

The Challenges, Dilemmas, and Future Development of Legal English Translation

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Abstract

With the intensification of China's international exchanges, there is an urgent need for China to introduce, absorb, and draw upon foreign legal works and legal cultures, thereby promoting the internationalization of China's legal system. The socialist legal construction of the country cannot be separated from the transplantation of outstanding foreign legal systems, and legal English, as a vital tool for the study of foreign laws, has received increasing attention. Many countries have improved their own laws by studying the legal regulations of other countries, yet the cultural differences and distinctions in legal system concepts among various countries have also posed certain difficulties in this learning process. This paper analyzes the current status of legal English translation in China, identifies existing issues, and proposes relevant suggestions based on this analysis.

Keywords

Legal English Translation; Challenges; Current Situation; Development Suggestions.

1. Introduction

In light of the imperative demands of national strategic development, the significance of Legal English must be increasingly emphasized. As one of the core disciplines in legal education, Legal English plays a pivotal role in fostering the comprehensive qualities of legal professionals. Nevertheless, it is imperative to confront the myriad issues existing in Legal English translation in real-life scenarios, including but not limited to limited linguistic proficiency among legal translators, disparities in legal systems and cultures, and misconceptions in the comprehension of legal terminology. Addressing these issues will facilitate more profound academic research, resolve legal challenges arising from international trade, refine China's legal system, and concurrently elevate the country's international image and standing. This paper endeavors to elaborate on the potential problems encountered in the process of Legal English translation and subsequently propose relatively feasible solutions, aiming to contribute modestly to the cultivation of legal talents engaged in foreign-related legal affairs, thereby highlighting the challenges and dilemmas confronting Legal English translation.

2. Characteristics of Legal English Texts

2.1. Normativity of Vocabulary

Normativity is the essence and lifeblood of Legal English, which serves as a crucial vehicle for the conveyance of legal content. This underscores the inherent normativity of Legal English. It directly represents the direct aspirations of legislators, judicial officers, and parties to legal proceedings regarding the substance of the law, and encompasses obligations pertaining to nations, legal entities, and individuals. The paramount principle is to ensure precision and reliability in word choice, necessitating rigorous content analysis during expression. Deviation

from this principle can lead to inconsistencies in comprehension. The normative use of vocabulary ensures that legal language is articulated with accuracy, adhering to the principle of consistency followed by Anglo-American countries when dealing with identical concepts. This distinguishes Legal English from other languages, making it a pivotal terminology in the application of Legal English.

2.2. Solemnity of Legal English

Law represents the will of the nation and is a symbol of authority, imbuing Legal English with a unique rigor and solemnity. This is evident in the distinction between legal professional vocabulary and its colloquial counterparts. One of the key differentiators between Legal English and General English lies in the fact that many common English words acquire specialized meanings within the legal context, such as "prejudice" referring to harm, and "counterpart" signifying equivalent effect. Legal English carries specific meanings and consequences that cannot be altered at will, alongside a professional lexicon exclusive to legal discourse. The process of standardizing and adjusting legal language ensures the manifestation of its functional capabilities. These terminologies facilitate their dissemination across various fields, and their frequent application in Legal English further underscores the sanctity and solemnity of this language.

2.3. Abundance of Foreign Loanwords

Apart from the frequent use of Old English and Middle English, Legal English, due to historical reasons, incorporates a vast array of Latin, French, German, and Spanish loanwords in its vocabulary. Notably, Latin and French constitute fundamental components of Legal English. This results in a considerable number of legal terminology and jargon, making Legal English the most formal of all English registers. Attorneys employ countless professional terms and specialized content, which can be incomprehensible to those outside the legal profession but are indispensable for conducting their business. This underscores the inherent characteristics of Legal English, which plays a pivotal role in facilitating legal practice and drafting legal documents for attorneys.

3. Challenges and Dilemmas in the Translation of Legal English

3.1. Enhancing the Accuracy of Legal English Translation

Accuracy, conciseness, and logicity have always been hallmarks of law, and the same applies to Legal English translation, which should also strive for precision, brevity, and coherence. Taking "law" as an example, there are numerous English words that can represent legal concepts, including but not limited to "law," "statute," "act," and "code." "Law" has a broad connotation, referring to both the broader legal system and specific sectoral laws, but it is generally not used as the name of a specific legal mandate. "Statute" specifically refers to enacted laws in legislative form, a concept that contrasts with case law. "Act" is often used to name individual laws, such as the Clean Water Act or the Parliament Act. It should be noted that "statute" and "act" can be used interchangeably in some contexts. In contrast, "code" differs from "act" in that it refers to compilations of laws, such as the Code of Federal Regulations. However, in many practical legal English translation scenarios, translators fail to distinguish between these terms, causing significant confusion for foreign language readers, particularly in Chinese-to-English translations. Additionally, translators sometimes omit translations, disregarding the fact that every word in a legal text is crucial to its understanding. Arbitrary omissions compromise the integrity of the text and hinder comprehension. Conversely, some translators engage in amplification, adding decorative language in pursuit of aesthetic appeal. While these practices may be regarded as translation techniques in other contexts, they are

redundant in legal texts, undermining their conciseness and hindering the application of legal hermeneutics.

3.2. Insufficient Consideration of Legal Cultural Differences by Translators

Jurisprudence divides the world's legal systems into two main categories: the Continental Legal System and the Common Law System, each characterized by distinct legal cultures. Consequently, when interpreting legal terminology, translators must situate them within the broader context of the respective legal systems. Differences such as legal origins, application techniques, litigation procedures, and legal classifications exist between the Continental and Common Law Systems, all of which may impact a translator's understanding of legal terminology. In China's case, prior to the late Qing Dynasty, it belonged to the Chinese Legal System. Subsequently, during the introduction of Western laws, China primarily drew from the Continental Legal System as a reference. Although after the founding of the People's Republic of China, China also incorporated elements of the Common Law System, resulting in a hybrid Socialist Legal System, the influence of German and Japanese laws on China's modern legal system remains evident, with pronounced Continental Legal System characteristics. This situation has significantly influenced the translation of Legal English when studying the primarily English-based Common Law System.

3.3. Shortage of Qualified Legal English Translators

As previously discussed, both legal knowledge and English proficiency are equally essential for Legal English translation. Similar to the bucket theory, having only a legal background without proficiency in English makes translation impossible, and conversely, having only an English translation background without an understanding of law, particularly legal culture, results in translations that are inadequate. Due to legal cultural differences, translators often encounter Chinese terms with no direct equivalents in English, such as "Consideration," a unique term in the Common Law System that lacks a direct Chinese counterpart and refers to "valuable consideration" in exchange for a promise or contract. While this translation has been widely accepted in China, it underscores the need for the initial translator to possess substantial legal literacy to interpret and translate Common Law terminology into Chinese nouns. Furthermore, the rigor of legal terminology necessitates lengthy explanations in English texts for even simple legal terms, which can be challenging for those lacking legal logic to comprehend or translate directly, often leading to errors. Currently, China faces a shortage of Legal English translators who possess both profound translation skills and a high level of legal literacy.

4. Strategies to Address and Overcome Challenges

4.1. Enhancing the Linguistic Proficiency of Legal Translators

Legal English is characterized by its intricate sentence structures, often comprising complex clauses nested within clauses, predominantly featuring lengthy and difficult sentences imbued with legal specificity. Consequently, legal translation is an arduous and intricate task. To qualify as a competent legal translator, firstly, a meticulous and rigorous approach is imperative. Given the prevalence of lengthy and complex sentences in Legal English, coupled with the intricacies of English vocabulary and the existence of numerous similar-sounding words, a translator's negligence or failure to thoroughly proofread can easily lead to avoidable mistranslations. Secondly, a solid foundation in the native language is crucial. A successful legal translator must possess exceptional language comprehension and expression abilities, ensuring that translated texts not only accurately convey the original meaning but also adhere to the linguistic conventions and legal cultural norms of the target country. Without a profound grasp of the native language, the translated text may become incomprehensible, with disjointed content and incoherent flow. Lastly, and most importantly, proficiency in foreign languages and translation

knowledge is indispensable. Mastery of a foreign language is not achieved overnight but requires steady and cumulative efforts over time.

4.2. Enhancing Legal Expertise

Standardization and accuracy are fundamental requirements for legal terminology, and the issue of how to translate legal terms in a standardized manner merits our utmost attention. Cultivating high-quality, international, and versatile legal talents with expertise in foreign affairs is a pivotal measure to address this challenge. Such talents must not only possess advanced foreign language proficiency but also extensive and profound legal knowledge. When reading and translating Legal English into legal language, clarity, rigor, and authenticity must be upheld. Formal legal language should be employed, avoiding colloquial expressions or misapplied terminology. If a translator lacks sufficient legal literacy and solid professional knowledge, even if they understand the individual words, they may struggle to translate them into legal language and comprehend their deeper meanings. For instance, the phrase "Miranda warning," if translated literally as "Miranda's warning," fails to capture its profound legal significance, which symbolizes the right to remain silent (Shi Yujiao, 2019) [3]. This meaning stems from the landmark US Supreme Court case of *Miranda v. Arizona*. Numerous other legal terms exist with similar complexities. Therefore, only by continually enhancing one's legal literacy and broadening one's legal knowledge can one better comprehend the underlying meanings of terms and effectively convey their deeper implications through annotations.

4.3. Adopting Appropriate Translation Strategies

Translation strategies encompass transliteration, literal translation, and free translation, and proficiency in utilizing these methods to complement each other's strengths and integrate seamlessly is essential in the translation process. While transliteration may introduce conceptual discrepancies or ambiguities in the target language, it can avoid sensitive or derogatory terms and fill gaps in terminology, facilitating the integration of foreign languages into the native tongue. Translation is a process of recoding, and the translated language must be familiar to the users of the target language to enable them to grasp the intended meaning from the source language (Yan Han, 2010). Given the disparities in legal concepts between China and the West, relying solely on literal translation to explain legal terminology in foreign languages can be counterproductive. Therefore, it is necessary to make deliberate additions or omissions to the translation while remaining faithful to the original content (Bao Keji, 2011). When literal translation results in confusion, free translation can be employed, but this approach must adhere to the standards of fluency, authenticity, stylistic appropriateness, and standardization. In summary, this paper advocates adopting literal translation as the primary strategy, supplemented by transliteration and free translation, ensuring a tailored approach for each specific situation.

4.4. Profound Understanding of Legal Systems and Cultural Differences

Given the substantial disparities between Chinese and Western legal cultures, applying one's native legal mindset and culture to comprehend and analyze foreign legal systems, or transplanting advanced foreign legal cultures through rote methods, would inevitably lead to theories detached from reality. Consequently, a profound understanding of the legal systems and cultures of common law countries, particularly those within the Anglo-American legal tradition, serves as a prerequisite for legal English translation. In terms of legal systems, common law countries possess distinct tort laws but lack unified civil and criminal codes, whereas civil law countries operate in reverse. Regarding religious beliefs, civil law countries are deeply influenced by Christian culture, permeating their politics, culture, and various other aspects, while China, predominantly Buddhist, places greater emphasis on ethics. Furthermore, distinctions lie in the dichotomy of public law and private law within legal cultures, as well as

the contrasting values of litigation avoidance versus justice. When engaging in legal English translation, it is imperative to integrate relevant legal and cultural contexts to recode legal language that is compatible with national conditions, authentic, fluent, and precise. Hence, legal translators must not only be proficient in legal expertise and foreign languages but also possess a broad range of knowledge to qualify as the international legal talents that the nation necessitates.

5. Conclusion

The breakthrough in the dilemma of legal English translation necessitates the establishment of a unified English standard, the construction of an academic terminology database, the cultivation of highly qualified talents, and an understanding of the content of English translation. In strengthening the development of legal English, it is essential to comprehend the current challenges in legal English translation and foster mutual recognition between the legal and English professions. This will genuinely ensure the rationality and scientific nature of legal English translation, locate practical points for translation, and transcend traditional legal system construction. Through the internalization of China's localized legal decrees, contributions can be made to the subsequent legal profession. Mastering sound translation skills is crucial to effectively resolving the difficulties in legal English translation. In summary, the future prospects for legal English translation are replete with opportunities but also confront numerous challenges. Only by continuously enhancing professional competence, keeping pace with technological advancements, and deepening international cooperation and exchanges can one excel in the fiercely competitive market.

Annotation

Restatement (Second) of Contracts, 318 (1): "An obligor can properly delegate the performance of his duty to another unless the delegation is contrary to public policy or the terms of his promise."

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