

VI. TEISĖ IR KALBA

LEGAL ENGLISH: TRANSLATION ISSUES

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S u m m a r y

Translation has been long rejected in English language teaching. A shift in non-native teachers' attitudes towards an application of translation in the ESP (English for Specific Purposes) was observed lately. The research, findings of which are presented in the article, focused on several points: the need of translation at an intermediate/advanced level of legal English; the comparative analysis of students' and teachers' attitudes towards the use of the native language in mastering legal English and reasons for its usage. The research was also conducted to establish an optimum amount of translation to be used in ESP. The analysis revealed and identified the need to use the fifth skill of translation on a university level, especially in teaching/learning legal English, and to promote it within the framework of communicative language teaching/learning.

Introduction. The Controversial Issue of Translation Use in ELT and Legal English

Application of the L1 (first or native language) to the L2 (second or foreign language) translation, and vice versa, in the ESP teaching/learning seems to be a step backwards from the commonly used communicative method which advocates the efficiency of teaching/learning English **through** English. Native teachers of English argue that foreign language learning needs as much exposure to the L2 as possible during precious classroom time, and any usage of the L1 or translation is a waste of time. For a long time, non-native teachers of English seemed to be in favour of this point and have supported it overwhelmingly since 1950s onwards.

However, in teaching/learning legal English it has been a long-felt dissatisfaction, mainly on the students' part, about excluding or minimal use of translation in mastering complicated issues (once again it was expressly obvious in teaching Legal English to a

mixed background class of Socrates/Erasmus students from various European countries where the English language was the only one medium of communication and students constantly wished to check the exact meanings of the introduced legal terms in their native languages by consulting corresponding bilingual dictionaries).

The reasons for such a need in translation is self-obvious: in law „Words are the power“, i. e. using a wrong word or the one in an incorrect context, and the consequences might be unpredictable. There is no need to look far and deep for examples: even the core concept of a democratic state „a rule of law state“ needs an adequate translation „teisinė valstybė“ and cannot be translated back into English word for word.

Another, a more harmful for the whole state and individuals, example related to translation was reported and analysed in a daily „Lietuvos Rytas“ (2002-03-16) – „Dokumento vertimo klaidos stabdė įvaikinimą“ („Mistakes in a Document Translation Impeded Child Adoption“) [1].

R. Dulevičienė, a prominent Lithuanian lawyer working for and representing foreign law firms here, has pointed out to numerous instances resulting from lack of precise translation in legal matters: misinterpretation of actual intentions, information, the consequences-sometimes rather grave- of ill-translated documents, et al. [2].

Objectives of the Research

Integration of Lithuania into the European Union and Schengen space will inevitably lead to the enlargement in the number of lawyers and Euro bureaucrats with a required excellent proficiency in foreign languages. Law University of Lithuania is a higher education institution involved in training competent law related experts and their proficiency in foreign languages will be one of the most important requirements in the nearest future.

Contemporary methodology of teaching languages emphasizes *immersion* principle, which implies learning *language through language*. It means complete abandoning of mother tongue in language classes. Inasmuch as native tongue is a tool of human intellection, such approach contradicts the basic principle of cognition which is based upon a model of links and associations.

The fundamental difficulty that language learners face at a tertiary level is complexity to use professional vocabulary appropriately.

Setting out to examine the effectiveness of using translation as a tool in teaching ESP, we had a very clear research aim focusing on the following points: 1) Do students need translation at the intermediate or advanced level? 2) What are the students and teachers' attitudes towards the use of the L1 in the ESP class?

We reported the data on students' attitudes to using the L1 in our previous paper [3]. In this paper we report our findings on the teachers' attitudes towards the use of mother tongue in teaching a foreign language for legal purposes and offer a comparison with the corresponding students' ones.

Overview of the Recent Research

Translation has lately been referred to as *the fifth skill* [4]. „Learning to talk is learning to translate“ (Octavio Paz) [5].

The buzzword for the future aspects of ELT is „*Creating and Using a Bilingual Technological Database with ESP students*“. This area is anticipated as a joint work by students and teachers in all walks of ESP. The basics for creating such a database is promoting students' abilities to translate from/back L1 and L2. It is of the uppermost importance to non-native learners of ESP, and many teachers have become aware of it.

Furthermore, there is another reason for turning back to translation in learning/teaching ESP- the strive for accuracy in L2. Bilingualism or even multilingualism is a fact of life and of a particular importance recently. For Lithuania, a would-be member of the EU, English will obviously be a language of communication and, naturally, many people seek fluency in it. Fluency cannot be achieved without developing accuracy, both in speech and writing. Modern approach to the target language focuses on placing fluency, accuracy and appropriacy concurrently, which is a hard task for a classroom practitioner to achieve. According to Duff [6], accuracy, clarity and flexibility can only be developed through translation, which „promotes language learning“. It is important to emphasize that translation is meant as an aid to language learning and *not* a vocational skill and *not* an out-of-date teaching technique for the communicative competence.

We are all aware of students' difficulty in producing appropriate English equivalents to Lithuanian expressions, in other words, naturally sounding utterances and phrases. In our opinion, this difficulty is caused by language interference, i. e. the intrusion from the L1 leads to errors in the L2. Still another cause seems to be students' inability to grasp the links and differences between the L2 and the L1 if they are not aware of them. These differences become apparent only when the respective word-partnerships are properly analysed, interpreted and processed. Therefore, we were convinced that the teacher's attitude towards the use of translation needs to be given a closer look.

Methods of Obtaining Data

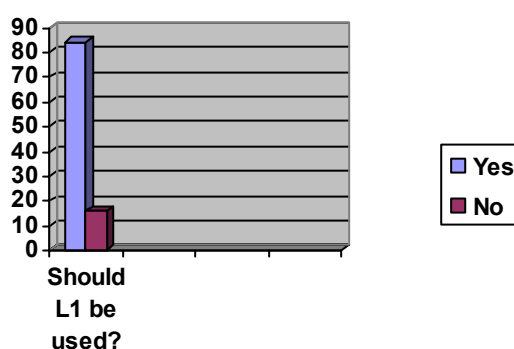
In this study, we asked non-native speakers – teachers of foreign languages for specific purposes – to respond to our questionnaire on the use of the mother tongue in the classroom. A similar questionnaire [7] was administered researching students' attitudes and data were reported earlier.

Responses from 32 teachers, affiliated to different Lithuanian, Estonian and Finnish higher education institutions, were received. The vast majority of them were the teachers of ESP, five were the teachers of German, and one – of French. Further on, the comparison of the teachers' attitudes to those of students' found out in our previous research is offered.

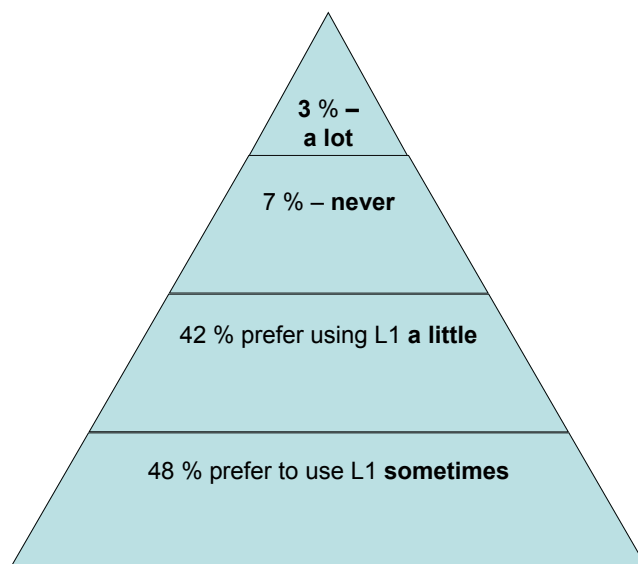
Data Analysis

There have been six major diagnostic questions in the questionnaire.

The responses of students and teachers to the general question „*Should the native language be used in the classroom?*“ are extremely close – the ratio of *yes* and *no* answers (84 per cent and 16 per cent respectively) is almost the same. This means that students and teachers are unanimous in the importance of the L1 on a university level.



Interestingly enough, the answers to the second question on *the amount of the native language to be used* in an ESP class vary: 33 per cent of students want the teacher to use the L1 a little, and 60 per cent of students – sometimes, while 42 per cent of teachers prefer using the L1 a little, 48 per cent – sometimes. The extreme answers (3 per cent – a lot, 7 per cent – never) on both ends are supported by the minority.



While pondering *on what tasks it is appropriate to use* a native language in the class, teachers' priorities on L1 usage in the order of importance are: explaining difficult concepts, explaining the link between the L1 and L2, checking comprehension, and defining new vocabulary. In percentage, however, fewer students want to have the comprehension checked and the link explained. Their preference for L1 use is for introduction of the new vocabulary. Therefore, it is vital for our learners to know the exact L1 equivalent to the new professional terms and difficult concepts introduced at an ESP class.

It is noteworthy that fewer students need instructions in the L1 at testing time than teachers think (9 per cent vs. 23 per cent).

Unfortunately, only few teachers think that making students feel comfortable is important, while more than the third of students (34 per cent), who had taken part in the survey, would appreciate it.

Students and teachers' responses *on the time limit for the usage* of mother tongue in the classroom differ considerably. 10 per cent of teachers are against using the L1 at all, more than a half of teachers support a 9 minutes limit against 20 per cent of students. The students' preference, however, is to use L1, based upon the specific needs of each class, even more extensively.

In response to the question „*Does the L1 help students learn a foreign language?*“ the majority (88 per cent) of the students avidly support the statement that L1 does help to learn a foreign language. Contrary to that belief, almost two thirds of teachers (61 per cent) think it helps a little. Quite a considerable percentage (14 per cent) of teachers' responses indicate that there is an opinion among the teachers (supported only by 5 per cent of students') that the usage of the mother tongue in the class does not at all help to learn a language.

The teachers, as well as students in a previously conducted research, were asked to give *specific reasons* (methodological and psychological) for using the L1 in their class. The majority of respondents agree that the L1 benefits learning/teaching L2, and improves their teaching.

Other most significant reasons provided are as following:

- at the advanced level, it makes students aware of the L1 interference;

- for ESP, it helps to introduce the terminology items;
- it benefits developing bilingualism or multilingualism in a learner;
- it saves classroom time and clarifies things;
- it helps to give complicated instructions before activities.

Students had indicated even more psychological reasons for their preference of the L1 usage in a foreign language class: these include feelings of being secure, fear of making mistakes or losing face.

Conclusions

The teachers' attitude to the use of learners' native language in the classroom has undergone significant changes from a complete denial to a reluctant acceptance.

A mother tongue shapes our way of thinking, which always interferes with a foreign language. The interference may be *positive* or *negative*, and the latter causes errors in the L2. The awareness of the L1 transfer to L2 helps learners avoid making mistakes. The teacher's duty is to highlight the hazards of language interference and to deal with it as soon as necessity arises. It is of no importance what language teacher will use in analyzing errors so far as it is conducted thoroughly. It must be pointed out, however, that an advanced learner in the majority cases can do perfectly well without explanations in the native language, while an under-achiever needs the support of the mother tongue.

The conducted research clearly indicates that the fifth skill of translation is becoming an important part of the learning a non-native language on a university level and needs promoting within the framework of communicative language teaching (see L. Clanfield and D. Foord [8] for practical ideas kit how to use translation as communicative tool).

As teachers we help our learners to get their meaning across the barrier of incomprehension, when they attempt to transfer the meanings established in one language (oral or written form) into an equivalent message appropriate within another language.

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Teisinė anglų kalba: vertimo problemos

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Pagrindinės sąvokos: teisinės anglų kalbos mokymas, terminų vertimo aspektai.

SANTRAUKA

Mokant(-is) svetimų kalbų, ilgai buvo naudojami komunikatyviniai metodai, kai minimaliai vartojama gimtoji kalba. Tačiau užsienio kalbų mokymui(-si) gana didelę įtaką turi besimokančio asmens gimtoji kalba, ypač jei mokomasi teisinės anglų kalbos, kai būtina preciziškai tiksliai nusakyti teisinio termino reikšmę. Ankstesnėse studijose ištirti ir identifikuoti pagrindiniai studentų poreikiai ir motyvai, susiję su vertimu į gimtąją kalbą, kaip specialybės kalbos mokymosi metodu, paskatino tyrinėti ir dėstytojų požiūrį į šios galimybės ir mokymo metodo panaudojimo veiksmingumą. Straipsnyje apibendrinti skirtingų aukštųjų mokyklų užsienio kalbų dėstytojų nurodyti vertimo naudojimo motyvai ir nustatyta optimali jo apimtis per svetimos profesinės kalbos pratybas. Pateikiama lyginamoji studentų ir dėstytojų poreikių analizė. Atliktais tyrimais grindžiama būtinybė pasitelkti vertimą specialybės – teisinės – užsienio kalbos mokymui ir ugdyti vertimo, kaip „penktosios“ kalbinės veiklos rūšies, įgūdžius.

