

The Influencing Factors and Predicaments in Legal English Translation

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Abstract: Translation plays a very important role in the process of mutual legislation learning and international trade between countries. However, in the long development process of various countries, different systems of legislation have been formed due to so many factors. As a result, it is easy to produce different meanings in translation. Chinese and English, as the two most widely used languages in the world, inevitably lead to the conflicts of culture and system with each other in the process of such frequent using, which makes translation of legislation in trouble. Therefore, based on the study of Chinese and Western legislation, this paper explores the factors that affect English translation of legislation, finds out the root causes of the differences, and analyzes the current predicament of translation in legislation in our country and proposes solutions.

Keywords: English; Law; Legislation; English translation; Solution

With the development of economic globalization, the connections between countries have become increasingly close, and the scope of international trade has continued to expand. When international disputes arise, foreign language translation has become more and more important. As a very important part of international communication, translation of foreign legislation has played an important and irreplaceable role. In international trade communications, if the content of documents is not accurately translated, it is likely to cause irreparable losses and consequences.

At the same time, cultural communication between countries has become more and more frequent. While disseminating the culture of our country's legislation, we also need to learn from the advanced achievements of jurisprudence and practical work experience of Western countries in a scientific and efficient way, and translate excellent foreign jurisprudential works into Chinese language for domestic practitioners to learn and apply. This makes foreign language translation an important medium.

However, there are some difficulties in English translation of legislation. English of jurisprudence not only involves large number of special words with specific jurisprudential meaning, but also clearly stipulates that the expression of various jurisprudential documents must be professional, standardized, scientific and rigorous, without any subjective emotion. In order to accurately translate it correctly, translators must not only have good professional translation ability, but also have extensive jurisprudential knowledge. Factors such as the context and lexical features will have a certain impact on translation work, which requires in-depth analysis and understanding by translators.

1. Factors Affecting English Translation

1.1 History and Culture

Snell-Hornby held a view that translation is not a simple decoding process, but a cross-cultural activity.^[1] The life and soul of jurisprudential language lies in accurately conveying the jurisprudential spirit behind the words, so that the jurisprudential culture behind the words can be translated from the source context to the target context.

Language is constrained by culture but reflects culture at the same time. Cultural differences often affect and restrict the quality of language conversion. One of the biggest difficulties in jurisprudential translation is the cultural differences between Chinese words and English words.^[2]

In terms of history, China is a country with a splendid civilization of more than 5,000 years. From ancient times to the present, the philosophical system with Confucianism as the main body and the feudal culture with imperial rule as the center have profoundly affected all aspects of the Chinese nation. But the western countries are quite different. Christian culture and western philosophy constitute the main body of the cultural tradition of English-speaking countries. These two cultural and historical backgrounds have caused the huge difference between our country and Western countries, and even now, they have a profound impact on people's language expression and their understanding and opinions on things.

In terms of the way of thinking, Chinese people value sensibility but Western people focus on rationality, so there are also big differences in grammar between Chinese and English. Chinese people's thinking attaches great importance to comprehension and sensibility, and pays attention to meaning and expressiveness in language expression, while Western people's thinking mode is

characterized by rationality, and attaches great importance to the accuracy of objects and the grasp of formal arguments.^[3]

The influence of religion is also very extensive, involving all aspects of politics, law, life and so on. For China, it has been influenced by Buddhist culture for thousands of years, while most of the Western countries have a Christian cultural background.

1.2 The Concept and Representation of Law

The differences in culture between China and the Western country do not happen overnight. One of the differences is concept of legislation between the two. Chinese jurisprudential culture has a long history. In ancient times, in order to strengthen their dominant position, emperors often used to regard legislation, regulation and punishment as the same. They also believed that the legislation was more helpful in governing their people, even if the legislation was criminal. Therefore, the concept of legislation in traditional Chinese culture is mainly based on punishment. The Western concept of legislation is mainly based on rights. Western legislation resulted from conflicts between nobles and commoners in ancient Greece and Rome. According to the Greek jurisprudential with the spirit of freedom and democracy and the Roman jurisprudential with individualistic characteristics, the Western culture gradually formed a tradition of protecting individual rights and freedom. Therefore, Western jurisprudential culture promotes the rights, status, freedom, dignity and worth of individuals.

Another difference between China and Western country is legislation representation. On the one hand, the main form of traditional Chinese legislation is public law, which originally originated from the maintenance of the emperor's rights. Therefore, the concept of legislation in traditional Chinese jurisprudential culture is mainly based on criminal law. On the other hand, Western traditional legislation is mainly manifested as a kind of private law, and it is more inclined to protect private property. Therefore, the Western concept of legislation is mainly based on civil law.

The different concepts and manifestations of legislation reflect the different purposes of emperors in formulating laws, resulting in different emphases on the interests which are protected by Chinese and Western laws. And different roles played by Chinese and Western legislation in society. Such differences require translators to have a good command of diverse jurisprudential concepts and manifestations, so that they can obtain an appropriate translation result based on the substantial purpose behind provisions.

1.3 Jurisprudential System and Concept

Although there are many similarities in the value of legislation, due to the influence of different historical traditions and philosophical concepts, the legislations of different countries have their own characteristics in form, and there are also many differences in legislation, judiciary, and procedures. It is generally believed that any jurisprudential regulation with the same historical tradition and the similar existence and operation mode is regarded as a jurisprudential system. At present, there are two major jurisprudential systems in the world -- the civil legislation system and the common legislation system. China's legislation has adopted the civil legislation system, while a Western country mainly adopts the common jurisprudential system. The different jurisprudential systems lead to differences in the correspondence between the terms and vocabulary. At the same time, it also leads to differences in the expressions and legislative techniques of laws between different countries. For example, terms such as "regulations" and "rules" are used in the Chinese jurisprudential expression, while Western legislations rarely use such terms to name texts. Therefore, it is difficult to find the corresponding word in English vocabulary to translate it.

Not only that, there are differences between the two jurisprudential systems in the judicial system, which has a certain impact on the translation of the term. As far as the judicial system is concerned, the jury system has only existed in the common legislation system, and the jury has greater power than other institutions. When a case is controversial, the jury can even affect the verdict of the case. There is no jury system in judicial practice in China, so there is no word corresponding to "verdict" in our country's civil legislation field.

In the process of translation, the vocabulary corresponding to the source language does not necessarily exist in the target language system, which has some impact on translation. For example, quasi in rem jurisdiction is a jurisprudential concept in civil litigation in the United States, which refers to the jurisdiction of a state court based on the defendant's personal property located in the state, but China does not have this jurisprudential concept.

2. Challenges of English Translation at the Present Stage

2.1 Inaccuracy in English Translation

Translating English documents into standardized terms in line with our country's national conditions requires rigorous, meticulous, and superb language translation. At the same time, it is also necessary to carry out accurate translation in combination with the specific situation and context. If you do not choose the appropriate translation corresponding to the English vocabulary in a specific context, it is divorced from the actual situation, and it is likely to have a very different effect from the original meaning, which will lead to some inevitable consequences. For example, theft, burglary, and shoplifting all have the meaning of "theft", but they each represent different meanings in specific contexts and the jurisprudential consequence people need to bear are also different: theft is translated as "the act of stealing other people's jurisprudential property without their consent"; shoplifting is translated as "steal in a store", burglary is translated as "entering a building unlawfully with intent to commit a felony or to steal valuable property."

However, in many cases, due to the translator's insufficient grasp of Chinese and Western jurisprudential knowledge, also with the inability to accurately translate synonyms in English, the connotation of the original term and the meaning of the translated text are not equivalent or accurate. It seriously affects the content of the original text. For example, the word "arbitration clause" should be translated as "a clause in a contract to resolve parties' disputes", but some translators are influenced by free translation and simply translated as "the arbitration process", but in fact the two have different meanings, which will also bring difficulties in the understanding of the legislation, and even directly determine the direction of an arbitration case.

2.2 Lack of professional Translators

At present, there is a shortage of translators in our country. The reasons may be as follows: for one thing, a large number of

translators specialize in language learning rather than jurisprudence. For another, few jurisprudential students work preliminary in translation. These problems make it difficult to accurately understand the research results in practice and academic research results of relevant foreign jurisprudential systems when they are introduced to our country. At the same time, the rigor of jurisprudential terminology results that a simple jurisprudential term is usually explained in long texts in English. And for this interpretation, it is often difficult for people who lack jurisprudential logic to understand and for translators to translate it, or they will directly translate it based on the literal meaning which would lead to erroneous results. For example, the word “battery” means “the accusation of assaulting and striking” in jurisprudential English, which some translators easily translate as “a device consisting of one or more electrochemical cells”

With the increasing frequency of international communication and cooperation, translation has become an important link and have assumed more and more important responsibilities. A good translator, on the one hand, needs to master his native language knowledge and target language knowledge; on the other hand, he also needs to be proficient in jurisprudential knowledge of his own country and the target language country.^[4]

3. Solutions

3.1 Strengthening the Study of Cultural and Institutional Differences

Due to the huge difference between Chinese and Western jurisprudential cultures, if we only use our own jurisprudential thinking mode to understand foreign jurisprudential mode and our own jurisprudential culture to analyze foreign jurisprudential culture, transplanting advanced foreign knowledge in a blunt way, we must come up with a theory that is divorced from reality.

In addition to mastering and applying professional translation knowledge and skills, translators must also have a deep understanding of the historical background, cultural habits of the other country. Only in this way can the accuracy of translation be fully guaranteed. Strengthening the study of cultural and institutional differences between China and Western countries can not only help translators accurately translate jurisprudential English, but also provide important support for my country’s current international discourse power, and provide important jurisprudential guarantees for Chinese enterprises to conduct international trade.^[5]

3.2 Strengthening the Connection between English and jurisprudential Knowledge

Jurisprudential translation is not a simple process of replacing concepts of the source language with the target language in the jurisprudential system, but a complex work of accurately translating concepts and cultures at the same time.

Standardization and accuracy are the basic requirements of jurisprudential terminology. How to carry out standardized terminology translation is a key measure to cultivate high-quality, international, and compound foreign-related translators who require not only a high level of foreign language proficiency, but also a broad range of jurisprudential expertise.

At present, the biggest problem of jurisprudential translation in our country is the incompatibility between jurisprudential professionals and foreign language professionals. Based on the current development situation of jurisprudential translation research in our country, it is suggested that the above-mentioned two types of scientific and technological staff should fully recognize the importance of communication and cooperation between the two sides, and promote interdisciplinary cooperation and connection.

Therefore, we must strengthen the connection between English professional knowledge and jurisprudential knowledge, to completely solve the problem of separation between jurisprudence and English translation.

3.3 Promoting the Unification of jurisprudential Terminology

Due to the difference of jurisprudential proper nouns under different systems, in the subsequent translation process, it may cause misinterpretation of the original meaning and problems in actual use, which loses the original value in jurisprudential practice. Unifying the understanding of different translators on the same translation concept is the measure to ensure that translation can be guaranteed in the same context, so that all translators can accurately understand what the legislation should mean, and strengthen the expansion in this field.

4. Conclusion

Through above analysis, it can be concluded that the factors affecting jurisprudential English translation mainly include culture, jurisprudential concepts and systems. By analyzing the challenges in the translation process, we should strengthen the research on the differences between Chinese and Western cultures, and actively cultivate English translation talents.

At the same time, jurisprudential English translation is also a highly technical, professional, and experienced subject. The translator must be familiar with the differences between Chinese and English jurisprudential systems and cultures, proficient in foreign languages, have a solid mother tongue, and choose the most appropriate translation strategy. In the face of the severe international situation, only in this way can we seize the opportunity to strive for development and provide effective services for international exchanges.

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