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TRANSLATING THE ENGLISH CONSTITUTIONAL DISCOURSE INTO SPANISH: THE CASE OF AN ILLEGAL PROROGATION OF PARLIAMENT

Abstract

The Brexit process has posed serious legal tests involving the relationship between the legislature, executive and judicature in a country with no written constitution, but with a solid constitutional tradition. With the aid of comparative law tenets, this study aims to provide useful pointers for translators and ESP practitioners to understand English constitutional discourse and its translation into Spanish, using as a corpus a fundamental ruling by the Supreme Court of England and Wales against the Prime Minister Boris Johnson's unconstitutional conduct. A macrostructural analysis of the ruling delving into some of its rhetorical nuances and their rendering into Spanish are followed by some lexical considerations around the topicality of the text. Subsequent conceptual and terminological challenges are unveiled having to do with semantic lacks of fit between the Spanish and English legal discourses, involving two problem areas: institutions and functions, and terms with a constitutional root.

Key words

legal translation, legal discourse, constitutional discourse, English constitution judicial discourse, judicial translation.

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1. INTRODUCTION

The Brexit process has proved to be a terrain of legal fuzziness for Britain, which, unlike its continental neighbours, lacks a written Constitution. Two judicial decisions brought to the Supreme Court of England and Wales have proved to be a legal *tour de force* unveiling the peculiarities of the country's constitutional system (Elliott, 2020; Elliott, Young, & Williams, 2018). The aim of the present work is to carry out a translatological approach to the most recent of these two judgments,[1] which puts to the test the major constitutional foundations of Britain, i.e. the concepts of 'Parliamentary sovereignty' and 'prerogative power' (Stanton & Prescott, 2020). Technically, the ruling is called *R (on the application of Miller) (Appellant) v The Prime Minister (Respondent) Cherry and others (Respondents) v Advocate General for Scotland (Appellant) (Scotland)*, but is more popularly known as R (Miller) v Prime Minister (2019),[2] henceforth referred to as R v PM. The ruling is the response to Boris Johnson's controversial measure to prorogue Parliament just one week before the day set for leaving the EU with or without agreement. The Supreme Court, as the highest judicial instance in the United Kingdom, unanimously decided to declare the prorogation of Parliament null and void, holding that Johnson had requested the Queen to order such prorogation in order to carry out his own political agenda.

Our goal in the present paper is to describe the constitutional peculiarities and the configuration of its legal concepts some of them alien to continental legal discourse (Orts, 2015), and the consequences these might have for legal translators. Although the textual typology of English judicial decisions and their translation into Spanish is an interesting field of study that has been undertaken by some authors (Orts Llopis, 2016, 2017; Ruiz Moneva, 2013), ours is an analysis exclusively at the macrostructural and lexical levels, which may help to consider some peculiar constructs on which the ruling is based. After a theoretical framework, we aim to provide and comment on a series of translatological solutions to the challenges that arise in the text for the benefit of professionals who deal with the comprehension and translation of the judicial texts emanating from the ever-changing Anglo-Saxon constitutional life.

[1] The first was *Miller v Secretary of State for Exiting the European Union*, the Supreme Court's 2017 ruling that the government could not trigger Article 50 to begin the Brexit process without first seeking parliament's consent. Available at https://www.supremecourt.uk/cases/docs/uksc-2016-0196-judgment.pdf

[2] Available at https://www.supremecourt.uk/cases/uksc-2019-0192.html/

2. THEORETICAL FRAMEWORK

2.1. A singular constitutional life

The relationship between comparative law and legal translation is a symbiotic one, and the approach taken by the present work never loses sight of this fact. As Engberg (2020a: 264) remarks, both disciplines are involved in the understanding of legal systems in the face of their legal conceptualizations, but whereas comparatists search for differences and concomitances in the ways in which law is organized between systems, translators seek to enable inter-systemic communication of legal concepts for different recipients, searching for multidimensional techniques that rely on the gnoseological perspective adopted. However, as Soriano Barabino (2016) emphasizes, comparative law can enhance translators' documentation and thematic competence only operatively, and not theoretically, since building a bridge between two systems implies assessing terminological differences and lacks of fit between concepts or realities; this is relevant here, we may add, because legal systems which share the same language and tradition, such as the common law of England and Wales and the US, have very different perspectives when approaching constitutional matters, the former, as we shall see, boasting peculiarities unlike the rest of European countries and the US itself, with formal Constitutions. Indeed, when analyzing an English constitutionalist text such as the one under study, the most striking fact to continental eyes is that the United Kingdom has no written Constitution. However, and incongruously for those who approach it from the European civil practice, it was the English who designed constitutionalism to curb political power (Cancela Outeda, 2001: 47) ever since the Anglo-Saxon barons stood up to John the Landless and drafted the Magna Carta in 1215 to defend their rights. Moreover, the United Kingdom has a great constitutionalist tradition, underpinned and glossed upon by philosophers and legal academics such as Dicey (1959 as cited in Escribano Úbeda-Portugués, 2011: 86) or Bentham (as cited in Galligan, 2014). The argument used by Anglo-Saxon jurists to defend the existence of their Constitution is that, if uncodified, it consists of a series of texts of a clearly constitutional nature (Escribano Úbeda-Portugués, 2011: 85) among which are mixed historical documents from the Magna Carta itself to the Human Rights Act 1998 (Strong, Fach, & Carballo, 2016: 271), as well as immemorial customs and political and institutional arrangements within the British political system. The ruling under study defends the existence of a Constitution with an unrooted, unstable character, paradoxically making it particularly malleable and adaptable to the times.[3] In any case, the inductive and empiricist inspiration that permeates English jurisprudence (Orts, 2015) means that there are no distinct branches for public and private law,

[3] R v PM, section 39, p. 15.

as it happens in the continental tradition. Anglo-Saxon law is concerned with the solution of concrete issues with no ambition of all-inclusiveness (Hoffman, 1998: 196), a very different approach from the technical and rationalistic systematization through branches and codes characterizing the Roman-Germanic system. Specifically, and according to the classification made by Dicey (1959 as cited in Escribano Úbeda-Portugués, 2011: 85-86), English constitutional sources can be divided into legal (written and unwritten) and non-legal. Written constitutional law is parliamentary or statute law, composed of the Acts passed by Westminster, which are not formally distinguished from other laws, but which are qualified as "constitutional" on account of their content. Through such laws, the Constitution has been subject to several reform processes, of which the Constitutional Reform Act of 2005 – which created the Supreme Court of the United Kingdom to replace the House of Lords as the highest judicial instance – is notable for its relevance (Alcaraz Varó, 2007: 3). Unwritten is Common Law, elaborated by the highest judiciary instances of the United Kingdom: The Supreme Court, the Court of Appeal, and the High Court (the latter vertebrated through three Divisional Courts: Chancery, Family, and Queen's Bench) and mainly departs from judicial precedents (Bombillar Sáenz, 2011: 153). The primacy of one source (statutes) over another (judicial cases) is not a fully resolved issue, and again it is paradoxical in continental eyes. In principle, Acts enacted by Parliament can modify any judicial decision, but the doctrine of precedent or *stare decisis* establishes case law as the first source of English law, so that statutes are considered to have completed their cycle only when their provisions are ratified by a series of precedents. Moreover, English judges do not aspire solely to resolve individual cases, but to universally establish axioms or principles solidifying their decisions as precedents, ultimately enshrined as part of the constitutional law of the United Kingdom (Cross & Harris, 1991: 4-6). Finally, constitutional conventions – non-legal sources, according to Bombillar Sáenz (2011: 148) – if also unwritten, have a fundamental role in the English constitutional system as regulators of the relations between the system itself and the exercise of power (Wilson, 2004). They are not enforceable by the courts since they are not laws, yet the system validates them by making them implicitly binding (Stanton & Prescott, 2020: 26). The consequences of any of its parties (the Monarch included) violating them would lead to a serious legal and political crisis, since they are "norms of constitutional morality" (Stanton & Prescott, 2020: 26).

The premise of this paper is that the peculiarity of concepts and institutions affects the way constitutional texts are conceived of in English and their translation process. It entails that there are difficulties in transferring meanings between systems, and implies that the translator must have certain notions of comparative law and/or use out the appropriate rigor and documentation when searching for functional or formal equivalents, transcriptions or glosses, to provide a solution to the large number of conceptual gaps that such dissimilar institutions and notions generate (Engberg, 2020a; Mattila, 2013; Soriano Barabino, 2016).

2.2. Judicial style in English and Spanish: A review

We have indicated that the cultural mechanisms operating in the Anglo-Saxon constitutional system spring from ancestral texts and customs, inductively approached to provide a solution to actual constitutional problems (Cancela Outeda, 2001: 156), rather than deriving from a previous holistic and all-embracing codification. Such an approach is very different from the rigidity that distinguishes the continental constitutional culture (Orts, 2015). In the following paragraphs we will try to comment on these singularities, first discussing the rhetorical features that distinguish judicial decisions in either system and discourse, and then pointing out some of the translation techniques suggested by experts to tackle 'anisomorphisms' (Alcaraz Varó, 2009), i.e. conceptual or semantic asymmetries, in the absence of 'pure' equivalents between legal systems (Cao, 2007; Šarčević, 1997).

The primary role of judgments in English law, and their strongly normative character have been mentioned: a fundamental premise of the common law is that, when judges adjudicate, they are also creating law (Cross & Harris, 1991: 4-8). In addition, the fundamental difference between the continental and common law families is, precisely, that in the former judges are not obliged to follow the dictates of previous court decisions, but in the latter they are. Consequently, and as we have already demonstrated in other works (Orts Llopis, 2016, 2017), there are very characteristic features in English judicial decisions that differentiate them from their Spanish counterparts. Their dissimilar textual and rhetorical conformation attest to this difference, by reflecting the divergent way in which case law is envisioned and verbalized in each of these systems and the role it plays in those.

Judgments from the Spanish Supreme Court follow a general scheme: a predictable, rigid macrostructure, replicated in all instances of the genre with a heading (*preámbulo*), an account of the facts of the case (*antecedentes de hecho*), the legal grounds for discussion (*fundamentos de derecho*), and the ruling (*fallo*) (Orts Llopis, 2017). Their role is clearly less cardinal than judgments in common law, and they reflect the administrative, bureaucratic machinery of the Spanish administration. Consequently, they exhibit a stereotypical and impersonal type of discourse that, through the use of the passive voice and/or the third person, and the deployment of nominalization, offers an impression of great neutrality: it is the court, and not the judge, who addresses the reader (Orts Llopis, 2017: 227-228). This factor, the distance created between the sender (the court, the panel of judges) and the receiver, produces a typically unfriendly text for the non-specialized reader (Alcaraz Varó & Hughes, 2002: 117).

English Supreme Court decisions, on the contrary, are mainly the voice of a reporting judge (the *rapporteur*), whose opinion is followed by the arguments of the rest of the judges in the panel (Orts Llopis, 2016: 78), or, as in the case at hand, the consolidated and coherent version of the whole court, in the single voice of

such leading judge. The prevalence of argumentation over the account of the case means that judicial texts are written in the first person – that of the judge or panel of judges, and in a rather personal style, which, as Alcaraz Varó and Hughes state (2002: 114), is often brimming with verbal wit, sarcasm and irony, and conveyed through metaphor, paradox and antithesis. This judicial reasoning deals with issues of great importance, not only from the point of view of case law, but with those of a sociological and institutional stature, in the context of a system in which, as we pointed out, what judges have to say constitutes the law. Paradoxically, however, English judicial decisions, insofar as they are the reasoned opinions of the judge or judges in the panel, constitute a different instance of legal discourse, unlike that of Anglo-Saxon legislative drafting, which is much more overloaded and rigid. Thus, judicial texts have a more relaxed and colloquial style than orthodox legal discourse (Alcaraz Varó & Hughes, 2002: 120) and, as we will try to illustrate below, are susceptible to being slightly modulated in translation, so that they acquire the more formal register of their continental counterparts.

From the point of view of rhetoric, the personal style of Anglo-Saxon judges shows the occasional tendency to colloquialism and the use of invective, or verbal games, which, if not the focus of our present study, are very present in the ruling under analysis and have been studied elsewhere (Orts, in press), as examples of ontological metaphors of the law. According to Alcaraz Varó and Hughes (2002: 116), judicial metaphors are "designed to temper the severity of the law, to make the opinion sound more humane and to create the impression of reader-friendliness suited to the democratic style of our times". This peculiar mood and style is very different from the Spanish judicial mode, which is more contained and formulaic, and if English conceptual or lexical matters should never result into cultural assimilation disguising the peculiarities of English constitutionalism, rhetorical excesses in the original might be marginally tempered to make it more readable in the target register. On the lexical level, the translatological techniques for dealing with the variances between diverse systems have been amply studied by legal translation theorists (Borja Albi, 2000; De Groot, 1991; Harvey, 2000; Martín Ruano, 2009; Mayoral Asensio, 2004; Orts, 2012; Šarčević, 1997; Weston, 1991, for example). The major hindrance between legal English and legal Spanish, the absence of pure equivalents, must be overcome by the translator using a series of remedies. Functional equivalence is the preferred technique by most authors, and yet it is not without its dangers. It is easy and straightforward to translate 'Supreme Court' as *Tribunal Supremo*, although very often there is no perfect semantic fit between the two systems, and only 'approximate (functional) equivalence' is possible (De Groot, 1991: 288). For example, one might translate the figure of the 'Lord Chief Justice' as *Ministro de Justicia*, since both have similar job descriptions. Formal equivalence, in turn, usually a product of calque and neological coinage – also called 'word-for-word translation' (Weston, 1991: 24), occurs, for example, when translating as *orden del Consejo* the figure 'order in Council', which, in our opinion, would be better transferred by adding a gloss to its

approximate equivalence: *la/una disposición legislativa/decreto ley (que emana del Privy Council)*, i.e. "the/a legislative provision/law decree (emanating from the Privy Council)". However, word-for-word translation is usually the one best understood by jurists, as it facilitates the identification of the original concept through re-translation (Holl, 2012: 10). Still, it defies the alleged purpose of legal translators, whose function is transferring concepts from one system into another (Šarčević, 1997: 13). Less advisable, according to some authors, is the transcription of the term, which is equivalent to borrowing or importing the xenism, as it is the case of the English 'Divisional Courts', whose translation is avoided in most cases, since it is a phenomenon intrinsically indigenous to English law. Finally, glossing or paraphrasing are used when the absent equivalent is substituted with a brief explanation of the term, such as translating Divisional Court as *Salas del* High Court of Justice ('Chambers of the High Court of Justice'), although the term *sala* ('chamber') is far from being a perfect equivalent of 'division'. As we shall see, although glosses may prove to be too long, overburdening the final product with cumbersome explanations, they may constitute a path towards approximate equivalence, and, hence, rigor. Thus, according to De Groot (1991: 298), transcriptions, as well as formal equivalents, may be accompanied by an explanatory paraphrase, so that the receiver of the translation is left in no doubt that the term is a foreign phenomenon to the target legal culture.

None of these solutions is perfect, Borja Albi (2007: 32) states, favoring an eclectic perspective depending on whether the recipients are lay or specialized readers, plus the function and subject-matter of the text itself. In this line, other authors (Harvey, 2000; Holl, 2012: 14; Martín Ruano, 2009; Mayoral Asensio, 2004,) advocate the mixed techniques between the purpose of the text and who it is intended for. On the other hand, and as we pointed out, the search for functional equivalence is preferred by many legal translators as the most natural solution, since it does not obstruct the understanding of the target text, but is not the favorite of comparative jurists, who advocate for transcription and/or formal equivalence, followed by an intratextual gloss.

The solutions we will propose here will always be directed to both the specialized legal reader seeking to know what English constitutionalism has to say about parliamentary sovereignty and political power, but also for the educated lay reader eager to learn about the tricky twists and turns of one of the most famous and controversial 'Brexit judgments'. This duality of ideal receivers sometimes involves making trade-offs between transcription (as a solution for jurists who wish to know the contents of this judgment without losing the 'flavor' of the phenomena belonging to another law), and paraphrasing or searching for functional solutions (for those readers who are interested in knowing about the story and do not wish to encounter too many difficulties when reading the translation).

3. TRANSLATOLOGICAL ANALYSIS

In the absence of a continental-style Constitutional Court, the Supreme Court of the United Kingdom is ultimately responsible for interpreting the legal system as a whole and deals, in a generic way, with what it calls 'points of law', or legal problems of special interest in the system. In order to find out what these points of law are we intend to make a series of observations on its macrostructure, in order to comment on how the ruling is organized from a textual and conceptual point of view. Afterwards, glossing on the lexical aspects of the text will point to several challenges when translating into Spanish. For reference, a 'traditional' legal dictionary from and to both languages has been used, that by Alcaraz Varó and Hughes (2007), as well as other legal reference sources, such as Termium Plus, UNTERM and IATE, in addition to the English Parliament Glossary. Other, more indirect, sources are the authors we have already mentioned in the contextualization of this study, specialists in international constitutional law (Bombillar Sáenz, 2011; Escribano Úbeda-Portugués, 2011; Strong et al., 2016).

3.1. The macrostructure of R v PM and its translatability

R v PM consists of twenty-four pages printed on official Supreme Court paper, organized into 72 numbered paragraphs, in turn grouped under italicized headings that constitute questions to which the court offers an answer. Generally, this division and numbering of the paragraphs from the beginning of the text serves as an intratextual reference for the judges to quote each other and present their respective arguments in a sort of dialogue (Orts Llopis, 2017: 231). However, as we anticipated in previous sections, this is not the case in the sentence we analyze, in which, through Sandra Hale, the reporting judge, the unanimous opinion of the court is given voice in the first-person plural (we), which is self-designated as this court. Occasionally, the presence of that first-person plural could be mitigated in Spanish with the reflexive passive construction, so that it is plausible to the Spanish legal specialist. The way in which judges address themselves along the process is one of the rhetorical traits that mark how judicial decisions in English and Spanish are macrostructurally organized. As an example:

1. **This Court** heard the appeals in Cherry and in Miller over 17th to 19th September. In addition to the written and oral submissions of the principal parties, **we** had written and oral submissions […] (***Este tribunal*** *atendió los recursos de Cherry y Miller del 17 al 19 de septiembre. Además de los informes escritos y orales de las partes principales,* ***se presentaron*** *alegaciones escritas y orales*).

2. It follows that Parliament has not been prorogued and that **this court** should make declarations to that effect. **We** have been told by counsel for the Prime Minister that he will […]. (*De ello se desprende que el Parlamento no se ha suspendido y que*

este tribunal *debe manifestarse en ese sentido.* ***Se nos ha*** *comunicado por parte del abogado del Primer Ministro que él […]*)

Table 1 sets out the textual disposition of R v PM according to its headings.

PARAGRAPH	TITLE
1	Ø
2-6	What is prorogation?
7-14	The run-up to this prorogation
15-22	This prorogation
23-27	These proceedings
28-51	Is the question of whether the Prime Minister's advice to the Queen was lawful justiciable in a court of law?
52	Conclusions on justiciability
53-54	The alternative ground of challenge
55-62	Was the advice lawful?
63-72	Remedy

Table 1. Macrostructure of R v PM

The introduction to the judgment being untitled, the first of the questions raised for translation is the modulation of the interrogative sentences in 2-6, 28-51 and 55-62. As Vázquez-Ayora (1977: 303) points out, the formality of legal texts in Spanish precludes the use of direct interrogative sentences in favor of indirect interrogations (in 2-6, 28-51) or nominalizations (in 55-62). Here are some of our translation proposals and comments:

3. (2-6) *Qué ha de entenderse por* ***suspensión***

Paragraphs 2-6 set out what, from a legal point of view, is to be understood by 'prorogation' (in Spanish, *suspensión*). In a smoothly pedagogical tone, the judges distinguish such figure from other similar ones, such as 'dissolution' of Parliament (*disolución*, which is not, like prorogation, a 'prerogative power', or *prerrogativa*), and 'Parliamentary recess' (*vacaciones parlamentarias*), which does not imply the interruption of parliamentary activity.

4. (7-14) *Camino a la* ***suspensión***

Under the heading 'The run-up to this prorogation', paragraphs 7-14, the judgment sets out the factual background in detail, from the referendum that took place on 23 June 2016, to Boris Johnson's decision to 'advise' – an English constitutional euphemism which we shall hereafter translate as *pedir* ('request') – in tune with its constitutional meaning (De Smith & Brazier, 1998), since such an

utterance is, actually, a petition that binds the monarch to acquiesce – and not *aconsejar* ('recommend'), Queen Elizabeth II to prorogue Parliament. Advice is, hence, considered a euphemism, since Johnson is petitioning the Crown, who constitutionally has little room not to give Her consent.

5. (15-22) *En lo relativo a esta* ***suspensión***

Paragraphs 15-22 present the political fluctuations since the referendum itself until the election of the current Prime Minister, to move on to address the actual prorogation decreed on 28 August 2019 by an Order in Council, a legislative provision enacted by the Queen and the Privy Council, the translation of which will be glossed upon in the next section of this paper. Then, the main part of the judgment – more complex than the previous ones – unfolds from paragraph 23 onwards, and consists of the analysis of the legal issue (*causa*) on which the judges base their final decision:

6. (23-27) *En lo relativo a esta* ***causa***[4]

The first of these issues is posed in paragraphs 28-51, in the following terms: "Is the question of whether the Prime Minister's advice to the Queen was lawful justiciable in a court of law?", which we translate again as an indirect interrogative, where the double qualification underlined above we tackle through a complex double phrase, as follows:

7. (28-51) ***De la licitud*** *y de la* ***petición*** *del Primer Ministro a la Reina, y* ***de si esta es enjuiciable*** *en un tribunal*

That of the justiciability of the Premier's request to the Queen is a momentous issue at the heart of the constitutional controversy in the judgment, and one which the court thus resolves by exonerating the Crown from responsibility for suspending Parliament and placing that responsibility on Johnson in 52:

8. (52) *Conclusiones en torno a la posibilidad de enjuiciamiento*

Subsequently, the judgment identifies the resolution of the case in paragraphs 52 to 63, where one of the basic principles of the British constitutional system is developed: that of the sovereignty of Parliament, which we discussed in the previous section. We translate the headings as follows, noting that (55-62)

[4] Proceedings is translated here as *causa* and not *proceso* to distinguish it as the part of the whole *acto procesal* which constitutes the narrative, or storytelling, of the process. (Source: Diccionario Panhispánico de dudas, available at https://dpej.rae.es/lema/acto-procesal).

turns the British interrogative, as we remarked above, into a nominalization (*licitud*, 'lawfulness'), more adequate to the sober Spanish style:

9. (53-54) *El otro motivo de recurso*

10. (55-62) ***Licitud*** *de la petición*

Finally, and under the heading 'remedy', or *solución jurídica* in Spanish, the court justifies its decision and provides the judgment's ruling – in the last paragraph of the judgment, paragraph 72 – and does so in a cursory manner, as is customary in English judicial style, turning pure passives into 'reflex' passives in Spanish (Orts Llopis, 2017: 232):

11. (63-72) Thus, the Advocate General's appeal in the case of Cherry **is dismissed** and Mrs Miller's appeal **is allowed**. The same declarations and orders **should be made** in each case. (*Por lo tanto**, se desestima** el recurso del Abogado General en la causa de Cherry y **se admite** el recurso de la Sra. Miller. En ambas causas **deben cumplirse** las mismas discreciones y disposiciones*).

In order to maintain the authenticity of the Anglo-Saxon constitutional argumentation, and with some rhetorical changes, we advocate to preserve the peculiar macrostructure of this particular judicial decision, regardless the – much more rigid – formal and functional structure of judgments in Spanish. As we suggested in the previous sections, changes in rhetoric include the decision to maintain a more detached, monogloss, tone in the translation than in the – more interpersonal – original by favoring deontic over epistemic expressions, nominalizations over noun+verb structures and substituting first person declinations with reflex passives. These changes are in line with the higher impersonality of the Spanish civil-law nonadversarial system, as compared to the common-law adversarial and quite heterogloss style (Orts Llopis, 2016). However, as we also emphasized above, and following Glanert (2014), when we provide our translatological solutions regarding concepts and institutions, we will – more often than not – try not to fall into the trap of cultural assimilation into the target language, but will attempt to respect the cultural and linguistic particularities of the original text. Even if a feeling of strangeness or alienation pervades in the use, for example, of transcriptions or glosses, our goal will be (unless there is a possible functional or formal equivalent) not to hide the specificity of the English constitutional order and its peculiar institutions.

3.2. The constitutional lexicon of R v PM: Translatological analysis

The purpose of our lexical study was to select a series of words with the highest keyness in the text, in order to carry out a scrutiny of the topicality in the Supreme

Court ruling against Johnson. For such an analysis we chose the AntLab provided by AntConc (v. 3.5.9) (Anthony, 2020), a free concordance and text analysis toolkit allowing to obtain a collection of lists of words, their frequencies and the ways in which they are associated in order of concordances, collocations or n-grams. AntConc makes it possible to obtain not only an abstract inventory of the most frequent words in the text, but also, after loading a reference corpus (in this case, the British National Corpus, or BNC, also extracted from the AntLab toolkit), it detects the key words, or those that are unusually frequent, compared to the words in BNC. We also included a list of stopwords, to erase from our resulting list those words with grammatical meaning and lacking lexical meaning, as well as a list of lemmas to collate the different inflections adopted for the same lemma.

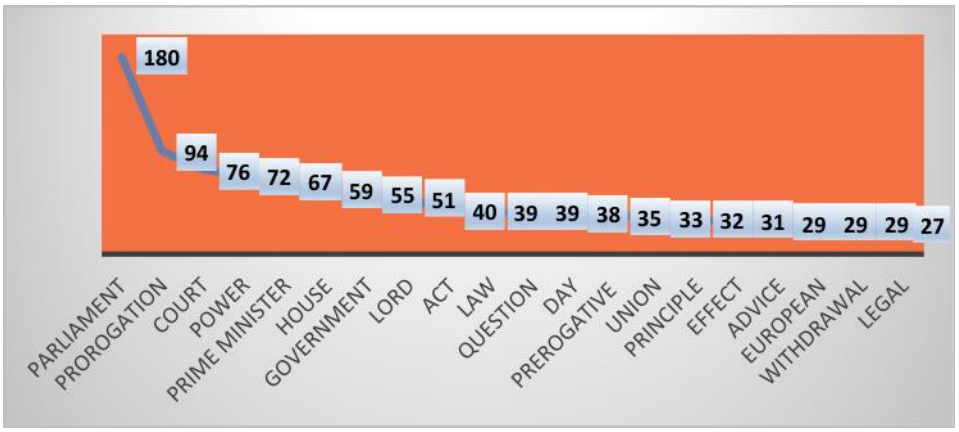

Figure 1. Key words and their frequencies in R v PM

Figure 1 displays the most prominent words in the text and shows 'Parliament' (*Parlamento*) as the one highest in keyness, followed by 'prorogation' (*suspensión*), 'court' (*tribunal*), 'power' (*poder*), 'Prime Minister' (*primer ministro*) and 'House' (*Cámara*), followed by 'Government' (*gobierno*), 'Lord' (*Lord*), 'Act' (*ley*), 'law' (*derecho*), and 'question' (*cuestión*). Other relevant words are 'prerogative' (*potestad*, *prerrogativa*), 'principle' (*principio*) and 'advice' (*petición*). The last terms in the list are 'withdrawal' (*retirada*) and 'legal' (*jurídico*).

From this lexical selection we can infer the story that the judgment wants to tell: that Parliament and its prorogation are the main subjects of the judgment, where the Supreme Court, 'the court', has to assess the main legal question, based on English constitutional principles, whether the Prime Minister (and, therefore, the Government) exceeded their powers by requesting that the Crown use the prerogative – exclusive to the Crown – to suspend the activity of Parliament, and what the role of the House of Commons is in the dilemma of the withdrawal of the United Kingdom from the European Union.

From this lexical selection and its concordances and n-grams we undertook a contextual study of these keywords leading us to carry out a further classification depicting some translatological challenges posed in the text, as shown in Table 2:

INSTITUTIONS AND FUNCTIONS (19)	TERMS WITH A CONSTITUTIONAL HUE (10)
backbench MPs	accountability
Cabinet Secretary	advice/ministerial advice
Chief Whip	Crown in Parliament
Commissioners	dissolution
Court of Sessions	Order in Council
Counsel General for Wales	prerogative power/overriding power
Divisional Court	prorogation
Leader of the House of Commons/Lords	recess
Lord Advocate	Royal Assent
Lord Chancellor	statutory responsibility/power/rule
Lord Chief Justice	
Lord Ordinary	
Master of the Rolls	
Ministers	
Privy Council	
Queen's Bench Division	
Queen's Speech	
Shadow Attorney General	
Treasury Solicitor	

Table 2. Lexical-translational peculiarities of R v PM

As we can see in the table, the most peculiar or challenging terms of the judgment (in our opinion) have been divided into two types: "institutions and functions" (the different organs of the system involved in the process, whereby we have selected 19 terms), and "terms with a constitutional hue" – those that arise from the English constitutional mechanism itself, which amount to 10 in our selection. There would be a third category, that of purely legal terms, i.e. those that belong to the lexical use of the discourse of the English system itself, such as 'bill' (*proyecto de ley*), 'delegated legislation' (*legislación delegada*), 'Act of Parliament' (*ley parlamentaria*), 'appeal' (*recurso*), 'dictum' (*pronunciamiento*, a judge's opinion in a judgment) or 'interdict' (*prohibición*). Because they are commonplace terms and do not play a prominent role in the area under discussion here (constitutional issues in translation), we have purposefully left them out of our discussion.

Table 3 shows the way in which the translation of the first group, institutions and functions present in R v PM, has been undertaken. It includes the original term, the translation solution with the chosen strategy or strategies, the source to which we have resorted and, finally, an example taken from the text, with its translation:

INSTITUTION/FUNCTIONS	TRANSLATION	SOURCE	EXAMPLE
backbench MPs	*Diputado sin cargo oficial* (gloss)	Collins Dictionary, in: https://www.collinsdictionary.com/es/diccionario/ingles-espanol/backbencher	"[...] prompted [...] by some **backbench MPs**." *[...] impulsado [...] por algunos **diputados sin cargo oficial**.*
Cabinet Secretary	*Secretario del Gabinete* (formal equivalent)	UNTERM, in: https://unterm.un.org/unterm/search?urlQuery=Cabinet%20secretary	"[...] and copied to seven other people, including Sir Mark Sedwill, **Cabinet Secretary**" *[...] con copia a otras siete personas, incluyendo a Sir Mark Sedwill, **Secretario del Gabinete**.*
Chief Whip	*Chief Whip/ Jefe del grupo parlamentario* (transcription/gloss)	IATE, in: https://iate.europa.eu/search/standard/result/1593772155539/1	"Draft remarks [...] (approved by the **Chief Whip**) were annexed." *Se anexaron notas al borrador [...] (aprobado por el **Chief Whip/Jefe del grupo parlamentario**).*
Commissioners	*Miembros de la Comisión* (approximate equivalent)	IATE, in: https://iate.europa.eu/search/standard/result/1620716272117/1	"On the day chosen for the prorogation, the **Commissioners** enter the House of Lords." *El día designado para la suspensión, **los miembros de la Comisión** entran en la Cámara de los Lores.*
Counsel General for Wales	*Letrado General de Gales* (formal equivalent)	Our own translation based upon Alcaraz Varó & Hughes (2007: 173).	"[...] we had written and oral submissions from [...] the **Counsel General for Wales**." *[...] recibimos alegaciones escritas y orales del [...] **Letrado General de Gales**.*
Court of Session	*Court of Session/ Tribunal Superior de Justicia de Escocia* (transcription/ gloss)	Alcaraz Varó & Hughes (2007: 176).	"[...] the House of Lords [...] had launched a petition in the **Court of Session** in Scotland." *[...] la Cámara de los Lores [...]había presentado un petitorio al **Court of Session** de Escocia.*
Divisional Court	*Divisional Courts/ Salas del High Court* (transcription/ gloss)	Alcaraz Varó & Hughes (2007: 219)	"Those proceedings were heard by a **Divisional Court**." *Aquella causa fue conocida por una **Sala del High Court**.*
Leader of the House of Commons/Lords	*Líder de la Cámara de los Comunes/Lores* (formal equivalent)	Alcaraz Varó & Hughes (2007: 348)	"Baroness Evans of Bowes Park, **Leader of the House of Lords**, [...]." *La Baronesa Evans de Bowes Park, **líder de la Cámara de los Lores** [...]*

Lord Advocate	*Lord Advocate/Fiscal General (del Estado) para Escocia* (transcription/ gloss)	IATE, in: https://iate.europa.eu/search/standard/result/1593787267565/1	"In addition […] we had written and oral submissions from the **Lord Advocate**, for the Scottish Government." *Además, […] recibimos alegaciones escritas y orales del **Fiscal General**, en nombre del Gobierno escocés.*
Lord Chancellor	*Lord Chancellor* (transcription)	Díaz Rico (2021: 38)	"The **Lord Chancellor** prepares a commission under the great seal […]" *El **Lord Chancellor** prepara una Comisión, validada con el gran sello […]*
Lord Chief Justice	*Lord Chief Justice/ Presidente del Tribunal Supremo* (transcription/ approximate equivalent)	Alcaraz Varó & Hughes (2007: 362)	"Lord Burnett of Maldon, **Lord Chief Justice** of England and Wales." *Lord Burnett de Maldon, **Presidente del Tribunal Supremo** de Inglaterra y Gales.*
Lord Ordinary	*Lord Ordinary/ Magistrado del Tribunal de lo civil de Escocia* (transcription/ gloss)	Alcaraz Varó & Hughes (2007: 362)	"On 30th August, the **Lord Ordinary,** Lord Doherty, refused an application for an interim interdict to prevent the now very far from hypothetical prorogation […]." *El 30 de agosto, **el Lord Ordinary,** Lord Doherty, **Magistrado del Tribunal de lo civil de Escocia**, rechazó una solicitud de un interdicto provisional para evitar la ya nada hipotética prórroga […]*
Master of the Rolls	*Master of the Rolls/ Presidente de la sección civil del Tribunal de Apelación* (transcription/ gloss)	Alcaraz Varó & Hughes (2007: 373)	"Sir Terence Etherton, **Master of the Rolls".** *Sir Terence Etherton, Master of the Rolls/**Presidente de la sección civil del Tribunal de Apelación**.*
Minister	*Ministro* (approximate equivalent)	IATE, in: https://iate.europa.eu/search/standard/result/1593768433539/1	"This required a **Minister** of the Crown to move a motion, that day or the next […]" *Esto requería que un **ministro** del Gabinete presentara una moción ese día o el siguiente […].*
Privy Council	*Privy Council/Consejo Privado* (formal equivalent)	Bombillar Sáenz (2011: 161)	"[…] attended a meeting of the **Privy Council** held by the Queen at Balmoral." *[…] asistieron a una reunión del **Consejo Privado** celebrada por la Reina en el castillo de Balmoral.*

Queen's Bench Division	*Queen's Bench Division* (transcription)	Alcaraz Varó & Hughes (2007: 467)	"Dame Victoria Sharp, President of the **Queen's Bench Division**". *La señora Victoria Sharp, Presidenta de la **Queen's Bench Division**.*
Queen's Speech	*Discurso de la Reina* (formal equivalent)	Collins Dictionary, in https://www.collinsdictionary.com/es/diccionario/ingles-espanol/queen-s-speech	"To start the new session with a **Queen's Speech** […] in the week beginning 14th October […]" *[…] dar comienzo a la nueva sesión con el **discurso de la Reina** en la semana posterior al 14 de octubre […].*
Shadow Attorney General	*Fiscal General de la oposición* (gloss)	Our own translation, from Alcaraz Varó & Hughes (2007: 65, 317) (*Attorney General; shadow*)	"Baroness Chakrabarti, **shadow Attorney General**, for Her Majesty's Opposition". *La Baronesa Chakrabarti, **fiscal general de la oposición** de Su Majestad.*
Treasury Solicitor	*Procurador General de Su Majestad* (gloss)	Alcaraz Varó & Hughes (2007: 557)	"We do know the contents of three documents leading up to that advice, annexed to a witness statement from Jonathan Jones, **Treasury Solicitor**". *Sí conocemos el contenido de tres documentos que precedieron a ese consejo, adjuntos a la declaración de Jonathan Jones, **Procurador General** de Su Majestad.*

Table 3. The translation of institutions and functions in R v PM into Spanish

The translation of institutions and functions is not usually singled out by legal translation literature as a major stumbling block. Alcaraz Varó and Hughes (2002: 154-155), for example, seem to include them in the general list of 'purely technical terms', and Cao (2007: 57-59) mentions some of them in passing when discussing conceptual peculiarities of English law. It is Mattila (2013: 360-363) who explicitly addresses them and warns against "manifest misleading translations" in this field: by coining non-existent functional equivalents one tends to obscure peculiarities specific to a given legal system; alternatively, when linguistic interaction is more important than legal interaction, literal translations often give rise to false cognates which point to void or inexistent realities in the target language. As we pointed out above, our approach has been mostly to retain the specificity of the original. Table 3 shows how constitutional concepts and figures have been transcribed and/or glossed, as in the case of 'Court of Session', 'Lord Chancellor', or 'Queen's Bench Division', where a formal equivalent would have obscured the genuine meaning of the term. For the sake of readability, however, use of the

formal equivalent has been made occasionally, so that the translation should present less clutter to the eye. Lexical readability is essential in multilingual legal contexts, since clear legal drafting leads to comprehensibility (Canavese, 2021). Hence, the transfer of 'Leader of the House of Commons/Lords' as *Líder de la Cámara de los Comunes/Lores* is literal and clear, but in the case of offices such as that of the 'Lord Ordinary', 'Chief Whip' or 'Master of the Rolls', both the transcription or a (wider in meaning) gloss may be used. In this, just as in cases like 'Privy Council' or 'Divisional Courts', we believe the choice between transcribing and/or glossing depends on the desire to retain the vernacular figure or to render it more easily readable, as it is the case with translating the figure of the 'Treasury Solicitor', the *Procurador General de Su Majestad*. Translating in expert-to expert contexts – as in translating for legal comparatists, for example – would normally favor transcriptions, whereas recontextualizing the legal content for educated non-experts for dissemination or popularization purposes (Engberg, 2020b) normally implies adaptation to a more familiar, 'peripheral' (Enberg, 2020b: 185) form, in this case, a readable rendering in the target language.

Finally, Table 4 sets out the terms that have been considered 'constitutionally rooted', in line with our theoretical framework above.

TERM WITH A CONSTITUTIONAL HUE	TRANSLATION	SOURCE	EXAMPLE
accountability	*responsabilidad* (functional equivalent)	Termium Plus	"The same question arises in relation to a second constitutional principle, that of Parliamentary **accountability**". *La misma cuestión se plantea en relación con un segundo principio constitucional, el de la **responsabilidad** parlamentaria.*
advice/ ministerial advice	*Petición* (functional equivalent)	Our own translation, from Twomey (2018: 51)	"But it is appropriate first to decide whether **the Prime Minister's advice** was lawful, […]" *Pero es apropiado primero decidir si fue legítima **la petición del Primer Ministro** […]*
Crown in Parliament	*La Corona en el Parlamento/ monarquía parlamentaria* (formal/ functional equivalent)	Merriam-Webster Dictionary online, in: https://www.merriam-webster.com/dictionary/queen-in-parliament	"The first is the principle of Parliamentary sovereignty: that laws enacted by the **Crown in Parliament** are the supreme form of law in our legal system". *El primero es el principio de la soberanía del Parlamento: que las leyes promulgadas por **la Corona en el Parlamento** son la suprema expresión del derecho en nuestro sistema jurídico.*
dissolution	*disolución* (functional equivalent)	IATE, in: https://iate.europa.eu/sea	"Prorogation must be distinguished from the

		rch/standard/result/1593797665786/2	**dissolution** of Parliament". *Debe diferenciarse la suspensión del Parlamento de su* ***disolución****.*
order in council	*disposición legislativa/ decreto ley* (gloss/ functional equivalent*)*	Alcaraz Varó & Hughes (2007: 410)	"An **Order in Council** was made ordering that Parliament be prorogued". *Se dictó una* ***disposición legislativa*** *por la que se disponía que se suspendiera el Parlamento.*
prerogative power/ overriding power	*[potestad, facultad o poder de] prerrogativa* (functional equivalent)	Termium Plus	"[…] this […] is a **prerogative power**: that is to say, a power recognised by the common law and exercised by the Crown". *Se trata de una* ***prerrogativa*** *reconocida por el Common Law que ejerce la Corona.*
prorogation	*suspensión* (functional equivalent)	Alcaraz Varó & Hughes (2007: 456)	"**Prorogation** of Parliament brings the current session to an end". *La* ***suspensión*** *del Parlamento significa el fin del período de sesiones en curso.*
recess	*vacaciones parlamentarias* (functional equivalent)	IATE, in: https://iate.europa.eu/search/standard/result/1593797771623/1	"The Houses might go into **recess** at different times from one another". *Las Cámaras pueden tomar* ***vacaciones parlamentarias*** *en diferentes períodos de tiempo una respecto de otra.*
Royal Assent	*sanción regia* (modulated formal equivalent)	Bombillar Sáenz (2011: 148, 162)	"It [the Act] **received Royal Assent** on Monday 9th September". *(La ley) recibió la* ***sanción regia*** *el lunes 9 de septiembre.*
statutory responsibility /power/rule	*responsabilidad/potestad / norma jurídica/legal* (functional equivalent)	Termium Plus	"[…], the limits of a **statutory power** […] defined by the text of the statute". […] *los límites de una* ***potestad jurídica*** *quedan definidos mediante el texto legislativo.*

Table 4. The translation of terms with a constitutional hue into Spanish

Table 4 shows 10 occurrences of terms (almost half as many as in the first group). In general, the translatological solutions are uncomplicated, and functional equivalence has been favored. But this paper has sought to focus on the distinctiveness of constitutional mechanisms in the English legal system, which is what makes the group of terms in this table particularly interesting. In so doing, we could perhaps identify two problem areas: the translation of constitutional concepts such as 'Royal Assent' and 'Crown in Parliament', and, in turn, what Mattila labels as "misleading translations due to polysemy cases" (2013: 363): the case of 'advice', 'prerogative power', 'statutory', 'accountability', or 'order in council'.

Accordingly, the formal equivalent may be possible in 'Royal Assent', a widely-recognized convention whereby the Queen must assent to a bill passed by Parliament; 'Crown in Parliament', in turn, refers to the type of democratic system in the UK, a ceremonious expression that in Spanish would simply be recognized as *monarquía parlamentaria*. But potential lexical ambiguities arise when translating 'advice' as *consejo*, a euphemism that we must decide whether to keep or not. Translating close to the target language is sometimes blatantly misleading, as rendering 'statutory' with *estatutario* (Escribano Úbeda-Portugués, 2011: 85-90), since it changes the meaning of a fundamental norm, a parliamentary law, for a subsidiary one, such as *un estatuto* ('a charter'). Additionally, translating 'prerogative power' as *poder de prerrogativa* is redundant, since *prerrogativa* (*potestad*) includes the meaning of power or right to do something in Spanish. And although we translate 'accountability' as *responsabilidad*, there is a certain semantic loss with this solution: the term in English is more complex, carrying also the meaning of 'transparency' or 'commitment' in the fulfilment of office. Finally, translating 'order in Council' by its formal equivalent (*orden del Consejo*) instead of by a hyperonym which can function as an approximate equivalent or gloss (*disposición legislativa* or *decreto-ley*), as in Alcaraz Varó and Hughes (2007: 410), would, in our opinion, be halfway between neologism and adaptation, although in this case the choice always depends on the *skopós* of the translation: that is, whether one wants to emphasize, once again, the singularity of the phenomenon or to unencumber the translation.

4. CONCLUSION

The aim of our paper was to deal with the peculiarities of constitutional language in the United Kingdom, paradoxically a very constitutional country without a codified constitution. The most recent judicial decision from the Supreme Court of England and Wales to curtail the powers of Prime Minister Boris Johnson on the eve of Brexit was chosen as the corpus of analysis to provide legal translators with several (we thought, relevant) pointers on the subject of constitutional translation. Dealing with the illegitimate incursions of political power into the legislature, with the consequent undermining of citizens' rights, is interesting as a current social debate, and we believe that this judicial text deserves special consideration, given its key role in the events the United Kingdom is currently experiencing from a constitutional point of view. But the judgment has also permitted us to review some constitutional sources and principles of a system far removed from the continental family of law. Addressing it from a linguistic and translatological perspective, in order to account for the peculiarity of its interpretation and translation from one legal system to another (the Spanish one), raises other pragmatic questions herein outlined, which might be dealt with in future work on the subject. Among our pointers is the genuine macro-structural organization of

the text: the personal, unison voice of a group of judges who place legal reasoning above other administrative issues, which is a far cry from the textual and functional configuration of continental law judgments. Additionally, dividing Anglo-Saxon constitutional law terminological phenomena into two groups, institutions and constitutional terms, has unveiled that lacks of conceptual fit occur mainly in the first group; however, both groups entail difficulty for translation, some of them presenting professionals with real problems to make the target text readable, without sacrificing legal accuracy.

All in all, our study has intended to manifest how comparatists need translation studies as much as legal translators need to resort to comparative law to render meaningful legal translations. Concluding, our ultimate end was to give useful clues to those who move between the terrains of ESP, Specialized Translation, and Comparative Law to overcome the pitfalls of a singular constitutional system, which implicitly but necessarily, needs exhaustive documentation and the rigor that translating for professional purposes deserves.

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