

LANGUAGE PROBLEMS IN INTERNATIONAL LAW

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It is believed that international lawyers speak more or less the same language all over the world. Historically, the Latin language was the unique language of diplomacy from the time of the Roman Empire until the 18th century. In its day, Latin was regarded as the language of diplomacy and the law of nations, of being neutral. The existence of the Holy Roman Empire, as opposed to the individual states that make up Europe today, ensured the ascendancy of Latin in all legal matters. Then Latin was succeeded by French from the late 17th century until the 1st World War, although it began to decline after the Napoleonic Wars. And, in the 20th century French was replaced by English after the 1st World War. The decline of French as the undisputed language of diplomacy and international law was approved at the 1919 Paris Conference, where English took the status of an official language along with French. Hence, it does not automatically follow that the language of diplomacy is the language of international law. So there was a close connection between the existence of the language of international law and state practices such as international agreements and diplomatic correspondence. However, this linkage does not indicate that speaking the same language refers to the national languages, but rather to the terminology problem of international law.

Today, we have many Latin words and phrases such as *ius cogens*, *de facto*, *de iure* in the terminology of international law. On the other hand, it can be said that there has been no distinct language of international law for about three centuries. However, the advantages of French and English as languages of diplomacy and international law have assumed greater prominence due to the influence of these nations as colonial powers and the dominance of their national cultures throughout the world. In fact, the terminology of

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international law has been affected by the languages of national legal systems and based upon one or more dominant national languages and their municipal legal orders. To illustrate this point, in the last two quarters of this century, the use of Russian has become increasingly more significant because of its enhanced role in international relationships. It may also be noted that many international legal terms have originated from the same national concepts and institutions or the concepts or institutions which are associated with a particular family of legal systems or legal tradition. Furthermore, there may be no correspondence between the same legal notions in other countries or in other languages. Sometimes, the same term is used in the non-equivalence of legal institutions or their notions, because even if two countries share more or less the same language, there may not be exact equivalents in the language between countries. Particularly, if one state is newly admitted to the international community, sometimes problems over contradictions between international legal terms with the language of this state may occur; and generally adaptation problems and non-equivalent terminology can create difficulties in the area of international legal terminology.

After having granted the status of an official language along with French at the 1919 Paris Conference, English kept its status in the League of Nations Assembly and the Permanent Court of International Justice between the two world wars. And then, when the 1945 United Conference on International Organization was held in San Francisco, several countries sought to have their languages formally recognized as languages of international diplomacy. So the principles suggested in San Francisco were also adopted by the General Assembly of the United Nations and have been used throughout the United Nations system to which some additional official or working languages have been added by the individual United Nations bodies. Incidentally, attention should be drawn to Russian at this point. After the assertive westernization policies of Peter the Great and the enlightenment reforms of Catherine the Great were begun, their influence made Russia become a more important member of the European nations in the 18th century and today the influence of Russian is still increasing in international relationships.

In terms of international treaty practice, an analogous trend such as international diplomacy, has been in existence in the procedure of treaty-making. Latin lapsed as the principal treaty language of Europe by the early 18th century. At this time, it was replaced by the national texts which were usually written in French and then two parallel texts were composed in the language of the contracting parties. English and French competed for wider use in the role that Latin had performed before. The parties would apply to a single language other than those of the parties. Also the principle languages of their members were preferred by the regional organizations and institutions. These kinds of developments have presented international and comparative lawyers with new problems and imposed new burdens upon those who process and translate the texts of international treaties. It is really impossible to say whether the multiplicity of authentic treaty texts has increased the level of textual conflicts or disagreements, but that seems a quite reasonable assumption. However, there seems to be no disproportionate increase in the number of international disputes turning on issues of disparities in texts. However, internatio-

nal law never gives primacy to a particular language in this sense. Choice of language is left to the discretion of the parties or to prescriptions within an international institutional framework or international conference. Where a linguistic disagreement occurs between two or more texts of a treaty, the texts which have been recognized as having the status of authentic text by the parties, international law lays down procedural steps for the parties to follow in order to correct or resolve these disputes.

At this point, it should be mentioned that any parties involved in these disputes may apply to use Article 79(3) of the Vienna Convention which enables rectifications to be introduced. Also Article 33 of the Vienna Convention concerns the interpretation of treaties authenticated in two or more languages. The parties are free to specify which language text is mutually authoritative. Other languages are not considered as authentic for the purposes of interpretation, but there is one exception; that the parties to the treaty itself accept themselves as having this status. It is assumed that authentic texts have the same meaning and also the object of interpretation is to find the meaning through a comparison of the texts. If any difference in meaning arises from this comparison, the interpretation is to be found by means of application of the standard rules set out in the 1969 Vienna Convention for the interpretation of treaties. Even if these rules fail, the interpretation is to be obtained from the meaning which best serves the texts in view of the object and purpose of the treaty. So the 1969 Vienna Convention addresses itself to resolving disputes once they occur.

Apart from the regulations and the formalities agreed upon at the 1969 Vienna Convention on the Law of Treaties, today the style of treaty-making in terms of language is left to the parties and such regulations in existence are preoccupied more with form than style. According to Allott, there are three types of proposition in the classical international law method, which are deductive (authoritative), empirical and teleological, or policy. It is assumed that international lawyers share a basic vocabulary, values of academic discourse and moral, social and political values with their readers in this tradition. Allott sees, the national characteristics in this basic framework in that the British approach is described as calm, piecemeal, elitist, hypocritically modest, gutless, broadly inductive, whereas the German style tends to be more holistic (Kelsen) and the French more passionate and committed. Recently, the language and style of judicial decisions have begun to receive more attention. National styles in the composition of court judgments have been noted both within the Romano-Germanic and Anglo-American legal systems but the Socialist legal systems have prevented these systems from becoming more dominant and a third style has not evolved yet. It is believed that these kinds of differences in style affect the style of judgments in the International Court of Justice and in the European Court of Justice. The comparative analyses of judicial and arbitral styles in national legal systems and international tribunals may be the most important ways of achieving a solution to that question.

Today, the international lawyers who take care of linguistic problems of international law have two different dominant opinions on the questions of international law.

They are divided on the question of whether the terminology of international law is sufficiently discrete in order to comprise a distinctive particular vocabulary, or whether it is only a subspecies of general socio-political and economic terminology. This difference of opinion shows us that, on the one hand, there are certain terms which exclusively occur in international law; and on the other hand, other terms are used in a more general socio-political meaning. Meanwhile, most of the international lawyers pay astonishingly little attention to the vocabulary of their subjects. By reason of this neglect, the semantics of international law are weakened, as are the social sciences in the discipline of international law.

Although there are no simple remedies to overcome the language problems of international law, such as problems of conflicting, overlapping or non-equivalent terminology, all these problems provide more experience so that the international lawyers might become comparative lawyers. The most important step is to recognize the problem at that level. Consequently, it is necessary to examine the role of language in international law, to determine the nature and limits of this discipline, and also this point may contribute to further studies of international law adopting a comparative approach.

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