

CHALLENGES IN CROSS- CULTURAL
TRANSLATION

A discussion of S. E. K. Mqhayi's *Ityala Lamawele*

Engelbrecht M. Scina

*Submitted in partial fulfilment of Master of Arts (English) in the School of
Languages, Culture and Communication, University of Natal, Pietermaritzburg*

Pietermaritzburg 2002

DECLARATION

I, Engelbrecht Mzoxolo Scina, declare that this thesis is the product of my own original work and has not previously in part or in its entirety, been submitted at any university for degree purposes.

ACKNOWLEDGEMENT

I would like to extend a word of sincere gratitude to my supervisor Professor David Attwell for all the help and guidance in my studies. A word of gratitude also goes to Professor Liz Gunner who has always been a source of inspiration throughout my studies in U.N.P. I would also like to thank my fellow students and staff in the English Studies, in particular, Mandla Khuzwayo, with whom we have been constantly travelling between Umzimkulu and Pietermaritzburg.

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ABSTRACT

This thesis is structured into four sections. The first section is a brief statement on the choice of the text chosen for the purpose of translation. *Ityala Lamawele* is one of the old and classic Xhosa texts and after seeing some translated texts either from Xhosa to English or English to Xhosa such as *Uhambo Lomhambi (The Pilgrim's Progress)*, *Ingqumbo Yeminyanya (The Wrath of the Ancestors)*, *Akusekho Konwaba (No Longer at Ease)* and having not seen any translation of *Ityala Lamawele*, I felt an attempt at translating *Ityala Lamawele* was long overdue. This first section also looks at the theoretical aspects of translation that will inform the translation of *Ityala Lamawele*.

The second section is the actual translation (the process and the product) of selected extracts which deal specifically and exclusively with the case of the twins. Though the translation of the whole text is not a remote possibility or consideration, for the purpose of this thesis, selected extracts will be dealt with.

The third section of this thesis is the reflection on and the discussion of the choices I have made. This section looks at the process of translating *Ityala Lamawele*, the challenges and obstacles that I have come across, the way I have put and expressed issues and why.

The fourth section will consist of the critical commentary and observations on the new (translated text) paying particular attention to cultural issues and cultural aspects of the text. The cultural aspects of the text are of great and particular significance to the thesis since they constitute the central problem which this thesis is trying to address, namely translating from one culture to the other. These issues include *inter alia*: twinning and the African perspective of the twins as a cultural phenomenon, the role of women in African / Xhosa culture, being a boy and a prospective man in the Xhosa tradition, the significance of siblings i.e. the importance of succession in children and ultimately circumcision which is the rite of passage from boyhood to manhood in the Xhosa tradition.

For the purpose of this essay, Xhosa and isiXhosa will be differentiated as follows :
IsiXhosa refers to the language. Xhosa will be used as an adjective e.g. Xhosa works, Xhosa custom etc. The term amaXhosa is the plural form of Xhosa speaking people.

PART ONE

TRANSLATION THEORY

The title *Ityala Lamawele* can be literarily translated as "The Court Case of the Twins" as is the title of the abridged edition of the original text edited by P. M. Mzileni, S. J. Neethling and A. P. Henrikse entitled *Ityala Lamawele : Xhosa Literature For Beginners*. In the current legal terminology the title *Ityala Lamawele* can be translated as "Twin versus Twin" as the story is about one twin laying a charge against the other.

As it has already been said, the text by Mzileni *et al* is an abridged version of the original text. It is written in isiXhosa with some Xhosa words translated into English at the bottom of each page. The end product of this thesis will be different from the text mentioned above in that this thesis is going to produce a comprehensive translation of the selected extracts from isiXhosa to English and critical commentary.

The original text *Ityala Lamawele* was published in 1914 in isiXhosa and the question may be asked as to why one would like to translate a text that was written in an African language in 1914. The text has been and is still regarded as one of the Xhosa masterpieces of its time. If one would consider the fact that texts written as far back as the seventeenth and the sixteenth century are still being read even today, *Ityala Lamawele* written only in 1914 would be regarded as current when compared to the texts mentioned above.

Furthermore, I felt it appropriate to bring one of the most important African texts to the attention of the literary world and also to bring to the attention of non-African / non-Xhosa readers the intricacies of Xhosa culture. The interest in this text was also aroused by studies on African writers offered by the University of Natal English Department in the mid 90s.

To put the cultural phenomenon dealt with in this paper in some perspective it would be appropriate to narrate an experience. In the early 1980s I came into contact for the first time with the Sotho people of Matatiele when I was at Maluti Teacher Training College. The people of Matatiele had strange or rather unfamiliar Sotho names. On hearing those Sotho names the first reaction some Nguni speaking students expressed was to ask the meaning of the names, which I think is one of the important aspects of the Nguni culture; the name and its meaning. The answer that they would get was that the name did not mean anything and anyway why did we always seek meanings in names?

Actually our question(s) were based on our cultural upbringing where most names have meaning and significance unlike some other cultures where the meanings of names do not have the significance that they have in Nguni culture. For instance the name James or Tom seems to have no meaning behind it as opposed to a Zulu or Xhosa name Siphiso which can be literally translated into English as Gift, acknowledging the child as a gift from God or the ancestors. Another example would

be the name *Zanele*, a short form of *Ntombizanele*, literally meaning ‘the girls are enough’. In most African cultures children are regarded as a gift from God and nobody has the right to stop them from coming. In the case of a married couple who constantly get girls, one of the girls would be named as a request to the Almighty, the provider of children, that the girls are now enough (*Ntombizanele*), thereby requesting God the provider to provide the couple with boys or at least one boy who if granted would be named *Sipho* as already explained above or named as *Bonga(ni)*, expressing gratitude to the Almighty.

Unfortunately some people have to live with the most unpleasant of names. It sometimes happens in extreme cases that a person is named after a certain incident. An example of this would be the name *Lahliwe* which literally means ‘the discarded one’ or ‘the forsaken one’. In such a case a girl in the family would fall pregnant unmarried and as a result the parents banish her from home, and the child born under such circumstances would be named by her mother as *Lahliwe*, the mother making a statement that she has been discarded and thrown away by the family. In such cases, little consideration is given by the parent(s) to the fact that the child has to live with the name for the rest of his or her life. All the same there is meaning attached to such a name. However, the names of characters and places in this thesis are not going to be changed or translated into English. The aim of keeping them in isiXhosa is to preserve the essence and the vigour the Xhosa names have as well as the significance which they carry since some of these have historical and cultural significance and

meaning as mentioned earlier on.

A brief word on the structure of the story. The story does not follow a chronological sequence of events as might be expected, instead it moves backwards and forwards in time. It starts with Wele laying a charge against his twin brother Babini at the king's court. After that comes the evidence of the midwives who helped the twins' mother when she was giving birth. After the testimonies and the cross questioning of the councillors comes the old man, Khulile's view which is followed by the king's judgement and lastly, the comment of *imbongi* (singular) after the final judgement, which is formed from all the evidence and the cross-questionings of the councillors and Khulile's input.

At this juncture it would be appropriate to look at some translation theory so as to get a picture of the amount and nature of work one is going to be dealing with as well as what could be expected of the thesis. An appropriate starting point for this part of the essay would be to look at the definitions of translation by B. Hatim and Mason, S. Budick and W. Iser and R.T. Bell.

In their work entitled *The Translator as Communicator*, Hatim and Mason define translation as follows :

...An act of communication which attempts to relay, across cultural and linguistic boundaries, another act of communication (which may have been intended for different purposes and different readers / hearers). (1)

In his collection of essays on translation, entitled *The Translatability of Cultures* G. H. Miller in his essay, "Border Crossing, Translating Theory" says the following on translation.

Translation : the word means, etymologically, "carried from one place to another," transported across the borders between one language and another, one country and another, one culture and another. This of course, echoes the etymology of "metaphor." A translation is a species of extended metaphorical equivalent in another language of an "original" text... (207)

In his work *Translation and Translating*, R. T. Bell quotes Meetham and Hudson who say that translation is:

The process or result of converting information from one language or language variety into another... The aim is to reproduce as accurately as possible all grammatical and lexical features of the 'source language' original by finding equivalents in the target language'. At the same time all factual information contained in the original text must be retained in translation. (13)

The fourth and the last definition of translation which this essay would like to look at is the one offered by A. Dingwaney and C. Maier in their collection of essays *Between Languages and Cultures : Translation and Cross-Cultural Texts*.

Dingwaney says :

Translation is one of the primary means by which texts written in one or another indigenous language of the various countries arbitrarily grouped together under the "Third World" or non-Western World are made available in western, metropolitan languages. However, translation is not restricted to such linguistic transfers alone, translation is also a vehicle through which "Third World" cultures (are made to) travel, transported or "borne across" to and recuperated by audiences in the west. Thus, even texts written in English or in one of the metropolitan languages, but originating in or about non-Western cultures can be considered under the rubric of translation . (4)

Seemingly nothing could be more appropriate than the four definitions of translation given above, more especially if we consider the fact that the main aim and object of this essay is to try and address as well as to confront the cultural aspects in translating from one language to another and thus from one culture to another and it is important to note that in all the four definitions quoted above, the cultural aspect seems to be the central aspect or problem when translating from one language to the other.

The translation of *Ityala Lamawele* is an attempt at making available the text of a non-western world origin to English readership. This translation is also an attempt at transporting, though on a very limited scale, African (Xhosa) and thus "Third World" culture to a western, English audience. It should be understood that word for word or radical translation is practically impossible because of different sentence structures and formulations of different languages and cultures.

One aspect of translation highlighted by Dingwaney is the fact that the project of translation entails varying degrees of violence especially when the culture being translated is constituted as the "other" (4). True as the foregone statement may be, I think it does not apply to the translation of *Ityala Lamawele*. This I say because of the interest shown by institutions of higher learning in indigenous cultural forms and this is manifested by studies in "Maskanda" "Isicathamiya" etc by the school of Culture Language and Communication in the University of Natal. I think it is also worth noting that the 'violence' mentioned by Dingwaney will be very minimal in the translation of *Ityala Lamawele* since the translator does not regard the source text as the "other" and the translation will be presented as accurately as possible.

Dingwaney also mentions the fact that a form of power play manifests itself in translation where preference and privilege is given to the issues and matters that suit and interest the translator who is usually a "cosmopolitan" translator (5). I hope that my translation of *Ityala Lamawele* will not be influenced by the fact that I am

inclined, though not actually belonging, to Xhosa culture and might therefore be inclined to over romanticise Xhosa culture. I also think that the fact that I belong to neither of the cultures I am working with and at the same time having access to both languages and life-worlds would give me a reasonably objective approach to my translation and an unbiased treatment or view of the issues.

Still on the question of translating across cultures, Dingwaney and Maier in their essay *Translation as a Method for Cross-Cultural Teaching* maintain that "... translation ideally makes familiar, and thereby accessible, what is confronted as alien, maintaining the familiar in the face of otherness without sacrificing or appropriating the difference" (304). They go on to say that this means that the translator must have a foot in each of the two worlds and be able to mediate self-consciously between them (304). It is precisely in the context and spirit of the foregone statement that the translation of *Ityala Lamawele* is being embarked upon and it is hoped that a relatively fair translation will be produced.

Another aspect of translation in general, which will manifest itself in the translation of *Ityala Lamawele* is the idea put forth by Dingwaney and Maier that the translator is a subject who intervenes and mediates between one language and another (312).

Therefore in as much as the emphasis is on the accuracy and the product of translation, it is also on the appropriateness of the translator's choices, the strategies used to render one language in terms of another, the inclusions and exclusions. We

can therefore conclude that the end product of translation is the remaking of the source or original text, an act of manufacturing, as it were, a making of something new, but, of course, not discarding or disregarding the original text.

So much on Dingwaney and Maier, now a look at the other critics, namely Hatim and Mason. In their work *The Translator as Communicator* they maintain that translation and communication may seem similar to some people and at the same time different to others (1). Seemingly, it is the accuracy of the transference of meaning(s) that is central to the task of translating. In most cases when one is engaged in translation one has to transmit information between two very different cultures and different languages with different language structures such as idiom and syntax, and one ends up using different or dissimilar words whilst trying as much as possible to retain the meaning. The result, though not intentionally, is to deprive the source or original text of its vibrancy and dynamism of expression in the process of translation. What is expressed is what is taken for granted or familiar in the target or receiving text, unless the translator is very familiar with and knowledgeable of both languages between which he/she is working. Be that as it may, it is an indisputable fact that the exact tenor and colour of the source or original text is forever lost.

B. Hatim and I. Mason also highlight the fact that another shortfall of translation across languages and across cultures specifically, is the scarcity of available possible interpretations of a term or terms and word or words and this situation, in some way,

reduces the range of potential meanings (2). A simple example to illustrate the above statement is the use of the word *hambisa* which is constantly used during the case at the king's court when Wele is laying a charge against his twin brother Babini. After pronouncing the introductory statements the councillors keep on saying *hambisa*, which in the context of the case and the situation in question is translated as "proceed". Taken or used in other contexts the word *hambisa* has many different meanings. It may mean:

- (i) *Hambisa* = make something move
- (ii) *Hambisa* = drive (a car or cattle)
- (iii) *Hambisa* = pass or transmit - in the case of a message.

The use of the word *hambisa* poses no problem for the people hearing the case. This word is only mentioned to highlight the problem and loss a non-Xhosa speaker would experience when reading original text if he / she understood *hambisa* as transmit only.

Another example of a word that has different meanings as determined by context is the adjective, *Hle / Ntle* : this is one word and the two forms it takes are determined by the noun the adjective qualifies as shown in the examples below.

- (i) *Amanzi mahle* = the water is clean
- (ii) *Intombazana intle* = the girl is beautiful

- (iii) Iinkomo zakhe zintle = his cattle are fat.
- (iv) Uthethe amazwi amahle = you have spoken sweet words.

The last translation theorist who I am going to look at is Mary Snell-Hornby who in her work *Translation Studies: An Integrated Approach* says that language is or should not be seen as something isolated and independent of culture, culture being understood by her as "...all socially conditioned aspect of human life" (39). Snell-Hornby further defines culture as;

- (i) A totality of knowledge, proficiency and perception
- (ii) An immediate connection with behaviour (action) and events (40).

She further highlights culture's dependence on expectations and norms whether those of social behaviour or those accepted in language usage. She further quotes Von Humboldt who says that language is something dynamic, an activity, an expression of culture and individuality of the speaker who perceives the world through language.

For the purpose of translation the topic with which she deals, Snell-Hornby says that there are two opposing principles of language which bear on translation, namely:

- (1) The principle of linguistic relativity.
- (2) The principle of language universals (41).

The principle of linguistic relativity she says, taken to the extreme, maintains that

language conditions thought and that both (language and thought) are bound up with the individual culture of the community that speaks the language.

The above principle would indicate that language is caged in culture or *vice versa* and therefore one could not move from one language to another, thus meaning that full translation is impossible or doomed to be unsatisfactory.

The second language principle discussed by Snell-Hornby is (2.) the principle of language universals. This principle is also known as the universality of languages (initiated by Chomsky) and it maintains that language has a deep structure and surface structure which is the equivalent of Humbolt's theory of "inner" and "outer" form in language. According to his view translation is a "recording" or change of surface structure in representation of the universal deep structure underlying it, meaning that translation has no bounds.

From this two-principle view of language Snell-Hornby goes on to say that for a possible and therefore plausible translation endeavour, one has to try and reconcile the two principles of language for the purpose of extracting what is most relevant for translation from both principles.

From what is contained in the two principles mentioned above it seems clear that some of the important aspects of translation are:-

- (a) The extent to which the text is grounded or rooted in its specific culture as well as the cultural gap between the translated text and the audience for whom the translated text is intended.

- (b) The degree of understanding of the translator of the languages as well as the cultures between which the translator works as well as the translator's ability to choose words and phrases that are most appropriate in the language of translation.

Snell-Hornby goes on to say that literary texts embedded in the distant past tend to be less easily translatable than those texts dealing with the "universals" of modern science (41). The foregoing statement may pose some problems if one considers differences and disparities in cultures. How true would the statement hold or how relevant would the same statement be for a text written in the year 2000 reflecting or portraying a rural African culture of the people of Nongoma or Umzimkulu? One could come to the conclusion that the success of translation depends not necessarily on source text as such but on the importance of the product of translation for the intended audience and mostly on the body of knowledge and understanding generated by the culture of the intended audience.

The author's translation or conversion of a local language into English in a literary work may come at a heavy price.. In the act of translation certain idioms are

completely lost as are the meanings of certain expressions. There are certain shades and delicacies of expression that are not available in English. Translation into English has limited linguistic and cultural appeals to the original language. Full and complete translation is merely impossible.

If language, as we have seen, is so central to the concept of culture, and if both (language and culture) are the pivotal points in the process of translation, it goes without saying that the translator must have a thorough understanding of both the languages and cultures he/she is working with or between.

From all the theories discussed earlier on in this thesis it seems clear that most of the theorists agree on the fact that one of the successes of translation is that the content and, to some extent, the style of the original text should be preserved as far as is possible in the translated text recognising that full and complete translation is nearly impossible. Again it seems clear that culture is one of the most central phenomena in any attempt at translation. The text *Ityala Lamawele* which this essay is attempting to translate will not escape the problems of cross-cultural translation mentioned in the theories discussed earlier on. At the same time it should be highlighted that in spite of the vast differences in culture and language structures, a fairly and substantially accurate translation will be the target and objective of this thesis. Having discussed all the theories mentioned in this essay, it will now be appropriate to turn to the proper act of translation.

PART TWO

OVERTURE TO TRANSLATION

Wele and Babini are waiting on each other to take the initiative as the head of the home. There is an impasse, nothing happens after their father has died. The matters of the home are not being attended to. Wele is worried by this state of affairs. The fact that it is Wele who is perturbed by this state of affairs seems to indicate or allude to the kind of judgement that the court is going to pass. Wele is the one who shows some sense of responsibility and as a result he is the one that the judgement favours.

The impasse is also the result of incidents that surround the two boys namely; the mystery of their birth and the positional switch of the boys and their circumcision; these incidents will be discussed later.

Wele, because of his sense of responsibility, is the one who takes this issue to the court of the headman Lucangwana. He is not satisfied with Lucangwana's ruling and decides to take the matter further to king Hintsas's court.

This passage or extract has been chosen as it paints a very clear picture of the proceedings in an African / Xhosa court where we can compare and contrast the African / Xhosa legal system with present day western legal systems. I think we should note with interest that the king's court refers to the earlier hearing of the case at

headman Lucangwana's court. Mqhayi, I think, wants to show his readers that a form of progression and continuity was being followed in the traditional legal system. Respect and recognition was given to the lower levels of authority. The tradition was not authoritarian. Part two opens up with Wele laying a charge against his twin brother Babini.

Here I should clarify that the word home is going to be used in two different contexts. The first use of home is the general and usual one, the place where one lives. The second use of Home refers to the King's kraal (Great Place) which is the supreme home of all the king's subjects as the subjects regard the king as their father. In this context the great place is regarded as everybody's home and it is used in that context. Included in section two also, is a testimony of the midwives. Besides this testimony being central to the judgement, what also interests me is the fact that Mqhayi wants to point to the important role played by women as midwives and also more importantly the role that they play in the affairs of the state in the sense of being the people who help in the bringing about the resolution in such an important case. As the author states in the preface, the purpose of the story is to give a picture of legal procedure among the Xhosa people, and to show the democratic spirit in which it is carried out. Having lived at a Headman's kraal for six years Mqhayi is conversant with legal procedure. The idea, I think, is that barbaric as the African may have been projected, even to the extent of being excluded from the legislative process of their country, they had long ago given due respect and recognition to women.

TRANSLATION

AT THE KING'S COURT : WELE LAYING A CHARGE AGAINST HIS

BROTHER; BABINI

Chapter 1, Page 1 (Mzileni)

"Ndimangele"	"I am laying a charge"
"Hambisa"	"Proceed"
"Ndimangalele uBabini"	"I am laying a charge against Babini"
"Hambisa"	"Proceed"
"Njengokuba sizalana nje sikhoselane"	"As we are brothers we are waiting on each other to take the initiative"
"Hambisa"	"Proceed"
"Njengoko umninimzi wabhubhayo imicimbi yomzi ayihambi kakuhle kuba sobabini sithi siziinkulu"	"Ever since our father died there is an impasse at home as we are both claiming that we are both heirs or heads"
"Hambisa"	"Proceed"
"Ndithe le nto mandiyizise koweth 'apha size kuyilungiselwa"	"I have decided to bring this matter here to our home so that it can be settled"
"Hambisa"	"Proceed"

"Ndiyatshonela ke, nkosi"

"Hambisa-hambisa!"

"Mh-m-m! Mh-m-m! Gxebe,
gxebe uthi umangele?"

"Ndithi ndimangele"

"Umangalele uBabini?"

"Ewe"

"UBabini lo ngokabani?"

"NgokaVuyisile."

"Uyintoni kuwe?"

"Ngumkhuluwa wam."

"Uthi ke ukuxhomile?"

"Nditsho."

"Utsho njani?"

"Nditsho kuba engandivumeli
ukuba ndizilungise izinto zakowethu."

"I stop there my lord"

"Proceed"

"Mh-m-m! By the way do you say
you are laying a charge?"

"I say I'm laying a charge"

"Are you laying a charge against Babini?"

"Yes"

"Whose son is Babini?"

"He is Vuyisile's son."

"How are you related?"

"He is my elder brother."

"Are you saying that your brother is
handicapping you?"

"Yes."

"How?"

"He does not allow me to put
the affairs of the home in order."

"Izinto ezinjenga ntoni?"

"What kind of affairs?"

"Ndiyakubuthini ubucukubhede bezinto zekhaya?"

"How will I count all the affairs and matters of the home?"

"Ndithi uBabini ukuxhome kwizinto ezinjenga ntoni?"

"My question is, in what matters specifically is Babini handicapping you?"

"Bendithe kwakuqala uBabini ukholosile, nam ndikholosile. Ziinkunzi ezimbini ezingenakuhlala buhlantini bunye kulunge nto"

"I initially said that we are both waiting on each other to take the lead. Our case is like the one of two bulls which can't stay together in one kraal."

"Chaza"

"Proceed"

"Akundiva?"

"Don't you understand?"

"Cacisa"

"Clarify"

"Ndigqibile"

"I have finished"

Another councillor Fuzile asks the following from Wele :

"Uthi umangalele uBabini?"

"Do you say you are laying a charge against Babini?"

"Nditsho"

"Yes"

"Uthi uBabini ngumkhuluwa wakho "

"Do you say that Babini is your elder brother?"

"Nditsho"

"Nguwuphi obangayo phakathi kwakho nomkhuluwa wakho?"

"Nguye."

"Uthi nguye obanga ubukhulu?"

"Nxayiphi kule ntetho yakho ithi ngumkhuluwa wakho?"

"Yintetho yabantu leyo asiyoyam "

"Uthini na mfana? Baphi abo bantu kuwe apha?"

"Yiloo ndawo kanye endizele yona koweth 'apha ukuba ndilungiselwe yona kuba mna noBabini sizalwa ngemini enye "

"Njani?"

"Ngobuwele."

"Liliphi elivele kuqala?"

"Yes"

"Between the two of you who is claiming to be an heir?"

"It is him."

"Are you saying Babini is claiming heirdom ?"

"But you said Babini is your elder brother?"

"That is what people say"

"Where are those people who say that?"

"That is exactly why I have come here to our home so that I can have this matter solved because I and Babini were born on the same day"

"How?"

"We are twins."

"Who was born first?"

"NguBabini."

"NguBabini?"

"NguBabini?"

"Eli gama lithetha ububini
bobuwele?"

"Kunjalo kanye."

"Wena ungubani igama lakho

"NdinguWele"

"Ningabafo bakabani?"

"Singabafo bakaVuyisile."

"Waphi?"

"WaseThobotshane"

"Umni?"

"UmNzothwa."

"Kwesikabani?"

"KwesikaLucangwana?"

"It is Babini."

"It is Babini?"

"It is Babini?"

"Does this name mean
the twoness of being twins?"

"Exactly."

"And what is your name?"

"I am Wele"

"Whose sons are you?"

"We are Vuyisile's sons."

"Where from?"

"From Thobotshane"

"Of what Clan?"

"Of Nzothwa Clan."

"Who is your headman?"

"He is Lucangwana?"

"Utheni uLucangwana wakuyisa kuye le ndawo?"

"Lo ngumnyaka wesithathu ndimangala kuLucangwana."

"Athini uLucangwana?"

"Uthi uLucangwana ndiyadlalisa kuba ndisisinci andinakujola inkulu ikhona."

"Inkulu ke yeyiphi?"

"NguBabini"

"Utsho uLucangwana?"

"Utsho uLucangwana"

"What did Lucangwana say when you brought this matter to him?"

"This is the third year that I bring this case to Lucangwana."

"What did Lucangwana say?"

"He say that I am just playing because I am a younger one, I cannot dictate while the heir is still there"

"Who is the heir?"

"It is Babini"

"Is that what Lucangwana says?"

"Yes"

After getting all the facts the case is adjourned and the complainant, Wele, is told to go home for the time being. The case is postponed.

After some time king Hintsa sends two men, Qavile and Mdunywa to go and call Lucangwana so that he is present when the case resumes. Lucangwana arrives at the King's court and the following day, an *imbizo* is summoned for the case to be resumed. On this Day Babini's evidence is heard and he says the following :

"Zinkosi zam, manene akowethu andinanto ndiyaziyo kuba nam ndibiziwe. Intwana endiyaziyo yeyokuba ndizelwe ngubawo uVuyisile. Ndiliwele nomninawa wam lo undibangisayo. Abazalisi bakamama bathi ivelatanci ndim; uWele sisizamva. Sikhula kuyiloo nto, saluka kungekho phike umntu wonke esazi loo nto sade sashiywa ngumfi ubawo. Ndiqala kutsha nje ukuva ukuba mandishenxele uWele apha thele usapho lukaVuyisile kuba inguye inkulu; says. inguye otshoyo. Ndikhe ndabizwa futhi nguLucangwana kuthethwa le nto isuke iphelele esithubeni."

"Ke zidweshisa umntu ongahambisayo ngone nto, mna andinayo ngako oko, ndiyatshonela."

"My lords, gentlemen, I don't know much because I have also been summoned to this court. The little I know is that I am Vuyisile's son. I am a twin together with my younger brother who claims to be the heir. My mother's midwives confirmed that I am the first born. We grew up like that and there were no qualms, we went to circumcision everybody knowing that I am the heir until our father died. It is new to me that I should step aside so that Wele can look after Vuyisile's household being the heir as he I have been called by headman Lucangwana to come and discuss this matter but nothing came of it."

"My lords the one who can talk further is the complainant, who has something to say, therefore I stop there."

Up to this stage Babini only mentions the fact that he is the first born and therefore the heir. He consciously does not mention the factors that have prompted Wele to bring their matter to the court; namely the issue of his (Wele's cut finger), the *inkwili* incident as well as the incident of their circumcision.

Immediately after Babini's verdict a councillor Mxhuma asks the following from Wele:

"Kanene umangalele indawo yobukhulu ongayinikwayo?"

"Ewe nkosi."

"Uyazi na ukuba uvele mva kuBabini nangona nivele ngamini nye?"

"Ewe nkosi yam."

"Uyazi na ukuba lisiko kwaTshiwo ukuba ivela

"By the way, did you bring your matter to this court because you claim you are denied heirdom?"

"Yes my Lord."

"Are you aware that you are younger than Babini though you were born on the same day?"

"Yes my Lord."

"Are you aware that according to Xhosa custom the first born

tanci liyindlalifa?"

is the heir?"

"Ewe nkosi."

"Yes my Lord."

"Uze kuthi umthetho
mawukwenzele ntoni?"

"What do you wish the
law to do for you?"

Cwaka

No answer

One of the councillors asks the following from Babini :

"Le nto iyaqala ukuviwa,
ke sithanda ukuva ubuhle
nobubi bayo. Ningamawele
noWele, nikhule naluka
kunye?"

"This matter was never heard
of. We want to hear both the
bad and the good side of
it. Are you and Wele twins;
did you grow up together,
were you circumcised together?"

"Ewe nkosi yam."

"Yes my Lord."

"Ekukhuleni kwenu benikhe
niyithethe le ndawo

"As you were growing up,
did you ever discuss the

yobuwele?"

"Ewe nkosi, namanye
amakhwenkwe ayeyithetha
into yokuba mna ndibe
ngaka ubuncinane abe
umninawa wam eli-
bhobhonga elingaka,
neendevu kuye zingaka
ndibe mna ndinje ukugunda
nokukhangeleka mncinane."

"Ayesithi makwenziweni ke?"

"Ayesithi masiguqulelane
ndibe yinci uWele abe
yinkulu."

"Nide naguqulelana?"

"Andingetsho."

state of your being twins?"

"Yes my Lord, even the other
boys questioned the fact that
I the older was so small
and smooth faced while
my younger brother was so
big and bearded."

"What did they suggest?"

"They suggested that we
switched positions, that I
be the younger twin and he
(Wele) be the heir."

"Did you ever effect that positional switch?"

"I cannot say."

"Cacisa mfana, chaza"

"Asithethi ngeemfeketho
zamakhwenkwe."

"Anditsho ukuthi thetha
zona, ndithi kodwa cacisa
le ndawana yokuba nada
nakha nayenza na loo
mfeketho yokuguqelana?"

"Ewe ikho into eyelele
kuleyo. Ngenye imini saya
kugalela iintaka siligqiza
lamakhwenkwe aza abuya wona
ebethile mna ndingena nto.
Athi mna mandabelwe nguWele
othe kumhla ubukhulu ibobakhe.
Ndanyanzelwa ngamakhwenkwe
ndanikwa inkwili nguWele
ndakugqiba ukufunga ukuba
nguWele oya kuba yinkulu."

"Please clarify my boy."

"We don't talk about the
trivial disputes of the boys."

"I don't say talk about
those trivialities, I only
want you to clarify if you
ever effected that positional
switch?"

"Yes there was something
similar to that. One day
we as boys went bird hunting.
The other boys did catch
some birds but I did not.
They told Wele to give me
some from what he had and
he said that the condition
was that I relinquished my
position and he became the
heir. After I had made an oath

Wele gave me the sombre bulbul and by so doing he effectively became the heir."

Another councillor, Maduna asked Wele the following :

"Obu bukhulu ububangayo bobale mini yenkwili?"

"Is your claim for heirdom based on this sombre bulbul incident?"

"Seyiziziqhamo nezingqiniso ezo ebukhulwini esele ndinabo."

"My claim is the result and the justification of the heirdom that I already have."

"Ubufumene phi?"

"Where did you get that heirdom from?"

"Kwasekuzalweni."

"From the essence of my birth."

"Hayi mfana nguBabini ivela tanci."

"No, my lad, Babini is the first born."

After this evidence it became necessary that the court had to get more facts and

information about the case and it was decided that the midwives had to be called so that they could give the court some information as to the birth or circumstances behind the birth of these twins. When the midwives came they confirmed that they helped Vuyisile's wife when she was giving birth, and this is what one of the midwives, Teyase, says;

THE VERDICT OF THE MIDWIVES

Chapter 3, Page 13 (Mzileni)

"Uyive lo mfazi inimba
ngoLwesibini ekuseni, lithe
liphuma ilanga, labe elinye
iwele selivelise isandla.
Ndafumana ndathatha ingadla
ndawutsheca umnwe, ucikicane.
Ndithe ndakuyenza loo nto,
saphinda satshona isandla.
Kuthe ekuphumeni kwelanga
ngoLwesithathu lavela eli
sithi lelikhulu."

"This woman (Wele's mother)
went into labour on Tuesday
morning. At sunrise one of the
twins' hands was showing out of
of its mother. The woman was
in the process of giving birth.
Immediately I took the knife
and cut the little finger of the
hand that was showing.
After cutting the finger
the baby withdrew and
returned into its mother's
womb as the hand disappeared.
At sunrise the following day,
Wednesday, the other twin, whom

"UBabini lo?"

"Ewe, uBabini lo.

Sibe kwaqwalasela ingqithi
unotshe. Kwalile emini enkulu,
xa kaloku ziphumayo iinkomo
kwakugqitywa ukusengwa
intlazane, lazalwa iwele
lesibini, eli sithi lelincinci
uWele lo ke. Livele okunene
linale ngqithi."

"Batheni abafazi ngale nto?"

"Batheni ukuthini bevuyela
ukuzalwa komntu nje."

"Hayi ndibuza ukuthi bathe
liliphi elikhulu iwele

we regard as the elder twin, was born."

"This very Babini?"

"Yes, Babini. We looked for
the cut finger but we could
not find it. Towards midday
at about eleven o'clock the
second twin was born.

The twin that we regard as
the younger one, Wele, and he
was born with a cut finger."

"What did the woman say about this?"

"What would they have said,
they were happy for safe
delivery of the twins."

"I mean who did the women
say is the elder twin (heir)

nokuba bayeke nje kodwa?"

"Ewe ikhe yakho
ingxumbungxumbu enjalo
besithi abanye ngulo
omkhulu abanye besithi
ngulowa"

"Kude kwathini ukuze
bayiyeke abafazi abo
le ntetho?"

"Hayi kungxole kwamna
ndisithi banyangani na
ukuthethisa abantwana
bomntwan'am ingakafiki imini
yokuba bazithethele, bashoba
ntoni na."

"Kuphel'oko ke?"

"Ewe kokwam ukwazi."

Did they just leave it like that ?"

"Yes there were different
views as to who the elder
twin was, some saying one and some
saying the other."

"What was then the final
word?"

"I reprimanded them,
telling them not to
involve innocent babies
in such talk and squabbles."

"Is that all?"

"Yes as far as I know."

After questioning all of them, the midwives were excused. They had all given similar evidence or information and that confirmed the truth of what was said by Teyase.

Men were also not in agreement as to who the elder twin was. As there was still that uncertainty the King asked the following questions from Wele, the twin who had brought the matter to the king's court.

Page 15 (Mzileni)

"Wena ususwe yintoni na ukuze
le ndawo uthande ukuyizisa
emthethweni nje?"

"What prompted you to bring
this matter to the court?"

"Kungokuba nkosi yam
ndithukuthezelwe
kukungajongani kwam
nomntakabawo uBabini
ze kuthi kuloo nto
izinto zizakuba yindindi.
Ndanqwenela ke ukuyizisa
le nto kokwethu apha size
kuyiconjululelwa."

"My Lord, I am perturbed by
an unhealthy atmosphere
between myself and my
brother which further
stagnates the development
at our household. I therefore
decided to bring this matter
to our home for it to be
solved."

"Ukhe wayithetha le nto
kuBabini apha wamkhumbuza

"Have you ever discussed this
matter with Babini. Did you

ngalaa mhla ngenkwili,
wambonisa ingqithi leyo
wayifumana kuqala wena
kunaye?"

"Yonke le nto nkosi ndiyi-
lingile, akwanceda lutho,
ndide ndiye kwasibonda
nje ndiphaliswa yiloo nto,
nakhona ndingafumani ntlabiso"

"Isigwebo sikaLucangwana
usidela ngantoni wena
mfo wam ?"

"Le nto inje, Nkosi, kokwam
ukucinga. Wena lo
mhlekazi asinguwe umntu
wokugabulela umphakathi
izigawu. Kutheni na,ukuba
athi umphakathi wam
akundigabulela izigawu

ever remind him about the
sombre bulbul as well as
the cut finger?"

"I tried all this my Lord, but
to no avail. That is why I even
went to headman Lucangwana and
even there I could not be
satisfied."

"Why have you decided to
appeal against Lucangwana's
ruling ?"

"The fact, my Lord is that
you have subjects who
always go before you to
ensure that everything is
right for you to go. Why
does that standing custom
have to be reversed in my

kuxakeke kangaka? Isandla
ndisivelisile ukuba ndamkele
isiko kuqala. Mhla saluka,
ndaluke kuqala ukuxela
kanjalo ukuba ndiyinkulu."

case ? I showed my hand first
to accept the custom. On our
circumcision day I was the
first to be circumcised
to confirm the fact that I
am the heir."

When the King confirms the circumcision incident from Babini, Babini says that it was the mistake of the traditional surgeons that Wele was circumcised first. After intensive consultations by the old wise men it was decided that the court had to seek the services of another old wise man, Khulile from Nqabara. Khulile was decided upon because his father, Majeke, had once helped the court when there was a problem that needed the services of an old and experienced man. It was hoped that Khulile, like his father, would provide the court with a solution to the case of the twins. After the men had been appointed to go and call Khulile, an *imbongi* stood up and said;

"Ndaza ndalubon'uzwathi
lwetyala. Ndaza ndalubon'
uzwathi lwetyala! Kwas
saxhinx, kwasa
safak'ithwathwa
Sezingaphi na ngoku

"Behold a never-ending case.
Behold a never-ending case.
We have ever since been
going up and down such
that our shoes are worn out.
How many bulls (Kings) are

iinkunzi zalo mzi
kaPhalo? Fuda sisithi
nguHintsisa akukho yimbi
Akukho nto iya kuvel'
eNqabara"

there now here in this
Phalo (Xhosa) household?
We have been thinking
it is Hintsisa alone.
Nothing will come out
of Nqabara."

The men who were sent to fetch Khulile had a safe and good journey. They spent ten days at Khulile's kraal. On the day of departure, they were wished a safe journey and the *imbongi* said;

"Hamba nto kaMajeke
uzubuye kakuhle! Ubekhe
waphuthunyw'uyihlo
ngezolo akwabakho gxeke.
Wena ungunyana wakhe,
uzungabi nahlazo.
Lihl'iqegu lakho
aliwagxekang'awakomkhulu.
Ndithi hamba nto kaMajeke
siyakuvumela, Swazi
olumaqhinaqhina,

"Go well Majeke's son and
come back well. Your father
was called not very long
ago and he met what was
expected of him. You are
his son and you must do
the same. Your horse is as
good as those from the
great place. Go well Majeke's son,
you have our blessings. You
have all the necessary

IwakuloThokazi. Hamba ungene
kuloo mzi ngowakowenu,
iintanga zakho kudala
zakushiya. Yiyo loo nto
sewulugag'oluman'ukuqongqothwa.
Yiyo loo nto sesiyibuza
kuw'imvelaphi yohlanga.
Hamba neshologu elo
lakowenu. Hamba noQamata
lowo waseluhlangeni. Ncincilili.”

expertise. The place you
are going to is your
home as well. All the
men of your age are
long gone. That is why
we all come to you for
help. May the spirits be
with you. May God be with
you. Let it be so.”

At the great place Khulile was welcomed with open and warm arms. After talking to Khulile the king's councillors discovered that he was older than the King's father. He was well over one hundred years. For three days the councillors gave him all the facts of the case and on the fourth day, the case was due to resume. Early in the morning on the fourth day the twins were called to give their respective testimonies Wele said;

“I claim to be the heir on the following grounds;”

(a) Inkosi igatyulelwa
ngumphakathi izigcawu.

The king's councillors go before
the king to ensure that
everything is safe for the king.

<p>(b) Isiko lakowethu lengqithi ndilamkele kuqala.</p>	<p>My short finger was cut to show that I came first.</p>
<p>(c) Ubukhulu ndabuthenga ngenkwili.</p>	<p>I bought the heirdom with the sombre bulbul.</p>
<p>(d) Umzi wakowethu ugcinwe ndim.</p>	<p>It's me who is looking after my father's household.</p>
<p>(e) Ndoluke kuqala mini sisoluka.</p>	<p>On the circumcision day I was circumcised first.</p>

On the other hand, Babini said that because of his birth he was the elder twin, therefore the heir. Wele's sisters were also called to give their evidence. They confirmed the fact that they were looked after by Wele. The councillors asked from Wele if there was anything untowards that had been done by Babini. Wele mentioned the fact that Babini had disposed of three cattle from his father's kraal. Nobody knew where those cattle were going to. He also mentioned the fact that Babini did not care about their sisters and their aunts. Babini also agreed that he had disposed of the three cattle and that it was Wele who was looking after the whole family. Therefore, Wele was the one more responsible. After this evidence the twins

were excused. Then the chance was given to Khulile to give his view after getting all the facts. The court Secretary addressed himself to Khulile and said :

"Kambe ke mfo kaMajeke
nasi esi sishiqi siye
kukuphuthumela sona
eNqabara. Sewukho, uyabona
uyeve. Eli lityala
lokuqala elinje kwesi
sizukulwana, yiyo loo
nto le nkundla icinge
ngawe. Asibanga nandawo
yakubambelela nakumisa
nyawo kuba into izekelwa
kwenye njengoko waziyo
nawe nantso ke!"

"By the way, Majeke's son,
this is the problematic
case we called you for from
Nqabara. You are here, you see
and hear for yourself. This
is the first case of its
kind in this generation,
that is why this court has
thought about you. We could
not move since this case
has no precedent. There
you are !"

After a brief moment of silence Khulile stood up and said:

KHULILE'S EXPOSITION

Chapter 7, Page 26 (Mzileni)

"Zinkosi nani nonke sizwe!
Andazi ukuba bekutheni na
ukuze kucingwe ngam.

"My Lords and you all of the nation!
I don't know why this court
thought of me. Yes, my father

Ewe, ubawo uMajeke
walinceda ikomkhulu
ngoPhalo, ngoko ke izinto
zazisalungile. Ndazi ntoni
ndingubani mna? Le nto yala
makhwenkwe omntwan'am
uVuyisile andiyi
kuyisombulula nam
nangani ndilinyange.
KwaXhosa kujongwa lowo
uvele tanci. Kodwa ke
njengokuba ndikho ndibona
loo nto iyaphikiswa iphikiseke
kwamanye amawele."

"Olu hlobo lungamawele
luhlobo oluvela luqondile,
olungqondo itsolo kweyoluntu;
oloze lukuxelele into
ingekabikho isuke ibekho,
uhlobo uluvisisana

Majeke once helped this great
place during the reign of
king Phalo, by then things
were not what they are today.
Who am I ? What do I know?
Though I am a very old man,
I have no ready-made solution
to this matter. The Xhosa
custom is that the first
born becomes the head of
the house and thus the
heir. But my experience
also tells me that sometimes
such a custom is successfully
challenged and overturned."

"The twins are a special type.
They have a mind that is sharper than
that of the other people. They normally
tell you something long before
it happens and when it happens,
it happens exactly as they had

ngokugqithileyo ngokokude
kungangeni noyise nomthetho
phakathi kwabo kuba angumntu
omnye. Nina ke namhla
nindibizela ukuza kunamulula
into yabantu abalolo hlobo."

"Ewe uNkosiyamntu
wayeliwele elincinci kodwa
ubukhulu wabufumana kuLiwani
kuba wabuthenga ngecongwane.
Athi amanyange makabuthathe
ubananise kade; atsho
ezekela kwiindawo
ezingaphambili"

"Ndibeka eli ke zinkosi
zam ndipheze. Inkulu inikelwa
ukuba iphathe kuba ivele
tanci kunolunye usapho
lakowayo, inamava
ineengcombolo ezivileyo

told you. Twins are very close
people, nothing can come
between them because they are
one person. You have called
me to come and solve the
matter between such people."

"Yes, Nkosiyamntu was a younger twin
but he bought the heirdom from Liwani
with a thigh muscle and the old men
approved of that transaction and said
that Nkosiyamntu had long deserved
to be the heir, drawing that decision
from a previous incident."

"This is how I am going
to conclude, my lords. The
heir is given the
responsibility to govern
his household because he
is the first born. He

ezingaviwanga ngabanye.

Obewele ubukhulu buphi

bevele ngamininye nje?

Asizozenzo na into

eyenza ubudala

kwanjengokuba nenkulu

iyahlukana nobukhulu

bayo xa ifike

yangumntwana ngezenzo?

Ndishiya mfunqumfunqum

njalo zinkosi. Zifuneleni

ngokwenu eyona nto

nifuna yona."

has experience and

information his brothers

and sisters do not have.

How much older is a twin from

the other since they are

born on the same day?

Is it not the actions that

determine that one is old

enough? The heir can lose

his position if he acts as a

child (does not show signs

of maturity). I'll leave it

as clumsily as that and you

will sift whatever you

are looking for."

After Khulile's speech there was silence and Lucangwana the headman urged the men to respond to what had been said by Khulile so that the case could be concluded on that day, since many issues had been suspended because of the case of the twins. There were conflicting ideas among men and councillors at the king's court. Some men were recommending Khulile's exposition while others were condemning it. In the interim, after consulting with the king and the councillors, the secretary of the

court sent for the twins to be called in. The King first addressed Wele saying:

Page 29 (Mzileni)

"Phulaphula ke mfo
kaVuyisile. Sekumasuku
iinkosi zam ezi zemkayo
emakhayeni azo kuba
weza kuthi nomcimbi
onqabileyo
owawungowakowenu ngoko
nakuba sewuphela namhla
sowungowesizwe siphela.
Wawuqale kuLucangwana
isibonda sakho.
ULucangwana walithetha
elakhe elingaphikwa
nayile nkundla. Le
nkundla noko seyivela
nakoo-ziNqabara
ayiqabelanga kwelo.
Athi amakowenu ayile
nkundla, goduka uye

"Listen carefully Vuyisile's
son. It has been some days
that my lords left their
homes because of this
complex case which you
brought to this court.
It was then a local matter
but it has developed and
ended up being a national
matter. It was discussed
and dealt with by your
headman Lucangwana and
his ruling has not been
contradicted by this
court. This court has
even sought services from
Nqabarha, not overruling
Lucangwana's ruling.
Your kinsmen in this court

kukhangela kwa elo
thole ubukade
ulikhangela, ugcine
olo sapho lukaVuyisile,
uze kuyibika kokwenu
apha into engalungileyo
oyibonayo."

therefore say that you go
home and continue doing
what you have been doing,
look after and care for your father's
household and never hesitate
to come and report any irregularity
that you notice happening at your home."

After the king's pronouncement Wele runs to the king and kisses his (the king's) feet and then returns to where he was seated. The king turns to Babini and said:

"Uyeva ke mfo kaVuyisile
omkhulu. Uwavile amasuka
ndihlale ale nkundla
ngenxa yenu, ulivile
ilizwi eliphathiswe
umninawa yile nkundla.
Goduka ke ufike
uncedisane naye ngokugcina
usapho olo lakowenu nempahla
nento yonke sinibone nikunye
nalapha komkhulu, **umthobe**le,

"You have heard everything
Vuyisile's elder son. You
have heard all the views
and opinions of this court.
You have also heard what
has been said to your younger
brother. You also go home and
help him in looking after your
father's household, the stock
and everything that is at your home.
We want to see you helping each other,

umve.”

united and together even here at the
king's court, you must **obey him**
and **listen to him.**”

Some people were not satisfied with this ruling. Among those who were not satisfied was Phekeza, Babini's immediate uncle who was on Babini's side asking if the older twin had been changed into the younger one. All the men and councillors were about to take their sticks and leave and the women were discussing the outcome of the case, some commending and others condemning, when the *imbongi* burst in and said :

"Godukani zizwe
liphelil'ityala.
Godukani zizwe
iphelil'int'ebithethwa.
Utsho ke kambe uZanzolo,
inkunz'abayikhuz'ukuhlab'ingeka-
hlabi. Umjonga ntshiyini
bathi uqumbile. Ngemihla
yakudala kwabekwa
iinkosi kwathiwa
mazithotyelwe ngabantu,
zona zithobel' uQamatha

"Go home all you nations as
the case has ended. Go home
all you nations the discussion
is over. That is the ruling of the king
Zanzolo, the bull who is said to have
pierced while it has not. The one who
they look at the forehead and
say that he is angry. In the
olden days kings were created
and the people were ordered
to obey them. The kings would
obey the Almighty from whom

apho kovala khona
imithetho. Xa ziyigwenxile
kobakho iziphithiphithi.
Abakrokroyo basazalwa
nanamhla, abanye
abakazalwa. Izaphuselana
sezide zaphukaneka zathi
inkunzi iseNqabara.
Godukani uphendule
uSorharhabe."

all the laws would come. When
the kings don't obey God's
laws there would be
pandemonium on earth. The
agitators who are never
satisfied are still being
born even to this day. The
nincompoops have already
said something foolish saying
that the bull (king) is in
Nqabara. Go home, the son of
the nation has ruled."

After the sentence has been passed all men including Babini go home after one of the longest if not *the* longest cases in those times. Babini does as he has been told by the king. He is more active now and friendly towards his twin brother, Wele.

PART THREE

REFLECTION AND REVIEW

This part of the thesis looks back and reflects on the ground covered so far i.e. in part one and two. It is going to look at the process of translating the text and the challenges encountered.

I think I should start off by acknowledging the scarcity or the unavailability of texts on translation that deal specifically with translation between African languages and English. Most of the material deals with translating from such European languages as French, German, Italian, Spanish etc. to English. Apart from interesting me it also puzzled me that out of so much information on translation theory very little if anything is said on translating from any African language to any former colonial language i.e. English, French, etc. This absence of material left me with a few questions such as, is it because there is nothing to translate between these languages; is the work available not worth translating; or is it the lack of interest from would be - translator's? The conclusion I came to is that there is still a lot of work to be done if there has to be any relevance in academic endeavours to the African situation. It seems that most of translation theory at the present moment does not focus on African works.

Most of the theoretical work available touched on cross - cultural translation and it is the information from those texts that helped me in going about the translation of *Ityala*

Lamawele. As it has been mentioned earlier on the extracts or passages chosen are central to the theme of the case. They deal specifically with the process and the proceedings of the case, outlining all the processes that are followed in a traditional Xhosa court. Language infiltrates so intensely the social experience within a culture that neither language nor culture can be understood without the knowledge of the other.

To understand language in context, we have to understand the fundamental beliefs and value systems that drive particular language usage in particular circumstances. It is interesting to relate some particulars in connection with the twins, for they play an important role in Xhosa social life. Twins are loved and treated like all other children except that in their case particular customary rules obtain which bear more of a social than legal character.

The decision on *Ityala Lamawele* was informed by the fact that the text, besides being written in my first language, also deals with the issues closest to me. The discussion of local cases at the chief's kraal during *iimbizo* (plural) is part of my life and translating *Ityala Lamawele* and the extracts dealing with the case was like narrating my personal experience. It is because of the reasons and explanations given above that I had no problem translating sentences and ideas that would be impossible for a non-Xhosa speaker to translate if he / she had only the understanding of the language and had to translate word for word. Let us look at the following example and compare the two

translations of the following sentence :

"Njengoko umninimzi wabhubhayo imicimbi yomzi ayihambi kakuhle kuba sobabini sithi siziinkulu."

Word for word or literal translation would go as follows :

"As the owner of the kraal died, the businesses of the kraal do not go well because the two of us say that we are both heirs or heads."

My translation, informed by the cultural understanding of the language, thus translating the idea rather than the words goes as follows :

"Ever since our father died there is an impasse at home as we are both claiming that we are heirs or heads."

I think that my translation makes more sense and is more informative and helps in putting the reader abreast of the proceedings.

I think we have to put the record straight in as far as who the elder twin is, who the heir is as well as the implications of being the first born as well as being the heir in the Xhosa tradition in general and in the context of *Ityala Lamawele* in particular.

We must establish the following facts:

In Xhosa culture and tradition the first born (when it is the male) is the heir. The term is self explanatory, first born, the one who is born first. Now if we look at the concept and idea of the heir there are many things involved. On top of being the first born, the heir must look after the entire household, the people (family), the livestock, buildings and everything. To be the heir also implies a lot of responsibility besides inheriting what has been left over by the father.

In the case between Babini and Wele there are no definite lines drawn. Babini is the one who is physically born first, but there are some technicalities that make him and the nation as a whole undecided and unclear as to who the heir should be. This uncertainty allows Wele to lay claim to heirdom. Among the technicalities mentioned above is the fact that Wele has the cut finger which was the indication of who was the first born. There was also the positional switch effected when the twins were young boys. Wele was circumcised first which was an indication that he was the first born. Wele has tradition and culture on his side as far as these technicalities are concerned.

What might then be the source of confusion is the final pronouncement by the king. We must also bear in mind that the essence of the Xhosa case is not to find one party guilty and sentence or fine them, but it is to settle the dispute and to appease the two parties. It is in the context of the explanation given above that the final judgement by the king should be understood. To Wele the king says :

"Listen carefully Vuyisile's son ... Your kinsmen in this court therefore say that you go home and continue doing what you have been doing. Look after and care for your father's household and never hesitate to come and report any irregularity that you notice happening at your home."

To Babini the king says, you have heard everything Vuyisile's elder son ... You also go home and help him (Wele) in looking after your father's household. From the king's pronouncement it becomes clear that besides establishing who the first born and heir is the immediate interest of the court, the king and the nation is the welfare and the continued well-being of Vuyisile's household.

One other aspect that I have to comment about are the lines on page 16 of *Ityala Lamawele* (Mzileni *et al*) where one of the councillors questions Wele as to why he had decided to appeal against or was dissatisfied with Lucangwana's ruling. In Xhosa it reads as follows :

"Isigwebo sikaLucangwana usidela ngantoni wena mfo wam?"

When translated literally it would read as follows :

"Why do you look down upon Lucangwana's ruling my son?"

I have decided to quote again and discuss it as it is the one version that is more

understandable and compatible with the legal terminology as well as general use of language, thus making more sense.

PART FOUR

ANALYSIS

Although the work that is going to be dealt with in this part of the thesis might look or sound unusual; namely the critical analysis of a translation, it explores further and endless possibilities of academic exercise. Most probably the success of the analysis will be determined by the quality of the product of translation.

In taking a closer look at this section, it would be helpful to give a brief preview of issues to be dealt with and it should always be borne in mind that the central theme is the translation of culture. This part of the dissertation will also contextualise some of the issues raised by Mqhayi by looking at two prominent African writers' works namely Achebe's *Things Fall Apart* and Plaatje's *Mhudi*.

The hearing of the case will be the starting point of this section. Unlike in the western version of the court where there is somebody giving the details of the case, reading written statements and people required to take oaths, Wele himself, the complainant, gives all the details to the court, as he says "I am laying a charge, against Babini etc." The facts of the case are unearthed as the case develops through cross-questioning by the councillors and the local men in the community. I think it is important to note that though the prerogative of questioning the twins seems to be the reserve of men, any man who is attending the case has the right and is expected to ask questions that will

lead to the root of the problem and thus the solving of the case or the problem as it would be appropriately referred to. The other aspect worth mentioning is that one of the qualifications for participating in the proceedings of the case, though it is not exclusive, is that a man should be old enough, old here referring to sixty years and over as is the case with Khulile who the author projects as being over one hundred years of age. The purpose of having old men participating in the hearing is that old men have all the necessary experience to deal with issues. In some cases they refer to cases similar to the case they are participating in.

In most cases, the King or the chief is just the mouthpiece of the court or the nation, as his ruling is usually what is expected. Most people know what he is going to say after the councillors and old men have asked the questions that bring clarity to the issue(s) in question. One of the aspects that crop up early in the case between Wele and Babini is the issue of the first born, the heir or the head. This issue is very important in African culture especially the Nguni culture that I am familiar with. Being the heir or the first born in the Xhosa culture carries benefits as well as responsibilities.

Besides inheriting what the father has left behind he (the heir), in a patriarchal tradition has also the responsibility of seeing to it that what the father has left is not wasted, it is looked after, nurtured, grown and multiplied. If the father left twenty herd of cattle the heir has to make sure that he looks after those and multiplies them. Again, as he is the heir he has the responsibility to cater for and provide for all his father's dependants, even if the father had more than one wife. All his father's

dependants look upon him as their provider. This can be seen from what Wele says during the proceedings of the case when he says :

"Ever since our father died there's nothing happening at home as we both claim that we are his heirs or heads". This is a bad situation as nobody is prepared and has freedom and ease to take the initiative to see to the affairs and the well-being of the household.

In the foregoing paragraphs the heir has been referred to as 'he'. I think it is worth noting that in most African cultures only the male could be the heir and successor to the father. Even if the boy was the third child in the home, he would be an heir. The female could not be the heir. This state of affairs could be observed even during the times of King Shaka. There was Mkabayi who was born of the royal house of the Zulus. Though she was very influential in the affairs of the state she could not become queen. A female would be referred to as queen by virtue of being the wife of the king. She would have very little if any say in the running of the state.

To confirm the responsibility of the heir in the case between Wele and Babini, their sisters are called to give evidence as to who is looking after them in terms of providing them with their needs. Even the old women, the twins' aunts referred to as young or small mothers in the African culture and language *makazi* in isiXhosa and *mamncane* isiZulu, also tell the court that Wele is the one who provides for them.

One other aspect, very obvious, of course, is the absence of legal representatives in the case between Wele and Babini, unlike in the Western type of legal system. Most of the old men present at the hearing act as prosecutors. They only want to establish all the facts and the truth about the case.

Earlier on, right from the beginning when Wele lays a charge against his brother, i.e when he brings the matter between him and his brother, Wele says :

"I have decided to bring this matter here to our home so that it can be settled."

As we are going to see later on in this thesis the above statement is central to the case as well as to the final ruling. Wele refers to this case as the matter which he brings to their "father" the king so that it could be settled. The idea is that, unlike the western courts of law that we know, in this instance, the idea is not to find someone guilty as such and sentence him to so many years imprisonment or give them a heavy fine, but since they are twin brothers, they are one person and whatever misunderstanding arises between them must be settled peacefully since they are one person in Xhosa culture.

Pragmatics concerns the rules of "how to say what to whom and under what situational conditions " in a speech community. The pragmatic rules of a language refer to situational rules that govern language usage in a particular culture.

Another problem of cross-cultural translation is the translation of idioms and idiomatic expressions that are grounded and rooted in Xhosa culture. Though these idioms can be translated literally, they make very little if any sense and meaning since they do not necessarily apply in the target language in this case. One such expression is the following :

“Bendithe kwakuqala uBabini ukholosile nam ndikholosile. Ziinkunzi ezimbini ezingenakuhlala buhlantini bunye kulunge nto.”

Translated as follows :

“I initially said that we are both waiting on each other to take the lead. Our case is like the one of two bulls which cannot stay together in one kraal.”

Even a person not knowing Xhosa culture may understand that one cannot put two bulls in one kraal. A Xhosa speaking person whose culture and economy is cattle-based would easily understand the meaning and the implication of such a statement.

These are speech codes (norms, rules, and premises of the cultural way of speaking).

He would know that if there are two bulls in one kraal they would fight and break the kraal or one of them would die, thereby hindering the growth and increase of his livestock.

I think it is important to highlight the fact that the Xhosa legal process and proceedings follow a kind of hierarchy. The matter is first discussed by the family if the people in question are related. The next step is the court of the sub-headman. The following step is the headman's court. If in all these stages there is no resolution the

matter is referred to the chief, the paramount chief and lastly the king. In the case between Wele and Babini reference is made to Lucangwana, the headman and because Wele is not satisfied with Lucangwana's ruling, he decides to take matter further to Zanzolo, king Hintsu. In as much as the ethnographic detail, does not influence the translation, I think it is important to highlight the traditional stages of the Xhosa legal system.

The king is the supreme ruler of the land and also the supreme judge, unlike the western type or version where administration and judiciary are distinctly separated. In the case between Wele and Babini one of the central issues is the concept of twins and the view of twinning as seen by the Xhosa people. Perhaps it would be appropriate to look at this concept.

In Xhosa culture twins are in most cases regarded as one person though they are two individuals. They behave similarly and they are usually not separately treated. They are usually born on the same day, separated by minutes or at most an hour, and to distinguish which of the twins is older, people usually say or ask "who saw the sun first?" meaning who is the first born. Seeing the sun is very important because the one who sees the sun first is the one who is going to be the heir if the twins are the only "child" or the "first born". They are even counted as one if a person counts their children. The fact that they are two individuals can not be disputed. It is for the purpose of cultural practices and norms that they are treated as one. Since they are

two individuals, in the case of Babini and Wele separated by hours there has to be an heir. Twins belong to a family, a family belongs to a community and the community belongs to the nation (*isizwe*). Now let us look at the nation (*isizwe*) as it is perceived by *Ityala Lamawele*, looking specifically at governance.

The supreme ruler is the king. He rules over his subjects. Contrary to popular belief African kings and chiefs were very democratic. There were councillors, (*amaphakathi*), the wise old men (*amanyange*) who are the equivalents of the present western style senators. The king or the chief would always consult his councillors (*amaphakathi*) and the wise old men, (*amanyange*.)

While still dealing with hearing the case and on democratic governance at the same time, Mqhayi seems to portray the African form of democracy. He wants to make it clear that though Africans have for many years been seen as undemocratic and almost barbaric with no consideration for women, in actual fact women had and up to this day have recognition in the Xhosa culture. For them the women have long been liberated. They had and they still have rights and responsibilities. Is it not interesting that women, the midwives are the people who start putting together the pieces of the puzzle that leads to the resolution of the case? The evidence which the midwives give is the one that leads to better understanding and later the ruling, thus giving a form of recognition to women.

Again the evidence given by Wele's sisters as to the responsibility of Wele towards them says it all and it is on the basis of what they say, together with what is said by the midwives that the king and the court come to the decision they come to.

Though it would not be necessary to repeat all the evidence of the midwives I think it would be important to ponder some of what they say, namely the appearance of the hand, the cutting of the little finger and the withdrawal of the twin with the cut finger. When putting his point of view to the court, Wele says that he was the first to show his hand so that the custom of cutting the finger had to be bestowed on him first. All the men at the king's court, the king included, are dumbstruck when Wele compares his case (the circumstances leading to the cutting of the finger) to the well known custom of *ukugabul'izigawu*. When visiting a certain area there would be some men who would go to the same area ahead of the king to make sure that everything was ready for the king to come. They did not act as bodyguards since the king was always safe in his area of jurisdiction. These men were just forerunners to make sure that everything was ready and there would be nothing that would disturb the king. This practice was called *ukugabul'izigawu*. Therefore Wele regards Babini as his forerunner as in the case of *ukugabul'izigawu*. After Wele has referred to the custom or act of *ukugabul'izigawu*, nobody, not even the king says anything because Wele has said something known by everybody in the land. Other cultural aspects or issues that are unearthed during the hearing of the case seem to lead to the nature of ruling that the king finally pronounces.

Other cultural issues or aspects referred to, are :

- (a) The positional switch on the day of *inkwili*.
- (b) Circumcision.

During the hearing Wele, when giving evidence and being cross-questioned, mentions the fact that they effected positional switching when they were boys and this act was formalised by Babini making an oath that he would relinquish heirdom to Wele and this process was witnessed and blessed by other boys as Wele gave his twin brother *inkwili* in exchange of being an older twin and thus the heir.

Again, the other very decisive factor is when the twins were circumcised, Wele was circumcised first. That act of Wele being circumcised first indicated that he was indeed the older twin. All these facts strengthen Wele's case and again nobody disputes the validity of what he says.

When the court seems to come to an impasse, the king with his councillors and other old men (*amanyange*) decide to seek the services of the old wise man Khulile. The reason for the choice of Khulile has already been mentioned. After this decision the *imbongi* jumps up and comments on the decision of the court to go and seek Khulile from Nqabara. Normally an *imbongi* has the licence to talk and comment on any issue on impulse. He can even say something against the king himself who is regarded as the supreme ruler of the land. An *imbongi* is the equivalent of the media today in free

societies where there is no media restriction. He comments on the lengthy case, because of which all other matters are put on hold. He also comments on the fact that even if people may decide to request the services of Khulile, there is ONE king in Xhosaland and that is Hintsa. The *imbongi* is convinced that the final ruling will be issued and pronounced by King Hintsa (Zanzolo).

At Nqabara (Khulile's place) the *imbongi* also says something about Khulile's invitation to king Hintsa's place as Khulile is invited to come and help solve the case. In this instance, he (*imbongi*) is expressing his and the whole nation's joy and pride that Khulile, an old man from their place or area has been called to come and help in a case that is so difficult to solve. The *imbongi* bids him farewell and wishes him success in his mission. He says that he must go well. His journey must be blessed and he must come back well, meaning that he must come back with glory which will also be the glory of the nation. During Khulile's official send-off, we come for the first time across religious reference, the *imbongi* says:

“Hamba neshologu elo lakowenu.”

“Go together with the spirits of your family.”

“Hamba noQamatha lowo.”

“Go with God the Almighty.”

By making reference to God and the spirits Mqhayi wants to show his readers that amaXhosa are religious and not barbaric as they are often projected. Religion in other words was not brought by the West to Africa; it was always there.

Long ago before the arrival of the whites in South Africa the amaXhosa worshipped *Qamatha*, the supreme and the only God. There were no man-made gods that resembled or stood for *Qamatha*. *Qamatha* was feared and worshipped and was always on the tongues of the people, he was God in heaven because of his present and existence the sky which was regarded as heaven was a revered place (38 of this translation).

Perhaps it would be appropriate to say something about Khulile. His name, Khulile, laterally means "He has grown old," "He is mature." It is said that Khulile, the character in Mqhayi's text was well over one hundred years. It is therefore very appropriate to call him Khulile. He is a wise old man (*inyange*) one of the very few people who were an asset to the state because of his age and experience. Such people were regarded as the source of all information and wisdom.

Before we look closely at what Khulile says concerning the case, I think it is appropriate to revisit Wele's five strong facts. Perhaps by repeating them now and again, the author is trying to draw our attention and focus to them. Seemingly, after hearing them, Khulile as well is in some way influenced by them. These are the facts

pronounced by Wele :

- (a) The king's subjects go before the king to make safe the way of the king, so it must be with me.
- (b) I'm the one who had his little finger cut to show that I am the heir.
- (c) I bought the heirdom with *inkwili*.
- (d) I am the one who is looking after my father's household.
- (e) I was circumcised before Babini; I am therefore older than he is.

Khulile gives his point of view in a very humble way. He does not have the arrogance he could have considering the importance and confidence entrusted to him. He is very old but shows humility when he addresses the court, saying "My lords ..." If one considers his age, he could have easily referred to the men and councillors as "My children".

He firstly acknowledges the facts that in the case of the twins, according to Xhosa custom, the one who comes out of his mother first is the first born and therefore the heir.

By referring to past cases he also agrees that there are instances where the standing Xhosa custom can be reversed or overturned. He says this referring to Nkosiyamntu's case where Nkosiyamntu effected a positional switch with whoever it was through the thigh muscle of an ox. He applies the foregone example in the case of the twins when

the positions were switched with or through the *inkwili* transaction. He further bases his verdict on what has been said by Wele, i.e family responsibility and other tangible reasons as have been introduced by Wele. He also stresses that actions determine who is going to be the heir. If the heir is inactive and irresponsible he loses his position. Khulile concludes by saying :

"I leave it as clumsily as that and you will sift whatever you are looking for".

"Ndishiya mfungumfungu njalo zinkosi. Zifuneleni ngokwenu eyona nto nifuna yona".

Does this statement not confirm what was said by the *imbongi* when he said that nothing would come out of Nqabara, meaning that Khulile would bring no solution to the case ? Khulile does not reveal anything new. He simply asks questions that have been asked before and it is the king who finally gives the ruling, of course, informed by the facts obtained from the questions and verdicts of his subjects. The fact or statement issued by the *imbongi* earlier on, the fact that there is only one "bull" (king) is now confirmed.

After the king has passed his judgement Wele runs to the king and kisses the king's feet, probably as a sign of satisfaction with the king's ruling. Does this act have any biblical connotation? Is this not a sign of love, loyalty, satisfaction and acceptance which was shown by people to Jesus in the biblical text? What does it mean in the

context of *Ityala Lamawele*? Perhaps Mqhayi wants to show us the divine right of the kings as God's representatives on earth. Their decision and ruling was never challenged. Even the *iimbongi* (plural) only commented on them but never questioned them.

CONCLUSION

After the king has pronounced his ruling bringing to the end the case of the twins, I think it would be appropriate to look at the two texts mentioned earlier on namely, Achebe's *Things Fall Apart* and Plaatje's *Mhudi*.

In *Things Fall Apart* I am going to focus on the area dealing with the resolution of the matter between two families. This matter is similar to the matter between Wele and Babini in the sense that it is a matter between related people, it is set in an African context or situation and it is dealt with in an African way. The matter or case is between Odukwe and Uzowulu.

Briefly, Uzowulu is the husband of Mgbafo who is Udukwe's sister. There has been a misunderstanding between Uzowulu and his wife. Uzowulu beats her and she flees to her home to her brother Odukwe. After hearing about his sister's beating Odukwe together with some men from his family decide to go and punish Uzowulu by beating him as well at his home.

After hearing both sides of the case the *egwugwu* who are going to judge the case say the following. In fact it is Evil Forest, one of the *egwugwu*, who, on behalf of the bench pronounces the ruling, first addressing himself to Uzowulu :

We have heard both sides of the case, our duty is not to blame this man or praise that, but to settle the dispute...

Go to your in-laws with a pot of wine and beg your wife to return to you.

It is not bravery when a man fights a woman.

Evil Forest turns to Odukwe and says; “If your in-law brings wine to you, let your sister go with him. I salute you.” (67)

After pronouncing the ruling Evil Forest pulls his staff from the hard earth and thrusts it back. This act shows that he has finished what he was saying. This is similar to what King Hintsu did after he had given the ruling. He rolled himself up in his blanket made from the burrow tiger skin (a blanket made from the skin of a tiger that lives in the burrows), which also symbolised that he had finished talking and he was probably not going to talk on the case anymore.

The acts of Evil Forest and King Hintsu are the parallels which a magistrate usually looks at before pronouncing that the court is adjourned. The magistrate in a conventional western style court usually strikes his desk with a small wooden hammer signifying that the case is ended. What King Hintsu does with his blanket and what Evil Forest does with his staff is similar to what the magistrate does with his wooden hammer.

I would also like to look at these two communities in the way they regard themselves as nations.

King Hintsa said that the matter between Wele and Babini was a local matter between the two of them but now ends up being the matter for the whole nation or state. In *Things Fall Apart*, after the ruling was given, Achebe says : “As they spoke two other groups of people had replaced the first before the *egwugwu* and the great land case began.” (67)

To me this view of the community as a nation and state seems to symbolise or show the self sufficiency of these communities. They have all the institutions that are necessary for a state or nation. Undoubtedly in the case of amaXhosa, they were aware of other national groups in South Africa, even if South Africa as a bounded territory did not exist at that time. They, all the same, regarded themselves as a nation, a self sufficient nation. So was the case with the community in *Things Fall Apart*. In 1910 through the Act of Union South Africa became a white colonial state, which disregarded all the social institutions of the black people of South Africa, thus relegating them to pre-modernity. Mqhayi in showing the rationality of traditional legal discourse, was pre-positioning himself and Africans (blacks) within modernity, i.e. the blacks already had institutions similar to those of the whites. Achebe and Plaatje are also trying to do the same as Mqhayi when they see their respective communities being relegated to the fringes of civilization. By so doing, all these three writers are trying to reveal that long before the arrival of the colonists in Africa, the

Africans were already a civilised society in their own right. This point of statehood and nationhood leads me to one other observation on *Mhudi*.

In the introduction to *Mhudi* Tim Couzens says :

Thus, in *Mhudi*, Plaatje is concerned not only to defend the customs of the traditional life of the Barolong (and to some extent, by extension, of the blacks generally) but he is also intent on re-interpreting history from the point of view of his own people. This does not, however imply that he is totally and idealistically backward-looking and incapable of accepting change.(11)

I think the extract quoted above applies to Mqhayi as well. Mqhayi, in *Ityala Lamawele*, I think, is trying to document the history of his people as well as drawing largely from his experience as a councillor at chief Gaika's great place. Also having lived at a headman's kraal for six years as a boy in Centane, Mqhayi is conversant with legal procedure. The stating of the case by the plaintiff, the cross-questioning by the councillors, the calling of the witnesses, and the pronouncement of the verdict, all these give a beautiful picture of social life among amaXhosa. Mqhayi might have seen the press as a great opportunity to record the history of his people on paper, something that would preserve the history of the Xhosa people and their culture. The exclusion of the Africans (blacks) from the legislative mechanism of the Union of South Africa was a continuation of the writing of the history of the Africans from the

point of view of the whites. The writing of *Ityala Lamawele* can be seen as the re-writing and the re-interpreting of the African history from the point of view of the Africans. I think that by writing *Ityala Lamawele*, Mqhayi wants to give a picture of legal procedure among the Xhosa people and to show the democratic spirit in which this legal procedure is carried out.

Ityala Lamawele was published in 1914 four years after the formation of the Union of South Africa with some of its notorious laws which discriminated against and disenfranchised the black people of South Africa. *Ityala Lamawele* could also be seen as a response to the oppressive laws of the Union. Mqhayi in his text is trying to show the colonists that the blacks had been surviving and self sufficient all these years, having their institutions that were necessary for any nation to survive.

It is these intricacies, the beauty and the dignity of the language that give this text its fascinating power and such a high place in Xhosa literature. We have to note the collective dignity and the refinement of the chief and his subjects. Hardly any character stands out in this story.

Lastly, I hope that this partial translation of *Ityala Lamawele* will go a long way in rekindling interest in Mqhayi's works and further necessitate the whole or complete translation of the text thus encouraging engagement with the Xhosa culture as well as bringing understanding among the diverse cultures of South Africa.

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