costs as a result of harm caused** or compensation that may happen during the recording of the film or film-related work by the production company, or anything that is done legally or in kind by the Municipality.

In translating the term *damages* as *athwale izindleko zokulimala*, which means *to carry costs for injury or harm*, in Example 16, the translator used paraphrasing as a translation style. Damages in law mean *a sum of money claimed or awarded in compensation for a loss or injury*. (Oxford South African Concise Dictionary, 2010). The translator captured the essence of the meaning of *damages*, even though the paraphrase is not as detailed as in the dictionary. The translator provided a short explanation of the term to avoid the distortion of interlingual incongruity. It must be pointed out that there is a naturalised

word for *damages* in isiZulu, which is *amademeshe* and it is the most commonly used word in a legal context. For example, if an aggrieved person demands to be paid a sum of money for injury or loss as compensation. This variety is widely used in print and electronic media when they report, for example, on damages claim by parties that have experienced harm or loss due to the government health department's negligence.

5.2.3.2 Translation of legal synonyms

Example 17 (a)

Source text

An application to conduct a film production assignment referred hereto in subsection (1) by any person must be submitted to the authorised official in accordance with the timeframes detailed in Schedule A of this **By-law** (p. 10).

Target text

*Isicelo sokuqopha ifilimu okukhulunywe ngaso esigatshaneni (1) esifakwa yinoma imuphi umuntu, kumele sihanjiswe kumsebenzi ogunyaziwe ngokulandela izikhathi ezibekwe kuSheduli A walo **Mthetho kaMasipala** (p. 10).*

Back translation

An application to shoot a film mentioned before in subsection (1) made by any person must be submitted to the authorised worker by the following times that have been put in Schedule A of this **Municipal Law**.

In the translation of the term *by-law*, the translator rendered it as *umthetho kamasipala*. It must be noted that the translator explained *by-law* as *umthetho kamasipala*, which means *municipal law*, in Example 17 (a) to distinguish it from the synonyms *law* and *legislation* in Examples 17 (b) and (c) respectively. This distinction was necessary so that it is clear to the reader that the source text does not refer to just any law, but the municipal law, it would have stipulated in this subsection that 'or any other law'.

Example 17 (b)

Source text

The production company shall be responsible for applying for approvals, authorisations, and permits that may be required in terms of all relevant–

- (a) national **legislation**;
- (b) provincial **legislation**; and
- (c) municipal **legislation** (p. 10).

Target text

Inkampani eqophayo inejoka lokufaka isicelo sezimvume, ukugunyazwa namaphemithi okuyodingeka ngokuhambisana nazo zonke –

- (a) **imithetho** kazwelonke;
- (b) **imithetho** yesifundazwe;
- (c) **nemithetho** kamasipala (p. 11).

Back translation

The company that shoots the film has a responsibility to apply for approvals, authorisations, and permits that will be required in accordance with–

- (a) national **laws**
- (b) provincial **laws**; and
- (c) municipal **laws**.

In the translation of the term *legislation*, the translator translated it as *umthetho*. This term is generally used interchangeably with the term *law*. Since the terms *legislation* and *law* are synonyms in English, isiZulu does not have a synonym. Hence, it is translated as one word. Nonetheless, the translator produced a translation that is acceptable in the target system.

Example 17 (c)

Source text

Where a conviction has been secured by a court of **law** and the accused wishes to appeal such a conviction, the appeal must take place in terms of the court's appeal process (p. 19).

Target text

*Uma kuyinkantolo **yomthetho** elahle lowo muntu ngecala futhi efuna ukudlulisa icala ngesinqumo senkantolo, kumele kulandelwe uhlelo lokudluliswa kwamacala lwasenkantolo* (p. 20).

Back translation

If the court of **law** has convicted a person that was found guilty and wants to appeal such conviction about the court's decision, the appeal process system must be followed.

In the translation of the term *law*, the same can be said. The translator rendered it as *umthetho*. What is observable here is that both Example 17 (b) and (c) have been rendered as one word, *umthetho*, because isiZulu lacks the synonym as mentioned in Example 17 (b). As is the case with Example 17 (b), by translating the term *law* as *umthetho* provided a translation that the target audience identifies with is provided.

5.2.3.3 Translation of modals

Example 18 (a)

Source text

Any application referred hereto in terms of subsection (1), after it has been approved by the said agencies, must be submitted to eThekweni Metropolitan Police Service, where such approval by the said agencies **may affect** the flow of traffic within the municipality (p. 11).

Target text

Noma isiphi isicelo okukhulunywe ngaso lapha ngokwesigatshana (1), uma sesigunyaziwe yilezo zinhlaka ezifanele kumele sithunyelwe eThekwini

Metropolitan Police Service uma lokho kugunyaza kwalezo zinhlaka kungaphazamisa ukuhamba kwezimoto kumasipala (p. 12).

Back translation

Any application mentioned here in terms of subsection (1), if it has been approved by those relevant structures, must be sent to eThekwini Metropolitan Police Service if that approval by those structures **may disturb** the flow of traffic in the municipality.

The modal in Example 18 (a) has been consistently translated using a functional equivalent that has the same function as that of the source text modal, which results in the acceptability of the translation in the target system (as discussed in 5.2.1.4).

Example 18 (b)

Source text

An authorisation to film on a municipal road by any person **must be** submitted to eThekwini Metropolitan Police Service and must include the following information (p. 11).

Target text

*Isicelo semvume yokuqopha ifilimu emgwaqeni kaMasipala, **kumele** sihanjiswa eThekwini Metropolitan Police Service futhi kumele sifake lokhu okulandelayo (p. 12).*

Back translation

An application to shoot the film on a municipal road **must be** submitted to the eThekwini Metropolitan Police Service and must include the following.

The modal in Example 18 (b) has been consistently translated using a functional equivalent that fulfils the same function as that of the source text modal, resulting in the acceptability of the translation in the target system (as discussed in 5.2.1.4).

5.2.3.4 Translation of archaic adverbs

Example 19

Source text

and to provide for matters incidental **thereto** (p. 2).

Target text

*nokuhlinzeka okunye okuphathelele **nalokho*** (p. 2).

Back translation

and to provide for matters incidental **to that**.

The archaic adverb *thereto* in Example 19 has been consistently translated using a functional equivalent that functions the same way as the source text archaic adverb, which results in the acceptability of the translation in the target system (as discussed in 5.2.1.5).

5.2.3.5 Translation of collocations

Example 20

Source text

A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may **appeal against that decision**.

Target text

*Umuntu omalungelo akhe achashazelwe yisinqumo somsebenzi ogunyaziwe ngokulandela lo Mthetho KaMasipala **angafaka isicelo sokuphikisana naleso sinqumo***.

Back translation

A person whose rights are tainted by a decision taken by an authorised worker, following this Municipal Law, **may lodge an application to oppose such a decision.**

The collocation *appeal against that decision* in Example 20 has been consistently translated using a functional equivalent which conveys a similar meaning as that of the source text collocation, which results in the acceptability of the translation in the target system (as discussed in 5.2.2.4).

5.2.4 Informal Trading By-law

This By-law came into effect in 2014 to provide for the right to engage in informal trading (eThekweni Municipality: Informal Trading By-law, 2014).

In the analysis of the translation of this By-law, I explored the following categories: technical terms, vague/ambiguous terms, modals, archaic adverbs and collocations.

5.2.4.1 Translation of technical terms

Example 21

Source text

Notwithstanding the enactment of this By-law—

where an informal trader had been issued with a **lease** or permit before the enactment of this By-law, which permits trading from a particular site, such lease or permit shall remain valid until a new permit system is adopted by the council which complies with the permit system as contemplated in this By-law (p. 31).

Target text

Yize noma lo mthetho wedolobha uphasisiwe—

*lapho umhwebi osakhula enikwe noma **eqashiselwe** iphemithi ngaphambi kokuba kuphasiswe lo mthetho kamasipala ovumela ukuhwebela esizindeneni esithize, lokho kuqashiselana noma iphemithi izoqhubeka nokusebenza kuze kube isikhathi lapho kwamukelwa uhlelo olusha lwamaphemithi emkhandlwini oluhambisana nohlelo lwamaphemithi njengoba luchaziwe kulo mthetho kamasipala (p. 32).*

Back translation

Although this city law has been passed—

where an emerging trader has been issued or **leased** with a permit before the passing of this municipal law, which permits trading from a particular centre, that lease or permit will continue to work until such time that the new system is adopted in the council, which complies with the permit system as explained in this municipal law.

The technical term *leased* in Example 21 has been consistently translated using a functional equivalent with the same function as that of its counterpart technical term, which results in the acceptability of the translation in the target system (as discussed in 5.2.1.1).

5.2.4.2 Translation of vague/ambiguous terms

Example 22

Source text

No person may conduct informal trading on municipal **property** without a valid informal trading permit from the Municipality (p. 15).

Target text

*Akukho muntu ovunyelwe ukuqhuba ukuhweba okusakhula **endaweni** kamasipala ngaphandle kwephemithi esebenzayo yokuhweba okusakhula ekhishwe nguMasipala* (p. 16).

Back translation

No person is allowed to conduct emerging trade at the municipality's **place** without a valid permit issued by the Municipality.

In translating the vague term *property* in Example 22, the translator adopted functional equivalence as a translation style. The translator used isiZulu functional equivalent *impahla* to translate it. It must be noted that the translation *impahla* may mean *goods, property, assets, equipment and belongings or possession* in English. However, in this example, the By-law has contextualised it. The word in question refers to immovable property. Consequently, the translator was able to provide the context in which *impahla* has been used in isiZulu. This results in the acceptability of the translation in the target system. It is interesting to note that in isiZulu, the word *impahla* is used informally to refer to just about anything. One such usage example is if a person owes someone some money, they would say in isiZulu “*Ungakhohlwa phela ukungibuyisela leyo mpahla*” which can be translated as “*Do not forget to refund me*”. The word *impahla* in the sentence is referring to the *money*. It is therefore very important that when translating these kinds of words, especially in the legal context, such nuances should be taken into consideration in order to produce a translation that will be acceptable in the target system.

Example 23

Source text

An informal trader must not—
obstruct access to a **vehicle** (p. 20-21).

Target text

*Umhwebi osakhula akavumelekile —
ukuphazamisa indlela eya ezimotweni* (p. 21-22).

Back translation

An emerging trader is not allowed to—
disturb access to **cars**.

The vague/ambiguous term *vehicles* in Example 23 has been consistently translated using a specific word (hyponym), which results in the acceptability of the translation in the target system (as discussed in 5.2.1.6).

5.2.4.3 Translation of modals

Example 24 (a)

Source text

The council **may adopt** an informal trading policy or amend an existing informal trading policy (p. 12).

Target text

*Ngezikhathi ezahlukeni uMkhandlu **ungemukela** inqubomgomo yokuhweba okusakhula noma uchibiyele inqubomgomo ekhona yokuhweba okusakhula* (p. 12).

Back translation

At different times, the council **may adopt** an emerging trading policy or amend the emerging trading policy.

The modal *may* in Example 24 (a) has been consistently translated using a functional equivalent that functions the same way as that of the source text modal, resulting in the acceptability of the translation in the target system (as discussed in 5.2.1.4).

Example 24 (b)

Source text

No informal trading fee **shall be** payable by an informal trader during any period during which informal trading is prohibited or restricted (p. 25).

Target text

*Akukho mali yokuhweba okusakhula **eyokhokhwa** ngumhwebi ngesikhathi ukuhweba okusakhula kusamisiswe noma kubekelwe imikhawulo* (p. 26).

Back translation

No emerging trading fee **shall be** paid by an emerging trader during which emerging trading has been stopped, or restrictions have been put in place.

The modal in Example 24 (b) has been consistently translated using a functional equivalent that fulfils the same function as that of the source text modal, which results in the acceptability of the translation in the target system (as discussed in 5.2.1.4).

Example 24 (c)

Source text

Before adopting an informal trading policy, the Municipality **must consult** with interested and affected persons, including representatives of the informal and formal sectors, regarding the contents of any proposed informal trading policy (p. 13).

Target text

*Ngaphambi kokwamukela inqubomgomo yokuhweba okusakhula, uMasipala **kufanele axhumane** nabantu abathintekayo okufaka abamele imikhakha esikhulile naleyo esakhula mayelana nokuqukethwe yinoma iyiphi inqubomgomo yokuhweba okusakhula (p. 13).*

Back translation

Before adopting an emerging trading policy, the Municipal **must communicate** with affected people, including representatives of sectors that have grown and those that are emerging, regarding the contents of any emerging trading policy.

The modal in Example 24 (c) has been consistently translated using a functional equivalent that has the same function as that of the source text modal, which results in the acceptability of the translation in the target system (as discussed in 5.2.1.4).

Example 24 (d)

Source text

An informal trader **must not obstruct** access to, or the use of, street furniture or any other facility designed for the use of the public (p. 22).

Target text

*Umhwebi osakhula **akufanele avimbele** ukungena, noma ukusetshenziswa kwempahla yasemgaqweni kanye nanoma iyiphi enye into ebekelwe ukuba isetshenziswe umphakathi* (p. 23).

Back translation

An emerging trader **must not obstruct** access to or the use of the street property and any other thing reserved for the use of the public.

The modal *must not* in Example 24 (d) has been consistently translated using a functional equivalent that fulfils the same function as that of the source text modal, resulting in the acceptability of the translation in the target system (as discussed in 5.2.1.4).

5.2.4.4 Translation of archaic adverbs

Example 25 (a)

Source text

and to provide for matters incidental **thereto** (p. 2).

Target text

*nokuhlinzeka okunye okuphathelene **nalokho*** (p. 2).

Back translation

and to provide for matters incidental **to that**.

The archaic adverb *thereto* in Example 25 (a) has been consistently translated using a functional equivalent that fulfils the same function as that of the source text archaic

adverb, which results in the acceptability of the translation in the target system (as discussed in 5.2.2.3).

Example 25 (b)

Source text

The laws mentioned in the first and second columns of the Schedule to this By-law are **hereby** repealed to the extent set out in the third column of the said Schedule (p. 30)

Target Text

*Imithetho ebaluliwe kukhalamu yokuqala neyesibili yesheduli yale mithetho kamasipala **ngalokhu** iyachithwa njengoba kuchazwe kwikhalamu yesithathu* (p. 31).

Back translation

The laws mentioned in the first column of the Schedule to these Municipal Laws are **disposed of by this**, as set out in the third column of the Schedule.

The archaic adverb *hereby* in Example 25 (b) has been consistently translated using a functional equivalent which has the same function as that of the source text archaic adverb, resulting in the acceptability of the translation in the target system (as discussed in 5.2.1.5).

5.2.4.5 Translation of collocations

Example 26 (a)

Source text

Repeal of laws and savings (p. 30).

Target text

***Ukuchithwa kwemithetho** nokunye okuphathelene nayo* (p. 31).

Back translation

Disposal of laws and savings.

The collocation *repeal of laws* in Example 26 (a) has been consistently translated using a functional equivalent which conveys a similar meaning as that of the source text collocation that results in the acceptability of the translation in the target system (as discussed in 5.2.1.9).

Example 26 (b)

Source text

Any rights accrued or obligations incurred under any of the By-laws repealed in terms of subsection 2, **remain in force**, as if those By-laws have not been repealed (p. 31).

Target text

*Wonke amalungelo noma izibopho ezitholakele ngokwanoma imuphi uMthetho kaMasipala ochithwayo ngokwesigatshana 2, **azoqhubeka nokusebenza**, kube sengathi leyo Mithetho kaMasipala ayizange ichithwe p. 31).*

Back translation

All rights or obligations received in terms of any Municipal Law repealed in terms of subsection 2, **will continue working**, as if those Municipal Laws have not been repealed.

The collocation *remain in force* in Example 26 (b) has been translated as *azoqhubeka nokusebenza*, which is different from the translation of the same in 5.2.1.9 above. The translation *azoqhubeka nokusebenza* means *they will continue working*, which conveys the same meaning as *kuzohlale kusebenza* (see 5.2.1.9). This is another case of linguistic preference. As with the translation in 5.2.1.9, the translation of the collocation *remain in force* as *azoqhubeka nokusebenza* results in the acceptability of the translation in the target system (as discussed in 5.2.1.9).

Example 26 (c)

Source text

The council may amend or revoke an adopted informal trading policy, provided that the council must afford to any person whose existing rights are adversely affected by a proposed amendment their rights to **administrative justice** (p. 14).

Target text

Umkhandlu ungachibiyela noma uchithe inqubomgomo yokuhweba okusakhula eyamukelwe inqobo nje uma kufanele unike noma ngubani okuhlukumezeka amalungelo akhe ngenxa yokuchitshiyelwa okuhlongozwayo amalungelo akhe obulungiswa (p. 15).

Back translation

The council may amend or abandon emerging trading policy, provided that it must give any one whose rights are abused due to the proposed amendment of their rights to **justice**.

In translating the collocation *administrative justice* as shown in example 26 (c), the translator used omission as a translation style. Omission is used if the message it conveys is not vital enough to the development of the text to justify distracting the reader with a lengthy explanation (Baker 2011). In this instance, the adjective *administrative* was left out of the translation. Since the translator omitted *administrative*

in the translation of the collocation *administrative justice* as *ubulungiswa* in the example above, the translator was able to provide a translation that meets the expectations of the target culture, as *justice* has a broader sense which includes *administrative justice*. In this regard, the translator, as someone who occupies a position in the target system, is well aware that the word *ubulungiswa* is a very commonly used word in matters that are related to any form of justice.

Example 26 (d)

Source text

Failure to comply with a lawful request of an authorised official will be regarded as a **contravention of this By-law** (p. 33).

Target text

*Ukuhluleka ukuhlonipha isicelo esemthethweni soMsebenzi kaMasipala ogunyaziwe kuyothathwa **njengokuphulwa koMthetho kaMasipala*** (p. 34).

Back translation

Failure to respect the lawful request will be regarded as **breaking the Municipal Law**.

In the translation of *contravention of the bylaw* as *ukwephulwa komthetho* in Example 26 (d), the translator employed functional equivalence as a translation style. The translation resulted in a very typical collocation in isiZulu that conveys a similar meaning to the source text. As a result, the translator produced a translation in such a manner that it is acceptable in the target system.

Example 26 (e)

Source text

A person whose rights are affected by a decision taken by the Municipality in terms of this By-law may **appeal against that decision**.

Target text

*Umntu omalungelo akhe achashazelwe yisinqumo somsebenzi ogunyaziwe ngokulandela lo Mthetho KaMasipala **angafaka isicelo sokuphikisana naleso sinqumo**.*

Back translation

A person whose rights are tainted by a decision taken by an authorised worker, following this Municipal Law, **may lodge an application to oppose such a decision**.

The collocation *appeal against that decision* in Example 26 (e) has been consistently translated using a functional equivalent which conveys a similar meaning as that of the source text collocation that results in the acceptability of the translation in the target system (as discussed in 5.2.2.4).

5.2.5 Museums By-law

This By-law was adopted by the Council in 2015 to contribute towards the preservation and exhibition of art and objects of natural, historical, scientific, artistic or cultural importance (eThekweni Municipality: Museums By-law, 2015).

For the analysis of the translation of this By-law, I examined the following categories: legal synonyms, modals, archaic adverbs and collocations.

5.2.5.1 Translation of legal synonyms

Example 27

Source text

Subject to the Constitution and applicable national and provincial laws, any–

(a) power, excluding a power referred to in section 160(2) of the Constitution;

- (b) **function**; or
- (c) **duty** (p. 12)

Target text

Kuncike kuMthethosisekelo kanye nemithetho kazwelonke neyesifundazwe esebenzayo, noma yimaphi –

- (a) *amandla, ngaphandle kwamandla okukhulunywe ngawo esigabeni 160(2) soMthethosisekelo;*
- (b) *umsebenzi; noma*
- (c) *ijoka* (P. 12).

Back translation

Depending on the Constitution and applicable national and provincial laws, any –

- (a) power, excluding power mentioned in section 160(2) of the Constitution;
- (b) **function**; or
- (c) **responsibility**.

The word legal synonyms *function and duty* in Example 27 have been consistently translated using functional equivalents which convey the same meaning as those of the source text, resulting in the acceptability of the translation in the target system (as discussed in 5.2.1.3).

5.2.5.2 Translation of modals

Example 28 (a)

Source text

A Director **may take** all reasonable steps and impose any reasonable restrictions on visitors to a museum, as may be necessary to preserve and secure any museum object (p. 8).

Target text

*UMqondisi **angathatha** izinyathelo, aphinde abeke imikhawulo efanelekile kwabavakashela isigcinimagugu, njengoba kungadingeka ukuze kuvikelwe isigcinimagugu kuphinde kuphephiswa nempahla ephakathi (p. 8).*

Back translation

The Director **may** take steps and put appropriate restrictions on those visiting a museum, as may be necessary to protect the museum and make any property inside safe.

The modal in Example 28 (a) has been consistently translated using a functional equivalent that functions the same way as that of the source text modal, which results in the acceptability of the translation in the target system (as discussed in 5.2.1.4).

Example 28 (b)

Source text

The Municipality **must give** written notice to the individual or institution concerned, recording the damage and requiring payment of the amount required to repair or replace the object (p. 9).

Target text

*UMasipala **kumele** akhiphe isaziso esibhaliwe anikeze umuntu noma isikhungo esithintekayo, esibhalwe umonakalo nemali edingakalayo ukuze kukhandwe noma kuthengwe enye impahla (p. 9).*

Back translation

The municipality **must** issue a written notice to the person or institution concerned, that is written the damage and the money required to repair or buy another property.

The modal *must* in Example 28 (b) has been consistently translated using a functional equivalent that fulfils the same function as that of the source text modal, resulting in the acceptability of the translation in the target system (as discussed in 5.2.1.4).

5.2.5.3 Translation of archaic adverbs

Example 29 (a)

Source text

and to provide for matters incidental **thereto** (p. 2).

Target text

*nokuhlinzeka okunye okuphathelene **nalokho*** (p. 2).

Back translation

and to provide for matters incidental **to that**.

The archaic adverb *thereto* in Example 29 (a) has been consistently translated using a functional equivalent which provides the same function as that of the source text archaic adverb, resulting in the acceptability of the translation in the target system (as discussed in 5.2.2.3).

Example 29 (b)

Source text

The laws mentioned in the first and second columns of the Schedule to this By-law are **hereby** repealed to the extent set out in the third column of the said Schedule (p. 13).

Target text

*Imithetho egagulwe kwikhalamu yokuqala neyesibili yeSheduli ekule Mithetho kaMasipala **ngalokhu** iyachithwa njengoba kubekile kwikhalamu yesithathu yale Sheduli* (p. 13).

Back translation

The laws mentioned in the first column of the Schedule to these Municipal Laws are **by this** disposed off as set out in the third column of the Schedule.

The archaic adverb *hereby* in Example 29 (b) has been consistently translated using a functional equivalent which has the same function as that of the source text archaic adverb, which results in the acceptability of the translation in the target system (as discussed in 5.2.1.5).

5.2.5.4 Translation of collocations

Example 30

Source text

Repeal of laws and savings (p. 13).

Target text

Ukuchithwa kwemithetho nokunye okuphathelene nayo (p. 13).

Back translation

Disposal of laws and other related matters.

The collocation *repeal of laws* in Example 30 has been consistently translated using a functional equivalent, which has the same meaning as that of the source text collocation that results in the acceptability of the translation in the target system (as discussed in 5.2.1.9).

5.2.6 Public Transport By-law

This By-law was adopted by the Council in 2014 to provide for the establishment and operation of mini-bus taxi, midi bus taxi and bus ranks, stops and holding areas on municipal property; to provide for the issuing of permits to use public transport facilities; and to regulate the operation of public transport facilities (eThekweni Municipality: Public Transport By-law, 2014).

In analysing the translation of this By-law, I focused on the following categories: technical terms, polysemous terms, legal synonyms, vague/ambiguous terms, modals, archaic adverbs and collocations.

5.2.6.1 Translation of technical terms

Example 31 (a)

Source text

If a public transport facility permit holder–

satisfies the Municipality, by **affidavit**, that a public transport facility permit or a disc has been lost or destroyed (P. 19-20).

Target text

Uma umnikazi wephemithi –

*enikeza uMasipala izizathu ezanelisayo, ngokubhala i-**afidavithi**, echazayo ukuthi iphemithi ilahlekile noma ilimele (p. 20).*

Back translation

If the permit holder –

gives the Municipality satisfactory reasons, by writing an **affidavit**, which explains that the permit has been lost or damaged.

In Example 31 (a), in the translation of *affidavit* as *i-afidavithi*, the translator employed naturalisation as a translation style. As I previously explained (see 5.2.1.1) regarding naturalisation, the term *i-afidavithi* is naturalised from the English word *affidavit* by giving the word isiZulu phonological and morphological structures. This is done by adding the isiZulu prefix 'i' which is commonly used in most naturalised nouns in isiZulu. The phonological and morphological changes can be observed in the translation of the term *affidavit* into isiZulu. It is important to mention that this is a commonly used naturalised word in isiZulu to refer to the *affidavit*. However, it must be noted that the translator paraphrased the *affidavit* as *incwadi efungelwe* in another by-law, which means a *sworn*

document. This is an accepted translation of the *affidavit* in isiZulu because there is a section of the isiZulu-speaking community that does not know what *i-afidavithi* means, as they are not exposed to English but can only read isiZulu (as mentioned in 5.2.1.1). As a result, there is a grey area in terms of the acceptability of the translation in the target system, as seen with the *gazette* in Example 1 (a). In respect of the translation inconsistencies in the by-laws, it is my view that because of the voluminous nature of the by-laws or because these are translated by different translators, these inconsistencies are highly likely to occur. The municipality may want to invest in translation tools in the future, as we are already in the 5IR technologies era, where translation tools can be integrated into professional translation practice.

Example 31 (b)

Source text

A permit is not freely transferable, but may be transferred with the Municipality's written consent in the event of the-
provisional or final **sequestration** of the public transport facility permit holder's estate (p. 23).

Target text

Iphemithi ayidluliselwa noma ikanjani, kodwa ingadluliswa ngemvume kaMasipala uma —

ukudliwa kwesikhashana noma unomphelo kwempahla yomnikazi wephemithi yokuthutha umphakathi (p. 23).

Back translation

A permit is not transferable anyhow, but can be transferred with the Municipality's consent if —

the legal possession of the property of the owner of the public transport permit, temporarily or permanently.

When translating the technical term *sequestration*, the translator translated it using paraphrasing as a translation style. The translator used a short explanation of the term. The term *sequestration* was paraphrased as *ukudliwa kwempahla* in Example 31 (b), which means *taking possession of goods*. Sequestration means *taking legal possession of assets until has been paid or other claims have been met* (Oxford South African Concise Dictionary, 2010). The translation *ukudliwa kwempahla* is the most commonly used phrase in isiZulu to refer to *sequestration*. It is important to point out that there is also another variety, *ukwemukwa*, which means *taking away* and conveys the same meaning as *ukudliwa*, but, again, it is a linguistic preference as it is used by a certain section of the isiZulu-speaking community. The translation of *sequestration* as *ukudliwa kwempahla*, therefore, was rendered in a manner that is acceptable in the target system.

5.2.6.2 Translation of polysemous terms

Example 32

Source text

A person may apply for a public transport facility permit if–
he or she does not have any outstanding **warrants** for the non-payment of traffic fines (p. 16-17).

Target text

*Noma ubani angakwazi ukufaka isicelo sephemithi yesikhungo sezithuthi uma–
umshayeli ohlongozwayo engakweleti amathikithi asemgwaqeni **namawaranti** (p.
17).*

Back translation

Anyone can make a transport facility permit application if –
the proposed driver does not owe traffic ticket fines or **warranties**

In the translation of *warrants* as *amawaranti*, the translator adopted naturalisation as a translation style to preserve the meaning of the original. The word *warrant* has the following different meanings:

1. an official letter approved by the court that authorises the police to search or arrest.
2. justify (in ordinary language).

By using a naturalised term, *amawaranti* in isiZulu, the translator was able to use it in the legal context as per the by-law, thus differentiating it from ordinary language. It must be noted that *ivaranti* in isiZulu also refers to *warranty*, which refers to “a written guarantee issued to the purchaser of an article by its manufacturer” (Oxford South African Concise Dictionary, 2010). However, the translator managed to provide the meaning of *amawaranti* as intended by the By-law, thus producing a translation that is acceptable in the target system.

5.2.6.3 Translation of legal synonyms

Example 33 (a)

Source text

An authorised official may, by written notice, instruct the owner or driver of a metered taxi to present the taxi concerned to the Metropolitan Police Service for the **examination and testing** of the taxi meter at a time and place specified in the notice (p. 29).

Target text

*Umsebenzi kaMasipala ogunyaziwe angathumela isaziso esibhalwe phansi esiyalela umnikazi wetekisi noma umshayeli ukuba alethe itekisi ethintekayo eMaphoyiseni kaMasipala ukuba **izohlolwa futhi kuphinde kuhlolwe** nokusebenza kwemitha kuyona ngaleso sikhathi nasendaweni ebhalwe esazisweni (p. 29).*

Back translation

An authorised Municipal worker may submit a written notice that instructs the owner of the taxi or the driver to bring a taxi that is affected to the Municipality Police to be **examined** and also **test** the functioning of the meter in the taxi at that time and the place written in the notice.

The translation of *examination and testing* as *-hlola* in Example 33 (a), the translator rendered these into one word. With specific reference to the translation of *examination* and *testing* as *-hlola*, it must be noted that the translator adopted transposition as the translation style where the nouns *examination* and *testing* were rendered into a verb *-hlola*, which still conveys the same meaning in the source text. In this regard, a translator recognised a class shift that took place where a word class of the source text assumes the role of another word class in the target language, dissimilar to that of the source text, thus using transposition as the translation style. However, the translator provided a translation for each synonym *examination* and *testing*, respectively, but with the same meaning *-hlola*, which is redundant as these convey the same meaning in isiZulu. In this instance, the translator was restricted by the source text and produced a translation that is unnatural in the isiZulu-speaking world and as such, there is a shift in meaning.

Example 33 (b)

Source text

A public transport facility permit-holder must immediately return his or her permit to the Municipality when the permit expires or if the permit-holder is refused **permission** to transfer the permit (p. 26).

Target text

*Umnikazi wephemithi yesithuthi somphakathi kumele abuyisele kuMasipala ngokushesha iphemithi uma iphelelwa isikhathi noma uma – umnikazi wephemithi enqatshelwe **imvume** yokudlulisela iphemithi* (p. 31).

Back translation

A public transport permit holder must return the permit to the Municipality immediately when the permit's time expires or if –
the permit holder is refused **permission** to transfer the permit.

In the translation of the term *permission* in Example 33 (b), the translator adopted functional equivalence as a translation style. When translating the term *permission* as *imvume* in isiZulu, the translator used a functional equivalent that has the same function as that of the source text. By so doing, the translator provided a translation that is acceptable in the target system.

Example 33 (c)

Source text

No driver of a public transport vehicle may:
allow any other person to drive a public transport vehicle under his or her control without the **consent** of the holder of the operating card or public permit concerned (p. 13).

Target text

*Akukho mshayeli wemoto ethutha umphakathi:
oyovumela omunye umuntu ukuthi ashayele imoto ethutha umphakathi ephethwe
nguyena ngaphandle **kwemvume** yomnikazi wekhadi lokusebenza noma
wephemithi edingekayo* (p. 13).

Back translation

No driver of a public transport car may:
Allow another person to drive a public transport car under his/her control without the **consent** of the holder of the operating card or a required permit

In translating the term *consent* in Example 33 (c), the translator adopted functional equivalence as a translation style. In the translation of the term *consent* as *imvume* in isiZulu, as with Example 33 (b) above, the translator used a functional equivalent that fulfils the same function as that of the source text. It must be noted that the translator rendered both *permission* and *consent* as *imvume*. This is the case because isiZulu

lacks a synonym. Nonetheless, the translator was still able to produce a translation that is acceptable in the target system.

Example 33 (d)

Source text

Subject to the Constitution and applicable national and provincial laws, any–

- (a) power, excluding a power referred to in section 160(2) of the Constitution;
- (b) **function**; or
- (c) **duty** (p. 34).

Target text

Kuncike kuMthethosisekelo kanye nemithetho kazwelonke neyesifundazwe esebenzayo, noma yimaphi –

- (a) amandla, ngaphandle kwamandla okukhulunywe ngawo esigabeni 160(2) soMthethosisekelo;*
- (b) **umsebenzi**; noma*
- (c) **ijoka** (p. 35).*

Back translation

Depending on the Constitution and applicable national and provincial laws, any–

- (a) power, excluding power mentioned in section 160(2) of the Constitution;
- (b) **function**; or
- (c) **responsibility**.

The legal synonyms *function and duty* in Example 33 (d) have been consistently translated using functional equivalents which have the same function as those of the source text, resulting in the acceptability of the translation in the target system (as discussed in 5.2.1.3).

Example 33 (e)

Source text

A public transport facility **permit** lapses with effect from the date on which the relevant operating **licence**, certificate of road worthiness, or public road carrier permit lapses or is cancelled (p. 23).

Target text

Iphemithi yokuthutha umphakathi iphelelwa isikhathi kusukela ngelanga ilayisense yokusebenza, isitifiketi sokulungela ukuhamba emgwaqeni, iphemithi yokuthwala impahla iphelelwa isikhathi noma yesuliwe (p. 24).

Back translation

A public transport **permit** time expires from the date on which the operating **licence**, certificate of travelling on the road, or the permit to carry goods expires or is cancelled.

In translating legal synonyms *permit* as *iphemithi* and *licence* as *ilayisense* respectively in Example 33 (e), the translator adopted naturalisation as a translation style. By providing naturalised translations, the translator is avoiding confusion that may be caused by the translation *imvume* for both which means *permit*. *Licence* essentially means *permit*, the translator used loan words to distinguish between the two synonyms, as these carry individual meanings in the by-law. In so doing, the translator produced a translation that is acceptable in the target system. It is important to mention that there is another naturalised variety, *iphomede*, which conveys the same meaning in isiZulu. This is a linguistic preference as I previously argued (see 5.2.1.1). There are isiZulu-speaking communities who prefer to use *iphomede* to *iphemithi*. Interestingly, these communities use the variety *iphomede* when referring to the transportation of the livestock but use *iphemithi* when referring to a vehicle operating permit, especially

those who own vehicles, which, in my view, is because they may not be aware that these varieties convey the same meaning.

5.2.6.4 Translation of ambiguous/vague terms

Example 34 (a)

Source text

An authorised official may, in enforcing the provisions of this Chapter, at any **reasonable** time and without prior notice—

enter a public transport facility to inspect the facility (p. 33).

Target text

*Umsebenzi ogunyaziwe, ngokulandela izichibiyelo zalesi sahluko, ngesikhathi **esifanele** futhi nangaphandle kokwazisa ngaphambi kwesikhathi —*

angangena esikhungweni sezithuthi zomphakathi ukuzohlola le ndawo (p.33).

Back translation

An authorised worker may, in complying with the amendments of this chapter, at **appropriate** times and without prior notice—

enter in the public transport facility to inspect this place.

In the translation of *reasonable* Example 34 (a), the translator adopted functional equivalence as a translation style. The translator replaced *reasonable* with isiZulu functional equivalent *esifanele*, which fulfils the same function as that of the source text in the legal context. Consequently, the rendition resulted in the acceptability of the translation in the target system.

Example 34 (b)

Source text

The driver of a passenger-carrying vehicle must examine the vehicle after a trip, and if a passenger has left behind any property in the vehicle at a public transport facility, the driver must—

if he or she is unable to deliver that property to the person who left it behind, take the **property**, as soon as possible, to the rank office, the ticket office or the nearest police station (p. 32).

Target text

*Umshayeli wemoto ethutha umphakathi kumele ahlolisise imoto njalo emuva kohambo ngalunye, uma kwenzeka ukuthi umgibeli ukhohlwe **impahla** yakhe emotweni, umshayeli kumele —*

*uma engakwazi ukuyibuyisela kumniniyo oyikhohlwe emotweni yakhe, ayithathe leyo **mpahla** ngokushesha ayihambise ehhovisi laserenki, ehhovisi lamathikithi noma esiteshini esiseduzane samaphoyisa (p. 33).*

Back translation

The driver of a passenger-carrying car must thoroughly examine such a car after each trip. If a passenger forgot his/her property in the car, the driver must—

if s/he is unable to return it to its owner who forgot it in the car, take that **property**, immediately, to the rank office, the ticket office or the nearest police station.

In translating the term *property* in Example 34 (b), the translator also adopted functional equivalence as a translation style, where the translator replaced *property* with isiZulu functional equivalent *impahla*. The functional equivalent *impahla* fulfils the same function as that of the source text. However, the word *impahla* has different meanings in English (as mentioned in 5.2.4.2). However, in this example, the By-law has contextualised it. It

is very clear that the word in question refers to a movable and portable property. This means that *property*, as used in the By-law, refers to the *belonging or possession*. This then enables the target readership to disambiguate the meaning of *impahla*. As such, the translator was able to produce a translation that is acceptable in the target system.

Example 34 (c)

Source text

No person may –
undertake any repair or maintenance on a motor **vehicle** at a public transport facility (p. 13).

Target text

*Akukho muntu –
oyokhanda noma alungise imoto esikhungweni sezithuthi zomphakathi* (p. 13).

Back translation

No person will–
repair or maintain a **car** at the public transport facility.

The vague term *vehicle* in Example 34 (c) has been consistently translated using a hyponym, which is an accepted translation in the target system (as discussed in 5.1.2.6). In this example, it must be noted that the By-law used the word *motor* in the same sentence as *vehicle*. The translator may have taken this to mean *car*, which means *imoto* in isiZulu – a word naturalised from *motor*.

5.2.6.5 Translation of modals

Example 35 (a)

Source text

The Head **may**–
set apart and establish public transport facilities on municipal property (p. 12).

Target text

INhloko—

ingaqoka indawo bese yakha isikhungo sezithuthi zomphakathi emhlabeni kamasipala (p. 12).

Back translation

The Head **may—**

select and build a public transport facility on the municipal land.

The modal *may* in Example 35 (a) has been consistently translated using a functional equivalent that functions the same way as that of the source text modal, which results in the acceptability of the translation in the target system (as discussed in 5.2.1.4).

Example 35 (b)

Source text

No owner or driver of a public transport vehicle **shall allow** that vehicle to stand or stop in—

any part of a public transport facility other than an area demarcated by road traffic markings or signs as a loading bay (p. 12).

Target text

Akukho mnikazi noma mshayeli wemoto yokuthutha umphakathi oyovumela ukuthi imoto ibekwe noma ime –

kunoma iyiphi ingxenye yesikhungo sezithuthi zomphakathi ngaphandle kwasendaweni eklanywe ngomaka noma ngezimpawu zomgwaqo njengendawo yokulayisha (p. 13).

Back translation

No owner or driver of the public transport car **shall allow** the car to be put or stopped—

in any part of the public transport facility other than the area demarcated by road markings or signs as a loading area.

The modal in Example 35 (b) has been consistently translated using a functional equivalent that has the same function as that of the source text modal, which results in the acceptability of the translation in the target system (as discussed in 5.2.1.4).

Example 35 (c)

Source text

Any person acting as marshal or purporting to act as marshal **must**, on the instruction of an authorised official, **produce** the document in terms of which he or she was appointed as marshal (p. 14).

Target text

*Wonke umuntu osebenza noma ozama ukusebenza njengemashali **kumele**, uma eyalelwa umsebenzi ogunyaziwe, **aveze** izincwadi ezikhombisa ukuthi uqokwe njengemashali (p.15).*

Back translation

Everyone who works or is trying to work as a marshal **must**, if instructed by an authorised worker, **show** the documents that indicate that he or she was appointed as a marshal.

The modal *must* in Example 35 (c) has been consistently translated using a functional equivalent that conveys the same meaning as that of the source text modal, resulting in the acceptability of the translation in the target system (as discussed in 5.2.1.4).

Example 35 (d)

Source text

Failure to comply with a lawful request of an authorised official **will be** regarded as a contravention of this By-law (p. 33).

Target text

Ukuhluleka ukuhlonipha isicelo esemthethweni soMsebenzi kaMasipala ogunyaziwe kuyothathwa njengokuphulwa koMthetho kaMasipala (p. 34).

Back translation

Failure to respect the lawful request **will be** regarded as a contravention of the law.

The modal in Example 35 (d) has been consistently translated using a functional equivalent that has the same function as that of the source text modal, which results in the acceptability of the translation in the target system (as discussed in 5.2.2.2).

5.2.6.6 Translation of archaic verbs

Example 36 (a)

Source text

and to provide for matters incidental **thereto** (p. 2).

Target text

*kanye nokuhlinzekela izinto ezihambisana **nalokho** (p. 2).*

Back translation

and to provide for matters incidental **to that**.

The archaic adverb *thereto* Example 36 (a) has been consistently translated using a functional equivalent that has the same function as that of the source text archaic adverb, which results in the acceptability of the translation in the target system (as discussed in 5.2.2.3).

Example 36 (b)

Source text

The laws mentioned in the first and second columns of the Schedule to this By-law are **hereby** repealed to the extent set out in the third column of the said Schedule (p. 36)

Target text

*Imithetho egagulwe kwikhalamu yokuqala neyesibili yeSheduli ekule Mithetho kaMasipala **ngalokhu** iyachithwa njengoba kubekile kwikhalamu yesithathu yale Sheduli (p. 36).*

Back translation

The laws mentioned in the first and second columns of the Schedule to this Municipal Law are **by this** disposed of as set out in the third column of this Schedule.

The archaic adverb *hereby* Example 36 (b) has been consistently translated using a functional equivalent that conveys the same meaning as that of the source text archaic adverb, resulting in the acceptability of the translation in the target system (as discussed in 5.2.1.5).

5.2.6.7 Translation of collocations

Example 37 (a)

Source text

Failure to comply with a lawful request of an authorised official will be regarded as a **contravention of this By-law** (p. 33).

Target text

*Ukuhluleka ukuhlonipha isicelo esemthethweni soMsebenzi kaMasipala ogunyaziwe kuyothathwa **njengokuphulwa koMthetho kaMasipala** (p. 34).*

Back translation

Failure to respect the lawful request will be regarded as **breaking the Municipal Law**.

The collocation *contravention of law* in Example 37 (a) has been consistently translated using a functional equivalent which fulfils the same function as that of the source text collocation, which results in the acceptability of the translation in the target system (as discussed in 5.2.4.4).

Example 37 (b)

Source text

An authorised official may, in enforcing the provisions of this Chapter, at any **reasonable time** and without prior notice, enter a public transport facility to inspect the facility (p. 33).

Target text

*Umsebenzi ogunyaziwe, ngokulandela izichibiyelo zalesi sahluko, **ngesikhathi esifanele** futhi nangaphandle kokwazisa ngaphambi kwesikhathi, angangena esikhungweni sezithuthi zomphakathi ukuzohlola le ndawo* (p. 33).

Back translation

An authorised worker, by following the amendments of this Chapter, at an **appropriate time** and without prior notice, may enter a public transport institution to inspect the place.

In the translation of the collocation *reasonable time* as *isikhathi esifanele* in Example 37 (b), the translator also adopted a functional equivalent that conveys the same meaning as English does. It was replaced with isiZulu, a more typical functional equivalent of *ukuphoqelesa umthetho*, which is also accepted in isiZulu. As such, the translator was able to produce a translation that is acceptable in the target system.

Example 37 (c)

Source text

A person whose rights are affected by a decision taken by an authorised official in terms of this By-law may **appeal against that decision** (p. 35).

Target text

*Umuntu omalungelo akhe achashazelwe yisinqumo somsebenzi ogunyaziwe ngokulandela lo Mthetho kaMasipala angafaka isicelo sokuphikisana naleso sinqumo ngokulandela uhlinzeko **lokudlulisa isinqumo oluqukethwe** (p. 36).*

Back translation

A person whose rights are tainted by a decision taken by an authorised worker by following this Municipal Law, may lodge an application to oppose such a decision by following a provision contained **to take that decision further to oppose it**.

The collocation *appeal against that decision* in Example 37 (c) has been consistently translated using a functional equivalent which fulfils the same function as that of the source text collocation, which results in the acceptability of the translation in the target system (as discussed in 5.2.2.4).

Example 37 (d)

Source text

Any rights accrued or obligations incurred under any of the by-laws repealed in terms of subsection 1 **remain in force**, as if those by-laws had not been repealed (p. 36).

Target text

*Wonke amalungelo noma izibopho ezitholakele ngokwanoma imuphi uMthetho kaMasipala ochithwayo ngokwesigatshana 1, **kuyaqhubeka nokusebenza**, kube sengathi leyo Mithetho kaMasipala ayizange ichithwe (p. 36).*

Back translation

All rights or obligations received in terms of any Municipal Law repealed in terms of subsection 1, **will continue working**, as if those Municipal Laws have not been repealed.

The collocation in Example 37 (d) has been consistently translated using a functional equivalent which has the same meaning as that of the source text collocation, resulting in the acceptability of the translation in the target system (as discussed in 5.2.1.9).

Example 37 (e)

Source text

Repeal of laws and savings (p. 36).

Target text

*Ukuchithwa kwemithetho **nokunye okuphathelene nayo*** (p. 36).

Back translation

Disposal of laws and other related matters.

The collocation *repeal of laws* in Example 37 (e) has been consistently translated using a functional equivalent, which has a similar meaning as that of the source text collocation that results in the acceptability of the translation in the target system (as discussed in 5.2.1.9).

5.2.7 Retail Markets By-law

This By-law came into effect in 2014 to provide for the control and regulation of the Retail Markets, which are owned or controlled by the Municipality (eThekweni Municipality: Retail Markets By-law, 2014).

In the analysis of the translation of this By-law, I focused on the following categories: polysemous terms, legal synonyms, modals, archaic adverbs and collocations.

5.2.7.1 Translation of polysemous terms

Example 38 (a)

Source text

All **articles** which are brought into the market for sale must be brought in through the gate set aside by the Municipality for such purpose (p. 11).

Target text

Yonke **impahla** engena emakethe izodayiswa kufanele ingene ngesango lalokho elihlonzwe yiNhloko (p. 13).

Back translation

All **goods** entering the market for sale must be entered at the gate, for that which is determined by the Head.

In translating the term *article* in Example 38 (a), the translator used the isiZulu functional equivalent to translate it. The translator replaced it with its isiZulu functional equivalent, *impahla*. However, the translation has different meanings:

1. A written material on a particular subject in print media
2. An academic published a piece of writing
3. A separate clause in a legal document
4. A particular item
5. A grammatical category that is used in a sentence to show whether or not the noun refers to a specific person or thing
6. To undertake training at the lawyers' or architects' firms

As can be seen above, the term *article* has several meanings that present a translator with a challenge. Over and above, the word *impahla* is also ambiguous in isiZulu as it may refer to *goods, property, assets, equipment and belongings* or *possession* in English (as mentioned in 5.2.4.2). In this regard, the By-law has contextualised *articles* and, as such, since the translation has multiple meanings, the target readership would be able to read it in the context in which it is used. Consequently, the translator was able to produce a translation that resonates with the target audience.

Example 38 (b)

Source text

Subject to subsection (1), a person may not commit, in or about the market, any act which disrupts, or is, in the opinion of the Municipality, likely to disrupt the normal business of the market, including the following:

lighting a fire, **save** at such times and in such places as have been authorised by the Municipality (p. 14).

Target text

Ngokulandela isigatshana (1), umuntu angeke enza utho oluphazamisa noma ngokubona kweNhloko olungase luphamazise ukusebenza okwejwayelekile kwemakethe eduze noma ngaphakathi kwemakethe, okufaka nalokhu okulandelayo:

*ukokhela umlilo **ngaphandle** kwangesikhathi nasendaweni egunyazwe yiNhloko* (p. 15-16).

Back translation

By following the subsection (1), a person may not do anything that disrupts or, in the opinion of the Head, is likely to disrupt the normal business of the market in and around the market, which includes the following:

lighting a fire **except** at such time and place authorised by the Head.

The polysemous term *save* in Examples 38 (b) has been consistently translated using a functional equivalent which has the same function as that of the source text term (as discussed in 5.2.1.2).

5.2.7.2 Translation of legal synonyms

Example 39 (a)

Source text

Subject to due compliance with the applicable provisions of the Constitution and the rules of natural justice, the Municipality may, at any time, cancel a stallholder's permit issued to any person who is found guilty of committing an offence in terms of this **By-law** or any other **law** relevant to such person's business at the market (p. 10).

Target text

*Emva kokuthobela izihlinzeko zoMthethosisekelo nemigomo yezobulungiswa, iNhloko inamandla okuhoxisa noma inini, iphemithi yanoma yimuphi umnikazi wetafula otholakala enecala lokwephula umthetho ngokwalo **Mthetho kaMasipala**, kanye noma imuphi omunye **umthetho** oqondene nokusebenza kwalowo muntu emakethe* (p. 11).

Back translation

After complying with the provisions of the Constitution and policies of justice, the Head has powers to withdraw, at any time, any stall owner's permit who is found guilty of committing an offence in terms of this **Municipal Law** or any other **law** relevant to such person's work at the market.

The legal synonyms *by-law and law* in Example 39 (a) have been consistently translated using functional equivalents that function the same way as those of the source text, which results in the acceptability of the translation in the target system (as discussed 5.2.3.2).

Example 39 (b)

Source text

- Subject to the Constitution and applicable national and provincial laws, any–
- (a) power, excluding a power referred to in section 160(2) of the Constitution;
 - (b) **function**; or
 - (c) **duty** (p. 16).

Target text

Kuncike kuMthethosisekelo kanye nemithetho kazwelonke neyesifundazwe esebenzayo, noma yimaphi –

- (a) *amandla, ngaphandle kwamandla okukhulunywe ngawo esigabeni 160(2) soMthethosisekelo;*
- (b) *umsebenzi; noma*
- (c) *ijoka* (p. 17).

Back translation

- Depending on the Constitution and applicable national and provincial laws, any–
- (a) power, excluding power mentioned in section 160(2) of the Constitution;
 - (b) **function**; or
 - (c) **responsibility**.

The legal synonyms *function and duty* in Example 39 (b) have been consistently translated using a functional equivalent which have the similar function as those of the source text, resulting in the acceptability of the translation in the target system (as discussed in 5.2.1.3).

5.2.7.3 Translation of modals

Example 40 (a)

Source text

Any vehicle which is used in contravention of the traffic signage and rules applicable within the market **may be** impounded by the Municipality (p. 8)

Target text

Noma iyiphi imoto esetshenziswe kwephulwa imithetho noma izimpawu zomgwaqo emakethe ingadonswa uMasipala (p. 8).

Back translation

Any car which is used when breaking rules and signs of the road at the market **may be** towed by the Municipality.

The modal *may* in Example 40 (a) has been consistently translated using a functional equivalent that fulfils the same function as that of the source text modal, which results in the acceptability of the translation in the target system (as discussed in 5.2.1.4).

Example 40 (b)

Source text

The stallholder **must ensure** that such poultry and birds are fed and given drinkable water in such a manner and at such times as may be determined by the Municipality (p. 9).

Target text

I-ejenti yasemakethe kufanele iqinisekise ukuthi lezo zinyoni kanye nezinkukhu zinikwa ukudla namanzi ngendlela nangezikhathi ezinqunywe yiNhloko (p. 10).

Back translation

The market agent **must make** sure that those birds and chickens are given food and water in a way and at times determined by the Head.

The modal in Example 40 (b) has been consistently translated using a functional equivalent that functions the same way as that of the source text modal, resulting in the acceptability of the translation in the target system (as discussed in 5.2.1.4).

Example 40 (c)

Source text

A person removed from the market in terms of subsection (4) **must not re-enter** any part of the market on the same day on which such person was so removed (p. 15).

Target text

*Umuntu okhishwe emakethe ngokwesigatshana (4) **akufanele abuye angene** kunoma iyiphi ingxenye yemakethe ngalolo suku akhishwe ngalo (p. 17).*

Back translation

A person removed from the market in terms of subsection (4) **must not enter** any part of the market on which he or she was removed.

The modal *must not* in Example 40 (c) has been consistently translated using a functional equivalent that has a similar function as that of the source text modal, which results in the acceptability of the translation in the target system (as discussed in 5.2.1.4).

5.2.7.4 Translation of archaic adverbs

Example 41

Source text

and for matters incidental **thereto** (p. 2).

Target text

*kanye nokuhlinzekela izinto ezihambisana **nalokho*** (p. 2).

Back translation

and to provide matters incidental **to that**.

The archaic adverb *thereto* in Example 41 has been consistently translated using a functional equivalent that has the same meaning as that of the source text archaic adverb, which results in the acceptability of the translation in the target system (as discussed in 5.2.2.3).

5.2.7.5 Translation of collocations

Example 42 (a)

Source text

Any rights accrued or obligations incurred under any of the By-laws repealed in terms of subsection 2, **remain in force**, as if those By-laws have not been repealed (p. 18).

Target text

*Wonke amalungelo noma izibopho ezitholakele ngokwanoma imuphi uMthetho kaMasipala ochithwayo ngokwesigatshana 2, **azoqhubeka nokuba khona**, kube sengathi leyo Mithetho kaMasipala ayizange ichithwe.*

Back translation

All rights or obligations received in terms of any Municipal Law repealed in terms of subsection 2 **continue working**, as if those Municipal Laws have not been disposed of.

The collocation *remain in force* in Example 43 (a) has been translated as *azoqhubeka nokuba khona*, which means *they will continue to exist*. The meaning conveyed is basically the same. In this regard, it is my view that, since this is a linguistic preference, translating the same collocation using different varieties indicates the need for the Municipality to consider investing in translation tools with translation memory for consistency purposes (as mentioned in 5.2.6.1). However, this rendition of the collocation results in the acceptability of the translation in the target system (as discussed in 5.2.1.9).

Example 42 (b)

Source text

Repeal of laws and savings (p. 18).

Target text

Ukuchithwa kwemithetho nokunye okuphathelene nayo (p. 20).

Back translation

Disposed of laws and other related matters.

The collocation *repeal of laws* in Example 42 (b) has been consistently translated using a functional equivalent which fulfils the same function as that of the source text collocation, resulting in the acceptability of the translation in the target system (as discussed in 5.2.1.9).

Example 42 (c)

Source text

A person whose rights are affected by a decision taken by an authorised official in terms of this By-law may **appeal against that decision** (p. 35).

Target text

*Umuntu omalungelo akhe achashazelwe yisinqumo somsebenzi ogunyaziwe ngokulandela lo Mthetho KaMasipala angafaka isicelo sokuphikisana naleso sinqumo ngokulandela uhlinzeko **lokudlulisa isinqumo** oluqukethwe (p. 36).*

Back translation

A person whose rights are tainted by a decision taken by an authorised worker by following this Municipal Law, may lodge an application to oppose such a decision by following a provision contained **to take that decision further to oppose it**.

The collocation *appeal against that decision* in Example 42 (c) has been consistently translated using a functional equivalent which fulfils the same function as that of the source text collocation, which results in the acceptability of the translation in the target system (as discussed in 5.2.2.4).

5.2.8 Water Supply By-law

This By-law was adopted by the Council in 2014 to provide for the supply of water by the Municipality (eThekweni Municipality: Water Supply By-law).

For the analysis of the translation of this By-law, I explored the following categories: technical terms, legal synonyms, modals, archaic adverbs and collocations.

5.2.8.1 Translation of technical terms

Example 43 (a)

Source text

Where the services are laid in a private road, the **servitude** must be registered over the full width of the road to cover both water and sewerage reticulation networks and individual freehold site connections.

Target text

*Uma amapayipi efakwe emgaqweni okungewona okahulumeni, **ilungelo lokusebenzisa umhlaba** kumele libhaliswe ngobungako obuphelele bobukhulu bomgwaqo ukuze kungene namapayipi amanzi nawokuhambisa indle kanye nalawo axhunyelwe indlu ngayinye ezimele.*

Back translation

If the pipes are put in a road that does not belong to the government, the **right to use the land** must be registered according to the full width of the road to install water pipes and those that move sewerage, including those that are connected to each private house.

In translating the technical term *servitude* as *ilungelo lokusebenzisa umhlaba* in Example 43 (a), the translator translated it using paraphrasing as a translation style. *Servitude* means *the subjection of property to certain rights that allow one person to cross or use another's land for a specific purpose* (Oxford South African Concise Dictionary, 2010). The translator provided a short description in isiZulu to avoid a long explanation that may lead to confusion. It is important to point out that the term *servitude* has another meaning in ordinary language, which is *subjection* or *bondage*. Again, to avoid duplicating the same data from the same By-law and discussing it under polysemous terms, I will discuss this here. The By-law is very clear in terms of the context in which the term *servitude* is used. It was therefore not going to be difficult for the translator to provide the proper context of the term, it was paraphrased to disambiguate it from an ordinary meaning. As a result, the translator was able to provide a translation in a manner that is acceptable in the target system.

Example 43 (b)

Source text

“**owner**” means –

the person who is the registered owner of the premises in the relevant Deeds Office;

where such premises have been **leased** for a period of 30 years or longer, the lessee of the premises (p. 14).

Target text

“*umnikazi*” *kushiwo* –

umuntu ongumnikazi obhaliswe wesakhiwo ehhovisi lamatayitela;

*uma isakhiwo okukhulunywa ngaso **siqashiswe** isikhathi esiyizinyanga ezingu-30 (amashumi amathathu) noma ngaphezulu, lowo oqashile kuleyondawo... (p. 14).*

Back translation

“the owner” means–

the person who is the registered owner of the building in the office of titles;

if the building mentioned has been **leased** for a period of 30 months (thirty) or longer, the tenant of such place...

The technical term *leased* in Example 43 (b) has been consistently translated using a functional equivalent which has the same function as that of the source text term, which results in the acceptability of the translation in the target system (as discussed in 5.2.1.1).

Example 43 (c)

Source text

No **warranty**, expressed or implied, applies to the purity of any non-potable water supplied by the Municipality or its suitability for the purpose for which the supply was granted (p. 71)

Target text

*Akukho **siqiniseko**, esibekiwe noma esihlosiwe, ngokuhlanzeka kwamanzi okungewona awokuphuza ahlanzekwa nguMasipala noma ukufaneleka kwawo ngokwenhloso ahlinzekelwe yona (p. 72).*

Back translation

No **guarantee**, specified or intended, about water cleanliness that is non-potable, provided by the Municipality or its suitability regarding the purpose for which the water is supplied

In the translation of *warranty* as *isiqiniseko* in Example 43 (c), the translator used functional equivalence as a translation style. The translator avoided using a loan word, *iwaranti*, which may lead to confusion as this loan word also refers to *warrant* in isiZulu, which is different from *warranty* (as discussed in 5.2.6.2). However, it must be noted that the translator committed a grammatical error when translating the word *warranty* as *isiqiniseko* instead of *isiqinisekiso*. The word *isiqiniseko* means *certainty* in English. This, therefore, results in a shift in meaning.

5.2.8.2 Translation of legal synonyms

Example 44 (a)

Source text

If authority was given before the date of commencement of this **By-law** for installation work to be done, or if authorised work is in progress on such date, such work must comply with any **laws** governing such work which were in force in the area of jurisdiction of the Municipality before the date of commencement of this By-law (p. 69).

Target text

*Uma kwakhishwa igunya lokwenziwa komsebenzi wokufakwa kwamanzi ngaphambi kosuku lokuqala ukusebenza kwalo **Mthetho kaMasipala**, noma uma kukhona umsebenzi ogunyaziwe owenziwayo ngalelo langa, lowo msebenzi kumele uthobele noma imiphi **imithetho** eyengamela leyo misebenzi eyayikhona kuleyo ndawo kaMasipala ngaphambi kosuku lokuqaliswa kwalo **Mthetho kaMasipala** (p. 70).*

Back translation

If authority was issued for doing the work of installing water before the date of commencement of this **Municipal Law**, or there is work that has been authorised that is being done on the day, that work must comply with any **laws** under which the work is done that existed in that Municipality area before the commencement of that Municipal Law.

The legal synonyms *by-law and law* in Example 44 (a) have been consistently translated using a functional equivalent that has a similar function as those of the source text, resulting in the acceptability of the translation in the target system (as discussed in 5.2.1.3).

Example 44 (b)

Source text

Subject to the Constitution and applicable national and provincial laws, any–

- (a) power, excluding a power referred to in section 160(2) of the Constitution;
- (b) **function**; or
- (c) **duty** (p. 75).

Target text

Kuncike kuMthethosisekelo kanye nemithetho kazwelonke neyesifundazwe esebenzayo, noma yimaphi –

- (a) *amandla, ngaphandle kwamandla okukhulunywe ngawo esigabeni 160(2) soMthethosisekelo;*
- (b) **umsebenzi**; noma
- (c) **ijoka** (p. 77).

Back translation

Depending on the Constitution and applicable national and provincial laws, any–

- (a) power, excluding power mentioned in section 160(2) of the Constitution;
- (b) **function**; or
- (c) **responsibility**.

The legal synonyms *function and duty* in Example 44 (b) have been consistently translated using a functional equivalent that has the same function as those of the source text, which results in the acceptability of the translation in the target system (as discussed in 5.2.1.3).

5.2.8.3 Translation of modals

Example 45 (a)

Source text

The Municipality **may**, on written application by the owner before the expiry of the original period concerned and subject to payment of the prescribed charge, from time to time **extend** the period of validity of approval given in terms of section 26 –

for a period not exceeding twelve months at a time.

Target text

*Ngesicelo esibhalwe phansi somnikazi wendawo, esithunyelwa ngaphambi kokuphela kwesikhathi sokwenziwa komsebenzi, futhi emva kokuba sekukhokhwe zonke izimali ezinqunyelwe lokho, uMasipala, ngezikhathi ngezikhathi, **anganweba** isikhathi sokugunyaza ukwenziwa komsebenzi esikhishwe ngokwesigaba 26 –*

ngesikhathi esingeqile ezinyangeni eziyishumi nambili, ngesikhathi (p. 31).

Back translation

On the written application of the owner of the place, which is submitted before the expiry of the period of doing the work, and after the payment of the prescribed fees, the Municipal Authority **may extend** the authorising time of doing the work issued in terms of section 26 –

for a period not exceeding twelve months at a time (p. 32).

The modal in Example 45 (a) has been consistently translated using a functional equivalent that has the same function as that of the source text modal, which results in the acceptability of the translation in the target system (as discussed in 5.2.1.4).

Example 46 (b)

Source text

The owner must ensure that each pumpset contemplated in subsection (2) **can be** selected for duty at any time (p. 43)

Target text

*Umnikazi kumele aqinisekise ukuthi isethi ngayinye yokuphampa amanzi okukhulunywe ngayo esigatshaneni (2) **ingakhethwa** noma nini ukuba isetshenziswe* (p. 45).

Back translation

The owner must ensure that each pumpset mentioned in subsection (2) **can be** selected at any time to be used.

The modal in Example 45 (b) has been consistently translated using a functional equivalent that fulfils the same function as that of the source text modal, which results in the acceptability of the translation in the target system (as discussed in 5.2.1.4).

Example 45 (c)

Source text

If a heat pump is provided, and unless otherwise required, a stand-by heating system **shall be** provided as a backup in the event of failure of the heat pump (p. 50).

Target text

Uma kunephambu yokushisisa amanzi, futhi ngaphandle uma kudingekile, kuyoba nohlelo oluseceleni lokushishisa amanzi uma kwenzeka iphampu yokushisisa amanzi ihluleka ukusebenza (p. 51).

Back translation

If there is a pump that heats the water, and unless required, there **shall be** a separate system for heating the water, should it happen that the pump that heats the water fails to work.

The modal *shall* in Example 45 (c) has been consistently translated using a functional equivalent that has a similar function as that of the source text modal, resulting in the acceptability of the translation in the target system (as discussed in 5.2.1.4).

Example 45 (d)

Source text

The minimum level of supply of potable water to an informal settlement **must be** a water dispenser or standpipe within 200 metres of every household (p. 18).

Target text

*Izinga eliphansi lokuhlinzeka ngamanzi okuphuza ezakhiweni **kumele** kube umpompi osebangeni elingamamitha angama-200 umuzi ngamunye (p. 18).*

Back translation

The lowest level of potable water supply to the buildings **must be** a water dispenser that is 200 metres for each house.

The modal in Example 45 (d) has been consistently translated using a functional equivalent that functions the same way as that of the source text modal, which results in the acceptability of the translation in the target system (as discussed in 5.2.1.4).

Example 45 (e)

Source text

The water installation **will be** regarded as satisfactory if the pressure is maintained for a period of not less than 15 minutes, without additional input of water into the water installation during that period (p. 39).

Target text

Ukuxhunyelwa kwamanzi kuzothathwa njengokugculisayo uma kuhlale kunjalo imizuzu engekho ngaphansi kweyi-15 ngaphandle kokufakwa kwamanye amanzi kuso sonke leso sikhathi (p. 41).

Back translation

The connection of water **will be** regarded as satisfactory if it remains like that for no less than 25 minutes without additional water during that period.

The modal in Example 45 (e) has been consistently translated using a functional equivalent that has the same function as that of the source text modal, which results in the acceptability of the translation in the target system (as discussed in 5.2.2.2).

Example 45 (f)

Source text

Any person desiring the consent contemplated in subsection (1) must provide evidence to the satisfaction of the Municipality that the –
use of such water does not or **will not constitute** a danger to health (p. 70).

Target text

*Noma ubani odinga imvume okukhulunywe ngayo kwigatshana (1) kumele ahlinzeke ngobufakazi obuzogculisa uMasipala ukuthi –
ukusetshenziswa kwalawo manzi akunakho futhi **angeke kube** nobungozi kwezempilo (p. 71).*

Back translation

Anyone who needs consent mentioned in subsection (1) must provide satisfactory evidence to the Municipality that –

the use of that water does not or **will not be** harmful to health.

The modal in Example 45 (f) has been consistently translated using a functional equivalent that has a similar function as that of the source text modal, which results in the acceptability of the translation in the target system (as discussed in 5.2.2.2).

5.2.8.4 Translation of archaic adverbs

Example 46 (a)

Source text

If a customer to whom water is supplied in accordance with subsection (1) takes water from a hydrant which is not specified by the authorised official, the Municipality may **forthwith** terminate his or her agreement for supply (p. 65).

Target text

*Uma ikhasimende lithola amanzi ahlinzekwa ngokwesigatshana (1) – lithola amanzi avela epayipini lamanzi elikhulu elingachaziwe umsebenzi ogunyaziwe, umasipala enganqamula **ngokushesha** isivumelwano sokuhlinzekwa ngamanzi (p. 66).*

Back translation

If a customer receives water provided in terms of subsection (1) – gets water from a big water pipe, which is not specified by the authorised worker, the Municipality may **immediately** terminate his or her agreement for the provision of water

In the translation of the archaic adverb *forthwith* as *ngokushesha* in Example 46 (a), the translator adopted functional equivalence as a translation style. In translating it into the sentence:

... *the Municipality may **forthwith** terminate his or her agreement for supply*

as ***ngokushesha*** in the sentence:

... *umasipala enganqamula **ngokushesha** isivumelwano sokuhlinzekwa ngamanzi*

The translator used a functional equivalent *ngokushesha*, which means *to immediately* render it into isiZulu. The translator, therefore, produced a translation that is acceptable in the target system.

Example 46 (b)

Source text

and to provide for matters incidental **thereto** (p. 2).

Target text

*kanye nokuhlinzekela izinto ezihambisana **nalokho*** (p. 2).

Back translation

and to provide matters incidental **to that**.

The archaic adverb *thereto* in Example 46 (b) has been consistently translated using a functional equivalent that has a similar meaning to that of the source text archaic adverb, which results in the acceptability of the translation in the target system (as discussed in 5.2.2.3).

Example 46 (c)

Source text

If the use of water for purposes other than fire fighting has occurred on any premises, the Municipality may –

if a customer fails to comply with a notice served in accordance with paragraph (a), install a meter in the communication pipe serving the owner's fire installation and charge the owner for the cost **thereof** (p. 56)

Target text

Uma amanzi esetshenziselwe ezinye izinhloso ngale kwalezo zokucisha umlilo esakhiweni, uMasipala –

*uma ikhasimende lehlukela ukulandela isaziso esikhishwe ngokwendima (a), angaxhuma imitha epayipini lokucisha umlilo lomnikazi wesakhiwo bese ebiza izindleko **zalo**kho kumnikazi wesakhiwo (p. 57).*

Back translation

If the water is used for other purposes other than firefighting in the building, the Municipality–

if the customer fails to follow the notice issued in terms of paragraph (a), may connect the meter to the fire-fighting pipe of the owners property and charge the owner for the costs **of that**.

The archaic adverb *thereof* in Example 46 (c) has been consistently translated using a functional equivalent that fulfils the same function as that of the source text archaic adverb, which results in the acceptability of the translation in the target system (as discussed in 5.2.1.5).

Example 46 (d)

Source text

The laws mentioned in the first and second columns of the Schedule to this By-law are **hereby** repealed to the extent set out in the third column of the said Schedule (p. 77).

Target text

Imithetho ebalulwe ohlwini lwesibili lweSheduli yalo Mthetho kaMasipala ngalokhu iyachithwa ubungako obubekwe ohlwini lwesithathu lwale Sheduli (p. 79).

Back translation

The laws mentioned in the first and second columns of the Schedule to this Municipal Law are **by this** disposed of as set out in the third column of this Schedule.

The archaic adverb *hereby* in Example 46 (d) has been consistently translated using a functional equivalent that has the same meaning as that of the source text archaic adverb, resulting in the acceptability of the translation in the target system (as discussed in 5.2.1.5).

5.2.8.5 Translation of collocations

Example 47 (a)

Source text

The **servitude agreement** for each property must contain a clause – indemnifying the Municipality against all claims arising from any failure of either the water mains or sewage reticulation owned by the Municipality but situated on private property (p. 30).

Target text

Isivumelwano selungelo lokusebenzisa umhlaba sesiza ngasinye kufanele sibe nendima– ehlangula uMasipala kuzo zonke izibizo ezingenziwa ngenxa yokwahluleka kwamapayipi amakhulu amanzi noma okuthutha indle okungawaMasipala kepha asemagcekeni alezo zindlu (p. 31).

Back translation

The right to use the land agreement for each plot must have a paragraph that indemnifies the Municipality from everything that may be claimed due to failure of big water pipes or sewerage pipes, which belong to the Municipality but are on the premises of those houses.

In the translation of the collocation *servitude of agreement* in example 47 (a), the translator explained it in isiZulu as *isivumelwano sokusebenzisa umhlaba*, thus adopting paraphrasing as a translation style. By so doing, the translator provided a translation that is acceptable in the target system. In this example, the translator preferred to use fewer words to explain the collocation to avoid distorting interlingual incongruity (as explained in 5.2.1.1).

Example 47 (b)

Source text

An authorised official may, for any purpose connected with the implementation or **enforcement of this By-law**, at all reasonable times or in an emergency at any time, enter premises, request information and make such inspection, examination and enquiry as he or she may deem necessary, and for those purposes operate any component of the water installation (p. 73).

Target text

*Umsebenzi ogunyaziwe angangena nganoma isiphi isikhathi endaweni yomuntu ngenhloso **yokuphoqelesa lo mthetho**, noma uma kunesimo esiphuthumayo, acele imininingwane noma ahlole, abuze uma ebona kunesidingo, futhi ngalezo zinhloso asebenzise noma iyiphi ingxenye yensiza yamanzi efakiwe (p. 75).*

Back translation

An authorised worker may enter at any time in someone's place to enforce **this law**, or if there is an emergency, request details or inspect, ask if he or she deems necessary, and for those purposes use any part of the water services installation.

In the translation of the collocation *enforcement of the bylaw* in Example 37 (a), the translator employed functional equivalence as the translation style. It was replaced with isiZulu functional equivalent *ukuphoqelela umthetho*, which conveys a similar meaning as that of the source text. This is a typical collocation that is accepted in isiZulu, hence the translator produced a translation that is acceptable in the target system.

Example 47 (c)

Source text

A person whose rights are affected by a decision taken by an authorised official in terms of this By-law may **appeal against that decision** (p. 35).

Target text

*Umuntu omalungelo akhe achashazelwe yisinqumo somsebenzi ogunyaziwe ngokulandela lo Mthetho KaMasipala angafaka isicelo sokuphikisana naleso sinqumo ngokulandela uhlinzeko **lokudlulisa isinqumo oluqukethwe*** (p. 36).

Back translation

A person whose rights are tainted by a decision taken by an authorised worker, following this Municipal Law, may lodge an application to oppose such a decision by following a provision contained **to take that decision further to oppose it**.

The collocation *appeal against that decision* in Example 47 (c) has been consistently translated using a functional equivalent which fulfils the same function as that of the source text collocation that results in the acceptability of the translation in the target system (as discussed in 5.2.2.4).

Example 47 (d)

Source text

Any rights accrued or obligations incurred under any of the by-laws repealed in terms of subsection 1 **remain in force**, as if those by-laws have not been repealed (p. 77).

Target text

*Wonke amalungelo noma izibopho ezitholakele ngokwanoma imuphi uMthetho kaMasipala ochithwayo ngokwesigatshana 1, **ziyaqhubeka nokusebenza**, kube sengathi leyo Mithetho kaMasipala ayizange ichithwe.*

Back translation

All rights or obligations received in terms of any Municipal Law repealed in terms of subsection 1, **continue working**, as if those Municipal Laws have not been disposed of.

The collocation in Example 48 (d) has been consistently translated using a functional equivalent which has the same meaning as that of the source text collocation (as discussed in 5.2.1.9). However, it must be noted that a grammatical error has occurred, which may lead to confusion, where the translator did not do as they did with the other translations of the same collocation and used the prefix *ku-*. The translator used the prefix *zi-*, which does not agree with *rights* and *obligations* and, as such, in this case, the translator produced a translation that results in a shift in meaning.

Example 47 (e)

Source text

Repeal of laws and savings (p. 77)

Target text

***Ukuchithwa kwemithetho** nokunye okuphathelene nayo* (p. 79)

Back translation

Disposal of laws and other related matters

The collocation *repeal of laws* in Example 47 (e) has been consistently translated using a functional equivalent which conveys the same meaning as that of the source text collocation, resulting in the acceptability of the translation in the target system (as discussed in 5.2.1.9).

Example 47 (f)

Source text

Only in the event that the work contemplated in subsection (2) is carried out for the sole purpose of establishing whether a **contravention of this By-law** has been committed and no such contravention is established, the Municipality must bear the expense connected therewith together with that of restoring the premises to its former condition (p. 73)

Target text

*Lokho okukhulunywa ngakho kwisigatshana (2) kwenziwa nenghloso yokubona ukuthi ngabe kukhona yini **ukwephulwa komthetho** futhi uma kungakaze kutholakale lokho kwephulwa komthetho, uMasipala kumele akhokhe izindleko zokwenziwa kwalowo msebenzi nezokuqinisekisa ukuthi indawo ibuyela esimweni* (p.75)

Back translation

What is referred to in subsection (2) is done with the intention to see if there was a **breaking of this By-law** and if no such breaking of law has been found, the Municipality must bear the costs for doing that work and that for ensuring that the place is restored to its former condition.

The collocation *contravention of this By-law* in Example 47 (f) has been consistently translated using a functional equivalent which has the same meaning as that of the source text collocation, resulting in the acceptability of the translation in the target system (as discussed in 5.2.5.4).

In conclusion, the analysis of data highlighted the fact that the translator adopted translation styles such as functional equivalence, borrowing, paraphrasing, transposition, cultural substitution, hyponymy (specific words) and hypernym (general words) to consistently translate the legal terms under investigation. It can be seen that most of the translation styles the translator employed produced a translation that strikes a chord with the majority of isiZulu-speaking readership. However, it must be noted that there were instances where the translator used translation styles that resulted in a shift in meaning, which may impact the acceptability of the translation to the target readership. Furthermore, the examination of translation styles used indicated that the level of difficulty presented by a specific term or phrase can differ significantly on the nature of disparity, which could lead translators to produce translations that result in a shift in meaning.

5.3 Discussion of findings

This section presents an account of some of the challenges of translating legal instruments from English into isiZulu; translation styles employed by the translators; norms that were operational during the translation process; and how these influence the production of the target text. The findings revealed that the by-laws contain modal verbs, technical terms, archaic adverbs, culture-bound concepts/expressions, collocations, legal synonyms, ambiguous/vague terms, polysemous terms, long sentences and a passive voice. The descriptive analysis laid bare an asymmetric nature of the English and isiZulu target systems, resulting in some constraints facing translators with respect to the themes outlined above. These will be discussed in three broad categories (technical, polysemous and string words/legal synonyms) as indicated above.

Regarding the technical terms, the data has demonstrated that these pose difficulties for translators because of their monosemic nature. This means that they have one-to-one correspondence and as a result, they do not have direct equivalents in isiZulu. Analysis indicates that the technical terms were translated using a combination of three different translation styles: borrowing and paraphrasing, because these are not lexicalised in the TT. In this regard, the finding suggests that equivalence in the TT was the focal point when producing a translation of technical terms, where the translator identified and understood the concept contained in the term (Sabtaningsih 2018). This led to the adoption of the describing by defining and explaining strategy put forward by legal translation scholars (Alcaraz and Hughes 2002, Alwazna 2014, Baker 2011, Garzone 2000, Šarčević 1997) in dealing with the translation of technical terms, which provided more clarity on the usage of the terms in question. That is, it unpacks the meaning of the source term given that these are often semantically complex, as Baker (2011) notes. It is, however, worth mentioning that criticism has been levelled against paraphrasing, including by Baker herself. The criticism is that paraphrasing involves using an explanation that consists of several words for one word, which may distort interlingual incongruency. For example, the Oxford Concise Dictionary's definition of servitude *is the subjection of property to certain rights that allow one person to cross or use another's land for a specific purpose*. As the analysis indicates, the translator provided a short explanation that equally communicates the meaning intended by the ST to avoid the 'lost in translation' saying. The data also indicates that the translator used quite a lot of borrowing to translate technical terms. However, this does not present any comprehension difficulties to the TL audience because the technical terms are part of everyday vocabulary in isiZulu. The results suggest that the borrowing strategy provides an accurate translation because there are no changes in the form and meaning of the terms under examination. This finding contradicts Sabtaningsih's (2018) findings that, since borrowing constitutes accurate translation since no changes in form and meaning are made, it brings about a low level of acceptability because the idea of a particular term was not clearly presented in the TT, thus making it unfamiliar.

Regarding polysemous terms, the data indicate that the legislation makes use of terms that have multiple meanings, which is an origin of difficulty in the translation of legal texts as postulated by Alcaraz and Hughes (2002), Cao (2007) and Hemel (2023). As already pointed out, these are legal terms that may have acquired meaning in a particular branch

of law or terms that have ordinary meaning and legal meaning at the same time. Alcaraz and Hughes (2000) refer to these as semi-technical terms. A translator must thus take into consideration that polysemous terms tend to be contextually bound as well. The contextual constraints that these terms bring mean that a simple word that is used in everyday vocabulary may be assumed as a legal term, and thus, used wrongly in the legal context. It is for this reason that Matulewska (2016) underlines the importance of identifying both the meaning and semantic relations that bind terms when providing translations and meeting the communicative needs of the target audience. In this regard, analysis suggests that the translation styles used by the translator enabled them to identify the legal meaning of terms, distinguish these terms from their ordinary meaning and use them in the context in which they occur. This finding supports Matulewska's (2016) proposition that a target text which is communicatively effective in one context may not necessarily be effective in another. Viewed from another perspective, the findings correlate with the notion of textualism, a view to which I subscribe because the law should be accessible to all. This means that the law is interpreted according to the ordinary meaning of the legal text. This line of thought stems from the kind of precision that the law demands of legal language, which requires the translator to be aware of these differences in meaning presented by polysemous terms. The main aim should be to adjust the target text to the communicative needs of the target recipients (Matulewska 2016).

In relation to legal synonyms, data indicates that these occur regularly in the ST. They are highly likely to create problems for translators because, as much as they resemble one another, they carry a different legal meaning and differ in law. As such, the translator may mistranslate and confuse them. In this case, the translator was expected to distinguish these synonyms in the translation. To do that, the translator employed a combination of borrowing, paraphrasing and functional equivalence to render these into the TT. The analysis revealed that there are instances where the translator translated the synonyms as one word, for example: the synonyms *control and regulate* were rendered as *alawule*; *by-law, law and legislation* as *umthetho*; *examination and testing* as *-hlola*; *permission and consent* as *imvume*; and *penalties and fines* as *inhlawulo*. The translator viewed these as the rewording of the same linguistic meaning, which results in the translator deciding to be economical in translating them, as El-Farahaty (2016) argues. These terms are used interchangeably in English, therefore, there will be no confusion if replacing one with the other. However, it is my view that El-Farahaty's argument does not

hold for isiZulu in that these legal synonyms convey the same meaning. This is based on Cao's (2007) caution that the translator should avoid translating legal synonyms as one synonym, as these may carry individual meanings in law, which may lead to litigation. The translator has an option to explain this in footnotes to the by-law for litigation purposes. However, if it comes to that, the by-law stipulates clearly that if a conflict arises between the original and the translation, the original prevails. It should also be noted that in the translation of the word string *fees and charges* as *izimali ezikhokhwayo*, the translator did not take into account the conglomerate meanings possessed by these words, thus providing the same explanation for both. This suggests that these are more near-synonyms than absolute ones; a notion that is not clearly articulated by Cao (2007). For example, the word *charges* refers to the amounts demanded for a service provided, while *fees* refer to fixed amounts payable for a service provided. The difference may be subtle to an unsuspecting, ordinary isiZulu audience, but it may be very significant, as it may be used to eliminate ambiguity in the legal instrument. The findings support Cao's notion of legal synonymy, which purports that legal language consists of several words that relate to a similar referent. However, in the instance where the translator explained the word string *fees and charges* as one word, the translator seemed to have contradicted Cao's assertion that these may carry individual meanings in the context of the law. While this finding contradicts Cao's claim, it correlates with Matulewska's (2016) argument that there are rarely any complete synonyms, that is, words that provide the same meanings and can be used interchangeably in all communication contexts. Matulewska refers to these words as quasi-synonyms. In advancing her argument, she asserts that sometimes terms are created to differentiate similar but not identical phenomena, but over time, the differentiation that was once quite essential loses its significance, and the meanings of the terms can no longer be distinguished. The danger, therefore, is that quasi-synonyms can cause communication problems if replacing one with the other, since these refer to similar but not identical referents (Matulewska 2016), as the translation of *fees and charges* demonstrates.

In respect of linguistic terms, modal verbs create potential pitfalls that can present some challenges to translators because of their ambiguous nature. In this respect, Boginskaya (2022) proposes a solution that, in legal English, should be restricted to only one sense – 'has a duty to'. There is no doubt that modal verbs play a very crucial role in legal discourse. As already pointed out, these are used to express obligation, prohibition and

permission in legal instruments. Scholars (AlRabia 2018, Boginskaya 2022, Cooper 2011, Ghafil 2022, Mahdi and Husain 2022, Pelíšková 2006, Triebel 2009) have identified specific challenges associated with translating modal verbs in the legal setting, which translators should be aware of when translating these, more specifically, in respect of the function modal verbs fulfil in legal instruments owing to their polysemous character. Analysis revealed that the isiZulu translations used modals to translate modals. This means that there are significant similarities between the ST and TT in the way they use modal verbs. That is, the variation in use of deontic modals across the by-laws under investigation is similar. It can, therefore, be argued that both the English by-laws and their translations support the same use of modals. However, it must be noted that these were translated in a way that deviates syntactically and also *in form* from the source text in that they are incorporated into the verbs owing to the agglutinative nature of isiZulu. The findings of the analysis, therefore, are aligned with the findings of the study conducted by Boginskaya (2022: 22), where her analysis indicated “that obligations, permissions and prohibitions expressed with deontic modals are imposed on both humans and non-humans subject to a different extent”.

In relation to archaic adverbs, the findings revealed that legal instruments involve archaic adverb usage of legal language and they present translation challenges to translators because they are rarely used in everyday vocabulary. Therefore, the unavailability of their equivalents requires translators to adopt a combination of translation styles to convey the intended meaning. As mentioned earlier, archaic adverbs are used in legal texts to help maintain the level of formality in English legal language, and they are also used with a style that is difficult to comprehend. In this regard, analysis suggests that the translation styles adopted by the translator concentrated more on the meaning instead of style to avoid the incomprehensible nature of archaic verbs. It would appear that the choices the translator made in this regard are for the sake of conveying the intended meaning from English into isiZulu. For El-Farahaty (2016), the translator’s resort to the style used in the translation of archaic adverbs into TL is an attempt to reflect the formal nature of the legal text in the translation. However, it can be argued that the very style used failed to provide the same level of formality characterising the archaic adverbs in the ST, although they convey the same meaning in the TT, as dictated by legal English. Analysis reveals that the translation of ST archaic adverbs demonstrates that they can vary significantly in a

sentence-level context in isiZulu. For example, in the translation of the archaic adverb *aforesaid* in the sentence:

...within the period stipulated in the aforesaid notice referred to in subsection (2)

it was paraphrased as *okukhulunywe ngaso*, meaning *what was said before* in the sentence:

...ngesikhathi anqunyelwe sona kuleso saziso okukhulunywe ngaso esigatshaneni (2).

This suggests that archaic adverbs can be rendered into many non-archaic terms in isiZulu. A similar conclusion was drawn by El-Farahaty (2016) in the investigation of the translation of English archaic adverbs into Arabic.

Regarding the collocations, analysis revealed that the ST makes use of legal collocations. According to Baker (2011), there may be potential challenges posed by the collocations due to collocational patterns of the words concerned within the language. The challenge is compounded by the fact that “a translator may know part of the target language term but not its collocate” (Scott 2017: 45). This necessitated the translator to provide translation styles that would be acceptable to the receiving audience, as proposed by Baker (2011). These include description by defining and explaining, omission and also providing more typical fixed expressions which have a similar meaning in the TT. Analysis suggests that collocational patterns may not always be typical or not typical in respect of the language system. This means that some collocations may not be typical in everyday vocabulary but may be uncommon in specific language varieties (Baker 2011). For example, the collocations *remain in force* and *appeal against the decision* were explained as these are not typical in isiZulu, while the collocations *repeal of law*; *reasonable time*; *enforcement of the law* and; *contravention of the by-law* were translated using typical isiZulu collocations that convey the same meaning as ST collocations. The findings support Baker’s (2011) and Scott’s (2017) findings on the translation of collocations, which discovered that the differences in the collocational patterning of the ST and TT created possible difficulties that posed serious problems in translation.

In respect of ambiguous/vague terms, the data revealed that the ST consists of terms that are ambiguous and vague, to which a translator needed to pay special attention, as they could be easily misinterpreted. Thus, it was important to provide the context in which the

term had been used. Analysis indicates that the translation style adopted by the translator enabled them to disambiguate the meaning of the terms in question, thus putting them into their proper contexts. This, in the main, indicates that precision is of vital importance in the translation of legal texts in general to avoid any ambiguities that may result in the misinterpretation of the terms concerned. The ambiguity and vagueness, which Cao (2007) refers to as linguistic uncertainty, are particularly evident in the usage of the word *property* in two different contexts and the *vehicle*, which is not clear as to what it entails. In respect of the term *property*, it is important to note that in the common law, it refers to real property and personal property, respectively. Real property entails immovable items, while personal property entails movable items and this division should also be captured in the translation. This requires a translator to find a sufficiently equivalent terminology per Matulewska (2016). Based on the foregoing discussion, it is my view that the findings support Cao (2007) in her examination of the translation of ambiguous and vague words.

In terms of long sentences, the data demonstrates that legal texts are characterised by lengthy and complex sentences. This is in keeping with the claims by scholars (Burukina 2012, Cao 2007, Cornelius 2011) that legal texts are syntactically complex, with long and convoluted sentences, which makes the process of decoding the ST on the part of the translator difficult. This linguistic feature of the legislative language exists because of the extensive use of conditions and qualifications used to 'express complex contingencies' (Cao 2007: 21). This means that the translator should be able to identify each of these elements in the sentence to provide accurate translation, as these often hinder the effective understanding of legal instruments for both the reader and the translator. It is against this background that Cornelius (2011) argues that an analysis of the text structure of the *genre* is an essential tool to assist the translator in understanding the regularities and patterns in the organisation of legislation. Accordingly, the translator carried out a careful textual analysis of the ST while at the same time identifying and attending to lexical items that presented themselves as translation problems for which solutions had to be found. This allowed the translator to produce the translation that adheres to the syntactical organisation and word order rules of the isiZulu language. This finding is consistent with the rhetorical structure analysis method suggested by Cornelius (2011).

Regarding the passive constructions, the data indicates that there are quite a few instances of the use of passive structures in the ST. As pointed out, these are used mostly

to conceal the agents of the action as a way for legal writers and professionals to distance themselves from the audience, and stylistically provide the text with the appearance of a legal text (Bulatović 2013). It is important to mention that, according to Bulatović (2013), a passive voice in legal language has other additional functions: it is used to emphasise the thing done; used when it provides a stronger link between preceding and subsequent sentences or clauses; and used to introduce a longer part of the sentence. The results indicate that there are similarities, to a greater extent, between ST and TT in the way in which passive structures are used in the by-laws. This simply means that English passives were translated by isiZulu passives, for example, where implicit or explicit agents in the ST are also made implicit or explicit in the TT. The expectation, therefore, from the translator's viewpoint, is that preservation of passives would be the feature in the translation of isiZulu passives, hence the adoption of the preservation method. However, it must be recalled that the translator omitted the agent *consent* in the translation of the passive:

...the application of this By-law may be extended by consent to any area within the boundaries of the Municipality which falls under the jurisdiction of a tribal authority.

This finding contradicts Bulatović's additional function of the passive, of providing a stronger link between the preceding and subsequent sentences or clauses. The reason for the inclusion of the agent is to make it very clear by what or whom the application is extended; otherwise, it becomes ambiguous, thus opening the provision of the by-law to misinterpretation.

Concerning the culture-bound concepts/fixed expressions, the data indicate that the ST makes use of culture-specific terms and expressions. As such, the translators opted to use neutral/less expressive words to translate these. As already pointed out, translators not only translate linguistic features from one language into another, but also transfer culture, as culture is embedded in the ST. This necessitated the translators to exhibit solid and sufficient knowledge of both the SL and TL cultures, which, in turn, enabled them to navigate through the cultural differences found in English and isiZulu legal cultures. These cultural constraints required the adoption of translation styles that the isiZulu-speaking audience will find easy to understand because they form part of their culture. The findings suggest that translation challenges that arose during the translation process are not only linguistic but also socio-cultural, as language and culture are inextricably tied together. In

the process, the cultural constraints under which translators were operating influenced a decision to translate in a particular way. This is in line with Toury's DTS premise that a translator occupies a position in the socio-cultural system of the target culture and, as such, this position governs the translator's choices of translation styles adopted. This is demonstrated by the way in which they translated cultural concepts/expressions, which, as persons occupying a position in the target culture, conveyed their feelings that these words or expressions are culturally insensitive to the isiZulu-speaking world, as data indicates. The findings are aligned with those of Alharbi and BinMasad (2023), Baker (2011) and El-Farahaty (2016) regarding the translation challenges posed by culture-specific terms and translation styles employed to overcome such challenges.

5.4 Implications for descriptive translation studies

As previously pointed out in 2.3, legal translation is normative in nature. This means that it prescribes certain behaviour in terms of how a translator ought to act as an individual influenced by norms operational during the translational activity (Cao 2007). Accordingly, these pieces of legislation bring into effect the norms that the legislature enforces to guide people's behaviour, which, in turn, influence the manner in which the translator produces TT because of the constraints the translator is operating under. This sentiment is echoed by Alwazna's (2014) assertion that norms can be seen as a mechanism by which translators are guided to produce their translations within social and cultural criteria. It is in this context that DTS aims to reconstruct the norms that are operational during the translation process (Munday, Ramos Pinto and Blakesley 2022). In this regard, Toury's DTS norms provide a framework within which I discussed these in relation to the translation of the selected pieces of legislation and their relevance to legal translation in general.

The findings indicate that different norms were operational in the translation. These include initial norms, preliminary norms and operational norms, as put forward by Toury (1995). This descriptive analysis of the translation revealed that the initial norm was operational during the translation process, where the translator was subjected to the linguistic norms active in the TL, thus resulting in the acceptability of the TT. In this regard, the translator adopted a style that is target-text oriented. This means the translator produced a text that lives up to the target audience's expectations, where it fits the cultural profile of the TT and fulfils the intended function. For example, in translating the

expression *dead body*, the translator rendered it as *isidumbu somuntu ongasekho* in isiZulu, which the target receptors identify with and find acceptable in the target culture when compared with the direct isiZulu equivalent *-file-* meaning *dead*. This is given credence by Toury's (1995) view that translations first and foremost occupy a position in the host culture, a position it is intended to have. It can, therefore, be argued that the translator was adept at choosing the most relevant translation style that effectively assisted with the transfer of the message from the ST to the TT as a person occupying the position in the target culture.

While it can be accepted that the translation produced by the translator is acceptable, it must be recalled that the translator provided two similar translations for synonyms *examination* and *testing*, where the former was translated as *-hlola-* and so was the latter. It must be pointed out that these convey the same meaning and their translation was redundant. In translating these, it can be argued that the translator was restricted by the ST in that the translator leaned heavily on the original text with the norms it realised, as Toury (1995) argues. It is important to mention that the translator's adherence to the ST norms constitutes the other orientation of the initial norm, which determines adequacy. However, it is my submission that this anomaly does not affect the overall acceptability of the translation to the target audience, as it did not interfere with the meaning thereof. While DTS puts more emphasis on the translation process, the product of the translation and the position a translation is intended to occupy in the target culture system, it fails to recognise the role played by the source-cultural system, as translation is initiated by the source system in the first place. By so doing, target-orientedness of this kind disregards the interaction between source and target texts during the translation process.

The findings also indicate that preliminary norms were at work where by-laws were selected for translation into a target system at a particular point in time and the mode of translation was direct from TL to ST with no mediating language. Regarding operational norms, for Toury (1995), these direct the decisions made by the translator and they affect the way linguistic material is distributed in the translation. For example, the distribution of some linguistic features, such as modal verbs across isiZulu, is the same as that of their English counterparts. These highlight linguistic patterns regarding the choices made by the translator. He further asserts that operational norms also determine what would remain intact regardless of the transformation in the translation, and what would be more

likely to change. For example, the translator used a loan word to translate the word *affidavit* into *isiZulu* as *i-afidavithi*. Since the form of the word has been altered by transcribing the SL term with the use of the TL alphabet, the meaning has not changed.

In this regard, Chesterman (1993) puts forward two norms: expectancy and professional norms, which manifest themselves during the translation process of the by-laws under investigation. With respect to expectancy norms, there will be expectations from target readers for a translator to produce an appropriate and acceptable translation. These may be validated by, for example, the Control Editor of the Language Unit, who can confirm ubiquitous norms and encourage translations that conform to those norms. Regarding professional norms, the translator is accountable to the municipality for the translation they produced, they take responsibility for it and also ensure optimum communication between the municipality and its citizens. Finally, professional norms govern the relationship between source and target texts in terms of the way in which the translator maps TT segments onto ST equivalents. A closer examination of these norms reveals that they reinforce one another to guide translators to produce translations that are appropriate and acceptable to target receptors. They also guide the translation act in respect of strategies and methods used (Schäffner 1999). The findings reveal that norms govern the translation process at all levels, from the decision to translate a particular text to linguistic choices made by translators, which will then determine the actual linguistic make-up of the translation (Zanettin 2014). In this regard, Kościłkowska-Okońska (2011) asserts that the binding norm for the translator would be to find an option that would remedy the lack of balance between the two language systems and establish a meaningful and adequate linguistic and contextual relation.

5.5 Conclusion

This chapter presented the analysis of data and findings of the study using the thematic analysis method. Thematic analysis has been used to identify patterns across data relevant to answering research questions. Further, the chapter provided an in-depth analysis of the themes that emerged from data: modal verbs; technical terms; archaic adverbs; culture-bound concepts/expressions; collocations; legal synonyms; ambiguous/vague terms; polysemous terms; long sentences; and passive voice. These have been consolidated into three broad categories as follows: legal terms – technical terms, polysemous terms and word strings/legal synonyms; culture-specific

concepts/expressions and; linguistic terms – modal verbs, archaic adverbs, collocations, ambiguous/vague terms, long sentences and passives. Furthermore, the chapter presented the discussion of the interpretation of the findings, as well as the implications for DTS, which is the theoretical framework of the study.

CHAPTER 6: CONCLUSION

6.1 Introduction

Subsequent to the discussion of the findings of this study, this chapter recapitulates the issues considered in this study. It also revisits the research questions and discusses how these were answered. Further, the contribution of the current study and suggestions for future studies based on the data that were generated and analysed in the preceding chapter are discussed.

6.2 Overview of chapters

Chapter 1 provided a context for the study and highlighted the research problem, which influenced the need to conduct this study. It also provided the aim and objectives of the study, and research questions which the study was designed to answer. Furthermore, the chapter provided a brief overview of the literature review, theoretical framework, research methodology and data analysis method.

Chapter 2 provided an overview of the literature consulted. It also provided a detailed account of the main issues, such as the turns in translation, and the conceptualisation of legal translation, where the history and development of legal translation were discussed. The definition of legal translation was given; an explanation of how legal translation differs from other forms of translations was provided and; the definition of legal text was provided in light of the four variants of legal texts and their functions that were explained in the literature review. The chapter also provided an in-depth explanation of legal translation challenges. In this regard, the chapter highlighted some of the translation styles proposed by legal translation scholars that translators could use to overcome these translation challenges. Further, legal translation in South Africa was discussed and how it has evolved. Also, the history of legal translation in South Africa was discussed in light of the linguistic situation in the country, where the dominance of Afrikaans and English languages and the evolution of African languages was explained. Finally, translation styles and strategies were discussed and the sameness between these two was established on the basis of definitions and assertions by different translation scholars.

Chapter 3 provided a theoretical overview of legal translation with a specific focus on Descriptive Translation Studies, a brief account of the DTS origin and its development, as well as an explanation thereof. The role of the norms in translation was also discussed,

as DTS seeks to predict translational behaviour, which leads to the establishment of translational rules or norms. It also looked at the criticism often levelled against DTS. Finally, a review of how the DTS model is applied to legal translation was provided.

Chapter 4 provided a detailed explanation of methodological processes used in the study, such as research paradigm, research design, data collection method, data analysis method, limitations, and trustworthiness of the study. The research paradigm was discussed in relation to the researcher's epistemological and ontological premises. As such, the study used constructivism as the ontology to examine how one perceives reality, and interpretivism as the epistemology, which puts emphasis on knowledge gathering that rests on the understanding and interpretations of social phenomena. Further, the research design of the study was explained and discussed in detail, which included the explanation and discussion of the case study as adopted by the present study. Also, the chapter provided insights into how data was collected and how sampling was done. Furthermore, thematic analysis as a method of analysis of this study to systematically identify patterns of meanings across data was explained and discussed. Finally, the chapter also outlined the limitations of the study and the trustworthiness of the study was briefly discussed in relation to the credibility, trustworthiness, dependability and conformability of the study.

Chapter 5 presented the data of the study and the analysis was conducted. Thereafter, a detailed discussion of findings was provided in relation to the three broad categories that emerged from data: legal terms, culture-specific concepts/expressions and linguistic terms. With respect to the translation of technical terms, the findings indicated that there is a tendency by translators to use the borrowing strategy to translate technical terms. It has already been established in this study that technical terms are monosemic. This means that they have one-to-one correspondence. By adopting the borrowing strategy, the translator attempted to provide a one-on-one correspondence, as technical terms have no direct equivalents in isiZulu, thus compensating for interlingual incongruity. It should, however, be noted that functional equivalents and explanations were used. In this regard, the findings provide evidence that supports Sabtaningsih's (2018) assertion that for a translator, when searching for equivalence in the translation, the concept of technical terms or ideas contained in the term has to be identified, as understanding the concepts is vital in ensuring that the correspondence is proper.

6.3 Research questions revisited

This study was designed to answer specific research questions. To achieve this, an analysis was conducted and the themes generated from the data were identified that are relevant to research questions. The study consists of the main research question:

What translation styles are employed in the translations of legal text in the context of the English and isiZulu language combination?

The main research question asked for the investigation of the central phenomenon in a study (Creswell 2009), and is followed by sub-questions discussed below.

What are the challenges associated with the translation of legal texts from English into isiZulu?

The findings indicated that there are potential pitfalls that can pose translation challenges in the translation of legislative texts from English into isiZulu. The analysis highlighted 10 areas of difficulties (themes) in the translation of by-laws into isiZulu, which were consolidated into three broader categories: legal terms, culture-specific concepts/expressions and linguistic terms. The study revealed that challenges of translating legal terms stem from the lack of direct equivalents in isiZulu, as demonstrated in the translation of technical terms. These terms have no one-on-one correspondence. This required the translator to paraphrase or use borrowing strategies. The translator also needed to deal with synonymous terms. These look similar but convey different and individual meanings. The challenge is that the translator may be tempted to use these interchangeably, thinking they convey the same meaning. The challenge posed by polysemous terms originates from their use in different contexts. They are used in everyday vocabulary and in legal contexts, where they are used in different branches of law. Regarding culture-bound concepts/expressions, the challenge is that they may express concepts which are culturally inappropriate in the target culture. As a result, the translator needed to find an equivalent that is less expressive or neutral in the target language.

Concerning linguistic terms, the challenge posed by modals is that they fulfil different functions which render them ambiguous; thus, they are open to misinterpretation. The translation of archaic adverbs creates difficulties for translators because there are no existing related archaic adverbs in the target language. This means that these are not lexicalised in the target language, as demonstrated by the analysis. The challenge of translating collocations is that they may not be typical in the target language and the translator may know part of the target language term but not its collocate. For this reason, the translator may produce a translation that is unacceptable to the target audience. A translation challenge posed by ambiguous/vague terms is that they may have more than one meaning. If the translator is unable to put the term in the context in which it is used, they may produce a translation that is open to misinterpretation. The challenge of translating long sentences is that they consist of many qualifications, which makes them complex and convoluted. They may also consist of terms that need to be paraphrased in the target language, over and above the fact that they are made up of multiple qualifications. Finally, the challenge of translating passives stems from their functions in the text. If the translator does not know the use of the passive, they may produce a translation that is ambiguous and open to misinterpretation.

What are the applicable translation styles that translators use?

In answering this question, the findings revealed translation styles adopted by translators to overcome the challenges outlined above. In the translation of legal terms, the translator used a combination of description by defining and explaining strategy, functional equivalents, borrowing, and the use of superordinates. When translating culture-specific concepts/expressions, the translator adopted less expressive words or neutral terms. In rendering linguistic terms, the translator employed a combination of functional equivalence, transposition, paraphrasing, omission, and provision of more typical expressions in isiZulu, which have similar meaning and preservation strategy.

Which norms are operational during the translation process?

Findings indicated that different norms were at play in the translation process. These include initial norm, preliminary norms, operational norms, product or expectancy norms

and professional norms. These are evident in some of the linguistic features that were translated as indicated in the preceding chapter.

How do such translation styles influence the acceptability of the target text in the target culture?

Findings indicated that, generally, there was no shift in meaning as a result of the translator's choices. However, it should be noted that where there was a shift in meaning, the translation styles used may influence the acceptability of the target text in the target culture.

6.4 Contribution of the study

This study is one of the few studies, if any, to attempt to investigate the translation of legislative texts from English into isiZulu. On the one hand, the literature consulted indicated that legal translation is under-researched in South Africa. On the other hand, research indicates that there has been an increased demand for legal translation in South Africa and globally. As a result, the need for legal translators has equally increased. This dichotomy between the dearth of legal translation research in South Africa and the greater need for legal translators means that, on the one end, research on legal translation should receive more attention within the framework of translation theory. On the other hand, there is a need to train translators who specialise in legal translation. As previously mentioned in 2.3, legal translation is a highly specialised area of translation which differs considerably from other forms of translation. In this regard, it is hoped that this study has laid a foundation for future advances in legal translation research in South Africa.

The study has contributed to our understanding of the factors that influence the translation process and its product and how these, in turn, impact the acceptability thereof to the target audience. The legal texts were selected on the basis that they are more relevant to ordinary citizens. What could be of interest is to see how the identified linguistic features are translated when compared with similar findings in the different divisions and branches of law. As previously pointed out in 2.3, legal terms may have established and acquired a particular meaning that is specific to that area of law. In addition, it is believed that the study will contribute not only to legal translation but also to translation studies in general. Also, the findings have laid bare the potential translation pitfalls that present translators

with translation difficulties. The study, therefore, could be used as a springboard to launch discussions amongst stakeholders on the training of translators in legalese. Further, the study has highlighted the connection between language, law and culture. The literature reviewed indicates that legal language is permeated with cultural undertones, which necessitates a translator's familiarity with the cultural systems of both source and target languages. It is therefore hoped that this study could contribute to research orientations to culture to further investigate socio-cultural aspects in legal translation. Finally, the literature suggests that legal translation is under-researched in South Africa. This means that there is an over-reliance on international perspectives in the area of legal translation. The study could thus contribute to the localisation of legal translation research and complement other legal translation works that may already have been done in the country.

6.5 Recommendations for future studies

While this study explored the challenges of translating legislative texts, examined translation styles adopted in the translation, identified norms that were operational during the translation process and discussed the implications of translation styles on the translation product, it was not possible to study the quality assessment of the translations as this is beyond the scope of the current study. Further investigation could therefore expand on the scope of the study by exploring the quality assessment of the translation. That is, to determine whether the translation is good, bad, indifferent, problematic or questionable.

It should also be noted that the study investigated the translation of legislation, which excluded other variants, such as judicial texts, legal scholarly texts and private legal texts. Future research could use this study as a baseline to explore these types of legal documents. Given that a legal term may have an established and assigned meaning peculiar to a particular division of law, future studies could investigate the issue of equivalence in respect of these variants. Furthermore, some of these legal documents are translated purely for information purposes. It would be interesting to see which translation approach would be adopted to translate them. Also, a corpus material has been created that was used in this study, which could be used in future studies to widen the scope of investigation into other linguistic universals within the framework of legal translation. Finally, literature indicates that indirect translation, to which Toury (1995)

refers as mediation translation, is on the rise. Toury's work on indirect translation continues to influence research in this domain. However, as much as it is still new, the foundation has already been laid, as Ivaska, Pięta and Gambier (2023) note. They further state that earlier works on indirect translation focus mainly on literary works. It is for this reason that this study, with legal texts as its focal point, could form the basis for further research in this domain.

6.6 Limitations

The noticeable limitation of this study is the scarcity of literature that provides insights into legal translation in South Africa. This indicates that legal translation has received little attention in South African scholarly work and translation theory discourse, as Cornelius (2011) notes. Upon the analysis of selected linguistic features during the investigation, it was discovered that these have not been adequately studied, if at all, and there is no explanation as to how these are distributed in isiZulu. The study relied heavily on international literature to contextualise legal translation. Another limitation is that, as much as the study is on legal translation, it is limited to the translation of legislation. This excludes other variants such as judicial texts, legal scholarly texts and private legal texts, which include contracts, leases, and wills. These would differ in terms of how they are translated because of their legal status and communicative purpose, as Cao (2007) notes, which may impact how the translator handles the translation. As such, the study is not representative of these other variants. Another limitation is concerned with sampling in that its size may not be representative of the population as a whole.

6.7 Conclusion

The study highlighted terminological translation challenges that translators experience when rendering legal texts from English into isiZulu, norms that are at play during the translation process, and how they overcome these by adopting appropriate translation styles so that the translation is acceptable to the target readership. The analysis of data revealed that these challenges are due to the fact that legal translation is a highly specialised activity that requires specialised knowledge. This will be achieved through the training of translators and the inclusion of basic law courses in the curriculum to develop their legal knowledge structure.

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APPENDIX

The by-laws were used as data for this study. Due to their voluminous nature, I have attached only cover pages as appendices. They are accessible to the public through the following link: <https://www.durban.gov.za/pages/government/documents?d=By-Laws/Promulgated%20By-Laws>

UMASIPALA WASETHEKWINI: IMITHETHO KAMASIPALA YEZAMANGCWABA NOKULOTHISA, 2015



Yamukelwa nguMkhandlu mhlaka:

Yashawa Mhlaka:

MUNICIPALITY: CEMETERIES AND CREMATORIA BY-LAW, 2015



Adopted by Council on the:

Promulgated on:

eTHEKWINI MUNICIPALITY: CHILD CARE FACILITIES BY-LAW, 2015



Adopted by Council on 24 June 2015

**UMASIPALA WASETHEKWINI: UMTHETHO KAMASIPALA WEZINDAWO
ZOKUNAKEKELA IZINGANE KA-2015**



Wamukelwe wuMkhandlu mhlaka: 24 June 2015

ETHEKWINI MUNICIPALITY: FILM BY-LAW, 2018



Adopted by Council on the: 2018-06-28



Uphasiswe uMkhandlu mhla ka: 2018-06-28



Adopted by Council on the:

Promulgated on



Wemukelwe nguMkhandlu mhla ka:

Ushaywe mhla ka:

eTHEKWINI MUSEUMS BY-LAW, 2015



Adopted by Council on 24 June 2015

UMITHETHO KAMASIPALA WASETHEKWINI WEZIGCINIMAGUGU, 2015



Wemukelwa uMkhandlu mhla ka: 24 June 2015

ETHEKWINI MUNICIPALITY: PUBLIC TRANSPORT BY-LAW, 2014



Adopted by Council on the:

Promulgated on:



Wemukelwe uMkhandlu mhla ka:

Washawa mhla ka:

eTHEKWINI MUNICIPALITY: RETAIL MARKET BY-LAW, 2014



Adopted by Council on the:

Promulgated on:



Wemukelwe uMkhandlu mhla ka :

Wamiswa mhla ka:

eTHEKWINI MUNICIPALITY: WATER SUPPLY BY-LAW, 2014



Adopted by Council on the:

Promulgated on:

UMTHETHO KAMASIPALA WASETHEKWINI WOKUHLINZEKA NGAMANZI, 2015



Wamukelwa uMkhandlu mhla ka:

Ushaywe mhla ka

