
PROBLEMS IN THE TRANSLATION OF LAW TERMINOLOGY

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Summary. Translation is used to enrich the students' vocabulary in the second language, to help assimilate new syntactic structures and to verify the students' understanding. Texts from courts of law, legal cases, crime and criminality are tailored to equip students with relevant expressions, idioms, and structures. The article deals with the main difficulties in the style of translation processes and examines some lexical features of English legal language. It provides some information about specific features of legal texts as well as their varieties.

Keywords: legal language, translation, terminology, linguistic features.

INTRODUCTION

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 and the drafting of written material, including:

- legal documents: contracts, licences, etc.
- court pleadings: summonses, briefs, judgments, etc.
- laws: Acts of parliament and subordinate legislation, case reports,
- legal correspondence

Legal English has traditionally been the preserve of lawyers from English-speaking countries which have shared common law traditions. However, 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, legal English is now a global phenomenon.

Two eye-capturing characteristics of legal language are the high degree of formality and extended register. Formality is derived from the fact that legal documents are always produced in official settings and legal discourse is practised in very formal situations with very strict rules of role taking and participation. The rules and restrictions are identical with those of "felicity conditions" required for validity of speech act. A sentence to death, for example, can not be interpreted as such unless it is performed in a court of law by a judge or authority liable to pass this act. This is a genuine reminder of the relevance of Speech Act Theory to the analysis and interpretation of legal discourse.

One further aspect of the legal genre refers to the style in which legal translations are documented. This style can best be described as being straightforward, unambiguous and distant from multiple interpretations. Clarity is sought in this type of text because legal texts such as statutes, treaties, contracts, etc. are supposed to defend the rights of a person or a group or impose obligations beside many other functions collectively known as “legislations”. Hence, these documents should be worded with the highest possible degree of clarity and adequacy.

Another feature of legal language is derived from the fact that the rule of law regulates the behavior of individuals in relation to each other and in relation to the society as a whole. In other words legal discourse is situated and practiced 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.

Another 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 a means of encoding. The language that encodes the regulations has to be nation-specific.

Research in languages for specific purposes describes legal texts as a distinctive type of text. Since legal texts (statutes, treaties, contracts) defend the rights of a person or group or impose obligations, their drafters must pay scrupulous attention to making sure that the legal text is hermetic and unambiguous.¹ Most publications on legal translation deal mainly with lexical and terminological issues. While the use of consistent terminology is important as far as it reveals an understanding of the source and target legal systems, it is not sufficient for the achievement of functional translation. Just as the translation of any text does not involve the mere replacement of words by their equivalents in the target language, if any exist, legal translation entails much more than the substitution of appropriate terms. Competence in legal terminology and familiarity with the source and target legal systems is just one aspect of subject knowledge. Another important aspect of the subject knowledge required for legal translation is the understanding of conventions governing legal drafting.²

Legal language is a distinct language easy to some extent to those familiar with it, but to whom with which are unfamiliar is of certain difficulty. Modern legal English is based on standard English. However, it contains a number of unusual features. These largely relate to terminology, linguistic 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

¹ Fraddosio M. *New ELS. English for Law Students*. Naples, 2008, p.28

² Sarsevic, S. *Legal Translation*. University of Rijeka, 2001, p.116.

specific terminology. The translator'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 a finished product are specialised lexicon associated with legal writing.³ In translating legal texts students are confronted with a series of difficulties. The students are not experts in the legal system. Thus, 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. So the future translator of legal language must add to his or her knowledge some unusual lexical features of English legal language. The **aim** of the article is to examine some particular lexical peculiarities of legal translation from English into Lithuanian and to concrete translation problems students can come across. The **method** of the research is the overview of the scientific literature.

LEGAL FRENCH TERMS AND LATINISMS

Following the Norman invasion of England in 1066, Anglo-Norman French became the official language of legal proceedings in England for a period of nearly 30 years. Consequently, many words in common use in modern legal English are derived from what evolved into Law French. These include *property, arrest, appeal, estate felony apostille escheat, chattel, verdict, lease, executor, demand, tort, etc.* The use of Law French during this period has an enduring influence on the general linguistic register of modern legal English. It also accounts for some of the complex linguistic structures employed in legal writing.

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 in the existence of Latin terms in its terminology. Here are some Latin phrases and words in common use:

- Actus reus – Guilty act – nusikalstama veika
- Erratum – an Error – klaida
- In Personam – Against the Person – prieš asmenį
- Mens Rea – Guilty mind – kaltė
- Sub judice – in the Course of trial – teismo eigoje

³ Mok O. Specialised Lexicon in Legal Translation. Babel, No 41:4, 2006, p.49.

ARCHAIC LEGAL TERMS

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

Table 1. Translation of Archaisms

Source language	Target language
Hereinafter referred to as „the Committee“	Toliau – Komitetas.
Regulation (EEC) No 4064/89 is hereby amended as follows:.....	Šiuo dokumentu Reglamentas (EEB) Nr.4064/89 iš dalies keičiamas taip:
The parties concerned hereto agree.	Suinteresuotos šalys sutinka.

Archaisms give a flavor of 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 on.⁴

MODALITY

Linguistically speaking, modality is another noticeable feature of legal texts, the fact that justifies the carry out of this study. Legal texts – in addition to their structural and contextual variation – display a variety of modal meanings such as “obligation”, “prohibition”, “recommendation”, “advice”, etc. to mention some but not all of these meanings. Legislative acts and contracts use “shall” and “shall not” to express mandatory action and prohibition. *Shall* is used in legal language to write firm laws and specifications. The use of modal *shall* in legal texts is widely frequent and therefore may pose certain difficulty for the translator. Traditionally, the modal *shall*, in legal texts, carries an obligation as opposed its common function: expressing futurity.⁵ More importantly, that any legal verb preceded by *shall* is translated into Lithuanian in the present form as in the following examples:

⁴ Gubby H. English Legal Terminology: legal concepts in language. Boom Juridische studieboeken, 2007, p.11.

⁵ Tiersma P. Legal Language. London: the University of Chicago press, 1999, p. 55.

Table 2. Translation of the Modal *shall* in the Present Form

Source language	Target language
Those convicted of violating this law shall be imprisoned for a term of not less than three nor more than seven years.	Apkaltintieji pažeidę įstatymą įkalinami ne mažiau kaip trejiems ir ne ilgiau kaip septyneriems metams.
Upon expiry of their term of office, members shall remain in office until their appointment are renewed or until they are replaced.....	Pasibaigus narių darbo laikui jie savo pareigas eina tol, kol jų paskyrimas pratęsiamas arba kol jie pakeičiami.....
....nothing in this Treaty shall affect.....nė viena šios Sutarties nuostata nedaro/neturi jokios įtakos.....
The detained person shall be informed of his rights.	Sulaikytam asmeniui pranešama apie jo teises.

The modal *shall* is used basically to demonstrate that the legal subject of a given sentence has a duty not to do something. However, certain sentences in which the modal *shall* carries a meaning different than that pretended in legal writing can be found. *Shall* is sometimes used in a way that is truly confusing and causes a dilemma for the translator to assume definitively whether the modal *shall* is being used for an obligation, futurity or false imperative.

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 (null and void); and sometimes they do not quite do so (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)
- authorise and direct (=authorise)
- cancelled and set aside (=cancelled)
- deem and consider (=deem)
- legal and valid (=valid)
- order and direct (=order)
- 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. For example, „null and void“ is translated as „niekinis“ into Lithuanian as one word. This is because there are no two synonyms in Lithuanian to correspond that English doublet. In this case, “null and void” in English has the essential meaning of “void” in any event. However, “null and void” is more emphatic in English than simply “void”.

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. Thus, for the translator, it is not always possible or advisable to combine the synonyms into one word.⁶

TECHNICAL TERMS

Another noticeable feature of legal English is its technical terminology. Alcaraz & Brian present a classification of technical vocabulary: purely technical terms and semi-technical terms. Purely technical terms are found only in the field of law and have a relatively stable meaning.

Table 3. Translation of Technical Terms With Stable Legal Meaning

Source language	Target language
mortgage	potvarkis, įsakas
decree	nekilnojamo turto įkeitimas
tenant	savininkas(nekilnojamo turto)
lease	nuomos sutartis
hereinafter	žemiau, toliau

Actually, the understanding of such kind of terms is of great importance in grasping any given legal text in which they occur.

Semi-technical terms belong to everyday lexicon which has gained extra-meanings in the legal context. Terms of this type are polysemic, tougher to recognize their precise meaning without resorting to the context in which they occur.⁷ The following examples are terms of this type:

⁶ Cao D. Translating Law. The International Journal of Speech, Language and the Law. Vol 15, No 2, 2008, p.69.

⁷ Bitinaitė V. Mokomasis anglų-lietuvių kalbų teisės terminų žodynas. Vilnius, 2008, p.78.

Table 4. Translation of Technical Terms With General Meaning

Source language	Target language
avoid instrument case sentence service title	(iš)vengti įrankis atvejis sakinyš tarnyba, aptarnavimas pavadinimas, antraštė

Table 5. Legal Meaning

Source language	Target language
avoid instrument case sentence service title	panaikinti, anuluoti dokumentas, aktas byla nuosprendis teismo pranešimas (nuosavybės) teisė

Purely technical terms are monosemic; that is, having one legal meaning and having no difficulty for the translator. 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. So, it is recommended for translators to get accustomed to consult specialized dictionaries whenever something in the context alerts them to a usage distinct from standard or everyday usage.

CONCLUSIONS

To sum up, legal English lexicon differs from ordinary one. The specific problems of the translation of legal terminology are caused by the system specificity of the legal language. Law terminology is difficult to translate without a considerable familiarity with the legal sphere.

When translating legal language students need to find an equivalent in the target language legal system for the term of the source language legal system. Moreover, they must add to their knowledge some unusual lexical features.

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TEISĖS TERMINIJOS VERTIMO PROBLEMOS

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Santrauka

Teisės kalba yra ne tik semiotinė sistema, bet ir neatskiriama teisinės sistemos dalis su jos tradicijomis, logikos ypatumais ir funkcijomis. Šios kalbos ypatybės savaime išplaukia iš pačios teisės ypatybių, tarp kurių pirmiausia minimos šios:

- Aukštas juridinių sąvokų abstrakcijų lygis.
- Glaudus kalbos ir teisės ryšys.

Straipsnyje pateikiami juridinių tekstų vertimo pavyzdžiai. Aptariami būdingesni teisės tekstų supratimo ir vertimo į lietuvių kalbą sunkumai, pvz. angliško būsimąjo laiko pagalbinio veiksmazodžio „shall“, lotyniškų ir prancūziškų posakių, archainių žodžių, dubletų ir tripletų, techninių ir pusiau techninių terminų vertimo į lietuvių kalbą ypatumai. 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.

Raktiniai žodžiai: teisės kalba, vertimas, terminija, lingvistiniai bruožai.

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