NEW DECONSTRUCTIVE PERSPECTIVES ON LEGAL TRANSLATION: FROM HOSPITALITY TO HAUNTOLOGY

NUEVAS PERSPECTIVAS DECONSTRUCTIVAS PARA LA TRADUCCIÓN JURÍDICA: DE LA HOSPITALIDAD A LA HAUNTOLOGÍA

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Abstract

In this essay, using a conceptual research methodology focused on argument development and delimited by an epistemological framework of deconstructive reading, Derridean concepts such as hospitality, event, and hauntology will be explored in their relationship with legal translation. The aim of this paper is to open new paths for the reflection upon, and practice of, legal translation in face of the challenges posed by our contemporary era; an era characterised by asymmetries and conflicts in terms of identities, languages, cultures, and ideologies, which shape a scenario where translation plays a major role. After the conceptual development of this paper, different theoretical and practical lines of action will be outlined. These proposals may affect the way legal texts are translated and the agency we have as translators in this domain, as well as the way we understand legal language and original texts, leading us to propose a translation ethics fit to face the challenges of the present.

Resumen

En el presente trabajo, mediante una metodología de investigación conceptual centrada en el desarrollo de argumentos y delimitada por un marco epistemológico de lectura deconstructiva, se explorarán conceptos derridianos como la hospitalidad, el acontecimiento o su pensamiento hauntológico en relación con la traducción jurídica. El objetivo de esta investigación es abrir nuevas vías de reflexión y práctica para la traducción jurídica ante los desafíos que plantea una contemporaneidad donde las asimetrías y fricciones identitarias, lingüísticas, culturales e ideológicas conforman un espacio en el que la traducción juega un papel primordial. Tras el desarrollo teórico del trabajo, se plantearán vías de actuación teori-copráctica que reconfiguran la manera de traducir este tipo de textos; la agencia que tenemos al traducir en este ámbito; la concepción del lenguaje jurídico y el texto original, y que permiten plantear una ética traductora que pueda dar respuesta a los desafíos que nos plantea el presente.

Palabras clave: Traducción jurídica. Deconstruccion. Hospitalidad. Hauntología. Ética traductora.

1. Point of departure: the broken mirror of an asymmetrical world

The modern world is a space of continuous fragmentation, asymmetry and discursive, cultural, political and linguistic frictions. It is a diverse space where tired translation metaphors such as "bridging cultures" are revealed to be futile and naïve frameworks of thought (Ruano 2021: 335) that do not allow us to situate translation as an active space, "as a key agent in the production of social meaning and social action" (Carbonell i Cortés & Monzó-Nebot 2021: 1). Meanwhile, the discourse and effects of globalisation generate a universalising effect on societies that is, to a large extent, due to interactions mediated by translation. Given the importance of the processes of translation, as an activity that crafts the discourses that circulate in a globalised world, it is vital to consider the type of translation paradigm in operation and the type of asymmetries that perpetuate or hide beneath a presumed sense of transparency, immediacy and objectivity, in its purported role as a mediator that does not intervene (Bielsa 2014: 2). It is important to consider whether it follows the "universalising logic of

modernity" formulated by Liu (1995: 37) from almost three decades ago, or if instead it deglobalises in order to connect from a singularity not exempt from frictions and short circuits.

Not seeing beyond this obscure "transparency" or universalising logic means we run the risk of failing to detect the edges of the great map of post-cosmopolitan, fluid societies, marked by hybridisation, interconnectivity, omnipresence and the "relational nature of existence" (Soler 2022: 18). In turn, we risk ironing out differences and being deceived by the false image of relational and discursive symmetry.

Therefore, it is vital to rethink the framework from which we carry out translation, if we want it to serve not to homogenise bodies, discourses and voices, but rather to create spaces of difference that can work as detonators revealing the fallacy of essentialist, universalist values and binary logic. I agree with Martín Ruano (2021: 337) in this respect, that "translation can be posited as a powerful antidote to the perverse effects of the model of globalisation which is accepted as dominant in the current digital paradigm".

Among the many branches of translation, legal-economic translation is one of the most productive areas of reflection for investigating and analysing the relationships between individuals and societies in a globalised age where international discursive communities—European institutions, international courts, international arbitration institutions—are becoming ever more important and generating a convergence of legal jargons (Kjær 2014: 431). This branch of translation, in both its theory and practice, is indebted to the epistemological frameworks that have permeated legal thought. Until the arrival of critical positions—see, for example, the birth of critical legal studies in the 1970s (Kennedy & Klare 1984), postmodern thought (Minda 1995), and global legal pluralism (Berman 2006, 2012)—legal thought had been characterised by a marked sense of universality, clashing with the diversity of the world and those who inhabit it.

As a consequence, legal texts have traditionally been considered "repositories of Truth, as universal, neutral and ahistorical" (Vidal Claramonte 2013: 182). Therefore, the practice of translation of this type of text has been essentially characterised by concepts such as identity or fidelity and by the conception of translation as an act of copying. This conception has had highly visible effects in numerous contexts, from the private sphere

to international institutions, as shown by critical studies over the last two decades (Koskinen 2000, 2008; Martín Ruano 2012). The consequences have also permeated the teaching of legal translation, where dissident voices warn of the danger of uncritically maintaining these conceptual frameworks in the training of future generations of translators. Moreover, recent works draw on critical and legal pluralist perspectives to critically address the conceptualisation of legal translation as a textual exchange between two closed entities (Martín Ruano 2023: 69).

We live with legal conceptualisations and regulations, and legal texts, that are far from being universal, neutral and ahistorical, as they were once claimed to be in the age of modernity. Thus, perhaps the time has come for this branch of translation to emancipate itself from translation paradigms that anchor its practice in epistemological frameworks that do not belong to the hybrid societies in which we now live. Or, if found, these frameworks are under the force of normativization, the elimination of otherness and the ironing out of difference, as, "universalism inevitably erases diversity" (Berman 2017: 171). I concur with Vidal Claramonte here, who, a decade ago, already outlined the need to rethink the way in which this type of translation is conducted:

> In our hybrid societies, what is needed is a form of legal translation that takes into account the asymmetries of global society. We need a type of translator who has a profound distrust of the possibility that there might be an intrinsically stable meaning present in texts and who, as a result, also believes that it is not possible to recover this exact equivalent meaning in any translation, into any language, at any given time, without some kind of temporal, cultural or political interference. (Vidal Claramonte 2013: 187).

Following that line of argument, the aim of this paper is to delve into the possibilities opened up by a new reading of Derridean thought applied to legal translation, both in its theoretical and ethical-practical dimensions, and to propose lines of action and research derived from this. I will use the conceptual tools of the philosopher to structure a proposal for the practice of legal translation involving seemingly forbidden concepts, such as creation, invention, and a reconfiguration of agency. In order to arrive at this proposal, I will focus on two key frameworks of deconstructive thinking, of

a highly ethical nature: hospitality, one of the forms of the Derridean event, and hauntological thought, which the philosopher develops in the last part of his work.

2. Epistemological framework: translation and deconstruction

Deconstruction is a privileged epistemological framework for reflecting on translation, not only because it is a school of thought that problematises issues such as the stability of meaning, the binary relations between an original and copy, or the concept of the sign, but also because of its own theoretical commitment to our discipline. Derrida, the philosopher-translator par excellence (Jihad 2004), places translation at the beginning of philosophy (1982: 159) and in his own journey as a thinker, translating his proper name (Derrida 1992b: 354) and beginning his career with a translation of Husserl's work *L'origine de la geometrie* (Derrida 1962). His interest in theoretical aspects of translation can be seen throughout his entire career. This is reflected in monographic texts on translation, such as "Survivre. Journal de bord" (1986), *L'oreille de l'autre (otobiographies, transferts, traductions)* (1982), *Des Tours de Babel* (1987), "Traditions, transferts, traductions" (2020) and "Qu'est-ce qu'une traduction 'relevante'?" (1998/1999). Yet, this interest also appears time and again in texts which, although devoted to other topics, are key to understanding his thoughts on translation. These include: "Freud et la scène de l'écriture" (1967), *Positions* (1972), "Moi — La psychanalyse" (Derrida 1982), "Fors: les mots anglés de Nicolas Abraham et Maria Torok" (in Abraham & Torok 1976), "Lettre à un ami japonais" (2007 [1986]), *Ulysse gramophone. Deux mots pour Joyce* (1987), *Schibboleth. Pour Paul Celan* (1986), "Fidélité à plus d'un" (1998) and *Le monolinguisme de l'autre ou la prothèse d'origine* (1996).

The reading and analysis of these texts allows us to draw out another way of understanding translation that emancipates itself from the logic of possible and impossible, and establishes itself as a form of the event (Molines-Galarza 2014, 2022), as a transformative and trembling exercise that goes beyond the exchange of economic equivalence. This allows the original text to survive through a new textual body and assumes un-translatability not as an impossibility, but rather as the driving force of

translation. Moreover, it is a conception of translation that turns the idea of faithfulness into a bi-directional debt (Derrida 1998: 262) between the first and second text. It is *writing* that looks to the original and receives its assignment, and it is truly *responsible* precisely because of the impossibility of the task. This, with the deconstructive gesture, problematises the idea of the unity of language and its contours; it introduces, as we shall see later, a ghostly, hauntological vein into language and texts; and, finally, it is *relevant*, both because it raises to life a fallen textual body (the original), and at the same time relays and relieves it (Derrida 1999).

Given the change of direction for translation proposed by Derrida's work, it is not surprising that it has aroused such interest in the thinking of our discipline, albeit at unequal intervals. Thanks to the work of various thinkers in the field of translation and similar fields, since the 1980s, deconstruction has found a space in our field. It is interesting to trace its trajectory in order to understand the reception it has received in our discipline. In this respect, the works of pioneering authors such as Arrojo (1993, 1998, 2012a, 2012b, 2014) and Vidal Claramonte (1989, 1995, 1998, 2005, 2014) are worth noting. These authors broke—and continuing breaking— complex new ground with the first in-depth studies of Derrida's work from the perspective of translation studies. Later, well into the new millennium, we find the contributions of monographs by different authors, including Davis (2001), which serves as an introduction, as well as Carreres (2004) and Dizdar (2006, 2011), works of important systematisation for the field. It is important to highlight the reflections on what it means to translate Derrida (Ferreira & Ottoni 2006; Venuti 2013), as well as a monograph dedicated to his thought on translation *Traduçao, desconstruçao e pós-modernidade* (Siscar & Carneiro Rodrigues 2000). In terms of the connection with ethical thinking, contributions by Koskinen (1994, 2000a, 2018) and Vidal Claramonte & Martín Ruano (2003) are noteworthy. Moreover, in the intersection with gender, contributions by Godayol (2008), Villanueva-Jordán & Molines-Galarza (2021), and Molines-Galarza (2022b) stand out. In more recent works, we see a growing interest in the application of deconstruction to specific areas of translation practice, such as audiovisual translation (Jordà Mathiasen 2018; Martínez Pleguezuelos 2022), in the issue of the untranslatable in his work (Siscar 2015), and in the question of

otherness (Foran 2016), as well as the reformulation of equivalence (Jordà Mathiasen 2016), and conceptual derivations of his concept of the event (Molines-Galarza 2014, 2022).

That said, the current accessibility of a number of Derrida's texts, thanks to the recent and progressive edition of his seminars by Seuil, in the Bibliothèque Derrida collection, edited by Katie Chenoweth—with texts that until recently were unpublished and difficult to access, many of which were present only at Irvine, California, or at IMEC, Normandy—together with the renewed interest in his work (see the most recent references cited above), seem to have given new momentum to this line of thought in our discipline. In the most recent contributions, we see Derridean thought articulated to address the ethical challenges of translation in a globalised world; issues related to identity, the deconstruction of binary metaphors of translation and the question of untranslatability, among others.

Deconstructive translation studies is a space of reflection that begins with the work of Derrida and is then updated and worked upon with the tools of translation studies, aiming to establish an autonomous space in our discipline with the objective of developing articulations on methodology, ethical practice and teaching. Therefore, it is appropriate to begin to specify approaches to different branches of specialisation. This has already begun in the case of audiovisual translation, as mentioned above. In this article, this epistemological framework will be applied to legal translation. It will serve three purposes: firstly, to update Derridean thought with contemporary coordinates. Secondly, to take up the baton from previous research endeavours connecting deconstruction to legal translation (including Vidal Claramonte & Martín Ruano 2003; Vidal Claramonte 2013; Martín Ruano 2015); to advance the proposal of deconstructive translation in a field of specialisation in which there is still much ground to be covered. Finally, to continue to explore the ethical potential of deconstruction thinking for our discipline, essential to respond to challenges such as those posed by Ergun (2021: 114).

> How to mediate across [hierarchically coded and violently regulated] differences and navigate power-ridden borderings that demand translation? How to be accountable for the power to translate? […] How to engage in translation in ways that not only empower marginalized communities,

but also lay the groundwork to build cross-border affinities and solidarities of resistance? How to translate the other so that we connect with them outside the assimilation and oppressive parameters of the binary logic? In other words, how to translate ethically?

To continue exploring in these three directions, we will delve into two areas of Derridean thought: hospitality and hauntology, which, as we will be see, cannot be dissociated from his thinking on translation. To this end, I will deal fundamentally with the the philosopher's primary work and employ a combination of macro- and micro-methodology. With regards to the macro-methodological framework, I will focus on conceptual research, centred on the development of arguments, an appropriate tool for this type of humanistic theoretical development:

> Argument-centred research is exploratory in nature; the examples, while aiming to support the theoretical argument, are not intended to prove that the argument presented is the only valid way of looking at the phenomenon under investigation. Rather, it seeks to lay the groundwork for further empirical studies. (Saldanha & O'Brien 2014: 64)

Thus, conceptual research, understood as a way of defining and clarifying concepts, reinterpreting ideas, drawing relationships between notions and connecting them to larger systems (Williams & Chesterman 2002: 58), is a tool consistent with the micro-methodological approach of deconstructive reading that I will employ. Here, by micro-methodology, I refer to the concrete philosophical approach with which I will address the Derridean texts, as it is should be considered that each approach, situated in a singular epistemological paradigm, will provide a different vision from similar data (Baxter 2010: 119), hence the importance of positioning.

Deconstructive reading, as a hermeneutic mode, questions the uniqueness of meaning and the "correct reading" of texts, as well as the essentialist claim that there is a single truth contained in the text. Hence it is especially appropriate for approaching texts such as Derrida's own work, which, as Carreres points out (2004: 24), presents a "high degree of isomorphism between what is said and the writing strategies employed to say it". In turn, a methodological approach based on an attentive and problematising reading, alongside the awareness that it is just one reading among many possibilities, serves to strengthen the assertion of humanist, situated

and qualitative methodologies in translation theory that make the affirmations of researchers more responsible, thus distancing us from the "academic illusion" that the ideal of "aseptic objectivity" may imply (Martínez-Carrasco & Báez-Humanes 2023: 213).

3. From hospitality to hauntology: space for the Other

In this section, I will undertake conceptual research that will then enable me to develop proposals for the practice of legal translation with a new set of coordinates and with a different self-perception of our agency as translators in this field, meanwhile opening up new horizons for the ethics of this branch of the discipline. To do so, I will begin this journey with Derrida's concept of hospitality and then move on to his development of hauntology, with his relationship to translation as an ever-present guide, traversed by the concept of the event. On this journey, we will see that hauntological thought, thus far unexplored in translation studies, is in fact inseparable from thinking around hospitality and translation.

The Derridean concept of hospitality—and *hostipitality*—has begun to make its way into deconstructive translation studies, as shown in texts dedicated to the translation of hybrid literatures (Vidal Claramonte 2014), to the discomfort generated by the translated text (Molines-Galarza 2021), to the translation of non-binary identities in audiovisual products (Martínez Pleguezuelos 2022), and to reflections on ethics (Pokorn & Koskinen 2021). As noted in the previous section, until recently, part of Derrida's work has been unpublished and difficult to access, warranting our return to it here and now. This is the case for key texts on hospitality, which can be found in the critical edition of the seminars, published in 2021 and 2022 respectively: *Hospitalité. Volume I. Seminaire (1995-1996)* and *Hospitalité. Volume II. Seminaire (1996-1997)*. Therefore, on the basis of this new material, alongside other texts already published on the topic, it is important to reassess the dimensions on this concept in order to apply them to translation theory.

Thus, to broaden the scope of potential of Derridean thought with respect to legal translation, I will explore the configuration of translation practice as a hauntological event that functions as an act of hospitality

towards the Other. This will then enable the proposal of new lines of action for the reconfiguration of agency for legal texts, which are marked by an anisomorphic nature (Alcaráz Varó 2009). We shall see that this anisomorphic nature, from a Derridean logic, connects with the logic of the event and hospitality, as it sets in motion the *double bind,* the contradictory logic of the necessity and impossibility of translation (Derrida 1985: 138), the accommodation of an *Other* who is impossible to accommodate and who therefore forces us to redefine the limits—language, system, legal framework/discourse—of our home.

3.1. The (hospitable) event

In order to understand the ethical and political potential of Derridean hospitality, it cannot be overlooked that it is a form of the event. For the philosopher, the event is that which implies surprise, exposure, a rupture of the horizons of the anticipatable and the programmable (Derrida *et al.* 2001: 81). It is that which occurs in the singularity, in the exceptionality of something that does not unfold a programme of possibilities; it does not follow a map or method, or develop a causality (Derrida 1992a: 46, 2001: 303). The event is related to something new that arrives, that forces us to stop and interrupt the flow of the anticipated action; in this sense, it sits very close to the un-translatable (Derrida 2004: 134-135). In Derridean thought, the event embodies a logic of im-possibility, thus breaking the binary logic of possible/impossible:

> When the impossible *makes itself* possible, the event takes place (possibility *of* the impossible). That, indisputably, is the paradoxical form of the event: if an event is only possible, in the classic sense of this word, if it fits in with conditions of possibility; if it only makes explicit, unveils, reveals, or accomplishes that which was already possible, then it is no longer an event. For an event to take place, for it to be possible, it has to be, as event, as invention, the coming of the impossible. (Derrida 2005a: 90)

The event, therefore, is that which opens up a place where there was no place before; it is that which unites the shores of impossibility with possibility by means of a script that blurs the bipartite logic of the traditional dichotomy. For Derrida, the forms of the event include, among others, invention (2007: 11-62), the gift (1991), perjury, pardon (2019, 2020a) and,

prominently, hospitality. Raffoul reflected on this, connecting the concepts of im-possibility, ethics, event and hospitality:

> The im-possible is the name of such an ethics of hospitality, ethics becoming the experience of limits, of what remains inappropriable or "impossible" in the event of alterity. It is such insofar as it also determines itself as an ethics of the event. The ethics of the impossible, in its aporetic structure, is the welcome of the event of the other and the obligation of hospitality. (Raffoul 2008: 288)

Much of Derrida's ethics—always paradoxical and aporetic, never thematised in a closed system of values—is shaped by this obligation to welcome when faced with otherness, with this Other who arrives in the form of the event and shatters our horizons of expectations, the limits of our space and the coordinates of our time. Thus, as an incarnation of the impossible gesture, thinking about hospitality makes us rethink the question of limits, borders and thresholds (Derrida & Dufourmantelle 1997: 47), a reflection that is also fundamental for translation, as we will see later. In summary, the gesture of hospitality, in Derrida's thinking, takes the form of a paradoxical posture before that which seems impossible and yet ends up happening:

> It is as though hospitality were the impossible: as though the law of hospitality defined this very impossibility, as if it were only possible to transgress it, as though the law of absolute, unconditional, hyperbolical hospitality, as though the categorical imperative of hospitality commanded that we transgress all the laws (in the plural) of hospitality, namely, the conditions, the norms, the rights and the duties that are imposed on hosts and hostesses, on the men or women who give a welcome as well as the men or women who receive it. (Derrida & Dufourmantelle 1997: 75-77)

Derrida's logic of im-possibility, which is fundamental to understanding the link with un-translatability, is not simply a negative articulation. In his thinking, the "im-possible" is always that which functions as a "condition or opportunity of the possible" (Derrida *et al.* 2001: 101). Therefore, the event, the gesture of hospitality, that im-possible Other that arrives never takes the form of a pure impossibility that would block its arrival, but instead, while seeming impossible, it ends up happening; it ends up being

possible. Nonetheless, in the next section we will observe the risks and discomfort embodied in that arrival of the Other.

3.2. Hosting ghosts: "ghospitality"

The gesture of welcoming is never devoid of discomfort. As Derrida himself notes, a *hospes*[1], in its acerbic etymological meaning, bears the guest, the host, and the enemy (Derrida & Dufourmantelle 1997: 12). In turn, to advance with the reflection proposed on the different facets of the term hospitality—which the philosopher also transforms into *hostipitality* (Derrida 2021: 19-49)—[2], we cannot forget the following chain of signifiers: host, *hostis, guest, ghost*; all of which share an etymological affiliation and origin in the Sanskrit root *ghostis*, from which the Latin *hostis* is derived (Baugh & Cable 2002: 19).

The issue of spectrality, outlined in Derridean hauntology[3], has a very close link to hospitality and translation (Molines-Galarza & Rodríguez Serrano 2023). This relationship is essentially based on two aspects: on one hand, on the ghosts of the original text, in those failings in which a language is blurred, where the repressed emerges, where the meaning—always in *différance*—is never entirely present, never fully in the flesh, but is instead a spectre. Those ghosts are precisely what allow the survival of the text, an interpretive openness, and the readings that are yet to come. They open the text up to the future, allowing those who translate it to transform the original text with a "contract [in which] it is a question of neither representation nor reproduction nor communication" (Derrida 1985: 162). This transformation always occurs within the regulated framework of the relationship with the Other/original text, which needs us in

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1. Latin term that derives from *hostis* (hostis-pet-s).
2. The first version of the text *Hostipitalité* was published in 1999 in the journal *Cogito*, most recently it has been published in the first volume of seminars on hospitality (1996-1997), as the first session.
3. The term *hauntologie*, coined by Derrida in *Spectres de Marx* (2006b), functions as a homophone of *ontologie*, although the root of the verb *hanter* is added, which could be understood as the spectral siege of ghosts. Thinkers such as Fisher understand this as a development of the concept of *différance*, in which the issue of time comes to the fore (Fisher 2012: 19; 2014: 44).

order to survive and has this "demand and desire in the very structure" (Derrida 2007: 216). A text without spectres is closed and dead from the outset; it does not allow the Other to enter. It could be found at one of the two opposing poles: completely translatable or completely untranslatable. Neither guarantee its survival:

> Totally translatable, it disappears as a text, as writing, as a body of language [langue]. Totally untranslatable, even within what is believed to be one language, it dies immediately. The triumphant translation is neither the life nor the death of the text, only or already its living on. (Derrida 2004: 82-83)

Thus, only the un-translatable text, haunted by that which is not entirely present in the text, by its ghosts, by the traces that cross it and blur the ideal of the closed and full meaning, has a margin of survival and demands a responsible act on the part of the translator. This is an act of absolute responsibility precisely because it must take charge of the im-possible, of that which is not mapped out in advance, of a route that no one has planned, of a path that has yet to be invented. One can only *decide*, in the strongest sense of the term, on that which is im-possible; only an ethical gesture can be made when confronted with the im-possible: "If I only decided on what is possible, feasible, programmable and foreseeable, to the extent of my potentiality, the only thing I would do is deploy a power, develop a virtuality, verify an aptitude"[4] (Derrida 1998: 231). This is the second aspect that connects hauntology and translation, the question of responsibility and the decision that embodies our task:

> It is impossible not to aspire to this haunting failing [*hantise*] without which no "good" decision would ever accede to responsibility, failing which nothing, no event, could ever happen. Undecidability [...] is not a sentence that a decision can leave behind. The crucial experience of the perhaps imposed by the undecidable, that is to say, the condition of decision is not a moment to be exceeded, forgotten, or suppressed. (Derrida 2005b: 219)

Therefore, even if a decision has been taken, even if a text were already translated, the spectral continues to haunt it, continues to problematise the

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4. Unless otherwise indicated, translations from French and Spanish are my own.

act, the letter. The un-translatable, even if translated, is that which allows the Other to preserve its character of absolute *arrivant* (Foran 2016: 245), its configuration as an event. The ghost is that which robs interpretation of its totality and hence allows the engine of reading to keep running, that which leaves the way open and allows there still to be a time to come for the text. Without the ghost, we would face a closed, apocalyptic interpretation without faults[5], "a totally adequate self-understanding would not only mark the end of a story exhausted by its very transparency. Preventing the future, it would make everything impossible, and the event and the coming of the other, the coming to the other" (Derrida 2001: 306-307). The secret, the spectre, the veil, keeps the engine of translatability and desire alive; in turn, the possibility of ethics and responsibility in our task and before the other.

4. Deconstructive approaches applied to legal translation: a hauntological gesture

Following the brief trajectory through the Derridean conceptualisation of the event, hospitality, and hauntology, we have been able to see the close links they have with translation studies. In particular, with the sphere of ethics and what translation does in its processes of assimilation, transformation or expulsion of the other. As Koskinen & Pokorn indicate (2021: 88),

> the idea of texts meaning "more and differently" has numerous consequences for translation and for translation ethics. The understanding of the source text as unstable and undecided unsettles any simple notion of fidelity as re-rendering or repetition.

Furthermore, this epistemological framework is of particular relevance for developing new deconstructive approaches to apply to legal translation, a space of textual possibility not only in terms of the hospitable gesture, but

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5. Derrida recalls (1983) that the Apocalypse is the moment in which the secret is revealed (we see it clearly in English, with the Book of Revelation), from *apo-*, separate, set apart; and *kalyptein*, cover, cover up. And I add to this etymological clarification: the world ends precisely when it can cease to be interpreted, when its secrets are revealed, when there is only one possible reading.

also in terms of *ghospitality*, to provide a welcome that accepts the ghosts haunting the source text/system, as well as the asymmetries and scars of the repressed. Hägglund (2008: 28) points out that:

> An identity or community can never escape the machinery of exclusion, can never fail to engender ghosts, since it must demarcate itself against a past that cannot be encompassed and a future that cannot be anticipated. Inversely, it will always be threatened by what it cannot integrate in itself —haunted by the negated, the neglected, and the unforeseeable.

In this sense, legal texts are a privileged space for the demarcation of identities, of that which is inside or outside a community, of that which is sanctioned or allowed. They are performative articulations of language that may form part of the machine of exclusion and invisibilisation, a "more internal, more complex relation with what one calls force, power or violence." (Derrida 1992b: 14). Two good examples of this can be found in Lerma's hauntological analysis (2011) of the *Ley de Memoria Histórica* [Spanish Historical Memory Act], and, more recently, in the way in which non-binary identities have been left out—without language—in the law commonly known as *la ley trans* [The Trans Act] (2023). Alternatively, they may serve as a "ghospitality" tool for that which used to haunt the system like a phantom, on the margins, until it was given a signifier and inscribed in the law. Consider, taking the same law—*la ley trans*—as an example, the inclusion of the term "progenitor no gestante" [non-gestating parent] or "progenitor gestante" [gestating parent]; this opens the spectrum to other realities that do not fit into the binary system of father (non-gestating) and mother (gestating). It is thus articulated in the legislative text:

> The first final provision amends the Civil Code, proceeding to the implementation of inclusive language. Far from a merely formal amendment, the replacement of the term "father" in Article 120(1) with the expression "father or non-gestational parent" means that female couples, and male couples when one of the members is a trans man with gestational capacity, shall be able to proceed to non-marital filiation. (2023, s/n)

Therefore, it is not surprising that hauntological thinking, which has already extended to many areas of contemporary thought, has brought critical perspectives in the field of law. See, for example, Rahimi (2021), Dixon-Román (2017), Sheridan (2021) and Lerma (2011), or Saleh-Hanna

(2015), where the intersection of race also comes into play. Although legal texts have traditionally been considered "repositories of Truth, as universal, neutral and ahistorical" (Vidal Claramonte 2013: 182), following a Derridean logic, the law and its effects:

> are implicated in the logic of violence. The desire for lesser violence is never innocent, since it is a desire for violence in one form or another, and there can be no guarantee that it is in the service of perpetrating the better. (Hägglund 2008: 83)

In turn, to continue weaving a relationship between hauntology and justice in this conceptual investigation that allows a new approach to legal (juridical) texts—and here I employ the concept of justice rather than law, assuming the Derridean idea that justice is what is beyond law, that it is the infinite asymmetry of the relationship with the Other, understood as the place of justice (Derrida 2006b: 36)—, we need not forget that this connection is at the heart of the hauntological project:

> If I am getting ready to speak at length about ghosts, inheritance, and generations, generations of ghosts, which is to say about certain *others* who are not present, nor presently living, either to us, in us, or outside us, it is in the name of *justice*. Of justice where it is not yet, not yet *there*, where it is no longer, let us understand where it is no longer *present*, and where it will never be, no more than the law, reducible to laws or rights. It is necessary to speak *of the* ghost, indeed *to the* ghost and *with it*, from the moment that no ethics, no politics, whether revolutionary or not, seems possible and thinkable and *just* that does not recognize in its principle the respect for those others who are no longer or for those others who are not yet *there*, presently living, whether they are already dead or not yet born. No justice—let us not say no law and once again we are not speaking here of the Law—seems possible or thinkable without the principle of some *responsibility*, beyond all living present. (Derrida 2006b: xviii)

Thus, how does this framework open up new paths for thinking about legal translation? How does it help us in our thinking about texts that, like creative texts, fit into Derrida's category of the event precisely because of their un-translatability, their openness, their blurring of language and the frontiers they set in motion? The challenge lies in *how* to do this, especially when keeping in mind the *double bind*, the contradictory obligation faced by those who translate in this field: the duty to intervene, to transform,

to *decide* in the strongest sense of the term, and the impossibility of doing so if what is expected of the one who translates legal texts is precisely the opposite:

> These aporias can only be ethically surmounted through thorough critical reflection and decision-making […]. They require the translator to be discretionary. Translators in the legal domain, however, are expected to reproduce the text wholly and mechanically, to reflect it automatically as though they were a transparent pane of glass. (Vidal Claramonte & Martín Ruano 2003: 148)

It is important not to forget that the pretence of transparency, absolute fidelity and mechanical reproduction is indeed a posture that is chosen, however much it is disguised as alleged neutrality. Choosing the unmarked option, that which deviates from the norm and custom, is also a decision and is no less neutral than one that makes other ways of translating visible. The reflections that I have been reaching in this work, based on conceptual research that has taken us from Derridean hospitality to hauntology and framed in his thinking on translation, have led me to propose a deconstructive approach to the translation of texts in the legal field, fundamentally articulated in four ways: 1) How do we translate (what techniques, strategy and positions do we adopt when faced with legal texts); 2) what conception do we have of our agency as translators in this field; 3) what conception do we have of the original text and legal language; and finally, 4) what translation ethics are derived from this position?

In terms of the first point (how do we translate?), the first intervention to be considered is the defossilisation of legal language. By leaving behind the archaic and stagnant formulas of the field, the common vision of its texts as ahistorical can begin to be questioned. Eroding the mask of archaism can serve to deconstruct the sacralised perception of this type of text, while also improving the understanding of people outside the field. This, in turn, is another way of deconstructing the asymmetrical power relations that such texts set in motion. Deconstructing the language of power embodied in the law involves, precisely, articulating it through other signifying relationships. To reconfigure the way power speaks means questioning its status of universality and absolute truth, since power "is pervasive and diffuse, embodied by those forms of knowledge that are socially

dominant and accepted as truth, that define normalcy" (Carbonell i Cortés & Monzó-Nebot 2021: 1).

Subsequently, the second intervention involves questioning established equivalences that are accepted as absolute and unquestionable truth, and that also have a certain ahistorical character. These official equivalences, which Koskinen (2000b) calls "institutional illusions" in the context of European institutions, may be necessary for a cohesive use of legal language in international and globalised spheres, but cannot be a closed and unquestioned linguistic pact. It is necessary for them to evolve, reformulate and self-problematise, particularly when they embody unidirectional lines of political power, such as the imposition of certain terms for certain systems on other communities through whitewashing, to take just one example. This questioning opens up a critical avenue within legal frameworks and their interpretation, one that can consider which concepts are imported and which are exported; which communities have the right to export their social, economic and legal modes of configuration, and which do not. In this respect, in the field of legal translation, it is vital to put mechanisms that are both hauntological and hospitable—*ghospitable*—in place. These mechanisms allow us to welcome, into our language and systems, those elements that have an otherness that surpasses us, that which presents itself as an event, especially when it comes from non-hegemonic and marginalised spaces—the foreign that comes from the hegemonic is usually less problematic and is accepted in a much more acritical manner. At times, our legal frameworks are too limited to host that which arrives into our system and our language; it requires a form under which to shelter itself. To have a say is also to have the means of relating to the system of arrival. Moreover, our intervention in translation reveals itself to be precisely for this purpose, for providing a voice and not for taking it away; not to simply impose a signifier or an equivalence that has been handed down to us, that obscures the character of the event of that which exceeds us and forces us to transform and to invent.

Thirdly, following on from the second point, creativity and the mechanisms of invention cannot be foreign to legal translation. For, if there is an area where interpretative potential is deployed almost as much as in a literary text, it is precisely in legal texts, with the wealth of problems that

arise regarding anisomorphisms and asymmetries between systems, with its range of "untranslatables" and spaces of ambiguity. Creativity, in that sense, although it may appear to be forbidden territory in the field, is in fact "the key attribute to solving seemingly untranslatable problems arising during the translation process" (Pommer 2008: 364). Creativity and invention, far from turning us away from our responsibility towards the original text is indeed that which underpins it: "An invention has to declare itself to be the invention of that which did not appear to be possible; otherwise, it only makes explicit a program of possibilities" (Derrida 2007: 44). To follow the route of the possible does not imply any responsibility, it does not require a signature, it does not require decision (Derrida 2001: 396).

Regarding the second point (what conception do we have of our agency as translators in this field?), two issues may be raised. The first, drawn from the epistemological framework we have applied, would be the reconceptualisation of our position as "neutral" agents vis-à-vis the legal text. Within this framework,

> neutrality conceived in terms of non-intervention, non-involvement and non-interpretation appears as an oxymoron when applied to professionals who are involved in interpretive, meaning-making practices in contexts ridden by various types of conflict. (Martín Ruano 2015: 149)

Assuming the situated position of every act of interpretation that is implicit in every translation, far from distancing us from a commitment to the source text, it in fact strengthens our awareness of the risks involved in every transformation that occurs when translating. Secondly, it allows us to be more aware of the power and symbolic force that our task implies. Hiding behind concepts such as neutrality or objectivity does not impede us from making necessarily biased decisions; it only obscures the necessary reflection that should be involved in every im-possible decision we make. It is in our power either to make a gesture of *ghospitality*, to let otherness come, to allow the phantoms of the repressed, the marginalised and the peripheral in legal systems and languages to emerge and take their place for the first time; or instead, to perpetuate the violence that is exercised on those bodies, voices and communities. A clear example of this would be the use of direct gender-neutral language to refer to people of non-binary

gender, although this does not yet have a normative place within our linguistic and legal frameworks.

Regarding the third point (what conception do we have of the original text and legal language?), the conceptual research proposed, together with the majority of Derrida's thought on translation and writing, open up a worthwhile avenue of questioning. The original is considered a text that, in its very structure, is indebted to the translation, allowing the first text to survive through its transformation, upon which is added the modification of the language and the system of arrival (Derrida 1985: 162). Desacralising the original text enables us to approach it not as secondary and passive subjects, but rather as subjects with agency and responsibility for a text, the meaning of which must be interpreted. In turn, we have been able to see that the language of the law, far from being ahistorical and neutral, encompasses a whole series of lines of force, violence and asymmetries that operate in the texts we translate. Moreover, thanks to deconstructive thought, we can abandon the monolithic and monolingual conception of languages, and even of specialist languages. Legal language does not operate as a watertight system, even though some voices are more central than others. It is a linguistic system that evolves, allowing itself to be transformed by words that come from subaltern, foreign and neologic positions in the face of the changes being experienced by our society, which moves faster than its laws. This change in perspective allows us to hear other frequencies and pay attention to quieter voices, to those that problematise the unity of the system.

With respect to the fourth and final point (what translation ethics are derived from this position?), the theoretical developments of this work, bringing together thinking on hospitality, hauntology and the event, allow a concrete ethical approach to be elaborated. Derrida said (1985: 125): "If one can translate purely and simply, there is no agreement. And if one can't translate at all, there is no agreement either." In other words, there can only be an ethical commitment to that which is im-possible, that which has the structure of the event; to that which is accommodated outside the possibility/impossibility binomial, like two shores that never touch, and placed on the bridge connecting the two.

There is no ethical gesture in doing what I *can* do, in *welcoming* that which I have the capacity to welcome. We can only consider truly ethical that which seems impossible and, nonetheless, with the tremor of doubt, on the untrodden path, in the not-knowing, (Derrida 2006a: 94), I end up allowing it to happen.

Given the repercussions of legal texts on the lives of individuals and societies in this globalised world, full of hybrid identities and complex subjectivities, of im-possibilities, "perhaps the most ethical translation for those texts is that which the late Derrida proposed: the deconstruction of the centre and the emergence of the margin" (Martín Ruano & Vidal Claramonte 2004: 88).

Translating from an ethical perspective, in deconstructive terms, involves taking on the spectral siege that haunts every im-possible decision and that will continue to haunt it even after it has been made. Without that ghostly haunting of doubt, of the maybe, "no 'good' decision would ever accede to responsibility, failing which nothing, no event, could ever happen" (Derrida 2005b: 219). Coming to terms with the mark left by our decisions, the force they carry, their signature and their position, even when facing texts that are presented to us as "neutral": that is the ethical gesture of becoming aware of the active, transformative role of our task; it is the ethics of the im-possible.

5. Conclusion

In this paper, by means of a conceptual research methodology focused on the development of arguments and demarcated by the epistemological framework of deconstructive reading, Derridean concepts such as hospitality and hauntological thought have been explored with the aim of opening up new avenues of reflection and practice for legal translation in the face of the challenges of the contemporary world, globalisation and the processes of deglobalisation.

In the first section, in order to lay the foundations for reflection, some of the problems posed by the traditional conception of legal texts as ahistorical and neutral repositories of truth were outlined. Then, critical works that emerged in the fields of law and translation studies were noted. These

are works that open up necessary avenues for questioning in marked hybrid contemporary societies where universalism risks erasing the singularities and identities of individuals and communities. In light of this scenario, the need to consider a different way of approaching the translation of legal texts was presented.

In the second and third sections, we delved further into the epistemological framework set forth for the development of this work: deconstruction. The analysis of Derridean thought on translation allows a reconceptualisation of what it means to translate, of what we understand by original text and of the agency we have when facing the text. In turn, Derridean deconstruction allows us to reimagine an ethics of translation, articulated on the basis of the idea of im-possibility not as a negative concept or obstacle, but rather as the very motor of interpretation and decision-making in translation.

After an overview of previous research on deconstructive translation, we proposed the need to revisit Derrida's work with a contemporary gaze and with the new possibility of accessing previously unpublished texts. From among all his theoretical collections, with close links to both translation and law, we chose to develop a more in-depth conceptual investigation of his thinking on hospitality and his hauntological approaches, as privileged theoretical spaces for thinking about the relationship with the Other in a world of identities and configurations that are both global and complex.

In the fourth and final section, to meet this article's objectives—to explore the possibilities opened up by a new reading of Derridean thought applied to legal translation, both in its theoretical and ethical-practical dimensions, and to propose lines of action and research derived from this—, four directions of reconfiguration and reflection have been outlined: how do we translate; what agency do we have when facing this type of text; what conception do we have of the original text and legal language; and finally, what ethical position can be developed on the basis of these aspects?

Thanks to the discoveries from the conceptual research and the reflections drawn from the Derridean corpus, I have been able to identify proposals in the four directions that underpinned the objective of this paper.

Regarding the first point, I have demonstrated that the defossilisation of legal language in translation, the questioning of established and inherited equivalences, and the application of creative strategies can work as effective tools for translating legal texts in a way that deconstructs the internal asymmetries of both the text and the legal system or its projection of ahistoricity.

In terms of the second point, we emphasised the transformation of our agency when we take on a deconstructive framework in translation. Far from hiding behind a supposed and impossible neutrality that only veils reflection on the subjective—and therefore responsible—work that the process of interpreting texts entails, we take on a situated and inevitably biased agency that must always be part of the critical reflection on our work. At the same time, this new framework of action helps us become more aware of the power that comes with each of our gestures when translating; each decision can be hospitable or hostile to otherness and to the ghosts that haunt each system.

Thirdly, we outlined how the conception of both the original text—as a text already indebted to translation that demands a commitment on our part—and legal language changes as a result of deconstructive reflection. Through this operation, both the original text and legal language are demystified as repositories of authority and closed truth, and as spaces of univocal meaning.

Finally, in terms of the ethical position derived from the conceptual work that has been carried out, my conclusion is the following: if we accept the un-translatable character of legal texts; in other words, their departure from the closed binomial of possibility/impossibility, we derive both a theory and an ethical practice that can be very fruitful for this field of translation. Choosing to see the positive side of im-possibility—the ambiguity, the need to find creative, unique and most singular solutions, adapted to each case, the creation of new terms, and the *ghospitable* welcoming of new expressions and realities—makes us more responsible and more aware of the work we carry out and thereby distances us from positions in which we may become blinded by the traditional status of legal texts.

An ethics based precisely on the problematisation of transparency, universality, and an essentialism of meaning that allows us to find one single

truth in texts, can rise to the challenges of deglobalisation in a hybrid and fluid contemporary era with increasingly blurred borders and linguistic boundaries.

[Translated by Sarah Buchanan]

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