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**Legal Translation and
Court Interpreting:
Ethical Values, Quality,
Competence Training**

Annikki Liimatainen/Arja Nurmi/
Marja Kivilehto/Leena Salmi/
Anu Viljanmaa/Melissa Wallace (eds.)

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Legal Translation and Court Interpreting:
Ethical Values, Quality, Competence Training



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Preface

The quadrilingual international conference on the study of legal language, translating statutory texts and court interpreting, *TransLaw2016: Translation and Interpreting as a Means of Guaranteeing Equality under Law* (*Übersetzen und Dolmetschen als Garant der Gleichheit vor Gericht, La traduction et l'interprétation comme moyens pour garantir l'égalité juridique, Перевод как гарант принципа равенства перед законом*) was held at the University of Tampere on 2–3 May 2016. The organising committee consisted of teachers and researchers of legal and administrative translation and court interpreting at the University of Tampere Master's Programme in Multilingual Communication and Translation Studies (Moviko) including Professor Annikki Liimatainen (chair), Senior Lecturers Nina Iso-lahti, Marja Kivilehto, and Arja Nurmi, post-doctoral researcher Anna Ruusila and university instructor Anu Viljanmaa as well as Leena Salmi, Professor of multilingual translation studies at the University of Turku.

Participants came from 23 countries. There were three plenary presentations and 47 oral presentations, with plenary speakers covering three central themes of the field. Professor *Jaakko Husa* from the University of Lapland discussed translating and interpreting law and particularly the effects of static and dynamic interpretations of the law. Professor Emerita *Ingrid Simonnæs* (Norges Handelshøyskole) presented a Norwegian online course intended to qualify translators in legal translation. Assistant Professor *Melissa Wallace* from the University of Texas San Antonio, who spent spring term 2016 at the School of Language, Translation and Literary Studies at the University of Tampere, discussed the practices of Finnish authorized translation and legal interpreting in relation to the EU directive on the right to interpretation and translation in criminal proceedings (2010/64/EU).

All over Europe, the availability and level of professionalization of interpreting and translation services in connection with asylum seekers is called into question, both in terms of the interviews conducted as well as the asylum application process itself. Another current topic was the language policies of multilingual communities. In which language are laws written? Which is the official language of the court? Are there qualified sign language and spoken language interpreters available? Are the accused, witnesses and plaintiffs receiving competent translation and interpreting,

and are their language and due process rights being protected? These and other questions are explored as they relate to current realities in Hong Kong, Ireland or the border cities of the USA and Mexico.

Many presentations pondered the perennial problems of translating legal and administrative texts or interpreting in legal contexts, examining issues such as how to translate terms and fixed phrases describing one legal system into another where the terms and phraseology describe a completely different judicial system, or how to translate EU legislation into different languages. Other points of interest were the training, professional roles and ethics of court interpreters, the processes of training and authorizing translators in different countries, and training novice translators to be professionals of legal translation.

The warmth of early May was reflected in the mood of the conference, the first of its kind to be organized at Tampere. Judging by the very positive and enthusiastic feedback received, participants deemed TransLaw2016 a success. On the basis of the conference presentations we have now edited this volume, allowing us to showcase some of the contributions from the conference, briefly introduced in the next section. Our volume would not have come about without the authors, and we wish to thank them warmly for all their effort and patience. Likewise, we would also like to wholeheartedly thank our anonymous referees for the constructive and encouraging feedback they gave our authors. In addition, we heartily thank Henrik Oksanen, MA, who has indefatigably worked in our assistance and taken excellent care of editing all articles in this volume, and thus lightening the burden of the editors considerably. Thanks are also due to the Emil Öhmann Foundation of the Finnish Academy of Science and Letters as well as the German language, culture and translation degree programme at the University of Tampere. This volume would not exist without the financial assistance of these bodies. Finally, we wish to express our gratitude to Frank & Timme for including our volume in their *Forum für Fachsprachenforschung* series.

Tampere, Turku and San Antonio, September 2017

The editors

Vorwort

Vom 2. bis 3. Mai 2016 wurde an der Universität Tampere (Finnland) eine vier-sprachige internationale Konferenz zur Erforschung von Rechtssprache, Übersetzung juristischer Texte und Gerichtsdolmetschen abgehalten, die den Titel *TransLaw2016 – Translation and Interpreting as a Means of Guaranteeing Equality under Law, Übersetzen und Dolmetschen als Garant der Gleichheit vor Gericht, La traduction et l'interprétation comme moyens pour garantir l'égalité juridique, Перевод как гарант принципа равенства перед законом* trug.

Als Organisatorinnen fungierten Lehrende und Forscherinnen des Masterprogrammes Mehrsprachige Kommunikation und Translationswissenschaft (Moviko) der Universität Tampere, die sich in Lehre und/oder Forschung mit dem Konferenzthema befassen, namentlich Professorin Annikki Liimatainen (Vorsitzende des Organisationskommittees), Universitätslektorinnen Nina Isolahi, Marja Kivilehto und Arja Nurmi, Postdoctoral Researcher Anna Ruusila, Universitätslehrerin Anu Viljanmaa sowie Leena Salmi, Professorin für mehrsprachige Translationswissenschaft an der Universität Turku.

Die Konferenz lockte Teilnehmende aus 23 Ländern nach Tampere. Es gab insgesamt drei Plenarvorträge und 47 Sektionsbeiträge zu hören. Die Plenarvorträge befassten sich mit aktuellen Themen der Translationswissenschaft: Professor *Jaakko Husa* (Universität Lappland) befasste sich in seinem Vortrag mit dem Übersetzen und Interpretieren von Gesetzen und erörterte Wirkungen, die die statische und dynamische Interpretation von Gesetzen auf das Übersetzen ausüben. Professorin Emerita *Ingrid Simonnaes* (Norges Handelshøyskole) stellte ein in Norwegen entwickeltes E-Learning-Modul vor, das darauf abzielt, Übersetzer insbesondere für das Übersetzen von juristischen Texten zu qualifizieren. Professorin *Melissa Wallace* (University of Texas San Antonio), die das Frühjahrssemester 2016 als Fulbright-Professorin im Fachbereich für Sprach-, Translations- und Literaturwissenschaften an der Universität Tampere verbracht hatte, widmete sich in ihrem Beitrag der Umsetzung und Praxis der Autorisierung von amtlich ermächtigten Übersetzern und Gerichtsdolmetschern in Finnland in Bezug auf die Europäische Richtlinie 2010/64/EU über das Recht auf Dolmetschleistungen und Übersetzungen in Strafverfahren.

Die Sektionsbeiträge befassten sich ebenfalls mit äußerst aktuellen Themen. Europaweit ist in letzter Zeit mehrfach über die Verfügbarkeit und Professionalität von Dolmetsch- und Übersetzungsdienstleistungen in den verschiedenen Phasen des Asylprozesses diskutiert worden. Ein weiteres aktuelles Thema war die Sprachenpolitik von mehrsprachigen Gemeinschaften: in welcher Sprache werden Gesetze verfasst, in welcher Sprache wird vor Gericht prozessiert, wird das Recht von Angeklagten, Zeugen und geschädigten Parteien auf professionelle Übersetzung und Verdolmetschung als Garant der Gleichheit vor Gericht z. B. in Hongkong, Irland oder in den Grenzstädten zwischen den Vereinigten Staaten und Mexiko gewahrt oder nicht, und wie sieht es aus mit der Verfügbarkeit von kompetenten Dolmetschdienstleistungen für Gebärdensprachen?

In vielen Vorträgen wurde die Aufmerksamkeit auf die Dauerthemen beim Übersetzen und Dolmetschen von Rechts- und Verwaltungstexten gerichtet: Wie können beispielsweise Termini, feststehende Wortverbindungen und Formeln, die mit der jeweiligen Sprache und dem Rechtssystem eng verflochten sind, in eine andere Sprache übersetzt werden, in der die Termini und Phraseologismen eine mehr oder weniger unterschiedliche Rechtsordnung abbilden. Und wie werden zum Beispiel Texte der EU-Gesetzgebung für die Mitgliedstaaten in die entsprechenden Sprachen übersetzt. Zu den Schwerpunkten der Konferenzvorträge zählten darüber hinaus die Ausbildung, das translatorische Berufsverständnis und die Berufsethik gerichtlicher Dolmetscher, die Autorisierung bzw. amtliche Ermächtigung und die Ausbildung der Urkundenübersetzer in verschiedenen Ländern sowie die Ausbildung zu professionellen Übersetzern im Bereich Rechtstexte.

Die Konferenzteilnehmenden konnten sich nicht nur der Wärme der ersten Maiwoche in Finnland erfreuen, sondern sie hielten die erste in Tampere organisierte Konferenz zur Forschung von Rechtssprache, Übersetzung juristischer Texte und Gerichtsdolmetschen auch sonst in vielerlei Hinsicht für gelungen und das Feedback, das wir von den Teilnehmenden erhalten haben, ist durchaus positiv und anregend ausgefallen.

Ausgewählte Konferenzbeiträge werden in dem vorliegenden Tagungsband veröffentlicht, und die entsprechenden Beiträge werden nach dem Vorwort kurz in Englisch vorgestellt. Das Erscheinen des vorliegenden Bandes wäre ohne die Autorinnen und Autoren nicht möglich. Wir möchten Ihnen allen recht herzlich

dafür danken, dass Sie uns die Vorträge für den Druck zur Verfügung gestellt haben. In diesem Zusammenhang möchten wir uns ebenfalls herzlich bei unseren Peer-Review-Gutachtern, die nicht namentlich genannt werden können, für das motivierende und konstruktive Feedback bedanken, das sie unseren Autoren gegeben haben. Ein aufrichtiges Dankeschön geht auch an unseren Redaktionssekretär, Herrn Henrik Oksanen, der geradezu unerschöpflich an der Edition des Bandes gearbeitet und unsere Arbeitsbelastung somit wesentlich erleichtert hat. Ein besonders herzlicher Dank gebührt der Emil-Öhmann-Stiftung der Finnischen Akademie der Wissenschaften sowie dem Studienprogramm Deutsche Sprache, Kultur und Translation der Universität Tampere, ohne deren finanzielle Unterstützung der vorliegende Band wohl kaum zustande gekommen wäre. Abschließend möchten wir dem Verlag Frank & Timme für seine Bereitschaft danken, den Tagungsband in der Reihe *Forum für Fachsprachen-Forschung* zu publizieren.

Tampere, Turku und San Antonio, September 2017

Die Herausgeberinnen

Préface

Un colloque international sur la traduction et l'interprétation juridique s'est tenu à Tampere, Finlande, les 2 et 3 mai 2016. Il était intitulé, dans les quatre langues utilisées au colloque, *Translation and Interpreting as a Means of Guaranteeing Equality under Law*, *Übersetzen und Dolmetschen als Garant der Gleichheit vor Gericht*, *La traduction et l'interprétation comme moyens pour garantir l'égalité juridique*, *Перевод как гарант принципа равенства перед законом*, ou *TransLaw2016* en court. Cet ouvrage regroupe une partie des interventions sous forme d'articles. Le colloque était organisé par l'UFR de Communication multilingue et traductologie (Moviko) de l'Université de Tampere. Le comité d'organisation comprenait les enseignants-chercheurs Nina Isolauti, Marja Kivilehto, Arja Nurmi, Anna Ruusila et Anu Viljanmaa, ainsi que les professeurs Annikki Liimatainen (présidente) et Leena Salmi (de l'Université de Turku).

Les participants du colloque représentaient 23 pays différents. Le programme contenait trois conférences plénières et 47 présentations. Les conférenciers pléniers ont abordé trois thèmes centraux du domaine. Le professeur *Jaakko Husa* (Université de Laponie) a discuté de la traduction et de l'interprétation du droit et en particulier des effets des interprétations statiques et dynamiques de la loi. La professeure émérite *Ingrid Simonncæs* (Norwegian School of Economics) a présenté un cours en ligne norvégien destiné à qualifier les traducteurs en traduction juridique. La professeure *Melissa Wallace* (Université du Texas San Antonio), après avoir passé le semestre de printemps 2016 comme professeur Fulbright à l'Université de Tampere, a traité des pratiques finlandaises de traduction assermentée et d'interprétation juridique par rapport à la directive 2010/64/UE relative au droit à l'interprétation et à la traduction dans le cadre des procédures pénales.

Les autres présentations ont traité de nombreuses questions d'actualité. Dans toute l'Europe, on discute actuellement de la disponibilité et le degré de professionnalisme des services d'interprétation et de traduction dans le cadre des entretiens avec les demandeurs d'asile et dans le processus de demande d'asile dans sa globalité. Un autre sujet actuel est la politique linguistique des communautés multilingues : dans quelle langue les lois sont rédigées ; quelle est la langue

utilisée au tribunal ; est-ce que l'accusé, les témoins et le plaignant reçoivent une traduction et une interprétation compétentes qui assure la protection de leurs droits, par exemple à Hong Kong, en Irlande ou dans les villes frontalières des États-Unis et du Mexique ; existe-t-il des interprètes de langage des signes qualifiés disponibles ?

Plusieurs présentations ont aussi porté sur les problèmes perpétuels de la traduction et l'interprétation des textes juridiques et administratifs : comment traduire des termes et des expressions figées décrivant un certain système juridique dans une autre langue où les termes et la phraséologie décrivent un système judiciaire complètement différent ; ou comment traduire la législation de l'UE en différentes langues. D'autres thèmes centraux sont : la formation, les rôles professionnels et l'éthique des interprètes judiciaires, les processus des différents pays dans la formation et l'autorisation des traducteurs de traduire des documents officiels, ainsi que la formation des traducteurs en des professionnels de la traduction juridique. La chaleur du début de mai a pu être sentie aussi dans l'ambiance du colloque. C'était le premier colloque dans ce domaine organisé à Tampere et, à en juger par les commentaires enthousiastes, les participants l'ont trouvé très réussi.

Ce volume n'aurait pas vu le jour sans les auteurs qui y ont participé, et nous souhaitons les remercier pour leurs efforts et leur patience. Nous adressons également nos remerciements sincères aux évaluateurs anonymes pour les commentaires constructifs et encourageants qu'ils ont donnés aux auteurs. En outre, nous remercions chaleureusement M. Henrik Oksanen, MA, qui nous a assisté dans ce travail et a pris le soin d'éditer les articles de ce volume, atténuant ainsi considérablement le fardeau des éditeurs. Nous remercions également la Fondation Emil Öhmann de l'Académie finlandaise des sciences et des lettres, ainsi que le programme de formation en langue, culture et traduction allemandes à l'Université de Tampere. Ce volume n'existerait pas sans l'aide financière de ces organismes. Enfin, nous souhaitons exprimer notre gratitude à Frank & Timme pour avoir inclus notre volume dans leur série *Forum für Fachsprachenforschung*.

Tampere, Turku et San Antonio, septembre 2017

Les éditeurs

Thematic foci of the volume

1. Linguistic rights

The three papers grouped under the heading of linguistic rights present different aspects of legal rights in the intersection of two or more legal systems or languages, whether in the context of the European Union or multilingual countries (Ireland and Hong Kong). Two of the papers are written in collaboration with or by legal scholars, which brings the needed multidisciplinary point of view to the field.

Maribel del Pozo Triviño's examination of international, EU and Spanish legislation on the right of gender violence survivors to understand and be understood in the justice system places at the fore the impact of gender violence on migrant women, a decidedly vulnerable population. Her analysis of best practices in improving communication between service providers and victims through qualified interpreters is informed by recent research carried out by the EU co-funded project Speak Out for Support (SOS-VICS).

Noelle Higgins and Dorothy Ni Uigín discuss the issues related to Irish speakers in the Irish courts and how the linguistic rights of the minority language speakers are realized. They address the question of constitutional and legislative protection of the Irish language and describe how the right to an interpreter is guaranteed in Irish courts. They further raise the issue of whether trials carried out entirely in Irish instead of interpreter-mediated English would be feasible as well as needed.

The question of linguistic rights is also approached from a legal point of view in the contribution by *Amy Lai*. She presents the current situation of Hong Kong, where the colonial legal tradition in English, the local legal tradition in Cantonese, and the Mainland Chinese legal tradition in Mandarin are vying for place and prestige in a situation which she argues to be recolonizing. Lai ties current events in Hong Kong to the question of human rights: the imposition of Mainland Chinese legal concepts in Mandarin on Hong Kong and its inhabitants can be seen as a way to undermine the autonomy of the territory.

2. The role of the interpreter

The three papers grouped here discuss the role of the interpreter. The authors present studies exploring the roles interpreters take in legal contexts and the ethical dilemmas that go with them.

Karolina Nartowska examines the actual roles performed by two interpreters in a given criminal court interaction. She subjects audio-recorded and transcribed data from a criminal proceeding in a Polish court and another in an Austrian court to Critical Discourse Analysis, and this way shows how the appointed interpreters are both active and visible participants in the court proceedings, influencing court interaction. In addition, her examples demonstrate how interpreters do not always allow the foreign defendant their right to participate actively in the trial.

Karin Sibul provides in her article an insight into the history of legal interpreting in Estonia during the transition period of 1987–1997. She examines the interpreter's work by showing how interpreters tackled the issue of non-existent legal terminology during the changeover from one legal system to another at a time when available reference sources were scarce. Sibul shows how interpreters, through their groundbreaking terminology work, can contribute to the state's symbolic capital in the sense of Pierre Bourdieu.

Anu Viljanmaa and *Anna Mäntynen* in their contribution directly interrogate potential or perceived gaps between theory and practice in relation to court interpreters' codes of ethics by proposing a series of ethical dilemmas to a sizeable study cohort and then qualitatively examining the reasoning behind the respondents' decision-making processes. As any practitioner knows, at times the canons of a profession's deontological codes can conflict with common sense or users' expectations. Indeed, one canon of a code of ethics can even conflict with another, making the way court interpreters understand codes of ethics and their attitudes towards them particularly worthy of examination.

3. Certification of translators and interpreters

Another vital aspect of quality assurance in legal translation and interpreting is the process of certification. The three papers grouped together here deal with these issues – mainly in the Finnish context, but also making comparisons between systems and showcasing good practices which may be adoptable in other countries.

Leena Salmi and *Marja Kivilehto* present the assessment system in the Finnish Authorised Translator’s Examination. They compare these practices with some other assessment systems used in similar examinations and within the translation industry, and discuss possibilities and opportunities for modifying the Finnish system.

Emilia Lindroos and *Stefan Kirchner* write about the challenges of guaranteeing legal certainty in Finland and Germany. They give a detailed account of the national statutory principles regulating translation and interpretation services provided in criminal proceedings and their potential impact on the quality of translation and interpretation services.

Melissa Wallace describes and discusses the various accreditation mechanisms for authorized translators and court interpreters in Finland. She first presents the system of accrediting authorized translators in Finland and proceeds to look at the different paths interpreters in Finland can follow to be admitted to the newly established national register of court interpreters.

4. Translator and interpreter education

The four papers grouped here discuss training for translators and interpreters. Many have a focus on the ways in which translator and interpreter education can help protect the rights of people who receive translation and interpreting services.

Gerhard Edelmann’s topic is the quality assurance of translation in the education of legal translators. His contribution makes a point for considering legal expertise as an absolute prerequisite for the translation of legal texts which should be taken into account in the education of legal translators.

Iwona Jacewicz describes the special role played by legal translators in the context of rapid technological, economic and social developments as well as the new ways that generations Y and Z think of translation studies, and legal translation in particular. Special attention is paid to new challenges for teaching legal translation, with a particular focus on document translation as well as the information requirements and expectations of the source text and the target text recipients.

In her article, *Agata de Laforcade* presents the study programme “Cross-cultural legal communication”, designed to strengthen the links between lawyers and court interpreters and translators. The aim is to improve the language competences of lawyers to help them work in international and multicultural environments, as well as to advance their collaboration with translators and interpreters.

Ingrid Simonnaes presents a Norwegian online course intended to qualify translators in legal translation in a country where almost no translation training programmes exist. After the more theoretically-oriented discussion of some essential aspects of legal translation, the author turns to the practical side of teaching legal translation. The paper goes on to address the JurDist distance learning programme, focusing on several pertinent details and describing its interdisciplinary approach.

5. Terms and tools

The final section of the volume brings together three papers discussing terms and tools. The questions of legal terminology and the ways terms are created and described in translators’ and interpreters’ reference materials – and in laws, for that matter – are one vital aspect of legal translation. Another major question is the availability of tools for accessing parallel texts both for research, which can provide working translators with solutions, and for the translation process itself.

Linda Dewolf’s paper addresses issues related to the development of driverless cars from the point of view of legal terminology. She discusses the Belgian Highway Code as an example of legislation where terminology related to driving a vehicle needs to be updated to correspond to rapidly evolving new technologies.

Evgeniya Kakzanova's paper focuses on one challenging area of legal language, eponymic terms, i.e. terms referring to a person, place, or thing for whom or for which something is named. Her data comes from two law dictionaries. Qualitative analysis shows that structurally juridical eponyms are represented by one-word terms, compounds and word combinations. All one-word eponymic terms found in the data are international, including particularly toponyms and anthroponyms.

In the final paper of the volume, *Giorgina Cerutti* evaluates corpus tools from the point of view of legal translation. While her particular focus is on researchers' needs, the fourth generation concordancers discussed can also be useful for others interested in corpus-based methods. The author's rigorous analysis is based on the evaluation framework created by the EAGLES project and provides readers with useful information about a selection of concordancers capable of handling parallel corpora.

6. Conclusion

The studies presented in this volume offer valuable new insights into legal translation and interpreting. Many of them focus on equality under law, discussing the ways the linguistic rights of all participants in legal contexts need to be protected in order to ensure fairness. The contributions showcase many different aspects of approaching this goal. The broader themes concern language policies and their impact on legal translation and interpreting, as well as translators' and interpreters' understanding of their own role in the legal and administrative processes in which they participate. In terms of approaching the level of professional competence required, contributors explore the processes and practices of translator and interpreter training, and discuss the certification of translators and interpreters which will not only ensure professional competence but also allow courts and other authorities a means of selecting qualified and competent professionals. Finally, approaches dealing with the more detailed questions of terminological issues in negotiating different legal systems in a changing world and the ways in which we can produce research-based information on legal language show how the necessary foundation of education and quality assurance is built.

1. Linguistic rights

The right of gender violence victims and survivors to quality translation and interpreting according to legislation. The SOS-VICS contribution

Abstract

Violence against women is a type of gender-based discrimination and a violation of human rights suffered by many women all over the world, affecting different groups of women in different ways. Migrant women who do not speak the language of the host country are a particularly vulnerable group due to the cultural and linguistic barriers they face to access justice. In order to guarantee the right of victims to information and justice, *Directive 2012/29/EU, establishing minimum standards on the rights, support and protection of victims of crime* obliges Member State governments to provide means for such victims and survivors to understand and be understood, including the provision of quality translation and interpreting services. This chapter reviews international, EU and Spanish legislation on the right of gender violence victims/survivors to understand and be understood and analyses the best ways to improve communication between service providers and victims through well-trained interpreters, in the light of recent research carried out by the EU co-funded project Speak Out for Support (SOS-VICS).

Keywords: Gender violence legislation, right to translation and interpreting, training interpreters, immigrant women, gender violence victims

1. The phenomenon of violence against women

Violence against women is a phenomenon that affects thousands of women worldwide, as revealed by recent studies, such as *Violence against women: An EU-wide survey* (FRA 2014). According to this report, one in three EU women (33%) has experienced physical and/or sexual violence since the age of 15 years old.

In 2013, the World Health Organisation published the first systematic international review on the prevalence of violence against women. It collected and analysed data from around the world and found that “violence against women is a significant public health problem and a violation of human rights that affects more than one third of all women globally” (WHO 2013: 1). It also concluded that the

prevalence of violence against women is “a global public health problem of epidemic proportions, requiring urgent action” (WHO 2013: 36).

But before going any further, we need to first define “violence against women”. The General Assembly of the United Nations, in its *Declaration on the Elimination of Violence against Women*, signed in 1993, defined this phenomenon as:

any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life (UN 1993: n.p.).

This definition is crucial when understanding the phenomenon because, on the one hand, it highlights that this crime is gender-based, meaning it is perpetrated against women because of their gender, and, on the other hand, it detaches it from the domestic context by stating that violence may occur both in one’s private and public life. It is therefore a public issue and a violation of human rights that has to be addressed by governments and public institutions all over the world (Naredo 2015).

Moreover, paragraph one of article two of the *International Covenant on Civil and Political Rights*¹ reinforces the prohibition of gender-based discrimination even further by establishing that:

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (1966: n.p.).

1.1. Legislation on gender violence

Over the past six decades and after the UN adopted the *Universal Declaration of Human Rights*² on 10 December 1948, many nations have introduced or improved legislation to prevent and respond to violence against women in all its different

¹ Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, with entry into force on 23 March 1976 in accordance with Article 49. <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

² http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf.

forms. Legislation increasingly criminalises violence against women by prosecuting and punishing perpetrators, as well as by empowering and supporting victims and survivors. Thanks to this response, victims today can benefit from civil remedies such as pensions, housing, subsidies, etc., in addition to receiving police and legal protection as well as psychological counselling.

It is not the objective of this chapter to thoroughly review all legislation on gender violence but rather to focus primarily on the most relevant international legal instruments ratified by many nations. Among the instruments worth mentioning are the:

- *Convention on the Elimination of all forms of Discrimination against Women* (CEDAW), United Nations, 18 December 1979;
- *Declaration on the Elimination of Violence against Women*, United Nations, 20 December 1993;
- *Fourth World Conference on Women, (Beijing Declaration)*, United Nations, September 1995.

The Council of Europe is the continent's leading human rights organisation comprised of 47 Member States, 28 of which are members of the European Union. This institution has also created legislation to prevent and combat violence against women, one of the most important instruments being the *Convention on Preventing and Combating Violence against Women and Domestic Violence* (known as the *Istanbul Convention*), signed on 12 April 2011, and ratified by many nations³ (Council of Europe 2011).

The European Union has no specific legislation on violence against women, but there is an important legal instrument; namely, *Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime* (hereinafter referred to as the *Victims' Directive*), which places special emphasis on victims of gender-based violence.

³ The current state of signatures and ratifications can be checked here: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210/signatures?p_auth=vkxjrj5M.

Spain made a critical contribution 12 years ago towards the fight against gender violence by introducing the most advanced law in Europe at the time on violence against women, namely *Basic Law 1/2004 on Comprehensive Protection Measures to Combat Violence against Women* (Spain 2004). The law set out to define not just the personal or domestic nature of the issue but also the political and social one and has therefore established a number of rights including the setting up of specialised police units and courts as well as budgets to protect victims and train workers in the field.

However, despite efforts to prevent and fight violence against women, nations throughout the world are still failing to live up to their international obligations and commitments due to significant gaps in legal frameworks. For instance, too many perpetrators are not held accountable, impunity persists, women continue to be re-victimised throughout the legal process, etc., as stated in the Amnesty International 2016/17 report on human rights:

Women and girls were frequently subjected to discrimination, marginalization and abuse often because of cultural traditions and norms, and discrimination institutionalized by unjust laws (2017: 22).

As human rights organisations acknowledge, besides gender inequality, there are other factors that increase discrimination against women such as race, ethnicity, sexual identity, social status, class, age, and language. These factors impose restrictions on women, increase their vulnerability to violence and make it harder for them to improve their situation and obtain justice. Migrant women, who have to overcome significant language and cultural barriers, are one of the most vulnerable groups (Toledano et al. 2015). Furthermore, one of the most outstanding gaps in current legislation is a lack of due attention to these most vulnerable women (Amnesty International 2007; DGVG 2015; Naredo 2015).

1.2. The impact of gender violence on migrant women

Several national and international organisations (Amnesty International 2007, 2017; Committee on the Elimination of Discrimination against Women 2012, 2014; DGVG 2015) have warned that the prevalence of gender violence is higher among foreign and/or immigrant women since they usually have additional

hurdles that prevent them from seeking assistance to escape gender violence. These can be social isolation, dependence on their aggressor, cultural and religious beliefs that discourage challenging male authority and, in many cases, illegal status in the host country, among others (Abril 2015; Del Pozo in press; Toledano et al. 2015).

In Spain, according to the 2015 Survey on Violence Against Women conducted by the Spanish Government's Office for Gender Violence (DGVG 2015), about 2.5 million women have, at some time in their lives, suffered gender-based violence. The scenario worsens in migrant women where the report states that "women born abroad suffer physical and/or sexual violence and/or fear of a (current/former) partner to a greater extent (27.7%) than those born in Spain (14%), the differences being statistically significant" (DGVG 2015: 349).

2. Linguistic rights as essential to access justice

2.1. International legislation

As mentioned above, international human rights legislation urges nations to tackle gender-based discrimination, acknowledging that migrant women are an especially vulnerable group, compelling governments to take measures to minimise obstacles faced when accessing justice (Naredo 2015: 38). The *Beijing Declaration* of 1995 (strategic objective D.1.b) likewise establishes that when taking measures to prevent and eliminate violence against women, one should "establish linguistically and culturally accessible services for migrant women and girls, including women migrant workers, who are victims of gender-based violence" (UN 1995: n.p.). However, the reality is that many resources allocated for such victims do not reach them because they are often in a language they cannot understand and because they have not been culturally adapted (Fernandes del Pozo 2014).

Another crucial measure to facilitate the right of victims to understand and be understood is the provision of free translation and interpretation as recognised on