

State or Action? A Contrastive Legal-Grammatical Analysis of “Be Subject to” in English and Arabic

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Abstract

An important area of investigation in legal translation studies and linguistics is the relationship between grammatical structure and legal meaning. The structure *be subject to* plays a role as a recurrent formulaic expression in legal English, which encodes different legal relations, implying commitments, restrictions, applicability, and powers. The investigation of the grammatical nature of this construction despite its repeated occurrence in legal texts is still insufficient, with regard to the differentiation between stative and eventive meaning. This paper studies and analyses how the construction *be subject to* behaves or works in legal English and how it is conveyed or represented in the Arabic legal discourse by the use of a qualitative contrastive method of analysis. It analyses selected data or examples chosen from legal sources in both languages in order to uncover the interaction between legal functions and linguistic forms. Finally, the analysis shows that the legal interpretation of the construction is influenced not only by its lexical meaning but by the grammatical perspective too, by which legal relations are expressed. On the other hand, Arabic tends to use verbal structure that highlights procedural actions and legal applicability. The findings provide a better understanding of legal phraseology and grammatical selection in maintaining legal meaning across languages. The significance of integrating grammatical analysis into legal translation training to achieve greater precision and functional equivalence is also underlined by this study.

Keywords: Legal Discourse, Be Subject To, Stative Meaning, Eventive Meaning, Legal Translation, Contrastive Analysis, Legal Grammar, English-Arabic Translation.

حالة أم فعل؟ تحليل قانوني نحوي مقارنة لعبارة "يخضع لـ" في الإنجليزية والعربية

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الملخص:

تعد العلاقة بين التركيب النحوي والمعنى القانوني مجالاً مهماً في دراسات دوراً مهماً بوصفه *be subject to* الترجمة وعلم اللغة. حيث يلعب التركيب النحوي صيغة عبارة شائعة جداً، تستخدم للتعبير عن العلاقات القانونية المختلفة في اللغة الانجليزية مثل الالتزام والسلطة القانونية والتطبيق والقيود. ومع ذلك،

مازال البحث في الطبيعة النحوية لهذا التركيب غير كافٍ، خصوصاً التمييز بين المعنى الحالي والمعنى الحديث، رغم شيوعه في النصوص القانونية الإنكليزية. حيث تبحث هذه الدراسة، باستخدام منهج بحثي مقارن، في المعنى القانوني والوظيفي في النصوص الإنكليزية وفي كيفية تقديمها بمعانيها في الخطاب *be subject to* لعبارة القانوني العربي. حيث يحل هذا البحث نصوص أو أمثلة مختارة من مصادر قانونية باللغتين الإنكليزية والعربية للكشف عن التداخل بين المعنى اللغوي والوظيفة القانونية. وفي النهاية، بينت النتائج تأثير المعنى المعجمي والمنظور النحوي أيضاً على ترجمة هذا التركيب النحوي المذكور سابقاً والذي يعبر من خلاله عن العلاقات القانونية. وكما بينت أن اللغة الإنكليزية تميل أكثر إلى استخدام الصيغ الاسمية والحالية للتعبير عن العلاقات القانونية، على غرار اللغة العربية التي تعتمد على التراكيب الفعلية لإظهار التطبيقات والإجراءات القانونية. وتساعد نتائج هذا البحث على فهم أهمية و دور الصيغ اللغوية القانونية والاختيارات النحوية في الحفاظ على المعنى القانوني عبر اللغات المختلفة بشكل أعمق. ويؤكد أيضاً على ضرورة إشراك التحليل النحوي في الترجمة القانونية للوصول إلى دقة أكثر وتكافؤ وظيفي بين النصوص القانونية.

الكلمات المفتاحية: الخطاب القانوني، الصيغ القانونية، معنى الحالة والحدث، الترجمة القانونية، التجليل المقارن، الترجمة بين الإنكليزية والعربية، النحو القانوني.

1. Introduction

Stative grammatical expressions are relied upon to some extent in legal discourse because they bear significant legal functions besides their linguistic meaning. *Be subject to* is among these expressions, which is widely used in English legal discourse in order to explain power, dependency, applicability as well as limitations. The expression, sometimes, seems very simple from a structural point of view, but it may be interpreted depending on whether it reflects a stative or an eventive legal meaning, which is a differentiation that could affect legal interpretation and translation as well.

The problem is that Arabic legal discourse doesn't usually reproduce this distinction, between eventive and stative meanings, by equivalent grammatical structures. Rather, verbal expressions like *يخضع ل* يسري على and *يتوجب* are used. This may lead to confusion between the two meanings, stative and eventive, though maintaining the legal effect.

The study investigates *be subject to* and its Arabic counterparts from a legal grammatical contrastive point of view, based on the grammatical distinction between stative and eventive constructions. We aim to determine the legal functions of this construction in English legal discourse as well as explore how Arabic legal texts encode comparable meanings.

The importance of this study is to bring out the relation between grammatical structure and legal meaning and to contribute in legal translation studies by offering a better comprehension of how legal relationships are stated across English and Arabic legal systems

2. Literature Review

Many contrastive researches, related to the difficulties and challenges faced when transferring legal meaning between languages that belong to different grammatical systems, have been of great importance. So, in particular, formulaic constructions that are frequently used in legal discourse, in addition to the grammatical distinctions that may affect the process of legal interpretation have received the most attention. Therefore, a review of relevant scholarship will be presented in the following sections:

1. Legal Discourse and Formulaic Expressions

Conventional grammatical structures and formulaic expressions are the most prominent features of legal language which is considered as a specialized variety to a great extent. Formulaic expressions play a very important role in providing clarity, ensuring accuracy in addition to stability in legal language.

Peter Tiersma sees that legal discourse depends deeply on repetitive linguistic patterns that, as a technical device, structure legal

meaning and organize relationships between legal parties. These patterns can be seen commonly in legislation and contracts because such fixed expressions are useful in preserving interpretative stability across different legal contexts (Tiersma, 1999).

Correspondingly, Bhatia (1993) mentions that competent legal texts use consistent expressions in a frequent manner in order to express institutional practices and for communicative aims. As organizational symbols, expressions like *subject to*, in accordance with and pursuant to, organize legal acts and make hierarchical relations between clauses. They have legal implications rather than their external grammatical form. Subsequently, they are very important units in the process of legal translation and interpretation (Ibid).

Referring to legal authority, conditional dependence or regular control rather than functioning merely as a grammatical structure, the phrase *be subject to* is often used in legal discourse. It usually marks a specific relationship between legal agreements, obligations, terms or institutional power. Therefore, such expressions or phrases are analyzed according to their linguistic structure and grammatical role for an in-depths understanding of the way legal meaning is encoded in legal context.

2. Stative vs. Eventive Constructions in English

A very important relevant distinction should be made in legal texts in particular from a grammatical overview which may affect the interpretation of legal relationships responsibilities and obligations is that between stative and eventive constructions. Stative constructions represent states or conditions, whereas eventive

ones represent events or actions. Rodney Huddleston and Geoffrey K. Pullman (2002) see that stative constructions usually used to describe not dynamic actions but stable situation, i.e. they reflect states of presenting, capturing or maybe legal state rather than an action managed by an agent. We can say that, in legal language, particularly English, the construction *be subject to* commonly refers, as a stative expression, to a legal state or organizational status. For example, when a sentence says that a person is subject to the provisions of law, it doesn't describe an action which is imposed at a specific time but rather a general legal condition. In contrast to the ordinary reference of the form *be subject to*, which usually refers to the passive form of the verb *to subject*, which is, in turn, used to express an action performed by an agent.

This differentiation between the two aforementioned structures is of great importance in legal translation in particular. It may affect the understanding of legal conditions, obligations, responsibilities and institutional power within legal discourse.

3-Translation and Contrastive Legal Grammar As mentioned by (Šarčević, 1997), structural varieties between languages may put obstacles in the process of transferring legal meaning from one legal system to another, as many researchers confirm. As a result, comprehending the structural as well as conceptual differences between legal languages is required in legal translation, not only linguistic skills. She views that legal translation needs a balance between linguistic skills in addition to the necessity to keep legal meaning and institutional role across languages (Ibid).

When translating formulaic expressions, these obstacles become typically prominent which act specific roles or functions in legal texts. Some structures such as *be subject to* are used repeatedly in English legal language to indicate legal power, conditional dependency or organizational applicability, which are relationships usually referred to via verbal grammatical structures like *يخضع لـ، يكون*, *معرض لـ* or *خاضع لـ*, *يسري عليه*, etc.

The same grammatical distinction between state and action is not always transferred in Arabic, though these expressions benefit the same legal aims.

Accordingly, the translation process may imply perceptive grammatical differentiations which have a great effect on legal meaning in the source text in one way or another. To uncover how such grammatical structures encode legal relations across languages in a different manner, a contrastive analysis of such constructions may be very useful.

So, within a contrastive English-Arabic framework, examining the expression *be subject to* could offer insights into how legal power, status, and conditional relations are embodied in both legal systems. Often, the two languages encode relationships as dependency, condition, and obligation via different syntactic techniques, according to Khalil (1999). He mentioned that English depends on nominal or adjectival constructions, while Arabic has a tendency to use verbal ones in order to express similar relations. Where grammatical form may affect the interpretation of legal meaning, such structural variety becomes connected in legal translation in particular.

3. Methodology

In this study, I focus on determining how the construction *be subject to* works in English legal texts and its equivalents in Arabic. Therefore, the present paper adopts a qualitative contrastive methodology to see how this construction, either as a stative or eventive form, functions in both languages from a grammatical point of view and how this differentiation is expressed or missed in the translation process.

The data used in this research are selected from different legitimate legal texts or documents and their counterparts in Arabic. The texts include statutory provisions, official legal papers, and judicial decisions in both languages. The construction *be subject to* is particularly included in the selected examples, in addition to its corresponding counterparts in Arabic.

To examine how authority, obligation, dependency, and other legal relationships are indicated via different grammatical tools or structures in the two languages, these examples are analyzed.

Subsequently, and depending on a descriptive and comparative methodology, every example is tested with regard to its grammatical form and its legal role in English, then, it is compared with its corresponding term or expression in Arabic. Special attention is given to whether the translation maintains the differentiation between state and action.

4. Data Analysis

This part deals with chosen legal examples, especially those that have the construction be subject to, in English and their counterparts in Arabic. In the process of analysis, I concentrate primarily on how this construction functions legally and grammatically within different legal contexts, giving special concern to the difference between stative and eventive meanings. Another regard is given to these two meanings considering how they are retained or changed in Arabic legal translation. The English-Arabic examples are examined in a contrastive manner to uncover the way through which the two legal systems encode legal power, obligations, dependency, and legal positions by the use of variant grammatical structures.

Example (1)

“An acceptance made subject to any variation is treated as a counteroffer.” (Oxford Dictionary of Law, n.d.)

"وينتج عن هذا أن التشريع الجديد يطبق فوراً منذ نفاذه بالنسبة للمستقبل لكنه لا يسري على الماضي". (عاشور، ص. 102)

Analysis

It is obvious that the legal English example uses the construction made subject to expressing, within a contractual context, conditional legal dependency clearly. The acceptance, here, is not unconditional anymore. That is, its legitimacy is related to a contrast. This can change its legal condition. Grammatically speaking, the construction expresses a sort of stative legal condition, which concentrates on the legal effect resulting from the case itself instead of the action performed by a legal authority. Thus the English legal discourse bias to encode legal relationships through the use of compressed nominal or adjectival constructions is reflected here.

On the other hand, the Arabic example shows that the expression لايسري على الماضي is employed to refer to the limitations of the validity of legislation over time, in contrast with the English structure, the Arabic one relies on a verbal structure which puts the operation and the application of law forward. The grammatical understanding reflected in two examples is different between them in an obvious manner though both encode similar legal conditions or relations related to application and limitations. Legal dependency, as a legal condition, is expressed by the English construction, but the Arabic legal example performs legal meaning by a verbal expression, which supports the contention that English legal discourse often depends on stative constructions, while the Arabic tends to prefer verbal models to indicate comparable legal relationships.

Example (2)

“The accessory is subject to the same punishments and orders as the principal.”
(Oxford Dictionary of Law, n.d.)

"ولا تطبق هذه التشريعات على الأجانب الذين يقيمون ضمن إقليم الدولة الصادرة عنها، بل يخضع هؤلاء لتشريعاتهم الوطنية." (عاشور، ص. 113)

Analysis

The construction *is subject to* in the English legal example is used to establish legal equality between the accessory and the principal regarding punishments and judicial orders. The expression presents this legal relation as an existing legal status rather than an action imposed at a specific moment.

In the Arabic legal example, the verb يخضع expresses the applicability of national legislation to foreigners through a more explicit verbal structure. While both legal examples encode legal subordination, the English construction emphasizes legal status and relational dependency, whereas the Arabic example foregrounds the operation of legal authority through verbal expression.

Example (3)

“They are normally subject to certain civil disabilities, such as being ineligible to vote.” (Oxford Dictionary of Law, n.d.)

"ولا يسري هذا التشريع على تلك الوصية." (عاشور، ص.)

Analysis

As a stative expression, again, *are subject to*, in the English example above, explains an existing legal status. In this context, it refers to legal disabilities which limit specific civil rights, such as voting. Then, it emphasizes the legal status of individuals in relation, rather specific legal action.

The clause لايسري هذا التشريع in the Arabic example is expressed also by the use of the verb يسري, which, in turn, focuses on the applicability of legislation to a specific legal case. Whereas the English example highlights the legal status of individuals, the Arabic one asserts the zone of legislative application. This variation indicates again that the comparable legal results may be conveyed through various grammatical constructions in the two legal systems or languages.

Example (4)

“The offence of using force against any person, or putting them in fear of being subjected to force.”

(Oxford Dictionary of Law, s.v.)

ليس من الضروري أن يكون احترام الناس للقاعدة القانونية وتطبيقها من قبلهم ناجماً عن تأييد الدولة لها " وفرضها إياها". (عاشور, ص. 10)

Analysis

The expression being subjected to force in the English example this time reflects an eventive meaning rather than a stative meaning; that is, it indicates an action performed on a person, where force is exercised against a person. The occurrence of a legal action or physical act, not a legal status, is focused on.

Otherwise, فرضها /إياه in the Arabic example is an expression used to denote an action practiced by the state to enforce or enhance laws. On the contrary to the stative constructions examples differ from the stative constructions in the previous examples; these two put forward the notion of action and intervention. This means that legal discourse sometimes encodes legal meaning through actions, performed by legal powers or intended toward legal subjects, not only through conditions and legal states.

5. Results and Discussion

The data analyzed explain that the intended expression be subject to has multiple legal functions in English legal texts, such as, dependency, legal limitations, and equality. In the first English example, made subject to any variation refers to conditional legal dependency, on the other hand, are subject to certain civil disabilities, in the third one, used to signify a legal limitation.

They also bring to light that this construction is accompanied with stative meaning in the first place as it is clear in the examples subject to certain civil disabilities and is subject to the same punishment where the construction subject to describes not a legal action in specific but rather an existing legal state. By contrast with the fourth example in which the expression being subjected to force stands for an eventive meaning that it refers to an event performed against a person.

By the use of verbal structures, such as *يسري* and *يخضع*, the Arabic examples convey comparable legal meanings again and again. The grammatical comprehension is different from English despite the fact that similar legal outcomes are fulfilled.

Generally speaking, the results show that English legal discourse, through stative constructions, had a tendency to encode legal relations overly. Whereas, Arabic one usually tends to use verbal structures, thus, as a result, the differentiation between state and action is not reproduced in the same manner across the two legal systems constantly

6- Recommendations:

On the basis of what this study has found, I recommend the following:

- 1- Greater attention must be paid to the differentiations, by legal translators, between stative and eventive meanings when they face the construction be subject to and similar forms because maintaining the legal function of structures is very important from a direct lexical meaning in many cases.
- 2- Grammatical and contextual analysis should be depended upon in translation decisions as well as lexical meaning. Translators should take into account the legal role acted by different grammatical structures which reflect the same legal impact in English and Arabic within the specific context.
- 3- Conventional or formulaic legal structures must be paid better attention in translation training and legal translation courses in particular that legal interpretation and translation would be more accurate when understanding the grammatical and legal functions of frequent legal constructions.
- 4- I recommend more contrastive studies on other frequent legal expressions or structures like in accordance with, liable to, is not valid or pursuant to in order to find out how different grammatical systems encode legal meaning.

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