

Investigating Features of English Legal Texts with Reference to their Translation into Arabic

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Abstract

This paper investigates the features of the legal texts in English and how these texts significantly distinguished from other than texts. It focuses on the nature of language of law and how specialists pay attention to this language in order to preserve its these features in both languages. The legal translation is another aspect taken into consideration by the researchers and how this type of translation is conducted by conveying not only a linguistic material but also a legal system from one language into another. The substantial skills, required by the translator in the legal field order to convey the meaning of the legal terms precisely and accurately, are viewed and show their importance. Moreover, this paper shows the categories of legal texts and how they are classified according to their purpose or the domain in which they are used. The features of the legal texts are also explained in details with reference to their Arabic translation.

Keywords: Legal Texts, Legal Translation, Legal Translator, Legal Function.

Introduction

Legal translation is considered as an important category of translation, that necessitates exceptional skills to translate legal texts accurately. It is important for the translator to know all kinds of legal texts and how to deal with them by realizing the functional equivalence of each term in the target language. The field of legal translation includes two possible trends: translators deal with documents that require legal translation and at the same time the presence of specialists in legal field who are responsible for explaining these documents in the courtroom.

Knowing the sub-text types of the legal language is very important for the translator in order to conduct the translation process correctly, because each sub-type needs a method to achieve its functional equivalence. The translation scholars classify the legal texts from different aspects according to their perspectives either the purpose or the function.

In this paper two main significant features of the legal texts are investigated with reference to their translation in Arabic and how they are rendered in the TT. In the field of translation, it is important to have a wide knowledge of the categorizations of legal texts and their features because any mistranslation will lead to change the meaning in the TT and create serious problems.

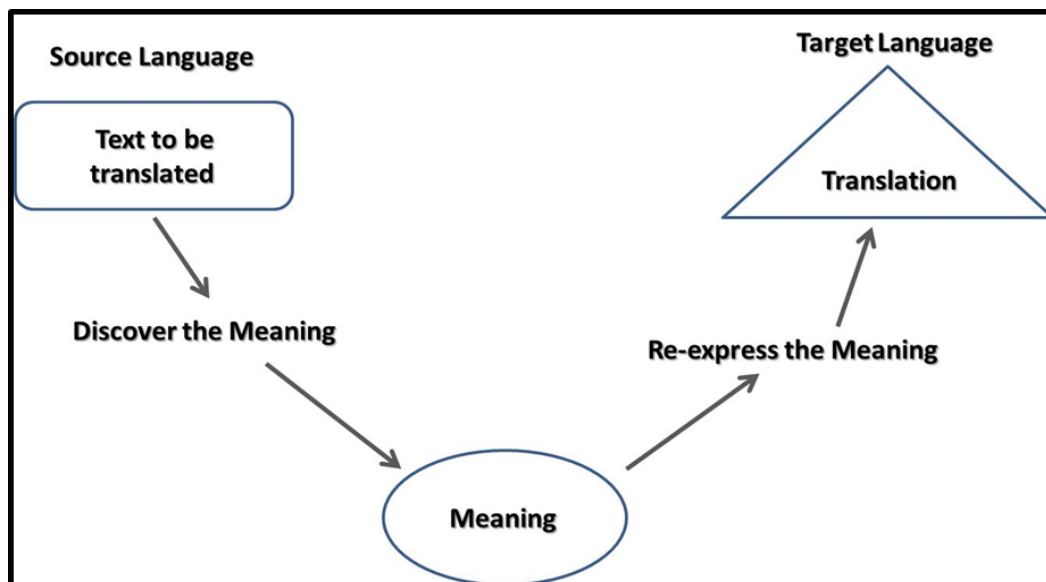
To accurately translate legal texts, one must first have a firm grasp on the underlying legal principles. In order to better assist their clients, legal translators play a crucial role in facilitating public understanding of the legal system and its

features. It's crucial that the translator gets everything properly because of how precarious the law can become in certain circumstances. By doing so, translator will ensure that people have access to competent legal counsel and protect them against unfavorable outcomes.

1. Legal Translation

To put it simply, Sarcevic (2007:14) describes legal translation as a subset of translation in which the translator is tasked with making a change not just in the language used but also in the governing legal framework. That is to say, while translating from one legal system to another, it is important to account for the fact that the two systems have significant disparities.

El-Farahaty (2015:7) supports the viewpoint taken here by arguing that legal translation is not only the reformulating the SL into TL but it is constrained by the culture of each language.



Translation Process by Larson

To elaborate, Almann (2017:2) emphasizes that legal translation is different from other types because it involves that the translator must command both cultures and language structures. This means that the translator has to possess a wide knowledge of culture and language of the source language in order to understand it, as well as an insider in the culture and system of the target language in order to transfer the message successfully.

2. Legal Language

Lawyers claim that the distinct variances between legal and everyday language facilitate transparent and precise exchanges. Non-experts may view this as a source of confusion and distraction, but experts see the opposite. Legal language has the following features and characteristics:

2.1 Lengthy and Complex Sentences:

Al-Aqaileh (2009:11) says that legal sentences are longer than other sentences and contain some lined phrases to make them more complex. This

mislead the non-specialists in understanding the essence of the message and how to reformulate the this message into target language.

For example:

The first party undertakes to hand over the keys of this apartment to the second party and enable him to use and dispose of it upon the completion of the registration procedures of the final contract with Survey and Land Registration Bureau to be signed by both parties, provided that second party should discharge all his cash obligations provided for the in the preliminary sale contract.

يتعهد الطرف الأول بتسليم مفاتيح هذه الشقة للطرف الثاني وتمكينه من استخدامها والتصرف بها عند إتمام إجراءات التسجيل بالعقد النهائي مع جهاز المساحة والتسجيل العقاري ليتم توقيعه من قبل الطرفين ، بشرط يجب على الطرف الثاني إبراء ذمة جميع التزاماته النقدية المنصوص عليها في عقد البيع الأولي.

2.2 Wordiness and Redundancy

Al-Aqaileh (2009:12) emphasizes that lawyers are fond of using expressions that are full of recurrence and redundancy, which include some of the vocabulary circulated among them. They also tend to use compound phrases (Bulky Phrases) such as the phrase (*At law speed - at the speed of the law*), which in ordinary language, it can be replaced by the word (Slowly) or the phrase (Subsequent), which can be replaced by the word After.

2.3 Conjoined Phrases

They are phrases that consist of conjunctions such as (and, or, by) to obtain comprehensive and emphatic sentences as much as possible. Lawyers resort to this method to surround the word in all its aspects so that there is no room for ambiguity and ambiguity when interpreting it. El-Farahaty (2015:15) Any individual, institution, company or corporation possess an interest in the goals of this organization shall be eligible for membership.
يجب أن يكون أي فرد أو مؤسسة أو شركة أو شركة لديها مصلحة في أهداف هذه المنظمة مؤهلاً للعضوية.

2.4 Avoiding usage of (I) and (We) Pronouns

This means avoiding usage of pronoun (I) and pronoun (You) or (We). The reason for this is imparting impartiality and objectivity, which helps in applying the legal system legitimately. As for the judges, they prefer to speak of themselves in the capacity of the court rather than in their personal capacity, and they may use the pronoun (We) to talk about the decisions issued by the bodies that preceded them, which indicates the continuity of the law and is not restricted by the element of time as well. Bostanji (2010:25)

2.5 Avoiding other Pronouns

Bostanji (2010:20) asserts that in legal texts, it is important to avoid the use of pronouns (Avoiding Pronouns) and to replace them with repetition of the name because the use of pronouns sometimes leads to ambiguity. Lawyers routinely avoid using pronouns even if there is little ambiguity. One of the advantages of this method is also gender neutralization.

3. Drafting the Legal Texts

Al-Siba'ai (2010:9) explains that the legal specialists must take into account certain aspect when they draft the legal document because it requires a high attention in writing the legal sentences:

1. Accuracy and clarity

The most important thing that the drafter of the legal document should be characterized by is accuracy and clarity, because the drafting of a legislative article or contract in a way that bears many and different interpretations leads the stakeholder to the horrors of litigation and courts. The legal language is characterized as a direct language that is far from the wonderful improvements and rhetorical methods, as the use of such methods leads to multiplying the text and even destroying its entity. . Such methods are forbidden in the legal language.

2. All-Inclusiveness

This means that the draftsman has to possess a wide knowledge of the subject matter in order to include all the aspects related to the subject. When the rent is mentioned in the contract, the draftsman needs to cover everything related to this aspect because these minor details are very critical in the legal language because when they are ignored the problems are aroused between the two parties.

4. What skills does a legal translator need?

Piecychna (2013:6) asserts that every translator is well-versed in the cultural, sociological, and linguistic similarities shared by the two languages they translate between. The translator is responsible for ensuring that every term, hidden meaning, and subtlety is rendered as accurately as is humanly possible, in addition to complying to the particular legal language that is being used. For Galdia (2013:10), when it comes to diplomatic translation international treaties, ambiguity can represent a diplomatic tactic. In literary translation, ambiguity is not necessarily viewed as a defect. In order to produce a high quality of legal translation, translators must avoid "Legal Translation" ambiguities. A translator without experience in the legal sector should not attempt to translate legal documents. The job of a legal translator necessitates a wide range of skills, such as:

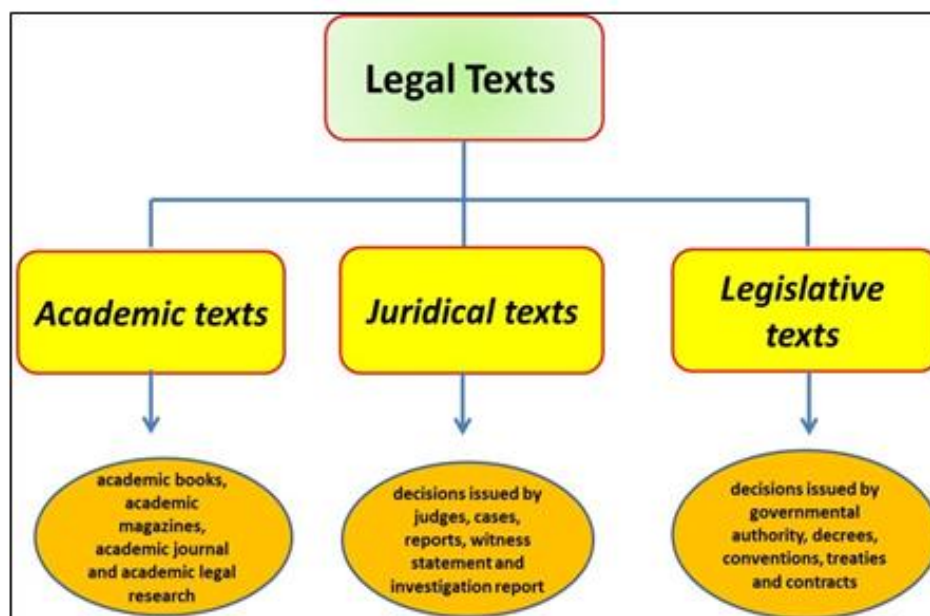
- Fluency in both the original and the target languages.
- Ability to command the complex legal systems of both nations
- A thorough familiarity with the specifics of the applicable legislation
- Experience of reading and understanding technical text.

5. Types of Legal Discourse

For Alcaraz (1994:7) mentions that specific group of people are responsible of drafting the legal discourse and present them within the legal contexts. Moreover, there these classifications are based on the purposes and functions that these texts can fulfill in target language.

- Different forms of legal genres can be seen in different contexts such as lawyers' languages, court languages and academic legal languages whether is written or spoken forms.
- In language of law, the legal texts include different categories that represent a special language characterized with its features.

In a comprehensive study, Bhatia (1997:25) gives a detailed classification for the legal texts according to their purposes or the field in which they are used. Bhatia categorizes the texts into: academic texts, juridical texts and legislative texts. Figure (2) shows how these texts are classified by Bhatia.

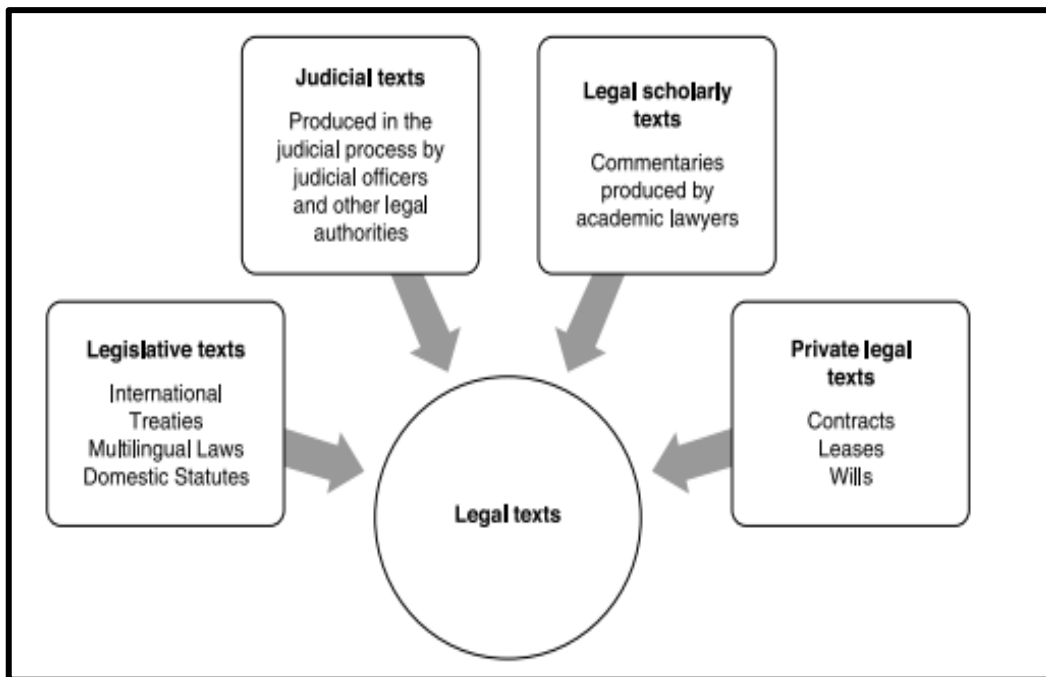


Figure(2) Bhatia Legal Texts Classification

In the same context, Coa (2014:15) classifies legal text according to its purpose into three main categories. He mentions that there are three such as:

Normative Texts: Both the source text (ST) and the target text (TT) have the same level of authority, therefore using either one in the target language (TL) will have the same impact as using the source text (SL). If a text is required by law, it might be anything from a legislation or directive to a private document.

Informative Texts: They serve no use other than to warn TL readers that although the SL content is binding, the TL text is not. This may involve foreign laws or judicial rulings.



General Texts: This kind refers to the texts not written by legal experts such as legal certificates. Figure (3) shows the main categories of the legal texts by Coa.
Figure (3) Cao's General Classification of Legal Texts

6. Features of the Legal Texts

The lexical texts are characterized with certain features that make them unique. These features need to be converted precisely in the TL because this type of texts must be clear and direct in order to be understood by the readers of the target language.

1. Lexical Features

Some of these texts are represented by the use of (1) **archaic words** , (2) **doublets and triplets**.

1. Archaic words

According to Crandall and Charrow (1979:5), archaism is significant feature of legal discourse and legislative documents in particular. Archaic terms and idioms are used to provide a formal aspect to the language. This is because the terminology used in the law is very formal, frequently bordering on the antiquated. Words like **herein**, **hereof**, **hereafter**, **thereon**, **therewith**, **whereof**, etc. are not used in the ordinary language.

ST For the purpose of implementing this Convention, it shall not be necessary, except as otherwise stated **herein**, for the offences set forth in it to result in damage or harm to state property.

TT لأغراض تنفيذ هذه الاتفاقية، ليس ضرورياً أن تكون الجرائم المبينة فيها قد الحقت ضرراً أو اذى بإملاك الدولة باستثناء ما تنص عليه خلافاً لذلك.

ST Each State Party shall furnish copies of its laws that gives effect to this article and of any subsequent changes to such laws or a description **thereof** to the Secretary-General of the United

	Nations
TT	تُزود كل دولة طرف الامين العام للأمم المتحدة بنسخ من قوانينها المنفذة لهذه المادة و بنسخ من اي تغييرات تدخل على تلك القوانين لاحقاً او بوصف لها.

2. Doublets and Triplets

El-Farahaty (2015:20) shows that there are many lexical items to represent a single referent. "frozen formulations which are irreversible; they are formal syntactic properties rather than lexical ones," as the authors put it, describe these doublets and triplets. A few common cases of this are:

Made and entered into	ابرم و دخل حيز التنفيذ
Under and in accordance with	بموجب او تماشياً مع
Goods and chattels	البضائع و السلع
True and correct	حقيقي و صحيح
Null and void	لاغ و باطل
Acknowledge and confess	يقر و يعترف
Safe and sound	مأمون و سليم
Unless and until	ما لم و الى ان
Save and expect	فيما عدا و باستثناء
Fraud and deceit	غش و خداع
Shun and avoid	يتجنب و يتحاشى
Act and deed	عمل و فعل
Shall be and remain	يكون و يظل
Each and every	كل
Free and clear of	حال من
Made and signed	تحرر او ابرم
Deem and consider	يعد و يُعتبر
Keep and maintain	يبقى و يحافظ على
Part and parcel	جزءاً لا يتجزأ
Term and conditions	شروط و احكام
Requisite and necessary	ضروري و لازم
Bind and obligate	يلزم
Rules and regulations	القواعد و التعليمات
Aid and abet	يساعد و يحرض
honor and reputation	شرف و سمعة
Will and testament	وصية

For El-Farahaty(2015:21), triplets in Legal texts are words found in legal texts that come together as three words but their meaning are connected and logic . Their translation refers to a clear meaning in the target language that is related to the legal context they are mentioned in it. When they are translated it is important to render all the words in order to preserve the same meaning with no ambiguity.

يكون مرتبط مع بعضها لبعض في نفس السياق و ذلك ان ترجمة هذه الكلمات التي تسمى ب(الثلاثيات) لكي تعطي المعنى الواضح و الذي يفهمه المتلقي بشكل بسيط وفق للسياق القانوني المذكور.

ST	This agreement made and entered into this day of by and between the party of the first part, and, the party of the second part...
TT	أبرمت هذه الاتفاقية ودخلت حيز التنفيذ بتاريخ..... بين كل من الطرف الأول و الطرف الثاني
ST	The Contractor shall dispose from the dwelling unit all ashes, rubbish, garbage and other waste in the clean and safe manner.
TT	يتعهد المقاول بإزالة كل الاتربة و المخلفات و القمامة و غيرها من الفضلات من الوحدة السكنية بطريقة نظيفة و امنة.

2. Syntactic Features

In legal English, syntactic features are more distinctive of legal English than are lexical ones, and certainly account for more of the difficulties of lay persons in comprehending i

Hatim et al. (1995:13) says that there are four significant syntactic features are identified by most legal translation theorists such as **(complex prepositional phrases) (sentence length and complexity), (passive constructions), (whiz deletion).**

1. Sentence length and complexity

In this perspective, Danet (1980:10) shows that legislative texts are characterized by the abundant use of long and complex sentences. A legislative English sentence can stretch over a number of lines, thus forming one whole paragraph. The length and complexity of these legislative sentences result from the use of both coordinating and subordinating clauses as well as reduced and embedded clauses with heavy use of modifications, prepositional phrases, long noun phrases and the like.

Example:

ST:

The subcontractor shall provide, install and maintain all necessary and proper warning signals, signs, light barricades and fences in and along the line of the subcontract work, and shall take all the necessary precautions for the protection of the said work and the safety of its employees and the public.

TT:

يجب على المقاول الثانوي (من الباطن) توفير وتركيب وصيانة جميع إشارات التحذير واللافتات والحواجز الضوئية والأسوار اللازمة والسليمة في وعلى طول خط أعمال العقد من الباطن ، ويجب أن يتخذ جميع الاحتياطات اللازمة لحماية العمل المذكور وسلامة أعماله. الموظفين والجمهور

2. Complex prepositional phrases

For Sabra (2003:12) explains that one of the striking features in legal English in general and in legislative writing in particular is the use of complex prepositional phrase instead of a simple preposition. For Bhatia complex prepositional phrases are used in place of simple prepositions to avoid

ambiguity that might be derived from the use of the simple ones. Similarity, in this text type, priority is given to clarity, precision.

Complex Prepositional Phrase	Instead of	Simple Prepositions	Translation
By virtue of	Instead of	by	بواسطة
In consideration of	Instead of	for	لأجل
For the purpose of	Instead of	For	لغرض
In accordance with	Instead of	According to	طبقاً لـ
In the course of	Instead of	During	خلال
With the exception of	Instead of	Except	باستثناء
In respect of	Instead of	Concerning	ما يتعلق بـ
With Regard to	Instead of	Regarding	بخصوص

3. Whiz Deletion

Bhatia (1993:9) comments on that deletion of the relative pronoun, such as who, which or that, and a form of the verb to be. He says that when the relative pronoun along with verb to be is left out, the relative clause is called 'a reduced clause'. By way of explanation, let us consider the following example quoted from a treaty between the State of Bahrain and the government of the United States of America

ST	TT
For the purposes of this Treaty, an investment dispute is a dispute between a Party and a national or company of the other Party (which is) arising out of or (which is) relating to the investment authorization, an investment agreement or an alleged breach of any right (which is) conferred, created or recognized by tis Treaty with respect to a covered investment.	لغايات هذه الاتفاقية النزاع الاستثماري هو نزاع بين طرف متعاقد و مواطن او شركة من الطرف المتعاقد الاخر الناشئ عن او يتعلق بتفويض استثمار او اتفاقية استثمار او الادعاء بانتهاك اي حق ممنوح او ناشئ او معترف به بموجب هذه الاتفاقية فيما يتعلق باستثمار مشمول.

Here, it is clear that the deletion of the wh-pronouns doesn't affect the meaning of the sentence when it is translated from the ST into the TT. Therefore, the translator has to take into account that these pronouns can be deleted with no effect on the meaning.

4. Passive Construction

Beveridge (2002:5) stresses the prevalence of passive voice. The passive voice is often used in legal writing, particularly when it is not relevant to identify the speaker., e. g.

- The acronym EURES **shall be used exclusively** for activities within EURES. **It shall be illustrated** by a standard logo, defined by a graphic design scheme. The logo **shall be registered** as a Community trade mark at the Office for Harmonization in the Internal Market (OHIM). **It may be used** by the EURES members and partners.

Conclusion

In this paper, it is concluded that the features of the legal texts are significant and need to be investigated deeply in other studies because the meaning of the lexical items depends on the way in which these features are translated. The legal translator needs to have a full coverage about the other features because meaning in source text needs to be rendered accurately. Translating the features of the legal texts necessitates not only a knowledge of the meaning in the target language but it also requires a knowledge of the legal system of the target language. This demands full understanding of the features of the legal text in order to reach a comprehensive translation of all the aspects found in text.

It is concluded that these features are important for the translators whether in English or in Arabic because without a knowledge of these features the meaning will be changed and impact the translation.

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