



DIFFICULTIES ENCOUNTERED BY STUDENTS IN THE TRANSLATION OF LEGAL TEXTS

Aušra Stepanovienė*

*Mykolas Romeris University, Public Security Faculty, Department of Humanities
Putvinskio str. 70, LT-44211 Kaunas
Telephone: (+370 37)303664
E-mail: ausrastep@mruni.eu*

Annotation. Translation is used to enrich learners' vocabulary in a foreign language, to assimilate new syntactic structures, and to verify students' understanding. Texts from courts of law, legal cases, crime and criminality are stated to provide students with relevant expressions, idioms and structures. The paper deals with the difficulties encountered by the students of Mykolas Romeris University in ESP (English for Specific Purposes) classes while translating legal texts from Lithuanian to English and from English to Lithuanian. A test was designed to investigate the problems faced by the students. The paper presents the study results. Some useful techniques overcome the difficulties are also formulated in the paper.

Keywords: translation style, legal English, linguistic features, errors.

INTRODUCTION

The ability to speak a foreign language is becoming a necessity not an advantage. As a result, scientists are looking for more effective approaches to language learning. Translation is one of the suggested methods. Until recently, translation was out of favour with the language teaching community. The preference of grammar-translation method led to the situation that students were unable to speak fluently after having studied the language for a long time. For this reason, translation has been defined as “incommunicative, boring, pointless, difficult, and irrelevant”¹.

Foreign language teachers have been reviving the use of translation for different learning purposes. It was observed that translation activity could be used for pedagogical purposes along with other traditional language teaching and learning activities. Recently there has been a revival of interest to translation due to the increased migration, globalization, developments in international, economic and political relations, and the expansion of the mass media and technology. Translation method develops three qualities essential for any language

¹ Duff, A. Translation: Resource Boos for Teachers. Edited by A. Maley. Oxford: Oxford University Press, 1994, p.38.

learning: accuracy, clarity, and flexibility². Therefore, translation can serve as a tool for improving language skills. Knowing of the language enriches learners' vocabulary, helps to assimilate new syntactic structures, as well as verifies learners' awareness. Translation skills bring students to a level of practical proficiency that will enable them to be lingual and analytically equipped to carry out legal translation tasks³. A long-term teaching practice shows that translation as a method is very useful for future law enforcement officers to understand the nature of the legal documents they will be dealing with in their future career and develop English skills in legal vocabulary.

The **purpose** of the research is to examine the difficulties faced by ESP students in translating legal texts.

The **tasks** of the research are the following: firstly, to conceive the difficulty level in choosing the suitable legal translation style from English to Lithuanian and vice versa, and, secondly, to investigate the difficulty level in choosing the suitable terms in legal translation from English to Lithuanian and vice versa.

Research **methods** deal with the employment of scientific works review, observation, and the data of the survey of respondents' test.

PECULIARITIES OF LEGAL ENGLISH

Legal English is the style of English used by lawyers and other legal professionals in the course of their work. It has particular relevance when applied to legal writing including legal documents, contracts, licences, court adjudications, case reports, legal correspondence, etc.

Legal English is now a global phenomenon due to the spread of English as the predominant language of international business, as well as its role as a legal language within the European Union. Earlier it has traditionally been the preserve of lawyers from English speaking countries which have shared common law traditions.

One aspect of the legal language refers to the style in which legal translations are written. This style can best be described as being unsophisticated, simple and distant from multiple interpretations. Clearness is found out in this type of text because legal texts such as statutes, treaties or summonses are supposed to defend the rights of a person or a group or

² Duff, A. Translation: Resource Boos for Teachers. Edited by A. Maley. Oxford: Oxford University Press, 1994, p. 38.

³ Paurienė, G., Valentukonienė, J. Vertimas kaip metodas mokant(-is) profesinės užsienio kalbos. Šiuolaikinio specialisto kompetencijos: teorijos ir praktikos dermė. V-osios tarptautinės mokslinės-praktinės konferencijos straipsnių rinkinys. Kaunas, 2010.

impose obligations beside many other functions together known as “legislations“. Therefore, these documents should be named as the highest possible degree of clearness and adequacy⁴.

Another feature of legal language is derived from the fact that the rule of law regulates the behaviour of individuals in relation to each other and in relation to the society as a whole. In other words legal discourse is situated and practised in specialized institutions. It must be clearly formulated, categorically stated and accessible in form; it must be based on up-to-date, reliable and sufficient information.

One more noticeable feature of legal texts is that they are mostly culture-specific and culture-sensitive. This cultural specification and sensitivity is imposed by the legal system which legal language stands for as means of encoding.

Language investigation for specific purposes describes legal texts as a distinctive type of text. Most publications on legal translation deal mainly with lexical and terminological problems. While the use of consistent terminology is important as far as it reveals an awareness of the source and target legal systems, it is unimportant for the achievements of functional translation. Legal translation has much more than the substitution of appropriate terms. The translation of any text does not involve the replacement of words by their equivalents in the target language, but also gives additional information. Competence in legal terminology and familiarity with the source and target legal systems is just one aspect of subject awareness. Another important aspect of the subject awareness required for legal translation is the understanding of conventions governing legal drafting⁵.

Legal language is a distinct language easy to some extent to those familiar with it, but to others it can be of certain difficulty. Modern legal English is based on standard English. However, it contains a number of unusual features. The terms largely relate to terminology, language structure, linguistic conventions, and punctuation, and have their roots in the history of the development of English as a legal language. In other words, legal language is characterised by a specific terminology. The law student’s task in translating the source legal system into the target legal system is to select terminology that will achieve the desired results. The most readily identifiable linguistic features of a translated text which contribute to the quality of translation are specialised lexicon associated with legal writing⁶. In translating

⁴ Alchini, S.A. An Insight into the Translation of International Legal Language: a case study on the language of Andrew Claphain *Human Rights*. University of Padova, 2012, p. 40.

⁵ Šaršević, S. *Legal Translation*. University of Rijeka, 2001.

⁶ Mok, O. Specialised Lexicon in Legal Translation. *Babel*. No 41:4,2006.

legal texts students are confronted with a series of difficulties because they are not experts in the legal system. In such way, their comprehension of the original text may be imperfect and it is difficult for them to produce an accurate translation of the text. Moreover, students may not be able to select the right language equivalent when they translate. Therefore, while translating legal language students must add to their knowledge some unusual lexical features of English legal language.

LEGAL FRENCH TERMS AND LATINISMS

Following the Norman invasion of England in 1066, Anglo-Norman French became a language exclusive to the legal profession for a period of nearly 30 years⁷. Legal French contained many terms for which there were no English equivalents. Such French terms as “court martial”, “accounts payable”, “attorney general” are still common in legal English. The use of Law French during this period has an enduring influence on the general linguistic register of modern legal English.

During the period mentioned above, Latin remained the language of formal records and statutes. However, since only the learned were fluent in Latin. It never became the language of legal pleading or debate. One of many noticeable features of English legal lexicon is the existence of Latin terms in its terminology. Here are some Latin phrases and words in common use:

- Actus reus – Guilty act
- Erratum – Error
- In personam – Against the person
- Sub judice – In the course of trial

ARCHAIC DICTION OF LEGAL ENGLISH

Legal English has long been characterized by an archaic trait. The archaic expressions found in legal English such as hereinafter, hereto, herein, hereby, hereof, etc. represent a difficulty for the Lithuanian students to translate. They are actually a mixture of such elements as “here”, “there” and “where” with certain prepositions: of, after, by, under, etc.⁸. None of them can be translated by a single word and students often have a hard time finding

⁷ Tiersma, P. *Legal Language*. London: the University of Chicago press, 1999.

⁸ Alcaraz, E., Hughes, B. *Legal Translation Explained*. Manchester: St. Jerome Publishing, 2002.

equivalents for these archaic expressions. Archaisms give a flavor or formality to the language to which they belong. Some lawyers prefer to use antique terms instead of new ones. For example, they use “inquire” rather than “ask”, “forthwith” as a substitution of “right away” and so on⁹. According to Tiersma (1999), the more conservative archaisms are, the safer legal document will be. Certain archaic terms have actually acquired an authoritative interpretation over the years. As a result, altering them is an absolute risk. Also, this ongoing use of old-fashioned diction is, on the other hand, a matter of convenience¹⁰.

MODALITY

Another feature of the English legal language is the modal verb “shall”. In ordinary English, “shall” does not indicate futurity, but it is employed to express a command or obligation¹¹. Legislative acts and contracts use “shall” and “shall not” to express prohibition. “Shall” is used in legal language to write firm laws and specifications. The use of modal verb “shall” in legal texts is frequently used and pose certain difficulty for students to translate. The most important thing is that any legal verb preceded by “shall” is translated into Lithuanian in the present form.

FREQUENT USE OF DOUBLETS AND TRIPLETS

There is a curious historical tendency in legal English to string together two or three words to convey what is usually a single legal concept. Such words can be either nouns, verbs, adjectives or even prepositions. They must be treated with caution, since sometimes the words used mean, for practical purposes, exactly the same thing, e.g. null and void; and sometimes they do not quite do so, e.g. dispute, controversy or claim.

Modern practice is to avoid such constructions where possible and use single word equivalents instead. However, the pace of change in legal usage is slow, and as a result it is still quite common to see certain typical doublets and triplets in certain legal documents. Some of the commonly used legal word strings that essentially have one meaning are listed below (with suggested equivalents in brackets):

- able and willing (=able)
- agree and covenant (=agree)

⁹ Gubby, H. *English Legal Terminology: legal concepts in language*. Boom Juridische studieboeken, 2007.

¹⁰ Tiersma, P. *Legal Language*. London: the University of Chicago press, 1999.

¹¹ Tiersma, P. *Legal Language*. London: the University of Chicago press, 1999.

- authorize and direct (=authorize)
- deem and consider (=deem)
- legal and valid (=valid)
- touch and concern (=concern)

Word strings in English legal documents can present problems in translation as other languages may not have a string of corresponding words with similar meanings.

A legal consideration is that in law sometimes each and every word may carry different legal meanings and legal consequences. When disputes arise, courts may be asked to interpret each such individual word, and give them different meanings. In such case, it is not always possible or advisable to combine the synonyms into one word¹².

TECHNICAL TERMS

Another significant feature of legal English is its technical terminology. According to Tiersma (1999) if a word or a phrase is used exclusively by a particular trade or profession or if that profession uses it in a way that differs from its normal meaning and the term has a relatively well-defined sense, it should be considered a technical term. This reveals that a technical term is an unshared term used exclusively by a specific trade or profession.

Purely technical terms are monosemic; that is, having one legal meaning and having no difficulty for the translator, e.g. mortgage – potvarkis; decree – nekilnojamo turto įkeitimas; tenant – nekilnojamo turto savininkas; lease – nuomos sutartis, etc. The latter can simply consult a specialized legal dictionary. However, semi-technical vocabulary is a more complex type of terms. They have one meaning or more than one in everyday language and another in the field of law: avoid – išvengti, anuliuoti; instrument – įrankis, dokumentas; case – atvejis, byla; sentence – sakinys, nuosprendis; service – tarnyba, teismo pranešimas; title – pavadinimas, nuosavybės teisė, etc. Therefore, it is recommended for students who translate in ESP classes to get accustomed to consult specialized dictionaries whenever something in the context alerts them to a usage distinct from standard or everyday usage.

METHODOLOGY

The respondents of the study were 66 students studying ESP at Mykolas Romeris University, Public Security Faculty during the academic year 2012/2013.

¹² Cao, D. Translating Law. The International Journal of Speech, Language and the Law. Vol.15, No2, 2008.

A test was designed consisting of four questions which included twenty items and two paragraphs to explore the level of difficulty of legal translation style and suitable terms.

ANALYSIS AND DISCUSSION

The data were analyzed applying on the responses received for each question asked to the respondents. Table 1 presents that the percentage of error in selecting the appropriate legal translation style from Lithuanian to English equals to 24,72%. It indicates that 24.72% of participants committed errors in selecting the suitable legal translation. The percentage is middle and confirms that level of difficulty faced by respondents in selecting the suitable legal style is middle.

The percentage of errors in selecting the appropriate style in legal translation from English to Lithuanian equals 24,34%. This percentage also shows that the level of difficulty faced by the students in selecting the suitable legal style from English to Lithuanian is middle.

Table 1. The Participants' Level of Difficulty in Choosing the Suitable Legal Translation Style

Field	Total answers	Percentage (%) of errors
Choosing the style in translating from Lithuanian to English	454	24,72
Choosing the style in translating from English to Lithuanian	902	24,34

Table 2 shows the percentage of errors in selecting the appropriate terms in legal translation from English to Lithuanian of the study samples. The results present that the highest percentage in committing errors in selecting the appropriate term illegal translation from English to Lithuanian was in term 10 (74,28%); the second one item 3 with a percentage equals 71,00%; the third one item 5 with a percentage 52,22% , whereas the three terms 6,9,8 obtained the following percentages: 17,45%, 11,00%, and 7,76%.

The figures indicate that items 10, 3 and 5 are the most difficult terms faced by the students; whereas terms 6, 9, 8 obtained the lowest percentage in committing errors. The data confirm that the total error percentage in selecting the suitable term in translation from English to Lithuanian equals 33,48% at the grade over than the middle,

Table 2. The Percentage of Errors in Choosing the Suitable Terms in Legal Translation from English to Lithuanian

Term	Total answers	Percentage (%) of errors	Rank
Selecting appropriate term in translating from English to Lithuanian	39,00	32,22	4
	45,00	22,81	7
	19,00	71,00	2
	46,00	23,33	5
	27,00	52,22	3
	49,00	17,45	8
	45,00	22,82	9
	57,00	7,76	10
	55,00	11,00	6
	15,00	74,28	1
Total mark		33,48	

The data in table 3 below present the percentage of error in selecting the appropriate terms in legal translation from Lithuanian to English. The highest percentage in committing error in selecting the appropriate term was in term 10 with a percentage equals 88,76; the second one term 8 with a percentage equals 86,74; the third one term 3 with a percentage 70,00 whereas the three terms 5,1,and 6 obtained the following percentages: 21,00, 16,07 and 13,64. These figures show that the terms 10, 8, 3, and 4 are the most difficult terms encountered by the students whereas the terms 5, 1, 6 obtained the lowest percentage in committing errors. It is found that the total error percentage in selecting the suitable term in translation from English to Lithuanian equals 46,58% with a high grade.

Table 3. The Percentage of Errors in Selecting the Appropriate Terms in Legal Translation from Lithuanian to English

Term	Total answers	Percentage (%) of errors	Rank
Selecting appropriate term in translating from Lithuanian to English	51,00	16,07	9
	42,00	29,46	7
	17,00	70,00	3
	28,00	53,36	5
	47,00	21,00	8
	51,00	13,64	10
	39,00	32,58	6
	8,00	86,74	2
	27,00	54,21	4
	7,00	88,76	1
Total mark		46,58	

CONCLUSION

After analyzing the study results it was noticed that the participants confronted various difficulties in the process of translating legal texts and terms from English to Lithuanian and from Lithuanian to English:

24,72% of study sample individuals committed errors in selecting the suitable legal translation from Lithuanian to English. This percentage confirms that the level of difficulty faced by students in selecting the suitable legal style is middle.

24,34% of the study sample individuals committed errors in selecting the suitable translation from English to Lithuanian. The percentage shows that the level of difficulty faced by the respondents in selecting the suitable legal style from English to Lithuanian is middle.

The total error percentage in selecting the suitable term in translation from English to Lithuanian equals 33,48 and is over the middle.

The total error percentage in selecting the suitable term in translation from Lithuanian to English equals 47,58 with a high grade.

The study not only investigates the difficulties but also makes useful pedagogical suggestions. The researcher thinks that the following formulations may help to overcome the translation difficulties faced by students:

1. Simplifying legal translation for students.
2. Introducing all legal translation problems in details, paying attention to grammatical, semantic, cultural, lexical, etc. difficulties.
3. Giving the students more essays in law to write and discussing the committed errors.
4. Teaching students the principles of legal translation.
5. Teaching English by comparing it with Lithuanian paying attention to style, tenses, vocabulary and structure.

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SUNKUMAI, SU KURIAIS SUSIDURIA STUDENTAI VERSDAMI TEISĖS TEKSTUS

Aušra Stepanovienė*
Mykolo Romerio universitetas

S a n t r a u k a

Kadangi teisės kalba yra atskira bendrinės kalbos atmaina, todėl turi ir savų, šiai sričiai būdingų ypatybių, susijusių su šios srities poreikiais. Svarbiausios ypatybės – tikslumas ir tikslingumas. Specialusis teisės kalbos pobūdis verčia ieškoti savų raiškos būdų. Be įprastinių priemonių čia prireikia ir tokių, kurių paprasta bendrinė kalba neturi. Teisės kalba tam pasitelkia netipiškų ar periferinių kalbos reiškinių, o jų neradusi, kiek pakeičia ir sau pritaiko esamus žodžius ir pasakymus. Verčiant teisės tekstus reikia atsižvelgti, kad kiekviena tekstų kategorija skiriasi stiliumi ir kalbos ypatybėmis, kurios turi būti, kiek leidžia galimybės, išsaugotos vertimo tekste.

Straipsnyje aptariami teisės tekstų ir atskirų terminų supratimo ir vertimo iš anglų kalbos į lietuvių kalbą ir iš lietuvių kalbos į anglų kalbą sunkumai, su kuriais susiduria studentai. Remiantis tyrimui parengto testo rezultatais pateikiami procentai klaidų, pasirenkant teisingą kalbos išdėstymo stilių bei tinkamus vertimui terminus, išlaikant griežtą vartojamų terminų ir formulavimo vienodumą. Atsižvelgiant į tyrimo rezultatus straipsnyje suformuluoti naudingi pedagoginiai pasiūlymai, galintys padėti įveikti problemas ir sunkumus, su kuriais susiduria studentai versdami teisės tekstus iš anglų kalbos į lietuvių kalbą ir iš lietuvių kalbos į anglų kalbą.

Pagrindinės sąvokos: vertimo stilius, teisės anglų kalba, lingvistiniai bruožai, klaidos.

Aušra Stepanovienė*. Mykolas Romeris University, Faculty of Public Security, Department of Humanities, lecturer. Research interests: professional English methodology and didactics, theory and practice of legal English translation.

Aušra Stepanovienė*. Mykolo Romerio universitetas, Visuomenės saugumo fakultetas, Humanitarinių mokslų katedros lektorė. Mokslinių tyrimų kryptys: profesinės anglų kalbos metodologija ir didaktika, teisės anglų kalbos vertimo teorija ir praktika.