

Features Affecting the Comprehensibility of Legal Texts' Translation:

A Case Study of Translation Contracts from English into Arabic

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Summary:

This paper is an attempt to pay much attention to the features affecting translatability of legal texts when being translated into another target language. Such features shall be considered at a time of translation from a source language into a target one pertaining to translating legal contents. It is not a matter of word for word translation. Translating legal segments require much consideration to the differences occur between the legal systems of the two languages concerned. Besides, the impact of culture shall be grasped in order to come up with a readable product of a legal translation. Legal translation, or call it legalese, is not without hindrances. It can be distorted if no attention given to differences between the two competent languages. This study came with findings displayed claims stating that translating legal content requires a set of understanding tips for not only linguistic aspects, but also to cultural gaps available between languages. Also, it was clear that translators with incomplete understanding of a certain legal system and culture would cause a caustic understanding and lead to incomprehensible product text translated into a target language. This study recommended that translators shall be fully acquainted with both cultures under translation in order to attain a comprehensible translated text.

INTRODUCTION

Like it or not, legal language is a must in our daily life, no one can escape its impact as human beings living in this 21st century. Hence legal translation has become day by day necessity even those outside its scope are in need to its fruits. It is

understandable that translating a legal text from one language, Source Language (SL) into another Target Language (TL) cannot be without some hindrances, which if not well addressed might lead to a distorted target output. It is mandatory that a legal translator to be acquainted with traits of legal discourse not only in the source language but also in the target language. Again, it is not a matter related to knowing only linguistic, syntactic or semantic aspects of target languages, but also being familiar with cultural difference between the two language concerned (El-Farahaty, 2015:32). In another meaning, translating legal texts requires that a legal translator shall be bi-lingual and bi-cultural in both languages under a task of translation (Almanna 2017:9). A legal translator, according to Al Aqad (2014:13) is responsible for bridging the gaps between not only languages of nations but also their cultural and institutional norms among such nations in order to come up with valuable and straightforward translation. Translating a legal text requires full understating of the legal systems in both the source and target language, because without this in mind, according to Sarcevic (2007:41), ignoring such legal systems administrating both languages, a certain translation would be nothing but incomprehensible target text. It is touchable legal texts and its translation is not for laypeople, sophisticated and out of reach, because they are not well equipped with necessary tools, used to be consumed by those working in this technical linguistic field (Williams, 2011:16). It is significant to state that legal translation is not merely a process of changing the meaning from a source language into target language, it also searches for suitable legal expressions in a target language (Karjo, 2015:5). Hargitt (2013:7) made it unquestionable that a legal text translation is to some degree is unattainable by those who are outside the circle of legal domain, and such laypeople need to interpret in order to attain the meaning in their target language.

LITERATURE REVIEW

Law-related texts are non-daily talk contexts which play a tremendous on humans interaction and govern their transactions (Karakira, 1997:8). Farqhal and Shunnaq (1999:35) brings to light that legal language in both languages, English & Arabic, is typified by exaggerated lengthy sophisticated sentences, which in turn brings about a bunch of barriers to legal translators. Such barriers could, if not well grasped and handled, guide to incomprehensible translation. In a study conducted by al-Tameemi and Frahan (2016:13), it was disclosed that translation is a process of transferring a text from one language into another syntactically, semantically and culturally. Enberg (2020:272) concluded in a study that Arabic differs from English in an issue related to the legal system it is part of, where English and Arabic are two languages, with transparent differences syntactically, systematically and lexically. Besides, Frade (2015:41) asserted that cultural norms shall be taken into consideration when there is an attempt to translate a text from one language into another. He emphasized that cultural aspects of the languages under translation shall be grasped well in order to come up with acceptable and comprehensible product. Moreover, Translation of legal instruments has come forth namely translating contracts and agreements legally from one language into another as the most significant part of all types of translation. It is mandatory that a legal translator shall be familiar with all linguistic and culture-related aspects, hence a product text would be more comprehensible and readable (Ababneh, 2019:31). In a study conducted by Al-Ogaili (2019:22), there was reference to the significance of having qualified translators, not only linguistically, but as well on a cultural basis need, well trained to accomplish a task of translation at any time perfectly and comprehensibly. Again, as Kordić (2020:243 brought to light that legal translators belonging to different languages confront linguistic and cultural barriers at a time of translating a legal segment due to distinctions between languages under the process of

translation. In addition, Ali (2016:23) in a study aimed at Sudanese translators, it was unveiled while translating contracts, agreements, court documents, etc., translators who were assigned to translate legally encountered hindrances related to culture and language. In the same token, a study conducted by Abu Al Haijaa (2007:26) made it clear that there are two barriers experience translators such as structural and cultural ones, if not well addressed would lead to an incomprehensible translation product. It is important to shed light on the fact that one of the crucial responsibilities of a legal translator, as reflected on by Chroma in a study carried out in 2004, is to take care of sensitive traditions and culture of two deep-seated languages under the mechanism of translation. Further, in a study implemented by Phelan (2017:18), it was revealed that mistakes occurred in translating English-Spanish legal texts could be due to some elements such as misinterpretation and misapprehension. This elaboration on difficulties accompanied translating legal texts is a must for full acquisition of comprehensible product of a certain part of translation. If English and Arabic as two language under discussion and translation, it is clear that both of them belong to distinct legal systems as well as dissimilar linguistic and culture-related norms, which justifies hindrances legal translators encounter a lot (Cao, 2007:55). To sum up, in a study carried out by Gotti (2016:12), it was found that transiting legal texts is very hard mission requiring a set of qualifications for an understandable output. It made it obvious that if a legal translator is not well apprehending cultural aspects of two languages under a process of translation, it would be guaranteed that a result is a distorted translated text.

METHODOLOGY

Twenty students of the Fourth Year, Department of Translation, the First Semester, Academic Year 2025, have been selected to translate (20) English legal texts, as in Appendix (A) into Arabic. It means each student has to translate only one text.

Nominated students have not been aware of the traits of the legal discourse yet. As Tiersma (1999:13) elaborated on legal language discourse, it is highly sophisticated, rigid and stiff, is a bit untouchable task to those who are not yet well equipped with legal discourse norms, hence requires being acquainted with elements that carefully lead to a reliable and comprehensible translation. The (20) nominated students were given half an hour each to accomplish the task of translation from English into Arabic, each works separately, and were free to select their own dictionary, preferably legal versions.

RESULTS & DISCUSSION

It is imminent to understand the fact that translating a legal context requires a cautious attention to the traits of legal discourse, if neglected would cause a distorted incomprehensible translation. In other words, any attempt to translate a legal document, deed, contracts, memorandum, instrument or agreement, shall be preceded by a full understanding of the legal discourse elements, hence a translation of a certain con(text) would be readable and comprehensible. Below are illustrations made for (20) parts translated into Arabic and corrections added.

As to sentence (1) mentioned in the Appendix (A), the student translated the underlined part as (الآن، وبناءً على ذلك، وبالنظر إلى العهود والوعود المتبادلة الواردة هنا)، the student translated the said part with zero attention to the main characteristics of legal discourse one of which is a part of Recitals within contracts. The correct translation would be (وبناء على ما تقدم،). In sentence (2), the student (2) translated it into (يجب إخطار الطرف الثاني بأي ملاحظة خلال فترة الضمان)، which is incorrect, because taking legal discourse characteristics into account, "shall" is to be translated into present simple without (يجب) instead يتم (يتعين) إخطار الطرف الثاني. As far as sentence (3) is concerned, the student mistakenly translated the underlined part into (يجب على المفاوض الالتزام بهذه التعليمات)، which is again, as said above in (2) the obligation here can be imposed using the present simple tense, with no يجب, instead

بعدئذ، Sentence (4) was translated into . يقع على عاتق المفاوض الالتزام بهذه التعليمات، which is legally incorrect. وتخضع لأي خصومات قد يتم إجراؤها بموجب أحكام العقد. Instead, it must be translated to وخضوعاً لأي خصومات قد يتم تطبيقها . يجب على المفاوض . As to the sentence (5), mistakenly translated to بموجب أحكام العقد .، أن ينقذ ويعوض ويدافع عن مجموعة الشركة ويحميها من المسؤولية . instead it must be translated into يتعين على المفاوض تعويض مجموعة الشركة وإبراء ذمتها من المسؤولية . القانونية . To hold harmless is a phrase used in contracts holding the meaning يبرأ ذمة . In sentence (6), "terms and conditions" is mistakenly translated. It is a doublet legally used in contracts, which means الشروط والأحكام instead of الشروط . Sentence (7) disclosed the reality that students are not acquainted with legal expressions and how to use them. The students translated it into إذا فشل المفاوض في تسريح معداته أو . As can be detected, s/he translated demobilize into تسريح which is legally unacceptable, hence we look for a more reliable word in Arabic legally fill in a contextual gap such as انهاء تعبئة instead of تسريح . Taking sentence (8) into consideration, the student, as others, mistakenly translated it into Arabic as follows: عكس ما تم الاتفاق عليه خلافاً لذلك بين الطرفين . It بموجب هذه الوثيقة، ستدفع الشركة المبالغ المستحقة تحت هذا العقد بالدولار الأمريكي . باستثناء ما تم الاتفاق عليه (ما لم يتم الاتفاق على خلاف ذلك) shall be translated into خلافاً لذلك بين الطرفين بموجب هذه الوثيقة، ستدفع الشركة المبالغ المستحقة بموجب هذا العقد بالدولار الأمريكي . The عكس is not fit in this part of the translation, the correct is بموجب هذا العقد shall be translated instead into بموجب هذا العقد as well as باستثناء . In sentence (9) the student translated it into وأي تكلفة أو مسؤولية تتحملها الشركة فيما . Instead, it shall be translated correctly into وأي تكلفة أو مسؤولية تتحملها . يتعلق بذلك . الشركة فيما يتعلق بهذا العقد . Herewith is one of the archaic adverbs, no more used in daily contact, but shall be respected and taking into accounts as long as a translator is assigned to translate a contract or agreement into Arabic. Sentence (10) is another challenge to novice trainee translators. Mistakenly, it was translated into يقر المفاوض

ويضمن أنه اعتبارًا من تاريخ السريان، لا يمثل أو ينتهي إلى أي سلطة حكومية أو مسؤول عام، which is an incorrect translation. It shall be, instead, يقر المقاول واعتبارا. It is a doublet (represent and warrant), and shall be translated into (يقر) or (يضمن).

As far as sentence (11) is concerned, again it is mistakenly translated into Arabic, where "thereof" as an archaic adverb was not taken into account. The translated text

was: يجوز للشركة إنهاء هذا العقد، أو أي قسم، في أي وقت بموجب إشعار كتابي موجه إلى

يومان (30). المقاول قبل (30). Instead, it shall be correctly translated into يجوز للشركة إنهاء هذا

العقد، أو أي جزء منه، في أي وقت بموجب إشعار كتابي موجه إلى المقاول قبل (30) يومًا.

The underlined part of sentence (12) was mistakenly translated into Arabic as: يجب

تفسير المصطلحات المتخصصة في هذه الشهادة وفقًا للمعنى المنسوب إليها في العقد.

Again and as said above, "shall" must be translated into Arabic with no rendering to يجب،

instead there shall be a rendering in Arabic using the present simple tense, hence the

text would be rendered (translated) into Arabic as: يتم (يتعين) تفسير المصطلحات

المتخصصة في هذه الشهادة وفقًا للمعنى المنسوب إليها في العقد.

A trainee student translated the sentence (13) into Arabic as follows: يجب على الشركة الإفراج عن أي أموال محتجزة:

يجب هذا. Again "shall" mistakenly translated into "يجب"، where it shall be

translated as "يتعين على الشركة - يقع على عاتق الشركة أو على الشركة shall

not be translated as "الإفراج"، instead it shall be translated into "إطلاق - صرف".

With respect to sentence (14), a trainee student translated it into Arabic as follows: تقتصر

تقتصر الأحكام الواردة (المتضمنة) هنا، التوريدات المتضمنة في هذا العقد على الغرض الوحيد لهذا الأمر

and misleading. Instead, it shall be rendered to هنا (المتضمنة) هنا .

With reference to sentence (15), it was

incomprehensibly translated into Arabic as follows: يجوز ان تكون هناك حاجة إلى

تقييمات إضافية للمخاطر في ظل ظروف و/أو أنشطة محددة يقوم بها المورد

should be translated into "قد تكون - ممكن أن تكون"، may cannot be rendered here

as يجوز، which is to some extent misleading the correct rendering into Arabic as

referred to earlier. Again in sentence (16), s/he translated it into a misleading Arabic

rendering, where the meaning cannot be legally understood, as follows: يجب أن instead, it يتعين أن تتضمن المراجعة تحديد وتحليل المخاطر الجديدة المحتملة والتغيرات في الأنشطة shall be translated into Arabic as: الجديدة المحتملة والتغيرات في الأنشطة which is now fully readable and comprehensible. In regards to sentence (17), it is again inaccurately translated into Arabic as follows: وشهادة للعقد، قام الطرفان بتنفيذ العقد من قبل موظفيهما أو ممثلهما: وشهادة للعقد، قام الطرفان بتنفيذ العقد من قبل موظفيهما أو ممثلهما رسمياً أو من قبلهما على النحو التالي: واشهاداً لما تقدم (وايثباتاً لما تقدم)، قام الطرفان بتنفيذ العقد من قبل موظفيهما أو ممثلهما المفوضين رسمياً أو من قبلهما وتظل. Sentence (18) inappropriately translated into Arabic as follows: وسارية المفعول ونافذة لمدة عامين بعدها ، وفقاً للشروط والأحكام التالية: s/he, as others, is not yet qualified to translate legally. As to "thereafter", which is an archaic adverb, shall be translated into Arabic as "بعد ذلك - من الآن فصاعداً", and "terms and conditions" as a doublet, shall be rendered to "الشروط". As for sentence (19), it was translated into Arabic as: يتم بموجب هذا دمج شروط وأحكام الاتفاقية وأي تعديلات هنا عن طريق الإشارة إليها، ويخضع شراء الخدمات بموجب هذه الاتفاقية لشروط الاتفاقية. which is incorrect due to misunderstanding functions of archaic adverbs and doublets used in this context, subsequently caused a distorted legal meaning. Instead, it shall be translated into Arabic as: يتم بموجب هذا دمج شروط الاتفاقية وأي تعديلات عليها عن طريق الإشارة إليها، ويخضع شراء الخدمات بموجب هذه الاتفاقية لشروط الاتفاقية. Finally, sentence (20) was inaccurately translated into Arabic again due to being not acquainted with functions of archaic adverbs and use of "will" which was translated into "س" بسرعة بعد هذا، سيقوم الطرف المتضرر بمتابعة إشعاره الأولي بالقوة. القاهرة ويقدم للطرف الآخر بياناً يصف بتفاصيل معقولة جميع الحقائق المادية بعد ذلك وعلى الفور، يقوم الطرف المتضرر بمتابعة إشعاره الأولي بالقوة القاهرة ويقدم للطرف الآخر بياناً يصف بتفاصيل معقولة حول جميع الحقائق المادية.

CONCLUSION

This study has come up with a set of findings. It has been disclosed that a legal translator shall be familiarized with all traits of legal discourse in both English and Arabic in order to approach a comprehensible translation product. It is understandable that both a lawyer and legal translator who are competent in this field of study. People outside this circle, laypersons, are not qualified in this major of study, and if they try to approach such, they undoubtedly would be vulnerable to a misguided product of translation. It is considerable to spell out the fact that in order to arrive at a clear-cut explicit translation output, a legal translator shall be aware of all segments related to culture and traditions of two languages under translation. Being competent in one language and one is not enough to produce a readable understandable translated text. Unless being bi-lingual and bi-cultural, a legal translator would be unskilled and unqualified, then would come up with a mistaken product of translation. It is recommended that all students shall undergo a training course on characteristics of legal discourse. This will give them a chance to be more pragmatically acquainted with how to translate legally taking into accounts all principles of legal discourse, hence the productivity would be comprehensible, readable and understandable.

APPENDIX [A]

THE (20) SELECTED TEXTS:

Translate the underlined parts:

1. NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the Parties herein agree to constitute themselves as Joint Ventures, henceforth, "Ventures" for the purposes before mentioned, and intending to be legally bound hereby, the parties hereto, after first being duly sworn, do covenant, agree and certify as follows:
2. The second party shall be notified of any remark during the warranty period, starting from the date of issuance of the initial acceptance certificate. In the event that the period expires and there are no remarks, the technical committee formed

- pursuant to paragraph (2) above shall issue the final acceptance certificate on the specified date.
3. Nevertheless, if for any reason it is considered necessary by the COMPANY to give an instruction to the CONTRACTOR orally in the first instance, the CONTRACTOR shall comply with such instruction. Any such oral instruction shall be confirmed in writing as soon as is possible under the circumstances, provided that, if the CONTRACTOR confirms in writing any such oral instruction which is not contradicted in writing by the COMPANY without undue delay, it shall be deemed to be an instruction in writing by the COMPANY.
 4. thereafter and subject to any deductions that may be made under the provision of the CONTRACT the CONTRACTOR shall be entitled to payment only for the part of the WORK completed in accordance with the CONTRACT up to date of termination, and
 5. Without prejudice to the provisions of this Article the CONTRACTOR shall save, indemnify, defend and hold harmless the COMPANY GROUP from and against all liens, attachments, charges or claims by the SUBCONTRACTORS upon the WORK or the property of the COMPANY GROUP in connection with or arising out of the CONTRACT.
 6. NOW THEREFORE, the Parties, each in consideration of the promises and agreements of the other herein contained, mutually agree to be legally bound to perform the Services on the terms and conditions of the Contract and as follows:
 7. If the Contractor fails to Demobilize its Equipment or unused Consumables in accordance with this Contract, the Company may (a) take possession and acquire title over such Equipment and Consumables as if they are deserted items under the Applicable Laws, or (b) return the Equipment or Consumables to the Contractor, and recover from the Contractor all costs (including costs for storage and transportation) incurred for doing so.
 8. Except as otherwise agreed between the Parties herein, the Company will pay the amounts due under this Contract in US Dollars through wire transfers to the Contractor's bank account specified in Part I (Form of Agreement), but the *Compaq* may in its discretion instruct the Contractor to change their bank account, including when such change would be necessary or prudent due to the requirements of any Applicable Law concerning economic sanctions, boycott or embargoes.

9. The Contractor shall indemnify and hold Company harmless against and from any claim for Taxes or the interest or penalties thereon payable by any member of the Contractor's Group, or for which any member of the Contractor Group is responsible under this Contract, and any cost and liability incurred by Company in connection therewith;
10. The Contractor represents and warrants that, as of the Effective Date it does not represent or is affiliated with any Governmental Authority or Public Official.
11. The Company may terminate this Contract, or any part thereof, at any time upon thirty (30) days' written notice to the Contractor.
12. Unless otherwise defined herein, *specialized* terms in this Certificate shall be construed in accordance with the meaning ascribed to them in the Contract.
13. The COMPANY shall have the right to withhold the amount of any such lien, attachment, charge or claim from any payment to the CONTRACTOR under the CONTRACT until removal of such claim by the SUBCONTRACTORS. If such liens, attachments, charges or claims fall inside the scope of the insurances of the CONTRACTOR, it shall remain the responsibility of the CONTRACTOR to furnish the COMPANY with satisfactory written certification from the insurer of the CONTRACTOR that any such lien, attachment, charge or claim is covered by the insurance of the CONTRACTOR before the COMPANY shall release any money withheld hereunder.
14. The provisions contained herein are limited exclusively for the sole purpose of this Order, and shall not be considered as an amendment, modification, alteration, revision, change, correction or consideration of any means and for any reason to the Agreement.
15. Additional risk assessments may be required for specific conditions and/or activities performed by the Supplier who deviate from the original scope of the contract or from the routine transport activities.
16. The risk assessment shall be reviewed during a pre-trip/job safety meeting to confirm that all documented risk control measures are in place, known and understood by the personnel involved in or affected by the task/process. The review shall include the identification and analysis of potential new hazards, changes In activities or the proximity of simultaneous operations that may require additional or modification of the control measures.

17. In all respects this Order shall be treated as a separate contract entered into pursuant and subject to the terms of the Agreement. In Witness Whereof, the parties have caused the Contract to be executed by their duly authorized officers or representatives or by themselves as follows:
18. The Contract will become effective as of 09th December 2024 (the "Effective Date") and will remain effective and in force for Two (2) years thereafter, subject to the following terms and conditions:
19. The terms and conditions of the Agreement and any amendments thereto, are hereby incorporated by reference and the purchase of Services hereunder shall be subject to the terms of the Agreement.
20. Promptly thereafter, the Affected Party will follow up its initial notice of Force Majeure and deliver to the other Party a statement describing in reasonable detail all material facts with respect to the measures taken or proposed by it to comply with its obligations to mitigate and minimize the impact of the event of Force Majeure.

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السمات المؤثرة على فهم ترجمة النصوص القانونية: دراسة حالة عقود
الترجمة من الإنجليزية إلى العربية

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الكلمات المفتاحية: الترجمة، الفهم، النصوص القانونية

الملخص:

هذه الدراسة البحثية هي محاولة للتركيز على السمات المؤثرة على قابلية ترجمة النصوص القانونية عند ترجمتها إلى لغة أخرى. ويجب مراعاة هذه السمات عند ترجمة المحتويات القانونية من لغة المصدر إلى لغة الهدف. فالأمر لا يقتصر على الترجمة الحرفية، إذ تتطلب ترجمة الأجزاء القانونية مراعاةً دقيقةً للاختلافات بين الأنظمة القانونية للغتين المعنيتين. كما يجب مراعاة تأثير الثقافة للوصول إلى ترجمة قانونية واضحة. ولا تخلو الترجمة القانونية، أو ما يُسمى بالمصطلحات القانونية، من بعض العوائق، إذ قد تُشوّه إذا لم تُراعَ الفروقات بين اللغتين المتخصصتين. وقد توصلت هذه الدراسة إلى نتائج تُشير إلى أن ترجمة المحتوى القانوني تتطلب مجموعة من النصائح الفهمية، ليس فقط للجوانب اللغوية، بل أيضاً للفجوات الثقافية بين اللغات. كما اتضح أن المترجمين الذين يفتقرون إلى الفهم الكامل لمنظومة قانوني وثقافة معينة، سيُنتجون فهماً غير دقيق، ويؤدي ذلك إلى نص غير مفهوم يُترجم إلى لغة الهدف. أوصت هذه الدراسة بضرورة أن يكون المترجمون على دراية كاملة بالثقافتين المراد ترجمتهما حتى يتمكنوا من الحصول على نص مترجم بطريقة مفهومة.