



Salahaddin University-Erbil  
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DIFFICULTIES IN TRANSLATING  
LEGAL TEXTS INTO KURDISH

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# Dedication

**OUR FAMILIES & FRIENDS**

## **Acknowledgments**

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## **SECTION ONE**

### **INTRODUCTION**

Translating legal texts is considered the most challenging translation task as it needs accurate translation, and even minor errors can result in different lawsuits and legal exposure. This paper aims to discover the translation problems and formulate the best strategies for translating legal texts from English language into Kurdish. This is a descriptive study using a document analysis as the method.

According to Al Najjar, (2011), Legal Translation is defined as one of the many branches of technical translation that deals with legal texts, which include, contracts, powers of attorney, agreements, constitutions, laws and regulations, .... etc. Translators need to adapt certain procedures while dealing with legal translation. In this regard, Maruenda & Santaemilia, (2012) define Translation Procedures as linguistic procedures that aim to achieve equivalence during the process of translation and are evident in the translated text.

The study consists of FOUR sections Section ONE is an introduction to the study, where aims of the study, the key terms and the sections are tackled. While section TWO presents a theoretical background of the translation, legal translation and considers the major problems and procedures recommended to reinforce a correct translation of legal terms. Meanwhile, researchers' experience and reflection are tackled in section THREE. The main conclusions the research arrived at are presented in section FOUR. Finally, the study ends with list of references and appendices.

## **SECTION TWO**

### **LITERATURE REVIEW**

#### **2. 0.Introduction**

This section attempts to present a comprehensive overview of translation, and legal translation. It also tackles the problems that translators may face while translating legal texts and the procedures used in such type of translation.

#### **2.1 Translation**

Different definitions have been presented for the concept of translation. Newmark. (1988: 5) defines translation as “rendering the meaning of a text into another language in the way that the author intended the text”. This definition focuses on meaning of the source language text into the target language text which is intended by the writer. However, Hatim, B., & Munday, J. (2019). define translation as “the process of transferring a written text from the source language (SL) to the target language (TL)”. In this definition it is not indicated whether the object being transferred is meaning or message. On the other hand, Nida and Taber (1982: 12) refer to the transfer of message rather than meaning and state that “translating consists in reproducing in the receptor language the closest natural equivalent of the source language message”. Similarly, Rochayah Machali (2001) underlines the term the meaning equivalence to deal with the meaning of the text as a whole rather than translating word equivalent in the target language.

We can conclude from the previous definitions and explanations that meaning is the key problem to detect whether meaning of the source language text is accurately transferred into the target language text.

## 2.2 Legal Translation

Legal translation is a type of translation with specialized vocabulary and a unique structure. Sarcevic (2000: 24) states that it was only in the nineteenth and early twentieth centuries the application of a strictly literal approach to legal translation applied. According to Sager (1993: 180), the translation of a legal text seeks to achieve the identity of legal effects as well as the intended meaning of the whole text between the original and translation. Accordingly, Sarcevic (ibid:133) states that "the primary role of language in normative legal texts is to prescribe legal actions, the performance of which is intended to achieve a specific goal"

## 2.3 Problems with legal translation

Translating legal texts is regarded by many researchers as one of the most challenging since it is about "combining the inventiveness of literary translation with the terminological precision of legal technical translation" (Harvey 2002). On the other hand, the language of written legal documents is specific which allows no other interpretations apart from the ones stated since it entails specific laws, rights or obligations (Crystal and Davy 1969, cited in Fakhouri, 2008). On the syntactic level, there are some preferences in legal language, such as the use of passive forms rather than active forms because "passive permits an indirect and formal tone with which lawyers instinctively feel comfortable" (Haigh 2004: 37). Therefore, Legal language has been called a "sublanguage", a "dialect" or a "language" by some linguists, and "register" by others (Van Dijk, 1981:279-288). They also add that the English legal language has the following lexical features:

1. **Frequent use of Old and Middle English words**, such as, hereof, thereof, and whereof, which are not used normally used in modern Standard English. For example, "the parties hereto" instead of "the parties to this contract".
2. **Frequent use of formal words and phrases**, for instance, the preference of "shall" over "will" as in "Law shall prevail", the word deem instead of consider, or the word liable instead of responsible.

3. **Terms of art** that have a technical meaning and are not generally familiar to the layman e.g. waiver, restraint of trade, restrictive covenant, promissory estoppel, contributory negligence, judicial notice, injunction, prayer etc.
  
4. **Everyday English words** that when used in law have different meanings from everyday usage. For example, the term Assignment is used in legal contexts to refer to the transference of right not to its more familiar sense task.
  
5. **At the sentence level**, legal English sentences are complex. In other words, legislative texts are known for long and complex sentences where excessive information introduced which may create barriers to effective understanding of such statements.

Another problem can be found because of the differences in the legal systems that are used in different countries (Murici, 2016a, p. 80).

Despite the above-mentioned problems, translators can overcome such difficulties. Accordingly, Smith (1995) indicates that to achieve successful legal translation the translator should follow three prerequisites:

1. The legal translator must be competent in the target language- specific legal writing style.
2. The legal translator possesses familiarity with the relevant terminology.
3. The legal translator must acquire a basic knowledge of the legal systems, both in the source language and the target language.

## **2.4 Translation Procedures**

Translation procedures can be seen as problem-solving techniques that help translators to reproduce the intended meaning. Asensio (2003) suggests the following procedures to deal with legal translation:

1. **Calques:** Calques are useful when we lack adequate terms in the target language.
2. **Borrowing:** Borrowings or loan words are necessary when identification is the main



concern. These are also necessary when there is no equivalence between concepts in the two.

3. **Simplification:** Simplification of the original can be seen as a special case of omission, and may turn out to be quite recommendable.
4. **Aggregation of several meanings into one:** The use of a simple solution for a complex meaning, using as few words as possible in a way that integrates all the different meanings of the original.
5. **Functional adaptation:** In the absence of direct equivalence, the translator may use a concept that performs approximately the same function in the target language. However, this strategy is not always advisable for binding legal documents (Downing and Laurence 2002).
6. **Approximate solutions:** When no equivalence exists between languages and systems, solutions approaching the meanings of the original may be enough, even when this is not the optimal solution.

## **SECTION THREE**

### **EXPERIENCE AND REFLECTION**

#### **3.0. Introduction**

This section deals with the researchers' experience regarding translating legal texts and the reflection of such experiences in their academic growth. Learners' experience serves personal growth, skill development, and deeper academic understanding.

Reflection, on the other hand, involves a deliberate and critical examination of one's experiences, thoughts, and emotions.

#### **3.1. Our Experience**

Translation is one of the subjects taught in the third stage. Unfortunately, translation of legal texts is not included in the syllabus and not focused on as required texts of translation. As a result, researchers have no experience in translating legal texts, in order to achieve the aim of the study, the researchers, translated 2 legal texts (see appendix I and II) to be aware of the difficulties of such type of translation. Having no experience in legal translation, made it extremely difficult for us to prepare and translate these two legal texts. Translation of legal texts has its challenges due to the difference between the two judicial systems, language and culture. One of the difficulties was not having equivalent legal terms in the Kurdish language such as, retainer agreement, pre-litigation, demand package, land claims, Intake fee, discretionary...etc. The translator was obliged to find similar words in the Kurdish language or to paraphrase and explain the meaning of such words.

Another problem is in having complex and long sentences, which is one of the characteristics of legal texts. As a translator, the semantic meaning of words and the whole text should be communicated.

### **3.2 Reflection**

The translation of legal text needs to be focused on and to be included in the syllabus of the subject of translation. It is crucial for the students in English language to must have know about translating English legal text it since it has a special structure.

Legal texts are not included in the curriculum of translation which causes a lack of students' knowledge and experience in this type of translation. Researchers emphasize the importance of incorporating legal translation into the curriculum for English language students. Without prior exposure to legal texts, translators may struggle to navigate the complexities inherent in legal language.

## **SECTION FOUR**

### **CONCLUSIONS**

This study sheds light on the intricate task of translating legal texts from English into Kurdish, reaches to the following conclusions:

Legal translation presents numerous challenges due to the specialized vocabulary, unique structure, and cultural nuances embedded within legal documents.

Various translation procedures have been explored, including calques, borrowing, simplification, aggregation of meanings, functional adaptation, and approximate solutions, each offering strategies to overcome linguistic and cultural barriers.

It is imperative to integrate legal translation into translation courses to better prepare students for the challenges they may encounter in their professional careers. By familiarizing students with legal terminology, structures, and procedures, educational institutions can empower future translators to navigate legal texts effectively and accurately.

In essence, this study serves as a call to action for educators and institutions to recognize the significance of legal translation and to provide the necessary resources and training to equip students with the skills and knowledge needed to excel in this specialized field.

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## Appendix I

### Legal Passage

دادگای ناوچهکان - نهمانه دادگای گشتین. به لام له همندیک حالهتدا دهسه لاتی دادومری دهریته دادگا تایه تمهندهکان . لهوانه: دادگاکانی نیفلاس، دادگای باج و دادگای داواکاری زومی تایهت.

دادگای تانهدان - دادگای پینداچوونهوه له گشت بریار مکان له دادگاکانی خوار موه که خهک نار مزایی دهر دهرن.

دادگاکی ویلایهت - نهم دادگایانه بریار لهسر نهو ناکوکیانه دهن که پهیوهندییان به یاساکی ویلایهتهوه ههیه نهک یاسا فیدر آیهکان،

دادگای بالآ - نهمه دادگایهکی تری تیهه لچوونهوهیه، به لام تاکه دادگایه که له ژیر پینداچوونهوهی نیختیاریدا کار دهکات.

نهمش واته دهتوانیت ههلیژیریت که گوئ له کام کهیسهکان بگریت. ههروهه دادگای بالآ له همندیک ولاتدا به دادگای بالآ ناودمیریت.

## Understanding the Levels of US Federal Courts

**District courts** - These are general courts. But in some cases, the **jurisdiction** is passed to **specialized courts**. These include: **bankruptcy courts, tax courts and the court of private land claims.**

**Court of Appeals** - The Court of Appeals **reviews** all decisions in the lower courts that people object to.

**State courts** - These courts decide disputes that pertain to state laws rather than federal laws.

**The Supreme Court** - This is another appeals court, but it is the only court that operates under **discretionary review**. This means it can choose which cases to hear. The Supreme Court is also called a High Court in some countries.

Appendix II  
Legal Passage

Dear Mr. Thomson,  
I have opened a file on our new client, Mr. Hendricks. The file contains the **intake memo, fee agreement and retainer agreement**. Please sign these. I need to mail them to Mr. Hendricks directly, along with our **standard form letter**.  
I am also sending a **demand package** and copies of all the **correspondence** so far. I have opened a **pre-litigation folder** and made up an **agenda**. This is to ensure we have everything we need on time, including **medical records** and the **police report**.  
Thank you,  
Janine

کاک تومسونی بهریز،

من فایلکم لهسر کریار نویمان کردوتهوه، کاک هیندریکس. فایلکه یاداشتی و مرگرتن و ریکهوتنی کری و ریکهوتنی مسوگمر کردنی خزمهتگوزاری لهخودهگریت. تکایه ئەمانه واژو بکەن. پتویسته به پۆست بیاننیرم بو بهریز. هیندریکس راستهوخو، لهگهڵ نامه‌ی فۆرمی بنچینه‌بییمان. ههروه‌ها پوخته‌ی داواکاری و په‌راوی هه‌موو نامه‌نوسی تا ئیستا ده‌نیرم. فۆلده‌ریکی پێش دادگاییکردنم کردوتهوه و ئەجیندایه‌کم دروست کردوه. ئەمەش بو ئەوه‌یه که دُنیا بین له‌وه‌ی هه‌موو شتی‌کمان هه‌یه که پتویستمانه له کاتی خۆیدا، له‌وانه‌ش تۆماری پزیشکی و راپۆرتی پۆلیس.  
سوپاس،

جانین