Legal Terminology in African Languages*

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Abstract:. This article deals with the project on legal terminology in the African languages. It focuses on terminology aspects relating to the coining of terms for the legal profession. Terminology development in South Africa has been hampered by a number of sociolinguistic factors. During recent years South Africa has seen considerable changes regarding the function of the indigenous languages, and this situation gave rise to an urgent need for terminology in various subject fields and knowledge domains. A demand arose for legal terminology in African languages. This need for legal terminology gave rise to the establishment of the Centre for Legal Terminology in African Languages. The aim of the Centre is to make legal terminology more accessible to the local indigenous population. The background of the legal terminology project is given and the various principles on which the working procedure is based, are discussed. Various aspects regarding the present project (such as financing, time-schedule, training and terminological problems encountered) are treated.

Keywords: LEGAL TERMINOLOGY, SOCIOLINGUISTIC FACTORS, TERMINOLOGY DEVELOPMENT, AFRICAN LANGUAGES, INDIGENOUS LANGUAGES, MULTILINGUALISM, SUBJECT FIELDS, TERMINOLOGY, TRANSLATION, INTERPRETATION, CRIMINAL LAW, CRIMINAL PROCEDURAL LAW, TERM

Opsomming: Regsterminologie in Afrikatale. Hierdie artikel handel oor die projek oor regsterminologie in die Afrikatale. Dit fokus op terminologiese aspekte wat verband hou met die skepping van terme vir die regsprofessie. Terminologie-ontwikkeling in Suid-Afrika is deur 'n aantal sosiolinguistiese faktore belemmer. Suid-Afrika het die afgelope jare drastiese veranderinge beleef ten opsigte van die funksie van die inheemse tale, en hierdie situasie het aanleiding gegee tot 'n dringende behoefte aan terminologie op verskeie vakgebiede en kennisterreine. 'n Behoefte aan regsterminologie het in die Afrikatale ontstaan. Hierdie behoefte het tot die stigting van die Sentrum vir Regsterminologie in Afrikatale gelei. Die doel van die Sentrum is om regsterminologie meer toeganklik vir die plaaslike inheemse bevolking te maak. Die agtergrond van die regsterminologieprojek word verskaf en die verskillende beginsels waarop die werkswyse gebaseer is, word bespreek. Verskeie aspekte in verband met die huidige projek (soos finansiering, tydsbepaling, opleiding en terminologiese probleme wat ervaar is) word behandel.

Sleutelwoorde: REGSTERMINOLOGIE, SOSIOLINGUISTIESE FAKTORE, TERMINOLOGIE-ONTWIKKELING, AFRIKATALE, INHEEMSE TALE, MEERTALIGHEID / MULTILIN-

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GUALISME / VEELTALIGHEID, VAKGEBIEDE, TERMINOLOGIE, VERTALING, TOLKING, STRAFREG, STRAFPROSESREG, TERM / VAKWOORD

Introduction

There are several factors influencing the terminological development of South African languages. Most of these are sociolinguistic factors. Terminology development in South Africa has been retarded by a number of ideological, historical, and educational factors, "the most fundamental of which are the language policies adopted in the Republic of South Africa (RSA)" (Mtintsilana and Morris 1988: 109).

With English and Afrikaans being the official languages in the RSA up to 1994, the State actively supported terminology development in Afrikaans to try to ensure parity with English (from which the international terms usually originate or enter South Africa). The African languages enjoyed neither official status nor any officially recognised functional status until the introduction of mother-tongue primary school education in 1953.

Jansen (1992: 1) states: "Recent years in South Africa have seen considerable changes. There has been a complete restructuring of the labour force and a greater involvement of the different population groups in matters of own and general interest. The fields of science and technology have become more accessible and various careers which were traditionally dominated by certain population groups are now infiltrated by people from other groups. All these factors have made increasing demands on the various indigenous languages spoken by members of the different population groups in South Africa." More than ever, this situation gave rise to an urgent need for terminology in various subject fields and knowledge domains.

In the new democratic South Africa, the Constitution provides for multilingualism and the development of the linguistic heritage. South Africa now has eleven official languages.

Multilingualism in South Africa is a sociolinguistic fact to be taken seriously. A large proportion of the indigenous population of South Africa can only be reached by means of indigenous languages. Information flow is prevented from being established by factors such as low literacy rates and terminologically poorly developed African languages (Fourie 1993: 132).

Political and societal changes have largely transformed the functional role of the African languages. The national and self-governing states that were created by the previous government led to the adoption of certain African languages either as the official language or as the *de facto* dominant language of these states. A substantial demand for terminology creation arose from this, since various business matters (civil service departments, local administrative bodies, courts of law, etc.) were conducted in the vernacular (Mtintsilana and Morris 1988: 109).

Origin of the Project

During an annual general meeting of the South African Institute for Translators (SATI) in 1985, translators, interpreters and other officials of the then self-governing states in South Africa indicated that they encountered numerous problems when dealing with legal terminology. They came across problems when translating legal documents, when compiling legislation for their various states, and when interpreting in court. These problems occurred since legal terminology in African languages either did not exist or were inadequate.

It was realised that, although English and Afrikaans were at that stage the official languages of South Africa, "the different indigenous languages could not be ignored but had an important role to play in legal procedure" (Jansen 1992: 2). The problem, however, was that the indigenous languages could not meet the demands placed on them, as legal terminology in these languages was either altogether lacking or, where present, not sufficiently complex to deal with the legal concepts of modern developments.

The South African Translators' Institute requested the National Terminology Services (NTS) to investigate the situation. The needs assessment done by NTS indicated a need for terminology in criminal law and related domains.

In 1987 a working group was formed. This working group later developed into the Committee for Legal Terminology in African Languages. Since 1996 this Committee is known as the Centre for Legal Terminology in African Languages. The Centre has its own constitution and is managed by an Executive.

The Objectives of the Centre

The objectives of the Centre are to:

* compile legal terminology lists, legal dictionaries and other related products in African languages, Afrikaans and English;
* undertake research on legal concepts and determine how these can at best be designated and systematised, to promote research and further terminology work and to make the results thereof available; and
* obtain the co-operation of experts and interested persons and promote common interests.

The main objective of this Centre is thus to make legal terminology more accessible to the local indigenous population; "not only to make it more available but also to make it more comprehensible" (Jansen 1992: 2).

The aims of the Centre are revealed in its coat of arms. The **bridge** symbolises an attempt to reach out to other fellow citizens by means of translation, the **stars** bring the light of knowledge to the existing darkness and the **scale** refers both to the justice and to the function of an interpreter to ensure that the original (source language) and the translation (target language) convey the

same message. The translation must be a mirror image of the language from which the translation is done. Gold and blue, the colours of the coat of arms, are two typical South African colours and the counterbalance in colour reinforce the source- and target-language image.

Coat of arms of the Centre for Legal Terminology in African Languages

Working Procedure

Background

The project started as a result of the needs expressed by Sepedi interpreters who experienced difficulty in interpreting in court due to a lack of legal terminology in Sepedi. Although this project was initially aimed at meeting the needs of the Sepedi interpreters, the initial working group intended from the start to incorporate all the indigenous languages in the project. This is one of the reasons why the name changed from Committee to Centre. Various Committees dealing with the various indigenous languages can now be created under the auspices of the Centre. The Centre caters for any language group that feels the need for legal terminology in a specific language.

The members of the Centre and interested persons meet quarterly to discuss general matters. Before the commencement of the main meeting, the committee for Sepedi usually convenes to discuss terminological problems encountered in the intermediate period.

The Centre for Legal Terminology in African Languages consists of representatives from different disciplines. The members of the Centre are all voluntary workers. At present there are several members of the legal professions (e.g. lawyers, magistrates, court interpreters, etc.), members of the Justice Training College, interpreters, translators, academics (of the Departments of Law and African Languages of various universities), Language Board members, members of the Provincial Language Committee, linguists, terminologists / termi-

nographers, researchers, anthropologists, etc. There are also representatives from the South African Broadcasting Corporation (SABC), and the Departments of Justice and of Education.

"Although the Centre may seem overburdened with academics," alleges Jansen (1992: 4), "the idea is nevertheless to compile terminology lists that can be used in everyday dealings with law." It is only possible to communicate concepts clearly when the subject is known properly. Only then can the message be conveyed to laypersons.

The target group, for which this terminology is intended, includes legal practitioners, interpreters, translators, compilers of legislation, students of law and even the man in the street. The Centre intends this dictionary to be used not only by speakers of the African languages, but also by English- and Afrikaans-speaking South Africans — either to clarify the meaning of a term in their own language, or to communicate more successfully with someone speaking an African language.

In a recent letter from the Department of Justice, the Director-General stressed the value of the project for the legal profession and emphasised the importance of compiling and publishing this legal dictionary in the eleven official languages. The Centre enjoys the blessings of the Departments of Justice and of Education of the central government and of the Northern Province government.

In 1993 the Centre became a member of the International Academy of Language Law situated in Montreal, Canada. The Centre is also a member of CoHSSSA — the Consortium of Human Sciences Societies of Southern Africa. The Centre has close co-operation with the African Association for Lexicography (Afrilex), since various members of the Centre are also Afrilex members.

Principles

At this stage, the Centre for Legal Terminology in African Languages only concentrates on providing African language equivalents in the subdomains of *criminal law* and *criminal procedural law* because of the dire need in these legal fields.

At the outset the undertaking seemed boundless, so the Centre decided to demarcate it by limiting the scope of the work to those legal terms relating to criminal law and criminal procedural law, as these legal fields are traditionally best known to the African population groups as a result of their own tribal penal organisation. Because the Government of Lebowa was the first to draw attention to the deficiencies already mentioned, Sepedi (Northern Sotho) was chosen as the first indigenous language into which terms would be translated. The Centre is presumptuous enough to plan terminology lists for other African languages (Jansen 1992: 3). Any interested language group can use the Centre as the umbrella organisation when working on criminal law and criminal pro-

cedural law in any of the other official languages. The Centre will make the data already collected available to other language groups. It also plans to cover other legal fields when the first project is completed.

Procedure

The Centre tries to fulfil the role it has undertaken by working in different phases:

First Phase:

*   The first phase comprises the compilation of lists of legal terms in English in the specified domains.
*   The legal expert of the Centre excerpts these legal terms using English as the source language.
*   The English terms are provided with fairly simple definitions and examples of how the terms should or could be used. The definitions must be kept simple yet should clearly explain the legal concepts.
*   The English terms, with their definitions and example sentences, are then rendered into Afrikaans (that is, the Afrikaans equivalents, definitions and example sentences are provided).

Second Phase:

*   During the second phase of the work, the English / Afrikaans term list is edited to conform with terminological and terminographical standards as set by modern dictionary compilers. The know-how for this work comes from the terminologists / terminographers who are members of the Centre.
*   Thereafter, the information is entered into a computer and adapted even further in accordance with the requirements of the database system.

Third Phase:

*   The third phase of the process involves the translation of the various English and Afrikaans terms, definitions and examples into an indigenous African language.
*   At this stage, the terms with their definitions and / or examples are given to the Sepedi Committee, who coins / designates / denotes Sepedi terms and other relevant information according to the concepts. Problematic concepts or terms are dealt with at the quarterly meetings.

Fourth and further Phases:

*   As soon as other language groups (that is, other than Sepedi) decide to form their own committees the English / Afrikaans / Sepedi terms, definitions and / or examples will be made available to them to render the terms and other information into the relevant language(s).

The Present Project and Problems Encountered

Financing

In 1993 the Centre received a donation from XB Brokers. This donation kept the Centre going and enabled it to purchase a computer which assisted the progress. In the same year, the Centre received a complimentary *Trilingual Legal Dictionary* by V.G. Hiemstra and H.L. Gonin, donated by Juta & Co Ltd. The project was stimulated by this donation, since the dictionary forms, to a certain extent, the basis of the work.

Fortunately, the Department of Arts, Culture, Science and Technology (DACST, previously Department of National Education) also regards the project of the Centre as a worthwhile effort which deserves financial backing. In 1995 DACST presented the Centre with a grant-in-aid that enabled the Committee, *inter alia*, to appoint assistants and thus make better progress with the project. When presenting the cheque, the Director-General of DACST expressed the hope that the Centre will in future be able to branch out and add the equivalents of other African languages.

Computerisation

The computerisation process was unfortunately hampered by the working procedure. The legal expert at UNISA used to excerpt the legal terms from the *Trilingual Legal Dictionary*. These terms were keyed into her computer at UNISA and a printout was given to the Sepedi Committee. The Sepedi Committee added the Sepedi definitions and term equivalents on a separate computer or typewriter. After the terms were discussed at a quarterly meeting the English / Afrikaans and Sepedi terms were again keyed into a computer at the Department of African Languages at the University of Pretoria, where an assistant was available to do the job.

With the grant from DACST, it was possible to buy another computer. The computers are located at UNISA. As was mentioned before, the Centre is now also in a position to employ assistants to excerpt terms. The legal terms and definitions are taken from various sources such as dictionaries, textbooks, study material, etc. The assistants enter all relevant information directly into the

computer. The senior researcher (a legal expert) now writes simple English and Afrikaans definitions by taking all the information on a specific concept into account. The printouts are then given to the Sepedi researcher to add the Sepedi definitions and equivalents. The latter liaises with the Sepedi Committee.

At present the data is entered into the *Multiterm* database management system of the NTS. This system will also be used to enter terminology in the other languages as soon as the committees are established and they have started with the compilation of their lists. The reason is that the *Multiterm* system can handle multilingual data and it is necessary to link the various languages by means of a divisor language (or a bridging language) such as English or Afrikaans. While every committee can work on its own in its decentralised geolinguistic area, it will be possible to link various languages if need be, in order to eventually publish a multilingual legal dictionary.

Time-schedule

Although the Centre is at this stage only dealing with a small portion of the legal domain, it is still a huge task. The compilation of a dictionary is time-consuming and can last for years — even if work on it is done on a full-time basis. The people working on this dictionary do it on a voluntary, part-time basis. The Centre would, however, like to expedite the process. Thus it was decided at the meeting in May 1996 that another *modus operandi* will be followed. Only the core terms of *criminal law* and *criminal procedural law* would be excerpted. By doing this, an overview of the subject field can be gained, the problematic terminology can be dealt with first, and a list of terms from A-Z can be provided. This basic list can be distributed among subject specialists and linguists to get their input. As soon as this list is evaluated and edited, it can be given to the other language groups to start off with the basic terms. The assistants can immediately start revising of this basic list by adding the rest of the excerpted terms. The supplementary terms are not necessarily core terms, but they are just as important to the subject field as a whole. The various language committees can then immediately start work on the supplements and provide them with term equivalents and definitions in the relevant languages.

Training

The Centre also devotes some time to training. Before every quarterly meeting of the Centre, the Committee for legal terminology in Sepedi convenes to discuss problems they encountered while denoting legal concepts in the months preceding the meeting. The Committee members discuss a specific concept to outline the exact meaning and then they coin a Sepedi equivalent.

At the moment, African language terminologists of the National Termi-
nology Services (NTS) attend these working sessions. As part of their training
and with a view to elaborating the languages, NTS terminologists coin equiva-
lents in their mother-tongue when the Committee discusses problematic cases
in Sepedi. (NTS employs mother-tongue speakers of all the African languages.)
This is a very valuable exercise for all concerned. During these sessions, termi-
nologists learn in a practical environment how important it is to know and
make sure of the meaning of concepts before even thinking of providing
equivalents in the relevant language.

Terminology

One should realise that there are existing legal terms in all the African lan-
guages. Every language already has several legal terms at its disposal, since
every one of the language groups has a comprehensive legal and court system.
The various languages make a clear distinction between different legal aspects.
Several legal terms are already documented, explained and published by either
lexicographers, researchers in the legal field, or anthropologists.

The Centre can, however, not totally rely on existing documentation. One
problem is that existing terms in different languages do not necessarily denote
the same concept and are therefore not term equivalents. This gives rise to con-
fusion. Terms that are merely translated forms, sometimes appear to be more
unintelligible to African language users than the original Afrikaans or English.

Indigenous law contains elements of both *criminal law* and *civil law*. There is
no separate criminal law and criminal procedural law. To unite these principles
and procedures with that of the Roman Dutch Law and British Common Law is
very difficult. It is of vital importance to write simple definitions to explain the
legal concepts. It is of equal importance to ensure exact communication by
retaining the legal meaning. A further problem facing the terminologist is that
there are no explanatory legal dictionaries on the South African legal system
available to consult.

The Centre has to ensure that the definitions will be acceptable to the legal
professions, yet simple enough to be understood by people at grassroots level.
If not, it will give rise to controversy. In court, the interpreter, who does not
have a thorough knowledge of the source language, can easily misinterpret the
Afrikaans term "breekgoed" (English "crockery") for "gebreekte goed" (English
"broken goods"). The Sepedi exclamation "Sebatakgomo!" (English "Help!") can
be interpreted by the Sesotho interpreter as "Ke batla kgomo" (English "I want
an ox"). There was a an actual case where a Sepedi woman who was raped,
pleaded that she cried for help, but the rapist was acquitted because of the mis-
interpretation by the court interpreter. The terminologist designating concepts
by means of terms must be sure of the underlying meaning of the concept
before coining a term.

The terminologist working on this project must have a sound background in legal approach and court procedure, as well as a good command of Afrikaans and/or English and the language of the relevant ethnic group. It is important to realise that this dictionary will be the channel through which legal and linguistic information will flow. This dictionary should also contain extra information on usage. It is not only a glossary of legal terms, but should guide the user on language and style usage, on the difference in the interpretation and translation of certain concepts, misinterpretation, misstatements and misrepresentations.

The Committee is careful not to incorporate offensive and/or sensitive items in the dictionary. Terminology is in nature abstract and exact, and it is therefore reasonably secure against emotive connotations that can be attached to words. To a certain extent, the domain overlaps with social and political subject fields. Therefore the Centre has to beware of incorporating potentially offensive and sensitive terminology, such as:

gewoonteverbintenis or *gebruiklike verbinding* (English "customary union")

  <u>degrading term</u> for:

gewoonteregtelike huwelik or **inheemsregtelike huwelik** (English "customary marriage" or "indigenous marriage") (cf. Act 38 of 1927 and Act 76 of 1963)

deelgenoot van 'n gebruiklike verbinding (English "partner of a customary union")

  instead of:

eggenoot van 'n inheemsregtelike huwelik (English "spouse of a customary marriage")

toordokter (English "witchdoctor")

  <u>degrading term</u> for:

tradisionele dokter (English "traditional doctor")

  <u>wrong term</u> for:

towenaar (Engels "sorcerer")

The Centre has to deal with various aspects concerning the denotation of concepts. There are various ways of coining or creating terms in the target language(s). It is in some cases relevant to coin a new legal term in the relevant African language. Sometimes the meaning of an old (existing) word can be extended to incorporate the meaning of a specific concept. It is sometimes necessary to make use of transliterations where the Greek or Latin (that is, the classic) stem of the term is being used to create a target-language equivalent. When dealing with the various African languages, it is interesting to look at the harmonisation or unification of the languages when coining legal terms. The terminologists have to look into the possibilities of harmonisation in dealing

with the terminology of a project such as this, for which such an urgent need exists.

The Centre for Legal Terminology in African Languages encounters interesting problems while compiling this dictionary. Although Roman Dutch Law forms the basis of the South African legal system the legal system is also greatly influenced by, *inter alia*, British Common Law.

According to South African law (traditional Roman Dutch Law) the term **defamation** (Afrikaans "laster") is used for the *criminal offence*. No distinction is made whether *written* or *by word of mouth*. According to British Common Law two terms are being used:

> **libel** written
> **slander** by word of mouth

The difference in meaning between these legal systems and the lack of explanatory dictionaries pose a big problem when determining the exact meaning of a concept. It is therefore necessary to excerpt legal terms from existing documentation and firstly to define these concepts accurately in the South African context before it is possible to denote them with equivalents in any of the African languages. A term with an exact meaning will promote exact communication. By supplying definitions for the various concepts, the Centre for Legal Terminology in African Languages tries to standardise the legal terminology of *criminal procedural law* and of *criminal law*.

It is necessary to remember that in South Africa, Afrikaans and the other indigenous languages are all minority languages compared to a dominant language like English that is used world-wide. Minority languages like Afrikaans and the African languages find it very difficult to create a scientific and technical terminology next to the existing terminology of the dominant English language. There are, as previously discussed, certain political and economic factors inhibiting or impeding the coinage and penetration of terms in the minority languages, as it is very difficult for minority languages to compete with a dominant language. One should try to understand that it is not only difficult to communicate without proper knowledge of the various indigenous languages and lack of training in terminological principles. There are also several other difficulties and obstacles that have to be dealt with by terminologists if they want to provide acceptable multilingual terminology.

Terminologists who have to supply term equivalents for English terms, have a variety of possibilities, namely

* 	*loan words* (from English, Dutch, Flemish, German, French ... mainly European languages) (affidavit / affidavit / afidavite; abortus / abortus / abortuse)
* 	*transliteration* (using the Greek or Latin stem to coin an equivalent) (**addendum** L neutral of *addendus*: addendum / toevoeging / adentamo

(tlalletso); **bail** ME *bail, baille,* from MF *bail,* from *bailler* to give, deliver, from L *bajulare* to bear a burden, keep in custody, from *bajulus porter,* load carrier: bail / borg / peile)

*   *extension of meaning* (using existing words but broadening the meaning to encompass the new concept) (abet / aanmoedig / go thusana le go thusa bosenying; abductor / ontvoerder / motshabisamongwe)
*   *neologisms* (claim / kleim / kleime; adopt (child) / aanneem (kind) / adopta (ngwana))

In all these cases, the principles of harmonisation (e.g. search for an existing word in the various dialects or related languages) can be applied. It should also, however, be established whether this is what the users want.

As was mentioned before, the terminologist has to apply specific terminological principles when denoting concepts. He/she also has to apply certain linguistic principles. No terminologist can coin a term if he/she does not know the basic word-formation principles of a language. Unfortunately, the basic word-formation principles for all African languages have not yet been established. There is a dire need for such principles. The National Terminology Services would like to form a working relationship with any person in any language group who has the linguistic background and knowledge to assist the office with this research.

The work of the terminologist is furthermore closely linked to language planning and language policy. The terminologist is always consulting, be it with subject specialists, linguists or dictionary users, on all registers of terminology usage. It is expected of the terminologist to be aware of changes that may occur across a wide spectrum of the linguistic field — from scientific and technological areas to grassroots level. In the new dispensation, terminology must also be supplied at grassroots level, especially for education purposes in order to facilitate exact communication. The terminologist is dependent on the comments and collaboration of specialists in all spheres of life. Terminologists would like language planners to consult with them when deciding on language policies. All South Africans are experiencing exciting times regarding language, and now is the time for all kinds of language professionals to consult one another before major decisions are taken. This is one of the reasons why the Centre aims to consult with subject specialists, linguists and mother-tongue speakers before publishing any dictionary. The approval of all new terms by a Committee of mother-tongue speakers is vital and fully appreciated by the Centre.

Close co-operation between language planners and terminologists is vital because one of the objectives of language planning is terminology unification. Nahir (1984: 308) defines terminology unification as "establishing unified terminologies, mostly technical, by clarifying and defining them, in order to reduce communicative ambiguity ..." According to Cluver (1989: 247) this objective coincides with the standard view of the objectives of terminographical

work on developed standard languages. The focus is here on collecting terms and standardising them by means of a definition, rather than on creating new terms.

Conclusion

The Centre for Legal Terminology in African Languages aims not only to compile and publish a multilingual explanatory legal dictionary, but also to train terminologists. The Centre aims to be instrumental in the coining of legal terms to promote exact communication in all spheres of the legal profession and in all languages.

At the moment the Centre has only one Committee working in Sepedi. Interest was, however, shown by the Xhosa Dictionary Project at Fort Hare, and the Centre hopes to establish a Committee for Legal terminology in isiXhosa. Representatives of the other languages, such as Sesotho, isiZulu and Tshivenda already attended meetings and it is hoped that they will also be able to start with projects.

At every meeting of the Centre the chairperson declares the aim of the Centre to extend the current English / Afrikaans / Sepedi project to incorporate the other official languages. The Centre can, however, only extend an invitation to the other language groups — it does not intend to force a legal terminology project on any language group. The stakeholders of each language should decide for themselves whether they want to collaborate in this project.

The Centre is a young but dynamic institution and the members are working hard to fulfil their mission. Although the members of the Centre are very proud of the work already done, they would like to accelerate the pace, but for that they need the input and collaboration of the various stakeholders.

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