Challenges in English to Persian Translation of Contracts and Agreements: The Case of Iranian English Translation Students

Mehrnoush Karimi [*]

English Department, Islamic Azad University, Isfahan (Khorasgan) Branch, Isfahan, Iran

Hossein Heidari Tabrizi

English Department, Islamic Azad University, Isfahan (Khorasgan) Branch, Isfahan, Iran

Azizeh Chalak

English Department, Islamic Azad University, Isfahan (Khorasgan) Branch, Isfahan, Iran

Abstract

The present study was intended to investigate the challenges that Iranian English Translation students face in translating contracts and agreements and find out the reasons. A descriptive research was conducted on 20 Iranian MA translation students. The participants received a translation task and were asked to translate from English to Persian meanwhile an interview was conducted to gather supplementary information. In order to analyze the tasks, the researcher used the first method of Waddington's model of translation quality assessment. The results revealed that the students faced different challenges when translating contracts and agreements such as lack of basic knowledge of legal systems and terminology and layout of legal texts. Students and professors elaborated on the reasons behind these challenges and through their answers it was clear that unfamiliarity with legal systems and lack of basic knowledge in the legal translation field were the major reasons for poor translation of legal texts.

Keywords: translation task, legal translation, legal text, translation challenges

INTRODUCTION

Translation typically has been defined as a process to transfer written or spoken SL texts to equivalent written or spoken TL texts. In general, the main purpose of translation is to reproduce various kinds of texts including, but not limited to, legal, economic, social, financial and scientific texts in another language and thus making them available to wider readers. Nowadays translating legal texts is considered as a difficult profession by translators because of its characteristics. In legal texts, words and expressions have legal concept and are definite, precise and technical, and since they make some responsibilities for parties, it is very important to understand or guess the meaning of words in translation process.

---

* Correspondence: Mehrnoush Karimi, Email: E-mail:mehr.ka@hotmail.com

There have been a lot of researchers who focused on this filed in different aspects such as presenting characteristics of legal texts, methods and strategies used in legal translation, and translational problems and challenges in legal language. Here the researcher only provides some examples as:

As Janulevičienė (2011) stated the translation strategies used for legal translation range from TL-oriented to SL-oriented ones. The TL-oriented strategies try to assimilate the SL legal terms into the target language and legal system while the SL-oriented strategies seek to preserve the semantic content (and sometimes the linguistic form) of the SL legal terms intact. The most usual legal terminology translation strategies are functional equivalence, formal equivalence, borrowing and description. Each of them has its advantages and disadvantages; Therefore, the translator has to assess every term and decide which of the strategies is to be preferred for its translation.

Ftouh, (2009) investigated some characteristics of legal discourse as: (a) Legal language is conservative, slow to change to become formulaic; (b) Legal language is characterized in all its aspects by formality; (c) Legal language is definite, precise and technical; (d) Legal language tends to spell things out with painstaking attention to minute detail; (e) Lengthy and complex sentences; and (f) Many foreign expressions are found in the legal language, especially Latin.

Altay (2004) classified the problems encountered when translating legal texts into six categories: (a) Differences in legal systems, (b) Differences in the language systems such as word order in Persian and English, (c) Lack of an established terminology in the field of law in Persian, (d) Use of particular sentence structures, (e) Dated or archaic-sounding terms used, and (f) Use of common terms with uncommon meanings. Simonnæs (2012) illustrated some typical challenges a translator is confronted with, for example culture-bound legal terms and specific legal terms as well as one particular type of style convention. A lack of knowledge of the particular subject domains has proven to be one of the most demanding challenges.

Harvey (2002) provided an overview of the main difficulties of legal translation and discussed whether they justify claims that it is a category in its own right. This brief overview suggested that it is difficult to pinpoint particular features which in practice make legal translation substantially different from other types of special-purpose translation. Most of the difficulties mentioned in his article are not restricted to the field of law or are predicated to a restrictive definition of what constitutes a legal document.

Zralka (2007) is another theorist of general translation to comment on legal translation. He noted that legal texts are used for matters connected with law, like proving a subject's identity or marital status, and are prepared most often in the form of sworn translations. Secondly, they share many typical formal characteristics of other legal documents and, at the same time, specialized texts. Enani (2003) dealt with major problems in both lexical and the structural areas helping the learner to acquire a better understanding of these problems. He stated that the conceptual framework differs from

one language to another which is reflected in the style mirroring the mode of thought of the people using each language. He observed that:

> As a result of the universalization of the language of science, modern standard Arabic has developed an abstract style similar to that of most living European languages. Some people call it *translation style*, but it is in fact the outcome of an interaction between our indigenous mode of thought and the universal language of science (Enani, 2003, p.28).

Darani (2012) conducted a research aimed at analyzing the aspects of translation equivalence in legal translation. First, it provides a theoretical framework focusing on legal translation from the existing perspectives. Then, different types of equivalence, especially functional along with its subcategories, namely, near-equivalence, partial equivalence and non-equivalence are elucidated.

Rasekh, Samadi, and Shomoossi (2011) conducted an analysis of two hundred and thirty-nine legal terms were selected from the Civil Code of Iran translated by Badrian (2001) to see which terms are problematic for translators. The criterion used for identifying the problematic terms is Altay (2004), who has offered six problems for the translation of legal terms from Turkish into English.

Butt and Castle (2006) studied the roots of traditional legal language and its peculiar characteristics that make legal documents difficult to handle by its users. They proposed a step-by-step guide to drafting in the modern style, using examples from four types of legal documents: leases, company constitutions, wills and conveyances. They also emphasized the importance of drafting in plain language and highlighted the positive impacts of its use. They surveyed the reasons for the current vulnerable condition of legal drafting, and provided some easy-to-follow advice on drafting in plain language. This book is considered an important recent contribution to the Plain English Movement.

By reviewing literature in legal translation field, the researcher inferred that there are very few studies which have dealt with the translational challenges pertinent to contracts and agreements as two kinds of legal texts from English to Persian. Although there have been some researches which dealt with legal translation problems from Arabic to English or English to Turkey, it seems a more specific research is needed which study challenges in translating legal texts from English to Persian regarding the mother tongue of researcher. Since the types of legal texts is numerous, the researcher choose contracts and agreements translation to narrow down the topic.

The study aimed at exploring the challenges that face English Translation Students in translating contracts and agreements in Iran and finding out the possible reasons behind such challenges. The focus of this study was on contracts and agreements which are two kinds of legal texts. Contracts and agreements are what legally bind parties and require special attention when it comes to translation.it is generally accepted that legal translation is the one of the most difficult fields and need to be factual and faultless. Even the smallest mistake can lead to misunderstandings that can prove costly. These

kinds of texts contain legal terminology, which makes it essential for the translator to have legal knowledge necessary to translate into the target language using the most appropriate legal terms.

According to the objectives of the present study, the following research questions were posed to be pursed in this study:

- Which challenges do English translation students encounter when translating contracts and agreements?
- What are the possible reasons behind these challenges?

METHODOLOGY

Participants

The population of the study included all the MA English translation students at Islamic Azad University of Esfahan (Khorasgan) Branch. From this population, a convenience sample that consisted of 20 students (male and female) have been chosen to take part in the study. In addition, another sample consisted of three professors in translation and linguistics and five English Translation Students participated in this study for interview purposes.

Instruments

There were two main instruments used in the study; a translation task which was created specifically to meet the requirements of the current study included a land selling contract and a consignment agreement. The criterion translation was the official translation which was done by Dr. Zavari as an official translator. The other instrument used in the study was a general semi-structured interview in which three professors in translation, one professional translator, and five English translation students were interviewed in order to gather information that cannot be obtained by the task.

Procedures

The major objective of the present study was exploring the challenges that face English Translation Students in translating contracts and agreements in Iran and finding out the possible reasons behind such challenges. To this end, the researcher asked twenty English translation students to take translation task and give it back to the researcher within a week. Concurrently the researcher conducted an interview with three professors in translation, one professional translator, and five English translation students.

Data Collection Procedure

The researcher adopted the following steps in conducting the current study: At first the researcher reviewed literature from different resources. Legal translation theory was the main aspect of the review of literature.

Meanwhile a number of articles that were related to legal texts features, translation challenges, technical translation, legal translation, as well as strategies in translating legal texts and expressions were studied. Subsequently, the significance and objective of the study determined and based on the dimensions of the study, the researcher determined the instruments needed to answer the main questions of the study which were semi structured interviews and translation task thereafter the validity and reliability of test were checked. Then the researcher asked twenty translation students to take translation task and give it back to the researcher within a week. Concurrently the researcher conducted an interview with three professors in translation, one professional translator, and five English translation students. In next step, the researcher asked three students and the professional translator who took part in pervious interview to study the translation task and by considering the text, answer interview questions. After that the tasks were corrected and the interviews were drafted. The data which were taken from the tests were interpreted and the researcher analyzed results. Finally, the findings of the study were discussed and were followed by conclusion and recommendation for further studies.

Data Analysis

The data were collected by means of translation tasks and semi structured interviews. For the task, the participants were asked to translate two legal instruments. Then the researcher analyzed results to see what are the challenges encountered by novice translators in translating legal texts from English to Persian. As it was mentioned, the researcher used first method of Waddington's (2001) model of translation quality assessment. This method is based on error analysis and possible mistakes are grouped under the following headings: First, inappropriate renderings which affect the understanding of the source text and are divided into eight categories: counter-sense, faux sense, nonsense, addition, omission, unresolved extra-linguistic references, loss of meaning, and inappropriate linguistic variation (register, style, dialect, etc.). Second, inappropriate renderings which affect expression in the target language and are divided into five categories: spelling, grammar, lexical items, text, and style. Third, Inadequate renderings which affect the transmission of either the main function or secondary functions of the source text. In each of the categories, a distinction is made between serious errors (-2 points) and minor errors (-1 point). There is a fourth category which describes the plus points to be awarded for good (+1 point) or exceptionally good solutions (+2 points) to translation problems.

RESULTS

The results of this study are presented in two sections. In the first section, 20 students translated two texts (one 'sale contract' and one 'consignment contract') from English into Persian which were compared to criterion version and then the researcher analyzed the target version according to the Waddington's first method of translation quality assessment. In the second, five students, three professors of translation studies, and one professional translator were interviewed in order to understand the challenges they face in translating legal texts and the reason behind these challenges.

Translation Task Findings

As can be seen from Table 1 students' performance has been worst in the first category, i.e. inappropriate rendering on understanding the source text, and best in the third, i.e. inadequate rendering.

Table 1. Students' Scores Regarding Waddington's Four Categories

Students	C1	C2	C3	C4	Average	Students	C1	C2	C3	C4	Average
1	6	8.2	9	6.7	7.4	11	6	6.1	8	7.2	6.8
2	3	6.2	7.5	4.8	5.3	12	4.8	6.5	8.5	6.3	6.5
3	4	7	8.7	7.1	6.7	13	6	8	8.2	5.3	6.8
4	5.5	8.8	9.3	6.7	7.5	14	4.5	7.4	8.5	6.1	6.6
5	8	9.5	9.4	7.9	6.7	15	7	8	8.3	7.6	7.7
6	8.8	9.8	9.7	9.1	9.3	16	5.5	7.9	9.3	6	7.1
7	7	8.1	9.2	7.5	7.9	17	4	7	8.6	4.5	6
8	5	6.3	8	6.4	6.4	18	2	6	7	4	4.7
9	6.5	7.5	8.3	7.9	7.5	19	3	6.7	7.5	5.5	5.6
10	3	6.7	6.5	6.6	5.7	20	5.3	8.5	9	7.1	7.4

According to the analysis conducted in accordance with the model in which the students obtaining scores less than 5 fail in the exam and those scoring higher pass, the results is as follows. In the categorical level, eight students in the first category, none in the second and third, and three in the fourth failed in the exam. In the average overall level, only one student has failed. This shows that students of Translation Studies mostly have problems in the level of understanding the source text and the transfer stage. According to the results, they have very few problems in the target text and function level, so that they have very few errors regarding these matters. Their performance demotes rather significantly in respect to the fourth category, i.e. solving translational problems which indicates that they need further effort and training to solve translational problems they encounter in translating legal documents. It is worth noting that despite the fact that they have had few, and mostly no, familiarity with such texts, they have a good overall performance.
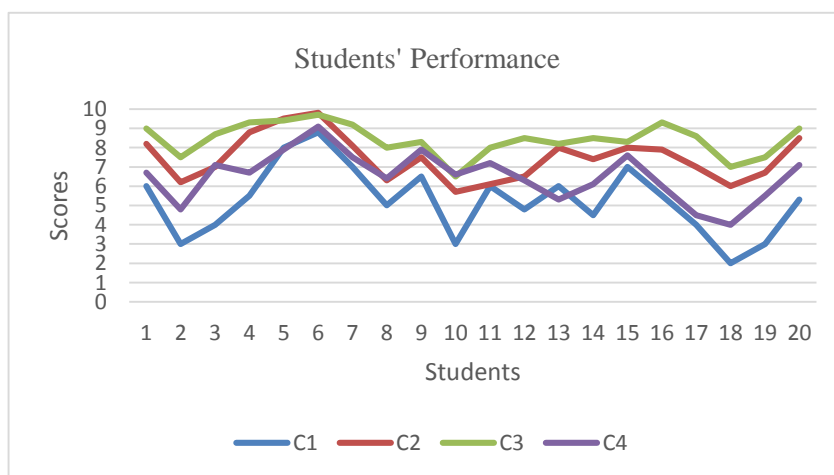
Figure 1. Students' performance in each of the categories.

As it can be seen from Table 1, in the overall level only one student has obtained a score under five and has failed; others have passed the test successfully. Figure 1 illustrates the individual performance of the students along with their collective performance trend line concerning each category.

The researcher has conducted another analysis presenting the percent of occurrence of each sub-category error along with their percentage regarding the whole number of errors committed. According to Table 2 three most committed errors in the first category were faux sense, addition, and omission, respectively. The first three such errors in the second category were lexical items, grammar, and style; and in the third category which constitutes two sub-categories are secondary and main function, respectively. As about the solutions, the majority of the solved problems belonged to the good solutions (%73.6), and the rest were exceptionally good solutions (%26.4). it is worth noting that the first three category percentages, due to having something in common that is 'error' property, have been computed separately from the fourth category which belongs to a different property, i.e. problem solving.

Table 2. Percentage of Errors Proportionate to the Ones Occurring Within the Category and Overall Errors

Category	Sub-category	Overall Percentage
Inappropriate rendering on understanding ST	Counter-sense	3.7
	Faux sense	17.2
	Nonsense	6.4
	Addition	15.8
	Omission	7.5
	Unresolved extralinguistic features	2.3
	Loss of meaning	5.9
	Inappropriate linguistic variation	2
Inappropriate rendering on TL	Spelling	2.5
	Grammar	9
	Lexical items	9.7
	Text	4.5
	Style	8
Inadequate rendering	Main function of ST	0
	Secondary function of ST	5.5
Good solutions	+1 point	73.6
	+2 points	26.4

Interview Findings

The first question dealt with the challenges that they encountered while translating the two legal texts. The most regular answers are presented as, Unfamiliarity with some legal expressions was the main challenge; Inability to find the equivalence in ordinary dictionaries and the need for more specialized dictionaries and resources; Uncertainty about which translation technique can be more appropriate to render the meaning accurately; Lack of intensive legal-related courses; Lack of hands-on experience in finding an equivalent in the target language due to lack of specialized dictionaries for legal terms. Unfriendly design and layout of legal texts, and Profusion of sophisticated vocabularies.

The second question of interview was about the reasons behind the challenges that novice translators encounter when translating contracts and agreements. The answers of the three novice translators were as follows: Lack of knowledge of how to overcome the issues of style and design of both languages; Lack of legal awareness and lack of legal interaction; Lack of knowledge of translation strategies and theories; The need of effective researching skills to save effort and money; Lack of courses that deal with legal language and law in general; Lack of knowledge in legal texts; Lack of skills needed in translating legal texts, and Lack of awareness of the importance of the context in translation.

The third question dealt with suggestions to promote translation quality for novice translators in contracts and agreements, here are some answers as: Free accessible resources related to legal translation should be available for students to improve their knowledge in translating legal texts; Students should be exposed to various legal texts translated by professional translators with a view to enhancing their performance; They should read as much legal texts written in their own language as they can in order to have an idea about these texts; They should consult specialized resources to get the correct equivalents of legal terms; Teaching the importance of context while carrying out legal translation as well as encouraging students consult with teachers and co-practitioner and finally, encouraging students to write English legal composition keeping in mind English culture and by avoiding the interference of mother tongue.

DISCUSSION

It is widely acknowledged that translating legal texts is a difficult profession for translators because of its complicated and significant discourse and characteristics. By comparing existing literature as discussed in the second chapter and the results of the present study, it is revealed that the results which obtained from this study are complied with the literature review in most aspects and it only fill the gaps which was mentioned earlier. Now by considering the objectives of this study, the answers of the research questions are presented as follows:

Which challenges do English translation students encounter when translating contracts and agreements?

According to results derived from tasks and interview, challenges faced in translating legal documents could be divided into five broad categories: different institutions, concepts, positions, and law procedures; rendering language-specific syntactic and semantic properties; terminological problems; translating complex and weird sentences; and detecting the uncommon meanings intended by the text. Initially, in the interviews the majority of the subjects stated that there are concepts, institutions and positions which were unfamiliar for them. Moreover, they added that there were judicial proceedings and acts different the ones existing in Persian legal system. This posed a difficulty in translating such pieces of text.

Secondly, the syntactic and lexical conventions of the source texts were not familiar to the subjects and they stated that there were some syntactic structures or word orders they had difficulty rendering it into Persian. Afterward, the majority of subjects graved about the Persian language not having established terminology. Regarding that English has specialized terminology in respect to the legal field, there were not one to one Persian equivalents, some words having several meanings and some other several words applied in one meaning. Regarding forth challenges, complex and weird English sentences posed a serious challenge for the translators of legal texts. These sentences are hard to understand and reproduce in the target language which in this case in Persian. Finally, subjects also reported having difficulty translating words with uncommon meanings. In the texts to be translated, there were a number of words having improbable meanings. For example, the word *whereas* which is taken to mean 'while', in the legal discourse means 'taking into consideration'.

So far the challenges facing legal translators were put forward; here the reasons of these challenges will be discussed which could be divided into five corresponding classifications: Differences in Legal Systems; Difference in the Language Systems; Lack of Established Persian Legal Terminology; Unusual Complex Sentence Structure of English Legal Language; Using Common Words with Uncommon Meanings.

The first of these categories is the one caused by the difference of legal system in different counties. Culture-specific aspect of legal documents is one of the most daunting aspects which many translators have difficulty dealing with it. This aspect requires the translator to have deep cultural knowledge of the language from which s/he carries out the act of translating because lack of this knowledge may result in an interpretation remote from the one intended by the original writer. As pointed out by Weston, "the basic translation difficulty of overcoming conceptual differences between languages becomes particularly acute due to cultural and more specifically institutional reasons" (1983, p. 207). Moreover, he notes that "a word denoting an object, an institution, or if such exists, a psychological characteristic peculiar to the source language culture is always more or less untranslatable" (Weston 1983, p. 207).

Numerous cases exist where finding an equivalent for a term, concept, or institution is not an easy undertaking. Another kind of problem arises with language-specific properties of different languages such word order, syntactic arrangements, etc. To name a number of cases, we can point to the SVO sentence pattern of English and SOV pattern

in Persian, and the use of 'shall' modal verb translated in the sense of futurity whereas its meaning in legal language implies authority and obligation (Bowers, 1989). Gouadec (1990) states that identifying one single term for a concept is impossible, but in the new millennium where scientific research and discovery necessitates that every scientific discipline has its own established terminology, there is a need for legal fields to have its own terminology with strict meanings. This has posed a difficult challenge for the Persian legal translators because for many terms there are no Persian equivalents, instead, there can be found sometimes five words with for one concept or, conversely, one term with several meanings.

Furthermore**,** among the entire subjects interviewed, almost 95 percent of them complained about the weird structure of source text sentences which add to the difficulty of legal translation to a great extent. There are some long sentences embodying up to eight embedded sentences, making the task of understanding, transfer, and regeneration a hard enterprise. Eventually, as stated by Danet, "legal language has a penchant for using familiar words (but) with uncommon meanings" (1985, p. 279). There are many words used in legal English language which most students are familiar with its primary and secondary meaning but, for example, its seventh meaning may be intended. This is also a daunting challenge for the ones translating such texts.

CONCLUSION

The data obtained by means of tasks and interviews indicated that English Translation students encountered many challenges while translating legal texts such as failing to correctly render many items from English into Persian. Students and professors elaborated on the reasons behind these challenges and through their answers it was clear that unfamiliarity with legal systems and lack of basic knowledge in the legal translation field are major reasons for poor translation of legal texts. It was also concluded that students have no or a very little on-hands experience in the field. It was clear that students' performance in translating legal texts is very poor, the interviews confirmed these results as novice translators agreed that they lack the basic knowledge in the legal translation field.

However, the results of this research will be useful for both the translators and trainee translators who will become professional translators. In addition, this study draws the attention of persons in charge and the officials to the importance of student's role in achieving and carrying out effective procedures and techniques of legal translation from English to Persian for the purposes to create and produce accurate and perfect legal translation.

This Study certainly paves the way for more thorough study in future on various aspects of legal translation and problems faced by the Iranian learners of English in general. It might be also rewarding to investigate the challenges that English Translation Students face in translating other types of legal texts.

REFERENCES

Altay, A. (2002). Difficulties encountered in the translation of legal texts: The case of Turkey. *Translation Journal*, *6* (2), 3-8.

Badrian, F. (2001). *Translation of Civil Code of Iran*. Iran: Rahnama Publication.

Bowers, F. (1989). *Linguistic aspects of legislative expressions*. Vancouver: University of Columbia Press.

Butt, P. & Castle, R. (2006). *Model legal drafting: A guide to using clearer language*. New York: Cambridge University Press.

Danet, B. (1985). Legal Discourse. *Handbook of Discourse Analysis*. New York: Academic Press.

Darani, P. (2012). The English legalese under scrutiny: Genre-Based approach to legal translation. *Portal for Language Professionals and their Clients*. Retrieved from http://www.translationdirectory.com/articles/article2356.php.

Enani, M. (2003). *The science of translation*. Egypt: Cairo University.

Ftouh, M. (2009). Characteristic of legal discourse. Retrieved from http://masterlit.forumactif.com.

Gouadec, D. (1990). *Terminologies Constitution des Donnés*. Afnor: Paris.

Harvey, M. (2002). What's so special about legal translation? *Journal des Traducteurs, 4*(2), 177-185.

Janulevičienė, V. (2011). Translation strategies of English legal terms in the bilingual Lithuanian and Norwegian law dictionaries. *Socialinių mokslų studijos/Societal Studie*, *3*(3), 1073-093.

Samadi, M. Shomoossi, N. Rasekh, A. (2011). Problems in the translation of legal terms from Persian into English. *The International Journal - Language Society and Culture*. Retrieved from www.aaref.com.au/attachment.aspx?id=2000

Simonnæs, I. (2012). *Challenges in legal translation*: NHH Norwegian School of Economics.

Waddington, C. (2001). Different methods of evaluating student translation: *Translator's Journal, 46*(2), 311-325.

Weston, M. (1991). *An English Reader's Guide to the French Legal System*. Oxford: Berg.

Zralka, E. (2007). Teaching translation of specialized legal texts on the basis of official document. *Journal of Specialized Translation*. Retrieved from http://www.jostrans.org/issue07/art_zralka.pdf.